

**Unclassified**

Mr Phil Bradley  
via "What Do They Know"

Your Ref  
Our Ref

28 July 2011

Dear Mr Bradley

**ICO Reference: FS50387112, BIS Reference: 10/2228**

You asked for an internal review to be undertaken for the Freedom of Information request you made to the Department of Business, Innovation and Skills (BIS) referred to above.

I am also replying to points raised in the letter from the Information Commissioner's Office to the Department for Business, Innovation and Skills dated 7 June 2011.

Please accept my sincere apologies for the delay in responding to your requests as well as the excessive time taken to complete this review. As you have been made aware in other correspondence from DCMS relating to other FoI requests you have submitted, a major contributing factor in this delay has been the physical and electronic transfer of data and staff from BIS to DCMS during the early part of the year. In addition to this, a prolonged staff illness also led to delays in responding to your original request for an internal review to be actioned.

You should also be aware that we did not receive clearance from Lord Mandelson's office for the release of this material until 27 July 2011.

On 18 October 2010, you asked BIS to provide you with:

*'Communications by Peter Mandelson to other BIS employees relating to:*

- copyright (term, enforcement, policy, infringement, piracy, economy, importance, law), or*
- a Memorandum of Understanding, or*
- the BPI (British Recorded Music Industry/ British Phonographic Industry) or,*
- UK Music, or*

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*- legislative consultation from 16 June 2009,*

*All from 1/8/2008 to 1/9/2009, with minutes please.*

BIS replied to this request on 12 November 2010 informing you that it did not possess the information you had requested.

I have now completed the internal review of this case.

You suggested that the original response should have identified more correspondence. I would agree that the initial response seems to have taken an extremely limited definition of the scope of the original request.

It is my view that the reply given to you on 12 November 2010 is neither credible nor correct. It is quite clear to me that BIS did hold records which covered your request and which should have been considered for possible disclosure when replying to your request. Please accept my apologies for this.

Because of this we have undertaken additional searches of our records at DCMS and BIS to provide you with a fuller reply. The results of these searches follow this letter at Annex A.

As a result of these searches, I am now satisfied that we have identified all the correspondence identifiable in relation to the subjects stated in your request and which occurred during the requested timescale and these can be accessed through the above links.

Please note that some material has been considered against the following exemptions:

Section 35 (1a)	Formulation of government policy
Section 35 (1b)	Ministerial communications
Section 40	Personal information
Section 43	Commercial interests

The application of sections 35 (1a) and (1b) and 43 are subject to a public interest test.

Section 35 (1a)	Formulation of government policy
Section 35 (1b)	Ministerial communications

I have considered the arguments which may weigh in favour of a decision to disclose. It is clear that the general public interest in disclosure if it is advanced by the specific information in question by enabling greater transparency to make government more accountable to the electorate and increase trust. It can also be argued that the public interest could be advanced by being able to access the quality of advice being provided to ministers and the subsequent decision making process.

Against this I have considered the argument that good government depends on good decision making and these needs to be based upon the best advice available and full consideration of all the available options, without fear of premature disclosure.

**Unclassified**

There is also an argument that advice should be broad based and there may be a deterrent effect on external experts or stakeholders who might be reluctant to provide advice because it might be disclosed.

Equally, the impartiality of the civil service might be undermined if advice was routinely made public as there is a risk that officials could come under political pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision-making and ministers and officials also need to be able to conduct rigorous and candid risk assessments of their policies and programmes including considerations of the pros and cons without there being premature disclosure which might close off better options.

It is my view that there needs to be a free space in which it is possible to use imagination and offer a variety of options to a query, without the fear that policy proposals will be held up to ridicule.

Having weighed these arguments I have not withheld any information under Section 35.

#### Section 43 – Commercial interests

Section 43 sets out that information is exempted from the right to know if:

- The information is a trade secret, or
- Release of the information is likely to prejudice the commercial interest of any person (A person may be an individual, a company, the public authority itself, or any other legal entity)

Disclosure of a trade secret would, by definition, prejudice a commercial interest. The act treats trade secrets differently to other information where disclosure might harm a commercial interest, in that whether or not, the authority decides to disclose the information, it must always confirm or deny that it holds the information.

This is a qualified exemption. A public authority can only refuse to provide the information if it believes that the public interest in withholding disclosure, outweighs the public interest in disclosing it. Whilst the term “trade secret” is not defined in the Act, it is not a difficult one to understand. It can also be extended from the obvious bounds of a “secret”. The term has a wide meaning, ranging from a secret recipe or formula to the names of customers or a company’s pricing structure if these are not generally known and the source of a company’s “competitive edge”.

The “right to know” provides that in responding to a request for information, a public authority is required to inform the applicant that it holds the information (known as “the duty to confirm or deny”) and if so to communicate that to the applicant. By contrast, where the information requested is likely to prejudice commercial interests, the owner of that information needs to assess whether disclosure might harm a commercial interest.

There is also an argument to consider in respect of the effect of disclosure would have on the development of policy of this area. During the policy development process, public authorities come into possession of much commercial information

relating to individual businesses

In assessing the above requirements I have tested the information against six elements:

- Does the information relate to, or could it impact on a commercial activity?
- Is that commercial activity conducted in a competitive environment?
- Would there be damage to reputation or business confidence?
- Whose commercial interests are affected?
- Is the information commercially sensitive?
- What is the likelihood of the prejudice being caused?

I have concluded that releasing the material into the public domain would cause harm to the companies concerned and consider that the information is commercially sensitive and that disclosure would affect the commercial interests of the companies. I also believe that disclosure would affect the company's ability to conduct its business in a competitive environment.

Personal information has been redacted on accordance with Section 40 of the Act. This is an absolute exemption and does not require the public interest to be applied. Additionally, names of officials outside the senior civil service have been redacted.

You should also note that a small amount of other material has been redacted as it is outside the scope of your request.

You could, of course, also make a new request focusing on correspondence received before September 2009 if you wish to do so, bearing in mind the points raised above as to what would make such a request possible to respond to effectively. I should warn you though, that the problems around access to files transferred from BIS still exist although all efforts are being made to resolve them.

A copy of this letter has been sent to Nicola Humphries at the Information Commissioner's Office as requested in her e-mail of 7 June 2011.

If you are not content with the outcome of this internal review, you have the right to apply directly to the Information Commissioner's Office for a decision. The Information commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 4AF.

**Rachel Clark**  
**Head of Creative Economy Telecoms and Internet**

ANNEX A

**From:** Mandelson MPST  
**Sent:** 07 August 2009 10:56  
**To:** [REDACTED]; [REDACTED]; 'Ian Fletcher'  
**Cc:** Clark Rachel (BR2 [REDACTED]); Lammy MPST; McFadden MPST; Fraser MPST; Rutnam Philip (MPST DG); Hendon David (BR2); 'ZEFF JON'; Morris Dominic (BR2); [REDACTED] (BR2); [REDACTED]; [REDACTED] (LEGAL B); [REDACTED] (LEGAL B); [REDACTED] (Better Regulation Executive); [REDACTED] (CLG); [REDACTED] (COMMS [REDACTED] (BR2); [REDACTED]; Cooke Matt (MPST MIN); [REDACTED] (MPST MIN); SPAD MPST; [REDACTED] (BR2 [REDACTED] (BR2); [REDACTED] (MPST MIN); [REDACTED] (MPST MIN); Mandelson MPST

**Subject:** RE: DA letter on a revised consultation document on unlawful peer-to-peer

[REDACTED]

I have sent across the draft DA letter to DCMS ministers for comment. Ben Bradshaw would like to speak the Secretary of State about this so we are now trying to find a suitable slot for late on Monday. I would therefore be grateful if you could work with [REDACTED] to put together a speaking note by 16.00 today setting out (1) summary of why we wish to issue a revised consultation; (2) why this is preferable to other options Ben Bradshaw may suggest including ministerial statement; (3) tight timeframe; and (4) any other relevant points.

Also, if the call takes place late on Monday the first potential opportunity for the letter to be sent is Tuesday morning (all being well). I would be grateful if you could confirm with the DA secretariat that it is satisfactory for us to write on Tuesday 11 August with a deadline of 12 August prior to the revised consultation being issued on 13 August, particularly during recess.

Many thanks

[REDACTED]

[REDACTED]

Private Secretary to Secretary of State for Business, Innovation and Skills  
020 7215 [REDACTED] / [REDACTED]

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-----Original Message-----

From: Mandelson MPST  
Sent: 05 August 2009 10:36

Unclassified

To: [REDACTED] (BR2); Clark Rachel (BR2)  
Subject: Prime Minister to Tony Burke (Unite)

[REDACTED] / Rachel

Please see attached, for information, letter from the Prime Minister to Tony Burke of Unite.



Burke - joint policy  
statement.pdf

Thanks

[REDACTED]

[REDACTED]

Private Secretary to Secretary of State for Business, Innovation and Skills  
020 7215 [REDACTED] / [REDACTED]

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**From:** Mandelson MPST  
**Sent:** 15 July 2009 11:19  
**To:** [REDACTED] (BR2); Carter MPST; SPAD MPST [REDACTED] (MPST MIN)  
**Cc:** Lammy MPST; McFadden MPST; Fraser MPST; Rycroft Philip (BIS); Fletcher Ian; Hendon David (BR2); 'Jon.Zeff@Culture.gsi.gov.uk'; Morris Dominic (BR2); [REDACTED] (BR2); [REDACTED]@Culture.gsi.gov.uk; [REDACTED] L; [REDACTED] (LEGAL B); [REDACTED] (LEGAL B); Clark Rachel (BR2); [REDACTED] (BR2); [REDACTED]; [REDACTED] (Better Regulation Executive); [REDACTED] (MPST MIN); [REDACTED] (PPD); [REDACTED] (BR2)  
**Subject:** RE: P2P: further advice on technical measures

As discussed, the Secretary of State has seen your submission and asked if Geoffrey Norris could check that this meets the requests of Lucian Grainge set out in his recent letter (attached for reference).

[REDACTED] - grateful if you could draw this to [REDACTED] attention.



LUCIAN  
GRAINGE.pdf

Thanks

[REDACTED]

[REDACTED]

Private Secretary to Secretary of State for Business, Innovation and Skills  
020 7215 [REDACTED] / [REDACTED]

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**From:** Mandelson MPST  
**Sent:** 06 July 2009 16:14  
**To:** 'Ian Fletcher'; Lammy MPST; Carter MPST; Morris Dominic (BR2); Fraser MPST; SPAD MPST; McFadden MPST; [REDACTED] (MPST MIN); Clark Rachel (IE); [REDACTED] (IE); [REDACTED]; [REDACTED] (COMMS); [REDACTED]; 'IPOB'; Rycroft Philip (Chief Exec BRE and DG Enterprise & Innovation); [REDACTED] (BIS CORP); [REDACTED] (HE Briefings Coordinator); [REDACTED]; [REDACTED] (BR2); Sharps Samuel (IE); Morris Dominic (BR2)  
**Cc:** [REDACTED] (IE); Clark Rachel (IE); [REDACTED]; [REDACTED]; [REDACTED];

Unclassified

[REDACTED] (UKTI SG); Hendon David (IE)

**Subject:** RESTRICTED: Note of SoS's meeting with [REDACTED] (CEO [REDACTED]) 02.07.09

**RESTRICTED**

**Note of Secretary of State's meeting with Lucian Grainge (CEO, Universal Music Group International)**

Thursday 02 July 2009 15.00-15.45

Also in attendance: Ian Fletcher and [REDACTED] (Intellectual Property Office)

- IF: Legislating for file sharing was a difficult issue, however the Digital Britain report had put in place a system that would warn people by identifying connections used. A large number of people (around 70%) change their behaviour following a warning but there was also a need for Ofcom to have the necessary power to take measures against persistent offenders.
- LG: Not sure if all creative industries (including films, books and other intellectual property that can be digitised and shared) are covered by the Digital Britain report. Concerned, as the cost to protect from file sharing is very high. The acknowledgement that internet piracy exists is a good starting point, however the warning system will not work. Also, proposals do not go far enough, deep enough or quickly enough.
- LG: [REDACTED]
- IF: Proposals in Digital Britain will be taken forwards in the Digital Economy Bill, some of these are similar to the measures set out by LF which have been brought about commercially. LF commented that there was the need for a level playing field between ISPs as the main problem will be a lack of uptake. IF explained that the Digital Economy Bill would provide Virgin and others assurance that they will face a similar framework.
- LG: There are recommendations to bring into force a review in 12 months time, then get Ofcom to make ISPs take action. Still not going quickly enough, would like phase 2 implemented now, without the 12 month delay as industries are being decimated by illegal file sharing. MC commented that it was possible to monitor computers but not individual users partly due to wireless communications. In particular there were possible human rights issues on access to the internet. France has recently taken disproportionate action and cut people off.
- IF: Might be possible to get "Ofcom on the starting blocks" for the second phase. LG commented that the creative industries and rights owners would find it hard to imagine holding back for 12 months, particularly the music industry which was most affected. BT, Virgin and Sky would be introducing super-fast broadband which would allow films

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to be downloaded in around 90 seconds. The UK punches above its weight as the English language sells across borders. There is an approaching tsunami of theft.

- LG: Hulu.com provides access to a library of TV programmes through an advertising funded model. Spotify.com enables file sharing. Would be good to show broadband users what is and what is not illegal in addition to what is appropriate for particular age groups. No point in investing in IT when "competing with free".
- SoS: Would like to see options and advice, not yet convinced that the HMG position is right. [ACTION]
- LG: The c&binet event in October should not just be a talking shop - why not an "expo of British creative industry and design"? Need to look at what needs to happen otherwise it should be cancelled. Instinct is that people will move quickly to arrange. The SoS commented that he would like to see Ben Bradshaw's concept paper for the c&binet event. [ACTION]

Private Secretary to Secretary of State for Business, Innovation and Skills  
020 7215 [REDACTED]

Check box times at: <http://mandrin/mpst/index.html>

All emails and attachments containing comments from the Secretary of State should be filed in Matrix by the policy team.

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-----Original Message-----

From: Mandelson MPST [<mailto:mpst.mandelson@bis.gsi.gov.uk>]

Sent: 01 July 2009 09:08

To: Clark Rachel (BR2 [REDACTED] (BR2); [REDACTED]

Cc: Lammy MPST; Carter MPST; Fraser MPST; SPAD MPST; McFadden MPST; Cooke Matt (MPST MIN [REDACTED] (COMMS); [REDACTED]; IPOB; Ian Fletcher; Rycroft Philip (BIS); [REDACTED] (BIS); [REDACTED] (HE Briefings Coordinator [REDACTED] (BR2); Sharps Samuel (BR2)

Subject: Briefing request: SoS meeting with Lucian Grainge 2 July 15.00

Dear all

The Secretary of State will be meeting Lucian Grainge (CEO of Universal Music Group International) tomorrow 15.00. The main purpose of the meeting is to discuss next steps on tackling music piracy post-Digital Britain, and the UK's creative industries in general.

With apologies for the short notice (meeting only confirmed late yesterday), I would be grateful if briefing could be provided by 16.00 today.

Rachel / [REDACTED] - would you be able to coordinate?

Lucian's office have sent through some specific bullet points on piracy:

UK is the home of music

\* The UK is riding a wave of creative success. After decades of success British artists still punch above their weight, picking up a hatful of Grammys this year including best song, best album and best newcomer. With an amazing musical heritage, vibrant live scene, and the English language, UK music can to continue to punch way above its weight.

\* This success is driven by investment in new talent: Universal, the world's largest music company,

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alone spends £250m on new talent every year in the UK, more than in any other European country. From Adele to Duffy, Amy Winehouse to Coldplay we can all be proud of the UK's conveyor belt of talent.

\* UMG is now the biggest music company in the world and employs more in the UK than EMI.

But piracy could throw it all away

\* Despite this success 85% of mp3 downloads in the UK are made illegally - stolen. No revenue is received by the artist, the music company or anyone else involved in the music's creation, performance or production.

\* Internet music piracy appears to have become a socially acceptable norm, across all generations and all social classes. But just because it's widespread doesn't make right. Stealing from a musician or a music company is exactly the same as shoplifting a picture from a gallery, or stealing coins from a busker's hat.

\* It's not only immoral it's economically destructive as well. Only 10% of artists ever make a profit for the music companies that invest in them. So without revenue the music industry will have to stop investing in new talent - the industry's R&D. Last year alone piracy cost the UK music industry £650 million. The real effect of music piracy is felt not by the stars at the top of the industry, but by the struggling new artists trying to make it to the top.

Crying Wolf? - We wish we were

\* Sweden: the home of Abba, Roxette and the Cardigans has seen even greater levels of piracy and the inevitable has happened: Universal and the other majors have virtually stopped investing in new talent. The once thriving Swedish music scene hasn't produced a successful new act in years. In Korea - a country of comparable size and economic success to the UK - exactly the same has happened. No investment in new talent = no successful new music, more reliance on back catalogues and imports. Even in the US the once mighty music scene has seen sales and investment plummet as piracy rockets.

\* The UK could be in exactly the same place in just 3 years - diversity will go first and soon the only new music will be on the 'X Factor'. And music is just the front line. If we fail to stop piracy there will be nothing to stop the film, live sport and book industries - and every other form of digitised content following the same cycle of decline. With movies taking just 3 mins to download at 50Mb speed, film, sport and books will be next unless we tackle the problem now

So what's the solution?

\* There are thousands of ways of accessing musical content easily and legally - from iTunes to Amazon. There are now no excuses for stealing music. Earlier this month Virgin Media and Universal Music announced the world's first unlimited music download subscription service.

\* In parallel, the two companies will be working together to protect Universal Music's IP and drive a material reduction in the piracy across Virgin Media's network. This will involve educating file sharers and to raise awareness of legal alternatives. They include, as a last resort for persistent offenders, a temporary suspension of internet access. No customers will be permanently disconnected and the process will not depend on network monitoring or interception of customer traffic.

\* But now we need Government action to create a level playing field between ISPs. Digital Britain shows that the Government has at last recognised the threat of digital piracy.

\* But piracy is already out of control and the proposed two obligations (Ofcom's letters and the threat of prosecution) are unlikely to reduce digital piracy

\* Even more critical that Government must start planning now for step 3 (a statutory obligation on ISPs) and essential that this power is included in the Digital Economy Bill

\* Without investment in creative talent and content, Broadband Britain could just be back catalogues and old films. Tackle piracy now and the UK will remain the world's most exciting creative hub.

Many thanks

Private Secretary to Secretary of State for Business, Innovation and Skills 020 7215 /

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**From:** Mandelson MPST

**Unclassified**

**Sent:** 26 August 2009 13:33

**To:** [REDACTED] (IE); Brennan MPST

**Cc:** Lammy MPST; Timms MPST; Fraser MPST; Hendon David (IE); 'Ian Fletcher'; [REDACTED]; [REDACTED]; 'ZEFF JON'; [REDACTED]; [REDACTED] (IE); Clark Rachel (IE); [REDACTED] (IE); [REDACTED] (Better Regulation Executive); [REDACTED] (COMMS); SPAD MPST; McFadden MPST; [REDACTED] (MPST MIN)

**Subject:** RE: Government statement on unlawful file-sharing 25 August

With regard to your earlier submission (specifically paragraph 7), the Secretary of State has asked "why was is originally envisaged to wait until the end of 2012 before technical measures were in place? Shouldn't technical measures be in place from the outset?"

Grateful for quick advice.

Many thanks

[REDACTED]

[REDACTED] | Private Secretary to Secretary of State for Business, Innovation and Skills | 020 7215 [REDACTED] |

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**From:** Mandelson MPST

**Sent:** 25 August 2009 10:54

**To:** [REDACTED] (IE); Brennan MPST

**Cc:** Lammy MPST; Timms MPST; Fraser MPST; Hendon David (IE); 'Ian Fletcher'; [REDACTED]; [REDACTED]; [REDACTED]; 'ZEFF JON'; [REDACTED]; [REDACTED] (IE); Clark Rachel (IE); [REDACTED] (IE); [REDACTED] (Better Regulation Executive); [REDACTED] (COMMS); SPAD MPST; McFadden MPST; [REDACTED] (MPST MIN)

**Subject:** RE: Government statement on unlawful file-sharing 25 August

[REDACTED]

ci / [REDACTED]

The Secretary of State has seen your submission and commented "please tell [REDACTED] and press handlers that we need to be seen to be balanced, genuinely consulting and sensitive to individuals who may unwittingly fall foul of the law".

Many thanks

[REDACTED]

[REDACTED] | Private Secretary to Secretary of State for Business, Innovation and Skills | 020 7215 [REDACTED] |

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**From:** Mandelson MPST

**Sent:** 26 August 2009 13:23

**To:** [REDACTED] (COMMS); COMMS - Press Office Monitoring; COMMS - Press Office Operational

**Cc:** [REDACTED] (IE); [REDACTED] (IE); Clark Rachel (IE); Sharps Samuel (IE); [REDACTED] (IE); Fraser MPST; SPAD MPST; McFadden MPST; Timms MPST; [REDACTED] (MPST MIN); [REDACTED] (MPST MIN); Loughran Patrick (MPST MIN); Abel Richard (MPST MIN); Hendon David (IE); Rutnam Philip (MPST DG); [REDACTED] (CCP); Brennan MPST

**Subject:** RE: Stakeholder commentary so far - P2P

[REDACTED]

ci / [REDACTED]

The Secretary of State has seen this summary of stakeholder commentary below and commented "I would like to know, as a matter of record, how [REDACTED] came to express

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his view. (1) Was is considered by the Board? (2) Did his officials submit analysis? (3) Is it his personal view?" I would be grateful for a quick update on these points.

Many thanks

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■ | Private Secretary to Secretary of State for Business, Innovation and Skills | 020 7215 ■ |

Check box times at: <http://mandrin/mpst/index.html>

All emails and attachments containing comments from the Secretary of State should be filed in Matrix by the policy team.

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**From:** Mandelson MPST

**Sent:** 26 August 2009 13:05

**To:** ■ (IE ■ (COMMS)

**Cc:** Lammy MPST; Timms MPST; Fraser MPST; SPAD MPST; McFadden MPST; Clark Rachel (IE); ■ (IE); Hendon David (IE); 'Ian Fletcher'; ■ 'e'; Loughran Patrick (MPST MIN); ■ (PPD); Abel Richard (MPST MIN); ■ (MPST MIN); ■ (COMMS ■ (MPST MIN)

**Subject:** RESTRICTED Peer to Peer filesharing - timeline

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Slightly updated timetable attached.

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■ | Private Secretary to Secretary of State for Business, Innovation and Skills | 020 7215 ■ |

## TIMETABLE: PEER-TO-PEER FILE SHARING

16 June 2009	Final Digital Britain Report produced
02 July 2009	SoS meeting with Lucian Grainge of Universal. SoS asked for advice on options exploring whether Digital Britain proposals on peer to peer file sharing will go quickly enough and far enough.
03 July 2009	Advice to Lord Carter (copied to SoS and DCMS) on possibility of SoS having a power to direct Ofcom to go directly to introduction of technical measures.
07 July 2009	Advice (through Lord Carter) recommending that the "power to direct" process should be adopted as preferred route (rather than Ofcom decision)
09 July 2009	Letter received from Universal stating : <ul style="list-style-type: none"><li>• Digital Britain's two proposals: Ofcom's letters to file-sharers and the ability for music companies to prosecute persistent offenders are not enough on their own.</li><li>• Government must start planning for step 3 now – a statutory obligation on ISPs to crack down on persistent file-sharers by cutting bandwidth and suspending and blacklisting their accounts. This is outlined in Digital Britain but not due to</li></ul>

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	be implemented for years. It is essential that this power is included in the Digital Economy Bill"
10 July 2009	Advice (through Lord Carter) on removing reliance on "trigger" mechanism to judge the efficacy of initial obligations.
13 July 2009	E-mail sent to officials stating: The Secretary of State has seen the letter from Lucian Grainge and commented "I think we should examine, including step 3 power in Bill. What is Stephen Carter's view? Officials need to meet and discuss asap as Lucian suggests". [REDACTED] begins series of meetings with key stakeholders to canvass views.
17 July 2009	Advice (through Lord Carter) on being more specific within legislation on how costs should be considered.
29 July 2009	Draft advice to SoS on DA clearance letter from officials. It recommended: "That you agree to the attached draft letter being sent to DA Committee on 31 <sup>st</sup> July. This sets out the new approach, the reasons for it and how it differs from that consulted on in June. The changes made are more than process issues, and reach to the heart of how the legislation will deal with P2P infringement, so it is appropriate for DA Committee to be consulted."
31 July 2009	[REDACTED] and officials met Universal's legal counsel.
30 July 2009	SoS spoke to Ben Bradshaw. One of the issues raised was views SoS had been hearing on IP.
11 August 2009	SoS signed DA clearance letter for issue.

**From:** Mandelson MPST  
**Sent:** 26 August 2009 09:23  
**To:** [REDACTED] (COMMS)  
**Cc:** Lammy MPST; Timms MPST; Fraser MPST; SPAD MPST; McFadden MPST; Clark Rachel (IE [REDACTED] (IE); Hendon David (IE); 'Ian Fletcher'; [REDACTED]; Loughran Patrick (MPST MIN); [REDACTED] (PPD); [REDACTED] (IE); Abel Richard (MPST MIN); [REDACTED] (MPST MIN); [REDACTED] (COMMS [REDACTED] (MPST MIN)  
**Subject:** Peer to Peer filesharing - timeline

[REDACTED]

As discussed, the Secretary of State is concerned about the comments made the BBC's Rory Cellan-Jones yesterday evening alleging that the change in thinking re peer-to-peer file sharing only came about following his holiday in Corfu and contact with David Geffen.

I would be grateful if you could draft a brief generic statement emphasising that work on this was already well in hand before the SoS's holiday, which we could then deploy to the BBC et al later today if needed. As you mentioned, coverage may die down today so this may not be needed. The table below sets out the timetable for information. The statement should not include specific dates. [REDACTED] may wish to update details below.

Thanks

[REDACTED]

[REDACTED] | Private Secretary to Secretary of State for Business, Innovation and Skills | 020 7215 [REDACTED]

02 July 2009	SoS meeting with Lucian Grainge of Universal. SoS asked for advice on options commissioned following meeting exploring whether Digital Britain proposals on peer to peer file sharing will go quickly enough and far enough.
09 July 2009	Letter received from Universal stating : <ul style="list-style-type: none"><li>• Digital Britain's two proposals: Ofcom's letters to file-sharers and the ability for music companies to prosecute persistent offenders are not enough on their own.</li><li>• Government must start planning for step 3 now – a statutory obligation on ISPs to crack down on persistent file-sharers by cutting bandwidth and suspending and blacklisting their accounts. This is outlined in Digital Britain but not due to be implemented for years. It is essential that this power is included in the Digital Economy Bill"</li></ul>
13 July 2009	E-mail sent to officials stating: The Secretary of State has seen the letter from Lucian Grainge

	and commented "I think we should examine, including step 3 power in Bill. What is Stephen Carter's view? Officials need to meet and discuss asap as Lucian suggests".
29 July 2009	Draft advice came up on DA clearance letter from officials. It recommended: "That you agree to the attached draft letter being sent to DA Committee <b>on 31<sup>st</sup> July</b> . This sets out the new approach, the reasons for it and how it differs from that consulted on in June. The changes made are more than process issues, and reach to the heart of how the legislation will deal with P2P infringement, so it is appropriate for DA Committee to be consulted."
31 July 2009	██████████ and officials met Universal's legal counsel.
30 July 2009	SoS spoke to Ben Bradshaw. One of the issues raised was views SoS had been hearing on IP.
11 August 2009	SoS signed DA clearance letter for issue.

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**From:** Mandelson MPST

**Sent:** 26 August 2009 10:18

**To:** Loughran Patrick (MPST MIN); Flynn Una (COMMS)

**Cc:** Lammy MPST; Timms MPST; Fraser MPST; SPAD MPST; McFadden MPST; Hendon David (IE); Clark Rachel (IE); [REDACTED] (IE); 'Ian Fletcher'; [REDACTED]; [REDACTED] (PPD); [REDACTED] (IE); Abel Richard (MPST MIN); [REDACTED] (MPST MIN); [REDACTED] (COMMS); [REDACTED] (MPST MIN)

**Subject:** URGENT: Peer to Peer filesharing letters to the Guardian and Independent  
Patrick / [REDACTED]

David Geffen has been in touch with the SoS, following an approach from the Times (see below) The SoS has said "we should have acted on this and got David's statement earlier in the week. It would have been helpful to know that the Guardian were doing their trailer story yesterday".

The SoS has asked if letters can be quickly drafted to (1) the Guardian readers' editor setting out the facts - when he dealt with the issues in the Department in July/Aug before going on holiday including Geffen quote below and (2) to the Independent (which needs to go to [REDACTED] this morning to get into the paper tomorrow).

Many thanks

[REDACTED]

[REDACTED] | Private Secretary to Secretary of State for Business, Innovation and Skills | 020 7215 [REDACTED] |

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-----Original Message-----

From: [REDACTED] (MPST MIN)

Sent: 06 August 2009 17:16

To: Clark Rachel (BR2); Mandelson MPST; Sharps Samuel (BR2)

Cc: Capon Catherine (MPST MIN); [REDACTED] (BR2); [REDACTED] (PPD); Morris Dominic (BR2); Hendon David (BR2); SPAD MPST; Fraser MPST; [REDACTED] (COMMS); [REDACTED] (LEGAL B); [REDACTED] (BR2); [REDACTED] (BR2); [REDACTED]@Culture.gsi.gov.uk'; Rutnam Philip (MPST DG); [REDACTED]@ipo.gsi.gov.uk'; 'Ian.Fletcher@ipo.gsi.gov.uk'; [REDACTED] (LEGAL B); Norris Geoffrey (MPST MIN)

Subject: SoS views on P2P

Rachel,

To summarise what we just discussed:

- a telescoped process with us taking power to direct Ofcom;

- further consultation with us suggesting a power for suspension to be included in the technical measures

[REDACTED]

Unclassified

----- Original Message -----

From: [REDACTED] (MPST MIN)  
To: Clark Rachel (BR2); Mandelson MPST; Sharps Samuel (BR2)  
Cc: [REDACTED] (MPST MIN); [REDACTED] (BR2); [REDACTED] (PPD); Morris Dominic (BR2);  
Hendon David (BR2); SPAD MPST; Fraser MPST; [REDACTED] (COMMS); [REDACTED] (LEGAL B);  
[REDACTED] (BR2); [REDACTED] (BR2); [REDACTED]@Culture.gsi.gov.uk'  
<[REDACTED]@Culture.gsi.gov.uk>; Rutnam Philip (MPST DG); [REDACTED]@ipo.gsi.gov.uk'  
<[REDACTED]@ipo.gsi.gov.uk>; 'Ian.Fletcher@ipo.gsi.gov.uk' <Ian.Fletcher@ipo.gsi.gov.uk>; [REDACTED]  
[REDACTED] (LEGAL B)

Sent: Thu Aug 06 15:45:31 2009

Subject: Re: Summary of introductory meetings with Stephen Timms 05.08.09

Am seeking clarification

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-----Original Message-----

From: [REDACTED] (MPST MIN)  
Sent: 06 August 2009 13:16  
To: Clark Rachel (BR2); Mandelson MPST; Gillatt Debbie (BR2); [REDACTED] (BR2); Sharps Samuel  
(BR2)  
Cc: [REDACTED] (MPST MIN); [REDACTED] (BR2); [REDACTED] (PPD); [REDACTED] (LEGAL B);  
[REDACTED] (BR2); Morris Dominic (BR2); Hendon David (BR2); [REDACTED] (BR2); SPAD MPST;  
Fraser MPST; [REDACTED] (COMMS)  
Subject: Re: Summary of introductory meetings with Stephen Timms 05.08.09

Rachel,

Peter wants to go further on technical measures to include suspension. Apologies I have not got back sooner. What are the next steps?

[REDACTED]

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