Internet filtering in the UK

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Outline

- Three strikes and you’re out
  - Gowers review
  - Industry lobbying for termination and monitoring
  - Political situation in UK and EU
Gowers review

- Former editor of FT appointed Dec. 2005 to review UK IP law
- Various positive recommendations but...
- “39: Observe the industry agreement of protocols for sharing data between ISPs and rights holders to remove and disbar users engaged in ‘piracy’. If this has not proved operationally successful by the end of 2007, Government should consider whether to legislate.”
Three strikes...

- DCMS leak to The Times: “Users suspected of wrongly downloading films or music will receive a warning e-mail for the first offence, a suspension for the second infringement and the termination of their internet contract if caught a third time, under the most likely option to emerge from discussions about the new law.” (Feb. 2008)

- Mandated ISP co-operation would be required
Political pressure

- “I firmly believe that an industry agreement will provide the most flexible approach, but I ... have made it clear that we can’t wait forever. We are already starting to explore legislative solutions, so that we can step in and take action if necessary.” – Lord Triesman, Minister for IP (Nov. 2007)
- European Commission is "asking the sector's stakeholders whether they are ready to consider the French way, based on enforcement, and whether they consider applying filtering measures to be an effective means of preventing online copyright infringements.” (Dec. 2007)
Industry wants more!

- Recording industry has been pushing audio fingerprinting tech like AudibleMagic...
- ...and incidentally, asking for encryption (“only for paedophiles”) to be banned
European legal challenges

- Proportionality: infringes rights to privacy, expression, association, education, commerce, civic engagement (EU CFR Arts. 7, 8, 11, 12, 14, 36)
- Are WiFi points “mere conduits”?

Politicians’ and ISPs’ reactions

- UK govt privately worried about consumer rights implications
- UK ISPs have now broken off discussions with content industry and calling government’s bluff
European reactions

• “Calls on the Commission and the Member States to recognise that the Internet is a vast platform for cultural expression, access to knowledge, and democratic participation in European creativity, bringing generations together through the information society; calls on the Commission and the Member States, therefore, to avoid adopting measures conflicting with civil liberties and human rights and with the principles of proportionality, effectiveness and dissuasiveness, such as the interruption of Internet access.” – European Parliament, 10 Apr 2008

• Swedish govt in March 2008 rejected Renfors report call to disconnect sharers – instead will give courts powers to order ISPs to disclose information on infringing customers
Conclusions

• At both UK and EU level, recording industry has been fighting hard for both three-strike rules and term extension
• They currently seem to be losing the battle…
• …but who knows what a star-studded gig in Brussels might achieve