



**The TaxPayers' Alliance submission to the Secondary
Legislation Scrutiny Committee on the Digital
Economy cost sharing order**

Submitted on behalf of the TaxPayers' Alliance by

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Submission

The draft Cost Order for consideration of the Secondary legislation Scrutiny Committee is the first step towards implementing sections 3 to 16 of the Digital Economy Act 2010. It was laid before Parliament on the 26th June as The Online Infringement of Copyright (Initial Obligations) (Sharing of Costs) Order 2012. On the same day Ofcom published a draft Initial Obligations Code for a one-month consultation, in advance of notification to the European Commission under the Technical Standards Directive. The schedule of the draft Cost Order is to be amended into this Initial Obligations Code.

There are a number of issues that the various organisations will bring to light through their submissions. In the interest of time we will focus on one in particular – the impact on small to medium enterprises (SMEs). It appears from the wording that most SMEs will be treated as subscribers if they receive Internet access and services from one of the qualifying Internet Service Providers (ISPs) and pass that on either as fixed broadband or WiFi services. There is a WiFi exclusion, but according to this cost order that exclusion will only apply to pure WiFi services, like The Cloud, and not to businesses which receive Internet access and pass it on to their customers, like coffee shops. Thus, such businesses will need to appeal to any notifications in order to avoid being placed on the copyright infringement list.

This potential punitive measure amounts to a stealth tax on SMEs. Most, if not all small businesses need to diversify their offering order to bring customers in to their shops. The use and availability of WiFi is one of the ways in which that can be accomplished. SMEs are in the business of doing business and not chasing after the wrongdoings of their customers who may act in such as way illegally. Of course SMEs offering WiFi access will protect itself by a terms and conditions agreement, but regardless this costly and difficult compliance measure will assure that SMEs are guilty until proven innocent. SMEs simply cannot spend the time, effort, money, and man-hours responding to such letters. In a difficult economy such as we have now SMEs must be allowed to get on doing business, creating jobs, and growing the economy. Any such regulations will prevent this from happening and amount to an extra tax in the form of time and money wasted on compliance.