



**Northern Ireland
Assembly**

**COMMITTEE FOR
CULTURE, ARTS AND LEISURE**

**OFFICIAL REPORT
(Hansard)**

**Digital Economy Bill/Video Recordings
Bill**

12 November 2009

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Barry McElduff (Chairperson)
Mr David McNarry (Deputy Chairperson)
Mr P J Bradley
Mr Dominic Bradley
Mr Francie Brolly
Lord Browne
Mr Trevor Clarke
Mr Kieran McCarthy
Mr Raymond McCartney
Mr Ken Robinson

Witnesses:

Ms Marian Kelly) Department of Culture, Arts and Leisure
Ms Joanna McConway)

The Chairperson (Mr McElduff):

I welcome Joanna McConway, who is head of arts and creativity in the Department of Culture, Arts and Leisure, and her colleague Marian Kelly. It is over to you, Joanna, to make a presentation.

Ms Joanna McConway (Department of Culture, Arts and Leisure):

Thank you for allowing us to give evidence to the Committee. I am also grateful for five minutes

of your time to provide a brief opening statement, which I hope you will find useful in providing background.

We are here to discuss the digital economy Bill and the video recordings Bill. Those Bills are being developed by the Department for Culture, Media and Sport in London. They will require Northern Ireland Assembly approval via legislative consent motions because they will legislate for two transferred matters: video games classification and the public lending right.

We have entered the digital age. Technological advances that were once reserved for science fiction and ‘Tomorrow’s World’ are rapidly becoming everyday realities. Twenty years ago, hardly anyone had a mobile phone or Internet access; today, children play video games on the Internet with friends who live on the other side of the world.

Technological advances are moving so quickly that our legislative base is fast going out of date. Government need to catch up. In June 2009, the Department for Culture, Media and Sport published the ‘Digital Britain’ White Paper, which seeks to ensure a world-class digital future. The ambition is to secure the UK’s position as one of the world’s leading digital knowledge economies, and the White Paper contains a wide range of proposals to achieve that aim. Some of those proposals require legislation.

The legislative elements of ‘Digital Britain’ will be put on a statutory footing by the digital economy Bill, which will include provisions for changes to the analogue radio licensing regime to allow digital switch-over and obligations on Internet service providers with respect to unlawful peer-to-peer file sharing.

Two provisions relate to transferred matters: video games classification and the public lending right scheme. When the Bill is enacted, it will reform the video games classification system for Internet and physical disc games by amending the Video Recordings Act 1984. It will allow the Video Standards Council to take on the responsibility for classifying video games using an enhanced pan-European game information (PEGI) system. In essence, it will mean that anyone who sells a game with a 12-plus classification to small children can be prosecuted. The Video Recordings Act 1984 already puts games rated 18 and higher on a statutory footing.

The public lending right scheme allows authors of books that are lent to the public through

libraries to receive an annual compensation payment. Under the digital economy Bill, the scheme will be extended to include non-print formats, such as e-books and audio books. At present, libraries cannot lend those formats without entering into individual contracts with authors and rights holders.

In addition to the digital economy Bill, Westminster wishes to enact the video recordings Bill, which will correct an error that means that the Video Recordings Act 1984 is unenforceable. When the Act was brought into force, the European Commission was not properly notified, so fast-track legislation is required to correct that flaw and to ensure that the public is protected from the distribution of inappropriate material to children. The video recordings Bill will allow the Video Recordings Act 1984 to be revoked and then re-adopted after the necessary notification to Europe.

As fast-track legislation, it will pass through the usual process in a matter of days rather than months, and, in order to facilitate its passage and to ensure that Northern Ireland is included in the legislation, we expect to amend procedures that normally take place after introduction. That means that it may be necessary to ask the Committee to consider a draft Bill and to give Minister McCausland consent to table a motion in time for a debate soon after the video recordings Bill is introduced.

The digital economy Bill will update the Video Recordings Act 1984 to include a statutory provision of games rated 12 and above, and its introduction will follow normal procedures. We expect motions for the digital economy Bill and the video recordings Bill to be debated in the Assembly early in the new year.

It is important that Northern Ireland be included in both Bills so that we can provide robust protection for our children from inappropriate material in video games and to ensure that we can participate in the new digital vision that is set out in the 'Digital Britain' White Paper, which will allow new book formats to be distributed and bring the Northern Ireland public digital services in an efficient, up-to-date and visionary manner. Last Thursday, in order to extend the Bills' provisions to Northern Ireland, the Executive gave their approval for legislative consent motions to be tabled. Minister McCausland wrote to Siôn Simon, the Minister for Creative Industries, to advise that the Executive's approval had been received.

I hope that members found this background to the digital economy Bill and the video recordings Bill useful.

Mr McCarthy:

Thank you very much for your presentation. You are engaged in very important work. What steps has the Department taken to ensure that the provisions in both Bills are suitable for Northern Ireland? Furthermore, has the Department consulted outside bodies, such as Ofcom?

Ms McConway:

The provisions do not contain any unique requirements for Northern Ireland, so we are looking for a consistent approach across all UK jurisdictions. UK-wide consultation has taken place on various provisions in the digital economy Bill, and the two transferred provisions have been consulted on. Minister McGimpsey responded to the consultation on the strengthened video classification system.

He noted that, because we share a land border with the Republic of Ireland and because the pan-European game information system is a European system, it is understood by people who live in Northern Ireland and who shop in the Republic.

The Northern Ireland Library Authority was contacted by DCAL about the public lending right, but it had no issues to raise.

Mr McCarthy:

What about Ofcom?

Ms McConway:

Ofcom was consulted through a round-table discussion with Lord Carter in a UK-wide consultation that allowed jurisdictions to become involved in policy development.

Mr McCartney:

Is there a timeline for the emergency Bill? I take it that it has a separate timeline.

Ms McConway:

Yes: because it is fast-track legislation, they are trying to bring it through in days, as opposed to

the normal couple of months.

Mr McCartney:

Will the legislative consent motion go through the Assembly before or after Christmas?

Ms McConway:

It will be after Christmas.

Mr McCartney:

Will amending the Public Lending Right Act 1979 involve any extra cost, and who will pick up that cost?

Ms McConway:

There are no additional costs for Northern Ireland for either of those transferred matters. The cost will be picked up by the Department for Culture, Media and Sport.

Mr McCartney:

Will it be a technical change or will it allow libraries to expand their services?

Ms McConway:

The Public Lending Right Act 1979?

Mr McCartney:

Yes. Is the change to ensure that libraries follow the proper procedure or will it allow them to extend what they release to the public?

Ms McConway:

It will allow libraries to extend what they release to the public. The Bill will give powers to extend the Public Lending Right Act 1979, and that will include audio books.

Mr McCartney:

Are libraries demanding provisions to allow them to expand their services or is it a technical provision?

Ms McConway:

The demand is coming from libraries and from rights holders to those other formats.

Mr K Robinson:

After wrestling unsuccessfully with my grandson yesterday for possession of the remote control, I am not sure whether I am qualified to ask a question. A legislative consent motion has to be passed. It has Executive approval, but what are the next steps before it comes to the Floor of the Assembly?

Ms Marian Kelly (Department of Culture, Arts and Leisure):

Normally, we need to wait until a Bill has been introduced. Once it has been introduced, we come back to the Committee with a draft of the legislative consent motion and a memorandum explaining the contents of the Bill.

Mr K Robinson:

Will the Bill be introduced at Westminster?

Ms M Kelly:

Yes; these are Westminster Bills.

Mr K Robinson:

Is there a specific time for its introduction?

Ms M Kelly:

It is intended that the digital economy Bill will be introduced shortly after the Queen's Speech, which will take place on 18 November. There is no timetable for the video recordings Bill at the moment. It is possible, but unlikely, that it will be introduced before the December recess; it is more likely to be introduced in early January.

Mr K Robinson:

Therefore the two Bills will not be taken in tandem.

Ms M Kelly:

They will not be taken in tandem, but the video recordings Bill will allow the Video Recordings

Act 1984 to be enforceable. Once the Video Recordings Act 1984 has become enforceable, the digital economy Bill will amend it. The video recordings Bill will have to be enacted before the digital economy Bill, and that is why fast-track legislation is needed, hopefully in January 2010.

Mr K Robinson:

May I tease that out a little? We are looking at the matter as a legislative Assembly. Is the same process happening in Wales and Scotland?

Ms M Kelly:

No; these are not transferred matters in Wales and Scotland.

Mr K Robinson:

Thank you very much.

Mr McNarry:

I ask this question in complete ignorance: does the legislation extend only to UK registered servers?

Ms McConway:

It depends on whether you are referring to the video classification system or peer-to-peer file sharing, as the digital economy Bill covers several areas. The two provisions that are transferred matters are video classification and the public lending right. Are you referring to video classification?

Mr McNarry:

I think that it is video classification that I mean. I am mindful that RTÉ seems to come in here, and we had a discussion earlier because some people have complaints about reception. Can we legislate for —

Ms McConway:

Unfortunately not; broadcasting is a reserved matter. There is an element of broadcasting legislation in the digital economy Bill, but it is not a transferred matter. Therefore, we will not have legislative consent motions and debates to accept that in Northern Ireland.

Mr McNarry:

Are there revenue losses due to outside servers?

Ms McConway:

Not that I am aware of. I am not quite sure in what sense you mean that.

Mr McNarry:

Pirates.

Ms McConway:

The broadcasting requirements in the digital economy Bill are not in relation to RTÉ; they are about the reformation of Channel 4 and local news services. The aim of the 'Digital Britain' White Paper is ultimately to have competition for locally provided news services. If that happened, anyone could tender for those services.

Mr McNarry:

That is the point. Thank you.

The Chairperson:

I thank Joanna and Marian for their presentation this morning.

Are members content that the provisions of the Bills be extended to here and that the Department proceed with the process?

Members indicated assent.