

A COMMUNICATIONS REVIEW FOR THE DIGITAL AGE

30TH JUNE 2011

INTRODUCTION

We welcome this opportunity to provide input into DCMS's review of Communications for the Digital Age. Cable&Wireless Worldwide shares the view that the communications and digital media industries are key economic enablers, supporting and promoting growth in other sectors and industries as well as contributing directly to the economic well-being of the nation. The United Kingdom is well placed to lead the European and World economies into the next stage of digital development, with a rich cultural backdrop, a focus on commerce and entrepreneurship and a competitive and innovative range of communication infrastructure available, the UK has some natural advantages which the country must capitalise on.

The time is right to look again at our industry framework, to ensure we are best-placed to meet the challenges of tomorrow. In doing so, we must also look back as well as forward, seeking to improve what currently works well and find new ways of overcoming the obstacles that have held us back in the past. A sound, well-understood and transparent framework is something we should all aspire to, with a presumption that competition will deliver competitive pricing, service innovation and service development. Where there are infrastructure bottlenecks and monopoly situations exist, then the regulatory framework must seek to resolve them by aiming, where possible to replicate a competitive market-based outcome. Where matters of dispute arise or competition concerns emerge, the framework should permit swift action to both remedy and deter undesirable outcomes. This approach will encourage investment in our industry; benefiting consumers and helping to drive growth in the wider economy, equipping us with the tools we need to compete in an increasingly challenging global marketplace.

Cable&Wireless Worldwide is a key stakeholder in this process, being one of the world's leading international communications companies. Demerging from C&W plc in 2010, the company has been at the forefront of service innovation in our industry, providing UK and Global organisations with the connectivity they need to do business. More information on Cable&Wireless Worldwide can be found at: www.cwworldwide.com

Today Cable&Wireless Worldwide has the necessary scale to meet the needs of UK enterprise customers and we are a strategic provider to both the UK public and private sectors, offering a range of innovative and market leading voice and data products. Our customers include most of the UK's top companies and public sector organisations, each of whom has placed its trust in Cable&Wireless Worldwide to deliver an array of business-critical services. Wherever possible we try and service our customers using our own infrastructure, however in many cases we remain reliant on regulated products from BT to ensure that our customers have the connectivity that they need to do business.

Our success as a company is ultimately dependent on the success of our customers, which in turn depends on the right framework existing for business. Short-term gains should not be achieved at the expense of long-term consumer welfare. Regulatory intervention has to be justified, but likewise the case for deregulation also has to be clear. A well-balanced and well-understood framework is

the foundation for success and we are happy to share our views on what we think that future framework should look like.

Our primary focus is on directly serving the needs of business customers; but it is competitive businesses that will drive the economy forward so their needs are vital. It is essential that the industry framework supports the needs of businesses as consumers as well as citizen consumers. Cable&Wireless Worldwide recognises the increasing importance of networks and cloud services to business, and that these carry with them a need for network and service levels that are structurally different from consumer grade service, and thus regulatory recognition of infrastructure and service competitiveness should reflect and support this need.

In the remainder of this response we focus upon the specific questions posed by DCMS.

Q&A

Growth, innovation & deregulation

Q1. *What could a healthier communications market look like? How can the right balance be achieved between investment, competition and services in a changing technological environment?*

A healthy communications market has to be a competitive one, where service and price competition exist, driving innovation and product development. Competition should be encouraged in all segments where it is economically sensible and sustainable. Where it is not, then regulatory remedies should be developed to mimic competitive outcomes. Encouraging a range of infrastructure provision where it is sensible to do so must be the first consideration when developing new services. If infrastructure duplication does not make economic sense then the correct balance must be struck between allowing an appropriate rate of return for the infrastructure owner and mandating the necessary wholesale products to enable other providers to offer their own competing retail offering on the back of wholesale products, stimulating downstream competition in retail markets. There is a natural policy temptation to bring pressure to bear to get products or services launched quickly and infrastructure rolled out, however this should not be done at the expense of long term consumer welfare in the form of giving the incumbent communications provider *carte blanche* to behave in a way that will not be in the long term interests of consumers. The prize in achieving this will be a competitive market that delivers long-term benefits to consumers, boosting economic welfare in the medium to long term.

Government at all levels in the United Kingdom (local, central, the devolved nations and other arms length publicly-funded bodies) has a role to play in ensuring that competition flourishes in the sector. As well as setting the policy direction, Government is also a major purchaser of communication services. Far too much business continues to be placed with the incumbent supplier at the expense of other communications providers. Our belief is that such decisions are not cost or service-based, rather there is a natural tendency to stick with the incumbent as they are both a known quantity and there is a perceived risk of disruption associated with using a new supplier. Government at all

levels, through its own actions must also play its part in supporting a diverse range of infrastructure and service competition.

Q2. *What action can be taken to facilitate greater innovation and growth across the wider competition regime, and how can deregulation help achieve this?*

A competitive market, with a range of suppliers in both the wholesale and retail markets is the best way of promoting innovation and growth. While retail competition is of course welcome, it will be constrained if all retail suppliers are relying upon the same wholesale inputs. Where infrastructure competition exists then the pressure to innovate and adapt will intensify. Competition at the infrastructure level should always be encouraged and only discounted where infrastructure duplication would be economically inefficient.

It is important to draw a distinction between regulation that applies to all businesses and those that apply to specific providers as a result of them having market power. As a matter of principle we are in favour of removing unnecessary red tape and making it easier for communications providers to do business, deregulating where it is sensible to do so. This sentiment applies to a broad range of universally applied regulations, with a variety of aims. Generally speaking, the more onerous the obligations, the greater the barrier to innovation, although we also recognise that a great deal of regulation remains desirable as it helps to raise standards and improve consumer confidence. A careful examination of the great number of regulations that apply universally to communication providers would be welcome, ensuring that the wider regulatory regime remains proportionate.

In cases where regulation has been implemented by National Regulatory Authorities on specific providers in order to correct for market failure, with distinct remedies placed on communication providers with Significant Market Power, it is already subject to a rolling triennial review based on Ofcom's market review cycle. The European Framework demands that National Regulatory Authorities undertake market reviews and implement remedies where required. We believe this review cycle works well, ensuring that sector specific regulatory remedies are kept up-to-date, remaining proportionate and relevant. From a policy perspective, government should be content to leave the current market review regime in place as it is capable of adapting to shifting market and product trends.

Q3. *Is regulatory convergence across different platforms desirable and, if so, what are the potential issues to implementation?*

Regulatory convergence will be led by product convergence. Where products and services are mixed or bundled together, so must the regulatory approach be. That said, it is still important to differentiate between certain key sectors - infrastructure provision and content, for example. While we have seen some content providers invest heavily in infrastructure, it is only appropriate that the two topics are dealt with separately, albeit by one converged regulatory authority, which is able to take a holistic and consistent approach. Convergence can be desirable, provided it is approached sensibly and does not result in a reduced level of scrutiny or understanding in connection with the provision of specific products.

Q4. *What barriers can be removed to facilitate greater exports and inward investment and make the UK more globally competitive in digital communications?*

It is important that the UK is not disadvantaged in the pursuit of international commerce by burdensome regulation, or market failure which leads to a poor choice of suppliers, discouraging inward investment. The common European Framework helps to harmonise regulation across the continent, however it is open to each Member State to transpose it into the legislative framework of their jurisdiction. It is therefore important for the UK to keep the global perspective in mind when legislation or regulation is drawn up to ensure that the UK remains a good place to do business. Likewise the UK should be prepared to act quickly should any competitive disadvantages emerge. With an ever-faster pace of technological change emerging, the UK should be alert to the need to review the regulatory framework on a regular basis in order that it is well-placed to respond to leaps in technology.

A communications infrastructure that provides the foundations for growth

Q5. *What further market and regulatory developments would lead to widespread take-up of superfast broadband? What regulatory action would government need to take to make superfast broadband more readily available in a) urban areas; and, b) rural areas?*

Ensuring a competitive range of retail supply will stimulate service innovation, stoking demand and stimulating the roll-out of the service. This means that wholesale products have to be priced appropriately and be fit for purpose. If the only choice for the consumer comes in the form of the incumbent supplier, then growth will be suppressed. Large-scale infrastructure roll-out usually requires a critical mass of potential customers to be achieved in order to justify the significant up-front investment involved. That critical mass to justify the initial investment is far easier to achieve in an urban environment than in a rural one or otherwise remote area. From a public benefit perspective, if the Government wanted to support roll-out in rural areas, then: providing public funding did not undermine other private infrastructure provision; met State Aid rules; and, where necessary, if the recipient supplier was prepared to offer fit-for-purpose wholesale products appropriately priced as a result of their market power - then this approach could help to stimulate competition thereby benefitting the full range of UK consumers.

In our view there is limited real demand for superfast broadband today, with consumer demand satisfied by the current generation of products. It will take some time before the willingness of consumers to pay catches up. It is important to note that the opportunity of super fast broadband is not just about faster and faster speeds but also in connecting up more and more devices to the network in a cleverer and more efficient way. There are many examples of the emerging need for the proliferation of connectivity - only some of which are about high band width transactions, but many can be classed as Machine to Machine (M2M or "the internet of things"). For example Smart Meters and Smart Grids are two significant developments that could change our lives for the better by driving greater efficiency in power use and reliability, helping consumers adapt to changing technology use and managing electricity demand with changing habits, such as the growing popularity of home electricity generation and electric car usage (which have a charging requirement during the evening/night). Both require a proliferation of communications networking - small amounts of frequent data to every consumer in the case of Smart Metering, and larger amounts of

generally more time sensitive data in the case of Smart Grid. We believe there is benefit in considering the need for ubiquitous connectivity, broadly across many categories of need.

Q6. *What are the competing demands for spectrum, how is the market changing and how can a regulatory framework best accommodate any rapidly changing demands on spectrum and market development?*

Mobility is a fundamental part of the digital age; users demand access to services seamlessly, wherever they are, and whenever they wish and the technology can meet these demands. However new demand for spectrum is not just about the next generation of mobile services. There are many benefits to be achieved from greater connectivity of devices that in large part must be achieved using wireless technology. See our answer to Q5 above. Clearly the benefit to society cannot be judged solely on the amount bidders will be prepared to bid for that spectrum as economic value does not always flow smoothly through the value chain. It is therefore important that regulators play a very active role in spectrum allocation to ensure that competition can flourish and that genuine users are not locked out by cash rich companies seeking to limit competition.

Q7. *How should spectrum be managed to deliver our growth objectives whilst also meeting our policy objectives of furthering the interests of citizens and consumers in relation to communications matters?*

Please see our answer to Q6.

Q8. *How should the UK engage on an EU/International level in relation to spectrum?*

Communications is a global capability and harmonisation of spectrum allocation at the international level is crucial both to make capability ubiquitous and drive the greatest scale efficiencies in device manufacture. This has already helped delivered excellent results and we must continue to drive this harmonisation. However the Government must balance this with the interests of existing users of spectrum in the UK to ensure their investments and capability are adequately protected.

Q9. *Is the current mix of regulation, competition and Government intervention right to stimulate investment in communications networks?*

The current regulatory approach has both aspects that work well and those that hinder investment. Often there is a tendency towards short-termism, which leads to infrastructure being concentrated in the hands of too few suppliers, thereby constraining competition in the medium to longer-term. Creating competition should be at the heart of every decision, be it in the deployment of infrastructure or correcting market failure.

Creating the right environment for the content industry to thrive

Q10. *Are there disproportionate regulatory barriers to investment in content? If so, what are they and how can increased investment in UK content production be encouraged?*

We have no specific comments to make on this issue.

Q11. *Should the core focus of public service broadcasting be on original UK content?*

This is not our area expertise, however from our standpoint one of our great strengths has been the ability of our broadcasters to produce a wide range of high quality original content, drawing from our rich culture. This in turn stimulates demand for communication services as well as having other economic benefits.

Q12. *What barriers are there to innovation in new digital media sectors, including video games, telemedicine, local television and education?*

We have no specific knowledge on this question to share.

Q13. *Where has self- and co-regulation worked successfully and what can be learnt from specific approaches? Where specific approaches haven't worked, how can the framework of content regulation be made sufficiently coherent and not create barriers to growth, but at the same time protect citizens and enable consumer confidence?*

We have no specific knowledge on this question to share.