

## A Communications Review for the Digital Age: News Corporation's response June 2011

### Introduction

News Corporation is pleased to have the opportunity to respond to Jeremy Hunt's open letter, A Communications Review for the Digital Age. We welcome the constructive approach already taken by the Government; we are delighted to contribute, and we look forward to participating fully during the whole of the consultation process. We hope that the insights and experience we have gained from both our UK and our international operations will be of assistance to the Government over the coming months and years.

### Approach

We believe Government should use the next few months to develop and enunciate a set of clear principles that will underpin the Bill at all stages, from Green Paper to Act of Parliament. These principles should be the foundations of the *'dynamic and successful'* media marketplace that we want to see in the UK; and should be the basic criteria by which all measures suggested for inclusion in the Bill are judged. We welcome the clear statements already published by the Government that the overall objective of the process is to: *'establish UK communications and media markets as amongst the most dynamic and successful in the world'*, and that growth in the communications sector requires: *'a deregulatory approach that deals with these developments to the benefit of both consumers and citizens.'* Below, we set out some of the key principles which we believe should underpin the process of development of the Bill, without going into detail on every issue.

A communications infrastructure is only as good as the content which it delivers. Any new Communications Bill must form part of a framework that preserves and promotes the incentive to create and invest in content. The UK is rightly renowned for the quality of its creative output, and there is clear evidence that the creative sector can in part catalyse the recovery from the recent downturn. This is in part dependent on a robust IP system exists which incentivises and rewards innovation, and deters against its theft and misuse.

### Three Principles for a new Communications Act

1. **The scope of the new Act should be limited.** As a rule, we believe that communications should be treated like any other industry – it should not be subject to a patchwork of different and specialised regulatory structures. While special and specific arrangements might be required to safeguard the interests of – say – children, the axiom of the new Act should be to ***deregulate where possible, protect only where necessary.***

2. **The new Act should promote growth and innovation in the communications sector.** Since the last Communications Act in 2003, the communications industry has changed beyond all recognition. The continuing growth of this sector will only be secured by allowing the marketplace to respond to the rapid rate of technological change and consumer demand. And this, in turn, will only be safeguarded if the environment for communications in the UK is open, competitive, and viewed by investors as a place where imagination, creativity and innovation are rewarded, not constrained by unnecessary regulation and legislation.
3. **The new Act should promote freedom of choice.** Embracing consumers' freedom to choose what services they want to buy, and on which platforms they wish to access those services, must be at the heart of the Bill. Over the past 20 years, the development of a marketplace in communications (albeit an imperfect one at present) has given consumers access to an unprecedented range of content. Research has validated this, showing that consumers are finding it easier and easier to access a wide range of content across multiple media platforms, particularly since use of the internet became every day practice. Consumers have shown, through their purchasing decisions, that they enjoy exercising their new freedom of choice. We have no reason to believe that they would not continue to do so, were the market given the opportunity to expand even further. The new Bill should realise this opportunity by reducing the role of the state in communications, and placing respect for consumers at the heart of policy.

## The specific questions raised

We have dealt with the questions the letter raises where we have specific points to make. However, at this stage we believe that a detailed response on every point is not necessary. Nor should the Green Paper, which will follow, be confined to these points.

### ***Growth, innovation and 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?*

We strongly support the proposition that a healthy communications marketplace is the result of fair competition, minimal state intervention, and limited regulation, all of which enable the market to deliver what consumers want. It is also produced by ensuring that creators of content receive a fair return for the use of their work, and protection from its improper, or illegal, use. Regulation, although necessary in some cases, can never keep pace with the speed of technological change and convergence across media, and thus acts as a barrier to innovation.

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

Competition in communications should be subject as far as possible to the normal law of the land. The creation of unnecessary mechanisms to intervene in the working of the

communications marketplace – as with all marketplaces - acts as a brake on its growth and deters companies from making investments. This is particularly true in the communications sector, where the marketplace is incredibly dynamic and where regulatory interventions can quickly become anachronistic if implemented without due care. Where it is deemed absolutely necessary to regulate, any interventions should be limited, and flagged well in advance to give investors the certainty and stability they need to grow their businesses.

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

We urge the Government to think in terms of **deregulatory** convergence. Our experience has been that communications sectors with limited or minimal regulatory intervention are those with the greatest growth and innovation. That is an approach that should apply across the board.

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

In the UK it has been estimated that more than two million people work in the creative sector, which is worth around £17 billion in exports. This is a great record, but given the right conditions for growth we know we can perform even better. As noted above, we suggest that the promotion of investment and growth in the communications sector should be the over-riding objective of the new Bill: any decision taken – whether to intervene or not to intervene – should serve this goal. And any interventions that are made should be limited in their scope, and based on clear principles that provide certainty to the market.

We also believe that a robust commitment to the protection of content in this country will drive investment in the UK's communication sector. With this in mind, we believe the Government should ensure the Communications Act builds on the Digital Economy Act to make sure the framework for IP protection in this country reflects the extent and nature of content theft online. This is an essential factor in ensuring competitiveness more generally through the creation of a level playing-field where paid content does not have to compete with that which is illegally distributed for free.

### ***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?*

The level of government, state-sponsored, and local government spending on broadcast, internet and newspaper content is the main disincentive to commercial investment. In addition, regulatory uncertainty and activism in the communications sector remains a substantial disincentive to long-term planning and hence to further investment. The growth of the sector can, however, be secured by the creation of a robust framework protecting content creators' intellectual property, and we welcome the clear message from Professor Hargreaves' recent review to this effect. We look forward to the Government's response on this important matter.

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

The core focus of public service broadcasting should be on providing material which would not be otherwise provided by the market. It was previously argued by some commentators and policy-makers that if public service content were not to be provided through state subsidy, it would not be generated by the market. This view was based on the assumption that the consumer does not value this content enough for it to be provided, other than by regulation. The record of the last twenty years of broadcasting in the UK proves otherwise.

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

The growth of a new digital media sector in education is an exciting development. Strong evidence exists from around the world showing that new technologies such as personalised software can help young people flourish and make the education system more responsive to their individual needs. We look forward to working with Government to ensure that this sector, and the technologies it encompasses, delivers its full potential.

*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 welcome the Government's acknowledgement that there are alternatives to statutory regulation. Self- and co-regulation are important tools in any functioning market, but their deployment should be considered on a case-by-case basis, depending on the characteristics of the sector and the needs of its customers. We look forward to exploring this issue with government further.

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## Appendix: About News Corporation

News Corporation is a diversified global media company with operations in six industry segments (bracketed figures represent percentage of operating income): television production (57%); filmed entertainment (24%); direct broadcast satellite television (7%); newspaper and book publishing (16%); and other. Its activities are conducted principally in the United States, Continental Europe, the United Kingdom, Australia, Asia and Latin America. News Corporation had total assets as of December 31, 2010 of approximately US\$57 billion and total annual revenues of approximately US\$33 billion.

In the UK, News Corporation companies include News International, HarperCollins, BSkyB (in which the company holds an approximate 39% interest), and NDS Group Ltd (in which the company holds 49%).

News International is the parent company of the publishers of The Times, The Sunday Times, The Sun and News of the World. News International also publishes The Times Literary Supplement, a weekly literary review. Headquartered in New York, and with offices in Canada, the UK, India, China and Australia, HarperCollins has global revenues of over \$1 billion every year. Globally HarperCollins is one of the largest English-language publishers, publishing more than 1200 books a year in the UK and employing around 1000 people in London, Glasgow and Cheltenham.

BSkyB operates the leading pay television broadcast service in the United Kingdom and Ireland, as well as broadband and telephony services. BSkyB acquires and commissions programming to broadcast on its own channels and supplies certain of those channels to cable operators for retransmission by the cable operators to their subscribers in the UK and Ireland. NDS Group Ltd, a private company headquartered in the UK which creates innovative technologies that allow pay-TV operators to securely deliver digital content to TVs, set-top boxes and a range of devices.

Globally News Corporation owns businesses including the media network Fox, the film studios 20th Century Fox, and Dow Jones, which publishes the Wall Street Journal, many of which have a significant presence in the UK. News Corporation, through its investment in the production of entertainment, news gathering and reporting, and other media production is a significant contributor to cultural, creative and information knowledge base in the UK and worldwide.

**Enclosed:**

News Corporation submission to Hargreaves Review