

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?

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

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

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

A Communications Review for the Digital Age

The regional media industry welcomes the review's objective of establishment of a dynamic and successful UK communications and media market, amongst the most successful in the world, supported by a regulatory framework fit for the digital age. The government's intention to adopt an open minded approach to the potential outcomes and mechanisms by which this might be achieved is also helpful.

The future framework must be conducive to the continued vitality of the regional media, thereby sustaining its contribution to the long-term growth and health of regional economy, development of local businesses, and vibrant communities throughout the UK.

The industry is already in dialogue with Government departments on UK and EU policy and regulatory issues which affect the industry and its future development. Evidence has been given by the NS and individual members to Parliamentary Select Committees, to reviews of the operation of the media ownership regime by the OFT and of the media ownership rules by Ofcom, and assessments of public funded media in competition with the regional media by the Audit Commission and the BBC Trust. As the paper anticipates, we also made submissions to the Digital and Creative Industries initiative and to successive reviews of intellectual property, most recently the Intellectual Property Growth review. The NS is happy to provide further information or the results of relevant research undertaken as relevant and appropriate in the course of the review. Information is available on the NS website www.newspapersoc.org.uk.

In the lead up to the Communications Act 2003 and its predecessors, the regional press campaigned for reform of the media controls framed in the 1950s. The industry advocated a regulatory framework which would not impose special controls over the media companies and content, but enable fair competition, freedom of expression and allow regional newspaper companies to develop their full potential as regional media

companies, sustaining their trusted journalism and commercial services across whatever the delivery platform or form favoured by their audience.

These remain the industry's objectives. The regional media has welcomed the first step of deregulation of local cross-media ownership rules. It would like the newspaper mergers and transfers regime and competition authorities' practice to result in actual liberalization supportive of regional media companies' and titles' development. It is firmly opposed to any special press laws or state controls over the press. It opposes any unnecessary encroachment upon freedom of expression in general and press freedom in particular, whatever the media of publication. Where regulation of content over and above the general law is necessary, the industry remains a firm supporter of voluntary industry self-regulation, rather than imposition of co-regulation or statutory regulation. It supports the Press Complaints Commission and the Advertising Standards Authority.

The industry now publishes around 1,200 regional and local, daily and weekly newspaper titles, over 400 niche/ultra local titles, 1,400 associated websites, hosting community forums, providing original audiovisual content etc., 26 radio stations and two television stations. It employs over 30,000 people, including 10,000 journalists. Its print titles are read each week by three quarters of the UK adult population - 38 million people a week - with 34 million unique users of its websites a month and over 60% of people act on the advertisements in local newspapers. The regional media's local news, information, entertainment, business and advertising services have benefited from the variety of media platforms and the immediacy of individual interaction now possible.

Any new communications framework has to recognize the breadth of the existing sector. The regional press might have the longest heritage of news media within the UK communications sector, but it has also often been the unsung pioneer of new media developments, promoter of regional regeneration and centre of community clusters of media expertise for local businesses, entrepreneurs and consumers. Indeed, the 'new' media world now overtly recognizes the importance of the individual and local connections and services, which have always been integral to the success of the local press. It is important that any new communications regime is supportive of existing local media companies and enables their development, not least because of their potential contribution to achievement of the government's objective.

The industry wants freedom from special controls and the ability to compete fairly in its local markets, unfettered by regulatory burdens which do not handicap its competitors. The media ownership rules and market definition as interpreted and applied in practice can still adversely impact upon the regional and local press, even where newspaper mergers and transfers would have helped to sustain titles. The industry has stressed the need for the competition authorities to recognize the realities of the modern local media market in their interpretation and application of the current rules.

The industry would not support 'regulatory convergence across different media platforms' if this meant extension and intensification of regulation, as opposed to deregulation. The industry would strongly oppose any new restrictions upon freedom of expression and press freedom (see below).

The industry would oppose the extension or strengthening of the reformed competition authorities' powers of intervention in local media mergers or transfers, or introduction of new powers of intervention triggered by media companies' launch of any new product or their growth, independent of any ownership change. It is important that changes to the competition authorities' structures, powers and procedures for the purposes of general competition law do not also inadvertently complicate or confuse or delay media transactions in practice.

In order to ensure fair competition and avoid adverse effects upon the independent commercial regional media, the industry would welcome stronger and more effective curbs upon the BBC's services and activities, addressed by complementary reviews of the BBC Charter, Licence Fee funding and the communications regulatory framework. The regulatory framework should also ensure that public sector bodies do not produce publicly funded media which compete for commercial revenues and audience with the independent commercial media.

The industry also needs an employment framework conducive to the demands of 24 hour media operations.

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?

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

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

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?

Question 10

One of the industry's core concerns is the legal protection of publishers' rights to derive and enjoy the full benefit of their investment in editorial content, and this is achieved in large measure through the promotion of their IP rights.

UK newspaper publishers invest over £1bn per year in developing high quality content which is republished across a multiplicity of distribution platforms. This investment must be underpinned by effective legal protection so that publishers can be confident of their ability to use and disseminate the content created by them and their employees in any appropriate way, allowing the freedom to innovate and develop.

A thriving publishing industry depends on fair remuneration for use of creative and journalistic content. It is copyright law that allows for this, but without proper enforcement the industry is at risk. Without effective, enforceable IPRs online there is a risk that the 'virtuous circle' of investment, returns and re-investment will be undermined.

The Society has made detailed submissions on all the recent UK and European IP consultations, including the Gowers Review in April 2006, proposed changes to copyright exceptions in April 2008, Copyright the Future in February 2009 and the Hargreaves Review in March of this year.

Other key issues are the future legal regime governing legal deposit of non-print works and allied British Library issues in respect of print and non-print works.

It is vital that the law does not diminish publishers' IP rights, or allow their bypass by way of legal deposit etc, while enabling others to exploit and profit from publishers' work and investment, without permission or recompense.

Question 11

Any changes to the core focus of public sector media, especially those relating to public sector broadcasting news, information and entertainment services, can distort nascent markets and adversely impact upon the independent commercial media, including the regional media, as evidenced by the submissions to the BBC Trust Public Value Test on proposals to extend BBC local services. It would be helpful for the government to delineate what precisely any such change would entail and to consult.

Question 12

Regional media companies have actively engaged in past and current consideration of development of local television and discussions upon its form, feasibility and interaction with the existing local media. Obviously, any initiative must take account of the existing media and avoid the creation of unfair competition.

Question 13

The regional newspaper industry helped to establish and continues to support voluntary self-regulation of editorial and advertising content through the Press Complaints Commission and the Advertising Standards Authority. Not only does the industry fund and play an active role at every level of the system, including enforcement, it demonstrates its support by its day to day practice. Publishers, editors, journalists and advertising staff ensure that the thousands of stories and advertisements published by the regional press each week abide by the Codes upheld by the PCC and ASA; they help enforce the system - through refusal of non-compliant advertising; in the event of complaint, they co-operate fully with the investigation and adjudicatory processes.

The industry's systems of voluntary self-regulation are flexible, adapting quickly to

developments in the industry or independent concerns. They enable rapid investigation of complaints; effective conciliation and fast adjudication, without cost to the complainant. Surveys have demonstrated public awareness and complainant satisfaction.

There are already myriad civil and criminal laws which impact upon publication of editorial and advertising content in any media, with a variety of enforcement agencies and regulators, in addition to the courts. Media convergence, multiplicity of media platforms, development of new media or ways of communicating and publishing material do not automatically justify the introduction of new self-regulatory, co-regulatory or statutory framework or specific controls, or the extension to other media of historic statutory controls or regulatory framework devised for specific media, such as broadcast controls based upon historic spectrum scarcity and ensuing licencing regimes. Nor is convergence of co-regulatory or statutory controls or regulators necessary or desirable if it would unnecessarily extend remit or inroads into freedom of expression. In relation to press freedom, special care has also to be taken that general taste, decency, classifications or ratings requirements or restrictions, especially those ostensibly based on age or the type of content, do not indirectly restrict the publication of news or fetter editorial discretion in its presentation.

The Newspaper Society

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