

Communications Review: Response to Open Letter by Jeremy Hunt

Response from: **Professor William Dutton, Director, Oxford Internet Institute**



Question 1

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?

Many of the questions in this review focus on aspects of competition and industrial policy, however it is our view that for the economic benefits of the Internet to be maximised, attention must also be devoted to closing the digital divide. Efforts such as Race Online 2012 demonstrate that the UK government realizes the significance of access to the Internet in supporting efforts to erase the digital divide, increase participation and enhance digital media literacy. Yet less than 30 percent of adults in the UK report receiving training in media literacy, even though training could promote participation among those with little to no experience (Ofcom, 2011; Livingstone & Wang, 2011). Our view is that access must be paired with understanding of options and risks to promote a healthier communications market. Based on our 2011 OxIS survey findings, 73 percent of individuals in the UK use the Internet, leaving more than a quarter of the population off the Internet. Efforts to increase Internet use among Britons has critical significance for 21st century economic and civic participation, but need adequate resources to promote understanding of the associated opportunities and risks.

For earlier OxIS figures see: Dutton, W. H., Helsper, H. J., and Gerber, M. M. (2009), *The Internet in Britain*. Oxford: Oxford Internet Institute, University of Oxford.
Livingstone, S. & Wang, Y. (2011) *Media Literacy and the Communications Act*. London: LSE.
Ofcom (2011b). *UK adults' media literacy*. London: Ofcom.

Question 2

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

Question 3

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

This question was discussed at a recent policy forum convened by the Oxford Internet Institute, in which field-leading academics with media, communications and regulatory expertise were asked to consider the proposed Review of the Communications Act. This forum served to reinforce our view that it would be a significant mistake to seek regulatory convergence across platforms if this means imposing a model of broadcast regulation on the Internet. It is often assumed that the Internet is a modern era 'Wild West', lawless and unregulated. In fact, the opposite is true – there is already extensive regulation of Internet service provision, content and activities. We would argue that traditional regulatory models for broadcasting, common carriers (such as post or telecommunications) and the press cannot be imposed wholesale on the Internet without serious risks to its vitality and its contribution to the UK economy as well as potential chilling effects of speech. Further analysis of this

point can be found in: Dutton, W. H. (2010b), 'Aiming at Copyright Infringers and Hitting the Digital Economy', *Prometheus*, Vol. 28, No. 4, pp. 385-388, December 2010. Available at SSRN: <http://ssrn.com/abstract=1778422>

Question 4

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

Question 5

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?

Question 6

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?

Question 7

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?

Question 8

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

Question 9

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

Question 10

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?

Question 11

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

Question 12

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

Question 13

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?

Many different regulatory models have been applied to various aspects of the Internet. Mobile operators in the UK voluntarily adopted industry codes of conduct to limit Internet access to adult content to minors, and to limit the use of location-aware services. Similarly the UK-licensed Internet gambling industry has proved that age verification (at least for the 18 threshold) is possible, and further has been widely recognised to have implemented this so successfully that even the child protection lobby have registered their satisfaction with this system. The UK model for control of illegal content, such as child pornography and hate speech, could undoubtedly benefit from more transparency and judicial oversight, but has broadly proved an effective way to limit the distribution of such material. Such measures are almost all co-regulatory – individual businesses and industry bodies signing up to common codes of conduct or unofficial norms, with the backing (or threat) of legislation.

We do not believe that the Internet requires further heavy-handed regulation, and would propose two principles as a suitable basis for advance:

- A presumption in favour of 'democratised regulation', namely pushing more control to the users and producers of communication and information services – the public. This is not simply another term for self-regulation, as it requires regulatory support at many levels (see below). A good example of democratised regulation would be the currently evolving system for content regulation whereby only extremely limited forms of illegal content (such as child pornography) might be blocked by mandate or on a centralized basis, with users having access to PC-based tools, a 'home hub,' or an ISP filtering system that enables them to choose how much content (if any) they want filtered. In this sense, parents, educators and users generally, could be given more control over their own communications infrastructure in a way that is low cost for government and industry.
- A presumption in favour of regulation only where it is needed to ensure the preservation of a fair, accessible and open Internet, or to protect the most fundamental rights such as freedom of speech or protection from abuse.