CRITIQUE OF THE DIGITAL BRITAIN INTERIM REPORT
Based on findings from a research project of the world's leading convergence regulators

1. Introduction

This critique draws from the findings of an independent research study I authored in October 2008, entitled "Review of Leading Converged Communications Regulators in Asia and Europe- Their Priorities and Views of Current and Emerging Issues".[1] It is aimed at providing constructive insights into how government regulators view, and deal with issues in the convergence environment. It examined how convergence shaped the structure and priorities of regulators, and examined the input of different government policy approaches.

Sections 2, 3 and 4 of this critique take a broad overview of the Digital Britain Report, while Section 5 onwards focus on specific items in the report.

2. National Strategic Frameworks and Plans

One of the most interesting subjects explored was the different approaches by government and regulators towards convergence. Historically, western countries particularly the USA, have favoured a market-led approach. In contrast, the Asian nations are usually led by a government national plan with quantified objectives, and the regulators devise strategies to meet those objectives. The research concluded that a proactive regulation with competition approach (PRC), together with a government national strategic framework, delivered better outcomes for citizens in terms of economic and social dividends. The "liberalised intervention" approach described in Digital Britain is consistent with the PRC. All the regulators reviewed believed that overseeing Telecommunications, IT and Broadcasting under a single body produced significant benefits for all stakeholders. In addition, they also believed more countries will increasingly move to this model as the benefits become more apparent.

The proposed approach should deliver additional significant benefits for UK society from an economic and social viewpoint as the convergence issues are a major driver for economic growth and productivity, both directly and indirectly. Various national strategic frameworks are discussed in more detail further on, with some suggestions for the management and implementation of the UK Digital Britain report.

3. The Role of Regulators

Whilst a proactive digital government policy approach was seen as a key success factor, the role of the regulator was also crucial. In working through complex regulatory issues to support the strategic national framework, the regulator needs both soft and hard powers to hold meaningful discussions with stakeholders. These powers could include reporting directly to national parliaments, competition powers, and appointing industry-respected experts and having influence on policy development.

There was a surprising commonality of views, including Malaysia and Japan, that self-regulation was the best approach in the first instance, and policymakers should only intervene if implementation was not successful. While it was found that self-regulation worked well in the free-to-air broadcasting sector, it was less successful in the telecommunications industry. Currently, convergence regulators are advocating and promoting a self-regulatory approach

[1] Burdon, S 2008, "Review of Leading Converged Communications Regulators in Asia and Europe- Their Priorities and Views of Current and Emerging Issues", Australia. ISBN 978-1-86365-721-1, © University of Technology, Sydney. All Rights Reserved.

on internet content and its impact on minors. However the continuing pressure on government-elected members from the nanny state lobby compromises their ability to make these decisions.

Ofcom, the UK regulator, was seen as having a very good track record, and is supported by the right mix of skills, organisation structure, with wide-ranging stakeholder respect. It could play a vital role in devising a set of KPIs for measuring progress, roadblocks etc. for a digital economy plan. These measures would serve to focus stakeholder attention on successful implementation.

4. Key Convergence Issues for Digital Britain

An online survey asked senior executives of the participating regulators to prioritise issues for both 2010 and 2014. The top 2010 issues were generically focused on "foundation" issues: broadband, updating regulation, spectrum management, consumer protection, new media. Depending on the degree of success in implementing these issues by 2014, the focus began to shift to "dividend issues" - in other words, harvesting the economic and social benefits for society. There was little debate about the importance of the foundation issues, and it was widely agreed that universal broadband access and introduction of market-based spectrum regime would deliver major benefits. Consequently, the risk of regulatory error from implementing these foundation issues as quickly as possible was seen as negligible. In fact, the countries which were more proactive in this regard were clearly on the right side of the risk/reward equation.

By 2014, although a few of the foundation issues were still ranked in the top six, the total relative importance scores were spread over a larger number of issues. These included the dividend issues of digital devices, and in particular, artificial intelligence, economic growth and industry development, with foundation issues such as updating regulation and legislation, and additional emphasis on reducing legacy regulation. There were suggestions that government strategic frameworks and regulatory approaches would need to be reviewed for the dividend issues. Government intervention could become less frequent but national priority frameworks will still be necessary. Again, the Asian regulators of Japan and Korea placed more emphasis on these issues than their European counterparts. Just as Finland and more recently, the UK, have adapted the liberalised intervention approach, there could be an advantage in tackling the dividend issues in the same way.

Generally, other nations' strategic frameworks span a period of five years, with periodic minor updates. The emerging trends indicate that the movement from foundation to dividend issues perhaps should be given more emphasis in the Digital Britain report. The approach in the Interim Report in respect of digital content is in fact, also an economic and social development issue. The production of content and advertising is a very important sector for the UK which also facilitates industry convergence with flow-on impacts for other industries. A digital plan with the objective of maintaining a pre-eminent position is similar to the Japanese and Korean approaches, which emphasise particular sectors for the national interest i.e. Japan's interest in digital devices and in particular, Artificial Intelligence.

5. Detailed Comments on the Digital Britain Report

Section 2: Digital Networks

a. Next generation access networks

The series of action items under broadband are in line with other leading national strategic frameworks with a specific objective i.e. 2 Mbps by 2012 and the provision of universal service. It provides certainty for convergence industry participants including service providers and helps the ex-monopoly players to understand that gaming the regulatory rules and prevarication are unlikely to benefit them.

b. Mobile access networks

The 5-point wireless radio station modernization program (Action 6) addresses the key issue of wireless networks but is less specific on outcomes. Many regulatory executives believed that market spectrum and mobility issues could eventually overtake broadband in terms of its impact on economic growth and social issues, with significant and long-lasting benefits. The UK has the geographic advantage of being an island with fewer cross-boundary management issues, and could therefore move forward more quickly. Some experts have estimated the economic benefit at 1% of GDP per annum. They also believed that their countries were progressing too slowly to harvest the available social and economic developments from the "age of the nomads". A more proactive approach to sharing and releasing spectrum, and understanding the difficulty of dealing with defence and broadcasting industries are seen as important. Finland has already completed its digital switchover plans for broadcasting. With a significant number of their population in remote locations, they chose to adopt a proactive approach for implementing the switchover. Encouraging industry sharing of wireless spectrum networks and content, was also seen as important. In this regard, the vested interests of the incumbents need to be addressed sooner rather than later. Exclusive deals for specific content between networks and content providers is also an issue, and a number of regulators believe it poses an impediment for national leadership in mobility.

USA and Europe have allocated spectrum via auctions based on highest up-front payments. While this has the advantage of allocation by a market demand forecast approach, it also increases the risk as the speed of take-up of services is basically unknown. Perhaps the Japanese model of a percentage royalty on future revenues could still retain a market value approach whilst allowing more organisations to participate.

c. Digital broadcast networks television

By making a specific objective to complete digital switchover by 2012, the UK will maintain its role as an early adopter like Finland. It has already developed a number of proactive programs to facilitate this changeover.

d. Digital broadcast networks radio

It is interesting that the UK has more specific objectives and plans for radio than the other jurisdictions researched. It would appear that the UK is moving towards very specific objectives in coverage, listening and proactively reviewing restrictions i.e. funding restrictions from one source (Action 9).

If the UK maintains its position as a world leader in radio broadcasting, then what industry development opportunities does this present for the UK? Asian nations such as Japan and Korea have developed proactive plans for industry and academic focus on areas of competitive advantage. This could be in the areas of hardware, software or content, possibly involving assistance via university grants, research scholarships and support for geographic and sectoral industry clusters.

Section 3: Digital Content

Digital content is of higher importance in the UK than other jurisdictions reviewed; it has more proactive policies such as emphasis on facilitating services for internet advertising, establishing the Intellectual Property Office, the Rights Agency, etc. This probably reflects the economic and social importance of content production to the UK. The objective to be the leading international destination for creative businesses in both old and new media (page 39) is noteworthy in this regard; it would be worthwhile to try and quantify that objective meaningfully in a KPI to measure relative progress.

The importance of culture in digital content is another area where the UK leads in strategic frameworks. While other nations are not disinterested in this issue, their key focus was more specifically on local content and culture. Although local content production was an objective for all, there were different views on how to facilitate this. In Australia, this has led to restriction on the number of television stations as the licence holders have significant local content responsibilities. In other jurisdictions, more easily available licences and more choice were seen as preferable options for optimising local content production. Cultural issues also played a part; for example, in Malaysia this manifested as zero tolerance towards any content that is disrespectful of national symbols, icons or the national religion. There was significant correlation of national broadcasting and the diversity of local news between Australia and the UK. In many ways the UK is leading the way in public broadcasting.

Section 4: Digital Connectivity

It is an interesting aspect of the Digital Britain Report, that this section is dealt with at length as a separate item. All strategic frameworks incorporate these concepts, but rarely as a unified whole. This emphasis could deliver better economic and social take-up rates. This approach also focuses discussion on what might be termed “citizens’ rights” issues, which were seen as an important topic. This section brings together take-up of e-government services, together with objectives for high-speed broadband penetration and mentions the UK’s appointment of its first Minister of Digital Inclusion in 2008.

Section 5: Equipping everyone to benefit from Digital Britain

The report came up with three categories of skills: digital life skills needed by all, digital work skills needed by most, and digital economy skills needed by some. Japan and Korea are perhaps even more prescriptive about their national objectives in this area. For example, targets were set for number of engineering graduates, technology value-added services and devices on the basis that economic growth was strongly linked to these as facilitators. One hotly debated issue was whether having an industry capability of producing ICT hardware/software/services was required to form an economy that would a leader in the use of such services. There was a strong view that this was the case, particularly amongst the Asian participants, and some evidence for this has been produced by regulators research. Obviously, depending on the government’s view, this would have significant implications for education and skills programs. For example, if usage skills were the key focus then education around usage would be organised, but if ICT industry was a key focus then basic facilitating skills such as software development skills would be more important. In some ways this discussion reflects the debate on literacy and the importance of grammar. India is reported to have taken the software skills approach for general education of their population.

The issue of internet content is one which all countries are grappling with, and the Byron Review is an important input to the debate. The need to help families strike the right balance between protection for minors and freedom from censorship is very much in the minds of the other nations. Creating a program to move society away from the nanny state onto the path of a mature democratic society in the digital age should be an objective.

6. Comparison of Strategic Frameworks from other Jurisdictions

For various reasons, the western democracies have generally not favoured deterministic national plans. Some commentators still equate them to totalitarian approaches with five and ten year plans, inferring that they are too prescriptive to allow for innovation. The Asian approach with 5-year digital economy plans seemed to achieve better results. Perhaps this is because the importance of convergent networks contents and services is no longer debated, and ICT technology is widely accepted as a major driver for developed countries.

Malaysia, an emerging economy with a per capita GDP of USD5,000 also believes in a similar approach for their own economy. They indicated that the other member nations within the ASEAN group were of the view that while they had missed out on the benefits of the Industrial Revolution, they were not about to do so in the Digital Age. They consider the issue to be of primary importance and have adopted a strategic framework for the digital economy equivalent to their approach for other key society inputs such as transport, education and health. It is likely that the style of strategic framework might well vary between nations from the more integrated approach of society and government (exemplified in Japan and Korea) and the liberalised interventionist approach under consideration by the UK, and already used in Finland. With this in mind, below are listed some suggestions for taking forward the Digital Britain plan.

(I) Consideration given to lengthening plan period to 5 years. The 5-year term also optimises a sensible period for industry to make their own decisions to set their financial and competitive decisions.

(II) Extending the number of issues addressed to include the dividend issues holistically – i.e. as a facilitating service to industry development and directly to the generation of technology and digital content sectors.

(III) Consideration given to getting Ofcom to produce statistical analyses of the issues in the Digital Britain report and a scorecard of progress to update the plan in a systematic manner.

(IV) The structure within the Ministry and Government is also important. The Finnish approach is worth analysing, where the Minister of Communication chairs a group of ministers with responsibility for issues which impact the digital economy. In some cases they have primary carriage of that issue, in others a support role. This mechanism creates a methodology for dealing with the digital economy issues holistically.

(V) Although the UK has one of the most progressive and efficient convergence regulators in the world, the Minister should have access to industry experts to test final policy decisions. A permanent expert group reporting to the Minister would help discuss progress roadblocks and future policy alternatives.

(VI) The advantage of having quantifiable objectives with policy will ensure much more focused discussion with industry and other stakeholders.

7. Other Issues for Consideration in the Digital Britain Report

The Digital Britain interim report showcases some exciting proactive initiatives which mirror some of the best practice lessons from other nations. However, there are other subjects which could be reviewed for inclusion.

A. Digital Devices

Digital devices is seen as important by many nations, either because they have a country competitive advantage in producing, or because they believe it increases their capability to use or leverage economic and social benefits in other industries. Facilitating the growth of hardware/software and services could be an important consideration in the plan; if the UK continues to be a leader, the opportunities will exist in some niches. The decision on standards, whether proprietary or not, is important and can impact on the establishment and take-up of knowledge centres.

One of the surprise outcomes was the importance placed on artificial intelligence, particularly by Japan. They saw enormous social and economic benefits from being the world's leader in this area; firstly as a major part of the solution to population ageing and secondly, they genuinely believe that by 2014, artificial intelligence would be interacting routinely with humans. To achieve this, they have mapped out a national program dealing with the impediments to universal usage. This includes a number of legal, safety, technical standards, etc. to facilitate robotic interaction with humans. The key issues of wireless technology, internet, software interfaces, digital content and speech recognition are very much part of the solution involving significant convergence issues.

There were other examples such as RFIDs, intelligent vehicles, all of which play important roles in terms of design, availability, connectivity, etc. and perhaps require a section in the strategic framework.

B. Updating Convergence Legislation

Updating convergence regulation was seen as a key issue by all senior executives. Throughout the Digital Britain Report, there were references to the need for updating specific regulation and the importance it played, i.e. terms of trade, the Communications Act 2003 (page 50). There was a strong belief amongst regulators that a total update of communications legislation should be made every seven years. Updating specific parts of the legislation whilst useful, was not so beneficial. It was more practical to implement holistic reviews in intervals of approximately every seven years; discussions on topics such as IPTV and other new convergence issues could then be more focused for constructive resolution.

More frequent updating than seven years was seen as too complicated in a western democratic system; initiating and concluding discussion with all the stakeholders was a process taking at least three years. Interestingly, the majority of the interviewees believed 2010 was an opportune time for updating convergence legislation. For some, it was a reasonable time from the previous update, and for others, it was an appropriate juncture to

look at a new framework for economic and social dividend issues which would be at a defined stage of development.

C. Consumer Protection

Consumer Protection was identified by convergence regulators as the 4th ranked issue in 2010, and the top issue in 2014. In Japan, it was ranked the second issue both in 2010 and in 2014. There are a number of academic research papers which measure consumer concerns about their privacy and security when using government services particularly concerning transactional services. The Scandinavian countries have dealt with these issues the best, with Australia and the UK doing reasonably well, and Japan relatively poorly.

I think the following excerpt from my report summarises the considerable issues around consumer protection, particularly for government services:-

> "One of the interviewees mentioned that a recent research study of citizens' views indicated a generalised distrust of government. Privacy and security concerns were voiced particularly in relation to interactive transaction services (as opposed to one-way information services):
>
> *The recent loss of some 20 million banking details of UK citizens … [suggests] a need to review the responsibilities of government officials to records of the public.*
>
> Other participants mentioned the need for governments to be subject to similar penalties such as those levied on corporations for privacy or security breaches. One executive said:
>
> *It would help if the consumers' information gathered by one department could not be used by another without consent of the individual concerned. Rather like the law for corporations' use of private information.*
>
> The debate over citizens' and consumers' needs has been widened by the terrorist threat to some societies with governments requiring more powers to collect information about individuals, and, in some cases, intercept telephone conversations and use immigration data to take action against an individual."

Although consumers on average are more concerned about privacy and security of their information used in public services, concerns with the private sector also exist. The emerging issues are somewhat paradoxical; as convergence gathers pace, conflicting consumer views about privacy and security have emerged. For example, with the growth of networking sites which are largely populated by the younger generation, the definition of privacy is changing as individuals increasingly publish personal details that would have been previously considered confidential. This view co-exists with mistrust of government and corporations, and the motives of the institutions which collect consumer data in the course of electronic service transactions.

D. Economic Growth and Industry Development

Malaysia and Japan in particular ranked these two dividend issues highly, relative to the regulators in the other jurisdictions, particularly for 2014.

The relative importance of these issues will grow in the period immediately after 2012 and it could be worthwhile placing some emphasis on these issues in the current report. Already, in the current Interim Report, there are a number of action plans around further growth in the digital content industry sector. This information could be placed in a section with a wider remit together with the current and future positioning of the total digital economy of the UK in terms of the GDP. This may further be split into direct and indirect impacts. This could also link back into the skills and education requirements to meet the digital economy objectives.

I am not familiar enough with the UK industry development situation to add further specific suggestions. The Korean strategic plan U-IT839 is publicly available, and specifically lists a number of growth engines which may be of interest in reviewing how another country has addressed this issue.

8. International Collaboration

The Digital Britain report is groundbreaking from a number of aspects, and has been released at a very important juncture in the digital age. The research findings indicate that world leadership in strategic frameworks and convergence regulation is no longer vested in a single institution. Initially leadership was widely thought to be held by the USA: then, the UK and Europe. Perhaps leadership excellence is already fragmented across a number of jurisdictions. Sometimes individual European countries such as Finland, Japan or Malaysia, have very efficiently and successfully dealt with issues in ways which are worth reviewing for applicability and adaptation other jurisdictions.

In this regard, setting up a collaborative group at minister-level to assist and enhance learning from these common challenges would be very useful, possibly using the countries which participated in the October 2008 research project as a starting point..

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