



COLT Telecommunications

Comments on

DCMS and BERR

Digital Britain – The Interim Report

12 March 2009

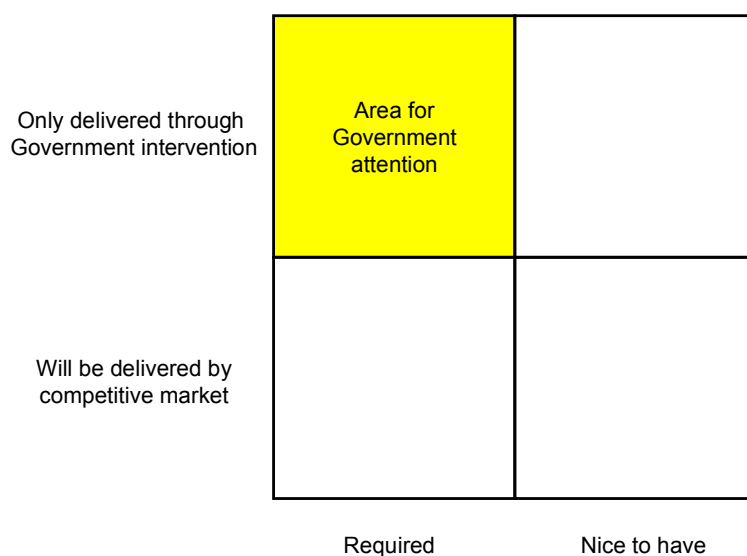
SUMMARY OF COLT'S VIEWS

COLT welcomes the Digital Britain initiative and the Government's interim report. The further development of communications markets in terms of competition, choice and innovation are clearly critical to the future success of any modern economy, and requires Government focus and attention. COLT agrees with the Government that we are at a point of transformation and that for Britain to be successful, it "must be a Digital Britain". COLT considers that the two most important of the goals emerging from the report, if the Government is to achieve its overall objectives, are economic competitiveness and fairness. The focus of COLT's comments is to address the issues we believe need to be considered in more detail if the Government is to deliver in these two areas through its Digital Britain initiative.

COLT is extremely concerned that the report makes no distinction between consumer and business market needs, and generally neglects to consider the needs of business users. A programme which is explicitly targeted at enhancing Britain's national competitive position must pay closer attention to the issues which will directly affect the competitive supply of fit-for-purpose communications services to business users, including non-residential users in the public sector.

In general, COLT feels that the report fails to analyse in sufficient detail what desired developments are likely to be delivered through the normal dynamics of competition, based on the current regulatory regime. As a result, there is insufficient clarity on which areas truly require Government intervention (or regulatory change) in order for the proposed Digital Britain objectives to be delivered. Diagrammatically, this may be represented as in Figure 1 (below):

Figure 1: The need for appropriate focus



The Government should focus its attention solely (or at least mainly) on assisting the realisation of the requirements in the upper left quadrant. The requirements in the lower two

quadrants will be delivered through the dynamics of the competitive market. As such, they should not be justifiable objects of Government intervention, with all the risks of unintended consequences that Government intervention might bring, except to the extent that existing regulatory policies to ensure that competitive markets continue to flourish should be maintained. The “requirements” of the upper right quadrant require significantly less Government priority as “nice to haves”.

COLT also has a number of concerns about some of the specific measures which are signalled in the report. In particular:

- Regulatory holidays should not be introduced. Any regulatory holidays (however dressed up in euphemistic terminology, such as “regulatory incentives” or “risk premiums”) carry substantial risks of undermining competition, which is the key and only sustainable source of consumer benefits.
- The proposed introduction of a “risk premium” for fibre investment is a particularly specious idea. There is a very real risk that any fibre investment (but only by the incumbent) will attract a “risk premium”, despite the fact that different fibre rollout scenarios possess very different risk profiles.
- Even if some form of regulatory relaxation were to be justified as the only appropriate way to ensure the development of critical communications facilities, there must be a sunset clause or other capping mechanism associated with the regulatory holiday so that any miscalculation by the regulator will have an automatic presumption of correction. Sunset clauses would ideally be linked to the profitability of the communication facility / service in question (rather than being time-defined) and would therefore also require detailed transparency obligations of the incumbent operator benefiting from the regulatory holiday.
- Where any Government (or other form of public) funding is provided to ensure the development of critical communications facilities, the development in question should be subject to rules requiring open access in order to ensure that competition in some form can take place. Government should set out guidelines for any such public funding to ensure fairness in the procurement process and to ensure that an open access infrastructure is developed wherever Government money is being relied upon.
- The Government should be wary of over-extending the concept of the universal service obligation as a means to deliver high headline speeds for broadband. Other countries where Governments have adopted aggressive interventionist broadband policies have typically not pursued market liberalisation policies based on infrastructure competition (as the UK has done) and / or have decided to invest very significant levels of Government money into the construction of a national fibre network (which the UK is currently saying is not its intention). Very significant increased costs and regulatory burdens may be imposed on industry if some of the measures discussed in the report are introduced, and these effects could be highly damaging to the competitive market in the UK communications sector.

INTRODUCTION

This document contains the comments of COLT Telecommunications (COLT) to the DCMS / BERR Interim Report on Digital Britain, outlining the Government's plan to secure Britain's place at the forefront of the global digital economy. The suggestions made in the report for driving changes in the communications sector are particularly pertinent to COLT's business. COLT is therefore pleased to be able to engage in the debate to express both support for and concern about certain aspects of the report.

One of COLT's particular concerns is that the needs of business users have been neglected in the Government's thinking to date. As a significant player in the market for the provision of communications services to business users, COLT believes that the further development of Government policy to achieve the objectives of Digital Britain requires a more detailed consideration of the issues in this part of the market. COLT would be very pleased to participate in further discussions with Government and other stakeholders in respect of the issues raised in this response and during the course of the further debate on Digital Britain.

ABOUT COLT

Established in 1992, COLT is a leading European provider of business telecommunications. COLT specialises in providing data, voice and managed services to major enterprises, SME and wholesale customers. COLT owns and operates a £3bn 13-country, 20,000km network that includes metropolitan area networks in 34 major European cities with direct fibre connections into 14,000 buildings and 18 COLT data centres. COLT Telecom Group S.A is listed on the London Stock Exchange (COLT). More information about COLT and its services can be found at www.colt.net.

COLT has built and owns a large fibre network in the UK which gives nationwide connectivity using COLT's fibre network, extended by off-net partners. COLT's fibre network connects London (the second largest wholly-owned fibre network), Birmingham, Manchester, Reading, Bristol and Slough, as well as COLT's three UK data centres.

THE DIGITAL BRITAIN OBJECTIVES

COLT very much welcomes the Government's Digital Britain initiative. For a variety of reasons but in particular because of the development of next generation broadband networks, this is a critical moment in the further evolution of the communications market in the UK. Therefore, it is highly appropriate for there to be a top level review of Government and regulatory policy, taking a fresh look at how the UK's competitive position will be reinforced and Britain's consumers provided with a choice of high quality communications services. COLT agrees that the key themes of this debate should be economic competitiveness and fairness.

Focusing Government intervention

Government policy in the UK has for many years centred on the development of sustainable effective competition in the communications market, evolving from initial market liberalisation

to today's market situation with a consolidated cable competitor to BT, a number of alternative providers of fixed services (some infrastructure-based and some service-based), and a fully liberalised and strongly competitive mobile market. Britain's leading position in the communications sector both in Europe and worldwide has benefited substantially from the Government's pro-competitive policy, and UK consumers have in general enjoyed low (and decreasing) prices, choice and high quality services. In short, market liberalisation and a reliance on competition have been highly successful policies, supporting UK competitiveness and consumer welfare. However, one must also acknowledge that competition alone may not deliver all of the services and benefits that society and Government policy desire, particularly in terms of the fair distribution of those benefits across the country to all users. There is a role for a focused Government policy to fill any gaps left by the competitive market.

However, a clear distinction should be drawn between those areas where competition will and will not work. While competition may not deliver the desired level of services in all circumstances, for example, to provide new network investment in patently non-profitable areas (perhaps especially very rural areas currently without any or with only poor broadband coverage), in areas where competition can be expected to work, market forces should be left to drive and direct investment, and thereby deliver Government's goals. In all these "competition-driven" areas, policy-makers must resist the temptation to influence the speed or direction of investment because any such market interference creates very substantial risks of negative economic effects from the sending of misleading signals to investors, by incentivising inefficient investments, and by creating market distortions and arbitrage opportunities arising from the unintended consequences of regulatory changes.

Private investment is driven by competition not by regulatory relaxation

There should be a strong prima facie presumption against any relaxation in the regulatory environment promoting competition in the context of next generation access networks. It is misleading for proponents of regulatory relaxation to seek to justify such an approach on the basis that significant new private investments will only take place if regulatory policy changes. In fact, a brief survey of countries around the world considered to be leaders in next generation broadband development reveals that this leadership has been developed either from massive public investment (eg. Korea, Singapore) or as a result of pressure on the incumbent telecommunications operator(s) from strong competitor cable providers. Although incumbents always seek relaxation of their regulatory obligations (of course they would because this strengthens their ability to take advantage of their dominant position), nowhere has this led to any significant acceleration in the development of national next generation broadband networks.

One can easily test this hypothesis by remembering the history of communications before market liberalisation. At that time, the (now) incumbent operators were monopolies, enjoying massive uncontested profits and effectively no regulation. However, this situation did not create an environment where substantial investments were made and innovative new services created, even though the risks to the incumbents were then negligible. In fact, it was only when competition was introduced that the incumbents started to place greater emphasis on innovation and to choose to increase the level of investment in their networks.

The “competition gap”

COLT believes that competition will be able to deliver many of the services and benefits inherent in the Government’s Digital Britain goals. In particular, in large parts of the UK, the further enhancement of cable broadband services (as recently announced by Virgin Media) not only provides an option for those users wishing to access very high speed broadband but will also provide a strong competitive incentive for BT to respond by investing in its own higher speed broadband capabilities. Other infrastructure providers may also emerge, particularly wireless providers, where this technology proves to be economic and marketable. However, in respect of the development of next generation broadband services, two significant gaps may remain unfilled by the competitive market:

- Providing broadband services in very rural areas, which currently have no or poor broadband coverage and for which there is no realistic business case to justify fibre rollout; and
- Ensuring competitive broadband access in areas or for services where there is no realistic competitor to BT, including:
 - Areas which can not be classed as very rural (ie. outside the first gap, defined above) but which are outside the cable coverage area and in which therefore consumers have no choice of fibre infrastructure provider except BT; and
 - Business services which rely upon a national broadband infrastructure and for which cable does not provide a realistic alternative because of Virgin’s focus on the consumer market and its non-national coverage.

The first gap probably requires direct Government intervention, either through some form of public funding or through a redefinition of the universal service obligation (comments on public funding and on the USO are contained later in this document). The second gap requires regulatory intervention or, more accurately, the continuation (and perhaps extension) of existing access regulations on BT.

The needs of business users

COLT is increasingly concerned that policy and regulatory debates generally pass over the specific communications requirements of business users (including public sector users). The Digital Britain report is unfortunately just one more example of this trend. The failure properly to understand and address the different requirements of the domestic and business markets has resulted in inappropriate or inadequate regulation, often at considerable cost to business users, as well as the providers of business services, and with the result that development of the wrong types of networks or services can be encouraged.

Recent reports have emphasised the importance of addressing the communications needs of business users (see references at the end of this section). A recent paper by the CMA¹ suggests how Government should be working to improve people’s economic and social well-being by addressing the needs of enterprise customers to help generate growth, provide jobs and provide wealth creation:

“About two-thirds of the revenues received by the telecoms industry come from public and private enterprise. The disparity in contribution is in inverse ratio to the political and regulatory focus which embraces protection of the “citizen-consumer” rather than supporting, or even recognising the needs of the business user”

In another recently published report², Professor Martin Cave of Warwick Business School makes the following comments:

In debates about the regulation of electronic communications services in Europe, attention is primarily focussed upon households and small businesses as the customers...

This study invites readers not to turn the priority given normally to small end-users on its head, but at least to rebalance it, by abandoning the easy and comfortable assumption that large corporate users can invariably be sure of getting the high quality services they need without regulatory intervention...

We have to consider, in particular, the effect on the European economy of the loss of competitiveness associated with poor quality services. And here there is strong evidence, set out below, that advanced services, based upon communications networks, have a major and even a disproportionate effect upon the growth performance of national and supranational economies. This implies that a failure by Europe in the field of regulation of corporate telecommunications services can have effects quite as grave as a failure adequately to regulate the supply of services to householders and SMEs...

Secondly, the kind of services required by large corporate users – by virtue of their geographical dispersion and nature, particularly the inclusion of a significant element of value-added – have the capacity to facilitate trade in telecommunications services...

These two underlying considerations show the potential benefits of creating a truly competitive market in corporate services. On occasion, regulators have sheltered behind the comfortable view that there is a sufficiently large number of potential suppliers and buyers with sufficient countervailing market power to make economic regulation unnecessary...

In essence, this report subjects that assumption to sustained critical analyses, and it finds a much more nuanced picture with respect to market power than is found in the conventional version. The reason that the conventional wisdom is not true is that large corporate customers require a combination of services, and some of which, deep in the value chain, rely upon key wholesale inputs which are bottlenecks dominated by one provider. A supplier which cannot supply the full range of services is often disqualified from gaining a contract...

As a result of the difficulties of piecing together a seamless offering for corporate clients, the pan-European market for corporate services is underdeveloped. The obstacles lie largely with national incumbents, fixed and mobile, which seek to deny international competitors the key wholesale inputs – high quality bitstream, unbundled loops, leased lines, broadband resale products, MVNOs – which they need to meet the tender requirements. The tragedy of the situation is that the only winners from this situation are the less proficient historic monopolists as the more proficient ones are well-placed to gain a good share of the European market. The invariable losers, however, are the major corporate customers in Europe, which fail to get the services they need to be globally competitive. This in turn has a knock-on effect on the European-wide economy...

In these circumstances, it is vital to ensure that the current trend of regulation, building on successful growth of infrastructure competition for the mass market, does not impede the development of competition for pan-European services still further. Even in the US, there has been a recognition, at least in principle, that wholesale inputs for business services require a different approach than inputs for other services. Different wholesale inputs are often needed, and quality requirements can rule out of consideration some of those providers which may competently serve the mass market.

While it is of course critically important to consider the level of choice and competition available to residential consumers, this should not be at the expense of neglecting business users' ability also to enjoy comparable levels of choice and competition. One is struck, for example, by the focus in policy debates concerning high speed broadband on consumer applications which might justify or consume the additional capacity available (eg. HDTV over IP) but the minimal attention given to the potential benefits for business use and applications.

While the UK communications industry has been lobbying Ofcom to pay more attention to the issue of business markets, this has made little impact. A recent UKCTA paper³ made nine key recommendations but none of these have been addressed, one year after the report was presented to Ofcom. The only gesture Ofcom has so far made to consider business needs is a suggestion in its 2009/10 Annual Plan that it will undertake a survey. This is thoroughly inadequate.

Since one of the goals of the Digital Britain initiative is to enhance the UK's competitive position, COLT anticipates that the Government will recognise the need to pay close attention as to how business users and public sector users can potentially benefit, and the risks for the UK competitive position if the policies and regulations adopted fail to deliver fit-for-purpose communications services for these users.

There are a number of ways in which the communications needs of a business user differ from those of a consumer, including the following:

- Seamless multi-site provision of services, eg. including branch offices in small towns and home workers, as well as large office buildings in major towns and cities;
- Higher quality of service, including in particular fast response service level agreements;
- Dedicated symmetric connection services, often with high levels of security;
- Different traffic patterns (e.g. time of day peaks); and
- Outsourced management of communications services.

In particular, the need for consistent business communications services across multiple sites has important implications for competition since, if only the incumbent has physical infrastructure across the whole UK, multiple site business users may, without regulated access for competing communications providers, face a de facto monopoly situation. Even in parts of the country where there are alternative providers, such as cable or LLU operators, these have generally not provided fit-for-purpose wholesale services for business needs, as these providers focus very much on the consumer market.

Next generation access for business should mean the provision of better access products with fit-for-purpose service level agreements and other features. While there has been much discussion on passive remedies, there would be numerous practical difficulties in making such an approach effective. There would, for example, be considerable logistical problems, such as:

- Where there is limited duct space, the availability of the same product would be uneven in different parts of the country;
- Issues over different operators' liability for ducts in respect of repairs;
- Third party wayleave issues; and
- Security issues around access and maintenance.

Therefore, while COLT is interested in the further development of the concept of passive remedies, such as duct access, the competitive market for business users is likely to develop

more quickly and more effectively (and perhaps solely) through active remedies. Active remedies which improve access to higher quality bitstream products are essential for business customers. There is little scope for innovation at the transport layer and most development in communications products is now happening further up in the OSI model. There is therefore a clear need for continued (and, COLT would argue, strengthened) regulation for access to wholesale services provided by BT which support business products. Certainly, any relaxation of regulation in this area would remove choice and competition for business users, increasing costs and restricting responsiveness, all of which would be highly detrimental to UK competitiveness.

Reports:

- ¹ CMA, "*Communications – Life-blood of enterprise*"
- ² BT / INTUG / EVUA, "*Trends in the ICT environment and business customer requirements for connectivity*", June 2007
- ³ SPC for UKCTA, "*Improving business communications in the UK*", March 2008

See also:

Indepen for BT / INTUG / EVUA, "*Productivity, growth and jobs: how telecoms regulation can support European businesses*", April 2008

COMMENTS ON SPECIFIC ISSUES

Regulatory holidays

COLT recognises the strong desire of Government, regional and municipal authorities and regulators to see a rapid rollout of high speed fibre-based (next generation) fixed networks. The recent Caio report indicated that substantial Government funding for next generation networks (as has occurred in a number of other countries) was not the preferred model for the UK, and that high speed fibre networks would be funded primarily by private enterprise, aided by some adjustments to the regulations governing such infrastructure projects. The question then arises as to whether any action needs to be taken by Government or by Ofcom to encourage or accelerate that private enterprise funding.

COLT's own view is that the best incentive to encourage or accelerate funding for next generation networks is competition. As stated previously and excluding countries where the Government has decided on a major programme of publicly funded investment, those countries which are taking a lead in terms of next generation network rollout are also those where there is significant competition to the incumbent for broadband provision, mainly from a strong cable industry. In these countries, the incumbent has been forced to bring forward its plans for next generation rollout in order to meet the competitive threat from cable providers and in particular the ability to make "triple play" offerings (which is also why there is an undue focus on the need for broadband speeds capable of providing HDTV over IP). The message is clear: competition is driving investment.

At the same time, many of the incumbent operators in Europe are demanding that their regulatory obligations should be relaxed, claiming that this is a precondition to their investment in next generation networks. The argument from the incumbents is that this investment is highly risky and that the continuation of existing price controlled access regulations would fatally undermine their business case, allowing alternative operators to piggy-back on their networks at cost-based wholesale rates. However, this line of argument

should be viewed with suspicion as it is naturally in the interests of incumbents to seek to reduce their regulatory burden and thereby to strengthen their already dominant position in the market, with all of the detrimental effects that this would have on end users. In particular, one should consider the following points:

- Where cable operators provide a genuine competitive threat to the incumbent's broadband service, the incumbent has little choice but to invest in infrastructure capable of delivering higher speed broadband services. One might then expect that the incumbent would seek to restrict that investment only to those areas where it faced direct competition from the cable operator but it would nevertheless invest in many areas. Government and the regulator could then focus their attention only on those areas unlikely to be served by high speed broadband networks.
- Investment in high speed fibre networks is only risky to the extent that the costs of building those networks can not be recovered. To the extent that operators are unsure whether end users will pay a higher retail price for access, this is a normal risk of innovation in any market. There is no reason why the incumbent should be protected from this risk any more than other communications providers (no similar protection has been offered to Virgin Media or was on offer for the mobile operators for their 3G networks). At the wholesale level, continuing to enforce cost-based access can not, by definition, jeopardise the business case for the investments. If there is no wholesale demand, this will be a reflection of the retail risk (and therefore "normal" in a competitive market). If there is significant demand, it will be a question of ensuring that the cost base is correctly calculated (but this has always been an issue for regulatory price controls).

In this context, it is extremely hard to see how any case can be made for any form of regulatory relaxation, whatever euphemistic term is used (eg. a regulatory holiday, regulatory forbearance or a specific risk premium). There should be no presumption of any different approach to the regulation of next generation networks than for the existing market situation, and any proposal for a different regulatory approach (again, mainly used as a euphemism for regulatory relaxation) must be justified with particular reference to the long term impact on competition and thereby on end user benefits.

With regard to the idea of a risk premium to be applied to the incumbent's next generation network investments, COLT considers this to be a particularly specious idea. While positioned as an approach to allow the regulator to reflect the additional risks of next generation development (but see COLT's views on the issue of additional risk, above), there is clearly an intention that any such risk premium will become an automatic presumption, and this would be highly inappropriate. There are a number of different fibre rollout scenarios and each of these needs to be considered separately if the idea of a risk premium is to be developed fairly. There is, for example, a massive difference between the risk profiles of fibre rollout in a new build situation (ie. where there is no existing copper infrastructure), where the copper infrastructure requires replacement, in urban areas with a large number of corporate users, in relatively wealthy suburban residential areas, and in sparsely populated remote rural areas. It would not be justifiable to apply the same risk premium to all these different scenarios and, in some cases, the justification for any risk premium plainly does not exist. Finally, COLT notes that the regulator already has the ability to take account of the riskiness of investments when assessing cost-oriented charges for access to infrastructure (see Article 12.2 of the Access and Interconnection Directive) so it must be questionable why any new specific instruction on this issue is required.

Without prejudice to the points raised above, if any form of regulatory relaxation were to be introduced as a means to encourage or accelerate next generation network development, such relaxation should be limited by the introduction of associated sunset clauses or other capping mechanisms. The intention of these provisions would be to ensure that any miscalculations by the regulator as to the extent of the additional risk or as to the detrimental impact on competition can be promptly addressed and in fact would have an automatic presumption of correction. Thus, if a risk premium were to be introduced, it would be entirely appropriate for there to be a capping mechanism, automatically preventing the incumbent from enjoying excessive profits in addition to the permitted risk premium. Similarly, if certain existing regulations were not to be applied to next generation access services, there should be a form of sunset clause which would automatically reapply these regulations once it were established that the communication facility or service in question had recovered its reasonable costs or that competition was being significantly impacted. It would be critical for the regulator to possess strong investigative tools to apply these measures in practice; these would include detailed transparency obligations being enforced on the incumbent.

Public funding

COLT's view, as expressed throughout this report, is that the main driver for future development in Britain's broadband infrastructure will be competition, particularly between Virgin Media's new cable broadband enhancements and BT's reaction to these developments. In addition, operators relying on wireless technology may play a part, as will some specialised providers of fibre, including operators such as COLT. However, market forces are unlikely to be able to ensure nationwide coverage of high speed broadband capabilities, at least not in the short term, because of the weak business case for fibre rollout in rural areas. Therefore, one might expect calls for public funding to fill these gaps.

Whether it is appropriate priority for Government to deploy public funds for this purpose, particularly in the current environment, is a difficult question. Local and regional authorities may also have their own development priorities which would encourage public funding to be devoted to broadband network enhancements. However, it is critical that any publicly funded scheme (including schemes which are partially funded by public money) must support the competitive environment. Thus, they should be open to all prospective service providers both in the tendering process to deploy the fibre network and, after the network is built, to provide competing services over the publicly funded network.

In these circumstances, COLT believes that it is essential for Government to update its existing guidelines on public broadband schemes, which were published in February 2007 (DTI / Ofcom "*Public broadband schemes: A best practice guide*") to reflect the current debate. In particular, public funding must:

- be restricted to areas where competition will not deliver next generation fibre investment;
- conform to State Aid rules;
- include an open tendering process to allow competition in the procurement process for the development of any publicly funded network; and
- ensure that any publicly funded network is structured in such a way as to ensure open access to different broadband service providers over that network.

Universal service obligation

COLT accepts that there may be a need to extend the current definition of the universal service obligation (USO) in order to ensure the provision of broadband access to all consumers in the UK. However, the Government should be wary of focusing too much on the simplistic assumption that guaranteed headline speeds for broadband (at whatever rate) will solve Britain's current access problems and digital divide. Evidence reported in the Digital Britain interim report indicates that there are large numbers of adults who could access broadband services but who do not use computers and the Internet. Much more research needs to be performed to investigate the reasons why these people are not part of "connected Britain" and to address these issues before, or at least in parallel with, any extension of the USO to broadband. This should include analysis of educational and training needs and the types of internet services which the unconnected portion of the population would find truly useful, as well as social and economic factors.

COLT also believes that the Government needs to conduct a broad evidence-based review of the USO without any prejudgements as to the final outcome. There are some statements in the Digital Britain report which could give rise to concern that some outcomes have already been presumed, notably the discussion around who should pay for additional universal service costs. The report states that

"...only around 60% of households are customers of BT Retail; in broadband that figure falls to around 25%. The case for significant extra costs to fall on BT Group plc alone is a weak one."

If this is the extent of the analysis, the conclusion is indeed precipitate! A very large proportion of the households which are not customers of BT Retail or which take their broadband services from other providers nevertheless contribute to BT's revenues through their communications providers' use of BT's wholesale services and it would be very surprising indeed if BT Group plc did not benefit in revenue terms from a large majority of all connected households. Furthermore, the analysis in regulatory terms of who contributes to the cost of supporting the USO requires a review of whether BT in fact would suffer a net cost and this has not yet been performed. Finally, as part of this review, the Government should certainly take into account the relaxation of any regulatory obligations on BT as incentives to enhance its broadband network; it would surely not be appropriate both to grant BT a regulatory holiday as an incentive to enhance its broadband network and then to load the costs of enhancements onto BT's competitors.

Digital content

The report rightly recognises the contribution that digital technology has made to reducing costs and simplifying the distribution of content. However, it also addresses the challenges now being faced in respect of funding future content and protecting intellectual property rights. The main areas of interest to COLT are discussed below.

Net neutrality: The report indicates that Government will not be seeking to legislate for ISPs to observe a policy of net neutrality (i.e. managing traffic identically over their networks), thus allowing networks to differentiate the service levels offered to different content providers, enhancing competitive differentiation. COLT endorses this approach in principle because of

the potentially beneficial impact on competition and because this may also encourage increased network. However, there is clearly also a risk that interoperability between communications providers could be affected by abusive behaviour and this aspect needs careful oversight by the regulator.

Funding of content creation: The report considers other funding streams or mechanisms that would substitute in whole or in part for the dwindling of broadcasting advertising revenues. Some of the possibilities cited include levies on regulatory assets, industry or equipment. COLT is concerned that such levies may place an undue and inappropriate cost burden on market players, particularly where those market players do not compete in the provision or supply of content services. COLT is aware, for example, that the French Government has recently imposed a tax on retail telecoms revenues in order to subsidise public broadcasting content, regardless of whether the communications providers in question offer TV content. As a result, the tax has been imposed unfairly and inappropriately on one section of industry without any clear linkage to the purpose or the benefit of the tax. The same mistake should not be made in the UK market.

Enforcement of copyright: The report also proposes a new approach to the civil enforcement of copyright and suggests that distributors should support this approach. The proposal is for ISPs to notify alleged infringements and to make information on serious repeat infringers to rights holders. COLT is supportive in principle of a rights agency and welcomes discussion of the remit of such a body. Clearly, however, as the rights holders will be the beneficiaries of such measures, the majority of the costs of funding any such agency and any actions taken to support the work of the agency should fall to the rights holders.

COLT CONTACTS

COLT would welcome further engagement with the Digital Britain debate and particularly supports the proposal for the Information Age Partnership outlined in the report. COLT understands that this would be a partnership for action between industry (leading IT, communications and content companies) and Government, with a remit to accelerate innovation and productivity growth across the economy, focusing on the priorities of small and medium sized business. As stated previously in these comments, COLT would seek to ensure that business interests are given appropriate consideration.

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