

Introduction

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The reality of convergence – and the sweeping transition, from analogue to digital technologies – is radically changing the communications sector.

New corporations, which have come into being over the past decade, are already global, multi-billion pound businesses. They're offering new services over new platforms to meet previously hidden demand, requiring longer-established players to reassess and adapt their business models to meet consumer demands in today's rapidly changing marketplace.

These changes can bring great benefits to customers, both individual and corporate, and are driving growth and innovation in the wider economy. But, just as existing businesses need to reassess their models, so public policymakers and regulators need to assess how their role and activities need to evolve to keep pace. How far are traditional public interest goals still valid or relevant, or are they now being met by the market? And in cases where they do remain relevant as goals, how far do the specific public policy and regulatory interventions still contribute effectively to meeting those goals? What changes do public policymakers and regulators need to make to ensure that their actions help, and not hinder, innovation, investment and competition to serve the consumer and public interest?

The debate around these questions is being played out in many countries. It is to help inform that debate that Ofcom has commissioned this book of essays from a wide range of commentators, experts and participants in the communications sector. Both severally and collectively, the essays represent the personal views of their authors, not those of Ofcom. They are designed to stimulate debate and so contain a diverse range both of intellectual and geographic viewpoints. The latter recognises that there are validly different national responses to common challenges which reflect the different national market circumstances.

In New Europe and the major emerging economies, fixed wireline infrastructures are being leap-frogged in favour of a greater predominance of mobile and wireline infrastructure. In Hong Kong, as M. H. Au's essay reminds us, 80 per cent of its households are encompassed in just 8,000 buildings, thus providing the market circumstances for the availability of multiple, competing high-bandwidth networks to most of Hong Kong's consumers. In the USA, intense market-led competition between a limited number of platform operators has led to high bandwidth network roll-out in the main urban centres, and an emphasis on wireless development

elsewhere to prevent rural or small town dependence on monopoly supply. It has also led to a withdrawal from *ex ante* regulation, but also new concerns about access expressed through the net neutrality debate. And in the European Union, the legal frameworks for both platforms and audiovisual content are simultaneously, if separately, being revised.

Despite the difference in national market circumstances, four broad themes emerge from these essays as common challenges for policymakers and regulators.

- The first is how to encourage and support sustainable inter- (and intra-) platform competition as technology-change substantially alters the underlying architecture of networks over the next three or four years? What is the best framework to encourage innovation and investment by all players without giving the established operators too much leeway to leverage their established position into new markets? By contrast, when does the moment come when we find that we are still regulating those parts of the value chain (broadcasters/channel packagers and network operators) because that is where the traditional levers lie, when the real power has moved to other parts of the value chain – and where today’s intervention to yesterday’s problem hinders tomorrow’s innovation?
- The second theme concerns access. In the days of stable technology and a limited range of one-size-fits-all services – basic voice telephony, internet access, television and radio reception, and access services for disabled people – universal service was a straightforward concept and not unduly expensive to impose, often through implicit cross-subsidy requirements on a limited number of incumbents. In today’s and

tomorrow’s much richer and more diverse communications markets, the task of determining which services should be universally available becomes a more complex issue.

The emergence of multiple geographic markets within a single national market also begs a question: namely, must a universal service be at a universal price? It is not even just the matter of availability but also of the ability to take up and use new communications services that is prompting public policy concern and debate about digital inclusion and the digital divide.

Quite how sharp those social concerns will be in reality, and how far the market will address them, must be moot. What is evident is that great clarity will be needed in the criteria for determining what should be universal services in the future. And, as the (declining) monopoly rents that enabled the implicit cross-subsidies which supported universal services are fully competed away, the question “who pays?” comes into much sharper focus.

- The third theme is wireless spectrum, which is a resource of increasing importance to the communications sector and an engine for innovation in the sector. As device technology advances to allow more and more spectrum to become usable, the issue ceases to be whether there is a ‘shortage of spectrum’ but a shortage of rights to use the spectrum. Several countries – the USA, Australia and the UK included – are increasingly moving towards market mechanisms to allocate and assign spectrum. They’re recognising that traditional methods of allocation both substitute a regulator’s judgement for that of the market, and are simply too slow to keep up with the rapid

pace of development in the communications sector. Just as a functioning market in land and property rights took time to develop and raised knotty practical and transition issues, so too is the case in spectrum with the added complication of multinational co-ordination. Several of the essays which follow address those practical and transitional issues, and all concur that heading more towards market mechanisms is the right direction of travel.

- The fourth theme is content. The great increase in bandwidth has enabled much more content creation, wider choice, greater user-control and increasing user-participation. These developments are welcome, but they also increasingly question the traditional public policy goals of, and the ability of the traditional players to deliver, regulation in broadcasting. The three traditional public policy goals have been quality, plurality and standards. There is rightly a debate about how far, with the proliferation of content and delivery systems, public policy and regulatory intervention remains necessary to deliver those objectives; and, if so, what the right form of intervention should be and where it should apply. In the USA, the free-to-air networks are becoming an oasis for regulated standards; elsewhere the first amendment applies. In other markets, broadcasting is controlled and the internet is unregulated (recognising, as someone has remarked, that on the internet

even the First Amendment is merely a local ordinance). In Europe, the debate has focused around the concept of platform neutrality, at least as regards standards, but continuing with more direct intervention in broadcasting alone to achieve plurality and quality objectives.

Several of the essays test each of these approaches. Perhaps unsurprisingly, there is less consensus around these content issues than there is about the competition, economic and spectrum resource issues tackled in other chapters.

What is clear across all these issues is that they raise questions that need to be tackled appropriately at different levels: some local, some national, some regional, some global. There is no one-size-fits-all answer and, as Ed Mayo and Philip Cullum remind us, no uniform consumer either. Philip Booth also advocates that public policymakers and regulators should have the trust and the humility to intervene at the most local level possible – subsidiarity – so that the intervention is closest to the multifaceted individual consumers that it is designed to serve.

We hope that this set of essays will contribute constructively to the debate, helping public policymakers and regulators towards answers and processes that bring out the best of the communications revolution, both culturally and economically, for citizens and consumers alike.