

## EC and UK Communication Reviews – Where are We Going?



The current paradigm of electronic communication governance in the UK consists mainly in promoting competition to ensure that consumers can choose the services they prefer. In areas – such as public service media – where markets fail, or where an agreed public interest is thereby served, public provision or specific regulations protect key interests.

Following the announcement of policy reviews both at the European and the UK levels, we are entering a new phase in the debate about what competition can achieve, and where new rules are needed.

The new UK **communications policy strategy paper** does a lot of sensible things, like signalling a push to open up access to spectrum, promote faster broadband and encourage internet access. It announces a series of initiatives to review the framework for public service media (PSM). But the strategic masterstroke was to shift the controversial issues such as media ownership and the mergers regime into a separate consultation. Unless **the opposition** can force the issue, **media plurality** is unlikely to be dealt with by this Parliament.

Whilst the UK paper skirts the issue of media plurality the **EC takes it head on**: calling for new proposals on such fascinating new areas as whether there is a rationale for EU level action in 'pre-defining choice through filtering mechanisms, including in search facilities'.

Removing the controversial issue of media plurality does make it more likely that the UK Government will actually be able to push through with what is in fact proposed: not through a new Communications Act but through various amendments to existing legislation. The papers raise too many issues to deal with in this short post, but here are some that might be worthy of debate from a consumer perspective:

**-Networks and Access.** The UK, unlike countries like South Korea and Australia – has decided to rely largely on private investment and competition to spur rollout. Public intervention has been confined to the margins and rural areas as is the case for rural mobile access. The Strategy Paper confirms this approach. It is going to be interesting to see the implications of this in the long term in terms of rollout and whether the current assumption is appropriate for the UK.

**Switching:** Markets only work if consumers actively chose and switch between providers. Rates of consumer switching have been lower in Communications compared to some other sectors. **This appears to be due to complexity/ lack of consumer literacy** and the rate of innovation. Ofcom-led reforms to switching, including gaining-provider led switching has been real progress. This will need to be reviewed. However more work needs to be done on **vulnerable consumers and behavioural biases** and whether all benefit directly from the reforms. This raises the question of 'consumer failure': what to do if consumers appear to be unlikely to switch. Consumer advocates are likely to focus on the role of consumer literacy and continuing role of a consumer advocate in the system. The Communications Consumer Panel has laid the **ground work**, but these questions need to be fed into the debate, and consumers continue to need a voice

**Data portability and protection:** The ability of consumers to make informed decisions to switch communications services faces new challenges in the social media age. For example, media business models increasingly rely on the collection of consumer data. The storage and portability of this data is increasingly contentious. The Communications Consumer Panel has done some excellent **research** to kick off debate in this area: but it is only a start: consumer reporting on whether they are worried about data protection is extremely volatile (the

research was done before the PRISM allegations for example) and the surveys may overestimate the extent to which consumers do take action to protect their privacy.

**Traffic management and net neutrality:** Both the EU and the UK signal that they think this is a problem that can be resolved by providing more information to consumers. But there remains a lack of convincing evidence that consumers do understand this issue and do switch on the basis of traffic management policies.

**Public service media:** It has long been accepted that competition alone would deliver a sub optimal level of PSM service, and there has been a long debate about how best to institutionalise it in the new era. The UK plan is to support public service broadcasting (PSB) by making it more discoverable with new rules to make them appear more prominently on key TV platforms through 'electronic programme guides' (EPG), and a new deal whereby the BBC and other PSBs will not have to pay Sky for distribution in the form of 'retransmission fees'. Two new consultations are planned: on EPGs and the discoverability of PSM; and on a new distribution deal.

The new communications strategy paper from DCMS is interesting reading alongside the [EC Green Paper](#) which also opens a debate on the regulatory framework for audio-visual media. In a similar approach to the UK strategy paper, the EC green paper signals that action may need to be taken to ensure the accessibility of 'general interest content' - for example through new EPG regulations. It is clear that questions of who decides what is 'general interest content' and on what basis will continue to be crucial for the development of the European Public Service Media.

It is clear that through the UK and EC processes, PSM will be offered a new a new distribution deal. It may be that this does not take into account the role of platform providers in the round, including their ability to manage the content that flows over their networks. Both the UK and EU policy papers hint that public service broadcasters may be relieved of their valuable UHF spectrum, but whether a new deal can be achieved that gives them a comparable advantage in accessing EU citizens is yet to be seen. The proposed deal could save public service media but it could also sink it: what is crucial is that independent regulators closely monitor the situation on behalf of consumers.

The UK Strategy Paper pushes all the right buttons about releasing more spectrum for innovation. It also hints that PSBs are sitting on a spectrum goldmine. It also signals that the Government plans to do more to open up spectrum to new pricing models and set out a new 10 year plan to get more Public Value out of spectrum. The move to administered incentive pricing could be a longer term threat to PSM. A lot will depend on how the notion of Public Value is measured. Having recently supervised [a PhD on the topic](#) of public value I can merely say that it remains a complex and contested concept. Public Value in media and communications – particularly as regards spectrum use – requires more research, urgently.

So, to conclude, as we enter a new policy cycle, the Communications Consumer Panel and bodies that exist to promote the interests of consumers and citizens in this area will have a lot to consider. If I was asked to pinpoint areas where I thought there was most to play for in the interests of citizen-consumers, I would point to the areas of personal data, traffic management, public service and the overarching area of switching. There are areas where the communications market expects too much of us as consumers, and there are areas where we should principally be addressed as citizens. It is public policy, not the market that decide where that boundary lies.

*This article gives the views of the author, and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics.*

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