

“Boldness be my friend”

Speech by Secretary of State to the Royal Television Society, 14 Sept 2011

1. Boldness reduces risk

One of the lessons I learned in business was that when presented with a series of options, sometimes what seems the cautious option is actually the highest risk.

Certainly many in the technology industry would agree.

Like Apple, the company that this year became - albeit briefly - the biggest in the world. I remember meeting Apple's Chief Designer Jony Ive in California a year ago.

Jony described how Apple deliberately has a very small product line to make sure that every detail of every product gets microscopic attention.

Think about the risks inherent in that strategy. One of the biggest companies in the world, under huge pressure to grow sales and profits, and with multiple opportunities to diversify. Yet what they realised was that being bold and only focusing on a small number of products was actually *lower* and not higher risk.

It gave Jony Ive and his design team the best possible chance of developing products that truly turned heads.

He gave me an example of this concerning the early iPhone prototypes. They found that people were accidentally activating their touch screens with their ears during phone calls. It took months to find a way of knowing when to switch the multi-touch sensor off.

Would they have taken that trouble if they had thousands of products in their portfolio? I doubt it. But because of their fanatical focus they increased not reduced their likelihood of success.

I think we have a similar moment now when it comes to UK communications policy. It would be easy to be cautious.

But with technology evolving rapidly, consumer behaviour shifting and the world economy suffering this would actually be the most dangerous thing we could do. So we should recognise the wisdom of Shakespeare's phrase from *Cymbeline*:

“Boldness be my friend.”

2. Boldness in local TV

I have tried to practise what I preach in two areas of media policy - local TV and superfast broadband.

Many think I have been not so much bold as foolhardy to keep pressing on with plans for local TV.

Some from the London media establishment are still sceptical. It won't be viable, no one will watch it and...most extraordinary of all we shouldn't want people to watch it anyway.

But when I announced in August that in the next two years Ofcom will be awarding up to 65 local TV licenses, the reaction outside London was amazing. Packed meetings - sometimes with standing room only - in Birmingham, Manchester, Newcastle, Cardiff, Glasgow and Belfast.

Why? Because the plans I announced dealt with the single biggest reservation people have had about local TV, namely its commercial viability. They have for the first time reduced the cost of running a new station to below the level of running a local newspaper.

As a result it is possible that by 2015 more than half the population of the country will be able to access a good quality local TV service. We will have a brand new sector for the creative industries, creating jobs for journalists and opportunities for independent production companies.

3. Boldness in broadband

We have been equally bold on broadband. In a time of limited public money I announced the ambition for Britain to have the best superfast network in Europe by 2015.

Mission impossible? In August I announced radical plans that make it possible to deliver not just universal coverage of 2 Mbps but 90% coverage for superfast broadband.

And nearly everyone has risen to the challenge. 7 projects in the Highlands, Cumbria, Herefordshire, North Yorkshire, Wiltshire, Norfolk and Somerset and Devon have started. And today I can announce another two have been added to the list – Rutland and Suffolk.

All these areas have broadband plans that can deliver on that ambition. I want everywhere to be able to say the same - and unlike a year ago it now looks likely that everywhere will.

4. Bold thinking with respect to the new Communications Act

But today I want to talk about the need for boldness in a new area - perhaps a relief to those of you expecting a sermon on local TV...

I want to outline in some detail what our next Communications Act should contain.

First, a disclaimer. Lord Justice Leveson has only just started his inquiry and the government will of course listen carefully to his recommendations before making any decisions on press regulation and media ownership.

Nor have we published our Green Paper. We are still considering the consultation responses, many of them from people in this room. So I am not going to outline a draft Bill. But today will be, I hope, a clear direction of travel - and in particular a framework for the three radical elements I want the Act to contain.

5. Promoting growth: the opportunity for the UK

The first priority must be to capitalise on the extraordinary opportunity presented by our digital and creative industries.

Earlier this week Philip Schindler, Google's European CEO, said that this sector could be worth 350,000 jobs to the UK.

I would go further and say it is an opportunity that is probably bigger for this country than any in the world except the United States.

That is because we are the second largest producer of digital content in the world - and the internet makes it possible to distribute that content worldwide at close to zero cost.

Our small country can be proud to have:

- the largest independent television sector in Europe;
- the largest per capita e-commerce market in the world, worth 60% of that of the US despite being only 20% of its population;
- a film industry which can boast more Oscars than anywhere except America;
- the second largest music export and publishing industries;
- the third highest concentration of leading-edge technology companies of anywhere in the world after Silicon Valley and Boston;
- the only country with 5 public service broadcasters, including three which are publicly owned;
- the fifth largest advertising market in the world despite being only 22nd in population size;

And finally, after the 'annus horribilis' of phone hacking, we should remember that if it turns out to have been as widespread in British journalism as many fear, it was uncovered, and will end up being stopped, by other British journalists doing investigative journalism of the highest quality.

6. Basic principles behind the new Comms Act

Much of our success in the digital and creative industries is the result of bold interventions at critical moments.

Like the licensing of Channel Four in 1982.

The unleashing of the cable and satellite revolution in the 1990s.

The terms of trade that helped establish Europe's largest independent production sector.

Or the focus on competition that resulted in some of the world's lowest broadband prices.

These bold moves have delivered choice for the consumer and world-class sectors.

So what are the bold moves for our generation to take?

As a businessman I know we need a light touch, flexible and predictable regulatory environment to encourage investment and innovation.

As a parent I want value for money and services that are safe for my children.

As a consumer I want quality, fair prices and sensible privacy protection.

And as a citizen, I want plurality of news provision so I can be confident that no one person or organisation exerts too much control over where I get my news from.

7. Growth-promoting measures

a) Superfast broadband

So firstly, let me talk about growth. If we are serious about making a difference here, the first thing legislation needs to do is to support a step change in our vision for a high speed internet.

In the last year, we have made excellent progress towards our ambition to have the best superfast broadband network in Europe by 2015. I believe we can deliver that ambition.

But the truth is this isn't enough.

Average speeds today are 7.5Mbps, but consumer bandwidth is rising by 60% each year. At this rate we'll hit 1 gigabit by 2020.

And other parts of the world are doing much better than us. Singapore's government plans universal access to 1 gigabit.

We need to ensure we do not make the same mistake in broadband that we made in railways - building our high speed network 45 years after the French and 62 years after the Japanese.

I am a strong believer that competition is the biggest driver of investment both at the retail and infrastructure level. But I do not believe the market is working as well as it should.

The process to reach a satisfactory conclusion on PIA prices for the use of BT's ducts and poles is taking too long. PIA has to be sorted out – and quickly - in a way that allows fair competition with different providers able to invest in our broadband infrastructure. It's also important that we have a properly competitive market in retail fibre.

In the coming months I will be working closely with Ofcom to make sure we make progress in these areas.

b) Superfast mobile

We also need to recognise that the future is not simply about superfast broadband – it is about superfast mobile.

The volume of mobile internet data is tripling every year, and we expect it to increase 26 fold by 2015. We must assume that whether at home or on the move, the devices people use to access the internet will be mobile from now on.

This is also vital because the next generation of internet products – what Professor David Gann of Imperial College calls the “Internet of Things” – will be about connectivity in everyday items and objects. I want Britain to be in the fast lane of this development.

So, we must press on as quickly as possible with the 4G auction. Sweden completed their auction in 2009, Germany last year, Italy is doing theirs this week and France will finish theirs this year. Mobile phone operators must put aside competitive differences and work together in their common – and our national - interest to make this happen.

In addition, I want to look closely at how we can meet this massively increasing demand through better allocation and management of spectrum.

We must make it easier for smaller companies to access spectrum, encourage more spectrum trading and maximise the benefits of licence-exempt spectrum in a way that has worked really well for technologies like wi-fi and Bluetooth.

I also want to find out why our broadcast and telecom industries have still not been able to deliver TV to mobiles at affordable prices. Standards like 1-seg have been operational for some time in Japan, Brazil, Argentina, Peru and Chile – but despite a lack of perceptible regulatory barriers in the UK, mobile TV does not seem to have taken off.

c) Strengthening e-commerce

We should also think about what we can do to strengthen our leading position in e-commerce. The number of million pound businesses on British eBay is set to increase by 25%. And analysis by McKinseys says that for every £1 we import through e-commerce, we export £3.

So we must use the current review of the e-commerce Directive to press for robust application of the Single Market provisions which are already there - but which so far have led to only 5% of consumers in the EU engaging in online cross-border transactions. The Monti report for this review estimates that GDP for the EU could increase by 4% by 2020 if there was a true single market – and the UK is well placed to take a significant share of that growth.

And if we are to be a leader in e-commerce we must also be a leader in m-commerce. eBay's success has been closely linked to its ability to set up effective and trustworthy non-cash payment systems – but why have we not been quicker in setting up mobile phone payment systems such as mPesa used in Kenya?

d) Public Service Broadcasting

Finally, public service broadcasting. PSB retains an enduring popularity with the public - still a remarkable 70% of all viewing despite the proliferation of channels. And I believe its fundamental purpose - to promote homegrown content and plurality of news provision - remains as important in the digital as the analogue age.

But we also have to be realistic that the terms of the original PSB 'deal' - broadcasting obligations in return for access to a spectrum oligopoly - no longer hold. We need a strong commitment to PSB but ministers and regulators should not, and increasingly will not be able, to micro-manage programme outcomes. Of course we want standards - but we must also allow our PSB operators the flexibility to develop new business models.

8. Measures to protect freedom of expression and media plurality

If growth matters for our economy, freedom of expression matters for our democracy.

So the second major area I want the new Comms Act to do is enshrine better protection for freedom and plurality.

Some have asked why our media industry be treated differently to other industries. Won't competition law do the job?

Of course all sectors need competition to protect consumers and make sure they get the best deal. But other industries do not define our culture in the way the media does. A country's character, the unique bonds that define its society and its democratic institutions are all shaped by its media. So we need to take special care to ensure we have vibrant, free – even raucous – debate. We need to ensure that there is the opportunity for multiple voices. And we must take care that power is never over-concentrated in a few hands.

But the simple fact is that as technology has changed, the way the law operates has not.

Sometimes regulations have been over-onerous when companies are striving to be nimble. And sometimes they have not been tough enough – in an age when

influence across platforms is more important than strength on any individual platform.

We must also recognise that much of the plurality we enjoy is the result of cross subsidy. Subsidy of the BBC through the licence fee. Subsidy of ITN by ITV and Channel 4. Subsidy of Sky News by Sky. Subsidy of the Evening Standard and Independent by the Lebedevs.

Some, but not all of this subsidy, comes because of the attractiveness of the UK market to international investors and whilst of course no one should exert undue control, we must also recognize that if we make the UK less attractive to international investors we will reduce and not increase plurality.

9. Media plurality reforms

So what can be done to improve the protection of media plurality?

a) A cross-media approach

Firstly we need a new framework which is platform-neutral. In an age when consumers are moving freely from platform to platform we should not be restricting media operators from developing products that can follow their customers from TV to internet to smartphone to tablet. But by the same merit we should measure their influence based on a sensible aggregation of consumer contact through those different types of media.

Ofcom's research into this during the BskyB/NewsCorp merger process was a start. But further work is needed. So I have today asked Ofcom to examine what the options are for measuring media plurality across platforms and recommend the best approach.

In particular I have asked them to look at whether or not it is practical or advisable to set absolute limits on news market share; whether they believe a framework for measuring levels of plurality could or should include websites and if so which ones; and whether or how it should include the BBC. I will encourage them to submit this report as part of their evidence to the Leveson Inquiry.

b) Timing of public interest interventions

One of the main things to emerge from the BskyB merger proposal was the fact that public interest interventions can only take place when there is a specific transaction to approve. I believe media plurality should mirror competition policy more closely, with independent regulators given the right to start investigations into media plurality and propose remedies to protect plurality even in the absence of corporate transactions.

c) Politicians having the final say

Another reasonable question to ask is whether, if there are contentious public interest issues at stake, it is appropriate for politicians to have the final say.

I was very conscious in the recent BskyB bid that however fairly I ran the process, people were always going to question my motives.

I tried to deal with this by seeking and publishing independent advice at every stage of the process. But in competition law we deal with this more robustly by removing politicians from the process altogether. This ensures justice is seen to be done as well as actually being done. We should ask whether the same should apply for the protection of media plurality.

10. Reforms to protect standards in the press

But freedom of expression is not just about media plurality. We also need to reform the regulatory regime for newspapers and their websites – sites that increasingly host video on demand content and could eventually become internet-delivered TV channels.

As the Prime Minister said to the Liaison Committee of the House of Commons, it is important that in our desire to address the issues surrounding phone-hacking, we do not over-compensate. Our free press has served us incredibly well. So we do not want any changes to result in the back door imposition of statutory broadcast-style regulation.

a) Independent not statutory regulation

But if we are to avoid this, the public will insist on a system of robust, independent regulation with credible sanction-making power.

Independence means freedom from interference by politicians but also from media owners so that complaints about press behaviour can be dealt with credibly. Other industries have developed models which have robust and credible sanction regimes and we should consider them with an open mind as we await Lord Justice Leveson's recommendations.

b) Regulatory convergence

It is also worth remembering that even without phone hacking we would have had to face some difficult decisions about media regulation anyway. If British media organisations are to develop world-beating cross-platform offerings, we need to offer sensible cross-platform regulation as well. It cannot be sensible to regulate newsprint through the PCC, on-demand websites through Atvod and IPTV through Ofcom.

So although broadcast television will continue to be regulated to broadcast standards, when it comes to a new regulatory framework for the newspaper industry we have an opportunity to look to the future. My challenge to you is this: work with us to establish a credible, independent regulatory framework which has the confidence of consumers and we will support it as the one-stop regulatory framework to be applied across all the technology platforms you operate.

This won't replace traditional broadcast regulation. But for a newspaper industry moving to IPTV it could supersede it - giving Britain the prize of being the first country in the world where a new generation of innovative, cross-platform media companies are able to grow on the back of the world's first converged regulatory framework.

11. Protecting consumers and companies from offensive and unlawful content.

The final area the new Comms Act needs to address is the protection of consumers and companies from offensive content and from the damage done by unlawful or unlawfully distributed content.

Here we need to make a clear distinction between offensive and unlawful content.

a) Offensive content

What we mean by offensive content is generally more subjective, and indeed can change over time. So when it comes to accessing material that can offend taste and decency standards in their own home, we should put consumers firmly in the driving seat. We won't water down existing protections on traditional media – the watershed is here to stay – and I welcome the progress made both by the UK Council for Child Internet Safety and also by ISPs who have just completed work on a draft code of practice on parental controls.

But I think we may need to go further.

I will therefore consider including in the new Comms Act an obligation on ISPs to ensure all their customers make an active choice about parental controls, either at the point of purchase or the point of account activation.

b) Unlawfully distributed content

However when it comes to material that is being unlawfully distributed online, we need a different approach.

The first argument we need to nail is the idea that tackling this problem is an assault on the “freedom” of the internet.

John Stuart Mill defined liberty as the freedom to do anything provided it does not impinge on the freedom of others. Unlawfully distributing copyrighted material is theft – and a direct assault on the freedoms and rights of creators of content to be rewarded fairly for their efforts.

Fundamental to our concept of both freedom and the law is that it should apply to everyone without fear or favour. This means it must apply equally in the virtual world as in the physical world.

We do not allow certain products to be sold in the shops on the high street, nor do we allow shops to be set up purely to sell counterfeited products. Likewise we should be entitled to make it more difficult to access sites that are dedicated to the infringement of copyright. Sites that are misleading customers and denying creators fair reward for their work.

Let me be clear: the government has no business protecting old models or helping industries that have failed to move with the times. So we strongly welcomed the

proposals by Professor Hargreaves to help the UK lead the way with new business models by setting up a Digital Copyright Exchange.

But those new models will never be able to prosper if they have to compete with free alternatives based on the illegal distribution of copyrighted material. We see this in South Korea, where according to the Economist a proliferation of new business models for content distribution have emerged following the introduction of anti-piracy laws. The result? Locally produced music content has now risen to 76% of domestic CD sales.

The devil of course is in the detail. But we need to explore all options to make life more difficult for sites that ignore the law. I believe these could include:

- A cross-industry body, perhaps modeled on the Internet Watch Foundation, to be charged with identifying infringing websites against which action could be taken;
- A streamlined legal process to make it possible for the courts to act quickly;
- A responsibility on search engines and ISPs to take reasonable steps to make it harder to access sites that a court has deemed contain unlawful content or promote unlawful distribution of content;
- A responsibility on advertisers to take reasonable steps to remove their advertisements from these sites;
- And finally a responsibility on credit card companies and banks to remove their services from these sites.

Experience in America shows that these goals can be achieved by voluntary agreements – but if not we will look at legislative solutions and include these in our forthcoming Communications Green Paper.

12. Conclusion

So in summary, there are three fundamental areas where we need radical change in the new Communications Act.

Action to promote growth, largely around stimulating investment in a strong digital infrastructure.

Action to protect plurality and freedom of expression within a rapidly changing digital environment.

And finally, action to protect and encourage investment in intellectual property, a great source of opportunity for the UK. Sitting on the sidelines can never be an option if we are seeking global competitive advantage.

It needs imagination, determination and vision.

Boldness be my friend.