

## Committee on Convergence Kicks Off with Big Policy Questions

Will media convergence require a much more far reaching shakeup of media regulation than the government's Communications Review is countenancing? The [House of Lords Select Committee on Communications](#) has begun its investigation into the public policy implications of media convergence. Coincidentally I was giving evidence the same day that my pamphlet '[The End of Press Freedom](#)' was published by Oxford University's Foundation for Law, Justice and Society. I think the members of the committee might find the pamphlet an interesting read so I hope they will accept it as written evidence, but Tuesday's evidence session was not about press freedom, but about clearing the undergrowth and setting up the framework for the committee's work. I was keen to set out some basic ideas for the inquiry, which I will summarise here.

First of all, any inquiry into the public policy impact of convergence has to develop a definition of what convergence is. For a long time we have been discussing convergence of networks, of companies and of end user devices. But any debate on public policy must concern itself primarily with convergence of people, behaviours and expectations: of which groups of consumers are doing what, with what, and crucially what they expect to be regulated.

### Changing behaviours and expectations

Research repeatedly shows that a high proportion of consumers expect television services and screens to be regulated, but fewer have the same expectations regarding mobile or internet services. The process of media convergence in recent years has seen increasing numbers of consumers accessing newspaper and video content through their mobile phones and laptops, platforms where consumers don't expect regulation. The next wave of converged services is likely to be driven by the rise in the number of connected TV sets, along with improved speed and reliability of broadband. This is somewhat different because it is the appearance of non-regulated services on a screen – the television – where people still have a high expectation of regulation.

These potential regulatory quandaries are bound to intensify as take-up of converged services continues to climb, in part as a result of the impending roll-out of 4G-capable infrastructure in the UK. Use of converged services goes up rapidly where faster more reliable connections are available, and the expectation is that most internet connections will be super-fast during the lifetime of the next Communications Act. Currently, around 80% of the UK population use the internet. We are about to pass 50% of the population using a smartphone. Of these smartphones, **30%** (and rising) are used to stream video.

Already, consumers appear to have somewhat polarised views of regulation. Ofcom's deliberative research, for instance, reveal a segmented media market, with some consumers wanting more regulation on new platforms—a finding that was confirmed by Oxford's Internet survey—while others do not. More important, however, is that both sides seem to have limited understanding of what is in fact in place. The proportion of adults who say that online content is 'regulated' for example, has **increased**.

Platform convergence presents a range of challenges for regulators and policy-makers. Foremost among these is the need for more concentrated efforts to improve consumer awareness and literacy. In a world in which many, or even most users are using the on demand service and time shifting on super-fast connections, consumers might really not know whether they are viewing a service covered by the broadcast code or by another code. A useful example is the impact of converged services on the protection of minors. The [EU Kids Online survey](#) found that one in three parents 'worries a lot' about available content online. Yet there is a continuing uncertainty about the roles and responsibilities of the [UK Council for Child Internet Safety](#). What is certain is that self-regulation in this arena is not really an answer.

## (Re)defining regulation

The Committee were keen to test the ground asking whether they were looking at the right issues, and what my views were on what they should look at.

Broadly, my view is that the issues remain the old ones: child protection, media plurality, content regulation and regulatory reform. But we do still need to pose the questions afresh, as the Australian Convergence Commission has done. That report acknowledges a diversification of different ways of accessing content, but notes that much content is coming from the same, or fewer sources. So we do need new thinking on how to ensure plurality, and crucially transparency of media ownership, and as David Levy also pointed out we need a fundamental rethink of the role of powerful gatekeepers in opinion formation. Also in need of a revisit is the balance between different regulatory models, such as the old debate about public funding versus market-led industry growth. Is the protection of a public sphere of regulated, responsible, ethical public media a 20<sup>th</sup> century hangover, or is it something that we want to replicate for the new converged environment?

Ed Richards, in his [speech](#) at the Oxford Media Convention early this year, admitted that it is simply not possible (I would add desirable) to offer the same level of protection of media users in the world of mass access to superfast broadband services. We no longer live in a world in which a few privileged broadcasters alone can deliver sound and moving pictures to the home. But there is still a role for policy in the new media environment. If regulation in the pre-converged world was based mainly on the medium of delivery, present and near future intervention may be best triggered by [consumer expectation and market share](#), what I call 'a license for size'—a potentially incentives-based scheme that may also be rooted in a system of market reviews. A version of this is one of the longer term recommendations of the Australian Convergence Commission, which proposes a new category of regulatees based on size of enterprise. Notably, the Australian proposal classifies a provider as a content services enterprise if it has (1) control over the professional content they deliver; (2) a large number of Australian users of that content; and (3) a high level of revenue derived from supplying that professional content to Australians.

New patterns of media use, and the new harms that emerge alongside them, call for a proactive response from Parliament, particularly in setting out some long term objectives around the fundamentals. This is a time to speak about the high level principles and the world that we want to inhabit in terms of fundamentals like balance between freedom of expression and protection of consumers. The market is leading a rapid process of change, and two things lag: one is sociological use patterns and consumer expectations and the other is regulatory definitions. Responding to convergence is always going to be an iterative see saw, but at a certain point Parliament – or at least this committee – should debate some likely scenarios.

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