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Digital Britain interim report: A step in the right direction?

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A B S T R A C T

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The Digital Britain interim report was published on 29 January 2009 by the DCMS and BERR with the final report being due out in June. The Report divides itself into four areas for 'action'; namely Digital Networks, Digital Content, Universal Connectivity and Equipping Everyone to Benefit from Digital Britain. The level of action proposed in each case varies widely and the Report has come under criticism for delivering little in the way of concrete promises or clearly defined strategy. This article summarises and analyses a number of the key purported actions from the Report in order to consider whether it is indeed an appropriate step towards an action plan that would secure the Britain's place at the forefront of the new media age.

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1. Introduction

The Digital Britain interim report was published on 29 January 2009¹ by the Department for Culture, Media and Sport (DCMS) and Department for Business Enterprise and Regulatory Reform (BERR). The final report is due out later in the Spring and so this should perhaps be viewed as only the very first steps towards the development of an ongoing strategy for the communications and technology sectors. Even so it has come under criticism for delivering little in the way of concrete promises or clearly defined strategy. Indeed to fulfill any purpose it should at least be an indicative roadmap of the Government's stated aim of bringing focus and stimulation to

the digital economy and it should expect to stand up to quite legitimate analysis in this regard.

There has been significant development in the communications and technology sectors over the past decade, much of it led by now pervasive digital technologies. These sectors are also often viewed as key drivers in the development of the economy as a whole. Indeed, the fact that the Report was commissioned jointly by the DCMS and BERR is indicative of the many industries and facets of our society that are affected by the advancement of digital technologies. The Government's aim seems to be to harness the momentum of the past decade and to ensure it continues to develop in what it deems to be an appropriate direction over the next decade and onwards.

¹ *Digital Britain: The Interim Report*, Department for Culture, media and Sport and Department for Business Enterprise and Regulatory Reform, Cm 7548, January 2009 (the Report).

The British Government is not alone in placing much focus on the communications sector at this time, with the US Federal Government publishing their "Networked Nation: Broadband in America"² report in January 2008, the German Government publishing in February 2009 a National Broadband Strategy with all homes to have access by the end of 2010, and France winning the GSMA's Government Leadership Award in February 2009 for their broadband policy, particularly in freeing up spectrum for mobile broadband. These are just a few examples within the international community and there seems much evidence that the communications sector and the digital economy are seen as having a key role in more general future development.

The British Government is clear in expressing its desire to establish an action plan for encouraging the innovation and investment necessary for a successful digital economy. It remains to be seen whether the final Digital Britain report will be clear in how this is to be achieved. However, the interim Report has considered both legislative and non-legislative measures that may be used for this purpose. It has done this in the context of five objectives³:

- to give Britain a globally competitive infrastructure through the upgrading and modernising of wired, wireless and broadcast digital networks;
- to create a dynamic investment climate to encourage both domestic and international investment in UK digital content, applications and services;
- to develop UK content of sufficient quality and scale to serve the interests, experiences and needs of all UK citizens;
- to encourage fairness and access for all through universal availability and digital literacy to enable participation in the digital economy;
- to develop infrastructure, skills and take-up to enable the online delivery of public services and interfacing with Government.

Based on these objectives the Report divides itself into four areas for 'action'; namely Digital Networks (including, as an annex, BERR's response to the Caio review on barriers to investment in 'next generation access'.⁴), Digital Content, Universal Connectivity and Equipping Everyone to Benefit from Digital Britain. The level of action in each case does vary and while there are some specific proposals for change and legislative reform, in some cases the action is limited to further review and the commission of additional reports. This article will retain a structure following those four areas in order to summarise and analyse a number of the key purported actions from the Report.

² "Networked Nation: Broadband in America, 2007", National Telecommunications and Information Administration, US Department of Commerce, January 2008.

³ *Supra* n1, p. 7.

⁴ "The Next Phase of Broadband UK: Action now for long term competitiveness," Caio, F., Department for Business Enterprise and Regulatory Reform, September 2008.

2. Digital networks

2.1. Next generation access (NGA)

It is widely acknowledged and indeed recognised by the Report that Britain's current broadband infrastructure is beginning to suffer from congestion, particularly at peak usage times. Additionally there is something of a digital divide between the applications and services that can be available for companies with high-speed networks and those available to other users with varying speeds of connection. The Report notes that consumers rarely even receive the maximum speeds that are achievable through the current infrastructure and widely advertised by broadband providers. It considers that the demand for services requiring 100 Mbps is uncertain, but that by 2012 there will most likely be a clear demand for average speeds of 20 Mbps. This will largely be due to the increasing demand for video content such as IPTV⁵ and two-way services, which require significant bandwidth for both uploading and downloading. Indeed, access of this type is also something that the Government is seeking to encourage in order to achieve some of the other objectives of the Report.

Identifying that there will be a need and a potential market for high-speed networks is not the difficult part of the equation. Although it should be said that even these speeds are hardly ambitious given that many parts of the world already have average speeds of around 50 Mbps. However, achieving anything nearing these sorts of speeds through the establishment of NGA networks, typically utilising fibre optics, is an expensive investment. Given the significant work involved in laying the necessary cable some reports estimate this at being around £15 billion.⁶ While the Report sees plans from BT and Virgin Media as clear evidence that the market is delivering on some of the required investment, it warns that such investment is not guaranteed. It recommends that the Government and Ofcom take steps to maintain this, such as setting out a delivery framework for NGA networks, accelerate spectrum release and invest resources into identifying remedies should the market fail to deliver.

The Report acknowledges the need for a balance between investment and competition. Competing NGA infrastructures are recommended by the Report in order to drive down prices for users. However, it suggests that for each home or business added to an NGA network there will be a seven to ten year payback period before any return on investment is seen. An obvious consequence of this is that the percentage of homes to which the market will voluntarily rollout NGA broadband is uncertain, even where there are already incentives in place to encourage this and so further public investment may be a requirement.

The most imminent action to be undertaken, and prior to the publication of the final report, is the establishing of a Government-led Strategy Group to assess how far market-led investment will take rollout and whether any contingency measures

⁵ "IPTV: the dependencies for success," Burbridge, C., [2006] 22 Computer Law & Security Report 409-12.

⁶ "Digital Britain report is ambitious if imperfect," Beaumont, C., www.telegraph.co.uk, 29 January 2009.

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