

Communications in the Information Age

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1. Converging communications technologies

Digitisation - the electronic measurement and conversion of sound and images into digits which can be stored in a common form on a computer - in effect obliterates past distinctions between telecommunications and broadcasting. The compression or reduction of words, sounds and pictures to 'raw data' not only facilitates the collection and distribution of information but also rationalises the process of recording, storing, reproducing and transmitting data.

The digital processing has many technical advantages. Digitised data has greater integrity than conventional analogue signals which are more susceptible to external interference. Having been compressed into infinitesimal measurements, digital data literally takes up less space (bandwidth) on the frequency spectrum during transmission. This in turn opens the way for many more channels of communication and, coupled with the interactivity of the new technologies, new possibilities for democratic and commercial participation. Digitisation should vastly increase the capacity of terrestrial, satellite and cable transmission systems and services.

The conventional differences between current systems of communication will be rendered artificial as telephony, radio and television shift to digitisation which has been the norm for years in computer and print technology and compact discs.

In the near future it will be possible for all those who can afford it, or have access to the technology, to conduct all communications via a unified interactive 'receiver' - capable of use as a telephone, computer, word-processor, radio, TV, and video, from which many interactive commercial, retail, leisure and learning services will be accessible, including pay-per-view TV, video on demand, Internet services and home shopping, banking and market research. Some regard this as 'the true dawn of the information society'.

The potential is immense - an almost unlimited flow of information, entertainment, commerce and communications with a chance for everyone to participate - providing they have access to the technology.

The danger, as ever, is that the technology and its potential will be harnessed by those who can afford to own, control and develop it, and that its exploitation will be solely or largely dedicated to the amassing of profits by the few rather than the empowerment of the many. The main 'players' in the development of this technology are those who already have major holdings in the world's telecommunication industries.

The exciting possibilities of the 'digital revolution' should be weighed against another major impediment - it will eventually require the replacement of existing non-digital receiver equipment. Everyone wishing to participate via their home TV sets, for instance, will need 'set top boxes' to convert digital transmissions to their existing analogue receivers. In time they will need to purchase new radio and TV sets, especially if, and when, a decision is made about phasing out analogue transmission altogether.

This is one of the key areas in which regulation has a vital part to play in ensuring that the new technology genuinely enhances democratic values and participation. The abandoning of analogue transmission can only come when hardware producers are geared up to supply fresh demand for all-digital equipment. In other words this is a significant macro-economic decision which should not be determined solely by the private sector.

The conversion and replacement of existing communications equipment needs to be phased in under carefully devised terms in order to reduce the likelihood of creating an 'information underclass' where those who literally cannot afford to participate are excluded from the new communications culture.

The European Commission Green Paper (The Convergence of Telecommunications, Media and Information Technology Sectors and the Implications for Regulation, 3 December 1997) anticipates that convergence could increase Europe-wide employment in the communications sector (from hard-ware and software production to the production and delivery of programming and information services) from the current level of 2.8 million to equal employment levels of 2.6m in the USA. Part of the rationale for this prediction is that increased demand for cultural products will encourage companies to seek new talent, new production methods and new markets.

Clearly this also has implications for training and retraining, and regulation may be required to ensure that the new opportunities are available to all-comers on an equal footing.

Because of the need for substantial capital investment, convergence could be a recipe for the emergence of powerful oligopolies who might eventually control not only the means by which people can access information, education, entertainment and commercial transactions, but also the supply and control of content and the way in which the new technology is applied.

2. Protecting the rights of the citizen in the era of convergence

With the incorporation of the European Convention on Human Rights (ECHR) into UK law, all current and subsequent legislation must be tested against its provisions. Public authorities such as OFTEL, the BBC, the Independent Television Authority, the Radio Authority, the Broadcasting Standards Commission and the Press Complaints Commission are covered by the Act. It follows that any new regulatory system must also comply with it. It must also comply with new Data Protection legislation unless specific exemptions for the media are agreed.

Recent technological change in the communications field has been and continues to be so rapid that the process of devising, adopting and applying formal regulation inevitably lags behind the actual phenomena it seeks to control.

However international agreements to which the UK is a signatory such as the Universal Declaration on Human Rights (1948), the International Covenant on Civil and Political Rights (1976) and the ECHR, acknowledge basic human, civil and political rights - to democratic participation, to freedom from oppression and discrimination, to privacy, to freedom of conscience and expression, and to access to information. These should be regarded as immutable, and should underpin the rationale of any regulatory system.

The starting point for regulation of communications should be 'universal service obligations', designed to ensure that the largest possible majority of citizens have easy (though not necessarily free) access to as wide a range of common and good quality information/communication services as possible - e.g. it should be possible for everyone to purchase receivers (telephones/radios/TVs/computers) and services (voice telephony, national and local radio and television signals, internet) at costs which are not prohibitive.

The primary aim of regulation should be to ensure inclusion, especially of those social groupings which for reasons of cultural difference or demography might tend to risk exclusion if the provision of services were left to 'market forces'. Commercial advantage may be the current driving force behind the development and use of new technologies, but the consequences must be viewed in terms of a universal social good.

For instance the development of thematic radio/TV channels appealing to 'niche markets' is expected to intensify in the new communications environment. On the surface this might appear to suggest that particular cultural interest groups would benefit immensely. However, the 'niche' would have to be substantial either in terms of numbers or of disposable income, to make it commercially worthwhile to develop such a service.

There is a risk that regulation which concerns itself primarily with the most powerful players, might ignore the rights of those seeking to provide non-commercial socially-useful communication services. Since convergence makes the biggest players even more powerful, the problem will be perpetuated unless space is made for community media as a 'third sector' in the new communications environment.

Unless there are statutory requirements to 'add-on' community services (local radio and TV channels, as well as special interest services for gays and lesbians or ethnic minority communities, for instance), a truly local flavour is almost certain to be missing from the new communications environment. The alternative would be public or public/private partnership investment in community media initiatives.

Conditional Access Mechanisms, or set-top boxes, which allow programme makers to broadcast pay-per-view programmes to their subscribers are currently controlled by media giants like Rupert Murdoch's News Corporation. As 'gatekeepers' and TV and film producers his companies may in theory deny access to competing programme services or offer them on unfavourable terms, exert pressure on their competitors to 'bundle' their programme services as part of a 'bouquet' offered to

subscribers by, for instance BSkyB. Such practices would put small scale and specialist programme makers at a considerable disadvantage.

Andy Miller, a policy adviser at OFTEL, has said that he expects all third party broadcasters to have access to the conditional access system on fair, reasonable and non-discriminatory terms - which can only come with regulation: "We would be concerned that a single channel like the Chinese channel would have to pay the same amount for BSkyB's conditional access channels as BSkyB, which has a group of channels. We don't expect BSkyB to provide conditional access on the cheap, but at a fair price."

Journalist and author Mike Holderness, a member of the EC Information Society Forum who specialises in communications technology, argues that a multi-channel environment will present a particular problem in the ownership and control of the programme guide, an on-screen selection system transmitted alongside programme services.

He says: "There should be an obligation to present public service and minority channels prominently. Otherwise those who control the guides - Rupert Murdoch and Bill Gates, are keen to do so - will use them to promote their own channels and will hide everything else in a footnote to a footnote."

"To fail to make the effort to draft the details of such rules would mean that digital broadcasting simply pumped more White, male blandness into every home."

This all highlights the need for regulation of ownership and control, employment practices and content issues, if there is to be a 'level playing field' to ensure fair competition, especially for ethnic minority communities or people with disabilities whose numbers, or socio-economic status, might otherwise preclude them from participation in the Information Age.

3. The rights of ethnic minorities in the Information Age

One way of testing the extent to which citizens rights are protected by regulation is to consider the situation of those most likely to suffer discrimination with society. According to David Lloyd, Head of Advertising at the Radio Authority, broadcasting in the digital age will provide a rosy future for everyone including ethnic minorities:

"The new environment will give a lot more choice to a lot more people. Just as Asian stations have thrived, so more people will get on air. There will be more employment opportunities for ethnic minorities whether or not they work on ethnic minority stations. Training and equality have been guaranteed."

Those working on the ground are less convinced. They fear that ethnic minorities could miss out unless the government steps in with tough regulation, and funding. Steve Buckley, Director of the Community Media Association believes the government should specify what kind of programming it expects of broadcasters, including material for, by and about ethnic minorities: "More channels will probably mean more mainstream commercial programming unless there is regulation to encourage greater diversity. It is easier to buy American soaps than to invest in new local work."

Patrick Berry, managing director of London-based radio station Choice FM, wants the government to legislate to ensure that TV channels become as diverse as the current local and community radio environment. He would like to see two national ethnic minority stations, one aimed at Black people and the other aimed at Britain's Asian community. "These stations would compete with other similar stations and will ensure diversity. With market forces alone ethnic minorities will be squeezed out."

Mike Holderness predicts that the digital era will see an extension of the 'contract culture', with more work but fewer proper jobs. This does not augur well for ethnic minorities: "There is the risk of freelance contracts being awarded through nepotism and on the basis of who went to what school. It's much harder to enforce equal opportunities policies for independent commissions than it is for (direct staff) employment. Public service broadcasts commissioned to meet a clear mandate offer a partial solution."

Addressing the PressWise Ethnic Minorities and the Media Forum in November 1997, David Docherty, Deputy Director of BBC TV, admitted that there is already a problem for ethnic minorities seeking careers in the media: "We have done a good job getting ethnic minorities into the BBC, but we haven't focused on how you develop once you are in, and so people end up leaving."

According to sociologist Prof. Thom Blair, editor of Internet journal The Chronicle: Changing Black Britain, who is developing schemes to encourage greater participation of Black journalists in the print and broadcasting industries, says: "Some people say that there are more Black people in the media these days. This trend will decline because large proprietors will no longer be responsible for employment, but will off-load it to people in the private sector. The new service providers will not necessarily be hiring more Black people or any Black people for that matter." He believes that effective equal opportunities legislation is the way forward.

Journalist Beulah Ainley who has researched Black participation in the media, suggests that the Race Relations Act 1976 should be strengthened to "force the big boys to do the decent thing and implement equal opportunities."

Jane Paul of the broadcasting union BECTU would prefer an extension of existing requirements under the Broadcasting Act 1996 or its future equivalent to ensure that equal opportunity requirements apply not only to broadcasters but also to independent productions, and to open up opportunities in other aspects of the digital environment. She wants to see government backing for training networks like Skillset to ensure that industry professionals and newcomers can gain practical knowledge of and access to the new technologies.

Existing regulations and the costs of investing in the new communications industries already marginalise community-based media/IT projects. Although some segments of the communications industries, notably the BBC and BT, have corporate policies to improve representation, ethnic minority communities are at a particular disadvantage because they are already under-represented in the relevant industries, they are under-resourced at community level to take advantage of the potential of the 'information society', and they are regarded as representing commercially insignificant units by the main players.

It is clear that the regulatory framework which is to be developed will have a role to play in ensuring that convergence enhances democratic participation also ensures that there are opportunities for ethnic minority interests to be addressed specifically - by encouraging specialist services and developing targeted training and employment opportunities.

Mike Holderness cites the problems faced by ethnic minority channels in America. "Many major cities have a Hispanic station with some low budget advertising in Spanish, but they are scrambling with all the other channels for mainstream ads. To launch a channel covering Black-American, Korean-American or Native American interests you'd have to convince advertisers that your audience has shed loads of money and cannot be persuaded to spend it through generic American channels."

He suggests that one way to ensure the survival of ethnic minority channels is a new model of public service broadcasting: "A channel or two could be founded with a Channel 4 style mission to commission programmes representing the full range of diversity in British culture, from independents. The commissioners should be independent, but could be underwritten from general taxation through the Ministry of Culture, Media and Sport."

In his view licences should specify that the broadcasters must reach 90% of the community they are supposed to serve within five years, and that including the minority groups within the reception 'footprint'. On the pricing of equipment and services he argues that if sections of the mainstream audience can't afford to purchase access to new technology, then minority groups will not be able to either.

The Community Media Association believes the government should set up a specific fund to subsidise ethnic minority broadcasting since, as Professor Thomas Blair and others have indicated, the economic viability of a Black (radio or TV) channel is doubtful in a lightly regulated free market environment, without the benefit of government subsidies.

Such subsidies are not inimical to a less heavily regulated communications environment. A European Court of Justice ruling [TV10, CJEC 23/9 of 9.10.94] has already acknowledged that cultural policy objectives constitute public interest objectives, and is to be incorporated into the EC Treaty as amended by the Treaty of Amsterdam by means of a Protocol highlighting that 'the system of public broadcasting in the member states is directly related to the democratic, social and cultural needs of each society and the need to preserve media pluralism'.

PressWise endorses the stress laid in the EC Green Paper on Convergence that 'the possibilities now offered by technology strengthen the need for clear and effective rules relating to...the promotion of cultural diversity' [section IV.3] along with the Commission view that regulation is required 'to protect the fundamental rights and responsibilities of consumers' particularly with regard to 'Privacy issues, responsibility for content, free speech versus libel, appropriate jurisdiction and consumer representation' (ibid. [section IV.2.7]).

Diversity and equal opportunities cut across issues of ownership and control, employment and content, and may need to be monitored independently of any system established to regulate the new communications sector. This was stressed by participants from the EU and Eastern Europe at the recent EC-backed PressWise Forum on Access to the Information Society held in September 1998. (See Appendix: 'The Bristol Declaration')

4. Public service broadcasting in the Information Age

Since the BBC has declared its intention to exploit the commercial potential of the new communications technologies, it is appropriate to consider the extent to which the internal regulatory system at the BBC should remain separate from that which will be established to cover the broader communications industry.

Ideally, if the new communications technologies are to enhance the democratic process, all licensed broadcasters should retain a public service brief - for instance to supply national and/or local news and current affairs broadcasts, educational material and material reflecting the cultural concerns of their audiences. It may be that the extent to which they are required to comply will vary according to their status and markets, but one way to ensure that the BBC is not cast into a ghetto where it is the only broadcaster having a strict public service remit, would be to incorporate those obligations within the terms of contracts issued to commercial broadcasters, and to monitor the extent to which ALL broadcasters, including the BBC, meet their obligations through a central regulatory authority.

These are issues of content rather than technical standards, and need to be handled differently. For instance a broadly representative citizen/consumer body might be established to monitor the public service performance of all broadcasters. Such a body would add a level of accountability currently missing from the existing regulatory regime, including the BBC licence system - which is after all merely a licence to receive broadcast signals. A 'Consumer Council of the Air' could also conduct research and test public opinion, as well as monitoring performance in terms of diversity of programming and equality of employment opportunities.

5. The print media and convergence

Convergence removes one of central arguments for a separate (self) regulatory system for the print media. In the digital era all communications rely upon the same technology and, if anything, it will be the print media which will be subject to limitations of scope for expansion unless they go 'on-line'.

It is significant that when Lord Wakeham, Chair of the Press Complaints Commission, made suggestions about improvements in the print industry's Code of Practice following the death of Diana, Princess of Wales, he proposed the extension of his remit to cover electronic transmission of newspaper content. He was acknowledging the closing gap between the print and broadcast media - where statutory regulation has long been accepted.

PressWise welcomes the idea that material republished on the Internet should be subject to the same disciplines as the newspaper or magazine for which it was originally gathered, not least because it is a tacit acknowledgement of the inter relationship between print and electronic publishing and the phenomenon of cross-media ownership. We note, however, that despite Lord Wakeham's proposal to extend the scope of the PCC into areas of digital publication, the new Code contains no specific requirement to ensure that cuttings files and news/feature databases are tagged with corrections to ensure that inaccurate information is not constantly regurgitated.

We also believe that self-regulation has not won the public trust and acclaim which the PCC and the industry constantly assert. It has serious shortcomings, not least of which is the widely-held perception that it is a creature of the industry it is supposed to regulate.

On its own admission the PCC is a body designed to protect the industry from statutory controls. The Code of Practice it polices has been devised more as a piece of armoury for the industry than as a protection for the public, or for journalists. It has been repeatedly defended from criticism and only the overwhelming public reaction to the circumstances of the death of Diana, Princess of Wales forced it to face up to public dissatisfaction with its continued weaknesses.

It is also significant that the broadcast media is widely regarded by the public as a more reliable medium than the press. It is regulated by largely independent bodies, funded jointly by the state and the industry and with the benefit of statute and powers to fine for misconduct. The present system of self-regulation, financed entirely by the newspaper industry, is demonstrably flawed and does not enhance personal liberty.

Prompt and prominent corrections are the remedy that most complainants seek from both print and broadcast media. Increasingly the public are aware that such remedies must be extended to the electronic media, since so much material is now available (commercially) via the Internet, cable transmission, video sales etc. Publishing formal apologies and correction may cause momentary embarrassment to a print or broadcast publisher the cost to those directly affected by inaccurate or intrusive coverage, including the cost of seeking redress, can be immense.

The newspaper industry rejects the idea that newspapers should be fined for breaches of the Code, or that compensation should be awarded to their victims, even though sensational stories are published to generate new readers, advertisers and profits. However, the public are aware of the enormous harm that unethical behaviour can do, and is more likely to place its trust in a body that has powers to hit commercial concerns where it hurts most if their agents breach professional or ethical standards.

Although the Broadcasting Standards Commission have similarly limited powers to the PCC, at least with the Radio Authority and the ITC the public know that constant breaches of contractual obligations can lead to fines or loss of licences (though not, of course, direct compensation to victims).

We would not for a moment propose that the print media should be licensed, but we see no reason, if they are making use of the same technology and engaged in the same basic business - publishing

information services to the public for profit - as commercial broadcasters, why they should not be subject to a similar regulatory framework.

PressWise does consider that more punitive measures are required to ensure that the print media act more responsibly. Editors who breach the industry's Code of Practice should be required to compensate their victims, and we see no reason why a claim should not be made against profits, as in the broadcasting. The most effective system way to boost public confidence in regulation of the industry would be to ensure a more independent system of supervision, at one remove from the industry.

An independent regulatory system concerned with all form of published content, able to both defend press/media freedom on behalf of the public and adjudicate on complaints would be ideal. Convergence offers the perfect opportunity to create a system that reminds newspaper and magazine editors, programme producers and proprietors of their responsibilities to the public, as well as improving public confidence in regulation.

6. A coherent, unified rights-based approach to media regulation

Increased concentration of mass media ownership, the convergence of communication technologies, and public concern about the power of the mass media, make it essential that the entire system of media regulation should be overhauled. In a democratic society this review should be undertaken by the elected representatives of the public, not by those with vested commercial interests who run the industry. What is required is a genuinely independent and open system of regulation, which protects everyone's rights - including the freedom of the press - with power residing solely with neither government nor industry.

Cross-media ownership has now reached a point where it is difficult if not inappropriate to distinguish between where a company's involvement in one medium ends and its involvement in another begins. And digital compression means that sound, vision, telephony and print are merely data - and so 'caught' by data protection legislation.

In an environment where the main players are likely to be transnational corporations, a single body dealing with issues of licensing, ownership and control, distribution/delivery, technical quality and employment across all forms of media would be better able to ensure that domestic and cross-border regulations are enforced. This body would combine the functions of, for instance, the Independent Television Commission, the Radio Authority and OfTel.

Increasingly media workers are expected to be 'multi-skilled' - able to operate in different media and with all the latest technology. It is ludicrous to expect them to abide by different standards as they switch between media. They should be guided by a joint Code of Conduct devised and recognised by their unions (NUJ/BECTU/GPMU/UCW etc.) as well as by the industry, and guaranteed a 'conscience clause' allowing them to refuse to operate unethically.

A separate regulator will be required to deal with 'content' issues - accuracy, fairness, privacy, taste, decency and diversity - based upon this Code, and replacing the PCC, the Broadcasting Standards Commission and possibly even ICSTIS. That will require a clear and accessible system for adjudication on complaints and the awarding of redress across all media. Independent advice and support should also be available to complainants.

The system should allow for the creation of an independent monitoring system able to conduct research and test public opinion about the effectiveness of the regulation and the performance of suppliers of information.

The regulators should be as independent of government and industry as possible with strong element of public involvement at all levels, including media and communication workers and reflecting the demographic structure of UK society (in terms of class, gender, disabilities and cultural diversity). Appointments should be made by election where possible, or after appropriate scrutiny (either directly by Select Committee or through an independent panel delegated with the task by Select Committee).

Both tiers of regulation should be 'rights-based' to ensure that the basic human rights are enjoyed and respected by the public and the media. Breaches should be dealt with like any other violation of human rights,' with appropriate sanctions including compensation for the 'victim.'

The mass media, and media regulators must comply with the spirit and the letter of the ECHR. There should be no exemption to place the print and broadcast media above the requirement that the rights of all citizens should be respected. For instance, Articles 8 and 10 of the ECHR should be treated with equality in all deliberations by regulators and the courts. The right to personal privacy (Art. 8) should only be outweighed by the right to freedom of expression (Art. 10) where a clear and valid public interest defence can be demonstrated. Those with complaints about abuse of power by the mass communications industries should have access to free advice and assistance.

Financing of the new regulators should follow the model currently used in broadcasting, with a mix of public funds to protect the democratic agenda and levies upon the communications companies.

7. Summary and conclusions

The convergence of communications technologies opens up almost unlimited potential for democratic participation in the information society. The danger is that the development of the information society will be technology led and driven by commercial considerations rather than social and democratic principles. This could result in new forms of exclusion, especially among sectors of the population whose cultural identity or socio-economic status marks them out as minorities.

Regulation is required to ensure that best practice is adopted across the spectrum - ownership and control, employment, access, quality of product, and content - to ensure that convergence does not lead to the creation of a two tier information society of 'haves' and 'have nots', and to prevent the spread of oligopolies benefiting from the economies of scale.

Given the size and scope of the single communications sector created by technological convergence, it would be impracticable and inefficient to introduce a single regulatory system covering technical, employment and content issues.

All strata of regulation should be 'rights-based' to ensure that the democratic potential of the new technologies is tapped and to meet the best interests of all concerned. There should be a clear division between the rules and regulatory structures governing ownership, technical matters and employment policies and those governing content, complaints and redress.

Questions of licensing, ownership and control of communication systems, distribution, technical quality and employment conditions should be handled by a single body which would need to take into account, for instance cross border regulations governing EU Member States in an environment where the main players are likely to be transnational corporations.

A separate unified independent regulatory system will be required to deal with content (public service obligations, accuracy, fairness, taste, decency and diversity) issues, and including clear and accessible complaints and redress systems. In the new communications environment it may be appropriate for this system to incorporate systems of adjudication and redress for complaints about newspapers, magazines and the Internet content and services.

Such a system, financed by a mix of public funds and levies upon the communications companies, would allow us to move forward into 'the information society' with more certainty that narrow (commercial or political) agendas will not determine what we see read and hear from the mass media.