

International Regulatory Issues

Stephen Whittle

British Broadcasting Corporation

The Internet has become the most talked about technological development of recent times. How is it possible that this “thing,” which was developed as a device to decentralize knowledge and data in the event of nuclear attack, became a means of academic information exchange, was embraced by “techies” and finally business, and now excites so much passion or such miscalculation?

It is a timely moment to stop and reflect on where things are heading on the eve of what has been described as the fourth age of broadcasting. Even in the United States, home of the Internet and the World Wide Web, not everyone is convinced that change is positive. According to Max Frankel of the *New York Times*, “It is hard to avoid the conclusion that our remarkable, convulsive revolution in the technologies of communication has debased our standards of journalism and eroded our capacity for civil discourse. We are wallowing in information—but we are starved for understanding.” How then is it possible to make sense of what is happening in the world of the Internet? After much consideration of the issues, it became apparent that regulation was likely neither the question nor the answer.

First, as with all revolutions, consider what is happening. There are some obvious opportunities and some equally obvious challenges. The positive side of what is happening is the enormous educational and democratic potential seen in what is made possible by the Internet. The information society offers the chance for a better informed citizen to make a real contribution to the national debate. The most obvious downside is that, as with other communications revolutions in the past, the gap between the

“haves” and the “have-nots,” between the information rich and the information poor, widens both within and between societies. It is also possible that the opportunity to enrich the many, by making information and power available to all, will be subverted to make money for the few.

Should the mood be pessimistic? Or are there encouraging signs? This discussion starts as one that looks at the glass as half full rather than half empty.

GLOBAL INEQUALITY

The growth in the Internet is well documented: Recent research reveals that the Internet universe grew three times faster than television over the same period of time (200 million Internet homes after 6 years, which is a figure that took television 20 years). The growth is global. The United States accounted for over 50% of all Internet homes by year 5, but there are already signs that the balance is shifting (see [Table 12.1](#)). New estimates suggest that the fastest new growth will come in the Asia-Pacific region. Discrepancies still exist in take-up.

The center of gravity is moving east and south and with it there is also a remarkable growth in Internet languages, especially the Asian languages and Spanish. Mexico, for example, sees more web use than the United Kingdom, Germany, or France.

What the Internet underlines is the great gap that continues to divide the world, not least the gap of age. But the Internet is not itself responsible for inequalities in wealth, education, access to technology, infrastructure, and so on. There are, of course, many side benefits. Look, for example, at

TABLE 12.1
Internet Take-Up

	<i>Millions</i>	<i>% of total</i>
World	201	100
Africa	1.72	0.86
Asia/Pacific	33.61	16.7
Europe	47.15	23.5
Canada/United States	112.4	55.9
Latin America	5.29	2.6

Note: Data from Nua Surveys, September 1999.

the comparative costs involved in sending material from Madagascar to the Ivory Coast by post, fax, and e-mail.

Also, thanks to UNESCO and others, Africa is being given start-up help to enable it to develop its own approach to the new electronic world. Identifying the problem is at least a start on the way to a solution. But again, it is important not to confuse the messenger with the message.

What is remarkable is how the e-world is being used to share knowledge, to make available expertise, and to break down divisions. For example, in Latin America, health care techniques and treatments are being shared so that they become more universally available. So, even in the midst of global inequality, there are some encouraging developments.

CONTINENTAL DIFFERENTIATION

Even within the rich world, there are considerable differences in Internet adoption. In Europe, the Scandinavian countries have been very active in their promotion of the Internet. Finland has both the highest per capita usage of mobile phones and people with access to the Internet. However, some of the Latin countries are only just taking up the Internet in significant numbers (Pro Active International, 1999).

The Broadcasting Standards Commission in Britain noticed some of these differences in a recent study that looked at the way in which children used the screen. It found that in 1997 (Livingstone & Bovill, 1999), 7% of British 15- to 16-year-olds had access to Internet at home, as compared to 38% in Sweden. Part of the explanation lies in the fact that British parents are reluctant to allow their children out of the house when they are not attending school. So they provide “entertainment centers”—televisions, videos, music centers, games—in the bedroom, rather than learning zones full of books or personal computers.

NATIONAL DIFFERENTIATION

Again in Britain, the differentials between upper and lower social grade households with regard to Internet access are more marked than in other countries such as the Netherlands or Scandinavia:

ABC1 14% (Upper- and middle-class households)

C2DE 2% (Working-class and low-income households)

The vast majority of children in Britain still only have Internet access at school. This is something the British government has noted and is taking steps to improve. The government is working to ensure that all schools are connected to the Internet, to improve the quality of teacher training, and is

now also making computers available to low-income households. But there is still a long way to go. The study referred to earlier indicates that there is a further gap between children whose parents are information technology competent, and who can reinforce or even improve on school work, and those who are not competent.

COMMUNICATIONS REVOLUTION?

All of this, of course, helps to put the Internet into perspective. It is not quite as all pervasive as its promoters would like people to believe. Indeed, it is probably quite unsuited to much that is promised. But, there is little doubt that it has revolutionized all kinds of communication. It is many different things at the same time: a cross between an information exchange, a library, a chat line, a shopping mall or banking hall, a post box or an entertainment center. It offers immense benefits and engenders numerous anxieties. It belongs to no one and no nation. Some see it as a great gift to freedom, others as an invitation to anarchy. It combines private and public functions in a unique way, but it is not lawless, and it does not present the same kind of issues that arise from the invasive potential of broadcasting.

Now a new wave of excitement is under way as broadband technology opens up the possibility of linking internet and television in new and more challenging ways, by blurring the obvious distinction that has existed up to now between a “pull” and a “push” medium. How much of this is real and how much is hype?

In a recent survey of e-entertainment, called, appropriately enough, “Thrills and Spills,” *The Economist* was clearly skeptical. It noted the enormous sums of money being invested in e-entertainment by entertainment companies terrified of the challenge but excited by the prospects, because the Internet seems a way of delivering their goods directly at very little cost. It seems to make very targeted advertising possible while remaining cost effective.

But, as *The Economist* remarked, “the reality has not matched up to the vision.” There seem to be two basic problems. One is the difficulty of distributing content on the Internet, the other is people’s unwillingness to pay for anything beyond what they are already paying for Internet access. For example, music is easy to distribute, but it is hard to persuade people to pay for it. All that people seem prepared to pay for are *The Wall Street Journal*, some games, and a great deal of pornography.

If you look at Internet usage in the United States, the vast majority use it each week for e-mail (90%), search engines (70%), researching product purchases (44%), health (35%), and reading a newspaper (25%). The most visible entertainment use is game playing (22%). Internet virtues (e.g., freedom from censorship, speed, low distribution costs, global reach, and

interactivity) seem to benefit the pornography business. It accounts for almost all paid content on the web. Almost one third of Americans now get news online at least once a week, although not all news sites are provided by newspapers, such as CNN, BBC, and others. Sport and niche businesses are also having some success.

It might be that broadband will make a difference, but so far the evidence shows that it is too slow taking off. It is still technically very complex to deliver, even via cable. The distribution problems have not encouraged the content industry. It is a vicious rather than virtuous circle and there is still the question of whether people will pay. Putting aside all the usual comments about Amazon.com or the crash in e-markets, very few sites succeed in charging customers for their wares. *The Wall Street Journal* is an honorable exception. The rate of e-advertising is also slowing. *Big Brother* in the United Kingdom offers another indicator. The most visited Web site in Britain attracted advertisers, but not sufficient to pay for the site, and virtually no e-commerce. The proportion of people clicking on through to the advertisements is falling to about 0.4%.

The difference, therefore, between television and the Internet remains stubbornly clear, despite the claims of Negroponte. To state the obvious, people use the television and the personal computer in quite different ways. Microsoft has not been able to turn the trick with Web TV. Digital television seems to hold more promise of satisfying consumers. So the conclusion has to be that the claims made for the Internet, even delivered via broadband, are unlikely to fundamentally change the world. It may prove to be the means of distribution for music. But books are likely to remain popular as books. Games, news, and sport have a web future. But moving pictures will remain elusive for some time to come.

A NEED FOR REGULATION?

So what is the challenge of the Internet? Does it need regulating? Why? How? Clearly, context is key to any regulatory strategy. What is the nature of the service, the means of its access, the method of payment, the likely expectations of users, and so on?

A considerable proportion of what happens on the Internet clearly should excite little interest or concern. Private mail is and should remain private, from both employers and the state. Visitors to news sites, libraries, book shops, record stores, or shopping malls only attract attention in the real world when they are up to no good. The same should be true of the virtual environment. There are some issues here of consumer and data protection, that transactions have legal force, that fraud is no easier electronically than it is in the shopping mall, and that privacy rights are respected. British evidence suggests this is an area where government needs to do more to promote confidence. Clearly, too, there are issues of

copyright protection, which require both technical sophistication as well as concerted international legal action.

The potential problems arise over the easier access for children and vulnerable people to material that might be considered either offensive or harmful. A balance, therefore, needs to be struck between consumer expectations, the protections necessary for commerce and creativity to flourish, for child protection, freedom of expression, and privacy rights.

The public policy and regulatory challenge is both how to strike that balance and how to enforce the judgment. Currently, the approaches taken vary from country to country and are based on cultural and historical traditions. Surveys of public opinion taken in Australia, Germany, Singapore, Britain, and the United States indicate quite different concerns. In Australia, sex is the issue. In Germany, it is race hate. But in Britain, it is a concern about the protection of financial data. These differences make it very hard to come up with a single approach to Internet content issues. But, it is equally important to be clear about the difference between illegal, unlawful, and harmful content.

The aspect of the Internet that usually excites most comment is child pornography. But that is also the issue of greatest consensus. There is no jurisdiction in the world that does not regard this as an illegal activity, regardless of the means of distribution. Here it is relatively easy to get consensus and joint action.

Unlawful content is more complicated, in part because what is unlawful in one place may not excite the same attention in another. States have very different attitudes toward everything from Nazi regalia to the limits of sexual expression, let alone the protection of copyright. Nevertheless, where such things are illegal, there is a legal remedy to pursue. It does not, nor should it, require an additional level of regulation.

Potentially harmful content is more difficult. First, the Internet probably would not be equated in any way with a broadcast medium because the viewer has to seek the material out. Second, again there is no simple definition of what should be considered harmful: sex sites, chat forums, or instructions on how to make a bomb. Rights of expression and defining what is harmful and to whom are also problematic.

Again, different places are offering different approaches. Singapore and Australia, for example, have chosen the route of direct regulation. The Australian Broadcasting Authority, for example, requires Internet service providers (ISPs) to issue codes of conduct, can consider complaints about sites judged to be hosting inappropriate or illegal content, and can issue takedown notices. In the first 6 months of this year, they received around 200 complaints and issued 60 plus takedown notices. The result was that most sites migrated offshore.

In other places, the approach is one of coregulation in which responsibilities are shared between government and industry, with the legislation

providing the framework within which content and service providers operate by their own rules. There are signs that this approach is having more effect. The xxx.domain proposed by the pornography industry wants to keep a clear identity, and other providers are keen to indicate the kind of content people can expect to find. It is probably unrealistic to expect to deter 14-year-olds from at least sampling a sex site, but again the development of more sophisticated ratings and filtering systems by bodies like the Internet Content Rating Association (ICRA) is also helping to underpin parental responsibility. The ICRA reckons to have involved the 20,000 or so sites that account for at least 80% of the traffic. The e-world will never be entirely safe, like its real-life counterpart, but significant steps have been taken to offer protection to those who need it.

WHAT ABOUT THE FUTURE?

Broadband does present positive opportunities, especially by providing choice, expanding horizons, and developing new forms of creative and commercial life. But, as already seen, it is far from clear what time scale is necessary or indeed what the likely drivers are going to be. The costs and the skills required suggest the obvious danger of new divides opening between the rich and the poor, as well as various transactional concerns.

The potential failure of entertainment content on the Internet could mean that broadband might tackle the high ground of education, culture, and democracy. Whether the Internet proves a viable means of delivery of the awesome potential for involvement, interactivity, and knowledge sharing, which was part of the original ambition of the Internet, remains a question. The challenge for public policy is to ensure, as with current terrestrial broadcast services, universal access at little or low cost, to a full range of public service and generalist services that impart educational, health, and employment information, as well as telephony's universal access, and interoperability.

There are big and difficult issues. Concepts dealing with must-carry provisions, ensuring diversity of voice and range of supply, as well as providing open access, are notions of public service and public interest that have found a fuller expression in public service broadcasting in Europe. The American approach has always been different and United States is still the lead Internet culture. It may be that the difficulties that the entertainment industry is having may be to the advantage of the public sector. After all, the resources made available via the Internet do lend themselves to distance learning, citizen participation, and dialogue between the government and the governed. A key challenge will be equipping people with the skills of media literacy. People need to develop the same critical judgment with the new media that they possess with the old, including how to read a text and discern its message and how to evaluate fact verses fiction, truth from falsehood, and so on.

The Internet offers the opportunity to underline the old freedoms of expression and of information that are vital to social, economic, cultural, and political development. These new technologies can and should be used to further everyone's rights to express, seek, receive, or impart information and ideas for the benefit of both the individual and society. The Internet offers the opportunity for a million or more flowers to bloom. Let's encourage the growth for everyone's mutual enrichment, and to enable an even greater participation in public life.

Any future regulatory framework needs to be based on the minimum statutory intervention necessary to safeguard the public interest, coupled with responsible self-regulation by content and service providers and empowered and confident users.

SOME WAYS FORWARD

It is already clear that nothing stands still. The potential is obvious but so are the threats. There is still have time to act and encourage positive outcomes. First, governments should work to encourage, not stifle, the potential by opening up the education system as well as the very process of government and decision making itself. Every government department and public body should have a Web site that provides user-friendly information and access both to the decision-making process and the decision makers. Second, public access to the Internet should be made available at libraries or in other community centers. Moreover, schools must be equipped with both technology and know-how. Third, the developments in digital broadcast technology could be used to make the resources available on the Internet cheap and easy to access. Fourth, cultural bodies could be encouraged to use their imagination and creativity in this new world and get online. Strategies must be developed to teach and support media literacy to empower citizens for the new world and place even greater emphasis on training both within the educational structure as well as for people who have left formal full-time education. Lastly, make the encouragement of the information society an objective of development agencies, both governmental and non-governmental, and open up adequate and low-cost networks for new services both within and between nations.

This revolution is here to stay. As one former revolutionary once put it: "The philosophers have analysed the world; the point however is to change it." The means exist. Do people have the will to achieve it?

REFERENCES

- Pro Active International (1999, November). Preliminary findings.
Livingstone, S., & Bovill, M. (1999). *Young People, New Media*. London School of Economics.