



Information Technology and Intellectual Property (August 2010)

A consultation response by Fraser Henderson,
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“ **ParticiTech** welcomes the Liberal Democrats consultation on Information Technology and Intellectual Property.

The Liberal Democrats have been at the forefront of innovation in this area for some time without due credit. For example, the Liberal stronghold Bristol City Council was the first to explore the concept of ePetitioning, before No.10 and many years before the Local Democracy Economic Development and Construction Act. Kingston-upon-Thames Councillor Mary Reid has won acclaim for her blog and work on the Local eDemocracy National Project. Moreover, Liberal MEP Diana Wallis is currently leading on the European Citizens' Initiative and its digital challenges.

Despite this, Liberal policy in the area has been thin and without any particular substance. This was quite clear when Nick Clegg was interviewed among the other party leaders for the National Digital Inclusion Conference 2010. This is an area of opportunity, one that the Liberal Democrats can seize in full knowledge that they are the only political party which needs to preach more about what they practice. ”

The Overall Regulatory Framework

1. What should be the guiding principles in regulating material on the Internet? Should the government prioritize freedom of expression over the regulation of material?

It is our opinion that the guiding principle be one of freedom of expression. It is naive to think that any top-down regulation can stifle the flow of information. For example, many people may think that content is difficult to access in China whereas it is common knowledge that those 'in the know' can access anything they want. That said, we think it is prudent to monitor content and make it more difficult to share information which might, say, compromise national security.

2. How can consumers' rights to be free from unnecessary restrictions be balanced against producers' interest in receiving a fair return for their work?

The problem is with distribution of content. DRM is an effective means of restricting content but there will always be workarounds. In many ways this is not an issue for government but one for the content providers and the digital format industry.

The only practical deterrent is tougher penalties for those who infringe copyright. However, we think that there should be a clearer system for identifying what is and what is not legal in terms of copyright infringement as it is too easy to mistakenly re-use licensed material.

3. Who should be responsible for regulating Internet content? Should there be government legislation, or are industry watchdogs and self-regulatory measures sufficient? If they are sufficient, what can government do to promote their activity?

Community regulation is preferential, much like a good community internet forum. This is more manageable too.

4. Are there any other topics we need to consider?

You should consider the domain name architecture. For example, if all adult sites ended ".xxx" then there would be a stricter framework for content (and it would be easier to filter). You should also consider what sort of notification a citizen should have when using an internet connection which is regulated.

Regulation of Internet Content and Copyright

5. What kinds of materials (if any) should be blocked, and what kinds of materials should be allowed to remain? How can the government maintain an objective perspective that is compatible with the freedom of expression?

All material should be allowed unless it is illegal or compromises national security.

6. Should Internet Service Providers (ISPs) be responsible for the content they carry unknowingly? Should ISPs be responsible for regulating and monitoring the content they carry?

ISPs should not be held responsible or regulation/monitoring. Inconsistent filtering by ISPs will just result in consumer choice being swayed by the most liberal providers. However, ISPs should be more responsible in the way that they report on the surfing behaviour of a customer or household. For example, if they sent a printed statement (appended to your phone bill) which summarised what sort of content was being consumed then this might alert unsuspecting parents or, in the case of the customer aware of their online behaviour, that their actions are being recorded.

7. What kind of legal and technical support do law enforcement agencies require to adequately pursue high-tech criminal activity?

They require a dedicated task force which should extend to the local level. They need a series of teams who specifically deal with fraud on different types of major platform such as internet banking, eBay etc.

8. What specific reporting and detection mechanisms are the best for monitoring material on the Internet?

Bookmarking and active scanning (spiders).

9. What aspects of the new digital economy does the current copyright law fail to address appropriately? How can these be corrected?

No comment.

10. Which is the best international forum through which to develop a system for copyright and intellectual property rights?

One of the many European Forums such as future-internet.eu. However, it is a good idea to include the views of young people – some work has already started in this domain via www.huwy.eu. The Oxford Internet Institute is another good national lead.

11. To what extent should copyright protect producers of creative work? How can this right be reconciled with the consumer's right to works for which they have paid a fair price?

One of the problems is that there is no single register for works which have been fairly paid. Doing this might solve the problems of inflexibility and uncertainty.

12. What reforms are necessary to release from copyright protection works which are no longer available legally or whose authors cannot be identified?

None

13. Should individuals who have paid the copyright holder a fair price for the material have reasonable latitude in terms of private use? What kinds of uses and reproductions should be allowed?

As long as the copyright is clearly expressed at the point of sale then there should be no issue. Unfortunately DRM restrictions are often unclear and differ significantly by author. There is no common terminology and the difference between the number of devices, number of plays and number of copies legitimately made etc. can be confusing.

The main problem is when content is re-sold or made available for public distribution.

14. Are there any other topics we need to consider?

No comment

Commerce and Taxation over the Internet

15. How can international businesses be taxed fairly? How can fair taxation be ensured for goods for which taxes like VAT apply but which are traded internationally over the Internet?

In most cases the origin of a purchaser can be found via their IP address. Import duties and handling fees far outweigh the VAT burden and for most consumers buying goods internationally is not worthwhile.

16. What kind of international agreements are needed to clarify rules for taxation and commerce?

No comment

17. How can we accommodate self-employed people such as IT contractors in tax regulations, so that they can properly charge reasonable and legitimate expenses against their pre-tax income by reviewing IR 35?

No comment

18. Are there any other topics we need to consider?

No comment

Education and Training in IT Skills

19. What measures can be taken to make sure that the development of IT qualifications keeps up with technological advances?

IT advances change rapidly. The only real way of achieving state of the art is to follow state-of-the-art industry such as Google. IT qualifications need to focus more on the use of technology (e.g. usability/accessibility and design) and less on the technology itself.

20. What can be done to make sure education and training in IT skills adequately reflect academic and vocational needs?

Put forward practical challenges. The Conservatives introduced their £1m 'challenge'; while this was deluded from a commercial standpoint there is no better catalyst for students than a real-world problem that needs solving.

21. Should we focus more on school-age education and training, or through-life training?

The current mix is fine.

22. Are there any other topics we need to consider?

The lack of real or significant training budgets in many of our local public institutions.

Digital Infrastructure

23. What should the government do to promote the spread of broadband access? What kind of incentives or public investment should be made?

Promote the benefits. Martha Lane Fox has managed to do this quite well. Government should provide incentives for online transactions, such as discounts on car tax renewals etc.

24. How can the government make sure that rural areas are included in this infrastructure development? What measures can the government take to ensure equal development in such cases of market failure?

Rural locations or those which are not economically viable for data infrastructure projects need public funding to stimulate private sector interest. BDUK has already embarked on a number of pilots along this route.

However, it is clear that the government needs new source of income to support their investment although the proposed Labour "broadband tax" was ill conceived. The reverse way of looking at this is to charge a small premium to content providers wishing to trade online, particularly those which provide services which consume the most bandwidth such as video sharing sites.

25. Is there a minimum standard of broadband people should have a right to?

There should be a simplified set of quality of service indicators so that consumers have a more realistic expectation of their provision but there should be no minimum standard. However, access might be a “right” (e.g. the availability of public computers in libraries or cost of access to the internet in public areas or via mobile phones).

The definition of a minimum standard would, in itself, be difficult. For example, it is not enough to set a minimum “speed” as there are many other factors such as the contention ratio which affect the actual broadband experience.

That said, Britain needs to be competitive and invest in Next Generation Access to provide next generation services. There should be a commitment from government to ensure that this infrastructure is deployed at an equal pace in relation to its European rivals for the sake of competitiveness.

Government should also ensure that access speed variation does not exceed certain thresholds across the country to ensure that there is equal and fair provision.

26. Are there any other topics we need to consider?

Equality of wireless data services (e.g. 3G networks)

Keeping analogue radio

Research and Development

No comment

Open Source Development

31. Are open source developments desirable? How can they be promoted?

Yes, but they should not be promoted over and above “closed” developments. Open data and standards are more important.

32. What role does the government have in promoting collaborations in which large numbers of developers can share their work?

None, unless they refer to works relating to public sector initiatives.

33. What should be considered in evaluating open source software and deciding whether to adopt it for public sector use?

How appropriate it is for the task but also how well established it is compared to “closed” solutions (i.e take-up). The problem with open source is that it is often as restrictive as closed-source, poorly documented and easier to hack.

34. What common standards must be developed for databases and programming interfaces to make collaborations easier?

There are many data standards required. The Labour government did some work on this, such as the creation of a recommended data standard for petitions. However, it was not able to be the “guardian” of the standard.

Government could be savvier in the way standards are handled or adopted.

35. Are there any other topics we need to consider?

No comment

The Government’s Use of IT

36. What can be done to ensure that there is healthy competition for government contracts, both to keep costs down and to reduce dependency on any one supplier? Should large contracts be divided into smaller projects? What kind of bidding procedure should be used?

Scrap “approved supplier” schemes in local government. Use internet search engines such as froogle and kelkoo as well as price comparison sites. Allow spending decisions to be taken with less red tape. Credit cards are badly needed by frontline officers who make purchasing decisions so that they can take advantage of internet prices and cash back incentives.

37. Should there be a requirement for government tenders to investigate open source options?

No. Open source is not necessarily better.

38. Should there be a preference in government procurement to give contracts to SMEs?

No, but there should be a preference about using local suppliers or ones with sound ethics.

39. Should there be independent checks on the feasibility of projects and realistic timelines? At what stage should this assessment be obtained?

No

40. What system should be in place to assess legislation which may require the use of IT or major changes in IT systems?

Consultation with the technology sector, a strategic advisory group made up of industry experts.

41. Should all government services be online? What should be the ultimate goal in providing services online?

Yes. The ultimate goal is about choice and expectation but also cost saving (via channel shift) and transparency.

42. Are there any other topics we need to consider?

A myriad of topics, particularly around online trust and online identify.

The Implications of IT for Politics and Political Involvement

43. How can the government ensure that IT facilitates political inclusion and accountability? In what ways should parties and governments communicate with voters and constituents?

Design tools for elected members, not officers. Ensure that local government creates an IT budget for members. Invest in technology trials or appraisals in new participative technologies.

Communication with voters and constituents should be at their own preference, be it by email or letter or by phone.

44. What can be done to ensure that voters and constituents can readily find and access information that is relevant and useful?

Bring information into a much more local setting – such as by using parish magazines and door knocking by council offers at least once a year. Improve ways of measuring satisfaction. Deploy minimum Flesch reading ease scores for all publications. Use video more.

45. How can we maintain accessibility for everyone, including those with learning and other disabilities? Should there be guidelines in place for accessible materials, and who should be required to follow them?

Accessible materials should be a requisite but they should not be at the burden of the majority. For example, support all the official languages of the European Union in a 'ready-to-go' format.

46. Is electronic voting workable in the near future? How can the problem of lack of a supervised environment be addressed?

Yes. Internet voting is essential for a modernised electoral system. This also makes it easy for British citizens abroad to vote.

Many European members states are already well into trials (see www.e-voting.cc). It is widely recognised that there are no significant problems associated with the environment or a workable solution any more.

47. Are there any other topics we need to consider?

Many. The impetus for sharing good practice in eDemocracy has been destroyed by the Labour government. More needs to be done to harness technology in order to address the Democratic deficit.