



The Mobile Broadband Group

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Digital Britain Interim Report – a response from the Mobile Broadband Group

1. The Mobile Broadband Group (MBG, whose members are the UK mobile businesses of O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) is pleased to respond to the Digital Britain Interim Report. Individual members have made detailed responses to the Report. The MBG's response concentrates on just two areas: Content Rights and Distribution (Actions 11-13) and Media Literacy (Action 22), where a common approach from mobile operators has facilitated discussion with Government and leads to better outcomes for consumers.

Content Rights and Distribution (Actions 11-13)

2. The MBG responded to the Government's earlier consultation on how to tackle illegal file sharing. In that response we emphasised the need for new business models and the need for consumer education about the role of copyright. We expressed scepticism about potential legislation on the grounds, for example, that it was premature, before there had been time to assess the efficacy of the voluntary notification process.
3. We are pleased to note that there was a degree of consensus among stakeholders over the need for new business models and education. It seems pretty clear that trying to maintain old business models would just be 'pushing water uphill' and heavy handed legislation should not be used for such a purpose.
4. New business models are being announced, which is a start. Nevertheless, it should be noted, that doing innovative commercial deals remains extremely hard as the publishers cling to the wreckage of the status quo. We are still waiting for the reality of the situation to set in and for rights holders to generally produce "*the creative products that people actively want to buy in the way they want to buy them*" (DBR p.41).
5. There does seem to be a growing acceptance, though, that the emphasis on where money is earned from creative activity will change. For example, although file sharing is alleged to have adversely impacted CD sales, the interest and engagement with music has never been higher, with a very positive impact on potential revenues from live performance.
6. In the light of this, we have argued against legislation. We believe instead that creative industries must evolve their business models, not only for their own future

sustainability, but also to allow consumers to embrace new and emerging ways of legally accessing, for example, music and video catalogues.

7. The MBG is extremely anxious to ensure that, should the Government bring forward legislation, any proposals are proportionate, equitable and kept in place no longer than is necessary.
8. The issue of illegal file sharing on a mobile has not been central to this discussion, as, at the moment the amount of it has been relatively very small. However, as we indicated in our response to the previous consultation, depending on design, mobile networks are not generally capable of responding to a letter from a rights holder or law enforcement agency that supplies an IP address and asks the operator to match it to a customer.
9. One of the reasons for this is that operators have limited allocations of public IP addresses and customers using a 3G handset, for example, to browse the Internet share an IP address with many other customers browsing at the same time. The data that would be needed (time stamps etc.) to match a customer with browsing observed by a third party such as a rights owner is not retained, as large volumes are created very quickly. More detailed information on this point has already been supplied to BERR in the response to the file sharing consultation.
10. A mobile ISP would need to invest considerable amounts in data storage and new processes in order to deal with a notification such as the one envisaged in the Interim Report. Bearing in mind the low volumes involved and the potential costs, it is extremely questionable as to whether it would be proportionate to require it. This aspect must be addressed and a proper cost benefit analysis must be prepared for any proposals.
11. There is also considerable uncertainty as to how the costs of dealing with notifications will be equitably recovered.
12. The rights owners have asserted that ISPs have benefited considerably from illegal file sharing. This assertion is without foundation and completely inaccurate. Furthermore, ISPs are not expecting or seeking to make a profit from responding to notifications but feel that it is an extremely reasonable expectation that, where they assist third parties at considerable inconvenience to themselves, in exercising commercial rights, they are reimbursed for the costs so incurred.
13. It seems extraordinary that rights owners, who are complaining of losing hundreds of millions of pounds per annum, are going to argue over the £9million+ that the Government is estimating that a notification system would entail. Were these costs to be borne by the intermediary ISPs, who operate in an extremely competitive market, the costs would raise connectivity prices for consumers and work against the Government's ambition of making a step change in the adoption of broadband.
14. Finally, as mentioned before, there is much doubt as to whether illegal P2P file sharing is a permanent problem. It may be just a transitory feature marking the end of one era and the passage to another. Any legislative proposals should include sunset provisions that would allow them to be removed from the statute books when they are rendered irrelevant by events for copyright protection but are nevertheless still causing ISPs to incur data retention and other costs.

15. With respect to the proposals on the Rights Agency, the MBG understands that the Government is shortly to publish further information to add substance to the ideas floated in the Interim report.
16. The MBG would welcome more information and will respond in due course. On the face of it, we would strongly oppose any expectation that ISPs should fund this, when the vast majority – if not all - of the potential commercial benefit would accrue to rights holders.
17. We are also very doubtful that it is appropriate for the various parts of the value chain to be required to collaborate collectively on new business models. We do not see how this can benefit consumers. The new business models that have already been announced have been negotiated bi-laterally. If there is a common commercial imperative for collaboration on, say technical standards, that would happen without such a body being imposed by Government. It happens the whole time in the telecommunications industry.
18. Registration of rights is another idea that has been mooted. If this would make it easier to obtain rights clearance for new business models, that may be a benefit. However, in the MBG's submission to the Intellectual Property Office on copyright reform, we suggested that this task should be tackled at a European level, as the proliferation of rights clearance bodies across Europe is making it very complex to get the appropriate rights for multi-territory distribution.
19. Resources are limited, particularly at the moment and have to be focused on priority activity such as rolling out more broadband coverage. On the basis of what is known so far, it would not be justified to divert resources that are badly needed elsewhere to fund a Rights Agency. The MBG will look forward to further news on this subject.

Media Literacy (Action 22)

20. The MBG supports Action 22 – the plan to create a National Media Literacy Plan (NMLP) and we have been participating actively in the group that Ofcom has established to take this work forward. In addition to policy work, mobile operators have also been actively engaged in the delivery of media literacy on the ground. A recent example was the launch of the Teachtoday initiative¹ supported by many mobile operators and communications providers.
21. There is an enormous amount of work being done on media literacy throughout the UK. Ofcom is well placed to play a co-ordination (rather than a delivery) role. On the whole we would envisage evolution is required rather than revolution. For example, the Government has adopted the right approach in establishing UKCCIS. It now needs to stand behind it with consistent support. We are confident that it will prove an excellent body through which to deliver improved media literacy for children and parents. The NMLP should give UKCCIS the space to develop its agenda.
22. The area that needs the most focus in the national plan is broadband adoption. The government has identified that a step change is required to shift the UK off a plateau where broadband take up is more or less stalled in the mid-60s per cent.

¹ <http://www.teachtoday.eu/>

23. The priority is to identify and overcome the barriers to adoption. We therefore support Ofcom's view that the NMLP needs to be holistic, taking an overview of the interdependencies between broadband adoption, digital skills and media literacy.
24. Research indicates that the main barriers to adoption are people failing to see the benefits from having access to the Internet and other on-line facilities and nervousness about the technical difficulties and the amount of time that becoming proficient might involve. To a lesser extent, cost is also identified as a potential barrier.
25. In recent months adoption of mobile broadband has taken off very quickly, as customers have increasingly realised that it is now an excellent alternative to fixed broadband. Mobile addresses many of the issues identified above. Mobility delivers extra benefits. Mobile broadband connectivity is truly 'plug and play' and there are some very compelling prices on offer on both prepaid and monthly tariffs.
26. While the mobile operators will be doing their utmost through their own commercial marketing efforts to increase broadband adoption, the MBG feels that the Government, in seeking to stimulate demand for broadband, should now be placing more emphasis on mobile as a simple, cost effective alternative for getting on-line. This should be run consistently through their strategies for Digital Inclusion, digital education media literacy.
27. Finally, the Government will recognise that, although there is a considerable amount of media literacy work going on throughout the UK, there seems to be very little robust information about which forms of communication and education are most efficient and effective in improving broadband adoption and media literacy in the various segments that have been identified. The Digital Britain strategy, through the National Media Literacy Action Plan, must address this deficiency so that the efforts of those delivering media literacy can be better focused and more effective.