

Contradictions in internet policy making

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Internet penetration in the UK is higher than ever, as is apparent from a recent Office for National Statistics (ONS) [report](#). On the basis of a 2010 survey, the ONS projected that 72% of UK households have access to the internet and in addition it estimates that 38 million adults have used the internet in the three months prior to the survey; representing a bit more than 60% of the total adult UK population and representing a 100% rise compared to estimates in 2006. The reasons why the remaining 40% are not using the internet are varied. The majority of this part of the population simply reject internet adoption while others do not possess the necessary skills to adequately use the internet or live in (rural) areas where internet access is poor (dial-up) or difficult to obtain. Socio-demographic status and age are still important determinants of the digital divide. For example, the survey implies that only 40% of those older than 65 and 45% with no formal education have ever accessed the internet.

From this perspective, the intentions of the current coalition government to force citizens to apply for driving licences, passports, student loans, pension credit and disability benefits through the internet is highly problematic. Francis Maude, a Cabinet Office minister, [claims](#) that:

'Online services are better for consumers and better for government, making services available in a convenient 24/7 format and reducing the costs of transactions.'

However, as the ONS data shows, many of these services are targeting vulnerable groups in society who are also often those found on the 'wrong' side of the digital divide.

Another piece of legislation – the Digital Economy Act (DEA), rushed through Parliament by the previous government – aims to increase UK internet penetration even further and subsidise the roll-out of broadband to rural areas through a flat-tax on telephone subscriptions. However, this same act has also put stringent measures in place to protect the interests of copyright industries and intellectual property owners to the detriment of other stakeholders' interests. While the implementation of this part of the act is currently the subject of political debates, the DEA's proposed measures contradict current government intentions to achieve universal access and offer some public services exclusively online.

The act sets out a two-phase approach in relation to copyright infringements. In the first phase rights holders and their lobby organisation will be able to demand ISPs to send warning letters to customers whose IP-addresses have been found to infringe the rights of copyright holders. If – after a study by Ofcom – this approach does not result in a substantial decline in filesharing, the second phase will come into force. In the second phase ISPs could be forced by rights holders to disconnect persistent infringers from the internet all together. This would in other words effectively place rights holders in the position of judge as well as jury.

Similar measures enacted by the French Assemblée National in 2009 were revoked, however, by the Constitutional Council because it deemed the 'three-strikes and you're out' rule to be unconstitutional and highly disproportional. Furthermore, the Constitutional court [ruled](#) that it should be up to a judge, not an administrative body, to:

'reconcile the objective of fighting against piracy on the internet with the exercise of the right to freedom of communication, expression, and the press' (my translation).

The Constitutional Council further added that

'freedom of expression and of communication is so precious that its exercise is a condition for democracy and one of the guaranties for respecting other rights and freedoms; limiting this liberty must necessarily be adapted and proportional to the pursued aim' (my translation).

Many members of the House of Lords voiced similar concerns in March 2010 when the DEA was debated. Acclaimed filmmaker David Putnam, for example, [stated](#) that this legislation was pushed through because of the 'extraordinary degree of lobbying' by the copyright industries without giving Parliament the time to carefully consider the proposed far-reaching measures, nor take into consideration the interests of other stakeholders in this debate. The government, for example, refused to have the act scrutinised by the UK's privacy watchdog – The Office of the Information Commissioner. As a result of all this, Putnam predicted that:

'within the next two or three years, there will be another bill before this house which will be created to deal with the deficiencies of the present bill'

Let us hope this happens sooner rather than later.