HOUSE OF LORDS

Communications and Digital Committee

3rd Report of Session 2021–22

Digital regulation: joined-up and accountable

Ordered to be printed 8 December 2021 and published 13 December 2021

Published by the Authority of the House of Lords

HL Paper 126

Communications and Digital Committee

The Communications and Digital Committee is appointed by the House of Lords in each session "to consider the media, digital and the creative industries and highlight areas of concern to Parliament and the public".

Membership

The Members of the Communications and Digital Committee are:

Baroness Bull
Baroness Buscombe
Viscount Colville of Culross
Baroness Featherstone
Lord Foster of Bath
Lord Gilbert of Panteg (Chair)
Lord Griffiths of Burry Port
Lord Lipsey
Baroness Rebuck
Lord Stevenson of Balmacara
Baroness Stowell of Beeston
Lord Vaizey of Didcot
Rt Rev the Lord Bishop of Worcester

Declaration of interests

See Appendix 1.

A full list of Members' interests can be found in the Register of Lords' Interests:
https://members.parliament.uk/members/lords/interests/register-of-lords-interests

Publications

All publications of the Committee are available at:
https://committees.parliament.uk/committee/170/communications-and-digital-committee/publications/

Parliament Live

Live coverage of debates and public sessions of the Committee's meetings are available at:
https://www.parliamentlive.tv

Further information

Further information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is available at:
https://www.parliament.uk/business/lords

Committee staff

The staff who worked on this inquiry were Theo Demolder (Clerk), Emily Bailey Page (Policy Analyst) and Rita Cohen (Committee Operations Officer).

Contact details

All correspondence should be addressed to the Communications and Digital Committee, Committee Office, House of Lords, London SW1A 0PW. Telephone 020 7219 2922.
Email holcommunications@parliament.uk

Twitter

You can follow the Committee on Twitter: @LordsCommsCom.

CONTENTS

	Page
Summary	2
Chapter 1: The digital world	3
Chapter 2: Regulators	5
Horizon scanning	5
Box 1: The Digital Authority	5
Regulatory objectives	13
Chapter 3: Parliamentary oversight	16
Summary of conclusions and recommendations	21
Appendix 1: List of Members and declarations of interest	23
Appendix 2: List of witnesses	24
Appendix 3: Call for evidence	27

Evidence is published online at: https://committees.parliament.uk/work/1409/digital-regulation/publications/ and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

SUMMARY

In March 2019, we published a report on *Regulating in a digital world*. We drew attention to the insufficiencies of the existing regulatory system to confront the challenges posed by the rapid pace of technological developments. Legislation was too slow to respond and regulation was fragmented, characterised by significant gaps and overlaps.

Since our report there has been some progress. The new Digital Regulation Co-operation Forum (DRCF) is a small step in the right direction. However, there are persistent challenges which the regulatory system remains insufficiently equipped to confront.

Regulators must act in the public interest to minimise both risks of harms and unnecessary regulatory burdens which could limit the benefits of digital innovation for the UK economy and society. We share the priority of the DRCF and the Government for regulation that is agile, streamlined and avoids duplication.

However, we do not believe that the DRCF in its current form is the best answer to these challenges. Though the DRCF has enhanced cooperation among some regulators, there remains a lack of overarching coordination and oversight of regulatory objectives. Coordination needs to be extended and formalised. We are concerned that not all regulators with interests and expertise in the digital world have a seat at the table, and there are insufficient formal processes to ensure accountability and effective collaboration. We are also concerned that, though the DRCF has conducted promising early work in rationalising regulatory conflicts, there is not a sufficiently rigorous or accountable process in place for resolving these conflicts in future. Having clearer mechanisms to rationalise these conflicts would provide greater certainty for industry, making regulation more predictable and conducive to innovation. The UK has the opportunity to be world-leading as a centre for technology investment, not through regulating less but through regulating more effectively.

The DRCF should be put on a statutory footing as the 'Digital Regulation Board' and independent non-executive members appointed, including an independent chair.

Information sharing between all relevant regulators, advisory bodies, the Government, industry and academia needs to be enhanced to avoid duplication of work and ensure that the greatest range of perspectives feed into regulation. Where appropriate, regulators should also be able to share their powers and jointly regulate. This will require statutory measures.

The pace and scope of digital change calls for sustained attention from Parliament to ensure both that regulators have the powers they need and—as regulators are increasingly given broad powers to address complex and evolving challenges—that regulators are using those powers appropriately and effectively. A joint committee of Parliament should be appointed to scrutinise digital regulation. Although the work of several existing committees touches in some way on the digital world, no single select committee has a remit to focus on digital regulation across Government departments and industry sectors. This is a significant gap in parliamentary oversight. Parliament, as well as regulators and the Government, must adapt its ways of working to keep pace with the digital world and its impact on citizens' lives.

Digital regulation: joined-up and accountable

CHAPTER 1: THE DIGITAL WORLD

1. As digital technologies have grown to play an ever-greater role in our lives, the regulation of those technologies has received increasing scrutiny.

2. In March 2019, we produced a report on *Regulating in a digital world* which called not for more regulation, but for a different approach to regulation. We identified that the challenge is not how to regulate digital companies, but how to regulate in the context of the changes brought about by rapid developments in digital technologies and their transnational operation.[1] As Benedict Evans, an independent analyst, told us: "There is this phrase 'software eats the world', and in the end everything becomes a software company", with companies and products no longer notable for being 'digital'.[2]

3. In *Regulating in a digital world* we recommended that an overarching 'Digital Authority' be established to oversee the work of regulators as well as a joint committee of Parliament.[3]

4. There has been further significant change in digital technologies and their regulation since our report was published. Kate Collyer, Chief Economist and interim Director of Competition at the Financial Conduct Authority, noted: "It is clearly true that there has been rapid technological development, and that has had a significant effect."[4]

5. Developments in regulation in the UK and abroad include:

    - the establishment of the Regulatory Horizons Council in 2019 to advise the Government on the implications for regulation of technological innovation[5]
    - the Competition and Markets Authority's market study into online platforms and digital advertising, published in July 2020[6]
    - the introduction of the Information Commissioner's Office's Age Appropriate Design Code in September 2020[7]

---

1 Communications Committee, *Regulating in a digital world* (2nd Report, Session 2017–19, HL Paper 299)
2 Q 19
3 Communications Committee, *Regulating in a digital world* (2nd Report, Session 2017–19, HL Paper 299), para 238
4 Q 1
5 HM Government, 'Regulatory Horizons Council (RHC)': https://www.gov.uk/government/groups/regulatory-horizons-council-rhc [accessed 1 December 2021]
6 Competition and Markets Authority, *Online platforms and digital advertising: Market study final report* (1 July 2020): https://assets.publishing.service.gov.uk/media/5efc57ed3a6f4023d242ed56/Final_report_1_July_2020_.pdf [accessed 1 December 2021]
7 Information Commissioner's Office, *Age appropriate design: a code of practice for online services* (2 September 2020): https://ico.org.uk/media/for-organisations/guide-to-data-protection/key-data-protection-themes/age-appropriate-design-a-code-of-practice-for-online-services-2-1.pdf [accessed 1 December 2021]

- the establishment of the Digital Markets Unit, in April 2021, which has yet to receive statutory powers[8]
- the publication of the draft Online Safety Bill and subsequent scrutiny by our Committee, a joint committee, and the House of Commons Digital, Culture, Media and Sport Sub-committee on Online Harms and Disinformation[9]
- the introduction of the European Union's Digital Services Act package[10]
- the Australian Consumer and Competition Commission's news media bargaining code for platforms and publishers[11]
- debate in the U.S. about section 230 of the Communications Decency Act, as well as antitrust lawsuits against Facebook and Google.[12]

6. In July 2020, the Competition and Markets Authority, the Information Commissioner's Office and Ofcom formed the Digital Regulation Cooperation Forum (DRCF). The Financial Conduct Authority joined in April 2021. The DRCF is intended to bring greater coherence to the work of those regulators.[13] Unlike our proposal for a Digital Authority, it is not a statutory body and therefore has no power to direct its members. It is not directly accountable to Parliament.

7. In this shorter inquiry, we took additional written and oral evidence to review our conclusions from March 2019. We also spent a day in Cambridge, on 17 November, visiting Microsoft Research, Audio Analytic, Myrtle.ai and Invenia Labs—and on 8 December visited Palantir, a big data analytics software company. Hearing from these companies about the challenges and opportunities of new technologies helped to inform our thinking.

8. In this report, we consider again the future of digital regulation and revisit our proposals for a Digital Authority and corresponding joint committee of Parliament.

---

8 Competition and Markets Authority, 'Digital Markets Unit' (20 July 2021): https://www.gov.uk/government/collections/digital-markets-unit [accessed 1 December 2021]

9 Communications and Digital Committee, *Free for all? Freedom of expression in the digital age* (1st Report, Session 2021–22, HL Paper 54), see also Joint Committee on Draft Online Safety Bill: https://committees.parliament.uk/committee/534/draft-online-safety-bill-joint-committee/ and Digital, Culture, Media and Sport Sub-committee on Online Harms and Disinformation, 'Inquiry: Online safety and online harms': https://committees.parliament.uk/work/1432/online-safety-and-online-harms/.

10 European Commission, 'The Digital Services Act package': https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package [accessed 1 December 2021]

11 ACCC, 'News media bargaining code': https://www.accc.gov.au/focus-areas/digital-platforms/news-media-bargaining-code [accessed 1 December 2021]

12 The Conversation, 'What is Section 230? An expert on internet law and regulation explains the legislation that paved the way for Facebook, Google and Twitter' (2 August 2021): https://theconversation.com/what-is-section-230-an-expert-on-internet-law-and-regulation-explains-the-legislation-that-paved-the-way-for-facebook-google-and-twitter-164993 [accessed 1 December 2021], see also The Conversation , 'The Facebook and Google antitrust suits are a warning shot for all corporate giants—not just Big Tech' (10 December 2020): https://fortune.com/2020/12/10/facebook-google-antitrust-suits-big-tech-business-corporate-giants/ [accessed 1 December 2021].

13 Written evidence from the Digital Regulation Cooperation Forum (DRG0019)

CHAPTER 2: REGULATORS

9. In *Regulating in a digital world* we found that regulation across different sectors needed to be strengthened and better coordinated to be capable of responding to the evolving digital world and its effects across the economy and society. We found that regulation was fragmented across different areas, with gaps and overlaps stemming from the piecemeal process by which regulation had developed. The solution was not to be found in more regulation, but in a different approach to regulation, with a coordinated response across policy areas.[14]

10. Throughout our inquiry, witnesses described the Digital Regulation Cooperation Forum (DRCF) as an early step in the right direction of more coordinated, and thereby effective, regulation.[15] However, the evidence highlighted two key areas where regulatory cooperation remains insufficient.

Horizon scanning

11. In order to keep pace with technological change, forecasting—or 'horizon scanning'—is needed to identify future challenges. In *Regulating in a digital world*, we recommended the creation of the Digital Authority, which would be "an internal centre of expertise on digital trends which helps to scan the horizon for emerging risks and gaps in regulation."[16] We argued that an overarching regulatory body would be best placed to identify these gaps, beyond the perspective of any one regulator.

Box 1: The Digital Authority

In *Regulating in a digital world*, we recommended that a new body, which we called the Digital Authority, should be established to co-ordinate regulators in the digital world. We recommend that the Digital Authority should have the following functions:

- to assess regulation in the digital world and make recommendations on where additional powers are necessary to fill gaps
- to establish an internal centre of expertise on digital trends which helps to scan the horizon for emerging risks and gaps in regulation
- to help regulators to implement the law effectively and in the public interest, in line with the principles for regulation set out in the report
- to inform Parliament, the Government and public bodies of technological developments
- to provide a pool of expert investigators to be consulted by regulators for specific investigations
- to survey the public to identify how their attitudes to technology change over time, and to ensure that the concerns of the public are taken into account by regulators and policy-makers

14 Communications and Digital Committee, *Regulating in a digital world* (2nd Report, Session 2017–19, HL Paper 299), para 223

15 Q 15 (Rachel Colidcutt), Q 21 (Professor Andrew Murray) and Q 27 (Chris Philp MP)

16 Communications and Digital Committee, *Regulating in a digital world* (2nd Report, Session 2017–19, HL Paper 299), para 238

- to raise awareness of issues connected to the digital world among the public
- to engage with the tech sector
- to ensure that human rights and children's rights are upheld in the digital world
- to liaise with European and international bodies responsible for internet regulation.

We argued that the Digital Authority should be empowered to instruct regulators to address specific problems or areas. In cases where this is not possible because problems are not within the remit of any regulator, we argued that the Digital Authority should advise the Government and Parliament that new or strengthened legal powers are needed.

Source: Communications and Digital Committee, Regulating in a digital world (2nd Report, Session 2017–19, HL Paper 299), paras 238–239

12. In written evidence, the DRCF rejected the need for a body such as the Digital Authority, telling us that "the DRCF can deliver some of the same benefits without the need for introducing an additional authority. The DRCF can leverage existing expertise, whereas a new overarching regulatory body creates further coordination interfaces and the potential need for duplication of scarce resource."[17] The Government stressed in written evidence and in its *Plan for Digital Regulation*, published in July 2021, the need for "streamlined" regulation and described the creation of the DRCF as "an important step forward in delivering greater coherence at the institutional level."[18]

13. The DRCF told us that they would be "pooling" their existing horizon scanning activities as individual regulators in order to enable the Forum "to take a comprehensive view of developments across digital markets to spot gaps and coordinate across our regulatory responses."[19]

14. However, witnesses representing the DRCF indicated that they saw a need to enhance their horizon scanning capabilities beyond "leveraging existing expertise". DRCF witnesses told us, for example, that they were exploring the possibilities of joint hiring of staff and colocation.[20] Stephen Almond, Director of Technology and Innovation at the Information Commissioner's Office (ICO), said: "If we are going to be on the front foot, we need to scan the horizon better for developments that are coming up. If we are going to be able properly to get under the bonnet of certain developments, we need to have the right skills and capabilities."[21]

15. DRCF members were frank about the challenges of building up their horizon scanning capability. Witnesses described the challenges of recruiting people with the right expertise for horizon scanning—cybersecurity was identified as a particularly challenging area for recruitment.[22] They noted the difficulty of attracting people with the right skills when they could not compete with

17 Written evidence from the Digital Regulation Cooperation Forum (DRG0019)
18 *Ibid*. See also Department for Digital, Culture, Media and Sport, *Digital Regulation: driving growth and unlocking innovation* (6 July 2021): https://www.gov.uk/government/publications/digital-regulation-driving-growth-and-unlocking-innovation/digital-regulation-driving-growth-and-unlocking-innovation [accessed 30 November 2021].
19 Written evidence from the Digital Regulation Cooperation Forum (DRG0019)
20 Q 4 (Will Hayter)
21 Q 1
22 Q 6

the salaries offered by large technology companies.[23] Will Hayter, Senior Director of the Digital Markets Unit in the Competition and Markets Authority (CMA), told us horizon scanning is a resource-intensive task and "the danger with all the technology coming over us in waves is that we could spend person years looking at any one of those issues … If we indulged ourselves, each of us could have 10 people beavering away looking at one of those issues, and that would not be a responsible use of our time and scarce resources."[24]

16. Tabitha Goldstaub, Chair of the AI Council, praised the "incredible work" of regulators in horizon scanning, including through the formation of the DRCF. Nevertheless, she told us that regulators do not have the right skill sets to anticipate and tackle all the new problems technological developments will pose, drawing attention to a forthcoming report from the Alan Turing Institute which suggests that there is no common "cognitive, practical or technical" capacity across regulators to be able to confront the challenges AI poses."[25] This skills shortage may make it difficult, at least in the short term, to achieve our original proposal of the Digital Authority.

17. However, there remains a clear need to pool expertise and avoid the duplication of resources, going further that what the DRCF alone is able to achieve. Several witnesses noted that, despite apparent skills shortages, there is not necessarily a shortage of horizon scanning activity. Professor Andrew Murray, Director of the LSE Law, Society and Technology Group, highlighted the existing high volume of reviews, reports and consultations on digital issues, stating that the regulatory environment "is changing so quickly that I cannot keep up with it and it is supposed to be my day job. There are reports coming out almost daily in this area."[26] Carnegie UK told us that there is a "proliferation" of horizon scanning activity that, due to a lack of coordination, "has not been matched by any real progress in developing or implementing any actual regulation."[27]

18. Some witnesses argued that more could be done to join up the horizon scanning efforts of individual regulators. The LSE Law, Technology and Society Research Group expressed concern that the formation of the DRCF had not only led to an accretion of power in the "big four" regulators (Ofcom, the ICO, the CMA and the FCA) but also deprived the DRCF of the resources and perspectives other advisory bodies and regulators working on digital issues could bring to horizon scanning efforts. They identify other bodies and regulators with expertise and interests in digital issues, including:

    - the Centre for Data Ethics and Innovation
    - the Alan Turing Institute
    - the Children's Commissioner
    - the Advertising Standards Authority
    - the Gambling Commission

23 *Ibid.*
24 Q 1
25 Q 45
26 Q 22
27 Written evidence from Carnegie UK (DRG0006)

- the Internet Watch Foundation.[28]

19. Professor Andrew Murray said, "The [DRCF], in their workplan, are talking about things relating to children and children's rights, but there is no seat at the table for the Children's Commissioner, who has a statutory duty to represent the interests of children in England and Wales."[29]

20. However, DRCF witnesses stressed that the Forum's current membership and structure is a function of its relative infancy and highlighted that it would likely be subject to change as its work develops. When questioned about other regulators not currently included in the DRCF, Kate Davies, Public Policy Director at Ofcom, argued "there is a risk that if you expand too quickly that dilutes your ability to get on and do stuff." She added that other regulators with more specific remits, such as the Advertising Standards Authority, "might want to engage specifically in relation to advertising and ad tech, but … would not want necessarily to engage in the full breadth of the programme." She stated that the DRCF was engaging a broader range of regulators in conversation:

> "We had a first round table with regulators—and I think we are due to have another one before the end of the year—to keep them abreast very much of the work we are doing, share any lessons that we are learning, and find out where and how they want to engage and keep that under review."[30]

21. However, Professor Andrew Murray argued that there should be formal invitations to all relevant regulators and bodies, to ensure all pertinent expertise feeds into the regulatory framework:

> "it would have been very helpful in 2020 if a DRCF body had had the ability to invite in people from Public Health England, because suddenly they were very important in the digital space, and from NHS England and NHSX, on the sharing of NHS data. We need to have a more robust system, with a system of oversight and with all the parties being invited, not a small, self-selecting group."[31]

22. Coordination among the current DRCF members occurs on a non-statutory basis. Witnesses highlighted that the voluntary nature of the DRCF's coordination may inhibit long-term commitments, and risks that the Forum could be dissolved with little notice."[32] The DRCF currently employs staff through individual member regulators, without its own employment structure.[33]

23. As set out in its *Plan for Digital Regulation*, the Government is considering "what else is required to ensure a fully coherent and streamlined regulatory landscape" and "whether there are further steps we can take to support the DRCF members and other digital regulators to work more effectively together."[34]

---

28 Written evidence from the LSE Law, Technology and Society Research Group (DRG0008)
29 Q 21
30 Q 2
31 Q 21
32 Written evidence from Dr Elena Abrusci (DRG0009) and Q 21 (Professor Andrew Murray)
33 Q 21 (Professor Andrew Murray) and Q 2 (Kate Davies)
34 Written evidence from Department for Digital, Culture, Media and Sport (DRG0007)

24. As part of the Government's ongoing consultation on data protection, the DRCF have proposed several measures to enhance regulatory coordination. These include requiring regulators to consult each other where they have relevant expertise to inform decision-making and the creation of statutory information sharing mechanisms to facilitate joint work between regulators.[35]

25. Chris Philp MP, Minister for Tech and the Digital Economy, praised the DRCF's flexibility and agility thus far, which in part he attributed to it being "set up much faster than a statutory body would have been." He added, however:

> "Given that the landscape is rapidly evolving … it strikes us at least for the time being—nothing is set in stone, obviously—as the right step for where we are today, but we need to evaluate that on an ongoing basis".[36]

26. Witnesses, including from the DRCF, noted how different horizon scanning is as a task to the day-to-day work of regulation.[37] Benedict Evans, an independent analyst, told us: "when the car industry or the construction industry talk about 10 years, that is generally the next product cycle. When people in technology say 10 years, that is the edge of science fiction. We have some idea of what we might be doing then, but not really in any meaningful sense."[38]

27. Sally Sfeir-Tait, CEO of RegulAItion, a data platform company, echoed this point, adding that it is challenging even for industry insiders to predict developments.[39] Professor Andrew Murray argued: "I do not think that asking regulators to predict the regulatory challenge in 10 years' time will produce the best solution." [40]

28. Mira Murati, Senior Vice-President of Research, Product & Partnerships at OpenAI, pointed to AI as an example of an area which cuts across all sectors of the economy and society, and a powerful illustration of the wide range of challenges digital developments will pose to regulators.[41] The DRCF told us they had begun mapping common concerns on algorithmic processing and considering how to develop a consistent regulatory approach.[42] Mira Murati, however, argued more needed to be done to anticipate the potential risks and benefits of artificial intelligence (AI) systems before they become more widely available—including the potential misuse of AI technology for disinformation, and the implications of AI for economic productivity and the future of work. [43]

29. Tabitha Goldstaub, Chair of the AI Council, underscored the need for better AI regulation, adding that "private companies are able to deploy AI

---

35 Department for Digital, Culture, Media and Sport, *Data: a new direction consultation document*, 10 September 2021, p 119: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1022315/Data_Reform_Consultation_Document__Accessible_.pdf [accessed 30 November 2021]
36 Q 27
37 Q 1 (Will Hayter)
38 Q 18
39 Q 14
40 Q 19
41 Q 44
42 Written evidence from the Digital Regulation Cooperation Forum (DRG0019)
43 Q 44

systems with potential for substantial harm or misuse in almost unregulated markets."[44]

30. Mira Murati argued:

> "It will be difficult to come up with reasonable principles, but there are things that we could establish even today, such as industry standards on the explainability of these systems, their robustness, their safety and reliability, and similar key issues that companies can be evaluated against."[45]

She noted that "UK agencies could study these issues directly or fund work by academic researchers on them."[46]

31. Many witnesses highlighted the horizon scanning expertise which already exists outside the regulatory framework and questioned whether more could be done to create stronger links between this and the DRCF. NCC Group, a global cybersecurity firm, told us that there is already "a myriad" of horizon scanning activity and initiatives across government, the private sector and academia. They added:

> "We feel strongly that there are better mechanisms available to produce data-derived insights into future technologies and their related challenges than multiple Excel spreadsheets held in different departments by different accountable owners who, often, do not share information with each other."[47]

32. NCC Group noted that horizon scanning is increasingly sophisticated in the UK investment sector "where the volume of venture capital or private equity investment often serves as a relevant indicator to identify growth technologies and technology penetration in different markets." They suggest that policymakers should consider how they might tap into this analysis.[48]

33. Professor Andrew Murray highlighted the risk of individual regulators duplicating academic research, highlighting the range of horizon scanning already being done in universities.[49] He told us that the Economic and Social Research Council, for example, has funded the Digital Futures at Work Research Centre at the University of Sussex for four years at a cost of £6.5 million; the Leverhulme Trust will soon establish a Centre for Decision-making in Digital Systems for £10 million.[50]

34. Dr Elena Abrusci argued that in conducting horizon scanning the DRCF should go beyond the "traditional stakeholders"—representatives from the technology industry, think tanks and digital policy organisations. Given the disproportionate impact that digital technologies may have on vulnerable groups and minorities, she argued that the DRCF should include organisations representing disadvantaged groups in its consultation process. This, she argued, would allow the DRCF to regulate "for those who have very limited access to these technologies but suffer nevertheless their harm."[51]

---

44 *Ibid.*
45 Q 46
46 Q 44
47 Written evidence from NCC Group (DRG0005)
48 *Ibid.*
49 Q 19
50 *Ibid.*
51 Written evidence from Dr Elena Abrusci (DRG0009)

35. Lizzie Greenhalgh, Deputy Director for Digital Regulation in the Department for Digital, Culture, Media and Sport, saw coordination in horizon scanning, both between and beyond regulators, as crucial for successful regulation. She added:

> "When we look to some of the bodies outside of government, this level of co-ordination will be really important; this is where the DRCF's emphasis of stakeholder engagement and how they reach out will be really crucial."[52]

36. Tabitha Goldstaub told us that more could be done to make the DRCF a coordinating centre for a broader range of expertise and resource:

> "The idea that is floating around is thinking about it as a common capacity, a hub for this expertise to come together—not just as regulators, academics, industry, the UK, but all of that together in one place."[53]

37. On 29 November 2021, the DRCF announced an expansion of its horizon scanning work, including plans jointly to engage with UK small to medium-sized companies, technology start-ups and academia. They stated:

> "We want to hear more from entrepreneurs, engineers and innovators that are creating the technologies, products, and services that will shape UK digital services of the future. Engaging jointly can make it easier and more efficient for smaller companies and organisations to talk to us."[54]

38. In addition, the DRCF announced plans to make their members' research publicly accessible and to organise "meet ups" between industry, academia and regulatory bodies. The first "meet up" is scheduled to take place in spring 2022 and its agenda is set to focus on "immersive technologies".[55]

39. As noted in Chapter 1, there has also been a recent proliferation of international regulatory activity. Witnesses from the DRCF recognised the importance of international regulatory cooperation. Kate Collyer told us a key focus in the DRCF's international engagement strategy was in sharing best practice and exchanging information in pursuit of a "coherent and consistent global regulatory dialogue".[56] Sally Sfeir-Tait compared digital regulation to financial services regulation, which she argued had strong international coordination: "financial services regulation starts out through standards setters, which are international bodies on which all the regulators sit. Best practice will be developed and then implemented across national legislation". However, she noted that this process of international standard-setting was in its infancy in the area of digital regulation, arguing that developing these international standards "is the biggest challenge for the next 10 years."[57]

40. Witnesses noted potential obstacles to international cooperation and information sharing. Stephen Almond told us that "different jurisdictions

52 Q 33
53 Q 45
54 The Digital Regulation Cooperation Forum, 'Joining up on future technologies', (29 November 2021): https://www.gov.uk/government/publications/joining-up-on-future-technologies-digital-regulation-cooperation-forum-technology-horizon-scanning-programme/joining-up-on-future-technologies [accessed 30 November 2021]
55 *Ibid.*
56 Q 9
57 Q 16

across all our different fields have different degrees of risk appetite in their regulatory portfolios."[58] Will Hayter noted differences between the United States' "entirely litigation-based model" of competition regulation and the administrative system the UK takes through the CMA.[59] Sally Sfeir-Tait perceived a greater willingness to regulate heavily in Europe, which she argued would be "absolutely disastrous" for UK innovation.[60] Conversely, Benedict Evans told us: " I hear suggestions from the US that regulators there are happy for the UK and the EU to do stuff that the US constitution does not let them do."[61]

41. Several witnesses identified the potential for the UK to take a leading role in setting international standards for digital regulation. Chris Philp MP told us: "Some countries I could name may have a lot of expertise, but they may not be seen as trustworthy or acting in good faith, whereas the UK has a reputation for having both expertise and integrity. That gives us enormous influence"[62] Professor Andrew Murray drew attention to the "Brussels effect", whereby regulation developed in a sufficiently large economy will effectively require a company to apply that rule everywhere: "It is clear that certain markets provide leadership because they provide access to commercially valuable markets. The EU is clearly one. The United States is clearly one. The UK is clearly one, so we can provide global leadership in this area."[63]

42. **Following the creation of the Digital Regulation Cooperation Forum (DRCF), regulatory horizon scanning has improved, but more could be done to facilitate coordination and cooperation—both between and beyond regulators.**

43. **The plethora of bodies with an interest and expertise in the digital world reinforces the case for enhanced cooperation between them. However, we caution against any potential temptation to resolve conflicts by amalgamating regulators. No single regulator must be allowed to become unwieldy or unmanageable.**

44. ***We recommend that the DRCF's current approach to cooperation between members be formalised, with the introduction of statutory measures such as new duties to consult and the creation of statutory information sharing mechanisms to facilitate joint work between regulators.***

45. ***As soon as possible, full DRCF membership should be extended to statutory regulators with significant interests and expertise in the digital sphere. Building on the DRCF's initial work in engaging a broader range of regulators, partial membership should also be extended to non-statutory regulators and advisory bodies with subject-specific knowledge to participate on issues particular to their remits.***

46. ***Mindful of the limitations individual regulators and the DRCF face in building up their own horizon scanning capacity, the DRCF should strengthen and formalise links with industry and academia.***

58 Q 9
59 *Ibid.*
60 Q 15
61 Q 24
62 Q 42
63 Q 24

47. ***The DRCF should explore further mechanisms for information sharing and coordination with international partners, and take responsibility for establishing appropriate procedures and safeguards.***

Regulatory objectives

48. The second key area for regulatory coordination is over regulatory objectives. In *Regulating in a digital world* we expressed concern that there were gaps in regulation, and that regulation appeared to be fragmented and poorly enforced online.[64] We identified areas that did not clearly fall in any one regulator's remit or which would require a regulator's remit to be expanded.[65]

49. There have been recent efforts to address this challenge. As mentioned in the previous section, there has been a proliferation of activity in the past two years. There is forthcoming legislation: the Government's Online Safety Bill will be introduced after pre-legislative scrutiny has concluded. The draft Bill would give Ofcom significant new powers and responsibilities. Legislation to give statutory powers to the CMA's Digital Markets Unit is expected to be introduced in the next session.[66]

50. While some gaps are being addressed, many remain. Mira Murati told us that there is a "huge void in regulation" when it comes to AI, for example.[67] On AI regulation, Tabitha Goldstaub said it was "the critical moment for the UK to decide whether we will continue with the sectoral approach or make tweaks to it." She added:

> "At the moment, there is the challenge of so many societal implications of AI, from the loss of agency, racism, bias, discrimination, privacy and climate harms to widening the digital divide. Every sector, regulation and regulator has gone very narrow in trying to resolve these things themselves because of the pace and the fact that this is obviously cross-sectoral."[68]

51. Witnesses identified a persistent challenge of digital issues cutting across regulators' remits. Benedict Evans, an independent analyst, told us that one of the key challenges facing regulators was in asking:

> "'Which kind of problem is that? Is that a finance problem? Is that a labour law problem? Is that a consumer protection problem? Is it a competition problem?' Sometimes it may be two of those, so you have two different regulators, coming from different objectives, with maybe conflicting objectives. That is, frankly, going to get worse rather than better."[69]

52. Several witnesses highlighted that, alongside areas for collaboration, there may be areas of conflict between different regulatory agendas. In an era when many regulators with different priorities converge on the same technologies, contradictory actions might be required, such as favouring encryption to

64 Communications and Digital Committee, *Regulating in a digital world* (2nd Report, Session 2017–19, HL Paper 299), para 21
65 *Ibid.*, para 229
66 Oral evidence taken before the Digital, Culture, Media and Sport Select Committee, 13 May 2021 (Session 2021–22), Q 22 (Rt Hon Oliver Dowden MP)
67 Q 46
68 Q 48
69 Q 19

protect the privacy of users while seeking to minimise its use to improve the protection of children.[70]

53. Such potential conflicts open up the risk of arbitrage—the possibility that tech companies seek to play regulators off against one another. Match Group told us that powers of equivalence between regulators should be considered so that companies cannot sidestep a single organisation: "Stating this clearly in legislation would send a message to companies that there will be multiple agencies observing behaviour to ensure compliance and upholding mandated standards."[71]

54. Witnesses from the DRCF told us that the Forum was working to facilitate cooperation between regulators. Whereas cooperation had been piecemeal and had largely occurred at the end of projects, they maintained that collaboration now happens by default at the planning stage. Kate Davies told us that "the difference the DRCF [makes] … is the proactive nature of that engagement. It is not that two regulators go out with regimes and then figure out how to join them up. It is that in going out and talking about them we are already engaging with those questions."[72]

55. The DRCF highlighted examples which they said demonstrated successful cooperation, such as the ICO and Ofcom's joint work on Age Assurance and the CMA and ICO's joint statement on competition.[73] On the latter, Will Hayter told us the statement was intended "to try to counteract a narrative which is that the two are naturally in tension … in many cases the two agendas can work very much hand in hand, noting that for good data protection and strong competition you need user choice and control and understanding."[74]

56. Other witnesses questioned whether the DRCF has sufficiently robust mechanisms to resolve regulatory conflicts. The DRCF is not a statutory body and has no power to direct its members. Unlike our proposal for a Digital Authority, nor does it have an independent non-executive chair. Dr Elena Abrusci told us:

> "As it is currently designed, the DRCF may suffer from a power imbalance between regulators. Without an independent chair or a procedure to manage trade-offs between contrasting interests, the DRCF could be limited in its actions."[75]

57. As mentioned above, the Department for Digital, Culture, Media and Sport is consulting on whether there is a need for further statutory measures to facilitate coordination between regulators, such as duties to consult and new mechanisms for information sharing.[76]

58. Stephen Almond maintained: "by working together voluntarily we are able to move further and faster than we would be if we had to have a separate organisation co-ordinating our activity." However, he argued that "realising

70 Written evidence from the LSE Law, Technology and Society Research Group (DRG0008)
71 Written evidence from Match Group (DRG0003)
72 Q 2
73 Written evidence from the Digital Regulation Cooperation Forum (DRG0019)
74 Q 2
75 Written evidence from Dr Elena Abrusci (DRG0009)
76 Q 27

the full potential of our collaboration will require a degree of legislative reform."[77]

59. Dr Elena Abrusci told us: "the DRCF would incredibly benefit from the appointment of an independent chair, possibly accountable to Parliament, to ensure a smooth operation of the Forum and accountability for its activities. This, together with a statutory duty to cooperate and a dedicated process for informing policy-making, could make the DRCF stronger"[78]

60. **We welcome the DRCF's collaborative work thus far and recognise the value of agility and flexibility in the early stages of its work. However, we are concerned that, as digital regulation expands, the DRCF lacks robust systems to coordinate regulatory objectives are and resolve potential conflicts.**

61. **Statutory measures, such as those proposed by the DRCF and being consulted on by the Government, would facilitate improved coordination. However, we believe that further measures are needed to enhance the DRCF's effectiveness and accountability in the long term.**

62. ***We recommend that the DRCF be placed on a statutory footing, with the power to resolve conflicts by directing its members. To underscore the status and permanence of this body, we recommend renaming it the Digital Regulation Board.***

63. ***We recommend that statutory duties be introduced on regulators in the DRCF to cooperate and consult with each other, allowing them to share their powers and jointly regulate.***

64. ***We recommend that a well-respected non-executive, independent chair, with proven ability to lead effectively, be appointed to resolve regulatory conflicts and be accountable to Parliament. They should be joined on the board by other non-executive, independent members.***

77 Q 4
78 Written evidence from Dr Elena Abrusci (DRG0009)

CHAPTER 3: PARLIAMENTARY OVERSIGHT

65. The digital world ultimately challenges Parliament as well as regulators. Stephen Almond, Director of Technology and Innovation at the Information Commissioner's Office (ICO), explained:

> "we are creatures of statute, and, ultimately, we have to operate within our legislative framework. While it takes, in some cases, a matter of weeks or months to introduce a new business model or product, it takes years to pass changes in legislation."[79]

66. Professor Andrew Murray, Director of the LSE Law, Society and Technology Group, agreed that this was "the fundamental challenge" for digital regulation:

> "The pace of change outstrips the pace of legislative statutory development these days. Parliament does not actually have time to do all the law-making processes it needs to do already without saying, 'Every six months you might need a new Ofcom Bill or ICO Bill to give them the authority'."[80]

67. Chris Philp MP, Minister for Tech and the Digital Economy at the Department for Digital, Culture, Media and Sport, noted a shift towards giving regulators broader powers to help them to keep pace with developments as "it is very difficult for statute to anticipate every scenario that may unfold."[81] The minister added that such 'principles-based' regulation is "a source of potential competitive advantage compared with the more prescriptive and possibly even oppressive approaches that more 'Napoleonic code' jurisdictions may favour."[82]

68. Giving regulators broader powers brings risks. In relation to the draft Online Safety Bill, which the minister gave as an example of a principles-based approach, we warned in *Free for all? Freedom of expression in the digital age* of "a lack of scrutiny of delegated powers given to the Secretary of State and Ofcom. In relation to the latter, this raises serious concerns about democratic accountability."[83] Ofcom would have significant freedom to determine what constitutes a 'reasonable' or 'proportionate' effort by a platform to fulfil the various duties in the draft Bill, including in its treatment of illegal content and content which may be harmful to children, and its regard for the importance of freedom of expression.

69. Professor Andrew Murray was "wary of giving regulators freedom without accountability.[84] In September 2021, the Public Accounts Committee called for "proper consideration of the right balance between outcomes-based and rules-based regulation … to ensure regulatory objectives are not compromised".[85]

---

79 Q 1
80 Q 20
81 Q 28
82 *Ibid.*
83 *Ibid.*, also Communications and Digital Committee, *Free for all? Freedom of expression in the digital age* (1st Report, Session 2021–22, HL Paper 54), para 184
84 Q 18
85 Committee of Public Accounts, *Principles of effective regulation* (Sixteenth Report, Session 2021–22, HC Paper 176), p 7

70. In *Regulating in a digital world*, we recommended that a joint committee of both Houses of Parliament should be established to scrutinise the digital regulation landscape.[86]

71. Several select committees have remits which relate to digital regulation but none align with the objectives we put forward in *Regulating in a digital world*:

- the House of Lords Communications and Digital Committee has a remit to consider "digital" but must balance this alongside work on the media and the creative industries
- the House of Commons Digital, Culture, Media and Sport Committee scrutinises the work of the Department for Digital, Culture, Media and Sport but not other departments working on digital issues
- the House of Lords Industry and Regulators Committee has a remit to "scrutinise the work of UK regulators" but its remit includes broader consideration of industry, such as industrial growth and skills
- the House of Commons Business, Energy and Industrial Strategy Committee scrutinises the Department for Business, Energy and Industrial Strategy, which works on digital issues and houses the Better Regulation Executive, which "leads the regulatory reform agenda across government"[87]
- the House of Commons Home Affairs Committee scrutinises the Home Office, including its work on online safety but alongside many other issues
- the House of Commons Public Accounts Committee scrutinises public spending—including the work of regulators—and reported on *Principles of effective regulation* in September 2021
- the Joint Committee on Human Rights examines matters relating to human rights within the United Kingdom, including how those rights, such as freedom of expression and privacy, should be protected online
- the House of Lords has appointed a range of special inquiry committees to consider digital issues, including the Select Committee on Democracy and Digital Technologies and the Select Committee on Artificial Intelligence. A Select Committee on the Fraud Act 2006 and Digital Fraud will hold its inquiry in 2022.[88]

72. We heard concern that the Digital Regulation Cooperation Forum is not directly accountable to Parliament. It is accountable only insofar as each of its members are. Stephen Almond told us: "if we take a decision as DRCF regulators, we take that as individual regulators. There is no process whereby we can overrule one regulator within the grouping. We are each accountable for decisions that we take jointly."[89] However, future trade-offs between regulators may be complex and Parliament may wish to hold the DRCF as a body accountable for the process by which it decides how these conflicts

86 Communications Committee, *Regulating in a digital world* (2nd Report, Session 2017–19, HL Paper 299), para 244

87 Department for Business, Energy and Industrial Strategy, 'Better Regulation Executive (BRE)': https://www.gov.uk/government/groups/better-regulation-executive

88 Liaison Committee, *New committee activity in 2022* (4th Report, Session 2021–22, HL Paper 97)

89 Q 5 (Stephen Almond)

are resolved. Professor Andrew Murray also suggested that the DRCF's appointment of a chief executive should have been subject to parliamentary scrutiny.[90]

73. Match Group told us:

> "we would welcome formal public scrutiny of the work of the DRCF via parliamentary committee … With the various organisations of the DRCF linking to different government departments, a joint committee would provide the necessary ballast to counterweight the regulatory reach across different sectors and be able to call upon the DRCF, its constituent parts and government ministers in ensuring effective running."[91]

74. Dr Oles Andriychuk saw potential for our proposed Digital Authority to improve communication between Parliament and different sectoral regulators.[92]

75. Will Hayter, Senior Director, Digital Markets Unit at the Competition and Markets Authority, said: "the more able Parliament is to ask us the right questions, the better, because that helps keep us on our toes and makes sure that, in turn, we are able to ask the right questions of the firms that we are seeking to regulate."[93]

76. Nadine Dorries MP, Secretary of State for Digital, Culture, Media and Sport, has expressed support for a new parliamentary committee to oversee Ofcom's use of the powers it would be given by the draft Online Safety Bill. She told the joint committee on the draft Online Safety Bill: "I believe that a Joint Committee is the best committee, because it has people from both Houses, where concerns are raised. It has an extraordinary degree of expertise from both Houses."[94]

77. The Minister for Tech and the Digital Economy suggested that the proposal for a joint committee "may have wider merit and applicability" than simply scrutinising the implementation of the draft Online Safety Bill. He explained: "The idea of ongoing scrutiny, drawing on the expertise of both Houses, has quite a lot to recommend it, particularly in areas where regulators have quite a lot of latitude to interpret and apply broad legislative principles."[95]

78. A joint committee's scrutiny could be guided by the 10 principles for digital regulation which we set out in *Regulating in a digital world*:

- Parity: the same level of protection must be provided online as offline
- Accountability: processes must be in place to ensure individuals and organisations are held to account for their actions and policies
- Transparency: powerful businesses and organisations operating in the digital world must be open to scrutiny

90 Q 21
91 Written evidence from Match Group (DRG0030)
92 Written evidence from Dr Oles Andriychuk (DRG0040)
93 Q 5
94 Oral evidence taken before the Joint Committee on the Draft Online Safety Bill, 4 November 2021 (Session 2021–22), Q 275 (Rt Hon Nadine Dorries MP)
95 Q 28

- Openness: the internet must remain open to innovation and competition
- Privacy: to protect the privacy of individuals
- Ethical design: services must act in the interests of users and society
- Recognition of childhood: to protect the most vulnerable users of the internet
- Respect for human rights and equality: to safeguard the freedoms of expression and information online
- Education and awareness-raising: to enable people to navigate the digital world safely
- Democratic accountability, proportionality and evidence-based approach.[96]

79. **Just as the work of regulation in the digital world needs to be cross-sectoral, so too must be the process of holding regulators to account. No single select committee has a remit to focus on digital regulation across Government departments and industry sectors. This is notable given the increasingly broad powers being given to regulators and the fast, cross-sectoral nature of technological change. Moreover, many policy objectives require simultaneous scrutiny of multiple regulators; for example, improving online safety will require empowering users to leave unsafe platforms through competition measures—for which the Competition and Markets Authority is responsible—and effective data regulation by the Information Commissioner's Office, as well as the role the draft Online Safety Bill would give Ofcom.**

80. ***A joint committee of both Houses of Parliament should be established to oversee digital regulation.***

81. ***It would be for the two Houses to determine the precise remit of a Joint Committee on Digital Regulation. We recommend that it should be:***

    - ***To scrutinise the effectiveness and appropriateness of regulators' exercise of their statutory powers in relation to the digital world, particularly in the case of broad or novel powers—such as in relation to online safety—as well as relevant secondary legislation***
    - ***To assess the coherence of regulators' work and their co-ordinated horizon scanning through scrutiny of the Digital Regulation Cooperation Forum if, as we recommend, it is put on a statutory footing as the 'Digital Regulation Board'***
    - ***To scrutinise the effectiveness of the Government's cross-departmental work on digital regulation***
    - ***To make recommendations on where regulators powers need to be amended.***

96 Communications and Digital Committee, *Regulating in a digital world* (2nd Report, Session 2017–19, HL Paper 299), Summary

82. ***It would be for each House to determine which of its members to appoint to a joint committee. To ensure coherence and draw on the full range of expertise in Parliament, we invite the relevant selection committees to consider nominating to a Joint Committee on Digital Regulation members of other select committees which consider issues relating to digital regulation.***

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Regulators

1. Following the creation of the Digital Regulation Cooperation Forum (DRCF), regulatory horizon scanning has improved, but more could be done to facilitate coordination and cooperation—both between and beyond regulators. (Paragraph 42)

2. The plethora of bodies with an interest and expertise in the digital world reinforces the case for enhanced cooperation between them. However, we caution against any potential temptation to resolve conflicts by amalgamating regulators. No single regulator must be allowed to become unwieldy or unmanageable. (Paragraph 43)

3. We recommend that the DRCF's current approach to cooperation between members be formalised, with the introduction of statutory measures such as new duties to consult and the creation of statutory information sharing mechanisms to facilitate joint work between regulators. (Paragraph 44)

4. As soon as possible, full DRCF membership should be extended to statutory regulators with significant interests and expertise in the digital sphere. Building on the DRCF's initial work in engaging a broader range of regulators, partial membership should also be extended to non-statutory regulators and advisory bodies with subject-specific knowledge to participate on issues particular to their remits. (Paragraph 45)

5. Mindful of the limitations individual regulators and the DRCF face in building up their own horizon scanning capacity, the DRCF should strengthen and formalise links with industry and academia. (Paragraph 46)

6. The DRCF should explore further mechanisms for information sharing and coordination with international partners, and take responsibility for establishing appropriate procedures and safeguards. (Paragraph 47)

7. We welcome the DRCF's collaborative work thus far and recognise the value of agility and flexibility in the early stages of its work. However, we are concerned that, as digital regulation expands, the DRCF lacks robust systems to coordinate regulatory objectives are and resolve potential conflicts. (Paragraph 60)

8. Statutory measures, such as those proposed by the DRCF and being consulted on by the Government, would facilitate improved coordination. However, we believe that further measures are needed to enhance the DRCF's effectiveness and accountability in the long term. (Paragraph 61)

9. We recommend that the DRCF be placed on a statutory footing, with the power to resolve conflicts by directing its members. To underscore the status and permanence of this body, we recommend renaming it the Digital Regulation Board. (Paragraph 62)

10. We recommend that statutory duties be introduced on regulators in the DRCF to cooperate and consult with each other, allowing them to share their powers and jointly regulate. (Paragraph 63)

11. We recommend that a well-respected non-executive, independent chair, with proven ability to lead effectively, be appointed to resolve regulatory conflicts

and be accountable to Parliament. They should be joined on the board by other non-executive, independent members. (Paragraph 64)

Parliamentary oversight

12. Just as the work of regulation in the digital world needs to be cross-sectoral, so too must be the process of holding regulators to account. No single select committee has a remit to focus on digital regulation across Government departments and industry sectors. This is notable given the increasingly broad powers being given to regulators and the fast, cross-sectoral nature of technological change. Moreover, many policy objectives require simultaneous scrutiny of multiple regulators; for example, improving online safety will require empowering users to leave unsafe platforms through competition measures—for which the Competition and Markets Authority is responsible—and effective data regulation by the Information Commissioner's Office, as well as the role the draft Online Safety Bill would give Ofcom. (Paragraph 79)

13. A joint committee of both Houses of Parliament should be established to oversee digital regulation. (Paragraph 80)

14. It would be for the two Houses to determine the precise remit of a Joint Committee on Digital Regulation. We recommend that it should be:

    - To scrutinise the effectiveness and appropriateness of regulators' exercise of their statutory powers in relation to the digital world, particularly in the case of broad or novel powers—such as in relation to online safety—as well as relevant secondary legislation

    - To assess the coherence of regulators' work and their co-ordinated horizon scanning through scrutiny of the Digital Regulation Cooperation Forum if, as we recommend, it is put on a statutory footing as the 'Digital Regulation Board'

    - To scrutinise the effectiveness of the Government's cross-departmental work on digital regulation

    - To make recommendations on where regulators powers need to be amended. (Paragraph 81)

15. It would be for each House to determine which of its members to appoint to a joint committee. To ensure coherence and draw on the full range of expertise in Parliament, we invite the relevant selection committees to consider nominating to a Joint Committee on Digital Regulation members of other select committees which consider issues relating to digital regulation. (Paragraph 82)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Baroness Bull
Baroness Buscombe
Viscount Colville of Culross
Baroness Featherstone
Lord Foster of Bath
Lord Gilbert of Panteg (Chair)
Lord Griffiths of Burry Port
Lord Lipsey
Baroness Rebuck
Baroness Stowell of Beeston
Lord Stevenson of Balmacara
Lord Vaizey of Didcot
The Lord Bishop of Worcester

Declarations of interest

Baroness Bull
No relevant interests declared
Baroness Buscombe
No relevant interests declared
Viscount Colville of Culross
No relevant interests declared
Baroness Featherstone
No relevant interests declared
Lord Foster of Bath
Chairman, Peers for Gambling Reform as set out in the Register
Lord Gilbert of Panteg
Electoral Commissioner
Lord Griffiths of Burry Port
No relevant interests declared
Lord Lipsey
No relevant interests declared
Baroness Rebuck
No relevant interests declared
Lord Stevenson of Balmacara
No relevant interests declared
Baroness Stowell of Beeston
No relevant interests declared
Lord Vaizey of Didcot
Adviser, Common Sense Media (not for profit education charity); member supports charitable aims of providing digital curriculum for children and content ratings for parents educating children
Adviser, Digitalis (online reputation company)
Adviser, LionTree LLC (telecommunications, media and technology)
The Lord Bishop of Worcester
No relevant interests declared

A full list of Members' interests can be found in the Register of Lords' Interests: https://members.parliament.uk/members/lords/interests/register-of-lords-interests

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at: https://committees.parliament.uk/work/1409/digital-regulation/publications/ and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral evidence and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

**	Stephen Almond, Director of Technology and Innovation, Information Commissioner's Office	QQ 1–10
**	Kate Collyer, Chief Economist and interim Director of Competition, Financial Conduct Authority	
**	Kate Davies, Public Policy Director, Ofcom	
**	Will Hayter, Senior Director, Digital Markets Unit, Competition and Markets Authority	
*	Rachel Coldicutt, Director, Careful Industries	QQ 11–16
*	Sally Sfeir-Tait, Chief Executive Officer, RegulAItion	
	Benedict Evans, independent analyst	QQ 17–24
**	Professor Andrew Murray, Member, LSE Law, Technology and Society Group, London School of Economics and Political Science	
**	Chris Philp MP, Parliamentary Under Secretary of State (Minister for Tech and the Digital Economy), Department for Digital, Culture, Media and Sport and Lizzie Greenhalgh, Deputy Director for Digital Regulation, Department for Digital, Culture, Media and Sport	QQ 25–42
	Mira Murati, Senior Vice-President of Research, Product & Partnerships, OpenAI	QQ 43–48
	Tabitha Goldstaub, Co-founder, CogX, and Chair, AI Council	

Alphabetical list of all witnesses

	Dr Elena Abrusci, Lecturer in Law, Brunel University London	DRG0009
	Dr Oles Andriychuk	DRG0004
	Birdsong	DRG0001
	Carnegie UK	DRG0006
*	Rachel Coldicutt (QQ 11–16)	
**	Competition and Markets Authority on behalf of the Digital Regulation Cooperation Forum (QQ 1–10)	DRG0019
	Clean Up the Internet	DRG0002
	DMG Media	DRG0015
	End Surveillance Advertising to Kids Coalition	DRG0017
*	Benedict Evans (QQ 17–24)	
**	Financial Conduct Authority on behalf of the Digital Regulation Cooperation Forum (QQ 1–10)	DRG0019 DRG0021
	Dr Giulia Gentile, Member, LSE Law, Technology and Society Group, London School of Economics and Political Science	DRG0008
*	Tabitha Goldstraub (QQ 43–48)	
**	HM Government—Department for Digital, Culture, Media and Sport (QQ 25–42)	DRG0007 DRG0022
	Dr. Martin Husovec, Member, LSE Law, Technology and Society Group, London School of Economics and Political Science	DRG0008
	IAB UK	DRG0011
**	Information Commissioner's Office on behalf of the Digital Regulation Cooperation Forum (QQ 1–10)	DRG0019
	Match Group	DRG0003
*	Mira Murati (QQ 43–48)	
**	Professor Andrew Murray, Member, LSE Law, Technology and Society Group, London School of Economics and Political Science (QQ 17–24)	DRG0008
	NCC Group	DRG0005
**	Ofcom on behalf of the Digital Regulation Cooperation Forum (QQ 1–10)	DRG0019
	Ombudsman Services	DRG0014
	Reset	DRG0020
*	Sally Sfeir-Tait (QQ 11–16)	

Snap	DRG0018
Dr Petros Terzis, Research Fellow—Law, Power, and Internet Governance, UCL Laws	DRG0016
Dr Michael Veale, Associate Professor, UCL Laws	DRG0016
Yoti	DRG0012

APPENDIX 3: CALL FOR EVIDENCE

The House of Lords Communications and Digital Committee, chaired by Lord Gilbert of Panteg, is to hold an inquiry into the work of digital regulators. The Committee invites written contributions by Friday 22 October 2021.

The Committee expects to hear from invited contributors in public sessions in November and December 2021.

Aim of the inquiry

The Communications and Digital Committee wishes to investigate the effectiveness of digital regulation, building on its report *Regulating in a digital world* (published March 2019).

Background

In *Regulating in a digital world*, the Committee found that regulators had failed to keep pace with advances in digital technologies. There are over a dozen regulators with a remit covering the digital world and this fragmentation has led to both gaps and overlaps in regulation. New regulation was too often driven by responding to newspaper headlines rather than strategic thinking.

Rather than simply more regulation, the Committee called for a different approach to regulation. A Digital Authority should be established to co-ordinate regulators operating in the digital world. Its board would consist of chief executives of relevant regulators with independent non-executives and it would be chaired by an independent non-executive. The Authority would have a horizon scanning role to assess regulation and make recommendations on how to address gaps. Acting as a centre of expertise would allow some degree of pooling of resources between regulators.

The Committee argued that the Authority could provide an opportunity to improve parliamentary oversight of digital regulation. The Authority would be obliged to produce a report to Parliament–and give evidence to a new joint committee–every quarter. This would provide a focal point for scrutiny and ensure that the Authority remained accountable.

In July 2020, the Digital Regulation Cooperation Forum was launched. It is an informal grouping with no statutory powers which does not make decisions or provide formal advice or direction to its members: Ofcom, the Competition and Markets Authority, the Information Commissioner's Office, and the Financial Conduct Authority.

Regulators are expected to take on new powers. The Government has published in draft form its Online Safety Bill, which Ofcom would be required to implement, and is consulting on giving statutory powers to the Digital Markets Unit as part of a new, pro-competition regime.

Developments in digital regulation in other jurisdictions include the European Union's proposed Digital Services Act package, the Australian Competition and Consumer Commission's mandatory bargaining code for platforms and news publishers, and various antitrust lawsuits in the United States.

Questions

The committee seeks responses to the following questions to form the written evidence for its report. Contributors need not address every question and experts are encouraged to focus on their specialism. Other issues may be discussed provided that their relevance is explained. Submissions which have been previously published will not be accepted as evidence. However, published material may be referenced where relevant.

The Committee encourages people from all backgrounds to contribute and believes that it is particularly important to hear from groups which are often under-represented. The Committee's work is most effective when it is informed by as diverse a range of perspectives and experiences as possible.

1. How well co-ordinated is digital regulation? How effective is the Digital Regulation Cooperation Forum?

2. Do regulators have the powers and capabilities, including expertise, to keep pace with developments? What is the appropriate balance between giving regulators flexibility and providing clarity in legislation?

3. How effective is digital regulators' horizon scanning? How could this be improved?

4. How effective is parliamentary oversight of digital regulation?

5. What is your view of the Committee's proposal in *Regulating in a digital world* for a 'Digital Authority', overseen by a joint committee of Parliament?

6. How effectively do UK regulators co-operate with international partners? How could such co-operation be improved?

7. Are there any examples of strategic approaches to digital regulation in other countries from which the UK could learn?