Digital Economy Bill – submission of views

ICAEW welcomes the opportunity to comment on the *Digital Economy Bill call for views* published by the House of Commons Public Bill Committee on 14 September 2016, a copy of which is available from this link.

This response of 11 October 2016 has been prepared on behalf of ICAEW by the Information Technology Faculty. Recognised internationally for its thought leadership, the Faculty is responsible for ICAEW policy on issues relating to technology and the digital economy. The Faculty draws on expertise from the accountancy profession, the technology industry and other interested parties to respond to consultations from governments and international bodies.

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 145,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

MAJOR POINTS

Overall aims

1. Digital technology will drive or support all aspects of the economy in the future and it is vital that the UK has an appropriate legal and policy framework to support success in this context. The UK has developed a leading position in the digital economy to date and it needs to maintain and grow this position. On this basis, we welcome many of the provisions in the Bill.

2. We recognise that the legislative framework is only one part of the government's response to the opportunities and challenges raised by the digital economy. The Bill addresses a number of important topics. However, there are many other policy areas that need to be considered for the UK to maximise the benefits of new technologies, some of which may require further legislative action. These include cyber security, regulation of new technologies, the use of personal data, encouraging innovation in technology, skills, the impact of the 'gig economy', and the effect on work and the labour market. Many of these themes are discussed in our recent report, *Providing Leadership in the Digital Age*[1].

3. As a result, we urge the government to publish an updated vision of its broader digital strategy, which brings together these themes more clearly and demonstrates how the government will achieve its aims of retaining the UK's status as a leading digital economy. While the Digital Economy Bill takes some positive steps, greater ambition and a more holistic approach is needed to ensure the UK can prosper in the future.

4. With the current uncertainties surrounding the UK's exit from the EU, it is important to stress that the UK needs to be at the forefront of discussions concerning the future of the Digital Single Market. In addition, planned modifications to the data protection regime with the introduction of the General Data Protection Regulation in May 2018 need to be factored into changes to the overall regulatory framework.

Infrastructure

5. Internet connectivity has been a major issue in parts of the country for many years. Based on the experience of ICAEW members, especially in rural areas, lack of reliable and fast broadband is still a major barrier to adopting technologies such as cloud computing.

6. Consequently, we strongly welcome the Universal Service Obligation (USO) outlined in the Bill. Fast broadband is as important today for many businesses as any other utility. We await the detailed specification that Ofcom is developing, as the detail will be critical to the success of the provision.

7. However, we note that the intended speed of 10Mb is unambitious and unlikely to be sufficient, especially for businesses, in the medium term. While there is provision to update the speed contained in the USO in future, it is disappointing to set the bar so low at this point.

8. It is also the case that universal broadband access has long been an aspiration of all governments, and the need for the USO demonstrates the inability of the private sector, and current models of funding, to deliver connectivity to particular parts of the country. The funding of the USO is therefore critical to understanding its potential success. Connectivity needs to be affordable for all if the USO is to be meaningful. However, it also needs to be viable for commercial businesses and the failure to deliver 100% connectivity to date reflects primarily economic issues. The lack of new government funding in this area means that these problems are likely to continue and we look forward to the publication of the Ofcom proposal around how the USO will be funded.

9. Furthermore, it is vital to recognise that connectivity is only one aspect of digital exclusion. While it is obviously the first step, there are many other barriers to using digital technology,

---

[1] www.icaew.com/itleadership

including skills, confidence, fear of crime, lack of time and lack of perceived benefits, or just personal preference. The small business sector in particular can make much better use of digital technology but needs a wide range of support to do so. Ensuring connectivity does not ensure inclusion in itself – further policy interventions will be needed.

10. In addition, we note and broadly welcome the other provisions regarding infrastructure in the Bill. In particular, we support the ability of Ofcom to require further information from internet providers with the aim of encouraging consumer switching. Maintaining healthy, competitive markets has underpinned the success of the internet in the UK, improving quality and keeping prices low. Therefore, enhancing informed consumer choice and offering greater transparency is a positive step.

11. However, regulators should not over-rely on switching to ensure effective markets. There are many reasons that people do not regularly switch providers, as seen in other industry sectors, such as apathy, lack of time or the price and usage complexity of the bundles of services offered. Competition authorities therefore need to maintain vigilance over the sector and consider other policy interventions if needed.

Government data sharing

12. We recognise that there are many potential benefits from sharing citizen data between public bodies, but acknowledge many concerns around privacy and security in particular. The government has consulted widely about this topic and it is essential to ensure broad support for these provisions.

13. The experience around health data and the care.data programme in 2014 shows how well intentioned data sharing can go very badly wrong when handled incorrectly. Regardless of the potential benefits of data sharing, when there is insufficient transparency in the process and citizens lose trust in how their data will be protected and used, the project will struggle to succeed.

14. Therefore, while we welcome greater data sharing for the purposes outlined in the bill, we have concerns about the level of protection and transparency in place surrounding the process. The various Codes of Practice referred to will be critical in ensuring the right protections are in place. Citizens often express particular worries around sharing data with third parties or for commercial uses. Therefore, it is important that the Codes, and relevant communications to citizens, are crystal clear in the way data will be used and with whom it will be shared, especially if non-government agencies are involved. Having appropriate checks and controls over who has accessed it and how incorrect data can be corrected is also important. ICAEW's *Ten tenets for a better tax system*[2] is an example of how interactions with citizens can be mediated through a set of principles aimed at providing certainty and transparency.

15. In this respect and regarding data sharing over debt owed to the public sector, and noting that the largest portion of debt owed to the public sector is tax (with 68% of total government debt owed to HMRC[3]), we see the need for certainty and simplicity in the ability of tax payers to enquire and understand the origin of transactions posted to their digital tax accounts in the proposed Making Tax Digital regime. We recommend that the powers envisaged in the bill are accompanied by a framework of safeguards that will provide transparency to tax payers, including how changes or corrections can be made, particularly those derived from third party systems or where the data relates to jointly owned assets. We agree strongly with the view that all HMRC data should remain anonymous if it is to be shared outside the organisation, for example for research purposes.

---

[2] https://www.icaew.com/~/media/corporate/archive/files/technical/tax/tax policy/ten tenets for a better tax system.ashx

[3] https://www.nao.org.uk/wp-content/uploads/2015/02/Managing-debt-owed-to-central-government-Executive-Summary.pdf

16. Furthermore, building confidence in the security capabilities of public bodies is crucial. This is typically a very high concern of citizens. The recent report from the National Audit Office on protecting information across government highlighted many improvements which are required still in the public sector. It is essential to get this right if data sharing is to be implemented successfully

17. Of course, providing a legal framework to support data sharing is again only the first step. There is a need for a culture change towards more collaborative working within the public sector, with less focus on silos. While this has been an aspiration of governments for many years, and some progress has been made, technology and legal processes cannot by themselves change the way that public bodies operate. There needs to be an equally strong emphasis on culture and operational processes.

18. Furthermore, government should aim to design processes in a more integrated way that builds on common uses of data, rather than relying on exceptional data sharing procedures. We have seen in the digitisation of tax and financial reporting that significant benefits from these projects are only possible if government thinks in a more integrated way about how it deals with citizens and businesses. This need not necessarily mean large, single databases, but approaching data collection in more standard or consistent ways across government.

Cyber

19. Finally, while it is not part of this Bill, we want to reference the vital role that cyber security plays in the digital economy. It underpins trust and we hope that the forthcoming Cyber Security Strategy, and the launch of the National Cyber Security Centre are seen as an intrinsic part of success here.

20. We have not supported general regulation on cyber security in the past on the basis that it is unlikely to be flexible enough to cope with the pace of change, and may well encourage a tick-box approach to cyber security that is not ultimately helpful. We would rather see an approach built on standards that are applied in ways appropriate to different industry sectors. We do note the impending GDPR that comes into force in May 2018 and that this may help to change business behaviours.

21. However, we recognise that businesses need to take the issue more seriously and improve their management of the risks with greater urgency. This includes far stronger emphasis on getting basic security right, taking behavioural change seriously and treating good cyber security as a precondition to operating, not a bolt-on that is nice to have. Our latest *Audit Insights: Cyber Security* report[4] outlines our current thinking in more detail. In the absence of significant progress from the private sector, the government should continue to review whether fresh incentives or regulatory steps are necessary to drive these changes.

---

[4] www.icaew.com/auditinsights