Liberal Democrats Policy Consultation

Information Technology and Intellectual Property

Consultation Paper 100

Background

This consultation paper is presented as the first stage in the development of new Party policy on information technology and intellectual property. It does not represent agreed Party policy. It is designed to stimulate debate and discussion within the Party and outside; based on the response generated and on the deliberations of the working group a full policy paper will be drawn up and presented to Conference for debate.

The paper has been drawn up by Dr Julian Huppert MP who has been appointed by Federal Policy Committee to be chair of the working group on Information Technology and Intellectual Property.

Comments on the paper should be addressed to: Dr Julian Huppert MP, Information Technology and Intellectual Property Working Group, Policy Unit, Liberal Democrats, 4 Cowley Street, London SW1P 3NB. Email: LibDemIT@gmail.com.

Comments should reach us as soon as possible, and no later than 31st October 2010.

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Introduction

1.1 Liberal Democrats took a lead in facing up to the policy challenges presented by the development of IT and the Internet in the policy paper *Making IT Work* adopted by the party in 2002. (See http://www.makeitpolicy.org.uk/)

1.2 Now, nearly a decade on, it is time to review and update the party's policy on IT and the Internet.

1.3 We will review all aspects of policy on IT and the Internet. We will give significant attention to Intellectual property issues, with particular attention to their application to the digital economy, but still considering them across the board.

1.4 The group will in particular address the issues raised by the conference motion *Freedom, Creativity and the Internet* adopted by the Spring Conference 2010 (see appendix).

1.5 The group will in its deliberations be guided by the fundamental values of the party as set out in its constitution, with particular regard to:

- Our wish to foster diversity and to nurture creativity.
- Our support of citizens' right to develop their talents to the full.
- Our commitment to defend the right to speak, write, worship, associate and vote freely.
- Our support of the right of citizens to enjoy privacy in their own lives and homes.
- Our commitment to make public services responsive to the people they serve, to encourage variety and innovation within them and to make them available on equal terms to all.

1.6 We will consider the broad areas outlined in this paper and particularly welcome answers to the questions posed.

The Overall Regulatory Framework

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

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

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

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

Regulation of Internet Content and Copyright

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

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

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

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

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

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

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

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

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

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

Commerce and Taxation over the Internet

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

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

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

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

Education and Training in IT Skills

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

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

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

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

Digital Infrastructure

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

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

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

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

Research and Development

27.   How can the government help establish links between universities and industry to allow knowledge from research to be translated into products?

28.   What incentives can the government provide to bring in additional private and charitable sector funding for research?

29.   Should there be tax credits to encourage industry to invest in research and development? How can we ensure that small businesses are not excluded from taking advantage of these benefits?

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

Open Source Development

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

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

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

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

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

The Government's Use of IT

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

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

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

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

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

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

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

The Implications of IT for Politics and Political Involvement

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

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

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

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

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

Appendix:

Freedom, Creativity and the Internet (Spring Conference March 2010)

Conference notes with concern amendment 120a to the Digital Economy Bill which facilitates website-blocking for alleged copyright infringement and which was passed on 3 March 2010.

Conference however welcomes the stand of Liberal Democrat MEPs against website-blocking and the secrecy of the international Anti-Counterfeiting Trade Agreement (ACTA) negotiations, condemned by the European Data Protection Supervisor for endangering internet users' fundamental rights.

Conference believes that this amendment to the Digital Economy Bill:

A. Would alter UK copyright law in a way which would permit courts to order the blocking of websites following legal action by rights-holders.

B. Would be open to widespread anti-competitive and civil liberties abuses, as the experience with the US Digital Millennium Copyright Act illustrates.

C. Could have a chilling effect on the internet, freedom of expression, competition and innovation as Internet Service Providers take down and/or block websites to avoid facing the costs of legal action.

D. May be illegal under the Charter of Fundamental Rights of the European Union and other EU law.

Conference condemns:

i) Website-blocking and disconnecting internet connections as a response to copyright infringement.

ii) The threat to the freedom, dignity and well-being of individuals and businesses from the monitoring of their internet activity, the potential blocking of their websites and the potential termination of their internet connections, which could lead to the closure of internet hotspots

iii) The Digital Economy Bill for focusing on illegal file-sharing rather than on nurturing creativity

Conference supports:

a) The principle of net neutrality, through which all content, sites and platforms are treated equally by user access networks participating in the Internet.

b) The rights of creators and performers to be rewarded for their work in a way that is fair, proportionate and appropriate to the medium.

Conference therefore opposes excessive regulatory attempts to monitor, control and limit

internet access or internet publication, whether at local, national, European or global level.

Conference calls on the Federal Policy Committee to commission a new policy working group to draw up a full policy paper on Information Technology and related aspects of intellectual property which should, in particular, consider:

1. Reform of copyright legislation to allow fair use and to release from copyright protection works which are no longer available legally or whose authors cannot be identified (orphan works).

2. The 'common carrier' concept, under which internet service providers would not be liable for material that they may carry unknowingly on their networks.

3. The creation of a level playing field between the traditional, copyright-based business model and alternative business models which may rely on personal copying and legal file-sharing.