

## Reset—written evidence (DRG0020)

### House of Lords Communications and Digital Committee inquiry into Digital Regulation

#### About Reset

Reset<sup>1</sup> was launched in March 2020 by Luminate in partnership with the Sandler Foundation. Reset seeks to improve the way in which digital information markets are governed, regulated and ultimately how they serve the public. We will do this through new public policy across a variety of areas – including data privacy, competition, elections, content moderation, security, taxation and education.

To achieve our mission, we make contracts and grants to accelerate activity in countries where specific opportunities for change arise. We hope to develop and support a network of partners that will inform the public and advocate for policy change. We are already working with a wide variety of organizations in government, philanthropy, civil society, industry and academia.

#### Response

In recent years, and particularly over the course of the pandemic, the UK has made significant advances in developing a world-leading regulatory framework. The creation of the Digital Regulation Cooperation Forum felt like a missing piece of a puzzle, seemingly bringing together regulators to share learnings about digital regulation.

We broadly welcome the joined-up approach to digital regulation but more clarity would be helpful. Perhaps due to its immaturity, **it is unclear how the Forum is meant to relate to government**, policy makers and civil society, and whether it is simply an internal discussion forum for regulators or (yet another) working group for interested parties to engage with. Transparency around information flows - how third party information shared with one regulator feeds into others - as well as the powers and processes for enforcement would be welcome. Current plans include joint research projects for cutting edge issues,<sup>2</sup> but for this collaboration to deliver we believe that additional appropriate resources should be allocated for joint investigations.

**The renewed proposal of a Digital Authority certainly has merit.**<sup>3</sup> Ensuring binding engagement and information flows between regulators at the most senior levels would be welcome. There will of course be practical concerns about

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<sup>1</sup> [www.reset.tech](http://www.reset.tech)

<sup>2</sup> GOV.UK, 'A joined-up approach to digital regulation', 10 March 2021: <https://www.gov.uk/government/news/a-joined-up-approach-to-digital-regulation>

<sup>3</sup> Communications Committee, *Regulating in a digital world* (2<sup>nd</sup> Report, Session 2017-19, HL Paper 299)

establishing such an authority, such as the time burden and costs, and questions around additional bureaucracy given the existence of the Forum and other working groups. The creation of such an Authority should be considered in the round, and the role of existing work streams should be reconsidered if such a body is created.

**Government and regulators already rely heavily on civil society and academia for input and support. It would be unwise to overburden these groups by over-complicating the regulatory landscape.**

In order to **avoid enforcement gaps**, both the Digital Authority and other regulators such as the ICO would need to have sufficient investigatory and enforcement powers. The original text of GDPR mandated the creation of a "supervisory authority", allowing for more than one organisation in a country to have GDPR enforcement powers as long as one entity was in the lead. However, when the UK transposed GDPR it "hardcoded" the Information Commissioner into the letter of the law. This blocked collective engagement across UK regulators on data protection. Giving the Digital Authority the powers it would need to work collaboratively therefore might **require some redrafting of data protection legislation.**

In particular, consideration should be given to the role of the cross-government **Counter-Disinformation Unit (CDU)** and how that fits into the web of regulatory initiatives in the UK. The CDU has the potential to wield significant influence over online content and at present is a closed operation about which civil society - and parts of government - knows very little. Much greater transparency around the role of the CDU, its size, authority and activities - as well as, crucially, its accountability - would be welcome. The rejection of basic transparency requests by the CDU points at the need to bring some statutory accountability on such an important unit.<sup>4</sup>

**A major concern about the creation of a Digital Authority would be its independence.** There is an increasing trend for the Government to politicise independent regulators and statutory bodies. As Lord Puttnam wrote in his recent article,<sup>5</sup> changes to the independence of the Electoral Commission and Ofcom are just some of the interventions which open up the Government to justified criticism of overreach. **It would be highly problematic and inappropriate if a Digital Authority became a political body.** The creation of a Board (Chair and NEDs) would need to include the strictest safeguards against political maneuvering. Such safeguards are already present in public appointment processes, but the recent re-running of the process for appointing an Ofcom Chair has understandably heightened sensitivities about the independence of regulatory Boards and bodies.

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<sup>4</sup> "‘Not appropriate’ to comment on volume of disinformation flagged by government unit, minister says", *Civil Service World*, 8 March 2021: <https://www.civilserviceworld.com/news/article/not-appropriate-to-comment-on-volume-of-disinformation-flagged-by-government-unit-minister-says>

<sup>5</sup> David Puttnam, 'This government is helping big tech to undermine British democracy', *The Guardian*, 19 October 2021: <https://www.theguardian.com/commentisfree/2021/oct/19/government-big-tech-british-democracy-lords-power-david-puttnam>

Due consideration needs to be given to this process, and whether the Authority reports to Parliament, to a Committee, to Government or elsewhere.

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