Summary of discussions, conclusions and recommendations and Proposed Action Plan from joint all-party visit to Washington D.C.

January 29th – February 2nd 2007

to

discuss the current state of debate and possible forward co-operation with the Internet Caucus, Federal Officials and other Interest Groups

1 Background – the mutual value of ongoing co-operation

The Congressional Internet Caucus is a cross-party body that covers most ICT issues. This, given the lobbying culture of US industry, has enabled it to acquire critical mass and exert significantly greater political influence than the equivalent work of relevant All-Party groups and their supporters in the UK. The caucus has an "advisory committee" whose membership includes most of the main US hardware, software, services and communications suppliers. These include many of the largest donors to political funds, both national and state.

US debate on Internet issues is largely concerned with domestic issues. Players commonly preach market values while being interventionist or protectionist when their own market positions are at risk, especially from overseas. There are some industry players who take a different approach, such as those who have based financial services operations to handle "the rest of the world" in London. Many look to a new round of federal infrastructure subsidies, development contracts and the better enforcement of intellectual property rights to restore and maintain US leadership of the global Internet, but it was clear to those who attended this year's Caucus event that a change of the political environment is necessary for a more realistic approach to be adopted in the US.

The Caucus has had meetings in London with the parliamentary members of PITCOM and EURIM and in Washington with the All-Party Internet Group. Its members would like to have an ongoing relationship with Parliamentarians in the UK. They currently have a link with the European Internet Foundation, with which they have regular meetings in Brussels and Washington, but seem keener on an effective UK link. It should be noted that the UK was the only non-US presence at the event and we were given a very warm welcome. Efforts by UK parliamentarians to work with Industry representatives to rationalise Parliamentary arrangements fit well with this aspiration.

US consumer groups have secured action, often initially at state levels, on issues such as data protection and identity fraud. As yet there is no Caucus activity to bring suppliers and customers together to address these.

There are fundamental differences of approach between those who see the Internet as "a way of life" and those who view it as "converging applications running over regulated communications utilities": These differences lie at the heart of domestic debate over "net neutrality" and intellectual property rights and complicate US relations with the rest of the world. Both sides seek evidence from other parts of the world "that the US is falling behind" to bolster their arguments. Co-operation in helping our respective industries, as well as our political establishments, better understand what is really happening outside our shores could be mutually beneficial.

The theoretical frameworks for US domestic co-operation on law enforcement can be cumbersome. However, at the practical level, e.g. taking action on breaches of state consumer protection law (including on data protection) they can be very much more robust and effective than ours. Their routines for tracking and tracing those doing serious harm to the on-line world are an order of magnitude better organised and resourced than ours: bringing together federal funding (the Internet as a critical part of the defence infrastructure) as well as that from law enforcement and industry.

Their ability to secure international co-operation is, however, limited: hence the trend for operations that need this to base liaison operations in London. This approach could well be used to help progress mutually beneficial co-operation in other areas such as crime and other on-line issues.

2 Report of Internet Caucus Advisory Conference Plenaries

2.1 Opening keynote and panel discussion on broadband

Congressman Rick Boucher began by saying that the United States was currently 16th in the world in terms of broadband deployment and should be doing better. Legislation was in the pipeline to enable telecoms companies receiving Federal Universal Service Fund support to spend revenue on broadband (this is currently prohibited). He wanted to see government at state level "freed" to offer Internet services (e.g. WiFi) and support for unbundled service offerings, so that local telecoms companies will be able to offer broadband without bundled telephony services. He hoped this would stimulate the growth of VoIP services. He also wanted to see reform of Universal Service (there are currently universal service subsidies) and of Patents. Overall he wanted the Internet to remain open/accessible because "If we allow a two lane Internet over the last mile, it will hobble innovation".

There followed a panel discussion on US Broadband penetration in which it was described as the "global warming issue of the Internet". There were widespread instances of denial, wanting "better data", and those picking holes in the study, but the US had fallen behind Canada. The important issues were said to be access and competition – you're not allowed to get your TV with broadband; in contrast to Europe where lower costs for higher speeds are available in France. Alun Michael commented that the discussion was like being in a time warp: socialist structures (e.g. franchise subsidies) and conservative incumbents inhibiting competition. He urged the US to use international best practice in informing future policy steps. Taylor Reynolds of the OECD said that US emphasis was misplaced: consumers consumed services, not broadband lines.

2.2 Panel Discussion on Child Protection:

Margaret Moran outlined the UK approach with moderators now checked by the Criminal Records Bureau. HMG was looking at working with banks and credit card companies to allow withdrawal of cards for those who access illegal materials. But legislation should be the exception. Most progress was achieved through cooperation and developing norms and protocols. The Internet Governance Forum was very important in the process of developing international understanding and sharing best practice She also outlined KIDSPEAK: an online consultation forum for children who have suffered domestic violence.

Among the points made during the panel discussion were that Visa and its associated financial institutions were doing due diligence research, using an external firm to do web searches looking for child abuse images. Visa then tells the merchant to disconnect the site. Cooperative effort is clearly the way forward. The House Committee was suggesting that Internet Service Providers (ISPs) use the Internet Watch Foundation list. Margaret Moran pointed out that BT/Cleanfeed was not mandated but said that ISPs should advise their customers whether or not they implement it. There was said to be a "pathetic" level of sentencing for child abuse in the US (average 7 years nominal, with release after 3 years). Chuck Cosson (Microsoft) said that they partnered with law enforcement and worked with the National Centre for Missing and Exploited Children (NCMEC) to produce model legislation. Anne Collier (blogsafety.com): stressed the vital importance of education. There was also discussion over the desirability or otherwise of moving from blocking to monitoring on line and there was agreement on the panel on the need for "education without fear".

2.3 Panel Discussion on Internet Governance

Ambassador David Gross stressed the importance of "Internet Freedom". The Internet Governance Forum was a very positive resolution of the WSIS and its first meeting had been a "smashing success": well attended by the developed and developing world and with substantive discussions without imposed decisions. He hoped this would be replicated.

Alun Michael responded by saying that with freedom came responsibility. Cooperation and partnership models were especially relevant: for example, the UK's success in combating child abuse images through a partnership between children's charities, industry, Home Office and law enforcement. With 1 billion now online and 5 billion still offline we needed to take the opportunity of the IGF to build consensus and communities. He added that although rest of the world may seem strange to the US, some US stances (e.g. support of freedom vs. control of gambling, and attitudes towards .xxx) look pretty strange to rest of world!

Andrew McLaughlin said that Google was running directly into conflicting laws and norms regarding respect for freedom of expression, including the need for deference to democracies in other countries (for example the Indian demand that the Ghandi pole dance be taken down from youtube.com). Google pursues different strategies across different domains (e.g. takes down Nazi materials from google.de, but not from google.com).

Generally, on gambling and other issues there are very different ideas on what is good/bad, resulting in conflicts between privacy and freedom of speech. This is not a linear exercise towards freedom. The Internet Governance Forum provides the opportunity to have a conversation with others, not just to lecture them. Discussions on the dot-xxx issue led to comment on the lack of transparency within ICANN: "private conversations don't serve the ICANN community well".

There was discussion as whether the Internet would change China, China would change the Internet, or both would change. Google highlighted recent stories about civil unrest in China: including images being sent through mobile phones and uploaded. Others commented on the tension in China between repression and its objectives around trade and innovation.

3 Round table on Child Protection with ICRA (Internet Content Rating Association)

3.1 Introduction

Stephen Balkam from ICRA acted as moderator and Margaret Moran began by emphasising that in the area of child pornography it is important to focus on the crimes perpetrated to create such images. She also stated that despite the numerous challenges to progress she remained to be convinced that additional legislation was the best way of tackling the issues. Voluntary regulation on the part of industry was preferable and the British Telecom 'Clean Feed' initiative was a good example. Alun Michael added that in today's society Child Protection on the Internet is increasingly a global problem. Moral and legal issues have expanded beyond the jurisdiction of the physical boundaries.

3.2 Credit Card Access to Internet Pornography:

John Shehan introduced the National Centre for Missing and Exploited Children (NCMEC) as as being akin to a cross between the UK's Child Exploitation and Online Protection Unit (CEOP) and the Internet Watch Foundation (IWF) with funding from the US Department of Justice. It had three core objectives:

- To serve as a clearinghouse of information about missing and exploited children.
- To cooperate with law enforcement agencies and the private sector to enhance detection of individuals connected to the exploitation of children.
- To cooperate with law enforcement agencies, the State Department and the private sector to work on preventive strategies in the area of Child Protection.

While it cooperated with credit card companies it received only the basic jurisdiction and geographic area where individuals were operating, not specific personal information It currently receives about 1,700 new leads every week, including at least 200 in the sphere of Child Protection as opposed to missing children. It had been responsible for 40,000 arrests since 1998 and was making some progress in attempting to have child erotica filtered by ISPs.

3.3 Age Verification

Adam Thierer from the Progress and Freedom Foundation (PFF) said that social networking website Myspace had over 130 million user accounts, mostly children. But there was no established framework for age verification and no way of ensuring that the age details disclosed were correct. Indeed the average age of registered Myspace users had supposedly risen to 66 because so many teenagers register themselves as being 99. Myspace did use algorithms to compare the age on a child's profile (after it had been registered/opened) with other data on their page (e.g. which class they say the are in at school…etc) to detect profiles which were obviously flawed/contradictory. He suggested that Myspace be able to contact a third party with access to social security numbers (unlike credit card numbers these are allocated at birth) to enable age verification without needing access to other sensitive personal information. It was noted that Microsoft's new operating system 'Windows Vista' has some inbuilt capacity for making progress in this area.

3.4 Public Education

Tim Lordan began by emphasising that parents were the first line of defence in protecting children from internet pornography, parents. We needed to accurately analyse relevant threats and concerns and target action appropriately. Donna Rice-Hughes described the approach taken by 'Enough is Enough' as 'rules and software tools'. Technology is constantly evolving but parents still need to be given a basic education in the Internet. Margaret Moran was interested in the concept that parents who do not use software filters are one of the biggest dangers to children.

3.5 Dot-XXX Domain Proposal

Stewart Lawley (ICM Registry) began by underlining the two main types of top level domain:

- Generic - no rules and no checking mechanisms.
- Sponsored - both rules and verification mechanisms – allowing adult sites to identify themselves and be labelled accordingly, based on their content.

He said that John Carr (currently advising Myspace) supported the second approach which would provide accountability from ICM through a contractual framework. There were said to be far more "adult content" domain names than there were websites with multiple domains pointing to the same site to boost overall traffic. The Internet Content Rating Association (ICRA) currently has over 40,000 sites labelled. It was estimated that allowing it to work within the context of the dot-XXX domain name would enable the world's pornography (2.5 million sites) to be more extensively labelled, thus allowing more effective filtering to protect children, fostering serious dialogue with the adult industry and providing incentives to promote self regulation in that industry. However, nothing prevents sites having multiple server trees, allowing some to be ICRA labelled while others feature content that is "inconsistent" with those labels.

3.6 Mobile Web

The threat presented by mobile-web technology to children needed to be put in context. Twenty years ago children were told to stay away from suspicious looking men in vans but it was not made illegal to put a child in a van. It was suggested that companies market phones tailored for children with reduced range functionality, e.g. limited to voice-call/text operations, excluding Internet access. Others thought this impractical.

3.7 Conclusion

Margaret Moran reiterated the vital importance of cooperation between industry and government agencies if effective progress is to be made.

Alun Michael added four points:

- For children their own peer group is by far the most important and influential factor in their decision-making (as opposed to the role of parents and teachers). This should be considered in all approaches to this problem.

- It is essential to look at how various proposed measures will actually operate in practice (for example in the case of the dot-XXX initiative).

- At every stage the question 'what works best?' is indispensable. The debate should focus on desired outcomes informed by best practice.

- The value of partnership and cooperation between the spectrum of government, industry and NGO actors in the Child Protection arena is critical to progress.

4 Summary of Issues Raised during the visit

4.1 Broadband is "the global warming issue of the Internet"

PITCOM first visited Washington in 1993 during the run-up to the 1996 legislation that was going to transform US telecommunications for the Internet Age. The infrastructure take-overs and mergers that accompanied the dotcom boom and bust have been said by some to have restored the communications landscape to much as it was then, dominated by a handful of networks of utilities regulated at local, state and federal level: but without the centralised intellectual powerhouse that was Bell Labs and without the scale of investment in local access networks that was needed.

The US has fallen to 16th in the world in terms of broadband deployment and the "Net Neutrality" debate is partly about who will receive what incentives (franchises, contracts, subsidies etc.) to fund the necessary infrastructure investment. There are, however, also multiple threads to do with who will subsequently pay for access or content and how: – subscription or pay-per-view content or per-click advertising. This leads into debate over intellectual property rights: albeit mainly in the court or between corporate lawyers because the political issues are too "difficult".

The incumbency factor in the US is a major stumbling block for development, as some now acknowledge, and it is clear that this will remain an obstacle to progress for some time to come. Only a minority believe they may have got it wrong and can learn from others. However, this may be changing and both countries can benefit from a more open and informed comparison of evidence from around the world.

4.2 User generated content v. Intellectual Property Rights

The Internet Caucus has difficulty in organising constructive debate over the role and importance of user generated content. Given that multi-media social networking has turned out to be the "killer application" for broadband, including 3G, this is not surprising. It is a major threat to the business models of all save those whose revenue derives mainly from pay-per-click advertising. Informed debate in the UK and EU on the consequences has barely begun. The subject is vital to the economic future of both Internet Service and Content providers and the scale and nature of "commercial piracy" as opposed to "fair use" (however either is defined) should make constructive international debate, perhaps facilitated by Anglo-US co-operation, a priority.

4.3 Child Protection

There is serious interest in the UK approach to child protection, largely because of our success in linking the work of Industry, Government and Police with parliamentary support.

There is particular interest in the work of our Internet Watch Foundation, although there are constitutional issues that cause problems for the USA in doing what seems right. The House Committee is suggesting that US Internet Service Providers adopt the Clean Feed approach. The National Center for Missing and Exploited Children (with Department of Justice funding) combines the role of CEOP and the IWF and receives about 1,700 leads a week, of which at least 200 will be specifically related to child protection. It is making some progress in getting ISPs to filter child erotica. The Department of Justice stipulates a mandatory minimum sentence of 5 years for the possession of indecent images of children. There is an Innocent Images National Initiative within the Cyber Crime Unit of the FBI. The National Center and the FBI Unit work with both CEOP and the IWF in the UK.

Current FBI problems include a major internet service provider which allows paedophiles to set up their own social networks using names which clearly reference child abuse and has only recently begun to take a more collaborative approach. Also paedophiles now use online methods of payment to avoid the credit card companies' co-operation with law enforcement in tracing payments. PayPal is US-based but Webmoney, for example, is not. It is not therefore, in the interest of law enforcement to place too much pressure on US online payment providers lest it cause perpetrators to migrate to where it would be virtually impossible to extract information. Such issues are extremely relevant to the position in the UK.

There is much effort going into technical solutions, e.g. age verification for those logging on to social networks, but "education without fear" is central to improving safety. because peer groups have more influence than parents and teachers on children's behaviour. Partnership and co-operation across the spectrum of government, law enforcement, industry and child protection NGOs, building on what has been shown to work, is critical to success, whether organising safety and protection programmes or identifying and removing predators

4.4 Personal Identity Safety and Repair

US regulation is based on the ***use*** rather than ***collection*** of data and 256 Federal and State laws provide the basis of a compliance regime driven mainly by liability under civil law. Federal legislation includes the Identity Theft Assumption Deterrence Act of 1998 (under which over a million complaints have been registered but not well processed) and the Gramm Leach Billey Act 1999 which applies to information held by financial services. Section 5 of the Federal Trade Commission Act was used to fine one data broker $15 million for failing to have reasonable security practices.

There are 10 million "ID fraud" cases a year in the US, but 2/3 are credit card and most ID theft is driven by "assistant" or "relationship" fraud. The US financial services collectively spend around $2 billion p.a. on anti-ID theft but at present there is no adequate forum to resolve the issues in this space. Experian organised a round table for Philip Dunne in Washington and are active in support of work in this space in the UK. It is suggested we contact the All-Party Identity Fraud group (of which Philip is joint secretary) regarding co-operation on follow up activity.

4.5 Co-operation on Law Enforcement

Partnership between law enforcement and industry is essential but many companies are now more concerned over the public effects of disclosure under Sarbanes-Oxley or state legislation mandating backdated disclosure of possible data loss, than of the threat itself. There are therefore significant issues with under reporting. Also security is a cost not profit centre for private companies. There is a danger that companies will invest in narrow 'target hardening', in an attempt to reduce their own vulnerability through incrementally implemented defensive measures instead of making the link between enterprise and security. That would be worrying if it undermined the more pragmatic UK approach.. Federal law does not currently prevent overlapping or differing requirements in different local jurisdictions.

The FBI has three current priorities: counter terrorism, counter intelligence and cyber crime. Within the cyber crime division there are four principle initiatives:

- Innocent Images (see above) – online child pornography programme
- Infraguard – FBI/Private sector partnership response to attacks on the nation's physical and electronic infrastructure
- Anti-Piracy/Intellectual property rights (IPR): until recently this had a "more energetic focus" than child protection but this has now changed.
- Dismantling national and trans-national organized criminal enterprises engaging in Internet fraud

The Cyber Crime Unit budget is $20 million per year and its 258 agents have taken on 2,400 new cases over the last 3 years.

4.6 Internet Governance

The concept of "Internet Freedom" has considerable currency in the US, where politicians rail against any "interference" by China and other states, but fail to perceive the US "interference" in offshore on-line gambling as being similar in nature. There is support for the Internet Governance Forum in the hope that it will continue the positive resolution of the WSIS at Tunis and focus on substantive discussion without imposed decisions. However, this approach sits uneasily with, for example, the protectionist action against on-line gambling. Moreover, the lack of transparency with regard to debate over .xxx has added impetus to calls for open and accountable decision making.

Meanwhile major players are running direct into conflicting legal requirements and face the need to implement different content filtering strategies for different domains (e.g. take down Nazi materials from google.de, but not google.com). There are genuine differences of opinion and this is not a linear exercise towards a single set of global cultural values. The Internet Governance Forum provides the opportunity to have a conversation with others, not just to lecture them.

Congressman Rick Boucher in particular agreed that the IGF was important and needed better industry involvement to be a success. Congressman Bob Goodlatte was also "supportive of US going for a collaborative process" and stressed "we're not about to control the Internet". Ambassador Gross - who spoke very warmly of the UK contribution at Tunis - said they had a moral imperative to support the free flow of information over the Internet but this would not be helped by causing public embarrassment to anyone. There was also a feeling that the Athens IGF had been successful but was not high profile in the US and had failed to actively address the needs of the developing world.

The IGF in Rio needs to make better progress and the UK is in a unique position to help. Action on Child Protection should also be flagged as the other potentially uniting issue.

5 Suggested Forward Strategy and Timetable

5.1 Possible Objectives

It is suggested that a working group be created to handle relations with the Internet Caucus and its advisory committee, as part of the co-operative work towards re-organising the UK groups representing Parliamentary engagement with the ICT industry and its main customers. The group might initially comprise those who took part in the visits of 2007 and 2006.

Its short term objectives might be:

1) Secure UK - US co-operation in using the IGF in Rio as the focus for positive discussion on practical issues such as aid to developing nations and child protection

2) Organise a programme of activity for the next visit of the Internet Caucus to London (currently expected November 28 – 30) which will demonstrate the value of ongoing co-operation to both sides.

The longer term aim might be Anglo-US co-operation at the political and corporate level (including with MEPs and other European parliamentarians) to help bring about open and accountable frameworks for Internet governance and policing at national and international levels. The prime UK contribution might then be based on the unique position of London as a location for disputes resolution across cultural, jurisdictional and linguistic boundaries. Already many of the main US Internet players are following their peers in Financial Services so the aim would be to build on what is already happening to find ways of avoiding and resolving unnecessary conflict.

5.2 Progress to date and actions under discussion

With the help of Nominet and others, EURIM and CHIS were able to secure reference to Child Protection in the discussion papers for the meeting in Geneva on May 23rd to discuss the agenda for the Rio IGF. On June 20th - 21st the Safer Internet Forum in Luxembourg will hopefully agree funding for European NGOs to use the opportunity.

On May 29th Nominet organised discussions on Internet Governance in Oxford for ten members of the staff of leading members of the Caucus, including several who were met in Washington. EURIM organised a lunch and a tour of the Houses of Parliament.

On June 5th Nominet launches a "Best practice Challenge" for "UK Parliamentarians, industry and others to work together for a better, more accessible, diverse and safer Internet." The aim is to create a process at the national level to support the UN IGF.

On June 20th the Metropolitan Police briefed Industry on plans for a national police e-crime co-ordination unit and operational team to support the 43 police forces of England and Wales in their e-crime policing response.

On June 27th a new Information Assurance Strategy for the UK to create "A UK environment where citizens, business and government use and enjoy the full benefits of information systems with confidence" was announced. It is owned by "The Officials Committee on Security", the "Information Assurance Policy and Programme Board" and the CIO Council. The "power base to drive it forward" is CSIA, CESG and CPNI. There has already been a request for political support to help with implementation and there appears to be cross-departmental ministerial support for a higher-level partnership to achieve this. It is expected that House of Lords enquiry on Personal Internet Safety will report and that DTI will announce a consultation on a UK framework for Internet Governance before the recess.

On July 17 - 21 July the European Internal Market Committee is due to visit Washington. Those who are also members of the European Internet Foundation expect to meet with members of the Internet Caucus to discuss their ongoing co-operation.

On October 18th a second UK conference on Parliament and the Internet is being organised. PITCOM has agreed to organise a session on the Politics of Social Networking. Intellect has agreed to work with the new apComms group on Convergence. The Broadband Stakeholders Group is planning a session on infrastructure issues. EURIM is expected to organise a session on the issues of ensuring confidence in the on-line world: including Internet security, policing and governance. If so, Nominet, CHIS and the MPS have agreed in principle to help with speakers and briefing material. Their expectation is that the session would be used to input to any DTI consultation, help line up co-operation and opinion in advance of the IGF at Rio, to identify those who would be interested in carrying forward co-operation, including on the programme for the Internet Caucus visit to Europe, including London, on November.

On October 30th PITCOM is due to have a meeting on Personal Internet Safety. The discussion is expected to be opened by Lord Broers, chairman of the House of Lords enquiry and a speaker from the MPS/ACPO. The All-Party Police Group is also expected to organise a meeting on the co-ordination of Internet Policing in the UK (including of UK inputs to international co-operation), date to be confirmed.

The programme for the Caucus visit should include a political lunch and/or other private discussions with the officers of the relevant all-party groups. Ideas of engagement with the City of London which have emerged since the visit should be discussed with the Parliamentarians. Nominet is keen to assist as is Intellect .