

# 12

## Principles for the Digital Charter



# Introduction

by Dom Hallas - Executive Director, Coadec

British tech startups and scaleups have plenty to think about in 2018. With Brexit on the horizon, there's more uncertainty than ever. With Berlin, Paris and other European hubs booming, there's more competition than ever. And, following Cambridge Analytica, there's also more criticism than ever too.

All this means that tech entrepreneurs need help and understanding from Government.

There's some exciting news and valuable work being done:

- A record £3bn in VC investment in 2017
- The relaunch of Tech Nation with its new national remit
- The Government's £1bn AI sector deal including 1000 new funded PhDs
- The launch of the Centre for Data Ethics and Innovation
- Government commitment to the Tech Talent Charter
- All this AND Matt Hancock's app!

Having said all that, we are seeing a backlash against tech. And this isn't just on the front pages of the newspapers whose proprietors are haemorrhaging clicks and advertising revenue to newer, online competitors - it's in Government too. Too often, when the Prime Minister talks about technology, it's about fears of how it could be misused - not the many positive ways it can and does transform our lives.

It is in this context that we are publishing our principles for the Digital Charter.

At Coadec, we'd love to see Government adopt a great Digital Charter. What an opportunity to plant Britain's flag, promote British entrepreneurship and advocate the British principles that should be at the heart of the tech ecosystem in the coming decades.

But there is also a real danger of getting it wrong. Instead of grasping the opportunity to set out what Britain wants to achieve in a tech-led future, there are some who want it to be a rant at the dangers of 'tech giants', with (as usual) the little guys likely to bear the brunt.

Let's be absolutely clear: Facebook and Google won't be the victims of a war on tech. Startups will. Many of the regulatory structures that the anti-tech movement thinks will cut the big boys down to size will likely do the opposite. Too little is being done in the current conversation to distinguish between homegrown - and growing - companies and the 'tech giants'.

So what is the answer?

The twelve principles that follow (supported by a few case studies) are the beginning of our contribution to this discussion. For the good of our tech startup and scaleup community, we hope it sparks a debate about what the outcomes of this process should be, and how we get there.

# 12 Principles

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# 1

## A 'digital first' startup business culture

There are over 220,000 digital businesses now in the UK. The vast majority of these are not the tech giants you see every day in the news. In fact, they are the traditional SMEs (or, as we call them, startups and scaleups) that drive the British economy.

Digital tech is powering local economies across the UK. But it is far from uniformly distributed. Some 300,000 of the UK's programmers are in London, but half a million are outside of the capital.

Nor is it the preserve of large, metropolitan cities. Whether in Burnley or Leeds, where there are already 35,000 tech-related jobs, or in digital suburbs in the South-East like Guildford and Aldershot, Slough and Heathrow, digital tech density is significantly higher than the UK average, while employment and turnover are amongst the highest of all UK clusters.

It's exciting to see tech - and enthusiasm for it - spreading across the UK - but more needs to be done.

We are heartened by the recently announced plans for the Exchequer Secretary Robert Jenrick to tour the country promoting digital and technological skills and awareness to digital manufacturing and access to finance for tech SMEs.

However, there needs to be much more cross-government coordination.

Let's not forget that mood music matters. The French government is actively encouraging and investing in its tech sector and startups, partly because it sees an opportunity - post-Brexit - to lure some of our firms across the Channel. Our ministers need to rise to the challenge and do the same.

# 2

## An internet where startups can innovate safely without permission

The first thing to acknowledge is that the Internet is not some kind of ‘wild west’ - and nor should it be. There is a large body of law that has been developed specifically for the digital world, such as the EU’s eCommerce and Audiovisual Media Services (AVMS) Directives and, most famously, the General Data Protection Regulation (GDPR).

Clear regulation and the stability of our legal framework has been critical to allowing our startups to develop.

A key question, as we move to the next phase of the digital economy, should be how can we regulate in a way that will attract investment to UK companies?

While the GDPR imposes a significant new burden on companies, it is also a great example of privacy by design. It sets out the outcome, but is not prescriptive about how businesses can and should obtain it.

Although we have reservations about the scope of the GDPR, in terms of design it is the regulatory model to follow: lawmakers need to establish the principles, and allow businesses to find the solutions to obtain them.

Politicians keep saying that start-ups are the future; we should start using them as a resource to help solve policy problems, rather than shutting them out of conversations.

# 3

## A clear, predictable and stable framework

Businesses thrive on stability: Stable political system. Stable economy. Stable legal system. Startup tech businesses are no different. The UK has been able to offer this stability for the past ten years. But Brexit is instability writ large. For better or worse (and most startups do believe it is worse) - one thing not in doubt is that the process of the UK leaving the EU is rife with uncertainty. This means that for startups, it's more important than ever to have certainty wherever the UK can offer it.

The eCommerce Directive has offered a clear bedrock for the internet since 2002. It is on this legal framework that the internet economy has been built. This is now being put at risk. Limitations to liability are under threat. This structure, which replicates the offline legal system, is being challenged both in the UK and the EU.

In the UK, this challenge manifests itself in the sensitive matter of harmful and illegal content and internet safety, more recently overlaid with a doctrinal discussion about whether there are market failures in the internet space that require further intervention. Among the proposals under consideration by Government is whether to make changes to the liability regime as part of the Internet Safety Strategy White Paper in the Autumn.

It's important the Government proceeds with caution. While the objective might be to tackle the tech giants, any system that removes limitations of liability from fast growing startups and scaleups would strangle potential competitors at birth. This would stymie another goal of the Government: making Britain the best place in the world to start a digital business.

In the EU, a copyright fight might see startup platforms required to apply filters to content or risk legal action. This is all despite the fact that:

- There are many types of content for which off-the-shelf solutions don't exist
- It's unclear if rights holders will invest in technology solutions
- The filters don't (and can't) meet all the requirements of the proposed framework
- AND the available solutions are prohibitively expensive for startups

When we talk about throwing the baby out with the bathwater - this is what we mean. Changes in our legal framework will be damaging. With Brexit on the horizon, the continued success of startups and scaleups can't be taken for granted.

# Case study: Organise



Union membership is shrinking, while conversations around the future of work are more important than ever. How do you empower workers to tackle the issues they have with their employers in the 21st century?

That's the big question Nat Whalley and her team at Organise are focused on. Their platform allows users to start a campaign in their workplace for free and be helped along the way by Organise staff and volunteers.

Through the Organise platform, users can share stories about the problems they and their colleagues face - as well as ideas on how to best fix them. The platform allows people to remain anonymous, giving users the security to share their experiences honestly and securely. Users can

analyse and package the results to share with company leadership or others who can support their campaign, including fellow workers or potentially the press.

Nat and her team are doing a hell of a job. There are now over 26,000 people using Organise - from workers in McDonalds raising safety concerns, to academics in Sheffield campaigning to protect pensions. And they're getting a lot of attention - Ed Miliband interviewed Nat on his popular podcast 'Reasons to be Cheerful'.

Taking on big vested interests is a tough business - and all this activity means that the legal basis for Organise operating is critical.

"Quite often our users are frustrated. These are workers who don't feel they are getting a fair deal and are trying to work out how to solve their own problems. They speak in their own way, often understanding their own context better than us. I understand that - and it's important that we have protection to let them speak freely," says Nat.

The ability for users to talk freely on Organise's platform - within the constraints of their community guidelines - comes from limitations of liability and flows from the eCommerce Directive. Without it, what users say on Organise could cause legal headaches for Nat and the team.

The Government is considering changes to the law that could mean that as Organise grows, they would end up with legal liability for everything their users do and say. It's as if a restaurant owner is being charged for a dispute between two customers. Except those watching from the window, looking for a reason to shut Organise down, are the very same large companies that Organise seeks to hold to account.

We can't let platforms like Organise be put at risk by throwing out of the window the very legal framework that has helped them establish themselves and thrive up until now.

# 4

## Evidence-based policy reflecting the global ambition of startups

Politics trumping policy is usually at the expense of smaller, more innovative companies. The danger of politicians drafting laws aimed squarely at a handful of giant tech companies is currently being played out in Brussels over the issue of tax.

Broadly speaking, the priority of 'old' member states is to increase tax revenues from the digital sector. The more tech savvy EU members in Scandinavia and the Baltic States want to prioritise free movement of data across the bloc and allow innovation to thrive.

Germany, France, Italy and Spain have been focused on plans for a new EU tax on digital revenues - proposed as a 3% levy on digital revenues. The question of tax in the digital age, and the exploitation of an outdated global tax system must be resolved, but this smacks of using a sledgehammer to crack a nut. The proposals, which the European Commission says will hit around 200 firms, are clearly targeted at the American tech giants such as Apple, Google, Facebook and Amazon, but will instead hit European scaleups racing to catch up. Tech startup organisations across Europe, including Coadec, are clear that a revenue-based go-it-alone model is not the answer. If we want European companies to compete with the 'tech giants' – this isn't the way to do it.

Creating a regulatory 'fortress' won't work - whether in Europe, the US or elsewhere. As we have seen from President Trump's twitter-led trade wars, everybody loses when we start imposing tariffs. Instead, we need global standards. The OECD is expected to agree on a digital tax blueprint by 2020, and we need UK ministers to be proactive in leading negotiators towards the kind of international solution that can address the policy question - not the political problem.



# 5

## A cross-government focus on boosting our digital economy

In order to fully grasp the opportunities for digital transformation in a post-Brexit world - we need a Government that is fully dedicated to the digital agenda and driving success for the UK's digital economy.

All this starts with measuring the innovative economy correctly - that's why we welcome the financial commitments to the ONS that will allow them to think more deeply about how to measure our digital economy.

Overall - the government has a mixed record. In the world of fintech, the Open Banking initiative is an example of how the UK has pioneered a digital transformation in the current account and payment market, and helped develop our burgeoning fintech sector. Using APIs to offer better consumer choice and protection by opening up payments to third parties has allowed banking customers access to a greater range of products and services, and given them more options on how to pay and who to share their account information with. It's also driven the creation of amazing and innovative startups such as Runpath and CreditKudos. It goes beyond APIs; our regulatory sandbox is envied the world over. Fintech in the UK is a winner because the weight of Government is behind it.

But we are still leaving chances to spur digital growth and improvement on the table. For small businesses, the long-promised Making Tax Digital initiative appears to have been kicked into the long grass. This is an opportunity missed. Freeing businesses from having to dig through a shoebox of receipts each year, by making online tax filing mandatory, would give small businesses more time to focus on their business, and create a market opportunity for fintechns.

It's not just tax. There are also huge opportunities for increased productivity from digital tools - both in Government and outside. GovTech has never been bigger or more important. Procurement is improving but could go further. Bureaucracy in the immigration system could be redressed. It's critical we don't allow Brexit to dampen our digital enthusiasm.

The role for Government fighting for our companies both in the country and in their own backyard is as vital as ever.

# 6

## Keeping data flowing as we leave the EU

Data matters. After March 2019, the UK will have the status of a "third country" from the perspective of the GDPR. Applying GDPR will not guarantee an adequacy decision – which determines that a third country has an adequate data protection regime, and therefore European personal data can be processed there. The UK will be classified as a 'third country', and will need to secure an 'adequacy decision' from the European Commission to facilitate lawful data transfer with EU member states.

We will not deal with the technicalities of the GDPR and UK data protection standards here (look out for more from us on this front!). However, there is no avoiding the fact that adequacy is fundamental to the continuation of a successful technology startup sector in the UK. €272 billion of trade in Europe relies on data flows and that must not be put in jeopardy.

The UK government approach in the Brexit discussions is to obtain a system of 'adequacy +' - an adequacy decision plus the involvement of the UK's Information Commissioner in broader data protection discussions. We support this aim.

Without an adequacy decision before we exit the EU, companies would need to put complex legal clauses in their contracts or term of service and may need to have these sanctioned by an EU Data Protection Authority.

At the same time, withholding the adequacy designation from the UK will make the EU digital single market substantially smaller, thus slowing the development of new European digital platforms.

Around 25% of the information technology professionals in the EU are currently based in the UK. Startup organisations in the EU, including France Digitale and Allied for Startups, agree with us that a data deal is critical for progress in negotiations.

# Case study: Aire



Data is the new oil - so goes the truism. The economy runs on it. But for startup and scaleup tech businesses - data is the new air: they can't survive without it. Just ask Aneesh Varma. His company, the aptly-named Aire, doesn't just need data - it is data.

"Millions of people around the world face the rejection, frustration and confusion of being denied fair access to credit. We know because we've been these people. That's because existing credit scoring only evaluates how a borrower has behaved in the past. But for those who don't have an extensive credit history (such as young professionals), Aire uses new data from those users to generate an additional credit score to help them," says Aneesh.

It's a simple idea. The more context a lender has, the more willing they are to consider a borrower. This means loads of data, tonnes of the stuff.

"Protecting people's data is the name of the game" Aneesh says. "It's definitely one of our key priorities. Failure on data security is fatal to a company like ours. GDPR has definitely increased the stake, and despite months of advanced planning, it has still taken up an extraordinary amount of management time - as it should."

The General Data Protection Regulation is now in force. For startups, a key principle in the legislation is privacy by design. Meaning they are able to innovate within the framework of data protection. This protects both innovation and consumers.

"We have been super careful as our core data comes via consumer consent - but allowing us to use data allows us to improve customer experience and our product. We can't lose that."

But Brexit is next. Britain wants and needs an 'adequacy' agreement with the EU that would allow data to continue to flow freely with Britain as a third country. The €272bn data economy is at risk. Talks are progressing - but like every other part of the Brexit process, the uncertainty is real...

"Brexit is the next big data test. We need data to continue to be able to flow freely. We're encouraged by progress but obviously the uncertainty is terrifying."

The Prime Minister has made a firm commitment on data in the context of Brexit. With lots of uncertainty, and ongoing public questions about how companies use data in the modern age - the faster we can answer the questions we understand the better. For companies like Aire, post-Brexit data sharing is right at the top of this list since doing so in this case will also benefit consumers.

# 7

## A commitment to world-class network infrastructure

Digital progress needs infrastructure to match. It's pretty simple - great companies aren't built on terrible wifi.

There are steps being taken. The government has promised that its digital infrastructure fund will generate £1.1 billion of investment, including £400 million on upgrades to Britain's fibre broadband network infrastructure. This will offer "ultra-fast" broadband to two million properties across the country by 2020, alongside the government's pledge to make full fibre broadband available to at least 10 million homes and businesses by 2022.

Elsewhere, the government has launched the £200 million Local Full Fibre Networks (LFFN) programme aiming to provide targeted funding to stimulate demand and is introducing 5-year business rates relief for new fibre.

That is better than nothing. But whichever way you look at it, £400 million is a drop in the ocean. Moreover, what investment can be obtained with such a small pot of cash risks entrenching the already wide divide between Britain's cities and its towns and rural communities. Research consistently suggests that consumers don't believe that the government is doing enough to meet our future broadband needs, and that broadband expansion favours London and the South-East.

According to Ofcom's Connected Nations report last December, 1.1 million homes still cannot get decent broadband. This is simply not good enough.

Startups like TrueSpeed show that rural communities demand ultra-fast internet just as much as city dwelling hipsters, and that there is no reason why offering it should not be financially viable.

We can't waste time. China and South Korea are already moving ahead of the curve in developing 5G networks. The government needs to match its ambitious rhetoric with the investment needed to make it a reality.

# 8

## A diverse, digitally skilled workforce with access to training and retraining

Employment in the digital tech sector increased by 13% between 2014 and 2017, and those workers are more productive than their counterparts in non-digital sectors by £10,000 per year. To boost productivity, and future-proof our workforce, we need a digitally skilled and dynamic workforce with easy access to skills and training.

The British Chamber of Commerce's latest survey found that when hiring, two-thirds of businesses believe tech knowledge is key – and yet, alarmingly, a quarter of these firms report digital skills shortages. And that's by no means the only challenge - we also have a gender gap that must be addressed: only 19% of the digital tech workforce is female.

Private coding schools such as Decoded and the Makers Academy have stepped in to help fill the gap through training courses and sessions. But they can't solve the problem alone - and it's important the Government is able to step in to build a system that will tackle the UK's talent problem. That means a brand new approach. Many existing training and education courses are out of date, or simply not accessible. We should be leveraging innovative work from companies like WhiteHat to reshape an apprenticeship system into a genuine solution to both the diversity and skills gap - and addressing the problem of graduates that find themselves with skills that don't translate in the tech workspace.

We also need to focus on making already existing training more applicable and accessible. Currently, people living outside of London - or, at a push, Manchester - find it hard to access high-quality, up-to-date digital skills training. While regional examples like Tech For Life in Newcastle exist, they are far fewer than we need.

Our policy to encourage these upskilling programmes should be threefold:

First, we need to encourage more programmes and training courses of this type into existence - as well as reforming a broken model for apprenticeships.

Secondly, we need to make it easier for companies that deliver great training to attract government funding allowing them to train a broader, more diverse audience.

And thirdly, we need to show firms that this sort of investment in their employees is vital to remaining competitive in the digital age.

# 9

## Helping small businesses tap into the global tech ecosystem

An increasing amount of attention is being drawn to large technology companies. And it's usually not positive. But something that is often overlooked is the foundation they provide for smaller businesses to build upon.

Platforms like Facebook and Google have created a global ecosystem which small businesses are able to access and benefit from in order to grow and thrive. AWS provides cloud services for startups and big firms alike. Stripe means ecommerce businesses are able to take payments with ease. These larger companies underpin many startups and SMEs, providing them with a place to reach existing customers, find new ones, and grow their business.

Facebook recently released research that surveyed small and medium businesses (SMBs) across six countries in Europe, including the UK. 49% of SMBs said that since joining Facebook, they had grown enough to be able to hire new staff. 57% said they had seen increased sales as a direct result of being on Facebook, and 71% said that being on the platform actively helps them attract new customers.

And that's before we get to the app economy. Research from the Progressive Policy Institute suggests that over than 291,000 jobs in the UK are dependent on apps, which are based on the platform giants like Apple and Google.

It is important that government recognises these vital services for SMEs and startups in the UK who have a digital presence and want to reach a global audience. UK businesses - tech and non-tech alike - need to be able to capitalise on all the advantages of being connected into a global ecosystem. In other words, these platforms do not exist in isolation. Ecosystem matters.

# Case study: Love Layla Designs



How do you go from kitchen table to £1m turnover in three years? If you ask Stacey Dennis, founder of Love Layla Designs - she'll tell you straight: the internet.

It's an age old story updated for the internet age - the plucky family business thriving through ingenuity, quirky fun-filled products and damn hard work. The difference with Love Layla Designs is that the reach of the internet platform economy creates a rocket-ship for innovative entrepreneurs who have a great product and bags of character.

When she was made redundant three years ago, Pontefract-based Stacey started her own firm from scratch, designing and making greeting cards. This transformed

into a greetings card e-commerce business, serving over 200,000 customers annually.

“When we launched in February 2015, we had £30 left in the bank account. I named the business after my daughter. I was determined to build a business that could secure her future,” says Stacey. “As a designer, I knew I had the tools to start a card business, but I didn't anticipate how far we would get in just a few years.”

Stacey is being modest - the team are on the button when it comes to knowing what their customers want and how to give it to them. The family members that make up the growing Love Layla team have a genuine knack for this - they are entrepreneurial to their bones. Their design skills are great, the product is quality and customers love them - but they wouldn't be able to find out about them without their secret weapon: the internet.

From their starting point on Etsy & ebay, their growth has all been online. These platforms allowed them a base of customers to get started - now they have their own website. The online business has other benefits too - it offers flexibility to allow Stacey to take her daughter out and log on late to finish work if she needs to. Plus, you don't get 2am last-minute mother's day card orders in a shop...

They also have a huge social media presence. Over 750,000 Facebook users have liked their page. They have 66,000 Instagram followers. Their posts are funny. Actually funny. Share them with your mum funny. Tag your friends on insta funny. They have built a brand the way that only the internet allows a company to. Using big global platforms to drive customers to a great local business.

“We get most of our customers from the page for sure. It's what we are known for.” Stacey says. “We now have someone whose whole job is social media. We want it to show we are real people and properly talk to our customers who are just like us. The idea is, they might come for a funny meme then stay and buy our stuff. It works.”

The tech ecosystem has given Stacey and the team a platform for their amazing products and quick wit. Memes mean money. What's more internet than that?

# 10

## Resilient internet users of all ages who can identify problems and tackle them

The Internet is a good thing. It is, however, vital that we take account of its increasing role in our society and the potential risks posed by harmful content online.

There is an important role for communities, charities and tech companies of all sizes to work individually and collaboratively - along with startup companies that may not have the same experience or level of resources to 'tackle' these challenges alone. There is a clear need for the ecosystem of stakeholders in this area to work together to build systems fit for the challenge.

Each challenge is unique, requiring individual attention and analysis to fully understand the scale of the problem and patterns of offender/user behaviour. These can vary significantly, from terrorist content and copyright infringement, to intimidation of public officials and the dissemination of child abuse content. These realities do not lend themselves to a one-size-fits-all approach.

For example, the Internet Watch Foundation has been one of the most enduring schemes, developing a system for the identification and takedown of child abuse imagery and, ultimately, the prosecution of offenders by the police. It has worked precisely because it was based on multi-stakeholder collaboration between the IWF, companies and law enforcement, overlaid by a permit to act.

However, we have to look at the challenges we face around mitigating these risks in context. There's always an issue that we are concerned about. In the 1970s there were concerns that children were watching too much TV; and in the 1990s and 2000s that their minds were being warped by video games. The anxiety now is about unsupervised internet use.

It's important not to let this fear trap us into imposing bad law. As academics continue to look at the questions, it's important that the response by government, regulators and companies follows the evidence. Addressing the challenges faced by vulnerable groups online is a shared responsibility - parents, schools, charities, tech giants, and, yes, startups, all need to play their part.



# 11

## An environment which promotes and safeguards a user's right to create and speak freely online

The distinction between illegal content and potentially harmful content is vast. So is the policy and practical response.

Increasingly, Government seeks to leverage the actions of market leaders to govern this world - but this risks becoming 'regulation by outrage'.

The starting point - that what is illegal in the offline world should also be illegal online - is not in question. The crux of the issue is how this goal is realised on a practical and legal level. These principles must be established by society and be based on legal precedent.

It is important that start-ups enforce these standards but they need assistance to ensure that they are able to do so. The capacity of Google and Facebook to identify and take down illegal content is, unsurprisingly, far greater than a startup, even if that startup platform in question has 250,000 or more users.

Codes of conduct, such as the model proposed by the government, can be a slippery slope unless they are drawn up in collaboration. The difficulties in implementing the EU's Code of Conduct and the German law on online hate speech demonstrate that a 'hard' or even 'soft' law approach can create legal uncertainty, and impose a large burden on companies, without protecting users.

There remains a lot of uncertainty following the Government's response to the Green Paper. But whatever the approach the Government ends up taking in the coming months - it must build a system with smaller companies in mind.

# 12

## Public trust and confidence in data-driven business based on understanding how their data is used

There is no doubt that post-Facebook and the Cambridge Analytica scandals, there is increased public unease about the volume of our personal data that is out there and the way companies access and use it. There is also a low level of public understanding around digital technologies, even among those who have digital skills.

It is the business of companies to be responsible with data, and it is the duty of government and firms to ensure that there is public awareness on how their data is used and processed.

We agree with Dot Everyone that the government should provide guidance on the key aspects of digital understanding, and that government and companies need to lead public engagement to support digital understanding at all levels of society - not just for children.

But this does not have to mean more regulation. As a society, it is important to debate and discuss what outcomes we want. This was how GDPR was drafted - to enshrine the principle of greater personal control over data. It was encouraging to see this concept built into the Government's Internet Safety Strategy Green Paper response.

We believe that companies must be clear about the way they are using personal data. But clarity for the consumer is different to transparency and it is important that ministers recognise that line-by-line regulation is rarely as effective as a set of core principles that companies can apply with a degree of flexibility.



