

Presentation by  
Cordel Green  
Executive Director Broadcasting Commission of Jamaica

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‘Safeguarding the consumer, and supporting industry: Two sides of the same coin?’

Good morning, good afternoon, good evening, depending on where you are in the world.

I begin with the observation that the operating systems of society have changed; transformed as they are now by the internet. Balances of power have shifted and continue to shift differently, in different contexts. So, for example, an operator can be a creator, consumer, purveyor, aggregator, distributor, intermediary and play on the entire communications value chain. The era is also characterised by multiple points of originality and collaboration, making the line of demarcation between the consumer and industry opaque.

Although some say it is the best of times for consumers, it is also true that the consumer is being pitted against technology giants in circumstances of egregious information asymmetry. Yes, the G-MAFIA and others provide the illusion that infinite options exist for consumers to make choices on the basis of need, relevance, desire, quality, price and the like. However, in reality, there is a clear and present danger of algorithmic manipulation, algorithmic bias, unfettered access to and commercialisation of the consumer’s personal data, and deeply immersive experiences that have not been adequately assessed for their psychological and mental impact such as addictive and robotic consumer behaviour. And when the Internet of All Things and Artificial Intelligence (AI) really kick in at full speed - our smart machines and devices such as cars, refrigerators, stoves, beds and smart toilets will get in on the

action of generating “big data” – leaving the consumer entirely naked; albeit we are already living in a mass surveillance society.

I would argue that industry does need to be freed from bureaucratic regulations which stifle innovation but I also believe that the “light touch” approach to regulation has not served the public interest with anything close to perfection. It has bequeathed a world of hyper-scalers where the known rules about markets, competition, and economic values such as those having to do with concentrated power and monopolistic rents have been whittled away. So, any notion that the consumer and industry are sides of the same coin is a false equivalency. Not even the much vaunted GDPR provides adequate protection for consumers, operating as it does as a form of monetary absolution for big tech. By which I mean that big tech can violate the terms of the GDPR to the extent that the financial sanctions are affordable.

So how do we re-set the framework so as to get consumers and industry back on the same page or on the same coin, so to speak?

We need policy and regulatory reform which allows for regulatory disclosures about the governance and use of algorithms; prohibition against the development of deliberately addictive devices and applications; intensity ratings for and warnings about intensely immersive experiences; regulatory disclosure of metrics on Safety Performance Indicators; and frameworks for mediating the reasonable commercial use of personal information and the tendency of corporations to exploit information asymmetry. Finally and most importantly, we will have to prioritise Digital Literacy as the most immediately practicable regulatory response to digital age challenges. This must be done in a manner which takes account of linguistic diversity and different levels of literacy.

There are three key challenges which must be tackled.

First, the pace of technological development now far exceeds the ability of most countries to develop the necessary legislative and regulatory frameworks. Second, it is difficult to arrive at a regional or international

consensus as to the new rules required, because of divergent national interests. Third, it is hard to determine the optimal combination of ways to limit harms while also protecting the consumer's freedom of choice, freedom of expression and personal privacy.

To summarize , the topic is aspirational and does not accord with the current reality of commercial priorities out-scaling concerns about equity.