

Electronic Communications Bill

That we live in a new parliamentary age is evidenced in various ways by the Electronic Communications Bill, given a second reading in the Commons on November 29. Opening the debate Patricia Hewitt, Minister for Small Business and E-Commerce (I kid you not), said that when her grandmother left Britain nearly 100 years ago, it took her months to reach Australia, and it took months for her first letter to reach home. "These days", she continued, "a letter takes less than a week, but an e-mail takes less than a minute, just one small example of how our world is being transformed by electronic networks". This rang a bell. My own octogenarian great-great-aunt boarded ship to emigrate to Australia in the 1880s. After two months' sailing she died on the voyage, so her anxious relatives in Lancashire never got that first letter home.

Ms Hewitt went on to tell us that electronic networks - the convergence of communications and computing - are changing everything. They destroy jobs and create new ones at terrifying speed. They have transformed global trade, creating financial markets in which billions of dollars (what about pounds sterling?) are moved around the world daily. They are transforming manufacturing, allowing teams of engineers to work around the world, around the clock, designing new products and testing them in simulation before the prototype is even built. They are transforming education, she added, and they will certainly transform politics. She congratulated the honourable Member for Rutland and Melton, Mr. Duncan, on achieving a parliamentary first - an electronic petition.

In this column on November 26 I mentioned the experiment of publishing Bills in draft. The Electronic Communications Bill is an example of this. A draft of it was published on July 23 1999 as part of an elaborate consultation process begun under the Conservative government. The Trade and Industry Select Committee of the House of Commons published a special report on the draft bill (HC 862, November 3 1999).

In this journal the First Parliamentary Counsel recently explained another parliamentary innovation (see page 798 above). As a result of a recommendation made by the House of Commons Select Committee on Modernisation, and adopted by both Houses, explanatory notes are being published for all Government Bills. The note for the Electronic Communications Bill, available on the internet, runs to seven pages and is very helpful. It tells us that the present Government's policy is to facilitate electronic commerce. It has also set itself targets for making Government services available electronically: 25% by 2002, 50% by 2005 and 100% by 2008.

When enacted, the Electronic Communications Bill will facilitate the modernising process. Its main purpose is to help build confidence in electronic commerce and the technology underlying it by providing for (1) an approvals scheme for businesses and other organisations providing electronic signature and other services; (2) the legal recognition of electronic signatures; and (3) the removal of obstacles in other legislation to the use of electronic communication and storage in place of paper.

On object (1), an electronic signature is defined (clause 7(2)) as anything in electronic form which (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity or integrity of the communication or

data. Thus it is a thing associated with an electronic document that performs similar functions to a manual signature on a conventional document. It can be used to give the recipient confirmation that the communication comes from whom it purports to come from (“authenticity”) and that it has not been tampered with (“integrity”). The approvals scheme will provide for a register of providers of such services.

On object (2), the Bill provides for the admissibility of electronic signatures and related certificates in legal proceedings. On object (3) it gives the appropriate minister power by order to remove legislative restrictions which prevent the use of electronic communications or storage in place of paper. A large number of provisions in statutes on many different topics currently require the use of paper. Many involve communication with Government departments by businesses or individuals - including submitting information or applying for licences or permits. Other cases concern communications between businesses and individuals.

An example of legislation that needs amending in this way is the Companies Act 1985. On March 5 1999 the DTI consulted about whether the Act should be amended to enable companies to use electronic means to deliver company communications, to receive shareholder proxy and voting instructions and to incorporate. The consultation letter *Electronic Communication: Change To The Companies Act 1985* is available from the DTI’s Company Law and Investigations Directorate (telephone 0207 215 0409).

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