

Critical junctures in United Kingdom telecommunications policy

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ABSTRACT

Telecommunications policy in the United Kingdom has had long periods of relatively minor changes, interspersed by short bursts of major changes. The electoral success of the Conservative Party in 1979 opened one of these critical junctures, enabling the creation of a regulatory state that persists today. The subsequent successful export of that regulatory governance model to the European Community (later Union) began a succession of additions and modifications. A smaller scale critical juncture came with the 2003 decision of a new regulator to review the rules for local access networks, leading to the separation of Openreach from BT, which persists today. A much grander critical juncture came with Brexit, severing connections with European Union legal, policy and regulatory processes, including those in telecommunications. Critical junctures can be a useful tool in analysing changes in telecommunications policy.

1. Introduction

The normal pace of change in the regulatory governance of telecommunications is predictable and slow, because of path dependencies and to secure commercial investments. Whereas, critical junctures enable more substantial reforms that create new patterns, which will be sustained for a number of years with relatively modest additions and changes. In the early 1980s a critical juncture in the United Kingdom (UK) enabled the creation of its first regulatory state for telecommunications, necessitated by the decision to privatise British Telecommunications (BT). A smaller critical juncture in 2003, following the creation of a new regulatory authority, saw BT move its local access network into Openreach, a quasi-independent company. The Brexit critical juncture (BCJ) was on a grander political scale, causing *inter alia* changes in telecommunications governance through the cleavage of all UK governance systems from the European Union (EU) *acquis*, policy processes, regulatory networks, and treaties. The question considered below is the extent to which critical junctures help in understanding developments in the regulatory governance of telecommunications markets, using examples from the United Kingdom.

The machinery of government (MoG) is the set of departments, committees, agencies, courts and tribunals; the administrative arrangements that enable His Majesty's Government (HMG) to discharge its many functions and responsibilities. In addition to central government departments located in Whitehall there are the complex asymmetries of the devolved administrations, mayoralities and local authorities; coordination between which has often been suboptimal, even antagonistic. Beginning in 1973, membership of what was to become the European Union (EU) saw the gradual relocation of a range of policy issues, with the lead being taken by the European Commission (EC). HMG negotiated on these topics with the growing number of other member states and with the EC in the European Council, Council of Ministers, Committee of Permanent Representatives (COREPER), and European regulatory networks (ERNs). Within the United Kingdom, many issues were delegated to parts of its evolving devolved state, including some dealt with by the EU (Dalton, 2023; Diamond, 2023; Hogwood, 1997; Norton, 2020).

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Multi-level governance (MLG) is a framework used to analyse and explain the workings of the EU, to discuss the work of its institutions, national governments and their agencies, plus provincial and municipal governments. Fig. 1 shows a simplified version of the governance of telecommunications for an EU member state, built up over several decades (Aubin & Verhoest, 2014; Coen & Thatcher, 2008; Fuchs, 1994).

The United Kingdom uses a first past the post electoral system for the House of Commons, with general elections potentially causing significant changes in government, leading to the introduction of novel policies and the reversal of existing policies. A political party thrown out of government by voters has several years to search for and refine more popular policies. For example, the 2019 general election might have been a critical juncture for several economic sectors, with the possibility of major policy changes had the Labour Party won. For telecommunications, the ruling Conservative Party promised a fibre, or at least a Gigabit connection, for every home, though without proposing changes to the existing rules. The Labour Party promised universal fibre, but planned to nationalise parts of BT and, implicitly, other Internet service providers (ISPs), combined with the much more radical proposal to make the service free at the point of use. In the event, there was insufficient momentum for change, with the Conservative Party taking a significant number of parliamentary seats from the Labour Party in its heartland of northern England with its promise to 'get Brexit done'. Then, the Labour Party rapidly changed leaders and abandoned its more radical policies, so that when it won the 2024 general election its manifesto contained very modest changes (Ford et al., 2021; Sutherland, 2020; Wearmouth & Ross, 2024).

The next section sets out academic discussion on critical junctures. This is followed by an analysis of the creation and development of the regulatory governance systems for telecommunications in the United Kingdom. Then there is an account of the creation and evolution of Openreach, the BT division that owns the local access networks. The departure of the United Kingdom from the European Union or 'Brexit' is then briefly reviewed, focusing on the effects on telecommunications markets. Finally, conclusions are drawn and issues identified for further research.

2. Critical junctures

The historical model of institutional development is one of relatively long periods of stability, punctuated by brief phases of significant change. Such junctures qualify as critical when the periods of change are short compared to the subsequent path dependent stability, during which the new institutional arrangements are unchanged or altered only incrementally. Critical junctures entail individuals taking risks by making significant changes with uncertain consequences, even leaping into uncharted territory. The analysis of critical junctures aims to explain why particular sets of institutions and practices became established, rather than others. Once a new pathway has been opened, each further step increases the likelihood of remaining on that path, by raising the costs of reverting or switching to some other option, because of increasing returns, network effects, and lock-in (Hogan, 2006; Capoccia & Kelemen, 2007; Hogan & Doyle, 2007; Capoccia, 2015; Koppa, 2022, pp. 25–30; Munck, 2022; Rivas, 2022).

A critical juncture is an historical discontinuity, one that alters the path of a society, economy or market. A central concern is identification of the circumstances that make possible such a 'fork in the road', requiring both:

- Permissive conditions: factors that increase the power to enable change; and
- Productive conditions: factors that shape the outcomes that are 'locked in' once the permissive conditions end.

The combination of the two conditions is necessary for the divergence, with one alone being insufficient (see Fig. 2). Distinguishing between permissive and productive conditions helps identify the sources of change and the reasons for the return to conditions that disfavour change.

Critical junctures can be driven by exogenous or endogenous forces, or by a combination of the two, though institutional explanations of radical change generally emphasise external sources. Historical institutionalists have focused on lock-in and path dependencies, which constrain future options, with the creation of a new institution seen as the result of a critical juncture (Hogan, 2019).

The United Kingdom has seen critical junctures of all scales. The Norman Conquest in 1066 led to new administrative, ecclesiastical and legal institutions that were to last centuries, while the repeal of the Corn Laws in 1848 put in place free trade policies that lasted until the financial and political crises of 1931. Critical junctures in telecommunication have necessarily been on a smaller scale. Telegraph services began in the 1840s, governed by private legislation promoted by the operators, based on incremental changes to existing canal and railway acts. Telegraph legislation contained price caps and empowered the Board of Trade to require lines to be built to particular places, while authorising the use of patents, rights of way, the construction of networks, and the provision of public services. Then in the 1860s, the operators inadvertently opened a critical juncture by forming a cartel to raise prices. Opposition by the main users of telegraphy, chambers of commerce and newspapers, was vociferous and concerned not only price fixing, but garbled messages, inconvenient office locations and unserved towns. The issue was taken up in parliament, despite the lack of tools to address this type of problem. The principal proposal was to bring telegraph services into the Post Office, buoyed by its recent success in deploying the 'penny post'. At a time of political turmoil, the decision involved four consecutive prime ministers from both major parties, with a consensus emerging as the Telegraph Act 1869, authorising the Post Office to purchase the shares of the telegraph operators¹; effectively their nationalisation though it was never called that. It brought the United Kingdom into line with the direct

¹ Undersea cables were left in commercial hands.

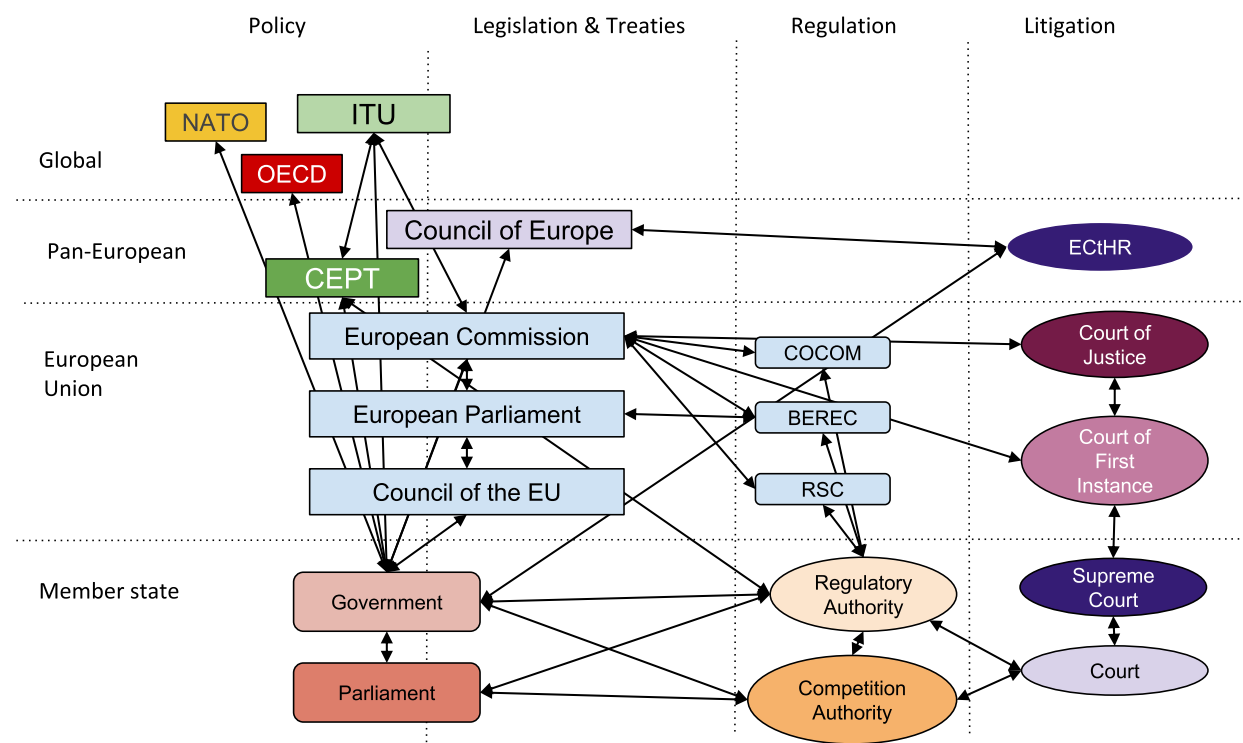


Fig. 1. Multi-level governance of telecommunications in the European Union.

		Productive conditions	
		Absent	Present
Permissive conditions	Absent	Status quo	Incremental change
	Present	Missed opportunity	Critical juncture

Fig. 2. Conditions and outcomes (based on Soifer, 2012, p. 1580).

state provision of telegraph services practiced in British India and continental Europe. Several parliamentarians were directors of telegraph companies, who ensured generous payments to their shareholders, avoiding any serious resistance. Moreover, transfer to the Post Office was supported by its optimistic forecasts of future telegraph revenues.

Critical junctures have been applied to the analysis of the media systems, focused on the many organisational and technological changes since the invention of the printing press in the fifteenth century. McChesney (2007), identified three critical junctures for the mass media during the twentieth century, the emergence of professional journalism, the development of commercial broadcasting, and popular social movements that were radically critical of mainstream media. More speculatively, he used it as a framework to look to the future, forecasting a further critical juncture in the USA from the consolidation and dominance of large corporations.

A critical juncture generates a meaningful legacy of change beyond what would otherwise have been seen. Once observed, the challenge is to explain why the critical juncture occurred and why there are no further changes or only minor adjustments. There is no requirement for the changes to be on a particular institutional scale, but they must be durable, one small scale example is the enduring adoption of the QWERTY keyboard (David, 1985).

3. The creation of the regulatory state

The demonopolisation, denationalisation and financialisation of what had been Post Office Telecommunications, renamed British Telecommunications (BT), were possible because of the election of the Thatcher Administration in 1979. Incoming Conservative Party ministers considered BT had performed poorly over many years, especially compared to the United States, believing better results would follow from private ownership and the discipline of competition. They were supported by business users, especially those in

financial services. BT needed massive investments to update its network, previously funded by the government. However, ministers were loathe to allow price increases, to provide funds themselves or to allow BT to borrow commercially; their monetarist policy to control inflation required limiting the Public Sector Borrowing Requirement (PSBR). Senior executives at BT eventually accepted transformative change, with the sale of shares providing the capital they needed for network modernisation. The Conservative Party benefited from the extensive publicity campaign for the sale of BT shares to the public, while shares set aside for employees helped to mute objections from the trades unions. Despite her initial equivocation about the term, Margaret Thatcher was to claim privatisation as her legacy (Moore, 2015, p. 34). In reality, she left behind a model of regulatory governance imported from the United States and adapted to British practices (see Fig. 3). Subsequent administrations found this easy to embellish and to replicate, but they did not try to make systematic reforms (Parker, 2016).

One plan had been to create regional telephone companies that could enter the other regions and create a competitive national market. However, this was dismissed by ministers because it would have taken too long to create the firms and then to privatise them, reaching well beyond the uncertainties of the 1983 general election. It was also opposed by BT executives, who did not want the firm broken up. Instead, there was to be one fixed and one mobile competitor, which required ministers to accept regulation, in order to give the new entrants a reasonable chance of survival. This task could have been assigned to the national competition authority, the Office of Fair Trading (OFT), but the workload was thought likely to exceed its capacity. Instead, there was to be a dedicated regulator, the Office of Telecommunications (OFTTEL), loosely adapted from the US Federal Communications Commission (FCC).

Ministers did not appreciate the path dependencies of the institutions and processes they had created, failing to consider scenarios in which competition remained limited and thus required enduring regulation and appeals. They accepted the opinion offered by the economist Stephen Littlechild, who asserted that regulation would be needed only until competition kicked in. Ministers wished to believe that OFTEL would not be permanent, though four decades later its successor, the Office of Communications (Ofcom) remains extremely active, with no expectation it will soon disappear (Littlechild, 1983; Lodge & Stern, 2014; Telecommunications Act 1984).

This package of legislation and policies was successfully promoted to and adapted by the EC, which through laborious processes encouraged, cajoled and persuaded the other member states to follow the examples of the United Kingdom and United States. In doing so the EC sought to harmonise policies and institutions, eventually leading to the creation of regulators and appellate systems in all member states, linked by ERNs. The EC worked hard to complete the single markets for telecommunications and value-added services, aided by the European Court of Justice. Had privatisation and regulated competition not been adopted in the United Kingdom it is highly unlikely it would have been considered a plausible option for Europe, instead forcing the EC to try to improve the performance of direct state providers of telecommunications. The only EU decisions related to telecommunications that have the appearance of critical junctures, with their subsequent path dependencies, were the adoption of the GSM Directive 87/372/EEC and of the Roaming Regulation (EC) No 717/2007, with the rest reflecting grinding incrementalism.² The need within the EU to obtain at least a qualified majority to vote for any proposal limits critical junctures, except in a crisis.

The governance of telecommunications in the United Kingdom has grown increasingly complex, with the effect of diminishing the roles of ministers, who have been content to work at one or two removes from markets, save for a few specific interventions. Fig. 4 is a schematic view of the telecommunications part of the regulatory state, greatly simplified by its detachment from the EU. It is a mature but far from static system, for example, with the recent:

- Addition of the non-statutory Digital Regulation Cooperation Forum;
- Statutory creation of the Digital Markets Unit (DMU) within the Competition and Markets Authority (CMA); and
- Reconfiguration of departments in 2023, with the transfer of digital policies to the new Department for Science, Innovation and Technology (DSIT).

It is still recognisably a regulatory state model, albeit with multiple instances of ministries and agencies, only some of which are regulators. To the original 1980s version, focused on competition and economics, broadly the maintenance of a level playing field for the operators, governments have added regulatory systems to address:

- Cyber security;
- Harmful content;
- Interception and wiretapping;
- Long term requirements for infrastructure; and
- Supply chains.

The complexity is such that they cannot all be captured in Fig. 4.

A colourful change of policy, though without the enduring institutional changes required to qualify as a critical juncture, concerned one of the many u-turns performed by Boris Johnson (Prime Minister 2019–2022). It occurred at a time of heightened political tensions, in the days when Brexit was finally being ‘done’ and Donald Trump was avoiding impeachment. While the US government had banned Chinese equipment from commercial networks for some years, it was only under Trump that it began urging selected allies to follow its example. The US alleged that equipment from Huawei Technologies could be shut down remotely by Beijing and could be

² A possible critical juncture could have been the 3G auctions, forcing a stocktaking by the EU.

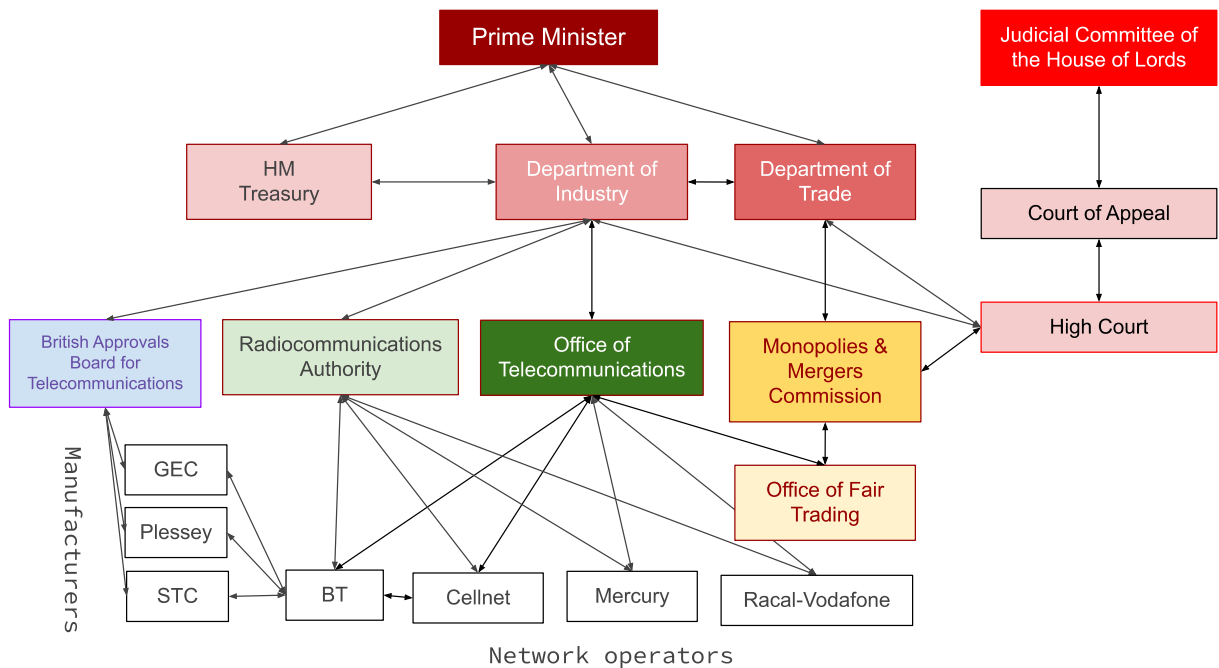


Fig. 3. Telecommunication regulatory governance in 1985.

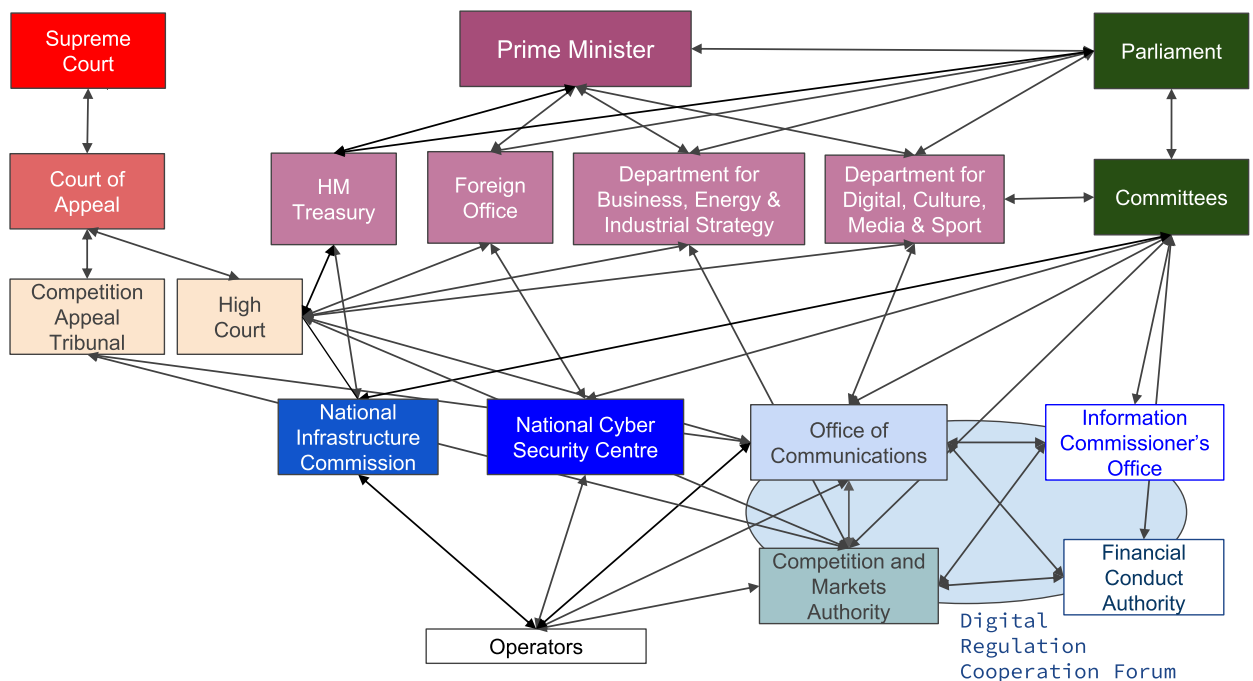


Fig. 4. The regulatory state for telecommunications in the United Kingdom in 2022.

used for spying (Anderson, 2013). Although complex institutional arrangements had been established to ensure the security for such equipment in the UK, HMG agreed to limit sales by Huawei Technologies. Not content with this, the Trump Administration wanted a total ban as part of its plan to ‘kill’ Huawei, allegedly threatening discontinuing intelligence sharing and delaying trade negotiations. Johnson was anxious to reach a trade agreement with Trump, as one of his Brexit benefits, proof that ‘Global Britain’ was more than mere rhetoric and that the ‘special relationship’ was still alive. There was vociferous support for Trump from the China Research Group

(CRG) of Conservative Party parliamentarians, and colourful anti-Chinese rhetoric in the right wing press, sometimes termed the Conservative Party in the media. Trump was widely reported as being ‘apoplectic’ during a telephone conversation with the prime minister, forcing Johnson to capitulate (Payne, 2020). The operators faced considerable costs from this ban, having to buy additional equipment, with consumers paying higher prices and enduring poorer service as network upgrades were delayed. Johnson was soon forced from office, still without his trade agreement; political and economic costs lost in the noise of Brexit. In 2024, the US suffered a very serious hacking incident, when the Chinese ‘Salt Typhoon’ group infiltrated non-Chinese equipment used by nine major US network operators, showing they had little need to exploit Huawei equipment. Indeed, the pressure on the UK may have been only for geopolitical purposes. (Payne, 2020; Telecommunications (Security) Act 2021; DCMS, 2022; CISA, 2024).

Governance of telecommunications in the UK now comprises a polycentric regulatory state system of considerable complexity. HMG added new elements in a haphazard manner, combining several regulators in 2003 to create OFCOM, merging other bodies to create the Competition and Markets Authority (CMA) in 2014, gradually bringing the National Cyber Security Centre (NCSC) out from the shadows of a spying agency, and creating the National Infrastructure Commission (NIC) to advise on the need for investments. There was a rapid turnover of ministers who saw little, if any, political benefit from initiating reviews of systems they did not fully comprehend. Notably there have been no attempts to emulate the push in the US to dismantle its administrative state. The origins of the system lie in the recognition by the Thatcher Administration that competition with BT would require regulation, but without realising its endurance, its eventual scale, or the manner in which the semi-mythological status of Margaret Thatcher would protect privatisation and thus regulation (Bayliss et al., 2021; Thomas, 2019).

4. Openreach

The European Commission conducted a comprehensive review of telecommunication regulation that resulted in the adoption of new directives in 2002, consolidating existing legislation and aligning it with competition law.³ HMG took the opportunity of its transposition as the Communications Act 2003 to incorporate additional measures, notably the merger of several bodies to create a new regulator, OFCOM (NAO, 2006). Its first chairman considered that two decades of often highly detailed and intrusive regulation of BT should not continue indefinitely, but had to be reviewed, opening a critical juncture.⁴

The resulting strategic review was based on the concurrent competition law powers of OFCOM under Part 4 of the Enterprise Act 2002, rather than those of the directives, which included the threat of a potentially protracted referral to the Competition Commission that was empowered to divest parts of BT. An agreement was reached with BT to transfer its local access network, the copper wires and fibres running from telephone exchanges into businesses and homes, to a functionally separate entity known as BT Openreach (OFCOM, 2005; Whalley & Curwen, 2008). A decade later, a strategic review of digital communication identified continuing competition concerns, with BT agreeing that Openreach would become a distinct company with its own staff, directors and strategy, dropping BT from its name (OFCOM, 2015, 2017). The arrangements were supervised by the Office of the Telecommunications Adjudicator (OTA2, 2025) and by the OFCOM Openreach Monitoring Unit (Cadman, 2019; Hutton, 2019).

OFCOM considers that long-term investments in networks require certainty and stability of regulation, for which it seeks to provide incentives alongside the promotion of network competition. The periodic *ex ante* market review procedure set out in the directives continues to be applied, most recently the Wholesale Fixed Telecoms Market Review (OFCOM, 2021), with the next review to be completed by March 2026 (OFCOM, 2024). Having been found to have significant market power (SMP), OFCOM imposed limited price controls on Openreach and required it to provide wholesale access to its ducts and poles. While nearly all homes are now passed by fibre networks, adoption rates continue to lag those of most OECD countries.

A key challenge had been to decide on the nature of competition as the access network was converted from copper to fibre. With dial-up and digital subscriber line (DSL) broadband, there was service-based competition, with a number of ISPs that had made only modest investments in their own networks. With the shift to fibre there were new entrants offering infrastructure-based competition, which held out the possibility of reduced regulation, but which might descend into oligopoly or local monopoly. OFCOM endeavoured to balance the two types of competition, with Openreach providing a path for service-based ISPs. Competition and investment in infrastructure has been increasing, though it is expected there will be consolidation of rivals to BT.

By the early 2000s, BT had largely withdrawn from its foreign alliances and ventures, becoming increasingly reliant on the UK market. It expanded its retail broadband business with bundled content, principally sport, generating significant additional revenues, and re-entered the mobile business by buying EE in 2015, enabling it to offer triple play (Whalley & Curwen, 2017). Despite its complaints about burdensome and complex regulations, the Openreach wholesale business represents a major source of revenues for the BT Group and an even greater part of its profits (see Table 1). Interestingly, it remains profitable despite the switch in consumer interest towards over the top (OTT) services delivered by platforms.

The unanticipated decision to initiate the strategic review, outside the sector regulatory framework, opened a critical juncture, intended to end intrusive regulation. The result was a new corporate structure and an additional regulator, with new path dependencies, centred around network effects and the relationships between OFCOM, OTA, Openreach, BT, and the other ISPs, which have already endured two decades. While BT complained, it profited from the arrangement and collected large amounts of state aid to expand its network, still the largest wholesale provider to ISPs. The review to be conducted in 2026 may amend, but is unlikely to abolish, these complexities.

³ Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC, and 2002/77/EC.

⁴ David Currie, The Lord Currie of Marylebone, a crossbench life peer and former professor of economics.

Table 1

BT revenues and profits (millions) (BT, 2025, pp. 56–57).

	BT Business	BT Consumer	Openreach
Adjusted revenues	£8,128	£9,833	£6,077
Adjusted profits	£646	£934	£1,775

5. Brexit

Brexit is unique in British history, the first instance of plebiscitary democracy. It overturned centuries of the constitutional supremacy of the “King in Parliament”, established as the result of a critical juncture in 1688; the Glorious Revolution that ensured sovereigns could no longer overturn the will of parliament (Dicey, 1885). However, the Brexit critical juncture (BCJ) was closer to the 1945 general election that brought the Attlee Administration to power, ushering in a wave of nationalisations and social welfare, broadly accepted by the Conservative Party; a consensus known as ‘Butskellism’ (Rollings, 1996).

Given the extent of UK integration into the EU, the BCJ should have required a massive external shock to wrench it from such complex institutional arrangements, but was the work of internal policy entrepreneurs. Brexit created path dependencies that seem destined to last for decades, with potential divergence from the new path made more difficult by its adverse economic consequences and the enduring fear of a populist backlash.

David Cameron (prime minister 2010–2016) gambled on two critical junctures, winning one, but losing the other. The success of nationalists in the 2011 Scottish elections led to pressure for a plebiscite, which Cameron voluntarily conceded, thus creating a critical juncture, with the possibility of breaking up the United Kingdom. However, only 44.7 per cent of the votes were for secession, settling the question ‘for a generation’ and closing the juncture (Torrance, 2014). Holding the Conservative Party together on membership of the EU had been proving increasingly difficult, with a growing number of members believing that it would be possible to leave the political institutions, while retaining access to its single market (Convery & Martill, 2024). Cameron (2013) promised to hold an in/out referendum on EU membership, with the BCJ opening on April 15, 2016 and ending with the UK leaving on January 31, 2020. His, somewhat cavalier, promise had been intended to bind his Conservative Party to continued EU membership, but instead created a new political path for the United Kingdom (Bulmer & Burch, 2009, pp. 184–196; Zappettini & Krzyżanowski, 2019; Eisele & Hajdinjak, 2023; Barzachka, 2024).

The winning Leave campaign operated a capacious umbrella, under which were anti-elitists and those seeking repatriation of powers to restore the sovereignty of the King in Parliament, those opposed to immigration and immigrants, and neoliberals seeking to lift the burdensome yoke of EU regulations. Boris Johnson claimed it was possible to “have one’s cake and eat it”, namely to have access to the single market while being outside the EU political structures and treaties, giving rise to the term ‘cakeism’, which allowed leavers to avoid the immense challenge of reconciling their divergent views (Saunders, 2022). A central, but false, belief was that harder bargaining would cause the EU to capitulate, notably the threat of walking away and the willingness to accept ‘no deal’ (Bale, 2023; Convery & Martill, 2024).

The BCJ had been unexpected and while it lasted parliament often resembled Bedlam. A succession of ‘weak and wobbly’ administrations,⁵ led by a quartet of short-lived Conservative Party leaders, struggled to ‘get Brexit done’ in the face of innumerable and interlocking crises, many the work of fellow Conservatives (Bale, 2023). These administrations failed to find, let alone exploit, the promised advantages and opportunities of Brexit:

All in all, the UK government is as divided over Brexit as ever: it faces a monumental policy task in deciding what to do with thousands of EU public policies; and, to top it all, the (now reconfigured) populist revolt has the potential to intensify in the years ahead as the failure to deliver on popular expectations of withdrawal from Europe becomes ever more apparent. (Diamond & Richardson, 2023, p 2247)

There had never been a plan for de-Europeanisation and there was very little appetite for the policy work previously undertaken by the EU institutions, notably the EC and its ERNs. Few Brexiteers understood the institutions and workings of the EU, believing the hard work had been in winning the referendum, failing to grasp that had been the easy part. The immensity of the task of reviewing and revising the EU *acquis* was shown by the monstrous Retained EU Law (Revocation and Reform) Act 2023 (REUL), listing thousands of pieces of EU legislation to be reviewed.⁶ Yet that was only the static part, there were also the EU institutions that created new and revised existing legislation and policies, and set ambitious targets. Although a Labour Government was elected in July 2024, it initially did little to take on the roles repatriated from Brussels (Dudley & Gamble, 2023).

Under the quartet of Conservative prime ministers there was a rapid turnover in cabinet ministers responsible for telecommunications, some resigned, some were dismissed and a few were promoted. The sprawling portfolio covered culture, media, sport and ‘digital’, which no minister had mastered before appointment, and none had time to do so in office.⁷ In the circumstances they focused

⁵ Theresa May (prime minister 2016–2019) claimed her administration was “strong and stable” leading to the jibe it was “weak and wobbly” (Parker, 2017).

⁶ Two obsolete statutory instruments on telecommunications were revoked: 1997 No. 2930 and 1999 No. 3180. OFCOM modified some licence conditions.

⁷ John Whittingdale was a possible exception, having been Secretary of State, he returned as a minister.

on a few issues of immediate political importance, with limited regard for the work of their predecessors. They had some rivalry with HM Treasury, which allocated state aid to promote advanced technologies, in the expectation of boosting economic growth. The only substantive legislation was the Telecommunications (Security) Act 2021, effectively to prohibit equipment from Huawei Technologies, and the Online Safety Act 2023, intended to protect citizens from disinformation, fraud, and the like.⁸ There was no review of the regulatory system, since it would have been time consuming, complex and unlikely to offer political benefits; there was no external pressure from operators.

The immediate effects of Brexit on telecommunications networks and operators were relatively modest, with the sector using global standards and the operators having signed commercial interconnection agreements that were unaffected. The EU legal framework was retained as UK law, though with the deletion of any references to EU courts, goals and processes, which is slowly altering regulatory decisions. The United Kingdom continued to participate in a few pan-European activities through the Electronic Communications Committee (ECC) and the *Conférence Européenne des Postes et Télécommunications* (CEPT, 2025). It also remained a member of the wider Organisation for Economic Co-operation and Development (OECD), the North Atlantic Treaty Organisation (NATO) and, for now, the Council of Europe (see Fig. 5).

Brexit meant the UK was excluded from Galileo, a global satellite navigation system (GNSS); the EU counterpart of the US Global Positioning System (GPS). The strange outcome was that the government purchased a US\$500 million stake in OneWeb, helping to buy it out of bankruptcy. However, OneWeb operated a low earth orbit (LEO) system for communication, rather than a GNSS, presently with 634 LEO and 35 geostationary satellites. The UK holding was reduced from 50 to 11 percent, because of additional investors, in what became Eutelsat Oneweb. Subsequently, it was wholly acquired by Eutelsat, leaving HMG with a small shareholding in that group.⁹ (BEIS, 2020, 2022; OneWeb, 2024; Science and Technology Committee, 2022).

A second change concerned international mobile roaming (IMR), on which there had been warnings about the inevitability of very high charges. Brexit ended the application of the Roaming Regulation (EU) 2017/920, which left the operators free to set their own retail rates, eventually imposing some significant price increases.¹⁰ The Roaming Regulation had imposed a price cap on wholesale charges, essential to enable low retail prices in other countries. Thus Brexit obliged the UK-based mobile operators to negotiate commercial prices with their EU counterparts, which had previously been regulated. In this they failed, though it is unclear whether it was because the EU operators would not agree to lower prices or because the operators could make more money from the higher charges.

A favoured mechanism of the European Commission has been to create committees or groups, collectively termed European Regulatory Networks (ERNs), to harmonise the formulation of policy proposals and the implementation of directives, decisions and recommendations (Blauberger & Rittberger, 2015; Coen & Thatcher, 2008). United Kingdom ministers and officials had been actively participating in EU processes, such as the Council of the European Union and COREPER, where they had been considered to have been effective negotiators. Officials and regulators working in the ERNs had shared examples of best practice amongst member states, helping each other overcome difficulties, and aided the European Commission in developing better policies and legislative proposals, including:

- Body of European Regulators for Electronic Communications (BEREC);
- Critical Entities Resilience Group (CERG);
- European Regulators Group for Audiovisual Media Services;
- European Union Agency for Cybersecurity (ENISA);
- Europol European Cybercrime Centre (EC3);
- Network and Information Systems Cooperation Group;
- Radio Spectrum Committee (RSC);
- Radio Spectrum Policy Group (RSPG); and
- Working Group on Telecommunications and the Information Society.

Brexit severed these deep connections, repatriating issues and ending the sharing of analyses and experiences. Ministers were deeply suspicious of any continuing connections, which they feared indicated anti-Brexit sympathies or, even, sabotage. Brexit exposed agencies and regulators to greater political influence, since they no longer had the backing of their counterparts from the other MSs and the EC. Nor could they insist on the need to apply EU norms, since infringement proceedings and peer pressure had disappeared. Brexit also made agencies and government officials more susceptible to lobbying; more easily picked off by operators.

Gradually, the European Union and the United Kingdom regimes for telecommunications are drifting apart. The EU processes continue to be driven by industry policy, completion of the internal market, and concerns about the adverse effects of new technologies, supported by constant reviews of the experiences of its twenty-seven member states. The result has been an impressive array of new EU legislation, including the AI Act (Regulation 2024/1689), Digital Markets Act (Regulation 2022/1925), Digital Services Act (Regulation 2022/2065), and Roaming Regulation (2022/612). By comparison, the United Kingdom has addressed fewer topics, with ministers concerned not to be thought to be copying the continental agenda. Consequently, while old EU laws are retained, the UK is

⁸ The Online Safety Act had a slow passage through parliament and even slower implementation, with some sections commencing only in January 2025 and others still being debated.

⁹ The UK government retains a 'golden share' in OneWeb.

¹⁰ The Trade (Mobile Roaming) Regulations 2023, SI 2023 No. 214, revoked all the EU roaming legislation.

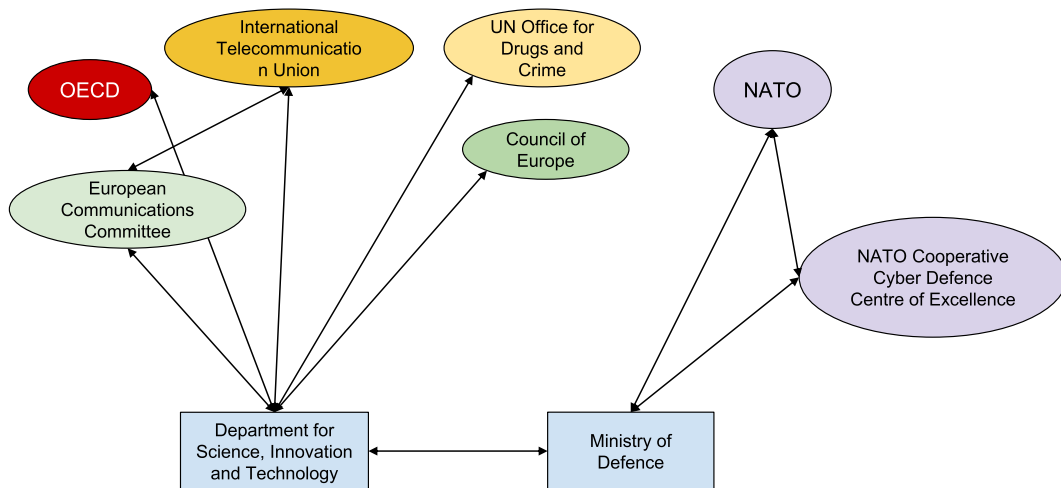


Fig. 5. Post-Brexit intergovernmental and international links.

falling behind. There is a major difference between the few issues of concern to British ministers and the more systematic approach to political and technocratic matters at the European Commission, the result of very different cultures and processes. UK politicians have found reform of regulatory systems unappealing, with little personal or political reward for modifying aspects of a system they, almost certainly, do not understand. Consequently, the governance of telecommunications has been and remains sidelined (Harcourt, 2023).

The Leave campaign promised a repatriation of powers from Brussels that would enable a bonfire of regulations, representing an opportunity to reform the regulatory state for telecommunications and other sectors. Yet the fork in the road taken was quite different, when the Brexit critical juncture closed there had been little positive change, with the negotiations and the passing of the associated legislation having absorbed nearly all the political energy. However, bridges to EU institutions and processes had been burnt. Only a minority of Brexiteers had ever been neoliberals, who had talked of creating Singapore-on-Thames, a deregulatory imaginary that was to stimulate economic growth, which seems only ever intended for the financial sector. There was no plan for telecommunications reform in the Leave campaign, the Conservative Party or associated think tanks. The outbreak of COVID-19 meant that instead of throwing off controls, HMG imposed unimaginably draconian rules, and had to rely on telecommunication networks enabling working from home (WFH). Despite fourteen years in office, several after Brexit, a leading Conservative Party think tank could still rail against the profusion of regulations, and the failure to provide and use accurate impact assessments, but was able only to offer the trite remedy of deleting a ratio of old regulations before allowing new regulations (Clougherty & Colville, 2024).

6. Conclusion

The first past the post electoral system mostly ensures a significant majority for a single party, but carries the risk of alternation of parties and thus policies. The election of the Conservative Party in 1979 triggered significant ideological changes, with Margaret Thatcher bringing in monetarism and privatisation. Despite its label, the latter was a much larger package, with oligopolistic competition, under increasingly complex regulation, and financialisation. That critical juncture enabled the creation of the institutions required to make competition and privatisation work, namely a regulator and system of appeals, later replicated for other sectors, together with dependence on financial markets. Without another critical juncture that model of a telecommunications regulatory state seems destined to grow ever more complex.

OFCOM was intended to be a more complete entity than OFTEL, bringing together powers from a range of agencies. There was no intention on the part of the government or parliament that it initiate its own critical juncture or create new institutional arrangements, that decision was made by its chairman. Openreach, the product of the agreement between OFCOM and BT, remains a powerful player in the wholesale market for Internet access and in many places the only provider. It is therefore beneficial both to ISPs and BT.

Wrenching the United Kingdom out of the EU processes and regulatory networks was done with little thought about regulation. Many Brexiteers seemed to believe that merely making everything British and bringing it under the King in parliament would achieve better outcomes, with only a few neoliberals focused on deregulation and then only for financial services. When the Brexit Critical Juncture closed it had exhausted the energies of ministers, parliament and voters. The various prime ministers had been too busy to work on regulatory governance, except to purge it of any mention of or links to the EU. What remained were the EU-era institutions and laws, and domestic political processes, but no counterpart to the almost perpetual motion of the European Commission, driving towards economic growth and completion of the internal market. For the present, there is no sign of divergence from this path.

The security risk of Chinese network equipment was considered sufficient to adopt a new law, resulting in additional costs for consumers, notably by delaying network deployment, thus slowing economic growth. While these effects will persist, the legislation is sufficiently flexible that the path can be changed, and in the light of hacking through non-Chinese systems, may have to be changed. The circumstances had some resemblance to a critical juncture, with a British prime minister changing a policy under exogenous

pressure from a US President, sustaining a traditional relationship and hoping for a trade agreement at the height of the chaos of Brexit. However, no permanent organisational arrangement was necessary, with the government and regulator able to interpret risk with flexibility in response to events.

The concept of the critical juncture proves helpful in identifying the conditions for significant changes in governance, on different scales from the grand to the more modest. Where a pattern of institutional stability is observed it can be traced to its origins to determine whether they arose from a critical juncture, which can then be subjected to further analysis.

The prediction of future critical junctures is difficult. In some countries the electoral system permits sweeping changes, for example the UK House of Commons and the New Zealand House of Representative, whereas other systems favour incremental change, such as successive coalition governments of Belgium and Germany. Thus lobbyists and think tanks seeking to propose changes in the UK can already look to the 2029 general election, endeavouring to promote their ideas in the hope of gaining a place in future political discussions and, eventually, manifestos. More generally, policy entrepreneurs should always be ready with well developed packages of policies and legislative proposals, since crises may become critical junctures enabling changes.

Further research could usefully examine other critical junctures in regulatory governance. The extent to which UK ministers have withdrawn from telecommunications policy and the reasons for that should also be examined. The changes in the USA would also be appropriate subjects, notably the critical juncture of the re-election of Donald Trump. At the time of writing, the Trump Administration, closely tied to the CEOs and founders of major US platform providers, appears to be trying to push or force other countries to reduce or remove regulation of censorship and data protection, which would be critical junctures.

Data availability

No data was used for the research described in the article.

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