



THE INFLUENCERS: DIGITAL TRANSFORMATION

TRANSCRIPT

LORD CHRIS HOLMES

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| John Salmon | Hello and welcome to another edition of The Influencers podcast. Delighted to be here today with Lord Holmes, one of Britain's most successful Paralympic swimmers and an active member of the House of Lords, with a particular focus on digital technology for public good. Lord Holmes is a passionate advocate for the potential technology and the benefits of diversity and inclusion, with a particular interest in technology such as AI and blockchain and areas of applications such as fintech and trade. He's joining us now to provide a briefing on his private members bill on AI regulation that he is currently trying to steer through Parliament. A very warm welcome. Lord Holmes, thank you very much for taking time to speak to us. |
| Lord Chris Holmes | Hi, John. Great to be with you and hello to everybody across the Hogan Lovells network. |
| John Salmon | Thank you very much. We're very excited to do this. Now, we have lots of listeners all over the world including in-house counsel for some of the, you know, largest fintech and tech companies who are obviously very interesting in AI and how it should be regulated, but perhaps a little bit less familiar with how Private Members' bills in the UK work. So, it'd be really helpful maybe just to contextualize how a Private Members' bill might work and what your rationale for, why you've decided to take this step of bringing forward the AI regulation bill? |
| Lord Chris Holmes | Certainly and it does, as you identify, sound like quite arcane language. Private Members' bill, what does that mean? Well, what it means is every member of the House of Commons and the House of Lords, and I'm in the House of Lords, so for people overseas, if they imagine that to be equivalent for Senate, the upper house of the UK Parliament equivalent, every Member has the opportunity to bring forward a bill on whatever subject she or he chooses at the beginning of a session. But here's the key point: you've got to try and get in the top 25 in the ballot to have a chance of getting your bill through, so it has that element of luck to it. And as luck would have it, I managed to come sixth in the ballot this time, so they gave me the opportunity to bring forward my Artificial Intelligence Regulation Bill and the rationale for bringing this forward at this time is, I believe it's time for the UK to legislate. I believe it's been time for a while now. I was part of the House of Lords Select Committee on AI, we report in 2018 and said it was time to regulate then. Similarly, another House of Lords Committee on autonomous weapons suggested a couple of years ago it was time to legislate. So, it seems to me that to ensure that the UK in connection interoperable with other regulatory systems already laid out and those yet to come for the UK to regulate at this time, to have the best opportunity to seize the benefits that AI can bring whilst being very cognizant of what we need to do in terms of the risks. |
| John Salmon | Yeah, that's very helpful. And Private Members' bills, you know, there's been some really important ones over the years, hasn't there? You know, there was the tobacco advertising one that got through and, you know, I think people would recognize, has made a great contribution and I think where there is that level of public engagement and it doesn't take very far to realize that AI is something that the public is very concerned about and is very engaged with. |

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| | <p>So, I think it's a great initiative, but how would you contrast this with how other countries are looking at AI? I mean, you know, the EU is a obviously a particular front runner, but how would you see it contrasting with other countries?</p> |
| Lord Chris Holmes | <p>Certainly. And the EU are in many respects first out of the blocks with their AI Act and in many ways, it's a valiant effort in the legal jurisdiction that they find themselves. It's 892 pages, and it captures a number of elements and issues, but is necessarily in that jurisdictional context, prescriptive. If you contrast that with the situation in the United States, we obviously saw the executive order and then various initiatives and mutterings from the state legislators around the place. But what we have, I believe in the UK, we no longer have to fear that we're first mover. The EU have largely done that and that will play out in time. So, we don't have to fear that we're first mover, but we have a real opportunity to legislate in a way that is both specific to the UK context, but will be interoperable with the EU and other models, will be internationally focused and will be rooted in the great good fortune that we have of being in the English common law context, which I imagine everybody knows full well on this podcast, it gives that sense of being able to set out an approach which can develop, which can adapt through precedent and case law. So, the bill that I propose is very much rooted in principles that would be very well understood and very well recognized. Transparency, accountability, ethical deployment, inclusive concepts which are good underpins for most legislation one may well argue. It gives the opportunity to make a real statement for the UK to show leadership when it comes to AI, to do it in a particularly UK common law context, but be able to connect very much right around the world by adopting such an approach.</p> |
| John Salmon | <p>Yeah, and how would you distinguish it with the current UK Government approach, just to sort of add that into what countries are doing, if you like.</p> |
| Lord Chris Holmes | <p>Well, the UK Government are doing a lot of good stuff when it comes to AI. We saw the Bletchley Summit last November and that was obviously focused on safety and rightly so, very important. But having done that, it seems clear to me that all of the other elements need to be similarly stood up in the way that safety has been; elements which are already impacting people's lives and here's the thing, already impacting people's lives, often times those people not even knowing they're on the end may be the wrong end of an AI decision. Take recruitment shortlisting, higher education, it's already out there impacting people's lives. We need to legislate, we need to regulate and in a way which is entirely possible, in fact necessary, to hold both consumer protection, citizen rights and pro innovation, all in the same hand. It's essential that any legislation or any regulation is built on those key principles.</p> |
| John Salmon | <p>Yeah. And I think that's the challenge in so much that you and I have discussed over the years on fintech and digital assets and generally how you balance the requirements to be a real center for innovation, to progress at the same time as you say, have that protection and the UK Government's approach as you know is principles-based, etcetera, but to go through the sectoral regulators. Do you see that as being just not quite sufficient in the context of AI then?</p> |
| Lord Chris Holmes | <p>It's an approach and as you rightly identify, they're looking at going through existing regulators and having a team within the department in central government to do that work. But that seems inconsistent; not only to historic approaches that we've taken to regulation, but very recent approach, if you think about the DMU that we've stood up in recent legislation being within the auspices of existing regulators. What I believe would be more positive, more</p> |

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| | <p>clear and more coherent would be to stand up, an AI authority, an AI regulator, not to be a do-it-all regulator by any means, but to be very agile, light right size and to have a horizontal focus; first and foremost to look at all of our regulators, not least the economic regulators, but all of our regulators that are relevant to assess their competence to address the challenges and seize the opportunity of AI. Similarly, to look across all relevant legislation and assess its competence to deal with the risks and avail ourselves of the opportunities of AI and to be that light right size regulator, but crucially a regulator away from government. It's coherent and consistent with the regulatory approach which we've taken for a good long time now and why so many of our regulators are not just respected in this country, but oftentimes overseas as well.</p> |
| John Salmon | <p>That's a great point and I think just building on that, one of the areas that I know that you've got a real interest in and I think people are really concerned about from a UK perspective, is in the context of that balance between innovation and protection, is AI under copyright and an IP? I mean, you know that seems to be completely missing within the current UK firmament.</p> |
| Lord Chris Holmes | <p>It's critical that we address this point and it goes to the heart of all of this in a way but none of this technology, none of this AIs or anything without data. Well, whose data is that? So, you can start it right from the citizen rights all the way up. Then when you look at IP and copyrighted works, it's clear who owns those works, who's created them and it's equally clear that we need action from government to assert that the protections for those rights holders when it comes to AI. There's a real contrast if we take the United States jurisdiction to the UK. When we look at the fair use approach over there, particularly the Supreme Court decisions, they're quite extraordinary and very challenging for rights holders over there. Fortunately, we have fair dealing set against fair use, which is much tighter and clearer drawn, but it's still not anywhere near enough and it's concerning that the code wasn't brought forward by the government. Work is urgently needed and it can't be that we take a wait-and-see approach here, because if we wait and see, it will be desperately difficult to try and reassert those rights retrospectively. Wait-and-see, for me, is never the way to achieve optimal outcomes. We need to lead, and IP and copyright is but one very clear example of why we need to lead and why we need to lead right now.</p> |
| John Salmon | <p>Yeah, so I mean, you've given us a very clear steer on your views on the need for this. What are the next steps? Where are we in this Private Members' bill process then?</p> |
| Lord Chris Holmes | <p>So, to take you through the legal process, we had first reading in November, that's when the bill is introduced to Parliament. Second reading is coming up on March the 22nd, 4 minutes past 10 in the morning, tune in wherever you are in the world and second reading is the first opportunity for a full debate of all of the clauses that will be in the bill. Subsequent to that, there'll be committee and report, that's where other Members can bring amendments, changes, suggestions to make the bill better or to take bits out they don't like. When we get to third reading, all those stages then repeats at the Common. Then it goes to the King to be made into statute. That's the process and that's the aim at this stage. But there are at least another set of benefits of bringing a Private Members' bill, that even if it doesn't prove possible to bring the whole bill into statute, I've structured it in a way that each clause to a certain extent is stand alone. So, there are bits that could be taken out of it, such as the IP and copyright, such as the labelling clause suggesting that wherever a good or service uses AI, deploys AI, that needs to be clearly labeled so people can be aware of it and decide whether they want to participate in a good or service that involves AI. And critically, the most important clause for me probably is</p> |

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| | <p>the penultimate one before the interpretations, and that is around public engagement. Putting it on government to really lead much more in terms of meaningful, sustained long-term public engagement, enabling people to say "what's in this for me, how do I want my life, my livelihood to be benefit and potentially enhanced through AI, what's happening in terms of the risks, are the benefits going to come to me?" That public engagement is absolutely critical and AI needs to be able to prove itself trustworthy. Otherwise, it won't really achieve any of the optimal benefit, but we may well be saddled with many of the potential downsides. And we've seen how to get this right. Take IVF, for example, invitro fertilization. What could be more terrifying? What could be more science fiction than bringing life into being in a laboratory test tube? Why is it now seen as a positive part of our society? Because years ago, a colleague of mine, Baroness Warnock had the Warnock Commission to do exactly this; to engage with people, to engage with their concerns, their issues, and to have that real sense of engagement around an issue, so we get to a positive societal benefit from it. That's what we need with AI. That's why, as I say, the public engagement clause is probably for my mind, the most important of all are the ones that are in the bill.</p> |
| John Salmon | <p>That's a brilliant analogy actually, I've not heard that one before, but it's very interesting and you're right, it goes to the heart of our society and I think it brings me on to my next question. So much of the, you know, it's sort of either killer robots, people, jobs, all going or it's nirvana, I don't think I buy into any of those three roads. But what are your kind of general hopes and fears for AI from a societal perspective?</p> |
| Lord Chris Holmes | <p>You're completely right, John, as well. The way the narrative is either we're all going to hell and there isn't even a handcart and it's only a question, do we get annihilated before the robots take our jobs or afterwards, or it's all your ills are about to all evaporate in this sunniest of all sunny upland. Neither are true, nor is the middle point true. The reality for me is, there is extraordinary potential to enhance our health, our wealth, our communities, our cities, our country, in a connected world potential but that is in no sense inevitability. But we know what we need to know to make a success of this, because we know philosophy, politics, economic psychology, critical theory, values, principles, we know how to do this. We know how to legislate for the benefit of technology. Look what we did with the Electronic Trade Documents Act last year in short order to really bring about a phenomenal transformation, driving economic growth only enabled through a particular technology future proofed in the way we did it. And for the argument that goes "our legislation just can't keep pace with technology", it can. It depends how you go about doing it. So yes, we need to be, of course fully cognizant of the risks, existential, some of them. We need to be fully appreciative of the potential benefits, but we need to go about it in a completely human way, because no matter how powerful these new technologies are, and of course they are, I believe we need to conceive of them as tools, tools in our human hands: we lead, we decide, we determine, we choose. It's our AI futures.</p> |
| John Salmon | <p>Our mutual friend and my partner, Sharon Lewis, and I did a session on the Electronic Trade Documents Act yesterday. You'd be pleased to hear it's such a clever and appealing piece of legislation, you know, and one that's now being copied around the world. I mean, that's been an incredibly thoughtful and really useful discussion, and I'm sure many of our listeners will be saying "how can I support this bill? I totally get what you're saying." So, what what's the best way of people engaging with this process and showing their support for what I think is another really clever piece of legislation?</p> |

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| Lord Chris Holmes | I'd be really keen to hear from everybody. Views, comments, thoughts, ways in which the bill can be changed, can be improved, thoughts on how it can be different. Please do be in touch with me on LinkedIn @LordChrisHolmes. I'd welcome all your thoughts, all your comments, and I thank you very kindly for listening to the conversation today. |
| John Salmon | Well, thank you, Lord Holmes, so much for joining us today. As I said, I found that incredibly interesting. I love the analogies with IVF and I agree. I mean, I personally I look at it and I think we could actually make our society better and fairer with AI if we get it right. But that's a big if and I think it's about with all of these things, it's how do you balance, being pro innovation with protecting the consumers, protecting society and also understanding as a society what impact this tech is going to have on us, right and so much of what you and I have looked at over the years is exactly this, but AI has in a way a real significant impact if we don't get it right. |
| Lord Chris Holmes | Completely. It's such an opportunity, a pleasure to sit down with you as always, John, but I guess my final thought is just this. Each and every one of us has a role to play in making a success of AI, each and every one of us has a voice, an opinion and perspective. They all have to be heard. They all have to be in the mix. We all have a role to play in so many ways. It's down to all of us to make a success of this. |
| John Salmon | Yeah, a great way to end. So, thank you again Lord Holmes, for joining us today. You can learn more about the bill and Lord Holmes's work in this space by visiting his website Lord Holmes of Richmond MBE - Lord Holmes of Richmond MBE (chrisholmes.co.uk) or his blog at Blog - Lord Holmes of Richmond MBE (lordchrisholmes.com) or on LinkedIn as mentioned @LordChrisHolmes. Thank you once again. And look forward to further updates. Thank you. |