"Build Back Better", Technology and Regulation.

"**Build Back Better**" is, on the face of it, a laudable aspiration – as ever, though, the devil is in the detail.

Technology, especially when badly- or under-regulated, can have a tendency to over-promise and under-deliver, or (even worse) deliver unintended consequences that subsequently need to be "cleared up".

A prime example is "*computer translation*" – technologies that seemingly deliver cross-language "translations" where some form of computer algorithm tries to "do" the actual translating, rather than a real, qualified translator.

As a consequence of the (largely unregulated) use of *computer translation* in formal scenarios, court-cases have begun to arise (initially in the US but now also in Europe) which have, on forensic legal analysis, found such technologies to be "*not reliable translators*" (cited as such in one court's written judgement) and having the characteristic of producing often meaningless but sometimes dangerous mis-translations. This has led to legal decisions and legal outcomes being overturned purely because courts found that *computer translations* were sufficiently inaccurate and misleading to result in the wrong outcome being reached, particularly when used by law agencies such as police.

The technology industry's push-back is: "*oh, Artificial Intelligence will sort that out*" but, so far, it hasn't and doesn't look likely to anytime soon; and, even if AI improves accuracy a bit, it can't "*sort out*" any of the non-technical problems with *computer translation*, of which there are many (such as the legal issues mentioned here).

A key issue is regulation – regulation needed in order that "**Build Back Better**" doesn't turn out in practice to be "**Build Back on the Cheap without appropriate Regulation**". The issue here is that law-makers, regulators and organisational decision-makers don't yet have all of the detailed information they need: as is often the case 'more research is required'.

We[i] have carried out FoI-based research in this area: We asked 68 large public-sector organisations whether they:

1. Have a policy on the use of *computer translation*;
2. Whether they have carried out or commissioned research as to the suitability of *computer translation* in their operations;
3. Whether they formally monitor the use of computer translation in their organisation;
4. Whether they monitor the 'unapproved' (ad-hoc) use of *computer translation* by their staff.

The result of this research[ii] shows that:

- **100% have no policy** in relation to the suitability of the use of "computer translation" by their organisation (only 1 has "guidance" not to use it);
- **100% have not** carried out (or commissioned independent) research on the suitability, accuracy, quality or legal defensibility of the use of "computer translation" by their organisation;
- **100% do not monitor** the use of "computer translation" systems within their organisation;
- **100% do not monitor** the ad-hoc use of "computer translation" tools (including free ones) by their staff (i.e. the technology simply "appearing" on their personal or work mobile phones "for free").

As to the "so what?" of this, consider that one of the organisations in the survey sanctions the use of *computer translation* tools in the policing of the UK's borders – so remembering that US and European courts have decried such technologies in formal contexts, how much virus (or how many potential terrorists) may be entering the UK because of *computer translation* technology that has been deemed by courts as unsuitable for formal use being sanctioned and used by organisations simply because it's free? It certainly isn't free of negative consequences.

A second example is that another organisation in this survey that may be allowing the unauthorised and unregulated use of computer translation is the **NHS**. Imagine what havoc mis-translations could cause there.

We anticipated the numbers being high, but the "4 x 100%" outcome led us to re-check with our academic and professional translator partners as to whether we'd asked the right questions. It turned out that we had. One, a professor of translation studies, said:

> *"The indiscriminate, unsupervised use of freely available computer translation tools in professional contexts before even the law or regulators fully understand the implications of their use is an extremely high-risk strategy and can quickly lead to legal, financial and other issues and complications, or reputational damage"*[iii]

It seems clear that appropriate regulation of technology (of which the above is *just one* example) is critically necessary. What is also clear is that politicians, law-makers, regulators and organisational decision-makers too often don't have enough information *in advance* about technology, which explains why it's use is increasingly leading to court-cases and legal outcomes that may not have needed to occur had regulation been adequate. Where that 'regulatory gap' leads to people dying (or terrorists 'getting lucky') court-cases will simply be too little, too late.

Summary.

The pressure to automate, reduce costs and roll out technology solutions often leads to huge advantages, but can have a serious downside if done without clear, informed thought - leading to clear, informed regulation.

"**Build Back Better**" sounds great. "**Build Back on the Cheap without appropriate Regulation**" doesn't sound so good.

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[i] CommSOFT Ltd. is a research, consulting and technology organisation with specific focus on multi-language and language-automation solutions. CommSOFT works closely with academic and commercial partner organisations and has funded and collaborated in several research projects relating to multi-language solutions.

[ii] FoI Research carried out via 68 FoI requests between 03/2020 and 02/2021 through www.whatdotheyknow.com. This data will eventually be public-domain but is also available on request for appropriate use (usual FoI rules apply).

[iii] Professor Sabine Braun, Director, Centre for Translation Studies (CTS), University of Surrey.