



Computer & Communications Industry Association
1972-2012: 40 YEARS OF TECH ADVOCACY

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COMMENTS OF COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION ON EUROPEAN COMMISSION CONSULTATION ON INTERNET GOVERNANCE

Following the request for comments issued by the European Commissioner for Digital Agenda on 9th October, 2013, the Computer & Communications Industry Association (CCIA)¹ submits the following comments on Internet Governance. These comments respond to selected questions identified in the consultation, albeit in no particular order.

Introduction

The Internet is the defining phenomenon of our times. As it continues to expand access to and influence over economic, social and political resources, it has empowered a global public at an unprecedented level. Today, the Internet is effectively the world's trading platform and the driving element of social and political discourse. It is worth remembering that the number of users grew from 16 million in 1995 to 2.75 billion in 2013², making the Internet the 'fastest growing technology in human history', according to the United Nations Broadband Commission.³ What we take for granted today was available to less than half a percent of the world's population 18 years ago.⁴

¹ CCIA is an international nonprofit membership organization representing companies in the computer, Internet, information technology, and telecommunications industries. Together, CCIA's members employ nearly half a million workers and generate approximately a quarter of a trillion dollars in annual revenue. CCIA promotes open markets, open systems, open networks, and full, fair, and open competition in the computer, telecommunications, and Internet industries. A list of CCIA members is available at <http://www.ccianet.org/members>

² <http://www.internetworldstats.com/emarketing.htm>

³ This is owed to the explosive expansion of mobile broadband in the developing world in recent years. Reference: "The State Of Broadband in 2013", Broadband Commission of the United Nations, available at <http://www.broadbandcommission.org/Documents/bb-annualreport2013.pdf>

⁴ For more information about the impact of the Internet see the CCIA publication "The Internet: the enabling force of the 21st century"

While the Internet has not attracted widespread attention from policymakers until recently, its economic impact has been acknowledged for some time. A McKinsey⁵ study from 2011 unearthed some impressive figures:

- Between 2010 and 2016 the Internet economy of the G-20 will nearly double to reach a value of \$4.2 trillion and by 2016 will add 32 million jobs
- The Internet economy will account for an average 5.7% of EU gross domestic product by 2016 with the UK at 12.4%
- In 2013, 529,000 people in full-time employment are directly linked to the app economy across Europe, including 330,000 app developers

At the same time, Internet-enabled innovation is a major driver of productivity gains across industries. In fact, 75% of the Internet's benefits arises from traditional companies that don't define themselves as pure Internet players⁶. Email, search, Internet telephony, social networking, online marketplaces and other recent innovations have greatly improved the way we do business and reduced cost.

What is behind this exceptional success? According to Mr. Vinton Cerf, widely described as the co-father of the Internet, "the remarkable social impact and economic success of the Internet is in many ways directly attributable to the architectural characteristics that were part of its design. The Internet was designed with no gatekeepers over new content or services."⁷ In other words, the Internet's forceful impact on the world is directly linked to its open structure, open standards and careful regulatory approach.

Consequentially, we need to be mindful of the fact that anything that goes against the network's inherent openness will add bottlenecks, costs and will slow down innovation. Additional layers of regulation and more centralized decision-making over the Internet's resources and infrastructure, e.g. in the form of inter-governmental institutions or processes will likely lead to fewer investment opportunities and ultimately make it harder to connect underserved communities.

Another aspect to consider is that regulation can have unintended consequences, particularly in a fast-moving, unpredictable area like technology. Some of the national Internet initiatives under discussion⁸, e.g. local hosting requirements, enter uncharted territory. It is unlikely that these policies will effectively address the original problem and it is even less certain whether they will be judged beneficial to society in the long term.

General Principles of Internet Governance

What is the best Internet Governance model? Given the speed at which the Internet is developing and growing - more than 650,000 people go online for the first time *every day* according to ITU statistics - it is difficult to predict what the ideal future model will look like. However, the history of the development of the Internet shows that it is unlikely to be a traditional, hierarchical, top-down model - rather the opposite. In this section we will describe what we believe should be the guiding principles of any future Governance model, independent of its geographical, legal, and technical scope.

⁵ http://www.mckinsey.com/insights/high_tech_telecoms_internet/internet_matters

⁶ *ibid*

⁷ Letter from Vint Cerf to the US House Committee on Energy and Commerce, 2005, available at <http://googleblog.blogspot.ch/2005/11/vint-cerf-speaks-out-on-net-neutrality.html>

⁸ A recent example is the idea to create a "German Internet": <http://www.reuters.com/article/2013/10/25/us-usa-spying-germany-idUSBRE99O09S20131025>

It should first be noted that the current governance model has kept the Internet interoperable and resilient during a time of explosive growth. For this reason, any proposed change to the current model should undergo a rigorous cost-benefit analysis.

What, then, is the current regime? Internet Governance consists of an elaborate web of institutions and processes responsible for different aspects of the network. Contrary to popular belief, Internet Governance is not chaotic, it simply reflects the diversity of the network and its stakeholders. In fact, it is precisely *because* of its open and flexible governance structure that the Internet has gained such widespread adoption, not *in spite of it*. For this reason, Governments need to resist temptations to move away from the distributed governance model and move towards more centralized forms of control over Internet policy and infrastructure, even if it may look sensible on the surface.

Instead, European Governments should look at national multistakeholder collaborations that have proven so successful in countries like Brazil (cgi.br) or Kenya (www.kictanet.or.ke), replicate them at home and feed those experiences into the European digital agenda, the European Internet Governance Forum (IGF) process (EuroDIG) and vice-versa. The Internet is widely known as a place where new forms of democratic participation are developed and practiced. Its governance model should reflect this and Europe, with its long history and extensive experience in this area, should be at the forefront of this development.

In line with the above arguments, CCIA does not believe that moving towards one global principle-based framework for Internet Governance is either desirable or realistic. At a conceptual level, the Internet is simply a network of networks, some private and some public, where all parties voluntarily adhere and accept a common set of open global standards. This open architecture is complemented by a decentralised governance model in which each institutions has certain responsibilities within a narrowly defined scope. Thanks to this flexible, scalable model, the Internet has enabled what some call “permissionless innovation” - the ability to make services available to anybody, anywhere, without having to rely on the good will of regulators and market incumbents. Moving towards a more centralised, top-down structure in which Governments exercised direct control over individual networks would go against one of the core principles of the Internet and would likely lead to fewer parties willing to voluntarily adhere to global Internet standards. The unwillingness of network providers to cooperate could exacerbate inequalities as some would be deprived of (useful) networks. The result would be a proliferation of separate, non-interoperable networks, which would undermine the Internet’s ability to drive innovation and change at a global level.

In addition to that, it is hard to imagine how it could work at a practical level. National views on issues such as privacy, copyright and freedom of speech vary widely, even within the European Union, and the national Internet experience is a reflection of this diversity. Moving towards a single governance framework with far-reaching competencies would limit countries’ ability to set national Internet priorities and would unnecessarily politicize a process consisting largely of technical coordination.

For many of the same reasons, CCIA does not see a need to develop a global ‘Internet law’. First, the Internet is not a lawless space: It is governed by existing national and international laws. For example, as Governments and international law experts have confirmed in various occasions, existing human rights protections such as freedom of expression and assembly, also apply online.⁹

⁹ See e.g. Human Rights Council resolution A/HRC/20/L.13 from July 2012, available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session20/Pages/ResDecStat.aspx> and the report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression from May 2011, available at

Adding an additional layer to the existing norms does not provide the appropriate focus. Second, the national Internet experience is a reflection of the cultural, economic, and political makeup of a country. It is difficult to imagine a legal structure that could satisfactorily incorporate these national differences into a coherent global 'Internet law'.

Instead, we believe there would be merit in a process whereby European legislators revisited its existing domestic laws, as they apply to the Internet, and with a view to the compatibility of those laws across Europe. This should be an open, multistakeholder process to assess whether existing laws are still relevant and best suited to maximize the benefits of the Information age.

A detailed outline of possible future governance models would go beyond the scope of this consultation. Rather, we will use this opportunity to reaffirm our support of what we believe should be the foundation of any global Internet Governance structure. In our view, all relevant institutions must evolve their governance models in accordance with the following core principles:

- all processes should be open, inclusive and transparent;
- all relevant stakeholders, including the private sector and the technical community, should participate on an 'equal footing';
- staff, membership and decision-making processes should be reflective of the global scope of the Internet ;
- Internet governance must promote the continuous development of new technologies and new models for access to and use of the Internet;
- all actions need to be accounted for and respectful of international human rights norms;
- traffic filtering rules shall not tolerate any commercial, political or cultural form of discrimination; and,
- all decisions should be guided by a concern for the stability, security and interoperability of the network.

In addition to these general principles, we also endorse similar guidelines for international Internet policy-making such as the Council of Europe recommendations on Internet Governance from 2011¹⁰, the Internet Governance principles of the Brazilian Internet Steering Committee¹¹, and the OECD principles for Internet Policy Making.¹²

Improvements to Current Governance Model

While the current model of distributed governance is best placed to ensure the continued growth and development of the Internet, we do believe that it needs improvement in some key areas. This section will provide specific recommendations, consistent with the principles laid out above, to modernize and adapt the existing model to one that fits the needs of all of the world's 2.75 billion Internet users.

Internationalise core Internet institutions

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/132/01/PDF/G1113201.pdf?OpenElement>

and *Reno v. American Civil Liberties Union*, which established First Amendment privileges to online speech in the US, summary available at: http://en.wikipedia.org/wiki/Reno_v._American_Civil_Liberties_Union

¹⁰ Available at <https://wcd.coe.int/ViewDoc.jsp?id=1835773>

¹¹ Available at <http://cgi.br/english/regulations/resolution2009-003.htm>

¹² Available at <http://www.oecd.org/sti/ieconomy/49258588.pdf>

The Internet Corporation for Assigned Names and Numbers (ICANN) but also the Internet Engineering Taskforce (IETF), the World Wide Web Consortium (W3C), the Internet Architecture Board (IAB) and the Regional Internet Registries (RIR) and other processes integral to the Internet's global functioning need to internationalise further, to ensure wide, globally representative engagement.

With regards to ICANN, we refer to the recent Montevideo Statement¹³ and note that they initiated a process of further internationalisation, in line with their long-standing strategy to become more independent from the US Government.¹⁴ We would welcome initiatives towards a model where Internet Assigned Numbers Authority (IANA) is not solely responsible to the United States Government. While the relationship with the United States government has been "hands-off," any perception that the relationship is not neutral should be taken seriously. Any revised governance model for IANA/ICANN should be balanced, protected against capture from any one stakeholder and with a clear mission to promote innovation, keep the Internet interoperable, secure, resilient and globally accessible. Any evolution of the model should illustrate that it is at least as capable of delivering upon these outcomes as the current one.

Increased independence could come in many forms: an international model such as that of the Red Cross, a hybrid accountability model involving Governments and other stakeholders like the International Labor Organisation (ILO), or by retaining the relationship with the United States government, but limiting its control through the contract.

Maintain the role of the Governmental Advisory Committee (GAC)

The GAC plays a crucial role in ICANN's multistakeholder model, which is one of the very few areas in international policy-making where Governments share their power with non-Governmental actors. As such, it is important that the GAC's influence is not expanded to the point where it has de-facto veto powers over ICANN's operations as it would undermine the delicate balance of the multistakeholder model.

The GAC today has a robust influence on the ICANN board. The board is very receptive to GAC suggestions, and the political reality of the moment means that an ICANN decision that outright flaunted GAC advice without a very good rationale held by a multitude of other stakeholders would lead to undesirable outcomes for ICANN as a whole. By the same token, it is possible to go too far in the other direction, excluding the GAC to a large degree from the operation of ICANN, which would jeopardize the legitimacy of the organization. The current interaction between the GAC and the broader ICANN community is working, and working well, and tinkering with that system would be unnecessary and potentially destabilizing at this point, particularly while the various groups are still exploring the interactions in the GAC-ICANN system.

Promote stakeholder engagement and capacity building

Effective stakeholder representation entails effective participation across a full stakeholder types: government, civil society, corporate, academic etc and in a manner that involves stakeholders from across the world over the long-term. However, many processes are today still largely dominated by the original stakeholders and do not sufficiently reflect the diversity of Internet users.

¹³ Available online at <http://www.icann.org/en/news/announcements/announcement-07oct13-en.htm>

¹⁴ See e.g. the "Corell Report" to assist ICANN in deciding what status the corporation should aim for. Available at: <https://archive.icann.org/en/psc/corell-24aug06.html>

For this reason, we advocate for broader international participation and accountability which would strengthen the legitimacy of the existing processes and protect them against capture from any single Government or stakeholder group. The need to enable the participation of a changing stakeholder base will be ongoing and is a project towards which European policymakers should work over the long term. Given the broad nature of the Internet's impact this is likely to involve *at least* the input of DG CNECT, DG Trade, the European External Action Service and the European Parliament. This long-term process should be driven by the specific needs of all stakeholders, not just one (e.g. Governments).

In this context, the European Commission should consider utilising 'soft power' measures aimed at building the capacity of state and non-state actors to participate in multistakeholder processes. In particular, it should:

- further invest in their remote participation facilities and find ways to assist underrepresented communities with travel support; and,
- carry out capacity building programmes to enable state and non-state actors to engage effectively in Internet governance processes.

Such initiatives have the potential to provide for broader and more sustained engagement. As a reference, the Stockholm Internet Forum sought to bring together stakeholders from across the globe. This initiative provides a snapshot of the organisational and financial resources that might be needed.

Equally, failure to support broad engagement in multistakeholder processes would have the effect of creating an opportunity for others to do so. As an example of this the International Telecommunications Union has recently launched an online consultation entitled "ITU Crowdsourcing on the role of governments in the multistakeholder model of Internet Governance."¹⁵ Such initiatives clearly facilitate the engagement of stakeholders. We would support European Commission initiatives aimed creating appropriate forums and enabling participation.

One such idea may be the European Commission's idea of a "Global Internet Policy Observatory" (GIPO) to help strengthen existing Internet policy-making processes and make it easier for all stakeholders to participate. We look forward to further details on how this might operate and hope it will complement, not duplicate, a similar initiative by the Swiss Government entitled the "Geneva Internet Platform" (GIP).

Diversify Internet infrastructure

It is important to diversify the Internet's physical infrastructure to make it more resilient, faster, and to reach a greater number of users who are unable to access it today. However, this should be done through providing market incentives, ensuring competition in the broadband marketplace, and encouraging the building of Internet Exchange Points - particularly in the developing world. Governments should absolutely not try to accomplish this goal by trying to force information to be routed in certain ways or be stored in certain locations. Efforts to adopt local data hosting requirement, build secure 'national Interests' and similar initiatives go against the 'one Internet' principle that aims to link all of humanity and would lead to balkanization of the global Internet.

Promote OpenStand principles

OpenStand principles should apply to all standards processes integral to the evolution of the Internet.

¹⁵ See <http://ideas.itu.int/>

The OpenStand project is a group of disparate organizations that have come together to support the open, collective, and multistakeholder approach to online standards development. All of the major Internet standards bodies have signed on to the effort, including the IAB, the IETF, and the W3C. CCIA also publicly supports Open Stand. The five Open Stand principles codify a time-worn process that has served the growth of the Internet well since its inception. By emphasizing openness, accessibility, transparency, and broad consensus, the principles give a roadmap for multistakeholder engagement in the future growth and evolution of the Internet in the area of technical standards but also Internet governance more broadly. We encourage the European Union to support the efforts of the Open Stand coalition, and embrace that multistakeholder approach to all facets of Internet governance.

Protect the Internet through trade agreements

In addition to that, the European Union should recognize the fundamental economic importance of the Internet through its free trade initiatives. As a general purpose technology, the Internet is today the main driver of productivity gains across industries and has de facto become the world's trading platform, transforming consumption and production patterns at a global level.¹⁶ Modern trade agreements need to recognize the economic importance of the Internet, promote the openness and accessibility of the 'network as a trade platform' and protect it against discriminatory practices.¹⁷ In particular, the European Union should unilaterally recognise the globally accepted standards of key Internet standards institutions like the IETF and include them in their Technical-Barriers-to-Trade (TBT) Agreements. At the moment, these standards, despite being the foundation of the global Internet, are not recognised in international trade law because they do not formally adhere to the processes established by institutions like the International Standardisation Organisation (ISO). By including them in their trade agreements, Europe would strengthen these essential standards and help minimise the risk of a disintegrating global Internet.

Conclusion

What we know as the Internet today is the result of an unprecedented, large-scale collaboration between research institutions, Government agencies and the private sector that spans multiple decades and continents. As a result of this process, a group of technical institutions emerged, each responsible for a specific element of the network. This decentralised governance structure, in combination with its open, flexible architecture made the Internet a highly scalable, adaptive network and helped it become a driving force for social, economic and political transformation over the past twenty years.

While the current governance system has been very successful in keeping the Internet interoperable and secure during a time of explosive growth, it needs continued improvements to meet the requirements that come from being the world's most critical communications infrastructure. This includes a continued internationalisation of key institutions like ICANN to make them more broadly accountable. However, it is important that reforms do not go towards a more centralized, Government-controlled governance mode. The Internet was successful precisely *because* of its open and decentralised governance structure, not *in spite of it*.

¹⁶ See, for example, eBay's report of online marketplaces as export-enablers in developing countries. Available online at

<http://www.ebaymainstreet.com/news-events/commerce-30-development-promise-global-empowerment-network>

¹⁷ For more information on the concept of the 'network as a trade platform', please refer to the background document by the International Digital Economy Alliance (IDEA), available at:

<http://internet-economy.org/wp-content/uploads/2013/05/Networked-Economy-and-TISA-A41.pdf>

Instead, the existing mechanisms should be broadened to drive more diverse, more global engagement in Internet policy-making processes. Building on its extensive experience with new forms of democratic participation, the European Commission should play a leading role in this process and promote a truly universal, inclusive multistakeholder governance structure.

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