

**Contribution to the February - September 2021 Open Consultation of the ITU CWG-Internet**  
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## **Summary**

It is clear that, in the face of restrictions on movement and physical meetings imposed to combat the COVID-19 pandemic, ICTs in general, and the Internet in particular, have greatly facilitated the continuation of work in many areas, allowed teaching and learning to continue – albeit with shortcomings, and allowed people to communicate personally even when they could not meet physically. It is also clear that improvements are needed in the use of ICTs in general, and the Internet in particular.

Many countries have been hampered in their efforts to combat the pandemic by the use of social media to propagate incorrect information and conspiracy theories (so-called “fake news”). In our view, censorship is not a solution, the solution involves better, and greater, use by governments of modern media, which includes the Internet.

Further, the pandemic has highlighted the value of data and the importance of ensuring and equitable distribution of the value-added of data, including in particular medical data.

We offer the following proposals for ITU’s role in improving the role of ICTs in case of possible future pandemics:

- (a) IETF, ISOC, ITU, UNCITRAL, and UNCTAD should be mandated to study the issue of externalities arising from lack of security, which has technical, economic, and legal aspects. In particular, UNCITRAL should be mandated to develop a model law on the matter.
- (b) Countries should agree to negotiate new treaty provisions as suggested below.
- (c) ITU should collaborate with ILO and IBE (International Bureau of Education) to develop guidelines on teleworking and remote learning;
- (d) ITU-T should be mandated to develop a standard videoconferencing user interface;
- (e) ITU should collaborate with WHO and other relevant agencies to develop guidelines on the appropriate balancing of data privacy and use of ICTs – including in particular the Internet – for tracking, tracing, and other pandemic-reduction measures;
- (f) ITU should be mandated to discuss which aspects of the Internet should be operated as public infrastructures;
- (g) Our contribution to 2017 Open Consultation of CWG-Internet suggests actions by ITU to address the fact that the Internet has changed from a largely democratic network of autonomous nodes to a distributed feudal structure, which centralises flows of data into a few hands, thus resulting in digital colonialism;
- (h) ITU should consider adopting guidelines on the designation of important ICT platforms as public utilities, on platform interoperability, and on limitations to mass surveillance (whether government or private).

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(i) ITU and WHO should be mandated, in collaboration with other relevant agencies, to develop model strategies to orient data and AI systems to be pandemics-ready, and to develop model national policies regarding the use of data and AI to deal with pandemics.

The body of the contribution develops and justifies the above proposals. It also notes that the pandemic was facilitated, and its severity was initially exacerbated, by the extensive physical travel resulting from globalization. Globalization was largely facilitated by ICTs, including in particular the Internet, in order to increase efficiency. But efficiency does not equal effectiveness, much less resiliency. While the Internet itself proved to be resilient during the pandemic, the global supply chains built on the Internet turned out not to be resilient. There is a need to reduce the reliance on global supply chains in order to increase resilience; this might result in a reduction of international Internet traffic.

Finally, the contribution argues that it is imperative to stop any attempts to negotiate e-commerce agreements, which will create binding rules for the Internet, in the WTO and other trade negotiations, because those bodies are not multistakeholder and, more importantly, the proposed rules would have very negative effects for both developing countries and most citizens of developed countries, because they are intended to limit the ability of governments to take actions, whereas one of the lessons of the pandemic is that there is no substitute for government intervention at the national level in times of crisis, in particular because of externalities.

### **Contribution**

The topic for the February - September 2021 Open Consultation is:

*The role of the Internet and international Internet-related public policy in mitigating the impact of COVID-19 and possible future pandemics*

1. This is a timely and important topic, and we commend CWG-Internet for having agreed it. We offer, highlighted in **bold**, specific suggestions for ITU actions.
2. It is clear that, in the face of restrictions on movement and physical meetings imposed to combat the COVID-19 pandemic, ICTs in general, and the Internet in particular, have greatly facilitated the continuation of work in many areas<sup>2</sup>, allowed teaching and learning to continue – albeit with shortcomings, and allowed people to communicate personally even when they could not meet physically.
3. One of the clear shortcomings, in particular with respect to e-learning, is the digital divide: students who don't have good Internet access are disadvantaged. Thus the pandemic should act as an incitation to redouble efforts to combat the digital divide. In this respect, see our contribution to February-December 2020 open consultation, at:  
  
<http://www.apig.ch/CWG-Internet%202020.pdf>
4. It is also clear that many countries have been hampered in their efforts to combat the pandemic by the use of social media to propagate incorrect information and conspiracy theories (so-called “fake news”). In our view, censorship is not a solution, the solution involves better, and greater, use by governments of modern media, which includes the Internet. In this respect, it is recommended that all states study the very effective pandemic management (which included strong and consistent communications) undertaken in countries such as most African states, many Caribbean states,

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<sup>2</sup> It must be noted however that women and minorities have been disproportionately affected, see for example: <https://www.economista.com.mx/opinion/Mujeres-y-pandemia-20210224-0131.html>

Australia, Finland, Iceland, India, Indonesia, Japan, Korea, New Zealand, Norway, Pakistan, Philippines, Thailand, Singapore.

5. There has been a significant increase in cyberattacks during the pandemic<sup>3</sup>. Consequently, we reiterate our call for ITU to take measures, in accordance with its lead role as agreed in the WSIS outcomes, to ameliorate the situation, see points 4, 5, and 6 of our contribution to the March 2014 Open Consultation<sup>4</sup>. More specifically, for the reasons given in section 1.4 of our contribution to the October 2019-January 2020 Open Consultation<sup>5</sup>, it is time to recognize that market failures (externalities and information asymmetries) are such that adequate cybersecurity cannot be achieved by relying on market mechanisms.

**(a) In our view, IETF, ISOC, ITU, UNCITRAL, and UNCTAD should be mandated to study the issue of externalities arising from lack of security, which has technical, economic, and legal aspects. In particular, UNCITRAL should be mandated to develop a model law on the matter.**

6. Further, there seems to be consensus amongst developed countries that treaty-level provisions regarding spam and cybersecurity should be agreed, since those countries have proposed such provisions in trade negotiations, including in the World Trade organization.

**(b) In our view, countries should agree to negotiate new treaty provisions as suggested here:**

<https://itforchange.net/digital-new-deal/2020/10/30/a-new-convention-for-data-and-cyberspace/>

7. While teleworking, and remote learning, have proven to be useful (indeed, essential), they have increased stress in many cases: a family with children living in an apartment may find it difficult to share a single computer, or a limited physical space, when everybody has to e-something (e.g. work, learn, shop).

**(c) In our view, ITU should collaborate with ILO and IBE (International Bureau of Education) to develop guidelines on teleworking and remote learning.**

8. Videoconferencing systems have proven their worth, as well as their limitations (e.g. fatigue induced by low quality voice and video, impossibility of informal 1-1 discussions during coffee breaks, impossibility of building of trust through shared meals).
9. The plethora of videoconferencing systems has posed a real problem for people who are technically inept, because it is difficult for them to install and to learn how to use systems which use different interfaces, and commands, to do the same thing. Would anybody accept having to install three or more different dialing methods in order to make telephone calls? Obviously not. So why do we consider it acceptable that people have to install three or more different videoconferencing methods?

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<sup>3</sup> See for example:

<https://www.interpol.int/en/News-and-Events/News/2020/INTERPOL-report-shows-alarming-rate-of-cyberattacks-during-COVID-19>  
<https://www.prnewswire.com/news-releases/top-cyber-security-experts-report-4-000-cyber-attacks-a-day-since-covid-19-pandemic-301110157.html>

<sup>4</sup> <http://www.apig.ch/CWG-March.doc>

<sup>5</sup> <http://www.apig.ch/CWG-Internet%202019.pdf>

**(d) In our view, ITU-T should be mandated to develop a standard videoconferencing user interface.**

10. More fundamentally, we have seen that the pandemic was facilitated, and its severity was initially exacerbated, by the extensive physical travel resulting from globalization. Initial efforts to combat the pandemic were hampered when travel restrictions, and national priorities, disrupted global supply chains.
11. The existence of global supply chains was largely facilitated by ICTs, including in particular the Internet, because that is what made them so efficient. But efficiency does not equal effectiveness, much less resiliency.<sup>6</sup>
12. While the Internet itself proved to be resilient during the pandemic, the global supply chains built on the Internet turned out not to be resilient. There is a need to reduce the reliance on global supply chains in order to increase resilience<sup>7</sup>; as a recent UNCTAD report<sup>8</sup> puts the matter: “[The pandemic] has also shown that sustainable development—promoting inclusive and equitable growth, reducing inequality and enhancing environmental sustainability—can provide safeguards and resilience against future crisis. There is clearly no sustainable development without resilience and there is no resilience without sustainable development.” See also pp. xiii and 57 of the cited report. Reducing reliance on global supply chains might result in a reduction of international Internet traffic. An excellent discussion of these issues, and how they have been highlighted by the pandemic, can be found here:

<https://owncloud.rio20.net/index.php/s/PSwceYLwHo8fo8N>

13. Many countries have used ICTs to implement measures to combat the pandemic, for example:
  - a) web sites to schedule vaccinations, announce permitted travel, or announce arrivals from infected areas
  - b) SMSs to notify test results
  - c) Smartphone apps to track movements so as to facilitate tracing
  - d) Smartphone apps to certify health status, allowing movement and entry into stores
14. Such use of ICTs, including in particular the Internet, have led to concerns regarding data privacy. Indeed, given that life and health are priorities for many people, they might be willing to accept reduced privacy in exchange for a reduced risk of infection. Given that data privacy is widely recognized as a human right, and that restrictions or limitations of human rights must be based on law and be limited to what is necessary and proportionate, there is a need to develop agreed international guidelines regarding the use of ICTs and the Internet in the areas outlined above.

**(e) In our view, ITU should collaborate with WHO and other relevant agencies to develop guidelines on the appropriate balancing of data privacy and use of ICTs, including in particular the Internet for tracking, tracing, and other pandemic-reduction measures. In this respect, see:**

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<sup>6</sup> And it may undermine democracy itself, see:

<https://www.other-news.info/2021/01/the-insurrection-at-the-u-s-capitol-is-a-sign-of-a-much-deeper-problem-than-donald-j-trump/>

<sup>7</sup> Indeed, this is a goal of a recent Executive Order by the President of the USA, see:

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/>

<sup>8</sup> <https://www.un.org/development/desa/dpad/publication/world-economic-situation-and-prospects-2021/>; the citation is from the Executive Summary, p. iv.

<https://www.sef-bonn.org/en/publications/global-trends-analysis/032020/>

15. Furthermore, the pandemic has highlighted the value of data and the importance of ensuring an equitable distribution of the value-added of data. See in this respect the considerations in the Annex to this contribution.

There is increasing awareness of the need to regulate the use of medical data. As an author, writing from a tech perspective, states, there is a need for more robust global regulation. COVID-19, he suggests, offers an opportunity to build and strengthen a global rights-based, equitable, inclusive governance structure, such as an international health data regulation, that is designed with geographical and sectoral representation and that promotes responsible and appropriate digital health surveillance during and beyond emergencies. See:

<https://www.hhrjournal.org/2020/12/viewpoint-the-human-rights-challenges-of-digital-covid-19-surveillance/>

The cited paper is part of the collection at:

<https://www.hhrjournal.org/volume-22-issue-2-december-2020/#SpecialSection>

A summary of the collection is at:

<https://www.hhrjournal.org/2020/12/editorial-enter-the-cyborgs-health-and-human-rights-in-the-digital-age/>

16. More generally, the pandemic has put the spotlight on the importance of the Internet as a public infrastructure, and on the dominant role of a few large companies, which had already been identified as an issue before the pandemic, see for example:

<http://www.boundary2.org/2018/10/richard-hill-too-big-to-be-review-of-wu-the-curse-of-bigness-antitrust-in-the-new-gilded-age/>

The profits of those companies have greatly increased as a result of the movement to virtual meetings and e-shopping<sup>9</sup>. And indeed the European Union has urged the US to draft a joint rule book to reign in dominant companies, see:

<https://apnews.com/article/eu-us-rule-book-tech-e59085f31f7c4848ec8dfd5e7c1ff013>

The need for such rules is underscored by reports that some dominant platforms might abuse their market power, see for example:

[https://www.reuters.com/investigates/special-report/amazon-india-operation/?utm\\_source=twitter&utm\\_medium=Social](https://www.reuters.com/investigates/special-report/amazon-india-operation/?utm_source=twitter&utm_medium=Social)

It has been reported that an early motto of one of these large companies was “companies over

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<sup>9</sup> See for example: <https://www.brookings.edu/blog/the-avenue/2020/12/22/amazon-and-walmart-have-raked-in-billions-in-additional-profits-during-the-pandemic-and-shared-almost-none-of-it-with-their-workers/>

countries”, see:

<https://www.vox.com/first-person/2018/4/11/17221344/mark-zuckerberg-facebook-cambridge-analytica>

**(f) In our view, the time has come to mandate ITU to discuss which aspects of the Internet should be operated as public infrastructures. In this respect, see:**

<http://www.apig.ch/Gaps%20r9%20clean.pdf>

17. The pandemic has also put the spotlight on how the architecture of the Internet has changed from a largely democratic network of autonomous nodes to a distributed feudal structure, which centralises flows of data into a few hands, thus resulting in digital colonialism, see:

<https://autonomy.work/wp-content/uploads/2020/09/Avila.pdf>

<http://www.apig.ch/CWG-Internet%202017.pdf>

**(g) Our previous contribution to CWG-Internet, cited above, suggests specific actions by ITU to ameliorate this situation.**

See also:

<https://www.medianama.com/2020/05/223-open-internet-governance-6f-framework/>

18. However, it is imperative to go further than what is suggested above, and to establish an entirely different paradigm and funding model for the Internet.

The essay cited below focuses on the political context in which the consolidation of the dominant digital paradigm takes place. It is structured into three parts: it first describes the role of technology companies in restructuring the global economy and creating the economic and social vulnerabilities that have been exposed by the current global health crisis. It then identifies some trends that are likely to be exacerbated by the pandemic, specifically the growing public reliance on tech firms for basic services, the influence of tech firms on public debates, and the attempts by tech firms to capture civil society organizations and social movements through their philanthrocapitalism. Finally, it sketches a policy framework to help address these dangers and to avoid a corporate hijack of the post-Covid 19 future, arguing that state regulatory and fiscal capacities must be strengthened and that independent research must be funded by the tax revenues extracted from tech giants. Civil society organizations could contribute by forming transnational alliances to keep tech giants in check and help engage citizens in public debate. See:

<https://itforchange.net/digital-new-deal/2020/10/29/a-digital-new-deal-against-corporate-hijack-of-the-post-covid-19-future/>

The proposed actions include strengthening the regulatory capacity of the state, and taxing Big Tech to fund public research. Additional considerations can be found here:

<https://itforchange.net/digital-new-deal/>

Another essay, cited below, highlights actions that can be taken by governments, civil society organizations, and individuals, including reviving anti-trust laws, extending producer responsibility, taxing transnational corporations, see:

<https://techotherwise.pubpub.org/defund-big-tech>

**(h) In line with those recommendations, ITU should consider adopting guidelines on the designation of important ICT platforms as public utilities, on platform interoperability, and on limitations to mass surveillance (whether government or private<sup>10</sup>)**

19. Finally, it is imperative to stop any attempts to negotiate e-commerce agreements, which will create binding rules for the Internet, in the WTO and other trade negotiations, because those bodies are not multistakeholder and, more importantly, the proposed rules would have very negative effects for both developing countries and most citizens of developed countries, see:

[https://www.researchgate.net/publication/349313071\\_FEBRUARY2021JointStatementInitiativeonE-CommerceJSIEconomicandFiscalImplicationsfortheSouth](https://www.researchgate.net/publication/349313071_FEBRUARY2021JointStatementInitiativeonE-CommerceJSIEconomicandFiscalImplicationsfortheSouth)

20. The proposals currently being discussed are intended to limit the ability of governments to take actions. Yet one of the lessons of the pandemic is that there is no substitute for good old fashioned top-down decision-making in times of crisis. Essentially all of the world's governments have acted, using emergency powers, to impose measures to combat the pandemic – and we can be thankful for that, otherwise the consequences of the pandemic would have been even worse.
21. One reason for the need for government intervention is the prevalence of externalities: I may not wish to wear a mask or to reduce my travel because I consider that my risk of becoming severely ill from COVID is small. But I might be a carrier, and thus I might infect others. Further, even if I don't risk a fatal outcome, I might get sick enough to require hospitalization, and that will use scarce resources and make them unavailable for others, including for people who are not infected by COVID.

So the aggregate of individual risk calculations greatly underestimates the overall risk. That's why mask mandates and mandatory travel restrictions make sense. And why it may be necessary to impose measures at the national level.

22. Thus current proposals being discussed in WTO would worsen, not improve, responses to future pandemics, because they would limit the ability to impose national measures.
23. In this context, it is important to recognize that the next pandemic is likely to hit a world whose health systems would be data and AI driven<sup>11</sup>. Two imperatives arise in this regard.

First, at present data and AI systems in health are almost entirely driven by private corporations, with an obvious focus on 'here and now' and on health issues that can be remunerative to address. There is not much work from a holistic public health point of view. Pandemics are uncertain and

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<sup>10</sup> See for example <https://www.theguardian.com/books/2019/oct/04/shoshana-zuboff-surveillance-capitalism-assault-human-autonomy-digital-privacy>

<sup>11</sup> The importance of data, and of AI, is well explained in Chapter 7 of Michael Kende, *The Flip Side of Free: Understanding the Economics of the Internet* (2020), available at: <https://mitpress.mit.edu/books/flip-side-free>

unexpected occurrences, thus the revenue models for dealing with them are unclear. There is a need to put in place public strategies to orient data and AI systems to be pandemics-ready, which requires long term public investments with uncertain returns.

Second, as COVID showed, in an emergency, it may be important rapidly to impose controls and measures at the national level. At present, data and AI based health systems are however globally configured, and these may cause problems in case of national level ownership and responses in times of future pandemics. Appropriate localisation of controls of data and AI based health systems is therefore needed. This requires a different kind of data and AI value changes than is currently the dominant model.

**(i) In our view, ITU and WHO should be mandated, in collaboration with other relevant agencies, to develop model strategies to orient data and AI systems to be pandemics-ready, and to develop model national policies regarding the use of data and AI to deal with pandemics.**

## Annex

to Contribution to the February – September 2021 Open Consultation of the ITU CWG-Internet

It is widely recognised that digitalisation is one of the key global issues. However, the manner in which it is so recognised is in our view often deficient vis a vis showing the way developing countries need to negotiate a digital economy. The key challenge is often stated to be ‘the breathtaking speed of digital transformation’, and the ‘digital divide’ that it entails.

This makes it appear as if there is one natural model of digital transformation – presumably the dominant one as it exists, and the issue is just about everyone getting subsumed in it. The key problem as stated being of a ‘digital divide’ reinforces this notion, apart from further suggesting that the main problem is about access to digital technologies. (Access to technologies is of course important, but at least as important is for a country to have and control digital businesses, especially digital platforms.)

The direction that developing countries get from such formulations is that they should try to further submerge in the dominant global digital economy model, and ensure that its people, businesses, etc. have the required digital technologies to do so.

However, the problem is that the current global digital economy model is based on free extraction of data from all countries and its transfer to one or two global centres, where such data is converted into digital intelligence. Such intelligence is in turn employed to increasingly control all sectors of the data-originating country as they digitalise. (Even if data may be turned into digital intelligence within a country, the whole process is managed and controlled from these one or two global centres, that own almost all key digital platforms globally.<sup>12</sup>) This has meant that whoever controls data and digital intelligence of a sector comes to be on the top of the respective value chain, increasingly displacing IP owning firm that have hitherto occupied this place. Seven out of top eight companies globally by market capitalisation today are digital, with, more or less, such a data and digital intelligence based business model.<sup>13</sup>

Although structural transformation in relation to digitalisation is sometimes mentioned, it is such particular kind of new economic structures, the nature of current transformations, and the desired possibilities most suited to economic growth and independence of developing countries that must be described. The industrial economy model of focus on owning or controlling (through IP) industrial production is superseded not just by a greater focus on services but a new form of control over all economic activity – whether services like transportation and health or manufacturing – through controlling the digital intelligence that increasingly drives economic activity. This is the real meaning of economic digitalisation, or digital economy.

The new extractive cycle is extraction of data, for free, from developing countries, its conversion into digital intelligence in, or under the control of, one or two global digital superpowers, and then providing digitally intelligent services back to those whose data is extracted, with a unsustainably huge monopolistic profit cut. Data extraction and digital service provision become two elements of the same process over digital platforms. The whole cycle of economic activity – manufacturing, trading, logistics, other services, etc. – may remain within the country and only digital intelligence control exercised from outside.

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12 UNCTAD’s Digital Economy Report, 2019, notes how 90 percent of capitalisation of world’s top 70 platforms is with two countries, the US and China, see:

<https://unctad.org/news/global-efforts-needed-spread-digital-economy-benefits-un-report-says>

13 [https://en.wikipedia.org/wiki/List\\_of\\_public\\_corporations\\_by\\_market\\_capitalization#2020](https://en.wikipedia.org/wiki/List_of_public_corporations_by_market_capitalization#2020) Accessed January, 2020.

In all this, access to technology matters but the real issue is of control of digital businesses, especially digital platforms. A country can have good access to and expertise in digital technologies, like the EU has, and to some extent some developing countries like India have, but still not own and control digital platforms, and thus data and digital intelligence. An over-emphasis on digital technologies alone at the expense of these latter factors is misleading.

It is within such digital structural transformation that developing countries need to be placed, explaining how they can undertake digital industrialisation, whereby at least a considerable part of data and digital intelligence pertaining to economic (and other) activities within their borders is owned and controlled by them. This will allow them to internalise the fruits of digitalisation in the best possible way. This means policies for data ownership and control, platform regulation, digital infrastructure development, and so on. This also calls for various kinds of regional and global cooperation. Goods and services must also flow internationally, now more efficiently so through digitalisation. However, this can and should be achieved by the greatest possible domestic anchoring and control of the processes of digitalisation, and benefits and profits therefrom. This bespeaks a new, more distributed, model of global digital economy – with extensive mutually-beneficial interconnections. This against what we are fast headed towards – a highly concentrated model of global digital economy that is simply not sustainable, economically, politically, socially and culturally.

Digital technologies should indeed flow freely globally, and all countries get full access to them, apart from domestic development of these technologies. This is quite different from free global flows of, and foreign controls over, a country's data and digital intelligence. This key distinction – between technology flows on one hand and data and digital intelligence flows on the other – needs to be clearly understood and worked upon. Global flows of technologies with domestic control of data and digital intelligence is the appropriate foundational model for equitable digital industrialisation of all. Over it should be built, in a mutually-beneficial manner, global trade of digital services, and trans-national digital business models.

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