Contribution to the February - September 2024 Open Consultation of the ITU CWG-Internet

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Summary

All the topics of the present open consultation have been covered in detail in our contributions to previous open consultations, starting in 2013, that is, for the past ten years.

Unfortunately, the substance of our previous contributions, as well as other contributions to open consultations, have not been explicitly discussed or considered by the CWG-Internet itself.

It is to be hoped that, this year, CWG-Internet will consider, and discuss, the substance of this contribution, which can be summarized as follows:

- The benefits of the increasing use of ICTS, including the Internet, have not been distributed evenly around the world: developed countries have benefited relatively more, as have some of their major private companies. Key questions for governments include how to facilitate access for persons with disabilities; how to assign ownership and control over data; how to build consumer trust and protect data privacy; how to regulate cross-border data flows; how to build the appropriate capabilities for harnessing digital data for development; how to reduce the cost of connectivity. In particular, there must be appropriate policy frameworks (in particular anti-trust laws) that address the growing tendency towards centralization and concentration of key Internet services.
- The key developmental aspects of the Internet are to reduce the cost of connectivity in developing countries and to maintain trust and security. Reducing the cost of connectivity can be achieved by fostering competition (which may include functional separation), funding infrastructure, taking steps to reduce the cost of international connectivity, supporting the development of local content, capacity building, and a proper governance system. Maintaining trust and security can be achieved by protecting human rights, protecting data privacy, combating spam, protecting consumers, enabling pervasive strong encryption, and curtailing unnecessary and disproportionate mass surveillance.
- States can contribute toward building an enabling environment for access to the Internet by implementing the provisions of ITU instruments such as Recommendations D.50, D.156, and the 2012 International Telecommunication Regulations (ITRs), and by appropriately funding infrastructure. The cost of international Internet connectivity can be reduced by implementing ITU-T Recommendations (in particular D.50 and its supplements). The environmental impacts of ICTs, including the Internet and spam, are serious and can be mitigated by implementing ITU-T Recommendations and contributing to ITU initiatives in this area. Spam can be countered by implementing the provisions of relevant ITU-T Recommendations, WTSA Resolutions, and the 2012 ITRs.
- It must be recalled that policy authority for Internet-related public policy issues is the sovereign right of states; they have rights and responsibilities for international Internet-related public policy issues. Multistakeholder approaches work well when the stakeholders desire a shared, negotiated agreement. In other words, if all stakeholders share common goals, and hence there is a win-win situation. They do not work well when the interests of the stakeholders diverge.

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- Multistakeholder models do not necessarily result in faster decision making. For example, it took over seven years for ICANN's process to reach agreement on naming members of a standing panel of arbitrators, whereas arbitration centers (including the one operated by WIPO, an intergovernmental organization) typically establish lists of arbitrators within less than a year, and can establish panels from such lists within weeks.

Contribution

The topic for the February - September 2024 Open Consultation is:

The developmental aspects to strengthen the Internet

1. How relevant multilateral and multi-stakeholder processes, including but not limited to UN-based processes such as Summit of the Future, WSIS+20 and the IGF, could address aspects related to Internet development?

2. What are the challenges and opportunities, good practices and favourable policy environments to strengthen the Internet, including in areas such as:

- *fostering meaningful connectivity*
- *equitable access for all*
- *promoting a secure and resilient Internet*
- *achieving universal access*
- *the deployment of IPv6*
- *using satellite communication to reach remote and underserved remote areas*
- *ensuring services are affordable for people*
- *promoting digital inclusion and skills*
- *fostering multi-stakeholder participation and*
- *encouraging public and private sector investment in Internet infrastructure.*

3. How can we promote international multistakeholder cooperation on public policy issues that are focused on promoting the development aspects of the Internet?

1. The first question, and the development aspects of the third question, have been extensively covered in the following contributions to previous open consultations:

   Developmental aspects of the Internet
   https://www.itu.int/en/council/cwg-internet/Pages/display-feb2013.aspx?ListItemID=60

   Facilitating access to ICTs, and the Internet, by people with disabilities:
   https://www.itu.int/en/council/cwg-internet/Pages/display-oct2015.aspx?ListItemID=15

   Developmental aspects of the Internet:
   https://www.itu.int/en/council/cwg-internet/Pages/display-oct2016.aspx?ListItemID=24

   There should be an international legal framework for many aspects of ICTs and the Internet, including in particular OTTs:
   https://www.itu.int/en/council/cwg-internet/Pages/display-June2017.aspx?ListItemID=4

   Imposing free flow of data may violate fundamental human rights:
   https://www.itu.int/en/council/cwg-internet/Pages/display-June2017.aspx?ListItemID=5

   CWG-Internet should discuss the substance of the contributions submitted to open consultations:
   https://www.itu.int/en/council/cwg-internet/Pages/display-oct2017.aspx?ListItemID=5

Facilitating Internet access and digital literacy of women and girls, in particular by to reducing the cost of connectivity in developing countries:
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2017.aspx?ListItemID=7

Feminist statement:
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2017.aspx?ListItemID=20

Harnessing new and emerging telecommunications/ICT for sustainable development
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2019.aspx?ListItemID=10

Key questions for governments include how to assign ownership and control over data; how to build consumer trust and protect data privacy; how to regulate cross-border data flows; and how to build the appropriate capabilities for harnessing digital data for development:
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2019.aspx?ListItemID=11

The impacts of digitalisation on the Global South:
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2019.aspx?ListItemID=13

Appropriate policy frameworks and the role of technology companies:
https://www.itu.int/en/council/cwg-internet/Pages/display-sep2020.aspx?ListItemID=17

2. In essence, the benefits of the increasing use of ICTS, including the Internet, have not been distributed evenly around the world: developed countries have benefited relatively more, as have some of their major private companies. Key questions for governments include how to facilitate access for persons with disabilities; how to assign ownership and control over data; how to build consumer trust and protect data privacy; how to regulate cross-border data flows; how to build the appropriate capabilities for harnessing digital data for development; how to reduce the cost of connectivity. In particular, there must be appropriate policy frameworks (in particular anti-trust laws) that address the growing tendency towards centralization and concentration of key Internet services.

   The key developmental aspects of the Internet are to reduce the cost of connectivity in developing countries and to maintain trust and security. Reducing the cost of connectivity can be achieved by fostering competition (which may include functional separation), funding infrastructure, taking steps to reduce the cost of international connectivity, supporting the development of local content, capacity building, and a proper governance system. Maintaining trust and security can be achieved by protecting human rights, protecting data privacy, combating spam, protecting consumers, enabling pervasive strong encryption, and curtailing unnecessary and disproportionate mass surveillance.

3. The second question has been extensively covered in the following contributions to previous open consultations:

   Countering spam:
   https://www.itu.int/en/council/cwg-internet/Pages/display-feb2013.aspx?ListItemID=53

   Transition to IPv6:
   https://www.itu.int/en/council/cwg-internet/Pages/display-feb2013.aspx?ListItemID=59

   Reducing the cost of International internet connectivity:
   https://www.itu.int/en/council/cwg-internet/Pages/display-june2015.aspx?ListItemID=11

   Building an enabling environment for access to the Internet:
   https://www.itu.int/en/council/cwg-internet/Pages/display-feb2016.aspx?ListItemID=13

How to ensure that ICTs, and the Internet, contribute to creating a better and more equitable world for all:
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2016.aspx?ListItemID=23

Expanding Internet connectivity:
https://www.itu.int/en/council/cwg-internet/Pages/display-sep2020.aspx?ListItemID=15

Funding the rollout of national infrastructure and the cost of international connectivity to expand Internet connectivity:
https://www.itu.int/en/council/cwg-internet/Pages/display-sep2020.aspx?ListItemID=16

Environmental impacts of ICTs, including the Internet:
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2021.aspx?ListItemID=6

Reducing the environmental impact of spam:
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2021.aspx?ListItemID=8

Environmental life cycle approach regarding digital technologies
https://www.itu.int/en/council/cwg-internet/Pages/display-oct2021.aspx?ListItemID=14

4. In essence, States can contribute toward building an enabling environment for access to the Internet by implementing the provisions of ITU instruments such as Recommendations D.50, D.156, and the 2012 International Telecommunication Regulations (ITRs), and by appropriately funding infrastructure. The cost of international Internet connectivity can be reduced by implementing ITU-T Recommendations (in particular D.50 and its supplements). The environmental impacts of ICTs, including the Internet and spam, are serious and can be mitigated by implementing ITU-T Recommendations and contributing to ITU initiatives in this area. Spam can be countered by implementing the provisions of relevant ITU-T Recommendations, WTSA Resolutions, and the 2012 ITRs.

5. The multistakeholder aspects of the third question have been extensively covered in the following contribution to previous open consultations:

   Respective roles and responsibilities of stakeholders:
   https://www.itu.int/en/council/cwg-internet/Pages/display-mar2014.aspx?ListItemID=25

   Comments on the outcome of the NetMundial meeting:
   https://www.itu.int/en/council/cwg-internet/Pages/display-mar2014.aspx?ListItemID=54

   Limitations of the multistakeholder model:
   https://www.itu.int/en/council/cwg-internet/Pages/display-June2017.aspx?ListItemID=63

6. In essence, it must be recalled that policy authority for Internet-related public policy issues is the sovereign right of states; they have rights and responsibilities for international Internet-related public policy issues.

   Multistakeholder approaches work well when the stakeholders desire a shared, negotiated agreement. In other words, if all stakeholders share common goals, and hence there is a win-win situation. They do not work well when the interests of the stakeholders diverge.

7. Further, it must be noted that multistakeholder models do not necessarily result in faster decision making. For example:

   a) In October 2016, as part of the IANA Transition process[2], the bylaws of the Internet Corporation for Assigned Names and Numbers (ICANN) were modified to create a new Independent Review Process (IRP) that involved creating a Standing Panel of arbitrators.

   b) On 29 March 2017, ICANN staff posted a first draft of the call for expressions of interest for members of the Standing Panel.

   c) A webinar on the topic was held on 17 January 2018, and the presentations were posted on the ICANN web site. According to the timeline that was presented at the webinar, the call for expressions of interest for members of the Standing Panel was almost ready to go.

   d) After that, additional consultations were held with the constituencies. In particular in March 2018 at ICANN 61 in; and in June 2018 at ICANN 62 in Panama City.

   e) The Chair of the ICANN Board stated in his blog of 11 October 2018 on FY19 Board Activities & Priorities, under "Block 4", under "IRP": "The Board ... will work to meet all of the Board's bylaws obligations in appointing standing panelists to hear IRPs."

   f) However, it was not until 31 March 2020 that ICANN published a call for Expressions of Interest to become a member of the Standing Panel for the IRP.

   g) And it was not until March 2023 that the list of nominations of members of the Standing Panel was sent to the ICANN Board by the Community Representatives Group (CRG) of seven ICANN community members comprised to nominate a slate of Standing Panelists for approval by the ICANN Board.

   h) And it was not until 21 January 2024 that the ICANN Board took action on that proposal from the CRG and initiated the process of naming the members of the Standing Panel.

8. Thus it took over seven years for a multistakeholder process to reach agreement on naming members of a standing panel of arbitrators, whereas arbitration centers (including the one operated by WIPO, an intergovernmental organization) typically establish lists of arbitrators within less than a year, and can establish panels from such lists within weeks.

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[2] For discussion on whether that process was a good example of a multistakeholder process, see: http://www.apig.ch/Chatam%20IG%20formatted%20final.pdf