



The Committee on Energy and Commerce

MEMORANDUM

May 29, 2012

To: Members and Staff, Subcommittee on Communications and Technology

From: Majority Committee Staff

Re: Hearing on International Proposals to Regulate the Internet

The Subcommittee will hold a hearing Thursday, May 31, 2012, at 10:15 a.m. in 2123 Rayburn House Office Building on “International Proposals to Regulate the Internet.” There will be two panels of witnesses who will testify.

I. Witnesses

Panel I

Ambassador Philip Verveer
Deputy Assistant Secretary of State and
U.S. Coordinator for International Communications and Information Policy

Commissioner Robert McDowell
Federal Communications Commission

Panel II

Ambassador David A. Gross
Former U.S. Coordinator for International Communications and Information Policy
U.S. Department of State
On Behalf of the World Conference on International Telecommunications Ad Hoc Working
Group

Ms. Sally Shipman Wentworth
Senior Manager, Public Policy
Internet Society

Mr. Vinton Cerf
Vice President and Chief Internet Evangelist
Google

Pending international proposals to regulate the Internet could jeopardize not only its vibrancy, but also the economic and social benefits it brings to the world. Nations from across the globe will consider changes to the International Telecommunications Regulations at the December 2012 World Conference on International Telecommunications (WCIT) in Dubai. These regulations, adopted by treaty, govern the international operation of traditional telephone service. Some countries, however, are proposing to expand them and the jurisdiction of the United Nations International Telecommunications Union to apply to the Internet.

The Internet has been successful because it has been managed under a multi-stakeholder model in which a number of non-governmental institutions oversee critical parts of its architecture with input from private- and public-sector participants. This bottom-up, decentralized structure mirrors the decentralized nature of the networks that make up the Internet itself. It maximizes flexibility and innovation, helping to prevent any one governmental or non-governmental actor from exerting control over either the design of the Internet or the content it carries. That is why the Internet has been able to evolve and grow so quickly, both as a technological platform and as a means of expanding the free flow of commerce and ideas. Deviation from that multi-stakeholder model weakens the Internet, harming its ability to spread both prosperity and freedom. Consequently, there is bipartisan agreement that the United States should stand firm in international negotiations and oppose any treaty provisions at the WCIT that expands the jurisdiction of the ITU to cover the Internet.

II. **Background**

The Origins of the Internet and Internet Governance

The Internet finds its roots in ARPANET, launched in 1969 by the Defense Advanced Research Projects Agency to connect universities and research laboratories working on Department of Defense projects. Over the next two decades, ARPANET transitioned from a government network to include civilian users under the auspices of the National Science Foundation's NSFNET. As the NSFNET grew and standards evolved to connect computer networks, a larger "network of networks" emerged. Then, in 1992, the Scientific and Advanced-Technology Act allowed the NSFNET to interconnect with other non-governmental networks and opened the door to commercial participation. It was at this point that the network began to grow exponentially and the modern Internet was born.

When network use was limited to U.S. government purposes, the Department of Defense managed the network. By the 1990s, however, most of the growth was coming from non-military users, and the National Science Foundation (NSF) created the Internet Network Information Center (InterNIC) to manage both numeric addressing on the networks as well as the databases of sites. As the number of commercial users grew, Internet addressing and domain name management became exceedingly complex. By 1998 these functions were moved completely out of the U.S. government and control of the functions served by InterNIC were transferred to the Internet Corporation for Assigned Names and Numbers (ICANN), a California non-profit corporation contracted by the Department of Commerce to manage a number of Internet-related tasks.

A series of ad hoc groups form the engineering corps of the Internet. The Internet Engineering Task Force, the Internet Architecture Board, the Internet Engineering Steering Group, and the Internet Research Task Force, now collectively organized under the international non-profit Internet Society, are run by volunteers and all work to create voluntary standards for Internet users to make interconnection of all networks easier.

ICANN, as well as the groups that oversee the creation of voluntary Internet standards under the auspices of the Internet Society, receive input from governments, Internet users, corporations investing in the Internet, academics, and engineers that develop the technology that makes the Internet possible. The flexibility of this governance structure, referred to as the “multi-stakeholder model,” is what has enabled the explosive growth of the Internet as a driver of jobs, commerce, social discourse, and innovation.

History of the International Telecommunications Regulations

International telecommunications service is governed pursuant to regulations adopted through treaty by the 193 nation members of the International Telecommunications Union (ITU), the United Nations specialized agency for information and communications technologies. The ITU was originally chartered in 1865 to organize the international regulation of telegraph service.

The ITU convened the World Administrative Telegraph and Telephone Conference in 1988 to consider a “new” regulatory framework for the international regulation of telecommunications. Among the resulting International Telecommunications Regulations were revisions to the way telecommunications providers pay each other for completing international phone calls, often referred to as “settlement rates.” The U.S. Senate ratified the International Telecommunications Regulations in 1992. These regulations specifically addressed voice telephony, not data processing capabilities, and resulted in large payments from U.S. communications companies to telephone companies in foreign, mostly developing, countries.

Current Proposals to Regulate the Internet

The ITU will consider changes to the International Telecommunications Regulations at the December 2012 World Conference on International Telecommunications in Dubai. Proposals by Russia and China to establish an “information security” regime are of particular concern. They: 1) appear to enshrine an international cybersecurity regime; 2) could serve as a justification for countries to engage in Internet censorship in the name of national security; and 3) seek to authorize regulation of the Internet by an international governmental body within the ITU, replacing the multi-stakeholder model that has served the Internet and the world so well.

Proposals by a number of countries to regulate rates for the international exchange of Internet traffic is also of concern. The settlement regime for telecommunications traffic was developed for old technology in a less competitive environment, and even then resulted in high rates. It is ill suited to the dynamic and diverse technology and more competitive environment of

the Internet, especially since the Internet does not adhere to political boundaries. Application of a settlement regime to the dynamic, information-driven Internet would be inappropriate. A top-down regulatory regime for the Internet would quickly become untenable.

Action by the Administration

In advance of the WCIT, the U.S. Department of State will organize a delegation of government representatives, private-sector partners, and other interested parties. A presidentially named head of delegation and Ambassador Philip Verveer, the United States Coordinator for International Communications and Information Policy, will negotiate bilaterally with other nations in the lead-up to the WCIT and will represent the United States in Dubai. The President is expected to name the head of delegation in June 2012.

Ambassador Verveer, Assistant Secretary of Commerce Lawrence Strickling, and White House Deputy Chief Technology Officer Daniel Weitzner explained recently what is at stake on the White House Office of Science and Technology blog:

Governmental proposals to replace the Internet's decentralized and open system must be resisted. Centralized control over the Internet through a top-down government approach would put political dealmakers, rather than innovators and experts, in charge of the future of the Internet. This would slow the pace of innovation, hamper global economic development, and lead to an era of unprecedented control over what people can say and do online. Centralized control would threaten the ability of the world's citizens to freely connect and express themselves by placing decision-making power in the hands of global leaders who have demonstrated a clear lack of respect for the right of free speech.

If you need more information, please call David Redl or Neil Fried at (202) 225-2927.