

**TESTIMONY OF AMB. DAVID A. GROSS
BEFORE THE U.S. HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
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SUMMARY

In the United States, there has long been a bipartisan consensus supporting decentralized, multi-stakeholder mechanisms associated with Internet governance. This approach has been essential to the extraordinary success of the Internet as well as to counter the many international attempts during the past decade or so for centralized government-imposed “top down” control over the Internet. In light of current efforts to impose regulations on the Internet by expanding the influence of intergovernmental institutions, including the International Telecommunication Union (ITU), over the Internet, it is more important than ever that Congress and the Administration present a clear and unified position opposing such attempts to restrict the Internet.

The open and decentralized structures of the Internet have helped to promote remarkable – in fact historic – economic, social, and political development. Adoption of top-down government-imposed restrictions without adequate consultation with all stakeholders risks forfeiting these gains, slowing the pace of critically important innovation and creativity, and stifling the free flow of information.

Similar efforts to expand intergovernmental control over the Internet have been made in the past. In those instances, the decentralized, multi-stakeholder model was preserved through the bipartisan and cooperative efforts of the United States government, other similarly-minded governments, industry, the technical community, and civil society.

A similar strategy can and must succeed again. Protecting the multi-stakeholder model and avoiding top-down governmental control of the Internet, while preserving the substantial benefits that the Internet generates, requires continued, strong bipartisan consensus within the United States government. Only a unified message domestically sends a clear signal abroad about the importance of a decentralized global Internet governance framework.

TESTIMONY OF AMB. DAVID A. GROSS

Good morning and thank you for the opportunity to speak today. My name is David A. Gross. Formerly, I had the great honor of serving in the State Department as the United States Coordinator for International Communications and Information Policy from 2001 to 2009. In that role, I was responsible for representing the United States internationally on matters related to the communications and information sectors – including before the International Telecommunication Union (ITU). Today, I am appearing on behalf of the WCIT Ad Hoc Working Group, an industry-led coalition with broad representation from the communications and information sectors including AT&T, Cisco, Comcast, Google, Intel, Microsoft, News Corporation, Oracle, Telefonica, Time Warner Cable, Verisign, and Verizon.

The Ad Hoc Working Group works closely with industry, the technical community, and civil society to monitor and understand developments at the World Conference on International Telecommunications (WCIT). As you have heard, that conference – scheduled for December 3-14 in Dubai – will renegotiate a major telecommunications treaty, the International Telecommunication Regulations (ITRs). Representatives of the Ad Hoc Working Group and its members have participated in State Department outreach processes and have attended and monitored ITU and regional preparatory meetings. Additionally, we are working with internationally recognized experts in economics, technology, and policy to produce high quality research documenting the significant technical changes, as well as the economic and social benefits, of information technologies that have been made possible by international telecommunications and technology policies that emphasize innovation, private sector leadership, and the avoidance of heavy-handed government intervention.

Today, I want to discuss the significance both historically and – more importantly – looking forward, of the longstanding, bipartisan consensus in this country supporting the multi-stakeholder model of global Internet governance as opposed to top-down government imposed policies. This is a view shared broadly by the technical community, civil society, and the private sector. This is not to say, however that this view universally is held beyond our borders. We have already seen proposals in the WCIT preparatory process offered by certain ITU Member States to modify the ITRs to expand the direct influence of governments and intergovernmental organizations over various economic, technical, and operational aspects of the Internet.

Efforts to bring Internet governance and policy under multilateral government-led control are not new. Indeed, the impulse to seize the reins of Internet development should itself be seen as testimony to the success of the Internet at creating enormous social and economic value, and to the positive impact it has had under the existing governance structures. Similar questions about the appropriate role for government intervention and top-down control of the Internet were a major focus at both phases of the United Nations' World Summit on the Information Society (WSIS), which was held in two parts: in Geneva in 2003 and in Tunis in 2005.

At WSIS, there were attempts by some in the international regulatory community to increase control by governments and intergovernmental organizations regarding the Internet. Because of the close cooperation between the U.S. delegation, certain other governments, industry, the technical community, and civil society – which were unified in their support of the multi-stakeholder model – WSIS did not result in any material change in Internet governance. This was a major and difficult accomplishment, as many had feared that the predominantly market-based, multi-stakeholder process would not survive the proposals made by various governments for radical change. As I have often stated, our success at WSIS was possible only because of the longstanding bipartisan support for the multi-stakeholder model of Internet governance and the hard work of numerous U.S. government officials (including the dedicated career officials at State, Commerce, the FCC and elsewhere), plus the active involvement of industry, civil society, and the Internet technical community.

The evidence for the success of the multi-stakeholder model and private sector leadership is all around us – not only in the extraordinary developments in information and communications technology that we bear witness to every day, but also in the economic and social impacts broadband, mobile, and other communications technologies have around the world. There truly has been a telecoms and information revolution, built from the ground-up by entrepreneurs.

Of course there remains tremendous work to be done. Too many areas still are underserved by broadband, and too many people, especially in the developing world, do not have adequate access to the benefits of the Internet. We certainly recognize that we need to tackle through the multi-stakeholder process current and future threats to the Internet so that it can realize its full potential to promote economic and social development around the world. But experience shows us that the best way forward is through

targeted action, international cooperation, and multi-stakeholder processes, focusing on capacity building and private sector leadership – not top-down government policies and regulations made without adequate consultation with all relevant stakeholders, especially those policies and rules imposed or advocated by multilateral institutions.

One example of this positive vision is the principles on Internet policy-making adopted by the 34 member economies of the Organisation for Economic Co-operation and Development (OECD) last year. These principles were designed to help preserve the fundamental openness of the Internet while promoting certain public policy objectives, including privacy, security, infrastructure investment, competition, the appropriate protection of intellectual property, and trust in the Internet. Rather than specifying detailed technical and policy prescriptions, the OECD principles instead are thematic guidelines to assist policymakers in dealing with the novel issues raised by the Internet's expanding sphere of influence.

Importantly, a key tenet of the OECD principles is to encourage multi-stakeholder cooperation in a more transparent and ultimately deregulatory policy development processes. Therefore, the OECD principles clearly are incompatible with a top-down treaty-mandate—where only governments get a vote.

This is not to say that there is no role for intergovernmental organizations. The ITU, in particular, is extremely important to the U.S. national interests. It plays a vital role in spectrum policy and satellite orbital slot allocation; as an important telecommunications standards development organization; and – helpfully to U.S. and developing world entities alike – as a central venue bringing together international experts from developing and developed countries to discuss telecommunications policy. The leadership during the past six years by the ITU's Secretary General, Hamadoun Touré has been critically important to the world community, including to the United States, in seeking to advance global adoption of Internet generally and broadband specifically.

As a result, during the debate regarding WCIT, it is important to focus on those countries seeking to use the ITU and its treaty-based authority for counter-productive purposes, rather than unnecessarily attacking or criticizing the ITU itself. Instead, we should concentrate on those countries that seek to impose governmental mandates on the Internet indirectly via the ITU and other institutions. We will rebuff those efforts only by marshaling the facts, expressing clearly our policy goals (including why they benefit

the people of the world), and building successful coalitions of like-minded countries, institutions (including industry), civil society, and others. This has been done before and it must be done again.

Consistent with our positive message at WCIT regarding the importance of the multi-stakeholder model, and decentralized governance processes of the Internet, we should emphasize that one of the great successes of the existing, telecoms-focused ITRs is that the 1988 treaty allowed – in fact, promoted – commercial flexibility, especially regarding private-sector led innovation and the development of market-based telecoms business models. Indeed, ITU Secretary General Touré has explained “[t]he current ITRs helped establish the framework for the market liberalization, privatization and technological revolution that transformed the industry over the past two decades.” While these foundational principles are implicit in the existing ITRs, they are not set forth in any specific provision of the current treaty. Thus, any update of the ITRs – as well as any other internationally negotiated policy documents – should reinforce these critically important precepts. We should seek to make explicit the guiding principles of promoting telecommunications liberalization, focusing on private sector leadership, and relying upon market-based agreements for telecommunications services. But to be clear, it is critically important that the ITRs not be revised in any way that provides a basis for the ITU or its member states to claim that the ITU has control or authority over the Internet.

As we approach the WCIT, and at the conference itself, a bipartisan commitment to multi-stakeholder institutions will be essential. So will efforts to find common ground with the rest of the world on approaches to treaty language that recognize private sector leadership, and preserve the freedom of the Internet from centralized control and top-down regulation – so it may continue as an instrument of global economic and social development. Importantly, the member economies of the OECD recognized just last year that “[a]s a decentralized network of networks, the Internet has achieved global interconnection without the development of any international regulatory regime. The development of such a formal regulatory regime could risk undermining its growth.” Undermining the growth of the Internet is not in either the developed or the developing worlds’ best interests.

Fortunately, I know the Administration understands the importance of defending the open and decentralized systems of Internet decision making and avoiding an international regulatory regime. Centralized control risks slowing innovation, hampering economic development around the world, and

facilitating restrictions on the free flow of information online. Officials from State, Commerce, the FCC, and the White House each have spoken publicly and insightfully about what's at stake. The statements made by our senior government officials have been excellent and deserves our strongest support.

Importantly, we are very fortunate to have many senior career government officials, led in this effort by the State Department's Richard Beaird, who have been through these battles before and know how to succeed.

Continued focus and unity on this issue within the United States government will be essential. I know from first hand experience that the international community watches closely what the United States government says and does in domestic and international debates on Internet policy. Confirming the clear, unified, bipartisan position within Congress will help strengthen the negotiating position of the United States and its allies by illustrating the nation's resolve to maintain the decentralized, market-based, multi-stakeholder framework.

One key to the favorable outcomes at WSIS was the administration speaking clearly regarding what issues were appropriate and not appropriate for discussion. Maintaining a firm, public, bipartisan consensus will communicate unambiguously to the world about the confines within which we are willing to debate at WCIT.

Preserving the multi-stakeholder, dynamic and decentralized Internet is a priority that already unites the Administration, the House, the Senate, the private sector, and civil society. Now is the time to take our bipartisan consensus overseas, as part of the conversation about the dangers of treaty-based international regulation of the Internet – and the risks that poses to the Internet's success in connecting the world.