



Billing Code 3510-60-P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 180124068-8068-01]

RIN 0660-XC041

International Internet Policy Priorities

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of inquiry.

SUMMARY: Recognizing the vital importance of the Internet and digital communications to U.S. innovation, prosperity, education, and civic and cultural life, the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce has made it a top priority to encourage growth and innovation for the Internet and Internet-enabled economy. Towards that end, NTIA is seeking comments and recommendations from all interested stakeholders on its international Internet policy priorities for 2018 and beyond. These comments will help inform NTIA to identify priority issues and help NTIA effectively leverage its resources and expertise to address those issues.

DATES: Comments are due on or before 5 p.m. Eastern Time on July 2, 2018.

ADDRESSES: Written comments may be submitted by email to iipp2018@ntia.doc.gov. Comments submitted by email should be machine-readable and should not be copy-protected. Written comments also may be submitted by mail to the National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4725, Attn: Fiona Alexander, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Fiona Alexander, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4706, Washington, DC 20230; telephone (202) 482–1866; email faalexander@ntia.doc.gov. Please direct media inquiries to NTIA’s Office of Public Affairs, (202) 482–7002, or at press@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

Background: Within the U.S. Department of Commerce, the National Telecommunications and Information Administration (NTIA) is the Executive Branch agency responsible for advising the President on telecommunications and information policy.¹ NTIA was established in 1978 in response to the growing national consensus that “telecommunications and information are vital to the public welfare, national security, and competitiveness of the United States,” and that, “rapid technological advances being made in the telecommunications and information fields make it imperative that the United States maintain effective national and international policies and programs capable of taking advantage of continued advancements.”²

In the 40 years since its inception, NTIA has made growth and innovation in communications technologies—most recently Internet communications—a cornerstone of its mission. The Administration’s 2017 National Security Strategy reaffirmed that “[t]he flow of data and an open, interoperable Internet are inseparable from the success of the U.S. economy,” and stated unequivocally that, “the United States will advocate for open, interoperable communications, with minimal barriers to the global exchange of information and services.”³

¹ 47 U.S.C. § 902(b)(2)(D).

² 47 U.S.C. § 901(b)(1-6).

³ Executive Office of the President, *The National Security Strategy of the United States of America* (Dec. 2017), <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

NTIA's Office of International Affairs: The Office of International Affairs (OIA) leads NTIA's overseas work. It plays a central role in the formulation of the U.S. Government's international information and communications technology policies, particularly with respect to the Internet and the Internet-enabled economy. OIA's diverse policymaking efforts include protecting and promoting an open and interoperable Internet, advocating for the free flow of information, and strengthening the global marketplace for American digital products and services.

OIA advances these and related priorities at such global venues as the International Telecommunication Union (ITU), the Internet Governance Forum (IGF), the Asia-Pacific Economic Cooperation (APEC) forum, the Organization of American States (OAS) the Organization for Economic Cooperation and Development (OECD), the G7 and G20 forums, as well as through international trade negotiations and bilateral and multilateral dialogues. In addition, OIA leads NTIA's role as the expert Executive Branch agency responsible for issues related to the Internet's Domain Name System (DNS). In this regard, OIA oversees legal agreements related to the management of the .us and .edu top-level domain names, and represents the U.S. Government in its interactions with the Internet Corporation for Assigned Names and Numbers (ICANN), the not-for-profit corporation that coordinates the DNS, including serving as the official U.S. representative to the Governmental Advisory Committee (GAC).⁴

Through this Notice, NTIA is soliciting comments and recommendations from stakeholders on its international Internet policy priorities. These comments will help NTIA and the U.S. Government identify the most important issues facing the Internet globally. They will

⁴ More information about ICANN and the GAC are available on ICANN's website at www.icann.org.

also help NTIA leverage its resources and policy expertise most effectively to respond to stakeholders' priorities and interests. Comments are welcomed from all interested stakeholders—including the private sector, the technical community, academia, government, civil society, and interested individuals.

For the purposes of this notice of inquiry, OIA has organized questions into four broad categories: 1) the free flow of information and jurisdiction; 2) the multistakeholder approach to Internet governance; 3) privacy and security; and 4) emerging technologies and trends. NTIA seeks public input on any and/or all of these four categories.

The Free Flow of Information and Jurisdiction: NTIA tracks and responds to global developments pertaining to free flow of information and Internet-related jurisdictional issues. The free flow of information is critical not only to the protection of free speech online, but to the continued growth of the global economy. Certain governments, however, are increasingly imposing restrictions on the free movement of data. These restrictions may be put in place for legitimate reasons—such as concerns about privacy, taxation, and law enforcement access to data—but they are often undertaken for far less valid reasons, such as domestic surveillance and protectionism. In either case, restrictions on the free flow of information are jeopardizing the economic, social, and educational opportunities provided by the Internet.

Perhaps even more importantly, the free flow of information on the Internet enables basic human rights, such as the freedom of expression. Yet here there is similarly an emerging trend of repressive governments restricting access to information that they deem to be politically or socially objectionable. This is pursued through various means, such as by blocking certain applications, impeding the use of Virtual Private Networks (VPNs), or through the total shutdown of Internet communications within national territories. These actions often violate Internet users' rights to freedom of expression, association, and peaceful assembly.

Relatedly, there is an emerging trend of national courts issuing judgments on Internet-related court cases that risk forcing American companies to globally remove information hosted online. Problematically, what may be censored information in one country could be protected speech in other countries, including the United States. Such jurisdictional disputes illustrate the tension between a global, borderless Internet and national sovereignty. NTIA is seeking input from all stakeholders on potential responses to these, and related, jurisdictional challenges.

Multistakeholder Approach to Internet Governance: NTIA has strongly advocated for the multistakeholder approach to Internet governance and policy development. NTIA's advocacy of the multistakeholder approach is reflected in its support of organizations and forums utilizing the approach, including ICANN, the Internet Engineering Task Force (IETF), Regional Internet Registries (RIRs), the IGF, and others. In addition to these bodies and forums, NTIA strives to build support for the approach within multilateral institutions, such as the ITU, and through bilateral engagement.

One of NTIA's primary initiatives in the area of multistakeholder Internet governance was the privatization of the management of the DNS. This was completed in October 2016 when the contract between NTIA and ICANN for the performance of the Internet Assigned Names and Numbers (IANA) functions expired.⁵ NTIA seeks public input from all stakeholders on what U.S. priorities should be now within ICANN and broader DNS policy.

Another area of emphasis for NTIA has been the promotion of the IGF, which serves as a global platform for multistakeholder dialogues on Internet-related public policy issues. Unlike other United Nations processes, the IGF program is organized by the multistakeholder community, not by governments alone. NTIA has been involved in the IGF since its inception,

⁵ The IANA functions include the coordination and allocation of domain names, Internet protocol and autonomous system numbers, and other Internet protocol resources.

having served as a lead negotiator at the UN World Summit on the Information Society (WSIS), as well as serving a member of the IGF Multistakeholder Advisory Group and its intercessional work.⁶ NTIA seeks public input from all stakeholders on opportunities for IGF improvement.

Privacy and Security: NTIA, as an agency within the U.S. Department of Commerce, approaches cybersecurity from a commercial perspective. This means that NTIA’s policy work is grounded in the belief that cybersecurity risks should be viewed not exclusively as a national security threat, but as a threat to economic growth and innovation. As the 2017 National Security Strategy notes, a “strong, defensible cyber infrastructure fosters economic growth, protects our liberties, and advances our national security.”⁷ Internationally, OIA approaches cybersecurity with an understanding that the cyber threat is a global problem that requires international coordination. Accordingly, OIA has worked within the OECD, APEC, the IGF, and elsewhere, to promote strong, industry-led cybersecurity risk-management practices.⁸

In the area of privacy and data protection, NTIA has worked overseas to advocate for smart and non-discriminatory privacy rules. While different countries are going to take different approaches to protecting citizens’ privacy, NTIA argues that these differences need not impede global commerce. NTIA works with colleagues from the International Trade Administration (ITA) and the Federal Trade Commission (FTC) to advance interoperable privacy regimes and

⁶ The IGF organizes various types of Intercessional Work during the year, the outputs from which are discussed during the event. Best Practice Forums, Dynamic Coalitions, and National and Regional Initiatives, amongst other efforts, constitute the IGF’s Intercessional Work. Further information is available at: <https://intgovforum.org/multilingual/content/intercessional-work>.

⁷ 2017 National Security Strategy, supra n. 4.

⁸ For example, at the IGF2017, OIA engaged in an Open Forum session on cybersecurity and multistakeholder processes. The transcript and video from this meeting is available at <https://www.intgovforum.org/multilingual/content/igf-2017-day-3-room-ix-of70-cybersecurity-20-leveraging-the-multistakeholder-model-to>.

mechanisms, such as the APEC Cross-Border Rules (CBPRs) and the E.U.-U.S. Privacy Shield Arrangement.⁹

Emerging Technologies and Trends: NTIA also advocates for policies that enable entrepreneurs and innovators to take risks and to find global markets for new digital products and services. This advocacy often draws NTIA into discussions about access to broadband Internet service, digital literacy, intellectual property, and technological standardization. Over the last decade, these discussions have intensified, as many countries have invested greater resources into developing national innovation strategies, and have increasingly brought those ideas into international forums, such as APEC and the OECD. Over the coming years, these discussions will increasingly focus on issues such as the economic and social impacts of artificial intelligence, the workforce changes brought on by automation and new Internet-enabled business models, and the growth of blockchain applications, to name a few. NTIA welcomes comments on how OIA should participate in international discussions of these issues, as well as other issues related to emerging technologies and trends.

Request for Comments

Instructions for Commenters: NTIA invites comments on the full range of questions presented by this Notice, including issues that are not specifically raised. Commenters are encouraged to address any or all of the following questions. Comments that contain references to specific court cases, studies, and/or research should include copies of the referenced materials with the submitted comments. Commenters should include the name of the person or

⁹ See Department of Commerce, *Fact Sheet: Overview of the EU-U.S. Privacy Shield Framework* (Feb. 29, 2016), <https://www.commerce.gov/news/fact-sheets/2016/02/fact-sheet-overview-eu-us-privacy-shield-framework>; see also Department of Commerce, Press Release, *Joint Press Statement from Secretary Ross and Commissioner Jourova on the Privacy Shield Review* (Sept. 20, 2017), <https://www.commerce.gov/news/press-releases/2017/09/joint-press-statement-secretary-ross-and-commissioner-jourova-privacy>.

organization filing the comment, as well as a page number on each page of their submissions.

All comments received are a part of the public record and will generally be posted on the NTIA website, <http://www.ntia.doc.gov/>, without change. All personal identifying information (for example, name or address) voluntarily submitted by the commenter may be publicly accessible.

Do not submit confidential business information or otherwise sensitive or protected information.

I. The Free Flow of Information and Jurisdiction

- A. What are the challenges to the free flow of information online?
- B. Which foreign laws and policies restrict the free flow of information online? What is the impact on U.S. companies and users in general?
- C. Have courts in other countries issued Internet-related judgments that apply national laws to the global Internet? What have been the practical effects on U.S. companies of such judgements? What have the effects been on users?
- D. What are the challenges to freedom of expression online?
- E. What should be the role of all stakeholders globally – governments, companies, technical experts, civil society and end users – in ensuring free expression online?
- F. What role can NTIA play in helping to reduce restrictions on the free flow of information over the Internet and ensuring free expression online?
- G. In which international organizations or venues might NTIA most effectively advocate for the free flow of information and freedom of expression? What specific actions should NTIA and the U.S. Government take?
- H. How might NTIA better assist with jurisdictional challenges on the Internet?

II. Multistakeholder Approach to Internet Governance

- A. Does the multistakeholder approach continue to support an environment for the Internet to grow and thrive? If so, why? If not, why not?

- B. Are there public policy areas in which the multistakeholder approach works best? If yes, what are those areas and why? Are there areas in which the multistakeholder approach does not work effectively? If there are, what are those areas and why?
- C. Are the existing accountability structures within multistakeholder Internet governance sufficient? If not, why not? What improvements can be made?
- D. Should the IANA Stewardship Transition be unwound? If yes, why and how? If not, why not?
- E. What should be NTIA's priorities within ICANN and the GAC?
- F. Are there any other DNS related activities NTIA should pursue? If yes, please describe.
- G. Are there barriers to engagement at the IGF? If so, how can we lower these barriers?
- H. Are there improvements that can be made to the IGF's structure, organization, planning processes, or intercessional work programs? If so, what are they?
- I. What, if any, action can NTIA take to help raise awareness about the IGF and foster stakeholder engagement?
- J. What role should multilateral organizations play in Internet governance?

III. Privacy and Security

- A. In what ways are cybersecurity threats harming international commerce? In what ways are the responses to those threats harming international commerce?
- B. Which international venues are the most appropriate to address questions of digital privacy? What privacy issues should NTIA prioritize in those international venues?

IV. Emerging Technologies and Trends

- A. What emerging technologies and trends should be the focus of international policy discussions? Please provide specific examples.

- B. In which international venues should conversations about emerging technology and trends take place? Which international venues are the most effective? Which are the least effective?
- C. What are the current best practices for promoting innovation and investment for emerging technologies? Are these best practices universal, or are they dependent upon a country's level of economic development? How should NTIA promote these best practices?

For any response, commenters may wish to consider describing specific goals and actions that NTIA, the Department, or the U.S. Government in general, might take (on its own or in conjunction with the private sector) to achieve those goals; the benefits and costs associated with the action; whether the proposal is agency-specific or interagency; the rationale and evidence to support it; and the roles of other stakeholders.

Dated: May 31, 2018.

David J. Redl,

Assistant Secretary for Communications and Information.

[FR Doc. 2018-12075 Filed: 6/4/2018 8:45 am; Publication Date: 6/5/2018]