

Step Toward Global Internet Policy Principles

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This week, the Organization for Economic Cooperation and Development is meeting in Paris to discuss and adopt a set of "Internet policy principles." These principles, which have generated significant debate among civil society groups, industry, and member nations, endorse a very good set of high level concepts, but the detailed text contains some troubling phrasing that could be interpreted in highly problematic ways. To evaluate these principles (or any other set of international agreements relating to the Internet), it is critical to remember the policy decisions that fostered the development of the Internet as we know it today.

Since the World Wide Web was created 20 years ago, the Internet has seen extraordinary growth and innovation. In part, that growth has been facilitated by a policy framework – adopted in the early days of the Internet – that emphasized openness, innovation, user control, privacy protection, and human rights. Government regulation was aimed not at controlling users or innovators, but at promoting competition and ensuring non-discriminatory access to networks. Early policy choices made it clear that intermediaries should not function as gatekeepers. The minimal governance needed to manage the network arose organically from the private sector and the user community. A variety of informal and formal multi-stakeholder institutions helped guide the Internet's first steps, producing voluntary standards that supported innovation and the unimpeded flow of data. This multi-stakeholder environment and a lightweight regulatory framework remain critical to the Internet's success today.

Today, the Internet has globalized and become far more complex. It is now mission-critical infrastructure for the global economy, for governments, for key sectors such as healthcare and education, for scientific research, and for individual expression, access to knowledge, and economic opportunity. As recent events in the Middle East have made clear, the Internet has become an essential tool for the achievement of human rights and democracy. Given the increasing centrality of the Internet to modern society, the worlds' governments are increasing their regulatory attention to the Internet to address a range of concerns.

In the process, some are forgetting – or are consciously seeking to repeal or limit – the policy choices that allowed the Internet to develop into such a powerful platform for economic activity, democratic participation, and human development. Nations are seeking to impose new obligations on Internet Service Providers and other Internet intermediaries to filter and block content. They are seeking additional control over the design of networks to facilitate their surveillance. They are seeking to use key resources such as the domain name system to enforce rules governing users. The resulting regulatory babble has complicated and at times impeded global data flows, as claims of jurisdiction compete and laws clash. Worse, these escalating assertions of sovereignty threaten the fundamentally open characteristics that have made the Internet what it is today.

Global Internet Principles Emerge

The key question of Internet governance today is how can we chart a path forward that supports the open Internet globally, while also responding to cyber-threats and crime online. A first effort at an answer may be emerging this week in Paris, in the form of the [OECD principles](#) [2]. The OECD is composed of 34 nations, with processes that allow for input from industry and civil society. Obtaining agreement on a direction for Internet policy among so many diverse nations and stakeholders is a daunting task, and ultimately the Civil Society Information Society Advisory Council, civil society's representation to the OECD, [declined to endorse](#) [3] the final version of the principles.

The OECD "Internet Policy Principles" recognize and reaffirm the defining characteristics of the Internet that have made it the remarkable platform for expression, commerce, and civic engagement that it is today. As CDT [has long argued](#) [4], these core attributes of the Internet – the basis of its success – include openness, decentralization, and user control.

There are a number of very good ideas contained in the OECD principles. The preamble, for example, includes recognition by the 34 member countries "that the Internet allows people to give voice to their democratic aspirations, and any policy-making associated with it must promote openness and be grounded in respect for human rights and the rule of law." And at the heading level, the principles themselves set out the right kind of roadmap, holding that Internet policy makers should "promote and protect the global free flow of information," "promote the open, distributed, and interconnected nature of the Internet," "promote creativity and innovation," "limit Internet intermediary liability," and so forth.

But the principles contain more than just the high-level headings, and the language accompanying many of the principles reveals the diplomatic push-and-pull of various stakeholders' attempts to qualify the principles. In what appears to be an effort to address the legitimate concerns of the content industry, several of the principles include broad, ambiguous language about the responsibilities of Internet intermediaries generally, and access providers in particular. We fear that these provisions will be read by some as justifying various forms of government regulation and the imposition on intermediaries of liability for various kinds of content. That interpretation of the principles would be dangerous to the open, decentralized, user-controlled Internet.

The OECD principles are an important, but ambiguous, first step, and the real work of interpreting and implementing these high-level principles in a way that promotes openness and protects freedom on the Internet is yet to come. But at bottom, the principles endorse the view that the best way to promote further development of the Internet is to keep it open, innovative, and free of undue regulatory burdens.

Further, this OECD effort stands in contrast to a push by other of the world's governments, such as Russia and China, to impose extensive governmental regulations – indeed, global controls – on the Internet. Some countries are advocating that the United Nations' International Telecommunications Union (the ITU) should take over control of the key pieces of Internet infrastructure and should have authority to regulate Internet content and services. After a recent meeting with Hamadoun Touré, secretary general of the ITU, Russian Prime Minister Vladimir [Putin expressed his interest](#) [5] in discussions about "establishing international control over the Internet using the monitoring and supervisory capabilities of the International Telecommunication Union." This is precisely the outcome that it is critical to avoid. For those of us who believe that heavy-handed governmental regulation – especially if driven by a range of repressive regimes around the world – would stifle innovation and limit access, any push to the ITU is very worrisome.

As a counterweight to this effort at the ITU, the OECD might well prove to be a useful forum for governments of the world to discuss key Internet issues within a framework that values openness, user control, privacy protection, and free expression. As the Internet matures, it is vital that policy choices at the national, regional, and international levels preserve the essential characteristics that make the Internet unique. The OECD seems to agree.

In addition to considering the text of the principles, the crucial question is how we ensure that they are understood and interpreted in support of an open Internet. The OECD principles cannot stand alone, subject to any interpretation. Instead, the broad Internet community – including the member nations of the OECD – must commit to ensuring that the principles in fact further the openness that is key to the Internet's success. The adoption of principles must be considered the beginning, and not the end, of the work to protect the open Internet.

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