



Boundaries and Best Practices for Inclusive Digital Trade

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Background

Panel



Internet issues in trade agreements

Many digital new issues, traditionally the subject of Internet governance discussions in other venues such as ICANN, the IGF, IETF and M³AAWG, are being included in trade agreements:

- Data localisation (TPP, TISA, TTIP)
- Encryption standards (TPP, TISA)
- Software source code disclosure (TPP, TISA)
- Spam control (TPP, TISA)
- Cyber-espionage (TPP, TTIP)
- Even Internet domain name management (TPP)



Questions to be asked

- What test is used to determine issues that are sufficiently trade-relevant?
- Who is consulted about what issues are sufficiently trade-relevant?
- How are experts and external institutions with expertise in these issues included?
- What is the priority forum for dealing with issues that affect both Internet and trade?
- When does the treatment of an issue in a trade agreement become redundant?



Establishing best practices

- September 2016 G20 Paper "Digital Economy Development and Cooperative Initiative" adopted at Hangzhou affirms 2003 WSIS declaration that:

we affirm our commitment to a multistakeholder approach to Internet governance, which includes full and active participation by governments, private sector, civil society, the technical community, and international organizations, in their respective roles and responsibilities. We support multistakeholder processes and initiatives which are inclusive, transparent and accountable to all stakeholders



Brussels Declaration on Trade and the Internet

"...The procedural deficits that define modern trade agreement negotiations have resulted in instruments that are unduly deferential to the interests of a narrow class of established industry stakeholders, and fail to address the needs of broader affected communities. This stands in stark contrast to the more open Internet governance process norms, to which the governments that negotiate trade agreements also notionally subscribe, which if fully realized would be better adapted to incorporate the values of these communities, such as free expression and cultural facilitation, into trade policies."



BEYOND REGULATION: *Reaching Solutions that Work for Users*

Not every problem on the Internet calls for cross-border rules or principles. If a group or process proposes to address such a problem that way, they should demonstrate at the outset why solutions can't be found at the local level or by directly empowering users. Then, they should comply with these criteria:



INCLUSION

We need to make sure that all stakeholders who are affected by Internet policies have not only the opportunity, but also the resources, to be heard.



BALANCE

Reaching the optimal solution requires letting the best ideas rise to the top, even if governments and corporations don't always get their way.



ACCOUNTABILITY

Institutions and stakeholders who participate in crafting rules, standards or principles for the Internet must be transparent and deserving of our trust.

Even if a just process has been followed, that doesn't mean users will accept the outcome. But if they do—voluntarily—that's good evidence of a successful solution. If the solution also needs to be formally enacted or enforced by an empowered body, there should be a clear way forward to make that happen, with equally clear limits.





Questions to be asked

- How has limited stakeholder consultation affected the scope and content of trade agreements?
- How could new stakeholders be included in development of e-commerce rules?
- Are there any procedural norms from Internet governance that could be applicable to trade?
- What domestic best practice standards for transparency and consultation in trade negotiations exist?
- Is there scope for the WTO to expand its RTA Transparency Mechanism?



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Panelists

- Daniel Blockert, Ambassador, Ministry for Foreign Affairs of Sweden
- Jean-Baptiste Velut, Associate Professor, Université Sorbonne Nouvelle
- Andrew Crosby, Managing Director, ICTSD
- Nick Ashton-Hart, Consultant and Associate Fellow, Geneva Centre for Security Policy
- Maryant Fernandez Perez, Advocacy Manager, European Digital Rights
- Jovan Kurbalija, Head, Geneva Internet Platform
- Sean Flynn, Professor, American University Washington College of Law