



General Assembly's overall review of the implementation of WSIS outcomes

Official Form for Written Submissions

A. Your Information

Title: Vice President, International Policy

First name: Carolina **Last name:** Rossini

Name of Organization: Public Knowledge **Stakeholder Type¹:** Civil Society

Country: USA **Email:** crossini@publicknowledge.org

B. Formal Input

Some guiding questions for your submissions are listed below:

1. To what extent has progress been made on the vision of the people-centred, inclusive and development-oriented Information Society in the ten years since the WSIS?

2. What are the challenges to the implementation of WSIS outcomes?
(Questions 1. and 2. are addressed jointly)

First, we welcome and commend this open consultation process for supporting the development of the WSIS+10 review Non-Paper. Public Knowledge is a nonprofit public interest organization promoting freedom of expression, Open Internet, human rights online, and access to affordable communications tools and creative works. Public Knowledge has worked for almost two decades to shape policy on behalf of the public interest at the intersection of intellectual property, telecommunications, and Internet law.

The Internet is a vast mosaic of economic activity, ranging from millions of daily online transactions to smartphone posts and downloads. Around the world, the smartphone, the tablet, a fast-expanding family of “wearables,” and other “smart” devices are transforming the way people live, work, play, connect, and interact.

¹ When specifying your stakeholder type, please indicate one of the following: Government, Civil Society, Private Sector, Academia, and Technical Sector.

In the process, it is converting the digital revolution into an increasingly mobile and device-based phenomenon. ICTs can potentially ignite social development and transformation by improving access to basic services, enhancing connectivity, and creating employment opportunities. But we cannot be distracted by the network's enchantments and let the technological changes - especially those brought by the Internet of Things (IoT)² - transform this network of people-centric development to a device control network. Social development and human rights must help guide our next steps in this process.

The Internet is a powerful driver of economic growth and innovation. The Internet economy of G-20 nations will nearly double in value to \$4.2 trillion by 2016.³ In the U.S. alone, the most recent estimate of U.S. retail e-commerce sales - which is only one of the components of the "internet economy" - for the first quarter of 2015 was \$80.3 billion.⁴ There will be three billion Internet users in 2016, or 45 percent of the world's population.⁵

In 2003, the United Nations (UN) established the World Summit on the Information Society (WSIS), recognizing the urgent need to harness the potential of Information Communication Technologies (ICTs) to promote the goals of the UN Millennium Declaration.⁶ The two-phase summit (Geneva 2003 and Tunis 2005)⁷ defined the issues, policies, and frameworks to tackle ICTs in order to foster development. WSIS began with the common vision, desire, and commitment to building a people-centric, inclusive, and development-oriented Information Society where everyone can create, access, utilize, and share information. In the first phase, a Plan of Action⁸ was devised with a series of Action Lines⁹ to cover issues such as human rights, greater engagement of youth and the disabled, expansion of ICT infrastructure, increasing access to information and knowledge, and building confidence and security in the use of ICTs. The second WSIS phase highlighted Internet governance issues and led to the creation of the Internet Governance Forum (IGF) to serve as a multi-stakeholder venue for the discussion of public policy issues related to the Internet and the enhancement of cooperation.

Over the last ten years, the IGF has served as a vital space for the international multi-stakeholder community to engage in candid conversations on Internet policy. These fora have been crucial in measuring responses to key Internet related issues and building the narrative and knowledge of the Internet governance field. It is important to extend IGF's mandate not only for the sake of the community but also for the future development of this quickly evolving field.

We reaffirm our support for the NetMundial 2014 consensus statement that Internet governance should be built on democratic, multistakeholder processes, ensuring the meaningful and accountable participation of all stakeholders, including governments, the private sector, civil society, the technical community, the academic

² Gil Press, *Internet of Things By The Numbers: Market Estimates And Forecasts*, Forbes (Aug. 22, 2014), <http://www.forbes.com/sites/gilpress/2014/08/22/internet-of-things-by-the-numbers-market-estimates-and-forecasts/>.

³ *The G-20's Internet Economy Is Set to Reach \$4.2 Trillion by 2016 -- Up From \$2.3 Trillion in 2010 -- As Nearly Half the World's Population Become Web Users, Says Report by The Boston Consulting Group*, Market Wired (Jan. 27, 2012) [hereinafter *The G-20's Internet Economy*], <http://www.marketwired.com/press-release/g-20s-internet-economy-is-set-reach-42-trillion-2016-up-from-23-trillion-2010-as-nearly-1611718.htm>.

⁴ Fed. Census Bureau, Quarterly Retail E-Commerce Sales 1st Quarter 2015 (2015), available at https://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf.

⁵ *The G-20's Internet Economy*, *supra* at note 2.

⁶ G.A. Res. 55/2, U.N. Doc. A/RES/55/2 (Sept. 8, 2000).

⁷ *World Summit on the Information Society, First Phase: 10-12 December 2003*, International Telecommunication Union, <http://www.itu.int/wsis/geneva/index.html> (last visited July 31, 2015); *Second Phase of the WSIS, 16-18 November 2005, Tunis*, International Telecommunication Union, <http://www.itu.int/wsis/tunis/index.html> (last visited July 31, 2015).

⁸ *Plan of Action*, World Summit on the Information Society (Dec. 12, 2003), <http://www.itu.int/wsis/docs/geneva/official/poa.html>.

⁹ *World Summit on the Information Society WSIS+10 Multistakeholder Preparatory Process*, International Telecommunications Union, <http://www.itu.int/wsis/review/inc/docs/phase6/v/r/wsis10-5-3.pdf> (last visited July 31, 2015).

community and users. The respective roles and responsibilities of stakeholders should be interpreted in a flexible manner contextual to the issue under discussion.

Further, as the ICT revolution unfolds, and bring benefits, it will also bring risks and challenges. Some of these are seen in the increasing incidents related to breaches of cybersecurity or cyber warfare, and in questions related to privacy and the neutrality of the Internet. It also brings challenges regarding technical¹⁰ and legal fragmentation¹¹, and increasing oppression and exclusion or harassment of minorities, rural and LGBT communities and the poor. Even zero-rating initiatives - often schemes to convert citizens into “users” creating data for advertising and profiling - will exclude those they do not expect to convert into data resources. The persistent changing nature of the digital divide continues to present a major challenge to the achievement of a people-centred, inclusive and development-oriented information society, as 4.3 billion people are still not online, and 90 percent of them live in the developing world.

Governments should look not only at deploying infrastructure, but at partnerships with companies, individuals, and governments to improve societies through adequate and regionally appropriate training. If harnessed properly, ICTs can create economic opportunities and foster social, cultural and political inclusion, ultimately contributing to better policies. From an economic point of view, ICTs reduce transaction and information costs, and can take unnecessary intermediaries out of the picture.

In order to ensure meaningful progress on the post-2015 implementation of the WSIS outcomes, the ten-year review should call for another summit in the next three to five years to assess the new state of the Information Society and measure improvements on priority issues.

While we support improvement in cooperation for cybersecurity, we ask that concerns about cybersecurity and cybercrime not be used as a means to advance proposals that could stifle free expression, legitimize excessive monitoring and surveillance, or justify filtering content. While there is need for action to address security issues, particularly when they involve transnational cybercrime or acts of cyberwar, any proposals in this regard should be measured and mindful of how they can be interpreted or abused.

Finally, access to much of the Information Society is also limited by excessively stringent intellectual property laws, particularly copyright. The situation is worsened by the application of contracts and rights-management technology that, in most cases, eliminate the possibility of the user to exercise the few exceptions and limitations the system still holds. Slowing down or reversing this trend, represents a critical challenge for country members if they want to ensure that their citizens have access to the resources and knowledge they need to be appropriately incorporated in the Information Society.

3. What should be the priorities in seeking to achieve WSIS outcomes and progress towards the Information Society, taking into account emerging trends?

¹⁰ See Jonah F. Hill, *Internet Fragmentation: Highlighting the Major Technical, Governance and Diplomatic Challenges for U.S. Policy Makers*, Belfer Center for Science and International Affairs, http://belfercenter.hks.harvard.edu/files/internet_fragmentation_jonah_hill.pdf (last visited July 31, 2015); Paul Fehlinger, *Cyberspace Fragmentation: An Internet Governance Debate Beyond Infrastructure*, *Internet Policy Review* (Apr. 17, 2014), <http://policyreview.info/articles/news/cyberspace-fragmentation-internet-governance-debate-beyond-infrastructure/266>.

¹¹ *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*, United Nations, http://legal.un.org/ilc/documentation/english/a_cn4_l682.pdf (last visited July 31, 2015).

The overall review must make a coherent link between the ICTs and the post-2015 development agenda and integrate the Sustainable Development Goals (SDGs) into the implementation of WSIS and its vision for a people-centred, inclusive and development-oriented Information Society.¹²

A priority should be to prevent the technical and legal fragmentation of the Internet, by avoiding national policies and laws that impact freedom of expression online and perpetuate prejudice against the LGBT community, minorities, vulnerable populations, and the poor. For instance, we are highly concerned with policies such as 3-strikes (France), administrative prior restraint of expression (South Africa),¹³ the disappearance of entire sites with any LGBT related content in Russia,¹⁴ the rigid implementation of the Right to Be Forgotten (or delisted) (Europe), and so many other catalogued by various human rights organizations.¹⁵

Experience with similar censorship regimes shows that the regulations will inevitably be ineffective, have a devastating effect where legitimate expression is concerned, and create barriers for meaningful digital inclusion and local efforts of digital literacy. We note that according to Article 27 of the UDHR “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”. This underlines that the right to culture is not only about passive access to cultural, educational etc. resources, but also a right to actively use them as creators and distributors.

Countries should look at the next ten years as an opportunity to review policies and laws that might negatively impact the exercise of human rights online and take steps to re-think and change those norms.

4. What are general expectations from the WSIS + 10 High Level Meeting of the United Nations General Assembly?

At the WSIS+10 High Level Meeting, we expect the UNGA to offer a clear path for the linkage of the Sustainable Development Goals and the WSIS Action Lines. While these Action Lines should be reaffirmed, countries must also reaffirm the important role of ICTs in achieving the SDGs and set measurable commitments towards building an inclusive and people- (not device-) centered Information Society. Finally, a Human Rights framework must be the lens for the implementation of the WSIS outcomes beyond 2015.

5. What shape should the outcome document take?

A UN Resolution which sets:

- Priority action lines based on the cross between the WSIS Action Lines and the SDGs, paying special attention to the base of the pyramid (i.e. less developed countries, less developed areas in developed countries and vulnerable populations);
- Funding commitments from UN member states and other partnering stakeholders;
- Assessment tools and measurable commitments to account for the implementation of those priorities;
- Working groups that have meaningful impact and can serve as a pool of resources and examples to be built on;

¹² See *WSIS+10 and Beyond: Enhancing Multi Stakeholder Engagement in Internet Governance*, CIGI (July 16, 2015), <https://www.cigionline.org/articles/wsis10-and-beyond-enhancing-multi-stakeholder-engagement-internet-governance>(Our testimony at the 2015 U.S. IGF).

¹³ *International civil society statement in opposition to South African Draft Online Regulation Policy*, Best Bits (Jan 5. 2015), <http://bestbits.net/draft-online-regulation-policy/>.

¹⁴ Alec Luhn, *LGBT website founder fined under Russia's gay propaganda laws*, The Guardian (July 29, 2015), <http://www.theguardian.com/world/2015/jul/29/lgbt-yelena-klimova-fined-russia-gay-propaganda-laws>.

¹⁵ *Freedom on the Net 2014*, Freedom House, <https://freedomhouse.org/sites/default/files/resources/FOTN%202014%20Summary%20of%20Findings.pdf> (last visited July 31, 2015).

- A process of open consultations to evaluate the progress of the Resolution implementation; and
- Supporting actions to foster multistakeholderism in the WSIS beyond 2015, including work to further strengthen governance frameworks that are open, inclusive and participatory at national, regional and global levels. Governance mechanisms at all levels should be continuously made more democratic, accountable and transparent, including by using the very technology that they are governing. To this effect, lessons from open and e-governance fields should be considered and leveraged, including through greater use of data-driven decision-making. In order to increase participation of actors from developing countries, capacity building programs and financial support should be explicitly supported.