

# THE VERGE

## New World Order: is the UN about to take control of the internet?

*Is there a war on for the web?*

By: Adi Robertson - November 29, 2012

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The future of the web will be decided in a dark room by UN politicians and authoritarian governments — at least according to Google and some other opponents of the International Telecommunication Union's plan to reform its 25-year-old guidelines. Leaked documents have shown that ITU members are interested in adding more internet regulations to the ITU's mostly telecommunications-focused rules, something critics worry will let countries justify repressive filtering of the internet or upset the current balance of power by pushing more regulation. Supporters, meanwhile, hope it will help internationalize the internet, counterbalancing the more US-based Internet Corporation for Assigned Names and Numbers (ICANN), which currently manages domains and controls the internet's backbone.

Starting December 3rd, these concerns will come to a head, as ITU members meet in Dubai to discuss proposals and hammer out a treaty. The debate over the new regulations has been going on for years, and it will likely continue well beyond this meeting. As the meeting gets underway, we're likely to see a lot of Fear, Uncertainty, and Doubt — some of which may be justified. Before talks begin in earnest, here's what's on the table, who's involved, and why it matters.

### WHAT IS THE ITU?

At its most basic level, the International Telecommunication Union is a UN agency that predates both the UN and the telephone. Founded as the International Telegraph Union in 1865, it currently reports a membership of 193 countries and around 700 companies and research institutions, who develop treaties that set technical standards and goals for developing communications networks worldwide.

If things had gone differently in the internet's early days, the ITU might be one of the agencies behind our domain name system today. In 1996, it served on the International Ad Hoc Committee (IAHC), an early attempt to manage the domain system. But the IAHC drew criticism that echoes the current debate: one complaint said that "little effort has been made to inform consumers, governments or the internet industry about the proceedings, or their potential impact on the internet." The US, meanwhile, suggested that a private non-profit group would be preferable to an international committee. The IAHC's plan fizzled, and the US Department of Commerce granted control of the domain name system to ICANN in 1998.

Recently, the ITU has primarily worked on issues like broadband penetration and technical standards-setting — both obvious activities for a telecom regulatory agency.

But there has also been persistent speculation that it's interested in something more. In 2006, newly elected ITU Secretary General Hamadoun Touré insisted that "I wouldn't want to see the ITU trying to take over internet governance," but he said that it still had a "mandate" to protect it and foster growth. Among other things, "security in cyberspace can only be brokered worldwide by ITU." To that end, it's headed things like anti-spam efforts and released resolutions for protecting children online.

As the ITU prepares to update its decades-old telecom guidelines, it sits in the middle of several heated debates. As an international agency, it's a counterpoint to ICANN, which derives its authority from the US government and is sometimes seen as representing American interests too heavily. As an intergovernmental body, it raises the hackles of the often strongly libertarian tech industry, which worries about top-down regulation by politicians. And as part of the UN, it's a target for Americans who harbor a long-running distrust of international policy-making.

#### WHAT IS THE PROPOSAL?

The center of the debate is WCIT (pronounced "wicket"), the 2012 World Conference on International Telecommunications in Dubai. From December 3rd to the 14th, the ITU will update its 1988 International Telecommunication Regulations (ITRs), which outline how national and international networks should operate at a broad level. Like other UN regulations, these won't be legally binding unless countries sign on, and countries can sign with reservations, so the idea is to create a fairly broad consensus. That means that for all the talk of backroom deals that will let the UN take over the internet, the ITRs only have teeth if almost everyone involved decides they should.

So far, though, one of the biggest problems is that we're not entirely sure what's being debated. The details of the ITU meeting in December and the discussion that's taken place so far are closed, although some public notices have been posted on the agency's site. Public discussion has instead been focused around documents posted by WCITLeaks, a dedicated ITU leaks site run by a pair of researchers at George Mason University's Mercatus Center. After a trove of information had already been published, the ITU introduced a "public viewing period" and posted a draft online, but the country proposals themselves are still available only through WCITLeaks.

This doesn't necessarily mean that the ITU or the UN is trying to keep the dealings secret, but it does point to a disconnect between how its system usually works and what's expected of internet policy makers. Carleton University media professor Dwayne Winseck is generally supportive of the ITU, which he has covered prolifically over the past months. But he agrees that it "definitely has to do more" to open itself to the public, calling its membership fees in particular "outrageous" — even universities must pay around \$4,000 annually for ITU membership, almost three times what a multinational corporation would pay to ICANN. And in a recent resolution, the European Parliament said that it "regrets the lack of transparency and inclusiveness surrounding the negotiations for WCIT-12, given that the outcomes of this meeting could substantially affect the public interest."

As we'll see, there are a lot of problematic ideas on the table, but having to read about WCIT through a leaks site has done a lot to sour the debate. If the ITU isn't willing to even publish proposals, the thinking goes, why should anyone trust it to listen to the needs of businesses or citizens?

## TAKING CONTROL FROM ICANN

Beyond questions of transparency, the core of the debate over WCIT is a proposed shift from treating the ITU as a primarily telecom-oriented agency to one that specifically deals with the internet. Leaked drafts include several mentions of the internet as a branch of telecommunications and add detail to regulatory directives that were developed for a pre-internet world. Instead of describing an international telecommunications network as a "the offering of a telecommunication capability between telecommunication offices or stations," for example, it's now proposed as the provision of "roaming, international public telegram service, telex," or "traffic termination services (including Internet traffic termination)." Some proposals task the ITU with preventing abuse of numbering resources, long the province of ICANN, and Russia hopes to add a section promising that "member states shall have equal rights to manage the internet," including managing the domain name system and "development of basic internet infrastructure."

The ambiguity here is that because of its broad language, it's already possible to read the existing 1988 ITRs as covering the internet. Telecommunications, for example, are defined in the 1988 document as "any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems." And depending on who you ask, the fine line between telecom and internet policy means the ITU has already been involved in internet governance for years.

Despite this, companies don't like the idea of following another set of rules, and public interest groups worry that the ITU won't be responsive. The agency is seen as too government-focused, giving a voice to repressive regimes while ignoring other stakeholders. Internet advocacy organization Public Knowledge says it's "focused on technical telecommunications standards and built around the participation of governments," and Google is blunter, arguing that "only governments have a voice at the ITU."

The story is a bit more complicated than that, of course. National delegations to the ITU are full of telecommunication company representatives — in the US, you'll find Cisco, Sprint, Apple, AT&T, and many others in the directory. It is fair, though, to say that that ICANN looks for input from a much broader range of stakeholders, and that the ITU's "one country, one vote" model will give governments final say.

ICANN also, however, runs under the aegis of the US government, something that hasn't always sat well internationally. Russia's proposal to essentially turn over ICANN to ITU member states is extreme, but the basic idea of internationalizing the domain name system has supporters worldwide. "Countries [outside the US] balk at being dependent" on ICANN, Winseck says, especially as domain name seizures become an increasingly common tool in the US war on piracy. "They've been pushing to internationalize this, and there's no reason to suspect that they're not going to continue."

## TAXING THE INTERNET, LOCKING DOWN THE WEB?

Once you get past the basic concept of the ITU's expansion, you'll reach specific internet management proposals, submitted by dozens of countries and organizations. These have drawn the most vehement complaints, and for good reason. A number of them are unremarkable, or even helpful — agreeing to prioritize emergency communications or to

fight certain kinds of phone fraud, for example. But among these, you'll find calls to make internet filtering more acceptable and undermine net neutrality.

The 'internet tax' is one of the most frequently cited parts of the leaked WITC documents. In June, Forbes wondered "Is the UN trying to tax the internet?," and Engadget dubbed the move a "Facebook tax." Both were responding to a proposed addition from the European Telecommunications Network Operators' Association (ETNO), which suggested that networks or web companies should negotiate deals in which they'd pay to send traffic to other countries. International operators "shall negotiate commercial agreements to achieve a sustainable system of fair compensation for telecommunications services," the paper read, "and, where appropriate, respecting the principle of sending party network pays." Secretary General Touré seems to have defended the idea as a way to subsidize internet or mobile roaming costs. "We can find ways to bring down the cost of internet connectivity in developing countries," he said in a speech, "while ensuring sufficient revenues for operators to deploy broadband infrastructure."

If the proposal were adopted widely, it could fundamentally change the way information passes over the internet. The "differentiated quality of service delivery" that ETNO proposed would fly in the face of net neutrality efforts, suggesting that a company or network will need to either pay up or deal with limited access. Cisco's Robert Pepper has said that it could backfire for recipients as well, leading companies to turn down agreements with unprofitable developing countries that would then "effectively be cut off from the internet." The European Parliament didn't address the plan specifically, but it called on states to reject any measures that violated the principles of net neutrality.

At the same time, the basic idea is hardly unique to the ITU. A Swedish ISP has outlined plans to charge customers extra for using VoIP services like Skype, and AT&T has suggested that app developers should shoulder the cost for their users' data. Google and organizations like Public Knowledge are open about fighting for net neutrality elsewhere, but Winseck complains that some other opponents of the ITU expansion (including Pepper, who opposes net neutrality) are "conspicuously silent" about these so-called taxes when they crop up in the US.

Similarly ominous proposals have come in from overtly pro-censorship regimes. The UAE has pushed to add sections that grant states explicit rights to filter their internet for just about any reason, and Russia asks that "member states shall have the sovereign right to establish and implement public policy, including international policy, on matters of internet governance, and to regulate the national internet segment." They're fairly straightforward attempts to let countries control the data that crosses their borders, and the ITU has been accused of making content blocking easier in its latest talks.

The ITU has defended itself against these charges, but it's essentially done so by saying that internet filtering isn't anything new. In a June 22nd speech, Touré pointed to Article 34 of the ITU constitution, which allows member countries to cut off communications they deem "dangerous to the security of the State or contrary to its laws, to public order, or to decency." He also argued that "all countries impose some restrictions" on content, whether it's to stop copyright infringement or limit political speech.

Cutting this proposal is unlikely to get countries to loosen their restrictions, but codifying it further can only be bad for online speech. Instead of just being listed in the

constitution, filtering would be front and center in the regulations, granting legitimacy to countries that practice it. At the same time, there's a certain amount of alarmism in fears that this will lead to a new wave of censorship. And like several of the more controversial proposals, it seems unlikely to get wide support.

Overall, the best description of the worst ITU proposals probably comes from Winseck, who called the suggestions "a raft of threats that, in their entirety, would usher in the foundation of controlled and closed national internet spaces." Outside the more widely debated issues, he's noted a push for using real names on the internet (something that's already happening in countries like China), downplaying privacy concerns, and allowing countries to curtail the right to communication if "sensitive information" is being sent. He argues, however, that the more extreme proposals are more of a wish list than anything that will actually get traction, and that the chance of ITU members actually getting control over anything that ICANN currently manages is "absolutely zero."

#### WHO IS THE OPPOSITION?

The ITU's plan has inspired a surprisingly unified and very vocal opposition. Google's campaign against the changes is perhaps the most visible — it's currently running a petition under the slogan "A free and open world depends on a free and open internet," and its Chief Internet Evangelist Vint Cerf has been one of the biggest names to come out against increased ITU oversight. Google has good reason to be against many of the proposals: it relies on being able to send traffic anywhere on earth at a low cost, and as a relative newcomer in the telecommunications industry, it doesn't want to have to deal with another regulatory body.

Major public interest groups and lobbies have also come out against expansion. In some cases, that's predictable: the libertarian Cato Institute, for example, isn't going to support UN oversight of the internet, nor is the US Chamber of Commerce. Other groups oppose it because of the relatively opaque proceedings and the proposals under discussion. Public Knowledge and the Electronic Frontier Foundation, for instance, urge the ITU to remain focused on technical telecommunications development, and the EFF calls it a "slow-moving and bureaucratic regulatory organization." The Center for Democracy and Technology, which has criticized the ITU as a governing body, has assembled a letter signed by about fifty non-governmental organizations across the globe.

Given that it's a UN organization, the most important opponents are member states themselves. In the US, the House Energy and Commerce Committee approved a resolution against expanding the ITU's scope earlier this year, and the Obama Administration has likewise opposed it. The European Parliament issued its resolution last week, leading the ITU to complain that it was based on a "flawed understanding" of the plan. It's theoretically possible that these bodies could be overruled, but they have enough clout to resist areas that would require real and unwanted change. Add the fact that the ITU's regulations are meant to be formed by consensus rather than majority rule, and their position looks very strong indeed.

#### WHO SUPPORTS THE CHANGES?

The hardest part of talking about WCIT is not just separating fairly innocuous changes from genuinely ugly suggestions, it's keeping track of who submitted each one. So far, the biggest player is Russia, the source of proposals to internationalize control of the domain name system, add cybersecurity directives to the ITRs, and condone internet filtering. Russia recently implemented its own filtering law, ostensibly to block sites featuring

child pornography or information about drugs, and it's been active in ITU discussions about the internet. In 2011, Vladimir Putin met with Secretary General Touré, promising heavy involvement in the ITU and asserting that "If we are going to talk about the democratization of international relations, I think a critical sphere is information exchange and global control over such exchange." At the same meeting, he commiserated with Touré about the importance of cybersecurity and the danger the internet could pose for children.

China is obviously a general proponent of keeping control over its segment of the internet, and its leaked proposals so far are cybersecurity-related, asking to add sections that would affirm the right of a state to "have responsibility and right to protect the network security of information and communication infrastructure." Other countries, like Indonesia, have also proposed cybersecurity changes. According to the WCITLeaks site, many proposals remain unknown, but requests to add internet-focused language or assertions of national sovereignty online aren't unusual.

There's also the question of what the ITU itself wants. Secretary General Touré and other ITU leaders have stayed relatively neutral on specific proposals, insisting that it's there to provide an "impartial forum" for debate. "WCIT is definitively not about taking control of the Internet or restricting people's freedom of expression or freedom of speech," Touré told Columbia University students in September. He also says, however, that the idea of separating telecommunications and internet oversight is "plainly ridiculous. Who today can tell me the difference, in terms of traffic passing across networks, between voice, video, and data?" That suggests that even if nothing changes in this round of updates, ITU meetings are bound to keep raising questions about its role.

#### WHAT'S NEXT?

If you oppose the ITU's changes, you're in good company. Google's petition is still taking names, and the CDT urges readers to circulate its anti-expansion letter to member countries, many of whom are already against expanding the ITU. The public comment period on WCIT 2012 has passed, but the ITU is still on the defensive, downplaying the extent of any changes. Even if the WCIT debates are closed, public opinion will shape whether countries accept the new regulations — ACTA, a treaty that was also accused of being forged in secret, ran into regulatory problems and widespread protests when it came time for implementation. The bottom line is that the UN is capable of creating norms of behavior, but it's not going to take over anything, much less institute a top-down enforcement regime on its own.

While the WCIT talks on December 3 to 14th won't be completely public, it's still possible to follow parts of them. Some sessions will be streamed live, and the WCIT newsroom will have links to videos and speeches from the event. WCITLeaks will post more documents if they become available, and member states will likely have their own updates. The EFF, Public Knowledge, and the Center for Democracy and Technology cover many of the issues raised around WCIT on a daily basis, as do individual regulatory agencies like the FCC. ICANN, meanwhile, keeps a list of drafts that are open for public comment on its site.

Much of the latest debate over internet governance has been muddled, conflating individual proposals with official regulations or drawing on American fears of the UN. But there's a real debate to be had over the proposals — from who should manage

domain naming to when, if ever, internet filtering is acceptable — and it's not limited to the talks in Dubai.