

United Kingdom

UK PAPER ON THE ROLES OF GOVERNMENTS IN INTERNET GOVERNANCE

The Roles of Governments in Internet Governance

The role of governments has become a key topic in global discussions on internet governance. This paper sets out the United Kingdom's view, arguing that the issue should be considered in a broad context. The roles of government are to empower internet users, ensure a fair and consistent domestic legal framework, foster a robust global internet infrastructure and support and develop multi-stakeholder processes. Governments need to build partnerships in order to achieve public policy goals and to secure the economic and social benefits of the internet.

Introduction

1. Over the last twenty years, the internet has brought tremendous benefits and opportunities to societies and economies around the world. It has given a voice to individuals and communities, promoting transparency and accountability and generating new collaboration between people. It has driven economic development, bringing new markets, new products and services and changing the way we do business. It has provided simple and immediate access for millions of people to information, communications, education and entertainment.
2. The internet has developed so successfully and rapidly because it is an open, global and borderless network of networks, primarily driven by the private sector and by internet users. Its most important technical standards are open, globally accepted and developed by consensus, making it open to new devices, new applications and services. There is no centralised or over-arching global framework of top-down inter-governmental control or oversight. There are relatively low barriers to entry. The internet provides opportunities to access information across the world and for individuals to express themselves and associate online. This means that users around the world have been able to collaborate, find solutions and create new ideas and new opportunities for economic prosperity.
3. The multi-stakeholder model, as described by the World Summit on the Information Society in 2005, has ensured that the internet continues to be dynamic, innovative and

robust, serving the interests of stakeholders and users globally and supporting economic growth. Governments have important roles to play within that model and in ensuring that the model continues to keep pace with the development of the internet. These roles can be summarised as follows:

- **to empower internet users**, by promoting freedom of expression, cultural diversity, access, information, education and skills
- **to ensure a fair and consistent domestic legal framework**, by ensuring transparency of legal process and accountability for government decisions, making clear that the law applies equally online as it does offline and providing equitable civil processes for dispute resolution
- **to foster a robust global internet infrastructure**, by creating a secure and resilient environment for the global digital economy which promotes investment and economic growth, and by supporting capacity building, particularly in developing countries
- **to support multi-stakeholder processes and partnerships**, by facilitating and contributing to inclusive and transparent governance processes and promoting the right of all stakeholders to participate.

Governments must play all these roles effectively in order that the internet can continue successfully to offer social and economic benefits.

The roles of governments

4. The roles of governments in internet governance have not always been as clearly defined as the roles of some other stakeholders. This is partly because the roles of governments are very broad-ranging and diverse. Nearly all public policy issues, like many other aspects of life, have been affected in some way by the development of the internet and governments have increasingly needed to respond to this. The internet has brought great opportunities for governments to undertake public policy roles more effectively, but at the same time it has also brought new challenges.
5. The debate about the roles of governments has mostly focused on how governments respond to internet-related public policy issues and particularly to new challenges in areas such as child protection, copyright infringement and consumer protection. Clearly these are important issues which need to be addressed, in consultation and partnership with all interested parties. The UK's view, however, is that the roles of governments should also be considered in a larger context. Governments have a broader set of roles and responsibilities empowering users, ensuring a fair and consistent domestic legal framework, fostering a robust global internet infrastructure and supporting and building on existing multi-stakeholder processes and partnerships.
6. These roles do not belong exclusively to governments – other stakeholders have important parts to play. And government intervention is not the same as government control: very often the most effective approach for government is to actively participate in multi-stakeholder processes, promote self-regulation or set a framework within which other stakeholders can operate. Nevertheless, whatever the most

appropriate approach is, governments need to attend to their broader set of roles in order to help ensure that the internet continues to develop successfully and more individuals and communities around the world are able to enjoy its benefits.

7. Over two billion people are already connected and access to the internet in developed countries is becoming universal. But the full potential of the internet has yet to be realised in many countries, particularly in developing countries. The next two billion people to connect will come largely from developing countries and we can look forward to them bringing new waves of ideas, cultural diversity and creativity which will contribute even more to economic growth and social well-being. This is a key opportunity for all governments to address collaboratively with stakeholders in the World Summit on the Information Society +10 review. Understanding better the role of governments will be crucial to addressing this opportunity, to realising the vision of a global knowledge-based economy and the Millennium Development Goals.

Empowering Internet Users

8. The success of the internet is driven by its users and empowering individuals, communities and businesses to be able to access and use the internet is one of the most important roles of governments.
9. Protecting and promoting the right to **freedom of expression** online is fundamental to this. Article 19 of the Universal Declaration of Human Rights states that *“everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”* Governments have a role to ensure that the internet remains open to the free flow of ideas, information and expression. Any restrictions on freedom of expression should be proportionate and necessary for a legitimate purpose as set out in human rights law.
10. Governments have a role supporting **cultural diversity and multi-lingualism** online. They can support culturally diverse expression on the internet and enable people from different backgrounds to create, engage with and access culturally diverse content. Multi-lingualism is key to ensuring that everyone can enjoy the full benefits and opportunities of the internet. Internet users should be able to use the internet in their own languages and scripts. Progress is being made at the technical level to achieve this. ICANN, for example, is progressively introducing non-Latin scripts into the domain name system, with the active support of governments, for which this is an important policy issue. Governments also have a role supporting and encouraging access to the internet for people with disabilities.
11. Governments have a role supporting local organisations and businesses to develop their **internet skills and capacity** and harness the social and economic benefits and opportunities the internet offers. They have a role supporting internet users’ **awareness and confidence**: promoting understanding of the internet so that people have the confidence to go online, raising awareness of the threats that people can face using the internet, in areas such as identity theft, fraud or privacy, and promoting the understanding that online behaviours are governed by civic norms and that the law applies online equally as it does offline.

12. Governments can take steps to ensure that transparent **consumer information** is available so that people can make informed choices. For example, consumers need to be able to access and understand proper information about the traffic management policies that communications providers put in place. While traffic management policies are sometimes necessary, there is the potential for providers to implement unreasonable practices which may have the effect of blocking legitimate content and services. Market forces can only prevent consumer detriment if open and transparent information is available.
13. Governments have a role in helping to ensure that individual internet users have the freedom and the **tools to decide for themselves** (and for minors for whom they are responsible) what content they wish to access online. One important issue here is access by children to harmful material, such as websites promoting self-harm or pornography. It is the responsibility of parents to oversee their children's activity online. Governments can play a useful additional role in helping to ensure that parents are able to access tools such as filtering technology, if they wish, to help them manage this responsibility and they can create educational materials, in co-operation with other stakeholders, for parents and children.
14. Finally, governments can empower citizens by making **government information and services available online**. The internet is transforming the delivery of government services and developments such as e-medicine and e-education have opened up great opportunities to communities, particularly in developing countries, to enjoy greater access. Online public services can allow citizens to interact with governments simply, quickly and at low cost and can promote more responsive services focused on the user. The availability of information online promotes greater openness, transparency and participation and promotes greater confidence in users and citizens.

Ensuring a fair and consistent domestic legal framework

15. Although we sometimes describe it as "cyberspace", the internet does not exist in a different dimension and the law in the offline world should also apply in the online world. The internet itself is not a legal agent: the internet is essentially a tool for making data available and for accessing it. But the internet is one of the tools which can be used by individuals and groups for illegal activity. As in the offline world, governments have a clear responsibility to combat those individuals and groups. Ensuring a fair and consistent domestic legal framework for addressing illegal activity is an important role for governments.
16. The range of possible illegal activity online is very broad, but attention has been focused on a number of key areas where the internet's impact has been most obvious:
 - **data protection and privacy** are a crucially important issues, particularly now that people keep more of their data online and large amounts of data can be easily stored, searched and exploited electronically
 - **child sexual abuse images** can be shared over the internet and governments have worked hard with other stakeholders to tackle this

- **consumer protection** laws have been updated to take into account the developments of e-commerce and the complexity of new online business models
- **intellectual property rights** have come under pressure now that content can be easily copied and shared electronically.

There are many other examples of areas where governments have a role to ensure that the law is effectively enforced online. Governments have also needed to develop legal frameworks for the fundamentally new kinds of threats that the internet has given rise to in areas such as cybercrime.

17. It is also important for governments to put in place a consistent and robust legal framework, with independent judicial oversight, which meets legitimate concerns around **national security and public order**. Government intelligence services help to detect threats such as terrorism, serious and organised crime and industrial espionage and they can help other countries lawfully to build the capacity to investigate and disrupt terrorists in their countries. The aim of this work is to protect people and their freedoms. Governments need to take great care to balance individual rights and privacy with their duty to safeguard the public. Multi-stakeholder organisations can provide an important counterweight in getting this balance right.
18. The internet is a cross-border platform and many of the legal frameworks and enforcement mechanisms require **international cooperation**, both bilaterally and through inter-governmental organisations. Governments need to promote international reporting mechanisms which support enforcement of the law. The cross-border nature of the internet raises specific challenges: what is legal in one country may not be legal in another. But this is also true in the offline world, where law enforcement can be strengthened through international cooperation between law enforcement agencies. Governments have a responsibility to work together through organisations such as the World Trade Organisation, the World Intellectual Property Organisation, the International Criminal Police Organisation (Interpol) and others in order to help tackle illegal activity online.
19. Governments should put in place appropriate **limitations for liability for internet intermediaries** which balance competing interests and allow innovation and collaboration. They need to ensure that competition and anti-trust laws are enforced online. They also have a role putting in place fair, consistent and independent **civil processes to resolve disputes** about online behaviour and content and helping to ensure that there is equitable access to them. The ability of individuals and companies to make robust contracts and to enforce them is fundamental not only for economic development generally but also for the development of online activity. Governments' roles promoting respect for the rule of law, protecting fundamental rights and putting in place fair and predictable processes of redress is essential for the successful development of the internet and for harnessing the benefits it offers.

Fostering a robust global internet infrastructure

20. The internet relies on a complex physical infrastructure of telecommunications and computer capacity and a set of common technical standards and protocols.

Governments have a number of roles, along with other stakeholders, in helping to ensure that this infrastructure is robust and that it continues to develop on an open and pro-competitive basis to allow for new entrants, new services and new applications and for new users from around the world.

21. Increasing access to high speed broadband at affordable prices is a particular priority to promote economic development and job creation and to allow more people to enjoy a better quality of life. Governments need to work with the private sector to foster a **stable environment for investment** in internet infrastructure, ensuring there are open and competitive markets which encourage new entrants and promote sustained investment.
22. Governments have a role to promote **capacity building**, particularly in developing countries, working with ITU Development Sector and others. Local and regional **internet exchange points** are already demonstrating their potential to improve connectivity for many countries. The **allocation of spectrum** for mobile broadband can improve connectivity in countries where there is less of an existing physical infrastructure. The internet can be a powerful tool in working towards the Millennium Development Goals and government development programmes should take into account the opportunities that the development of internet infrastructure can bring to economic and social development.
23. Governments have a role encouraging cooperation between stakeholders aimed at the security of the network. Governments themselves have a role in terms of **protecting critical internet infrastructure** within their borders from events such as natural disasters or attacks. Cooperation between governments to agree **telecommunications standards**, working with the ITU and other stakeholders, will continue to be important as will international agreements on spectrum and satellites.
24. The challenge for governments is to carry out these roles in a balanced and responsive way in cooperation with other stakeholders. Governments which intervene disproportionately in the market, for example, can hold back innovation, restrain the free flow of ideas which could benefit their citizens, discourage investment and limit the potential economic and social benefits that the internet offers. Capacity building programmes need to aim for long term, market-driven sustainability. Policies aimed at securing a robust network should be driven by multi-stakeholder consensus and guard against protectionism or policies which undermine the rights of other users or opportunities for collaboration. Unbalanced or disproportionate intervention can undermine the benefits that the internet offers.

Supporting multi-stakeholder processes and partnerships

25. The multi-stakeholder model of internet governance reflects the open and inclusive nature of the internet and has been a key factor in the internet's successful development. Many governments have recognised the importance of bringing together the full range of internet stakeholders, including governments, parliamentarians, businesses, civil society, the technical community and academic institutions. In this way all stakeholders are able to share knowledge, experience, skills

and best practice in order to develop policies to address new opportunities and new challenges.

26. Traditional models of governance which would institutionalise control of the internet by governments and inter-governmental organisations would not achieve these goals. Such formal, institutional and decision-making models would not be able to keep pace with the rapid technological change that is so characteristic of the internet and the rapidly-evolving needs and desires of internet users. Any attempt to introduce such traditional models would act as a brake on innovation and limit access to the full benefits of an open internet. It would risk stifling the dynamism that has allowed the internet to deliver so many benefits and opportunities for economic growth and social welfare.
27. Instead, recent years have seen the development of national and regional multi-stakeholder internet forums. Examples include the European Dialogue on Internet Governance (EuroDIG), the East African Internet Governance Forum and the establishment of national multi-stakeholder committees such as those in Brazil and Uruguay. This demonstrates an increasing recognition that governments need to **build partnerships with stakeholders** in order effectively to achieve their policy goals, particularly in developing strategies to grow their digital economies. Multi-stakeholder organisations in turn need to ensure that all stakeholder interests and concerns are given due attention and that decision-making is properly balanced.
28. The borderless nature of the internet and the multi-national nature of many companies operating on the internet mean that it is not effective for governments simply to act in isolation. The recent increase in the number of participating governments in ICANN's Government Advisory Committee provides further evidence that administrations are recognising the importance of building relationships with internet stakeholders. Increased governmental participation is **strengthening global and regional Internet Governance Forums** as critical forums for exchanging best practice, innovation and know-how and as platforms for cooperation and partnership. It also ensures that national policy decisions and strategies are better informed and more effective.
29. **Inter-governmental organisations play an important role** in facilitating cooperation on internet related public policy issues. For example, the World Trade Organisation and the World Intellectual Property Organisation respectively work on trade and copyright issues. UNESCO addresses cultural, scientific and educational issues. The International Telecommunication Union facilitates agreements on spectrum, telecommunications standards and supports capacity building.
30. Governments have a crucial role encouraging existing inter-governmental organisations to become more inclusive, transparent and collaborative, ensuring that their activities contribute to the evolution of the internet in a way that prioritises economic growth and social opportunities. By **opening up their policy development processes** to participation by businesses and civil society, existing inter-governmental organisations can play more effective roles fostering international cooperation, creating global standards and promoting best practice and capacity building in developing countries and small island states.

31. Existing inter-governmental organisations and multi-stakeholder organisations, together, offer opportunities for stakeholders, including governments, to pursue their interests. Internet policy is very wide ranging and affects the work of many different national and international institutions. It covers a broad range of areas, such as technical cooperation, health care, human rights, trade policy and so forth. Creating a new institution would risk distracting from the main task of **mainstreaming internet policy** across the international system. The priority should be to ensure that internet policy issues are properly embedded within all the relevant institutions.
 32. The wide range of issues and stakeholders involved means that multi-stakeholder processes can be complex and it can be expensive for stakeholders from developing countries and small island states and for representatives of civil society to take part. Multi-stakeholder organisations and forums should enhance their provision of facilities for **remote participation**, for example through regional hubs, and assist stakeholders with orientation sessions and advice. Governments can also support initiatives to **map multi-stakeholder processes more clearly** and provide **easier access to information** for all stakeholders. For example, they should encourage international organisations to make documents available to all.
 33. The internet has changed and developed since it first began and it will continue to do so. Governments need to support the existing processes and help them to adapt so that they are able to keep pace with the challenges, opportunities and technical developments of the future and to ensure that the internet continues to evolve as the critical global platform for economic growth, opportunity and social well-being.
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