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4 ``INTERNATIONAL PROPOSALS TO REGULATE THE INTERNET''

5 THURSDAY, MAY 31, 2012

6 House of Representatives,

7 Subcommittee on Communications and Technology

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The Subcommittee met, pursuant to call, at 10:22 a.m.,  
11 in Room 2123 of the Rayburn House Office Building, Hon. Greg  
12 Walden [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Walden, Terry, Stearns,  
14 Shimkus, Bono Mack, Blackburn, Bilbray, Bass, Gingrey,  
15 Scalise, Latta, Guthrie, Kinzinger, Upton (ex officio),  
16 Eshoo, Markey, Matsui, Barrow, Christensen, Dingell, and  
17 Waxman (ex officio).

18 Staff present: Gary Andres, Staff Director; Ray Baum,

19 Senior Policy Advisor/Director of Coalitions; Mike  
20 Bloomquist, General Counsel; Sean Bonyun, Deputy  
21 Communications Director; Nicholas Degani, FCC Detailee; Andy  
22 Duberstein, Deputy Press Secretary; Neil Fried, Chief  
23 Counsel, C&T; Katie Novaria, Legislative Clerk; Andrew  
24 Powaleny, Deputy Press Secretary; David Redl, Counsel,  
25 Telecom; Charlotte Savercool, Executive Assistant; Lyn  
26 Walker, Coordinator, Admin/Human Resources; Roger Sherman,  
27 Chief Counsel; Shawn Chang, Senior Counsel; Margaret  
28 McCarthy, Democratic Professional Staff; David Strickland,  
29 FCC Detailee; and Kara Van Stralen Special Assistant.

|  
30           Mr. {Walden.} Good morning. I want to welcome our  
31 witnesses and appreciate their testimony today. This is the  
32 Subcommittee on Communications and Technology and our hearing  
33 on ``International Proposals to Regulate the Internet.''

34           Nations from across the globe will meet at a United  
35 Nations forum in Dubai at the end of this year and, if we are  
36 not vigilant, just might break the internet by subjecting it  
37 to an international regulatory regime designed for old-  
38 fashioned telephone service.

39           The internet is the single largest engine of global  
40 change since the printing press. From its humble roots as a  
41 network to connect computers used for the Department of  
42 Defense projects, the internet grew to include research  
43 institutions, commercial services, and the public generally.  
44 It was once the government relinquished its grip on the  
45 internet that it began growing exponentially, evolving into  
46 the ``network of networks'' that we all participate in today.

47           With this expansion came the recognition that the  
48 organizational structure must evolve as well. Functions that  
49 had previously been managed by and for the United States  
50 Government, like network addressing and domain name  
51 administration, were spun off to private sector entities that  
52 could be more responsive to the rapid changes in the

53 internet. Nongovernmental institutions now manage the  
54 internet's core functions with input from private- and  
55 public-sector participants. This structure, called the  
56 ``multi-stakeholder model,'' prevents governmental or non-  
57 governmental actors from controlling the design of the  
58 network or the content it carries. The multi-stakeholder  
59 model also provides flexibility, enabling the internet to  
60 evolve quickly.

61       And this evolution continues at a staggering pace.  
62 Cisco estimates that by 2016 roughly 45 percent of the  
63 world's population will be internet users; there will be more  
64 than 18.9 billion network connections; and the average speed  
65 of mobile broadband will be four times faster than it is  
66 today. Weakening the multi-stakeholder model threatens the  
67 internet, harming its ability to spread prosperity and  
68 freedom.

69       Yet this December at the World Conference on  
70 International Telecommunications (WCIT) in Dubai, the 193  
71 member countries of the United Nation's International  
72 Telecommunications Union will consider expanding the ITU's  
73 jurisdiction to the internet, replacing the multi-stakeholder  
74 model that has served the internet and the world so well.  
75 They will also consider imposing economic regulations on the  
76 internet.

77           The ITU was originally formed in 1865 to govern  
78 international regulation of the telegraph. The ITU finally  
79 updated its charter in 1988 by adopting the International  
80 Telecommunications Regulations but, even then, the  
81 communications world was dominated by voice telephony. It  
82 was in that world the ITU developed ``settlement rates'' at  
83 which service providers compensated each other for exchanging  
84 phone traffic across national borders. Now, the end result  
85 was high international call rates and a transfer of money to  
86 telephone companies run by foreign governments.

87           It would be inappropriate to apply an international  
88 regulatory scheme developed for the 1980s telephone networks  
89 to the vibrant and technologically diverse internet. Such a  
90 regulatory regime ignores the reality of the architecture of  
91 the internet. Unlike traditional telephony where the routing  
92 of circuit switched calls could easily be tracked, the  
93 networks that comprise the internet do not adhere to  
94 political boundaries. Given the diversity of the networks  
95 that make up the modern internet, any implementation of an  
96 international regulatory regime would quickly become so  
97 complex as to be unmanageable. We also live in a far more  
98 competitive world, making such economic regulation not only  
99 unnecessary, but also counterproductive.

100           The internet has prospered under the multi-stakeholder

101 model absent the heavy hand of government regulation. That  
102 model has enabled an internet that creates jobs, brings a  
103 literal world of information to your fingertips, allows small  
104 businesses around the world to have a global reach, drives  
105 investment and innovation, and has even started a revolution  
106 or two. As the U.S. delegation to the WCIT takes shape, I  
107 urge the Administration to continue the United States'  
108 commitment to the internet's collaborative governance  
109 structure and to reject international efforts to bring the  
110 internet under government control.

111 With that, I yield the remainder of my time to the vice  
112 chairman of the Subcommittee, Mr. Terry of Nebraska.

113 [The prepared statement of Mr. Walden follows:]

114 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
115 [The information follows:]

116 \*\*\*\*\* INSERT 6 \*\*\*\*\*

|  
117 Mr. {Terry.} Thank you, Mr. Chairman.

118 And I believe that the bottom-up stakeholder approach

119 model has actually allowed economic development and

120 prosperity in all levels of economy around the world.

121 Therefore, when I hear comments from Prime Minister Vladimir

122 Putin saying that international control over the internet is

123 one of the stated goals, we cannot allow this to happen.

124 This will diminish economic prosperity.

125 This conference is about telephone and should not

126 encroach into any discussions into regulation of the internet

127 whether it is disguised by phone numbers or IP addresses or

128 cybersecurity. So I want to put those on notice from Russia

129 or from China or other countries that when it comes to

130 regulating the internet, the answer is nyet.

131 [The prepared statement of Mr. Terry follows:]

132 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
133           Mr. {Walden.} Gentlemen's time is expired. I now  
134 recognize the distinguished ranking democrat on the  
135 Subcommittee, Ms. Eshoo, for 5 minutes.

136           Ms. {Eshoo.} Thank you, Mr. Chairman, and good morning  
137 to everyone and thank you for having this important hearing.

138           The internet continues to grow and to flourish thanks to  
139 its open structure and its multi-stakeholder approach to  
140 governance. This is healthy. We have seen it. We have  
141 worked hard to make sure that these are the atmospheric for  
142 it. It is one of the great sources of pride to our Nation,  
143 the role that the government originally played, how it went  
144 out into the private sector, and it is one of the great  
145 success stories of American history. And I am very proud  
146 that so much of it resides in my district.

147           According to a recent study commissioned by the New  
148 Democratic Network and the NPI, the New Policy Institute,  
149 every 10 percent increase in the adoption of 3G and 4G  
150 wireless technologies has the potential to add more than  
151 231,000 jobs to our national economy. So as the World  
152 Conference on International Communications prepares to meet  
153 later this year to review proposals that could actually  
154 radically alter the internet's future, it is more than  
155 fitting for our subcommittee to convene this hearing to hear

156 from some of our Nation's leading experts--and you are all a  
157 source of pride to us--from the public and private sectors.

158         The internet has advanced rapidly since WCIT last met  
159 about a quarter of a century ago. A quarter of a century  
160 ago. I guess they don't meet that often. We have gone from  
161 dial-up modems--and maybe that is good--to high-speed  
162 internet powered by fiber optics. With this dramatic boost  
163 in speed, consumers today can experience high-definition  
164 video, social networking, video conferencing, and much more  
165 without regard to where this content is hosted in the world.  
166 And I think that is the way it should be.

167         There is no question that there are real threats facing  
168 the internet's continued growth and stability. Our three  
169 cybersecurity hearings held earlier this year are evidence of  
170 such vulnerabilities. But international proposals to impose  
171 new mandated mobile roaming rates or termination charges for  
172 data traffic are a fundamental departure from the  
173 international telecommunication regulations adopted in 1988.

174         Beyond just imposing new regulation on how internet  
175 traffic is handled, several nations are set on asserting  
176 intergovernmental control over the internet. Now, we have  
177 had some real battles here over the issue of net neutrality,  
178 and it seems to me that we are calling on the international  
179 community for hands off, an international net neutrality, as

180 it were, when it comes to the internet. Balkanizing the  
181 internet would and could bring about censorship and make that  
182 the norm. In the words of Vint Cerf, who is here today,  
183 ``the decisions taken in Dubai in December have the potential  
184 to put government handcuffs on the net.''

185 I think that we can all agree that the adoption of these  
186 proposals is a very serious threat to the free, transparent,  
187 and open internet as we know it today. This is reflected in  
188 the bipartisan resolution that I join my colleagues in  
189 introducing yesterday. And today's hearing, along with a  
190 bipartisan congressional internet caucus briefing, which I am  
191 cosponsoring next week, are an opportunity to discuss these  
192 issues and send a strong message that intergovernmental  
193 control over the internet will uproot the innovation,  
194 openness, and transparency enjoyed by nearly 2.3 billion  
195 users around the world. And we want to keep it that way. We  
196 want that to double; we want it to quadruple; we want it to  
197 keep growing.

198 And so it seems to me that what we discuss today is of  
199 great, great importance but I also think we need to inoculate  
200 other countries with the ideas that will help take them away  
201 from where they are now. I don't think this can be America  
202 against the rest of the world. I think we need to form  
203 coalitions around the ideas that have worked and that they,

204 too, can share in what we know is one of the most exciting  
205 inventions and adventures of not only the last century but  
206 this one as well.

207           And I think I have 1 second left so I don't have any  
208 time to yield to Ms. Matsui and I apologize.

209           [The prepared statement of Ms. Eshoo follows:]

210 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
211 Mr. {Walden.} The gentlelady's time is expired.

212 I now recognize the chairman of the full committee, the  
213 gentleman from Michigan, Mr. Upton, for 5 minutes.

214 The {Chairman.} Well, thank you, Mr. Chairman.

215 The international community is going to meet in December  
216 to decide whether to regulate the internet under rules  
217 designed for the 1980 era telephone networks. On the table  
218 is a proposal to expand the jurisdiction of the U.N.'s  
219 International Telecommunications Union to cover the internet,  
220 moving away from the current multi-stakeholder governance  
221 model that has fostered the modern internet. Also at issue  
222 is whether to impose rate regulation on the exchange of  
223 internet traffic across national borders. Both of these are  
224 terrible ideas.

225 In a time of economic uncertainty and turmoil, the  
226 internet does remain a job creation engine that fosters  
227 innovation, brings the folks of the world together in new  
228 ways, and drives global discussion of important social  
229 matters. The internet has become this economic and social  
230 juggernaut not because government actors willed it to be so  
231 but because the government took a step back and let the  
232 private sector drive its evolution. The non-regulatory,  
233 multi-stakeholder model allows the internet community to

234 guide its evolution and has provided the flexibility that the  
235 internet needs to flourish as the demands placed on it grow.

236       The ITU and the international ``settlement-of-rates''  
237 regime were designed around old-fashioned telephone networks  
238 and services when there was less competition. The internet  
239 is a different technology and this is a different era.  
240 International regulatory intrusion into the internet would  
241 have disastrous results not just for the United States, but  
242 for folks around the world. So I would strongly urge the  
243 Administration to continue U.S. support for the multi-  
244 stakeholder model in its talks leading up to the Dubai  
245 meeting this December.

246       And I yield to the gentlelady from California, Mrs. Bono  
247 Mack.

248       [The prepared statement of Mr. Upton follows:]

249 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
250 Mrs. {Bono Mack.} I thank the chairman.

251 As the U.S. prepares to take part in the World  
252 Conference on International Telecommunications in Dubai, we  
253 need to provide the delegation with a clear and unmistakable  
254 mandate: keep the internet free of any government control.  
255 At the WCIT discussions, a new treaty on internet governance  
256 will be debated.

257 Most worrisome to me are efforts by some countries to  
258 provide the U.N. with unprecedented new authority over the  
259 management of the internet. To prevent this from happening,  
260 I have introduced House Concurrent Resolution 127. I would  
261 like to thank my cosponsors, Chairman Upton, Ranking Member  
262 Waxman, Subcommittee Chairman Walden, and Ranking  
263 Subcommittee Member Eshoo for their strong support in this  
264 effort.

265 In many ways, this is a referendum on the future of the  
266 internet. For nearly a decade, the U.N. has been angling  
267 quietly to become the epicenter of internet governance. A  
268 vote for our resolution is a vote to keep the internet free  
269 from government control and to prevent Russia, China, and  
270 India, as well as other nations from succeeding in giving the  
271 U.N. unprecedented power over web content and infrastructure.  
272 If this power grab is successful, I am concerned that the

273 next Arab Spring will instead become a Russia Winter where  
274 free speech is chilled, not encouraged, and the internet  
275 becomes a wasteland of unfilled hopes, dreams, and  
276 opportunities. We simply cannot let that happen.

277 Thank you, Mr. Chairman. I yield back my time.

278 [The prepared statement of Mrs. Bono Mack follows:]

279 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
280 Mr. {Walden.} I now would recognize Mr. Stearns.

281 Mr. {Stearns.} Thank you, Mr. Chairman.

282 Following up with your comments and Chairman Upton about  
283 the monopoly from the 19th century, which we don't want to go  
284 back to, is there anybody in this room who thinks the United  
285 Nations could competently manage the internet? Please raise  
286 your hands. I don't think there is anybody that does. In  
287 fact, I think all the witnesses will testify this morning  
288 that we must maintain the current multi-stakeholder  
289 decentralized approach. And this ITU, which is the  
290 International Telecommunication Union, it is a part of the  
291 United Nations and would require other countries to fund and  
292 build out the communication networks and give them full  
293 jurisdiction. And I again don't believe that we want to punt  
294 this to the U.N. These approaches constitute a frontal  
295 attack on the dynamic approach that we have presently.

296 So I want to promote the unified, bipartisan message  
297 against international regulation of the internet. That is  
298 why we are here today. And I want to emphasize today that  
299 such an approach that we see from others is a nonstarter for  
300 the United States. And I yield--

301 [The prepared statement of Mr. Stearns follows:]

302 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
303           Mr. {Walden.} I now recognize the gentle lady from  
304 Tennessee, Mrs. Blackburn.

305           Mrs. {Blackburn.} Thank you, Mr. Chairman.

306           And welcome to our witnesses. We are glad that you are  
307 here in this room, but I have no doubt that all around the  
308 world people are streaming this hearing because they want to  
309 see what our posture on this is going to be. And I think as  
310 you have heard that there is agreement, both sides of the  
311 aisle, that giving authority to an international governing  
312 body would put our nation's sovereignty at risk. We are  
313 concerned about that and I think that the Obama  
314 Administration should be commended for helping thwart this  
315 power grab. And I think we also need to realize that this is  
316 one of those areas where it raises the concerns we had about  
317 this Administration's effort to undermine our efforts--  
318 Congress' efforts--in this developing fight against  
319 international regulatory schemes over the internet because  
320 this Administration moved forward with regulations over the  
321 management of internet networks here in the United States.

322           So we are going to continue to work to reign in the  
323 regulatory explosion of the FCC. Now is the time to execute  
324 a serious game plan that deals with those who would put  
325 international politics ahead of an open and prosperous

326 internet. We may have our differences on domestic  
327 telecommunications policy, but having those policies decided  
328 at the international level would be the worst thing that  
329 could happen for the future of the internet.

330 Again, welcome to everyone. I appreciate the time.

331 Yield.

332 [The prepared statement of Mrs. Blackburn follows:]

333 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
334           Mr. {Walden.} The chair now recognizes the ranking  
335 member, Mr. Waxman, for 5 minutes.

336           Mr. {Waxman.} Thank you very much, Mr. Chairman, for  
337 holding this hearing. It is an important hearing as we look  
338 down the road to an international conference where some of  
339 the proposals, if adopted, would fundamentally alter the way  
340 the internet operates today, undermining the decentralized,  
341 multi-stakeholder approach to internet governance and has  
342 allowed the internet to flourish and become such a powerful  
343 engine for social and economic progress.

344           As we will hear from our witnesses today--and people can  
345 also sense from your opening statements--there is a strong  
346 bipartisan consensus throughout the Administration and  
347 Congress that we must resist efforts by some countries to  
348 impose a top-down command-and-control management regime on  
349 the internet. This bipartisan consensus is reflected in H.  
350 Con. Res. 127, a resolution introduced yesterday by Chair  
351 Bono Mack and cosponsored by Chairman Upton, myself, Chairman  
352 Walden, and Ranking Member Eshoo. Simply put, this  
353 resolution affirms that Democrats and Republicans both want  
354 the Administration to continue advancing our national  
355 commitment to the multi-stakeholder model of internet  
356 governance and a globally open internet.

357           We have two distinguished panels of witnesses today who  
358 have a long history of working on this issue. I want to  
359 welcome Ambassador Phil Verveer, who will be one of the  
360 Administration's lead negotiator on the treaty known as the  
361 International Telecommunications Regulations at the World  
362 Conference on International Telecommunications in December.  
363 And I believe that Ambassador Verveer's experience in  
364 communications and antitrust law will serve the U.S. position  
365 well.

366           And we are pleased to have Commissioner Rob McDowell  
367 back to our subcommittee. He has been focused on this issue  
368 for some time, expressing a strong leadership position and we  
369 are pleased to have him with us.

370           Our second panel is also highly experienced. Former  
371 ambassador David Gross and Sally Wentworth both served the  
372 previous administration with distinction and have significant  
373 experience with information and communications technology  
374 sectors. And I want to welcome Vint Cerf. As one of the  
375 founders of the internet, Dr. Cerf will be able to provide us  
376 with a unique perspective about how some of the proposals  
377 before the international meeting threaten the security and  
378 stability of the internet.

379           We all agree that the current and past administrations  
380 deserve credit for their efforts to ensure the internet

381 remains a tool for global dissemination of ideas,  
382 information, and commerce. There is no daylight between  
383 House Democrats and House Republicans or the Administration  
384 on this issue.

385         While we are largely focused on the upcoming rule  
386 conference, we should not lose sight of the fact that the  
387 push for more centralized control over the internet is  
388 occurring through other international venues as well.

389         Mr. Chairman, I want to yield the balance of my time to  
390 Ms. Matsui so she could give an opening statement.

391         [The prepared statement of Mr. Waxman follows:]

392 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
393 Ms. {Matsui.} Thank you, Ranking Member, for yielding  
394 me time.

395 And I also want to welcome Ambassador Verveer and  
396 Commissioner McDowell and the rest of the panelists for  
397 joining us today.

398 As we know, in today's global economy with well over two  
399 billion users, the internet has become a necessity and not a  
400 luxury. And that is why I believe that a free, transparent,  
401 and open internet must continue. The current multi-  
402 stakeholder approach has allowed the internet to flourish  
403 here in the U.S. and around the world. Any international  
404 authority over the internet is troublesome, particularly if  
405 those efforts are being led by countries where censorship is  
406 the norm.

407 I agree with many of our witnesses that it would harm  
408 efforts to combat cyber attacks, decrease adoption and  
409 innovation of the latest technologies, and interfere with  
410 many fundamental principles that allow the internet to be an  
411 ecosystem for innovation and growth. I am also pleased that  
412 the Administration understands these concerns and believes as  
413 such that an international mandated framework would simply  
414 not work.

415 We need to continue to promote innovation and openness

416 of the internet around the globe. I believe that the multi-  
417 stakeholder approach must continue to define internet  
418 governance.

419 And with that, I yield back the balance of my time.

420 [The prepared statement of Ms. Matsui follows:]

421 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
422 Mr. {Waxman.} I yield back my time.

423 Mr. {Walden.} The gentleman yields back the balance of  
424 his time.

425 So now I think we proceed to the witnesses. We are  
426 delighted to have you both here. And Ambassador Verveer,  
427 Deputy Assistant Secretary of State, and U.S. Coordinator for  
428 International Communications and Information Policy, we  
429 welcome you. And Commissioner Robert McDowell of the Federal  
430 Communications Commission, we welcome you back.

431 Ambassador Verveer, thank you for being with us. We  
432 look forward to your testimony. Yeah, pull that mike close  
433 and we will all be able to hear. You need to push the little  
434 button.

|  
435 ^STATEMENTS OF AMBASSADOR PHILIP VERVEER, DEPUTY ASSISTANT  
436 SECRETARY OF STATE AND U.S. COORDINATOR FOR INTERNATIONAL  
437 COMMUNICATIONS AND INFORMATION POLICY; AND ROBERT MCDOWELL,  
438 COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

|  
439 ^STATEMENT OF AMBASSADOR PHILIP VERVEER

440 } Ambassador {Verveer.} Chairman Walden, Ranking Member  
441 Eshoo, and members of the subcommittee, thank you for this  
442 opportunity. I am particularly pleased to appear with my  
443 friend Commissioner Robert McDowell, and I am very happy that  
444 the Subcommittee will hear later from my friend and  
445 distinguished predecessor Ambassador David Gross, from Sally  
446 Wentworth, who played a significant role in internet  
447 governance matters during her service at the State  
448 Department, and of course from Vint Cerf without whom we  
449 might not have the internet at all.

450 Over the years, a relatively small number of governments  
451 have made proposals to change today's successful approach to  
452 internet governance. Typically, these proposals involve the  
453 United Nations in one of its many manifestations, including  
454 the General Assembly, the Commission on Science and  
455 Technology for Development, and the International

456 Telecommunication Union. The U.S. Government and others have  
457 successfully opposed these proposals but it is important to  
458 recognize that this will be a continuing debate.

459         From the privatization of the internet in the mid-1990s,  
460 the United States has been committed to a multi-stakeholder  
461 approach to its governance. That has been true from one  
462 administration to another. It represents a policy with  
463 thorough--it is not too strong to say unanimous--bipartisan  
464 support. The present internet governance arrangements rely  
465 upon a collection of specialized institutions of which the  
466 Internet Society, ICANN, the IETF, and the World Wide Web  
467 Consortium are important examples. They are noteworthy for  
468 two things. The first is their expertise, inclusivity, and  
469 openness; the second is the remarkable success that they have  
470 achieved. This is one of the reasons we wish to preserve  
471 these institutions as the instruments of internet governance.  
472 They work and they work remarkably well.

473         There are two other reasons underlying our commitment to  
474 preventing the internet from falling subject to  
475 intergovernmental controls. First, it inevitably would  
476 diminish the dynamism that is one of the internet's greatest  
477 strengths. The existing arrangements permit the internet to  
478 evolve organically in response to changes in technology,  
479 business practice, and consumer behavior. For reasons that

480 cannot be overcome, intergovernmental controls would prevent  
481 this.

482         Second, intergovernmental controls could be recruited in  
483 aid of censorship and repression. The United States is  
484 deeply committed to freedom of expression and the free flow  
485 of information. We appreciate that some nations, however, do  
486 not share these commitments. We particularly wish to  
487 preclude any developments that threaten to reduce internet  
488 freedom that would impair freedom of expression, assembly, or  
489 association online.

490         As an alternative to intergovernmental controls, the  
491 United States encourages governments to adopt multi-  
492 stakeholder, transparent, and decentralized approaches. Last  
493 year's high-level ministerial meeting at the OECD both  
494 exemplified and codified this approach.

495         Now, with respect to the World Conference on  
496 International Telecommunications, in December,  
497 representatives of 193 nations will gather in Dubai to  
498 consider revisions to the international telecommunications  
499 regulations. A year and more ago there was concern that the  
500 WCIT would be a battle over investing the IT with explicit  
501 internet governance authority and that the conference  
502 participants would be confronting wholly new standalone draft  
503 text proposing internet governance provisions.

504           In response, the United States advanced the advantages  
505 of using the exiting ITRs as a basis for treaty negotiations.  
506 I am pleased to say that the majority of the ITU's members  
507 have agreed with us in this regard. The exiting ITRs have  
508 been accepted as a framework for negotiations. There are no  
509 pending proposals to vest the IT with direct internet  
510 governance authority. Instead, thus far, traditional telecom  
511 issues such as roaming and fraud prevention have taken center  
512 stage.

513           The State Department's preparations for the WCIT have  
514 been in progress for about 18 months. On an ongoing basis,  
515 we host the International Telecommunications Advisory  
516 Committee, or ITAC, a forum open to all interested parties to  
517 review and advise on the regional and national contributions  
518 to WCIT as they are submitted. Earlier this month, we  
519 established our core delegation consisting of U.S. Government  
520 officials. In September, we will complete the delegation  
521 with the addition of private sector members.

522           Earlier this week, the President advised the Senate of  
523 his selection of Terry Kramer of California as the United  
524 States' Head of Delegation and of his intention to confer  
525 ambassadorial rank on Mr. Kramer in connection with this  
526 assignment.

527           A great deal of preparatory work has been done but a

528 great deal more remains to be done. In our work, the United  
529 States has the significant advantage of unanimity of purpose.  
530 We benefit from the fact that government officials of both  
531 parties, civil society, and the corporate sector all are  
532 committed to the preservation of the multi-stakeholder model  
533 and the resolution which was introduced this week and which  
534 has been mentioned today is a very important contribution to  
535 showing that unanimity.

536 We look forward to continuing to work with the Congress  
537 as we approach the WCIT and other matters that involve  
538 internet governance. I greatly appreciate the opportunity  
539 you are providing with this hearing to affirm the continuing  
540 value of our approach to internet governance not just to U.S.  
541 citizens but to everyone in the world.

542 I would be very pleased to respond to any questions you  
543 might have.

544 [The prepared statement of Ambassador Verveer follows:]

545 \*\*\*\*\* INSERT 1 \*\*\*\*\*

|  
546           Mr. {Walden.} Thank you, Mr. Ambassador. We appreciate  
547 the work you put into your testimony and the work you are  
548 doing for the country.

549           We turn now to Commissioner McDowell. We appreciate you  
550 being here and your loud and clear voice on this issue as  
551 well. And we welcome your son as well. Do you want to  
552 introduce your special assistant there today?

|  
553 ^STATEMENT OF ROBERT MCDOWELL

554 } Mr. {McDowell.} Yes, one of my many supervisors, Mr.  
555 Chairman, my oldest son Griffin who is 12. This is his first  
556 day of summer vacation but he wanted to see how his tax  
557 dollars were being spent.

558 Mr. {Walden.} Wow, you brought him up here for that?

559 Mr. {McDowell.} Yeah, let us fill out a press  
560 conference after the hearing--

561 Mr. {Walden.} That is right.

562 Mr. {McDowell.} --and he will let us know what his  
563 conclusion is. But thank you very much, Mr. Chairman and  
564 Ranking Member Eshoo and all members of the subcommittee. It  
565 is a pleasure to be here today. It is also an extreme honor  
566 to be seated next to my friend and colleague, Ambassador  
567 Verveer, as well as right before the next panel good friends  
568 as well, Ambassador Gross, Dr. Cerf, and Ms. Wentworth as  
569 well. So they are going to be outstanding witnesses.

570 First, please let me allow to dispense quickly and  
571 emphatically any doubts internationally about the bipartisan  
572 resolve of the United States to resist efforts to expand the  
573 ITU's authority over internet matters. Some ITU officials  
574 have dismissed our concerns over this issue as mere election

575 year politics and nothing could be further from the truth, as  
576 evidenced by Ambassador Verveer's testimony today, as well as  
577 recent statements from the White House, Executive Branch  
578 agencies, Democratic and Republican Members of Congress, and  
579 my friend and colleague at the FCC, Chairman Julius  
580 Genachowski. We are unified on the substantive arguments and  
581 always have been.

582         Second, it is important to define the challenge before  
583 us. The threats are real and not imagined, although they  
584 admittedly sound like works of fictions at some times. For  
585 many years now, scores of countries led by China, Russia,  
586 Iran, Saudi Arabia, but many, many others have pushed for--as  
587 Vladimir Putin said almost a year ago--international control  
588 of the internet through the ITU. Now, I have tried to find a  
589 more concise way to express this issue but I can't seem to  
590 improve on Mr. Putin's crystallization of the effort that has  
591 been afoot for quite some time. More importantly, I think we  
592 should take Mr. Putin's designs very seriously.

593         Six months separate us from the renegotiation of the  
594 1988 treaty that led to insulating the internet from economic  
595 and technical regulation. What proponents of internet  
596 freedom do or don't do between now and then will determine  
597 the fate of the net and affect global economic growth as well  
598 as determine whether political liberty can proliferate.

599           During the treaty negotiations, the most lethal threat  
600 to internet freedom may not come from a full frontal assault  
601 but through insidious and seemingly innocuous expansions of  
602 intergovernmental powers. This subterranean effort is  
603 already underway. While influential ITU-member states have  
604 put forth proposals calling for overt legal expansions of  
605 United Nations' or ITU authority over the net, ITU officials  
606 have publicly declared that the ITU does not intend to  
607 regulate internet governance while also saying that any  
608 regulations should be of the light-touch variety.

609           But which is it? It is not possible to insulate the  
610 internet from new rules while also establishing a light-touch  
611 regulatory regime. Either a new legal paradigm will emerge  
612 in December or it won't. The choice is binary.

613           Additionally, as a threshold matter, it is curious that  
614 ITU officials have been opining on the outcome of the treaty  
615 negotiation. The ITU's member states determine the fate of  
616 any new rules, not ITU leadership or staff. I remain hopeful  
617 that the diplomatic process will not be subverted in this  
618 regard. As a matter of process and substance, patient and  
619 persistent incrementalism is the net's most dangerous enemy  
620 and incrementalism is the tactical hallmark of many countries  
621 that are pushing the pro-regulation agenda.

622           Specifically, some ITU officials and member states have

623 been discussing an alleged worldwide phone numbering crisis.  
624 It seems that the world may be running out of phone numbers  
625 of which the ITU does have some jurisdiction. Today, many  
626 phone numbers are used for voiceover internet protocol  
627 services such as Skype or Google Voice. To function  
628 properly, the software supporting these services translate  
629 traditional phone numbers into IP or internet addresses. The  
630 Russian Federation has proposed that the ITU be given  
631 jurisdiction over IP addresses to remedy the phone numbers  
632 shortage. What is left unsaid, however, is that potential  
633 ITU jurisdiction over IP addresses would enable it to  
634 regulate internet services and devices with abandon. IP  
635 addresses are a fundamental and essential component to the  
636 inner workings of the net. Taking their administration away  
637 from the bottom-up, nongovernmental, multi-stakeholder model  
638 and placing it into the hands of international bureaucrats  
639 would be a grave mistake.

640       Other efforts to expand the ITU's reach into the  
641 internet are seemingly small but are tectonic in scope.  
642 Take, for example, the Arab States' submission from February  
643 that would change the rules' definition of  
644 ``telecommunications'' to include ``processing'' or computer  
645 functions. This change would essentially swallow the  
646 internet's functions with only a tiny edit to existing rules.

647           When ITU leadership claims that no member states have  
648 proposed absorbing internet governance into the ITU or other  
649 intergovernmental entities, the Arab States' submission alone  
650 demonstrates that nothing could be further from the truth.  
651 An infinite number of avenues exist to accomplish the same  
652 goal and it is camouflaged subterfuge that proponents of  
653 internet freedom should watch for most vigilantly for years  
654 to come.

655           Other examples come from China. China would like to see  
656 the creation of a system whereby internet users are  
657 registered using their IP addresses. In fact, last year,  
658 China teamed up with Russia, Tajikistan, and Uzbekistan to  
659 propose to the U.N. General Assembly that it create ``an  
660 international code of conduct for information security'' to  
661 ``mandate international norms and rules standardizing the  
662 behavior of countries concerning information and  
663 cyberspace.'' Now, does anyone here today believe that these  
664 countries proposals would encourage the continued  
665 proliferation of an open and freedom-enhancing internet or  
666 would such constructs make it easier for authoritarian  
667 regimes to identify and silence political dissidents? These  
668 proposals may not technically be part of the WCIT  
669 negotiations, at least not yet, but they give a sense of  
670 where some of the ITU's member states would like to go.

671           Still other proposals--very quickly--that have been made  
672 personally to me by foreign government officials include the  
673 creation of an international universal service fund of sorts  
674 whereby foreign--usually state-owned--telecom companies would  
675 use international mandates to charge certain web destinations  
676 on a per-click basis to fund the build-out of broadband  
677 infrastructure across the globe. Estimates of that start at  
678 \$800 billion. Google, iTunes, Facebook, and Netflix are  
679 mentioned most often as prime sources of funding.

680           In short and in conclusion, the U.S. and likeminded  
681 proponents of internet freedom and prosperity across the  
682 globe should resist efforts to expand the powers of  
683 intergovernmental bodies over the internet even in the  
684 smallest of ways. As my supplemental statement and analysis  
685 explains in more detail, such a scenario would be devastating  
686 to global economic activity as well as political freedom, but  
687 it would hurt the developing world the most.

688           So thank you for the opportunity to appear before you  
689 today and I look forward to you questions.

690           [The prepared statement of Mr. McDowell follows:]

691           \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
692           Mr. {Walden.} We appreciate your work in this matter  
693 and your testimony today before the Subcommittee.

694           Ambassador Verveer, in a blog post you wrote with  
695 Assistant Secretary of Commerce Lawrence Strickling and White  
696 House Deputy Chief Technology Officer Daniel Weitzner, you  
697 said the ``centralized control over the internet through a  
698 top-down government approach would put political dealmakers  
699 rather than innovators and experts in charge of the future of  
700 the internet. This would slow the pace of innovation, hamper  
701 global economic development, and lead to an era of  
702 unprecedented control over what people can say and do  
703 online.'' Would you elaborate on that statement for us and  
704 then perhaps, Commissioner McDowell, you might make a comment  
705 or two as well.

706           Ambassador {Verveer.} That is right. I would be glad  
707 to, Mr. Chairman.

708           Basically, the anxiety that we have about top-down  
709 arrangements involves both the economic performance of the  
710 internet if you will in terms of its dynamism, in terms of  
711 its ability to react to opportunities that technology changes  
712 present and business models present, changes in consumer  
713 behavior might present. We also are very concerned about  
714 whether or not top-down intergovernmental controls would aid

715 in censorship or repression; that is would aid any particular  
716 country that is concerned about the content that comes into  
717 its country that crosses its borders, whether or not these  
718 kinds of changes might permit it to claim that it is entitled  
719 to the aid of other countries in terms of preventing unwanted  
720 content.

721         So we believe that both for reasons of economics but  
722 also for reasons of the broader political, cultural, social  
723 value of the internet, it ought to be kept operating as it is  
724 today.

725         Mr. {Walden.} Mr. McDowell, any comment?

726         Mr. {McDowell.} I agree. I thought, by the way, the  
727 joint blog post by the Department of Commerce, Ambassador  
728 Verveer and Danny Weitzner in the White House was excellent.  
729 I can't really improve upon his answer, but as I said in my  
730 opening remarks, it is a grave threat.

731         Mr. {Walden.} Commissioner, according to Communications  
732 Daily today, Gigi Sohn from Public Knowledge has said that  
733 ``we have to be a little careful not to hold up multi-  
734 stakeholderism as a coin.'' Ultimately, the U.S. Government  
735 has to serve as a backstop to these efforts, and it is  
736 government's role to make the decisions and enforce the  
737 principles that are developed. Do you agree that it is it  
738 government's role to make the decisions about how the

739 internet operates and to enforce them?

740 Mr. {McDowell.} I can't speak for Ms. Sohn but to  
741 answer your question directly, no, I think we need to  
742 reinforce the multi-stakeholder model in the absence of  
743 stakeholder action.

744 Mr. {Walden.} Ambassador Verveer?

745 Ambassador {Verveer.} Yes, I think we agree once again  
746 that we want very much to keep the multi-stakeholder model as  
747 the front and center basis on which we engage in internet  
748 governance.

749 Mr. {Walden.} And it seems like, Commissioner McDowell  
750 and Ambassador, that aren't many of the proposals before WCIT  
751 attempts to regulate the internet as if it is the old-  
752 fashioned telephone service? It certainly feels like that to  
753 some of us.

754 Mr. {McDowell.} Yes, and then some perhaps with the  
755 regulation of content and applications as well, which would  
756 go well beyond the old phone service regulation of yore.

757 Ambassador {Verveer.} I guess I would add it is  
758 important to understand that the contributions that come in  
759 are things that have the kinds of implications in many  
760 instances that Commissioner McDowell mentioned in his  
761 testimony. But a lot of them are probably also motivated or  
762 principally motivated by an effort to preserve or reinstate

763 the kinds of arrangements that existed under the days of  
764 voice-grade international telephone service. And these are  
765 possibly in many instances sincerely presented not intending  
766 anything anymore than that. For the reasons the Commissioner  
767 mentioned, these are probably also mistaken in terms of  
768 efforts to find new approaches to regulation.

769 Mr. {Walden.} And in fact I thought your testimony was  
770 very well done and raises some of these points just how  
771 insidious they can be and yet look as if they are not  
772 problem-creating. What do you see as the most troubling  
773 small changes if you will that have been proposed?

774 Mr. {McDowell.} Well, certainly, the Arab States'  
775 proposal is very troubling. A small definitional change  
776 maybe hoping no one would notice that all of a sudden  
777 swallows the internet but expands the ITU's jurisdiction  
778 tremendously. Again, it could be something that comes  
779 through the phone numbering issue or some other issue. I  
780 mean it seems almost every week there is a new issue or a new  
781 angle or a new front that has opened up, a new argument that  
782 is tested. So it could be any number.

783 Mr. {Walden.} All right. I have no further questions.

784 With that, I will turn over now to ranking member of the  
785 subcommittee, Ms. Eshoo, for 5 minutes.

786 Ms. {Eshoo.} Thank you, Mr. Chairman.

787           And Ambassador Verveer and Commissioner McDowell, thank  
788 you not only for being here but for your very strong,  
789 knowledgeable voices and advocates on this issue as well.

790           Ambassador Verveer, you have mentioned in your testimony  
791 that many other governments have joined with the United  
792 States in pursuing an outcome that would limit the ITU's  
793 involvement in internet governance. Can you tell us what the  
794 extent of this collaboration is and how are these other  
795 governments working with the U.S. to achieve this goal?  
796 Because it seems to me that we have a lot of people, a lot of  
797 countries, states, nation-states that are--let me put it in a  
798 more positive way--don't share our view of the internet and  
799 how it operates and how it should continue to operate. So  
800 how is our coalition doing and can you do a little bit of a  
801 dive on telling us where you think we are with other  
802 countries, which is so important?

803           And then, I would like Commissioner McDowell, maybe you  
804 can give us a WCIT 101. How many are going to vote? Is  
805 there a time frame around this? Is it discussion that begins  
806 this year and extends for the next 24 years? The last time  
807 they met was almost a quarter of a century ago. So maybe  
808 some already know; I am not so sure I understand how the ITU  
809 actually is going to work when we show up. So if you could  
810 handle that one. But let us go to Ambassador Verveer first.

811           Ambassador {Verveer.} Yes, Representative Eshoo, the  
812 principle activities to this date in terms of preparation for  
813 the conference are being undertaken in regional groupings of  
814 which there are six. Our regional grouping of the Americas  
815 involves something called CTEL. The Europeans operate under  
816 something called CEPT, and in the Asia-Pacific area, there is  
817 the Asia-Pacific Telecommunity, among other places. I think  
818 it is a fair summary that in those three regions you have a  
819 largely consistent set of views about how we should proceed.  
820 That is to say that we don't want to see the treaty  
821 conference become the occasion for any kind of  
822 intergovernmental control of the internet.

823           Now, we will, in our preparations, with the leadership  
824 of our new head of delegation, Terry Kramer, we will engage  
825 in a great many bilateral discussions as well. By kind of  
826 analogy, in a recently concluded World Radio Conference, our  
827 head of delegation and our deputy head of delegation Dick  
828 Beaird engaged in about 50 bilateral discussions leading up  
829 to the conference itself. So we are very actively engaged in  
830 discussions with friends and with those who may have  
831 different opinions, and that is going to continue on right up  
832 to the conference itself.

833           Ms. {Eshoo.} Where would you say we are? Is there  
834 still a split? Is there a consensus that comes around more

835 our view than other views on this of the regions that you  
836 just mentioned?

837         Ambassador {Verveer.} Yes, I think one way to describe  
838 the state of the activities at this point would be to think  
839 of this conference as potentially having involved two tracks.  
840 The first track would have been an effort at direct  
841 regulation of the internet--

842         Ms. {Eshoo.} Um-hum.

843         Ambassador {Verveer.} --something that was a source of  
844 concern a year and more ago but I think is less a source of  
845 concern now. The only really direct effort that I am aware  
846 of to accomplish that was a proposal by the Russian  
847 Federation to create an entirely new framework for the  
848 negotiation of entirely new regulations.

849         Ms. {Eshoo.} Um-hum.

850         Ambassador {Verveer.} That effort has been turned back  
851 I think successfully.

852         Ms. {Eshoo.} That is very good news. I want to get to  
853 Commissioner McDowell, thank you.

854         Mr. {McDowell.} Sure. When it comes to the process, I  
855 will actually leave that to the Department of State. The  
856 Department of State actually takes the lead as a treaty  
857 negotiation. We play a supporting role--

858         Ms. {Eshoo.} So how many are on our team? Are they

859 votes? Is it 40, 50 people?

860 Mr. {McDowell.} Well, there are 193 member states of  
861 the ITU.

862 Ms. {Eshoo.} Um-hum.

863 Mr. {McDowell.} They each have one vote. There is no  
864 veto power so it doesn't matter how many people live in your  
865 country; you have the same vote as the tiniest of countries.  
866 And the idea of every 24 years--

867 Ms. {Eshoo.} Sort of like the Senate.

868 Mr. {McDowell.} I will stay out of the bicameral--

869 Ms. {Eshoo.} I know. I know.

870 Mr. {McDowell.} But the idea of every 24 years on the  
871 one hand is accurate; on the other hand, this is actually  
872 almost an annual issue. There is some other conference, you  
873 know, that is almost every year if not several conferences  
874 per year. So the ITU has many difference conferences, for  
875 instance, the World Radio Communications Conference that the  
876 Ambassador talked about was this past January and February.  
877 But we need to look beyond this December. I want to make  
878 sure the Committee and everybody listening understands that  
879 it is not just about this December. This is just the latest  
880 vignette in this drama. We have to remain vigilant for years  
881 to come. There will be more meetings, more possibilities for  
882 treaty negotiations in 2013, '14, '15, and on out.

883 Ms. {Eshoo.} Thank you.

884 Mr. {Terry.} [Presiding] Thank you. I recognize  
885 myself for questions. Mr. Upton was supposed to be next but  
886 since he is not here, I will take his time.

887 Mr. or is it Ambassador?

888 Ambassador {Verveer.} Either is fine.

889 Mr. {Terry.} Verveer, trying to get more up to speed on  
890 this. I am concerned about the Secretary-General Touré and  
891 his relationships with Russia and Vladimir Putin and then  
892 couple that relationship with Putin's comments where he is  
893 very blunt about his desires to regulate the internet and  
894 take control of the internet. So I ask you is that an  
895 unfounded concern or fear that I have? When the Secretary  
896 General of the ITU has this relationship, is it unfounded?  
897 Is this relationship a concern? What steps are we taking to  
898 be able to counterbalance that relationship?

899 Ambassador {Verveer.} Well, my view is that the  
900 Secretary General is in fact a very effective and honorable  
901 international civil servant elected to this position and then  
902 reelected unanimously the last go-around. So he is very well  
903 respected. He has been very effective and I don't personally  
904 have any serious misgivings about his ability to be fair, to  
905 be helpful in terms of helping to see that the conference and  
906 the ongoing activities that Commissioner McDowell mentioned

907 take place.

908 He is a man who has a very strong and personal  
909 connection with the United States. He lived here for 12  
910 years working for Intelsat.

911 Mr. {Terry.} He has family here?

912 Ambassador {Verveer.} Two of his children are U.S.  
913 citizens and I believe resident here. And so I think he  
914 exemplifies, I believe, a very decent international civil  
915 servant in what is a very important and frankly very  
916 complicated job. He has to attend to the legitimate needs  
917 and requirements of the United States but also of the Russian  
918 Federation, of China, and every other of the 193 countries in  
919 the world. But I don't think we need to have anxieties about  
920 his integrity.

921 Mr. {Terry.} All right. I wasn't questioning his  
922 integrity but that maybe his beliefs were close to what Prime  
923 Minister Putin has expressed. And so, Mr. McDowell, do you  
924 have any concerns or fears about the relationship--

925 Mr. {McDowell.} I think what is more--

926 Mr. {Terry.} --and whether that puts us behind the  
927 eight ball so to speak?

928 Mr. {McDowell.} I will take Ambassador Verveer's  
929 analysis, of course, at face value. He is much more an  
930 expert on that than I am. But what is more important than

931 looking at his background I think is looking at his public  
932 statements on these issues, many of which I have cited in my  
933 testimony and other things--

934 Mr. {Terry.} Good point.

935 Mr. {McDowell.} --and I think when you read them, they  
936 speak for themselves.

937 Mr. {Terry.} Yeah. And that is concerning.

938 I don't know, Ambassador Verveer, soon-to-be Ambassador  
939 Kramer, will you walk through your level of confidence in Mr.  
940 Kramer and what preparations he should be taking to make sure  
941 that we draw a hard line?

942 Ambassador {Verveer.} Sure. Mr. Kramer is a retired  
943 senior executive who had worked very extensively particularly  
944 in the wireless business. His career involved very  
945 significantly service initially in Pacific Telesis which then  
946 spun off its wireless business into a company called  
947 AirTouch, which eventually was acquired by Vodafone. Mr.  
948 Kramer, during almost all of this time, then, followed the  
949 progression of the company and the assets as they were sold.  
950 He spent a good many years of his career as a senior  
951 executive for Vodafone. He spent about 5 years, as I  
952 understand it, in the United Kingdom and in the Netherlands  
953 involved in Vodafone's extensive international activities.  
954 He has been a member of the Executive Committee of the GSM

955 Association, which is the largest international wireless  
956 association, has spent some time since his retirement  
957 teaching at Harvard at the Harvard Business School, and he is  
958 about to undertake, I believe, teaching assignments at UCLA  
959 at the business school there.

960 He is a man of very considerable experience, then, in  
961 the international communications arena. I think it will  
962 prove to be something that is very, very valuable from our  
963 point of view. There will be a learning curve. We are  
964 embarking now in terms of helping him with that--

965 Mr. {Terry.} My time is expired but I am worried about  
966 or concerned about whether the learning curve that we in the  
967 few months before December conference--and I will let  
968 somebody else ask that question.

969 So at this time I recognize Mr. Markey.

970 Mr. {Markey.} I thank the gentleman. Back in January,  
971 Sir Tim Berners-Lee, the inventor of the World Wide Web,  
972 urged us to ``make sure the Web itself is a blank sheet, the  
973 blank canvas, something that does not constrain the  
974 innovation that is around the corner.'' The wonderful thing  
975 about the internet Sir Tim also reminded us is that no one  
976 needs to ask permission to innovate, to get their voice  
977 heard, to launch a new service or a new business enterprise.  
978 That is the magic of the internet. The internet is the most

979 level playing field for commercial opportunity ever invented.  
980 It is the most successful communication and commercial medium  
981 in history. It is the lifeblood of the world economy.

982         Now, last week, Vint Cerf, who is going to testify on  
983 the second panel and was hired by Bolt Beranek Newman along  
984 with several others, Black in the late 1960s, to develop  
985 packets which network that eventually became known as the  
986 internet, he wrote just last Thursday in the New York Times,  
987 ``the decisions taken in Dubai in December have the potential  
988 to put government handcuffs on the net.'' To prevent that  
989 and keep the internet open and free for the next generation,  
990 we need to prevent a fundamental shift in how the internet is  
991 governed.

992         Do you think that can happen in Dubai, Ambassador  
993 Verveer?

994         Ambassador {Verveer.} I think it could happen but I  
995 think it is very unlikely to happen. And one of the reasons  
996 it is very unlikely to happen is many of the countries of the  
997 world are very alert to the kinds of concerns that Sir Tim  
998 mentioned in the hearing in 2007. The internet is enormously  
999 valuable to everyone in the world and I think it is a fair  
1000 surmise that almost all of the countries of the world are  
1001 going to be very anxious not to do anything that might damage  
1002 it. And, of course, that is a large part of the effort we

1003 have been and will continue to make is to point out that  
1004 there are things that could damage it.

1005         Mr. {Markey.} What is the motivation in your opinion  
1006 behind what China or Russia might seek to accomplish if they  
1007 were successful in what they had been proposing?

1008         Ambassador {Verveer.} Both of those countries have a  
1009 concept that they call information security. And their  
1010 concept of information security is both what we would call  
1011 cybersecurity--that is a physical protection of their  
1012 networks--but it goes beyond that to address content that  
1013 they regard as unwanted. And I think as much as anything  
1014 else, at the base, the motivations that Russia and China have  
1015 involve regime stability and regime preservation which for  
1016 them involves preventing unwanted content from being made  
1017 widely available in their country.

1018         Mr. {Markey.} And Commissioner McDowell, how do you  
1019 view this threat from China and Russia and others that seek  
1020 to retain regime stability and can only really pursue it  
1021 through an international control of the internet?

1022         Mr. {McDowell.} For those countries that are offering  
1023 such ideas that are authoritarian like the ones you cite, I  
1024 don't think it is too stark to say their vision of the  
1025 internet is to have a tyrannical walled garden. But I think  
1026 there are a variety of motivations throughout the 193 member

1027 states who might find a number of things appealing. It might  
1028 be purely economic, state-owned, telephone companies charging  
1029 web destinations on a per-click basis, things of that nature  
1030 that might be an economic incentive. But for the Chinas and  
1031 Russias and other authoritarian regimes--

1032 Mr. {Markey.} Um-hum.

1033 Mr. {McDowell.} --I think it is to snuff out political  
1034 dissent.

1035 Mr. {Markey.} We actually had to have a hearing here in  
1036 1987 when the Federal Communications Commission was actually  
1037 considering a proposal that would have per-minute charges up  
1038 on the corner of the screen on the internet rather than an  
1039 all-you-can-eat kind of proposal, which we are glad we beat  
1040 that back back in 1987 so that we could have this chaotic,  
1041 uncontrollable system that ultimately developed.

1042 So Mr. Ambassador, are you gratified by the response you  
1043 are receiving from other countries in their alignment with  
1044 the United States in resisting these proposals coming from  
1045 totalitarian states?

1046 Ambassador {Verveer.} Well, by and large, we are  
1047 gratified by the responses that we have seen. We find that a  
1048 significant number of our allies have been prepared to step  
1049 up to also oppose what we regard as fundamentally bad ideas.  
1050 And I am very confident that as we have the opportunity over

1051 the next 6 months to continue these discussions that we are  
1052 likely to end up with what we all find to be adequate--

1053 Mr. {Markey.} Are these countries joining us because of  
1054 pressure from the United States or because they agree with us  
1055 that the internet should retain this chaotic nature?

1056 Ambassador {Verveer.} Well, I think in very many  
1057 instances they do agree with us, that they see the value of  
1058 the internet as a mechanism for economic and broader  
1059 improvements.

1060 Mr. {Markey.} Do you want to list the few countries  
1061 that agree with us?

1062 Ambassador {Verveer.} Surely. We find that we get a  
1063 good deal of support from Japan in terms of activities in the  
1064 Asia-Pacific Telecommunity. We find that we are getting a  
1065 good deal of support from not only Canada and Mexico but  
1066 other countries in our hemisphere in terms of some proposals  
1067 that we make. Many of the European countries are very well  
1068 aligned with us in terms of the issues and values that we  
1069 think are most important in terms of preserving. So we see,  
1070 I think, very substantial support for the kind of broad views  
1071 that we have about the internet, which is again not to say  
1072 that this is fully resolved. There is a great deal more work  
1073 that needs to be done both in connection with this conference  
1074 and then probably into the indefinite future.

1075 Mr. {Markey.} Okay. Congratulations to the Obama  
1076 Administration on their excellent work on this.

1077 Mr. {Terry.} Mr. Stearns, you are recognized for 5  
1078 minutes.

1079 Mr. {Stearns.} Thank you, Mr. Chairman.

1080 Mr. Ambassador, with these 193 countries meeting in  
1081 Dubai, Mr. Markey touched upon and the question was how many  
1082 support us? How many votes are we short on having the  
1083 majority to support our position exactly?

1084 Ambassador {Verveer.} Well, I don't think we have a  
1085 count. It is very important to understand--

1086 Mr. {Stearns.} You don't have a count on it? You don't  
1087 know?

1088 Ambassador {Verveer.} We don't have--

1089 Mr. {Stearns.} We have a whip here that really knows  
1090 before any votes are taken what is happening. You know, I  
1091 get a little concerned that you don't even know. I  
1092 understand that we are about nine votes short but you think  
1093 that is an accurate representation?

1094 Ambassador {Verveer.} No. I don't--

1095 Mr. {Stearns.} Is it more?

1096 Ambassador {Verveer.} If I could explain?

1097 Mr. {Stearns.} Sure. Sure.

1098 Ambassador {Verveer.} The conference will follow the

1099 ITU traditions which involve avoiding votes. The conference  
1100 will operate on the basis of a--

1101 Mr. {Stearns.} So there will never be a vote? If you  
1102 don't mind, I would like you to answer yes or no if possible  
1103 just because I don't have a lot of time. Will there be a  
1104 vote in Dubai on this by these 193 countries? Yes or no?

1105 Ambassador {Verveer.} I think it is very unlikely.

1106 Mr. {Stearns.} So there will be no vote. So we don't  
1107 have to worry about who is for us and who is against us?

1108 Ambassador {Verveer.} We do have to worry about that  
1109 because the--

1110 Mr. {Stearns.} Okay.

1111 Ambassador {Verveer.} First, it is important to  
1112 understand there are going to be many different contributions  
1113 that are going to be discussed--

1114 Mr. {Stearns.} I understand. Do they work on the basis  
1115 of a consensus? In other words, they have this sort of  
1116 silent consensus and they move forward without a vote? Is  
1117 that what happens?

1118 Ambassador {Verveer.} That is in fact what happens.

1119 Mr. {Stearns.} So there will be a vote but it will be a  
1120 vote sort of secretly through a consensus, and based upon  
1121 that, a report will be written and that report will be issued  
1122 and that will be the hard fall answer to the Dubai

1123 conference. Would that be a fair estimation what is going to  
1124 happen?

1125 Ambassador {Verveer.} Yes. What will happen is there  
1126 will be negotiations over individual proposals in terms of  
1127 the international telecommunications regulations. Those  
1128 negotiations will yield presumably some agreement on words  
1129 and phrases in terms of the regulations--

1130 Mr. {Stearns.} I understand.

1131 Ambassador {Verveer.} --or agreement not to change  
1132 them.

1133 Mr. {Stearns.} Okay, just so we as legislators have an  
1134 understanding, can you give me today how many votes we are  
1135 short of a consensus?

1136 Ambassador {Verveer.} I cannot tell you--

1137 Mr. {Stearns.} Ten votes short, 100 votes short? I  
1138 mean can't you just give me a broad brush?

1139 Ambassador {Verveer.} I am sorry to say--

1140 Mr. {Stearns.} Okay.

1141 Ambassador {Verveer.} --I think it is impossible to  
1142 answer that--

1143 Mr. {Stearns.} Mr. McDowell--

1144 Ambassador {Verveer.} --question.

1145 Mr. {Stearns.} --any comments you want to say on this?

1146 In fact, you might suggest what as a legislator I and my

1147 fellow colleagues could do here based upon this evolving  
1148 consensus where it appears we are nine votes short?

1149 Mr. {McDowell.} Well, actually, I think also going back  
1150 to the dialogue with Congressman Markey, it is important that  
1151 this not be an issue of the United States versus--

1152 Mr. {Stearns.} I agree.

1153 Mr. {McDowell.} --the rest of the world.

1154 Mr. {Stearns.} I agree.

1155 Mr. {McDowell.} I think we need to cultivate allies in  
1156 the developing world. They have the most to gain from an  
1157 unfettered internet and the most to lose if this goes  
1158 forward. So that is where I think we need to be whipping up  
1159 the votes, to use your term.

1160 Mr. {Stearns.} Okay. Is there anything that the FCC is  
1161 doing right now that would impact this ITU?

1162 Mr. {McDowell.} Yes, we have an International Bureau  
1163 that works on this and works closely with the State  
1164 Department--

1165 Mr. {Stearns.} Okay.

1166 Mr. {McDowell.} --and they are busy working with member  
1167 states throughout the world.

1168 Mr. {Stearns.} Commissioner McDowell, you mentioned in  
1169 your extended testimony the potential outcome of a balkanized  
1170 internet if pro-regulation nations are successful in

1171 December. Could you perhaps expand on this? And what would  
1172 be the consequences for the United States and other  
1173 countries?

1174 Mr. {McDowell.} I am sure whether it is December or  
1175 sometime in the future. And I, by the way, would like to  
1176 suggest to the Committee that maybe we do a post-WCIT hearing  
1177 at some point maybe early next year to see how things went  
1178 and what is going to happen in the future.

1179 But what I mean by a balkanized internet would be are  
1180 there going to be countries that would opt out of the current  
1181 multi-stakeholder model and choose this top-down regulatory  
1182 regime, in which case, you know, the internet is a network of  
1183 networks without borders and it would really create an  
1184 engineering morass. At a minimum this would create chaos and  
1185 confusion and economic uncertainty. That always leads to  
1186 increased costs. Increased costs are always passed on to  
1187 end-user consumers. So that is at a minimum. So at a  
1188 maximum we would see a wilting of the proliferation of  
1189 political freedom and prosperity abroad, and we would also I  
1190 think see innovation be snuffed out in the cradle and we will  
1191 never know what innovations might not have come to fruition.

1192 The great thing about the internet is just, you know,  
1193 access to a computer and an internet connection in order to  
1194 create the next great idea, whether that is the next

1195 Facebook. But that could come from the developing world.

1196 Mr. {Stearns.} Mr. Ambassador, besides Russia and  
1197 China, what are the other top three or four countries that  
1198 want to put this under the U.N. auspices?

1199 Ambassador {Verveer.} Well, we see substantial efforts  
1200 on the part of Iran to do that.

1201 Mr. {Stearns.} Okay.

1202 Ambassador {Verveer.} There are certain Arab States  
1203 that--

1204 Mr. {Stearns.} Can you name the Arab States?

1205 Ambassador {Verveer.} Pardon me?

1206 Mr. {Stearns.} Can you name the Arab States?

1207 Ambassador {Verveer.} Well--

1208 Mr. {Stearns.} Egypt?

1209 Ambassador {Verveer.} Egypt has certainly taken some--

1210 Mr. {Stearns.} Position?

1211 Ambassador {Verveer.} But not complete steps in that  
1212 direction. There have been efforts as well--

1213 Mr. {Stearns.} Tunisia?

1214 Ambassador {Verveer.} I don't believe I would put  
1215 Tunisia in--

1216 Mr. {Stearns.} Saudi Arabia?

1217 Ambassador {Verveer.} --that category. Saudi Arabia,  
1218 again, as with Egypt, has from time to time taken steps or

1219 taken positions that--

1220 Mr. {Stearns.} Would it be fair to say that most of the  
1221 mid-East countries other than Israel is supporting this? Is  
1222 that a fair statement?

1223 Ambassador {Verveer.} We see support after a fashion I  
1224 suppose from some of the Arab States, yes, but I think the  
1225 thing that is critically important to understand is that in  
1226 terms of genuinely hard-line opponents to the arrangements as  
1227 we see them today, that they tend to be states that we have  
1228 already mentioned. That otherwise there are subtleties and  
1229 nuances that are substantial in terms of--

1230 Mr. {Stearns.} Got you. All right. My time is  
1231 expired. I thank you, Mr. Chairman.

1232 It is just an odd coincidence or ironic that with the  
1233 Arab Spring that a lot of these countries seem to want to put  
1234 it into a monopoly type of U.N. operation. Thank you.

1235 Mr. {Terry.} Thank you, Mr. Stearns.

1236 The gentlelady from California, Ms. Matsui, is  
1237 recognized for 5 minutes.

1238 Ms. {Matsui.} Thank you, Mr. Chairman.

1239 Ambassador Verveer, I want to talk more about the WCIT.  
1240 You mentioned that the ITRs have not been revised since 1988,  
1241 which is about 25 years ago and a lot has happened in 25  
1242 years. The comparison is even worse than the Tortoise and

1243 the Hare. It is more like we are at warp speed right now.  
1244 And why did the ITU decide to reexamine the ITRs now? And do  
1245 you anticipate that they will want to examine them again  
1246 shortly? I mean is there a schedule to do this?

1247       Ambassador {Verveer.} First, I think it is important to  
1248 understand that there has been pressure to reexamine the ITRs  
1249 that has existed for many, many years. The United States has  
1250 taken the view over the years that it wasn't really necessary  
1251 to do this, but finally, in 2006, an overall decision was  
1252 made that it would happen this year. The idea behind that I  
1253 think more than any other is something that has been made  
1254 plain at this hearing, which is that the world has changed so  
1255 dramatically that it seemed like it was time to review the  
1256 ITRs. Now, that said, the ITRs themselves, which are only  
1257 nine pages long, in fact do have a great many things that  
1258 continue to be of value that could and should be preserved.

1259       There is no schedule beyond this upcoming conference to  
1260 revisit the ITRs on any regular basis. There have been some  
1261 contributions or proposals that suggest that that might be  
1262 valuable, but I think generally--again, this is not something  
1263 that has achieved a great deal of momentum.

1264       Ms. {Matsui.} Well, once discussion begins as it has  
1265 and the countries, because of recent history, have become  
1266 involved in the internet and seen the positives as well as

1267 the negatives as far as some of the countries that really  
1268 look towards censorship, isn't it possible this will be a  
1269 continuing process and we should be on alert now that this  
1270 collaboration must continue because, as we know, technology  
1271 just keeps rapidly expanding and we are not sure exactly what  
1272 the next big thing is.

1273         So is there an opportunity--and I suppose it is a multi-  
1274 stakeholder process--to open it up more, this ITU process, to  
1275 more stakeholders, to nongovernmental stakeholders, which I  
1276 believe that Dr. Cerf has spoken about? Do you agree on that  
1277 and how can the U.S. Government advocate for greater  
1278 transparency in this process since that to me is sort of a  
1279 stumbling block for some of the other countries?

1280         Ambassador {Verveer.} Well, it is certainly true, I  
1281 think, that there has been criticism--and I think it is  
1282 legitimate criticism--about the ability of the nonmembers of  
1283 the ITU to be aware of the deliberations, be aware of what is  
1284 taking place in terms of preparation for this conference and  
1285 more broadly. We are prepared through the ITU Council and  
1286 good efforts of Dick Beard, who has been our representative  
1287 on the Council for many, many years, to propose to the  
1288 Council that its report, which is going to be a very  
1289 important document in the scheme of things, that its report  
1290 in preparation for the WCIT be generally available. It would

1291 be very useful if we can find more ways--this is a point the  
1292 United States often makes--to have more of the ITU's  
1293 documents more widely available to all of the interested  
1294 stakeholders.

1295 Ms. {Matsui.} I would think--and this is a question for  
1296 both Ambassador Verveer and Commissioner McDowell--that there  
1297 should be more opening of the process for increase of  
1298 knowledge here even in the United States as to the importance  
1299 of this. We in this country tend to take the internet for  
1300 granted and, you know, we see what has happened with the Arab  
1301 Spring and realize how it has affected other countries.

1302 I think that to a great degree we forget that what would  
1303 happen if, let us say, the worst happened, this scenario, and  
1304 that things would close down. I am curious what would happen  
1305 if the worst happened here? What would happen here in this  
1306 country? Would those resolutions immediately become law?  
1307 What steps can the U.S. take to limit its participation in  
1308 the treaty? You know, I kind of want to know what would  
1309 happen. And either of you can answer that and both of you in  
1310 fact.

1311 Ambassador {Verveer.} This is a very important point  
1312 that you have raised and I am glad you have. First, it is  
1313 conventional and assured we will take a very broad  
1314 reservation from whatever is agreed at the conference. And

1315 virtually every other country will do the same thing. So you  
1316 will have countries agreeing that they will abide by the  
1317 provisions of the treaty unless for some reason they won't.  
1318 And as I said, typically, the reasons will be extraordinarily  
1319 broad. That is one thing.

1320         The second thing it is very important to understand is  
1321 there is no enforcement mechanism associated with this.  
1322 These are precatory as many, many other aspects of  
1323 international law are so that it is not reasonable to assume  
1324 that if something really ruinous for some reason came and was  
1325 to be adopted as a particular regulation that you would see  
1326 countries against their interest enforcing that regulation as  
1327 only the countries would be able to enforce. There is no  
1328 other way for it to be done.

1329         So this conference and all these activities are  
1330 extraordinarily important in terms of establishing norms, in  
1331 terms of establishing expectations, in terms of trying to  
1332 help with respect to both the commercial activities and the  
1333 free flow of information. But they are very, very different  
1334 from a law that the Congress, for example, might adopt that  
1335 would be subject to all the juridical enforcement mechanisms  
1336 that are available.

1337         Ms. {Matsui.} I am running out of time, but  
1338 Commissioner McDowell, do you have any comments? Can you add

1339 to this?

1340 Mr. {McDowell.} I don't think I could say it any better  
1341 than he could in the observance of time so--

1342 Ms. {Matsui.} Okay. Thank you very much, both of you.

1343 Mr. {Terry.} The other gentlelady from Southern  
1344 California, Mary Bono Mack.

1345 Mrs. {Bono Mack.} Thank you.

1346 Thank you both for your testimony. You certainly didn't  
1347 mince words. There is no doubt that you feel strongly. And  
1348 what I like is that I agree with everything you have said.  
1349 It is hard to question witnesses when you are just trying to  
1350 make them agree with you more than they already do, but I  
1351 will do my best and just try to get out of you a little bit  
1352 of explanation. I think as Ms. Matsui was just saying, a  
1353 bigger explanation for the American people what is at stake  
1354 here, I started talking about this well over a year ago and  
1355 people have sort of viewed me as having a tinfoil hat on my  
1356 head and was creating an issue that wasn't very real. But if  
1357 you could talk a little bit about we clearly understand the  
1358 Arab Spring and what this means and that the internet is the  
1359 biggest tool for freedom around the world that mankind has  
1360 ever seen. So taking that aside instead can you talk a  
1361 little bit about the proposal, how it would impact U.S.  
1362 business and what it means for the bottom line for business

1363 should this occur? To both of you.

1364           Mr. {McDowell.} Sure. And thank you, Congresswoman,  
1365 for your leadership on this issue. In the early days there  
1366 were a lot of folks who questioned whether or not this was  
1367 real and I am glad you stuck your neck out and thank you for  
1368 your leadership.

1369           At a minimum, it creates uncertainty and drives up costs  
1370 and that alone can be damaging. Let us take an example. So  
1371 Harvard and MIT recently announced they are going to offer  
1372 courses online for free. The concept of free content or  
1373 applications on the net could be put at risk if costs are  
1374 raised. Ultimately, consumers pay for those costs one way or  
1375 the other. They always pay for increased costs due to  
1376 regulation. So, you know, at a maximum, then, you would have  
1377 some sort of bifurcated internet, cross-border technology  
1378 such as cloud computing, which is becoming essential to  
1379 creating efficiencies and bringing more value to consumers  
1380 and raising living standards ultimately. That could be  
1381 jeopardized as it becomes harder to figure out how do you  
1382 engineer these technologies across borders when in the past  
1383 the internet didn't have to worry about that as much. So  
1384 that gives you a flavor.

1385           Mrs. {Bono Mack.} Thank you.

1386           Ambassador, do you--

1387           Ambassador {Verveer.} Well, I certainly would agree  
1388 with the commissioner on that I think it is perfectly fair to  
1389 observe that the free flow of information, including the free  
1390 flow of commercial information, is something that has added--  
1391 as the studies have been cited this morning--indicate has  
1392 added measurably to the world's wealth. So we are very  
1393 anxious that there not be anything that would inhibit that.

1394           There have, for example, been some suggestions made by  
1395 some countries that we ought to have a kind of per-click  
1396 charge if you will that content providers ought to contribute  
1397 to the cost of transmission companies for concluding traffic.  
1398 There are a variety of reasons why that seems to us not to be  
1399 a good idea at all, but you can see what could turn out to be  
1400 marginal imposition on the internet would in fact interfere  
1401 with the commercial value of it and we are very anxious to  
1402 avoid that.

1403           Mrs. {Bono Mack.} Thank you, Ambassador. And would you  
1404 speak a little bit--in your testimony you mentioned that  
1405 there are proposals under consideration at WCIT that would  
1406 allow governments to restrict content and monitor internet  
1407 users. Can you speak a little bit about how the U.S. is  
1408 working now to prevent countries from already censoring the  
1409 internet?

1410           Ambassador {Verveer.} Well, we are very anxious, as you

1411 might imagine, to overcome any suggestions that there ought  
1412 to be content-related restrictions. With the suggestions of  
1413 this kind come, again, as Commissioner McDowell indicated in  
1414 his testimony, not just or not even especially in the context  
1415 of WCIT but in other forums as well, and they tend to come  
1416 from countries that have--I suppose it is easy to say non-  
1417 democratic traditions. And as a result, on the one hand, we  
1418 are dealing with what are almost certainly sincere beliefs on  
1419 the part of the political elites that stability is very  
1420 important, that there are in fact objectionable--either from  
1421 a political perspective or other cultural perspectives--there  
1422 is such a thing as material so objectionable it ought to be  
1423 excluded. That said, we obviously disagree with that and we  
1424 particularly disagree with it when we are talking about what  
1425 we might describe as political speech. But this set of  
1426 issues arises more extensively in, for example, the kind of  
1427 suggestion that Russia, China, Uzbekistan, and Tajikistan had  
1428 made in the context of the United Nations.

1429       Mrs. {Bono Mack.} I thank you. And my time is up.  
1430 Again, I just want to thank you both very much for your hard  
1431 work on this issue and for being here today.

1432       I yield back.

1433       Mr. {Terry.} Thank you, Mary, and I want to thank you  
1434 for your good effort on your resolution, that bipartisan--

1435 Mrs. {Bono Mack.} I look good in a tinfoil hat.

1436 Mr. {Terry.} Well, this time it was legitimate and  
1437 necessary and I am proud of the work that you have done with  
1438 Henry Waxman and Ms. Eshoo to make it a bipartisan. We are  
1439 all in agreement on this one.

1440 Mr. Dingell?

1441 Mr. {Dingell.} Thank you, Mr. Chairman. I appreciate  
1442 your courtesy.

1443 First, I would like to welcome my old friend, Ambassador  
1444 Verveer, who is a friend and resource to this committee. He  
1445 was bureau chief of the three bureaus at the FCC back in the  
1446 '70s and served the Department of Justice before that. Mr.  
1447 Ambassador, welcome, and I look forward to our exchange.

1448 And, of course, Commissioner McDowell, we appreciate  
1449 your service and thank you for being here this morning. Your  
1450 wise counsel has been helpful to me on many occasions.

1451 Now, to both witnesses, this is a yes-or-no answer. Is  
1452 it true that some members of the ITU may propose revisions in  
1453 the ITRs that set out prescriptive and international  
1454 regulations for issues such as internet privacy and  
1455 cybersecurity? Yes or no?

1456 Ambassador {Verveer.} The answer is yes.

1457 Mr. {McDowell.} Yes.

1458 Mr. {Dingell.} To both witnesses, do you believe that

1459 it is wise for the United States to concede to international  
1460 standards on internet matters not settled definitively? That  
1461 is privacy and cybersecurity by the Congress? Yes or no?

1462       Ambassador {Verveer.} It is unwise for us to get too  
1463 far in front of the overall consensus.

1464       Mr. {Dingell.} You find that to be a bit rushing  
1465 things, is that right?

1466       Ambassador {Verveer.} I now can't recall if this should  
1467 be a yes or a no but it would be a bad idea.

1468       Mr. {Dingell.} I don't like to do that but we have a  
1469 lot of ground to cover.

1470       Commissioner?

1471       Mr. {McDowell.} Unwise.

1472       Mr. {Dingell.} Now, again, to both of our witnesses, I  
1473 understand that some of the countries like Russia and China  
1474 believe that ``policy authority for internet-related public  
1475 issues is the sovereign rights of States and not multi-  
1476 stakeholders.'' Is that correct? Yes or no?

1477       Ambassador {Verveer.} Yes, that's correct.

1478       Mr. {Dingell.} Commissioner?

1479       Mr. {McDowell.} That is their position? Is that the  
1480 question?

1481       Mr. {Dingell.} Yes, is that their position?

1482       Mr. {McDowell.} Because I understand their position,

1483 yes.

1484 Mr. {Dingell.} Do you agree with that position?

1485 Ambassador {Verveer.} No, we don't.

1486 Mr. {McDowell.} No.

1487 Mr. {Dingell.} Now, in your collective opinion is it  
1488 wise to maintain international multi-stakeholder regulatory  
1489 process that more closely resembles the Administrative  
1490 Procedure Act model that we use in the United States as  
1491 opposed to what China and Russia propose? Yes or no?

1492 Ambassador {Verveer.} Yes.

1493 Mr. {Dingell.} Commissioner?

1494 Mr. {McDowell.} If I understand the question correctly,  
1495 I would not want a legal paradigm put in place of the multi-  
1496 stakeholder model. So there are some words in there which I  
1497 am not sure I understand completely so I want to make that  
1498 point clear.

1499 Mr. {Dingell.} Thank you, gentlemen. It looks like we  
1500 are in agreement, then, on these matters.

1501 Now, since you are both here I would like to ask you  
1502 about an unrelated matter. I know you are both aware that  
1503 the President has signed legislation that permits the FCC to  
1504 conduct an incentive auction in which television broadcasters  
1505 can elect to return their licenses in return for a portion of  
1506 the auction revenues. That legislation includes the

1507 amendment offered by Mr. Bilbray and I directing the FCC to  
1508 coordinate with Canadian and Mexican authorities so that  
1509 consumers and particularly those in border regions won't lose  
1510 access to television signals when the incentive auction is  
1511 over. Now, Mr. Ambassador, would you please bring the  
1512 Subcommittee up to speed on where things stand with Canada  
1513 and Mexico with respect to this very important matter,  
1514 particularly so to my constituents, particularly as there are  
1515 no additional frequencies available for displaced stations in  
1516 my hometown of Detroit if the television ban is repacked? I  
1517 have to ask you to be brief on this and perhaps maybe you  
1518 would want to submit some additional comments to the record.  
1519 Mr. Ambassador?

1520       Ambassador {Verveer.} Well, Mr. Dingell, there are  
1521 treaty obligations that we have with Canada that are designed  
1522 to protect the broadcasters on both sides of the border.  
1523 This is a problem not just in the area of Detroit but also in  
1524 New York State in addition--

1525       Mr. {Dingell.} Also in Washington, Montana, along the  
1526 borders of Minnesota and Oregon and other places, too.

1527       Ambassador {Verveer.} And likewise on the Mexican  
1528 border. These are things that have to be worked out and have  
1529 to be worked out by agreement between the two countries. But  
1530 in addition, as you mention, there is a legislative mandate

1531 that no one be disadvantaged if they choose to continue to  
1532 broadcast. So this is going to be a complicated engineering  
1533 matter. It may or may not be something that will permit any  
1534 particular changes in the status of all the border regions,  
1535 but both the treaty and the statutory obligations obviously  
1536 will be observed.

1537 Mr. {Dingell.} Now, Commissioner McDowell, you are  
1538 working on this at the Commission I know. Can you assure me  
1539 of the Commission's commitment to full transparency on this  
1540 matter? Yes or no?

1541 Mr. {McDowell.} Yes, from my office. I can't speak for  
1542 the chairman or the other commissioner.

1543 Mr. {Dingell.} I am comfortable that you would engage  
1544 in full transparency. I am a little less comfortable about  
1545 some of the other folks down at the Commission. I recognize,  
1546 Commissioner, that you speak for yourself. Are you  
1547 comfortable that everybody else at the Commission shares your  
1548 goodwill on this matter?

1549 Mr. {McDowell.} I certainly hope so, sir.

1550 Mr. {Dingell.} I do, too. I am a little bit like the  
1551 fellow that was walking down the street and ask him, are you  
1552 an optimist or a pessimist? And he said, I am an optimist.  
1553 And then he said, well, why are you frowning? He said,  
1554 because I am not sure my optimism is justified.

1555 Thank you, Mr. Chairman.

1556 Mr. {Terry.} Nice one. All right. Thank you, Mr.

1557 Dingell.

1558 And now we recognize the gentlelady from Tennessee for 5

1559 minutes.

1560 Mrs. {Blackburn.} Thank you, Mr. Chairman.

1561 And again, I thank you all for being here.

1562 Mr. Ambassador, a couple of questions for you. When was

1563 the last time that the State Department published a notice of

1564 an official meeting to prepare for the WCIT '12?

1565 Ambassador {Verveer.} You know, I am not sure when we

1566 did. We understand that we have an obligation to publish

1567 notices in connection with what we call our ITAC meetings so

1568 that--

1569 Mrs. {Blackburn.} Okay.

1570 Ambassador {Verveer.} --anyone--

1571 Mrs. {Blackburn.} Well, let me help you out with that a

1572 little bit because the last notice that I could find was

1573 January 11. That was the last public notice. But from what

1574 I have been able to find out is that the State Department is

1575 holding regular meetings of interested stakeholders on a

1576 regular basis and you have done this all year long to prepare

1577 for the conference. Isn't that correct?

1578 Ambassador {Verveer.} That is correct.

1579 Mrs. {Blackburn.} Okay. And is your staff holding  
1580 regular conference calls and managing a LISTSERV for  
1581 stakeholders to circulate position papers and ideas to inform  
1582 the U.S. delegation in advance of the WCIT '12 preparatory  
1583 meetings?

1584 Ambassador {Verveer.} Yes, that is also correct.

1585 Mrs. {Blackburn.} That is correct? Okay. So first of  
1586 all, how do you get on the LISTSERV so that you are aware of  
1587 what is going on? And then secondly, how can my constituents  
1588 that are not just the largest and the wealthiest companies on  
1589 the internet or the intellectual elites participate in the  
1590 process if there is no way for them to know how to  
1591 participate in that process or when the meetings are going to  
1592 take place or how to get involved? How do we advise them on  
1593 this?

1594 Ambassador {Verveer.} Well, first, you are obviously  
1595 raising a very legitimate, very important question. The  
1596 notices that were made--and my recollection of the advice we  
1597 got from the lawyers at the State Department was that we  
1598 could provide a kind of general notice as a legal matter for  
1599 these regular meetings. It is very easy to get on the  
1600 LISTSERV but you have to know who to contact. And if that is  
1601 something that is obscure from the standpoint of the public  
1602 record, we will correct that. But anyone who wishes to be on

1603 the LISTSERV certainly can--

1604 Mrs. {Blackburn.} Well, I would like to make certain  
1605 that we take care of this because this was going to be the  
1606 most transparent administration in history and here we get to  
1607 an issue that is very important to a lot of my constituents  
1608 and they feel blocked out of this process.

1609 Commissioner McDowell, I appreciate that you have been  
1610 an outspoken critic of WCIT '12 and appreciate your efforts.  
1611 Let me ask you this: you have been to Nashville, we have done  
1612 a town hall there in Nashville, you know that I have got a  
1613 lot of constituents that want to participate in this process,  
1614 and you know that they are very concerned about what  
1615 international control of the internet would do to them and do  
1616 to their livelihoods. So, you know, how do we go about this  
1617 if the FCC doesn't have an open docket for comments? Don't  
1618 you think that that would be a good idea to have an open  
1619 docket that these individuals, these small business operators  
1620 would be invited into for comment? And, you know, I know  
1621 that at one point there was one but there doesn't seem to be  
1622 now. So I think early 2010 there was an open docket. So  
1623 tell me how we go about fixing this?

1624 Mr. {McDowell.} The best vehicle for that would be  
1625 something called a Notice of Inquiry that the FCC could open  
1626 up on--

1627 Mrs. {Blackburn.} Okay.

1628 Mr. {McDowell.} --what the FCC should be doing in  
1629 support of the State Department's taking the lead on WCIT  
1630 '12.

1631 Mrs. {Blackburn.} Okay. That sounds good. And let me  
1632 ask you this: you know, one of the things as I looked at this  
1633 issue with the docket, one of the things that concerns me is  
1634 if the FCC still does have an open proceeding to reclassify  
1635 the internet services of Title II, telecom service. And so  
1636 tell me this: how is that open proceeding different from the  
1637 proposals in front of the ITU? And shouldn't we close that  
1638 docket immediately?

1639 Mr. {McDowell.} Yes, we should. I have been very  
1640 public about that for many years, as well as the original net  
1641 neutrality proceeding, I think it sends the wrong signal  
1642 internationally and I think it should be closed as soon as  
1643 possible.

1644 Mrs. {Blackburn.} Okay. Thank you for that.

1645 Mr. {McDowell.} Thank you.

1646 Mrs. {Blackburn.} My time is expired and I thank you  
1647 for the time and the questions.

1648 Mr. {Terry.} Thank you.

1649 Gentlelady from the Virgin Islands.

1650 Dr. {Christensen.} Thank you, Mr. Chairman.

1651           And I, too, want to welcome both the commissioner and  
1652 the ambassador and thank you for your testimonies. And it is  
1653 really great to have such bipartisan support on this  
1654 important issue. So I want to thank the chairman and ranking  
1655 member for having this hearing as we approach the WCIT.

1656           I am not sure that all the questions that needed to be  
1657 asked have not been asked, but as my colleague usually says,  
1658 not everyone has asked them. But some have suggested that  
1659 there is need for greater transparency and accountability in  
1660 the IT process. Do you agree? And if you do think that  
1661 there is a need for greater transparency, can it be  
1662 accomplished without regulation that hampers the free and  
1663 open access to the internet?

1664           Ambassador {Verveer.} Well, if I understood your  
1665 question correctly about the desirability of greater  
1666 transparency, generally in the ITU process, the answer I  
1667 think from our point of view is, yes, that would be  
1668 desirable. And we have recommended various measures along  
1669 those lines over the years and have seen some of them come to  
1670 fruition, some not. There are steps that we can and we do  
1671 take here in the U.S. to try to aid non-ITU members to  
1672 understand what is going on there in terms of making  
1673 materials available that are available to us as a member of  
1674 the ITU. And as I mentioned earlier, we are proposing in the

1675 specific instance of WCIT that the Council report, which will  
1676 be the critical document or one of the most critical  
1677 documents going forward, should be made public once it is in  
1678 fact issued following council working group session in the  
1679 next several weeks.

1680 Dr. {Christensen.} Commissioner, do you have anything  
1681 to add or--

1682 Mr. {McDowell.} I have nothing further to add other  
1683 than to say I have heard time and time again from civil  
1684 society, think tanks, efficacy groups, and such that they are  
1685 very concerned about the opaque nature of the ITU. The ITU  
1686 generates revenue from having civil society groups, non-  
1687 member voting states join the ITU for I think about \$35,000  
1688 or the equivalent thereof and that is a way of generating  
1689 money for the ITU and then you can get certain documents. I  
1690 have found it difficult actually even for my office to get  
1691 some ITU documents. You kind of have to know somebody and I  
1692 am part of the U.S. Government the last time I checked. So I  
1693 do think this is something the ITU needs to work on and I  
1694 have every faith in Ambassador Verveer and the incoming  
1695 ambassador for the WCIT to address that issue.

1696 Dr. {Christensen.} I guess as a follow-up to what you  
1697 just said, there are also some recommendations that are  
1698 brought up I think in some of the testimony from the second

1699 panel that the ITU should have some nongovernmental voting  
1700 members. Is that something that you would agree should  
1701 happen? And if not, there must be a way for them to have  
1702 some significant way of participating in the discussion.

1703       Ambassador {Verveer.} Well, the ITU follows the general  
1704 U.N. model of having nation states as the voting members.  
1705 This is essentially the architecture that the Greatest  
1706 Generation worked out for us. And there are opportunities to  
1707 try to find greater roles for non-nation state participants.  
1708 There are other forms of membership in the ITU that are  
1709 nonvoting that permit a good deal of participation. But in  
1710 fact I think a legitimate objective to find better ways to  
1711 make the ITU's work--and this is also true of many of the  
1712 other U.N. organizations--more available, more accessible,  
1713 and more participatory in terms of non-nation states who may  
1714 be involved may be interested.

1715       Dr. {Christensen.} And, Commissioner, you talk about  
1716 the light touch, a proposal, but it is possible to have any  
1717 kind of a light touch regulatory regime without threatening  
1718 into that freedom? I mean that is not possible.

1719       Mr. {McDowell.} No.

1720       Dr. {Christensen.} That is just another way of getting  
1721 into a slippery slope, isn't it?

1722       Mr. {McDowell.} It is a sales pitch for a much bigger

1723 problem. There is no way to have both.

1724 Dr. {Christensen.} Thank you.

1725 I yield back the balance.

1726 Mr. {Walden.} The gentlelady yields back the balance of  
1727 her time.

1728 The chair now recognizes the gentleman from California,  
1729 Mr. Bilbray, for 5.

1730 Mr. {Bilbray.} Gentlemen, just a general question. I  
1731 am sure somebody else has already asked it but, you know, as  
1732 we say that everything has been said, just not everybody said  
1733 it.

1734 What can Congress do to help with the negotiations with  
1735 other countries to ensure a strong position that the internet  
1736 remain free and open without the harmful international  
1737 regulations stifling it? What can we do in Congress to help  
1738 with the effort? And what must we do?

1739 Ambassador {Verveer.} I think the resolution that was  
1740 adopted or was promulgated in the last day or two is one very  
1741 important possibility and it is one that where the more  
1742 adherence it has here, the better, the clearer it becomes  
1743 that the United States is completely unified on this  
1744 particular set of issues.

1745 Secondly, I think this hearing itself is something that  
1746 is very valuable because it provides a very plain

1747 demonstration that we in the United States are unified across  
1748 our political lines. And that I think is an important  
1749 message for the world, and I can assure you, the world does  
1750 pay very close attention to what we do in these areas.

1751 We will hope to have an opportunity toward the end of  
1752 this month to introduce our new head of delegation to members  
1753 and staff who are interested in speaking with him. We will  
1754 at that time I think be able to also provide sort of a sense  
1755 of some of what we think are the needs that we have in terms  
1756 of going forward, preparing for the conference and  
1757 participating in the conference.

1758 Mr. {McDowell.} I would agree with everything the  
1759 ambassador said. I think Congress could help by helping us  
1760 clarify our position that not even the smallest change should  
1761 be allowed but also following up on the WCIT and having  
1762 another sort of checkup hearing maybe after the 1st of the  
1763 year because there will be many more similar circumstances  
1764 coming forward in the years to come.

1765 Mr. {Bilbray.} You know, I personally spent a lot of  
1766 time in Latin America working on certain problems they have  
1767 down there and one of the great opportunities we see not just  
1768 in Latin America but around the world and Third World  
1769 countries is being able to use the internet to help bridge  
1770 the gap between those in the rural area can't go to secondary

1771 school, get the education. A lot of the things we take for  
1772 granted rural people don't have access to. And it is  
1773 absolutely essential that the internet is available and that  
1774 broadband is available to bridge that education gap in Third  
1775 World countries.

1776 A question is some of these countries are looking at the  
1777 International Telecommunication Union as part of the solution  
1778 on that. How should we respond to their legitimate concerns  
1779 and how do we coordinate to make sure that that moves  
1780 forward? Because this probably does more to help Third World  
1781 countries in long-term economic and social progress than a  
1782 lot of other stuff that we have spent trillions of dollars  
1783 on.

1784 Ambassador {Verveer.} The ITU has a development sector.  
1785 We participate in it quite extensively and we think it is  
1786 very valuable in terms of collecting and disseminating best  
1787 practices in terms of capacity building, things of that  
1788 nature. It also has RegionalConnect, a particular region and  
1789 the Connect America's Regional Conference will occur in  
1790 Panama in the middle of July. It is one that the U.S. will  
1791 certainly participate in and it is again designed to try to  
1792 address the kinds of issues that you have described. So it  
1793 is a very valuable instrument in terms of accumulating and  
1794 then disseminating important information about the kinds of

1795 broad social issues that you have just addressed.

1796           Mr. {McDowell.} I think the best hope actually is the  
1797 growth of wireless. Wireless internet access has been  
1798 explosive. The growth there has been tremendous and that is  
1799 primarily because governments have stayed out of the way, as  
1800 in this country as well. So I think we need to let the  
1801 market work and encourage other countries to try to get out  
1802 of the way as much as possible because the mobile internet is  
1803 really the future for improving the human condition overall.

1804           Mr. {Bilbray.} Well, and I think as much as they can  
1805 learn from maybe our approaches at distance learning, Mr.  
1806 Chairman, maybe we ought to be looking at the great successes  
1807 that are being developed in places like Panama and Latin  
1808 America where the private sector is building actually the  
1809 infrastructure in a telecommunication way that actually  
1810 surpasses even activity of countries like Costa Rica that has  
1811 had hard-line technology for so long and the great  
1812 opportunities that is providing for the education of people  
1813 in Third World countries.

1814           So I yield back, Mr. Chairman. I appreciate the time.

1815           Mr. {Walden.} The gentleman yields back his time. The  
1816 chair now recognizes the gentleman from New Hampshire, Mr.  
1817 Bass.

1818           Mr. {Bass.} Thank you very much, Mr. Chairman.

1819           And again a lot of the issues and questions that I have  
1820 have already been addressed by other members of the committee  
1821 and I would say that this has been very helpful and  
1822 informative. Both Ambassador Verveer and Commissioner  
1823 McDowell have enlightened us as to exactly how this process  
1824 works and what the consequences are should there be an  
1825 implementation of at least a partial top-down regulatory  
1826 structure for the internet if you will. And your comments,  
1827 Commissioner McDowell, about an engineering morass and  
1828 economic uncertainty and I guess a sort of dark and dismal  
1829 specter for economic freedom over the internet is very apt.  
1830 And hopefully the many other nations, as others have said,  
1831 especially Third World nations, understand the consequences  
1832 of this given the fact that the structure of this deliberate  
1833 body is relatively democratic and these Third World nations  
1834 have quite a bit of power.

1835           Commissioner McDowell, you published an op-ed recently  
1836 in the Wall Street Journal in which you mentioned the  
1837 internet has helped farmers find buyers for crops. I can  
1838 give you many examples of small industries in my neck of the  
1839 woods in New Hampshire that have created whole new economies  
1840 that didn't exist before by using the internet. And I am  
1841 wondering if you can speak a little bit about how the multi-  
1842 stakeholder model helps small businesses and how the

1843 international regulations, if they went into effect, would  
1844 hinder them.

1845         Mr. {McDowell.} Well, as many people have said already,  
1846 it allows innovation without permission, so when you combine  
1847 the liberty that comes with mobility, when you combine the  
1848 invention of mobility for Marty Cooper, with the invention  
1849 from Vint Cerf and Bob Kahn of packet switching and the power  
1850 of the internet, you really fundamentally change the human  
1851 condition I think more so than any other invention that I can  
1852 think of, maybe since fire. And I am trying not to be  
1853 hyperbolic.

1854         So you are not just contacting a place or a thing; you  
1855 are able to communicate with a person and that does more to  
1856 empower the sovereignty of the individual than any other  
1857 technology that I can think of. So you do have farmers who  
1858 can find buyers for their crops without having to take on the  
1859 risks of traveling to the village, to the market where they  
1860 could lose their crops or they could be stolen or the buyer  
1861 might not show up so they can take care of that transaction.  
1862 Worried parents can find medicine for their sick children.  
1863 They can locate potable water--which is actually a huge  
1864 global concern right now--much more easily through the power  
1865 of the mobile internet.

1866         Mr. {Bass.} And for both of you, isn't the multi-

1867 stakeholder design governance model if you will really unique  
1868 in that it prevents government entities and nongovernmental  
1869 entities for that matter from controlling the design of the  
1870 network and thereby the content that rides over it. Do you  
1871 agree with that or do you have any comment or elaboration on  
1872 that?

1873       Ambassador {Verveer.} Well, I think generally we think  
1874 that this has in fact been enormously instrumental in  
1875 creating the internet that we have today. And we are very  
1876 anxious that the free flow of information, the freedom of  
1877 expression remains as a centerpiece in terms of one of the  
1878 many capabilities of the internet. And the multi-stakeholder  
1879 model tends to help protect that because it does bring all  
1880 voices to the table. It is a kind of ethic in which no one  
1881 set of voices is especially privileged and we think that  
1882 probably does help in terms of this what you might think of  
1883 is a broader political/social/cultural aspects of the  
1884 internet.

1885       Mr. {Bass.} Thank you. I just conclude on a personal  
1886 note, Commissioner McDowell. My father had the honor of  
1887 serving in this body when I was about the age of your son,  
1888 who is sitting behind you, and I remember well going to a  
1889 science--it was called the Space Committee in those days. He  
1890 was a member of the Science and Technology--it was the

1891 greatest committee you could be on in the Congress because it  
1892 was in the middle of the Space Race--being so excited that  
1893 here I was in this great place and they went through this  
1894 hearing and I didn't understand a single word of what was  
1895 said. But when I got out I told all my friends that I knew  
1896 all kinds of things now about where we were going in space.  
1897 So Griffin, I expect you to brief your dad on this hearing,  
1898 make sure he is set straight and knows where we are headed.

1899 Thank you, Mr. Chairman.

1900 Mr. {Walden.} Thank you, Mr. Bass. We appreciate that.

1901 I am going to recognize the gentlewoman from the Virgin  
1902 Islands.

1903 Dr. {Christensen.} Thank you, Mr. Chairman. I ask  
1904 unanimous consent on behalf of Ranking Member Eshoo to insert  
1905 the New York Times editorial by Vinton Cerf into the record.

1906 Mr. {Walden.} Without objection, so ordered.

1907 [The information follows:]

1908 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
1909           Mr. {Walden.} The chair now recognizes the gentleman  
1910 from Ohio, Mr. Latta, for 5 minutes.

1911           Mr. {Latta.} Well, thank you very much, Mr. Chairman.  
1912 And Mr. Ambassador and Mr. Commissioner, thanks very much for  
1913 your testimony today. It is very enlightening. And now  
1914 everyone not only in this body but I think across the Nation  
1915 truly believes that we want to make sure that keep our  
1916 internet free and away from more regulations. And it is best  
1917 to have been developed the way it has from the ground up,  
1918 from private industry and without government regulation.

1919           If I could, Mr. Commissioner, I would just like to ask a  
1920 couple questions briefly because I think I would like to go  
1921 back. I know there has been a lot of question as to  
1922 businesses and business regulation, what could happen out  
1923 there.

1924           But the chairman has conducted hearings on cybersecurity  
1925 that have been, you know, very insightful for everyone here,  
1926 but, you know, in your testimony on page three when you are  
1927 talking about the Russian Federation, you know, asking for  
1928 jurisdiction over IP addresses because ``there is a remedy to  
1929 phone number shortages'' or that the Chinese would like to  
1930 see the creation of a system whereby internet users are  
1931 registered using their IP addresses. And I think, you know,

1932 you end up that in a lot of totalitarian type regimes, that  
1933 would give those authoritarian regimes the ability to  
1934 identify and silence political dissidents.

1935 But how would you look at those two areas that might  
1936 give those countries or other countries some kind of an  
1937 advantage on, you know, attacking the United States or  
1938 gaining more intellectual property that is being stolen over  
1939 the net today? Because, again, the more that is out there  
1940 that these companies have to submit of themselves to other  
1941 countries, you know, it is hard enough right now to protect  
1942 what we got. So if you could just answer that, I would  
1943 appreciate it.

1944 Mr. {McDowell.} I think the general theme with that and  
1945 also just looking at history at other analogies, it would be  
1946 a scenario where they might want the rest of the world to  
1947 live under a set of rules that they then break. In other  
1948 words, they would break the rules and everyone else would  
1949 abide by them, and that would be to their advantage.

1950 Mr. {Latta.} Mr. Ambassador, do you have a follow-up on  
1951 that?

1952 Ambassador {Verveer.} Well, the general issue that I  
1953 think that you have raised about the question of protection  
1954 of intellectual property, for example, is one that is a very,  
1955 very serious one. It is one that we at the State Department

1956 work at very hard. It is one that the Administration works  
1957 at very hard through the office of Victoria Espinel in the  
1958 White House. These are issues that obviously are complex in  
1959 terms of figuring out appropriate enforcement modes and so  
1960 forth, but there is certainly no debate about the importance  
1961 of intellectual property protection in the broader context of  
1962 the internet. It is something that is very important.

1963 Mr. {Latta.} Thank you.

1964 And Mr. Commissioner, it hasn't really been brought up  
1965 very much today that you brought up in your testimony about  
1966 that some foreign government officials have intimated to you  
1967 about maybe having international universal service fund  
1968 whereby foreign usually state-owned telecom companies would  
1969 have an international mandate to charge certain web  
1970 destinations on a per-click basis so they could build out on  
1971 broadband. You know, with so many companies here in the  
1972 United States having spent hundreds of millions of dollars to  
1973 do that, would that then put U.S. companies at a  
1974 disadvantage, especially since you would be looking at a lot  
1975 of the companies in this country having to really finance  
1976 that?

1977 Mr. {McDowell.} Well, I think you have to look at which  
1978 web destinations attract the most traffic so it might be a  
1979 YouTube or an iTunes or Netflix is expanding internationally

1980 as well, especially the video applications use a lot of  
1981 bandwidth. And the point here is that there might be  
1982 international sanction or international mandate for some sort  
1983 of regulatory regime to impose these charges and that is a  
1984 concern. If companies want to enter into contracts in a  
1985 competitive market, I am all for that but we don't need an  
1986 international regulatory body distorting the marketplace to  
1987 anyone's disadvantage.

1988 Mr. {Latta.} Thank you very much, Mr. Chairman. And I  
1989 yield back my time.

1990 Mr. {Walden.} The chair now recognizes the gentleman  
1991 from Illinois, Mr. Shimkus, who I think is our last one to  
1992 ask questions of this panel.

1993 Mr. {Shimkus.} Thank you, Mr. Chairman. And I  
1994 apologize for obviously keeping this longer, but it is a very  
1995 important subject and it is very important if you have ever  
1996 been involved as I have been fortunate to be involved with  
1997 democracy and freedom movements, at least in the former  
1998 captive nations, Eastern European countries. I pulled up  
1999 with great technology the cyber attack on Estonia in 2007.  
2000 Just returned from the NATO Parliamentary Assembly meetings  
2001 in Estonia just over the break, I have watched the crackdown  
2002 on dissidents in Belarus. And, Commissioner McDowell, you  
2003 are highlighting the prime minister of Russia's exact quote.

2004 International control of the internet through the ITU should  
2005 give everyone cause for concern. Those of us who follow  
2006 these movements are rightly concerned about--as was stated in  
2007 maybe question-and-answer or opening statement--the movement  
2008 to do this is for regime stability and regime preservation.  
2009 I mean it is clear. Look at the actors--Russia, China, Iran,  
2010 I imagine North Korea would probably be on there if they  
2011 really had any concern of anyone having computers to begin  
2012 with other than the handful that they allow for downloading  
2013 movies. I am not going to go there.

2014 And briefly talk about will they be using--I will go  
2015 first to the Ambassador and then Commissioner McDowell--the  
2016 whole cybersecurity date, is this linked into this somehow  
2017 and they are using cybersecurity as an excuse to get further  
2018 control? And of that we should be concerned with, especially  
2019 from state actors who have used technology to cyber attack  
2020 other countries. They would be the last defenders of the  
2021 system. Ambassador, do you want to comment on that?

2022 Ambassador {Verveer.} Yes. Well, in the specific  
2023 context of WCIT there have been contributions suggesting  
2024 there ought to be some sort of a cybersecurity regulation.  
2025 Now, the discussions have tended to be at a very high level.  
2026 For example, something like all countries should be  
2027 responsible for protecting their networks, things of that

2028 nature. The United States generally opposes any significant  
2029 effort to bring cybersecurity regulation into the ITU or  
2030 similar bodies. There are, as you know, enormously  
2031 significant issues surrounding cybersecurity. There is a  
2032 great deal of engagement that we in the United States have  
2033 with other countries about how to improve the cybersecurity  
2034 environment but we don't think that apart from potentially  
2035 very high level kind of statement about the desirability of  
2036 cybersecurity that it has any place at all in terms of these  
2037 ITRs.

2038 Mr. {Shimkus.} Great. Commissioner McDowell, any  
2039 comment on that?

2040 Mr. {McDowell.} Yeah, my concern overall is that such  
2041 international mandates could be used as a sword and a shield  
2042 by authoritarian regimes at the same time. Keep in mind,  
2043 though, that cybersecurity is discussed in many diplomatic  
2044 for a not just WCIT or ITU but other places as well. But as  
2045 a general matter, we should be very concerned that before  
2046 entering into any international agreements on this that we  
2047 aren't put at a disadvantage.

2048 Mr. {Shimkus.} And I don't know if Congresswoman Bono  
2049 Mack mentioned this. We were talking before I had to leave  
2050 the room. But the process would be consensus agreement.  
2051 Would those then have to go back to the national governments

2052 for like a treaty ratification as we see in other treaties  
2053 like Kyoto--not to pick on it--but some countries picked it  
2054 up; some countries like the United States never voted on it.  
2055 I think that is the issue of balkanization, then, that you  
2056 are referring to. But wouldn't that disenfranchise those  
2057 countries that think they are trying to use it for their own  
2058 regime stability and regime preservation but it would really  
2059 hurt them in the global economy and developmental process?  
2060 So they are cutting off their nose to spite their face if  
2061 they do this. Ambassador, would you agree with that?

2062       Ambassador {Verveer.} Yes, I would. You are exactly  
2063 right with that.

2064       Mr. {McDowell.} I would agree with it as well.

2065       Mr. {Shimkus.} Great. Thank you, Mr. Chairman. I  
2066 yield back my time.

2067       Mr. {Walden.} Thank you, Mr. Shimkus. We appreciate  
2068 your questions and we appreciate the answers and the  
2069 testimony from our two very distinguished panelists. Thank  
2070 you. You have been most helpful in us understanding better  
2071 what we face as a country and the challenge that is ahead for  
2072 both of you and for our delegation going to Dubai. So thank  
2073 you. We appreciate it.

2074       And we will call up our next panel of witnesses. On our  
2075 second panel, Ambassador David A. Gross, former U.S.

2076 Coordinator for International Communications and Information  
2077 Policy, U.S. Department of State on behalf of the World  
2078 Conference on International Telecommunications Ad Hoc Working  
2079 Group; Ms. Sally Shipman Wentworth, she is the senior  
2080 manager, public policy for Internet Society; and Mr. Vinton  
2081 Cerf, Vice President and Chief Internet Evangelist for  
2082 Google. We all admire that title and your work, Mr. Cerf,  
2083 certainly the power it is to have internet protocols and  
2084 addresses and all those things you have created or help  
2085 create. And we love the title, internet evangelist.

2086         So again we thank our prior panel and their testimony  
2087 and we will start right in with Ambassador Gross will be our  
2088 leadoff witness on the second panel. And again, just pull  
2089 those microphones close, make sure the lights are lit and you  
2090 should be good to go. Thank you, Ambassador, for your work  
2091 on this issue in the past and we look forward to your  
2092 comments today.

|  
2093 ^STATEMENTS OF DAVID A. GROSS, FORMER U.S. COORDINATOR FOR  
2094 INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, U.S.  
2095 DEPARTMENT OF STATE, ON BEHALF OF THE WORLD CONFERENCE ON  
2096 INTERNATIONAL TELECOMMUNICATIONS AD HOC WORKING GROUP; VINTON  
2097 CERF, VICE PRESIDENT AND CHIEF INTERNET EVANGELIST, GOOGLE;  
2098 AND SALLY SHIPMAN WENTWORTH, SENIOR MANAGER, PUBLIC POLICY,  
2099 INTERNET SOCIETY

|  
2100 ^STATEMENT OF DAVID A. GROSS

2101 } Mr. {Gross.} Well, thank you very much, Mr. Chairman,  
2102 Ranking Member. It is a great privilege and honor to be back  
2103 here with you all again. I appreciate it very much. And I  
2104 probably should start with an apology to the audience that I  
2105 did not bring lunch with us. So I will try to be brief.

2106 I want to underscore a couple of points that were made  
2107 both by the questions and the answers presented by the first  
2108 panel. First of all, I think it is extraordinarily important  
2109 for the American people to know that I think the preparations  
2110 for the upcoming WCIT conference are in excellent hands. I  
2111 think we have seen this demonstrated by the statements and  
2112 actions by Ambassador Verveer, who you saw this morning, by  
2113 Assistant Secretary Larry Strickling, by the White House,

2114 including Danny Weitzner, who has played an important role,  
2115 and as was announced earlier today by Ambassador Verveer, the  
2116 incoming Head of Delegation Terry Kramer.

2117 I will confess I have known Terry for many years. We  
2118 worked together at AirTouch. We have been good friends for  
2119 many years and I could not be more pleased and confident of a  
2120 successful outcome because of what I am sure will be his  
2121 excellent leadership. I would say that his leadership is  
2122 particularly important and helpful in addressing some of the  
2123 questions that were raised to the first panel about the  
2124 ability to create and form successful coalitions to be able  
2125 to identify the issues. He has great experience not only in  
2126 the telephone industry but also having worked and been very  
2127 active internationally. He knows what it takes to bring  
2128 people together and to be able to find that consensus that  
2129 will be very important.

2130 I would also want to recognize, of course, as you all  
2131 have already done this morning, the extraordinary work that  
2132 has been done by FCC Commissioner Robert McDowell. He has  
2133 been tireless and passionate and very focused on this issue  
2134 in ways that have greatly served all of us. And I personally  
2135 and professionally am so pleased by his leadership to date.

2136 Having had the great honor of working on these issues  
2137 for many years at the U.S. State Department and elsewhere, I

2138 think there are a few core principles that make this  
2139 particularly important, one that was stressed earlier today  
2140 about the importance of bipartisanship. And I would like to  
2141 commend both sides of the aisle and this committee  
2142 particularly and its members for the great work that you have  
2143 done with regard to the new Resolution 127. I think that is  
2144 really quite extraordinary.

2145         When I had the honor of co-leading the U.S. delegation  
2146 to the World Summit on the Information Society, the U.N.  
2147 heads of state summit, a similar joint resolution was enacted  
2148 and I found that to be extraordinarily useful and important  
2149 for us as we went forward because the world recognizes the  
2150 importance in the role that Congress plays on these issues  
2151 domestically and internationally and it is an important  
2152 signal. The bipartisanship is a particularly important  
2153 signal there that these are issues for which we are all  
2154 together.

2155         I would also say that I have the great honor currently  
2156 of chairing an ad hoc committee that has been put together to  
2157 address the WCIT issues and the like, and I think there is  
2158 much to be learned from the diverse membership of that group.  
2159 That group often takes different views on domestic issues and  
2160 that is to be expected, but they come together and are  
2161 unified, as the American people I believe are unified, on the

2162 issue that brings us together about the internet, the  
2163 importance of the internet, and the role of intergovernmental  
2164 organizations and others with regard to that going forward.

2165         There are two things that I think are particularly  
2166 important to focus on about WCIT. One is it is important to  
2167 remember this is not just another conference but this is a  
2168 treaty-writing conference. The output of this will not be  
2169 just language that is used but in fact international law, and  
2170 therefore, it is very, very important that the details be  
2171 dealt with very carefully.

2172         It is also very important because this affects not just  
2173 the American people but people globally and the U.S. is  
2174 always looked to by the people around the world for that  
2175 leadership, and I am confident that that leadership will be  
2176 maintained.

2177         It is the great changes that have happened, the great  
2178 growth in the internet that has benefitted the people in the  
2179 developing world and elsewhere perhaps most dramatically.  
2180 And I think that is first and foremost something that we  
2181 always need to keep in mind.

2182         It is also important to recognize, as many of the  
2183 comments this morning, that this is not about the ITU as an  
2184 institution. The ITU is an important institution to the  
2185 United States. Hamadoun Touré, the Secretary-General, has

2186 been very important as a leader and very helpful to the  
2187 United States and otherwise.

2188         Having said that, this is about other member states that  
2189 has been outlined by a number of the answers earlier today,  
2190 and those are the issues and the coalitions we need to build,  
2191 the issues we need to address, and the facts we need to  
2192 gather.

2193         And with that, I believe my time is about to expire and  
2194 I don't to delay this any further. Thank you very much.

2195         [The prepared statement of Mr. Gross follows:]

2196 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|  
2197           Mr. {Walden.} Ambassador Gross, thank you not only for  
2198 your leadership on this issue but your testimony today and  
2199 your encouragement on our bipartisan resolution, which we  
2200 hope to be able to move rather rapidly to the House Floor.

2201           Mr. Cerf, we are delighted and honored to have you here  
2202 today, sir. We look forward to your verbal presentation of  
2203 your testimony and your insights on this matter.

|  
2204 ^STATEMENT OF VINTON CERF

2205 } Mr. {Cerf.} Thank you very much, Chairman Walden. And  
2206 I see that Ranking Member Eshoo had to depart but I certainly  
2207 appreciate her participation today. And members of the  
2208 subcommittee, it is an honor to address you.

2209 My name is Vint Cerf. I currently serve as vice  
2210 president and chief internet evangelist at Google. As one of  
2211 the fathers of the internet and as a computer scientist, I  
2212 care deeply about the future of the internet and I am here  
2213 today because the open internet has never been at higher risk  
2214 than it is now. A new international battle is brewing, a  
2215 battle that will determine the future of the internet. And  
2216 if all of us from Capitol Hill to corporate headquarters to  
2217 internet cafés in far-off villages don't pay attention to  
2218 what is going on, users worldwide will be at risk of losing  
2219 the open and free internet that has brought so much to so  
2220 many and can bring so much more.

2221 If we follow one path, a path of inclusion, openness,  
2222 and commonsense, I am convinced that the internet of the  
2223 future will be an even more powerful economic engine and  
2224 communications tool than it is today. The other path is a  
2225 road of top-down control dictated by governments. This would

2226 be a very different system, a system that promotes exclusion,  
2227 hidden deals, potential for indiscriminate surveillance, and  
2228 tight centralized management, any one of which could  
2229 significantly hinder internet innovation and growth.

2230         At the crossroads stands the International  
2231 Telecommunication Union, an agency of the United Nations that  
2232 came into being to regulate international telegraph services  
2233 just 4 years after the Pony Express closed its doors. This  
2234 agency plans to meet in 6 months to consider proposed changes  
2235 to the international agreements governing telecommunications.  
2236 Until this year the ITU--which, through the U.N., includes  
2237 193 member countries, each with only a single vote--has  
2238 focused its attention on telecommunications networks and  
2239 policies such as setting international standards for  
2240 telephone systems, coordinating the allocation of radio  
2241 frequencies and encouraging the development of  
2242 telecommunications infrastructure in developing nations.

2243         On the whole, this status quo has been benign and even  
2244 helpful to the spread of the internet. But the organization  
2245 recently passed a resolution in Guadalajara calling to  
2246 ``increase the role of the ITU in internet governance.''  
2247 This should cause significant concern.

2248         In addition, some powerful member states see an  
2249 opportunity to assert control over the internet through a

2250 meeting in Dubai this coming December. Several proposals  
2251 from member states of the ITU would threaten free expression  
2252 on the web. Others have called for unprecedented mandates  
2253 and economic regulations that would, for example, impose  
2254 international internet fees in order to generate revenue for  
2255 state-owned telecommunications companies. The international  
2256 attack on the open internet has many fronts.

2257         Take, for example, the Shanghai Cooperation  
2258 Organization, which counts China, Russia, Tajikistan, and  
2259 Uzbekistan among its members. This organization submitted a  
2260 proposal to the U.N. General Assembly last September for a  
2261 so-called international code of conduct for information  
2262 security. The organization's stated goal was to establish  
2263 government-led international norms and rules standardizing  
2264 the behavior of countries concerning information and  
2265 cyberspace. Should one or more of these proposals pass, the  
2266 implications are potentially disastrous.

2267         First, new international control over the internet could  
2268 trigger a race to the bottom where serious limits on the free  
2269 flow of information could become the norm rather than the  
2270 exception. Already, more than 20 countries have substantial  
2271 or pervasive online filtering according to the Open Net  
2272 Initiative. And the decentralized bottom-up architecture  
2273 that enabled the internet's meteoric rise would be flipped on

2274 its head. The new structure would have the unintended  
2275 consequence of choking innovation and hurting American  
2276 business abroad.

2277         As you can see, the decisions made this December in the  
2278 ITU could potentially put regulatory handcuffs on the net  
2279 with a remote U.N. agency holding the keys. And because the  
2280 ITU answers only to its member states rather than to  
2281 citizens, civil society, academia, the technical industry,  
2282 and the broad private sector, there is a great need to insert  
2283 transparency and accountability into this process.

2284         So what can you do? I encourage this committee to take  
2285 action now by urging the U.S. Government in partnership with  
2286 likeminded countries and their citizens to engage in this  
2287 process and protect the current bottom-up, pluralistic system  
2288 of internet governance and to insist that the debate at the  
2289 ITU and all other international fora be open to all  
2290 stakeholders. It is critically important for you to engage  
2291 and help ensure that the world understands that the economic,  
2292 social, and technical advances driven by the internet are  
2293 endangered by these efforts.

2294         Thank you for the opportunity to testify on this very  
2295 serious matter. I look forward to answering your questions.

2296         [The prepared statement of Mr. Cerf follows:]

2297 \*\*\*\*\* INSERT 4 \*\*\*\*\*

|  
2298           Mr. {Walden.} Mr. Cerf, thank you. We appreciate your  
2299 leadership and comments.

2300           Now, we go to Sally Shipman Wentworth, Senior Manager,  
2301 Public Policy, Internet Society. Ms. Shipman, thank you for  
2302 being here. We look forward to your testimony as well.

|  
2303 ^STATEMENT OF SALLY SHIPMAN WENTWORTH

2304 } Ms. {Wentworth.} Thank you, Mr. Chairman.

2305 My name is Sally Shipman Wentworth and I am senior  
2306 manager of public policy for the Internet Society, a  
2307 nonprofit organization dedicated to ensuring the open  
2308 development, evolution, and use of the internet for the  
2309 benefit of all people throughout the world. On behalf of the  
2310 Internet Society and our more than 55,000 members worldwide,  
2311 many of whom are joining us in the audience and are watching  
2312 the webcast around the world, I would like to sincerely thank  
2313 Chairman Walden, Ranking Member Eshoo, and all the members of  
2314 the subcommittee for the opportunity to testify on this  
2315 important issue.

2316 The Internet Society was founded in 1992 by many of the  
2317 same pioneers who built the internet, one who is sitting next  
2318 to me. Since that time, the organization has served as a  
2319 global resource for technically vetted, ideologically  
2320 unbiased information about the internet as an educator for  
2321 technologists and policymakers worldwide, and as an organizer  
2322 and driver of community-based internet initiatives around the  
2323 world.

2324 The Internet Society also serves as the organizational

2325 home for the Internet Engineering Taskforce whose mission it  
2326 is to make the internet work better. We produce high-quality  
2327 relevant technical documents that influence the way people  
2328 design, use, and manage the internet. These technical  
2329 documents include the standards, guidelines, and best  
2330 practices that created and continue to shape the internet  
2331 today.

2332         The International Telecommunication Union's upcoming  
2333 World Conference on International Telecommunications has  
2334 rightfully drawn heightened attention from the global  
2335 community as some ITU member states have proposed amendments  
2336 to a key treaty, the ITRs, that could have far-reaching  
2337 implications for the internet. While the Internet Society  
2338 has no voting role in the ITU process, we do participate as  
2339 what is called a sector member. In that capacity, we have  
2340 raised significant concerns that rather than enhancing global  
2341 interoperability, the outcome of the WCIT meeting could  
2342 undermine the security, stability, and innovative potential  
2343 of networks worldwide.

2344         The Internet Society understands why some of the ITU  
2345 member states are focusing on the internet and its  
2346 infrastructure. The internet has fundamentally changed the  
2347 nature of communications globally and many nations view those  
2348 changes as falling under the auspices of the ITU. Some

2349 proposals to the WCIT stem from the very real economic  
2350 pressure that developing nations face as they seek to update  
2351 their national policy frameworks to allow them to engage  
2352 fully in the global information economy. But we are not  
2353 convinced that the international treaty-making process  
2354 represents the most effective means to manage cross-border  
2355 internet communications or to achieve greater connectivity  
2356 worldwide. We are concerned that some of the proposals being  
2357 floated in advance of the December meeting are not consistent  
2358 with the proven and successful multi-stakeholder model. And  
2359 finally, we are concerned that the WCIT process itself, which  
2360 severely limits meaningful nongovernmental participation,  
2361 could create negative outcomes for the internet.

2362         The internet model is characterized by several essential  
2363 properties that make it what it is today--a global, unified  
2364 network of networks that is constantly evolving that has  
2365 provided enormous benefits but enables extraordinary  
2366 innovation and whose robustness is based on a tradition of  
2367 open standards, community collaboration, and bottom-up  
2368 consensus. As the internet has flourished, internet policy  
2369 development at the global, regional, and national levels has  
2370 continued to evolve to work harmoniously with the internet to  
2371 assure its ongoing development. This process has provided  
2372 the capacity to cope with the necessary and fast-paced

2373 technological evolution that has characterized the internet  
2374 to date.

2375         In contrast to this approach, some WCIT submissions seek  
2376 to apply old-line legacy telecommunication regulations to  
2377 internet traffic in a manner that could lead to a more  
2378 fragmented, less interoperable global internet for all. For  
2379 example, proposals related to traffic routing, numbering, and  
2380 peering would have significant impacts on the future growth  
2381 of the internet. But while we find strong cause for concern  
2382 about the agenda of the WCIT meeting, there is no reason why  
2383 it cannot produce thoughtful worthwhile policy developments  
2384 that advance the mission of the ITU and the ongoing expansion  
2385 of global communications without imposing dangerous and  
2386 unnecessary burdens on the internet.

2387         Many ITU member states, including the U.S., have shown  
2388 that they understand the value of the internet and its unique  
2389 multi-stakeholder model. Those delegates are in a critical  
2390 position to advance an agenda at WCIT that respects the  
2391 internet and its global contributions while continuing to  
2392 support the pro-competitive policies that have been so  
2393 successful since the ITRs were first negotiated in 1988.  
2394 Working with allies from around the globe, the United States  
2395 Government has an opportunity to help chart a productive  
2396 course forward at WCIT and to ensure that the value of the

2397 multi-stakeholder model and a light-touch regulatory approach  
2398 are highlighted.

2399           The Internet Society stands ready to play its part in  
2400 this process and to assist the Subcommittee in any way it  
2401 can. Thank you very much for this opportunity.

2402           [The prepared statement of Ms. Wentworth follows:]

2403 \*\*\*\*\* INSERT 5 \*\*\*\*\*

|  
2404 Mr. {Walden.} Ms. Wentworth, thank you for your  
2405 testimony.

2406 And we will go into questions now. And I want to go  
2407 straight to you.

2408 You mentioned in your testimony there are other parts of  
2409 the United Nations that have activities concerning internet  
2410 governance. If the ITU meeting is not the only place where  
2411 this is being discussed, what other things are going on that  
2412 we should be aware of?

2413 Ms. {Wentworth.} Yes, thank you for that question. I  
2414 do think it is important that we put the WCIT in context.  
2415 The WCIT is an extremely important event in 2012. It is a  
2416 treaty-making conference but the discussion of internet  
2417 governance will not stop there. There are ongoing  
2418 discussions within the United Nations framework in the  
2419 Commission for Science and Technology for Development within  
2420 the International Telecommunications Union and within the  
2421 U.N. General Assembly that seek to take on these issues of  
2422 internet governance with a great deal of specificity. All of  
2423 these discussions are things that we at the Internet Society  
2424 are following carefully and we think that multi-stakeholder  
2425 engagement and discussion of these issues over the next  
2426 several years is going to be extremely important.

2427           Mr. {Walden.} Mr. Cerf, you seem to be weighing in  
2428 there with a nodding head.

2429           Mr. {Cerf.} I am certainly in agreement with Ms.  
2430 Wentworth. First of all, the ITU is not the only element in  
2431 the United Nations that is interested in internet matters.  
2432 The point about the Committee on Science and Technology is  
2433 one example; ECOSOC is another. There is a long list of  
2434 players who see the internet as a very fundamental part of  
2435 the environment now and they would like very much to have  
2436 some influence over it. I worry about even such activities  
2437 as the Internet Governance Forum, which emerged out of the  
2438 world summit on the Information Society. The reason it has  
2439 been successful, at least up until now, is that it started as  
2440 a multi-stakeholder activity but as responsibility for the  
2441 subject matter under discussion in the IGF shifted from one  
2442 body to another, the question about who controls the agenda  
2443 now becomes a big issue.

2444           The process of involvement in the United Nations has one  
2445 unfortunate property that it politicizes everything. All the  
2446 considerations that are made, whether it is in the ITU or  
2447 elsewhere, are taken and colored by national interests. As a  
2448 longstanding participant in the Internet Architecture Board  
2449 and the Internet Engineering Taskforce where we check our  
2450 guns at the door and we have technical discussions about how

2451 best to improve the operation of the internet, to color that  
2452 with other national disputes which are not relevant to the  
2453 technology is a very dangerous precedent. And that is one of  
2454 the reasons I worry so much about the ITU's intervention in  
2455 this space.

2456 Mr. {Walden.} There are some press reports out of this  
2457 hearing already that would tend to say that Ambassador  
2458 Verveer's comments mean there really isn't a grave threat to  
2459 the internet and that there aren't these serious threats on  
2460 the table. Would you agree with that characterization or do  
2461 you feel this is a very serious matter?

2462 Mr. {Cerf.} I am still very nervous, Mr. Chairman,  
2463 about this process. I will make one observation that it is  
2464 not just a matter of the voting question and the one nation,  
2465 one vote. The substance of the changes or additions to the  
2466 treaty are critical. And here we have somewhat more leverage  
2467 I think. Those are not necessary just a matter of voting. I  
2468 think Ambassador Gross will probably amplify on this, but the  
2469 negotiations for the actual language probably gives more  
2470 leverage to us than the actual voting process does. But I  
2471 have to say, Mr. Chairman, that there is a notion in what is  
2472 called chaos theory called the butterfly effect. The  
2473 butterfly waves its wings in Indonesia and we have a tsunami  
2474 somewhere else. I do worry that small changes can be used

2475 and interpreted--

2476 Mr. {Walden.} Right.

2477 Mr. {Cerf.} --in ways that could be quite deleterious  
2478 to the utility of the internet.

2479 Mr. {Walden.} And Ambassador Gross, what strategies did  
2480 you employ when you had the honor and opportunity to fend off  
2481 international regulation of the internet that the U.S.  
2482 Government should follow now?

2483 Mr. {Gross.} Well, thank you very much. And if I may,  
2484 before addressing that, I just want to echo exactly what Vint  
2485 Cerf just said. And I think one of the keys here as we think  
2486 about this is this is not about a discussion at WCIT about  
2487 broad policies. That happens at conferences on a regular  
2488 basis and are very important. And something that this  
2489 chamber can particularly appreciate, the negotiations over  
2490 our treaty text, language, language is important. Language  
2491 has impact. And so what will be a real test for our  
2492 negotiators and for all of us is to be careful as to the  
2493 language so the language doesn't come forward and mean  
2494 something today and mean something very different than the  
2495 way in which, for example, Commissioner McDowell talked about  
2496 where it morphs into something very difficult and something  
2497 very dangerous. This is not an issue of the ITU secretariat.  
2498 This is an issue for member states to negotiate and to be

2499 very, very cognizant about.

2500           With regard to strategies, I think the strategies have  
2501 been--already some of them have been adopted by the current  
2502 group. That is it is very important to be clear. One of the  
2503 problems and one of the opportunities you always have in  
2504 international negotiations is to find fuzzy language to cover  
2505 up. One of the keys here because of the importance of the  
2506 issue and because of the implications of the issue for the  
2507 over two billion users of the internet worldwide is to be  
2508 very clear as to what it is the U.S. is interested and  
2509 willing to discuss and to negotiate of which there are many  
2510 things and those areas which are redlines, things for which  
2511 we will not agree. And it is not a question of finding the  
2512 precise language. It is yes; it is no. It is very, very  
2513 binary in that sense. And I think that will be very clear.  
2514 And the building of the coalitions as was discussed in the  
2515 first panel I think is obvious and important and I am very  
2516 confident we will be able to do that.

2517           Mr. {Walden.} I appreciate your answers to my  
2518 questions, all the panelists.

2519           We will now go to the gentleman from Massachusetts, Mr.  
2520 Markey, for 5 minutes.

2521           Mr. {Markey.} Thank you, Mr. Chairman, very much.

2522           So, Mr. Cerf, which countries are you most concerned

2523 about in terms of their agenda?

2524           Mr. {Cerf.} Well, as we heard earlier, the ones that  
2525 are most visible right now in my view are Russia and China  
2526 who have their names on a number of proposals. But others  
2527 have come forward, surprising ones. Brazil, for example, and  
2528 India have surprised me with their interest in intervening  
2529 and obtaining further control. The others are the ones that  
2530 you would normally expect. We hear from Syria, we hear from  
2531 other repressive regimes, even those in Saudi Arabia, for  
2532 example. Those who are threatened by openness and freedom of  
2533 expression are the ones that are most interested in gaining  
2534 control through this means.

2535           Mr. {Markey.} Um-hum.

2536           Mr. {Cerf.} There are other motivations, however, that  
2537 also drive this whole process. The developing world has  
2538 historically generated substantial revenue from  
2539 telecommunication services, as I am sure you are well aware.  
2540 The internet has become the alternative to much of what had  
2541 been the telecommunications environment and I see them  
2542 looking for ways, adapting the earlier telecommunications  
2543 settlement arrangements, interconnection arrangements and the  
2544 like as a way of recovering revenue that they didn't have.  
2545 So there are multiple--

2546           Mr. {Markey.} Ambassador Gross mentioned this--give us

2547 one redline subject that we should never entertain?

2548           Mr. {Cerf.} I think two things in particular. I would  
2549 never want to see any of the ITU-T standards being mandatory.  
2550 They should stay in voluntary form. And second, I think we  
2551 should run away from any kind of settlement arrangements or  
2552 enforced interconnection rules that would interfere with the  
2553 open and very private sector aspect of internet connectivity.  
2554 Today, it is a voluntary system. It grows biologically and  
2555 it has benefitted from that.

2556           Mr. {Markey.} Is there an analogy here to the satellite  
2557 system that allowed governments to just extract windfall  
2558 profits in countries all around the world that ran totally  
2559 contrary to what should be the policy, to ensure that every  
2560 citizen has real access to a phone network?

2561           Mr. {Cerf.} This is an economic question of an engineer  
2562 and I have this feeling you might deserve the answer that you  
2563 got. To be honest, I think that we see a great desire to  
2564 take advantage of the internet in ways that damage the  
2565 freedom and openness and the permission-less innovation which  
2566 has allowed it to grow. To allow any rules that sequester  
2567 this innovation and inhibit others would damage the future of  
2568 the internet dramatically. When you see new applications  
2569 coming along, they come from virtually anywhere in the world.  
2570 They don't all come from the United States, and it is

2571 important that we preserve that capability.

2572           Mr. {Markey.} Thank you. No, but I appreciate kind of  
2573 the global nature that you bring to it, the butterfly effect  
2574 in Indonesia here creating a tsunami in another place. Here  
2575 in the United States we just say it is Mrs. O'Leary's cow  
2576 that ultimately burns down the whole city, but that would be  
2577 too American. You know, you want to give us the global view  
2578 of where innovation can occur, where a disaster can emanate  
2579 from in terms of the impact that it has upon the global  
2580 internet system. But that is who you are. You know, that is  
2581 what this panel is really all about.

2582           Ambassador Gross, give us your one redline. Do you  
2583 agree with Mr. Cerf or do you have another issue as well?

2584           Mr. {Gross.} I always agree with Vint but I think  
2585 actually there are a number of redlines.

2586           Mr. {Markey.} Give me one and then I am going to go to  
2587 Ms. Wentworth.

2588           Mr. {Gross.} Well, I think the number one redline is  
2589 that there should be no top-down control of the internet  
2590 directly or indirectly associated with any international  
2591 governmental institution, including the ITU.

2592           Mr. {Markey.} Okay. And Ms. Wentworth, do you have  
2593 one?

2594           Ms. {Wentworth.} We would certainly agree with the

2595 comments of Mr. Cerf with respect to making voluntary  
2596 standards mandatory. That would have considerable impact on  
2597 the engineering architecture that goes into the internet.  
2598 And we are also very focused on the definitions in the  
2599 treaty. As we know, definitions will give you the scope and  
2600 a number of the proposals to change the definitions would in  
2601 fact clearly implicate the internet in the treaty.

2602 Mr. {Markey.} Mr. Cerf, give us your 30 seconds. What  
2603 do you want this committee to remember as we go forward over  
2604 the next 6 months and over the next 6 years in terms of what  
2605 we should be apprehensive about?

2606 Mr. {Cerf.} So you have already started. This hearing  
2607 is a wonderful beginning. The proposed legislation speaking  
2608 to this problem in a bipartisan--I am sitting here thinking  
2609 bilateral--bipartisan way--

2610 Mr. {Markey.} It is so rarely used that, you know, I  
2611 know why it is hard to come up with--

2612 Mr. {Cerf.} Voicing your concerns to the Executive  
2613 Branch also extremely important and making this visible  
2614 around the world is also very important. So I think you have  
2615 started that process and I am deeply grateful for it.

2616 Mr. {Markey.} Great, thank you.

2617 My time is expired. I apologize.

2618 Mr. {Shimkus.} [Presiding] The gentleman's time is

2619 expired. I would like to recognize myself for 5 minutes.

2620 I mean I really enjoy this discussion because it is when  
2621 free nations give up their decision-making process to a world  
2622 organization that is not totally defined to be free, then  
2623 there should be credible concerns. And I think we are  
2624 raising those today. We debate this issue about the U.N. We  
2625 get asked by our constituents all the time about the role of  
2626 the U.N. Should we be involved in the U.N.? Should we fund  
2627 the U.N.? And I have tried to keep a balanced view where I  
2628 haven't voted to leave the U.N. but I have been skeptical  
2629 about the role it plays. So it is keep current funding, get  
2630 reforms.

2631 Here are some of the things that the U.N. has done.  
2632 Cuba was vice president of the United Nations' Human Rights  
2633 Council and China, Russia, and Saudi Arabia also serve on  
2634 that council. North Korea and Cuba serve as head of the  
2635 Conference on Disarmament. Mugabe was just named a U.N.  
2636 leader for tourism by the U.N. World Trade Organization.  
2637 Iran sits on the U.N. Commission on the Status of Women and  
2638 formerly chaired the Joint Board of the U.N. Development  
2639 Program and the U.N. Population Fund. Saudi Arabia is a  
2640 member of the Executive Board of U.N. Women. I am not making  
2641 this up and you can't. But I mean that is a concern.

2642 And there has also been some international debate and

2643 discourse about having a world organization based upon shared  
2644 values--democracy, freedom, rule of law--things that would  
2645 make this process a little bit easier than trying to  
2646 negotiate with totalitarian regimes who will not have the  
2647 best interest of free discourse and exchange of views and  
2648 ideas and values. So I appreciate you coming. I appreciate  
2649 the raising of this concern and making sure that we are all  
2650 in and prepared to keep this great architecture.

2651 I took a picture of you all when we started and I Tweet  
2652 like a lot of people and, you know, kind of did the headline  
2653 of the hearing, and I said if it is not broken, don't fix it.  
2654 That system has worked. Obviously, there is some tinkering  
2655 that some of you agree that must be done or is there not?  
2656 Should we not touch it? Or if there is tinkering to be done,  
2657 what should be done? Mr. Gross?

2658 Mr. {Gross.} Well, thank you very much. The answer is  
2659 there are always opportunities to improve anything, except  
2660 for my wife who is sitting behind me, of course. But  
2661 instead, I think the key here is who does the tinkering and  
2662 what the mechanism is? I think the genius of the internet  
2663 has been not only its decentralized nature but its multi-  
2664 stakeholder processes for making decisions, bringing those  
2665 with the best and the brightest ideas from wherever they are  
2666 no matter what their positions are to be able to have a say

2667 and to make those decisions in a voluntary, bottom-up  
2668 approach. That approach is the key.

2669         And I think the rub here, as you have heard this morning  
2670 and early this afternoon has been concern about a top-down  
2671 governmental set of ways of dealing with what are undoubtedly  
2672 real issues for real people around the world, whether it is  
2673 security, whether it is fraud. It is a variety of things.  
2674 We know that there are many issues that need to be addressed.  
2675 Who does the addressing? What those mechanisms turn out to  
2676 be I believe are really the key to success in the way to deal  
2677 with these issues.

2678         Mr. {Shimkus.} And I was going to ask all three but I  
2679 want to get a different question to Mr. Cerf. Any tinkering,  
2680 no matter how well intentioned, could it be flexible enough  
2681 to keep the process moving forward or will tinkering itself  
2682 really mess up the stakeholder involvement in the system we  
2683 have today?

2684         Mr. {Cerf.} So I think several observations might be  
2685 relevant here. The first one is that we can't run away from  
2686 the United Nations because it is too important a body for us  
2687 to ignore. So we have to participate in its processes. But  
2688 we have another opportunity which I think we should emphasize  
2689 and that is to encourage more international involvement among  
2690 the various nation states in the multi-stakeholder processes

2691 that are open and available to them. That includes the  
2692 Internet Governance Forum, the Internet Engineering  
2693 Taskforce, ICANN itself and all of its multi-stakeholder  
2694 processes. I think if we make those increasingly attractive  
2695 and effective that this could be a counterbalance and  
2696 alternative to the focus of attention which is leading in the  
2697 direction of U.N.-based activity. This would also reinforce  
2698 what we have discovered over the last 15 years, which is that  
2699 multi-stakeholder processes actually work. They do bring  
2700 many different points of view to the table and they result in  
2701 better policy.

2702 Mr. {Shimkus.} Thank you. And I appreciate it. I  
2703 don't have time to ask my follow-up question to you but I  
2704 apologize. Thank you for your testimony.

2705 And now, I would like to recognize the ranking member of  
2706 the full committee, Mr. Waxman, for 5 minutes.

2707 Mr. {Waxman.} Thank you very much, Mr. Chairman.

2708 Mr. Cerf, earlier today, Ambassador Verveer stated that  
2709 the U.S. is advocating for the WCIT conference report to be  
2710 made available to the public. In addition to this proposal  
2711 for increased transparency, what other specific measures can  
2712 be taken to shine more light into the ITU's processes?

2713 Mr. {Cerf.} Well, the obvious possibility would be to  
2714 open this process up to other stakeholders, which is not a

2715 typical conclusion one reaches in international agreements.  
2716 But it strikes me--again, reflecting back on our written  
2717 successes with multi-stakeholder processes--that transparency  
2718 and openness produces much better results. Now, whether  
2719 anyone in the current governmental world could be persuaded  
2720 of that, I don't know. But I am a great advocate of trying  
2721 to include civil society, the technical world, the private  
2722 sector in matters that will have a very direct impact on  
2723 them. So once again, publication of proposals and  
2724 involvement of other stakeholders would be very attractive.

2725         Mr. {Waxman.} Well, I would think it is critical for  
2726 the U.S. and other countries that have seen the positive  
2727 impact of the internet on their economies to highlight to the  
2728 ITU participants and other stakeholders of potential negative  
2729 consequences of the regulation of the internet on the world's  
2730 economy. But what would be the role for the private sector  
2731 in this process? How would they participate?

2732         Mr. {Cerf.} So the private sector actually operates  
2733 most of the internet. I don't know what the numbers are but  
2734 it probably exceeds 90 percent. So in some sense, no matter  
2735 what we do, no matter what anyone says, it is the private  
2736 sector that operates this entity and its actions in a sense  
2737 determine what kind of internet we all have. So my belief is  
2738 that we have an opportunity here to empower the private

2739 sector to engage in policy-making which does not have an  
2740 avenue to do today, at least not very effectively. For  
2741 example, you will hear the ITU say, well, you could be a  
2742 sector member. I think Ms. Wentworth might agree with me  
2743 that even as a sector member having paid your dues, you don't  
2744 always either get to participate or even have, you know,  
2745 current information about what is under debate. So once  
2746 again, I think openness is going to be our friend here but we  
2747 have to advocate strongly and loudly for it.

2748 Mr. {Waxman.} Ms. Wentworth or Mr. Gross, do you have  
2749 any additional comments or suggestions to increase the  
2750 transparency of the ITU process?

2751 Ms. {Wentworth.} Well, the Internet Society has  
2752 certainly been an advocate of opening up this process for the  
2753 WCIT in general, the internet policy-related discussions that  
2754 are happening within the United Nations more broadly, we  
2755 think that the discussions can only benefit from more  
2756 transparency. We come from the technical community and we  
2757 look at some of these proposals and think that there is a lot  
2758 of that could be said about the technical implications of  
2759 what is being proposed. How do networks actually work? And  
2760 would these proposals even be consistent with the  
2761 architecture that we are trying to keep in place? And the  
2762 answer is no in many cases. But that voice is not heard in

2763 the current process. We speak up when we can but we have,  
2764 even as a sector member, very limited opportunities to  
2765 engage.

2766 Mr. {Waxman.} Mr. Gross?

2767 Mr. {Gross.} I think there are two sort of direct  
2768 things. One is we should continue to advocate for other  
2769 member governments to open up their domestic processes to  
2770 allow for greater participation. The U.S. has greatly  
2771 benefitted in terms of our negotiation but also our decision-  
2772 making by the openness that we have always traditionally had  
2773 and we want to continue to encourage that of others.

2774 I think also at its core the problem here is that the  
2775 ITU is by definition and intergovernmental organization.  
2776 Only governments have votes. And so, ultimately, part of the  
2777 question really is this issue is not a big issue when you  
2778 deal with certain sets of issues, but when you deal with  
2779 internet issues, for example, that at their core are about  
2780 over two billion people and their access to information,  
2781 those are the ones that sort of call for the question not  
2782 only of transparency but also where the lines are about what  
2783 the ITU should be focusing on and what it should not be  
2784 focusing on. I think that is where a lot of the issues can  
2785 be resolved.

2786 Mr. {Waxman.} Well, thank you very much.

2787 I yield back my time.

2788 Mr. {Shimkus.} The gentleman yields back his time.

2789 The chair now recognizes Ms. Christensen for 5 minutes.

2790 Dr. {Christensen.} Thank you, Mr. Chairman.

2791 And thank you for your testimony and for your answers.

2792 Mr. Gross, in Ambassador Verveer's testimony he stated--

2793 and all of you voiced the same concern--that allowing

2794 governments to monitor and restrict content or impose

2795 economic costs on international data traffic are of

2796 particular concern to the United States. We have talked a

2797 lot about the monitoring and restricting of content but could

2798 you share with us your coalition's views on the proposals

2799 regarding imposing the economic clause on international data

2800 traffic?

2801 Mr. {Gross.} Sure. I think it will come as no surprise

2802 to anyone that those are critically important issues. There

2803 are a number of different pieces of that. It is not just

2804 about the fact that it may change from a system in which

2805 there is voluntary market-driven contractual decisions made

2806 to exchange traffic into one for which there are some

2807 proposals to have some top-down regulatory regime akin, as

2808 Vint Cerf said, to the old settlements and accounting rate

2809 systems of the old telephone system. That is certainly a

2810 substantial concern and should be a substantial concern to

2811 everyone.

2812           But also it extends to the issue of economic regulation  
2813 and control about the issue of innovation generally  
2814 throughout the internet ecosystem, the ability--as Vint  
2815 talked about--of innovations and changes and new technologies  
2816 and new applications coming from anywhere, from anyone and  
2817 the ability for all of us to benefit from that. And  
2818 ultimately, all of that often boils down to one of I think  
2819 the great core issues for all of us, which is the seamless  
2820 flow of information, the ability of information whether it is  
2821 commercial, political, economic, social to be able to flow  
2822 seamlessly across the networks in ways that benefit the  
2823 global community.

2824           Dr. {Christensen.} Thank you. Go ahead.

2825           Mr. {Cerf.} I wonder if I could--

2826           Dr. {Christensen.} Sure.

2827           Mr. {Cerf.} --amplify on this just if you would permit.

2828           There is this notion of nontariff trade barrier. I am  
2829 sure you are very familiar with that. What I worry about is  
2830 that the insidious effect of putting in detailed rules that  
2831 amplify former telephone practices and projecting those into  
2832 the internet has the potential to destroy this sort of  
2833 permission-less innovation but it also has the possibility of  
2834 destroying potential markets. This is not just an American

2835 issue.

2836 Dr. {Christensen.} Right.

2837 Mr. {Cerf.} We care about it because at Google we are a  
2838 global operation and we want to reach everybody with our  
2839 products and services. But the inverse is true. Anyone in  
2840 the world should be able to reach anyone else in the world  
2841 with a new product and a new service. Countries that choose  
2842 to go away from that kind of openness are actually harming  
2843 themselves and their own opportunities to exploit the  
2844 internet for improved GDP growth. And I worry greatly about  
2845 that.

2846 Dr. {Christensen.} Thank you. Well, just to continue  
2847 with you a minute, Mr. Cerf, many countries do struggle with  
2848 the problem of bringing broadband access to their citizens  
2849 and look to the International Telecommunications Union for  
2850 solutions to that problem. And you talk about this briefly  
2851 earlier. How should we respond to their legitimate concerns?  
2852 What can the U.S. Government do and what can private parties  
2853 do?

2854 Mr. {Cerf.} So this is a wonderful question. Thank you  
2855 so much for asking it. Two observations. First of all, the  
2856 ITU, through its D, the Development Organization, has  
2857 actually contributed to the growth of the net. I am a member  
2858 of the Broadband Commission that seeks to find ways to

2859 expanding broadband access to the internet all around the  
2860 world. In that sense, a tip of the hat to ITU-D for that  
2861 work.

2862 At Google, we found many opportunities in the private  
2863 sector to help expand access around the world. We take our  
2864 equipment which we don't need anymore, we donate it to  
2865 organizations like the Network Startup Resource Center at the  
2866 University of Oregon. They repurpose that equipment. They  
2867 deliver it to people especially in the Southern Hemisphere.  
2868 Then, they train them. Then, they get books and  
2869 documentation from Tim O'Reilly's publications and they set  
2870 them up to actually build and operate pieces of the internet  
2871 which now get connected together to the rest of the global  
2872 system. There are endless opportunities here for the private  
2873 sector to engage. Anything that you and the Committee can do  
2874 to help make that easier to do would be most helpful.  
2875 Legislation that makes it easier for us to repurpose  
2876 equipment and to do training overseas would be very, very  
2877 helpful. Just to advocate for that would be a good thing.

2878 Dr. {Christensen.} Well, thank you. I am out of time.

2879 Mr. {Shimkus.} The gentlelady's time is expired.

2880 We want to thank you for appearing. I would just end by  
2881 saying totalitarian regimes may not care if they have systems  
2882 that work, and so as you have totalitarian regimes involved

2883 in international negotiations, they may want a system that  
2884 doesn't work across international lines and stuff, just a  
2885 cautionary note on my part.

2886         Also, I need to say that the record will remain open for  
2887 10 days. You may get additional questions submitted to you  
2888 by members of the committee. If you could reply to those if  
2889 they come, we would appreciate that. Again, we appreciate  
2890 your time being here.

2891         And this hearing is now adjourned.

2892         [Whereupon, at 1:02 p.m., the Subcommittee was  
2893 adjourned.]