Communications

After Rejecting Telecommunications Treaty, U.S. Looks Ahead to Next Internet Talks

A week after deciding not to sign a new global telecommunications treaty, U.S. officials find themselves looking ahead to 2013, during which their discussions will resume with foreign leaders on the still controversial matter of what role the United Nations should play in regulating the internet.

While the U.S. delegation did secure several key victories in its negotiations at the World Conference on International Telecommunications (WCIT) in Dubai, United Arab Emirates, the officials decided in the end to reject the treaty, mainly over language related to ''internet governance.''

The United States objected specifically to ''Resolution 3,'' which was not included in the treaty itself but came in the form of a separate resolution, which is legally nonbinding.

Speaking at a Dec. 19 event at American University hosted by the Internet Society, Terry Kramer, the head of the U.S. delegation, reiterated his belief that the document represented a ''direct extension of scope into the internet and the [International Telecommunications Union's] role.''

''The internet, to us, is a very different environment,'' Kramer said. ''I can say, candidly, I was disappointed these issues weren't taken off the table,'' he added, in a reference to ITU Secretary General Hamadoun Toure, who Kramer said had made assurances to the United States that the conference would not address internet governance.

Treaty Written Before Internet. The last time the ITU drafted a document on world regulation in communications was in 1988, only a few years after the first mobile phone went on sale and long before Google Inc. was founded. The original treaty set principles for international telecommunications services, emergency calls, and trans-border charges.

Now, 24 years later, developing a consensus on internet issues has given way to heated debates among ITU member countries.

The United States, home to the world's biggest internet companies such as Google and Amazon.com Inc., has vehemently resisted attempts to give the ITU, a U.N. agency, broad new powers to regulate the internet,

its functions, financial models, infrastructure, and availability. These types of proposals would endanger free speech on the web, U.S. officials say, adding that once governments begin approving or rejecting email, they may then decide to prohibit certain kinds of speech, such as political messages.

Ultimately, what the United States found most objectionable was the statement in Resolution 3 that ''all governments should have an equal role and responsibility for international internet governance and for ensuring the stability, security, and continuity of the existing internet and its future development and of the future internet and that the need for development of public policy by governments in consultation with all stakeholders is also recognized.''

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Of the 144 ITU member countries that attended the conference in Dubai, 89 signed the new treaty, while 55 countries did not.

Even without U.S. approval of the treaty, officials found some positive takeaways from the treaty-writing process, such as countries agreeing to a provision to extend internet access to disabled people.

U.S. Successes. The United States successfully beat back a proposal from European telecommunications network operators calling for a new global agreement on an internet ''sending-party-pays'' pricing mechanism.

Hoping to build on its successes, the U.S. will focus its attention on several crucially important world summits and conferences starting early next year.

''It's not that this treaty was the end of the conversation; it was one stop,'' said a Commerce Department official, speaking to BNA on the condition of anonymity. ''Internet governance: this is not a new discussion we've been having at the ITU.''

Next Big ITU Conference Slated for May 2013. Among the most important events on the calendar is the ITU World Telecommunication/Information and Communication Technology Policy Forum next May in Geneva, where talks will center on internet-related issues.

Also in May in Geneva, the same leaders will gather for the World Summit on the Information Society Forum.

Then, in November, the ITU will convene its 2014 Plenipotentiary Conference in Busan, Republic of Korea.

To U.S. officials, these events will have critical importance, as the Dubai treaty will not take effect until Jan. 1, 2015.

"This is just the beginning or part of the beginning of what will be undoubtedly a long and very important process," David Gross, a partner at Wiley Rein LLP and the former U.S. Coordinator for International Communications and Information Policy at the State Department, told BNA in an interview.

"There's always a hope that, over time, these governments that signed the [treaty] will understand better what's in the best interest of their people, and that that understanding will equate to, among other things, a more open economy, a greater free flow of information, a refocus on innovation, and private-sector leadership," he said. "But I wouldn't want to be sanguine about that. Over time, we'll have to see how it'll play out."

Gross, who served as a member of the U.S. delegation in Dubai, spoke Dec. 19 at a Capitol Hill event sponsored by the Georgetown Center for Business and Public Policy, where he took pains to underscore the "difficult work" ahead of the United States, particularly in convincing countries to accept—and also to embrace—the current "multistakeholder" model of internet governance.

U.S. Touts 'Multistakeholder' Model. Leading up to and during the WCIT conference, the United States touted what has been termed multistakeholder-ism, in which governments, private companies, and independent organizations all play key roles, but voluntarily, and apart from any one law, treaty, or international regulator. Such groups include the Internet Corporation for Assigned Names and Numbers, which oversees domain name administration; the Internet Engineering Task Force, which oversees the underlying functioning of the internet; and the Internet Society, which provides guidance to nations on internet standards, education, and policy.

"[The Internet Society] is never going to agree that an intergovernmental organization is the best place to address those concerns," Sally Wentworth, senior manager for public policy at the Internet Society, told BNA in an interview. "The limitation of the intergovernmental process was made extremely clear over the last two weeks; it simply could not address and deal with the complexities of the issues at hand."

One of those issues, "spam," is of increasing concern to developing countries.

The United States had objected to the inclusion of provisions in the treaty related to spam, with Kramer explaining to reporters that spam is a "form of content" and "regulating it inevitably opens the door to regulation of other forms of content, including political and cultural speech."

Wentworth noted, too, that the multistakeholder model can better tackle the spam problem, anyway.

"The challenge with spam is that it is a moving target," she said. "Even if you put all the legislative and regulatory infrastructure in place today, the nature of the problem changes dramatically. That's been an ongoing battle that the industry and engineering community has been working to fight for a long time. What this treaty-writing process reveals is that fruits of their labor over a decade need to be more broadly shared with developing countries, but from a more localized perspective."

In addition to the United States, the Organization for Economic Cooperation and Development (OECD), which analyzes the economic policies of the 34 industrialized democracies that make up its membership, has endorsed the so-called multistakeholder model.

The OECD has issued several documents highlighting the benefits of the existing model of internet governance, and has conditioned membership on countries "promoting and protecting the global free flow of information" online.

"I believe there is much more work to be done, but I don't feel pessimistic about moving in a much more positive direction if we put our minds to it," said Jacquelynn Ruff, Verizon Communications Inc. vice president of international public policy and regulatory affairs, speaking at the Dec. 19 Georgetown Center for Business and Public Policy event on the Hill. "That to me is the challenge, how we have that global conversation. We've got to figure out how we do that even better."

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