The Free State Foundation
Lunch Seminar

"The Multi-Stakeholder Private Internet Governance Model: Can It Survive Threats From the UN?"

May 30, 2012
National Press Club
Washington, DC

MODERATOR:

    RANDOLPH MAY, President, The Free State Foundation

SPEAKERS:

    ROBERT MCDOWELL, Commissioner, Federal Communications Commission

    RICHARD BEAIRD, Senior Deputy United States Coordinator for International Communications and Information, Policy, Department of State

COMMENTATORS:

    JACQUELYNN RUFF, Vice President, International Public Policy & Regulatory Affairs, Verizon

    GIGI SOHN, President, Public Knowledge

    RICHARD WHITT, Director and Managing Counsel for Public Policy Google

---

P R O C E E D I N G S

MR. MAY: Hello. Could I have everyone's attention? That's good. We're going to start in just two or three minutes now.

So if you haven't got a lunch, get one. I know we ran out. But we'll do our best to get some more.

If you can find a seat, we're going to get started in just about two minutes from now. Until then, you can chat away again, and I'll let you know.

Okay, everyone, if you'll take your seats again, we're going to get started in just one minute now.

That was very nice. I appreciate the cooperation.

I'm Randy May, President of the Free State Foundation. And I want to welcome all of you to today's event.

As most of you know, the Free State Foundation is a free market-oriented think tank, specializing primarily in communications, Internet, and high-tech policy issues.

I'm always pleased to see so many old friends at our events. Today I'm especially pleased to see so many new friends and new faces. I confess that we've got a large turnout.

There must be several of you, or quite a few of

you who didn't even sign up. But we welcome you, too.
We're glad you're here.

And I especially want to extend a warm welcome to
our C-SPAN audience today, and thank C-SPAN for covering
this event. We appreciate it.

Today's program is titled "The Multi-Stakeholder
Private Internet Governance Model: Can It Survive Threats
from the UN?"

Now I understand that potential threats to the
Internet that we're going to be discussing today are going
to arise, if at all, in the International
Telecommunications Union, or ITU.

But the ITU operates under the UN auspices. It's
one of the UN's specialized treaty organizations. That's
why today we may be sometimes referring to the ITU, or the
UN, which is the parent body of the ITU.

Now more specifically, the issues we're going to
be discussing today will likely arise in the context of a
particular ITU-sponsored conference called WCIT, which will
take place this December in Dubai.

Now I didn't say "wicked," as in "Wicked Witch,"
but WCIT as in W-C-I-T, which stands for the World
Conference on International Telecommunications.

There have been concerns expressed that some

countries might try to use the WCIT conference to amend the International Telecommunications Regulations in ways that fundamentally alter the current multi-stakeholder, bottoms-up, privatized, Internet governance model that many of us would say has worked really well. FCC Commissioner McDowell here is one of the early expressers of concern.

The concern is that a new regime would be adopted that would confer more intergovernmental control over aspects of the Internet and the way that it functions today.

Now I'm not going to say any more about the particulars of the potential changes because I don't want to steal any thunder from the distinguished group of panelists that we have here today.

I will only say this: Apart from the economic and social benefits that we're all familiar with and that the Internet has given rise to, the Internet has been a wonderful medium for facilitating free speech, when governments have kept their hands off the Net.

So aside from the technical standards, or whatever else that might affect the Internet that will be discussed at the WCIT conference, I don't think any of us want to see movement towards intergovernmental control and new rules that would give governments more control over the content

of a speech.

I often opt for the First Amendment Lounge, where we're sitting here today. That's because a lot of what we do at the Free State Foundation is intended to promote free speech. So I particularly requested the First Amendment Lounge and had to bump off someone to be here today.

Now I'm going to introduce our speakers. Hopefully, all of you got bios, or most have the bios. I'm going to introduce them in the order that they are going speak. So pay attention.

I'm just going to give you the short version of their bio, and a couple sentences about each. If we did the long version, we would take too much time.

And while I'm thinking of it, we've got a special Twitter hashtag for those of you in the audience who are Tweeters. There are some flyers on the table. But the hashtag is #fsfnetgovernance.

At the conference we did a few months ago, we found out we were quickly trending. So maybe we'll be able to trend now on Twitter for this conference.

Okay. Now I'm going to introduce our speakers. Also, while I'm thinking about it, we're going to have time for Q&A after we get through with their initial presentations. So as they're speaking, you can think of

questions that you might have. I'm going to give the panelists an opportunity, if they have questions for their fellow panelists, to ask those as well.

Okay. Now first off, we're going to hear from Robert McDowell. As maybe everyone in this room may know, Robert McDowell is a Commissioner at the FCC. He was first appointed to his FCC seat by President Bush, George W. Bush, in 2006, and reappointed to the Commission in 2009, becoming the first Republican to be appointed to an independent agency by President Barack Obama.

Now, prior to becoming an FCC Commissioner, Commissioner McDowell served as Senior Vice President for the Competitive Telecommunications Association, where he had responsibilities involving advocacy efforts before Congress, the White House, and executive agencies.

Now, in line with what I said, I'm not going to tell you where all these guys went to school, and all of that. But, as Commissioner McDowell knows, I'll make an exception for him each time, because we are both Duke graduates.

(Laughter.)

MR. MAY: So I'm going to do that. I'm not even going to mention the fact that Dick Beaird, who I'm going to introduce next, has a Ph.D. from Colorado.

But that's it.

Now Richard C. Beaird is Senior Deputy United States Coordinator for International Communications and International Policy at the Department of State.

In that position, Dick manages the State Department's activities across a broad range of international telecommunications and information policy issues, including those arising in the International Telecommunications Union, the ITU, as well as other international organizations.

There is one thing I just want to say about Dick. And it's true of all the speakers that we have that serve in government and serve the public. A lot of times we don't appreciate the sacrifices they make on the job. But someone like Dick, to do his job and to do what he does, is on the road more days each year than any of us would want to even think about. And we appreciate that, Dick.

Next up is Jacquelynn Ruff. Jackie is Vice President for International Public Policy and Regulatory Affairs at Verizon.

In that capacity, Jackie leads the group that is responsible for global public policy development, advocacy, and guidance. And she directs Verizon's activities in

international forums, including venues such as the ITU, the OECD, APEC, and the Internet Governance Forum.

So welcome, Jackie.

Next up is my friend, Gigi Sohn. Gigi is President of Public Knowledge. She is also co-founder of Public Knowledge, which is a non-profit organization that addresses the public stake in the convergence of communications policy and intellectual property law.

Prior to founding Public Knowledge, Gigi was with the Ford Foundation. And prior to the Ford Foundation, Gigi served as Executive Director of the Media Access Project. So welcome, Gigi.

Last, but not least, and in this case that's certainly true, we have Richard S. Whitt. Rick is Director and Managing Counsel for Public Policy at Google.

Now get this and listen carefully: He is responsible for overseeing all of Google's strategic thinking in the DC office, with the focus on privacy, cyber-security, intellectual property, Internet governance, competition, free expression, international trade, and telecom and media policy.

Rick, why don't you just list the things that you are *not* responsible for at Google?

(Laughter.)

MR. MAY: So Rick obviously has important responsibilities in the area that we're going to be talking about today, as well as others.

Now when I was practicing law, I hired Rick right out of law school for his first job as a lawyer.

I think that was 1988, wasn't it, Rick?

MR. WHITT: When WCIT was actually first looked at.

MR. MAY: I knew there was a connection there someplace.

Now of course, as you can tell from my recitation of his responsibilities, he's far surpassed his initial hire in terms of what he's done.

But I think I had a sense of what might be to come when I hired Rick for that first job.

So with that, as you can see, we've got a very distinguished panel that's knowledgeable on this subject. And we're going to jump in now.

Commissioner McDowell and Dick Beaird are the lead speakers. I've asked them to speak for about six or eight minutes each. Then we're going to go down the road for the commentators, who are going to initially speak just about four minutes.

And then we'll have an opportunity to mix it up

and ask questions.

Commissioner McDowell?

MR. MCDOWELL: Thank you very much, Randy.

This room is packed. You probably can't see it all on C-SPAN, but it's standing room only. This is a testament to everything the Free State Foundation has been able to do in the past few years, in terms of building itself up and building a good work.

But it's so crowded that I noticed the C-SPAN technician's little operation center is actually in the bar over there.

(Laughter.)

MR. MCDOWELL: That was a good placement on his part.

So. Thank you for also highlighting this very important issue.

We could all agree that mobile Internet connectivity is improving the human condition more rapidly and more fundamentally than any other disruptive technology in history.

In the United States, a lightly-regulated and competitive wireless market has sparked a sustained cycle of investment, innovation, and job growth, not to mention lower prices, and increased functionality for consumers.

Sophisticated devices and complex mobile applications, however, are taxing our nation's spectrum capacity.

Recognizing the need for additional spectrum to satisfy this demand, in February Congress passed legislation that some estimate could place up to an additional 88 MHz of broadcast TV spectrum into American consumers' hands.

It might be a little bit less, in reality. But let's aim high.

The good news is that America's future is bright when it comes to placing the power of new communications technologies into the hands of consumers.

America has always, always led the world, when it comes to wireless innovation. And if we choose the correct policies, we will further strengthen America's global leadership.

As my colleagues at the FCC and I implement the new legislation and tackle the challenges associated with what will be the most complicated spectrum auctions in history, I intend to insure that our nation's auction rules are minimal and future-proof, allowing for flexible uses in the years to come as technologies and markets change.

Getting it right means implementing the new

spectrum law with humility and regulatory restraint.

And this brings me to the matter we are here to discuss today. This theme, "humility and regulatory restraint" holds true for Internet governance.

As we head towards the World Conference on International Telecommunications in Dubai this coming December, I urge regulators around the world to avoid the temptation to tamper with the Internet.

Since its privatization in the early 1990s, the Internet has flourished within a deregulatory regime, not only within our country, but internationally as well.

In fact, the longstanding international consensus has been to keep governments from regulating core functions of the Internet's ecosystem.

Yet some nations, such as China, Russia, India, Iran, Saudi Arabia, and many, many more have been pushing to reverse this course by giving the International Telecommunications Union, the ITU, regulatory jurisdiction over Internet governance and other aspects affecting the Internet.

Some of the arguments in support of such actions may stem from frustrations with the Internet Corporation for Assigned Names and Numbers, ICANN.

But any concerns regarding ICANN should not be

used as a pretext to end the multi-stakeholder model that has served all nations and the developing world so well, for all these years, and now more than ever.

Constructive reform of the International Telecommunications Regulations, the ITRs, the rules, may indeed be needed.

If so, the scope should be limited to traditional telecommunications services. Modifications of the current multi-stakeholder Internet governance model may be necessary as well. But we should all work together to ensure no intergovernmental regulatory overlays are placed onto this sphere.

Not only would nations surrender some of their national sovereignty in such a pursuit, they would suffocate their own economies, while politically paralyzing engineering and business decisions within a global regulatory body.

Every day we hear about industrialized and developing nations that are awash in debt, facing flat growth curves or worse, shrinking GDPs.

Not only must governments, including our own, tighten their fiscal belts, but they must also spur economic expansion.

An unfettered mobile Internet offers the brightest

ray of hope for growth during this dark time of economic uncertainty, not more regulation.

Indeed, we are at a crossroads for the Internet's future. One path holds great promise, while the other path is fraught with peril.

The promise, of course, lies with keeping with what works: Namely, maintaining a free and open Internet, while insulating it from legacy regulations.

The peril lies with changes that would ultimately sweep up Internet services into decades-old ITU paradigms. If successful, these efforts would merely imprison the future in the regulatory dungeon of the past.

Even more counterproductive would be the creation of a new international body to oversee Internet governance.

Shortly after the Internet was privatized in the mid 1990s, a mere 16 million people were online worldwide in 1995. As of earlier this year, more than 2.3 billion people were using the Net worldwide.

Internet connectivity quickly evolved from being a novelty in industrialized countries to becoming an essential tool for commerce and sometimes even basic survival, in all nations, but especially in the developing world.

In fact, developing nations stand to gain the most

from the rapid pace of deployment and adoption of Internet technologies.

By way of illustration, a McKenzie Report released in January examined the Net's effect on the developing world, or "aspiring countries," as the report called it.

In 30 specific aspiring countries, including Malaysia, Mexico, Morocco, Nigeria, Turkey, and Vietnam, and others, a study shows Internet penetration has grown 25 percent per year for the past five years, compared to only five percent per year in developed nations.

Now obviously broadband penetration is lower in aspiring countries than in the developed world. But that is quickly changing, thanks to mobile technologies.

Mobile subscriptions in developing countries have risen from 53 percent of the global market in 2005 to 73 percent in 2010. In fact, Cisco estimates that the number of mobile connected devices will exceed the world's population sometime this year.

Increasingly, Internet users in aspiring countries use only mobile devices for Internet access. The effect that rapidly-growing Internet connectivity is having on aspiring countries' economies is nothing short of breathtaking.

The Net is an economic growth accelerator. It

contributed an average 1.9 percent of GDP growth in aspiring countries for a total of $366 billion dollars U.S. in the year 2010 alone.

In some developing economies, Internet connectivity has contributed up to 13 percent of GDP growth over the past five years.

In just six aspiring countries alone, 1.9 million jobs were associated with the Internet. These positive trends must continue.

Granting the ITU authority over Internet governance could result in a partitioned Internet. In particular, fault lines could be drawn between countries that choose to opt out of the current highly successful multi-stakeholder model and live under an inter-governmental regulatory regime, and those member states which decide to stick with what has worked.

A balkanized Internet would not promote global free trade or increase living standards. It would also render an engineering morass. Venturing into the uncertainty of a new regulatory quagmire will only undermine developing nations the most.

As evidenced by today's panel, attempts to regulate Internet governance have rallied opposition on a bipartisan basis.

I'm grateful that the distinguished Dr. Beaird is here with me today. I'm encouraged by friend and colleague Ambassador Phil Verveers' recent indication that the administration will name a head of the U.S. delegation to WCIT soon here in June.

I note that my friend and colleague FCC Chairman Julius Genachowski has been working also to raise awareness of this important issue, as have other key members of the Obama Administration.

I just saw Danny Weitzner in the lobby, here for a different event, apparently. I invited him to this, but he had to go.

(Laughter.)

I am further buoyed by the leading role played by the private sector, not only domestically, but abroad, as well.

There are many entities of all stripes, including public interest groups, telecommunications companies, content providers, think tanks, Internet access service providers, non-profit Internet governance groups, network manufacturers, equipment manufacturers, and network operators, standing together to help spread the message and educate policy-makers across the globe.

I'm also delighted that Jackie, Rick, and Gigi are

here today. I know their insights are going to be incredibly valuable.

We have a solid coalition of coalitions in place, which will help the soon-to-be-named leader of our delegation to begin on a strong and positive note.

Finally, even if this current effort is unsuccessful in December, we must continue to be vigilant. Given the high profile, not to mention the dedicated efforts of some countries involved with this, I cannot image that this issue will merely fade away.

Similarly, we should avoid supporting the minor tweak, or the light touch. As we all know, every regulatory action has consequences. I saw Adam here earlier. There you are. As he says, "Regulation only seems to grow."

Put another way, when tended with care and patience, even a tiny mustard seed of regulation can quickly grow into Jack's bean stalk. To mix my metaphors and fairy tales.

(Laughter.)

MR. MCDOWELL: Thank you again for the opportunity to appear before you today. And I look forward to your questions and the powerful insight of this panel.

Thank you. Thank you, Randy.

(Applause.)

MR. BEAIRD: Well, thank you very much, Randy, for this invitation. And to the Free State Foundation, it's a great pleasure to be here today, and to be with this panel, which as Commissioner McDowell has indicated, is a distinguished one. We will all benefit, of course, from listening to their comments and reflecting upon their questions, as we will upon your questions.

Before I begin, though, I would like to acknowledge Commissioner McDowell. Commissioner McDowell has been a leading voice in reminding us of the importance of Internet freedom, and how vital the Internet is to innovation and economic growth.

In his excellent opening remarks, he has done that again. For that, we are very much appreciative. And it will have a very positive impact, we believe, as we go forward in our preparations for the World Conference on International Communications.

At the outset, let me make one point perfectly clear. The Administration and the Department of State firmly support the position that the United Nations is not the place for the day-to-day technical operations of the Internet. We have made this point repeatedly, and we will continue to make it.

The United Nations and the ITU can do many things. They can do those things effectively in the areas of development, in the areas of training, and as a forum for discussion of international policy matters. The ITU can do things, preeminently in the area of spectrum allocation and management, on an international basis.

But managing the Internet is certainly not one of the UN's roles. And this seems to have increasingly gained public support at meetings that I have attended and that you have attended.

The Internet is best left to a multi-stakeholder structure, where decisions are made on a bottom-up basis, and in which all stakeholders can participate in their respective roles.

This is the environment that has proven the test of time and has left the Internet free to innovate. And for that, we have gained extraordinary benefits socially and economically.

Let me focus my remarks on the ITRs themselves. I have noted to friends that the ITRs seem to be a subject that has gained a tremendous amount of comment and interest. But those who have actually read the ITRs are still a decided minority.

Let me try to put them into some context. What

are they?

First of all, the ITRs are high-level principles. They are not detailed. The radio regulations of the ITU go to four volumes.

We just recently had a World Radio Communications Conference, where those regulations were revised. And we appreciate Commissioner McDowell's presence at that conference.

This is not the case with the ITRs. They are nine pages long. They are nine page of treaty text. In those nine pages, they refer to three appendices.

Those three appendices, which are an integral part of the treaty, are about four and a half pages long.

This treaty text, then, is followed by resolutions, decisions, and opinions, which run about eight pages long. Those resolutions, decisions, and opinions are not treaty text.

The United States has always been very firm on that position. They do not go to the Senate for advice and consent.

Second, they have had a long history. Their origin is found in the 1875 Paris Convention, which was one of the first international conventions that brought about member states for the purpose of agreement on how to manage

and regulate a communications medium, and that was the telegraph.

From that point until 1988, they have had periodic review and revision. They were typically, however, integrated into radio treaties, as a supplement, not as a stand-alone document.

It was not until 1973 that the United States signed the International Telecommunications Regulations.

And you ask, "Well, why was that the case?" That was the case because they were only focused on Europe; and they were integrated into the radio regulations. The opening pre-ambulatory language said that this treaty is focused on Europe, and the countries that participate in this treaty may do so by their own volition.

So it was not until 1973 that they were globalized. At that point the United States, which attended the conference, agreed to sign them.

They have had one subsequent revision in this modern era, and that was in 1988.

They have been reviewed periodically, in most instances at long intervals between their review and their revision.

Thirdly, they have been remarkably stable. From 1875 to the present, they have essentially done four or

five things: They have affirmed that transmission, in the case of telegraphs or telecommunications, should be open to the public; that there should be a privacy attached to those communications; and that governments should agree to provide sufficient infrastructure globally to maintain global connectivity, a pledge to do that, a commitment to do that.

They were designed, by agreement of the member states, as a basis for sharing revenue from communications between parties.

Lastly, and significantly, notwithstanding everything I have just said, or that they have found in the treaty, there was always a provision that said: Notwithstanding what we've agreed to, member states may agree to enter into special arrangements unique to those particular circumstances.

From 1875 to the present, those essentially have been the elements of what is now known as the International Telecommunications Regulations.

I have mentioned member states. It is terribly important to understand that the ITRs are agreements among member states. Sovereign countries come together for purposes of agreement on international communications.

Going back to the point, nine pages of text is

practically all member states could ever agree to in any case.

Why? Because no member state is going to sacrifice their sovereignty. No member state goes to a conference with the intention of agreeing to compromise its sovereign right to regulate or otherwise manage its communications as it deems appropriate.

This is a very important point to keep in mind, so that member states agree among themselves.

As a result, the subjects that can be agreed to are rather minimal and of a high-level principle.

Now having said that, and understanding that the ITRs have this tradition, and that they last revised in 1988, it is inevitable that the situation we face today in 2012 is not the world of 1988. That was essentially a narrowband world, a world emerging into privatization of telecommunications infrastructure, a world with a distinctly different network architecture, and a world in which there could be an agreement among member states on how revenues would be shared. That was a different world in 1988 than the world that we enjoy today.

So if we say, as a firm position, that the United Nations and the ITU should not be engaged in the day-to-day operations of the Internet, we also say that it would be

counterproductive to try to impose the context and
practices of the past upon the world of broadband Internet,
the world of today.

Nothing should be done at the conference in Dubai
to slow innovation, or to attempt to bring about a top-down
and centralized control over the Internet.

Those are fundamental principles that the U.S.
delegation will take with it to Dubai, and will seek a
course with all of our energy to support.

Now in terms of what we've seen so far, in terms
of proposals coming into the International
Telecommunications Regulations, let me put into context
those proposals, and then explain a little bit about the
process.

There has been an ITU Council, of 48 countries
that manage and govern the ITU between its
plenipotentiaries, which happens every four years.

That council organized a Council Working Group.
The Council Working Group has been preparing for this
conference over two years and about eight meetings.

That Council Working Group will send to the
conference a report. The report will contain all of the
possible options that have been discussed during this
period as to how there could be revisions of the ITRs.

So nine pages of actual text has grown to 70 pages today, if you include all the options that will go will to the conference.

And then, as a first date, August third, governments are expected to send in their first tranche of proposals for the conference itself.

We will begin to see, in very real terms, what will be the parameters of the conference, once these proposals come in from member states after August third, and will continue to come in until approximately two weeks before the conference.

But we already have an indication of what we will see by that Council Working Group's report itself. And at this stage, we have not seen a proposal to bring the day-to-day technical operations of the Internet under UN control.

I need to be cautious because it's still an unfolding story. But these proposals seem to reflect the distinctive regulatory issues arising from the different world regions.

For example, fraud seems to be a preoccupation in the Middle East. In our hemisphere and in Europe, roaming is a preoccupation.

Network security seems to be a preoccupation

coming out of Eastern Europe. Various forms of revenue
sharing seem to be a preoccupation coming out of Africa.

These are some of the outlines of proposals coming
in. But none of them to date propose moving from ICANN to
the United Nations the day-to-day operations of the
Internet.

I have indicated that we've had this Council
Working Group. This Council Working Group will come
forward with proposals or a compilation of the proposals
that that group has developed. And then the member states
will themselves come forward with national contributions.

From the United States' point of view, we are very
much on that track. We have been participating actively in
the Council Working Group, and we will now begin to prepare
for the Conference itself.

We have formed a core delegation of the leading
agencies of the government who are most interested in this
subject and have equities. Secondly, we await the White
House announcement of the head of delegation. That person
will come forward shortly, I understand. And the core
delegation awaits that person's leadership.

Once that person is on board, we will start an
aggressive schedule of bilaterals internationally. We will
meet with all the principal players, to sell the U.S.

positions. Its first tranche will come forward August 3rd, and continue through the fall.

We will form a delegation in September. That delegation, as is traditional, will be composed of private sector and government representatives. And I encourage you to take that on board, as something that may be of interest to you.

My last point: I see friends and colleagues in the room, with whom I have had the great pleasure of working over many conferences. Ambassador Mickey Gardner, Ambassador David Gross, and I'm sure there are others in the room. And I hope I haven't missed another ambassador; if I have, I may not be able to go back to my department.

(Laughter.)

MR. BEAIRD: But all of you, who have either been in government or then transitioned to the private sector, or been through this period in the private sector, know one fundamental truth: This kind of process relies heavily upon a partnership between government and the private sector.

That partnership will continue, as we have an active consultation through our advisory committee structure. And we will look forward, then, to form a delegation composed of the private sector and government.

I look forward to your questions.

Again, Randy, thank you very much.

(Applause.)

MR. MAY: Thank you, Dick, very much.

It's great having two of the senior officials of
the government here who are involved in this issue.

Now as I said, what we're going to do is move down
the line with our commenters. I've got to ask them to
speak for only four minutes or so.

And I couldn't cut off these distinguished
gentlemen. But I may feel more comfortable with the
commenters. I want to make sure that we have time for
interaction with the audience especially, and among
ourselves.

So I'm going to turn to Jackie Ruff first.

Jackie, you've got four minutes.

MS. RUFF: Thank you.

Thank you for organizing this. Thanks to
everybody for being here today. This very full room is an
illustration of the fact that this topic is important in
many different ways.

I commend our first two speakers for their
leadership, Commissioner McDowell and Dick Beaird, in
different but critical ways.

There are three points, which I'll try to make quickly. Why is Verizon engaged? What's at stake? And how can we get a good outcome here?

I'm pleased that Dick just set the stage with the notion of the public-private collaboration here.

Verizon is definitely a part of that. When you heard my bio, it listed all these different organizations in which we are engaged. Clearly the ITU is one of those. But so is the Internet Governance Forum, and the other multi-stakeholder organizations.

Why do we do that?

Three main reasons:

First. Our customers everywhere, U.S. and elsewhere, are all communicating via IP technologies, Internet protocol technologies.

Second. Globally we carry a lot of Internet traffic on our global network, which includes the capacity on 80 under-sea cables, and of course, satellite capacity. We often speak of those as the digital trade routes of the 21st Century. Of course, they're also the channels for freedom of expression.

Third. We provide global enterprise solutions to large enterprise and government customers around the world, 150 countries at a minimum, probably more.

These are a combination of what you would think of as IT, information technology, telecom, and media services. Services like ours, and those of other companies like us, are drivers for economic growth and innovation everywhere. And they will only succeed in accomplishing that if the Internet remains, in fact, globally seamless. That is, if data can get across borders and communications can flow unimpeded.

So what's at stake? I thought it was very interesting the way that Commissioner McDowell started his remarks, talking about wireless as the key trend globally over the next period. In this regard, I would agree wholeheartedly.

And Cisco put out one of its great studies on what's happening this morning. If I've got it right, they predict that by 2016 there will be 2-1/2 mobile connections per person.

The transformation of mobile services to broadband clearly means that wireless is the path, particularly for the developing world, to participate in the benefits of the Internet, and to leapfrog, if the right investments are made.

It's clear from the McKenzie Study and others that the effect on GDP growth is the greatest for the developing

countries. For each ten percent increase in broadband, you get a 1.4 percent increase in GDP in developing countries.

So all of this is happening. We've got this enormous potential to move to the Internet on mobile. In the meantime, countries are trying to figure out what to do about Internet policy.

That's not that surprising. And it's not that surprising if the ITU is trying to do that.

I'll drill a little bit deeper on some of the proposals than the opening speakers. What is a concern is that some of those proposals will, in fact, constrain economic growth.

A couple examples: If legacy telecom-style regulations are imposed on the Internet, then that will create disincentives to the investment that's needed to grow the mobile Internet.

If there are disruptions in cross-border data flows by throwing up barriers at the border, then the global connectivity and information exchange simply won't happen.

And if there's government control over routing of traffic and network design and management, then many of the tools for innovation just won't be there. There are elements of those three things n the proposals that are now

on the table.

So it may not be about ICANN's functions, but it's about many of the functions of the Internet, *per se*.

My engineer colleagues would say, "But those won't work over the long term," "They'll be bad policy," or "They won't accomplish the stated purpose."

But for that to play out, in the meantime, it will deprive economies of the benefits of things, like:

Cloud services, which interestingly enough are mostly being taken up in Latin America and Asia;

Access to the digital trade routes;

The benefits of direct IP-to-IP interconnection, not forced to go through gateways at the border, another idea that's out there;

And the current handshake agreements that make the network of networks that is the Internet. It will eliminate that as a way that the system functions.

So what would be a successful outcome and how do we get there? There are a couple themes that are important.

First, keep the treaty to high-level principles. Second, strengthen the ITU's key role around spectrum, training, standards development in some areas, and, in the meantime, preserve the multi-stakeholder models for

different organizations and ways of doing things that are out there. I hope this will be part of the rest of the conversation. I think it will be with Gigi.

We think it's challenging, and it's a multi-year process. But we believe that this is possible, by working together with existing allies and developing other allies across that multi-stakeholder grouping. We need to do a lot of actual addressing of real concerns, talking about how the economic and technical issues really work.

And by applying ourselves, both here and globally, it will be possible to get a positive outcome. That's one of the reasons I'm so pleased to see a full room.

So I'm always an optimist. You have to think optimistically when you have challenges ahead.

Thank you.

MR. MAY: Thank you, Jackie.

And I know a lot of people in the room have heard me say before that I'm always an optimist too. So there are at least two of us here in the room.

Next, we're going to hear from Gigi. A lot of you in the room probably also know that I don't know always agree with Gigi on everything. We have different perspectives on a lot of issues.

She's been my friend for a long time, and I'm

always glad to invite her to Free State Foundation events.

I think this is probably one where the perspectives of a free-market-oriented think tank like the Free State Foundation and people at her organization, Public Knowledge, probably share some of the same concerns.

Now I started out referring to the multi-stakeholder process. I talked about the privatized multi-stakeholder process, and I think everyone else has done that.

But for some of us in the room and for our C-SPAN audience, they may be wondering what, more specifically, is this multi-stakeholder process.

So in the context of your remarks, Gigi or Rick, maybe one or both of you would just explain that a little bit, while covering the points you want to make.

MS. SOHN: Sure. Good afternoon, everybody. It's great to be here. It's great to see so many friends out here in the audience, and so much interest in a topic that is really, really critical.

I have to say some great things about Commissioner McDowell, Rob McDowell, who I consider a friend. His leadership has been enormous. It's one of those times where it took a few months or maybe a year or more for people to start to listen. Now people are really

listening, and you really have a lot to do with that.

And about Dick Beaird, if you haven't figured it out already, his knowledge of the ITU is encyclopedic. It just so happens my spouse works with him, and she said to me this morning, "Dick Beaird, he knows where the bodies are buried on the ITU."

So your phone's going to ring a lot more than maybe you want, because now everybody in television land knows this as well.

As several people have alluded to, this is really one of those rare kumbaya moments in U.S. communications policymaking, where everyone – government industry, civil society, right, left, center – agree wholeheartedly that the ITU's jurisdiction should not expand to encompass Internet regulation by governments.

Even though they're not fully baked, some of the proposals that we've heard about, if they were to come to fruition, would do great damage to the open and decentralized Internet that we know and love and that is a great engine for economic growth and education and health care and all the great things that we love about it.

Among the many reasons why this jurisdiction shouldn't expand is that the ITU is both highly politicized and grossly undemocratic.

In the ITU, as in the UN, it's one country, one vote. So Tuvalu and Benin and Buton have the same vote, has the same voice, as China, the United States, India. And that is not very democratic, when you think of the difference in populations.

The other problem and the other reason why we believe the ITU is quite undemocratic, is that there is no role at all for civil society, unless you want to pony up $34,000.

My organization and most of the civil society groups that we work with certainly don't have that kind of resources to participate, and still have a vote. In that case, you get to participate, but ultimately you don't have a vote.

But given that there's really violent agreement on this core point that the ITU should not expand its jurisdiction to include Internet regulation and governance, I just want to sound two notes of caution.

The first is we have to be really, really careful not to simply dismiss the efforts to give the ITU a greater role in Internet governance and regulation as some plot by China and Russia and other repressive regimes to control the Internet.

There are countries in Latin America and Africa

and elsewhere that have concerns that the U.S. and U.S. corporations have too much control over ICANN.

We've heard that before.

Some of the civil society groups also share that concern. One of the things that Public Knowledge would like to do, as we get more ramped up here, is work with our allies, particularly in the global south, Brazil and Latin America. We would like to try to convince those civil society groups that this is really important, this is about freedom of expression, this is about open, decentralized Internet, this is not some U.S. corporate plot to take over the Internet, and please talk to your delegations and express those concerns to them.

So that's where we see our role.

The second note of caution is that we have to be a little careful not to hold up multi-stakeholderism as sort of the magic coin that solves all matters of Internet policy.

Now as Randy asked me, I will take an extra 30 seconds to explain what multi-stakeholder groups do. They're basically groups that include industry, civil society, and public sector government. They come around the table, or many tables, to discuss technical issues, governance issues, or policy issues.

So they're just very, very big roundtables, where, sometimes, or many times, decisions that actually govern the standards that control the Internet, or the technical decisions that control the Internet, are made.

MR. MAY: Gigi?

MS. SOHN: Yes?

MR. MAY: Excuse me. You can take another 30 seconds. But just a few minutes ago, you referred to ICANN.

MS. SOHN: Yes.

MR. MAY: And just for the benefit of our television audience, explain briefly what ICANN is, and what it does, so everyone is on the same page.

MS. SOHN: You may even be the better one to actually explain that, Rick. I mean, I can do it. But go ahead.

MR. MAY: Or we could leave it for Rick.

Rick?

MR. WHITT: ICANN is a group, a multi-stakeholder group that has fairly limited functionality.

There is often a misnomer that ICANN somehow controls the Internet, which is simply not the case. There are certain elements in terms of identifying and using certain types of resources to ensure the traffic flows,

data flows to the right places in the Internet, very roughly speaking, for the TV audience.

And ICANN just makes sure that that happens. They have representatives from a variety of industry sectors from around the world.

It's been in operation for many years. It's been operating originally from a contract with the U.S. Department of Commerce.

And there have been periodic attempts by folks to change it. They say: "That's not the right model. We should have something that's represented by perhaps the United Nations, or some other body."

MS. SOHN: So getting back to my core point about how while multi-stakeholder groups are very important. In fact, I am the co-chair of the Broadband Internet Technology Advisory Group, or the BITAG. It is a multi-stakeholder group which has a technical working group. And it looks at issues of network management and whether network providers are reasonably managing their networks.

BITAG came out of the net neutrality debate. So I obviously have a belief that there are places where multi-stakeholder groups are really, really important.

It's not the be-all, end-all, for everything

Internet and everything Internet-policy-related.

Multi-stakeholder groups really work best where most folks are singing from the same song book, where there really are no, or few, winners and losers, and where questions are more technical than policy-driven.

And that's why I think the BITAG is really important. I hope people really pay attention to what's going on there because we're doing some really important stuff.

The other concern I have with throwing all Internet policy questions to multi-stakeholder groups, again, is the imbalance in resources.

Civil society just can't be at every table in full force.

It's funny. I'm the Co-chair of the BITAG. And I am now at another multi-stakeholder group, the Advisory Board of the Center for Copyright Information, which is dealing with an agreement between Internet service providers and Hollywood and the recording industry over how they warn people when they're violating copyright law.

People come and say, "Well, why don't you join this multi-stakeholder group?" I'm one human being. Unless I'm like an amoeba and you can cut me up, I just can't do it.

(Laughter.)

MS. SOHN: So civil society is really at a disadvantage if every Internet policy question is going to be decided by a multi-stakeholder group. Now that being said, I think, on some policy questions, it's good to see where organizations and companies agree and disagree.

But in some cases government still has to serve as a backstop. Questions of net neutrality, copyright, and intellectual property enforcement are places where you could have multi-stakeholder convenings and discussions. But at some point, somebody's going to have to make the ultimate decision on "What is the policy?"

Even more importantly, in the context of the ITU, who is going to enforce those norms or principles, or if it so turns out, regulations? I'd love to hear Dick Beaird talk about this.

So we have to think a little bit harder about what multi-stakeholder groups really do, what they're best at doing, and what the role of government is when there are multi-stakeholder organizations.

MR. MAY: Thank you, Gigi.

Rick, you're going to wrap up the initial segment. You can expand upon multi-stakeholder groups, ICANN, or whatever you please.

MR. WHITT: Do I lose 23 seconds from talking
about ICANN?

MR. MAY: You do, yes.

MR. WHITT: Okay. I'll talk fast.

Good afternoon, everybody. It's a pleasure to be
here. Thanks to our distinguished government speakers
today, who really have been leaders on this issue, in ways
that you probably can't even imagine. I mean, they've
spent long hours talking to people at cocktail parties
around town and around the world, where oftentimes a lot of
these conversations lead to outcomes.

I'll be very brief. One thing I wanted to focus
on is guiding principles, coming at this from the Google
perspective.

We are an Internet company, over-the-top, as
opposed to under-the-bottom, like our friends at Verizon.

(Laughter.)

MR. WHITT: Sorry, that's a joke.

We look at the Internet as this thing that has
developed over the course of 40 years now, through the very
good work of lots of experienced engineers, through what's
called rough consensus, through bodies like ICANN, but also
lots and lots of other places: iTripoli, IETF. There's a
constellation of acronyms out there that represent what

these folks have done.

As policymakers look at the Internet, they should respect the integrity of the Internet, the way the Internet has been put together over time.

There are certain fundamental design attributes of the Net that make it what it is today, that empower all of the innovation, the free expression, the user empowerment, and human fulfillment that you see by using the Internet as a platform.

One is the so-called end-to-end principle, which allows data packets to flow freely between networks.

Another is the modular architecture of the Net itself, so that applications and content can be built on top of existing arrangements.

Third is the voluntary interconnection of networks. There are millions of networks that now together comprise the Internet, and these are all done voluntarily. These are all large and small entities all over the world, who agree to sign up to the basic core principles of the Net, which is basically passing traffic. By doing so, those entities join that larger community.

And the fourth aspect is agnostic protocols, the Internet Protocol. My colleague, Vint Cerf, once said, "IP on everything." And get that image out of your head for a

moment.

(Laughter.)

MR. WHITT: The fact is, IP has become this global, unifying protocol, which runs on all networks, and on which all kinds of applications and content and services can run itself. So these are essentially the four governing principles of the net, the four architectural attributes.

Yeah, sorry, Gigi.

(Laughter.)

MS. SOHN: I'm slow.

MR. WHITT: Our concern about what's going on with the ITU is that many of the proposals would attack and potentially hinder one or more of the principles, of these attributes, in ways that then would have really negative effects on all the things that we like about the Net, the things we want to preserve.

So if we try to respect the integrity of the Net, act with the regulatory humility that Commissioner McDowell suggests, we can avoid a lot of the problems.

I also thought it would be useful to touch briefly on the question: "What can we all do about this?"

We've talked about the multi-stakeholder approach. Elinor Ostrom, who won the Noble Prize recently in

Economics, has written about a similar but somewhat different area called "polycentric governance." The idea is to have decentralized power, with one or more seats of authority. In her case, the various rules and principles operate around a commons.

We can talk about the Internet in a similar way. That whole area should be explored. There's a lot of rich literature there. We could profit from it, and allow some folks who have typically not been involved in some of the day-to-day conversations among the power brokers to have more of a seat at the table.

But there are things we can do as well, just as common citizens, and as concerned policymakers. We can, of course, support our friends at the State Department, and at the FCC, at NTIA, and other government bodies here in the United States.

Members of Congress can use their contacts and their influence around the world, and with their counterparts, as an opportunity to discuss these issues.

A key aspect to what's going on at the ITU is that this cannot be the U.S. against the world. If that is the formula, we lose, plain and simple.

This has to be something where we engage with everybody around the world. We have to try to find ways to

engage all the communities of interest who have a stake, whether they know it right now or not, in the future of the Internet.

Similarly, if you're a global business, make the case where you can, where you have your ability to have some influence and some sway in countries where you operate.

Civil society groups can partner with those engaged. We have already been doing that here in the U.S. But again, find ways to expand that influence outside the United States.

Academics, you can help us make the case, as well. There are a ton of great academic studies out there. But there a ton more than can be done and analyses that can be written. The academic world can be really fruitful here in the next six to nine months, as we head towards Dubai.

Just one last note. I agree with Commissioner McDowell: December is not the end of the game at the ITU, it's simply the next step in this process. This has been a process that has been going on for many years now, through other fora around the world.

So we'll get past December. We will, hopefully, be able to breathe a small sigh of relief, but only a small one. The threats will continue to be out there. There

will be other places where they will develop, and we just
have to be ever vigilant.

Thanks.

MR. MAY: Thank you, Rick. And thanks to all the
panelists for those initial remarks.

In trying to capsulize what we were discussing
today, I contrasted the existing Internet governance model,
which I called a privatized bottoms-up multi-stakeholder
approach, with a top-down intergovernmental control
approach, that we want to avoid.

Then Rick Whitt comes along here at the end. And
he described Google as an over-the-top provider, and
Verizon as under-the-bottom.

MR. WHITT: We refer to Google as over-the-top
repeatedly, so I just thought, I might as well extend
analogy to our friends.

MS. SOHN: An over-the-top company that pees on
everything.

(Laughter.)

MR. MAY: Okay, now remember, we have a television
audience here today.

(Laughter.)

MR. MAY: I appreciate everyone who's been so
wrapped up in this that they haven't been e-mailing their

wives or whatever. That's great. But if you want to tweet while you're here, remember it's #fsfnetgovernance.

Now I have a question or two, and then we're going to have some from the audience.

But I want to ask our panelists whether they have they want to comment on or respond to anything that was said initially.

Commissioner McDowell?

MR. MCDOWELL: Real quick. I want to make sure there's a clarification, especially for press in the room and the folks watching at home. Indeed, many member states of the ITU have offered ideas and proposals for Internet governance to be subsumed by some sort of UN-type body, whether it's a new body, per the resolution by India, or whether it's other resolutions by China and Uzbekistan and Tajikistan. Also, within the context of the WCIT, look at the Arab state proposal from February the first.

So there are different angles where member states can attack this from. There's just a general UN resolution. And there might be the process of the WCIT.

The Arab state proposal is just a very slight change to the definition of the ITU's jurisdiction, to subsume processing. Computing is pretty much everything within the Internet itself.

While it might not overtly say "Internet governance," it does plant that seed of expanded ITU jurisdiction. And it's this sort of small, maybe even seemingly innocuous change that we have to be wary of.

It's going to be insidious. This won't be a full frontal assault. And I'm testifying tomorrow before the House Energy and Commerce Committee. You'll hear me say that a couple times tomorrow.

In the long run, whether it's between now and December or years from now, it will be something small and seemingly innocuous. And we have to be vigilant.

Rick is absolutely right to underscore the fact that this can't be the U.S. versus the rest of the world, or industrialized nations versus the developing world.

The sick, twisted irony here is that such proposals actually hurt the developing world the most.

We need to venture out beyond Washington, DC, certainly, especially into the southern hemisphere. We need to find allies within developing nations, to let them know and give them platforms for disseminating the notion that an unfettered Internet is really the best thing for their countries and their living standards.

MR. MAY: Okay.

I want to ask Dick this question. Are the

proposals that Commissioner McDowell just referred to on the ITU website? If people want to follow this, and see what's developing, where do they find the proposals?

Then I have a substantive question for you, as well.

MR. BEAIRD: That's a question, Randy, that was posed when I was in Geneva a couple of weeks ago. Colleagues from the civil society raised questions about access to information regarding proposals coming into the ITU and the WCIT.

The situation today is the following: The Council Working Group operates within Council rules. First of all, you have to be a member of the ITU. But second, you have to have access to their particular messaging system. And that is password protected. That's the situation.

Now, as I have done, I will give you access to those proposals, if you ask me. I don't want to have a flood of requests coming in from the room or from those in the television audience.

(Laughter.)

MR. MAY: I thought you were going to say you were going to give us the password.

(Laughter.)

MR. BEAIRD: No, I can't do that.

But let me tell you exactly what followed. It was a very important discussion that took place in Geneva on this point.

Civil society, through the auspices of the groups affiliated in that particular context had written the Secretary General of the ITU a letter, in large part going to the issue of transparency.

What I told representatives from civil society was that, through the auspices of the United States and being the Counselor at the ITU, I would make a proposal at Council to try to make available those proposals in a public way. I expressed that to ITU officials, as well, giving them indication that we will be making that proposal.

That hasn't been agreed to by Council. We haven't worked out the modalities for doing that. But we're very aware of this issue. And the process benefits by making available those proposals, so people can see them.

Thank you for that question.

MR. MAY: Thank you.

You can tell, by virtue of the interest we have here today, and in other places, that in the U.S. there's beginning to be knowledge and concern about the proposals that could potentially be raised.

And we mentioned some of the countries from which there might be proponents of the concerns that we have.

But just briefly, around the world, are there countries in which they are as united and are working the same way that the U.S. government is working to be prepared to address these? Maybe you could just name the countries, if there are some, briefly. Comment on that.

MR. BEAIRD: The answer is yes to the first part of that answer to your question. The United States is not alone.

It's always the old problem of naming names. You'll never be able to get all of them, and I don't want to offend anyone.

By region, we have considerable support out of Asia Pacific, particularly countries that are leaders in Internet deployment and broadband deployment, who have seen the benefits.

We have obviously a considerable number of allies in Europe and in our own hemisphere.

There are beacons that reflect positions that we take. And I think this is important.

Let me focus a bit on Africa. For those of us who have spent their lives internationally in public policy over many years, one of the most notable things is the

response of Africa to the Internet, principally through mobile access to the Internet. Commissioner McDowell has indicated the same, as a global matter.

And with that, there is a practicality that's coming from the continent as to how to deal with these issues. We may not always agree on how to deal with them. Obviously, in many cases that's a function of differences in where we sit.

But there is a practicality coming from Africa. We have found, as we found at the World Radio Communication Conference, and as I am certain we're going to find at WCIT, that we have many in Africa that take very similar positions to what we take, and with whom we will obviously be conversing between now and the Conference to solidify that alliance.

MR. MAY: Dick, I just want to thank you again for the service that you do. Just by listening to you, people can understand better really how much work is involved in what you do there.

When I was in private practice a long time ago, I used to attend some of the OECD meetings over in Paris on behalf of some interests. The thing I remember most is going to those cocktail parties that Rick Whitt talked about.

While I was there sipping drinks it was the people like Dick and the ambassadors who were doing the work. And I recognized that even at the time.

So now we're going to open it up for questions, if we have some. If not, I probably have some more up here.

MR. WHITT: May I just read one sentence of something for you?

MR. MAY: If it's not about a cocktail party.

MR. WHITT: It's not about a cocktail party, no. I actually stole Dick's password. So I have just one example of something that Russia proposed. It's one sentence. But hopefully it gives you a flavor of what we're talking about, something very concrete.

It says: "Member states shall insure unrestricted public access to international telecom services, and the unrestricted use of international telecom."

That sounds great, right?

Unfortunately, there is not a period there. There is an "except" afterwards:

"Except in cases where international telecom services are used for the purpose of interfering in the internal affairs or undermining the sovereignty, national security, territorial integrity, and public safety of other states; or to divulge information of a sensitive nature."

MR. MAY: I'm glad you brought that up.

(Laughter.)

MR. MAY: Because you've probably answered one of the questions that I had. But I want to be clear whether you have the same interpretation or Dick.

Initially I spoke about how the WCIT potentially might change certain things in ways that would affect the free flow of information and free speech, as well as effect commercial enterprises. Jackie spoke eloquently about that, as well.

But when I listen to the language you just read, that's the type of language that I had in mind for governments potentially using in order to have a justification or a color for restricting speeches. Am I on the right track, there?

MR. WHITT: Yep. That's our interpretation as well.

MR. MAY: All right.

MR. WHITT: It can be quite damaging.

MR. MAY: Okay. Now we're going to ask questions. So we want you to raise your hands.

I'm going to call on people and ask that a mic be presented. And Kathee Baker, who is our events coordinator and who played such a large role in arranging this event,

making sure that we had almost enough food for all of you here.

(Laughter.)

MR. MAY: And did a lot of other things. Would you join me in giving her a round of applause?

(Applause.)

MR. MAY: Okay. If you have a question, then raise your hand, wait to be recognized, and the mic will come to you.

I'm going to call on Dan Brenner first. And when you ask your question, just state your name and affiliation.

MR. BRENNER: I'm Dan Brenner with Hogan Lovells.

And Dr. Beaird, I was wondering if you could just give us a little understanding of what happened when the 1988 ITRs came out?

I am one of those Americans who read the eight pages. And they weren't very controversial. They're guidelines. So I imagine they didn't engender a lot of controversy when they were presented.

Were they presented as a treaty? Were they approved as a treaty? What happened to them in terms of U.S. government adoption?

And then, what will happen? Let's say that

something we like or something we don't like comes out of
Dubai? What's the next step in the U.S. government's
review of the outcome of this ITR revision?

MR. BEAIRD: Thank you very much, Dan.

The International Telecommunications Regulations
are treaty. They were brought before the Senate for advice
and consent, and the President's ratification of the
document. So the ITRs are treaty.

The ITR process follows this route: The head of
delegation, at the end of the Dubai conference, and all
things being acceptable, will sign what is referred to as
the Final Acts.

That would be the document that comes out in
December 14th. That document, which has been translated at
that point into six languages, and gone through a number of
iterations at the conference, becomes the Final Acts.

The head of delegation signs those Final Acts.
Those Final Acts then are given. Embedded in them is a
date of coming-into-force. And you'll see, at the end of
the 1988 version, the date of coming-into-force.

From the United States' point of view, that
document does not come into force until it has been fully
processed through ratification.

But regardless, there is a coming-into-force date.

We will bring the document back. We will then go through the process by which the State Department reviews it and the White House reviews it. Then it will go forward to the Senate for advice and consent and follow the usual pattern of a treaty.

And that has been done, as I say, for the '88 version.

MR. MAY: Okay. Another question.

I'm going to call on this gentleman here. Just wait for the microphone. Now while you're getting the microphone, we have some other questions. So I'm going to ask the questioners just to ask the question, not one with four or five different subparts.

MR. MCAULEY: Thank you.

My name is David McAuley. I'm with the Bureau of National Affairs. Mr. Beaird, following up on your point about making the proposals available, I would like to have ongoing access to it. A lot of people would. So is there any thought being given to posting proposals? And especially the government proposals that come in after August third?

MR. BEAIRD: I'm not in a position to give you the impression that with a statement on my part, something will happen immediately in terms of getting you access.

What I can is that we intend to raise public
access to the proposals as an issue at the Council meeting
in July. It will be from July second to July 14th in
Geneva.

And I am taking on board your comment. I'm taking
on board, as I say, civil society colleagues, in Geneva a
couple weeks ago.

The United States will prepare a position for
Council to try to find some way to make those documents
public.

Now let me leave it at that. It's best to leave
you with the impression that we will be raising that point.
But it is not something that we can do individually or as a
unique country. We have to do it within the context of a
decision of 47 other countries. But we will raise that
point.

MS. SOHN: Randy, can I just add? The issue of
transparency in international policymaking is becoming a
huge issue.

And not just here. It's also a huge issue for my
organization in trade negotiations, where we're trying to
get access to proposals around the Trans-Pacific
Partnership agreement.

We're being told, "Well, that's not the way we do

things, and you know, we're negotiating, so we can't do X, Y, and Z."

The mindset of international negotiators has to change in that regard. These issues have become so important to the way we live our lives that doing it under the cover of night is no longer acceptable.

So I really appreciate the efforts of Dick and others in the government to try to make this process more open.

I hope you put the same effort into getting our U.S. trade representative to be as transparent as you guys want to be.

(Laughter.)

MR. MAY: Anyone else on that particular question? If not, I'll go to this person here. Just wait for the mic.

SPEAKER: My name is Andrea. I'm a Senate staffer.

I was hoping Mr. Beaird and Mr. McDowell can tag-team on these two questions I have for you all.

I read Mr. McDowell's piece in the *Wall Street Journal*. You alluded to the fact that there was a lack of leadership issue from the U.S., and it sounded as if Mr. Beaird, when he was speaking, said that the Obama

Administration and State Department were looking forward to these talks, and really gaining traction.

And I was wondering if you two could clarify that.

And second, Mr. Beaird, you said that the countries and the member states were fearful of losing their sovereignty, and this was something they wanted to protect. However, when I read, I believe, it was the *Wall Street Journal* piece, you said that it seemed like there was almost a majority of member countries that were looking into these ITR regulations;

And based on other treaties that happened in the UN, the U.S. doesn't have a veto;

And where we're seven or eight countries short, it sounded like countries that are looking to make these changes to the ITR.

So could you all expand on those?

MR. MCDOWELL: First of all, thank you very much for the question. Which Senate Office are you with?

SPEAKER: Senator Jim DeMint.

MR. MCDOWELL: Okay. Great.

I had an 800-word op-ed in the *Wall Street Journal*. There's one sentence in there, which is just a statement of fact, saying a head of delegation had not been appointed.

There's as much, if not more concern that also private sector or non-governmental entities had not really organized themselves.

I was over in Europe, in London and Brussels back in November, and there was a great deal of panic among the private sector, and non-governmental groups; but not a lot of organization. And so I immediately started to encourage them to organize themselves, just as I did other governments.

So it is what it is, regarding whether or not we had to have a head of delegation.

By the way, for the folks watching on C-SPAN, when you hear about career federal government employees, I want you think of Dick Beaird. This guy is a big deal on the international stage. You walk into meetings with thousands of international diplomats, and he is known by all of them. His body is coated in graphite, because he is able to walk through these crowds. It's as if he's made of velvet, as well.

He's incredibly talented.

And there's a team at the State Department plus Ambassador Phil Verveer who are working on this, regardless of whether or not there's a head of delegation.

I don't want that to be a distraction. There is

no sunlight between Republicans, Democrats, left, right, and center, NGOs, or private sector or government, on this issue.

So it's important to stick to the substance. We do only have six months to go before Dubai. But importantly, we have years to go.

We need to make this a standing coalition of coalitions, a sustained organized effort to make sure that the Internet is governed purely by a multi-stakeholder model, and not by a top-down intergovernmental regime.

And I'll let Dr. Beaird speak about the majority aspect of the ITU. Historically the ITU has been governed by consensus.

But there is a concern when you see the thrust of some ideas and general sense being adopted by large voting blocks.

Some who are in this room, but shall remain nameless, were telling me late last year that there were maybe up to 90 countries, out of the 193, who were supportive in general of granting the ITU more authority in this area.

Remember, if we don't ratify the treaty, if we don't sign onto the treaty, we don't abide by it.

But I want to give that sense of how much support

there was, somewhere perhaps in the 90s. Maybe that's

receded and maybe that's grown since then. I don't know.

Hopefully there's a whip count somewhere in the

State Department or elsewhere, knowing where each country

stands.

MR. MAY: Dick, do you want to add anything to

what Commissioner McDowell said?

MR. BEAIRD: Commissioner McDowell has very nicely

indicated where we are on the leadership issue. I'll leave

his comment there.

We are looking forward to the head of delegation

arriving very shortly. Ambassador Phil Verveer has been

offering considerable leadership in this area.

So we're always looking for the head of

delegation. And we will welcome that person when the White

House will make the announcement.

On the sovereignty issue, the ITU has, as a

historical matter, been remarkable in that there are

actually very few votes at events, such as this treaty

conference.

I have witnessed a number of these votes. But it

is not an institution that relies upon votes for decisions.

It relies upon consensus.

In part, its success has been owed to the fact

that we're talking about communications. And communications relies upon the consent of those who are communicating.

There is such a considerable interest globally in sustaining and maintaining and growing a robust communications network that consensus seems to flow.

Now sometimes it's not easy, and it takes late hours. Sometimes the last four days of the conference will no doubt be around the clock. But a consensus will emerge.

Let's hope that is going to be the case in Dubai. It will follow that in order for a consensus to happen, the results are going to have to be at a high level of principle. In order for it to succeed they probably will not exceed much more than what is currently the nine pages of ITRs. I'll leave it at that.

MR. MAY: Good. Next, I know Scott had a question. I'm going to call on you next.

But in the meantime, just while the mic's coming over, Jackie Ruff, when she spoke initially, talked about the fact that, if certain things were adopted, the regulations could possibly affect the commercial success of the Internet and all the enterprise that takes place. Obviously, that's an important part of the Internet as well.

I've talked about some of the social and free-speech aspects. But Jackie, if you could, just briefly elaborate, if you have in mind particular concerns, and how they might dampen or impact the Internet as it's used to promote economic prosperity.

MS. RUFF: Sure. A number of those points were mentioned by different speakers. I sometimes talk about the Internet and the ITU's role in terms of bookends. At one end, you have: "What's the definition of what these regulations cover?" And if they cover processing of data, then that automatically means they cover the Internet.

At the other end, you have: "What's the enforcement mechanism for rules?" And there are proposals for intergovernmental dispute resolution mechanisms.

Then you have the meat of the proposals in the middle, all of which become treaty, and therefore binding as treaty.

And then in the middle, you have things from the cyber-security proposal. You may think of it as a barrier to freedom of expression; but it's also a barrier to the Internet functioning for all the economic benefits and social benefits.

With cyber-security, ways of looking at spam, at fraud, *et cetera*, the topics are all understandable. I

want to make that clear.

There's a reason to be concerned about them. It's just that the mechanisms to address them tend to be very intrusive by government.

One of the hopes is to figure out how to meet the concerns, meet people where they are, and figure out other ways to get at them.

And the final one that I will say has been mentioned by several speakers, including Rick. The Internet is a network of networks. It is handing off traffic between those networks, primarily through handshake, informal agreements, or commercial agreements. And to turn that into a regulated kind of exchange will create all sorts of distortions of the system and complexities. So, I hope that's a good summary.

MR. MAY: Yes. Thank you, Jackie.

Dick, we've mentioned your boss, Ambassador Phil Verveer, several times. It just called to mind I had the privilege of actually serving with Phil Verveer three decades ago at the FCC.

Most of you wouldn't know this. Fortunately, for you, you're too young to possibly know it. But within the short time span that I was at the FCC, Phil Verveer served as Chief of the Cable Bureau, and as Chief of the Broadcast

Bureau, since renamed, and then as Chief of the Common

Carrier Bureau. And I was still just trying to find out

where the eighth floor was.

(Laughter.)

MR. MAY: Ambassador Verveer had filled all of

those positions ably. So he's a terrific example, as well,

of a public servant.

Scott?

MR. CLELAND: Yes. Scott Cleland, Net

Competition. A quick question for Dr. Beaird.

It's such an amorphous, non-transparent process.

Are there a couple of crunch time or process points, maybe

two or three, that we should be tuning into, to get a sense

of whether this is going in a good direction or a bad

direction, as we watch from the outside?

MR. BEAIRD: The Council meeting is in July, July

third to approximately the 14th, where the chairmen of the

council working groups report to the Conference and will be

reviewed.

It will not be changed. But it will be reviewed,

so you can see the entirety of the result of that two-year

effort go into the Conference, which will contain a

compilation of options in dealing with each part of the

current ITRs. That is a date.

I would look right after August third, and see what proposals have come in pursuant to that deadline. Their first tranche of proposals need to be in by August third. We'll be watching them, very carefully.

Periodically we can help you understand when the regional proposals start coming in.

Regions will continue to meet up through September, and perhaps into early October. Our region for example, has its last meeting in September prior to the Conference. There we will finalize inter-American proposals, going into the Conference and then all the way up to the two weeks prior to the Conference, which is the absolute drop-dead date for contributions coming in prior to the Conference.

So all along that period, we will see contributions coming in.

Just to underscore, one should never forget about the regional groups. There are six regional groups. All of those groups will make proposals to the Conference, as well.

MR. MAY: We have time only for one more question, if we have one. So while I'm looking around, or while you may be thinking, if there is another one, I just want to acknowledge again that we are very privileged today to have

two ambassadors with us: Ambassador Mickey Gardner, who is here; and the other ambassador is Ambassador David Gross. He served in Phil Verveer's position in the previous administration.

Ambassador Gross perhaps holds the record as the longest-serving ambassador in that position, but I may stand corrected.

I keep emphasizing "Ambassador," because David and I were actually former colleagues in a law firm. So I was excited when he became Ambassador Gross. But shortly after he left, I thought that maybe he would just be plain ol' David again. But he quickly informed me that once you have been an ambassador but he said once you hold that title, that you are ambassador for life. And if this isn't right, I want you to tell me.

So every year, when I do my holiday cards, I have to remember it's just Ambassador Gross, because he told me about that, as he was walking out the State Department door, that last time.

(Laughter.)

AMBASSADOR GROSS: (Off mic.)

MR. MAY: Oh, okay. David says it was his wife.

But we're privileged to have both of these ambassadors with us here today.

Is there one last question? It's over here, and this will be the last one. If you will identify yourself, please?

MS. MAKAROVA: Hi. I want to first of all thank everyone for such a wonderful panel. I got such a tremendous opportunity to learn a lot of new facts, and hopefully everyone here did, as well.

MR. MAY: Could you identify yourself?

MS. MAKAROVA: Oh, I'm sorry. Oksana Makarova, with Emerging Markets Communications.

My question is a little bit different. So the head of the ITU, Dr. Toure, went to St. Petersburg. He studied there, and he speaks Russian fluently.

During last year's meeting with Putin, he told him that he represents Russian Federation at the ITU. And there's a transcript available online.

Now is that a point of concern, the fact that the head of the ITU seems to be fluent in Russian, speaks to Putin, shakes his hand, and tells him he is his comrade? I'm not sure I understand completely how the ITU functions in that regard?

MR. MAY: Okay. Maybe that's for Dick, or the Commissioner. Anyone want to respond?

MR. BEAIRD: Secretary General Hamadoun Toure from

Mali, was first elected as Head of the Development Bureau in 1998, and then subsequently in eight years was elected to Secretary General, and he was re-elected in 2010 in Guadalajara.

He is of a generation of African leaders, many of whom did study in the Soviet Union. He does speak Russian. He claims it's not as fluent as one would assume, but it is sufficient for him to earn a Ph.D. out of Moscow State University.

He met his wife in Russia, and who is also from Mali.

But as he points out, all people's biographies are complicated. And it's important in this case. He spent twelve years of his life in the United States and two of his children are Americans.

He spent 12 years at Intelsat as an engineer. And beyond that, I will let him speak to his own biography.

MR. MAY: That sounds like good advice from a diplomat.

(Laughter.)

MR. MAY: I have to say that it's pretty amazing that not one single person has left. And I know some of you must have work to do this afternoon. So we're going to wrap it up. Please join me for this extraordinary panel

that we had here today.

(Applause.)

MR. MAY: We look forward to seeing you at the next Free State Foundation event. Thanks again.

(Whereupon, at 1:56 p.m., the meeting was adjourned.)

* * * * *