



International Chamber of Commerce

The world business organization

Department of Policy and Business Practices

ICC informal input on the Working Group on Internet Governance (WGIG) papers, April 2005

A compilation of ICC member comments

Members of ICC's Commission on E-Business, IT and Telecoms (EBITT) are pleased to provide these informal comments and suggestions on several of the draft papers that are available for public comment. This input is based on existing ICC members' priorities and positions, but have not received the standard comprehensive consensus building review and comment of all ICC national committees and members due to the short timeframe for public comments on these papers. ICC members look forward to providing the WGIG with additional comments as the process progresses.

General comments

1. The abbreviated public comment period means that it is very likely that the comments that are submitted to the WGIG Secretariat will not be as representative, balanced, or detailed as they would have been if the comment period had been longer. Companies, governments and other actors will not have time to fully analyze the papers, draft, coordinate, and get clearance on detailed comments. It is important to emphasize that the lack of objections to a particular paper, paragraph, or observation should not be taken as an indication of consensus regarding that paper or point.
2. In general, the papers focus far too much on process and too little on product. WGIG should spend less time thinking about bureaucratic structures and procedures and more time looking at what is actually being done to enable more people around the world to take more advantage of the power of the Internet. The best way to assess the effectiveness of a governance structure is by looking at:
 - (a) what it enables and how well it meets the needs of the people who depend upon it;
 - (b) whether any improvements that might be needed can be achieved by working with existing mechanisms; and
 - (c) whether proposed options or "solutions" to identified issues might have, instead, the unintended consequence of destabilizing the operation and growth of the Internet and/or generating a new host of problems.In other words, with so much at stake, the first principle should be to do no harm.



3. “Internet Governance”: The term is used differently in the papers. In some circumstances its use implies substantive policy development, in others it implies the framework for decision-making on issues related to the Internet. The definition should focus on the latter.
4. Where is the WGIG headed: the WGIG is to develop a working definition of Internet governance, identify the international issues and gaps. What is the status on the working definition?
5. These papers are all presented with a header stating that “it does not necessarily present a consensus opinion nor does it contain agreed language accepted by every member.” Given that the group’s mandate is to produce a report for negotiation by the PrepCom by July, it is concerning that a consensus is not developing within the Working Group. Moreover, it is concerning that a lack of ability to resolve these issues within a limited and closed Working Group is likely to indicate an inability to resolve these issues in the WSIS process.
6. Participation of Stakeholders: In some places, the paper seems to imply that all stakeholders should have representation at all meetings. This seems impractical. Stakeholders should be able to participate in intergovernmental organizations consistent with the membership, mission and mandate of those intergovernmental organizations.
7. Governments and Public Policy: The documents state that public policy is the domain of governments. It is critical to recall that allowing self-regulation is a public policy decision where governments refrain from regulating, and in many circumstances this can be the most productive policy approach.
8. These papers do not highlight the spirit of WSIS and the need for a people-centric Information Society that can allow them to express themselves, create, learn, work and reach their potential, and do not provide a balanced description of processes that can promote such an environment. Governments can help in establishing an enabling environment, but investment and deployment of resources and capabilities by the private sector and advancing freedom of expression and promoting creativity, privacy, etc. by the civil society is not an observer role.
9. While the assistance of ITU staff in developing the draft papers is much appreciated, it appears that this has led to an imbalance with respect to a fair discussion of the roles and activities of organizations in the various issues discussed in these papers.
10. It is important for the information developed by the WGIG to provide a comprehensive picture of all of the organizations and initiatives involved in these issues. For example, in some of the cluster papers, the ITU is mentioned as having an important role while other intergovernmental organizations (e.g. the OECD, APEC, the G-8), standards bodies (e.g. the W3C, IEEE, OASIS, the IETF, and others), NGOs, and trade associations (e.g. ICC, WITSA) are not mentioned, even though they have been effective in addressing the policy issues being addressed. All of the cluster papers pay insufficient attention to technological solutions (e.g. Digital



Rights Management, electronic authentication) that are being developed by the IT industry and the standards bodies such as OASIS, W3C, and the IETF that are developing the related standards.

11. The term “multilateral” seems to be emphasized in the papers at the expense of the WSIS call for “the full participation by all stakeholders”. While the latter is mentioned, it is more in passing and as a lesser attribute.
12. While initial discussions in WGIG tried to provide assurances that “governance” did not equate to “government”. These papers do not seem to assuage those early concerns. For example, the paper “Key issues of the use of the Internet” identified two kinds of international governance mechanisms: binding international treaties (usually called conventions) and non-binding international treaties (usually called soft-laws).
13. In the papers, discussions of how intergovernmental organizations compare with WSIS criteria frequently include excuses and rationales for any divergences, as if suggesting an exemption. In some cases, the discussion is not entirely accurate. On the otherhand, discussions of how non-governmental organizations compare with WSIS criteria do not include this same type of analysis. The result is an imbalance in treatments.
14. Editorial Comment: In future draft documents, all paragraphs should be numbered for ease of reference in commenting and following comments.



Comments on specific WGIG papers

Towards a Common Understanding of the Roles and Responsibilities of all Stakeholders in Internet Governance

1. The paper refers to "regulatory treaties with teeth" and discusses how such treaties are enforced. However, we have seen that industry self-regulation is often as effective and incorporates incentives to deal with new challenges on a going-forward basis. It would therefore be worth adding a discussion of how other mechanisms than treaties impact behaviour. For instance, if companies choose not to abide by commonly-accepted standards they could very well lose market share. If they ignore generally-accepted business practices they risk loud and sustained criticism from trade organizations, NGOs, the Internet technical community, and others--which could affect the company's reputation and even hurt its share price and the willingness of customers and partners to work with them. Such mechanisms can be more compelling and more immediate than most treaty enforcement mechanisms.
2. Treaty Making Mechanisms (page 2) it says that treaties without teeth are only "implemented to a limited extent." The correct characterization is that they must be implemented and enforced by member states.
3. The discussion of the term "democracy" is inconsistent and the way the term is defined is not the way the vast majority of people living in democratic countries would define it. The idea of "one person, one vote," which has recently been so powerfully demonstrated in certain countries, is not consistent with the idea that each country of the world should be equally represented. The paragraph on democracy on page 9 also talks of reaching decisions through consensus. In every democracy that has ever existed, voting has proven a very effective mechanism by which diverse groups of people with varied interests can take a decision when there is no consensus. This is not to say that consensus is not a good thing.
4. The term "democratic" has been used to describe a huge range of institutions. The best way to judge whether an institution is really democratic is by looking at what it does for its citizens or constituents. In other words, are decisions being made that meet their needs? The reason democracy works and why it is increasingly popular around the world is because democratic institutions tend to be more responsive and fair.
5. At the bottom of page 5, the first sentence about ICANN should not be a negative criticism that ICANN is not consistent with the idea of national sovereignty. It is not clear which WSIS criteria regarding national sovereignty ICANN contradicts. An opening sentence that acknowledges that "ICANN represents a new and successful attempt to quickly develop an open, global self-regulatory mechanism for coordinating some of the key technical issues that must be addressed to ensure the smooth functioning of the Internet. It attempts to do this in a way that maximizes flexibility and fosters innovation." should be included.



6. On page 6, in the paragraph on the IETF, the paper states that IETF fees are "rather expensive." This is simply wrong. It costs less than \$100 a day to attend an IETF meeting. There are very few non-governmental meetings where the cost of attending/participating is so low (and it can cost \$2000 a day to go to commercial conferences.)
7. The mention of capacity-building in LDCs on page 7 is important, and should receive more attention in the WGIG and WSIS.
8. At the very top of page 8, it would be worth noting that corporations are very responsive to negative press reports and that they are eager to develop markets in LDCs and thus pay close attention to what prospective customers there say and want.
9. General Public Participation (page 7) it says that governments and intergovernmental organizations have the onus of ensuring stakeholder participation. This is only true if you fail to recognize that there are different models for international coordination, e.g. ICANN, IETF, etc.
10. It is not only governments and intergovernmental organizations that can promote coordination at the international level.
11. Impact of the Private Sector Governance (pages 7-8) this section ignores the fact that self-regulation is driven by market demands which inherently includes consumer preferences, etc. It raises the inability of businesses from the developing world from participating, which is a) incorrect (e.g. the development of ICC codes includes representatives from the developing world) and b) where it is true, it should not undermine the credibility of self-regulation but rather should lead those to call for capacity building. The sentence regarding concentrated market structures is a policy statement and should be removed. The section should explain how "market mechanisms" actually serve the "public interest," the extent to which businesses take their customer and consumer needs into consideration or risk eroding their market share, how businesses are taking specific steps to work with developing markets (e.g., through corporate foundations, trade associations and outreach), the extent to which business are regulated – often quite heavily – by their home markets, and the concrete benefits of voluntary regulation.
12. The WGIG is strongly discouraged from identifying particular companies.

Criteria for the term 'transparency, accountability, democracy' with regard to Internet Governance arrangements

1. Like the section in the previous paper that attempted to define "transparency, accountability, democracy", this paper does not focus nearly enough attention on results. It is very hard to say an institution is being "accountable and democratic" if it takes years to make decisions or if the decisions it makes are not responsive to its constituents or citizens. Yet, the need for timely decision-making is not mentioned.



2. Item 6 under "Democracy": "Inside each stakeholder group, all members are equal." is an unclear statement.
3. It would be useful to have an explicit mention of the importance of the press and NGOs in ensuring accountability and responsiveness--and the need for institutions to be accessible to press inquiries.
4. This document is problematic in that it calls for all meetings to be open to observers which may not be consistent with the mission and mandate of certain intergovernmental organizations. Further, it recommends overly burdensome obligations on organizations regarding translation, broadcasting of meetings, ombudsman diversity of participation (e.g. point 13 under democracy – age, professional background...). Others may not be appropriate for all organizations, e.g. posting all documents for public consultation before decisions are taken (sometimes deals are struck in the corridor at a meeting).
5. The call for all stakeholders to be accountable to their constituencies is essential.

**“Towards a Common Understanding of the Role and Responsibilities of all Stakeholders in Internet Governance”
and
“Criteria for the term “transparency, accountability, democracy...”**

1. Section 2 of “Towards a common Understanding...”:
 - The process criteria section should be consistent with WSIS 2003 results which include not only “multilateral” but also participation by all stakeholders.
 - The bullets under “Roles and responsibilities” should reflect the WSIS 2003 output documents which indicate government leadership in public policy with inputs from others and likewise private-sector leadership in technical and economic with others influencing.
2. Section 3: The terms “hard” and soft” here seem to relate to references in other papers to binding and non-binding treaties. This is not consistent with the broader discussion of Internet Governance in which WGIG has been engaged, and the notion that “governance” does not equate to “government”.
3. Section 4 a): WSIS 2003 did much more than mention a “multilateralism” that did not exclude “multistakeholderism”. WSIS explicitly stated to include the full involvement of all stakeholders.
4. Section 4 seems to make the paper “Criteria for the term “transparency, accountability, democracy...” redundant. Therefore, the paper “Criteria for the term “transparency, accountability, democracy...” is not needed.
5. Section 5a) and 5b) seem to apply different standards for international organizations than for non-governmental organizations with respect to WSIS criteria. Intergovernmental processes that are much less open, transparent, democratic, etc. than some referenced non-governmental processes are described in ways that gloss



over this, while non-governmental processes are dissected and in one case described without regard to its many positive characteristics with respect to the WSIS attributes. Someone might characterize it as one glass is $\frac{1}{4}$ full while the other glass is $\frac{1}{4}$ empty.

6. Section 6) is not clear with respect to what is being proposed or its implications. Unless this can be remedied, this section should be deleted.
7. Section 7) is entitled “Impact of the Private Sector on Governance” but instead describes the situation in only negative terms. It does not recognize the role that private sector companies play individually and bilaterally in private contractual agreements as they innovate, create intellectual property, develop plans for interoperability with others to address user needs, resolve disputes, etc. These processes have created the Internet and stimulated its deployment and rapid growth to the benefit of people around the world as identified by WSIS 2003. It seems to draw this dark picture and then indicates “a need for governments at national, regional or international levels” to provide some form of sanctioned backing or enforcement of industry codes of practice or voluntary agreements”. This would seem to be a prescription for a disabling environment in a dynamic industry.
8. Section 9) builds on the negative image in Section 7 described above and rather than promoting nurturing and growth of an emerging private sector and civil society in developing countries, proposes that decision-making should be the responsibility of intergovernmental organizations. For the reasons cited above, the considerations in this paper are not balanced and, therefore, its the conclusions are not balanced.

Issues relating to the use of the Internet [Cluster 2]

1. The U.N. General Assembly adopted a resolution on Cyber Security consistent with the OECD Guidelines which is not referenced in this document.
2. Evaluation Against WSIS Criteria – Process Criteria (page 2) assumes that all issues related to the Internet require international coordination. WSIS recognizes that some issues are national and should be handled at the national level.
3. On page 3, section 5, it is inaccurate to suggest that, other than the ITU, “very little” coordination is done in other institutions, such as the OECD.
4. Overall assessment (page 6 first paragraph) mistakenly indicates that intergovernmental organizations take the lead on the issues identified in this paper. This is inconsistent with the text of the document itself which recognizes the role of self-regulation, technology, etc.
5. ISP Liability: This issue is beyond the scope of WGIG since it is to focus on international issues only. Liability and limitation of liability are issues for national governments to address in their civil and criminal procedure and this is why there

are no treaties that address this issue. The issue is one of limitation of liability rather than exemption therefrom.

6. Discrepancy between sections 1 and 4: In section 4, the two kinds of governance mechanisms identified are only related to treaties, i.e. intergovernmental. This is not consistent with the general description of the Issues in Section 1, or the fact that spam, cybersecurity, critical infrastructure activities are in fact being addressed by many groups including many private-sector led groups.
7. Section 3 does not seem to recognize that any cooperation or coordination is taking place today internationally.
8. Section on spam:
 - The first sentence would be more accurate if it was stated that : “There is no single internationally-agreed mechanism to address spam.” The current text that excludes the word “single” could be construed as suggesting that combating spam is not the subject of international efforts. In fact, as pointed out later, at the July 2004 ITU Workshop on combating spam, the chair summarized the discussion by indicating their there was no silver bullet, but rather a multiplicity of efforts were appropriate.
 - The limitations in the memberships of the OECD and LAP are notes. Similarly, the characteristics of the ITU and IETF memberships should be discussed, including the fact that the IETF is open to all not just private sector ICT companies.
 - The bullet under Authorization and Authentication should be modified to be more generic so as to describe the range of options being considered:
“Requiring that each sender’s identity is authenticated and transport authorized. Authorization to transport each message is based on technical and service policies established between mail transfer agents and/or mail submission agents using the DNS and other mechanisms”
 - The last sentence in the Section on spam that identifies “some consideration for the future handling of spam...” that discusses technical work should be modified to promote technical cooperation as well as cooperation in other areas. It would thus read as follows:
“Technical work that changes the context for policy decisions should be tracked and cooperation between organizations addressing the technical issues should be promoted”
9. The section on Cybersecurity:
 - The first sentence related to the ITU should be modified to read
“some of its work has contributed to cybersecurity and current security measures”
 - Given that the ITU technical work on Recommendation X.509 is discussed in this section, the extensive efforts of the IETF, IEEE, W3C and others in this area should also be mentioned.
 - The fifth bullet in the section that begins “Some consideration for future handling of cybersecurity...” should be more specific with respect to “Human rights conventions and treaties”. WSIS 2003 references the Universal

Declaration of Human Rights. This should be used in this section of this paper as well.

- The paragraph in the section on “security and network and information systems” in referring to IETF work on security appears to be critical in that vendors and users are not mandated to implement and use technologies based on these technical standards. This is also true of all voluntary standards, including those from the ITU. The benefits of voluntary standards in the area of network security are extensive and could be the subject of extensive discussion. Either make this discussion applicable to all voluntary technical standards with a discussion of the benefits of voluntary technical standards or remove the last two sentences.
- Another paragraph could be inserted in this section: In the US, the Federal Communications Commission efforts on network security includes an Advisory Group made up of industry and public interest representatives. This effort, the Network Reliability and Interoperability Council (NRIC) which began more than a decade ago has developed hundreds of “Best Practices” related to network security, reliability and interoperability. These NRIC “Best Practices” are publicly available and keyword searchable via the FCC webpage.
- The section that begins “some considerations for the future handling of security...”:
 - One concept that does not seem to be recognized in this paper is that in the multi-faceted approaches that are being taken to spam, cybersecurity, etc. the possibility exists of having devices and processes at points in the network or in user appliances that can analyze the characteristics of traffic and deal appropriately. While how they interact with other devices and appliances can be the subject of standards, how they internally process traffic and the algorithms that they use to analyze situations does not have to be publicly disclosed via standards or any other process.
 - This could be recognized in a stand-alone bullet in this section.
 - In addition, the third bullet that indicates that “A standardized approach can have several negative consequences” seems to describe a “mandated approach” that by its nature would be more prescriptive and less dynamic, and thus suffers the deficiencies mentioned. Thus “standardized” should be changed to “mandated” in this bullet.
 - In bullet four, the phrase “or the underlying ICT technology itself” should be added to the end.
 - In bullet five, other documents in addition to ITU and OECD work should be included here, e.g. IETF, IEEE, W3C.

Competition policy, liberalization, privatization, regulations [Cluster 3]

1. On page 3, bullet 2, the meaning of the reference to “privatization of content” is unclear and should be removed.
2. Also on page 3, bullet 4, the reference to “The movement will in turn raise new issues in relation to . . . regulatory models that aim to create level playing fields between radically-transformed constellations of suppliers, and at the same time aim

to protect consumers and the public interest goals in a highly privatized environment” could be misconstrued, for example, to mean uniform regulation of all types of telecommunications, Internet, broadcasting and other content industries. It would read better as “. . . regulatory models designed to reflect the interests of suppliers, consumers and public policy in a highly privatized environment.”

3. Also beginning on page 3, the section entitled “National and International Governance of Competition, Privatization, Liberalization and Regulations in Relation to the Internet” should be changed to better reflect the broader role many national authorities now play in competition issues, especially in developed markets, with respect to the Internet. While international authorities have had influence, particularly with respect to the telecommunications sector in developing markets, that role should not be overstated, or necessarily expanded with respect to other issues.
4. On page 4, the final sentence in the second bullet concludes that “at least some commitments made by WTO members do apply to the Internet.” In the interest of avoiding the view that all telecom trade commitments (including basic telecom) apply directly to internet backbone and services, this conclusion should be caveated even further, for example, by saying commitments apply to “some matters relevant to the Internet.”
5. Consistent with the WSIS mandate, any references to a future World Conference on International Telecommunications (WCIT) in the 2007-2010 timeframe should include a call for *meaningful* participation in all discussions, beyond just ITU Member States.
6. The introduction of competition, as well as liberalization and privatization have all been important steps taken in many countries, and they have been helpful to Internet deployment and growth. However, another important factor related to this paper that is completely missed, is that the Internet is based on a protocol that has been able to ride on top of even regulated, monopoly facilities and that allowed competitive providers of applications, and features at the edges of the network to offer users capabilities that have stimulated innovation and exponential Internet growth. It has also allowed user-to-user applications and creativity in this area as well. The Internet itself has, in many cases, thus grown under more general legal frameworks, e.g. competition law, and under self-regulation. This has provided an “enabling environment” for the Internet above and beyond the telecom related issues on which this paper focuses. This point should be inserted since it highlights the benefits of self-regulation and an enabling environment.
7. Section 3:
 - Third bullet: This should read “establish an independent regulatory authority”.
 - Footnote on page 2: The document referenced is a working document of WGIG that was not a consensus document. Thus what specific portion is being referenced, and its applicability and acceptance as a reference in this Cluster Three paper can not be determined.

- Second paragraph under “Transformation of Telecommunications and the Internet – 1995-2005”: This paragraph mentions the World Wide Web, but again only points to changes in basic telecom policy issues. The power of the web is that easily remembered or “bookmarked” names can be used in a system that utilizes information sources at the edges of the network to access information, applications and capabilities that are also at the edge of the network. This architecture and capability enables people everywhere to create information that can be accessed by anyone who can access the Internet. The power of this approach and its potential has also been a factor in competition policy, liberalization, and privatization, and has promoted self-regulation or light regulation or dependence on more general legal frameworks in many areas. This point should be made.
 - The section “Transformation of telecommunications and the Internet – 2005”
 - First paragraph: Modify the last sentence so that its conclusion reads:
“a movement symbolized by the emergence of a broader range of IP-enabled capabilities including VoIP that further empower innovation and offer even greater features for users and application developers than traditional telephone service”
 - The first sentence of the second paragraph should be modified to read:
“Going forward, the next stage in the transformation of telecommunications and the Internet...”
 - The latter portion of this paragraph that suggests the blurring of lines between telecommunications and content industries, the privatization of content, etc. should be deleted. It is not clear especially in light of the free flow of information, intellectual property rights, etc. and that this paper is about “competition policy, liberalization, privatization and regulations.”
8. The section on “Governance Mechanism”
- Delete the first sentence.
 - The reference in the second sentence to a WCIT being held in the 2007-2010 interval and the reference in the first sentence in the first paragraph under “Evaluation against WSIS criteria” that reads “If and when the WCIT takes place” seem to be inconsistent. The latter seems to be a more accurate description of what the ITU plenipotentiary directed.
9. The section on “Evaluation against WSIS criteria”
- The discussion of the ITU and participation by the private sector and civil society are not clear that membership in the ITU sectors are not open to all private sector or civil society entities.
 - The discussion in isolation of the ITU WTPF as a possible model for Internet governance in the post WSIS environment seems pre-mature. This sentence should, therefore, be deleted or the possibility of other activities serving as models should be explored.
10. Section 5.2: The classification used in the ITU is “Associate” not “Associate member”. An ITU Associate is not able to participate in all ITU activities as this section suggests. An ITU-T Associate can only participate in one ITU-T Study Group of its choosing.



11. Section 5.3: The last phrase in the second paragraph should be modified to read:
“of pro-competitive principles by regulators and other policy makers”.
12. Section 5: Delete the last sentence to be consistent with other changes proposed for Section 3.

E-commerce, Taxation and Trade [Cluster 3]

1. Page 2: It is not true that there is a lack of information regarding private sector governance mechanisms.
2. The paper states that it is unresolved whether the rules related to offline trade apply to trade via e-commerce. This was resolved with the relevant WTO Councils indicating as much, given that it is just another medium for commerce. This issue appears throughout this paper.
3. As a factual point, UNCITRAL is working on a Convention on Electronic Contracting.
4. On page 1, the reference to 'newer style' organizations in the second bullet should be deleted as organizations, such as the ICC, have been producing several self-regulatory tools that apply to these issues for many years. ICC's role in this area should be specifically referenced in this bullet.
5. The WGIG is strongly discouraged from identifying particular companies.
6. In the paper's evaluation against WSIS criteria, it is important to also note in the discussion of stakeholders in the ITU that the ITU sector members and associate members from the private sector are not from all industry sectors even though all of these issues actually pertain to all business sectors.
7. On page 2, section 3, the following sentence should be changed to make clear that only some rules may be required: “The answers to these questions . . . there is also recognition that SOME rules MAY be required to govern e-commerce as it develops and matures, in order to ensure fair trading on a global basis.”
8. On page 4, section 5, bullet 2, it would be helpful to add at end (also in other documents using this same “chapeau” language) that: “These organizations are not “democratic” in the sense that other stakeholders do not enjoy the same level of participation, or even observer rights, in all important fora.”
9. On pages 6-7, section 5.3, the sentences beginning with “In fact, . . . developing e-commerce on global basis will remain limited . . . until the cluster one [Infrastructure Issues and management of Critical Internet Resources] and cluster two [Issues Relating to the Use of the Internet – see above] activities . . . have resulted in an equitable distribution of Internet resources” should be drafted more clearly to reflect the interdependencies among various aspects of the Internet,



including demand for infrastructure, services and applications, through trade and e-commerce.

10. On page 7, section 6, the paragraph should emphasize greater “dialogue” and “cooperation,” rather than formal “coordination” among the range of factors that involve the Internet. It should not imply that general “governance of e-commerce” is realistic or desirable.
11. Section 2
 - Last bullet: “Microsoft” should be replaced by “proprietary software developer”

Intellectual Property Rights [Cluster 3]

1. First and foremost, there is a UN expert body, WIPO, bound by UN procedures that addresses IP related issues and therefore there is no gap at the international level on this policy issue. WIPO is currently engaged in a lively debate on IP and development which includes all stakeholders.
2. A general objection to this document going forward given overarching problems with the approach.
3. Section 3 should be deleted as it is not part of an assessment of the existing organizations addressing IP but rather a policy discussion.
4. Domain names do not constitute a new IP right. The issue is the intersection of domain names and trademarks.
5. ICANN is very representative with participation from all stakeholders including governments through the GAC.
6. The document ignores that intergovernmental organizations are just that and that governments should consult stakeholders in their policy development on issues being addressed in intergovernmental organizations.
7. The memberships of the WTO and WIPO include the developing world so the statement that they are not involved in the decision-making processes is factually incorrect.
8. Section 5.3 is riddled with policy which should be deleted from the text.
9. Section 6 is factually incorrect as there are discussions on traditional knowledge and genetic resources and there is coordination between WTO and WIPO. Moreover, much of the litigation referenced in the third bullet is about liability which is an issue for domestic law and therefore beyond the scope of WGIG.
10. Section 2):
 - Insert a second sentences as follows:

“The concept of intellectual property rights has been established to stimulate innovation and provide mechanisms that allow others to more easily benefit from the creativity of the innovator.”

- Page 2, second bullet: after “Internet-related standards” insert “and IP-based network standards, respectively”.
- Add to the end of the last sentence:
“or the use of intellectual property in a particular situation”

11. Section 3);

- In the first bullet on page 3, modify “ensuring the IPR are disclosed and issues settled before a standard is approved” so that it would read:
“encouraging the IPR are disclosed and the licensing option to be selected before a standard is approved”
- The second bullet suggests that the Internet has created a different “space” for intellectual property. However, this bullet does not reflect that the need and benefits of stimulating innovation and providing a mechanism for more people to benefit from it still exists. Suggestions to dilute IPR since it has greater value could lead to less access by people around the world to innovative ideas and work products.
- Last bullet in the three bullet cluster on page 3, the “free development model” is not a non-traditional business model. It is not a business model, It is part of a business model since it is not sustainable by itself. This point should be explained if this bullet is retained.
- First paragraph below the three bullet cluster,
 - Only one point of view is discussed. The perspective of those that believe that the value in IPR is in promoting innovation and permitting others to benefit is not stated here.
 - In addition, the clause “that they created” should be added at the end of the paragraph

12. Section 4; last paragraph – should be modified as follows:

- “waive their rights” should be changed to “license on a royalty-free basis”
- “approved standards” should be changed to “the standard being approved”

13. Section 5; the discussion of WIPO and WTO, and the discussion of ICANN are handled quite differently. ICANN is described as being more reflective of ICANN criteria, but is criticized because some raise questions about it. WIPO and WTO are acknowledged to not meet the same standard, but then they are complemented for efforts to address the deficiencies with the suggestion that “much work remains to be done”.

14. Section 6, first paragraph once again stresses affordable access without again considering that “the greatest good is achieved for the greatest number of people” is also possible when innovation and creativity is promoted with mechanisms that allow ways for all to benefit.



ICC Commission on E-Business, IT and Telecoms (EBITT)

Business leaders and experts drawn from the ICC membership establish the key business positions, policies and practices on e-business, information technologies and telecommunications through the EBITT Commission. With members who are users and providers of information technology and electronic services from both developed and developing countries, ICC provides the ideal platform to develop global voluntary rules and best practices for these areas. Dedicated to the expansion of cross-border trade, ICC champions liberalization of telecoms and development of infrastructures that support global online trade.

About ICC

ICC is the world business organization, the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world. ICC promotes an open international trade and investment system and the market economy. Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment, e-business, IT and telecoms policy, as well as on vital technical and sectoral subjects. ICC was founded in 1919 and today it groups thousands of member companies and associations from over 130 countries.

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