Association for Progressive Communications (APC)

Association for Progressive Communications
http://www.apc.org
(ECOSOC I CONSULTATIVE STATUS)

Comments on WSIS documents dated 21 March 2003

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1. Introduction

The Association for Progressive Communications (APC) is an international network of civil society organisations dedicated to empowering and supporting groups and individuals working for peace, human rights, development and protection of the environment, through the strategic use of information and communication technologies (ICTs), including the Internet. http://www.apc.org

APC has consultative status with ECOSOC and has a long history of working with the United Nations http://www.apc.org/english/about/history/full_story.shtml?x=9955. APC has participated in the WSIS process from the outset and is a member of the Global Knowledge Partnership and the UN ICT Task Force, both which are playing active roles in the WSIS. APC is also a member of CRIS (Communications Rights in the Information Society) campaign and along with our members have been active in the Human Rights, Communication Rights, Community Media, Information Security and all regional caucuses.

APC recognises the efforts of the drafting committee to include the concerns and interest of the many governments, private sector and civil society stakeholders that have participated in this process.

2. Comments on the Draft declaration of Principles: WSIS/PCIP/DT/1-E

General comments:

Whilst we welcome many of the principles outlined in the declaration, there are critical issues which are not addressed sufficiently, if at all.

The document does not explicitly confront the fact that fundamental political, social and economic inequalities shape our world. Nor does the document adequately recognise the centrality of gender inequality to broader social inequality.

Increased access to knowledge, without greater access to power and decision-making and the equitable redistribution of available resources, is unlikely to result in reducing the gap between the powerful and the powerless.

We are very concerned about the sections on 'Building Confidence and Security in the use of ICTs', an increasingly important and controversial issue. The wording in the text is not based on sufficient discussion with relevant stakeholders, and demonstrates a lack of awareness of current debates in this area.

This area covers a broad range of intersecting issues and rights including: technical reliability and security, communications data retention, export of data beyond national boundaries, surveillance, communications interception, citizen identification requirements, information sharing and data matching, data mining, direct marketing, health information systems, financial systems, employee monitoring, law enforcement use of data, judicial oversight, governance and accountability, "cybercrime" issues, freedom of information issues', definition of 'harmful and illegal' content, consumer rights and confidence – to name only some.

Many existing rights, including privacy and data protection, have come under unprecedented stress throughout the world in the course of policy development and legislation in this area. Development of policies and actions in this area requires a high degree of understanding, sensitivity and wisdom and must reflect the concerns that citizens' rightly have about the fragile future of these fundamental rights[1].

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[1] Please refer to the Privacy International open letter to members of the European Parliament, 30th May 2003) http://www.privacyinternational.org/intl_orgs/eu/delgado-letter-503.html

There is insufficient reference to impacts on the environment in the information society resulting from new technologies and infrastructure. This is a crucial oversight. There is one reference to environmental protection in the Action Plan, but none in the Declaration of principles.

While Intellectual Property Rights are mentioned, the document does not sufficiently acknowledge the impact of IPR on access to information and knowledge, nor on technological innovation.

The declaration of principles would benefit from being synthesised into a more concise document without so much repetition.

Specific comments:

A. Building the information society: a new global challenge in the new Millennium

We note the absence of reference to fundamental inequalities within and between countries.

Re. Paragraph 3 (and 11 in section B): Whilst acknowledging the common resolve as reflected in the Millennium Declaration, we believe that aall negotiations and agreements made at the WSIS need to be based on a reaffirmation to commitments made at previous United Nations conferences and summits, including amongst others, those on women's rights in Nairobi and Beijing in 1985 and 1995; the CEDAW Convention, entered into force in 1981; on the rights of the child in New York in 1990; on environment and development in Rio de Janeiro in 1992; on human rights in Vienna in 1993; on population and development in Cairo in 1994, and on social development in Copenhagen in 1995.

B. We declare our common vision for the information society

We value the emphasis on the need for inclusiveness stated in paragraphs 7 and 8.

We believe that paragraph 9 should be deleted. It is not networks that will enable people to achieve their full potential, but a society in which people have more equitable access to the world's resources and the ability to participate effectively in the decisions that impact on their lives.

We want to particularly endorse the reference to the UN Universal Declaration of Human Rights in Paragraph 10 but feel, like the Human Rights Caucus, that it is not sufficient to assert that "the essential requirements for the development of an equitable Information Society" should be "in accordance" with Article 19 of the UN Universal Declaration of Human Rights. Instead, the document should simply declare that Article 19 must be enforced.

In addition, as many have pointed out, the principles of a better balanced flow of information, press freedom, participation in the communication process, and knowledge sharing will become truly meaningful only when they are viewed as being supported by a complex of rights, not just Article 19.

To this end, we support the full submission of the Human Rights Caucus which articulates a WSIS Rights framework thus:

- Need for a consistent articulation of rights
- Recognition of information and communications as public common goods
- Democratic governance and human rights enforcement
- Relevant rights from the UN International CCPR and CESCR

In recognising the centrality of gender equality to social, political and economic equity, we call for the enforcement of Articles 1 and 2 of the Convention of the Elimination of All forms of

Discrimination Against Women, which substantively promotes the principles of equality and non-discrimination[2].

C. An information society for all: key principles

We suggest that paragraph 12 in its current form be deleted. The 'information society' is not an entity which can serve the interests of anyone. Moreover, the interests of all countries in the world are often conflicting, rather than common. However, we affirm that LDC's, SID's, and economies in transitions should receive particular attention.

We affirm paragraph 14 with respect the importance of empowerment and inclusion, but note that women, who are often at the deepest end of the digital divide, are not explicitly referred to.

We want to particularly affirm the following paragraphs:

15, referring to gender equity. We would like to, as proposed by the Gender Caucus, suggest that the first sentence of this paragraph be altered to include the phrase 'access to and control over resources' so that it reads: "Unequal power relations and other social and cultural aspects have contributed to differential access, participation, control over and access to resources and status for men and women".

1) Information and communication infrastructure

In this section we want to particularly affirm the following paragraphs:

16, which refers to the interests of young people

17, which refers to Universal, ubiquitous and affordable access to ICTs. In the environment of rapid technical innovation, the principle of universal access should be redefined and extended to apply to traditional, mass, community and new media.

We feel that the paragraph on Community access points should include a reference to the need for access in the workplace.

2) Access to information and knowledge

We want to affirm paragraphs:

20, which refers to measuring and mapping. We propose that all such initiatives are gender aware and include a focus on impacts on men and women.

23, which refers to the public domain. We feel that this paragraph should include text to the effect that it is necessary to 'protect and extend the public domain: "A vibrant and rich public domain is an essential element for the growth of the Information Society, and as such must be protected and extended. Information in the public domain, which includes publicly funded writing and research, must be freely and easily accessible."

24, which refers to open standards and open source. In this paragraph we would like to see an addition to the effect that open standards and open source create an enabling environment for innovation in the ICT sector and enable secure internetworking

3) The role of governments, the business sector and civil society in the promotion of ICTs for development

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[2] http://www.iwraw-ap.org/SubstantiveEquality.html

We are concerned that there is no acknowledgment of the different roles of these sectors. It is precisely the difference in the roles of these sectors that result in the diversity and multi-level development and services that are needed for equitable access to ICTs and the benefits they can bring.

4) Capacity building

We feel that this section should also include a reference to the role that ICTs can play in human rights education by building people's awareness of their rights.

5) Building confidence and security in the use of ICTs

Paragraphs 36-37

As noted in our introduction, we are very concerned with this sections in both the Declaration and Action Plan.

The paragraphs overstate the security of governments and neglect the rights of individuals and organisations who make use of electronic communication networks.

The first step in building confidence of all stakeholders, is to provide space for comprehensive discourse on the intersection of information security issues, civil liberties and human rights, leading to informed decisions and a more legitimate process.

Some of the current debate and discourse in the public domain on these issues has led to the development of useful guidelines which could be reviewed by WSIS stakeholders (such as the OECD guidelines for the Security of Information Systems and Networks)[3].

Unfortunately, there are proposals to adopt other conventions (such as the CyberCrime Treaty) or create new ones emulating them, which directly contravene or remove, existing rights and protections.

In addition, the entire drafting process was conducted in a non-transparent manner, with little or no access given to the stakeholders who will be affected.

Civil Society has been, in the large, absent, or denied access to current discussions in this area. The WSIS could redress this situation by providing space for more discussion with all stakeholders.

Much of the focus in the text is on 'technical reliability, security, and robustness'; yet, Internet security can be most effectively achieved by the use of free and open source software - free source code that can be publicly modified and redistributed.

We would propose, rather than editing existing language, that a multi-stakeholder group be formed, tasked with developing a new value and principle framework, based on the previous work of all stakeholders, so that a cohesive and legitimate framework underpins the Action Plan. We are more than willing to contribute to that work.

6) Enabling environment

In general we affirm the contents of the section dealing with an enabling environment (paragraphs 38 to 45).

Regarding Paragraph 39 on good governance: we welcome this paragraph, but would note the importance of ensuring all stakeholders have access to all levels of decision-making processes.

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[3] http://www.oecd.org/pdf/M00033000/M00033182.pdf

Noting, as stated in the text: "Information is the basis of a well functioning and transparent decision-making process for both global society and local communities" we note that it should follow that a principle of full disclosure should be adopted by governments with respect to all public information. These principles can and should be incorporated in Freedom of Information Acts at the national level.

Paragraph 40, the phrase 'non-discriminatory' should be deleted.

We feel that paragraph 44, referring to the management of Internet names and addresses could be altered along the following lines:

> "While the Internet was designed to require minimal oversight, there are important aspects of its operation that do require decision-making by a central body. It is essential that any such body have a limited mandate so that it does not become a general purpose Internet governance organization, and that any such body is fully accountable to the public.
>
> The Internet Corporation for Assigned Names and Numbers (ICANN) is a non-profit organization incorporated in the State of California. It has broad control over resources and functions that are essential for the operation of the Internet. ICANN's mission should be limited so that it does not have more control than necessary over this increasingly important public resource. ICANN should be accountable to the public for its management of a public good. " (From the Consumers International contribution http://www.itu.int/dms_pub/itu-s/md/03/wsispc3/c/S03-WSISPC3-C-0005!!MSW-E.doc)

An addition should be made to the effect that national level authorities (such as those acting as custodians of country code TLDs) should be accountable to their local constituencies, and involve them in developing policy.

Paragraph 45: We believe that this section should refer, even more explicitly than is currently stated to the need for equitable trade and tariff regimes.

7) ICT Applications

No additional comment.

8) Cultural identity and linguistic diversity, local content and media development

In the paragraphs (48-51) addressing cultural identity and linguistic diversity and local content and media we believe that a reference should be added to the need to ensure diversity in the ownership and control of the media. Without such diversity in ownership and control the media cannot play the role it needs to in creating a platform for different voices and opinions.

9) Ethical dimensions of the Information Society

No additional comment.

10) International and regional co-operation

Paragraph 53, addressing international and regional co-operation should include a reference to the need for such cooperation to be inclusive of all stakeholders and that the participation of developing countries, particularly LDCs should be ensured at all levels (including agenda-setting) of the policy making process.

3. Comments on the Draft action plan: WSIS/PCIP/DT/2-E

General comments

APC wants to express its concern that the most important element of any such document, benchmarks and targets, is limited to one section (B. Objectives, paragraph 45) and only 12 points.

Moreover, these points (paragraph 45), containing the only specific commitments to action in the entire Action Plan, seem to be have been compiled in rather an ad hoc fashion, and do not seem to be in the context of the many important issues identified throughout the rest of the document.

We would like the document to also affirm and support decisions made in previous UN conferences, as noted in our comments on the declaration of principles above.

Without specific and meaningful targets; a monitoring and evaluation framework; a means for redress when commitments are not met; and allocation of adequate resources, we are doubtful that this Action Plan will lead to any significant actions. We do however note Section E on follow up, and have added some additional comments to that section.

Specific comments

A. List of issues

1) Information and communication infrastructure: financing and investment, affordability, development and sustainability

Paragraph 9 refers to interconnection fees. This is indeed an important area. However, the existing text is problematic in the sense that it proposes that fees be based on 'non-discriminatory and market-led parameters'. In many cases it is market-led parameters that results in discriminatory pricing, for example in the case of Internet backbone costs where consumers in smaller markets in developing countries contribute a disproportionately large portion of the cost. Similarly, users and resellers in smaller markets in rural areas pay higher connectivity costs when pricing is determined by purely market-led parameters.

We particularly support the text on environmental protection in paragraph 11 and suggest that this matter received even greater attention in the Action Plan. [4]

2) Access to information and knowledge

Paragraph 13 refers to the public domain. This is an area of central importance to the APC. However, the current text states that information in the public domain 'should be of a high quality' and easily accessible. We feel that what the text should say is simply that a strong and growing public domain is a pre-requisite to equitable access to information and knowledge. Current developments are increasingly limiting the public domain; if left unchecked by regulation and policy, commodification of the information and tools which underpins the so-called information economy could result in less access rather than more.

We would suggest adding the following text: "Governments should adopt electronic freedom of information acts and publish all public information electronically as well as in traditional formats. "

We commend the sub-committee for the inclusion of open standards and open-source software in paragraph 14.

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[4] See: http://www.crisinfo.org/live/index.php?section=4&subsection=2&doc=15

However, we feel that the specific reference to UNESCO's CDS/ISIS is not appropriate.

What would be useful would be to mention that in the deployment and strengthening of open source software attention should be focused on four layers:

- the application layer (developing of useful public interest open source application, for example in the health sector)
- the human capacity layer (building the capacity of programmers and users to benefit from these applications)
- the documentation layer (ensuring that materials exist to enable people all over the world, in their own languages, to use OS applications, and develop their own)
- the policy layer (governments should make specific policies to channel investment towards OS applications and human capacity development)

3) The role of governments, the business sector and civil society in the promotion of ICTs for development

No comments.

4) Capacity building: human resources development, education, and training

In paragraph 21 dealing with ICTs in education we feel that specific reference should be made to educating girls. This should also be reflected in targets.

Paragraph 22 dealing with capacity building for ICT use is very important, and in fact is one of APC's priority areas of activity. We would appreciate mention of the importance of building the capacity of the many, small and large, civil society organisations that play a crucial role in development, from community-based level to that of national, regional and international networks.

We would also prefer the text that refers to providing women with equal opportunities in ICT training to be changed to read that women should receive priority in ICT training initiatives.

5) Security

All activities developed in this area should follow from outcomes of further discussions as noted in our comments on the Declaration (page 6 of this document).

If, for example, the WSIS was to support implementation of the OECD Guidelines for the Security of Information Systems and Networks', an action plan implementing those guidelines would naturally follow here.

However, in the absence of a cohesive value and principle framework, we see little value in articulating action points.

6) Enabling environment

Paragraph 28 highlights the need for good governance in creating such an environment.

However, the constructive elements of this text are undermined by the phrase '…thus favouring the necessary investments, mainly from the private sector, in the deployment of infrastructure and development of new services'.

This is a highly contentious and problematic assertion.

While not discounting the role of the private sector in infrastructure development we want to assert that ensuring necessary infrastructure is a public sector responsibility.

In response to paragraph 29 addressing the market environment we feel that there should be specific mention to the strengthening of locally owned ICT businesses in developing countries. Reference should also be made to the fact that the current ICT market environment is distorted in that it is monopolised by a few corporations, based primarily in North America and Europe. The text should refer to the need to change this distortion through breaking down monopolies, opening of standards, easing of intellectual property restrictions and strengthening of locally owned and controlled ICT industry in developing countries.

We applaud the inclusion of standardisation in paragraph 30. We would like the term 'non-proprietary' to be included so that the text reads ' … must be based on platforms of **non-proprietary** internationally interoperable technical standards, accessible for all etc.'.

In paragraph 31 on Spectrum management there is no mention that spectrum is part of the global public commons even though the text states that it should be managed in the public interest.

We are partially in agreement with the text on intellectual property paragraph 34. What is missing is text that notes that IPRs are also playing a negative role that limits innovation in the ICT sector and that it is essential to reform current IPR in order to create a more level playing field that can enable the use of ICT's to promote development and economic justice.

Also, with respect to 'taking into consideration the global consensus achieved on IPR issues in multilateral organizations' we would like to note that it is imperative that such deliberations should be conducted with openness and transparency, and that these processes be open to participation by all stakeholders.

7) Promotion of development-oriented ICT applications for all

We affirm the inclusion of paragraph 35, but would like to add 'and community' so that the sentence reads:

"…to ensure that traditional **and community** models are recognized and respected, so that the non-users of ICTs are not marginalized."

Regarding paragraph 36, we want to affirm the text on E-government. However, specific targets, incorporating gender planning, need to be linked to this text, particularly to ensure that governments focus on using ICTs to provide services to those people that currently have least access to government services (for example in under-served areas).

We feel there should also be a mention of the use of ICTs to conduct e-governance and build up democratic institutions and processes by involving the public in decision-making and supporting freedom of information.

We also affirm the text on E-business in paragraph 37, but fear that emphasis is placed on the role of E-business in using ICTs for development at the expense of emphasis on the primary role of the public sector in ensuring that citizens receive the rights and services to which they are entitled.

We commend the sub-committee for the text on e-learning and e-health, but once again want to make the point that without specific targets and benchmarks little is likely to happen. We feel that in the section on e-health (paragraph 39) women should be mentioned as a specific group to be targeted. We support the fact that children are already mentioned.

Reference should be made to the need for high ethical standards in developing policy which ensures accuracy, privacy and confidentiality of patient information.

In paragraph 43 on content much that is useful is mentioned. However, the most important point, from our perspective, is absent. Unless public interest content is made available in the

public domain (under open content or creative commons licensing agreements) only those that can afford to pay will benefit. One has to merely mention the difficulty that developing country universities have in accessing scientific publications to bring home the importance of this point.

In paragraph 44 on the media we feel there should be mention that policy and regulation should ensure diversity in the ownership and control of the media. Without such regulation the media, including Internet media, is increasingly under the control of fewer corporations, reflecting narrower views at the expense of diversity of opinion and culture.

B. Objectives

As asserted already we feel this is by far the weakest section of the Action Plan. It should be the strongest.

45a) Benchmarks

We affirm the commitment to setting benchmarks and indicators.

As previously noted, benchmarking and the development of indicators must incorporate gender planning. In addition, benchmarking and indicators in themselves, though useful, will not contribute to achieving development goals, if they are not accompanied with policies and systems for evaluation, monitoring and redress.

45b) E-Strategies

We affirm the need for the development of national e-strategies, but would add that all stakeholders be involved in such processes.

45c) Global Digital Compact

We question the value of paragraph 45 c) on the global digital compact. In our experience compacts that take place at the global level have little constructive impact and tend to result in little other than costly international meetings. Where partnerships between government, the private sector and civil society are meaningful is at national and local levels.

Global level private public sector compacts lack credibility and are seen as mechanisms to open new markets for large international IT corporations that are already receiving unfair advantages from current regulatory regimes.

d) Digital development index

We affirm the development of such an index, but would add that any such index must include gender-disaggregated data.

e) Handbook on good practices and success stories

We also question the need for initiatives such as the Handbook on good practices. Many such initiatives exist already (Global Knowledge Partnership; and the Development Gateway, for example) and the value of these existing initiatives should be evaluated before investing in new initiatives.

C. Strategies programmes, methods for implementation

In paragraph 46 we feel there is little focus on implementation, particularly in the paragraph on governments (paragraph 47). We already have to deal with the fact that many developing country governments make policies and regulations which they do not have the capacity to implement effectively. The role of independent regulation and monitoring should be emphasised here.

In paragraph 49 on civil society there is no mention of the critical perspective that civil society can provide. Nor of the pressure from civil society on government and the private sector without which they are less likely to be accountable for acting in the public good.

We feel strongly that the text in paragraph 50 on the media is very problematic. It refers only to the mass media, not to community media, and does not refer to diversity of ownership and control and content. Unless the current ownership and control of the mass media is shifted freedom of expression will be limited, not by state control as might have been the case in the past, but by the one-dimensional world view propagated when a few large multi-national media corporations control what we hear and see throughout the world.

52. Performance monitoring

We would like to note the importance of incorporating gender analysis and planning in relation to the following:

"…strategies should include timeframes, indicators and mechanisms for monitoring performance based not only on quantitative but also qualitative criteria"

The paragraph on specific initiatives (paragraph 53) is so meagre that there is little to comment on. It shows lack of strategy and focus, and linkages to the rest of the action plan.

For example, 'creating a network of IT consultants'. What does this really mean? Why is this a priority for governments?

We suggest this paragraph be deleted or that any meaningful points be incorporated in other sections of the action plan.

Section D. International cooperation and financing.

We support most of the content in this section (paragraphs 54 to 55). However, key issues are missing. Unless the global playing field is levelled, the gap between the ICT haves and have-nots is unlikely to change. For example, current ICT pricing (including Internet backbone) structures which disadvantage poor countries.

We support the creation of a digital solidarity fund, but want the text to include a statement to the effect that the governance of this fund should be transparent and driven by multiple stakeholders, including civil society and developing country governments.

While we are not at all in disagreement with the text on technology transfer in paragraph 56 we feel that creating the conditions for locally owned and driven innovation in ICT poor countries is essential if we do not still want to be talking about technology transfer in the next century.

E. Follow up

We applaud that there is a section on follow up (Section E), but, unless the issue of targeting is addressed effective follow up is not really possible.

We do again reiterate, the need to incorporate gender budgeting, planning and analysis in any follow up mechanisms.

END