Open Consultation: Public Policy Considerations for OTTs
ITU Council Working Group on International Internet-Related Public Policy Issues
August 14, 2017

SUMMARY

The U.S. Council for International Business (USCIB) appreciates the opportunity to participate in the open consultation convened by the ITU Council Working Group on International Internet-related Public Policy Issues (CWG-Internet) on the topic of "Public Policy considerations for OTTs." USCIB is a U.S.-based trade association composed of more than 300 multinational companies, law firms, and business associations from every sector of the U.S. economy, with operations in every region of the world. In particular, USCIB Members include a broad cross-section of the leading global companies in the information and communications technology (ICT) sectors.

We take this opportunity to offer a *multi-sectoral perspective* on:
1. The importance of staying true to the ITU's primarily technical mission in developing international telecommunication standards and allocating spectrum, and not expanding the ITU's work program to include Internet-related issues that are well beyond its remit, core competencies, and budgetary resources. Such issues are most effectively addressed in multistakeholder forums, where policy is holistically and expertly informed by consultations among business, civil society, the technical community, and government;
2. The promise of innovative online services and applications for economic, developmental, and societal benefits goals set forth in the U.N. Sustainable Development Goals; and
3. The related need to ensure an enabling environment for continued innovation and investment in these services. In this regard, market-driven solutions and voluntary, industry-led standards best ensure a healthy digital ecosystem.

ITU Should Focus on Core Competencies

USCIB acknowledges the ITU's [primarily technical mission](#) to develop international *technical* standards that enable telecommunications network interconnectivity and strive to improve access to ICTs to underserved communities worldwide. We further value and respect the Union's role in allocating spectrum and promoting human capacity-building in developing countries. These are the ITU's core competencies and uncontested remit. They should not be compromised as they have served global telephony exceedingly well for more than one-hundred years and likely will continue to do so with the advent of next-generation networks.

Avoid Expanding Jurisdiction – USCIB therefore does not support efforts to expand the ITU's jurisdiction and work programs to include Internet-related issues, such as online services and applications. We note that the open consultation on "Public Policy considerations for OTTs" represents the *third time* the ITU has solicited stakeholder views on this topic. During the previous two instances, undertaken in ITU-D Study Group 1 and ITU-T Study Group 3, various stakeholders expressed that OTTs are not an appropriate regulatory initiative for the ITU. Thus, this third effort by the ITU suggests to us that there will remain differences of opinion on this point and this undertaking is duplicative at best.

Resource Constraints; Lack of Expertise -- Moreover, taking on OTT and other Internet-related work risks stretching already limited resources to the detriment of the ITU's core competencies in technical standards, radio spectrum, and development. Expanding its work program beyond its current remit would compromise the Union's ability to meet its current goals.

An OTT-focused work program also would be wastefully duplicative. Such work is more effectively performed in existing multistakeholder, globally recognized, Standards Development Organizations (SDOs), such as the Internet Engineering Task Force (IETF), and the IEEE, both of which possess an impressive breadth of technology expertise not available at the ITU.

The Promise of Innovative Online Services and Applications

As the global Internet has evolved, an array of services and applications have fueled economic growth, created jobs, enabled SMEs, and provided benefits to consumers and society at large. We note the ITU's recent report on leveraging technology to achieve global goals, which explores how Internet-enabled innovations indeed are transforming economies, lifting productivity, and boosting incomes. Further, the flexibility of Internet platforms permits entities other than just network owners to develop, provision, and sell services to consumers.

The resulting broad range of online services and applications have helped to promote economic growth and enable new local value creation by facilitating access to new markets for local merchants, easing money transfers between individuals and businesses, and providing new opportunities for businesses to advertise their products and services globally with lower monetary risk and lower barriers to entry. In addition, online services and applications have served to bridge language barriers, helped to empower people with disabilities, extended connection of services to remote areas, and enhanced the delivery of healthcare services and educational opportunities throughout the world – all of which contribute to realizing the United Nations 2030 Sustainable Development Goals (SDGs).

Given the rapid changes in technology, near constant innovation in business models, and ever-evolving customer preferences, a specific definition relating to "OTTs" is an impossible task with no real benefit. The range of products and services that use the Internet is so vast that no single definition will be helpful in assessing policy issues and implications.

Relationship between Network Operators and Service/Applications Providers in the Digital Economy – Industry experts have correctly observed that the evolution of the global Internet has created a new digital ecosystem of symbiotic elements. In this new ecosystem, connectivity, content, services, and applications may be combined or offered separately, with all being critically interdependent. A holistic approach to the digital communications ecosystem best fosters a positive environment for the development and proliferation of compelling online content and applications, which may support demand for the continued evolution of superfast broadband. Such an approach will ensure that the Internet remains a platform for innovation, competition, and sustainable economic development. As we will discuss below, this feature of the digital ecosystem has important implications in considering the need for, or appropriateness of, certain regulatory approaches.

OTT applications depend on and interact with networks to make their products both functional and accessible. In a similar fashion, networks benefit from growing demand for innovative online services and applications, including the ones they offer on their own. Providers of networks and

online services and applications both invest hundreds of billions of dollars per year in internet infrastructure and its applications.

The ultimate beneficiaries of this "virtuous cycle" of interdependence between service/applications providers and network providers are consumers and national economies. The World Bank has found that every 10 percent increase in broadband penetration accelerates economic growth by 1.38 percent, with other consultancies finding similar GDP and labor productivity gains from broadband penetration.

Ensuring Enabling Conditions for Innovation and Investment

As we have examined above, access to broadband networks and the Internet will continue to serve as a critical foundation for realizing the developmental potential of innovative online services and applications. Policies therefore should make more high-quality spectrum available and promote investment in deployment of "last mile" broadband, backhaul, and wireless infrastructure. An important complement is the creation of an enabling environment for innovation and investment in all stages of the value chain – infrastructure, services, applications, and content.

As digitalization has transformed the economy – creating extraordinary opportunities for economic growth and improved quality of life – it also has given rise to challenges. USCIB maintains that such challenges are most effectively addressed through an approach that aims to optimize the benefits of digital transformation while ensuring that challenges are addressed in a fair and inclusive manner using a variety of policy tools. Top-down, preemptive regulation risks hampering economic and social benefits.

The underlying rationale for legacy voice telecommunications regulations does not neatly apply to providers of OTT applications that are either independent of or affiliated with networks, nor to today's network operators that also operate in the highly competitive markets. Across the entire digital ecosystem, a reliance on market-driven solutions best ensures a healthy ICT sector and mutually beneficial interdependence between network providers and service providers.

Importance of Market-Driven Voluntary Standards – Countries that impose unique standards or require establishment of local infrastructures or data storage risk disrupting the flow of digitally-based services and create disincentives for doing business in that country, all of which end up causing economic harm to that country contrary to the aim of the regulation.

Standards should be voluntary and driven by industry as they develop new services and applications that meet consumer needs. Their development should be undertaken in an open and inclusive manner by globally recognized, expert, multistakeholder private-sector SDOs, like the IETF and the IEEE. Cooperation within and between the SDOs will ensure wide adoption of standards, support innovation, and avoid fragmenting the network.

In summary, the development of Internet-related standards should not be driven by governments in the ITU or other intergovernmental organizations. While governments are at liberty to participate in multistakeholder standards development processes, government-led development of standards will be problematic as this often results in protectionist barriers. In addition, the rapidity of technology innovation often eclipses the more time-consuming government process of developing standards, the latter of which greatly hampers continued innovation.

<u>Conclusion</u>

USCIB respectfully asks for your thoughtful consideration of our submission to the open consultation on "Public Policy considerations for OTTs." We urge the ITU to remain true to its core technical remit and oppose efforts to expand the ITU's jurisdiction and work programs to include Internet-related issues. Such issues are most effectively addressed in multistakeholder forums, where policy is holistically and expertly informed by consultations among business, civil society, the technical community, and government.

We underscore our belief that Internet-enabled services and applications have the potential to realize many of the developmental goals set forth in the SDGs, provided there are appropriate enabling conditions for innovation and investment. In this regard, market-driven solutions and voluntary, industry-led standards best ensure a healthy digital ecosystem.