'The Oxford Consensus'

Summary Report of Oxford Internet Institute Forum:

'*The Struggle Over Internet Governance: Searching for Common Ground*'.

Held at the Oxford Internet Institute, University of Oxford, OX1 3JS, UK.

6th May 2005

As the United Nation's Working Group on Internet Governance discusses the role of governments in Internet governance, the Oxford Internet Institute (OII) and Harvard Law School's Berkman Center for the Internet & Society convened a day-long forum to consider new approaches to the controversial issue. Around 25 people from different backgrounds participated. To encourage frank dialogue, the event was held under the Chatham House Rule that forbids attribution without a speaker's consent.

The forum provided an opportunity for fresh thinking in an informal, cooperative environment. Although there was not always agreement, a number of important points of consensus emerged. This summary report highlights five areas where views seemed to coalesce. It is made available to the WGIG and the Internet community at large not to advance a particular agenda, but in the same spirit of openness and cooperation that has enabled the Internet to thrive.

Points of Consensus

I. New Realism

Cyberspace is not a new space, and it is a real place. There are real stakeholders with significant stakes in the outcome of the Internet governance discussions. All governments have legitimate needs in having a degree of control over Internet activities and the domain name system, as the Internet emerges as a critical national infrastructure for the economy, e-government services and society. Public authorities should have input on Internet matters alongside the private sector (comprising industry, civil society, and others), yet steering clear of classical regulatory approaches that potentially curtail innovation. It is imperative to look towards the future rather than remain stuck

in the past—both in terms of mistakes made, as well as regarding the technology's evolution.

II. Achieving Balance

Internet governance, like all political questions, involves achieving the right balance; finding the golden mean. As discussions unfold over time, there has been a marked move to the middle, and extreme positions have softened. There are a number of dimensions where striking the right balance is essential, such as between:

- public sector and private sector (stakeholders)

- control and flexibility (political approach)

- stability and experimentation (technical innovation)

- centralization and decentralization (network design; governance approach)

- top-down and bottom-up (procedures)

- formal and informal (processes)

- closed versus open (communications architecture; political institutions)

- legal restrictions and permissive, laissez-faire (rules)

- political inclusion and technical competence (values and influence)

III. Admitting Change

Allowing for change is essential; the notion has multiple dimensions. First, it suggests that the current Internet governance arrangements are not necessarily the best one for all time, so it is important to be open to change. At the same time, any new governance framework has to take into account that the Internet itself is constantly changing. Flexibility is thus imperative in both dimensions. It would be 'un-Internet-like' if one were to presume that the governance system that worked well for the network at one stage should remain constant despite differences in uses, number of users and importance of the network. Likewise, any framework for Internet governance must not hinder experimentation and innovation, so that the network can evolve in the unpredictable ways that users will ultimately take it.

IV. Creating a Home

There are problems regarding the Internet where intergovernmental cooperation would be useful, but the issues do not have an institutional 'home' to help ensure the matter is well treated. If such a forum were to be created, it would be important to balance the governmental approach with which nations are experienced and comfortable, with the reality of Internet issues that inherently require broader stakeholders and mechanisms than governments alone to address. In the same way as the Internet is successful because of its decentralized, bottom-up structure, so too should its governance system resemble these characteristics, rather than be a large, top-down organization. It is important that Internet governance structures exist on a national level before extending it on an international level. Together, such institutional frameworks will give governments greater confidence in the technical and political workings of the Internet.

V. Architecture and Values

Many perceived problems of the Internet are not defects but features of the network, which account for its success. Government activities can serve a useful function by upholding the value of openness in the architecture of the Internet. Openness—both in regards to technology and the flow of information—fuels the innovation of the medium, as well as economic and political freedom. It would be self-defeating to try to 'fix' the Internet by winnowing its openness with regulation (or anticompetitive business models), since this would undermine the very thing that one aims to preserve.

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These points of general agreement are not new per se, but represent a formal articulation of some of the ideas already circulating, to which the majority of participants in the information society debate may agree upon. 'The Oxford Consensus' may serve as a cornerstone for dialogue to take place, so that parties can establish a set of common expectations for the outcome of discussions.

This summary report (and a set of 'Aphorisms' that follow) is supplemented by a book of background papers that many participants submitted prior to the forum, as an overview of their perspectives. Additionally, a full-fledged conference report is being released separately by the Oxford Internet Institute.

The overriding consensus of the forum participants was an appreciation for the friendly and thoughtful atmosphere in which these themes were considered. This in itself is a positive augur for resolving tensions over Internet governance issues.

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Aphorisms on Internet Governance:
A short selection of comments from the OII Forum Discussion

❖ 'Are we becoming less utopian about the Internet but more utopian about governance?'

William Dutton, on the information society and regulation.

❖ 'It's like asking for directions and being told: "Well, I wouldn't start from here!" We have to play the cards we're dealt.'

Pindar Wong, on reforming ICANN.

❖ 'It is very easy to design things when you have a blank sheet of paper, and much harder when you have things that are fixed and you have to manoeuvre within that.'

Steve Crocker, on designing technical standards (and governance mechanism).

❖ 'The question we have to ask ourselves is what architecture of the internet do we want to promote? What are the values we want from that architecture?'

Bernard Benhamou, on principles of technology and governance.

❖ 'We are still in search of governance. We are still in search of these institutions. The older generation has now come back to the table and are asking seriously what should be done.'

Christian Ahlert, on the resurgence of Internet governance discussions.

❖ 'Those who fear chaos are part of the enemies of the future.'

Scott Bradner (citing Virginia Postrel), on the potential shortcoming of regulators.

❖ 'The good news is the future is something we build.'

Desiree Miloshevic, on finding balance in Internet governance.

❖ 'Part of governance is to slow things down and enable adaptation.'

Don McLean, on the role of governments in Internet governance.

❖ 'The digital divide is about who has access to information online and who does not. … Intellectual property rights likewise can be conceived of as a control mechanism to access to information.'

John Palfrey, on unequal access to the Internet.

❖ 'The role of the government is freedom—securing rather than freedom—intruding.'

Jonathan Zittrain, on principles of governance.

❖ 'When people come along who think they should be in charge, they are often not looking at the mutations that the future will bring.'

David Clark, on the futility of trying to 'govern' the Internet.

❖ 'Always read stuff that will make you look good if you die in the middle of it.'

Emily Taylor (quoting P.J. O'Rourke), on reading the OII background papers.