

**Keynote Address by Lawrence E. Strickling**  
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**- As Prepared for Delivery -**

For the past two years, I have been the last speaker here at the Silicon Flatirons Conference. I would sit through all the panels and try to provide some overall synthesis of the conference as the closing speaker. Anyone who knows me is aware that I am unable to prepare remarks until the last minute—so it was fitting that I would be the speaker at the last minute.

This year Phil Weiser has assigned me the task of providing some thoughts near the beginning of the conference. For me, this is a much harder challenge. Consistent with my tendency to prepare at the last minute, there is something of a race this morning to see if I will finish preparing my remarks before I finish giving them.

The conference theme this year is a timely one (but that is always the case for a Silicon Flatirons conference). Internet governance is one of the three most important issues we handle at the National Telecommunications and Information Administration (NTIA). This year, in particular, I expect to spend a substantial amount of my time addressing a broad range of Internet policy issues. In addressing these issues, our overriding goal at NTIA is to preserve an open, interconnected global Internet that supports continued innovation and economic growth. And while the issues have so far ranged from privacy and cybersecurity to the free flow of information to the domain name system, the common thread is the approach we use.

We are guided by two dominant principles. First is the idea of trust. It is imperative for the sustainability and continued growth of the Internet that we preserve the trust of all actors on the Internet.

Our second key principle is that we want to preserve and enhance the multistakeholder model as the preferred tool for dealing with Internet policy issues. Multistakeholder organizations have played a major role in the design and operation of the Internet and are directly responsible for its success. Within the Obama administration, we believe that maintaining and extending this model is important for ensuring the continued growth and innovation of the Internet.

Our support for the multistakeholder model of Internet policymaking is shared by many countries. Last summer, due in large part to the efforts of Ambassador Karen Kornbluh and Danny Weitzner in the White House, the Organization for Economic Cooperation and Development (OECD) adopted a set of principles for Internet policymaking that strongly endorse multistakeholder cooperation. The OECD principles state that “multistakeholder processes have been shown to provide the flexibility and global scalability required to address Internet policy challenges.”

This year is an important year for preserving and enhancing the multistakeholder model. In the United States, we will be rolling out a multistakeholder process to implement the Administration's privacy policy this spring. In the domain name system, the model is directly in the middle of a controversy between some American businesses and the Internet Corporation for Assigned Names and Numbers (ICANN) over the expansion of generic top level domain names (gTLDs). And an important set of activities will involve defining the role of governments in Internet governance while opposing the efforts of some governments to foreclose on existing processes and replace them with more traditional government regulation and control.

I will talk about each of these activities in the context of three critical issues that policymakers must consider in establishing or supporting multistakeholder processes:

- Determining who participates;
- Reaching and maintaining consensus; and,
- Defining the role of governments.

Let me start with participation. One key benefit of multistakeholder processes is that they can provide a vehicle to engage all interested parties. Such parties can include industry, civil society, government, technical and academic experts and even the general public. Contrast this approach with more traditional telecommunications regulatory processes which, by their very construct, have a more limited set of stakeholders and are often designed to limit direct participation, or at least make it difficult for others to participate. Top-down regulatory models too often can fall prey to rigid procedures, bureaucracy, capture by incumbents and stalemate.

Internet policy issues, on the other hand, draw a much larger range of stakeholders given that the Internet does not operate under the anachronistic model of monopoly telephone providers that control all aspects of their networks within their countries. Rather, the Internet is a diverse, multi-layered system that thrives only through the cooperation of many different parties. Solving policy issues in this space requires engaging these different parties. Indeed, by encouraging the participation of all interested parties, multistakeholder processes encourage broader and more creative problem solving. This is essential when markets and technology are changing as rapidly as they are.

As we move forward to establish the Administration's forthcoming privacy policy, we will establish multistakeholder processes to develop codes of conduct implementing a consumer bill of rights. Right out of the gate, we will need to be clear about who can participate in the process and how we, as the convener of these processes, can ensure that all interests are fairly represented. Certainly, industry will participate—after all, companies will have to decide on their own whether to adopt a code once it is developed. But what we envision goes beyond the past self-regulatory efforts of industry to develop codes of conduct. We want a process in which there is diverse participation—where consumer groups, civil society and academic experts can participate on an equal footing with industry.

This is not as easy as it might seem. Simple logistical issues such as deciding where to meet, how often to meet or assigning responsibilities to prepare materials can greatly affect the ability

of groups of stakeholders to participate in a meaningful way. These are matters to which we will pay close attention as we initiate the process this spring.

The second issue I want to address is how to reach and maintain consensus in a multistakeholder process. First, of course, we need a shared understanding of consensus. Experience, particularly in international organizations, suggests that a voting model does not work well. Just as unworkable is the idea that consensus means unanimity. It has been instructive to watch the Governmental Advisory Committee (GAC) of ICANN wrestle with this issue, which has become more important as the ICANN Board has engaged the GAC on a more formal level to receive and respond to GAC “consensus” advice. The GAC has settled on a view of consensus tied to the idea of non-objection, that is, if the group reaches a position to which members do not object, it becomes the consensus view even though some members may not affirmatively support the position. This approach will be tested this year as the GAC deals with the process to object to proposed new gTLDs later this year.

Organizations that convene or manage multistakeholder processes have to be vigilant to make sure they do not inadvertently interfere with the effort to reach consensus. For example, with respect to privacy, we at NTIA will be very cognizant that our role will be limited to that of convening and facilitating the effort. We cannot be offering or substituting our judgment for that of the group trying to reach consensus.

Similarly, the ICANN Board increasingly finds itself forced to pick winners and losers because its policy development process does not always yield true consensus-based policy making. This is not healthy for the organization. The strength of the multistakeholder process is that it forces all participants to work together to find a mutually acceptable way forward. How the Board makes decisions is just as important as how ICANN engages its constituents in the process. If stakeholders understand that they can appeal directly to the Board to advocate for their particular policy position, they have less incentive to engage in the tough discussions to reach true consensus with all stakeholders during the policy-development process.

There is an equally large concern with maintaining the consensus once it has been reached. Nowhere is this point better demonstrated than in the criticism that surfaced in December regarding the expansion of top level domain names by ICANN. For the last six years, ICANN and its many stakeholders have debated the rules to govern this program. ICANN’s process involved global stakeholders from the business community, civil society, registries, registrars, and governments. Nonetheless, we saw parties that did not like the outcome seeking unilateral action by the U.S. government to overturn or delay the product of ICANN’s six-year multistakeholder process that engaged folks from all over the world.

It is important to separate the concerns some industry members have from the process they wish us to employ to change the decisions and compromises ICANN reached with stakeholders around the world. To the extent that some members of industry believe there are a number of unintended and unforeseen consequences that could jeopardize the success of the expansion program, we are sympathetic to those concerns. We have urged ICANN to mitigate concerns and issues related to the perceived need for defensive gTLD applications and to improve communication with stakeholders and potential new applicants. But one thing that I did not do

was demand that ICANN abandon its multistakeholder processes to deal with these concerns. And that brings me to my final point—defining the role of governments within the multistakeholder process and responding to the threats of some governments to bring Internet policy issues under government control.

Each challenge to the multistakeholder model has implications for Internet governance throughout the world. When parties ask us to overturn the outcomes of these processes, no matter how well-intentioned the request, they are providing “ammunition” to other countries who would like to see governments take control of the Internet.

We have worked hard at NTIA over the last two years to provide for more accountability for governments in the ICANN policymaking process. In my role on the ICANN accountability and transparency review team, I assigned a high priority to addressing the question whether governments collectively can operate within the paradigm of the multistakeholder environment and be satisfied that their interests are being addressed. This is not a matter of turning over decision-making to governments, but finding a way to bring them willingly, if not enthusiastically, into the tent of multistakeholder policymaking. Fortunately, over the past year, the ICANN Board has stepped up to the challenge by creating a more formal process to receive and consider consensus advice from the GAC.

Continued progress in this area is critical because, increasingly, governments are making aggressive attempts to undermine the multistakeholder organizations whose work now supports the Internet’s growth and vitality. For example, the Shanghai Cooperation’s proposal for a UN-mandated “International Code of Conduct for Information Security” and the G-77’s proposal for a UN Committee for Internet-Related Policies (CIRP), both sought to debilitate the multistakeholder model and create a state-led model in its place.

This year there will be ample opportunities for these countries to continue their efforts. These opportunities will arise within the UN and the Internet Governance Forum (IGF), and perhaps most prominently, at upcoming treaty negotiations in the International Telecommunication Union (ITU). For example, many governments have called for the ITU to play a greater role in regulating Internet peering and termination charges in order to compensate for lost telecommunication fees. Also, in an effort to establish the ITU as an operational authority on international cybersecurity, some authoritarian countries have proposed to include cybersecurity and cybercrime provisions in treaty text. Some countries have proposed moving oversight of critical Internet resources, including naming and numbering authority, into an intergovernmental body. Each of these proposals, when viewed in isolation, would undermine a critical part of the diverse, multi-layered Internet. Viewed together, these proposals represent an attempt to return to supranational regulation, which simply does not fit the communication networks that the world enjoys today.

It is incumbent upon us to convince other nations that these efforts will be counterproductive to the continued growth of the Internet. The framework simply will not fit. An Internet constrained by an international treaty will stifle the innovators and entrepreneurs who are responsible for its awesome growth. As FCC Commissioner Robert McDowell recently said, “upending the fundamentals of the multistakeholder model is likely to Balkanize the Internet at best, suffocate

it at worst". The states who seek to impose their control over the Internet will only be further removed from its awesome potential.

At the IGF last September, I made a call to action that I will repeat today: All stakeholders should step up in support of the free and open Internet and the multistakeholder process that has led to its success. The multistakeholder process cannot work without you. If we want to maintain a vibrant and growing Internet, we must all take action to ensure that the multistakeholder model continues to define the future of Internet governance.

For our part at NTIA, over the coming months we will continue to meet with stakeholders to collectively develop ideas on how to best preserve the open and innovative Internet. In preparation for the upcoming challenges, the U.S. government will stand up an active interagency process to leverage the expertise and talents of our various organizations. Key to that will be engaging with international governmental and non-governmental partners, and I encourage all of you to participate in these important discussions.

Based on what some countries are advocating, we can already see some issues for which we need some smart thinking and rigorous research. First, we need to be able to explain why the Internet is different from the telephone network in terms of the natural urge of governments to maintain and expand bureaucracies. Vint Cerf this morning talked about the disappearance of traditional POTS, to be replaced by IP-based transmission. If this is just an evolution of technology, is it any surprise that regulators assume they will in no way be displaced from their traditional role? Regulators know a lot about interconnection of circuit-switched networks. How can we describe the Internet as enough different from legacy networks to challenge the assertion of jurisdiction over these networks that we can expect governments to make? All of you who want to preserve the free and open Internet need to put your heads together at once to provide solutions to this issue.

The second issue is how do we reach the hearts and minds of developing countries to build their support for the multistakeholder model of Internet governance? Not surprisingly, many of these countries are seeing a decline in revenue from traditional telecommunications services and are feeling the pressure to make up those revenues by assessing charges on Internet traffic. We need researchers around the world to document the success stories in developing countries and correlate them with regulatory policies that support a free and open Internet. We need to assemble the evidence to convince governments that the way to create wealth in their countries is to choose openness and inclusiveness in their policies toward the Internet.

As I said in Nairobi last fall—the choice for us is clear.

We can choose to expand bureaucracies.

Or we can choose to expand jobs, economic development and wealth and fundamental rights and freedoms for all.

I look forward to working with all of you to build a global consensus with stakeholders on this critical issue. Thank you.