

EXPRESSING THE SENSE OF CONGRESS REGARDING ACTIONS TO PRESERVE AND ADVANCE THE MULTISTAKEHOLDER GOVERNANCE MODEL UNDER WHICH THE INTERNET HAS THRIVED

JUNE 29, 2012.—Referred to the House Calendar and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce,  
submitted the following

R E P O R T

[To accompany H. Con. Res. 127]

The Committee on Energy and Commerce, to whom was referred the concurrent resolution (H. Con. Res. 127) expressing the sense of Congress regarding actions to preserve and advance the multi-stakeholder governance model under which the Internet has thrived, having considered the same, report favorably thereon without amendment and recommend that the concurrent resolution be agreed to.

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LEGISLATION

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that the Assistant Secretary of Commerce for Communications and Information, in consultation with the Deputy Assistant Secretary of State and United States Coordinator for International Communications and Information Policy, should continue working to implement the position of the

United States on Internet governance that clearly articulates the consistent and unequivocal policy of the United States to promote a global Internet free from government control and preserve and advance the successful multistakeholder model that governs the Internet today.

#### PURPOSE AND SUMMARY

H. Con. Res. 127 expresses the sense of Congress that the United States should continue to preserve and advance the multistakeholder governance model under which the Internet has thrived as well as resist the imposition of an International Telecommunication Union (ITU) mandated international settlement regime on the Internet. The resolution asks the Assistant Secretary of Commerce for Communications and Information to consult with the Deputy Assistant Secretary of State and U.S. Coordinator for International Communication and Information Policy to continue implementation of the consistent policy of the United States to promote an Internet free from government control and advance the multistakeholder model of Internet governance.

#### BACKGROUND AND NEED FOR LEGISLATION

Pending international proposals to regulate the Internet could jeopardize not only its vibrancy, but also the economic and social benefits it brings to the world. Nations from across the globe will consider changes to the International Telecommunications Regulations at the December 2012 World Conference on International Telecommunications in Dubai. These regulations, adopted by treaty, govern the international operation of traditional telephone service. Some countries, however, are proposing to expand them and the jurisdiction of the United Nations' International Telecommunication Union to apply to the Internet.

The Internet has been successful because it has been managed under a multistakeholder model in which a number of non-governmental institutions oversee critical parts of its architecture with input from private- and public-sector participants. This bottom-up, decentralized structure mirrors the decentralized nature of the networks that make up the Internet itself. It maximizes flexibility and innovation, helping to prevent any one governmental or non-governmental actor from exerting control over either the design of the Internet or the content it carries. That is why the Internet has been able to evolve and grow so quickly, both as a technological platform and as a means of expanding the free flow of commerce and ideas. Deviation from that multistakeholder model weakens the Internet, harming its ability to spread both prosperity and freedom. Consequently, there is bipartisan agreement that the United States should stand firm in international negotiations and oppose any treaty provisions at the WCIT that expand the jurisdiction of the ITU to cover the Internet.

#### *The origins of the Internet and Internet governance*

The Internet finds its roots in ARPANET, launched in 1969 by the Defense Advanced Research Projects Agency to connect universities and research laboratories working on Department of Defense projects. Over the next two decades, ARPANET transitioned from a government network to include civilian users under the auspices

of the National Science Foundation and became NSFNET. As the NSFNET grew and standards evolved to connect computer networks, a larger “network of networks” emerged. Then, in 1992, the Scientific and Advanced-Technology Act allowed the NSFNET to interconnect with other non-governmental networks and opened the door to commercial participation. It was at this point that the network began to grow exponentially, and the modern Internet was born.

When network use was limited to U.S. government purposes, the Department of Defense managed the network. By the 1990s, however, most of the growth was coming from non-military users, and the NSF created the Internet Network Information Center (InterNIC) to manage both numeric addressing on the networks as well as the databases of sites. As the number of commercial users grew, Internet addressing and domain name management became exceedingly complex. By 1998 these functions were moved completely out of the U.S. government and control of InterNIC was transferred to the Internet Corporation for Assigned Names and Numbers, a California non-profit corporation contracted by the Department of Commerce to manage a number of Internet-related tasks.

A series of ad hoc groups form the engineering corps of the Internet. The Internet Engineering Task Force, the Internet Architecture Board, the Internet Engineering Steering Group, and the Internet Research Task Force, now collectively organized under the international non-profit Internet Society, are run by volunteers and all work to create voluntary standards for Internet users to make interconnection of all networks easier.

ICANN, as well as the groups that oversee the creation of voluntary Internet standards under the auspices of the Internet Society, receive input from governments, Internet users, corporations investing in the Internet, academics, and engineers that develop the technology that makes the Internet possible. The flexibility of this governance structure, referred to as the “multistakeholder model,” is what has enabled the explosive growth of the Internet as a driver of jobs, commerce, social discourse, and innovation.

#### *History of the international telecommunications regulations*

International telecommunications service is governed pursuant to regulations adopted through treaty by the 193 nation members of the International Telecommunications Union, the United Nations’ specialized agency for information and communications technologies. The ITU was originally chartered in 1865 to organize the international regulation of telegraph service.

The ITU convened the World Administrative Telegraph and Telephone Conference in 1988 to consider a “new” regulatory framework for the international regulation of telecommunications. Among the resulting International Telecommunications Regulations were revisions to the way telecommunications providers pay each other for completing international phone calls, often referred to as “settlement rates.” The United States Senate ratified the International Telecommunications Regulations in 1992. These regulations specifically addressed voice telephony, not data processing capabilities, and resulted in large payments to telephone companies often owned or controlled by governments.

*Current proposals to regulate the Internet*

The ITU will consider changes to the International Telecommunications Regulations at the December 2012 World Conference on International Telecommunications (WCIT) in Dubai. Proposals by Russia and China to establish an “information security” regime are of particular concern. They: (1) appear to enshrine an international cybersecurity regime; (2) could serve as a justification for countries to engage in Internet censorship in the name of national security; and (3) seek to authorize regulation of the Internet by an international governmental body within the ITU, replacing the multi-stakeholder model that has served the Internet and the world so well.

Proposals by a number of countries to regulate rates for the international exchange of Internet traffic is also of concern. The settlement regime for telecommunications traffic was developed for old technology in a less competitive environment, and even then resulted in high rates. It is ill suited to the dynamic and diverse technology and more competitive environment of the Internet, especially since the Internet does not adhere to political boundaries. A top-down regulatory regime quickly would become untenable.

## HEARINGS

The Subcommittee on Communications and Technology held a legislative hearing on May 31, 2012, entitled “International Proposals to Regulate the Internet.” The Subcommittee received testimony from Mr. Vinton Cerf, Chief Internet Evangelist at Google; Ambassador David A. Gross, Former U.S. Coordinator for International Communications and Information Policy; FCC Commissioner Robert McDowell; Ambassador Philip Verveer, Deputy Assistant Secretary of State and U.S. Coordinator for International Communications and Information Policy; and Ms. Sally Shipman Wentworth, Senior Director, Public Policy at Internet Society.

## COMMITTEE CONSIDERATION

Representative Mary Bono Mack, together with Rep. Fred Upton, Rep. Henry Waxman, Rep. Greg Walden, and Rep. Anna Eshoo, introduced H. Con. Res. 127 on May 30, 2012.

On June 20, 2012, the Committee on Energy and Commerce met in open markup session and ordered the resolution to be favorably reported to the House by a voice vote.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto.

At the June 20, 2012, open markup session of the Committee on Energy and Commerce, no amendments were offered and the resolution was favorably reported by voice vote. There were no recorded votes.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held oversight and legislative hearings and made findings that are reflected in this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H. Con. Res. 127 is to encourage the Assistant Secretary of Commerce for Communications and Information to consult with the Deputy Assistant Secretary of State and U.S. Coordinator for International Communication and Information Policy to continue implementation of the consistent policy of the United States to promote an Internet free from government control and advance the multistakeholder model of Internet governance.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H. Con. Res. 127 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

## EARMARKS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H. Con. Res. 127 contains no earmarks, limited tax benefits, or limited tariff benefits.

## COMMITTEE COST ESTIMATE

The Committee finds that H. Con. Res. 127 would result in no new costs to the Federal government.

## FEDERAL MANDATES STATEMENT

The Congressional Budget Office estimate required pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, and the estimate of Federal mandates required pursuant to section 423 of the Unfunded Mandates Reform Act were not requested from the Congressional Budget Office as this resolution would result in no new costs to the Federal government.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF LEGISLATION

The resolution states “[t]hat it is the sense of Congress that the Assistant Secretary of Commerce for Communications and Information, in consultation with the Deputy Assistant Secretary of State and United States Coordinator for International Communications and Information Policy, should continue working to implement the position of the United States on Internet governance that clearly articulates the consistent and unequivocal policy of the United

States to promote a global Internet free from government control and preserve and advance the successful multistakeholder model that governs the Internet today.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

