

U.N. PUBLIC CONSULTATION

Socicom – Federação Brasileira das Associações Científicas e Acadêmicas de Comunicação (Brazilian Federation of Scientific and Academic Associations of Communication)

1. Internet as a public service

1.1. The wide and intensive use of Internet by billions of people around the world makes this technology an essential system for economy, business, politics, culture and daily life. As such, **Internet should be declared a public service and regulated accordingly.**

1.2. Internet is under the control of a small group of gigantic private corporations mostly based in the United States: Google/YouTube, Amazon, Facebook/WhatsApp and Apple, also know by the acronym GAFSA. Real access to Internet is mediated by these platforms or their applications. Most part of the time Internet users spend online, is in these applications. These platforms have demonstrated a great power to orient or condition individual or collective decisions on shopping, business, professional activities, hobbies and even on politics.

1.3. Governments are showing a growing concern with the excessive economic and political power of these platforms and some countries have started to adopt regulation in order to limit it. Not rarely, the application of these laws conflicts with the distributed technological design of the Internet, elaborated to ignore the sovereignty of nation states.

1.4. Until today, Internet has been regulated and driven by principles that attempt to be technologically neutral, economically balanced and politically non-discriminatory. The maximum level of its management is made by the Internet Corporation for Assigned Names and Numbers (ICANN). While ICANN claims to be apolitical, it exercises its functions under the jurisdiction of US laws and Justice system. This indirect political-economic control by US institutions on the Internet has been causing discomfort around the world.

1.5. It is not possible anymore to ignore the jurisdictional conflicts that emerge when nation states feel forced to regulate the political and economic powers of GAFSA or when they conflict with ICANN decisions that ignore the principles of national sovereignty and the cultural

diversity of the many people and nations of the world. The attempt from Amazon, the corporation, to take control of the generic top-level domain name (gTLD) ".amazon" can be cited as an example of disrespect to the natural rights of the States and people of the Amazon region that is accepted by ICANN's "neutral" rules.

1.6. Once Internet has become a great space for the market and for diverse sociocultural practices – which are inherently conflictive given the conflictive nature of human society itself – it is not possible to think of it as regulated by principles that attempt to be technologically neutral. In fact, in the countries where there were advances on processes for the regulation of the Internet, they are mainly focused on the **content traffic over the Internet** and affect the economic interests of GAFA. Suspension, fines and other penalties have targeted mainly services like YouTube, Google, WhatsApp and similar. In other words, it is not about Internet **itself**, but about services and platforms that operate **over** the Internet.

1.7. Internet itself is a technological infrastructure built by networks, servers, access providers, logical protocols, etc. **over** which – but imbricated in which – GAFA and other platforms (Netflix, Uber, Airbnb, Alibaba, TripAdvisor etc.) operate. Thus it is necessary to differentiate:

- i)* the technological and logical infrastructure of the Internet;
- ii)* the platforms, services and content that use this infrastructure.

1.8. The network neutrality principle, as it is usually understood, differentiates networks and traditional telecommunications services from logical systems, services and content that constitute the Internet. However, in the current stage of the Internet it is necessary to also build a neutrality principle to differentiate Internet as a transnational logical infrastructure from the services and content that serve from it.

2. Regulatory proposals

2.1. A great international agreement, necessarily discussed and adopted by nation states through the United Nations, should recognize Internet as an international logical infrastructure. Its physical development, access rules, financing conditions and other related topics should follow public service rules even if their operations is granted to specialized private companies.

This logical infrastructure shouldn't be mixed – in either a technical or regulatory way – with the telecommunications infrastructure, although it serves from it. It should be recognized the neutrality of the Internet network in relation to the telecommunications network. The U.N. should have a multilateral agency to exclusively deal with the political regulation and technical management of this network.

2.2. All services delivered **over** the Internet should be recognized and defined as part of the **content layer** (see Figure 1). Nation states should have the right to legislate sovereignly on this layer respecting the international agreements adopted by them, including the ones related to human rights, especially freedom of expression and privacy, environment protection and others.

2.3. While respecting the interests of nation states, content layer regulation could follow an international standard which would consider:

i) platforms or services basically sustained by paid publicity of which content is mostly produced by users, like YouTube, Facebook, Google etc.;

ii) platforms or services that sell or rent under a paid subscription, audio and video content such as movies and music, produced either by them or by third parties, like Netflix, Spotify etc.;

iii) platforms or services for the transmission of messages (data) in the form of texts or images which are neutral in relation to the transmitted content such as WhatsApp, Telegram etc.;

iv) platforms or services that intermediate business between sellers and buyers, like Amazon, Trip Advisor, Alibaba etc.;

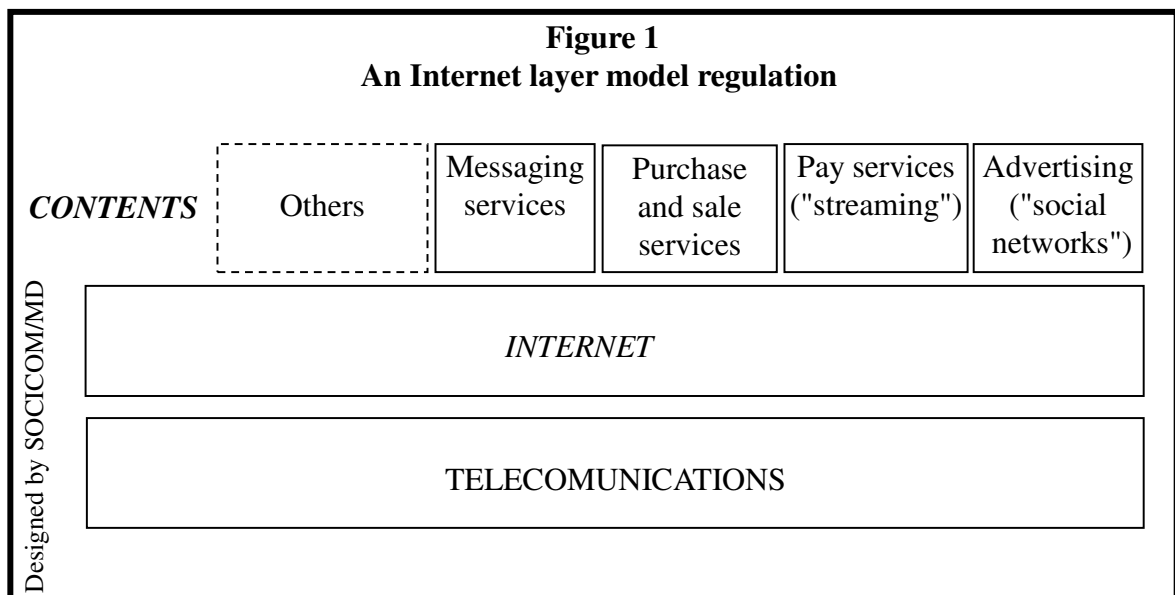
v) other for-profit platforms and services that do not fit any of the above categories like Uber and other transportation services, for instance;

vi) community-driven and/or non-profit platforms or services, like the Wikipedia.

2.4. These categories, or others that might eventually be more adequate, allow the development of sovereign legislation which will consider, in each case, the market power of the companies behind the platforms, tax obligations that could be applied to them, effects on their payment balance, local rules on the protection and promotion of audio and visual content, general public service norms, the right to privacy, welfare policy and overcoming inequalities, national or

regional ethical and moral principles, national security issues etc. in direct attention to peoples' right to self-determination.

2.5. In building this international regulation and in the eventual creation of national or local initiatives, the U.N. and nation states should **always** create institutional and material conditions to allow wide public participation and the contribution of the several segments of society, promoting and ensuring multi-stakeholder approach. The Internet Governance Forum (IGF) could evolve into a periodic **multi-stakeholder international conference** to build resolutions from a set of thesis formulated by the U.N. in the terms proposed above. This resolutions should be used to orient the development of national laws.



Rio de Janeiro, RJ, Brazil

January 11th, 2018