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Organisation de Coopération et de Développement Économiques  
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**DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INDUSTRY  
COMMITTEE FOR INFORMATION, COMPUTER AND COMMUNICATIONS POLICY**

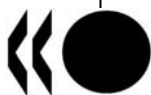
**WORKSHOP: THE ROLE OF INTERNET INTERMEDIARIES IN ADVANCING PUBLIC POLICY  
OBJECTIVES**

**OECD, Paris 16 June 2010**

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ORGANISATION  
FOR ECONOMIC  
CO-OPERATION  
AND DEVELOPMENT



## OECD WORKSHOP

### THE ROLE OF INTERNET INTERMEDIARIES IN ADVANCING PUBLIC POLICY OBJECTIVES

OECD Conference Centre, 2 rue André-Pascal, 75016 Paris,

16 June 2010 (Room C, Château de la Muette)

## BACKGROUND AND OBJECTIVES

In the 2008 Seoul Declaration for the Future of the Internet Economy<sup>1</sup>, Ministers invited the OECD to “examine the role of various actors, including intermediaries, in meeting goals for the Internet Economy”.

The goal of the OECD Workshop on “*The Role of Internet Intermediaries in Advancing Public Policy Objectives*” is to discuss and identify best practices and lessons learned from experience to date of the involvement of Internet intermediaries in advancing public policy objectives. In particular, the Workshop aims to identify: *i)* the roles and responsibilities undertaken by Internet intermediaries that relate to actions by users of their services and platforms; *ii)* where they exist, the nature and extent of these responsibilities and; *iii)* their costs and benefits. Guiding themes for the Workshop will be the dynamics of economics, responsibility, accountability and trust that help to ensure a balance between economic, social and technological tensions, as well as the necessary dialogue between Internet intermediaries and other private-sector stakeholders, policy makers, civil society and consumer representatives, and well as end users.

The Workshop is supported by the Norwegian Ministry of Government Administration and Reform and the Norwegian Ministry of Transport and Communications. It will bring together about 30 speakers to debate issues. Speakers are experts from a broad range of disciplines and perspectives, including the technical and academic communities, policymakers, and private sector representatives. Speakers will be invited to contribute a position paper (up to one page) in advance of the meeting. During each session the moderator will invite speakers to respond to one or two lead-off questions or issues raised in their position paper. Following these interventions, the floor will be opened to all speakers for discussion. PowerPoint presentations are discouraged to foster interactive discussion. Speakers are expected to attend the full day workshop. The workshop will be in English only.

1. [www.oecd.org/dataoecd/49/28/40839436.pdf](http://www.oecd.org/dataoecd/49/28/40839436.pdf)

## DRAFT OECD WORKSHOP AGENDA

| <b>I. OVERVIEW OF POLICY FRAMEWORKS</b> |  | <b>9:00-10:30</b> |
|---|--|-------------------|
| <b>9:00-9:10</b>                        | <b>KEYNOTE / WELCOME ADDRESS</b>   |                   |
|   | <b>Ambassador Karen Kornbluh</b> , United States' Ambassador to the OECD   |                   |
| <b>9:10-9:20</b>                        | <b>BACKGROUND ON THE OECD'S PROJECT ON INTERNET INTERMEDIARIES</b>   |                   |
|   | <p><b>Purpose:</b> A brief presentation will be given of the OECD's project on Internet intermediaries, its goals, requirements, and anticipated timeline.</p> <p><b>Dimitri Ypsilanti/Karine Perset</b>, Information, Communications and Consumer Policy Division, OECD Secretariat</p>   |                   |
| <b>9:20-10:10</b>                       | <b>INTRODUCTION TO THE ROLE OF INTERNET INTERMEDIARIES IN ADVANCING PUBLIC POLICY OBJECTIVES</b>   |                   |
|   | <p><b>Purpose:</b> The introductory panel will introduce the concept of "Internet intermediaries", the categories of actors considered, their role, and three ways in which intermediaries can take on a policy role: <i>i)</i> through responses to legal requirements; <i>ii)</i> through industry self-regulation; and <i>iii)</i> through their business practices.</p> <p><b>Issues for discussion:</b></p> <ul style="list-style-type: none"> <li>• What are Internet intermediaries? What are the main intermediaries considered (<i>i.e.</i>, Internet service providers, hosting providers, search-engines, e-commerce platforms, payment providers, and participative networking platforms)? What role do Internet intermediaries play in the Internet ecosystem?</li> <li>• What general legal regimes related to actions by their users apply to Internet intermediaries? What are the major differences in approaches across jurisdictions and what are the main legal uncertainties? For example, how do variations in notice and take-down regimes impact the provision of a safe harbour to hosting providers from liability for actions or content by users of their platforms? Which platforms do or do not qualify as "hosts", under which conditions?</li> <li>• Are intermediaries effectively taking on a policy role through business practices or industry codes of conduct?</li> <li>• Are there wider implications for privacy, free speech and network neutrality of Internet intermediaries taking on a public policy role? In which cases?</li> </ul> |                   |

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|---|---|
|   | <p><b>Speakers:</b></p> <p><i>Chair:</i> <b>Susan Crawford</b>, Professor, University of Michigan Law School</p> <ul style="list-style-type: none"> <li>- <b>Mark MacCarthy</b>, Professor, Georgetown University</li> <li>- <b>Mario Dal Co</b>, Councillor to the Minister for Public Administration and Innovation, Italy</li> <li>- <b>Lilian Edwards</b>, Professor of Internet Law at the University of Sheffield</li> <li>- <b>Jean Bergevin</b>, Head of Unit, Retail and Information Services, Directorate General for the Internal Market and Services, European Commission</li> </ul> <p style="text-align: center;"><b>General discussion</b></p> |
| 10:10-10:30 <i>Coffee break</i>   |   |
| <b>II. CASE STUDIES OF INTERMEDIARY ROLES IN ADVANCING<br/>DIFFERENT POLICY OBJECTIVES</b> <span style="float: right;"><b>10:30-16:30</b></span>  |   |
| <p><b>Purpose:</b> Following an introductory session focused on the free flow of information, this section will look into four policy areas: security, privacy, intellectual property, and consumer protection, and discuss the role or practices of a few specific types of intermediaries in each of these policy areas.</p> <p><b>Issues for discussion:</b></p> <p>Each of the four panel discussions should consider the following questions:</p> <ul style="list-style-type: none"> <li>➤ What is the role of Internet intermediaries in advancing public policy objectives through management of their systems? In each area, what practices have emerged?</li> <li>➤ What are the pros and cons of Internet intermediaries taking on or being assigned particular responsibilities for advancing particular policy objectives, including: <ul style="list-style-type: none"> <li>❖ Are there market incentives for intermediaries to take on a role in advancing public policy objectives?</li> <li>❖ Does the imposition of responsibilities or liabilities on Internet intermediaries impact innovation? How can the free flow of information be encouraged?</li> <li>❖ What are the most appropriate roles for legal frameworks or for industry initiatives?</li> </ul> </li> <li>➤ For each case study, what pros and cons of intermediary involvement can be put forth? What safeguards are required?</li> <li>➤ What types of implementation mechanisms are used in which cases?</li> <li>➤ What role for technologies? What role for standards? What role for technological or market innovation, awareness-building efforts, and notice regimes?</li> </ul> |   |

|                 |   |
|-----------------|---|
| 10:30<br>-11:00 | <b>II A. BALANCING OVERARCHING GOALS OF CREATIVITY AND FREE FLOW OF INFORMATION WITH OTHER POLICY OBJECTIVES</b>  |
|                 | <p><b>Purpose:</b> The free flow of information, which ICTs enable, is a critical component of economic (e.g. functioning of markets) and social development (e.g. promotion of democracy or human rights).</p> <p><b>Issues for discussion:</b></p> <ul style="list-style-type: none"> <li>• How can intermediaries best help ensure the free flow of information needed for economic and social development? How is the free flow of information threatened?</li> <li>• What role for corporate responsibility and policies? What results have been achieved and what challenges remain?</li> </ul> <p><b>Speakers:</b></p> <p><b>Susan Morgan</b>, Executive Director, Global Network Initiative</p> <p><b>Daniel Weitzner</b>, Associate Administrator, Office of Policy Analysis and Development, Commerce Department, National Telecommunications and Information Administration (NTIA)</p>   |
| 11:00<br>-12:00 | <b>II B. THE ROLE OF INTERNET INTERMEDIARIES IN STRENGTHENING CYBERSECURITY</b>   |
|                 | <p><b>Purpose:</b> This panel will focus on the role and practices of Internet intermediaries in enhancing information and network security.</p> <p><b>Issues for discussion:</b></p> <ul style="list-style-type: none"> <li>• What are the roles and practices of Internet intermediaries in protecting information from damage caused by users to their own systems or to other systems?</li> <li>• What steps can ISPs, software providers and domain name registrars take? Have there been any success stories? What are the challenges?</li> </ul> <p><b>Speakers:</b></p> <p><i>Chair:</i> <b>Katarina de Brisis</b>, Deputy Director General, Ministry of Government Administration, Reform and Church Affairs, Norway</p> <ul style="list-style-type: none"> <li>– <b>Bruce Schneier</b>, Chief Security Technology Officer, BT Counterpane</li> <li>– <b>Rohan Buettel</b>, Assistant Secretary Networks Regulation, Department of Broadband, Communications and the Digital Economy, Australia</li> <li>– <b>Ari Schwartz</b>, Vice President and Chief Operating Officer, Center for Democracy and Technology</li> <li>– <b>Sven Karge</b>, Head of Content Department, eco, Association of the German Internet Industry</li> <li>– <b>Cornelia Kutterer</b>, Senior Policy Counsel, Microsoft</li> </ul> <p style="text-align: center;"><b>General Discussion</b></p> |

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|--------------------------------|--|
| <b>12:00<br/>-13:00</b>        | <b>II C. THE ROLE OF INTERNET INTERMEDIARIES IN PROTECTING PRIVACY</b>   |
|                                | <p><b>Purpose:</b> The panel on privacy will focus on the role and practices of Internet intermediaries in protecting the personal information of users of their services and platforms.</p> <p><b>Issues for discussion:</b></p> <ul style="list-style-type: none"> <li>• What particular issues are raised for Internet intermediaries in protecting the privacy of users of their platforms/services, and the privacy of people whose personal data may be included in the content, with or without their consent?</li> <li>• What practices have emerged on participative networking platforms in respect to sharing data with third-party applications? Is there a role for Privacy-Enhancing Technologies?</li> </ul> <p><b>Speakers:</b></p> <p><i>Chair:</i> <b>Hugh Stevenson</b>, Deputy Director, Office of International Affairs, US Federal Trade Commission</p> <ul style="list-style-type: none"> <li>– <b>Peter Fleischer</b>, Global Privacy Counsel, Google</li> <li>– <b>Garry Davis</b>, Deputy Data Protection Commissioner, Director of investigations, Ireland</li> <li>– <b>Anna Fielder</b>, CSISAC steering committee member/Privacy International Board of Directors</li> <li>– <b>Yong Wan Ju</b>, Vice President of KISA (Korea Internet and Security Agency)</li> </ul> <p style="text-align: center;"><b>General Discussion</b></p> |
| <i>13:00-14:15 Lunch break</i> |  |
| <b>14:15<br/>-15:15</b>        | <b>II D. THE ROLE OF INTERNET INTERMEDIARIES IN PROTECTING INTELLECTUAL PROPERTY RIGHTS</b>  |
|                                | <p><b>Purpose:</b> This panel will review the role of intermediaries in helping to protect intellectual property rights and in balancing the interests of creators and users with innovative solutions.</p> <p><b>Issues for discussion:</b></p> <ul style="list-style-type: none"> <li>• Do/should Internet intermediaries have a role in helping to protect intellectual property?</li> <li>• What are the respective roles of technological or market innovation, awareness-building, and notice regimes? What particular issues are raised by notice regimes that entail a sanction?</li> </ul> <p><b>Speakers:</b></p> <p><i>Chair:</i> <b>Mark MacCarthy</b>, Professor, Georgetown University</p> <ul style="list-style-type: none"> <li>– <b>Gwen Hinze</b>, International Director, Electronic Frontier Foundation</li> <li>– <b>Yoshiaki Tojo</b>, Director, Information Services Industry Division, METI, Japan</li> <li>– <b>Trevor Albery</b>, Vice President of Anti-Piracy Operations, Warner Bros. Entertainment Europe</li> <li>– <b>Torgeir Waterhouse</b>, ICT-Norway, Norwegian Consumer Council</li> <li>– <b>Mita Mitra</b>, Manager, Internet &amp; New Media Regulation, British Telecom</li> </ul> <p style="text-align: center;"><b>General discussion</b></p>   |

15.15-15.30 *Coffee break*

15:30  
-16:30

## II E. THE ROLE OF INTERNET INTERMEDIARIES IN PROTECTING CONSUMERS (FRAUD, DISPUTE RESOLUTION)

**Purpose:** The panel will discuss the consumer protection role of e-commerce platforms and payment providers in helping consumers in their dealings with business and third parties, in particular through helping to prevent fraud, including identity theft, and offering dispute resolution and redress mechanisms.

### Issues for discussion:

- What is a level of supervision that can reasonably be expected from an online marketplace to combat fraud, identity theft, or counterfeiting on its platform? What role is appropriate for payment providers in providing dispute resolution procedures?
- How effective are mechanisms that rely on reputation/feedback? What role is there for other mechanisms such as education/awareness building?
- From a consumer protection enforcement perspective, to what extent could/should established principles applied to platform owners in various markets be applied to Internet intermediaries?

### Speakers:

*Chair:* **Graham Branton**, Deputy Director, Consumer and Competition Policy, Department for Business, Innovation and Skills, United Kingdom

- **Stefan Krawczyk**, Senior Director and Counsel Government Relations Europe, eBay
- **Marzena Lipman**, Senior Policy Advocate, Consumer Focus
- **Benoit Tabaka**, Directeur juridique, PriceMinister
- **Valentim Oliveira**, Chief Security Officer, SIBS “Forward Payment Solutions”
- **Gianluca Sepe**, Senior Lawyer, Autorita Garante della Concorrenza e del Mercato, Italy

### General discussion

**III. ASSESSMENT AND LESSONS LEARNED****16:30 -18:00****16:30  
-18:00**

**Purpose:** This session will discuss what general lessons can be derived from the experiences of intermediaries in taking on public policy–related responsibilities to date.

**Issues for discussion:**

- Do intermediaries have a general responsibility to keep their platforms free of illegal transactions? Are they taking steps in that direction?
- Would it be desirable/feasible to consider market failures, and analyse costs, benefits and fairness before deciding on the need for legal responsibilities? What issues might this entail?
- What are the options available to minimise the need for intermediaries to assess legality? With what trade-offs?
- In what areas in particular should there be more international harmonisation?

**Speakers:**

*Chair:* **Andrew Wyckoff**, Director, OECD Directorate for Science, Technology and Industry

- The chairs of the five different panels to report back on the main findings from their panel:  
**Susan Crawford, Susan Morgan, Katarina de Brisis, Mark MacCarthy, Hugh Stevenson, Graham Branton**
- **Joe Alhadeff**, BIAC ICCP representative, Chairman of the ICCP Committee
- CSISAC representative
- ITAC representative

**General discussion**

All speakers are encouraged to participate in the discussion

**18:00  
-19:30****COCKTAIL**