
BEST PRACTICES FOR INTERNET STANDARDS GOVERNANCE

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Internet standards are a central apparatus of Internet governance with far reaching economic, political, and technical consequences. Despite the multi-stakeholder importance of standards, the mosaic of organizations involved in Internet standards setting exhibit disparate levels of participatory and informational openness and many do not adhere to principles of due process and consensus. This submission attempts to elevate the importance of Internet standards setting within the Internet governance context and proposes best practices in standards development based on the IGF's four thematic principles of openness, diversity, security, and access. This submission also proposes the possibility that international governance bodies can help safeguard multi-stakeholder interests by developing a legitimating system of accreditation for standards setting organizations.

I. THE CASE FOR BEST PRACTICES IN STANDARDS SETTING

◆ INTERNET STANDARDS ESTABLISH PUBLIC POLICY

1. STANDARDS MAKE POLICY DECISIONS

Standards development often includes policy decisions mediating between competing economic interests or reflecting multi-stakeholder tensions such as access to information versus property rights or law enforcement versus individual privacy.

2. STANDARDS IMPACT MULTI-STAKEHOLDERS WITHOUT A VOICE

Standards, though not made by legislatures, states, or courts, create regulatory structures that transcend international boundaries and impact developing countries and multi-stakeholders without a direct voice in standards selection.

3. STANDARDS REPRESENT A TENACIOUS FORM OF POLICY

Standards, once entrenched, can endure longer than other policy mechanisms because of user investments, product development investments, institutional commitments, and preservation of industry hegemony among powerful stakeholders.

◆ INTERNET STANDARDS BODIES SHARE NO COMMON PROCEDURAL NORMS

1. NUMEROUS ORGANIZATIONS SET INTERNET STANDARDS

A complex web of trade associations, professional consortia, formal national organizations, and global movements such as the Open Source community establish Internet standards and make associated public policy judgments.

2. PROCEDURAL AND INFORMATIONAL OPENNESS VARY BY ORGANIZATION

Most standards organizations are unregulated and many do not adhere to principles of due process, consensus, and openness. There is no consistent approach to allowing for multi-stakeholder participation or open document access.

◆ BARRIERS TO MULTI-STAKEHOLDER PARTICIPATION EXIST

1. SOME STANDARDS BODIES EXCLUDE NON-MEMBERS

Non-participatory, non-transparent standards development based on closed membership and fee-based access to specifications preclude the possibility of direct multi-stakeholder involvement or open access to standards deliberations and specifications.

2. BARRIERS EXIST EVEN IN OPEN ORGANIZATIONS

Standards processes with informational and participatory openness, grassroots involvement, and consensus also have barriers to multi-stakeholder participation. Because involvement in the standards process is uncompensated activity, participants often have the financial backing of salaries from corporate employers supporting their time investment. Other obvious barriers include technical knowledge, access, geography, language, and cultural norms.

3. POWERFUL INTERESTS DOMINATE STANDARDS SETTING

Influence over standards produces significant economic advantage. Large multinational corporations have historically dominated standards organizations. Some entities have used Intellectual Property Rights (IPR) to unfairly maximize royalty revenue from adopted standards and others have used standards as part of product marketing strategies creating barriers to interoperability and restraints on competition. Governments have recognized the importance of standards to bolster economic competitiveness and as trade barriers and have influenced standards development and adoption accordingly. The interests of other stakeholders such as the general public, policy advocates, and developing countries are underrepresented.

◆ A SYSTEM OF BEST PRACTICES FOR STANDARDS BODIES IS NECESSARY

1. STANDARDS SETTING IS A CRITICAL INTERNET GOVERNANCE ISSUE

Internet standards setting, because it is a political process establishing policy, because it reflects tensions between multi-stakeholder interests, and because it involves myriad entities operating with no normative standards of openness, is a critical component of Internet governance.

2. BEST PRACTICES SHOULD REFLECT MULTI-STAKEHOLDER INTERESTS

Recognizing that the only constant principle of the Internet is constant change, the four IGF themes of openness, diversity, security, and access can provide general guidelines for a system of best practices in standards setting.

Standards bodies must allow for *Diversity and Democratic Participation* in order to ensure that interests other than those of direct stakeholders have a chance to be represented and for legitimate consensus to be possible. Standards bodies must exhibit *Informational Openness and Transparency* so that, at a minimum, multi-stakeholders can access standards specifications and so that institutional affiliations and policy deliberations become transparently accessible to the public. *Intellectual Property Rights Constraints* must be defined to prevent manipulation of standards for rent-seeking and market dominance. Finally, principles of *Universal Access and Security* should be met to support a global competitive market and the compatibility of new technologies within growing interdependent systems.

II. BEST PRACTICES FOR INTERNET STANDARDS SETTING

The following best practices, based generally on principles of openness, diversity, security, and access, recommend procedural and practical guidelines for standards setting organizations.

◆ DIVERSITY AND DEMOCRATIC PARTICIPATION

1. OPEN AND GRATIS MEMBERSHIP

Participation should be available to all interested parties and not predicated upon membership status, institutional or corporate affiliation, technical credentials, or government backing. Membership fees should not serve as an economic barrier to active participation. Participation expenses should be reasonable.

2. ACCESSIBILITY

Remote participation should be facilitated for meetings in which core standards are decided.

3. DUE PROCESS

Transparency of process should be maintained and procedural decision-making should be available to all members. A structure for enforcing violations and for the appeal of decisions must be implemented.

4. CONSENSUS

All interests should be discussed and agreements found without undue influence or domination by a particular group of members. Dissent should be recorded and made available in public record.

◆ INFORMATIONAL OPENNESS AND TRANSPARENCY

1. PUBLIC DOCUMENT AVAILABILITY

All completed standards documents and updates must be made available to the general public. Access to completed specifications should not be predicated upon membership status or affiliation.

2. GRATIS DOCUMENT AVAILABILITY

Public access to completed electronic standards specifications should not require document access fees.

3. AFFILIATION DISCLOSURE

Participants in the standards process should disclose their institutional, corporate, or governmental affiliation.

4. DELIBERATION AND DECISION-MAKING TRANSPARENCY

Electronic discussion fora and meeting minutes, venues in which issues of public interest often come to light, should be made available as public record.

◆ **INTELLECTUAL PROPERTY RIGHTS CONSTRAINTS**

1. DISCLOSURE OF INTELLECTUAL PROPERTY RIGHTS

Members should disclose patents and other intellectual property rights relevant to the implementation of a standard. Holders of patents not cooperating with disclosure requirements should be prevented from enforcing the patent against the implementation of the standard.

2. FAIR LICENSING

Holders of IPR must make them available for licensing on Reasonable and Non-Discriminating (RAND) terms based on independently defined costs. Royalty free standards development should be encouraged.

◆ **UNIVERSAL ACCESS AND SECURITY**

1. CONNECTIVITY

Standards should optimize compatibility of systems for product and platform interoperability. Standards should not explicitly “wall off” competitors or exclude user bases.

2. BACKWARD COMPATIBILITY

Enhancements and expansions of core standards should not undermine compatibility with older systems.

3. ARCHITECTURAL FLEXIBILITY

Considering historical and inevitable technological and cultural heterogeneity, constant change, and the reality that groups implement technology differently, standards should be flexible, adaptable to localities, and promote user choice.

4. SECURITY

To promote reliable connectivity, standards decisions should address or at least attempt to address the complex topics of network security considerations, network performance, and critical infrastructure protection.

5. SCALABILITY

Standards which create finite technical resources, such as unique identifiers, should attempt to accommodate global requirements, consider prospects for future growth, and envisage the inevitable emergence of unanticipated applications.

**III. A SYSTEM OF ACCREDITATION FOR STANDARDS BODIES
AN OPEN ISSUE FOR DISCUSSION**

How can multi-stakeholder interests realistically enter the Internet standards process? Direct government intervention in standards or regulation of standards is likely not advantageous because government efforts would not be sufficiently comprehensive or efficient, might lack the necessary expertise for the fast-paced growth of ICT industries, and might introduce a greater possibility of competing governments using

standards as competitive tools or trade barriers. One option for greater oversight, accountability, and legitimation in the Internet standards process is an IGF-administered system of accreditation for legitimating standards setting organizations based on adherence to best practices in standards setting. The IGF would not be involved in standards setting, but would provide legitimating accreditation of standards organizations based on these best practices. Multi-stakeholders, including governments and corporations, might endorse the efficacy of such a system to provide balance and consistency and to thwart the possibility of a single stakeholder gaining undue influence in the standards process.