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TO THE COUNCIL, THE EUROPEAN PARLIAMENT,
THE ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS

GLOBALISATION AND THE INFORMATION SOCIETY

**The Need for Strengthened
International Coordination**

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1. INTRODUCTION: NEW POLICY CHALLENGES

The European Union has made substantial progress in putting in place the necessary framework conditions for the development of the Information Society¹ with a view to unleashing its growth and employment potential bringing benefits to all. The dynamism of the Information Society is putting pressure on both public and private sectors to be more flexible and to rapidly take-up new challenges.

For this reason the Commission has recently launched a broad consultation to explore the nature and regulatory implications of convergence between the telecommunications, media and information technology sectors².

The present Communication responds to the need for strengthened international coordination in order to create an enabling framework for the global electronic marketplace ("on-line" economy) which is a fundamental element of the Information Society.

The European Union has begun to formulate several policy lines on electronic commerce by stimulating the development of an internal market for those services whilst safeguarding public interests (cf. Communications on "A European Initiative in Electronic Commerce"³, "Harmful and Illegal Content on the Internet"⁴ and "Ensuring Security and Trust in Electronic Communication"⁵, and the Green Paper on "Protection of Minors and Human Dignity in Audiovisual and Information Services"⁶).

In parallel, the European Union is contributing to the development of favourable conditions at international level for electronic communications and commerce, for instance through the WTO⁷

agreement on basic telecommunication services, the ITA agreement on tariffs for information technology products, and the WIPO agreement on the protection of intellectual property. This policy is based on the conviction that the Information Society can only be a global one, with the wide participation of the international community, including developing countries⁸.

Many of the Union's partners are actively involved in building a framework for the electronic marketplace. Worldwide there are now numerous initiatives and regulatory actions at national and regional levels. These activities are not always coordinated and sometimes reveal divergent approaches. Ill-adapted or fragmented regulation, however, will hinder the development of the "on-line" economy from which business and citizens have much to gain. Decision makers in the public and private sectors are becoming aware of the fact that greater consistency in these national and regional approaches is needed and that this need is becoming increasingly acute.

Against this background, there is a need for the European Union and its Member States to examine their policies with a view to adapting or clarifying traditional regulation to the requirements of the "on-line" economy. This does not mean delaying legislative activities at Member States or Union level until global rules are settled in the respective fields. Equally it does not mean surrendering national or regional traditions and cultures. What it does require, however, is to engage in an open debate and awareness-raising exercise about the implications of the global electronic marketplace and its particular characteristics on certain rules and their application. Progress should be made in parallel between technology changes, national and European regulatory actions, and cooperation at international level on regulatory principles.

Provided it acts quickly and boldly, the European Union has all the potential to make a positive contribution to the shaping of the new environment, drawing on its rich

¹ See Rolling Action Plan (COM(96)607):

www.ispo.cec.be/infosoc/legreg.html

² COM (97) 623: www.ispo.cec.be/convergencecp

³ COM(97) 157: www.ispo.cec.be/ecommerca_initiat.html

⁴ COM(96) 487: www2.echo.lu/legal/en./internetU.comunic.html

⁵ COM (97) 593: www.ispo.cec.be/eif

⁶ COM(96) 433 final

⁷ www.wto.org

⁸ See Communication on "the Information Society and Development: the role of the EU". (COM(97)354: www.ispo.cec.be/isec/isar.html)

scientific, cultural and social assets. The Union should signal to the international community that it is determined to contribute its experience and vision to building a framework based on fair competition, private sector investments, open markets, and social inclusion, accompanied by appropriate safeguards covering both the wider public interest and the interests of the individual.

This Communication advances views on how to define the key issues that require strengthened international coordination. It does not propose concrete solutions to these issues as such, in particular it is not suggesting that there is a need for global regulation of the Internet or for the creation of new international organisations. The Communication essentially argues that the time is ripe to seek a better international understanding on how to proceed in the near future to achieve a "friction" free and borderless marketplace while meeting general public interest objectives.

In this way, the global community can work together to maximise the potential of the Information Society to stimulate growth and innovation, to create new employment, and to promote social and economic cohesion.

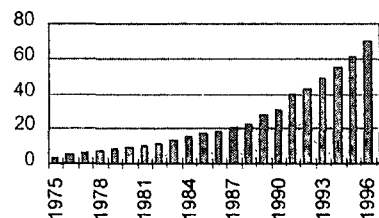
To this end, it is proposed to invite experts from industry and other involved parties to a round table meeting in 1998, to initiate a debate at Ministerial level, and to seek an understanding on a method of coordination in the form of an International Charter.

2. PROGRESSING TOWARDS THE GLOBAL ELECTRONIC MARKETPLACE

2.1 The emergence of a global electronic marketplace

Growth in trans-border traffic over the last two decades has been a striking feature of the communications landscape. International telephone calls have risen from under 4 billion minutes in 1975 to over 80 billion (estimated⁹) in 1997 - a growth rate of 15 per cent a year. At the same time, they have contributed over 8 per cent of telecommunications service revenue worldwide. This growth is forecast to continue.

International telephone traffic
(billions of minutes)



Source: ITU

More recently, digital mobile communications, in particular through GSM, are providing global mobility in personal communications. Today, more than 200 GSM networks are in live commercial operation in over 100 countries worldwide serving 55 million users.

In the future, new satellite systems will have a major impact on the development of global communications services. The total addressable market for broadband multimedia world-wide is expected to grow steadily from 100 million users up to 330 millions in 2010 of which about 16 per cent (i.e. 50 million users) are forecast to be captured by satellite systems. The cumulative service revenues for satellite

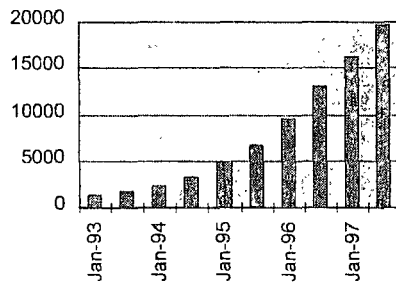
⁹ ITU

systems over the period 2000-2010 is estimated to be around 110 billion ECU.

This considerable growth over recent years has coincided with significant price reductions driven by falling costs and increasing competition, and the expansion of data networks, in particular the Internet, which will account for a growing proportion of international traffic in coming years.

Approximately 100 countries now enjoy Internet access. Recent surveys¹⁰ report that there are around 20 million Internet hosts worldwide, and the number of actual Internet users is currently estimated to be in the region of 100 million¹¹. It is forecast that this figure will increase to a quarter of a billion users by the year 2000¹².

**Internet Hosts
(Thousands)**



Source: Network Wizards

Figure 1 below illustrates how the nature of the communications environment is changing. The scope of activities possible (e.g. medical, educational, recreational, commercial) and the number of different actors concerned has expanded through liberalisation and the development of new multimedia products and services.

Examples: Electronic Commerce

Electronic commerce definitions may differ and estimates may vary, but nevertheless there are clear indications of strong growth. Estimates published in July 1997¹³ indicate that business-to-business commerce over the Internet will reach 7 billion ECU in 1997 - a tenfold increase from 1996. In 2002, it is forecast that the value

of goods and services traded between companies over the Internet will approach 300 billion ECU.

These developments are giving rise to the emerging electronic marketplace. Not only is communication itself emerging as a worldwide business, it is also underpinning the globalisation and networking of economic activities.

New business configurations are appearing, particularly in information-based sectors. Companies, including SMEs, are establishing worldwide networks linking research, production, assembly and distribution. Services, in particular information services (e.g. consultancy, banking, insurance, travel, publishing, marketing, sales, advertising, etc.), can now be produced in one country and exported to another via electronic networks.

The wide range of activities now technically possible can only be fully exploited if an international enabling framework emerges. International agreements have always played an important role in the development of the communications industry. Figure 1 shows how the character of these international public and private sector arrangements is being progressively extended from mainly technical to commercial and increasingly legal issues as the communications environment evolves.

¹⁰ Network Wizards: www.nw.com
¹¹ www.nua.ie/surveys
¹² Global Internet Project: www.gip.org
¹³ Forrester Research: www.forrester.com

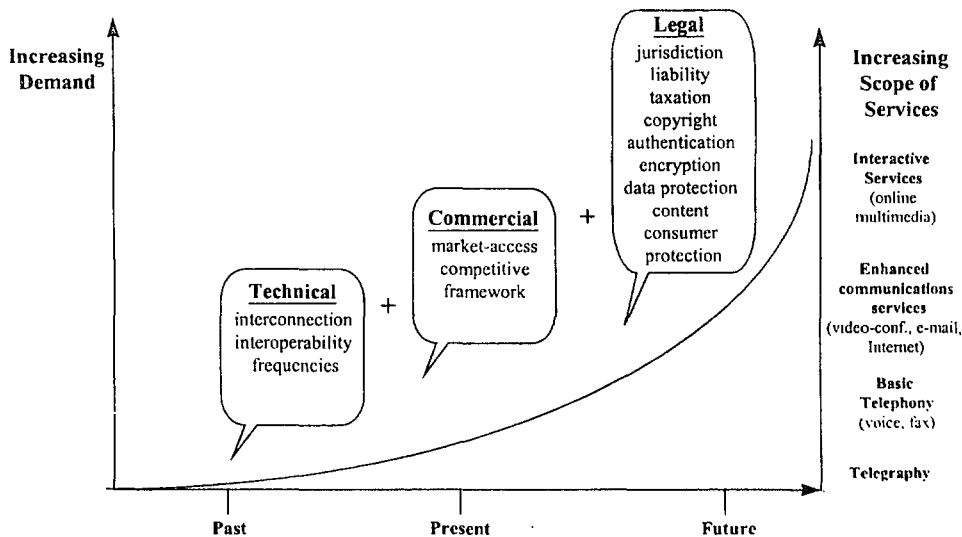


Figure 1: Enabling Framework for the global electronic marketplace

2.2 The need for interoperable technical solutions

Historically, in telecommunications, a number of international public bodies were set up to oversee agreements on technical issues, including the connection and interoperability of national networks, standards and frequencies (e.g. ITU¹⁴, ISO¹⁵, ETSI¹⁶, CEPT¹⁷, etc.).

Example: International Interconnection

The first telegraph lines did not cross national frontiers because each country used a different system and each had its own telegraph code. Messages had to be handed over at frontiers before being retransmitted over the telegraph network of the neighbouring country. Countries then decided to conclude agreements to interconnect national networks.

The ability to offer users access to personal communications facilities wherever they travel in the world would not have been possible had it not been for the conclusion of international accords on standards, frequencies, and "roaming".

Example: Global System for Mobile Communication (GSM)

The mobile phone scene in the early-80s was akin to a car being driven freely around the motorways of Germany, but stopping dead on crossing the border into France. The introduction of GSM - the result of close collaboration between industry, governments and users at an international level (CEPT, ETSI, EU) - opened the way for trans-border mobility, or "roaming" between different networks, irrespective of their geographical location.

New technological developments are giving rise to new needs. These are linked to issues such as the development of Internet architecture, the frequency and technical requirements of the next generation of mobile wireless communications and new satellite and navigational systems, including reconciliation of requirements posed by commercial and public interest applications, as well as the legal protection of user interfaces for multimedia services.

The speed of technological developments combined with the changing role of the actors concerned mean that standardisation is beginning to follow a different mechanism to that which has operated historically in telecommunications (public bodies) and in the IT sector (agreements between "big"

¹⁴ www.itu.int

¹⁵ www.iso.ch

¹⁶ www.etsi.fr

¹⁷ www.fhk.fi/cept/englan1/ceptinfo.htm

players, proprietary systems leading sometimes to de facto monopolies): a more open and flexible consensus-building process.

A particularly striking illustration is the "Internet community" (e.g. IETF, W3C, IANA). Unlike the international switched telephone network, which has largely been built up within a formal and institutionalised framework agreed by governments, the Internet has developed according to its own unique user-driven model into a loose federation of interconnected computer networks worldwide. It is made up of groups which are open and follow a more spontaneous organisational model, but are therefore more difficult to define.

Example: the domain name system (DNS)¹⁸

In an increasingly commercialised Internet, the most coveted domain is ".com", intended for commercial organisations. But ".com" is a non-country-specific generic top level domain that can be used by anyone in the world. The availability of useful names is quickly running out and registering under the narrow confines of ".com" cannot work for much longer. In 1996 there were around 40,000 registrations. Today, there are over 4 million. In the future, questions such as who should be responsible for managing the funding, administration, and assigning of domain names in generic Top Level Domains, and how to introduce more competition into the management of the DNS system, will have to be answered.

The Internet community is trying to build on open standards that allow both interoperability and competition. Open standards are particularly important with regard to hardware and software tools for Internet use and access. Items such as browser software are in a way the "entry ramps" to the information superhighway, and it is important that they be based on open standards so that all users may have equal access to the Internet. Otherwise proprietary standards and their attendant licensing schemes will control access to content and electronic commerce transactions, and will adversely influence licensing and other market behaviour.

¹⁸ As many as 19 different organisations are directly involved in decision-making for the Internet's Domain Name System (IETF, IESG, W3C, IANA, FNC, NSF, IETF/C, NSI) and a continuing international debate on its future governance continues.

Because of an open and flexible model, Internet standardisation up to now is quick and agile. Measures to facilitate the continued growth of the Internet as an important feature in global communications will need to take this open, user-led approach into account.

2.3 Ensuring market access and competition

The electronic marketplace will reinforce the ongoing trend towards globalisation, which, as trade figures show, is gathering speed. As a share of world output, trade has more than tripled since 1950 - from 7 per cent to over 22 per cent. Investment, too, has become a powerful force for economic integration with cumulative assets of foreign investment trebled since 1987 - to over 2.5 trillion ECU. A significant proportion of trade in money markets takes place on-line. The daily volume of foreign exchange deals worldwide exceeds 1,000 billion ECU¹⁹.

A number of agreements have given an added impetus to these trends, notably within the WTO, through the GATT, GATS and TRIPS agreements, which will continue to play an important role in promoting trade liberalisation, including the recent agreement on telecommunication services.

One of the major obstacles for the development of advanced communication services which are at the basis of the "on-line" economy are high telecommunications costs. Dramatic reductions in the cost of computing power together with competition are pushing tariffs and giving rise to a global infrastructure where distance becomes meaningless.

The Irrelevance of Distance

A transatlantic telephone call now costs just 1.6 percent of what it cost 50 years ago. And the World Bank predicts that by 2010 the cost will have fallen by another 50 percent, making for instance trans-Atlantic telecommunications increasingly affordable to all. This will allow small businesses and individuals to establish remote presence, beyond the geographical borders of their physical location. Doing Global

¹⁹ Financial Times - "The Banker" 27.11.97

business is already no longer limited to big multi-national companies but within reach of everyone who, for instance by using the Internet, is able to set up a global business at low costs.

Falling tariffs will create further dynamism in the electronic marketplace, notably when broadband communications become more affordable. The current limitations of Internet access and also mobile communications to relatively narrow bandwidth needs to be overcome as quickly as possible. In most cases, the necessary incentives will be provided by market demand and competition. Therefore effective implementation of agreed WTO rules are crucial.

2.4 The need for a consistent legal framework

As a principle, the legal frameworks of the off-line world will be applied to the on-line world and public interest will also need to be safeguarded in a proportionate manner. However the technical possibilities of open networks like the Internet are already beginning to put legal structures to the test in various fields of existing law. In some cases, the specific character of the borderless electronic marketplace and the transmissions which circulate within it may therefore require clarification or adaptation of existing legal frameworks and enforcement mechanisms. The following illustrative examples aim to demonstrate the diversity of these issues.

The question of how taxes and tariffs should be applied and implemented to electronic commerce is a major issue in this area. For instance, the impact of electronic commerce in the area of indirect taxation needs to be examined.

Example: Value-Added Tax

The musical content of CDs is delivered on-line from a country A to a Country B; i.e. no physical goods are sent, the "music" is simply downloaded by the customers. Unlike a hard-copy, it passes from supplier to consumer without being subject to customs controls. Country B is unable to collect the VAT unless it is voluntarily declared by the resident consumer. Furthermore, a supplier in country B would be obliged to charge VAT on all sales, leaving him at a disadvantage. To put both suppliers on an equal footing, the tax regime

would require modifications which might involve charging VAT on the basis of the location of the customers.

In some cases, the on-line world is beginning to expose differences in national laws, even though such differences may be entirely compatible with the markets and activities for which those rules were originally developed. A central legal issue for users of open networks, such as the Internet, is that of identifying which party should be liable for legal violations in the network environment. The current situation is characterised by considerable legal uncertainty to the detriment of some parties.

Moreover, the increased use of open electronic networks has also resulted in an increasing number of jurisdictional conflicts between States. The explosive growth in networked communications means that such jurisdictional conflicts are likely to become more and more common.

Example: Jurisdiction

A company in Country A establishes a site on the Internet by which it sells products. The company's site can be accessed by Internet users in Country B, but it sells no products and otherwise transacts no business there. A consumer in Country B files suit against the company in Country B, claiming that the information on its web site is misleading under the laws of that country. The court in Country B asserts jurisdiction over the company based on its web site being accessible there, forcing the company to defend a costly suit in a foreign country with which it otherwise has no ties.²⁰

The networking of activities is encouraging the "virtual" mobility of human resources and is giving rise to a more global labour market. Trans-national work in this context is likely to have implications with regard to the applicable law for labour-related issues. Adequate mechanisms which can solve disputes regarding trans-border work and which can serve as guidelines for the parties when trans-national work is agreed upon may be needed.

²⁰ At the European level, jurisdiction in the field of civil and commercial matters is regulated by the Brussels and Lugano Conventions on Jurisdiction and the Enforcement of Judgements in Civil and Commercial matters (1968 and 1988, respectively)

Example: labour law

A teleworker employee with residence in Country A, works for a company established in Country B. What are the legal implications?

Technology allows intellectual property to be copied and transmitted worldwide with relative ease. As a result, different levels of legal protection in different countries become more relevant for rightholders and users.

Example: copyright²¹

Country A provides for an exception to the right of communication to the public (on-line) for teaching and scientific research. Country B does not. A university in Country A includes, on the basis of the research/teaching exception, works protected by copyright in its site without the authorisation of the right holder. The site is accessible in Country B. The university therefore infringes rights which exist in country B and in any other country where it is accessible. The university must ensure that it has authorisation, if necessary, in all countries where the site is accessible.

Similarly, significant differences in data protection regulation, or the absence of data protection provided at regional and national levels are likely to hinder cross-border electronic trade and deter citizens' use of communications services.

Example: data protection²²

An individual in Country A visits the web-site of a company based in Country B. The web site, before allowing entry, requires all users to complete an on-line questionnaire, which requests the user's personal details and other

²¹ An improved international commercial and legal framework for intellectual property is emerging through the TRIPS agreement, and the WIPO treaties of December 1996 on Copyright, and on Performances and Phonograms. The Commission has recently adopted a proposal for a directive on copyright and related rights in the Information Society (COM(97)628fin). This directive will complement the existing Community framework on copyright and related rights, which addresses already certain copyright issues related to the Information Society.

²² In the field of data protection, the EU has adopted a directive on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Directive 95/46/EC) and a Directive concerning the processing of personal data and the protection of privacy in the telecommunications sector (Directive 97/66/EC). Data protection is also being tackled by the Council of Europe (1981 Convention on Data Protection) and the OECD.

data on the user's life style preferences. No information is given regarding the likely uses of these data. The company then sells on the information it collects to many other companies. The individual receives unsolicited e-mail messages and telephone calls from companies wishing to sell their products. The individual knows that under legislation in Country A, they have legal right to object to the use of personal data for such purposes and that there is a national scheme to do so easily and without charge. No such legal right exist in Country B and the individual therefore has no remedy to this problem.

Trademark laws are also affected. Online advertising with national or supranational trademarks in the absence of agreed principles may also not be without its risks.

For example, the limitations of the Internet domain name system are giving rise to legal battles involving national rightholders sharing the same trade mark. Companies are rapidly becoming aware of the great value of easily memorable Internet domain names. Trade marks are territorial, yet names registered under the domain name system are both unique and international.

Example: trade marks²³

Two francophone companies in two different countries have a national Trademark for two different products which includes the name "Dumont". Which company should be able to trade internationally on the Internet under the domain name "Dumont.com"?

As well as challenging existing laws, the technical characteristics of networks and on-line commerce require new agreements, for example in the field of security and authentication. Measures will need to provide legal security and trust in the medium and prevent the appearance of "weak links in the chain" in countries where security guarantees are insufficient²⁴.

Example: authentication

²³ WIPO prepared in 1997 new dispute settlement mechanisms and specific guidelines to solve potential conflicts between domain names and trademarks.

²⁴ The Telecommunications Council of 1/12/97 asked the European Commission to propose a Directive on "digital signatures". The OECD agreed on "Guidelines for Cryptography Policy" in 1997.

The absence of a harmonised approach to Certification Authorities (CA) which can verify the identity and authenticity of correspondents could seriously undermine the development of cross-border trust. Certificates issued by a CA in one country might not be recognised by a CA in another country, especially if one country has foreseen a licensing scheme for CAs and the certificate has been issued by a foreign unlicensed CA.

Existing laws and mechanisms providing consumer protection will also need to be clarified. A major inhibitor to consumers is the difficulty in locating the origin of products, establishing liabilities where these products fall short of the advertised quality standards or prove to be unfit for the intended use.

Example: consumer protection

In the electronic market place, a customer could be misled into thinking that he or she was purchasing a product from a firm registered in his or her own country (thereby subject to its laws or regulations) and using the corresponding country code in its domain name, only to find that the product emanated from another country, where in fact the company is subject to a different regime of controls.

There is also uncertainty concerning the validity of contracts entered into over the network, and the means of redress available when undertaking transactions via the Internet.

Example: terms and conditions of contract

A consumer in Country A desires to purchase a product from a company in Country B over the Internet. As part of the on-line offer, the consumer is supposed to accept the company's general terms and conditions, which are quite lengthy, by clicking "OK". The consumer does click "OK", but did not read the terms and conditions as he would have had to stay on-line too long. When the product develops a defect, the company defends itself based on the disclaimer of liability in the on-line terms and conditions, which the consumer claims should not apply since the law of Country A requires terms and conditions to be of reasonable length and complexity.^{25 26}

²⁵ At the European level, applicable law to contractual obligations is determined by the Rome Convention on the Law applicable to Contractual obligations of 1980.

Networks can also be misused for criminal purposes. Examples of such high-tech crime include various forms of computer manipulations, computer sabotage and extortion, computer hacking, computer espionage and software piracy. Fighting hi-tech crime calls for more cooperation.²⁷

The wide accessibility of content of all kinds also raises issues of public interest with numerous social and cultural, as well as economic implications. Differences in national or regional cultures and moral and ethical codes also give rise to divergent national laws. In the on-line economy, this may lead to situations where a site may contain what one nation regards as indecent or unethical, whilst the same content may be considered legal elsewhere.

Example: harmful and illegal content

In an effort to prevent the spread of what it regards as "unsuitable" or "offensive" material in its jurisdiction, Country A decides to make all content of this kind illegal. Country B's content standards are incompatible with Country A's. Should content, for example contained in advertising on certain Internet sites emanating from Country B, be considered "indecent" by authorities in Country A, it may decide to take legal action against information service providers originating in Country B. Authorities in Country B might dispute such a charge on the grounds that it is an infringement of their citizens' fundamental rights to freedom of expression.

2.5 Conclusions: Requirements for an international framework

The global electronic marketplace requires an appropriate framework covering technical, commercial, and legal aspects. This should foster interoperable technical solutions, competitive business practices and consistent rules. It does not need to consist of detailed and harmonised rules on all relevant aspects.

²⁶ At the European level, such disclaimers of liability are prohibited by the product liability directive (85/374/EEC)

²⁷ High tech crime was discussed at the G8 Summit in Denver (1997) and at the ministerial meeting in Boston in December 1997.

A number of obstacles needing to be addressed by this framework have been identified above. As to their priority, views may differ, but some of the issues can already be recognised today as requiring the urgent and coordinated attention of the international community. Among these priorities there are issues such as consensus on the Domain Name System, agreement on binding data protection rules, reducing communication costs, providing certainty in taxation, and agreeing on the legal implications of electronic authentication.

Because of the fast-moving environment which characterises electronic communications and commerce, some of the issues may be resolved relatively soon, others may prove to be significant bottlenecks, whilst others are yet to emerge. The development of an international framework must therefore be based on a forward-looking and flexible approach.

The above analysis makes it clear that increasingly issues touch upon legal frameworks. It is increasingly necessary to examine them at a global level as uncertainty surrounding different national and regional responses to these challenges will hamper the further development of the electronic marketplace.

Therefore, a broad dialogue on the key issues amongst public authorities, industry, consumers and international organisations should be envisaged.

3. DEFINING THE WAY FORWARD FOR INTERNATIONAL COORDINATION

3.1 Strengthening international coordination

Already, organisations at inter-governmental and private sector levels have been mobilised into working towards solutions within a variety of formal and cooperative frameworks. A host of conferences and events involving governments, private sector and international organisations have been held.

For example, electronic commerce-related issues were discussed during the G7 ministerial conference in Brussels²⁸ (February 1995), the Midrand conference (May 1996), UNCITRAL adopted a "Model Law" on electronic commerce in 1996, the Bonn Ministerial conference (July 1997)²⁹, the ITU "Telecom Interactive" event in Geneva (September 1997), the ISO Global Standards Conference in Brussels (October 1997), the OECD³⁰ conference in Turku (November 1997), the TABD in Rome (November 1997), the Council of Europe Ministerial conference on Mass Media Policy (Thessaloniki, December 1997) and at the APEC (Vancouver November 1997), EU-US (Washington, December 1997), and EU-Japan (Tokyo, January 1998) summits.

Much work has already been achieved within the WTO, notably the GATT, GATS and TRIPS Agreement, which will remain an important motor of trade liberalisation. The successful conclusion of the Uruguay Round of multi-lateral trade negotiations and the recent agreements achieved in information technology products, telecommunications and financial services, have given a new impetus to global trade. They have also demonstrated that many countries share a strong mutual interest in improving trade conditions.

As regards the provision of, and access to new information services, however, the trade community faces the challenge of ensuring free access to the global

²⁸ www.ispo.oes.be/g7/g7main.html

²⁹ www2.echo.lu/bonn/conference.html

³⁰ www.oecd.org

electronic marketplace through the effective implementation of competition rules. The WTO provides a basis to address this challenge, in particular through the GATS. In this respect, a debate is currently emerging as to whether there is a need to adjust those provisions when they apply to services provided electronically. The new round of services negotiations scheduled to start before the year 2000 could have implications for further liberalisation. In addition, the WTO working group on "trade and competition" should eventually lead to the strengthening of competition rules at world-wide level, which would apply across sectors, including electronic communication and commerce.

Besides the work undertaken in the WTO, ongoing discussions in other fora, such as the OECD, WIPO, ITU, UNCTAD, etc., as well as bilateral discussions with the Community's major trading partners, such as the United States and Japan, are widely contributing to building consensus on electronic commerce issues.

Although good progress has been achieved, the understandings and agreements arrived at within these fora consist either of principles, which are not necessarily compatible, or do not cover all elements of a comprehensive framework. Also, the process will now need to continue with as wide a participation of the international community as possible, including the developing countries. As chapter 2 shows, there are a growing number of urgent issues awaiting solutions.

Since electronic commerce is adding rapidly a new dimension to the global economy, the international community should define an appropriate mechanism, which can help the different actors to respond more quickly to new requirements as they arise in a coordinated manner. In this context, they need to answer two questions:

Two questions

- *What are the most urgent obstacles and what are the most effective means to remove them?*

- *What method of coordination is best suited to respond rapidly and effectively to new challenges?*

3.2 Identifying the most urgent issues and ways to tackle them

What is required is an urgent and detailed examination of the problems and the priorities, in order to allow the international community to address them in a substantive and coordinated manner. There is growing experience amongst industry, consumer groups, governments, and international organisations, of the key problems needing solutions in order to foster the development of the global electronic marketplace.

The difficulty lies in obtaining a consistent approach in view of the number of different groups engaged in parallel activities, which are not always coordinated. One can however observe in many areas an emerging convergence of views on the definition of problems. These include, for instance, requirements from industry for proportionate and technology neutral regulations, from consumer groups seeking adequate data protection, as well as consistent implementation of competition rules.

Opportunities to exchange information can help to identify and solve problems which arise from a lack of sufficient knowledge on applicable frameworks and help to distinguish them from those problems which will require the clarification or adaptation of binding or non-binding regulations.

The Commission will support such activities where necessary and possible. In particular, it will use its own fora and planned events as opportunities to contribute to the debate (e.g. expert group meeting in Copenhagen on cryptography in April 1998, Information Society Forum³¹ - in which major business and social group interests are represented -, the consultation launched by the Green Paper on convergence). Initiatives may also be inspired by activities such as the Memorandum of Understanding "Open

³¹ www.ispo.cec.be/infoforum/isf.html

Access to Electronic Commerce for European SMEs", signed by over 100 organisations³² and open for membership. Furthermore, it will seek to promote an active EU contribution to the consensus building process, both in the private and public sectors.

Among the various groups, industry is currently particularly active as it develops new global business structures and services. They are at this stage probably most advanced in confronting the drawbacks of existing rules.

For this reason, in the course of 1998, the Commission will invite industry to participate in a round table at expert level (to which experts from Member States, international partners and consumer groups will also be invited), to provide an opportunity for all to present their views in a more coordinated manner and encourage an exchange of information.

It is however also important that these views are presented to public policy makers at a global level. For this purpose, it is proposed, in the course of 1998 or early 1999 at the latest, to:

- (i) either organise a specific International Ministerial Conference;
- (ii) take advantage of one of the already planned international events at Ministerial level.

The outcome of such a meeting could be an understanding on priority issues and how to tackle them.

3.3 Developing a method of coordination: An International Charter

As shown in chapter 2, a number of problems are already visible but, as the global electronic marketplace develops, one can expect many new issues to appear, whilst others may change or even vanish. In addition, there is a growing constellation of actors and bodies involved. Therefore, all actors should examine how they could work together in future. What is not required is to establish an international supervisory authority or a

³² www.eto.org.uk/ttrade/meu/

set of binding rules. They should, however, reach a forward-looking understanding on how best to develop common approaches to problems and their solutions, i.e. to develop a sustained method of coordination in which public and private sector interests are adequately represented. This could be agreed multi-laterally in an International Charter.

An International Charter would:

- be a multi-lateral understanding on a method of coordination to remove obstacles for the global electronic marketplace;
- be legally non-binding
- recognise the work of existing international organisations
- promote the participation of private sector and relevant social groups
- contribute to more regulatory transparency³³.

An International Charter would not therefore define the key issues to be solved as such, but contain an understanding on how a process of strengthened international coordination should be organised, with as wide as possible a participation of the international community. The Charter could be agreed by or in the course of 1999.

³³ The G7 Ministerial Conference in Brussels of February 1995 established the Global Inventory Project. This could develop into a suitable international forum for the exchange of information on legal issues and frameworks relating to the Information Society: www.gip.int

4. THE NEXT STEPS

This Communication sets out:

- the need for an international enabling framework for the emerging global electronic marketplace;
- a preliminary analysis of emerging obstacles to this framework covering technical, commercial and legal areas;
- a proposal for immediate action to coordinate views on the key obstacles and the most effective means to remove them - building on stronger private sector (including consumer groups) involvement;
- a proposal for an International Charter through which parties would agree on a method of coordination between all relevant parties.

As indicated, this Communication does not attempt to propose solutions to the specific issues identified nor does it set out to define the respective roles of the relevant international fora. It outlines how improved multi-lateral coordination could be developed. The next steps will therefore depend upon the responses the European Commission will receive to its proposals.

The European Commission will:

- (i) *Discuss with Member States and seek an understanding on the procedure. Such opportunities will arise in the forthcoming Telecom and General Affairs Councils;*
- (ii) *Take advantage of the Commission's regular contacts with international partners to pursue an open discussion of the concept;*
- (iii) *Invite experts from industry and others including international partners to a round table meeting in 1998 to obtain a more comprehensive picture;*
- (iv) *seek to promote an active, EU-wide contribution to the consensus-building process, by both private and public sectors.*
- (v) *Invite all interested parties to send by 31 March 1998 their comments to the following e-mail address: eif@bxt.dg13.cec.be.*

APEC (Asia-Pacific Economic Cooperation)
APNIC (Asia Pacific Network Information Center)
APT (Asia-Pacific Telecommunity)
ARIN (American Registry for Internet Numbers)
ASEAN (Association of Southeast Asian Nations)
BIAC (Business and Industry Advisory Committee)
CITÉL (Comisión Interamericana de Telecomunicaciones)
DVB (Digital Video Broadcasting Group)
EFF (Electronic Frontier Foundation)
ETSI (European Telecommunications Standardisation Institute)
FNC (Federal Networking Council)
GIP (Global Internet Project)
gTLD-MoU (Generic Top Level Domain Memorandum of Understanding)
IAB (Internet Architecture Board)
IANA (Internet Assigned Numbers Authority)
ICC (International Chamber of Commerce)
IESG (The Internet Engineering Steering Group)
IETF (Internet Engineering Task Force)
INTA (International Trademark Association)
InterNIC (Internet Network Information Center)
ISO (International Organisation for Standardisation)
ISOC (Internet Society)
ITU (International Telecommunications Union)
MERCOSUR (Mercado Comun del Sur)
NAFTA (North American Free Trade Agreement)
NCC-RIPE (RIPE Network Coordination Center)
NSF (National Science Foundation)
NSI (Network Solutions Incorporated)
OAS (Organisation of American States)
OECD (Organisation for Economic Cooperation and Development)
PANAFTEL (PanAfrican Telecommunications Network)
PATU (Pan-African Telecommunications Union)
POC (Policy Oversight Committee)
RASCOM (Regional African Satellite Communications Organisation)
RIPE (Réseaux IP Européens)
TABD (Trans-Atlantic Business Dialogue)

UMTS - Forum (Universal Mobile Telecommunications System – Forum)

UN (United Nations)

UN/ECA (United Nations Economic Commission for Africa))

UN/ECE (United Nations Economic Commission for Europe)

UNCITRAL (United Nations Commission on International Trade Law)

UNCTAD (United Nations Conference on Trade and Development)

UNDP (United Nations Development Program)

UNESCO (United Nations Educational, Scientific and Cultural Organisation)

W³C (World Wide Web Consortium)

WIPO (World Intellectual Property Organisation)

WRC (World Radiocommunications Conference)

WTO (World Trade Organisation)