

ALERT

Opportunity to Shape U.S. Positions on Global Digital Policy on Privacy, Cyber, IoT and More

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The U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA), which serves as the principal advisor to the President on telecommunications and information policy, has asked for guidance to shape the United States' international technology agenda. In a Notice of Inquiry released yesterday the NTIA seeks input from the private sector "on its international internet policy priorities. These comments will help NTIA and the U.S. Government identify the most important issues facing the internet globally."

Comments are due July 2, though an extension may be possible given the short turnaround. This very broad request has the potential to help define U.S. policy priorities for the Internet of Things (IoT), cybersecurity, privacy regulation, international cooperation, development of standards, and more.

NTIA's activity comes at a time of intense global activity on privacy, like the General Data Protection Regulation (GDPR), as well as IoT, cybersecurity, and other burgeoning regulation. We are also at an inflection point on cybersecurity, with some in the United States urging regulation to keep pace with foreign governments, and others lauding private collaboration and innovation. Internet governance is always top of mind for NTIA and the federal government, but with concerns mounting about free expression and political manipulation of communications technology, this issue takes on more prominence. And, it is a key time for NTIA to consider these issues, as Congress continues to debate legislative responses to technology challenges and innovation.

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Practice Areas

Telecom, Media & Technology

NTIA's Administrator, David Redl, identifies four particular areas of interest, but notes that they are eager to hear about more. In his June 4 blog post about the item, he listed:

- **The Free Flow of Information and Jurisdiction.** "Governments around the world are blocking access to websites, curtailing online freedoms and imposing restrictions on the free movement of data," Administrator Redl noted. "These restrictions threaten to undermine the economic, social, and educational benefits of the Internet. How should the U.S. government push back on these practices? And how can we engage with partners more effectively?"
- **Multistakeholder Approach to Internet Governance.** "NTIA has been a strong advocate for the multistakeholder approach to Internet governance and policy development," he said. "What more can NTIA do to promote this approach? Within ICANN's Governmental Advisory Committee, NTIA has been working on issues related to preserving access to WHOIS domain name registry services in light of the European Union's ... GDPR. Are there any other activities related to the domain name system that NTIA should pursue? How can NTIA raise national awareness about our longstanding engagement in the Internet Governance Forum?"
- **Privacy and Security.** "Cybersecurity risks pose a threat to security and can hinder economic growth and innovation," Administrator Redl noted. "This global problem cannot be solved in isolation, and will require international coordination. We want to know more about how threats to privacy and security – and governments' responses to those threats – are impacting international commerce."
- **Emerging Technologies and Trends.** "NTIA's policy efforts related to new and emerging technologies is possible only because of dedicated engagement from American industry," he said. "We want risk-taking American entrepreneurs to have access to global markets for their digital products and services. We expect that in the coming years, our focus will increasingly be on artificial intelligence, automated workforces, blockchain technologies and more. We want to know how we should participate in international discussions of these issues."

The United States has a key role to play in numerous international fora; it needs guidance to prioritize and maximize its impact. NTIA asks numerous specific questions in its Notice of Inquiry, ranging from strategic to tactical. Examples include:

- How might NTIA better assist with jurisdictional challenges to the internet?
- In which international organizations or venues might NTIA most effectively advocate for the free flow of information and freedom of expression? What specific actions should NTIA and the U.S. Government take?
- Which international venues are the most appropriate to address questions of digital privacy? What privacy issues should NTIA prioritize in those international venues?
- What are the current best practices for promoting innovation and investment for emerging technologies? Are these best practices universal, or are they dependent upon a country's level of economic development?

Some of the questions go to the heart of regulatory policy and process for handling technology regulation in the United States:

- Does the multistakeholder approach continue to support an environment for the internet to grow and thrive? If so, why? If not, why not?

NTIA previews a complex and dynamic future in which emerging technologies present real governance challenges. “Over the coming years, these discussions will increasingly focus on issues such as the economic and social impacts of artificial intelligence, the workforce changes brought on by automation and new internet-enabled business models, and the growth of blockchain applications, to name a few,” NTIA said in the Notice. Recently, civil society, industry, and academic groups have been grappling with what is the appropriate regulatory approach to fostering new technology while ensuring that public input and consumer interests are considered.

NTIA may not be well-known outside of DC, but as a key advisor to the White House on technology and digital issues, it is positioned to shape federal policy for years to come. It is regularly asked to take on issues to map out digital policy, from Internet of Things to software assurance and more. We expect more NTIA activity in the near future on supply chain and software issues, among other security challenges. And the government faces hard questions about who should lead these sorts of efforts – the U.S. Department of Homeland Security, the Federal Trade Commission, the National Institute of Standards and Technology, or NTIA? How can we ensure efforts do not overlap and strain private sector expertise?

This is a time for the private sector to deliver on its commitment to multistakeholder processes in lieu of regulation. NTIA needs input to develop sound approaches and priorities. Hopefully it will receive a diverse and constructive set of comments.