

Consumer Representation in the Information Society

Justification

Consumers International is a powerful voice for the consumer movement worldwide on a variety of issues concerning the information society. Our previous activity in this field includes research, advocacy and consumer education work on issues such as electronic commerce,⁵ privacy,⁶ access to the Internet,⁷ online consumer protection⁸ and dispute resolution,⁹ copyright and access to knowledge,¹⁰ competition in telecommunications markets¹¹ and global governance.¹²

Yet despite the proven capacity of Consumers International to provide valuable independent, evidence-based research and policy resources, too often the institutions with real power to affect consumers' interests in the information society are closed to the consumer movement. This remains the case even seven years after the international community declared that:

building an inclusive Information Society requires new forms of solidarity, partnership and cooperation among governments and other stakeholders, i.e. the private sector, civil society and international organizations.¹³

A number of governance institutions have opened up allow civil society participation in some form, but barriers of cost and capacity still impede consumer representatives from fully participating in these institutions. It is particularly difficult to ensure that the views of consumers in the global South are adequately represented in policy development processes at a global and regional level.

Consumers International's vision for this project is to open new doors for the consumer movement within a range of global and regional institutions of governance in the information society. We aim to present policy-makers with a cogent and coordinated consumer voice in these institutions, covering issues such as access

-
- 5 *Should I buy? Shopping on line 2001: An international comparative study of electronic commerce* (2001). Available from http://www.consumersinternational.org/Shared_ASP_Files/UploadedFiles/C0F98C93-3556-4E09-B903-CAE2C957C74F_Doc33.pdf.
 - 6 *Privacy@net; An international comparative study of consumer privacy on the Internet* (2001). Available from http://www.consumersinternational.org/Shared_ASP_Files/UploadedFiles/80732215-7329-4A22-A02A-9A8062C65BC7_Doc30.pdf.
 - 7 *Internet Access: A Study in Indonesia and Malaysia* (2007). Available from http://a2knetwork.org/sites/default/files/eaccess_indonesia_malaysia.pdf.
 - 8 *Credibility on the Web : An international study of the credibility of consumer information on the Internet* (2002). Available from http://www.consumersinternational.org/Shared_ASP_Files/UploadedFiles/205F49EB-D048-43B0-A2B0-9596B2287BA5_Doc320.pdf.
 - 9 *Disputes in Cyberspace 2001: Update of online dispute resolution for consumers in cross-border disputes* (2001). Available from http://www.consumersinternational.org/Shared_ASP_Files/UploadedFiles/DD330597-5945-4B5A-A8BD-4A6573F3F9AF_ADRReport2001.pdf.
 - 10 *Copyright and Access to Knowledge: Policy Recommendations on Flexibilities in Copyright Laws* (2006). Available from <http://a2knetwork.org/sites/default/files/a2k-report.pdf>.
 - 11 *Getting connected: A comparative study of consumer benefits arising from competition in the telecommunications markets of Bangladesh, Indonesia, Pakistan and Thailand* (2005). Available from http://www.consumersinternational.org/Shared_ASP_Files/UploadedFiles/09F4672C-B515-45B5-A0B9-669D19C2FA37_Gettingconnected.pdf.
 - 12 *Decision making in the Global Market: Trade, Standards and the Consumer* (2005). Available from http://www.consumersinternational.org/Shared_ASP_Files/UploadedFiles/1E6FE541-9535-4E43-A86E-D7F66DE4728A_GlobalGovernancefinalpdf.pdf.
 - 13 *WSIS Declaration of Principles* (2003). Available from <http://www.itu.int/wsis/docs/geneva/official/dop.html>.

to broadband, network neutrality, internet governance, access to information, online privacy and freedom of expression, with a particular focus on issues of concern to consumers in the global South.

Two broad strategies will be involved in pursuing this vision. The first involves prioritising the opportunities for the consumer movement to present its voice in existing governance and policy institutions for the information society, and resourcing consumer representatives to meaningfully and positively contribute to the work of these institutions. The second will be to advocate for the opening up of other institutions that are presently closed to input from consumer representatives, or whose processes for such input are too narrow or inaccessible.

Thus by harnessing the collective voice and effectiveness of consumer groups working around the world and across issue sectors, we aim to guarantee that consumers' interests in the information society are adequately represented in regional and global policy fora. The project's ultimate objective is that more consumers around the world, and particularly in the global South, will be able to fully and freely exercise their human rights in the information society through equitable access to information and communications technologies.

Context

Provision already exists for the global consumer movement to be represented in some, but far from all, fora of governance in the information society. The scope of this provision varies markedly, ranging from full involvement in the activities of the institution (for example, civil society is treated as a full and equal stakeholder within the Internet Governance Forum), to a more limited advisory role (for example within the OECD), or an even more constrained observer role (for example, within the WIPO standing committees). In other institutions, no provision exists for consumer or other public interest representation at all.

The following table gives an initial indication of the institutions of possible interest to Consumers International for this project, as well as naming the body through which each institution receives consumer input (if any), giving an indication of its accessibility to civil society, and describing how much authority the institution possesses in setting policy for the information society.

Institution name	Consumer input mechanism	Accessibility to civil society	Policy authority
Internet Governance Forum (IGF)	Plenary body and Multistakeholder Advisory Group (MAG)	High, though not perfect (CS appointments to the MAG are made by the United Nations)	Weak – has a mandate to make recommendations, but has not yet taken this up
Organisation for Economic Cooperation and Development (OECD)	Civil Society Information Society Advisory Council (CSISAC)	High, but with historical lapses (eg. the once-proposed Treaty on Investment)	Moderate – the OECD makes soft law only and does not represent the global South, though its recommendations are persuasive in the North
Transatlantic Economic Council	Transatlantic Consumer Dialogue	High, part of a tripartite advisory structure also including business and legislators	Moderate – provides recommendations to advance EU-US cooperation
Internet Corporation for Assigned Names and Numbers (ICANN)	At-Large Advisory Committee (ALAC) and NCUC (Non-Commercial Users Constituency) of its GNSO (Generic Names	High, though there are ongoing accountability issues with its policy development processes	High, but in a narrow sphere with limited impact on consumers – Internet naming and numbering

Institution name	Consumer input mechanism	Accessibility to civil society	Policy authority
	Advisory Committee)		
World Intellectual Property Organisation (WIPO)	Various including the Standing Committees on Copyright and Related Rights (SCCR) and Patents (SCP), and the Intergovernmental Committee on IP and Genetic Resources, Traditional Knowledge and Folklore (IGC)	Moderate, allows “active” civil society observers	High – a treaty-making intergovernmental organisation
United Nations Economic and Social Council (ECOSOC)	Commission on Science and Technology for Development (CSTD)	Moderate, allows “active” civil society observers	Limited – advises ECOSOC on information society issues
United Nations Conference on Trade and Development (UNCTAD)	Civil Society Outreach (CSO) Unit	Moderate, allows “active” civil society observers	Moderate – responsible for the UN Guidelines for Consumer Protection
European Union (EU)	Economic and Social Committee (EESC)	Moderate, civil society is represented through a “various interests” group alongside employers and employees	Moderate – an advisory body that represents the interests of civil society to the organs of the EU
World Trade Organisation (WTO)	Biennial Ministerial Conference	Limited, allows fairly passive observation only and other WTO committees such as the TRIPS Council are closed to civil society	Very high – administers the TRIPS agreement and can enforce compliance using trade sanctions
International Telecommunications Union (ITU)	Various Working Groups	Limited, only sector members may contribute and membership is extremely expensive	High – the ITU sets technical standards for telecommunications, many of which have impact on consumers
Anti-Counterfeiting Trade Agreement (ACTA)	Oversight or Steering Committee	Unclear – ACTA is an agreement still under negotiation. Some negotiating countries have held hearings at which civil society input has been received.	High – the agreement would impact Internet intermediaries and the exchange of information goods across borders
Asia-Pacific Economic Cooperation (APEC)	Telecommunications and Information Working Group	None – a high-level cross-sectoral Business Advisory Council (ABAC) exists, but no corresponding Civil Society Advisory Council	Moderate – a regional trade group for the Asia-Pacific which includes the United States as a member
South Asian Association for Regional Cooperation (SAARC)	Working Group on Telecommunications and ICT	None	Moderate – a regional trade group for South Asia

Institution name	Consumer input mechanism	Accessibility to civil society	Policy authority
Mercusor	Industry and Technology Policy work subgroup	None	Moderate – a regional trade group for Latin America
Association of South East Asian Nations (ASEAN)	Telecommunications Policy Regulators' Council	None	Moderate – a regional trade group for South-East Asia

Objectives/goals

Although there are many discrete policy issues for the information society that are important to consumer advocates (such as freedom of expression, privacy, access to knowledge and so on), the rationale for this project is even more fundamental. It aims to improve the democratic legitimacy of international institutions active in the information society, and to rebalance the power of civil society in comparison to other stakeholder groups within those institutions, across a broad range of policy issues.

Concerning the democratic deficit that exists within most international institutions, this is widely acknowledged, even within the United Nations itself. The Cardoso report on civil society presented to the United Nations General Assembly states:

The Panel suggests that the United Nations can make an important contribution to strengthening democracy and widening its reach by helping to connect national democratic processes with international issues and by expanding roles for civil society in deliberative processes.¹⁴

It is therefore important for the global consumer movement to fully maximise all available avenues for representing the public interest within global public policy institutions, in order to help redress their democratic deficit. This is especially important in relation to information society issues, because so many of such issues are transnational in scope; ie. they affect consumers' interests in communicating and networking across borders – which many national governments feel they have no democratic mandate to uphold.

As to the imbalance of power that affects civil society in comparison to other stakeholder groups within governance institutions, this is an inevitable consequence of the far greater economic and (thus) political power that the private sector holds. In many intergovernmental institutions – such as WIPO, for example – private sector cooperatives and lobby groups receive the same consultative status as NGOs from civil society, which results in the “crowding out” of civil society voices in consultative processes.

In other institutions, such as the ITU, there is simply no institutionalised mechanism for civil society representation at all (except, in that example, through sector membership, which is too expensive for any but a few large NGOs). Within such institutions, the disempowerment of consumers is structural and deliberate. It comes as no surprise at all that the policy decisions of such institutions have often run counter to the interests of consumers.

Yet the exclusion of consumers from information society policy development is not inevitable. Consider that until quite recently, the OECD had no institutionalised mechanism for consultation with consumers before developing policy positions on information society issues. But following its 2008 Seoul Ministerial Meeting, a dedicated civil society advisory group, the CSISAC, was established to open up the organisation to civil society on an ongoing basis. This project aims to bring similar reforms to other institutions of governance for the information society, and to ensure that full advantage is taken of opportunities that already exist for such civil society involvement.

¹⁴ Cardoso, Fernando H. *Cardoso Report on United Nations-Civil Society Relations* (2004), 24. Available from <http://www.un.org/docs/journal/asp/ws.asp?m=a/58/817>.

Methodology

Utilising the structures outlined above in the section on “Holding Broadband Service Providers to Account,” the Consumers International network will pursue the goals of this project through the following approaches:

1. Research providing a gap analysis of opportunities for consumer representation within relevant governance institutions for the information society.
2. Coordination and capacity building to empower the consumer movement to better utilise available resources in exploiting these opportunities.
3. Engagement with institutions that do not offer adequate opportunities for consumer representation, with the objective of improving their democratic legitimacy.
4. Recording and reporting on the results of the project and lessons learned.

More detail is given in the table in the following section.

Activities to be developed

Consumers International proposes a two-year project to be funded by Ford Foundation. The main activities that are to be conducted over this period will be the following:

Phase	Activity	Impact	Period
Study	A study of global and regional institutions setting policy for the information society, including the scope and effectiveness of mechanisms for consumer input	Report published identifying relevant institutions, existing mechanisms for consumer input in each, and where institutional deficits exist	Q1 of project term
	Survey of existing and projected consumer interest representation in the identified institutions over the project term, including CI, its members and partners	Report published containing gap analysis of underutilised mechanisms for consumer representation in the earlier identified institutions	Q2
Planning and capacity building	Prioritising of institutions requiring consumer input (whether yet open to such input or not), based on potential impact on consumers' interests	Produced internal “hit list” of institutions to be targetted in subsequent engagement	Q2
	Resource planning for utilising project funding and CI, member and partner resources to fill identified gaps including allocation of sub-grants to Southern members	Budget for the remainder of the project term allocated to specific institutional engagement	Q3
	Coaching and technical/ institutional support for Southern members to effectively participate in the identified underutilised fora for consumer representation	Southern members commit human and institutional resources to fill identified gaps in fora for consumer representation (subject to funding)	Q4
Implementation	Building coalitions to advocate for the reform of targetted institutions to improve the institutional mechanisms for consumer input into their activities	Targetted institutions improve their openness to consumer input	Q5-Q7
	Allocating resources to the delegation of consumer representatives to the targetted institutions, including institutions that	Consumer interests are represented in institutions where they were not represented before	Q5-Q8

	become open to consumer input during the project term		
	Maintaining a centralised repository for reports of consumer delegates to the targetted institutions	Regular reports from each consumer delegation published	Q5-Q8
Follow-up and reporting	Analysis of the impact of the project on the representation of consumers' interests in governance of the information society	Evaluation report published	Q8
	Investigation of follow-on funding opportunities for CI, its members and partners to maintain consumer representation in the highest priority institutions after the project term ends	Long-term sustainability of the outcomes of this project assured	Q8

Results expected

Measurable success criteria will be:

1. New institutional avenues for the representation of consumers' interests in the development of public policy for the information society.
2. Stronger representation of the consumer interest in existing institutions at global and regional levels.
3. Enhanced capacity of consumer representatives from the global South to participate in institutions of governance for the information society.
4. Ultimately, better provision for the consumer interest in policies and practices on information society issues such as access to broadband, network neutrality, internet governance, access to information, online privacy and freedom of expression.