



Submitted March 8, 2024

## CCIA Submission to the United Nations on the Global Digital Compact

**Do you consider that key priorities for a Global Digital Compact are captured in the structural elements circulated?**

Agree.

**If you selected 'disagree' or 'strongly disagree' please specify which different or additional priorities should be addressed in the Global Digital Compact.**

N/A

### **Section 2: Principles. Please provide comments and recommendations, if any**

The principles in the draft Global Digital Compact are ambitious,<sup>1</sup> and industry appreciates these efforts to support both innovation and public interest goals. In particular, CCIA is encouraged to see the draft Global Digital Compact's emphasis on promoting inclusive access to digital services, closing the digital divide, supporting and protecting human rights, and "encourag[ing] innovation and participation to unlock the benefits of the digital economy for all." These are critical principles by which UN members should abide to maximize the benefits of the internet and associated services and commerce for both citizens and firms.

The principles adopted through the Global Digital Compact should make specific reference to leveraging multi-stakeholder approaches to achieving the goals of the initiative. This would ensure that the outcomes of the Global Digital Compact are cooperative in nature and collaborative between industry, civil society, and governmental bodies.

CCIA appreciates the UN's efforts surrounding AI to promote "responsible and accountable development, and mitigate risks, of digital technologies" and be "agile and adapt to emerging and future technological change." CCIA supports a focus on responsible AI being incorporated into the principles of the Global Digital Compact. However, the interpretation of these principles will determine their effectiveness. Member states should indeed seek to encourage trusted development of burgeoning technologies, but efforts to create an ecosystem or governance framework to ensure this outcome should be carefully calibrated and not excessively rigid. Overly prescriptive rules in the AI space could lock governing regimes into place, simultaneously preventing advancement in AI technology while also undermining regulators' ability to apply the rules to newer iterations and applications of AI. To the extent that countries interpret governance regimes differently, such approaches, particularly where prescriptive, can contribute to a fragmented marketplace which undermine both innovation

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[https://www.un.org/techenvoy/sites/www.un.org.techenvoy/files/240223\\_Co-Facs\\_Invitation\\_Letter\\_Secund\\_Round\\_Consultations\\_FINAL.pdf](https://www.un.org/techenvoy/sites/www.un.org.techenvoy/files/240223_Co-Facs_Invitation_Letter_Secund_Round_Consultations_FINAL.pdf).

and effective regulation. As such, CCIA would recommend making clear that the agility and adaptability referenced in the draft Global Digital Compact is a call for policymakers overseeing burgeoning uses of AI and other technologies to bake such an agile approach into regulatory and governance approaches. This clarity is important to distinguish between “agile” responses to emerging technologies that amount to quick regulation that materializes before technologies have fully developed, potentially undercutting their evolution.<sup>2</sup>

### **Section 3: Commitments. Please provide comments and recommendations, if any**

First, regarding Commitment 1: Digital public infrastructure (DPI) is an evolving, ill-defined concept that may not be relevant to all markets. Government intervention and competition in digital infrastructure is only helpful, necessary, and appropriate when it is introduced to solve a demonstrated market failure.<sup>3</sup> As detailed by world-renowned economists Joseph E. Stiglitz, Peter R. Orszag, and Jonathan M. Orszag 25 years ago, “The government should exercise substantial caution in entering markets in which private-sector firms are active,” further elaborating that governments should “generally not enter markets to provide more competition to existing firms,” and instead should leverage other regulatory redress mechanisms or incentives such as taxes and subsidies.<sup>4</sup>

As such, CCIA urges the UN to consider qualifying such a commitment to encourage countries seeking such measures to place a focus on improving consumer experience rather than measures that could impede market access by rendering private investment commercially unviable. While digital public infrastructure could serve as a key link between digital services and the delivery of crucial services through payment, identification, and data transfer, if the measures are imposed in a manner that hinders companies’ operations, it would undermine the long-term viability of such digital infrastructure by disincentivizing participation. Further, the bulk data collection that would be necessary to implement the digital identification and seamless electronic payment systems that are sought through DPI bring about potentially significant data privacy concerns. If DPI were to become ubiquitous in certain urban areas, governments could build near-constant tracking of citizens’ movements and actions.

Second, regarding Commitment 2: CCIA strongly supports the goals to foster an “inclusive, open, safe, secure digital space.” A free and open internet is crucial, in line with the resolution passed at the 47th session of the Human Rights Council in 2021 regarding “[t]he promotion, protection and enjoyment of human rights on the Internet.”<sup>5</sup> Ensuring online services providers are free to operate absent undue power given to telecommunications service providers, protecting freedom of expression online, and committing not to impose internet shutdowns are all crucial commitments for UN members to make to benefit society.

Third, regarding Commitment 3: It is unclear what the phrase “representative, interoperable, and accessible data exchanges” is in reference to, as drafted. Clarifying the nature of such

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<sup>2</sup> <https://ccianet.org/library/understanding-ai-guide-to-sensible-governance/>.

<sup>3</sup> [https://ccianet.org/wp-content/uploads/library/govtcomp\\_report.pdf](https://ccianet.org/wp-content/uploads/library/govtcomp_report.pdf).

<sup>4</sup> [https://ccianet.org/wp-content/uploads/library/govtcomp\\_report.pdf](https://ccianet.org/wp-content/uploads/library/govtcomp_report.pdf) at 71.

<sup>5</sup> [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/47/L.22](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/47/L.22).

data exchanges would be important for UN member states seeking to adhere to this commitment and the firms that would eventually be subject to such rules.

CCIA further agrees that advancing digital trust and safety and protecting the integrity of information are significant commitments that should be made by UN members. However, insofar as commitments are made by UN member states in these efforts, CCIA urges for UN member states to work in tandem with industry bodies that have conducted studies and developed best practices.

For example, the Digital Trust & Safety Partnership (DTSP)<sup>6</sup> and similar initiatives have worked in tandem with international governing structures and national governments to build on industry observations and craft effective measures to improve online experiences for all of society. DTSP reflects how industry and civil society can collaborate to build methods to promote strong industry standards in a non-disruptive, yet impactful manner. DTSP's process seeks to align with the product development cycle at the heart of the services impacted, and targets commitments to implement trust and safety at levels ranging from product development to deployment. Partner companies make five overarching commitments and DTSP has articulated 35 concrete best practices that provide examples of how partners address harmful content and conduct. This industry-led body has iteratively developed best practices through robust testing of their effectiveness.

As part of the commitment to pursue “specific measures to protect women, children, youth and persons in vulnerable situations against harms,” UN members should be cautioned against policies that could harm digital security by attacking encryption, undermine digital services’ ability to operate through burdens that do not solve the underlying concern, or chill online expression through overly-prescriptive definitions of harmful content and excessive surveillance measures. As such, CCIA would recommend adding an affirmative commitment in the Global Digital Compact to uphold international standards for encryption technologies to protect encryption from authoritarian interventions that could threaten human rights and undermine international commerce and connectedness. Similarly, overly-prescriptive definitions of permissible or disallowed content from governments in the furtherance of the goal to “[p]romote information integrity and address misinformation and disinformation,” could harm freedom of expression, particularly in authoritarian regimes.

Fourth, also regarding Commitment 3: CCIA strongly supports the goals of promoting “safe, secure and trusted cross-border data flows” and appreciates its inclusion. Ensuring the ability of data to transfer across borders is essential to the functional operation of the internet as a free, open, interconnected entity. Facilitating cross-border data flows also catalyzes the internet as a force for good and enables its use to link markets, cultures, and individuals globally.

CCIA further supports the commitment to “[h]arness data to track, target and accelerate progress across” the UN’s SDGs. Digital services and AI are critical tools to track the progress of the SDGs through the UN Data Commons for the SDGs. Advanced data analyses could target areas for improvement in tackling poverty, hunger, equality in gender, clean energy, safe and

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<sup>6</sup> <https://dtspartnership.org/>.

clean water, economic inequality, education, and more. To fully achieve the SDGs by 2030, innovative methods of addressing problem areas and reinforcing methods that have been effective through emerging AI techniques will be needed.

CCIA agrees with the need to protect data privacy and security and to “[f]oster representative, interoperable and accessible data exchanges and standards.” However, such commitments should explicitly be pursued in tandem with the commitment of promoting cross-border data flows. Standards for interoperability and privacy protections should be sought with the goal of protecting the global flow of information and commerce intact. The Asia-Pacific Economic Corporation’s Cross-Border Privacy Rules System is a helpful framework for UN members pursuing this commitment.

Finally, as the UN continues to consider AI in the context of these commitments—both the one that is specific to emerging technologies and the intersection with the other three items—CCIA underscores the promise offered to society by AI advancements. These are potential benefits that should be reflected in the Global Digital Compact. As the United Nations AI Advisory Body’s Governing AI for Humanity interim report from December 2023 states, “AI has the potential to transform access to knowledge and increase efficiency around the world,” including in assisting individuals’ everyday needs such as education, improving food security by bolstering agriculture, advancing healthcare, catalyzing scientific and disease research, harnessing data to lead efforts in environmental conservation, and supporting public services.<sup>7</sup>

As such, industry would recommend that the Global Digital Compact include recommendations to avoid pursuing workstreams that are duplicative of ongoing multilateral efforts. In particular, the Global Digital Compact should discourage the adoption of unduly burdensome rules for AI technologies or the application of AI technologies that could undermine countries’ ability to harness these AI technologies’ full potential.

To ensure these potential benefits are unlocked on the global scale necessary, the UN’s governance guidelines for emerging technologies should reflect a commitment to execute meticulous and careful study of the specific potential harms and implement flexible regulatory regimes.

First, definitions for AI governance should be consistent and aligned, with responsibilities clearly delineated between developers, deployers and end users. Any guidelines for AI use should be carefully tailored and clearly separated for three different categories of Developer, Deployer and End User. International approaches such as the Hiroshima AI process should be followed in this regard.

Second, AI guidelines should not duplicate or impede use of existing laws and regulations, as they could lead to unnecessarily hindering innovative approaches to AI use without substantially improving oversight or protection against the targeted potential harm. As the United Nations AI Advisory Body’s Governing AI for Humanity interim report from December 2023 states: “To be effective, the international governance of AI must be guided by principles and implemented through clear functions. These global functions must add value, fill identified

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<sup>7</sup> [https://www.un.org/sites/un2.un.org/files/ai\\_advisory\\_body\\_interim\\_report.pdf](https://www.un.org/sites/un2.un.org/files/ai_advisory_body_interim_report.pdf) at 6-7.

gaps, and enable interoperable action at regional, national, industry, and community levels. They must be performed in concert across international institutions, national and regional frameworks as well as the private sector.”<sup>8</sup>

Finally, an overall goal for AI guidelines should be the pursuit of measures that are reasonable and tailored for each situation and account for the benefits, risks, and costly burdens involved. A holistic approach that accounts for the benefits that AI could bring to society when seeking proposals to address potential harms is necessary to ensure that broader real-world benefits are not eliminated while policymakers pursue methods to root out harms in narrow situations.

#### **Section 4: Follow-up. Please provide comments and recommendations, if any**

CCIA appreciates the inclusion of tangible measures for UN members to follow up on these principles and commitments. Tracking the progress of these commitments and gauging their effectiveness and helpfulness is critical to making the Global Digital Compact process as impactful as possible. In particular, CCIA strongly supports the draft follow-up measures’ inclusion of building on “existing mechanisms and avoid[ing] duplication.” Duplicative processes could overcomplicate policymakers’ ability to comply with the goals set in the Global Digital Compact, while also potentially leading to overlapping rules for digital services providers that could, in turn, be difficult to efficiently impose and follow.

#### **Any additional comments**

N/A

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<sup>8</sup> [https://www.un.org/sites/un2.un.org/files/ai\\_advisory\\_body\\_interim\\_report.pdf](https://www.un.org/sites/un2.un.org/files/ai_advisory_body_interim_report.pdf) at 23-24.