

Internet Policy Guidance for Iraq

The Internet — architecturally open and decentralized, abundant, inexpensive and user-controlled — is a new communications medium ideally suited for the promotion of open, democratic societies and is increasingly central to economic growth and human development worldwide. The Internet shares characteristics with other mass media, but it is unlike any of them in its totality. Law and policy that are focused upon mass communications media needs to address the Internet as one such medium, and an increasingly important one.

The Internet among other things allows anyone to become a publisher by virtue of being able to create a web site or any other server of content. The Internet is now an important medium in developed countries for journalists of all kinds. Indeed, many newspapers and magazines now have web sites on which up-to-the-minute content is maintained, and the physical form of their publication is becoming to a significant extent a series of snapshots of the material that is available on their web sites.

The Internet is not independent of the legal and regulatory framework of individual countries. To the contrary, laws and public policies can hinder or promote the development of the Internet. Government regulation can quash Internet growth. On the other hand, the lack of clear laws can result in an environment where government officials arbitrarily and inconsistently decide what is permitted and what is forbidden, leaving Internet service providers, Web site operators and others subject to licensing and other controls with no hope of legal recourse. Journalists who regard the web as an attractive publications medium are then at risk of seemingly arbitrary actions against them.

Internet policy needs to understand and take advantage of those attributes that make the Internet unique while not unnecessarily impeding its effectiveness:

- It is a global medium; it does not necessarily respect national borders
- It flourishes, based upon open standards and open access
- It is decentralized; there are no gatekeepers
- It is abundant; the barriers to entry are low, and for most transmission methods, there is no scarce spectrum
- It is inexpensive; everyone can be a publisher of information and a provider of information services
- It is by and large user-controlled — such as decisions to encrypt or to filter
- It is interactive, and the interaction can be 1-to-1, 1-to-many, or many-to-many

The needs of Iraq with respect to Internet policy at the present time are moderately straightforward but nevertheless important. The current state of affairs in Iraq may well not permit any formal policies or regulations to be promulgated — indeed, it does not yet have the administrative or legislative apparatus to construct or enforce them — so one must focus upon principles that set the right directions for the future.

In addition, it is premature for a country like Iraq, with scarce Internet deployment, deficient computer proliferation, destroyed PTT infrastructure and most importantly a vast majority of its population with meager buying power and no access to training and education facilities, to consider any comprehensive approach to Internet policy. Today Iraq needs computer and Internet literacy workshops to develop some capacity building expertise within

the country as much as it needs policy attention. E-commerce and e-government will come later; they will grow in parallel with the natural build up of a critical mass of Internet users within Iraq. It may take the Iraqi trained diaspora several years to venture back to Iraq and start making a difference, assuming that peace and some sort of a democracy would prevail.

The enablement of the Internet in Iraq at this time is as much of a development issue as it is a policy issue. Initial policy guidance should set the basis for the evolution of a policy environment that will facilitate rapid growth and exploitation of the Internet. Subsequent to that, the growth of the Internet will be facilitated more by investment in physical infrastructure and multi-user access points, in generating useful local content and services using the web, and in investing both in the technical skills of Iraqis to extend the net and in Internet use skills of many more Iraqis so that they can exploit its content and services. Journalists in particular should find the web an appealing publications medium as the Internet and its user population grow.

Following are a set of issues that we believe are important and that should be considered in guiding policy with respect to the Internet and the mass media's use of it in the immediate future. The first group of recommendations relates to extending the affordable Internet through facilitating the growth and prosperity of the Internet industry:

1. The government should facilitate the availability of affordable Internet services to as many of its residents as possible. Helping an Iraqi Internet industry to emerge and be healthy is an important part of the reconstruction of the media environment in Iraq. In particular, the country will need a set of entrepreneurs who will become Internet service providers (ISPs) as quickly as possible. ISPs serve as intermediary organizations between end users, both individuals and organizations, and the global Internet, and their success is essential to the success of the Internet in Iraq. Government policy needs to encourage these entrepreneurs by assisting them to start their business quickly and easily, and to offer service on a competitive basis to all potential subscribers.
2. Licensing and registration requirements should be predictable and consistent and should neither impede competition nor be used as a means of restricting market entry. The marketplace and ordinary business law are sufficient to protect consumers. ISPs should be able to offer Internet services without prior approval. Licensing should be kept to an absolute minimum necessary for essential government operation, and the preferred position is that ISPs should be treated no differently than other businesses with regard to establishing a business. The reasons for licensing are substantially outweighed by the reasons not to license. Licensing may confer rights, but it also is likely to confer obligations and delays that are barriers to entry.
3. Internet legislation and policy needs to distinguish between carriage and content. In particular, ISPs should be regarded as providing carriage for information, and that function should incur no legal liability imposed by the content that is carried. Of course, an ISP may also be a supplier of content, and that content should be subject to policy regarding content. However, ISPs should not be liable for any aspect of the content which they transmit in their function of providing data carriage.
4. The Internet industry in Iraq should be encouraged to establish at an early stage an Internet exchange point (IXP). An IXP allows traffic local to Iraq to stay in Iraq without having to enter the global Internet and be routed through another country, most often

through the United States or Europe. In spite of the fact that this seems like a simple and economical concept, IXPs have often been late in materializing in developing countries. An IXP can be created by the set of ISPs in a country; it can also be an independent entity, and it can even be offered by a long haul Internet provider as a service at the point of termination of the international connection. Regardless of how it is implemented, an IXP should allow the interconnection of any ISP that wishes to connect to it, as well as any international Internet carrier that wishes to offer internal connectivity to Iraqi ISPs. There should be no barriers to entry to the IXP beyond technical competence, existence of the interface equipment, and the costs associated with providing the service.

Several of our recommendations relate to content:

5. There is content on the Internet, specifically pornographic content, which is likely to be objectionable to the majority of Iraqi residents. To the extent that filtering of such material is needed, ISPs should be required to provide, upon request by the end user, filtering software for client machines, or equivalent filtering services at the server level. Pornographic content needs to be defined as best it can to provide a basis for court challenges. There should be provisions in the law allowing individuals to challenge the blocking of certain sites, so that errors in the blocking system can be corrected.
6. The Internet industry is increasingly an information economy. Forms of information that can be put into digital form and transmitted digitally over any data network including the Internet include texts, software, music, images, animation, and movies. Much of that information is protected by copyright, and has specific conditions attached to its reproduction, transmission, and distribution. Those intellectual property rights shall be respected as shall be the case for other media.
7. Content suppliers, including web services, file services, and data base services, should not be licensed just because they reside on electronic media. In particular neither web sites nor their content, which are both the repository of much formal and informal content and which are also a primary environment for innovation of new electronic goods and services, should be licensed just because they reside in electronic media. To do otherwise would have a chilling effect upon the suppliers of content and could substantially reduce the amount of useful information available to the population.

The growth and affordability of the Internet still depend critically on the fixed line voice telephone infrastructure, both for dial-up local loops and for high speed longer distance transmission circuits:

8. The growth of the Internet depends critically upon having an efficient voice telecommunications system. Good telecommunications policy is so much a prerequisite to effective Internet use that one should consider the two subjects together. Some of the principles of an effective telecommunications and Internet policy are:
 - Privatization of governmental PTTs; internationally, telecomm policy favors such privatization actions
 - Competition: Competition can drive down prices, promote investment and spur the deployment of affordable services. Existing networks should be open to competitors.

- International standard: full and fair competition in local exchange service, leased lines, long distance, and backbone; among wire line, wireless, and cable; and among ISPs.
- Non-discrimination: ISPs should have access to network facilities on same terms telecomm companies offer their own ISP affiliates.
- Goods and services should be open to foreign competition; trade barriers should be low. EU directives and WTO agreements support this principle.

It is essential that competitive principles be embodied in the reconstruction of the telephone infrastructure. No actions should be taken, especially in terms of license terms granted, that would deny eventual competition at any level of the telephone system, fixed line or cellular, or would restrict it in any way unconnected with rational resource allocation. Exclusivity of service should be avoided. Given a chance, competitive services will soon emerge and play their part in making access affordable. No barriers should be placed in their way.

9. Electronic infrastructure must be made available on a non-discriminatory basis. ISPs (Internet Service Providers) should be able to obtain circuits in the same manner as any other consumer, especially higher speed leased lines that will be essentially for a robust Internet infrastructure as business and government begin to use the network heavily. If a voice carrier also offers network services, transactions between the parent and subsidiary of the voice carrier must be at arms length, and on a basis consistent with its dealings with competitive network services.
10. In reconstructing the governmental structure, provision should be made at the outset for an independent regulatory authority for broadcast media, voice telephony, and other services requiring public intervention in markets. No such authority is initially needed for the Internet, but effective Internet deployment and use depends upon a competitive market for communications services, which an independent regulator should be capable of providing.

Finally, later stage developments such as e-commerce and e-government need to be anticipated, as they are powerful drivers of both economic growth and democratic processes. The last recommendation provides a start in facilitating the emergence of these applications.

11. E-commerce should be anticipated by ensuring that the new civil code includes a statement that no document shall be denied legal effect solely because it is in electronic form. In the beginning it may be sufficient to declare that there should be no legal prejudice against documents just because they are in electronic form. Such a statement legitimizes the use of e-documents, and paves the way for an expansion of their use, and consequently a deepening and refinement of the policy issues surrounding them.