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Statement by

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.

Speaking points at UNCTAD: The role of international policymaking and cooperation in promoting a more inclusive digital economy, Bob Fay, CIGI, October 16, 2020

Thank you very much for the invitation to speak. It truly is an honour to be here.

I would like to congratulate UNCTAD for the work that it is doing in the area of the digital economy. The Digital Economy Report is outstanding!

One issue that this work highlights in the importance of governance – good governance – for digital technologies and the data that drive them so that the benefits of these technologies are shared widely while the harms are minimized.

Data are extremely valuable especially big data.

We can turn this raw big data into information and knowledge and then into actions using advanced analytics such as machine learning algorithms. For many of us, this information is delivered via social media platforms.

We call this process the data value chain.

Collective data form a collective public good and we can derive new insights and make better decisions with appropriately governed data.

Such data can be used to drive development. Indeed, there are many innovative data driven projects underway in developing countries.

However, data are not equitably shared, controlled or governed. There are no global standards or regulations particularly for personal data. And the benefits are concentrated outside of developing countries.

Why is that the case?

Slide geopolitics of data flows

The world is divided up into data realms. Some have coined this the splinternet.

1. The US perspective is focused on the private sector and its de facto national champions such as FB and Google. The United States enshrines in its trade agreements open data flows (i.e. no localization except in limited circumstances) that direct data back to American firms which further reinforces their market power and economies of scale and scope. And when no rules exist, the data also go back to the platforms. The US also includes safe harbour provisions for the content of its social media platforms making it very difficult to regulate content. And the US generally lets the platforms set their own terms, conditions and enforcement.
2. The EU model does not have national champions and instead focusses on strategic regulations to reign in the market power of platforms and to promote individual rights through its General Data Protection Regulation GDPR. It is focused on the privacy of an individual's data and the EU has created an extensive legal framework for its protection.
3. China has its great Firewall with full data localization and a massive database of its citizens that can be used to create national champions. Its great firewall also has great pitfalls which it seeks to overcome by acquiring data via its Belt and Road strategy and other means – hence one of the debates over tik tok. China is also determined to become a leading standard setter which allows it to imbed its technology and to disseminate its values globally.
4. Finally, where do the rest of us – the majority of the global population -- fit in against these powerful interests? There are roughly 2 billion people in these realms and close to 6 billion outside. Our collective data are extremely valuable and we have little input into the decisions made in these realms over the control of the uses of the data. This is where countries outside of these realms – and indeed inside – can come together.

Slide International Digital Governance issues

What are some of the issues with the current “state” of governance? Here I outline 3 main areas:

1. Vested regional, country and company interests

- **Extraterritoriality: GDPR was not developed in conjunction with most countries who have to follow its rules.**
- **Economies scale and scope of platforms due to a first mover advantage that favours large digital platforms that already have dominant market positions.**
- **Lack of voice especially for those outside the data “realms” such as developing countries: this is classic insider/outsider dynamics. We need a collective voice to fully harness the benefits of data and artificial intelligence.**
- **Lack of technical expertise on digital issues: Technology moves fast and a lack of expertise makes it difficult to engage in governance discussions.**

2. Complicated policy interactions

- **Vertical structures; horizontal issues: governments tend to make decisions vertically for example ministries assigned to health, finance, labour and so on. But digital technologies create horizontal policy issues because of their pervasive nature across society. Policy decisions made in one area for example trade and cross border data flows can affect a wide variety of other policy areas, such as health, privacy, cyber, intellectual property, taxation and so on.**

3. Need for comprehensive and coherent assessment of risks, vulnerabilities, and outcomes of digital business models

- **This does not take place and should be the ambition for policy makers, but we need a global structure for these discussions given the pervasive global influence of digital technologies.**

Slide International collaboration: Digital Stability Board

There is a way forward.

There is a demand for global rules. I have participated in countless webinars where academics, policy makers and the tech platforms across the world have called for global governance rules.

This is a clear opportunity for developing and developed countries to work together. I think that most countries wherever they are located want to assert more control over their data – personal, corporate and government data.

We advocate for a new global organization to deal with the new complex policy issues arising from digital technologies. One that is solely dedicated to digital issues leaving the other International Organizations to focus on their core areas of responsibility.

We call it a Digital Stability Board.

We draw inspiration from the Financial Stability Board, a multi-stakeholder driven international institution that was set up in the Great Financial Crisis to reign in and regulate global banks and insurers in the face of the light touch regulatory framework that had caused widespread damage to so many people's lives.

If we can regulate global banks and insurers we can certainly do the same for global tech giants.

We can create a set of rules and standards that are suitable for all of us and not just the data realms.

The Digital Stability Board would have a governing plenary body and working groups with mandates to:

- Coordinate the global development of standards, regulations and policies along the data value chain. The objective would be to develop a set of principles and standards that could be applied globally while allowing for domestic variation to reflect national values and customs.
- Monitor developments, advise on best practices, and consider regulatory and policy actions needed to address vulnerabilities, including their impact on civil society, and the regulatory and policy actions needed to address them on a timely basis.
- Ensure that this work feeds into other organizations such as the World Trade Organization.
- Ensure that civil society and developing countries are represented in the discussions – via a multi stakeholder structure and outreach program.

Creating a new institution may seem like a tall order.

Politically, there is already a global group in place: The International Grand Committee (IGC).

It is an ad hoc group of elected representatives from around the world who work across party lines and political ideologies to advance international collaboration on the regulation of social media platforms.

The parliamentarians span a diverse set of countries. Meetings have included parliamentarians from Argentina, Australia, Belgium, Brazil, Canada, Costa Rica, Ecuador, Estonia, Finland, France, Germany, Ireland, Latvia, Mexico, Morocco, Singapore, St. Lucia, the United Kingdom and the United States.

These countries include and go beyond the data realms that I discussed. This proves to me that greater international cooperation can be achieved that is not only driven by the data realms.

The IGC has stated that: “It is an urgent and critical priority for legislatures and governments to ensure that the fundamental rights and safeguards of their citizens are not violated or undermined by the unchecked march of technology.”

That is a worthy goal for a new Digital Stability Board.

I look forward to our discussion.

Thank you