

## Consumer Federation of America

Comments on  
Draft Declaration of Principles  
(Document WSIS/PCIP/DT/1-E )  
and  
Draft Action Plan  
(Document WSIS/PCIP/DT/2-E)

May 31, 2003

Consumer Federation of America (CFA), the largest consumer organization in North America, submits the following comments on the above-referenced drafts of documents. CFA is a credentialed observer to the WSIS process.

These documents will be considered for further revision at the upcoming July meeting in Paris. We urge governments to act favorably on our recommendations.

The World Summit on the Information Society (WSIS) envisions an outcome of its efforts in which all persons around the globe "are empowered freely to create, receive, share and utilize information and knowledge, in any media and regardless of frontiers." In essence, this vision is one of affordable, accessible connectivity to information and communications technologies (ICTs), most especially to the internet and to wireless audio/visual systems.

**Consumer Protection.** The drafts note that among the benefits of exercising such connectivity are "economic" benefits. And, they note the need for a "trustworthy" "legal, policy and regulatory environment" in order to 'favour' "investment in the deployment of [ICT] infrastructures and development of new services." (**Principles 40. Market environment; Draft Action Plan, 28. Good governance.**) Further, the Action Plan

enumerates “consumer protection” as one of the areas in which the development of an enabling environment should “give due regard to the rights and obligations of stakeholders.” **Action Plan 28**. And it articulates some specific concerns regarding consumer rights. **Action Plan 29, 32**.

However, we have a number of concerns about these statements. The first is that the call for a trustworthy environment is ambiguous and seems to view this need as solely related to the capital needs for infrastructure development and deployment. CFA views consumer protection as an end in itself, most especially as ICTs become a significant mode of consumer transactions on the marketplace in evolving economies.

Further, it will be insufficient merely to “give due regard to the rights of” consumers who engage in e-commerce transactions, especially when those transactions are transnational. Many of these rights have not been sufficiently articulated or implemented. E-commerce facilitates a broadening of the marketplace from the consumer’s locality to virtually any place on the globe. Stakeholders in the industrialized nations are now engaged in attempts to formulate voluntary and regulatory systems to define and implement rules to assure these rights. As connectivity increases, there will be a concomitant need in developing economies, as well, for such systems. The Principles and Work Plan should articulate the responsibilities of the stakeholders, including governments, to bring this about.

The experience to date with ICTs, in economies sufficiently developed to have a consumer class with discretionary income, is that commercial stakeholders quickly begin to utilize the technologies to expand the geography of the marketplace drastically. This has some mutual advantages for commercial and for consumer stakeholders. But there are also disadvantages for consumers in transactions in which seller and buyer reside in different jurisdictions with different laws. There are also disadvantages relating to law enforcement in such situations if the seller engages in commercial misrepresentation, or civil or criminal fraud.

The very achievement of the goals of the WSIS will exacerbate this problem globally unless there is, simultaneously with the development and deployment of the technical infrastructure, also development and deployment of a global consumer protection infrastructure.

We believe it is important for the Work Plan to address the subject of consumer protection in more specific terms than **Paragraph 28, 29 or Paragraph 32** now do. Consumer protection needs are broader than any

of these three paragraphs now describe. And, it is important to combine all of the calls for consumer protection in one statement

**Recommendation.** Therefore, we recommend that the last sentence of Paragraph 29, regarding alternative dispute resolutions, be combined with the existing consumer protection statement in Paragraph 32 and that Paragraph 32 be further expanded to read as follows:

**32. Consumer Protection.** Stakeholders, should articulate both voluntary and regulatory rights and obligations of parties in ICT-enabled transactions. Practices and rules should address:

- the practical and legal effects of distance and jurisdictional differences between the parties.
- the privacy rights of ICT users in both transactional and nontransactional uses of the technology.
- the protection of minors from inappropriate content.
- inter-governmental cooperative structures to effect regulatory requirements transnationally.
- the use of alternative dispute resolution (ADR) to secure prompt settlement of disputes along with normal judicial proceedings.

**Market Environment.** We prefer the "Observers' contributions" formulations of **Paragraph 29** over the existing work plan draft. In that regard, we offer the following observations.

First, the promotion of competition has not always served to drive down prices. Deregulatory efforts have had mixed success and significant failures in economies that have sought to rely solely on competition in the marketplace as the mechanism to assure affordability. The observer's formulation implicitly recognizes this fact.

Second, accountability is essential if global deployment of ICTs is to serve both democratic and individual user goals. Without public scrutiny of both standards and accounting practices, both of which are addressed in the observers' contributions to this paragraph, the resulting system is more likely to experience the worst failures of the marketplace, rather than its greatest successes.

**Conclusion.** We urge governments to consider these comments. The expressions of concern for consumers and competition in the working drafts are laudable but greater directions to stakeholders could be achieved by incorporation of these recommendations into the next draft of the Working Plan.

Consumer Federation of America, by Mark Silbergeld, Senior Fellow,  
Director of International Issues. May 31, 2003.