Freedom Online Coalition Chair's Summary

Tallinn 2014

In brief:

Estonia, as the current chairman, organized the Freedom Online Coalition's (FOC) fourth annual meeting and conference in Tallinn, Estonia. The FOC conference of 2014 brought together high-level multi-stakeholder representation with more than 400 delegates from over 60 countries. The main subject of discussion in 19 panel discussions and workshops was the future of freedom online and Internet governance.

The Tallinn Agenda for Freedom Online adopted at the conference creates a strong common understanding of online freedom and reaffirms the commitment of the 23 member countries to a set of common values for free and secure Internet for all. A multi-stakeholder process to create a set of recommendations for freedom online started in January 2014, led by the Estonian e-Governance Academy and Freedom House. The four month project involving NGOs, businesses and international organizations together with FOC countries led to the consensual outcome of the conference in Tallinn. Among the commitments are pledges to preserve and strengthen the multi-stakeholder model of Internet governance, to enhance transparency of government processes and to promote the free flow of information online, globally. Support for the open and interoperable nature of the Internet is a key to safeguarding human rights and realizing the Internet's economic, social and cultural benefits. A call was made to present a 'report card' to the FOC member countries at the 2015 conference using the principles outlined in the Tallinn Agenda.

During the conference, concerns over increasing censorship and deepening government involvement in restricting online freedoms in numerous countries surfaced from different stakeholders. NGO and private sector representatives also accused some FOC member countries of hypocrisy in regards to their national surveillance activities. During the FOC open dialogue meeting with all interested parties, the FOC member country representatives replied to questions and acknowledged criticism by asserting their devotion to dealing with issues raised. FOC states also expressed appreciation for constructive cooperation and emphasized the importance of open dialogue with partners stressing the need for continuous joint action towards preserving a free and secure Internet governed by the multi-stakeholder model.

Over the course of the two-day conference, participants had the chance to experience how i-voting takes place in Estonia using digital ID-cards presented to all visitors of the conference. Participants had to answer the question: 'There are many challenges in guaranteeing freedom online. In your personal view, which of these challenges requires the most attention?'
10% of all participants who received ID-cards voted. Answers by popularity: 1. Balancing security and privacy 44.2%; 2. Educating citizens in ICT 37.2%; 3. Overcoming censorship and developing a unified Internet 14%; 4.-5. Protecting intellectual property 2.3% and Balancing private sector interests and responsibilities online 2.3%.

The FOC welcomed Japan and Moldova as its new members and was glad to announce that the 5th Freedom Online conference will be held in Ulaanbaatar, Mongolia in the spring of 2015.

PROGRAM OVERVIEW

The 4th annual conference of the Freedom Online Coalition was about open and inclusive discussions in a multi-stakeholder arena. First, it focused on the continued promotion of fundamental freedoms online. The epoch of Big Data provided the second key topic, examining the role of business in advancing an open and free Internet. Keeping the Internet a unified and decentralized forum and a tool for global free expression was the third focal point. Development, governance and gender aspects were important elements of all discussions.

<u>**Opening Session - Free and Secure Internet for All**</u>
<u>At the opening session, leaders from different regions of the world introduced their points of views on the topic of Free and Secure Internet for all and on the role of the Coalition:</u>
- Estonian FM Urmas Paet recalled that it is the task of the Coalition to protect human rights and fundamental freedoms online, in particular the freedom of expression, freedom of assembly, access to information and the right to privacy. He stressed the importance of the multi-stakeholder nature of the Internet now and in the future. Minister Paet also concluded his perspective on the events in Ukraine and spoke on how the Internet has been used for propaganda in Russia.
- The President of Estonia Toomas Hendrik Ilves delivered his keynote address discussing the dilemmas of how liberal-democracies can and should safeguard the Internet. He stressed the importance of the FOC Recommendations (the Tallinn Agenda) and the universal values they present. The Internet should remain as one and not become 'Westphalianized'.
- Georgian president Giorgi Margvelashvili talked about the 'personal space' in Georgia being attacked both in virtual and physical worlds in 2008. He stressed the need to find new ways to protect our common space online.
- Speaker of the Senate of Kenya, David Ekwee Ethuro spoke of his country's strategic position in the African continent and the growing role of IT in taking advantage of that position. Chinese investments have been key to achieving success.
- The Dutch FM Frans Timmermans presented two main points: 1. restoration of credibility after the Snowden revelations; and 2. the power of information (if accessible) to break through the walls of dictatorships. He introduced the Coalition's new web-page. He also reaffirmed NATO's commitment vis-à-vis Estonia.
- Canada's FM John Baird spoke strongly on Russian aggression saying that 'little green men' also have their equivalents online. He pointed to the Internet as a 'double-edged sword' that can be used to realize freedoms, but also to silence criticism and stalk citizens.
- In a video message UN Secretary General Ban Ki-moon said undermining freedom is undermining stability. Surveillance should never be done on a mass scale and exceptions to freedoms should be narrow and specifically tailored.

<u>**Panel Discussion I: The Role of Business in Advancing an Open and Free Internet**</u>
The business panel's discussion led by Matthew Shears quickly turned to issues of trust. Technical progress has currently completely outstripped legal capacity to deal with issues in a balanced manner. Several panelists pointed out that some FOC member countries are being blamed for hypocrisy. There is a need to find multi-stakeholder consensus on privacy limits not just for the private sector companies but also for the public sector. Businesses are subject to audits by the government and governments should also be subject to thorough review on their actions online. Current audits have little grasp as governments make exceptions for their security services in nearly all laws within a country and all multilateral agreements with

others. Regarding interceptions of data there are generally two types of countries: countries where there are day-to-day lawful interceptions of data and countries where the government has access to everything. The latter need not pursue court orders or any approval from separate or independent bodies. This should not become the norm. Richard Allan of Facebook reminded us that there is no perfect code and any computer system can be broken into. Transparent restraints should be imposed on governments and their agencies in order to curb infiltration. Cynthia Wong from Human Rights Watch revealed that businesses retain a lot of data simply because they can and because they might need that information in the future, saying this practice should stop as well. There was also a call for businesses to do more to influence government policy on all these issues as they have much more resources at hand than civil society does.

Parallel Session #1
Fundacion Karisma - Experiences from Civil Society to Nurture the International Debate on Internet Governance
The session discussed experiences of civil society to nurture international debate on Internet Governance. A problem that was raised is that in spite of the growing importance of the Internet, the public has lost interest in Internet Governance issues and it is the civil society's task to restore that interest. Internet Governance is also not about technical issues anymore, e.g. when it is about removing content. Civil society has to make sure that governments adhere to the rules they themselves have agreed on.

Parallel Session #2
UNESCO - Multi-stakeholder Consultation on UNESCO's Comprehensive Study on the Internet
The panel focused on the scope and methodology of the ongoing UNESCO Comprehensive Study on Internet-related Issues. The study employs a framework entitled "Internet Universality" with 4 dimensions: human rights, accessibility, multi-stakeholderism, and openness. While the panelists acknowledged the ambitiousness of the study, they did not hesitate to propose an increased focus on ethics, privacy and surveillance, as well as the application of cross-country surveys, especially those targeted at "digital natives".

Parallel Session #3
Internet Society - Surveillance policy ripples: the implications of data localization, traffic re-routing and other policies to counter extraterritorial surveillance
The leading question for this panel was whether national policies such as data localisation and/or traffic re-routing have been successful responses to extraterritorial surveillance. The answer was overwhelmingly negative. Panelists noted that those policies only enabled greater surveillance and control opportunities for implementing countries, rather than reducing other countries' capabilities. Additionally, both involved worse experiences for individuals and companies. Instead, more cables (?), raising awareness, teaching encryption, and increasing openness were identified as potential factors for restoring trust in the Internet.

Presentation of the Coalition's Recommendations – The Tallinn Agenda
The recommendations panel led by Mr Viik began in a very positive light, as it provided the official presentation to the Tallinn Agenda for Freedom Online, which had been adopted only about 1,5 hours before by the ministers and heads of delegations of the FOC member states in a special Coalition meeting. However, the first panelist, Dunja Mijatovic, the OSCE Representative on Freedom of the Media, cautioned against being overly enthusiastic. She said that even FOC members should still be critiqued in terms of human rights online and

called for creating an annual report card that would evaluate the actions of members and non-members regarding Internet freedom. Next, Estonia's Foreign Minister Urmas Paet emphasized that implementing the recommendations will be more challenging and more meaningful than declaring them. Paet welcomed new members Moldova and Japan to the coalition and called on all FOC countries to continue to stand for the principles of transparency, accountability, anti-corruption, and human rights online and offline. The representative of Mexico, Jorge Abraham Soto Moreno outlined his vision for how the Internet can change politics in Mexico, saying that what is needed is a government that understands and embraces the Internet as a positive force in health, education, civic participation, two-way communication, and countless other areas. Moreno stressed that security shouldn't be used as an excuse to limit freedom of expression online, and that using IT strategies to put the citizen at the center of governance has considerable potential to foster civic innovation and build trusting communities. Finally, Japanese Ambassador Jun Shimmi highlighted the importance of the Internet in Japan during the tsunami catastrophe three years ago, when social media played a key role in finding victims, coordinating volunteers, and supporting recovery efforts overall. Shimmi said that his country, as a new member of the FOC, is committed to encouraging the application of the principles of the Tallinn Agenda through engagement with its partners in ASEAN, Central Asia, and beyond. All in all, the panel agreed that the Tallinn Agenda provided an important and useful platform for the future. And that from now on, the focus must be on implementing it.

Panel Discussion II - Fundamental Freedoms Online
The panel discussion entitled "Fundamental Freedoms Online", led by moderator Andrew Puddephatt from Global Partners Digital, considered the full range of issues that fall under the umbrella theme of human rights as applying equally both on- and offline. Frank La Rue, the UN Special Rapporteur for Freedom of Expression, was the first panelist to speak. He mentioned several dimensions of his landmark 2011 UN report that declared Internet access a human right and strongly asserted that human rights and free expression must be at the top of the agenda in any discussions about the Internet. La Rue also drew attention to the critical topic of net neutrality, saying that it is today's biggest challenge and preserving it will be fundamental for the continued effectiveness of the Internet. Microsoft's Principal Strategist Mike Nelson offered a business perspective by asserting that commitments to online freedom have to be backed up by market incentives and credible legal enforcement. According to Nelson, it's been true for years that countries that promote Internet freedom are more successful at attracting top talent than repressive ones, while companies like Microsoft and Google have also undertaken enormous efforts to pressure repressive governments to become more open. Next, Tom Malinowski, the United States Assistant Secretary of State for Democracy, Human Rights, and Labor, acknowledged the extraordinary expansion of technological potential for knowing about the lives of normal people and committed the United States not only to having a wide-ranging public conversation about these topics, but also to acknowledging the need for the US to set a good example in online freedom and privacy. Finally, Anja Kovacs, Director of the Internet Democracy Project in India, maintained that all is not well even on the home front and those governments, even FOC governments, must become better at listening to civil society representatives. Additionally, Kovacs cautioned against the artificial separation of the questions of surveillance, Internet governance, and human rights, which are actually intimately linked. The upshot of the panel was that net neutrality, economic incentives, legal architectures, normative expectations, and greater attentiveness are all separate elements of an ongoing discussion about the application of human rights online, and each of the stakeholders would do well to consider the

perspectives of, and work more closely with the others in order to reach nuanced and sustainable courses of action.

Parallel Session #4
Eastern Partnership - Open Government Partnership as the enabler of online freedoms in Eastern Partnership Countries
Panelists noted that the Open Government Partnership is an extremely useful undertaking, facilitating dialogue for technical advancements and creation of transparency. Electronic governance is important, but needs further development for which basic infrastructure is still inadequate in many countries. Problems with corruption and overlapping systems were noted. Moldova and Georgia are generally more optimistic, Belarus is in a different situation due to the rejection of open governance.

Parallel Session #5
Global Network Initiative and Telecommunications Industry Dialogue - The Role of Human Rights Impact Assessments in Advancing Rights Online
The panel talked about how impact assessment tools are important for companies and are becoming more common. Based on the reports, companies sometimes decide not to build up their business in certain countries because of human rights concerns. Although most of the times human rights do not tend to be showstoppers for companies entering new markets, the challenge of human rights impact assessment is the enormous mass of people affected by a company's actions. Yet, many companies have paid a high price when they have failed to correctly assess the situation in a country before investing there.

Google Big Tent Tallinn - 'Many Points of View, One Amazing Internet'
Opening the session was Secretary of State John Kerry via video-link saying that the countries of the FOC are on the right side of history, while he admitted that the US itself must work harder to keep to the same high standards as others. He also touched upon the issues of internet access, the Russian threat to Ukraine, the revolutions in Arab countries and what role the Internet has played in those situations. He concluded by saying that the FOC is taking the route of an open and inclusive internet, while so many countries are not – 'the freedoms that we seek in the virtual square and public square are absolutely one and the same'. Google representative Ross LaJeunesse defended the company, saying they are becoming ever more transparent and they have not provided a backdoor for the US Government. Estonian President Toomas Hendrik Ilves and Google's Vint Cerf spoke on dilemmas of security and privacy. The closing speech was delivered by the renowned Turkish writer Elif Şafak, who spoke about state level restrictions on freedom of speech in her home country of Turkey.

Parallel Session #6
The Estonian e-Governance Academy - e-Governance solutions on a national level: a practical example of the e-identification system and cyber security
The eGA presentation included a demonstration showing how a hacker was able to get access to a computer, including the camera, microphone and files. The second part was dedicated to e-authentication, e-signing and the of e-government.

Parallel Session #7
Freedom House - The "State" of Protection: The Role of States in Securing the Digital Security of Human Rights Defenders
The panel made numerous calls targeted at the FOC. The panel found that it has been difficult to get the FOC to make statements on worrying developments in other countries and this

process should be addressed. Another common call was for FOC countries to stop selling technical equipment to countries that show willingness to stifle freedom online.

Parallel Session #8
The Council of Europe - Guide on Human Rights for Internet Users – how to make it a useful tool in protecting human rights online in Europe and beyond?
The panel introduced the Guide on Human Rights for Internet Users and provided insights to how the Guide was created. NGO's commended the guide, while calling for an action plan to realize the aspirations contained in it.

Parallel Session #9
Yahoo! - "Dangerous" Speech and Intermediary Liability: Balancing the chilling impact of government regulation of speech with security online
This panel constituted an attempt to identify solutions to the problem of "dangerous speech", which was defined as speech that can be used to galvanize violence, without sacrificing freedom of expression. Examples of mobile and Internet networks being used to spread such messages include Kenya and, more dramatically, Syria, raising questions about the role of businesses in this equation. However, the panel agreed that criminal liability or taking down the content in question won't solve the problem. Counter-speech and a broad-based campaign led by influential individuals to propagate social norms online were proposed as possible solutions.

Parallel Session #10
Internet and Jurisdiction Project
The panel's emphasis was on the problem of countries having difficulties and often no chance of implementing their laws because the platforms are not physically present. This is a distinct problem when one country has legitimate reasons to ban certain content, but another has no reason to do so, as for example with Germany and Nazi propaganda. In this regard due process is also of high importance, but again hard to implement, especially when due process in one country violates a due process in another.

Parallel Session #11
Digital Defenders Partnership
The panel presented cases of organizations and how they deal with threats from government authorities. When a government is intent on causing an activist difficulty, it is very easy to trump up charges. The defendant then has to build a whole case in order to prove that these specific charges are not true. Since judges understand very little of the Internet, prosecutors have an easy time of using "evidence" at their discretion. The court is mostly unable to judge its validity.

Parallel Session #12
Center for Democracy & Technology / Global Network Initiative - Surveillance Reforms: Toward Transparency and Accountability
The central topic of this panel was the effort to increase governmental transparency and accountability regarding surveillance programs. The transparency reports of large Internet corporations were held up as useful models, but the culture of secrecy in government agencies is something that those kinds of reports don't address. Increased parliamentary oversight, an informed public, good journalists, corporate advocacy efforts, and an active civil society were all seen as necessary elements in holding governments accountable. One theme became abundantly clear over the course of the discussion: the debate is only just getting started.

Panel Discussion III – One Internet

The very appropriately multi-stakeholder panel on "One Internet", moderated by co-founder of Global Voices Online Rebecca MacKinnon, explored the connection between human rights online and the openness and interoperability of the Internet. Google's Chief Internet Evangelist Vinton Cerf, commonly referred to as one of the "fathers of the Internet", drew attention to the usefulness of many forums, including NetMundial and FOC, for bringing together many different groups to discuss the very relevant topics of Internet governance. Cerf also provided a short overview of the importance of the activities of ICANN in assuring the uniformity of sending and receiving addresses by drawing an analogy to worldwide postal and telephone systems. Senior Adviser to the President of ICANN Sally Costerton then picked up the thread to confirm that NetMundial was indeed a win for ICANN and a powerful affirmation of the multi-stakeholder model. She also accentuated the importance of continuing to encourage outreach and awareness for everyone and asserted that developing countries need to understand the importance of One Internet for economic growth in those states. While the ITU is often referred to as the antagonist in Internet freedom discussions, the next panelist, ITU's Head of the Corporate Strategy Division Tomas Lamanauskas refuted this claim saying that not only does the ITU also affirm the multi-stakeholder model, but that the ITU and ICANN can and do have complementary rather than competing roles. Lamanauskas highlighted the low levels and high costs of Internet access around the developing world, especially for women. Joy Liddicoat, Human Rights Specialist at the Association for Progressive Communications, agreed that access is important, but unless the openness of the Internet is preserved, people around the world will get a different and less useful experience than right now because a closed Internet will be fundamentally different in character. Liddicoat also expressed the deep concern of civil society that large-scale filtering, blocking, regulation, violation of net neutrality, disrespect for the right to knowledge and significant differences in power among stakeholders mean that the openness of the Internet is declining rapidly. Finally, the United Kingdom's Minister for Europe David Lidington reiterated the UK's commitment to transparency and the restoration of trust, saying in addition that the Internet needs to be discussed not only at specialised meetings like NetMundial and FOC, but that it should rather be mainstreamed into the way we create our strategies and make all of our decisions. Lidington expressed some scepticism about the need for an international governing body or a Magna Carta for the Internet. All in all, the panel concluded that: the questions of surveillance, Internet governance, and human rights online are inextricably linked; there is no catch-all solution to these questions; developed countries need to keep assisting developing countries with best practices in order to preserve the oneness and interoperability of the Internet; and there needs to be more of a power balance between stakeholders as these questions continue to be addressed at the international level.

Closing Session

The following main points were discussed at the closing panel:

- The Minister of Foreign Affairs of Mongolia Luvsanvandan Bold said his country's approach is to take Internet access as a fundamental human right and then address access concerns. He invited all participants to take part in next year's FOC conference in Mongolia.
- Director of the European Regional Bureau of the Internet Society Frederic Donck stressed that multi-stakeholderism is a paradigm shift and that support for the concept and its validity is only rising. Being present is important for multi-stakeholderism, but offering solutions and solving problems together is even more so.
- Mart Laanemäe (Estonian MFA) concluded the conference by thanking all participants, sponsors and organizers. He emphasized the importance of supporting

the Digital Defenders Partnership that Estonia and other FOC members continue sponsoring and invited all stakeholders and individuals to sign the Tallinn Agenda online on the conference website http://www.freedomonline.ee/foc-recommendations