PROGRESS REPORT ON THE OECD’S WORK ON ELECTRONIC COMMERCE

OECD Emerging Market Economy Forum on Electronic Commerce

Dubai, U.A.E, 16-17 January 2001
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PROGRESS REPORT OF THE OECD’S WORK ON ELECTRONIC COMMERCE

Background

Electronic commerce is a central element in the OECD’s vision of the tremendous potential that our networked world now holds – potential for economic growth and more jobs, for the expansion of world trade and improved social conditions. In recent years the Organisation has worked systematically with its Member countries, the private sector and – increasingly – with civil society organisations, to study the development and impacts of the global information economy. The analysis has permitted a broad-based policy reflection on the establishment of an adequate infrastructure, as well as the elements that would provide a favourable environment for electronic commerce and the digital economy. Specific policy recommendations have emerged in areas as diverse as telecommunications infrastructure and services, taxation, consumer protection, network security, and privacy and data protection.

Action plans setting out the policy requirements for meeting the rapid development of IT and electronic commerce, and for reaping and sharing the benefits, have been developed in a co-ordinated work programme involving almost all parts of the Organisation and most of its working committees. Outside the OECD, some of the most visible events have been a series of high-level OECD conferences. A first was held in 1997 in Turku, Finland; the following year saw a Ministerial Conference on Electronic Commerce in Ottawa; and in 1999, a Forum was held at the OECD’s headquarters in Paris.

Ministers at the Ottawa Conference recognised that electronic commerce is bound to have a significant impact on economies and societies in the coming years and decades. Such commerce is inherently transborder, and its successful development depends to a large extent on transborder solutions based on policy co-ordination between countries and between stakeholder constituencies. The Ministers noted that the OECD has important contributions to make – in specific areas where it has a clear comparative advantage, and as a forum for dialogue among a broad spectrum of players.

Ministerial Declarations establishing baseline principles and goals to guide the work were adopted in the three critical areas of consumer protection, privacy protection, and authentication. Important outcomes were also achieved in the area of taxation.

Ministers endorsed the “OECD Action Plan for Electronic Commerce” [SG/EC(98)9/FINAL], which outlined activities and recommendations for future work along the following thematic lines:

- Building trust for users and consumers.
- Establishing ground rules for the digital market-place.
- Enhancing the information infrastructure for electronic commerce.
- Maximising the benefits of electronic commerce.

The Action Plan highlighted areas of priority for the OECD, attaching particular importance to privacy, authentication, consumer protection, taxation, access to infrastructure and socio-economic impact.
It was recognised that the OECD’s work on electronic commerce should be diffused as widely as possible to the global community, and that it should be carried out in a fashion co-operative and complementary with activities under way in other international organisations, labour and consumer organisations, social interests and the private sector.

In an effort to maintain the momentum and preserve the co-ordination that was launched in Ottawa, the Paris Forum was held to assess the progress made by the OECD and other international organisations, as well as private sector groups (business and NGOs), one year on. At this working-level meeting, four new trends were identified:

- People no longer speak of a dichotomy between regulation and self-regulation: the challenge is to get the mix right between these complementary approaches. “Co-regulation” and an “integrated approach” were discussed as means of achieving this in an effective way. What is sought is a basic legal framework upon which to build self-regulatory approaches that give scope to innovation and competition. Responsibility stays with national governments, notably to protect vulnerable groups, but the regulatory environment should maintain a balance between self-regulation by industry and regulation by government and international bodies, developed co-operatively. The OECD can help by setting out basic principles of policy formulation and by guiding the process of interoperability and inter-connectedness in the global context.

- There is increasing recognition that all stakeholders must be involved, including the voice of civil society. The Public Voice meeting, held just prior to the Paris Forum, made a contribution to the latter meeting that was constructive and positive. The OECD wishes to build on this and not neglect the societal dimension, any more than its well-established interaction with labour and business organisations. Several speakers drew attention to different forms of a “digital divide” in society and asked whether, given the potential of the information society, this should be given greater attention in governments and international organisations.

- Not all countries are on the same level, so the same solutions do not apply to all. The OECD will continue to examine how best to build its outreach to non-member economies and develop an interactive dialogue with them. It will also work more closely with other international organisations that have more experience in dealing with emerging market economies and developing countries. The “digital divide” indeed could take many forms – between richer and poorer countries; between the well-off and better-educated in richer countries and their less-educated fellow citizens. Governments have a responsibility to work to avoid this.

- At the first major conference on electronic commerce in Turku, the OECD defined the issues with the object of dismantling barriers. The Ministerial Conference at Ottawa drove forward the process of policy development. Attention has now shifted to the implementation of those policies.

In order to further advance the agenda and strengthen outreach to new players, a second follow-up meeting will be held in Dubai (U.A.E.) on 16-17 January 2001: “The OECD Emerging Market Economy Forum on Electronic Commerce”. The Dubai meeting will not only take stock of the OECD’s action in the field of electronic commerce, and identify tasks still to be accomplished; it will also represent a significant advance in building the Organisation’s outreach activities in this field. The number of non-member countries participating is much higher, the range much wider, than in previous events of this kind. In addition, it will be the first time the OECD has held a meeting of this stature outside its own membership. As developed, emerging market and developing countries will all be present, the international “digital divide” will be prominent among the issues to be addressed.

As with the 1999 Paris Forum, the event will be preceded by two meetings organised by the business community and civil society organisations. The Business-Government Forum “Maximising the
This Progress Report provides an update on the various activities set out in the OECD Action Plan, two years after the Ottawa Ministerial. As did the Action Plan itself, the report uses the four themes of the Ottawa “blueprint” to classify the activities.
A. Building trust for users and consumers

Trust is central to any commercial transaction. Developing new kinds of commercial activities in the electronic environment largely hinges on assuring consumers and businesses that their use of network services is secure, reliable and verifiable. Similarly, consumers want control over the collection and use of their personal data, and assured access to appropriate redress mechanisms. Businesses need a framework that is predictable and workable for global transactions. Creating the appropriate level of confidence requires a mixture of trustworthy technologies, appropriate taxation rules, self-regulatory arrangements and educating the public. The mechanisms for redress and the role of law enforcement must also be clarified to assure that there is an appropriate and effective response to misuses or abuses of this new medium.

Consumer protection

The inherently international nature of the electronic market place requires a global approach to consumer protection. The OECD, through the work of its Committee on Consumer Policy (CCP), has continued to lead internationally as the forum for the discussion of consumer-related electronic commerce issues. In particular, as directed in The Ministerial Declaration on Consumer Protection in the Context of Electronic Commerce adopted at Ottawa, the OECD completed Guidelines for Consumer Protection in the Context of Electronic Commerce, which were adopted by the Council in December 1999.

The Guidelines, which are available in the languages of all OECD countries, represent international consensus on the core characteristics of effective consumer protection for online business-to-consumer transactions. To develop these Guidelines, the CCP worked closely with business and consumer representatives, both at the national level and within the OECD.

The Guidelines serve as a recommendation to governments, businesses, consumers and their representatives. They address principles connected with fair business, advertising, and marketing practices, online business and information disclosures, handling of consumer complaints, provision of effective dispute resolution and redress, education and awareness, and global co-operation.

The Committee is working on a variety of discrete elements of the Guidelines, with the goal of furthering global consumer protection:

- Help ensure that effective redress mechanisms are available in cross-border business-to-consumer disputes:
  - As a first step, a Joint Conference on Alternative Dispute Resolution in the Online Environment was organised in the Hague, Netherlands by the OECD in co-operation with the International Chamber of Commerce (ICC) and the Hague Conference on Private International Law on 11-12 December 2000. A report of the Conference is expected in early 2001.

- Assess the progress on efforts of governments, business and consumer organisations to implement the Guidelines:

- Develop and disseminate information to educate governments, business, consumers and their representatives about electronic commerce, to foster informed decision-making by
consumers participating in electronic commerce and to increase business and consumer awareness of the consumer protection framework that applies to their online activities.

- An “Inventory of Consumer Protection Laws, Policies and Practices in OECD Member countries” will be released in early 2001. In addition, the OECD Consumer Policy web site provides education and information materials created by Member countries, including tips for consumers shopping online and checklists for businesses transacting online with consumers.

- Examine the refund mechanisms offered by payment card issuers:

  - As a first step, a roundtable will be organised by the CCP as part of its 60th session in Berlin, Germany to explore the types of protections associated with payment cards that are currently available in Member countries and to discuss the appropriate role for governments in this area.

**Protection of privacy and personal data**

The OECD has continued to be active in the area of protection of privacy and personal data, building on its experience in producing the **Guidelines on the Protection of Privacy and Transborder Flows of Personal Data** (1980) and the **Declaration on Transborder Data Flows** (1985). The Privacy Guidelines are applicable to the online environment since they are technology-neutral and apply to all types of personal data; they still represent an international consensus on general guidance concerning the collection and management of personal information.

Current work in this area also builds on the **Ministerial Declaration on the Protection of Privacy on Global Networks** adopted by Ministers at the 1998 Ottawa conference.

In their **Declaration on Protection of Privacy on Global Networks**, OECD Ministers reaffirmed their commitment to effective privacy protection, declaring they would build bridges between different approaches based on law and self-regulation. They also affirmed their determination to take the necessary steps to ensure that the OECD Privacy Guidelines are effectively implemented in relation to global networks. They recognised the need to co-operate with industry and business, and agreed that the OECD provide practical guidance in furtherance of their objectives, based on national experiences and examples.

The Organisation then undertook work in co-operation with industry, privacy experts and consumer groups to:

- Identify the legal and self-regulatory instruments used to implement and enforce the OECD Privacy Guidelines on global networks at international, regional and national levels, as well as various practices, techniques and technologies either in use or being developed to implement and enforce privacy principles in networked environments. See the “Inventory of Instruments and Mechanisms Contributing to the Implementation and Enforcement of the OECD Privacy Guidelines on Global Networks” (May 1999).

- Encourage the adoption of privacy policies, whether implemented by legal, self-regulatory, administrative or technological means, and encourage the online notification of privacy policies to users. To this end, an online tool based on Internet technology was developed to help webmasters and administrators create their own privacy policy statement to be posted on their web site (August 1999). See the Privacy Policy Statement Generator [http://cs3-hq.oecd.org/scripts/pwv3/pwhome.htm].

- The Generator aims at encouraging the widespread display on web sites of privacy policy statements; fostering education among web site owners; and increasing awareness of web
site practices by visitors. The Generator provides guidance on how to implement the OECD Privacy Guidelines on global networks, but does not “label” any web site as compliant with these Guidelines. The use of the Generator highlights important considerations, such as applicable national privacy requirements, or substance and scope of policy statements. It automatically produces a draft privacy policy statement for web sites.

- Examine the use of contractual solutions and the development of model contractual solutions for online transborder data flows (TBDF). To this end, the “Report on Transborder Data Flow Contracts in the Wider Framework of Mechanisms for Privacy Protection on Global Networks” was prepared, which discusses and helps assess how and under what conditions, business-to-business and/or business-to-consumer contracts may be used to provide effective and global privacy protection online. It examines issues such as content of contracts, certification and labelling, and rights of data subjects. It also examines existing models (TBDF Model Clauses) and possible alternatives, and stresses the importance of dispute resolution mechanisms and enforcement.

- Help ensure that effective enforcement mechanisms are available both to address noncompliance with privacy principles and policies, and to ensure access to redress. As a first step, the Joint Conference on Alternative Dispute Resolution (ADR) in the Online Environment was organised by the OECD in co-operation with the International Chamber of Commerce (ICC) and the Hague Conference on Private International Law. The Conference explored how ADR can help improve trust for global e-commerce by providing appropriate and effective mechanisms for business-to-consumer privacy and consumer protection disputes. The conference also served as an opportunity to build on discussions and information shared to date at various international forums on the issue of online ADR, and helped outline further direction for work by the OECD – to be discussed in February 2001 – and by the other stakeholders.

Future activities in 2001/2002 will include:

- Examining and encouraging the use of privacy-enhancing technologies.

- Promoting user education and awareness about online privacy issues and the means at the user’s disposal for protecting privacy on global networks.

- Additional work is also being undertaken on the issue of privacy and security related to genetic testing.

**Security of information systems**

The OECD continues to examine policy and regulatory issues while promoting information exchange among public and private sector actors related to the development of secure information and communication infrastructures and technologies.

The *Ministerial Declaration on Authentication for Electronic Commerce* adopted at Ottawa recognised the importance of authentication for electronic commerce and outlined a number of programme elements for the OECD in this area.

The Working Party on Information Security and Privacy (WPISP) is currently preparing a report on progress in the implementation of the Ministerial Declaration on Authentication, including initiatives developed and results achieved in Member countries. The report will look at how national policy and laws are currently implemented with the aims of facilitating legal recognition, party autonomy, technology neutrality, global authentication mechanisms and user confidence, and ensuring that there is no legal discrimination in relation to different types of authentication technology.
The WPISP has started a preliminary discussion on reviewing the 1992 *OECD Guidelines on Security of Information Systems*. The Guidelines are to be reviewed every five years. The next review should take place by the end of 2002, although a review does not necessarily entail a revision. The WPISP is also discussing areas where international policy measures might be appropriate in addressing emerging IT threats, such as viruses or cracking.

**Bibliography & Events**

**Consumer protection**

*Guidelines for Consumer Protection in the Context of Electronic Commerce* approved by Council, December 1999
[http://www.oecd.org/dsti/sti/it/consumer/prod/guidelines.htm]

“Inventory of Member Country Consumer Laws, Policies, and Practices Applied to the Online Environment” (to be released in early 2001)


**Privacy**

“Inventory of Instruments and Mechanisms Contributing to the Implementation and Enforcement of the 1980 OECD Privacy Guidelines on Global Networks”
[DSTI/ICCP/REG(98)12/FINAL]

Privacy Policy Statement Generator

“Transborder Data Flows Contracts in the Wider Framework of Mechanisms for Privacy Protection on Global Networks”

**Security of information systems**

“Inventory of Approaches to Authentication and Certification in a Global Networked Society”
[DSTI/ICCP/REG(99)13/FINAL]

“Report on the OECD Workshop on Electronic Authentication” (California, United States 2-5 June 1999)
[DSTI/ICCP/REG(99)14] [http://www.oecd.org/dsti/sti/it/secur/act/wksp-auth.htm]

B. Establishing ground rules for the digital marketplace

Existing legal and commercial frameworks that govern how businesses transact with each other, with consumers and with governments were designed in a non-digital age. As consumers and business venture onto this new platform, they are looking to governments to ensure that the rules of the game are equivalent to those of the physical world to the extent possible, and – where it is absolutely necessary to introduce new rules and regulations, or changes to existing rules – to ensure that these are transparent and predictable.

Taxation

Background

Revenue authorities have an important role to play in realising the full potential of e-commerce. Their twin objectives in this respect are to provide a fiscal environment within which e-commerce can flourish while also ensuring that e-commerce does not undermine the ability of government to raise the revenues required to finance public services for their citizens. Since the development of e-commerce, there had been considerable speculation as to what overall response governments would adopt towards the taxation of electronic commerce. At one extreme, there was the view that electronic commerce should in some sense be allowed to take place in a tax-free environment – either by specific legislation or by continued government inaction. At the other extreme, there was speculation about the introduction of new taxes specifically designed to tax electronic commerce (for example, the bit tax).

Neither of these views is acceptable to governments. The first would lead to governments being unable to meet the legitimate demands of their citizens for public services and would induce tax distortions in trade patterns. The second approach could hinder the development of electronic commerce.

At the 1997 Turku conference “Dismantling the Barriers to Global Electronic Commerce”, government and business representatives discussed the challenges posed by global electronic commerce to tax systems. The emerging view was that the most appropriate way to achieve the twin objectives referred to above was to reach an international consensus on how to apply the existing domestic and international arrangements to electronic commerce, rather than by creating totally new policy approaches.

The challenge therefore facing revenue administrators was how to adapt existing legislation, procedures and practices to overcome any deficiencies which may emerge as a result of e-commerce’s new means of communication and product delivery. It was with this adaptive approach in mind that OECD members, in co-operation with interested countries outside the OECD area and regional tax organisations and the business community, set about the task of developing an international consensus for the taxation of electronic commerce.

At the 1998 Ottawa Ministerial Conference, the OECD formulated Taxation Framework Conditions that were welcomed by Ministers from the 29 Member countries and from non-member countries, as well as by the business community. They have since been generally accepted worldwide as providing a sound basis for ongoing work. The OECD, in co-operation with other international organisations, was acknowledged as the organisation best placed to co-ordinate and carry this work forward.

The Taxation Framework Conditions set out the taxation principles which should apply to electronic commerce – neutrality, efficiency, certainty, simplicity, effectiveness, fairness and flexibility – outlined agreed conditions for taxpayer service, tax administration, consumption tax and international taxation norms, and included proposals on how to take the work forward.
An ambitious work programme has been pursued to maintain the momentum achieved at Ottawa. Each of the OECD’s Committee of Fiscal Affairs (CFA)’s subsidiary bodies has been tasked with aspects of the Taxation Framework Conditions to progress. Five Technical Advisory Groups (TAGs) were established to provide input into the deliberations. These TAGs cover the areas of Business Profits, Consumption Tax, Income Characterisation, Professional Data Assessment and Technology, and bring together a balanced mix of government (from both OECD Member and non-member economies) and business participants.

Results to date

The OECD has made strong progress since the Ottawa Ministerial Conference. The Taxation Framework Conditions were adopted by APEC economies at a joint OECD-APEC meeting in November 1998 and were broadly endorsed by APEC Finance Ministers in May 1999. During 1999, the OECD held meetings with the Inter-American Center of Tax Administrations (CIAT), the Centre de Rencontres et d’Études des Dirigeants des Administrations Fiscales (CREDAF) and with over 30 economies outside the OECD area. The OECD has also maintained close contact with the European Union, the Commonwealth Association of Tax Administrators (CATA), the World Customs Organization (WCO), the business community and groups representing the views of non-business taxpayers. In addition, the OECD held an open forum on taxation and electronic commerce in California, inviting business to hear presentations by the OECD and by international experts. In the field of client service, the OECD held a conference for tax administrations in Copenhagen, showcasing the new possibilities opened up by Internet technologies for tax administrations.

2000 has seen intensified work – with valuable input from the TAGs – to address the detailed tax policy and tax administration questions. There have been significant achievements in several areas:

- **In the field of consumption taxation**, a consensus is emerging on how best to apply the Ottawa principle of taxation in the place of consumption. It is broadly agreed that the place of consumption (and so for taxation) for international transactions should be defined, for business-to-business (B2B) transactions by referral to the business presence of the recipient, and, for business-to-consumer (B2C) transactions, by referral to the usual jurisdiction of residence of the private consumer. In parallel, the debate on tax collection mechanisms has confirmed a self-assessment approach for B2B transactions as the most viable. For B2C transactions, where the product is delivered online, there is a recognised need to examine more closely how technology-based mechanisms could effectively support tax collection.

- **On international direct taxation issues**, a clear consensus is emerging that in most instances a web site or Internet service provider, by itself, would not constitute a permanent establishment (PE). In regard to web site servers, the general consensus is that only in limited circumstances would a server, by itself, constitute a PE. In the area of income characterisation, the consensus is that the mere downloading of digital products will not give rise to royalties. These conclusions provide international business with the certainty they are looking for.

- In the field of tax administration it is recognised that revenue authorities will need to improve their international co-ordination and co-operation. Many revenue authority proposals in regard to adequate business web site identifiers and information authentication and retention align with sound business practices already in use by many multinational enterprises. In regard to tax collection, a number of businesses are already experimenting with software that calculates consumption taxes across many countries. The aim is to achieve a “win-win” situation: easier compliance for business; easier collection for government.
Future work

In February 2001, the CFA will be publishing a comprehensive report on progress in implementing the Ottawa Taxation Framework Conditions. This will both identify emerging conclusions and recommendations across the span of issues, and outline areas of further work. A key feature of the latter will be a continued commitment to an international dialogue with business and non-members, with a particular focus on strengthening the active participation of non-members.

With many of the major e-commerce tax policy questions now close to resolution, the focus of much of the work over the next two years will be on progressing the practical tax administration issues: adequate taxpayer identification; information authentication and verification approaches; and how to effect the collection of consumption taxes on cross-border transactions.

Recognising the global nature of the e-commerce debate, the OECD, working in partnership with a number of other regional tax organisations, will co-host a major global conference on “Tax Administrations in an Electronic World” in June 2001. This pioneering conference will be the first such global gathering of tax administrations, and will provide tax administrators with an opportunity for sharing experiences on how to apply taxes in the wired world.

Other work of the OECD

Trade policy and market access

The OECD has traditionally played a supporting role in international trade policy, providing analysis on a range of trade issues to complement and feed into discussions in the GATT/WTO. Work in the Trade Directorate has focused on the trade policy and market access aspects of electronic commerce.

On market access, there has been analysis of the scope and nature of existing WTO commitments for the online supply of services (“Electronic Commerce: Existing GATS Commitments for Online Supply of Services”), and exploration of unilateral liberalisation and facilitation measures undertaken by governments to promote e-commerce (“Electronic Commerce: Initial Survey of Unilateral Liberalisation and Facilitation Measures”). A paper on the possibility of taking a “cluster” approach to negotiating specific commitments for interdependent input services for e-commerce has been prepared by the Working Party of the Trade Committee. A cluster approach in this context involves grouping interrelated input services (such as telecommunications and computer services), with a view to negotiating liberalisation commitments to facilitate e-commerce.

The supply of “products” on-line – whether deemed to be goods or services in terms of their coverage by WTO rules – has also been considered. “Trade Policy Aspects of Electronic Commerce: Online Product Customisation” provides an overview of the role played by customisation in various e-commerce activities, together with a set of case studies of products that are customised and delivered online. “Electronic Commerce: Case Studies on the ‘Downloadable’ Digital Products” explores case studies of the online delivery processes for digital information “products” that can be delivered in both “packaged” form (attached to physical carrier media) and over electronic networks. The aim of the latter paper is to provide an empirical basis for assessment of the main characteristics of online delivery, compared to packaged delivery of digital information.

The Trade Committee has also begun to consider trade policy implications of the new economy (“The Trade Policy Implications of the New Economy: Preliminary Thoughts”). Further work is envisaged in this area.
**Competition law and policy**


The roundtable considered some infrastructure issues (i.e. access to the Internet), but focused principally on transaction matters. Participants explored the efficiencies of e-commerce market places, as well as the risk that network effects may decrease competition among such market places. They also examined how these network effects could be reinforced by various practices, such as requirements that participants deal exclusively on particular exchanges. There was consideration of how e-commerce market places might facilitate collusion and the exercise of buyer power, and whether traditional anti-trust tools are sufficient to address competition issues arising in the e-commerce domain.

The CLP has tentatively planned a second roundtable on e-commerce. This may take place as early as October 2001, and will focus more on actual cases than did the first roundtable. The Joint Group on Trade and Competition is considering work on e-commerce and will focus on possible issues for discussion at its February 2001 meeting.

**Electronic finance**

The pick-up in e-finance in recent years and the prospect for continued rapid growth has induced committees working with financial market to undertake studies, particularly related to cross-border transactions.

In 1999, the Committee on Financial Markets published the report “Cross-Border Trade in Financial Services: Economics and Regulation”, which set out many of the policy issues to be discussed in connection with cross-border e-finance.

From October 2000 to October 2001 this committee will undertake a study titled “Cross-Border Trade in Financial Markets: Implications of Electronic Commerce”. It will consider two reports: one taking stock of ongoing developments in e-finance, especially in relation to cross-border transactions, and the other outlining possible future developments and policy concerns.

The Committee on Capital Movements and Invisible Transactions has begun exploratory work to determine how the development of e-commerce may affect the functioning of the OECD Codes of Liberalisation, especially in the field of cross-border financial services.

The Insurance Committee will undertake work on the implications of e-finance on contract law and on the issues raised by cross-border electronic delivery of insurance products.

**Bibliography & Events**

**Taxation**

Relevant documents and information can be found at:

“Consumption Taxes: Guidelines on the Definition of the Place of Consumption and Recommended Approaches to the Practical Application of the Guidelines”
“Clarification of the Commentary of the OECD Model Tax Convention on the Application of the Permanent Establishment Definition in the Context of e-commerce”

“Proposed Clarification on Treaty Characterisation of Various Types of e-commerce Payments under the Existing Tax Treaty Provisions”

“Taxpayer Service: Identification of World-class Initiatives”

“Tax Administration Issues: Analysis of Compliance Challenges and Opportunities”

“Recommendations from the Technical Advisory Groups (TAGs) on Business Profits, Consumption Tax, Income Characterisation, Professional Data Assessment, and Technology”

Progress Report prepared for the 2000 OECD Ministerial on “Implementing the Ottawa Taxation Framework Conditions”
[http://www.oecd.org/daf/fa/e_com/ecom_english.PDF]

Trade policy and market access

“Electronic Commerce: Existing GATS Commitments for Online Supply of Services”
[TD/TC/WP(99)37/REV2]

“Electronic Commerce: Initial Survey of Unilateral Liberalisation and Facilitation Measures”
[TD/TC/WP(99)38/FINAL]

“Trade Policy Aspects of Electronic Commerce: Online Product Customisation”
[TD/TC/WP(98)65/FINAL]

“Electronic Commerce: Case Studies on the ‘Downloadable’ Digital Products”
[TD/TC/WP(99)60, currently being revised]

“The Trade Policy Implications of the New Economy: Preliminary Thoughts”
[TD/TC(2000)13]

Competition law and policy

Best Practice Roundtables
[http://www.oecd.org/daf/clp/roundtables.htm]

Electronic finance

“Cross-Border Trade in Financial Services: Economics and Regulation”
C. Enhancing the information infrastructure for electronic commerce

The development of electronic commerce is dependent on the availability and deployment of information infrastructures and access to markets and services appropriate for user-friendly electronic commerce applications. Ministers at Ottawa stressed that the growth of electronic commerce relies on universal and affordable access to information infrastructures. They recognised that effective competition in telecommunication markets was important, and that these in turn depend on appropriate telecommunication policies and regulatory frameworks.

Access to and use of the information infrastructure

A requirement of electronic commerce is that users have access to the right bandwidth at the right price. A competitive environment, within regulatory frameworks that provide the proper incentives and access to markets, best achieves this. An increasing number of emerging market and developing economies have found, as have the OECD countries, that opening markets to competition increases investments and generates benefits for consumers and businesses throughout the economy.

During the year 2000, the ICCP Committee’s Working Party on Telecommunications and Information Services Policies (TISP) continued to examine, in co-operation with industry, a broad range of issues aimed at enhancing the information infrastructure. There was particular emphasis on the following four areas:

- Examining the public policy implications of the changing information and network technologies, including network convergence, and of changing market demands.
- Examining developments in pricing for access to broadband infrastructures.
- Monitoring Internet developments and governance issues.
- Examining the policy requirements for open international telecommunication markets.

The following reports were prepared during 1999-2000:

“Cellular Pricing Structures and Trends” analyses cellular mobile market structures and growth. It points out that there is a strong correlation between market growth and openness. In terms of pricing, important reductions have taken place in mobile services, but there is scope for further reductions. The report emphasised that price reductions were particularly low for calls from fixed to mobile networks in countries where the calling party pays, and prices generally well above costs. High termination charges on mobile networks were leading to by-pass at the national level – and by using international re-routing, they were raising a number of fresh regulatory issues as well. The report stressed the need for greater competition in the international roaming market, where prices bear little relation to costs.

“Telecommunications Regulation: Institutional Structures and Responsibilities” aims to provide a review of regulatory institutions and the division of responsibilities between Ministries linked to the telecommunication service sector, sector-specific regulators, and competition authorities. The paper did not attempt to put forward a single model of regulation; rather, it was hoped that the information furnished would stimulate best practice regulation.

“Local Access Pricing and E-Commerce” examines the extent to which OECD countries develop and use the Internet in relation to the pricing of access. It highlights the growing gap between Member countries with regard to e-commerce development, and argues that the level and structure of local access pricing seem to play a major role in explaining differences. The report underlines the fact that countries with unmetered prices for access have performed significantly better than markets where access is based
on metered pricing. There needs to be more policy emphasis on infrastructure competition, the unbundling of local loops, and support for the competitive development of high-speed access options.

“Local Competition and Interconnection” highlights the price squeeze impacting new entrants that arises from high interconnection charges relative to call charges. Moreover, conflict could arise as a result of economic regulation aiming to ensure effective competition, and social regulation aiming to ensure affordable access to telecommunication services. The report points to the importance of having fully rebalanced tariffs to ensure effective market entry. It concludes that a long-run incremental cost methodology is needed to determine interconnection charges and to separate access deficit charges from interconnection charges.

“Access and Local Competition” provides a preliminary overview of issues related to direct access to networks. A number of different regulatory safeguards are evoked, such as number portability, collocation, and carrier pre-selection for local calls. It is important for regulators to decide on the coverage of direct access – that is, whether it includes new technologies in addition to raw copper, and whether it excludes CATV networks. Unbundling of the local loop was key in enhancing direct access and allowing for more rapid development of local competition. Unbundling should have positive consequences for infrastructure investment; as an asymmetric policy, however, it should be reviewed periodically to determine whether it is still needed. Consideration could also be given to limiting the applicability of unbundling in metropolitan areas to a fixed period of time, as a means of accelerating alternate facility deployment.

According to “Retail Price Regulation for Local Telecommunication Services”, most OECD countries maintain some form of price control on the incumbent, usually in those service areas where there is insufficient competition. The most common procedure for price control involves prior approval; in addition, countries impose price cap regulation. This dual system of price regulation can lead to difficulties in application. A number of countries have streamlined approval procedures through a system of tacit approval. The paper concludes by recommending areas where improvements could be made in the process of retail price approval and regulation.

The TISP is also examining issues such as the international reference of mobile traffic (tromboning), and spectrum allocation (auctions versus “beauty contests”).

In addition to the topics regularly covered (communication policy trends, markets, network developments, pricing and quality of service, trade), the 2001 Edition of the Communications Outlook will also include chapters on Internet infrastructure, broadcasting services, and the international digital divide.

Other work of the OECD

Internet governance/Domain Names System

The ICCP Committee continues to develop Internet indicators, and new measurement tools in the area of Domain Names System and Internet traffic exchange, to assist self-governance and access issues.

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D. Maximising the benefits of electronic commerce

The full economic potential of electronic commerce will only be realised through its widespread use by businesses, consumers and institutions. The information infrastructure and e-commerce also have the potential to link citizens to each other and to the world, and to foster social cohesion. A clear understanding of the needs of enterprises and citizens in both developing and developed countries is needed to ensure that a facilitating environment is in place as the impacts are being felt throughout the economy and society.

Economic and social impact

The OECD is well situated to analyse policy implications of the economic and social impacts of global electronic commerce. Past OECD work has included *Electronic Commerce: Opportunities and Challenges for Governments* (1997, the “Sacher Report”) and the report “The Economic and Social Impacts of Electronic Commerce: Preliminary Findings and Research Agenda”, presented at the Ottawa Ministerial. The latter report recommended that the OECD continue work to:

- Improve the ability to measure the structure and volume of electronic commerce.
- Deepen understanding of the impact of electronic commerce within and between businesses.
- Determine how electronic commerce changes the level of employment and skill requirements.

Electronic business processes are carried out using information and communication technologies (ICTs). In this respect, the measurement of e-commerce is one aspect of the overall measurement of the information society. However, in light of the first recommendation, the OECD Working Party on Indicators for the Information Society (WPIIS) undertook to measure electronic commerce as a separate stream within its work programme. User needs for indicators were identified at an OECD Workshop “Defining and Measuring E-commerce”, held in early 1999. Following the Workshop, an Expert Group was established with the mandate to “compile definitions of electronic commerce which are policy relevant and statistically feasible.” A first overview of the Expert Group’s activity was contained in “Defining and Measuring Electronic commerce – A Status Report” (1999). Subsequently it has developed a set of electronic commerce definitions and a list of priority indicators related to electronic commerce in businesses and households. Based on this proposal, the ICCP Committee approved in September 2000 two definitions of electronic transactions – one a narrow subset of another – and a list of core indicators that should be collected on an internationally comparable basis [DSTI/ICCP/IE/IIS(2000)3/REV1]. The Expert Group is now working to translate these definitions into operational definitions to be used in surveys; to refine the list of core indicators based on a study of Member country statistical practices; and to provide methodological guidance for the use of such indicators across OECD Member countries. The Organisation has also moved forward on analysing economic impacts of e-commerce, particularly in business-to-business. A digest of the main characteristics of that segment was prepared for the 1999 Paris Forum.

The Working Party on the Information Economy (WPIE)’s Electronic Commerce Business Impacts Project (EBIP) aims to deepen understanding of the impacts of electronic commerce on business. One of the main drawbacks of research carried out until now is that, despite major policy interest in this area, information has tended to be anecdotal, fragmented and not comparable across sectors or countries. The objective is to improve the comparability of firm-level case studies by developing, testing and applying a common methodology for them. The results of these studies will be used to develop a set of national and cross-country research reports to be published in 2001 in a common analytical framework.

The 2000 edition of the *Information Technology Outlook* examined the issue of e-commerce “readiness” across OECD countries. Work undertaken in 2000-2001 includes analysis of ICT skills and
employment, the software sector and the “digital divide”. A Workshop on “The Digital Divide: Enhancing Access to ICTs” was held at OECD in December 2000. It addressed to what extent there is such a divide across and within OECD countries, how big it is, and how rapidly it is changing and in what directions. There was examination of the importance of different social, cultural, business and spatial characteristics in determining the divide, and the impacts of rapidly diffusing new technologies. The Workshop also addressed responses of governments, firms, workers and individuals. After the event a brochure was prepared to provide inputs to subsequent OECD and international meetings exploring the topic.

**Government service delivery**

Responding to the Ottawa Action Plan’s call for the OECD to “analyse implications of electronic commerce for government service delivery”, the Public Management Service (PUMA) is continuing to review governments’ efforts to use the Internet and other tools of electronic commerce to improve the provision of information and services and to strengthen government-citizen connections. Ongoing work in PUMA is addressing these issues as part of a broader activity on “Strengthening Government-Citizen Connections”. To complement the qualitative information obtained from an initial, general questionnaire, a follow-up questionnaire was launched in late 1999 to develop more quantifiable, detailed and comparable data on the growing use of new information technologies in these efforts. Case studies were undertaken in 2000; a final report should be completed in 2001.

Most OECD Member countries have experienced and continue to experience problems with managing large IT investments. Such management problems lead to substantial direct and indirect costs, to discouraged staff, and occasionally to a loss of public confidence in public sector management. Furthermore, inability to manage these types of projects implies that the significant moves towards e-government undertaken in many OECD Member countries may lead to large-scale public sector disgrace instead of enhanced effectiveness, greater efficiency or better governance arrangements. PUMA has therefore launched a project aimed at creating a better understanding of what it takes for governments to succeed in their management of major public IT projects, and what lessons can be learned from past failures. An Expert Workshop was held on 26-27 October 2000 to exchange experiences and decide on what work the OECD could do to help strengthen the management of large IT-enabled projects in the public sector. A report will be published in 2001.

**Other OECD Work**

**Small and Medium-sized Enterprises (SMEs)**

The development of information and communication technology (ICT) offers considerable opportunities for small and medium-sized enterprises to grow and to rationalise their business. Trends registered across Member countries confirm continuous progression in SME adoption of personal computers, the Internet and other technologies and applications that allow connectivity, especially with other businesses. However, although SMEs increasingly use ICT for a variety of commercial and production-related purposes, on average there is a lack of awareness of the full range of benefits associated with the use of ICT, especially as concerns electronic commerce.

The Industry Committee’s Working Party on SMEs prepared a report on the progress in uptake of electronic commerce by SMEs, which served as a background document for the OECD Conference on “Enhancing the Competitiveness of SMEs in the Global Economy: Strategy and Policies” held in Bologna, Italy, in June 2000. This report, which built on previous work completed by the Working Party for the Ottawa Ministerial, identified major issues for policy action in view of promoting the use of ICT and electronic commerce among SMEs.
The Working Party on SMEs is conducting further work in this area along three main lines: a) the collection of statistics on the diffusion and use of electronic commerce by SMEs; b) the analysis of the impact of e-commerce on the business activities of small firms (as an extension of the EBIP activity); and c) the review of policies to promote the use of e-commerce among SMEs and the design of best practices. An interim report [DSTI/IND/PME(2000)11] has been completed, and the final report will be available in late 2001 presenting a more comprehensive analysis of the relationship between e-commerce adoption, organisational change, and small firms’ performance.

**Education and skills**

There is enormous potential for the growth of electronic commerce in education and training—both in software, as yet only in its infancy, and in terms of the sector’s key role in developing the knowledge, skills and intellectual basis for electronic commerce. There is a lack of good quality educational software for the K-12 system, and a lack of soundly functioning public-private partnerships in developing such software. In contrast, it seems that more progress has been achieved in the growing markets of distance education, lifelong learning, and (not least) in the corporate training market.

Two high-level meetings have been held in London and New York: educational multimedia content providers, technology enablers and policy makers from the education sector discussed what can be done to overcome market difficulties and how best public-private partnerships can be formed to promote the development of high-quality educational software. An OECD report with the provisional title “E-learning – The Partnership Challenge”, to be published in Spring 2001, will address these questions.

A related issue is the cross-border demand and supply of post-secondary education through the use of new technologies. The accreditation of and quality assurance in cross-border distance education programmes pose many challenges to the traditional model of academic accreditation. The wide-openness of the new technologies invites educators, entrepreneurs and students alike to cross national borders, adding a whole new dimension of complexity. An expert meeting was held on this issue in November 2000, and a larger meeting with all the stakeholders in this market will be held in Japan, possibly in May 2001. The issue will also be addressed at the forthcoming meeting of OECD’s Education Ministers, 2-4 April 2001.

The notion of the digital divide has become firmly established as a central political concern, in the context of rapid and accelerating adoption of ICT within OECD societies. A roundtable in Philadelphia in December 1999 addressed the issue under the theme “The Lifelong Learning and New Technologies Gap: Reaching the Disadvantaged”. It involved participants from some 20 countries, developed and developing, and is reported in the OECD publication *Learning to Bridge the Digital Divide*. The main conclusion from this work is that it is necessary but not sufficient to provide avenues to information and knowledge. What is more important is to empower people with appropriate educational, cognitive and behavioural skills and tools so that they can access information and knowledge efficiently, effectively and wisely.

The issue of the digital divide and the wider project of the Centre for Educational Research and Innovation (CERI), “ICT and the Quality of Learning”, will be discussed further at the OECD Educational Ministerial.

**ICT in rural areas**

The Territorial Development Service (TDS) is currently conducting a study on the impact of ICT in rural areas. A first draft was submitted to the Rural Working Party in late 2000, and the full report will be available in July 2001. The subject field is not limited to electronic commerce, as the main challenge in rural areas is that of making adequate telecommunications infrastructure available and sensitising both citizens and businesses to the important issues at stake—e-commerce among them.
The principal concern is to establish ICT infrastructure at an affordable cost in areas where telecom operators usually do not provide full access to high-bandwidth applications because of the reduced size of the market. Another is to create a sufficient level of awareness and training so that existing businesses use various ICT applications as a first step towards e-commerce. This can only be accomplished in an environment where all citizens share appropriation of ICT. That in turn creates a favourable context in which education is able to respond to the needs of the new economy, in terms of training skilled knowledge workers. These initial findings stem from several case studies that have been carried out, which demonstrate best practices but also the need for proactive policies to encourage local projects and champions to emerge.

Under these conditions, inward investment – attracted by good infrastructure and the availability of adequate skills – can play an important role in creating activities directly linked to the new economy, such as multimedia content, software design or e-commerce. This will also benefit local SMEs as potential partners and suppliers in a networked economy where innovative firms will not be exclusively located in urban areas. Spatial planning policies have begun to take into account this new reality at the regional level in a certain number of countries.

**Development co-operation**

The report of the Development Assistance Committee (DAC) Expert Meeting on “Capacity Development for Trade” – and its annex on building poor countries’ trade capacity – point out, *inter alia*, the additional constraints to the development of electronic commerce faced by developing countries, e.g. regulatory, legal, policy, infrastructure and capacity. The DAC is currently preparing a set of guidelines in capacity development for trade, to be endorsed at the DAC High Level Meeting in April 2001 and presented to the UN Third Conference on Least Developed Countries. The guidelines will include identification of the needs for and constraints to capacity development for trade, including those in the area of ICT, and a roadmap for effective donor policies and instruments to overcome those constraints.

The OECD is hosting a Global Forum on 5 and 6 March 2001, organised by the DAC in collaboration with the UN, UNDP and World Bank, to discuss donor programmes to help bridge the international digital divide and share OECD work on e-commerce with a wider audience. The forum will bring together, by invitation, representatives of governments, civil society and the private sector – from both OECD and developing countries – and of international and regional organisations. It will benefit from the results of a survey of what donors are already doing to bridge the digital divide, and encourage them to make more use of ICT as a tool to help attain the overarching development goal of poverty reduction.

The forum responds to the Okinawa Charter on the Global Information Society, agreed by the G8 at their summit in July 2000. It will contribute to the work of the Digital Opportunity Taskforce (*dot force*) – set up after Okinawa – as well as to the work of the United Nations ICT Task Force to be created in early 2001, as agreed by ECOSOC in July and endorsed by the Millennium Summit in September. The main objective will be to identify roles and priorities for all actors: governments, private sector, civil society, international and regional organisations, in developed and developing countries. The forum will be an inaugural event of the OECD Global Forum on the Knowledge Economy, and follow-up on the Emerging Market Economy Forum on Electronic Commerce (Dubai, January 2001). It is intended that the proceedings of the forum be published later in 2001.

The OECD Development Centre began researching e-commerce in developing countries when it prepared a background paper for the pre-Okinawa Conference on ICT and Development Assistance held in June 2000, co-sponsored by the Japanese MOF, UNDP and World Bank. The paper’s authors also contributed a “Personal View” to the *Financial Times* of London on the opening day of the Okinawa Summit. The Centre will produce during the first quarter of 2001 a paper summarising the lessons from OECD countries’ e-commerce policy and institutional experience for middle-income and, as far as possible, lower-income developing countries.
The Centre also plans to undertake during 2001 a review of alternative models for providing affordable telephone and Internet access to low-income communities and households in developing countries. In addition, it will review what evidence exists of the microeconomic impacts of such access. Further, the Centre will undertake in 2001-2002 a series of sectoral case studies of the scope and conditions for small entrepreneurs in developing countries to exploit e-commerce to their competitive advantage. Also planned is a series of e-forums on issues confronting policy makers and practitioners in developing countries in the domain of e-commerce.

Ensuring Global Participation

The OECD will continue to ensure dissemination of its work on electronic commerce outside Member countries in co-ordination with other international organisations such as the World Bank, the World Trade Organization (WTO), UN agencies and regional bodies such as APEC. Follow-up events in the context of the OECD Emerging Market Economy Forum may be organised as required.

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