Methodology

The invitation to participate in the consultation was done through an open invitation on social networks and a personalized list of experts, organizations, academics and regulators in Latin America, as well as its promotion through the monthly newsletter Observacom and its website. The total number of people on the list was 700 people. In addition to the initial invitation, monthly reminders to invited guests were sent. 102 questionnaires were completed until November 30th, many of which were not answered in full, respecting UNESCO methodology so that people had the option of answering the entire questionnaire or only parts of it under the understanding that some actors specialize in only some of the issues related to the Internet.

The actors who participated in the consultation were from the following countries: Argentina, Brazil, Bolivia, Canada, Chile, Colombia, Costa Rica, Ecuador, USA, El Salvador, Spain, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela.

According to the record participation stemmed from the following sectors: Civil Society and NGOs, including individual users 32.65%, 36.73% Academia, Private Sector 3.06%, 1.02% Technical Community, International Organizations 3.06%, 4.08% Government, Individual users 19.39 %

A. Access to Information and Knowledge

Executive Summary

According to the responses obtained at the qualitative level, it is considered that to fully guarantee access to information and knowledge, legislation and public policies are essential in order to establish the following:

- Network neutrality, understood as protection from any undue interference, whether by governments, businesses or service providers that wish to restrict access to websites, applications, and others, so that freedom of access and the choice of users to employ, send, receive or provide any content, application or legal service via Internet may be protected from constraints, or that it is redirected or restricted by blocking, filtering, or interference, including the manipulation of traffic capacity in terms of access to select content or applications. This is certainly one of the most important challenges faced by regulators and
service providers with respect to the increasing tensions between defending the broadest possible freedom of information on the network and the competitive pressures that exist in different markets.

- Many of the responses were consistent in the identification of the severe deficiencies that exist in many Latin America countries in terms of *infrastructure* so that different sectors of society, especially those persons who benefit least from their country’s development, can actually access broadband and the Internet. Connectivity and access in various countries in the region are in fact enshrined in legal frameworks that recognize them as social rights; however, the reality of the situation is that vast numbers of people are denied universal access to the Internet.

- Likewise, responses reflected the fact that to make access to information and knowledge truly effective, a key element is the population's *digital literacy* to use internet networks, and not only to access information necessary for their development, but also as a means to promote and enhance the production of local content, allowing for the generation of more content with cultural, linguistic and age group relevance, among others.

- In many countries of the region specific demands are still on-going in an attempt to ensure *access to public information*, which was partly reflected by some of the responses received. This is because many governments are still not making information about their institutions and work available to the public, thus limiting access to information and knowledge regarding the actions of State authorities. In other cases, although such information is available to the public, it does not fulfil the requirements of being fully accessible. Consequently, a policy of open government is considered necessary in order to enable practical access to the pertinent information.

- As can be observed in different segments of the questions, there is a clear concern for the actions of non-State or private-sector actors with regard to their responsibility in terms of Internet access and services so as to obtain information and knowledge, especially with regard to intellectual property rights. This permanent effort, particularly by large companies, to limit certain content and applications in order to safeguard intellectual property rights clashes with citizens’ demands to ensure freedom of information; thus, there is a specific demand that flexible measures should be used in defence of such rights.

- Related to the previous point, and on the need to promote *open educational resources and scientific repositories* on the Internet, the corresponding responses were more directed to the way governments and educational institutions should be promoting licence free open source elements in order to avoid the restrictions placed on certain content due to copyright issues. Special emphasis was also placed on the need for public universities or research and studies reliant on public funding, to provide universal access to information derived from their
work. There was also a suggestion that the countries of Latin America establish an agreement to set up a large repository of scientific and open educational resources so as to strengthen access to information and knowledge.

- In general, responses highlighted the obligation of States to create laws and inclusion policies for both the implementation of infrastructure, as well as to promote digital literacy, with special emphasis placed on the incorporation of indigenous peoples and communities, women, children and people with disabilities; this should also include the promotion of local production, and tax and investment incentives by governments for the development of inclusion strategies in the digital area. One of the important points when dealing with this challenge is to address the lack of studies, indicators and statistics regarding the situation affecting people in these sectors in terms of functional access to the Internet.

- Related to the previous point, it was considered that part of the strategies of inclusion of the aforementioned sectors should be the promotion of local output, as well as to provide pluralistic and diverse information on the internet, as carried out in the audiovisual sector in some countries, through the use of competitive funding. This would have to be accompanied by policies for infrastructure coverage, provision of equipment to schools and the generation of open source platforms that facilitate their development, exchange and access.

- Finally and in terms of the institutionalization of media literacy, the proposals identify the need to integrate this aspect into the compulsory curriculum at different educational levels: primary, secondary and higher, along with a mandatory programme of on-going training for teachers and the promotion of public policies so that universities can develop systematic and continuous research that permit curricular modernization; this should be accompanied by the promotion of non-formal educational activities that allow for the participation of civil society organizations in efforts to promote digital literacy. Both in the case of formal and non-formal education, best practices should be promoted to encourage the generation of new ideas and strategies and to share knowledge and experiences developed in other areas.

**B. Freedom of Expression**

**Executive Summary**

In this block of questions, the responses were particularly emphatic about adopting standards already established by international organizations to promote and protect the freedom of expression, both in terms of such freedoms offline, as well as the new challenges for freedom of expression online. As underlined by some of the responses in different blocks, the struggle against social inequalities in terms of access to Internet still represents a significant challenge for most developing countries. Furthermore, existing inequalities in
many of these countries limit free speech online; consequently it is crucial to make efforts so as to preserve and promote online freedom of expression.

According to the responses obtained at the qualitative level, it is necessary to take the following actions into account in order to guarantee freedom of expression:

- In most Latin American countries there is a lack of regulations to guarantee freedom of expression on the Internet; furthermore, in cases when legal frameworks are established, they tend to limit such freedoms and generate censorship by establishing broad and rather vague provisions that favour control of the Internet by the respective States. Thus, it is essential that existing or proposed laws are revised in terms of international standards dealing with freedom of expression. There is a recognised need that new legislation should be clear and precise, with strict judicial controls and the broad participation of all sectors involved, particularly civil society. Before adopting such laws, impact studies should be carried out so as to assess the effect of measures implemented on human rights and freedom of expression from a systemic-digital perspective, so assessing the scope of restrictions in order to determine if they are legitimate and proportionate. The civil framework for the Internet in Brazil is considered to represent a good example as opposed to the laws established in Ecuador and Venezuela, which tend to exert more (State) control over the web.

- In general there is concern about government legislation or policy on issues related to monitoring and interception of communications based on a supposed protection of national security, but leaving a wide margin for interpretation, thus placing at risk privacy and personal data protection. Furthermore, the use of such instruments can significantly inhibit freedom of expression, as Internet users may limit the way they express themselves if they suspect they are being (secretly) monitored. It is important that any legislation in this area includes sufficient judicial controls and other safeguards in order to prevent such measures from being misused and employed to covertly monitor dissenting opinions.

- As in other blocks, there was an insistence on ensuring web neutrality in order to prevent States or the private sector from acts of interference, including corporate control of connectivity (management of Internet traffic), as well as the misuse of copyright or attempts to limit critical content through the use of filters or blockages implemented by governments: in practice, such measures can lead to censorship, as they limit freedom of expression.

- In relation to the previous point and in order to avoid Internet censorship, it is also deemed important to protect the option of exercising freedom of expression anonymously over the Internet, given that restrictions of that right can lead to intimidation and so limit this freedom. Of equal concern is the expansion of regulations or court orders in the region that do not protect Internet intermediaries, and thus ignore the actual nature of the
web as an open structure that permits freely-accessed publications to be placed on multiple platforms, without such intermediaries being held responsible for the contents of said publications. Given the increasing criminalization of conflicts linked to freedom of expression on the Internet, and the lack of specific legislation for this area, court cases have been noted that apply the same criteria as in those cases involving television and press media, resulting in an intense debate and the erosion of freedom of expression in some countries. In this regard, specific and clear laws should be established regarding the liability of Internet intermediaries.

- Like the traditional media sector in the Americas, which is highly concentrated, thus creating severe limits for freedom of expression, the same criteria is being witnessed online as the network becomes centralized among a limited number of players, resulting in the control of information flowing across the web: such practices include content indexing as undertaken by large intermediaries like Google. This concentration can also be noted in terms of suppliers or operators of internet services, which inhibit competition and create expensive and poor quality services. At the other extreme it is also possible to find State monopolies of Internet services that can result in contents being filtered when there are no specific laws for the protection of web neutrality, which may also lead to censorship.

- As with the audiovisual sector, there is a need for those bodies that regulate Internet services to have sufficient independence from economic and governmental powers, so as to protect freedom of expression. That is to say, their work should be protected from undue pressure from market influences or specific governments.

- Specific protections for freedom of expression on the internet must be clearly stipulated in legal standards that adhere to the open architecture of the Internet, web neutrality, the responsibility of intermediaries, clear and specific mechanisms for the protection of children and adolescents, along with judicial controls and other safeguards to protect the right to privacy and the protection of personal data.

- The establishment of a monitoring body to evaluate the situation of countries in the area of Internet freedom of expression was considered to be a good initiative to exert pressure on governments and businesses to protect said freedoms. Likewise, the development of protocols and software to protect users from massive covert monitoring are considered equally necessary.

- Special emphasis should be placed on the trend in several countries in the region to promote laws or public policies regarding the internet inspired by international trade agreements, which generally exclude civil society from their contents and therefore any discussion. And given the inflexibility of companies in terms of intellectual property rights protection, both the freedom of expression and of information on the internet are
threatened. Consequently, multilateral bodies that promote the protection and promotion of freedom of expression should support the establishment of standards to neutralise the threats faced in these two areas.

- In relation to digital journalism and journalistic information sources, the same safeguards should be maintained as have been created for off-line journalism by the international standards established by both American and Universal Human Rights Systems: however, many countries in the region still lag far behind in terms of harmonising their domestic laws with such standards.

- Within the consultation there were few contributions on how to confront hate speech and the use of media literacy to empower people in their exercise of freedom of expression on the Internet. However, there was agreement that education represents the basic premise to deal with hate speech, and that this should be accompanied by campaigns organised by States, as well as studies and research to help better understand this phenomenon in order to develop strategies to address it. Public policies should also be designed for the protection of young people using the Internet.

- Finally, regarding the self-regulation of internet journalists and intermediaries, it was suggested that a Council of professionals and collegiate businesses be established at national and international level to promote the development of standards, as well as the encouragement and support of citizens’ observatories, and possibly the creation of ombudsman’s bodies for Internet users.

C. Privacy

Executive Summary

In relation to privacy, particularly the right to privacy in the digital age, qualitative analysis indicated as follows:

- The principles that should guarantee respect for the right to privacy must be the same as those that already form part of human rights standards regarding the inviolability of communications and the protection of journalistic sources. There is concern that governments, under the guise of protection of privacy, try to limit public information, which is an essential pillar for the transparency of public services. Governments should implement concrete measures to respect the privacy of Internet users, in order to avoid acts of censorship: in this respect, specific laws should be established to protect the privacy of individuals. Among the responses, it was also possible to identify other important elements for the protection of privacy, such as web neutrality and the treatment and use that companies make of the data of individuals when people access...
corporate applications or services.

- While some responses suggested that **privacy, anonymity and encryption** are transversal concepts, and that it is impossible to refer to just one of these elements without mention of the other two; others indicated that the three concepts are very different and that a major problem today is that they tend to be confused and understood to refer to the same issue. In some cases, the legitimacy of anonymity or encryption was negated, which is contrary to international trends in defence of these concepts, particularly in social contexts where there is strong repression against dissidence, and where anonymity on the Internet facilitates the freedom of expression of dissident groups or individuals who live under regimes that restrict said freedoms.

- As can be observed in the responses, there is a special emphasis placed on the difference between **privacy and transparency**, the latter defined as governmental public information for transparency. In fact this is a good reflection of the Latin American region, where in many countries there are still no laws in place regarding access to information and transparency, or those that do exist are very limited. Such nations are in contrast to countries like Mexico, Brazil and Chile, where the emphasis is placed on the demand that laws governing telecommunications and the Internet guarantee the protection of personal data and the right to privacy, so that instruments of intervention of communications and geo-location in real time are not used as tools of control, censorship or to hinder political opposition.

- The **right to privacy** should be understood as one more human right, so that agreements that societies and the international community implement to protect human rights in general, are equally applied to the right to privacy. In this regard, agreements should be established with different sectors (governments, businesses, civil society organizations), to prevent personal data from being used without the consent of Internet users, and that governments implement actions that provide the best possible protection of privacy, establishing laws to that effect, as well as sanctions for those firms that use such data without the free and informed consent of users.

- Some believe that the use of **big data** may be a useful tool to provide greater transparency, although it is vital to create control mechanisms and provide ethical training to those who manage such data, in order to avoid its improper use. In contrast, others believe that the use of such data represents a negative impact for human rights and freedom of expression.

- Through the **promotion of the digital culture** it should be possible to improve the safety and protection of personal data, as well as to improve regulations aimed at data hackers and crackers, and the implementation of stricter laws to deal with such persons.

- There is a need for governments and international agencies to promote
educational campaigns at all levels of society in order to drive media and information literacy so as to help people protect their privacy, along with mandatory educational training programmes. The vast majority of experts agree that education is key in order to teach people about how to protect their privacy in the digital age.

D. Ethics

Executive Summary

With respect to the issue of ethics and the internet, in general there were few responses; consequently contributions were minimal and can be summarized as follows:

- Human right’s based ethical principles can contribute to broaden participation and accessibility for everyone to the Internet, primarily through education and the promotion of such principles to society in general, and at all levels of education. Specifically, such principles should form part of internationally established standards for freedom of expression, so as to ensure greater freedom of access to information and knowledge.

- Regarding new uses and applications and processes for research and analysis, it is proposed to establish observatories for monitoring and research that can provide reports on the basis of their findings and the results of their investigations with respect to the options open to interested parties for the new uses and applications of information and knowledge, which are key for promoting the ethical use of the Internet. It is also proposed to undertake studies on the processes of technological convergence in order to develop strategies to support universal access to the Internet. Specifically for young people, it is necessary to monitor any content that sheds light on further research and strategies for this sector of the population, which is virtually “digitally native”.

- In terms of gender, the responses indicate that the Internet is replicating traditional gender constraints; consequently, this dimension should be addressed at society level and then be replicated on the Internet.

- Through ethical considerations and the application of ethical principles, respect for diversity can be promoted on the Internet.

- The ethics and ethical principles that are adopted by societies are key for the proper regulation of Internet use.

E. General Issues

Executive Summary
Regarding the general issues related to Internet, responses established as follows:

- The instruments proposed by both the Universal System for the Protection of Human Rights as well as the different Regional Systems (Pacts, Treaties, Conventions, etc.) are important to promote accountability mechanisms for the different areas of study related to the Internet.

- Inter-jurisdictional issues do not infringe on freedom of expression and privacy.

- There is little overlap between the fields of study such as access and freedom of expression; ethics and privacy; privacy and freedom of expression. These intersections are beginning to be studied, given that as yet there is only one intersection at a theoretical level. In the case of such intersections, they should be mediated by the necessary educational tools to ensure that each field is properly addressed.

- The statements issued by UNESCO, as well as those relating to existing legal and regulatory material in each country, are essential in order to learn about the different characteristics of these fields of study. Note should also be made of the reports issued by the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights of the OAS, as well as studies by different regional and international organizations on the issues referred to by the present study.

### F. Options

**Executive Summary**

In relation to the available options, the following considerations merit consideration:

- UNESCO can work as an intermediary between stakeholders and also take part as an agency in the discussions, follow up, inspection and monitoring of parties to ensure that they fulfil their commitments. UNESCO should also resume its proactive role and work towards the development of accessibility, accountability and development standards, as well as promoting educational initiatives using its academic chairs around the world. The organisation should also foster greater civil society participation and promote intergovernmental agreements that will help strengthen civil society organisations with respect to the International Telecommunication Union, which is a technical body that has been highly active in the area of Internet, and which is at times undermined in the work of UNESCO and human rights initiatives.
- UNESCO should also focus its efforts on those stakeholders that are outside of the UN system, such as governments, civil society organisations, companies involved in the Internet, etc., in order to mediate and make recommendations to guide the actions of each of these stakeholders in the various issues that have been described in this study. Member States of UNESCO should harmonize national priorities within the framework of the post 2015 process; establishing universal access to the Internet in the coming years, and promoting national legislation that includes a human rights approach with respect to the use of the web.

- UNESCO should foster international dialogue between civil society organizations and strengthen civil society networks so as to improve policies in countries with regard to the Internet; such policies should also reflect the Millennium Development Goals.
ANEXO I.

**Ibero-American Platform of Television Regulators – PRAI**

**Internet and television: a crossroads and an opportunity**

*This document lists some reflections made by the Chair of the Ibero-American Platform of Television Regulators, so as to enrich the analysis with respect to the regulatory challenges in the information society and the technological changes resulting from the consolidation of Internet as a platform for content distribution.*

The Ibero-American Platform of Television Regulators, PRAI, is the first regional forum for sharing and discussing experiences of television and audiovisual independent regulatory bodies. In this sense, the platform welcomes, encourages and organizes discussions on the future of regulation in this area and its primary role: the protection of human rights and freedom of expression.

The popularization and globalization of the Internet, along with its immense penetration in all areas of communications, has obliged related bodies to analyze and rethink their roles and challenges in light of recent developments: the interconnected world and the emergence of interactive virtual platforms have led to the growing empowerment of users and a crisis (full of risks and opportunities) on ways to produce, broadcast and promote audiovisual content.

The document mentions various specific points and challenges regarding the role of regulation with respect to the globalization of internet and the changes the web is producing in lifestyles and social relations, in terms of television and audiovisual content.

**The Internet and the identity crisis of television**

The emergence of digital technologies, convergence and internet, have led to a crisis in the very definition of television itself. Up until around 20 years ago, television was defined as a means of production and the broadcasting of audiovisual content by air, cable or satellite to large populations.

Today, an increasing proportion of audiovisual consumption is carried out on computers and mobile phones via the Internet or digital TV networks, in which increasingly specific contents are demanded and consumed by groups and communities. To continue to view regulation as only for large public groups and companies alienates organisations from the actual situation.

Consequently, this medium should now be viewed from the perspective of specific niches, communities and individual users. Such a highly pedagogical approach
involves the perceptions and expectations of its users and communities, converting them into self-regulating agents who from the platforms of their blogs, social networks and websites can join forces in determination and conviction, in order to protect and determine their work.

The structure of television production in the traditional industry meant expensive and sophisticated facilities, with specially trained staff controlling all aspects of the process. The transmission stage required huge infrastructures such as antennas, cables or satellites; the management and administer of State licenses in order to use the electromagnetic spectrum, and the following of the rules and regulations of each country and region with respect to content, schedules, and the general public.

Although this situation is still the norm in almost all regions of the world, in those places where internet and digital technology has most permeated the area of communications a true revolution is taking place: the low cost and high sophistication of widely-available devices such as cameras, microphones, and editing and software devices has led to an explosion in the number of small producers, independent groups and individuals that are generating audiovisual content and at different levels of quality.

While digital technologies have allowed many more people and groups to generate their own content, the Internet and the growing number of video distribution platforms have allowed these same users to disseminate their products, and with a completely new element involved: global outreach at a minimum cost. Consequently, individual users, as well as the aforementioned groups and communities, can now play a leading role in the audiovisual market.

This situation has increased the diversity of content and decreased media concentration (one of the greatest threats to freedom of expression). However, it has also created serious challenges: three of the main ones are highlighted below, along with recommendations that have been drawn from our experiences and reflections.

- The persons generating this new content are often unfamiliar with the standards and laws that seek to protect vulnerable populations and ensure appropriate forms of expression, according to the laws of each country. Consequently a new pedagogy of regulation is required and which should be extended to these new content producers.
- Online distribution platforms, being independent of schedules and geographic locations, virtually override many of the regulation strategies such as programming slots and any applicable fines. Therefore, regulatory efforts should be focused on content, especially in terms of production and primary distribution, rather than in terms of transmission, given the well-known problems in democratic nations when it comes to regulating the web.
• The apparent innate transnationality of the Internet is another factor that complicates the regulation of website content. This characteristic, which is often viewed as a pillar of freedom of expression, is at the same time a risk in terms of the protection of vulnerable populations and for cultural and social diversity. Therefore, we believe that the establishment of regulations or campaigns for Internet content requires a multilateral effort, particularly at regional level, and should include NGOs and related firms as both managers and partners.

New online platforms are being exploited by TV companies, including the more traditional types along with others formed on the wave of digital technologies (such as tubes and OTT). Some of these companies, whose regulatory responsibility is greater given their scope, coverage and social influence, may view the Internet as an unregulated realm, in which the regulatory strategies of nations are not applicable.

Healthy competition also becomes an issue when the audiovisual market is dramatically reorganised. The asymmetry between the effect of regulation on businesses or traditional services and on new Internet platforms represents one of the biggest challenges to be resolved in terms of equity.

With the PRAI, the crisis is viewed as an opportunity to rethink the burden and functions that stakeholders should have in terms of regulations. Moving from a vertical form of regulation to a co-regulatory, democratic and highly educational proposition may help to overcome the challenges previously mentioned without infringing the freedom of firms and of expression, and also maintaining the protection of human rights.

**Digital prosumption and nomadism**

One promising and uncertain aspect of this socio-technological revolution is the great empowerment of those who (before) were just the simple users of television services. The aforementioned technological facilities to produce and distribute video content are driving a new dynamic, one in which citizens themselves produce part of the content they wish to watch.

The Internet and its video platforms are increasingly being filled with products made by users who are not linked to the audiovisual industry, and whose contents are able to obtain high levels of popularity.

This dynamic, contained within what Alvin Toffler termed as prosumption, gives rise to a whole new economy. Popular products are monetised and can be very profitable, as in the case of some YouTube channels. Large TV companies, for their
part, have begun to include a lot of consumer-generated content in their programmes.

This occurrence implies that regulation should be expanded to previously unimaginable areas, such as independent Internet users. And rather than seeking a law enforcement means for surveillance and sanctions, which has proved to be inefficient in the cyber world, there is a need to undertake a training processes, and as mentioned previously, to link up to as many prosumers as possible in campaigns and self-regulation programmes.

The greatest opportunity for both regulation and for creation in the world of Internet is undoubtedly online cooperation, a phenomenon that has been linked to collective intelligence and is now stronger than ever. Just as hundreds of prosumers scattered around the world can coordinate in order to create works of intense vitality, and even complete web series (from initial investment to final distribution), a collective monitoring of quality and respect for human dignity and freedom can also be achieved.

The phenomenon of Wikipedia shows how collaborative power can bridge individual shortcomings and generate products of outstanding quality. Likewise, collective regulation has allowed more progress to be made in areas such as the prevention of child pornography or hate speech on the Internet than any legal initiative by governments.

Without ignoring the diversity of positions within our organization, the PRAI considers that the regulation of audiovisual content remains necessary and effective even in the age of the Internet. However, for this purpose very different strategies need to be fostered, and which are totally in accord with the innovativeness of the phenomena that we are witnessing.

Self-regulation and co-regulation, which involve the cooperation of content generators, appear to be a powerful, pragmatic and respectful alternative with respect to freedom of expression. And in terms of the logic of prosumption, it is expected that collective intelligence will also be the driving force behind a new form of surveillance and monitoring in order to protect the most vulnerable, and to promote diversity, representation and social participation, as well as to guarantee the quality of products that reach the connected computer screens of the world on a daily basis.

The challenge –and the main aim of PRAI- consists in furthering research and the design of strategies and methodologies in order to build capacity within the public-prosumer context of new media, and so effectively influence the appropriation and promotion of freedom of expression and the civic duty to guarantee human rights.