

Submission on India's Draft Comments on Proposed Changes to the ITU's ITRs

Centre for Internet and Society | 2012-11-03

Pranesh Prakash

Given below are the responses from the representatives of civil society in India (The Society for Knowledge Commons, Centre for Internet & Society, The Delhi Science Forum, Free Software Movement of India, Internet Democracy Project and Media for Change) to the Government of India's proposals for the upcoming WCIT meeting, in December 2012, in Dubai.

Our detailed comments on India's draft proposals can be found [here](#). Also read the final version of Indian Government's submission to ITU on November 3, 2012. A preserved PDF copy is available [here](#).

Background

We believe that, aspects of Internet governance that have been and are presently addressed by bodies other than ITU should not be brought under the mandate of the ITU through the ITRs.

Some of the proposed changes to the ITR's could have a significant negative impact on the openness of the Internet.

In addition, the processes related to the WCIT lack openness and transparency: the WCIT / ITU excludes civil society, academia and other stakeholders from participation in and access to most dialogues and documents, contrary to established principles of Internet governance as laid down in the Tunis Agenda and as supported by the Indian government at several national and international fora. The WCIT process needs to be improved both at the domestic and global level. We urge the Indian government to support a more open process in the future, with respect to deliberations that will have a significant impact on the people.

We recognise that concerns regarding cyber-security, spam, fraud, etc. are real and that some of these concerns require to be addressed at the global level. However, we believe that as a number of parallel processes are working on these specific issues, these need not be brought under the ITRs.

We therefore strongly recommend that the ITRs continue to be restricted to the infrastructure layer that has traditionally been the area of its focus and not the content or the application layer of the Internet. Any measure that impinges

on these layers should be kept out of ITRs and taken up at other appropriate (multi-stakeholder) fora.

We note that the proposal ARB/7/24 defines an "operating agency" as "*any individual, company, corporation or governmental agency which operates a telecommunication installation intended for an international telecommunication service or capable of causing harmful interference with such a service*" and believe that this definition is too broad in scope and ambit. Inclusion of such a term would broaden the mandate of the ITU to regulate numerous actors in the Internet sphere who do not fall under the infrastructure layer of the Internet. We call on the Indian government to ensure that the term "operating agency" is defined in a narrower or more restrictive manner and only used in exceptional cases. Normally, the obligations of member states should be with respect to "recognised operating agencies" and not omnibus all "operating agencies".

Follow-up

We would like to note that we have never officially received this document directly from the Indian government. In view of the support the Indian government continually espouses for multi-stakeholder Internet governance, this is a matter of deep regret.

We are aware that the official closing date for proposals is early November. However, we also know that several governments intend to submit proposals right upto the beginning of the WCIT meeting. In addition, several governments have included civil society representatives on their official delegation.

We therefore call upon the Department of Telecommunications to organise an open consultation with civil society representatives, to discuss both India's proposals and the comments of various civil society representatives on them, in greater depth, as part of DoT's preparation for the WCIT meeting and in line with India's espoused commitment to multi-stakeholderism. We look forward to discussing our inputs with the Government to make the decision making process on governance more participatory and inclusive.