

Submission by Indian Civil Society Organisations on Proposals for the Future ITRs and Related Processes

Centre for Internet and Society | 2012-11-01

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The Centre for Internet & Society was one of the signatories of this submission which was sent in November 2012, in response to the International Telecommunication Union's call for public comments in relation to the revision of International Telecommunication Regulations that are to take place at the ITU's World Conference on International Telecommunications in Dubai from December 3 to 14, 2012.

We, the undersigned civil society organisations from India, respectfully acknowledge the important role that the ITU has played in the spread of telecommunications around the world. However, we are concerned about the lack of transparency and openness of the processes related to the WCIT: the WCIT/ITU excludes civil society, academia and other stakeholders from participation in and access to most dialogues and documents. The documents that are publicly available show that some of the proposals might deal with Internet governance. According to established principles as laid down in the Tunis Agenda - which process the ITU helped to lead - Internet governance processes are required to be multistakeholder in nature. The WCIT and ITU processes require urgent improvement with regard to openness, inclusiveness and transparency. While we appreciate the current opportunity to share our comments, we would like to encourage the ITU and its Member States to adopt a genuine multistakeholder approach at the earliest.

As mentioned, we do welcome the current opportunity to share our thoughts. Though this list is not exhaustive, some of our major concerns are as follows:

We believe that, given the historical development of present methods of internet regulation, 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.

We therefore strongly recommend that the ITRs continue to be restricted to aspects of the physical layer that have traditionally been the areas of its focus. The ITRs scope should not be expanded to other layers, nor to content - any measure that impinges on these layers should be kept out of ITRs and taken up at other appropriate (multi-stakeholder) fora. In addition, it is crucial

that “ICTs” and the term “processing” be excluded from the definition of telecommunication as this clearly opens up the possibility for Member States to regulate/attempt to regulate the “content/”application” layer on the internet at the ITU.

We also recommend that provisions regarding international naming, numbering, addressing and identification resources will be restricted to telephony, as should provisions regarding transit rate, originating identification and end-to-end QoS. Provisions regarding the routing of Internet traffic should not find a place in the ITRs at all.

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, as these are being discussed in many other fora, we believe that the ITRs are not the best place to address these. Their inclusion here could inhibit the further evolution and expansion of the Internet. We also believe that any fora discussing cyber security should be multistakeholder, open and transparent.

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. The term “operating agency” should be defined in a narrower or more restrictive manner and, irrespective of its exact definition, only be used in exceptional cases. Normally, the obligations of member states should be with respect to “recognised operating agencies” and not omnibus all “operating agencies”.

Signed:

- Centre for Internet and Society
- Delhi Science Forum
- Free Software Movement India
- Internet Democracy Project
- Knowledge Commons (India)