World Conference on International Telecommunications (WCIT-12)
Dubai, 3-14 December 2012

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Note by the Secretary-General

INFORMATION NOTE FROM THE SECRETARY-GENERAL TO WCIT-12 DELEGATIONS / MEMBERS REGARDING CIVIL SOCIETY SUBMISSIONS TO WCIT-12

I would like to take the opportunity during WCIT-12 to report to Members on our ongoing and constructive dialogue with Civil Society. You will recall that you instructed me to establish a web page to gather public comments from civil society group. This public platform was established and some twenty nine contributions (attached) were submitted by civil society groups. We greatly appreciate the hard work and effort that civil society groups invested in this exercise and we duly promoted their contributions and encouraged our members to consult the inputs during national-level preparations and consultations for the conference.

During the year, and increasingly as we approached the conference, myself and my team have engaged with different civil society representatives and organizations. We have listened to their concerns and proposals and we have taken on board their concerns, many of which are related to a perception that ITU is unnecessarily closed to civil society membership and participation and is not transparent or flexible enough when it comes to sharing institutional documents or facilitating access to our various meetings, working groups and committees.

During WCIT12 a great many civil society representatives have been present either as part of delegations, as sector members or as public observers. In a letter dated 09 December 2012, these civil society representatives published an Open Letter where they outlined three main areas of concern. This Open Letter is also published on the ITU website. In advance of receiving this letter I had extended an invitation to meet with civil society representatives at the conference so I could hear their ideas and concerns.

On the 10 DEC 2012 we met together in Room F at the World Trade Centre and had a very good discussion lasting approx. 80 mins. The meeting began with some opening comments from civil society organizations present and centered on ongoing concerns about any increased or regulatory role that ITU would play in Internet governance; concerns about how many civil society representatives have difficulties to be included in their national delegations and thus experience difficulties to travel to WCIT12 or participate in any meaningful way; an interest to develop the experience of WCIT12 as an opportunity to continue our dialogue and relationship between the ITU and civil society moving forward, particularly with the approaching WSIS and WTPF events.

In response to the Open Letter I had this to say:

- I appreciate this opportunity to talk with you today. It was my intention to call this meeting so I am glad that you also shared the same thinking. I appreciate the inputs that we have already received from Civil Society, I assure you they are making a difference, and we should continue to engage after WCIT.

- We need your help in particular to ensure that ITU, and the role of ITU is better understood. If certain member states want to propose texts that are not popularly supported they are free to do so – it does not mean that it is part of the ITU agenda, rather it means that ITU is a forum where everyone is free to express their opinions.

- I believe WCIT12 is playing a truly significant role in bringing several contentious issues out in the open where the public and media are better informed about the nature of these issues, the details of the differences of opinions and the need for a multi-stakeholder forum going forward so we can eventually agree and ensure that people of the world increasingly benefit from digital inclusion.

- I wanted also to thank you for your support and solidarity last week. Many of you issued statements urging misguided activists not to hack or sabotage the workings of the conference. I think these calls for support were critical in avoiding a potential disaster and it showed that on many issues we stand as one and I thank you again for that.

- As I mentioned in my opening speech – just because some may not share the same views on how certain issues should be moved forward, does not mean that we do not share the same common objectives.

Reply to the specific questions raised in the Open Letter:

- We ask that you work with us to find an effective manner to bring these public comments into the deliberations while they remain relevant, for example by including them as Information Documents (INF) in the document management system.

First of all, allow me to recall that for WCIT-12 ITU has moved continually to share documents and information. All input documents are currently available; we webcast plenaries and Comm 5 in six languages with captioning. We provide a platform through ITU TV for members and delegates to share their views and are constantly engaging and sharing information via our social media channels. In short, we are more open than ever before and I am very proud of this progress.

With regard to public comments - the Secretariat was specifically instructed not to process the comments in any way, so we did not plan to produce a compiled document. In October this was communicated to civil society via Access Now who informed us they would share our responses through their network. At their request we also extended the 03 November deadline to allow additional submissions from Civil Society.

Any Member State can, at any time, submit a contribution, which could include any of the public comments and the ITU Secretariat regularly informed and promoted the public comments to its Members. After the deadline for submissions in November we followed up with a letter to Member States reiterating what has been said previously i.e. “Member States are encouraged to give due consideration to views and opinions expressed at this website in their preparation for the WCIT-12.”

I will inform our members again about the existence of the submissions and include them as an annex to an Information Note which will update members on the ongoing dialogue that the ITU is having with civil society.

- We ask that you further enhance the transparency of the WCIT by allowing access to and webcasting of the Committee 5 working groups.

This issue was debated at length during the open plenary, proposed originally by Sweden, and was not agreed by Members. As Secretary General I cannot overrule my members but I can inform them of your request and seek their support for it.

- We recognize that the current institutional structures do not facilitate independent civil society participation in the work of the ITU. Given that it is unlikely that institutional changes can be implemented during the WCIT, we ask that the two above issues be addressed immediately and that the ITU commit to reviewing and putting in place mechanisms that will encourage a more flexible approach to participation by civil society.

Only the Plenipotentiary Conference of the ITU – the highest governing body of the organization – can change institutional rules and procedures or effect changes to the ITU Constitution. I believe post-WCIT-12 we will have time to take stock and provide our membership with some important recommendations in line with what you raise. I would also take the opportunity to remind you that all civil society organizations, who are international in nature and who are working in the area of ICTs are welcome to join the ITU and apply for exemption of fees. I believe we will all benefit from a greater civil society engagement at ITU and in line with this I recently invited the International Trade Union Movement to join.

Conclusion

I believe that the contributions from civil society and the engagement we have increasingly had with them in the run up to WCIT-12 has been important in raising awareness about our respective roles and responsibilities, organizational structures, differing methods of work and advocacy and so on. Civil society groups have provided some very important inputs and observations and I believe their increased participation as members of the Union will ultimately benefit our work and our reputation. I extend a promise to look for examples within the UN system which ITU might use to model greater civil society engagement.

Many of the issues we discuss now and in the future will have inevitable aspects of convergence between the telecommunications and Internet worlds and when this happens the voice of civil society needs to be heard and needs to have a channel within the ITU where it can be acknowledged and formally contribute.

Annexes: *Views and opinions from Civil Society to WCIT-12*

- **From**: Paul Budde
- **To**: wcit-public
- **Subject**: The Future of the Internet
- **Date**: Wed, 15 Aug 2012 23:04:16

The debate about the future of the internet is intensifying, and it is critical that a broad section of society does participate in the debates running up to the important WCIT conference.

It was good to see that the ITU took the initiative to open up the debate beyond its member organisations. This has now been followed up with this website that will most certainly stimulate a passionate public discussion.

Here is my contribution.

In 2012 around a third of the global population is using the Internet. This is quite remarkable when considering there were only around 350 million users worldwide at the start of the decade. Within a few years it is expected that 5 billion people will be connected, clearly the Internet is now everybody's business.

On the one hand we were lucky that the internet in its current format was invented by academics and innovative independent entrepreneurs rather than by governments and vested interests. Furthermore, the various elements of the internet are built by private companies and as such are also owned by them – very little 'internet ownership' is in the hands of governments. The internet would never have been developed if it had been left to governments, telcos or the international institutions around them.

The reality now is that the political stakes of the internet have risen significantly. On the one side there are the community forces that would like to keep it free, as in free of (excessive) government interference; while on the other side there are the forces who want to see more control over the internet.

In this politically charged environment there are several forces at work in and around the internet:

Certain groups want greater regulation on content and copyright (SOPA, PIPA, CISPA, ACTA, TPP);

technologically-advanced nations are now also using it for cyber warfare;

several developing economies want to assert greater control over it;

other countries want greater protection for children and other vulnerable people in their societies;

the internet community wants to keep it as free as possible from national or international interference.

commercial interests in this trillion-dollar industry

A positive outcome of the WCIT discussions could be to look at the internet community and see how these organisations can be used to play more of a leadership role. Once the internet community organisation is properly funded and stocked with the right international people to manage what is needed to watch over internet governance it will be an excellent partner in the broader community of international organisations.

There could be arrangements that, for example, could see organisations such as UN, UNESCO, ITU, WTO, WIPO and others to either become directly involved in, or affiliated with, the internet body, and they could work together to address the many different elements involved in internet

governance, including issues around copyright, privacy, child pornography, cyber crime, cyber warfare and so on.

Within such an environment it is also possible to untangle the debate and assess:

the control issue – does that indeed exist, and if so who has control and who does not, and does it matter?

properly separate issues such as infrastructure, content, cultural differences and organise proper management of those issues by the most relevant organisations.

assess what falls under local jurisdictions and what requires international arrangements.

Most issues do not require international consensus, and processes that do require it should be kept to a minimum anyway. But the overarching aim should be to keep the internet as free as possible within the international fabric that it has created around it.

Paul Budde

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- **The Future of the Internet**, *Paul Budde, 08/15/2012*

- **From**: Sylvie Rutschmann Hill
- **To**: wcit-public
- **Subject**: avis sur l'internet
- **Date**: Fri, 17 Aug 2012 00:17:45

Madame, Monsieur,

Au sujet de l'internet, il est urgent de mettre en place des règles, des lois et de sévir auprès de ceux qui entravent ces lois tout comme les pays sévissent pour ceux qui entravent les lois dans la vie de tous les jours.

Car il est insupportable de recevoir de plus en plus de spams, de publicités non désirées et de recevoir constamment des choses que les familles ne souhaiterais pas du tout recevoir, comme des annonces touchant à la pornographiques.

Il est aussi insupportable d'avoir régulièrement son adresse mail volée par des sociétés ou par je ne sais qui, qui l'utilisent pour envoyer des publicités.

Il est urgent de faire disparaître ces problèmes qui dérangent des millions d'utilisateurs et aussi de mettre des barrières pour enrayer et enfin faire disparaître complètement les sites qui diffusent des choses inacceptables comme la pornographie enfantine. Exemple parmi d'autres que je ne citerai pas et qui donnent au monde une image dépravante de l'occident créatrice de l'Internet.

Je ne comprends pas pourquoi les états membres ne sont pas tous unanimement d'accord que l'UIT mettre enfin de l'ordre dans l'internet.

- **avis sur l'internet**, *Sylvie Rutschmann Hill, 08/17/2012*

- **From**: Norbert Bollow
- **To**: wcit-public
- **Subject**: Clarifying the scope of the ITRs to exclude the Internet
- **Date**: Fri, 17 Aug 2012 04:24:17
- **Organization**: Abaxem Empowerment

The following comments on the "DRAFT OF THE FUTURE ITRS" document are from Norbert Bollow, Civil Society, in Switzerland.

It is my carefully considered view that it is highly desirable for the ITRs to have a clearly defined domain of applicability which includes classical telecommunication services (voice communication and fax services in which classical telephone numbers are used as addressing elements) but which clearly excludes the Internet (except when voice communication and fax services in which classical telephone numbers are used as addressing elements are provided via the Internet.)

Major reasons for this view include the following:

1) Much of what is laid down in the ITRs is technically suitable for classical telecommunication services, but not for the Internet in general. If the attempt was made to fully apply the provisions of the ITRs to the Internet, it would be found that many of the provisions are fundamentally incompatible with how the Internet works, and it is not possible to apply them to the Internet without effectively destroying the Internet. (That of course is not going to happen.

The Member States would find some way to justify themselves in acting contrary to what the ITRs say. But it is highly desirable to avoid that kind of situation by clearly excluding from the scope of the ITRs forms of ICTs to which the provisions of the ITRs are not applicable.)

2) If the ITRs were adapted to the technical realities of the Internet, it would still be unacceptable for Internet governance to be governed by the modified ITRs, since the Internet is a highly dynamic, quickly evolving socio-technical reality, and the existing governance process for modifications of the ITRs is clearly not suitable for the governance of something which is as highly dynamic as the Internet.

3) Even if the process of updating the ITRs could be changed to make it fast and dynamic enough that from that perspective it might potentially meet the governance needs of the Internet, the problem would remain that the ITRs are an intergovernmental agreement, and hence any process for updating them must fundamentally be an intergovernmental process, and the problem of how information regarding the Internet and information society concerns in general can be effectively exchanged between government persons, civil society and the technical community is still unsolved in most if not all countries. I hope that my "Enhanced Cooperation Task Force (ECTF)" proposal (*) may contribute to this problem eventually getting solved, but until it is solved, it would in my eyes be imprudent in the extreme to entrust the Internet to any kind of purely intergovernmental process.

(*) Note: The rules for submitting comments do not allow me to include a link to the proposal, but the Internet-Draft about it can be found e.g. by means of a web search for "draft-bollow-ectf-02".

In view of the above, my comments on the various items in the "DRAFT OF THE FUTURE ITRS" document are as follows:

CWG/4/19: This proposed modification is not good because it would by implication extend the scope of the ITRs to ICTs in general including the Internet.

CWG/4/20: This proposed modification is not good because "greater confidence and security, including of information" does not make a lot of sense in the context of classical telecommunication services; however an extension of the scope of the ITRs to include the Internet is not desirable as argued above.

CWG/4/45 - CWG/4/53: All of these definition proposals fail to clarify the scope of the ITRs by clearly excluding the Internet as such.

Here is my alternative proposal:

Telecommunication: Any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems or via the Internet, where the intended recipient or communication partner is identified by a telephone number.

Note: This includes uses of telecommunication services where the use of a telephone number for identifying the intended recipient or communication partner is not visible to the end user.

CWG/4/110: The final bracket includes a reference to "IP interconnections" which is not good because it would imply an extension of the scope of the ITRs to include the Internet, which is not desirable as argued above.

CWG/4/113: This proposed modification is not good because it would by implication extend the scope of the ITRs to ICTs in general including the Internet.

CWG/4/165: This proposed modification is not good for the same reason.

CWG/4/178: This proposed modification is not good for the same reason.

Note however that if my definition proposal of "telecommunication services" as give above is adopted, the requirement of the unmodified paragraph 4.3c can be fulfilled by assuring that publicly accessible Internet access is available through which telecommunication services can be accessed.

CWG/4/199: This proposed addition is not good because it would extend the scope of the ITRs to including Internet Protocol traffic exchanges.

CWG/4/221 - CWG/4/233: I will not discuss these in detail, but to the extent that the proposed new articles imply an extension of the scope of the ITRs to include the Internet, they are not good.

On the other hand, a new article would be valuable that puts added emphasis on privacy protection with regard to data collected while providing communication services, since this includes highly sensitive personal data (about communication parties and in the context of mobile telephones also data about where the user of the telephone was at what time) to which unauthorized access can have high commercial value. For example, in my opinion there can be no doubt that if such data is stored at all, the concerned people must have the right to access copies of it. They must have the right to know whether the way in which this data is stored is adequately protected from unauthorized access, with certified conformance to international standards such as ISO/IEC 27001. They must have the right to know when the data is deleted (which of course must include the destruction of all backup media) etc.

- **Clarifying the scope of the ITRs to exclude the Internet**, *Norbert Bollow, 08/17/2012*

- **From**: Valeriy Krestyaninov
- **To**: wcit-public
- **Subject**: Приложение 2 к Регламенту ме ждународной электросвязи
- **Date**: Wed, 22 Aug 2012 16:04:26

Предмет: Приложение 2 - Дополнительные положения, относящиеся к морской электросвязи

Суть предложения:

Пунктом 4.1. Приложения 2 предусмотрено, что "Все счета международной морской электросвязи должны оплачиваться ...не позднее шести календарных месяцев с даты отправки...". **Считаю возможным и целесообразным сократить этот срок до трех календарных месяцев**

Мотивы:

Существующие в настоящее время временные рамки оплаты счетов международной морской электросвязи были разумны в 90-х годах прошлого века, когда бумажные счета иногда доходили до расчетных организаций только спустя 2-3 месяца после их отправки. Спустя почти 25 лет, невозможно не сократить эти сроки до трех месяцев. Существующие сегодня, например, электронные способы доставки счетов гарантируют надежность их получения и достоверность. Это позволяет расчетным организациям практически немедленно приступить к сбору средств по выставленным счетам.

- **Приложение 2 к Регламенту ме ждународной электросвязи**, *Valeriy Krestyaninov, 08/22/2012*

- **From**: Mensah, Grace
- **To**: wcit-public
- **Subject**: Submission
- **Date**: Mon, 24 Sep 2012 11:42:30

Submission: On Article 5A.4 “Information of a Sensitive Nature” of Future ITRs

UNESCO very much welcomes ITU’s recent initiative to make the Draft of the future ITRs publicly accessible and invite all stakeholders to express their views through your webpage. This step accords well with the multi-stakeholder model pioneered at the World Summit on the Information Society, and is an approach wholly shared by UNESCO.

Having reviewed the Draft of the future ITRs, our Organization has a contribution to make for your consideration.

UNESCO, as enshrined in our Constitution, promotes the “free flow of ideas by word and image”, and is accordingly committed to enabling a free, open and accessible Internet space as part of promoting comprehensive freedom of _expression_ online and offline. We take our lead especially from Article 19 of the Universal Declaration on Human Rights, as well as the Windhoek Declaration on a Free, Pluralistic and Independent Media endorsed by our General Assembly in 1995.

Following from these, UNESCO works as the dedicated agency within the wider UN family to promote freedom of _expression_ and its correlates of access to information and press freedom.

Our contribution to the ITRs relates particularly to Article 5A.4 which states:

“5A.4 Member States shall ensure unrestricted public access to international telecommunication services and the unrestricted use of international telecommunications, except in cases where international telecommunication services are used for the purpose of interfering in the internal affairs or undermining the sovereignty, national security, territorial integrity and public safety of other States, or to divulge information of a sensitive nature.”

We are concerned that this article, in its phrase to “information of a sensitive nature”, designates a criterion for limitation in the access to services that is hitherto unrecognized in international standards (see below). The phrase entitles Member States to exercise related constraints on the right to freedom of _expression_ online, which in turn would also limit public access to the range of information allowed on the Internet. The limitation could also impact on the boundaries for the media to operate independently.

In particular, the phrase does not conform to the accepted international standards as set out by the Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which is widely accepted as the binding elaboration of Article 19 of the Universal Declaration of Human Rights. The standards for limiting freedom of _expression_ are outlined in Paragraph 3 of the ICCPR:

Article 19 of ICCPR

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of _expression_; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

As is evident, the wording in the ICCPR does not provide for a limitation based on the criterion of “sensitivity”. The consequence of this additional ground for limitation could be to open the way for an expansion of cases of curtailment of freedom of _expression_, against the general situation that the right should be respected and limitations be kept to a minimum.

Furthermore, we would note that from the point of view of UNESCO’s mandate, the term “sensitive” has a non-specific and potentially subjective character, and does not meet the tests of providing consistency or predictability to the public. The broadness of the proposed wording could therefore end up authorizing wide-ranging steps which de jure amount to violations, rather than legitimate limitations, of the right to freedom of _expression_.

We would also like to draw your attention to a recent elaboration on Article 19 of ICCPR made by the UN Human Rights Committee (July 2011), in its General Comment No. 34 on Article 19 of the ICCPR. This Comment updates the Article 19 in relation to internet and mobile based electronic information dissemination systems. (We have highlighted in bold below those elements of the UNHRC Comment which have special relevance to UNESCO’s concern with the term “sensitive” in

ITR Article 5A.4.)

12. Paragraph 2 protects all forms of _expression_ and the means of their dissemination. Such forms include spoken, written and sign language and such non-verbal _expression_ as images and objects of art. Means of _expression_ include books, newspapers, pamphlets, posters, banners, dress and legal submissions. They include all forms of audio-visual as well as electronic and internet-based modes of _expression_.

15. States parties should take account of the extent to which developments in information and communication technologies, such as internet and mobile based electronic information dissemination systems, have substantially changed communication practices around the world. There is now a global network for exchanging ideas and opinions that does not necessarily rely on the traditional mass media intermediaries. States parties should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto.

This Comment also detailed the principle of international standards on two limitative areas:

The application of article 19 (3)

21. Paragraph 3 expressly states that the exercise of the right to freedom of _expression_ carries with it special duties and responsibilities. For this reason two limitative areas of restrictions on the right are permitted, which may relate either to respect of the rights or reputations of others or to the protection of national security or of public order (ordre public) or of public health or morals. However, when a State party imposes restrictions on the exercise of freedom of _expression_, these may not put in jeopardy the right itself. The Committee recalls that the relation between right and restriction and between norm and exception must not be reversed. The Committee also recalls the provisions of article 5, paragraph 1, of the Covenant according to which "nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant".

22. Paragraph 3 lays down specific conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be "provided by law"; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must conform to the strict tests of necessity and proportionality. Restrictions are not allowed on grounds not specified in paragraph 3, even if such grounds would justify restrictions to other rights protected in the Covenant. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We believe that the ICCPR's internationally-agreed standards on limitations should apply as checks and balances to all stakeholders who have powers to curb what is online, whether UN agencies, states, internet intermediaries or media that carry user-generated content. We believe these standards should also apply to ITU's future ITRs and the ongoing process of World Conference on International Telecommunications (WCIT). Consequently, we propose that the reference to "sensitive information" be reconsidered.

As the ITRs are dealing with a converged ICT world nowadays, care should be taken not to adversely impact on the exercise of human rights in the digital age including freedom of _expression_, access to information and press freedom. Any possibility that the ITRs could threaten freedom of _expression_ can be expected to incur extensive public criticism that could impact upon the UN more broadly, beyond ITU.

As a long-term partner of ITU concerning the processes of World Summit on Information Society (WSIS), UNESCO appreciates your commitment to creating a more inclusive information society and ensuring equitable access to ICT around the world. We therefore look forward to remaining aligned in our respective fields as complementary sister agencies with the United Nations family.

Division of Freedom of _expression_ and Media Development

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- **Submission**, *Mensah, Grace, 09/24/2012*

- **From**: David Sullivan
- **To**: wcit-public
- **Subject**: Corporate Responsibility and Global Internet Governance
- **Date**: Thu, 4 Oct 2012 09:22:05

Please see the following contribution from the Global Network Initiative. The full policy brief is available on our website at: http://globalnetworkinitiative.org/news/corporate-responsibility-and-global-internet-governance.

Corporate Responsibility and Global Internet Governance

A Global Network Initiative Policy Brief[1]

October 2012

This December in Dubai, world governments will gather to renegotiate a key treaty under the auspices of the International Telecommunication Union (ITU), a UN agency that specializes in global telecommunications. The meeting, known as the World Conference on International Telecommunications (WCIT), has been billed as a mortal threat to Internet freedom, a rare opportunity to fix inequitable flaws in the existing global economic framework for communications infrastructure, and all or none of the above.

Although there is a real risk that authoritarian states will use this process to seek greater government control over the Internet, it would be a mistake to turn the WCIT into a referendum on UN involvement in Internet governance. The UN already plays a key role through the international human rights system, and by supporting discussion venues like the Internet Governance Forum. The problem is that the opaque ITU process, which is largely closed to civil society participation, presents opportunities for governments to

pursue politically motivated policies at the expense of users and innovators alike. Although companies and governments have legitimate reasons to cooperate on Internet policy, when this happens behind closed doors without adequate safeguards the human rights of users can be put at risk.

The Global Network Initiative (GNI) was formed to develop standards and an accountability framework for information and communications technology (ICT) companies faced with government requests impacting free _expression_ and privacy rights, and to strengthen efforts to work with governments to advance these rights globally. Based on this experience, we offer the following recommendations for governments and other stakeholders to consider:

1. **Embrace international human rights standards.** They provide an objective baseline that is universally acknowledged, even if governments do not always live up to them.

2. **Ensure multi-stakeholder collaboration.** Pool the collective expertise of informed stakeholders and allow civil society to check company and government action that may infringe on rights.

3. **Enhance transparency.** Committing to a system of transparency with the public provides credibility and accountability.

Internet governance and policy is a complex subject that is unsuited to top-down, government-dominated structures. Taken together, human rights standards, multi-stakeholder collaboration, and transparency are necessary safeguards against increased government control of the Internet, and also offer practical opportunities to improve the existing system.

[1] *This document draws on discussion in a July 2012 GNI learning call on the ITU as well as feedback and suggestions from GNI's Policy and Learning Committee. The views expressed do not necessarily represent the views of GNI's participants.*

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- **Corporate Responsibility and Global Internet Governance**, *David Sullivan, 10/04/2012*

- **From**: "Park Cheolhong"
- **To**: wcit-public
- **Subject**: Proposal for ICT and Internet Ecosystem
- **Date**: Wed, 24 Oct 2012 11:50:42

Proposal for ICT and Internet Ecosystem :

Setting New Rules on Trade Order

Background

1- Advancement in Internet Ecosystem

There is a growing need to squarely face the changing ICT and Internet ecosystem and to explore ways to improve total ICT ecosystem (C-P-N-D; Contents-Platform-Network-Device).

2- Changing Trend

Changing paradigm in Internet usage pattern from web/text based to video consumption led to sudden spike in video traffic and number of heavy users

According to Cisco, video is expected to consume 91% of the global traffic by 2014. Multimedia traffic becomes more dominant in both fixed and mobile, accounting for around 70% and 53% respectively.

The growth in mobile traffic is much faster than the increase in the number of subscription. In fixed service, the subscription increased only about 25% for the past 6 years from 6.28million to 7.82 million, meanwhile the traffic increased by 550% from 380Gbps to 2,090Gbps. Situation is even worse with the mobile service. The subscription increase is minimal compared to the 2009 level (annual growth of 5%), but the traffic increased by 153 folds due to the introduction of flat rate.

In the fixed service, 5% of all users account for 55% of all traffic while in mobile 5% consumes 50% of total traffic causing inconvenience for many other users.

Increase in 'Over-the-Top (OTT)' service providers, who utilize the network without sharing the burden of investment, deteriorates the profitability of carriers..

3-'Beneficiary/Traffic Generator Pays' Principle

Service providers who profits through using the fixed/mobile network and in the process generates huge traffic, should bear their fair share of the cost.

Service providers who generate traffic on the network (Traffic Generator Pays Principle) or those who engage in profit business using the network (Beneficiary Pays Principle) should pay the due compensation for their network usage.

Only such improvement in the trade order can prevent the tragedy of the commons and promote advancement in the ICT ecosystem and its virtuous cycle.

Discussion

1- Reasonable Management of Massive Traffic

Network traffic requires reasonable and transparent management when it is suspected that massive traffic from, for example, P2P and smart TV cause serious network congestion.

2- Reasonable Management of High-Frequency Traffic

Out of concerns for a possible blackout from high-frequency traffic including signaling, reasonable network management may also be necessary.

3-Standardization of Mobile Traffic

Traffic standard may be necessary to establish an order in massive mobile traffic so that majority of users can enjoy quality Internet access.

Standardization should be encouraged to prevent social cost from incurring in the mobile environment. As mobile network has limited resources, contents with excessive bandwidth may require significant increase in network cost.

There is a need to reflect on a certain level of traffic trade order considering the network and contents conditions.

4-Managed Service Encouraged

By actively developing premium services of enhanced QoS, different service levels based on values of traffic can be made available.

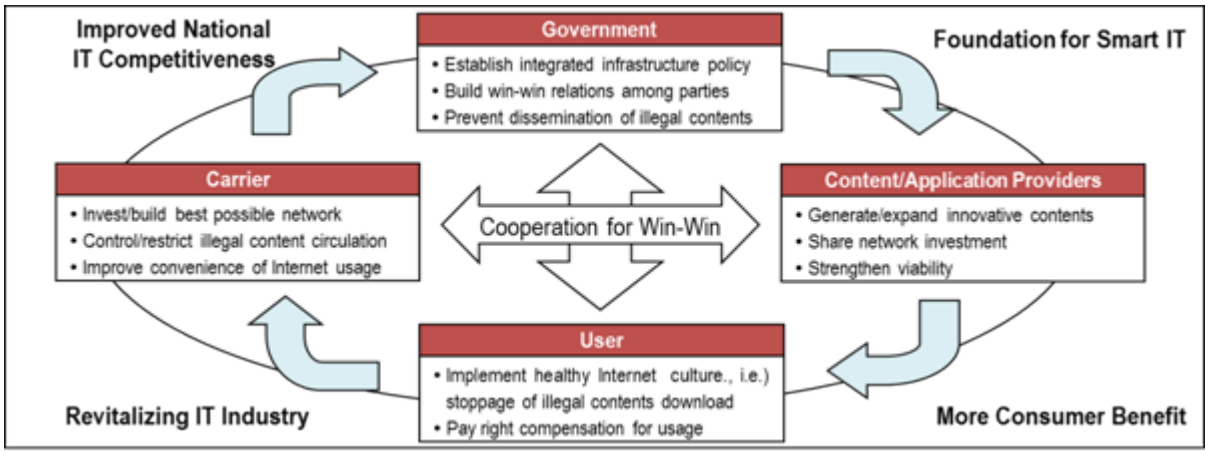
Appropriate QoS and pricing policy will lay the foundation for differential services for different values of network and traffic. Such services can be provided through commercial contracts with providers.

Conclusion

1-Win-Win Model for ICT Ecosystem

All the interested parties are encouraged to promote virtuous development in the ICT ecosystem by exploring a mutually beneficial model.

2-Win-Win Structure for ICT Industry



By Hyosil, Kim
Hyosil, Kim is the Executive Vice President of Network Value Enhancement Task Force in KT corp. KT (Korea Telecom) is the Korea's No.1 telecommunication operator in fixed and mobile lines.

- **Proposal for ICT and Internet Ecosystem**, *Park Cheolhong, 10/24/2012*

- **From**: Takashi Kimura / Japan
- **To**: wcit-public
- **Subject**: Opinion of Japan ISP association on Article 5A.8
- **Date**: Mon, 29 Oct 2012 10:20:19

October 29, 2012

Opinion of Japan ISP association on Article 5A.8

Japan Internet Providers Association (JAIPA) is a sole representative of Internet service provider companies in Japan with about 180 members, which covers about 90% of Japanese broadband Internet users. We are aiming to promote the healthy development of Internet businesses and to contribute to the development of sophisticated ICT society,

Having reviewed the Draft of the future ITRs, we would like to contribute to the following for your consideration in the discussion during the WCIT-12.

Our contribution to the ITRs relates particularly to Article 5A.8 which states:

"5A.8 Member States shall ensure that operating agencies duly identify the subscriber when providing international telecommunication services, and shall ensure the appropriate processing, transmission and protection of identification information in international telecommunication networks."

We are concerned that obligating subscriber identification to operating agencies leads to obligation of operators to confirm subscribers' identity at service registration or during sign up process and will become a barrier to development of new telecommunication services. There are various telecommunication services which do not require confirmation of subscriber information in using them and we think that not all telecommunication services need user identification. Therefore, we oppose to the proposed modification of 5A.8.

Taketsune Watanabe
Chairman

- **Opinion of Japan ISP association on Article 5A.8**, *Takashi Kimura / Japan, 10/29/2012*

- **From**: Jodi Haasz
- **To**: wcit-public
- **Cc**: Terry deCourcelle, Bob LaBelle, Karen McCabe
- **Subject**: IEEE Statement on the World Conference on International Telecommunications
- **Date**: Mon, 29 Oct 2012 12:13:12

IEEE Statement on the World Conference on International Telecommunications

In December, 2012, the World Conference on International Telecommunications (WCIT) will meet to renegotiate the International Telecommunication Regulations (ITRs), a treaty last revised in 1988.

IEEE has reviewed proposed changes to the ITRs and has concerns about proposed modifications that would change ITU-T Recommendations from voluntary to mandatory. These proposed changes have the

potential to negatively impact both the voluntary consensus standards system and the market economies that depend on them.

As an example of a proposed change of concern to IEEE, we note option CWG/54/1.13 in CWG-WCIT TD64. Instead, we support the alternative CWG/54/1.13A in CWG-WCIT TD64.

The Information and Communications Technology (ICT) sector is characterized by global markets and a rapid pace of innovation. New technologies displace older ones and markets select which technologies become popular. The voluntary nature of standards developed by a variety of global standards setting organizations is essential to supporting this important sector. Further, the global voluntary standards system has enabled worldwide interoperability of ICT products and services while providing needed flexibility to countries, companies and individuals. Making ITU-T recommendations mandatory would hinder innovation in the ICT sector and risk a slowdown in global economic growth.

IEEE calls on participants in the WCIT to affirm their commitment to maintaining the voluntary nature, without exception, of ITU-T recommendations.

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IEEE – Advancing Technology for Humanity

- **IEEE Statement on the World Conference on International Telecommunications**, *Jodi Haasz, 10/29/2012*

- **From**: Ali Hussein
- **To**: wcit-public
- **Subject**: Internet Governance & Freedom from an African Perspective
- **Date**: Sat, 18 Aug 2012 19:50:18
- **Resent-date**: Wed, 31 Oct 2012 10:43:26

Recently there have been various stories in international media about Ethiopia shutting down VOIP Services including Skype, Google Talk etc. The international press has been awash with stories and scenarios about how this development in Ethiopia will play out.

Which brings me to the subject of Internet Governance and Freedom from an African Perspective. A lot has been said and bandied around about this subject.

So what is Internet Governance & Freedom from a business and layman's perspective? And why should you care about it? To explain this exhaustively we must go to the beginning. To the rise of the Internet itself as a mass media tool of choice. Most of us may not appreciate this but the fact is that without Government and Private Sector Partnership the Internet as we know it today will not exist.

According to Wikipedia Internet Governance is the development and application of shared principles, norms, rules, decision-making procedures, and programs that shape the evolution and use of the Internet.

We will now examine how the Internet was and is currently governed, some of the controversies that occurred along the way, and the ongoing debates about how the Internet should or should not be governed in the future.

The Internet is a globally distributed network comprising many voluntarily interconnected autonomous networks. It operates without a central governing body. However, to maintain interoperability, all technical and policy aspects of the underlying core infrastructure and the principal namespaces are administered by the Internet Corporation for Assigned Names and Numbers (ICANN), headquartered in Marina del Rey, California. ICANN oversees the assignment of globally unique identifiers on the Internet, including domain names, Internet Protocol (IP) addresses, application port numbers in the transport protocols, and many other parameters. This creates a globally unified namespace that is essential for the global reach of the Internet. ICANN is governed by an international board of directors drawn from across the Internet technical, business, academic, and other non-commercial communities. However, the National Telecommunications and Information Administration, an agency of the United States Department of Commerce, continues to have final approval over changes to the Domain Name System (DNS). This authority over the DNS makes ICANN one of a few bodies with global, centralized influence over the otherwise distributed Internet (extract from Wikipedia)

On 16 November 2005, the World Summit on the Information Society (WSIS) held in Tunis, established the Internet Governance Forum (IGF) to open an ongoing, non-binding conversation among multiple stakeholders about the future of Internet governance. Since WSIS, the term "Internet Governance" has been broadened beyond narrow technical concerns to include a wider range of Internet-related policy issues.

The current controversies about Internet Governance have its roots to that date. The foundations of this can also be traced way back to 1988 when the International Telecommunications Union (ITU) signed an International Telecommunication Regulation agreement that covered Telephone, Radio and Telex Traffic. The ITU is the specialized agency of the United Nations which is responsible for information and communication technologies. ITU coordinates the shared global use of the radio spectrum, promotes international cooperation in assigning satellite orbits, works to improve telecommunication infrastructure in the developing world and establishes worldwide standards) member states signed the first of a series of International Telecommunications Regulations (ITRs). These agreements have by and large not changed since that day to encompass the new realities of Global Communications and the demise of National Telecoms Monopolies. Here in lies the genesis of the current jostling for control of the internet.

So why now? Why are governments across the world, Non-Governmental Organisations and businesses (from Telcos to pure ISPs to Internet Intermediaries like Google, Facebook & Microsoft) all involved in this intricate dance for Internet Dominance? The answer I am afraid is not a simple one. It is multifaceted and replete with specific interests that suit their specific goals. In other words it is the age old fight for resources, for make no mistake about this – the internet is as important a resource as any that is available for control. For control of the Internet, Governments profess their interests to be one of National Security (it doesn't matter that sometimes these 'National Security' interests are in total disregard to the very citizens that these Governments confess to protect); Telcos want a bigger share of the pie (The fight for Net Neutrality in the US has pitted Google and other internet intermediaries against the big American Telcos fronted by AT&T (see http://www.savetheinternet.com/net-neutrality-101); The Internet Governance Forum (IGF) was proposed by the UN in "(t)In order to strengthen the global multistakeholder interaction and cooperation on public policy issues and developmental aspects relating to Internet governance we propose a forum. This forum should not replace existing mechanisms or institutions but should

build on the existing structures on Internet governance, should contribute to the sustainability, stability and robustness of the Internet by addressing appropriately public policy issues that are not otherwise being adequately addressed excluding any involvement in the day to day operation of the Internet. It should be constituted as a neutral, non-duplicative and non-binding process to facilitate the exchange of information and best practices and to identify issues and make known its findings, to enhance awareness and build consensus and engagement. Recognizing the rapid development of technology and institutions, we propose that the forum mechanism periodically be reviewed to determine the need for its continuation."

The IGF is possibly the closest the world has come to in forming a body that is supposed to get stakeholders to talk shop, interact and discuss myriad issues concerning the internet. However what is clear is that it DOES NOT have the mandate of day to day management of the levers and facets that make up the operational framework of the internet. Most of these levers fall under the purview of the Internet Corporation for Assigned Names and Numbers (ICANN).

The 'beef' of many players worldwide in my opinion is the governance and control of ICANN. According to The Hindu, a daily newspaper in India, (see http://www.thehindu.com/opinion/op-ed/article3426292.ece). American Hegemony in all things Internet is the major bone of contention and if not addressed will continue to fester within the Internet Community. This article in a nutshell proposes a more balanced mechanism for managing this valuable resource. I have found the reading refreshing and I believe that with a few tweaks here and there Africa should adopt that model and push it with India as our own.

This could be the start of a Non-Aligned Movement in Internet Governance. And this is what we should be pushing.

Oh, and the issue on Ethiopia? The Government has denied that it has banned the use of VOIP despite the fact that there is a bill in the Ethiopian Parliament that is clear on this. This is exactly why we all should be aware of the issues that pertain to Internet Governance. Only then can we be vigilant enough to fight for its freedoms and multi-stakeholder nature.

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"You generally hear that what a man doesn't know doesn't hurt him, but in business what a man doesn't know does hurt.". - E. St. Elmo Lewis, member, Advertising Hall of Fame

- **Fwd: Internet Governance & Freedom from an African Perspective**, *Ali Hussein, 10/31/2012*

- **From**: Bijal Sanghani
- **To**: wcit-public
- **Cc**: EuroIX Board
- **Subject**: Euro-IX Executive Committee: View and Opinions on Matters Related to WCIT-12
- **Date**: Wed, 31 Oct 2012 11:23:31

Euro-IX Executive Committee [*}: View and Opinions on Matters Related to WCIT-12

In December 2012, the ITU's (International Telecommunication Union) World Conference on International Telecommunications (WCIT-12) will consider a review of the ITRs. The outcome is expected to become a new treaty, which will help to define the international regulatory environment for the Internet and telecommunications for many years to come.

Certain proposals for amendments to the 1988 ITRs hint at an intention to consider the Internet as a logical extension to the ITU jurisdiction and, if adopted, may have a negative impact on the success of the Internet. The Euro-IX Executive Committee strongly believes changes to the ITRs should only be adopted, if they will not undermine the Internet's success.

To ensure the open, competitive and innovative nature of the Internet in the future, the Euro-IX Executive Committee considers as particularly important that: [1]

• The ITRs remain a principle-based, high-level, flexible and technology-neutral treaty

• The ITRs' principles comply with the EU acquis and policies and do not impose additional obligations upon operators

• The scope of the ITRs remains limited to telecommunications and does not extend to ICT/Internet

• Content issues, data protection and privacy remain outside the remit of the ITRs

• The role of the ITRs concerning cyber-security and cyber-crime be limited to endeavor the promotion of international cooperation amongst ITU countries

• The ITRs refrain from granting the ITU regulatory powers, or making the ITU a dispute resolution forum

• The ITRs refrain from making ITU recommendations binding

• The ITRs embrace the multi-stakeholders' mechanism

• The ITRs promote pro-competitive, market-driven principles for telecommunication services

• The ITRs avoid fragmenting the Internet by regulating Internet peering, routing, IP address allocation and IP based QoS (Quality of Service)

• The ITRs should not seek to replace the Internet's interconnection model of voluntarily agreed peering and transit with the regulated "call termination settlement" model used in international telephony

In that sense the Euro-IX Executive Committee has invited the Euro-IX members to urge the representatives of their national governments who will attend the treaty conference to follow a course of action along the points mentioned above. [2]

References
[1] Source of the list: EuroISPA
[2] Euro-IX Executive Committee, “Position Statement on the Review of the International Telecommunication Regulations”, 2012-10-18, Euro-IX.

* The current Members of the Euro-IX Executive Committee ("Board") are: Luca Cicchelli / TOP-IX, Ondrej Filip / NIX.CZ, Kurt Erik Lindqvist / Netnod, Arnold Nipper / DE-CIX, Ludwig Pregernig, John Souter / LINX, Job Witteman / AMS-IX.
Euro-IX Executive Committee / Views and Opinions on Matters Related to WCIT-12 / 2012-10-19 / LP 1

- **Euro-IX Executive Committee: View and Opinions on Matters Related to WCIT-12**, *Bijal Sanghani, 10/31/2012*

- **From**: Gabrielle Guillemin
- **To**: wcit-public
- **Subject**: ARTICLE 19's Legal Analysis of the Future ITRs
- **Date**: Wed, 31 Oct 2012 16:38:03

The following is ARTICLE 19's legal analysis of the draft future ITRs. The analysis is also available online on our website.

ARTICLE 19 - DRAFT OF THE FUTURE INTERNATIONAL TELECOMMUNICATIONS REGULATIONS - LEGAL ANALYSIS

Introduction

In December, the World Conference on International Communications (WCIT 2012) will be taking place in Dubai. The stated purpose of the conference is to review the International Telecommunications Regulations (ITRs) for the first time since 1988 under the aegis of the International Telecommunications Union (ITU).[i]

The ITU is the UN-specialised agency that has traditionally been tasked with standardization and spectrum management. [ii]

Since 1992, its main sectors of activities have been known to include Telecommunication Standardization (ITU-T), Radiocommunication (ITU-R) and Telecommunication Development (ITU-D).[iii]

Furthermore, the basic provisions of its Constitution highlight the largely promotional nature of the ITU’s activities.[iv]

Nonetheless, with the development of new technologies and ways of communicating, the ITU has shifted its focus, now presenting itself as the ‘United Nations specialised agency for information communication technologies (ICTs)’. Indeed, its overview page emphasises that ‘ICTs underpin everything we do’. [v]

As the basic texts of the ITU, and the ITRs in particular, were adopted in the pre-digital age, the question has become whether or not ‘ICTs’ or the Internet should fall within the scope of the ITRs, and indeed what the role of the ITU and governments in this new ‘ecosystem’ might be. This has led to fears in civil society circles that the ITR review process might be used to fundamentally

change the multi-stakeholder model which has been the hallmark of Internet governance so far and that it may have a detrimental impact on the open Internet, freedom of expression and access to information. [vi]

At the same time, it is important not to forget that this process is also very much about the relationship between telecom operators and information service providers and the economics of interconnections. [vii]

All these issues will be at the heart of WCIT 2012, where the 193 member states of the ITU will discuss various proposals to adapt the ITRs to the new ICT environment. [viii]

In this analysis, ARTICLE 19 examines the key proposals to amend the ITRs which are most likely to have a negative impact on Internet freedoms. [ix]

We conclude that whilst concerns of the ITU overtaking the Internet might be overstated, [x]

some of the proposals that have been made give no ground for complacency on the part of those who want to preserve Internet freedoms. [xi]

In particular, we recommend that: (i) every effort should be made to oppose the inclusion of the terms 'ICTs' or 'Internet' in the ITRs; (ii) proposals touching on substantive Internet policy issues (as opposed to purely technical issues) should be strongly resisted; (iii) the European Telecoms Network Operators (ETNO) proposal should be rejected as undermining the net neutrality principle.

Our legal analysis focuses on four key issues. First, we review the question of definitions and scope of the ITRs. Second, we examine proposals that would give greater control to the ITU over content-related aspects of Internet policy. Third, we review the ETNO proposal on new IP interconnection pricing scheme and its impact on net neutrality. Fourth, we highlight a number of factors mitigating fears that the ITU might be overtaking the Internet. Our recommendations on how these issues should be addressed are included at the end of the analysis.

1.

1. Definitions and scope of the ITRs: maintain the status quo

Purpose and scope

The ITRs were adopted in Melbourne, Australia in 1988. Article 1 deals with the purpose and scope of the ITRs. Under clause 1.1 , this includes the adoption of general principles relating to 'the provision and operation of international telecommunication services offered to the public' as well as to 'the underlying international telecommunication transport means used to provide such services'. [xii]

Clause 1.3 further provides that the ITRs are established with a view to 'facilitating interconnection and interoperability of telecommunication facilities' and 'to promoting the harmonious development and efficient operation of technical facilities, as well as the efficiency, usefulness and availability to the public of international telecommunication services'.

A number of clauses of Article 1 are concerned with the non-binding nature of ITU recommendations, which are meant to flesh out the general principles laid down in the ITRs. By contrast, it should be noted that under Article 4.3 of the ITU Constitution, the ITRs themselves are binding. However, thanks to their generally loose wording, states have traditionally enjoyed great latitude in their implementation.

According to the draft of the future ITRs, no significant changes are proposed to Article 1 save for the use of language suggesting stricter compliance with the ITRs ('shall provide'). Given the possibility that 'ICTs' or 'the Internet' might be included in the definitions of the ITRs and the potential implications for Internet freedoms (see further below), ARTICLE 19 generally recommends the use of non-prescriptive language in Article 1 and throughout the ITRs. In our view, compliance with ITU standards should remain voluntary in nature; i.e. maintain the status quo with 'ITU recommendations' rather than requirements.

Definitions

Article 2 of the ITRs defines a number of terms, including 'telecommunication' (clause 2.1) and 'international telecommunication service' (clause 2.2). The key issue is whether or not the revised ITRs should include a definition or explicit reference to 'ICTs' or the Internet, which are currently missing.

Broadly speaking, three types of proposals have been put forward: (1) maintain the status quo; (2) replace 'telecommunication' with 'ICTs' but maintain the current definition of telecommunication; (3) include a broad definition of 'ICTs' that would either expressly or impliedly include the Internet (e.g. CWG/4/53).

ARTICLE 19 strongly opposes the inclusion of the Internet in the definitions of or indeed throughout the ITRs for two main reasons:

• Firstly, we believe that this would unduly broaden the mandate of the ITU, which is ill-equipped to deal with broader Internet-policy and fundamental rights issues. In particular, the ITU has maintained a relatively closed and non-transparent decision-making process in contrast to the open, decentralised, multi-stakeholder model that has allowed the Internet to flourish.[xiii]

• Secondly, it seems undesirable from an economic perspective to bring the Internet - and hence information services - within the ambit of the ITRs since this, in practice, would mean greater regulation of those services in relation to interconnection arrangements (see also Part III about the ETNO proposal below).[xiv]

Similarly, we urge member states to resist the introduction of the term 'ICTs' in the ITRs. In our view, 'ICTs' is a broad term, which clearly includes the Internet.[xv]

The term 'ICTs' has been used for some years to refer to the convergence of audiovisual and telephone networks with computer networks.[xvi]

It is now increasingly used in common parlance in relation to Internet policy matters, especially online content regulation. By contrast, 'telecommunication' has traditionally assumed a narrower, more technical, definition. Given the dynamic evolution of the term 'ICTs' as a matter of practice, we believe that it would be artificial to seek to confine the definition of 'ICTs' to that of 'telecommunication'. For this reason, we are not convinced by proposition 2 outlined above and generally favour the status quo.

Finally, and in the same vein, we reject the inclusion in definitions or elsewhere in the draft of the future ITRs of the terms 'data processing', 'data transmission', 'Internet traffic', 'Internet protocol', 'IP interconnection' or words to that effect. We also caution against the use of these terms disjunctively, such as the term 'traffic' where it might be understood as encompassing 'Internet traffic' or 'data traffic' (e.g. 'traffic termination services'). Definitions which effectively refer to 'VoIP' should equally be rejected (see Part III below).

2. Proposals to include cyber-security and related issues should be rejected

Several proposals have been made in the Draft of the Future ITRs to add an Article 5A and Article 5B to deal with 'confidence and security of telecommunications/ICTs'. Among other things, the proposed amendments include references to 'spam', 'cyber-crime', 'cyber-security', 'data preservation, retention, protection', 'protection of personal information, privacy and data', 'information and network security' and 'fraud'.

ARTICLE 19 generally opposes the inclusion of such terms and related proposals, which would legitimise at the international level both greater control by Member States over content on the Internet and potentially sweeping surveillance practices. We recognise, however, that the practical impact of some of these proposals may be limited to the extent that their wording is generic and confined to encouraging cooperation - which may already be existing - in the field of cyber-security and related areas, e.g. 'Member States should cooperate to take action to counter spam'. Moreover, as Milton Mueller points out, some proposed amendments go no further than what some States are already doing, e.g. most States already have legislation in place to counter spam or protect privacy to some degree.[xvii]

Equally, it is unclear that the draft ITRs authorise action or measures that States cannot already take nationally, e.g. 'prevent, detect and respond to cyber-crime'.[xviii]

Nonetheless, we remain of the view that these issues, insofar as they are content-related - have no place in the ITRs, which should remain confined to high level principles on technical standards relating to the infrastructure on which the Internet runs. We reiterate that the ITU is ill-suited as a forum for broader Internet policy issues for the reasons outlined above. Some proposals clearly illustrate this point. For example, the mere suggestion that States should be required to cooperate to harmonize their laws on data retention (presumably under the auspices of the ITU) seems to ignore the difficulties and controversies surrounding the implementation of the EU Data Retention Directive.[xix]

Moreover, the ITU would be duplicating the work of other international organisations such as the Council of Europe (COE) or the OSCE which have worked on some of these issues for many years but are far more open and have expertise of their human rights implications, e.g. the COE Cybercrime Convention.

Several other proposals are a matter of concern, although the number of alternative proposals on cyber-security (chiefly laid down in new Article 5A) seems to indicate a lack of consensus on these issues. In this regard, one can cite, for example, the requirement to identify subscribers (CWG/4/228, Article 5A.8) or the lack of unrestricted access to international telecommunications services where they are used for the purposes of 'interfering with the internal affairs or undermining the sovereignty, national security, territorial integrity and public safety of other States' or 'to divulge information of a sensitive nature' (ibid, Article 5A.4).[xx]

While these proposals may not prove to pose much of a threat to the extent that they do not garner sufficient political support - which seems plausible - they remain fundamentally at odds with the open Internet and Internet freedoms. Ultimately, however, the key issue is for ICTs, the Internet and cyber-security to be removed from the ambit of the ITRs altogether.

3. The ETNO proposal would seriously undermine net neutrality

Should the Internet or ICT fall within the ambit of the ITRs ARTICLE 19 considers that the most serious threat to the very functioning of the Internet and the free flow of information comes from the proposals of the European Telecommunications Network Operators association (ETNO). We

believe that if these proposals were accepted, the net neutrality principle would be seriously undermined.

It is worth remembering at the outset that telecom operators ('telcos') and information services have historically evolved under very different regulatory regimes. While telcos were usually chiefly concerned with the infrastructure layer to provide telecommunication services and were tightly regulated (e.g. licensing requirements), information services, by contrast, evolved in a separate category, largely free from regulation, riding on top of that infrastructure (the application layer). Over time, however, telcos became increasingly deregulated and the old state-owned monopolies were dismantled. At the same time, evolving new technologies allowed the application layer to provide services 'over the top' that offer cheaper alternatives to traditional telecommunications services and broadcasting networks, e.g. VoIP (skype) or video streaming.

Unsurprisingly, telcos have been deeply dissatisfied with the current regulatory and pricing regime under which over-the-top (OTT) application services have been able to use their infrastructure to send growing Internet data traffic and make money from it with no return for them.

The ETNO proposal therefore seeks to do three things:

* introduce a new pricing scheme under which sending networks, i.e. content providers, OTT services and other application services, are required to pay to interconnect with incumbent telcos ('sending party network pays' principle); in the same vein, the ETNO proposal refers to 'fair compensation for carried traffic';

* push for new interconnection models providing for end-to-end Quality of Service (QoS) delivery to information service at a premium; and

* ensure that Member States will allow all of the above to be negotiated between telcos and information services rather than being imposed by governments.

ARTICLE 19 finds the ETNO proposal deeply problematic for several reasons:[xxi]

* The idea that QoS will be guaranteed at a premium (or differentiated QoS) is at odds with the net neutrality principle which essentially posits that there should be no discrimination in the treatment of Internet traffic, based on the device, content, author, or the origin and/or destination of the content, service or application. By the same token, it is also in breach of international standards of freedom of expression.[xxii]

In practice, this proposal should be rejected by those countries which have already guaranteed net neutrality in their legislation such as the Netherlands or Chile. We also believe that this proposal will undermine efforts towards the adoption of EU rules explicitly protecting net neutrality.[xxiii]

* The ‘sending party networks pay’ proposal is essentially an attempt to apply the international telephone regime to IP interconnections, something which would be both overly expensive[xxiv] and out of sync with the settlement-free peering interconnection system that has allowed the Internet to flourish. [xxv]

It is also worth remembering at this stage that those on the receiving end, i.e. Internet users, already pay to get access to the Internet.[xxvi]

* Other possible repercussions of the ‘sending networks pay’ proposal could include reduced access to the Internet in less developed countries as information service providers may decide that there is no business case for routing traffic to certain countries. This in turn would have an impact on the realisation of other rights, meaningful democratic participation and economic development.[xxvii]

* Finally, the ETNO proposal would run the risk of covering information service providers under the term ‘operating agencies’ as opposed to ‘recognised operating agencies’, which has traditionally covered telecommunication service providers licensed by government at the infrastructure layer. In other words, this would seemingly bring information service providers under the more tightly regulated model of traditional telecommunication services, including licensing and the ‘sending networks pay’ interconnection regime, in contrast to the more competitive environment in which the Internet has become so successful.

4. Impact of WCIT

There is no doubt that some of the proposals that will be on the table at WCIT 12 are deeply disturbing and at odds with both the way in which the Internet operates and digital freedoms generally. These proposals should be strongly resisted.

At the same, it appears that the importance of both the ITU and the ITRs should not be overstated for a number of reasons. First of all, it seems doubtful that a rather technical treaty about telecommunications - which was relatively unknown until now - would have a significant impact on Internet policy in ITU Member States. Secondly, the ITU has a mixed record on expanding its mandate in respect of ICTs,[xxviii] even though the potential seriousness of an expanded mandate should not be dismissed. Thirdly, the ITU does not have enforcement powers.[xxix]

Fourthly, the ITRs would have to be read consistently with Member States’ other treaty obligations in any event.[xxx]

Fifthly, under international law, States may make reservations to clauses which they find objectionable;[xxxi] and finally, Member States could always denounce or withdraw from the ITU Convention, and hence the ITRs.[xxxii]

V. Recommendations

1. Every effort should be made to oppose the inclusion of the terms ‘ICTs’, ‘Internet’ or ‘IP Protocol’ in the ITRs;

2. References to 'spam', 'cyber-crime', 'cyber-security', 'data preservation, retention, protection', 'protection of personal information, privacy and data', 'information and network security', 'fraud' and other similar wording should be rejected;

3. The proposal of European Telecoms Network Operators should be resisted as seriously undermining the net neutrality principle;

4. As a matter of international law, States should make a reservation to those clauses that fail to comply with international standards on freedom of expression and the right to privacy on the Internet;

5. Should the revised ITRs fall well below the international standards on freedom of expression and privacy, States should not sign the revised ITRs;

6. The ITU should open-up its decision-making processes and make its reports and other documentation available free-of-charge.

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[i] See ITU webpage about WCIT 2012.

[ii] See ITU history available on the ITU website.

[iii] Ibid.

[iv] See Article 1 of Chapter 1 of the ITU Constitution available on the ITU website. One exception to this is Article 1 (2) (a), which provides that the ITU "shall effect allocation of bands of the radio-frequency spectrum, the allotment of radio frequencies and the registration of radio-frequency assignments and, for space services, of any associated orbital position in the geostationary-satellite orbit or of any associated characteristics of satellites in other orbits, in order to avoid harmful interference between radio stations of different countries."

[v] See ITU overview webpage.

[vi] See joint civil society letter of 17 May 2012 on ARTICLE 19's website.

[vii] See in particular Milton Mueller's analysis of the economic implications of the ITR review process, available on the internetgovernance.org website.

[viii] See several background briefings prepared by the ITU, available on the ITU website.

[ix] Our analysis is based on the document made available on the ITU website. However, we have had sight of more detailed proposals as part of the UK working group on WCIT (restricted access) and the wcitleaks website.

[x] See Milton Mueller's analysis cited above at note 7.

[xi] ARTICLE 19 will take part in the official UK delegation to WCIT. This paper represents our views alone.

[xii] Article 1.1 of the ITRs.

[xiii] See civil society joint letter of 6 September 2012, available on the Centre for Democracy and Technology's (CDT) website.

[xiv] See Milton Mueller, supra note 7.

[xv] See for example, UNCTAD, ICT Development Indices, 2003, p 3, available on the UNCTAD website.

[xvi] E.g. Jan Herzoff, The ICT Convergence Discourse in Information Systems Literature, 2009, available on the London School of Economics website.

[xvii] See Milton Mueller, Threat Analysis WCIT part 4:the ITU and Cybersecurity, 21 June 2012, available on the internetgovernance.org website.

[xviii] Ibid.

[xix] For more details on the implications of the data retention proposals, see CDT's analysis, available on CDT's website.

[xx] For a more contextual analysis of these provisions, see Milton Mueller, cited above at n17 and Dwayne Winseck, The ITU and the Real Threats to the Internet, Part IV: the Triumph of State Security and Proposed Changes to the ITRs, 19 June 2012.

[xxi] The proposal has been criticised, among others, by Milton Mueller in Threat Analysis of WCIT Part 3: Charging you, charging me, 9 June 2012, available on the internetgovernance.org website.

[xxii] See Four Special Mandates on Freedom of Expression, Joint Declaration on Freedom of Expression and the Internet, June 2011, available on ARTICLE 19's website.

[xxiii] On the EU implications of the ETNO proposal, see La Quadrature du Net, Dominant Telcos Tryt to End Net Neutrality Through ITU, 13 September 2012, available on La Quadrature du Net's website.

[xxiv] One need only think of already exorbitant international roaming charges for mobile communications. See EDRi, ENDitorial: The ETNO's WCIT proposals are not as bad as some say, 10 October 2012.

[xxv] For more details see Centre for Democracy and Technology, ITU proposal threatens to impair access to open, global Internet, 21 June 2012, available on CDT's website.

[xxvi] See EDRI, supra note 24.

[xxvii] See CDT, supra note 25.

[xxviii] See Milton Mueller, Threat Analysis of ITU's WCIT Part I: Historical Context, 24 May 2012, available on the internetgovernance.org website.

[xxix] See Milton Mueller, supra note 7.

[xxx] Under Article 31 (3) (c) of the Vienna Convention on the Law of Treaties, treaties should be interpreted taking into account any relevant rules of international law applicable in the relations between the parties.

[xxxi] Article 19 of the Vienna Convention on the Law of Treaties; more specifically, see Article 10.3 of the Draft of the Future ITRs.

[xxxii] See Article 57 of the Constitution of the ITU.

- **ARTICLE 19's Legal Analysis of the Future ITRs**, *Gabrielle Guillemin, 10/31/2012*

- **From**: Sally Wentworth
- **To**: wcit-public
- **Subject**: Internet Society Submission for the ITU World Conference in International Telecommunication Regulations (WCIT-12)
- **Date**: Wed, 31 Oct 2012 15:20:22

Internet Society Submission for the ITU World Conference on International Telecommunication Regulations (WCIT-12)

The Internet Society (ISOC) is a non-profit organization dedicated to ensuring the open development, evolution, and use of the Internet for the benefit of all people throughout the world. Since 1992, ISOC has served as a global clearinghouse for technically sound, unbiased information about the Internet, as an educator, and as a focal point for a broad based community of interest engaged in Internet-related initiatives around the world. It provides the organizational home for the Internet Engineering Task Force (IETF), Internet Architecture Board (IAB), and the Internet Research Task Force (IRTF).

As a Sector Member of the ITU Telecommunication public consultation. We commend the ITU Secretariat and the ITU Council for taking action to allow public input into the WCIT process. We think this is an important way to encourage inclusion of differing opinions as part of an open and healthy policy discussion. Through our Sector Membership, we have participated in the Council Working Group on WCIT and regional and national dialogues on the ITRs over the past several years with the aim of making a constructive contribution to the work of the Conference.

The Internet Society remains hopeful that the ITU Member State delegations to the WCIT will agree to a treaty that enhances rather than restricts international telecommunications. As the Chair of the Internet Society Board of Trustees recently stated, “The Internet Society believes that the International Telecommunication Regulations should contain high level principles and that revisions should focus on things that have clearly worked in the field of global communications: competition, privatization, and transparent and independent regulation. It is our sincere hope that revisions to the ITRs will not interfere with the continued innovation and evolution of telecommunications networks and the Internet.” [ISOC - Board]

Our contribution to the WCIT strives to outline a positive way forward for the ITRs; to emphasize the things that have worked in the field of telecommunications; to make a case for why the Internet should not fall within the scope of the ITRs; and, to highlight specific proposals where the Internet Society has strong positions. We contribute to this process with a strong hope that the results of the WCIT will enable the continuing growth and innovation of international telecommunications but also with significant concerns that, if care is not taken, the outcome of the WCIT could undermine the innovative potential of networks worldwide.

We respectfully request ITU Member States’ consideration of the Internet Society’s contribution and we stand ready to play our part in the process and to assist governments as they prepare for this important conference.

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Changes since 1988

Since 1988, the technology, providers, users, and regulators of telecommunication networks and services have changed in ways that would have been unimaginable to delegates who attended the World Administrative Telegraphy and Telephone Conference (WATTC) in Melbourne. A wave of privatization and competition in the 1990s replaced many of the traditional government monopolies that dominated the international telecommunications landscape in 1988, paving the way for lower prices, new services, and greater connectivity. Regulatory reforms like the introduction of independent regulators, rules to promote and safeguard competition, and greater transparency in the regulatory process have all served to benefit the public interest and contributed significantly to the growth in telecommunications the world over. In 2011, an Analysys Mason report underscored the importance of competition and transparent policy frameworks in supporting broadband deployment in Sub-Saharan Africa [Analysys Mason].

Indeed, the 2010 ITU-D Hyderabad Declaration emphasized the role that fair, transparent, stable, predictable, and non-discriminatory legal and regulatory environments have in promoting competition and affordable access [ITU-D]. WCIT-12 is an opportunity to build on the 1988 ITRs and to apply the lessons learned in the years since then to further expand access to international telecommunications infrastructure.

There is still more work to be done to lower connectivity costs and to expand the benefits of communications to all people, and to this end there are many important policy lessons we can learn from the past 25 years. The concepts of competition, regulatory independence, and the engagement of all stakeholders in transparent governance would be an excellent starting point for any revision to the treaty. Further, the ITRs should enshrine a commitment to the use of open and voluntary international standards in support of global interoperability. Finally, we note that the 1988 ITRs were short, concise, and at a sufficiently high level to serve the Member States of the ITU for nearly a quarter of a century without being revised. We encourage ITU Member States to retain the high level nature of the ITRs and resist the temptation to lock in specific business or commercial models, technologies or regulatory approaches that will likely not withstand the test of time.

The Internet is Different

People around the world have come to interact and communicate in ways that were unimaginable to negotiators at WATTC. Although the Internet was already nearly 20 years old in 1988, it was still a little known research-driven network with limited impact on the world's population. Since 1988, the Internet has grown into a major force in the worlds economic and political systems, as well as in how people live, work and play. With over 2 billion users worldwide, the Internet still has huge capacity for growth and users have tremendous opportunities today to leverage the technology to develop game-changing innovations that could radically change the communications landscape once again. In economic terms, a recent report from McKinsey noted that the modern Internet is integral to GDP growth, economic modernization, and job creation, generating over 10 percent of GDP growth in the past 15 years in the countries studied [McKinsey].

The UNESCO and ITU-organized Broadband Commission's recent report highlighted the myriad of ways that broadband access is transforming education, health, government services, and finance [Broadband Commission]. And yet, in many ways, society is only on the cusp of fully recognizing and integrating the Internet's full potential.

The Internet Society fundamentally believes that the growth of the Internet is good for humanity. Globally interconnected networks have empowered citizens, transformed economies and brought enormous benefits to communities worldwide. The expansion of telecommunications networks throughout the 1980s and 1990s combined with the ingenuity of the technical community, the liberalization of policy frameworks worldwide, and a competitive marketplace for new communication services all have contributed to the success of the Internet.

At the same time, we that recognize greater global connectivity has raised a host of new policy challenges for governments. Clearly, developing countries face very real economic challenges in bridging the digital divide. Throughout the WCIT preparatory process, governments have raised important concerns about spam, security, and connectivity costs. We understand and, in some cases, share these concerns; however, we do not believe that a binding intergovernmental treaty is the best mechanism to solve these complex and evolving issues. The reality is that technology moves faster than any treaty process ever can. It is also important to recognize that there is rarely a one-size-fits-all solution to the kinds of policy challenges outlined above. Local policy environments, market conditions, and the development context are important factors in any policy process. Solutions need to work locally.

In light of this, we encourage governments to work through a multistakeholder process to develop flexible policy solutions that both support innovation and stand the test of time. In our experience, global, regional, and national Internet policies that work harmoniously with the Internet are more effective in developing solutions that are both responsive and effective.

Policymakers, the Internet community, the donor community, industry, civil society and users all need to work together to tackle these challenges.

Some have questioned whether the modern Internet is sustainable in light of ever-increasing demands for new data intensive services, whether there remain sufficient incentives for further investment, and assuming the negative, wonder whether the WCIT provides an opportunity to address these challenges through regulation. There have been assertions that new global regulations are needed in order to preserve the revenue streams for some players and to prevent an impending collapse of the global Internet. These are not new claims. Indeed, fears about the sustainability of the Internet have come and gone over the history of the Internet as market forces bring about new kinds of investments, pioneering technologies, and innovative business models. It is the very nature of the Internet – a distributed and open network of networks – that enables this kind of innovation and evolution. Indeed, as a recent report by the OECD on Internet traffic exchange concludes, “the Internet model of traffic exchange has produced low prices, promoted efficiency and innovation, and attracted the investment necessary to keep pace with demand” [OECD]. The last thing governments should do is lock-in a regulatory approach that may have significant and unpredictable negative consequences for the ability of networks to evolve, for new services to come about, for new businesses to be formed worldwide.

In short, the Internet Society does not believe that a new treaty-based global regulatory approach that seeks to regulate how IP networks are managed, to alter network architecture, and/or to determine how commercial agreements between network operators should be conducted is good for the long term prospects of a global, open Internet that benefits everyone [ISOC - Interconnection]. Rather, policymakers should focus on policy approaches that have clearly worked to enable the growth in communications to date – competitive markets, liberalization, reliance on open standards, support for the free flow of information, and multistakeholder dialogue.

Internet Society Perspectives

While we think that there may be opportunities for useful revisions to the ITRs to reflect changes in the international telecommunications sector since 1988, we have deep concerns that some of the proposals to the WCIT would have serious negative implications for the global Internet. In our view, it is impossible to draw analogies between the traditional Public Switched Telephone Network (PSTN) and the Internet because the basic concepts, architecture, and operation are very different. The current ITRs were produced with the PSTN in mind. By explicitly or implicitly extending some of the current articles and related approaches to cover the Internet, and, using seemingly similar terms and concepts, there is a great danger of misinterpretation and confusion.

In this regard, we have identified a number of proposals that we believe could undermine the security, stability, and innovative potential of networks worldwide. Yet there are also some proposals and updates to the treaty that we believe could enable growth and support continued innovation. Below, we outline the Internet Society's position on several key proposals that have been submitted to date. This list is not inclusive of all proposals on which the Internet Society may have views.

1. Scope of application of ITRs – Operating Agency / Recognized Operating Agency Recognizing that the ITRs are a binding treaty between ITU Member States, the Internet Society believes that the ITRs and the obligations they convey should only apply to Member States as signatories to the treaty. Further, we believe that replacing the current term "Recognized Operating Agencies" with the term "Operating Agencies" throughout the ITRs would broaden the scope of the treaty to a wide range of companies and services not currently covered by the regulations.

-- ISOC supports application of ITRs to Member States and use of the term Recognized Operating Agency.

2. Voluntary Nature of ITU-T Recommendations

The Internet Society believes that all ITU-T Recommendations should continue to be voluntary and should not be elevated to a mandatory status or codified in any treaty. Further, we believe that voluntary open standards processes built on cooperation, consensus, transparency and due process are the most effective way to support interconnection and interoperability.

-- ISOC supports: MOD 1.4 References to CCITT ITU-T Recommendations in these Regulations are not to be taken as giving to those Recommendations the same legal status as the Regulations.

3. Private Commercial Arrangements

The Internet architecture does not conform to national boundaries. The ITRs should recognize that the global interconnection marketplace is highly diverse, constantly changing, and driven by contractual commercial agreements between operators as well as by technological changes. Together these factors contribute to a highly flexible global Internet interconnection market where IP traffic moves via the most commercially efficient route possible.

-- ISOC supports MOD 1.5… the provision and operation of international telecommunication services in each relation is pursuant to mutual agreement between Administrations Recognized Operating Agencies.

We do not support international, treaty-level regulation of private commercial agreements. Countries need the flexibility to set domestic policies that reflect local market conditions rather than locked-in, one-size-fits-all, global regulations that may have broad, unintended consequences. There are, in fact, many standards bodies involved in the technical work that facilitates

interconnection - some, like the ITU-T or the IETF are global in nature while others are highly localized such as the regional Network Operator Groups. It is also the case that there is a tremendous amount of interaction and collaboration between the various groups, all in support of global interconnection and global interoperability.

-- ISOC does not support new provisions to regulate IP interconnection via the ITRs (i.e. new definitions in Article 2 and new provisions related to IP interconnection in Article 3, 4 and 6).

4. Definitions of Telecommunication and International Telecommunication

The Internet Society believes that the definitions of “telecommunication” and “International Telecommunication” should not change. These terms have been clearly defined within the ITU context as part of the ITU Constitution and Convention.

-- ISOC supports NOC 2.1 and 2.2.

5. Addition of ICT to the ITRs

Adding ICT (telecom/ICT) throughout the treaty could significantly broaden the scope of the treaty beyond international telecommunications networks. As ITU Resolution 140 notes, the term ICTs is not defined in the ITU context. In fact, study activities in the ITU-D have begun in order to craft a working definition of ICTs. In particular, we are concerned that the term ICTs could be understood to include IP networks, content, equipment, and services which would not be appropriate or even workable in the ITRs.

-- ISOC does not support inclusion of a new term, Telecommunication/ICT in the ITRs.

6. Addition of provisions related to spam

ISOC understands that spam continues to be a technical, economic and security challenge for many countries, and we have prepared an information sheet that includes a sampler of policy and technical resources for countries to use should they wish to tackle this difficult problem [ISOC - spam]. We do not, however, believe that it is appropriate to include issues related to spam in the treaty, as this would dangerously extend the treaty into areas of content, potentially impacting free expression online.

-- ISOC supports multistakeholder approaches to spam rather than treaty provisions.

7. Role of competition

Competition in the provision of international telecommunications services has been a key driver in lowering network connectivity costs and expanding access worldwide. The Internet Society believes that it would be useful to include concepts of competition and market liberalization in the updated treaty.

-- ISOC Supports MOD 3.2 Administrations Member States shall endeavor to provide encourage the provision of sufficient telecommunication facilities to meet the requirements of and demand for international telecommunication services inter alia through the fostering of competitive and liberalised telecommunication markets.

8. Quality of Service

A number of proposals for new ITR provisions or modifications to existing provisions (i.e. Articles 3.1, new 3.1b, 3.4, new 4.7) related to quality of service suggest that internationally mandated network management and configuration parameters/standards will allow for network

development, better traffic management and routing, and will bring down costs. To the extent that these proposals relate to quality of service on the Internet, we note that the Internet architecture and traffic flows are not architected like circuit switched telecommunications networks. Proposals to overlay architectural and traffic flow standards/parameters on the Internet would fundamentally change the nature of interconnection and transport and increase the cost of traffic termination.

-- ISOC does not support proposals in Article 2, 3 or 6 to define or mandate IP interconnection quality of service.

9. Traffic Routing

Some proposals suggest that Member States have the right to know how traffic is being routed to their countries. To the extent that these proposals refer to Internet traffic routing, ISOC reiterates the point that routing in the Internet does not conform to national boundaries and is very dynamic by nature, which is the basis of its resiliency. Networks often span across national boundaries, and data packets usually cross three-to-five networks leaving no footprint on the networks travelled over to reach their destination [ISOC - Interconnection].

-- ISOC does not support ITR regulations as applied to IP traffic routing.

10. Naming, Numbering and Addressing

A number of Member States have identified issues related to telephone number misuse as a key issue for the WCIT. ISOC understands that ITU-T Study Group 2 has done significant work to address the misuse of E.164 numbers, including producing the E.157 Recommendation on International calling party number delivery [ITU-T]. However, other proposals to the WCIT appear to address issues beyond the resources for which the ITU has responsibility, namely, E.164 numbers. The proposed inclusion of the term ICT into the treaty further underscores our concern that WCIT proposals related to naming, numbering and addressing would, in fact, extend the scope of the treaty to include Internet naming, numbering and IP addressing resource management. In some cases, proposals explicitly call for government control of these resources. We note that resource management for Internet naming, numbering and addressing has well-established, multistakeholder governance structures and policy development processes. The Internet Society does not support ITR Regulations related to Internet naming, numbering or addressing.

-- ISOC supports: ADD 3.4 Member States should encourage the appropriate use of those numbering resources which are the responsibility and remit of the ITU, in order that they are used only for the purposes for which they were assigned. Member States shall endeavour to ensure that resources, which are the responsibility and remit of the ITU, are not used until they are assigned.

11. Cybersecurity

Policymakers are understandably focused on issues related to the security, stability, and reliability of the communications infrastructure. However, security is a multi-faceted issue that brings together a host of stakeholders, including the technical community, industry, civil society, end-users, regulators, law enforcement, etc. Thus, we do not believe that the ITRs are the place to settle issues related to cybersecurity. Consistent with our view that the ITRs should remain high-level, it is possible for the treaty to recognize the need for Member States to cooperate with all stakeholders to address telecommunications network security. In the end, any text in the ITRs related to security should be narrowly focused on international telecommunications networks,

should not involve content or information security, should avoid topics related to law enforcement or national security, and should be fully consistent with Member State commitments under the UN Declaration on Human Rights.

-- ISOC only supports inclusion of provisions in the ITRs as related to furthering the robustness of international telecommunication networks. Proposals related to national defense, national security, content, and cybercrime should be out of scope for the ITRs.

Conclusion

The Internet Society hopes this contribution is useful for Member States as they prepare for the WCIT. Our delegation looks forward to having opportunities to interact with Member State delegations during the course of the Conference and to a successful outcome of the WCIT.

References:

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- **Internet Society Submission for the ITU World Conference in International Telecommunication Regulations (WCIT-12)**, *Sally Wentworth, 10/31/2012*

- **From**: John Curran
- **To**: wcit-public
- **Subject**: NRO contribution to the WCIT Public Consultation Process
- **Date**: Thu, 1 Nov 2012 12:33:51

On behalf of the 5 Regional Internet Registries (AFRINIC, APNIC, ARIN, LACNIC, and RIPE NCC), please find the attached submission to the WCIT Public Consultation Process

Sincerely,

/John
John Curran
Chair, Number Resource Organization (NRO)

3 November 2012
International Telecommunication Union
Place des Nations
CH-1211 Geneva 20 Switzerland

Re: NRO contribution to the WCIT Public Consultation Process

The Number Resource Organization (the NRO, comprising the five Regional Internet Registries) appreciates the opportunity to contribute some views in preparation for the World Conference on International Telecommunications (WCIT) that will discuss the long-established International Telecommunication Regulations (ITRs).

The ITRs were originally intended to guide the provision of international switched telephone services and, within its scope and strength, have promoted the growth of international connectivity. We support the continuance of the ITRs as they were intended.

The NRO has followed with interest, the discussions about proposed changes to ITRs. Under the current ITU procedures, our organizations do not have full access to the discussions nor a formal say in the negotiations. However, as we have been acquainted with some of the proposals to revise the existing ITRs, we note that if some of these are accepted into the regulations, they may adversely affect how telecommunications networks are managed and how they may develop into the future. These are important matters affecting the public interest, for which participation of relevant stakeholders could be sought in the decision-making process.

We have noted proposals to include new provisions into the ITRs as means to address some concerns by ITU Member States in the fields of: a) interconnection costs; b) security; c) spam; and, d) issues relating to Internet resources.

While we share many of the concerns expressed by the ITU Member States, we do not believe that new provisions in the ITRs can effectively help to solve these matters, and instead, may carry unintended consequences. The ITRs will remain unchanged for many years after WCIT, while most of the issues of concern will change as technologies will evolve.

Our concerns can be summarised more particularly, as follows:

a) Proposals to include in the ITRs provisions to change interconnection models could impose undue limitations to service providers.

The expansion of the Internet could not have occurred if not through peering agreements and the establishment of Internet exchange points (IXPs). These agreements are voluntary, sometimes with no written contracts, and frequently involve no financial transactions. Introducing an intergovernmental, treaty-based, global regulatory scheme to codify or lock-in particular business models may hinder instead of encourage innovation and further growth in international connectivity.

b) There are proposals from a number of ITU Member States to amend the ITRs to include references to security, touching the realms of content, national defence, and cybercrime. In the quest to guarantee more secure networks, cooperation with different stakeholders is essential. The application of legal or policy principles related with security into the ITRs may impose obligations to ITU Member States that limit, instead of foster, this needed collaboration.

c) With regard to the inclusion of spam in the provisions of the ITRs, we note that spam is complex issue of network usage or content for which no simple solution exists. Our concern is that the suggested ITR provisions are likely to have little effect and will certainly become quickly outdated as technology evolves.

d) Proposed revisions to the ITRs involving aspects of naming, numbering, and addressing, are prone to have unintended consequences if accepted by ITU members. It appears these provisions transcend the realm of switched telephony for which the ITRs were formulated and may negatively impact existing Internet operations and management. Resource management for Internet naming, numbering, and addressing have well-established, multistakeholder governance structures and policy development processes. Some proposals could have unintended consequences and impact these successful structures, or even create obligations for ITU Member States to outlaw firewalls, filters and proxies, which are common practice in the Internet today.[1]

We commend the ITU Council for creating a space such as this one for participation in the WCIT process. We do hope that ITU Member States find value in collaborating with other stakeholders who may be affected by the outcomes of WCIT. Shared expertise and exchange of information are important in order to find viable solutions, to avoid unintended consequences, and for the protection of the public interest. We do share a strong commitment to the growth of international connectivity and we trust for an inclusive environment where we can work together to achieve these goals.

[1] More of this subject is explained in the article: “Number misuse, telecommunications regulations, and WCIT”. Available here:

http://www.apnic.net/number-misuse-gih

- **NRO contribution to the WCIT Public Consultation Process**, *John Curran, 11/01/2012*

- **From**: support
- **To**: wcit-public
- **Cc**: gideon.rop
- **Subject**: DotConnectAfrica Contribution to ITU on the Draft of the future ITRs
- **Date**: Thu, 1 Nov 2012 08:52:11

Contribution:

######

Section I: Preamble

Originating Organization: DotConnectAfrica Trust

Categories/Tags: Non Governmental Organization, ICT

Purpose (Brief): DotConnectAfrica submits recommendations to the ITU for the ITR's changes that are underway.

Current Status: Submissions to ITU

Summary: The Submissions to ITU ITR's by DCA looks at the various sections that need to be critically analyzed in the coming alterations to expand the ITR's to include the currrents advancements to the Telecommunications that includes Mobile and Internet.

Section II: Background

The International Telecommunication Union (ITU) is scheduled to hold the World Conference on International Telecommunications 2012 (WCIT-12) in Dubai, United Arab Emirates (UAE) from 3rd to 14th December 2012.

WCIT-12 is a landmark conference endeavored to review the current International Telecommunications Regulations (ITRs), which serve as the binding global treaty outlining the principles which govern the way international voice, data and video traffic is managed globally.

The existing ITRs were last agreed upon in Melbourne, Australia, in 1988 .Following deliberations ,there exists is broad consensus for need to update them to comply with the ICT landscape of the 21st Century.

DotConnectAfrica is therefore a concerned party and a stakeholder in the African ICT continent and feels the need to submit several recommendations to that effect.

Section III: Document and Resource Links

DotconnectAfrica looked at the existing ITR's and focuses on the section that feel there is dire need for compliance to the changes experienced in the ICT platform.

Section IV: Introduction:

DotConnectAfrica Trust is an independent, non-profit and non-partisan organization that is based in Nairobi Kenya Reg.ID CT8710DCA90 , and its main charitable objects are: (a) for the advancement of education in information technology to the African society; and (b) in connection with (a) to provide the African society with a continental Internet domain name to have access to Internet services for the people of Africa as a purpose beneficial to the public in general.

Section V: Submissions and recommendations

MOD CWG/4/181

38 d) a capability for interworking between different services, as appropriate, to facilitate

International telecommunications [services].

The telecommunication systems have changed, initially from handling only the Telecomm services offered by telephony services:

New services that are supported by the Telecommunications via the internet platform have the following new services added:

Email, VOIP services with enhanced live chat e.g. Skype, Mobile money.

The ITU out to look into involving such services as listed above among the new regulations such that they become respectable and legal services that cannot be banned or shut down.

Recent examples of services such as free online chat or messaging have been banned in countries as a result of:

- cited security reasons(terrorist establishment may use these services to convey their messages)
- Telecommunication firms are restrictive to these services saying that they reduce their revenue especially on voice.

Recommendations:

Member states should adopt such services as listed above as legal services that should not be exempted nor banned as legal online services.

Telecommunication services should include these services among unrestricted inline services that the subscribers ought to enjoy since such services are available on modern devices such as apple products (iphone , Black Berry among others)

Mobile money.

Mobile money is a new service that has rapidly developed especially in Africa and should be appreciated by being included among the secondary off shoots of the developing telecom industry portfolio.

Recommendations:

There should be put in place mobile money “RULES & REGULATIONS” that would place mobile money alongside normal banking as , online money services such as Pay pal.

Recommendations:

- Have an international transaction watchdog department embedded to a bank to prevent money laundering
- Enhance security measures on the mobile money transitions
- Improve accountability between the remitter and recipient so as to ensure legitimacy
- Create restrictive levels and limits that will be used for mobile money transfer vis a vis banking transfers
- Determine how the different currency rates affect the mobile money and develop or identity a standard unit currency for such services.

NOC CWG/4/182

38A

Reasons: No new 4.4 (transparency of roaming tariffs).

Safety of Life and Priority of Telecommunication

International rates should be enhanced to consider roaming rates: As such the developing countries must be helped and guided to develop and create proper mechanisms to reduce roaming tariffs and if possible eliminate totally the roaming tariffs associated with the safety of life to enable availability of help in the case of disaster management.

[Security] | [Confidence and security in the provision of international telecommunications and services] | [Confidence and security of telecommunications/ICTs]

Member states should endeavour to provide safety and protection of information within and without borders.

With the advancement of open data, governments must ensure that its information is provided to levels that are not only safe but secure to the affected individuals.

Government agencies shall not use the personal information to spy on individual citizens who are taken to be unfriendly to certain government systems, Services of information protection shall be provided to level acceptable unless the said person is perceived to be extremely dangerous to the security of a country.

Enterprises that use ICT's such as the communication commissions of member states shall be properly supervised and instructed without necessarily undermining critical freedom of information, the supervision and requirement of any private information shall be availed in a rational and acceptable way to ensure effective ICT functions and fostering of trustworthy conditions.

Countering spam

Spam has been called a lucrative business:

- The international firms that offer free mailing services shall be urged to endeavour to clearly work on better security measures that will curb the underground and illegal spamming services that are embedded in online services.
- Domains and TLDs that have been identified as spam friendly should be properly analyzed and advices or otherwise blocked to ensure the safety and sanity of online services.
- Marketing mechanisms that border on spamming and or phishing activities should be blocked accordingly.

ARTICLE 8

Dissemination of Information Secretary-General

The availability of information has been aided by virtue of continued lobbying and building of other mechanisms that ensure that all information is available to the public in a transparent way.

The Secretary General of ITU shall endeavor to provide the information that pertains the entire worlds on telephony, telecommunication and internet standards by extension in a concise manner and in time enough to encourage modest input by the public.

Services such as the:

Internet Society The Center for Democracy & Technology , WCITLeaks,> and Access Now must be included in the drafting of the new ITR's to ensure proper unmatched public participation, this was a multistakeholder mechanism shall be included so the entire public voice is audible.

Energy efficiency (energy consumption and e-waste.)

This particular section targets mostly the developing countries that have suffered from e-dumping in the pretext of technology transfer.

The ITR's should be developed to include the protection of developing countries from individual firms that seek to sell of transport obsolete equipment that are considered cheap to the developing countries i.e.

Develop governing rules that state:

- The age of any equipment that is to be sold or donated to any country by industries
- The technical specifications as well as availability of upgrading of such equipment to ensure that there is acceptable time of use before they are rendered obsolete such services should include : IPv6 compatibility , HDMI and WIFI among others.
- The acceptable versions of software's that are considered relevant or latest and the span of time before they are rendered obsolete
- Reinforce the development of waste management industries that will ensure that any e waste is properly destroyed.
- Input rules and regulations between member states that ensure and enforce that these waste management mechanisms are actualized among other millennium development goals.
- Enforce rules that protect vulnerable countries from individuals or organizations that will continually sell or donate such equipment as well as state the amount of fines that would be enforced.
- Member states shall be also required to setup proper handling procedures that will protect their citizens at the port of entry.

Cooperation of the Members of the Union in Implementing the International Telecommunication Regulations

Every country will be required to respect the rules without overburdening the others, developing nations must also be allowed to give enough reasonable input without be undermined even though not many telecommunication equipment may be manufactures from such countries.

Best Regards,

_____

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- **DotConnectAfrica Contribution to ITU on the Draft of the future ITRs**, *support, 11/01/2012*

- **From**: Ellery Biddle
- **To**: wcit-public
- **Subject**: Center for Democracy & Technology Comments on the WCIT12
- **Date**: Thu, 1 Nov 2012 15:24:18

Center for Democracy & Technology Comments on the ITU World Conference on International Telecommunications 2012

The Center for Democracy & Technology (CDT) is a US-based non-profit civil society organization working to keep the Internet open, innovative, and free. With expertise in law, technology, and policy, CDT is dedicated to building consensus among all parties interested in the future of the Internet and other new communications media.

We appreciate the opportunity to comment on proposed changes to the International Telecommunication Regulations (ITRs), to be determined at the upcoming World Conference on International Telecommunications (WCIT). In this document, we summarize our overarching concerns about the WCIT process and potential ramifications of extending ITU authority to certain areas of Internet policy-making. We also comment on proposed treaty revisions that we believe could interfere with the civic and economic benefits that the Internet currently brings to societies around the globe.

The ITRs are principle-level regulatory tools that have succeeded in facilitating the growth and impact of telecommunications worldwide. We believe that revisions to the ITRs should seek to strengthen the current communications environment, promoting greater access to and use of communications technologies, but we fear that certain proposed revisions might do the opposite. Below, we describe how ITR revisions that have been proposed in the WCIT preparatory process could threaten the exercise of key human rights online—privacy, access to information, and free _expression_—and alter Internet functionality in ways that could diminish its civic and economic potential for users around worldwide. Proposals that would so fundamentally change the way the Internet operates are clearly contrary to the original purpose of the ITRs.

CDT believes that the ITRs should remain generalized and not technology-specific in nature. Proposals to include more specific and prescriptive provisions in the ITRs raise significant policy questions that must be carefully deliberated in a multistakeholder process wherein technical, legal, and economic experts have a meaningful role in decision-making. *Unfortunately, the WCIT process does not follow this model: it is not transparent to the public and it does not offer equitable opportunities for participation to non-state actors. While corporate and civil society entities may purchase Sector membership (if they can afford the high membership fee, an insurmountable hurdle for most civil society organizations), only governments are allowed full participation in the WCIT process. While we appreciate the opportunity to comment, we reiterate that the WCIT is not, and has not been designed to be, a multistakeholder process.*

Below, we outline our concerns regarding specific proposed changes to the ITRs. These are organized by Article.

Articles 1 & 2: Scope and Definitions

A number of proposed revisions pending before the ITU seek to widen the scope of the ITRs through changing the definitions of its key terms. One approach is to redefine “telecommunication” by adding either “data processing” or “ICT(s)” - both of which could broaden the ITRs well beyond traditional telecommunications, sweeping in Internet services and applications that deal with user data and content. A second approach is to change the definition of “recognized operating agencies” (currently licensed telecommunications operators) to “operating agencies” so as to subject Internet content and service providers (among many others) to the provisions of the ITRs. Both approaches would represent an enormous expansion of the scope of the treaty, going well beyond the basic technical functions and

interoperability of international telecommunications networks and moving into areas of policy-making that require deep expertise on national security, economics, and human rights—issue areas that unquestionably fall outside of the traditional mandate of the ITU.

In the sections that follow, we illustrate the complex policy challenges that would arise if the ITRs were to become applicable to Internet applications, content and service providers.

Articles 3 & 4: International Network and Telecommunications Services

IP Routing

A number of proposals seek to impose restrictions on the routing of Internet communications, a change that would allow Member States to collect subscriber identity information in efforts to combat cybercrime. Such control is contrary to the way the Internet works and would require significant re-engineering of the network that could lead to a host of vulnerabilities for users and companies.

One proposal would allow Member States to know how online traffic is routed. In the context of international telephony, this makes some technical sense: in simplified terms, telephone communications are conducted over circuit-switched networks, which establish a dedicated link or circuit between the two endpoints of a call. This makes it at least technically feasible to know, and control, the route that an entire communication takes.

However, Internet protocol (IP) networks transmit communications and interconnect entirely differently than traditional telephone networks. When a communication is sent over an IP network, it is broken up into packets, each of which could potentially take a different path across a series of interconnected networks as it journeys to the recipient. A single packet could potentially route through networks hosted in a number of countries before landing at the recipient's computer, all without the control or even knowledge of the sender or recipient. If applied to all Internet communications, the requirement that countries be able to trace the route of every IP packet between its origin and destination would necessitate extensive network engineering changes, not only creating huge new costs, but also threatening the performance benefits and network efficiency of the current system.

User rights to privacy and freedom of _expression_ on the Internet clearly would be threatened by such a policy. While governments may set out to impose these restrictions in order to combat cybercrime, such a policy could give Member States additional technical tools with which they could block traffic to and from certain websites or nations, track citizens' activities online, and block specific individuals from sending or receiving certain communications–all in the name of national security. Furthermore, such re-engineering also would leave government communications' and online activity more vulnerable to interference by bad actors.

Quality of Service

Proposals to establish a two-tiered Internet by mandating end-to-end Quality of Service capabilities in addition to a second tier of "best effort" delivery of traffic are also concerning. This model would require network operators to adopt a "pay for priority" model under which content creators could pay higher fees for their content to be carried through the network with a guaranteed "quality of service" that would supersede the lower-tier "best effort" delivery system.

Such a change would stifle innovation by increasing barriers to entry into online content markets and likely inhibit growth in the "best efforts" tier (largely the Internet of today), as operators would turn their focus to more lucrative, higher added-value Quality of Service-based traffic. This would limit incentives for small companies and individuals to enter the online marketplace, likely generating a decline in the potential for economic growth benefits rendered by the Internet as it currently operates.

This model also would undermine the principle of Internet neutrality supported by many stakeholders—it would directly conflict with legislation that protects Internet neutrality in Chile, Finland, and the Netherlands. This principle not only serves to protect the robust economic potential that the current

Internet system supports, but also to protect and promote citizens' rights of access to information, which are enshrined by the Universal Declaration of Human Rights.

Over-the-Top (OTT) Charging and "Sender Pays" Models

Proposals to impose a "sender-pays" interconnection model on the Internet would replace the current practice of largely settlement-free peering (where different network operators exchange traffic across the global Internet without exchanging payments). Such a change would increase the role of governments in regulating international interconnection, a significant departure from the lightweight and functional peering system that has supported widespread interconnection among networks.

It would also upend the fundamental operating principles and nature of the Internet, likely to the detriment of all users, whether individuals, business, governments, or others; indeed, only large (and/or incumbent) telecommunications operators would benefit under such a system. Imposing a charging system for traffic, where there currently is none, would penalize those who provide the services, content, and applications that drive Internet traffic, and increase costs to all Internet users (including governments), content and services providers, and others.

This model also could lead to greater restrictions on access to the Internet, mitigating and inhibiting Internet deployment around the globe due to the increased costs both to users and over-the-top content, service, and application providers. Networks could decide not to route traffic through countries if they believed they were not big or commercially important enough to justify the additional cost. This policy could leave users in certain countries on the wrong side of a widening "digital divide," as it would become difficult for them to access important content outside their borders. As this policy would increase costs for networks, they would likely transfer this cost to content creators and to users. This could leave entrepreneurs and other content providers in less developed countries facing greater costs in accessing global markets online. It would also make it difficult for users anywhere to access content in countries where content creators could not afford the cost of sending their content over networks throughout the world.

The proposal has been framed as a policy that will allow telecommunications companies to make greater investments in Internet infrastructure and increasing ICT access, but there is no guarantee that additional revenues would be put towards such development. Instead, the policy could undermine the economic development potential of the Internet, particularly for businesses and independent vendors in developing countries.

Voluntary Standards

Proposals to make all (or a selection) of the ITU-T Recommendations mandatory would threaten the growth and stability of the network, interfere with the Internet's economic vitality, and jeopardize openness and free _expression_ online. Such a shift would upend the existing process of technological development on the Internet: those with the most intimate knowledge of technology would be cut out of the technological decision-making process and replaced by government officials who do not write software, run networks, or build computers.

Adoption of technical standards on the Internet has always been voluntary, allowing technology developers to decide how to package and build on standards within their products and services. This tradition has created the most dynamic, innovative communications medium the world has ever seen; it is arguably what sets the Internet apart from previous platforms. Voluntary standards adoption is an important underpinning of that innovation because standards provide the building blocks of Internet technologies – not the technologies themselves. Technology designers are free to piece the building blocks together as they desire to create the hardware, software, and services that Internet users purchase or use.

The mandatory imposition of ITU-T Recommendations would diminish developers' ability to innovate and likely lock developers into a vision of the Internet as it exists at a particular point in time. Since governments would be loath to constantly add new mandatory requirements to their countries' entire technology sectors, technology companies across the board would be wedded to outdated standards even

when some of them would have otherwise been prepared to make upgrades.

The mandatory imposition of any specific set of standards would be problematic, but requiring support for ITU-T Recommendations in particular has additional drawbacks. ITU-T Recommendations comprise just a small fraction of all the standards in use on the Internet today and do not include most of the core standards necessary for global interoperability.

Making ITU-T Recommendations mandatory, while all other standards remain voluntary, would skew technology development in favor of whatever is standardized at the ITU-T, regardless of the technical merit or necessity of ITU-T Recommendations. The result would be a distorted marketplace in which government interests, rather than engineering quality and market technology users' needs, determine how technology companies design their products.

Article 5: Security

CDT recognizes the importance of cybersecurity and the legitimate imperative of expanding both international cooperation and national responses to cybersecurity threats. However, proposals to encourage cooperation among the Member States to combat cybercrime and to harmonize laws on data retention and on the investigation and prosecution of cybercrime raise a host of challenges relating to national security and human rights that we believe do not fall under the purview of the ITU.

While greater cooperation on cybercrime is surely desirable, the ITU has little expertise in these issues—indeed, the word "security" does not appear in the current ITRs. The risk of negative consequences is compounded by the breadth of terms the proposals use in reference to security, from cyberattacks to online crime to protection of information and personal data – concepts that clearly go beyond telecommunications and reach into areas of national security and human rights. Here are two examples of concerns raised by specific proposals:

International Cooperation on Security

One proposed amendment to the ITRs would require Member States to cooperate with one another to address issues relating to "Confidence and Security in the provision of international telecommunications/ICT Services." Such a change could make the ITU a primary locus for international cooperation in an area raising many concerns for law enforcement and national security as well as for innovation, privacy, and free _expression_—none of which traditionally fall under the agency's mandate.

If the ITRs were to address cybercrime at a high level of generality, there also is the risk that some Member States would cite the ITRs a pretext for intrusive or repressive measures. A provision in the ITRs referring to a need for greater information about user activity in the interest of security might be used to support laws that stifle dissent or infringe on privacy. To really address the issue in its complexity, the ITU would have to address not only the question of how to define cybercrimes without infringing on free _expression_, but also how to investigate them while respecting the right to privacy.

Harmonization of Data Retention Laws

Another proposal urges that Member States cooperate to harmonize their laws on data retention (the requirement that communications companies retain for the benefit of the government data about customers and communications that is not required for business purposes.) This is easier said than done: not only do national laws on data retention vary greatly, but there is ongoing controversy about whether governments should impose data retention mandates at all. And where data retention is required, there are many different views on the legal standards under which governments should be able to gain access to retained data – whether access should require a court order, for example. Such questions are crucial to adopting a data retention law, but are far outside the expertise of the ITU.

Other concerns arise from the fact that data retained by a service provider may, absent specific legal and procedural safeguards, be subject to access by the government to investigate any crime, may be accessed by intelligence agencies, and may be shared with other governments to assist their investigations. In

addition, the more data that companies are required to retain, and the longer the retention period, the greater the risk that personal information could be breached, leaked, or otherwise abused.

CDT believes that security is a unique and complex area of policy-making that should not be undertaken without the legitimate involvement of technical, legal, and human rights experts. Making cybersecurity a part of the ITU's treaty also would distract from the efforts already underway by other international bodies more capable of addressing cybersecurity concerns and developing security standards, including such governmental efforts as the Council of Europe Convention on Cybercrime (Budapest Convention), non-governmental, voluntary standards bodies such as the Internet Engineering Task Force, and specialized multistakeholder coalitions like the Conficker Working Group. Finally, given the rapid pace at which cybersecurity threats evolve, and because much of the Internet's critical infrastructure is privately owned and operated, treaty-based bodies such as the ITU are not the ideal source of technical solutions.

Conclusion

CDT appreciates the role the ITU plays in supporting the expansion and development of telecommunications networks around the globe. To date, the ITRs have succeeded in facilitating the growth and impact of telecommunications worldwide. However, many of the proposed revisions to the ITRs will now do exactly the opposite. Through extending the regulatory framework of the ITRs to the Internet, the ITU Member States will mitigate the Internet's growth and inhibit the Internet's impact on economies and societies around the globe.

As an organization dedicated to protecting and promoting the civic and economic benefits of the Internet, we urge Member States to ensure that the ITRs continue to allow the communications environment to flourish and promote greater access to and use of communications technologies by citizens throughout the world. Member States should reject proposals that could increase the costs of Internet use, stifle technological innovation, and/or threaten the exercise of human rights online.

We would like to thank the ITU Secretariat for the opportunity to provide these comments in a public setting.

- **Center for Democracy & Technology Comments on the WCIT12**, *Ellery Biddle, 11/01/2012*

- **From**: Shin Yamasaki
- **To**: wcit-public
- **Subject**: Comment from JPNIC
- **Date**: Fri, 2 Nov 2012 23:49:17

Japan Network Information Center(JPNIC) recognizes the importance of ITU's role for international telecommunications and supports its purpose, which is stipulated in Preamble of International Telecommunication Regulations, ITR, as "promoting the development of telecommunication services and their most efficient operation while harmonizing the development of facilities for world-wide telecommunications".

In 24 years since the current ITR was ratified in 1988 and until now, the Internet made a dramatic expansion from what was a network for the academic purpose which mainly covered the United States, to the global infra-structure of the Information Society which now connects two billion people in the world.

JPNIC observes that this dramatic and successful expansion has arisen out of the open principles in the operations of the Internet.

The notable characteristic of the Internet, consistent from the early days, is that interested parties in each and various segments are all able to participate and be involved in its development process. It includes areas such as the developments and standardization of fundamental technologies, the technical coordinations and the policy developments of the infrastructure operations, and the developments of Internet services. Additionally, in the standardization of fundamental technologies, the final selection of the specification is left to operators, who are the users of its technologies. This allows to have a system which incorporates the specification which truly needs to be standardized.

Likewise, having reference materials and information constantly being publicly made available in development processes of standards or operational policies allows new entrants to easily join the process.

Moreover, the network layer specializes only in transporting data from one subscriber to another, and the developments of services using such data transfer function is delegated to various service developers. This is the very reason that innovative services have always emerged on the Internet.

Even if ITR would be revised to enable ITU to fulfill its roles and objectives, JPNIC does expect sufficient and careful considerations to be made, so that any amendment of ITR will not lead to putting the break on the dramatic expansion and the creative innovation of services which the Internet has made it happen, and is still continuing to make it happen, based on its characteristics we have described.

Shigeki Goto
President, Japan Network Information Center(JPNIC)

- **Comment from JPNIC**, *Shin Yamasaki, 11/02/2012*

- **From**: Hiroshi Esaki
- **To**: wcit-public
- **Cc**: Hiroshi Esaki hiroshi
- **Subject**: WIDE Project (Japan) Submission for WCIT-12
- **Date**: Sat, 3 Nov 2012 00:25:54
- **Organization**: The University of Tokyo

WIDE Project (General) Statement on Internet Governance

The following is a brief summary of points for consideration, by the WIDE Project (*1).

With the active participation of individual researchers and engineers throughout the history of the development of the Internet, the Internet infrastructure in almost all countries around the world has been built and maintained by the private sector.

In reality, the discussions on the governance of the Internet have been and should be conducted through multi-stakeholder processes, respecting different points of view due in part to individuals' diverse backgrounds working with various legislative structures.

The continuing participation of the private sector, individuals, non-governmental organizations and the public sectors of various countries to the discussions on the governance of the Internet is a keystone to the ongoing and future development of the Internet.

If the Internet infrastructure in a particular country significantly hampers the fundamental rights of specific stakeholders, it causes the fragmentation of the platform, and the value of the Internet as an innovation engine is totally lost.

Therefore, the WIDE Project recommends the discussions on the governance of the Internet should continue to be conducted through multi-stakeholder processes, especially by the private sector's leadership, respecting their diverse backgrounds working with various type of institutes and individuals.

(*1) WIDE Project

Beginning with Internet deployment in Japan in the 1980s, the WIDE Project has been involved in the governance scheme locally in Japan, regionally in Asia Pacific, and globally for our society. The WIDE project is pleased to promise to engage in and contribute to the ongoing dialogue on multi-stakeholder approaches to Internet governance.

==========
Hiroshi ESAKI, Ph.D
Director, WIDE Project
Professor, The University of Tokyo,

- **WIDE Project (Japan) Submission for WCIT-12**, *Hiroshi Esaki, 11/02/2012*

- **From**: Narine Abazian
- **To**: wcit-public
- **Subject**: Fw: ICT accessibility for women
- **Date**: Fri, 2 Nov 2012 12:47:50

Dear ITU team.

Our company, as civil society, have sent view with the purpose do not ignore the women component (***ICT accessibility for women)*** in *Draft of the future ITRs.*

I would be appreciate if will receive your confirmation and reason whether not been included in WCIT-12: Public Views and Opinions.

Kind regards,

Narine Abazian,
President of “Women and Information Society” NGO
Tel: +37491 22 55 35
www.facebook.com/womenandis
Armenia

--- On **Tue, 10/30/12, Narine Abazian** wrote:
From: Narine Abazian
Subject: ICT accessibility for women
To: wcit-public
Date: Tuesday, October 30, 2012, 10:42 PM

ICT Accessibility for Women and Child Protection

The telecommunication industry has undergone a number of major changes over the last years. Convergence and the associated deployment of Next-Generation Networks (NGNs) make a variety of audio, video, data and voice services available over a single infrastructure. Broadband access is available through different wireline and wireless technologies, particularly in remote and rural areas. In this new reality there is a need to ensure that legal and regulatory frameworks take into account the converged telecommunication/ICT environment.

In this respect we express our gratitude to ITU in the organization of the WCIT and for given opportunity to all stakeholders to express their views and opinions on the content of the Draft of the future ITRs.

We propose to include in the discussions on the content of the Draft of the future ITRs as well the following points:

1. ICT accessibility for women

This is Information Society era. Participation in the Information Society by means of current and modern communication technologies offers the prospect of significant and sizeable benefits. Everyone can benefit from the opportunities that ICTs can offer.
Dissemination of telecommunication/ICT services in all regions so that all sections of the society can benefit from them, irrespective of the economic status of the region and population, this has to been a major goal in most countries around the world.

The rural/urban and rich/poor divides that characterize ICT development generally, have a greater effect on women given that in developing countries the majority of women live in rural areas.

WSIS, Geneva Plan of Action stated "Policies that create a favourable climate for stability, predictability and fair competition at all levels should be developed and implemented in a manner that not only attracts more private investment for ICT infrastructure development but also enables universal service obligations to be met in areas where traditional market conditions fail to work. In disadvantaged areas, the establishment of ICT public access points in places such as post offices, schools, libraries and archives, can provide effective means for ensuring universal access to the infrastructure and services of the Information Society."

We believe, that WCIT would create open discussions and give right solutions in respect universal service obligations with community access points to promote e-Inclusion, serving a broad clientele, including the women, elderly, disabled and immigrant or other challenged communities. Women are often not fully involved as agents and beneficiaries of these processes. Women with disabilities face significantly more difficulties, experience double discrimination.

2. Child protection

As the Internet and other online resources continue to expand, the internet environment is constantly changing, Internet usage amongst children is growing rapidly around the world. Online technologies present many possibilities to communicate, learn new skills, be creative and contribute to establishing a better society for all, but often they also bring new risks , that can expose children and young people to potential dangers like illegal content, viruses, harassment, the misuse of personal data, etc.

We propose to include in Article 5 Confidence and security of telecommunications/ICTs, special points devoted to online child protection, that will protect children in cyberspace and promote their safe access to online resources.

Narine Abazian,
President of “Women and Information Society” NGO
Armenia

- **Fw: ICT accessibility for women**, *Narine Abazian, 11/02/2012*

- **From**: Hiro HOTTA
- **To**: wcit-public
- **Subject**: JPRS Comments on the WCIT12
- **Date**: Sat, 3 Nov 2012 08:27:25

We appreciate being given the opportunity to express our views on ITR and WCIT responding to the public call made by ITU.

Japan Registry Services Co., Ltd. (JPRS) is a private company that serves as Japanese ccTLD (.jp) registry. It makes contribution to the global and local Internet resource management in coordination with ICANN, JPNIC, Japanese government, and other entities. It makes various other contributions as well to the Internet growth and development through IETF, ISOC, and so on.

Here we submit our comments from the standpoint of a cc TLD registry, which serves to the Internet infrastructure mainly through domain name management and domain name system (DNS) operation.

One of the indispensable nature of the Internet is "equally connecting every corner of the world". It has been the strong will and autonomous activities of various stakeholders, mainly of private sector entities, that have served as driving force of the growth and development of the Internet. Such activities, among others, include policy setting, technical standardization, and operation of the Internet. Below are the examples of the forums yielding such activities.

ICANN continuously contributes to the security and stability of the domain name system by coordinating the technical aspects of the Internet resource management. The outstanding nature of ICANN is that its activities are based upon open participation of multistakeholder entities from governments, private sector, civil society, and other related area. This participation framework strengthens the nature of the Internet, that is, "equally connecting every corner of the world".

ISOC has contributed to the growth and development of the Internet, especially by creating the fields, such as IAB and IETF, for engineers around the world to gather and openly discuss the standardization of the technical protocols and to bear standard protocol specifications as RFC documents.

Another example is Network Operators Groups (NOG's). In various regions and countries, engineers in network operation community have formed NOG's as open community forums to share experience and discuss about sound operation of networks within each NOG and across NOG's.

As exemplified above, frameworks that have served as driving force of the Internet growth and development are based on open and bottom-up multistakeholder model.

Since demand for the Internet grows and changes rapidly, Internet technologies and services are required to be evolved continuously as rapidly as the demand. The speed of the growth and development of the Internet has relied on, and will further rely on, the frameworks whole community have devised to realize.

In conclusion, we support the open and bottom-up multistakeholder model so that the Internet continues to evolve and equally connects every corner of the world.

As to the ITR and WCIT, we have strong concern that the speed of growth and development of the Internet would seriously ruined, if intergovernmental organizations and/or national governments should have excess influence to the policy and technical development by means of international treaties and/or national regulations. We strongly hope such situation is avoided.

We pay our respect to the effort by parties and individuals involved in the Internet growth and development so far and expect the discussions in coming WCIT will lead to further sound development and more secure and stable Internet infrastructure.

Koki Higashida
President
Japan Registry Services Co., Ltd.

- **JPRS Comments on the WCIT12**, *HiroHOTTA, 11/03/2012*

- **From**: jolufuye
- **To**: wcit-public
- **Subject**: AfICTA comments on ITRs
- **Date**: Sat, 3 Nov 2012 15:25:56

Africa ICT Alliance – AfICTA, thanks ITU for the opportunity to submit this contribution.

The 2005 WSIS Tunis Agenda paragraph 34-35, 70-80 set the course for evolving policy matters pertaining to the Internet. The Agenda made it clear that policy matters pertaining to the Internet should be approached through enhanced cooperation among all relevant stakeholders and organizations and an inclusive multi-stakeholder platform called the Internet Governance Forum (IGF) with all stakeholders on equal footing playing their respective roles. Stakeholders in this regard are governments, the business community, the civil society, academia and the Internet technical community. The IGF now in its 7th annual gathering has already enriched discussions and understanding of the issues around IG, and motivated enhanced cooperation among relevant stakeholders.

As the review of the International Telecommunications Regulations (ITRs) comes up in Dubai on December 3-14; it is the view of the Africa ICT Alliance (AfICTA) that the governance structure of specialized UN organizations, including the International Telecommunication Union (ITU) are not sufficiently inclusive of all stakeholders to decide the future of the Internet vis-a-vis how it is governed and how the behaviour of users and players are governed, and regulated.

There are many challenges in the proposed changes to the existing ITU Treaty on International Telecommunications Regulations (ITRs). These proposed changes cannot be considered without full understanding of associated implications.

AfiCTA posits that proposed amendments in the ITRs are inconsistent with the UN Human Rights Committee and the UN Human Rights Council positions affirming that governments have a duty to protect freedom of _expression_ online in the same ways that they do offline. Proposed limitations on the right to freedom of _expression_ in the name of national security are at variance with Article 19 of the International Human Rights Standards. This provision has the potential to hinder innovation which is a key and fundamental aspect of the growth and benefit of the Internet.

While the issue of cybersecurity is very serious and important, it is the view of AfICTA that addressing ramifications of cybersecurity is better handled in a fluid and dynamic organisational structure which can readily respond to rapidly changing face of cybersecurity. In this wise, multi-stakeholder organisations already addressing the cybersecurity challenges are better suited to continue the process. Rather than adding new language to a Telecommunications Treaty, AfiCTA notes that all parties – business, technical, civil society – and IGOs, like the ITU, should work in a more collaborative mode on addressing training and capacity building, at local and national levels.

AfICTA finally posits that the pursuit of enhanced cooperation among and within existing IG organisations is a more laudable part to IG than an enhanced treaty that is not in conformity with the established principles set by the Tunis Agenda for articulating public policy issues pertaining to the Internet.

About Africa ICT Alliance (AfICTA)

Africa Information & Communication Technologies Alliance (AfICTA) is a private sector led alliance of ICT Associations, multi-national corporations, organisations and institutions in the ICT sector in Africa.

AfICTA members include ICT industry associations, organisations and companies in Egypt, Kenya, South Africa, Tunisia, Nigeria, the Gambia, Rwanda, Namibia and Somalia.

Jimson Olufuye PhD
Chair, Africa ICT Alliance - AfICTA
www.aficta.org

- **AfICTA comments on ITRs**, *jolufuye, 11/03/2012*

- **From**: ALEJANDRO RAUL CEPEDA RODRIGUEZ
- **To**: wcit-public
- **Subject**: Comentarios RTI
- **Date**: Sun, 4 Nov 2012 02:23:05

Buenas Noches,

Deseo contribuir al proyecto RTI, es especial al articulo 2 DEFINICIONES en el numeral 27F relacionado con el FRAUDE:

27F. FRAUDE. Utilización de cualquier red de telecomunicaciones en beneficio propio o de terceros sin la autorización del propietario, con la intención de usufructuarse del servicio proveído por esta infraestructura, evitar el pago del servicio generado o difundir información de carácter publicitario, ideológico, inmoral o terrorista.

Espero sea de ayuda al proyecto, Gracias.

Subintendente ALEJANDRO CEPEDA RODRIGUEZ
Dirección de Investigación Criminal e Interpol
Tecnólogo en Electrónica y Telecomunicaciones
Cel: 313 465 26 23
"La prueba técnica al servicio de la verdad"

- **Comentarios RTI**, *ALEJANDRO RAUL CEPEDA RODRIGUEZ, 11/04/2012*

- **From**: Anriette Esterhuysen
- **To**: WCIT public
- **Subject**: APC input on the WCIT
- **Date**: Mon, 5 Nov 2012 13:18:00

APC PERSPECTIVES ON THE REVISION OF THE INTERNATIONAL TELECOMMUNICATION REGULATIONS 3 November 2012

The Association for Progressive Communications (APC) is an international network of civil society organisations concerned with ICTs, the internet, development and rights.

APC welcomes the ITU's invitation to the broad community of stakeholders in communications to contribute to discussions on the International Telecommunication Regulations (ITRs) ahead of the World Conference on International Telecommunications (WCIT). We hope that the ITU will continue with and build on this important step to make its decision-making processes more inclusive and transparent. Major changes have taken place in the nature of telecommunications since the present ITRs were agreed in 1988.

Telecommunications services which were once provided by government agencies are now almost entirely provided by private sector enterprises.

Telecommunications now enable very many new services of importance to social and economic development. The value of multistakeholder dialogue on communications was recognised by the World Summit on the Information Society, and multistakeholder fora have become commonplace in discussion of telecommunications, ICTs and the internet. The ITRs are important instruments in

international communications and it is critically important that all stakeholders should be able to contribute to discussions about how they are revised.

The purpose of the ITRs

Many proposals have been put forward to the World Conference on International Telecommunications (WCIT) for changes in the ITRs. Rather than commenting in detail on individual proposals, APC sets out in this document an overall approach to the ITRs which it believes is consistent with the purpose of the Regulations, as described in 1988, with the development of communications since that time, and with the needs of a rapidly changing communications market and the citizens and users of telecommunications services.

The ITRs that were agreed in 1988 were concerned with basic telecommunications services and sought to achieve three objectives:

- to facilitate global interconnection and interoperability of telecommunications facilities;
- to promote the harmonious development and efficient operation of those facilities; and
- to promote the efficiency, usefulness and availability to the public of international telecommunication services.

They were agreed at a time of great change in the telecommunications sector, as control of networks and services shifted from governments to the private sector, and arrangements for international traffic moved from negotiated reciprocity to commercial agreements. They consolidated and simplified prior regulations into concise statements of principle which allowed the development of new business models. These enabling principles have facilitated connectivity and innovation which might well have been stifled by more rigid and prescriptive rules.

APC recognises the important role which the ITRs have played in the development of telecommunications over the two and a half decades since 1988.

That period has, as noted above, been one of enormous change in telecommunications, in particular the massive development and uptake of mobile telephony, the advent and spread of the internet, the general adoption of IP networks, and continuing advances in technology, markets, and user behaviour which have proved difficult for governments and even businesses to anticipate. It is not surprising, therefore, that aspects of the ITRs are now out of date. The central question before WCIT concerns how, how far and in what ways they need to be updated.

APC's proposed principles for revision of the ITRs

APC suggests that the best way to respond on this question is to consider proposals for revision on the basis of two key principles.

- The first is that the ITRs should remain concise statements of principle, as they were agreed in 1988, and should not become prescriptive or restrictive regulations. The more tightly rules are drawn, the more quickly they will become outdated and constrain innovation, enterprise and consumer and user welfare.
- The second is that they should always seek to facilitate and never to restrict the development of telecommunications and the availability of communications services.

All proposals before WCIT should, in APC’s view, be judged against these two key principles. If these are followed, then the ITRs should continue to facilitate and not restrict the future development of telecommunications.

Two further points stem from these basic principles.

The first is that the ITRs should continue to be concerned with basic telecommunications and should not extend to services that make use of telecommunications networks such as ICTs in general or the internet in particular. The relationship between telecommunications, ICTs and the internet varies from region to region and is highly complex and unpredictable. Rules and regulations that restrict how it evolves will stifle innovation and reduce the value of information and communications to development. The ITRs should make no assumptions about how that relationship will or should evolve. They should be concerned only with underlying telecommunications networks, not with the services and content that run over them. The definition of 'telecommunications' in the ITRs, in particular, should remain as it is in the ITU constitution.

There has been concern in some quarters about proposed changes in the terminology used to describe telecommunications operators in the ITRs, from the historic term 'administrations', which referred to government departments, to 'operating agencies', which includes private sector businesses. While this terminological updating follows from the privatisation of telecommunications which has occurred since 1988, it should be clear in the revised ITRs that the revised Regulations' coverage only extends to those areas of basic telecommunications that were addressed by the 1988 Regulations, and that the ITRs do not extend to other business activities of operating agencies such as their role as ISPs.

Scope of the ITRs

The second point is that the ITRs should not reach beyond telecommunications to include public policy objectives and areas of governance which are beyond their current remit or the telecommunications sector. A number of proposals have been made to WCIT which suggest, for example, that the ITRs should address issues such as spam, fraud, security and cybercrime. These are important issues and we do believe that the ITU has a role to play in addressing them, alongside other international agencies and other stakeholders. But they are not basic telecommunications issues, and cannot properly or appropriately be addressed by establishing rules concerning them within an ITU treaty and any such effort should proceed with great caution.

These proposals should therefore be rejected. The ITU should consider those that are within its remit in other, more suitable ITU fora, and work with other stakeholders in other fora to develop responses which can achieve international and multistakeholder consensus.

Human rights and the ITRs

For the same reasons, APC does not believe that it would be appropriate to include text concerning aspects of human rights within the ITRs. The international human rights regime is well-established, through the Universal Declaration of Human Rights (UDHR), the International Conventions on Civil and Political Rights (ICCPR) and Economic and Social Rights (ICESR) and other internationally agreed instruments. As a body constituted by governments ITU decisions necessarily fall within this framework. Governments are as responsible for upholding human rights agreements in the ITU as they are, for example, in the General Assembly. It would therefore be appropriate to draw attention to these overarching rights instruments in a preamble to the ITRs, noting that they apply to the Regulations and how they are implemented as they do to all other international agreements, but it would not be appropriate to use telecommunications regulations themselves as rights instruments. What is important is that any impact assessment of the ITRs include careful evaluation of their impact on fundamental human rights, including rights to freedom of expression and association online, and on internet access as an enabler of rights.

Looking to the future

The future of communications is not simply a matter of technology. It is of vital importance to human development. Changes in communications technology and markets are immensely complex and challenging. They offer tremendous opportunities for enabling economic growth and advancing human welfare, but bring with them new threats, from loss of privacy to electronic waste, from criminality to cyberwarfare. As the seven years since WSIS have shown, they are also highly unpredictable: as recently as 2005, hardly anyone predicted the growth that has since taken place in mobile internet, social networking or cloud computing. Such great opportunities and such great challenges require cooperation between stakeholders and across public policy domains.

They need multistakeholder dialogue that brings together all of those concerned with technological and human development, and enabling policy and regulatory environments that encourage innovation and responsiveness to citizens' and consumers' needs. The ITRs can contribute to this, as they have done since 1988, as principles for basic telecommunications that foster connectivity and use of international networks and services, but they should not reach beyond their existing mandate.

END

The Association for Progressive Communications (APC) is an international network and non-profit organisation founded in 1990 that wants everyone to have access to a free and open internet to improve lives and create a more just world.

www.apc.org

- **APC input on the WCIT**, *Anriette Esterhuysen, 11/06/2012*

- **From**: Anriette Esterhuysen
- **To**: wcit-public
- **Subject**: Input from pre-event held at the African IGF
- **Date**: Tue, 6 Nov 2012 22:33:41
- **Organization**: Association for Progressive Communications

Submission from the African IGF pre-event, "Raising African Voices in Internet Governance Debates: WCIT-12 and Revisions to the International Telecommunications Regulations"

Convened by the and the APC and the NPCA, Smart Village Convention Center, 6th of October City, Cairo, 2 October 2012 as a pre-event to the first African Internet Governance Forum

Background

This event was convened by the Association for Progressive Communications (APC) and the NEPAD Planning and Coordinating Agency (NPCA) with the support of the African IGF organisers, particularly United Nations Economic Commission for Africa (UNECA), the African Union Commission (AUC), and Egypt's Ministry of Communications and Information Technology. Financial support was provided by Google.

The purpose of the event was to provide an opportunity for participants in the African IGF, a multi-stakeholder mix of people involved in the internet in Africa, to talk about internet governance in general, but focus specifically on the revision of the International Telecommunications Regulations

which will be finalised at the ITU's World Conference on International Telecommunications in Dubai in December 2012.

Agenda and Format

The half-day event (14h00 - 18h00) was well attended. The room was filled to capacity and participants seemed eager to learn and share their views. The format was designed to be dynamic and interactive. After being opened by Dr. Edmund Katiti of NPCA, APC's Anriette Esterhuysen provided an overview of the agenda and process. The event consisted of three panels, "Overview of Internet Governance in Africa", "The WCIT and the ITR review", and "Strengthening Democratic IG in Africa". Following the style of a 'talk show' panellists were asked to respond to questions put by a moderator. These questions were shared beforehand but not in a scripted manner. Moderators encouraged members of the audience to intervene and ask questions.

WCIT and the ITR Review

The session focused on on this topic addressed the following questions: What do the WCIT, and proposed revisions to the ITRs mean for African internet governance stakeholders?

How are African member states involved? What are they proposing? Are they consulting stakeholders in their countries? How can non-governmental stakeholders participate?

Discussion focused mostly on the process and the general lack of broad-based national consultations by governments. There were a few countries, where government had consulted widely, but most did not. Some consulted only telecommunications industry actors, excluding civil society and internet businesses.

Aspects of the ITRs that during were discussed during the pre-event in more depth were the 'sender pays' principle, and the definition of operators, which African governments are proposing should be broadened to include any internet service (including content) providers.

How should we respond to the ITR review and the WCIT?

In response to this question, participants made the following recommendations:

1. African governments should be urged to include civil society stakeholders in their delegations to the WCIT.

2. African governments should convene consultations nationally with other stakeholders before the WCIT and get their input into respective government positions on the ITRs.

3. African governments should convene report-back sessions early in 2013 to feedback on what happened at the WCIT.

4. Africans participating in the WCIT should consult as a region and develop strategies based on regional interests during the negotiation process; and civil society and business actors from Africa should be part of those consultations.

Anriette Esterhuysen
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- **Input from pre-event held at the African IGF**, *Anriette Esterhuysen, 11/06/2012*

- **From**: Cheolhong Park
- **To**: wcit-public
- **Subject**: Proposal for ICT and Internet Ecosystem
- **Date**: Wed, 7 Nov 2012 04:44:29

Proposal for ICT and Internet Ecosystem:

Setting New Rules on Trade Order

Abstract

Need for reasonable management on massive/high-frequency traffic, for example by introducing mobile standards in order to promote sustainable development and virtuous cyclic of innovation

For fair usage of limited resources of fixed/mobile network, service providers who profits by using traffic need to pay their dues.

Background

1- Advancement in Internet Ecosystem

There is a growing need to squarely face the changing ICT and Internet ecosystem and to explore ways to improve total ICT ecosystem (C-P-N-D; Contents-Platform-Network-Device).

2- Changing Trend

Changing paradigm in Internet usage pattern from web/text based to video consumption led to sudden spike in video traffic and number of heavy users

According to Cisco, video is expected to consume 91% of the global traffic by 2014. Multimedia traffic becomes more dominant in both fixed and mobile, accounting for around 70% and 53% respectively.

The growth in mobile traffic is much faster than the increase in the number of subscription. In fixed service, the subscription increased only about 25% for the past 6 years from 6.28million to 7.82 million, meanwhile the traffic increased by 550% from 380Gbps to 2,090Gbps. Situation is even worse with the mobile service. The subscription increase is minimal compared to the 2009 level (annual growth of 5%), but the traffic increased by 153 folds due to the introduction of flat rate.

In the fixed service, 5% of all users account for 55% of all traffic while in mobile 5% consumes 50% of total traffic causing inconvenience for many other users.

Increase in 'Over-the-Top (OTT)' service providers, who utilize the network without sharing the burden of investment, deteriorates the profitability of carriers.

3-'Beneficiary/Traffic Generator Pays' Principle

Service providers who profit through using the fixed/mobile network and in the process generate huge traffic, should bear their fair share of the cost.

Service providers who generate traffic on the network (Traffic Generator Pays Principle) or those who engage in profit business using the network (Beneficiary Pays Principle) should pay the due compensation for their network usage.

Only such improvement in the trade order can prevent the tragedy of the commons and promote advancement in the ICT ecosystem and its virtuous cycle.

Discussion

1- Reasonable Management of Massive /High-Frequency Traffic

Reasonable and transparent traffic management is in order to control massive and high-frequency traffic.

① **(Massive Traffic)** Network traffic requires reasonable management when it is suspected that massive traffic from, for example, P2P and smart TV cause serious network congestion.

② **(High-Frequency Traffic)** Out of concerns for a possible blackout from high-frequency traffic including signaling, reasonable network management may also be necessary.

2-Standardization of Mobile Traffic

Traffic standard may be necessary to establish an order in massive mobile traffic so that majority of users can enjoy quality Internet access.

Standardization should be encouraged to prevent social cost from incurring in the mobile environment. As mobile network has limited resources, contents with excessive bandwidth may require significant increase in network cost.

There is a need to reflect on a certain level of traffic trade order considering the network and contents conditions.

3-Managed Service Encouraged

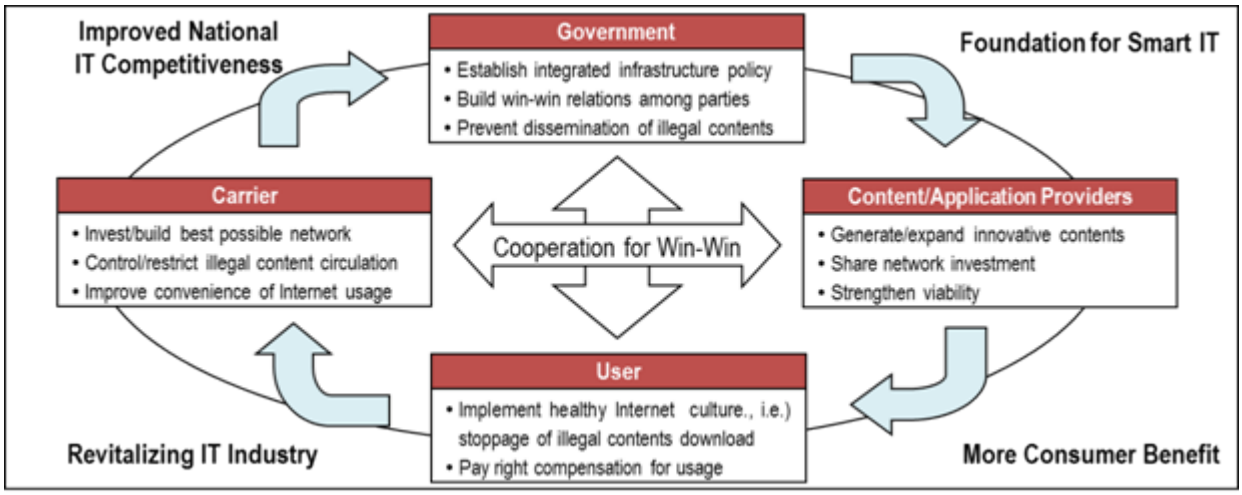
By actively developing premium services of enhanced QoS, different service levels based on values of traffic can be made available.

Appropriate QoS and pricing policy will lay the foundation for differential services for different values of network and traffic. Such services can be provided through commercial contracts with providers.

4-Win-Win Model for ICT Ecosystem

All the interested parties are encouraged to promote virtuous development in the ICT ecosystem by exploring a mutually beneficial model.

5-Win-Win Structure for ICT Industry



Proposals

It is proposed that the following provisions need to be add or modified to the current ITRs.

Article 2

Definitions

ADD

27A 2.11 The "*Beneficiary/Traffic Generator Pays" Principle*: This principle means service providers who engage in a profit business using the network or those who generate heavy or frequent traffic on the network shall pay due consideration for their network usage.

ADD

27B 2.12 *QoS (Quality of Service) based delivery service and best effort delivery service*: QoS based delivery service means the data transmission service through the internet network which guarantees quality of service by commercial agreements between OA and users; Best effort delivery service means the general data transmission service without the guarantee of quality of service.

Article 3

International Network

ADD

28A 3.1A In light of the recent innovative service launched based on network, Member State and OA shall endeavor to grow a ICT ecosystem through a virtuous cycle by creating an environment that would promote continuous investment for a network for a sustainable ICT ecosystem .

ADD

28B 3.1B OA will be entitled to manage and control heavy or frequent traffic which would induce congestion in the network to the reasonable extent, for the purpose of establishment, operation and maintenance of the quality assured international network

MOD

31 3.4 Subject to national law, any user, by having access to the international network established by an administration*, has the right to send traffic, to the extent that such traffic does not cause harm to the network stability. A satisfactory quality of service should be maintained to the greatest extent practicable, corresponding to relevant ~~CCITT~~ ITU Recommendations.

ADD

Article 4A Internet Traffic Management

ADD

38A 4A.1 . To ensure the efficient distribution of the wire and wireless network as limited resources and use of the network by users in a fair and rational manner, Member State shall make voluntary efforts and implement a proactive policy.

ADD

38B 4A.2 For an efficient and stable operation of the wire and wireless internet network, OA may, by utilizing international standard methods, establish the specifications and the method for

traffic transmitted through a network. Further, OA may manage traffic based on the specific type and structure of the wire and wireless network, characteristics of the traffic such as bulk volume/high frequency, and technical characteristics such as limitations of frequency resources.

ADD

38C 4A.3 Member State shall endeavor to create an environment that would enable OA to promote the provision of QoS based delivery service. Administrations or OA shall provide best effort delivery service, even though they provide QoS based delivery service.

ADD

38D 4A.4 In accordance with the "*Beneficiary/Traffic Generator Pays" principle*, OA may demand due consideration from a business operator generating traffic in the international wire and wireless network by entering into a commercial agreement with such business operator.

ADD

38E 4A.5 OA may provide users with differentiated QoS based service in accordance with the terms of the commercial agreements with users.

Article 6

Charging and Accounting

ADD

45A 6.1A Pricing for QoS based delivery service

45B 6.1A.1 The pricing of QoS based delivery service depends on the terms of the commercial agreements between OA and users in principle. Pricing for QoS based delivery service in such commercial agreements will be determined on the basis of [the quality of the provided network, volume and frequency of the transmitted traffic through the internet network].

- **Proposal for ICT and Internet Ecosystem**, *Cheolhong Park, 11/07/2012*

- **From**: s steveinfos
- **To**: wcit-public
- **Subject**: Protect Global Internet Freedom Statement Regarding the WCIT12
- **Date**: Wed, 7 Nov 2012 02:56:44

The Protect Global Internet Freedom Statement Regarding ITU World Conference on International Telecommunications 2012

On December 3rd, the world's governments will meet to update a key treaty of a UN agency called the International Telecommunication Union (ITU). Some governments are proposing to extend ITU authority to Internet governance in ways that could threaten Internet openness and innovation, increase access costs, and erode human rights online. We call on civil society organizations and citizens of all nations to sign the following Statement to Protect Global Internet Freedom:

"Internet governance decisions should be made in a transparent manner with genuine multistakeholder participation from civil society, governments, and the private sector. We call on the ITU and its member states to embrace transparency and reject any proposals that might expand ITU authority to areas of Internet governance that threaten the exercise of human rights online."

Current signatories:

Bangladesh
- Monthly Community Media
- ChangeMaker - Society for Social and Economic Development
- Center for E-Parliament Research
- Machizo Multimedia Communication
- Bangladesh Internet Governance Forum
- Bangladesh NGOs Network for Radio and Communication(BNNRC)

Belgium
- CCIA
- European Youth Forum (YFJ)
- IFIP

Brazil
- Instituto NUPEF
- CTS/FGV

Canada
- Samuelson Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC)
- OpenMedia
- Affinity Bridge
- Simple Jobz
- Centre for Community Informatics Research, Development and Training

Chile
- ONG Derechos Digitales

Egypt
- Global Voices Arabic Lingua

India
- The Centre for Internet and Society

Germany
- European Summer School on Internet Governance (SSIG)
- Committee for a Democratic U.N.

Indonesia
- ICT Watch Indonesia

International
- Consumers International
- Human Rights Watch
- OpenMedia International
- Reporters Without Borders
- Electronic Frontier Foundation (EFF)
- Access
- Global Voices Advocacy

Morocco
- Mamfakinch

New Zealand
- InternetNZ

Nigeria
- AgeCare Foundation
- Ministry of Agriculture and Natural Resources

Pakistan
- Digital Rights Foundation

Senegal
- ADEC

Spain
- Complutense Univ.- Cyberlaw Clinic

Thailand
- Thai Netizen Network

Uganda
- i freedom Uganda

United Kingdom
- Code Curators
- In Your Face Studios

United States
■ Fight For The Future
■ May First/People Link
■ Center for Democracy and Technology
■ Free Press

More organizations are signing onto this statement regularly at:
www.protectinternetfreedom.net

*Submitted by Steve Anderson from OpenMedia International: OpenMediaNow.net **Protect Global Internet Freedom Statement Regarding the WCIT12**, *s, 11/07/2012*

- **From**: Randy Saunders
- **To**: wcit-public
- **Subject**: Internet Speed vs ITR
- **Date**: Wed, 7 Nov 2012 16:25:52

The concept that a document that's thoughtfully revised through a consensus process every 25 years is not consistent with the Internet as it presently exists. Existing standards groups work tirelessly, meeting many times per year, to reach consensus on the technical aspects of the Internet. It would be unwise, and likely ineffective, to replace these engineering teams with politicians guided by the UN.

Let me offer a simple example. In 2.13 you define Spam as "information transmitted over telecommunication networks [as text, sound, image, tangible data used in a man-machine interface bearing advertizing nature or having no meaningful message,] simultaneously or during a short period of time, to a large number of particular addressees without prior consent of the addressee (recipient) to receive this information or information of this nature." This definition is hopelessly insufficient.

There are two possible definitions of Spam: 1) it is email that the receiver doesn't like when they get it; or 2) it is email that includes covert behaviors. If you were to use definition (1), the one most users have in mind, you would find that the spam problem is provably unsolvable. No computer system can ever hope to know what a human being is thinking, at least given current technology. If you give up on (1) as too hard, then (2) is no easier. Definition (2) requires knowledge of every possible vulnerability to the user's computer systems. This knowledge grows at a fantastic rate, as new vulnerabilities and attacks are identified every day. Meeting every 25 years to assess them is not effective. As an example, the email message you sent me, confirming that I'd accepted ITUs terms and conditions for speaking in this forum, was rejected by the Google Spam system because it contained text in many languages that I don't know how to read. That alone was sufficient to constitute a type (2) threat, in Google's mind. They were applying the criteria you express "no meaningful message" to exclude messages simply because they were in many languages!

The notion that Spam is sent in mass volumes characterizes only one small type of spam. Many spammers send unique messages to each sender, full of meaning, plus a little advertizing message. This form of spam wouldn't be spam by your definitions, and your document is only a few months old.

Imagine the effect in another 25 years.

While goals, guidelines, and objectives might be viable over long periods, the details outlined in these regulations need constant vigilance and update by trained engineers. The ITU just isn't the right forum for this task.

/Randy

- **Internet Speed vs ITR**, *Randy Saunders, 11/07/2012*

- **From**: Anja Kovacs
- **To**: wcit-public
- **Subject**: Submission by Indian civil society organisations on proposals for the future ITRs and related processes
- **Date**: Wed, 7 Nov 2012 21:37:45

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:

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Internet Democracy Project
Knowledge Commons
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Submission by Indian civil society organisations on proposals for the future ITRs and related processes, *Anja Kovacs, 11/08/2012*

- **From**: Pranesh Prakash
- **Subject**: Fwd: Civil Society Submission from "Best Bits" pre-IGF Meeting
- **Date**: Fri, 16 Nov 2012 11:45:13
- **Resent-to**: wcit-public

Statement of civil society members and groups participating in the "Best Bits" pre-IGF meeting at Baku in 2012

We thank the Secretariat of the ITU for making the opportunity to submit our views.

Nevertheless, the process of the revision of the International Telecommunication Regulations (ITRs) has not been sufficiently inclusive and transparent, despite some recent efforts to facilitate public participation. Fundamental to the framing of public policy must be the pursuit of the public interest and fundamental human rights, and we urge Member States to uphold and protect these values.

We as civil society organizations wish to engage with the World Conference on International Telecommunication (WCIT) process in this spirit. Member States, in most cases, have not held

open, broad-based, public consultations in the lead up to the WCIT, nor have they indicated such a process for the WCIT itself.

In order to address this deficiency, and at a minimum, we would urge:

* All Member States and regional groups to make their proposals available to the public in sufficient time to allow for meaningful public participation;

* All delegates to support proposals to open sessions of the WCIT meeting to the public;

* The ITU Secretariat to increase transparency of the WCIT including live webcast with the video, audio, and text transcripts, as far as possible, to enable participation by all, including persons with disabilities;

* The ITU Secretariat, Member States, and regional groups to make as much documentation publicly available as possible on the ITU's website, so that civil society can provide substantive input on proposals as they are made available;

* Member States to encourage and facilitate civil society participation in their national delegations;

* The ITU to create spaces during the WCIT for civil society to express their views, as was done during the WSIS process.

Given the uncertainty about the nature of final proposals that will be presented, we urge delegates that the following criteria be applied to any proposed revisions of the ITRs.

* That any proposed revisions are confined to the traditional scope of the ITRs, where international regulation is required around technical issues is limited to telecommunications networks and interoperability standards.

* There should be no revisions to the ITRs that involve regulation of the Internet Protocol and the layers above.

* There should be no revisions that could have a negative impact on affordable access to the Internet or the public's rights to privacy and freedom of expression.

More generally we call upon the ITU to promote principles of net neutrality, open standards, affordable access and universal service, and effective competition.

Signatories:

Access (Global)
Association for Progressive Communications (Global)
Bangladesh NGOs Network for Radio and Communication (Bangladesh)
Bytes for All (Pakistan)
Center for Democracy and Technology (United States of America)
Centre for Community Informatics Research (Canada)
Centre for Internet and Society (India)
Collaboration on International ICT Policy for East and Southern Africa
(Eastern and Southern Africa)
Consumer Council of Fiji (Fiji)
Consumers International (Global)
Dynamic Coalition on Internet Rights and Principles (IRP) (Global)
Electronic Frontier Finland (Finland)
Imagining the Internet Center (United States of America)
Instituto Nupef (Brazil)

Internet Democracy Project (India)
Internet Research Project (Pakistan)
Global Partners and Associates (United Kingdom)
GobernanzadeInternet.co (Colombia)
ICT Watch Indonesia (Indonesia)
Instituto Brasileiro de Defesa do Consumidor / Brazilian Institute for Consumer Defense (Brazil)
InternetNZ (New Zealand)
IT for Change (India)
Media Education Center (Armenia)
ONG Derechos Digitales (Chile)
OpenMedia (Canada)
Public Knowledge (United States of America)
Thai Netizen Network (Thailand)
Ginger Paque (Venezuala)
Nnenna Nwakanma (Côte d'Ivoire)
Sonigitu Ekpe (Nigeria)
Wolfgang Kleinwächter (Denmark)

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Fwd: Civil Society Submission from "Best Bits" pre-IGF Meeting, *Pranesh Prakash, 11/21/2012*

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