



Internet Society Background Paper: International Telecommunication Regulations

Background

In 2012, a global treaty conference will be held under the auspices of the United Nations' specialized agency dealing with telecommunication, the International Telecommunication Union (ITU). The treaty, called the [International Telecommunication Regulations](#) (ITRs), was developed at the 1988 World Administrative Telegraph and Telephone Conference (WATTC-88) and has not been revised in over 20 years. Its purpose is to facilitate “global interconnection and interoperability” of telecommunications traffic between borders¹. The regulations, while broad and high level, are intended to impose mandatory regulation of all aspects of the international exchange of telecommunications traffic – they provide a framework for international cooperation in which global interoperability is achieved. The regulations currently address high-level issues such as charging and accounting, safety of life, liability, and taxation. There is also provision made for “Special Arrangements” (see Article 9). That text has been important in the rapid growth in the exchange of Internet Protocol (IP) traffic, the use of virtual private networks and the provision of value added services.

In essence, the ITRs of 1988 provided a high level context in which telecommunications traffic could be exchanged globally. In the pre-Internet era where many telecom enterprises were state-owned, an international treaty among governments was useful, even necessary, to ensure that telecommunications operators could interconnect around the globe. As an example of the scale involved, at the time of the treaty negotiations in 1988, American telecommunication carriers alone exchanged \$12B in traffic annually over the fixed network. Having clear rules that guaranteed market access was essential to operating global telecommunications networks. The treaty gave private telecommunications carriers a baseline global framework that ensured interoperability (rather than having to obtain country-by-country agreements or

¹ The purposes of the ITR are to “establish general principles which relate 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. They also set rules applicable to administrations^{*}”. Among other purposes, they “are established with a view to facilitating global 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.” (International Telecommunication Regulations, Article 1.1 a; 1.3)

licenses), and guaranteed that revenues would flow to national governments and private carriers via settlement payments.

While the ITRs were negotiated in the era of state-run telecom monopolies, there are provisions that have proven essential to the growth of the global Internet (at least from a legal and business perspective). One of these, Article 9, Special Arrangements, allows for the exchange of certain kinds of traffic outside the provisions of the ITRs. Originally, this accommodated virtual private networks, banking transactions, etc., but it has gradually become a legal mechanism underlying the way that Internet (IP) traffic is moved by global network operators. This notion of special arrangements is likely to be a significant part of any renegotiation of the treaty.

The amount of international (fixed-line voice) traffic that is subject to settlements has diminished significantly since 1988, putting a strain on revenue streams for telephone carriers, whether state-owned or privately owned. For many developing countries whose traditional revenue sources (i.e. the state-owned telecom companies) have been greatly reduced in the 21st century communications market, reopening the ITRs may be viewed as an opportunity to try to redress the situation bringing new technologies into the legal framework. However, in the rapidly changing, competitive and innovative IP-based communications environment, the Internet Society believes it is not advisable to resolve Internet-related technical, operational or commercial issues via a static, international treaty such as the ITRs.

World Conference on International Telecommunications (WCIT)

Preparations for the 2012 conference – the World Conference on International Telecommunication (WCIT) – are being overseen by an ITU Council Working Group, which is charged with holding a series of global and regional preparatory meetings starting in 2011. In addition to the global preparations, there will be regional preparatory meetings in the months leading up to the WCIT so that regions can prepare common positions and proposals.

The WCIT will take place in the context of worldwide discussions and formal conferences that are concerned with Internet governance. Internet governance issues became prominent in preparation for the 2003 World Summit on the Information Society. In discussions over the past decade, ITU Member States and Sector Members have been highly involved in trying to establish what should be the ITU role in Internet public policy. While ‘saying it doesn’t make it so’, if Member States incorporate new conditions aimed at bringing Internet public policy under an international treaty, this could substantially change the nature of discussion on Internet matters in the ITU and throughout the Internet ecosystem.

While the existing ITRs are at a relatively high-level, viewed from today's vantage point, many proposals for revision may be more detailed, blurring the lines between traditional telecom networks and the Internet. Below is a list of issues/topics that some ITU Member States have thus far proposed to include in a revised ITR treaty.

- Mandated application of ITU-T recommendations, which could create operational issues if not compatible with Internet standards;
- Countermeasures against spam (including combating spam) and related issues such as phishing, malware, malicious code, etc;
- Dispute settlement;
- Peering arrangements and the impact on costs of international Internet traffic;
- Misuse of numbering, naming and addressing resources and subscriber identification;
- Quality of service;
- Cybersecurity, including security of data, of signalling and traffic information, and of billing information;
- Appropriate use of billing and payment models;
- Personal data protection;
- "New technologies" regulation;
- On-line child protection; and
- Internet addresses allocation/distribution