

Public Consultation on
the review of the
International
Telecommunications
Regulations of the ITU

Reply from AFNIC

afnic

Summary of AFNIC's positions with regard to the review of the ITRs

AFNIC would like to the following to be considered:

- ✓ *That the binding nature of the treaty be confined to the general, high-level principles contained directly within it and not extend to the other work, recommendations, guidelines, or standards developed as part of the work of the ITU.*
- ✓ *That the ITRs do not define trade agreements of the "Sender party pays" type as the basic agreements for the interconnection of IP networks, but recognize that other types of agreements, such as so-called "peering" agreements, are equally valid.*
- ✓ *That the analysis of and remedies for situations of distorted competition and abuse of dominant positions remain the responsibility of the regulatory authorities for telecommunications and competition and are not integrated into the prerogatives of the ITU.*
- ✓ *That this review of the ITRs provides an opportunity for the Internet community at large to recognize the essential role played by the ITU for many years in developing international telecommunication networks.*
- ✓ *That this review of the ITRs provides an opportunity for the ITU to recognize the essential role of organizations dedicated to the technical operation of the Internet.*
- ✓ *That this review of the ITRs provides an opportunity to recognize the importance of the role that the ITU sector D should play in reducing the international digital divide.*

1/ AFNIC: an overview

AFNIC (the French acronym for the French Network Information Centre (Association Française pour le Nomage Internet en Coopération) is the Registry appointed by the French government to manage the *.fr* TLD and has submitted its application for the tender launched by the Government for the management of the extensions of the French overseas territories. Its mission is to ensure that the French territory remains represented on the web and that these domains are accessible from any point on the web. This assignment also includes the allocation, through registrars, of second-level domain names ending by one of the ccTLDs under its responsibility (e.g. "my-societe.fr").

AFNIC carries out its assignments in the public interest by involving all the relevant stakeholders in its decisions (scientists, the public authorities, and representatives of private sector involved in the Internet in France). As the primary operator in France of registry services on the internet and as the government-appointed Registry for the *.fr* TLD, the goals set by AFNIC are to develop a preference for the *.fr* TLD in France, to help strengthen the resilience of the Internet, and to promote its skills among the Internet community at large.

With an independent Scientific Council consisting of prominent figures from academia and industry, AFNIC is recognized worldwide for the quality and resilience of its services, the transparency of its management, and the relevance of its contributions to the technological development of the Internet. As well as pursuing its efforts in favor of operational excellence, AFNIC is also expanding its activities as the technical operator of registries, thus helping to develop secure and stable namespaces for use on the international scale.



2 / AFNIC's reply to the questions as part of the public consultation on the International Telecommunications Regulations.

WHAT ARE YOUR COMMENTS ON THE PROPOSED AMENDMENTS TO THE CURRENT ITRs

Preamble and Article 1 of the Treaty

The number of amendments filed and their respective scope make it difficult to comprehensively review all of them, in addition to the fact that other contributions of member states of the International Telecommunication Union (ITU) will be examined by the World Conference on International Telecommunications (WCIT) well after the closure of this public consultation.

AFNIC has therefore chosen to focus its analysis on the contributions that could, in its view, have a significant impact on the technical functioning of the Internet, or on fair access to the Internet for the greatest number.

Certain contributions (amendments) to this Treaty are designed to confer a new role on the International Telecommunication Union, in the broader context of international organizations and / or intergovernmental organizations. However important these issues may be, AFNIC does not consider them to be within the scope of its expertise.

From AFNIC's point of view, for example, although the revised treaty may call for better intergovernmental cooperation under the auspices of the ITU to fight against spam or strengthen cybersecurity, neither issue implies the necessary impact on the technical functioning of the Internet.

On the other hand, some amendments to Article 1 of the Treaty propose to make the application of standards and guidelines developed as part of the work carried out by the ITU mandatory, giving them the same value as the general principles of the ITRs.¹

From AFNIC's point of view, an extension of that kind to the enforceable value of the Treaty to all or part of the work carried out by the ITU would have a significant and potentially very dangerous impact on the technical operation of the Internet.

The ITRs implement "general principles", the mandatory nature of which reflects a general consensus on the need for interconnected, interoperable telecommunications infrastructures that are efficient, useful and available to the public.

AFNIC has observed for many years that such a consensus does not exist on the technical means of achieving those general principles, and that the norms and standards are therefore adopted based on their observed use and efficiency, on the open and transparent nature of the

method used for their development, rather than on the institution that produced them. Making the application of technical recommendations mandatory by all the stakeholders merely because they have been developed within the ITU cannot be a viable solution, in particular because the processes for developing these standards are not and cannot be specified in the treaty.

Article 2 - Definitions

No comments

Article 3: International Network

AFNIC considers that all the amendments proposing to make the application of the recommendations of ITU-T mandatory should be rejected, for the reasons mentioned above.

Certain amendments propose to introduce a system of "fair compensation for telecom services" by establishing the "Sender party pays" principle.ⁱⁱ

AFNIC considers that the amendment, as drafted, fails to recognize the interest the "peering" has had and still has for the development of the Internetⁱⁱⁱ.

Strictly from the point of view of a registry, which is responsible for the service of an infrastructure essential to the operation of the Internet, namely DNS resolution, the general application of the "Sender party pays" principle poses a problem.

This is because, by definition, a DNS query contains few data, whereas a DNS reply contains many more. This asymmetry between what a registry sends to a peer network and what it receives corresponds to a service rendered to the telecommunications operator as well as to the Internet community through the operation of the DNS.

In this case, the notion of "peers" does not cover that of the strict balance between the traffic sent and received by and between two parties. Peers are those who believe that the services they render are mutually balanced, and therefore do not require any financial compensation.

This being said, AFNIC considers that a "commercial" interconnection is already possible today, and in some cases desirable. Market abuse should be examined, where appropriate, by the telecommunications regulation authorities, and probably do not require any significant change in the ITRs.



Article 4: International Telecommunication Services

With regard to the introduction in some amendments of a systematic distinction between an IP interconnection based on the "best effort" and an IP interconnection based on a "minimum quality of service,"^{iv} AFNIC would like to alert the government about the risks inherent to the inclusion of a "minimum quality of service" as defined by the ITU-T in terms of IP interconnection.

It does not seem possible to define a service quality for Internet traffic "once and for all and for all" in the context of the ITU; on the contrary, it must be possible to defer it from one interconnection agreement to another, according to the expectations of each contracting party, or each peer.

The multiplication of agreements including a minimum quality of service from one point to another, adding to the already existing "best efforts" agreements, must not be to the detriment of the basic quality of service on the Internet. Degradation of the "best effort" type of service in order to distinguish it from the "quality of service" type of service could have a negative effect by limiting the number of new entrants in the market for Internet services.

Finally, AFNIC considers that it is up to the national regulatory authority for telecommunications and / or competition to intervene in the suspected case of anti-competitive behavior or the possible abuse of a dominant position by one of the contractors in an interconnection, whether it concerns a telecom operator or a service provider. That intervention already has a legal basis and from the point of view of AFNIC, does not need to be included in the ITRs.

Article 5: Safety of Life and Priority of Telecommunications

No comments

Article 6: Charging and Accounting

No comments

WHAT ARE YOUR COMMENTS ON THE PROPOSED AMENDMENTS TO THE CURRENT ITRs BY THE CEPT



From the point of view of AFNIC, none of the European Common Proposals for the conference raises a particular problem in terms of the technical operation and accessibility of the Internet to the greatest number.

WHAT ARE YOUR COMMENTS ON THE PRINCIPLES / GUIDELINES SET FORTH IN ANNEX 2 TO THE REVIEW OF THE ITRS?

AFNIC fully subscribes to all the guidelines proposed by the French delegation to the World Conference on International Telecommunications.

Based on its experience in cooperation and co-development with its French counterparts, with particular regard to the registries of the countries in sub-Saharan Africa, AFNIC nevertheless suggests that the guidelines consider the inclusion of high-level, general principles on topics related to the fight against the digital divide. Sector D of the ITU could thus usefully be quoted in the ITRs as having a special role to play, for example, to support the establishment and / or improvement of legal and regulatory frameworks conducive to the development of telecommunication services.

MORE GENERALLY, WHAT ARE YOUR COMMENTS ON THE REVIEW OF THE ITRS (YOUR EXPECTATIONS, ISSUES CONSIDERED AS HAVING PRIORITY)?

AFNIC first of all welcomes the initiative of the Government to set up this public consultation, a relatively rare initiative when it comes to intergovernmental negotiations leading to a review of a Treaty.

If one remembers that the ITRs are binding on the states that are party to them, given the developments in the uses of the international telecommunications network since 1988, they may be considered to have been a huge success, and should be hailed as such. It is under the "jurisdiction" of the international telecommunications regulations that the Internet developed as we know it today.

Today, the challenge lies in obtaining the delicate balance between renovating the Treaty, which could in some ways become obsolete, and maintaining the legal and regulatory environment it has enabled and which has been highly conducive to the development of the Internet.



For these reasons, AFNIC considers that the review of the ITRs is a unique opportunity to reassert the major role played by the ITU in the development of the information society, on a par with played by the infrastructures, operation and regulations for telecommunications in the development of the Internet.

AFNIC hopes that the Dubai conference will enlighten all the stakeholders about the current role of the ITU as well as the need for the ITU to take into account the work carried out in other forums, more specifically dedicated to the technical operation of the Internet.

ⁱ See MOD 1.6 pages 9/10 of <http://www.itu.int/en/wcit-12/Documents/draft-future-itrs-public.pdf>

ⁱⁱ See CWG/4/116, article 3, page 21

ⁱⁱⁱ See in this connection the recent OECD report on the exchange of Internet traffic. http://www.oecd-ilibrary.org/science-and-technology/internet-traffic-exchange_5k918gpt130q-en

^{iv} See for example CWG/4/110, article 3, page 20

