The worldwide web of concerns

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Abstract

The International Telecommunication Union's World Conference on International Telecommunications (WCIT-12) is currently under way in Dubai, after a gap of 25 years. At this conference, the International Telecommunication Regulations — a binding treaty containing high-level principles — are to be revised.

Much has changed since the 1988 Melbourne conference. Since 1988, mobile telephony has grown by leaps and bounds, the Internet has expanded and the World Wide Web has come into existence.

Telecommunications is now, by and large, driven by the private sector and not by state monopolies.

While there are welcome proposals (consumer protection relating to billing of international roaming), there have also been contentious issues that Internet activists have raised: a) process-related problems with the ITU; b) scope of the ITRs, and of ITU's authority; c) content-related proposals and "evil governments" clamping down on free speech; d) IP traffic routing and distribution of revenues.

Process-related problems

The ITU is a closed-door body with only governments having a voice, and only they and exorbitant fees-paying sector members have access to documents and proposals. Further, governments generally haven't held public consultations before forming their positions. This lack of transparency and public participation is anathema to any form of global governance and is clearly one of the strongest points of Internet activists who've raised alarm bells over WCIT.

w Scope of ITRs: Most telecom regulators around the world distinguish between information services and telecom services, with regulators often not having authority over the former. A few countries even believe that the wide definition of telecommunications in the ITU constitution and the existing ITRs already covers certain aspects of the Internet, and contend that the revisions are in line with the ITU constitution. This view should be roundly rejected, while noting that there are some legitimate concerns about the shift of traditional

telephony to IP-based networks and the ability of existing telecom regulations (such as those for mandatory emergency services) to cope with this shift.

ITU's relationship with Internet governance has been complicated. In 1997, it was happy to take a hands-off approach, cooperating with Internet Society and others, only to seek a larger role in Internet governance soon after. In part this has been because the United States cocked a snook at the ITU and the world community in 1998 through the way it established Internet Corporation for Assigned Names and Numbers (ICANN) as a body to look after the Internet's domain name system. While the fact that the US has oversight over ICANN needs to change (with de-nationalisation being the best option), Russia wants to supersede ICANN and that too through current revisions of the ITRs. Russia's proposal is a dreadful idea, and must not just be discarded lightly but thrown away with great force. The ITU should remain but one among multiple equal stakeholders concerned with Internet governance.

One important, but relatively unnoticed, proposed change to ITU's authority is that of making the standards that ITU's technical wing churns out mandatory. This is a terrible idea (especially in view of the ITU's track record at such standards) that only a stuffy bureaucrat without any real-world insight into standards adoption could have dreamt up.

Content-related proposals

Internet activists, especially US-based ones, have been most vocal about the spectre of undemocratic governments trying to control online speech through the ITRs. Their concerns are overblown, especially given that worse provisions already exist in the ITU's constitution. A more real threat is that of increasing national regulation of the Internet and its subsequent balkanisation, and this is increasingly becoming reality even without revisions to the ITRs.

Having said that, we must ensure that issues like harmonisation of cyber-security and spam laws, which India has been pushing, should not come under ITU's authority. A further worry is the increasing militarisation of cyberspace, and an appropriate space must be found by nation-states to address this pressing issue, without bringing it under the same umbrella as online protests by groups like Anonymous.

Division of revenue

Another set of proposals is being pushed by a group of European telecom companies hoping to revive their hard-hit industry. They want the ITU to regulate how payments are made for the flow of Internet traffic, and to prevent so-called "net neutrality" laws that aim to protect consumers and prevent monopolistic market abuse. They are concerned that the Googles and Facebooks of the world are free-riding on their investments. That all these companies pay to use networks just as all home users do, is conveniently forgotten. Thankfully, most countries don't seem to be considering these proposals seriously.

Can general criteria be framed for judging these proposals?

In submissions to the Indian government, the Centre for Internet and Society suggested that any proposed revision of the ITRs be considered favourably only if it passes all the following tests: if international regulation is required, rather than just national-level regulation (i.e., the principle of subsidiarity); if it is a technical issue limited to telecommunications networks and services, and their interoperability; if it is an issue that has to be decided exclusively at the level of nation-states; if the precautionary principle is satisfied; and if there is no better place than the ITRs to address that issue. If all of the above are satisfied, then it must be seen if it furthers substantive principles, such as equity and development, competition and prevention of monopolies, etc. If it does, then we should ask what kind of regulation is needed: whether it should be mandatory, whether it is the correct sort of intervention required to achieve the policy objectives.

The threat of a "UN takeover" of the Internet through the WCIT is non-existent. Since the ITU's secretary-general is insisting on consensus (as is tradition) rather than voting, the possibility of bad proposals (of which there are many) going through is slim. However, that doesn't mean that activists have been crying themselves hoarse in vain. That people around the world are a bit more aware about the linkage between the technical features of the Internet and its potential as a vehicle for free speech, commerce and development, is worth having to hear some shriller voices out there.

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