

Question 18/1: Domestic enforcement of laws, rules and regulations on telecommunications by national telecommunication regulatory authorities

1 Statement of the situation or problem

1.1 in view of:

- a) the importance of national telecommunications regulatory authorities having adequate legal authority and experience to domestically enforce their laws, rules and regulations on telecommunications;
- b) the fact that case studies on effective regulation completed by the BDT specifically include sections focused on the nature and extent of the domestic enforcement powers held by the national telecommunications regulatory authorities in several Member States;
- c) the difficulties facing telecommunications regulators in enforcing their laws, rules and regulations;
- d) the fact that regulators frequently must deal with a broad range of subject matter (e.g. telecommunications, broadcasting and information technology), an opportunity exists for coordinating with the ITU-T and ITU-R Sectors and advancing the work of ITU-D study group Question 9/2 on improving liaison coordination between ITU-D and ITU-R; and
- e) the need for regulators to be given the appropriate tools and training regarding domestic enforcement of laws, rules and regulations on telecommunications, the ITU can play a role to bring together national telecommunications regulatory authorities, Members, Sector Members and other experts to share their experiences.

1.2 considering:

- a) that there has been no comprehensive study of domestic enforcement authority by national telecommunications regulatory authorities;
- b) that newly created independent regulators in particular would benefit from a report detailing the various resources, strategies and tools available to improve domestic enforcement of laws, rules and regulations on telecommunications;
- c) that both the presence of adequate legal enforcement authority as well as the political will to engage in necessary enforcement actions are both critical components to being an effective and independent regulator;
- d) the wide availability of helpful input materials necessary for this study, both that which is available through the ITU-D as well as work being undertaken by other groups within the ITU-T and ITU-R Sectors.
- e) as a checklist, when making decisions, the “Gender-Aware Guidelines for Policy –making and Regulatory Agencies” developed by the Task Force on Gender Issues.

2 Question or issue proposed for study

- a) To survey, catalogue and describe the principal sources of authority from which national telecommunications regulatory authorities derive their power.
- b) To describe the organizational methods and successful practices employed by national telecommunications regulatory authorities in enforcing their domestic laws, rules and regulations.

- c) To review sanctions and penalties used by national telecommunications regulatory entities to enforce policies that benefit consumers and users of telecommunications, broadcasting and information technology services.
- d) To study the appropriate levels of staffing, training, funding and resources required by national telecommunications regulatory authorities to adequately execute their enforcement duties.
- e) To ascertain the existing legal, regulatory and practical barriers faced by national telecommunications regulatory authorities preventing the vigorous and independent enforcement of domestic laws, rules and regulations on telecommunications.
- f) To study ways to improve the level of independence of decision making by national telecommunications regulatory authorities in the enforcement of their domestic laws, rules and regulations.

3 Description of expected output

- a) A report to the membership containing the goals, working methods, process and results of the study.
- b) Using information obtained during the work described in section 2, develop best practices for regulatory authorities with respect to enforcement of laws, rules and regulations relating to telecommunications.

4 Required timing of expected output

- a) This study is proposed to last two years, with a preliminary status report to be delivered on progress made to date after six, 12 and 18 months. A final report would be delivered after 24 months.

5 Proposers/sponsors of the Question

- a) United States (other sponsors to be included as support is gained).

6 Sources of input required for carrying out the study

- a) Contributions from Member States and Sector Members.
- b) Interested international organizations, such as the OECD.
- c) Interested non-governmental organizations such as think tanks, trade associations and others concerned with the promotion of sound regulatory policy.
- d) Surveys/interviews conducted, as appropriate.
- e) Regulatory information available through the BDT.
- f) World Wide websites of national telecommunications regulatory authorities.
- g) Relevant work currently being undertaken in the ITU-T and ITU-R Sectors.
- h) Other sources, as appropriate.

7 Target audience for the output

- a) All national telecommunications regulatory authorities, with particular attention to the needs of developing countries.

8 Proposed methods for handling this Question

Given the nature of the proposed Question, the potential quantity of information sources required and the time that will have to be devoted to identifying solutions to the issues at hand, it is considered necessary that the Question be addressed within a **study group** over a two-year study period (with submission of interim results).
