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| **Expert Group on the International Telecommunication Regulations (EG-ITRs)** |  |
| **Third meeting – Virtual meeting, 17-18 September 2020** |  |
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| United Kingdom of Great Britain and Northern Ireland | |
| Provision-by-provision examination of the ITRs | |

The United Kingdom is pleased to submit this contribution to the third meeting of the Expert Group on the ITRs. We welcome the invitation to submit contributions to support the provision-by-provision examination of the ITRs, in accordance with the Terms of Reference. This contribution covers Article 5 to 8 of the ITRs, it does not cover Appendix 1 to avoid duplication as our views on Appendix 1 are already reflected in the analysis of the provisions of the ITRs. We look forward to discussing this Examination Table at the third meeting of the Expert Group.

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| **2012 Article** | **Sub article and Provision** | **Related** [**1988**](https://www.itu.int/dms_pub/itu-t/opb/reg/T-REG-ACT-1988-PDF-E.pdf) **sub article and provision** | **Applicability in fostering provision and development of networks and services** | **Flexibility to accommodate New trends and Emergent issues** | **Summary Outcome** |
|  | **Safety of Life and Priority of Telecommunications** | **Article 5: Safety of Life and Priority of Telecommunications** |  |  |  |
| 5.1 | Safety-of-life telecommunications, such as distress telecommunications, shall be entitled to transmission as of right and, where technically practicable, have absolute priority over all other telecommunications, in accordance with the relevant articles of the Constitution and the Convention and taking due account of the relevant ITU-T Recommendations. | 5.1 Safety of life telecommunications, such as distress telecommunications, shall be entitled to transmission as of right and shall, where technically practicable, have  absolute priority over all other telecommunications, in accordance with the relevant  Articles of the Convention and taking due account of relevant CCITT Recommendations. | This is clearly a critically important issue, but it is not directly relevant to fostering provision and development of networks and services.  Furthermore, it is already covered in Article 40 of the ITU Constitution. | There is a risk that the reference to ITU-T recommendations could appear to qualify the absolute priority of safety-of-life telecommunications, given that some ITU-T recommendations are redundant. |  |
| 5.2 | Government telecommunications, including telecommunications relative to the application of certain provisions of the United Nations Charter, shall, where technically practicable, enjoy priority over telecommunications other than those referred to in No. 45 (5.1) above, in accordance with the relevant provisions of the Constitution and the Convention and taking due account of the relevant ITU-T Recommendations. | 5.2 Government telecommunications, including telecommunications relative to  the application of certain provisions of the United Nations Charter, shall, where technically practicable, enjoy priority over telecommunications other than those referred to in No. 39, in accordance with the relevant provisions of the Convention and taking due account of relevant CCITT Recommendations. | This is not relevant to fostering provision and development of networks and services. It is already covered by Article 41 of the ITU Constitution. | It is not clear exactly what “where technically practicable” means in a context in which technology is developing very quickly. |  |
| 5.3 | The provisions governing the priority enjoyed by any other telecommunication services are contained in the relevant ITU-T Recommendations. | 5.3 The provisions governing the priority enjoyed by all other telecommunications  are contained in the relevant CCITT Recommendations. | It is not clear what “governing” means here because article 1.4 says that ITU-T recommendations do not have the same legal status as these Resolutions. It is not clear what are the “relevant” recommendations. This uncertainty could hunder the provision and development of networks and services. | There are many new ITU-T Recommendations every year. This means that there is a cache of redundant Recommendations. This provision suggests Member States should continue applying these redundant recommendations and this could affect the flexibility to accommodate new trends. |  |
| 5.4 | Member States should encourage authorized operating agencies to inform all users, including roaming users, in good time and free of charge, of the number to be used for calls to the emergency services. |  | “Should encourage” is unenforceable. | This provision is not relevant to new trends. |  |
|  | **Security and robustness of networks** |  |  |  |  |
| 6.1 | Member States shall individually and collectively endeavour to ensure the security and robustness of international telecommunication networks in order to achieve effective use thereof and avoidance of technical harm thereto, as well as the harmonious development of international telecommunication services offered to the public. |  | “endeavour to ensure” is not legally enforceable and does not add or allow anything that member states could not already choose to do. Therefore it does not help in ‘fostering provision and development of networks and services’.  It is not clear what “harmonious” means in this context. Is it referring to interoperability? Or economic sustainability? or political consensus? Or something else? This potential confusion could hinder investment. | “endeavour to ensure” is not legally enforceable. |  |
|  | **Unsolicited bulk electronic communications** |  |  |  |  |
| 7.1 | Member States should endeavour to take necessary measures to prevent the propagation of unsolicited bulk electronic communications and minimize its impact on international telecommunication services. |  | This provision does nothing in fostering provision and development of networks and services. At best it does nothing at all. At worst it encourages the state to add to the regulatory burden on service providers. | Unsolicited bulk electronic communications is a fast moving and complex area that private sector service providers have been working with for a long time. What member states see as ‘necessary measures’ at one point in time, has the potential to be a hindrance to the private sector service providers working to tackle this issue. |  |
| 7.2 | Member States are encouraged to cooperate in that sense. |  | This is not legally enforceable and does not add or allow anything that member states could not already choose to do. | This says nothing of private sector agents who will be the first responders on emerging tech issues. |  |
|  | **Charging and accounting** |  |  |  |  |
| 8.1 | **International telecommunication arrangements** |  |  |  |  |
| 8.1.1 | Subject to applicable national law, the terms and conditions for international telecommunication service arrangements may be established through commercial agreements or through accounting-rate principles established pursuant to national regulation. |  | This provision does not necessarily add any further obligations than what is already in the member state’s domestic laws so cannot be said to foster the provision and development of networks and services. | It is conceivable that in the future as international telecommunication service arrangements develop, they may be established through ways other than ‘commercial agreements or through accounting-rate principles’. This limits that possibility. |  |
| 8.1.2 | Member States shall endeavour to encourage investments in international telecommunication networks and promote competitive wholesale pricing for traffic carried on such telecommunication networks. |  | “Member States shall endeavour to encourage investments” makes this provision unenforceable.  In any case, all Member States are aware that investments in international telecommunication networks are beneficial regardless of it being in this treaty. | This is not directly relevant, although there is perhaps a risk that by focusing on investment in international telecommunication networks, other emerging areas will be neglected. |  |
| 8.2 | **Accounting-rate principles** |  |  |  |  |
|  | **Terms and conditions** | **Article 6: Charging and Accounting** |  |  |  |
| 8.2.1 | The following provisions may apply where the terms and conditions of international telecommunication service arrangements are established through accounting-rate principles, established pursuant to national regulation. These provisions do not apply to arrangements established through commercial agreements. |  | This is unenforceable. “The following provisions may apply” is very weak language so it is unlikely that it can help in the development of networks.  It is not clear that this is required since almost all international telecommunications are settled through commercial agreements. | Arrangements are increasingly done through commercial agreements but this provision does not address this. This will diminish its ability to address emerging issues. |  |
| 8.2.2 | For each applicable service in a given relation, authorized operating agencies shall, by mutual agreement, establish and revise accounting rates to be applied between them, in accordance with the provisions of Appendix 1 and taking into account the relevant ITU-T Recommendations. | 6.2 Accounting rates  6.2.1 For each applicable service in a given relation, administrations\* shall by  mutual agreement establish and revise accounting rates to be applied between them, in  accordance with the provisions of Appendix 1 and taking into account relevant  CCITT Recommendations and relevant cost trends. | Operating agencies do this on a commercial basis and it is largely irrelevant to the provision and development of networks and services. | In the modern telecommunications environment, operating agencies do this on a commercial basis, where necessary.  Requiring operating agencies to establish and revise accounting rates could hinder innovation. |  |
| 8.2.3 | Unless otherwise agreed, parties engaged in the provision of international telecommunication services shall follow the relevant provisions as set out in Appendices 1 and 2. |  | Operating agencies do this on a commercial basis and it is largely irrelevant to the provision and development of networks and services. | In the modern telecommunications environment, operating agencies do this on a commercial basis, where necessary.  This provision might hinder innovation. |  |
| 8.2.4 | In the absence of special arrangements concluded between authorized operating agencies, the monetary unit to be used in the composition of accounting rates for international telecommunication services and in the establishment of international accounts shall be:   * either the monetary unit of the International Monetary Fund (IMF), currently the Special Drawing Right (SDR), as defined by that organization; * or freely convertible currencies or other monetary unit agreed between the authorized operating agencies. | 6.3 Monetary unit  6.3.1 In the absence of special arrangements concluded between administrations\*,  the monetary unit to be used in the composition of accounting rates for international  telecommunication services and in the establishment of international accounts shall  be:  - either the monetary unit of the International Monetary Fund (IMF), currently the Special Drawing Right (SDR), as defined by that organization;  - or the gold franc, equivalent to 1/3.061 SDR.  6.3.2 In accordance with relevant provisions of the International Telecommunication Convention, this provision shall not affect the possibility open to administrations\* of establishing bilateral arrangements for mutually acceptable coefficients between the monetary unit of the IMF and the gold franc. | Operating agencies do this on a commercial basis and it is largely irrelevant to the provision and development of networks and services. | In the modern telecommunications environment, operating agencies do this on a commercial basis, where necessary.  This provision might hinder innovation. |  |
|  |  | 6.4 Establishment of accounts and settlement of balances of account  6.4.1 Unless otherwise agreed, administrations\* shall follow the relevant provisions  as set out in Appendices 1 and 2. | NA - not present in 2012 ITRs | NA - not present in 2012 ITRs |  |
|  |  | 6.5 Service and privilege telecommunications  6.5.1 Administrations\* shall follow the relevant provisions as set out in Appendix 3. | NA - not present in 2012 ITRs | NA - not present in 2012 ITRs |  |
|  | Collection charges | 6.1 Collection charges  6.1.1 Each administration\* shall, subject to applicable national law, establish the  charges to be collected from its customers. The level of the charges is a national matter; however, in establishing these charges, administrations\* should try to avoid  too great a dissymetry between the charges applicable in each direction of the same  relation. | NA - not present in 2012 ITRs | NA - not present in 2012 ITRs |  |
| 8.2.5 | The charges levied on customers for a particular communication should in principle be the same in a given relation, regardless of the international route used for that communication. In establishing these charges, Member States should try to avoid dissymmetry between the charges applicable in each direction of the same relation. | 6.1.2 The charge levied by an administration\* on customers for a particular communication should in principle be the same in a given relation, regardless of the route chosen by that administration\*.  \* or recognized private operating agency(ies) | “In principle” and “should try” mean that this is unenforceable. In any case. Operating agencies do this on a commercial basis and it is largely irrelevant to the provision and development of networks and services. | In the modern telecommunications environment, operating agencies do this on a commercial basis, where necessary.  This provision might hinder innovation. |  |
| 8.3 | **Taxation** |  |  |  |  |
| 8.3.1 | Where, in accordance with the national law of a country, a fiscal tax is levied on collection charges for international telecommunication services, this tax shall normally be collected only in respect of international services billed to customers in that country, unless other arrangements are made to meet special circumstances. | 6.1.3 Where, in accordance with the national law of a country, a fiscal tax is levied on  collection charges for international telecommunication services, this tax shall normally be collected only in respect of international services billed to customers in that  country, unless other arrangements are made to meet special- circumstances. | What constitutes “special circumstances” is not defined, thus leaving regulatory uncertainty. | What constitutes “special circumstances” is not defined, thus leaving regulatory uncertainty. |  |
| 8.4 | **Service telecommunications** |  |  |  |  |
| 8.4.1 | Authorized operating agencies may in principle forego the inclusion of service telecommunications in international accounting, under the relevant provisions of the Constitution and the Convention and these Regulations, having due regard for the need for reciprocal arrangements. Authorized operating agencies may provide service telecommunications free of charge. |  | This provision does not facilitate the development of networks and services as this is an area that is already agreed between operating agencies. It simply says that they can continue to do what they were already doing. | This provision (and others) assumes that all operating agencies must be authorized, but this may not continue to be the case in the future. |  |
| 8.4.2 | The general operational, charging and accounting principles applicable to service telecommunications should take account of the relevant ITU-T Recommendations. |  | This provision may hinder the development of networks and services as this is an area that is already agreed between operating agencies, so requiring their operations to take into account the relevant ITU-T Recommendations adds to their regulatory burden. It is also not clear which ITU-T recommendations are “relevant”. | This is inflexible as although new Recommendations are generated to address emerging issues, it is not clear that outmoded ITU-T Recommendations may be disregarded. |  |

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