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World Conference on International Telecommunications (WCIT-12)

We note that Singapore has signed the revised ITU Regulations (ITRs) at the recent World Conference on International Telecommunications (WCIT-12) in Dubai. We are very concerned and somewhat surprised that Singapore has taken this stand, despite the fact that there was no consensus reached on the treaty text and the potential damage it could have on Singapore's economic growth and status as a regional hub for technology companies. The decision taken by many technology companies, like members of the Asia Internet Coalition, to base their regional operations in Singapore was due in no small part to the belief that Singapore is supportive of an open Internet.

Before the meeting in Dubai, we were given assurances from the ITU that the revised ITRs would **not** be about the Internet. The finalized scope and text of the ITRs (particularly around Internet governance) however, suggests differently. There were four significant negative changes that stand out -

- **Internet Governance:** A Resolution was passed that allows the ITU to expand its remit to Internet Governance. Specifically, the Resolution states that “all governments should have an equal role and responsibility for international Internet governance” and calls for the ITU and member states “to elaborate on their respective position on international Internet-related technical, development and public policy issues within the mandate of the ITU at various ITU fora.” This is clearly at odds with their earlier assurances that the ITRs would not be about the Internet.
- **Spam & Security:** The revised ITRs included new treaty articles on Spam and Security and Robustness of Networks. The member states went into the treaty conference with a shared assumption that content would not be a part of the discussion at the ITRs. However, the final treaty includes a provision for “unsolicited bulk electronic communications,” commonly referred to during and after the treaty negotiations as the “spam” provision, although as written, it could refer to virtually any kind of Internet message, a Tweet, or a

posting on a social network. Determining what constitutes a “bulk transmittal” and whether communications are “solicited” or not clearly involves matters of content (and somebody’s inspection of that content) and may lead to an increased authorization for governments or intergovernmental agencies to review the content of communication on the Internet. The Spam and Security articles could lead to legitimizing content monitoring and stifling freedom of expression online. This is a serious concern for individual users and a problem for companies that depend on the free-flow of information for their businesses.

- **Operating Agency:** The number of entities potentially affected by the revised ITRs has increased due to a new definition of “Authorized Operating Agencies”, which is wider than the former “Recognized Operating Agencies” definition. Several countries insisted on maintaining the former definition, calling the entities that are subject to the treaty’s rules “Recognized Operating Agencies,” which would include most licensed telecommunication providers, and, importantly, would exclude Internet companies. Russia, China, and several countries in the Middle East demanded that the treaty include all “Operating Agencies.” Ultimately, the treaty deleted the word “recognized” and replaced it with “authorized” operating agency. However, the term “Recognized Operating Agency” is a term of art with more than two decades of use in international law, and there is no precedence for using the term “Authorized Operating Agency.” This new term is vaguely defined in the text itself, and we fear that this change could potentially be interpreted to apply to a wide range of entities as well as private parties, and be used by many countries to effectuate new rules and regulations that Russia, China and other countries clearly sought to achieve.
- **Internet charges:** Proposals pertaining to the regulation of charges for Internet traffic, first suggested by the European Telecommunications Network Operators Association (ETNO), have been resurfaced in the form of an attached Resolution. Like the Resolution on Internet governance, the Resolution that deals with traffic charges is not part of the core treaty text, but its inclusion clearly reflects the ITU’s desire to influence regulations in this area. The Asia Internet Coalition had earlier shared our concerns with the IDA on why this proposal is harmful not just for the Internet, but for businesses in general. We attach a copy of the submission for your reference.

Apart from the final provisions in the revised ITRs, we were also very troubled by how the decisions were taken during the negotiations. The ITU has a history of doing things by consensus rather than by voting, which has been important so that nobody loses. And we were also repeatedly told by the ITU that all treaty-based decisions would be made through consensus and without a vote. To the contrary, the Resolution on Internet governance was put into the treaty at 1:30 in the evening after the Chair took a straw vote---one that clearly showed that there was no

consensus on the topic. Also, on the final day, Iran made a motion that the Chair accepted to take a vote on some final provisions related to the Preamble. This was not the consensus-building process that delegates were promised.

We struggle to understand the reasons for Singapore's vote in favor of the revised ITRs as its outcomes would clearly run counter to Singapore's economic aims to harness the Internet to serve the global market. Notwithstanding the divisive stance that member countries found themselves having to take at WCIT-12, Singapore could have chosen not to sign the treaty while in Dubai, or alternatively, conduct further internal consultation (as many countries are doing now) before making a final decision. The message that Singapore is sending to the global business community is, thus, rather troubling.

Going forward, we hope that Singapore will take time to reconsider its decision and not to ratify the treaty. Matters of Internet policy will continue through the next two years at two major events, including the World Telecommunications/ICT Policy Forum in May 2013 and at the World Summit on the Information Society (the WSIS +10 review) in 2014 and 2015.. These fora will be good opportunities for Singapore to seek clarifications on, and question the intent of, the proposals raised.

Ideally, these fora will present a positive opportunity for Singapore to send a strong message to the global business community that Singapore stands behind the multi-stakeholder model that has brought the Internet's growth so far today.

We would be most willing to work with Singapore on Internet-related issues and provide views where appropriate. Please do not hesitate to contact us if you have queries.

Thank you.

Best,

A handwritten signature in black ink, appearing to read 'J. Ure', with a long horizontal line extending to the right from the end of the signature.

Dr John Ure
Executive Director
Asia Internet Coalition