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| **Expert Group on the International Telecommunication Regulations (EG-ITRs)** |  |
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| South Africa (Republic of) | |
| comprehensive review of the INTERNATIONAL TELECOMMUNICATIONS REGULATIONS | |

1. The Republic of South Africa is again grateful for the opportunity to participate in the important work of the Expert Group on the International Telecommunications Regulations (EG-ITRs) in relation to the comprehensive review of the International Telecommunications Regulations (ITRs).
2. The Republic of South Africa hereby submits its contribution with respect to the provision by provision examination of **Articles 5 – 8 and Appendix 1** of the 2012 ITRs (Annex I).
3. The Republic of South Africa looks forward to working with other member states in fulfilling the objectives of the ITU.

Annex: 1

**Examination Table**

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| **2012 Article** | **Sub article and provision** | **Related 1988 sub article and provision** | **Applicability in fostering provision and development of networks and services** | **Flexibility to accommodate New trends and Emergent issues** | **Summary outcome** |
| **Article 5** | **45**  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. | **39**  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 takin due to account of relevant CCITT Recommendations. | This regulation fosters provision and development of networks and services as it relates to safety-of-life services. | * Sufficiently flexible; latest ITU-T Recommendations apply. * Also, Article 5.1 can accommodate new trends such as cyber security. | **No change required** |
| **Article 5** | **47**  5.3 The provisions governing the priority enjoyed by any other telecommunication services are contained in the relevant ITU-T Recommendations. | **41**  5.3 The provisions governing the priority enjoyed by all other telecommunications are contained in the relevant CCITT Recommendations | This regulation is effectively the same as those contained in the 1988 ITRs and does not obstruct the development of networks and services. | * Sufficiently flexible; latest ITU-T Recommendations apply. * Care must be taken to ensure that Government Communications only enjoy priority where necessary and affect matters of state security. Citizens constitutional rights and freedom of speech must be considered. | * **No change required.** * Local constitutional rights and freedom of speech must only be limited in accordance with local laws. |
| **Article 5** | **48**  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  . | No similar clause. | This regulation does not obstruct the development of networks and services; supports the use of emergency service nationally | Sufficiently flexible; non-mandatory | **No change required.** |
| **Article 6** | **49**  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. | No similar clause. | * It is proposed that the word “effective” be replaced with “efficient”.   Security and robustness of networks through international cooperation are key in the development of telecommunications networks.   * Article 6.1 is still applicable in fostering provision of networks and services. | Sufficiently flexible. | **Change required.** |
| **Article 7** | **50**  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. | No similar clause. | * Unsolicited bulk electronic communications may negatively impact telecommunication operators and users. * Article 7.1 is still applicable in fostering the provision and development of networks and services. | Sufficiently flexible. | **No change required.** |
| **Article 7** | **51**  7.2 Member States are encouraged to cooperate in that sense. | No similar clause. | * Absence of this article may negatively impact communication networks and services. * Provision still applicable in fostering the provision and development of networks and services. | Sufficiently flexible. | **No change required** |
| **Article 8** | **53**  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. | No similar clause. | * This regulation reflects existing practice and upholds the sovereign right of each Member State pertaining to international arrangements. * The provision still applicable. | Sufficiently flexible. | * **No change required.** * Arrangements through commercial agreements is supported and should be favored over accounting-rate principles. |
| **Article 8** | **54**  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. | No similar clause. | * Fostering provisioning and development of international networks and services requires that the investor to obtain a reasonable return on their investment. * The provision still applicable. | * Sufficiently flexible. * Encourages investment, competition and competitive prices. | **No change required** |
| **Article 8** | **57**  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. | No similar clause. | * Allows for commercial agreements to be established. * The provision still applicable. | * Sufficiently flexible. * Need to consider whether telecommunications arrangements are still established through accounting rate principles. If not, consider revising the text to only cater for commercial arrangement. South Africa only transacts through commercial arrangement. | **No change required.** |
| **Article 8** | **58**  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. | **47**  6.2.1 For each applicable service in a given relation, administrations [or recognised private 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 CCITT Recommendations and relevant cost trends. | * This regulation deviates very little from the related 1988 provision. does not delay the provision of networks and services. * The provision still applicable. | * Sufficiently flexible. * Commercial agreements excluded from these provisions. | **No change required** |
| **Article 8** | **59**  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. | **52**  6.4.1 Unless otherwise agreed, administrations [or recognised private operating agencies] shall follow the relevant provisions as set out in Appendices 1 and 2. | * This does not impact the provision of networks and services negatively. * Provision still applicable. | * Sufficiently flexible. * commercial agreements allowed. | **No change required** |
| **Article 8** | **60**  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. | **49**  6.3.1 In the absence of special arrangements concluded between the administrations [or recognised private operating agencies], the monetary unit to be used in the composition of accounting rates for international telecommunications 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 organisation;  - or the gold franc, equivalent to 1/3.061 SDR. | * This does not impact the provision of networks and services negatively. * Provision still applicable. | Sufficiently flexible. | **No change required** |
| **Article 8** | **62**  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. | **43**  6.1.1 Each administration [or recognised private operating agency] 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 dissymmetry between the charges applicable in each direction of the same relation.  **44**  6.1.2 The charge levied by an administration [or recognized private operating agency] 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]. | Sufficiently flexible and incentivises use of the most efficient route. | Sufficiently flexible. | **No change required.** |
| **Article 8** | **64**  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. | **45**  6.1.3 Where, in accordance with 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. | The regulation appears identical to the related 1988 regulation. | * Sufficiently flexible. * Does not automatically impose fiscal taxes on other countries – hence maintains sovereignty of Member States. | **No change required.** |
| **Article 8** | **66**  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. | **54**  6.5.1 Administrations [or recognised private operating agencies] shall follow the relevant provisions as set out in Appendix 3. | The provisions of Appendix 3 of the 1988 ITRs were incorporated into the text of the 2012 ITRs. | Sufficiently flexible. | **No change required.** |
| **Article 8** | **67**  8.4.2 The general operational, charging and accounting principles applicable to service telecommunications should take account of the relevant ITU-T Recommendations. | No similar clause. | This regulation re-enforces the accounting principles to be applied in international agreements. This does not undermine the provision of networks and services. | Sufficiently flexible; latest ITU-T Recommendations apply. | **No change required.** |
| **Appendix 1** | General provisions concerning accounting. | General provisions concerning accounting. | Does not hamper the provision and development of networks and services. | * Sufficiently flexible. * Commercial agreements are allowed. | **No change required.** |