

March 4, 2022

To,
The Bangladesh Telecommunication Regulatory Commission (BTRC)

Subject: International coalition of organizations calls on the BTRC to withdraw and reconsider the “Bangladesh Telecommunication Regulatory Commission Regulation for Digital, Social Media and OTT Platforms”

Respected Chairperson, Commissioners, and staff of the BTRC,

The undersigned organizations urge you to protect people’s rights and freedoms, and enable an open, free and secure internet in Bangladesh. The draft “Bangladesh Telecommunication Regulatory Commission Regulation for Digital, Social Media and OTT Platforms” (Draft Regulations), [published online](#) on February 3, imperils people’s freedom of expression, and right to privacy, undermines encryption and weakens online safety. If enforced, the regulations will have a deleterious impact on human rights, and put journalists, dissidents, activists and vulnerable communities, in particular, at greater risk.

The Draft Regulations seek to implement a content governance framework devoid of adequate judicial oversight, clarity and predictability, and integration of human rights and due process. The Draft Regulations are inconsistent with the international human rights framework, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Further, they contravene widely endorsed principles for content governance rooted in international human rights standards including the [Manila Principles on Intermediary Liability](#) and the [Santa Clara Principles on Transparency and Accountability in Content Moderation](#). Efforts by telecommunications regulators to change regulations to address concerns around [“Over-the-Top” \(OTT\) services can have significant negative impacts on human rights as well as broader principles such as network neutrality, if done improperly](#).

The Draft Regulations appear to mirror many of the provisions in the problematic Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, in India. The Indian Rules are an example of a framework that hurts democracy and must not be emulated. They have been [criticized for jeopardizing human rights](#), with [demands for withdrawal](#) from many quarters. The Indian Rules are currently facing multiple legal challenges before Indian courts, which have issued interim orders against the Indian Government to not enforce significant portions of the Rules.

We respectfully call upon the BTRC to withdraw and reconsider the Draft Regulations, as they erode digital security and put human rights and freedoms at risk. The BTRC must frame its consultation around the exact problems it wishes to address and engage with stakeholders on what regulatory options are best suited to address them, rather than forcing through one, overbroad set of regulations.

In anticipation of a sustained and meaningful consultation with all stakeholders on any further development of the regulatory framework for internet intermediaries and digital services available in Bangladesh, we highlight the following initial key concerns with respect to select provisions in the Draft Regulations:

- **The absence of a safe harbor provision and specter of penalties** for intermediaries, and their employees, will have a chilling effect on free speech and result in over-censorship.

- **The traceability** requirement will [undermine end-to-end encryption, violate privacy and thwart free expression](#). Further, vulnerable individuals and communities, including journalists, dissidents and activists, would increasingly be at risk of being targeted.
- **The mandate for intermediaries to block an overbroad and ambiguous range of content**, including content that is “insulting”, “harmful”, “offensive” or “breaches secrecy of the government”, is illegitimate, an unreasonable restriction on the fundamental right to freedom of expression, and categorically against the <https://necessaryandproportionate.org/>.
- **Truncated timelines for content removal** would [result](#) in over-censorship and/or excessive prior restraints, arbitrary decisions, erosion of due process, contravention of democratic principles, and unreasonable restrictions on the basic human right to freedom of opinion and expression under Article 19 of the UDHR and ICCPR.
- **Overbroad definitions** (e.g., OTT is defined as “content, a service or an application that is provided to the end-user over the public internet”) in an attempt to implement a one-size-fits-all approach to regulate multiple services that are functionally, technically, and operationally different, [are fundamentally flawed](#).
- **The Government’s plans to adopt a Code of Ethics** which is binding on all media, defined broadly, which effectively gives the Ministry of Information unfettered power to set content rules for the media, contrary to international law.
- **Legislative backing and parliamentary approval** is important for implementing a framework with such far-reaching and transformational impact on fundamental rights and internet freedom. The Draft Regulations should involve prior consultation with all stakeholders, in line with democratic procedure and international best practices.

In order to protect human rights and enable a free, open and secure internet, it is imperative for the BTRC to withdraw and reconsider the Draft Regulations. Further, sustained, meaningful and in-depth consultation with stakeholders is a prerequisite to the development of a rights-respecting framework. We urge the BTRC to engage in such a process prior to developing regulations for intermediaries and digital services that would impact people’s rights and freedoms, and indeed democracy itself.

Thanking you,

Access Now

Article 19

Asian Forum for Human Rights and Development (FORUM-ASIA)

Association for Progressive Communications (APC)

Business & Human Rights Resource Centre

CCAOI

Center for Democracy & Technology

Center for Media Research - Nepal (CMR-Nepal)

Collaboration on International ICT Policy for East and Southern Africa (CIPESA)

Committee to Protect Journalists

Digital Democratic Collaboration (DACol)

Digital Empowerment Foundation, India
Electronic Frontier Foundation
Encrypt Uganda
Global Partners Digital
Global Voices
Human Rights Watch
Innovation Solution Lab
International Council of Indian Muslims (ICIM)
Internet Freedom Foundation, India
Internet Society
Internet Society Catalan Chapter (ISOC-CAT)
Internet Society Delhi Chapter
Internet Society Hyderabad Chapter
Internet Society Venezuelan Chapter (ISOCVE)
Internet Society Kenya Chapter
Interpeer Project
Kapil Goyal (Individual)
KICTANet
Kijiji Yeetu
Last Mile4D
Manushya Foundation
National Corruption Control & Human welfare organization (NCCHWO), India
OpenMedia
Open Knowledge Foundation
Organization of the Justice Campaign
PEN America
Ranking Digital Rights
SFLC.in
Simply Secure
Tech for Good Asia
The Tor Project
UBUNTEAM
Vaultree
Wikimedia Foundation