

To:

Shri Ashwini Vaishnaw

Hon'ble Union Cabinet Minister for Railways, Communications, Electronics & Information Technology
Department of Telecommunications
Ministry of Communications
Government of India
New Delhi – 110 001.

Subject: International group of organisations and experts urge the Department of Telecommunications to withdraw the Telecommunications Bill, 2023, and protect fundamental rights.

Sir,

We, the undersigned organisations and experts, committed to an open, secure, and free internet, urge the Department of Telecommunications to withdraw the Telecommunications Bill, 2023 and address the concerns it raises, which we outline below.

The Bill imperils encryption, a crucial tool for privacy and free expression; amplifies unchecked powers of the government to impose internet shutdowns; and enhances surveillance without independent oversight. The Bill in its current form poses a grave threat to fundamental rights, democracy, and the internet as we know it, and must be withdrawn and altered in order to remove these flaws.

We respectfully submit that:

- The Bill authorises interception of messages and disclosure “in intelligible format”, without any exemption for encrypted platforms. An inalienable feature of end-to-end encrypted platforms is that no one other than the sender and intended recipient/s can access messages in any format, including the service provider. The Bill would threaten this foundational element that enables people to communicate freely and privately, in an environment of ever-increasing surveillance and [cyberattacks](#), and potentially even resulting in such secure services choosing to not operate in India, to the detriment of all. It must be emphasised that any change to the architecture of such platforms to facilitate access would result in a vulnerability that can be exploited by a range of actors, [enabling indiscriminate surveillance](#). Any notion suggesting that decryption/access abilities can be limited to select actors is wishful thinking. The inevitable ramification is weakening of online safety and cyber resilience overall, for individuals, businesses and governments.

Additionally, in empowering the government to notify standards and conformity assessment measures on “encryption and data processing in telecommunication” without any limitations, the Bill creates uncertainties around the ability of service providers to offer strong encryption,

and develop privacy-respecting innovations. This will have an impact on both human rights in the digital age, as well as trust in digital services offered in the Indian market.

- The Bill confers expansive surveillance and interception powers on the government, without meaningful independent and judicial oversight. Further, with requirements such as the one for telecommunication services to use “verifiable biometric based identification”, the Bill facilitates incursions on fundamental rights without any reasonable limitations and safeguards, against principles of necessity and proportionality. Even if inadvertently, the Bill reinforces the colonial-era mandates of the archaic laws that it seeks to replace, by establishing a system that prioritises centralised government powers over individual rights and democratic principles.
- India has witnessed the [highest number of internet shutdowns](#) for five years in a row. Instead of reforming the framework to prevent disruption of connectivity and consequent harms to rights and freedoms, the Bill entrenches existing powers to suspend telecommunication services, devoid of checks and balances. Internet shutdowns are inherently disproportionate and must not be perpetuated. As a former UN High Commissioner for Human Rights [explained](#), “[w]hen a state shuts down the internet, both people and economies suffer. The costs to jobs, education, health and political participation virtually always exceed any hoped for benefit.”

Given the immeasurable impact of the Bill on fundamental rights, the economy, and India’s growing leadership in the digital space, it is alarming that the current version of the Bill has been introduced in parliament without any public consultation. The new draft fails to modify provisions that were [criticised](#) in the [earlier draft](#) and introduces new ones that deepen the damage. **We respectfully call on the government to withdraw the Bill, and initiate inclusive, sustained consultation on the new draft, to incorporate rights-respecting amendments to protect encryption, privacy and security, and unimpeded access to an open, secure, and free internet.** Without substantive amendments, India will have failed to take the opportunity to showcase leadership among democracies in the digital age that the overhaul of the telecommunication framework presents.

Signatories:

Organisations:

Access Now

Africa Media and Information Technology Initiative (AfriMITI)

ARTICLE 19: Global Campaign for Free Expression

Article 21 Trust

Internet Freedom Foundation

Internet Society

Internet Society UK England Chapter

Last Mile4D

Majal.org - Bahrain

Media Diversity Institute - Armenia

Association for Progressive Communications
Avocats Sans Frontières France
Betapersei
Bloggers of Zambia
Center for Democracy & Technology (Global Encryption Coalition Steering Committee)
Centre for Internet and Society (CIS)
Centre for Law and Democracy
Common Cause Zambia
Committee to Protect Journalists
Computech Institute
Derechos Digitales - América Latina
Digipub News India Foundation
Digital Empowerment Foundation
Digital Rights Watch
Ekō
Electronic Frontier Foundation
Epicenter.works
Fight for the Future
Freedom House
Front Line Defenders
Global Network Initiative
Give1Project Gambia
Global Partners Digital (Global Encryption Coalition Steering Committee)
Global Witness
Indic Project
International Press Institute (IPI)
Internet Governance Project, Georgia Institute of Technology
MediaNama.com
MediaNet International Centre for Journalism
Mozilla (Global Encryption Coalition Steering Committee)
New America's Open Technology Institute
OONI (Open Observatory of Network Interference)
Open Net Korea
OPTF / Session
PEN America
Polis Project
Privacy & Access Council of Canada
Proton
SFLC.in
Signal Foundation
Southeast Asia Freedom of Expression Network (SAFEnet)
Superbloom
Swathanthra Malayalam Computing
Tech for Good Asia
The Tor Project
Tuta
Ubunteam
Voices for Interactive Choices and Empowerment (VOICE)
Wakoma
Webfala Digital Skills for all Initiative
YODET
Zaina Foundation
Zambian Bloggers Network

Individuals:

Anivar A Aravind, Public Interests Technologist
Angela Uzoma-Iwuchukwu, Digital Rights Advocate
Adeboye Adegoke, Digital Rights Advocate
Divyank Katira, Centre for Internet and Society
Gurshabad Grover, technologist and legal researcher
Hija Kamran, digital rights advocate
Nikhil Pahwa, Founder, MediaNama
Yusif Amadu, University of Ghana/ISOC GHANA