

**THE TREATMENT OF ILLEGAL BEHAVIORS CARRIED OUT THROUGH ICT**

The XV Meeting of the Permanent Consultative Committee I: Telecommunications,

**CONSIDERING:**

- a) That through the use of information and communication technologies (hereinafter "ICT"), particularly the Internet and information society services, the population may enjoy the rights and liberties set forth in national constitutions as well as in the various Inter-American agreements on the promotion of knowledge, education, research, culture, trade, work, leisure, the exchange of ideas, free thinking, justice, security and health. On the other hand, certain illegal behavior (e.g. fraud, copyright infringement, child pornography, defamation) may also be perpetrated through the use of ICT, and affect individual rights;
- b) That ICT are technologies that transmit, store, publish, find or make available content or information without assessing their nature and purpose;
- c) That many countries have been working through their respective agencies or legislatures in the development of regulations, public policies or laws related to ICT;
- d) That in certain cases these matters are generally regulated to correct or prevent illegal behavior by individuals who are now also using Internet or other ICT;
- e) That analyzing these matters requires information and/or technical knowledge on the structure and operation of the Internet and ICT, as well as on the various information society services provided through these technologies,

**RECOGNIZING:**

- a) That many countries with a highly developed ICT sector, including certain PCC.I Members, have established public policies and legislation to promote the development of the sector, which protect the function of technology and communications operators, when they act as intermediaries while transmitting, storing, referring to or making content generated by third party users available to individuals;
- b) That these policies and laws have proven highly efficient in those countries where they have been implemented as they have enabled the development and expansion of information society services and the increased use of ICT by their population;
- c) That within PCC.I there is a significant number of experts in the technologies underlying the Internet and its services;
- d) That as a result of the dynamic development of the ICT sector, and particularly the Internet and information society services, the agencies of Member States are required to implement continuing training on this matter;

---

<sup>1</sup> CCP.I-TEL/doc. 1871/09 rev. 1

- e) That there are attempts in the region to take legislative action targeting the functionalities of ICT instead of specifically going after illegal behaviors;
- f) That there is comprehensive supporting documentation available on these matters, and there are experts with deep knowledge on the complexities in this area, particularly about the borders between the things that are possible and not possible;
- g) That it is important that, in order to achieve highly compatible legislation and a favorable framework for the development of ICT, that in the region we consider the impartial nature of technologies and information and telecommunications services, such as networks and the related information society services,

## **RECOMMENDS:**

To encourage as appropriate:

- 1) That Administrations recommend that their ICT expert groups provide support to their respective executive, legislative or judicial branches in order to advise them on the structure and operation of the Internet and other ICT, as well as on the various information society services provided through these technologies and on the technical and functional possibilities of their operators to perform certain actions.
- 2) That such governmental expert groups coordinate efforts with the academic, technical and private sectors in relation to ICT and the information society services, to achieve a synergy of thought that may empower and deepen, which may result in an excellence of ideas to develop the best laws, public policies and regulatory models.
- 3) That such expert groups may act as a link to their peers in the other countries in order to achieve highly compatible legislation and a favorable framework for the development of information and communication technologies in the region.
- 4) That when it is necessary to persecute, correct or prevent illegal behavior involving information and communication technologies –such as the Internet and information society services- to bear in mind the operation of these technologies so as to avoid, to the extent possible and in accordance with each country's legal provisions, unnecessary or undue obligations for their technology operators, and to take proper actions against those who are truly responsible, potentially avoiding market distortions that might impair free competition or hinder the provision of information society services to users in the region.

## **REQUESTS THE EXECUTIVE SECRETARY OF CITEL:**

To distribute this Recommendation to all Administrations of Member States and Associate Members of CITEL.