



REPUBLIC OF MAURITIUS

**MINISTRY OF TECHNOLOGY, COMMUNICATION AND INNOVATION**

---

## “Internet Universality Indicators”

Comments from the Ministry as follows:

### Part 6 (A) - ICT Development Indicators (page 5)

The principal source proposed for this indicator is the ICT Development Index prepared by ITU. Note that ICT Authority is already submitting Data to ITU through various questionnaires namely:

- ITU World Telecommunication/ICT Regulatory Survey 2018
- Short World Telecommunication/ICT Indicators (WTI) questionnaire
- Long World Telecommunication/ICT Indicators (WTI) questionnaire.

### THEME E- Privacy (pages 10-13)

#### E.1 **Is the right to privacy guaranteed in law and respected in practice?**

- Yes, the Data Protection Act (DPA) 2017 is the law which governs the protection of personal data. It came into force on 15 January 2018 and it has been designed to align with the key principles in international law, ie the EU General Data Protection Regulation (GDPR).
- The Mauritian Constitution also covers the right to privacy.

#### E.2 **Is the protection of personal data guaranteed in law and enforced in practice, with respect to governments, businesses and other organisations, including rights of access to information held and to redress?**

- Yes, the Data Protection Act 2017 caters for the protection of personal data and rights of data subjects. Section 3 of the Act states that the Act applies to:
  - ministries,
  - government departments,

- controllers/processors (businesses and organisations) who are established in Mauritius and processes personal data in the context of that establishment; and who are not established in Mauritius but uses equipment in Mauritius for processing personal data, other than for the purpose of transit through Mauritius.
- Part VII of the Data Protection Act 2017 deals with the rights of data subjects. Sections 37 to 40 of the DPA 2017 indicate that data subjects have the rights to access, to erasure, the right to be forgotten when consent has been withdrawn and the rights to restriction, rectification.

**E.3 Are the powers of law enforcement and other agencies for the surveillance of Internet users necessary, proportionate and limited to circumstances which are consistent with international rights agreements?**

- There are authorities in Mauritius which provides assistance in the ICT sector such as the:
  - Information and Communication Technologies Authority which enforces the Information and Communication Technologies Authority Act.
  - Mauritian National Computer Security Incident Response Team CERT-MU which provides information and assistance to its constituents in implementing proactive measures to reduce the risks of information security incidents as well as responding to such incidents as and when they occur.
- However, to our knowledge constant surveillance of Internet users in Mauritius is not being done.
- If surveillance of Internet users is necessary then the authority concerned needs to abide by the overall provisions of Data Protection Act 2017. Section 28 of the Act relates on lawful processing (authority needs to provide lawful basis for surveillance) and the purpose of surveillance need to be justified (section 23 principles relating to personal data will also apply).

**E.4 Are any requirements for identification and registration, including communications registration, necessary, proportionate and consistent with international rights agreements?**

Subject to section 14 of the DPA 2017, no person shall act as controller or processor unless he or it is registered with the Data Protection Commissioner.

**E.5 Are data encryption and online anonymity protected in law and practice in a way that is consistent with international rights agreements?**

Yes. Subject to section 31 of the DPA 2017, a controller must ensure that appropriate security and organisational measures are in place at the time of the determination of the means for processing and at the time of the processing to provide a level of security appropriate to the harm that might result from the unauthorised access to, alteration of, disclosure of, destruction of the data and its accidental loss.

The measures include:

- pseudonymisation and encryption of personal data
- ongoing confidentiality, integrity, availability and resilience of processing systems and services
- restoring the availability and access to personal data in a timely manner in the event of a physical or technical incident
- regular testing, assessing and evaluating the effectiveness of technical and organisational measures

**E.6 Do citizens have legal rights to protect their online identity and to manage or correct information concerning them online, in ways that protect both privacy and freedom of expression?**

Yes, citizens (data subjects) have legal rights to protect their online information (online personal data). Data Protection Act 2017 caters for the protection of personal data (PART IV, V, VI, VIII) and rights of data subjects (Part VII of the Act). The decisions of the Commissioner, and judicial case law represent local jurisprudence.

**E.7 Are government requirements for Internet businesses to provide information to government agencies concerning Internet users necessary, proportionate, transparent and consistent with international rights agreements?**

The provisions of the DPA 2017 have to be complied with all stakeholders including government agencies.

This office acceded to the Council of Europe's Convention for Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) on 17 June 2016 at Strasbourg, France. The convention is the first and only international legally binding instrument dealing explicitly with data protection.

**THEME E- OPEN DATA (page 15)**

**Open data policies are concerned with making publicly available data that are gathered by governments (and, sometimes, other stakeholders) so that they can be used by any stakeholder. Data protection arrangements are important in ensuring that open data sets do not undermine individual privacy rights.**

It is good practice, whenever possible, to take a proactive approach and define in advance the datasets that could be made publicly available. Data subjects can then be informed, at the time of collection of the data, whether any data they provide, will become public. However, when datasets are completely and irreversibly anonymised, Data Protection Act will not apply since no personal data are involved.

**E.1 Has legislation been enacted which requires open access to public data, and is that legislation implemented?**

The Data Protection Act 2017 caters for the protection of all personal data. There is no specific legislation which requires open access to public data.

**Reply of the Ministry with regard to the three questions as per letter dated 08 February 2018:**

**1. Are there any additional themes, questions or indicators that you believe should be included in the framework?**

The draft report provides a concise and detailed analysis of the four independent fields of Internet policy and practice which are used for the assessment of a better Internet environment namely human rights, openness, accessibility and multi-stakeholder participation. Furthermore, indicators have been devised such that countries may assess their Internet environment through indicators such as access to information and knowledge, freedom of expression, privacy, and ethical norms and behavior online.

The indicators listed in the report addressed the various challenges to Internet Versality amongst many:

- Policy,
- Blocking, Filtering and Content Regulation,
- User Targeting and Profiling,
- Expression and Identification,
- Anonymity,
- Data protection and
- Surveillance, Jurisdictional Issues

**2.Are there any suggestions that you wish to make in respect of the proposed themes, questions and indicators that re included in the framework as it stands?**

The report covers numerous aspects in respect to the indicators and themes that underline the ROAM framework.

**3.What sources and means of verification would you recommend from your experience in relation to any of the questions and indicators that have been proposed?**

Workshops and training programmes with subjects covering indicators and themes underlying the ROAM framework could be offered by countries subscribing to the adoption of this framework in order to tap in further the challenges faced by these countries in order to provide a better and safer Internet environment.