

Letter seeking international support in defense of the Internet freedom in Mexico

(Drafted by [ContingenteMX](#), a digital activism collective. Paola Ricaurte, Jacobo Nájera, Diego Hernández, Daniel Gershenson, Jesús Robles Maloof)

To the Mexican Congress;

On March 24, 2014, Mexican president Enrique Peña Nieto presented to Congress a series of [initiatives regarding telecommunications](#) that seek to regulate the constitutional changes previously approved in June of 2013. Said reform was obtained by reaching an unprecedented social and political consensus that touched upon the guarantee of freedom of expression, the inviolable and private nature of communications, rights of information and access to technologies of information and communication -including the Internet- thus harmonizing these issues with international standards.

Regrettably, the presidential telecommunications initiative recently submitted to legislators -one that will be voted in the coming weeks- [contains articles that endanger](#) a truly free exercise of freedom of expression, due process and net neutrality; furthermore, the proposal dilutes the right of access to the Internet. It does not contain a single chapter pertaining to human rights, and only manages to exacerbate a model of surveillance and communications intervention firmly rooted in authoritarian control.

In this sense, article 197 of the proposal establishes that the authorities may order the blockage, suspension and inhibition "*in a temporary manner, of all telecommunications signals within events and places critical to public and national security ...*" There is no mention whatsoever of the circumstances in which these blockage would apply, nor the slightest safeguard for the protection of the people.

In modern societies, blocking communications (including the Internet) constitutes a *de facto* cancellation of the right to receive, research and transmit information, hence undermining the foundations of democracy. In this respect, the [Joint Declaration on Freedom of Expression and the Internet](#) issued by the UN, OAS, OSCE and CADHP maintains the following:

*Interruption or cancellation of access to Internet, in whole or in part, as applied to entire populations or specific sectors of the public, cannot in any case be justified for reasons of public order or National Security.*

Article 145 establish previous censorship by enabling Internet franchisees to "(...) *block access to certain contents, applications or services, by order of authority or if these contravene certain norms*" To block any type of content without judicial orders and to establish supervisory obligation is a direct violation of due process and would transform the experience of a free Internet into an endless labyrinth or prison under authority control. In this respect, the Joint Declaration states the following:

*Systems that filter content as imposed by governments and commercial service providers that are not controlled by the end user constitute a form of previous censorship, and under no circumstances represent a justified restriction to freedom of expression.*

Furthermore, the presidential proposal to establish provider obligations for geolocating persons in real time for purposes of "intelligence" (article 189), and the same operating networks are compelled to actively support the authorities during these intercept operations (article 190).

Not only does this initiative establish the obligation for the providers to purchase all necessary programs and equipment to effect geolocalization and intercept communications. It also forces them to produce yearly studies that would allow for better and improved vigilance techniques.

The law in question does not contemplate criteria or safeguards for the rights of freedom of expression, nor it concerns itself with personal privacy. Neither does it point out parameters for the acquisition of communications vigilance technology. It bears mention that Mexico has been called out by international organisms as one of the countries that has bought more spyware programs [like Finfisher](#), [HackingTeam](#) and Bluecoat. Their widespread use has been [openly criticized](#) by national and international organizations; its dubious legality, questioned by [the Mexican Congress](#).

Against a growing international current that lays down strict limits on data retention or even its outright prohibition, articles 192, 193 and 194 establish for the services providers data retention for two years, to be extended upon the request -and for that matter, at the discretion- of the authorities.

Net Neutrality is compromised by virtue of those dispositions contained in article 146 that permit service providers to offer differentiated "market segment" Internet access, with variable speeds and quality of service. Having advanced in enshrining the right of access to the Internet as a full-fledged constitutional right (article 6), Peña's initiative does not promote means of access to the more vulnerable sectors of the population; rather, it is a dry catalogue of general programs without advancing any specific rights, and condemns this country to keep occupying [the bottom rungs](#) in terms of Internet access.

During March of last year, a number of Mexican NGOs and [digital rights collectives](#) went to Congress and delivered a [concrete proposal](#) guaranteeing access to a free Internet all over the country. They made History by doing so; it was the very first time that an initiative of this nature -promoted by the citizenry, in accordance with recent constitutional changes- sought to become Law. Unfortunately it has yet to be considered by our legislators, and to this day remains in Limbo.

Last November Civil Society organizations [prodded the Mexican government](#), and beseeched it to support the United Nations General Assembly resolution project regarding Internet privacy as originally proposed by Germany and Brazil. Mexico not only voted in its favor, but [became one of its leading proponents](#).

UN resolution [A/C.3/68/L.45/Rev.1](#) regarding;

“*The Right of Privacy in the Digital Age*, specifically article 4, sections a), b), c) and d) establishes privacy protection safeguards as well as guarantees of non-impunity in cases of abuse; also, control procedures for legal interventions, independent accountability and transparency requirements as well as mechanisms supervising official surveillance.

We demand from the government that the process of telecommunications and broadcasting reform currently under legislative review comply with Constitutional guidelines, and also international standards as observed in treaties where Mexico has been a signatory.

Specifically, that it be based upon UN Resolution regarding the Rights of Privacy in the Digital Age, and OAS Joint Declaration regarding Surveillance Programs and their impact on Freedom of Expression, plus the [13 International Principles](#) pertaining to the Application of Human Rights to Communications Surveillance, as international benchmarks ensuring absolute respect of Human Rights in the Internet.

Signatures: