

i2Coalition Response to DSA survey

The Internet Infrastructure Coalition (i2Coalition) appreciates the opportunity to submit a statement for the public consultation with regards to the forthcoming Digital Services Act legislative packet. Founded in 2012 by a diverse group of Internet infrastructure companies, the i2Coalition is a global organization that supports and represents the companies that build and maintain the infrastructure of the Internet. Our members include cloud providers, data centers, web hosting companies, domain registries and registrars, and other foundational Internet enterprises. Beyond completing the survey itself, we believe it is important to stress a few issues that have direct impact on our member companies.

We believe that the future of intermediary liability regulation should be rooted in protecting fundamental human rights, safeguarding due process, and promoting transparency, each in terms of corporate action, as well as government warrants of surveillance, requests for information and content takedowns.

What is Internet Infrastructure

Often overlooked or misunderstood, the Internet infrastructure is the most fundamental part of what we call the Internet today -- the layer that undergirds everything. Without functioning “pipes” there wouldn’t be a way to transmit anything, be it important emails or streams of video games.

Internet infrastructure is the physical hardware, transmission media, and software used to interconnect computers and users on the Internet. Internet infrastructure is responsible for hosting, storing, processing, and serving the information that makes up websites, applications, and content.

It starts with data centers, the fundamental building block of the Internet’s infrastructure, which store everything that runs on the Internet. These are the proverbial cloud, servers connected to each other and the rest of the net, hosting the rest of the infrastructure: ‘web hosting’ or ‘domain name system’ services (DNS), storage, backup, virtual private network (VPN), or acceleration services. DNS services, for example, route viewers through a globally distributed network. They are the pathway between a series of numbers and signals and the ‘web’ as the average consumer would describe.



Together all these applications and services make up the infrastructure level of the Internet. The Internet Infrastructure Coalition (or i2Coalition) counts as its members global infrastructure companies and diverse businesses that built the Internet, including cloud providers, data centers, domain registrars, registries, and other foundational Internet enterprises, many headquartered or doing business in the EU.

Our members ensure the proper functioning of millions of other businesses online, as well as maintaining services crucial for end-users, from domain name services and VPNs to web hosting and data center companies. To say that the Internet infrastructure, and particularly the services our members provide, is useful would be a vast understatement.

Infrastructure Companies Step Up During the Pandemic

One current example of the critical services Internet infrastructure companies provide is the i2Coalition's VPN member companies' role in helping Europeans who are working remotely connect to their company network securely. Similarly, several i2Coalition members provide ecommerce tools which have enabled many businesses to pivot online in order to survive (for example, ecommerce tools facilitate online ordering and curbside pickups for many restaurants and small business shops).

Indeed, what our members build and maintain underpins the massive move towards online video meetings, cloud collaboration services, and everything else that's keeping the economy going under current pandemic restrictions.

The perpetual nature of the use of the Internet and the strong demand in recent months as the coronavirus pandemic has ravaged the globe highlights both the importance and resilience of the Internet, fundamentally maintained by infrastructure companies.

As a global public health and economic crisis unfolds due to the COVID-19 pandemic, and the world's population retreats to social distancing and isolation, the Internet is becoming indispensable to billions of people for purposes of work, leisure, connection to family and friends, and to obtain important information. This requires unprecedented trust in the system, the services, and processes that both power the Internet and are enabled by it.

The vast majority of our members' customers, whether they are bloggers or small business owners, increasingly rely on the Internet to provide an important service to billions of people worldwide. The i2Coalition's members, and the infrastructure industry in general, have been focused on supporting these legitimate customers and are committed to preventing fraud from occurring on our networks. i2Coalition's member companies take the trust of its customers and



the public in the Internet infrastructure very seriously and they are committed to actively protecting that trust, especially in times of global disruption. Our member companies strive every day to combat fraud online and given the current public health crisis, they are stepping up enforcement even more on these activities.

Successes of the existing framework at the Internet infrastructure level serves to indicate that intrusive requirements for the infrastructure industry within the forthcoming Digital Services Act would not be necessary. There is concern that disruption of the working model at this level may actually hinder the important work infrastructure-level companies provide in these times. Changing liability structures, and costs of compliance, has the potential of changing who can afford to be an Internet infrastructure company. When so much of the work of fighting fraud and abuse is done at this Internet infrastructure level, any disruption of existing systems needs to be done with a clear understanding of how it will affect the entire ecosystem of small to medium businesses in our industry, not just large platforms.

Infrastructure Intermediaries and What Kind of Liability They Should Bear

Internet infrastructure companies usually have no or limited access to user-generated content. As discussed in our description of the Internet infrastructure, there are intermediaries between various segments of the Internet as a whole. Carefully assessing the liability of infrastructure providers in light of their technical role in the Internet ecosystem is critical to the continued health of the Internet as a whole.

We are hopeful that European policy-makers, in shaping and creating legislation for the future of the digital economy, will keep in mind the multitudes of smaller infrastructure providers that keep the Internet running. These smaller businesses, while having a global reach, maintain strong ties to their local communities.

We believe that any legislation should carefully consider the interests of users, technology companies, small businesses and content creators. The Internet's resilience during the ongoing global pandemic has proven the importance of maintaining policies that keep all aspects of the Internet—the network of networks—economically sound and technologically strong.

We are also hopeful that in the debate on how to move forward on the issue of intermediary liability, European policy makers would not eschew traditional due process and push for “guilty until proven innocent” frameworks that would deprive companies of the ability to legally defend their businesses, particularly in the case of frivolous or overreaching lawsuits. In their early days, companies like YouTube and Twitter could grow because they were not shut down in their infancy due to lawsuits that treated them as publishers, as they would have been without clear understandings of intermediary protections. Due to the policy environment around the world,



these innovators—and so many others—had the chance to evolve, and collaborate with creators and IP holders to build robust and ever-evolving systems to combat piracy. They changed the status quo, and built platforms driving new value and revenue.

The Internet infrastructure and therefore the Internet itself are fundamented on openness and permissionless innovation, which has allowed new companies with new ideas to flourish, predicated on an understanding of Internet infrastructure providers as neutral intermediaries. In this existing framework, clear guidelines have emerged through the judiciary process as to when an Internet infrastructure company loses its intermediary protections. The benefits of the continuation of the existing model, including the preservation of the role of the judiciary, would be visible not just in the European but also the global economies.

Legislation shifting liability to infrastructure companies would severely limit if not otherwise stop these companies from properly doing their work. Unlike platforms that deal directly with content, a majority of infrastructure companies do not have the ability to use a scalpel to remove specific posts or website pages. Rather, they can act by taking down entire websites, including, for example, restricting entire e-commerce sites (rather than one offending product), or shutting down hosting or banning VPN users altogether. Consequently, any further liability that is geared directly at these companies would result in a significant reduction of legitimate content online, and numerous unintended consequences.

The future Digital Services Act has the opportunity to shape the next stage of digital regulation in a way that does not inhibit the functioning of the Internet, but allows it to grow and fulfill its potential.

Internet Infrastructure Coalition
718 7th Street NW
2nd Floor
Washington DC, 20001

web: www.i2coalition.com
email: contact@i2coalition.com
tel: (202) 524-3183

