

RIPE NCC Response to AIV Report *Regulating Online Content: Towards a Recalibration of the Netherlands' Internet Policy*

Recommendation 1: Recalibrate the Netherlands' Internet policy

The RIPE NCC recognises the role of governments in Internet governance, particularly in protecting human rights and the rule of law. However, we are pleased to see the statement from AIV that, “cooperation with the private sector in multistakeholder governance is the preferred option” and would encourage the Dutch government to expand this definition of the multistakeholder model to include, importantly, the technical community that develops the policies around certain aspects of Internet governance.

Technical communities have a wealth of knowledge and experience to share and are an essential component of the multistakeholder model. Including them in national and international policy discussions is the only way to ensure that technically sound policies can be developed and consistently implemented across networks and borders, and that unintended consequences that may affect the technical underpinning of the Internet's operation can be avoided.

Recommendation 2: Defend and promote the open and free nature of the internet on the basis of values of democracy and the rule of law

The RIPE NCC again recognises the paramount need to protect democracy, the rule of law and human rights. We understand that the Internet poses challenges to these values, even as it can also serve to uphold them. This is only the case because the Internet itself is a neutral technology that includes no implicit moral code of conduct. It is the way in which people make use of this technology – the content and applications they create that run on top of the technical infrastructure of the Internet – that poses the threat, and not the technical structure of the Internet itself. It is, therefore, the harmful content, applications and users that must be targeted in any efforts to protect citizens.

It's important to remember that although we often refer to the Internet as a singular technology, it in fact comprises many layers that each play a role in its functioning. We urge the Dutch government to make a clear distinction between the Internet's core infrastructure and operations, and the content and applications that run on top of that. Interference with the Internet's core – including Internet addressing and routing, the IP and DNS layers – should be an absolute last resort. Interference with these layers has profound implications for the normal functioning of the Internet and carries with it the potential for mass disruption.

We urge a more sophisticated approach in targeting the specific content and applications that cause harm, rather than the foundation on which they stand. We encourage the Dutch government to refer to the recommendations of the Global Commission on the Stability of Cyberspace (GCSC) – comprised of members from different stakeholder groups across

different regions – which include a “Norm to Protect the Public Core of the Internet,” as well as the WRR’s publication, *The public Core of the Internet: An International Agenda for Internet Governance*.

Any fragmentation of the Internet, even on a regional or minor level, must be strictly avoided. The open and free nature of the Internet that AIV seeks to protect is made possible by the fact that it is a singular, global Internet available to all persons, in every corner of the world. As the report itself states, any fragmentation “would inevitably bring harm to the internet as a cross-border medium for free expression and access to information.” This is an important concept, and any steps that might undermine that message would, in our view, harm the Netherland’s reputation as a trusted champion of a free and open Internet.

We urge the Dutch government to work with the technical community to develop policies that protect citizens without interfering with the Internet’s core infrastructure or operations, while protecting the nature of the open and free Internet – the very nature that serves democracy, citizens and human rights.

Recommendation 3: Strengthen Dutch representation in international internet organisations

We applaud the recommendation for the Netherlands to participate fully in discussions around Internet governance that take place in ICANN, the IETF, the IGF and the ITU. The Netherlands has been a leader in Internet development since the Internet’s inception and, as noted in the report, is home to the RIPE NCC and the Amsterdam Internet Exchange (AMS-IX), as well as a knowledgeable technical community of operators and other providers responsible for maintaining the Internet’s technical backbone.

The RIPE NCC has offered the Dutch government its technical expertise and cooperation in the past and will continue to do so whenever possible, and can help facilitate cooperation between the government and the technical community within the Netherlands in order to share technical knowledge and best practices.

Recommendation 4: Promote the establishment of international standards for dealing with harmful online content, solidly anchored in existing human rights standards

Because the Internet operates across borders, the concept of what constitutes harmful content should be informed by international norms, such as those laid out in the Budapest Convention and other EU and international efforts in harmonising national laws. It’s important for the Dutch government to contribute to global dialogues on Internet governance, such as those that take place at the global Internet Governance Forum, and to ensure that the Netherlands maintains an active role in policy development within ICANN, the IETF and the RIR communities to ensure those norms are embedded in policy development at the technical level.

Recommendation 5: Initiate measures aimed at transparency and supervision

The RIPE NCC has no response to this recommendation.

Recommendation 6: Promote value-sensitive design and the digital commons

The RIPE NCC has no response to this recommendation.

Recommendation 7: Involve independent national expert bodies in the assessment of harmful online content

The RIPE NCC has no response to this recommendation.

Recommendation 8: Advocate a duty of care for internet platforms, under clear conditions

Any requirements imposed on Internet platforms must be balanced with proportionate liability on the part of the entity requesting action (such as content removal), and should not jeopardise the safe harbour principle for online intermediaries or lead to automatic content filtering. This is important in ensuring that bad actors don't take advantage of platforms' duty of care for their own purposes – this could include, for example, requesting content removal or other actions that could benefit them by providing a competitive advantage or some other self-serving purpose.

As we argued in our position paper on the Digital Services Act, imposing overly restrictive measures on Internet platforms or making it too easy to request action could have unintended consequences – especially when legislation covers the concept of not only illegal, but harmful content. For example, a bad actor could send millions of automated notice-and-takedown requests to a competitor or enemy as a sort of denial-of-service attack if there is no cost to them in requesting action, and yet the platform receiving the requests is under strict obligations and deadlines to comply. Again, there must be clear guidelines on when and how different online service providers can and should take action. And in the case of any action that could affect the Internet's core, the burden of proof on the entity requesting action must be proportionately high.

The full text of our view on the Digital Services Act is available here:

https://labs.ripe.net/Members/suzanne_taylor_muzzin/our-view-on-the-upcoming-digital-services-act

Recommendation 9: Ensure that platforms' terms of use are human rights-inclusive

The RIPE NCC has no response to this recommendation.

Recommendation 10: Increase the digital resilience of internet users

The RIPE NCC has no response to this recommendation.