

**15 May 2020**

To

Dr. Guruprasad Mohapatra  
The Secretary,  
Department for Promotion of Industry and Internal Trade,  
Ministry of Commerce and Industry,  
Government of India

Dear Sir,

**Subject: Asia Internet Coalition (AIC) Submission on proposal to amend the Information Technology Act, 2000**

The Asia Internet Coalition (“**AIC, us, we**”) and its members express our sincere gratitude to the Government of India and Ministry of Commerce and Industry for the opportunity to submit initial comments on India’s **Information Technology Act, 2000** (IT Act). AIC is an industry association that promotes the understanding and resolution of internet policy issues in the Asia Pacific region. We seek to represent the internet industry and to participate and promote stakeholder dialogue between the public and private sectors, sharing best practices and ideas on communications technology and the digital economy. To further its mission of fostering innovation, promoting economic growth, and empowering people through the free and open internet, AIC would like to present our inputs on the planned amendments to the IT Act. These are exceptionally challenging times globally for individuals, governments, and businesses. We appreciate that the current priority of the Government of India, and of governments around the world, must be to mount the strongest possible economic and public health response to the outbreak of COVID-19.

Based on [recent news reports](#), we understand that the Ministry of Electronic and Information Technology (MEITY) is presently considering bringing in amendments to the Information Technology Act, 2000 (IT Act) and is discussing the matter with other governmental ministries and departments. We believe that it is in pursuance to these discussions that the Department for Promotion of Industry and Internal Trade (Department) has [reached out](#) to certain members of the digital industry to present their thoughts on the proposal to amend the IT Act.

In furtherance of these efforts, we would like to share our inputs on the issue of amending the IT Act with the Department and set out our views on the matter below.

- 1. Impact of ongoing pandemic on legislative process:** The Indian government has been increasingly democratizing the process of legislation and has been involving the public in its rule-making activities. The Department and MEITY have been at the forefront of holding multi-stakeholder consultations for a range of proposed regulations and it is in this spirit that our views, along with those of our contemporaries have been sought for amending the IT Act. However, as the country presently battles the unprecedented crisis in the form of the COVID-19 pandemic, in our opinion, this time is not suited to bring in any major legislative changes. The pandemic has unleashed a range of novel issues for the digital industry which is presently directing all its efforts to provide effective communication, entertainment, logistics, telemedicine and tele-education services to Indians across the country. At the same time, online service providers are trying to build

solutions in these areas which address the aforementioned concerns in a secure manner and does not compromise the users' security and privacy. We therefore believe that it may not be possible to consult experts across industries, the civil society and academia on such matters at this time, as each member of the industry navigates through the challenges posed by the pandemic. Without meaningful public consultation, any amendments to the IT Act may find lack of acceptance from concerned stakeholders and may fail to adequately address their concerns.

2. **Existing proposals to amend the IT Act and legal framework thereunder:** On the other hand, there are several impending regulatory changes that have been subject to detailed and lengthy public deliberation and presently await the approval of MEITY and the Parliament. For instance, the Personal Data Protection Bill, 2019 and the Draft Information Technology (Intermediaries Guidelines) Amendment Rules, 2018 are two major pieces of legislation geared towards changing the existing regulatory framework under the IT Act. The Rajya Sabha has also identified the need for amending the IT Act to include provisions for dealing with the spread of child sexual abuse material online. In making these recommendations, the Rajya Sabha also met with and sought the opinion of subject matter experts. It is our humble submission that MEITY finalize the impending policy frameworks and proposals first and bring to conclusion several months of concerted efforts of the people and the government.
3. **Other proposed regulatory measures:** Certain other governmental agencies have also initiated regulatory efforts to address issues faced by their respective domains due to the operations of various online services. For instance, the Department itself published the Draft E-Commerce Policy for public comments last year. The Draft Consumer Protection Guidelines, 2019 issued by the Ministry of Consumer Affairs are another example of regulatory efforts directed towards governance of e-commerce activities. However, such multiple measures to regulate overlapping spheres has resulted in considerable jurisdictional conflict and regulatory ambiguity. We request the Department to work with MEITY for clarifying these issues and finalizing the aforesaid regulations so as to rest the apprehensions caused by the anticipated impact of these measures on the operations of online service providers in India. Along with clearing the prevailing legal uncertainty, we recommend that regulators avoid overly restrictive regulatory approaches and opt for a 'light touch' approach when deliberating on these matters so as to create regulations which permit smooth flow of data and allow business and technological innovation. It is important to create permissive regulation to not only help online businesses thrive in India, but also to avoid judicial scrutiny and possible quashing of measures which are considered to be restrictive of constitutionally guaranteed rights and freedoms by the judiciary.

**Conclusion:** Lastly, we would like to submit that in view of the spread of COVID-19, the thrust of regulatory measures in the IT sector should be aimed at assuaging the fears and apprehension resulting from the pandemic. The government should resort to a comprehensive consultation process and collaborate with industry to enable people to successfully work from home, support healthcare providers and for smooth functioning of essential services. This time should be utilized for creating solutions for the health, logistics and communications challenges posed by the pandemic in the online services industry. Therefore, deliberating on legislative upheavals at such a time may not be advisable for creating public policy and regulatory frameworks that facilitate the development of the national digital industry.

We greatly appreciate your consideration of this request and stand ready to work with you and your Government.

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact our Secretariat Mr. Sarthak Luthra at [Secretariat@aicasia.org](mailto:Secretariat@aicasia.org) or at +65 8739 1490. Thank you for your time and consideration. Importantly, we look forward to offering our inputs and insights directly through meetings and discussions and help advance India's digital economy goals.

**Sincerely,**

A handwritten signature in blue ink that reads "Paine".

**Jeff Paine**  
**Managing Director**  
**Asia Internet Coalition (AIC)**

**Cc:**

*Shri Piyush Goyal*  
*Minister of Commerce and Industry*  
*Department for Promotion of Industry and Internal Trade*

*Shri Ravi Shankar Prasad*  
*Hon'ble Minister Law & Justice,*  
*Communications and*  
*Electronics & Information Technology*

*Shri Ajay Prakash Sawhney*  
*The Secretary,*  
*Ministry of Electronics and Information Technology,*  
*Government of India.*