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Internet Association



December 13, 2017

Marcos Peña
Chief of Cabinet
Office of the Presidency
Buenos Aires, Argentina

Francisco Cabrera
Minister
Ministry of Production
Buenos Aires, Argentina

Pablo Avelluto
Minister
Ministry of Culture
Buenos Aires, Argentina

Emilio Monzó
President
Chamber of Deputies
Buenos Aires, Argentina

Andrés Ibarra
Minister
Ministry of Modernization
Buenos Aires, Argentina

Dear Chief of Cabinet Peña, Minister Avelluto, Minister Ibarra, Minister Cabrera, and Chamber President Monzó:

Re: *Bill 0942-S-2016 (Intermediary Liability in Argentina)*

The Information Technology Industry Council (ITI), Internet Association (IA) and the Computer & Communications Industry Association (CCIA), all recognized voices of the global technology and Internet sectors, respectfully submit the following letter in support of Bill 0942-S-2016, currently under discussion in the Argentine Chamber of Deputies, regarding intermediary liability. We the undersigned encourage passage of the bill, which will foster innovation, while protecting fundamental rights in Argentina.

Argentina has a demonstrated history of global leadership in fostering innovation. The intermediary liability bill currently under consideration would build on this leadership, and its passage would solidify Argentina's role as a first-mover in this important policy space. The balance found in this bill will contribute positively to the development of Argentina's economy, while following the highest standards of international and human rights law.

The bill currently under discussion in the House provides a specific legal framework, limiting intermediaries' liability for the content generated, published, or uploaded by users, until they are notified through a court order of specific illegal content. This mechanism gives clear rules for the development of the Internet in Argentina and protects all the interests involved, relying on the high standards of court intervention and self-regulatory mechanisms.

Internet services have transformed communications and enabled small and medium-sized businesses to reach global audiences in ways never possible in the past. A fundamental reason that services have been able to play this role is their open nature: online services and/or intermediaries can facilitate communications and transactions among millions of individuals, businesses and consumers, enabling them to connect directly on a global basis. This model works because intermediaries can enable these transactions without being held liable for the vast amounts of content surrounding each transaction.

According to a recent study, setting a legal framework for intermediary liability has had a huge impact on the economy of the United States. The study shows that weakening intermediary liability protection laws would potentially cost 4.25 million jobs and \$44 billion in GDP. The absence of these protections would impose higher entry cost to startups and small and medium-sized businesses, limiting innovation. Also, intermediary liability protections provide more legal certainty, something that, according to a 2016 survey, 94% of investors consider as a positive asset for investment.¹

We have supported balanced intermediary liability protections in the United States and other countries around the world – and we also recognize the importance of ensuring that such regimes are in harmony with national legal systems and traditions. We note that other countries in Latin America, including Chile and Brazil, have taken steps forward in providing conditions for legal certainty in the online ecosystem. The proposed bill in Argentina not only follows the Latin American Continental Law tradition, and also various international instruments on human rights, such as the Inter-American Convention on Human Rights, which empowers users while protecting their freedom of speech. Consequently, for the Argentine context, the bill empowers courts, not intermediaries, to be in a position to adjudicate the legality of certain behaviors.

For the reasons articulated in this letter, we support Bill 0942-S-2016 and call for its approval in the Chamber. Not only will it grant certainty to the activities of intermediaries and users, it will promote freedom of expression and the development of the digital ecosystem in the country.

Sincerely,

Computer & Communications Industry Association (CCIA)
Internet Association (IA)
Information Technology Industry Council (ITI)

¹ Internet Association, *Eliminating Internet Safe Harbors Would Hurt The Economy* (NERA Economic Consulting 2017), <https://cdn1.internetassociation.org/wp-content/uploads/2017/06/NERA-Intermediary-Liability-Two-Page.pdf>,