

5 December 2023

Honorable Minister Rekha Sharma
Minister of Communication and Information Technology
Singha Durbar,
Kathmandu 44600,
Nepal

Subject: Recent Regulatory Developments in Nepal and Request for a Meeting

Dear Honorable Minister,

The Asia Internet Coalition (“AIC”) a leading industry association of Internet and technology companies that promotes the understanding and resolution of Internet policy issues in the Asia Pacific region. Our mission is to represent the Internet industry and participate in and promote stakeholder dialogue between the public and private sectors, sharing best practices and ideas on Internet technology and the digital economy.

We write to you to express our concerns regarding recent regulatory developments namely the **Social Media Directive and the future moves to ban social media applications**. While we acknowledge the importance of regulating social media platforms to ensure the responsible use of digital spaces, recent regulatory decisions by the Government of Nepal raise significant concerns as they go against global best practices and have been introduced without any public or industry consultations.

Below we present key overarching issues and recommendations:

1. The Need for a Consultative Process

We humbly request the Nepalese government to consider the issues highlighted in this representation and provide us an avenue for further engagement and input. As an industry association, AIC strongly believes in the potential for multi-stakeholder dialogue to shape policies and legislation to foster innovation and technological advancement. However, the Directive and Regulatory approach, in its current form, would make it extremely difficult for AIC Members to make their platforms and services available to Nepalese users and businesses. If Nepal wants to be an attractive destination for technology investment and realize its goal of digital transformation, we urge the Government to work with industry on practical, clear rules that protect the benefits of the internet and keep people safe from harm.

On this note, we kindly request the Government of Nepal to initiate a consultative process involving industry stakeholders and civil society organizations. A collaborative dialogue will not only enhance the effectiveness of the directive but also ensure that it aligns with global practices and the principles of a free and open digital environment. We are committed to working constructively with the Ministry to address these concerns and contribute to the development of a regulatory framework that meets the needs of both industry players and the broader community and addresses the concerns of the Government. By conducting a consultation process that is credible, wide-ranging, and transparent, Nepal will be well-positioned to enact forward-looking policies that promote investment, job creation, and the rights of its citizens.

2. Nepal's Directive Relating to the Management of Use of Social Media, 2080 (2023)

Our primary concern revolves around the immediate enforcement of the Directive without consultation or a transition period. This poses operational challenges for businesses thus making the Directive unworkable. The mandatory registration of social media platforms with the Ministry also raises deep concerns, as it may discourage foreign direct investment and stifle innovation in the digital space. In addition, the stringent requirement for content takedown within 24 hours lacks due process, hindering social media platforms' ability to conduct proper reviews in line with fundamental principles of free expression. A more nuanced approach, aligning with the UN Guiding Principles on Business and Human Rights, is needed.

3. Banning of Social Media Applications

Following the recent ban on TikTok, we understand that the Nepali government is now setting its sights on prohibiting several other social media applications. The decision by the Government to ban these applications without properly establishing legal provisions goes against international best practices. The AIC strongly believes that ensuring due process in the issuance of blocking orders for applications is crucial for business certainty. We wish to emphasize the importance of a transparent and fair procedure, preventing abrupt bans that could negatively impact investor sentiment and hinder the government's Digital Nepal goals. This impending decision requires a more comprehensive and collaborative approach that fosters innovation and supports the country's digital aspirations.

4. Request for a Meeting

Considering the above, we would like to propose scheduling a meeting at your earliest convenience to further discuss these matters in-depth. We believe that a face-to-face or virtual dialogue would facilitate a more comprehensive exchange of ideas and insights, allowing us to collectively contribute to the development of a regulatory framework that

effectively addresses the concerns raised while promoting the interests of all stakeholders involved. We appreciate your consideration of this request and look forward to the opportunity to engage in a productive discussion with the relevant authorities.

Madam Minister, we know that you share our vision of a dynamic digital economic ecosystem for Nepal, where platforms such as those of our members continue to drive substantial economic growth. We now need your full and direct support in ensuring that Nepal does not go down a highly counter-productive path that could derail the efforts that your government and the ICT industry have painstakingly invested in for many years. 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 or at +65 8739 1490.

Thank you,



Sincerely,
Jeff Paine
Managing Director
Asia Internet Coalition (AIC)

Cc:

- Pushpa Kamal Dahal ‘Prachanda’, Hon'ble Prime Minister, Government of Nepal
- Mr. Krishna Bahadur Raut, Secretary, Minister of Communications and Information Technology (MOCIT), Government of Nepal
- Mr. Purushottam Khanal, Chairman, Nepal Telecommunications Authority (NTA), Government of Nepal