A **Latin American perspective** for a **democratic regulation** that limits the power of **big internet platforms** and guarantees **freedom of expression** on the **Internet**

In an effort to promote and ensure a free and open Internet, diversity and pluralism and the broadest possible freedom of expression and access to information and to voice our concern about the risks of the growing role of a few and concentrated corporations that intervene in Internet content (e.g. with respect to misinformation, electoral processes or rights violations), and the existence of many dangerous regulatory initiatives being debated around the world, the signatories propose the following:

a. To propose a **Latin American Civil Society Declaration** as a contribution to the global discussion on the responsibility of intermediaries and the private regulation of content from an independent and democratic perspective

b. To draft a **Proposal for Intelligent Regulation** that reflects the needs of a digital and democratic environment and protects users of large web platforms given the growing power of the latter on the Internet. The aim is to guarantee freedom of expression and a free and open Internet, while proposing alternatives to authoritarian regulatory initiatives and those that infringe on fundamental human rights.

The undersigned have prepared this document, and hope it can be shared with other stakeholders. We believe that the six points that we discuss below are fundamental inputs to efforts to achieve the aforementioned objectives.

Asociación por los Derechos Civiles
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1

PRIVATE REGULATION OF INTERNET CONTENTS

We are concerned about the increasing intervention of large technology corporations in the free flow of information on the Internet (particularly on social media platforms, messaging services, content exchange and search engines). Such interventions impact freedom of expression due to direct restrictions (censorship through removal or blocking of user content, including automatic and prior filtering), or indirect restrictions (prioritization or give more or less visibility) of legitimate content.

These forms of moderation or private-sector regulation occur without transparency, accountability, due process or adequate possibilities for appeal, and are based, on the imposition of terms and conditions of use that employ vague, ambiguous criteria, which in various instances have been interpreted as contrary to international human rights standards.

Addressing this role of gatekeepers has become an urgent task in today's democracies, as some platforms have become the new public spaces for democratic information and deliberation, which increases the requirements that any private-sector company already has in terms of respecting human rights.

2

RESPONSIBILITY FOR THIRD-PARTY CONTENT

We believe that online intermediaries should not have objective responsibility for content generated by third parties, should only provide technical services (such as access, search engines or others), and should not intervene in any way in such content or refuse to comply with related judicial orders.

For this reason, we are concerned about legal initiatives that - in an illegitimate and/or disproportionate manner - try to impose responsibilities and obligations on web platforms in order to make them judges or a private police force over third-party content disseminated on the Internet without a judicial order or due process and with threats of sanctions.

Likewise, we are concerned about decisions specifically taken by such platforms -or legal initiatives that endorse them- that turn them into judges or a private police force regarding what is false or true, or of what is "inappropriate," "indecent" or "violent", and taking decisions to conceal, block or remove such content, thus violating fundamental human rights principles.

3

INTERNET CONCENTRATION

We believe that this situation also occurs and is aggravated by a context of concentration of power among a handful of international corporations which manage infrastructures or platforms that are vital for access to the Internet and the information, as well as pluralistic debate and exchange of ideas.

This is occurring at the level of connectivity (telecommunications companies) and at the level of platforms or applications (Internet companies) and represents a serious risk for a free, neutral and open Internet, eroding both the full exercise of the right to freedom of expression and the right to competition.

SELF-REGULATION VS ABUSIVE REGULATION

4

We believe that self-regulation must form part of the solution to these problems, but that it cannot be the only path in a context in which a few corporations have centralized and concentrated the circulation, exchange of or search for information and opinions, distorting the idea of a decentralized, free and open Internet for which we have fought.

The gatekeeper power of the technological giants requires that democratic societies are able to establish limitations to those powers (whether they be state or private), in order to guarantee the effectiveness of recognized rights and freedoms, as well as the predominance of the general and public interest.

Under no circumstance should these reasons be used to justify or encourage the approval of authoritarian or abusive legislation that violates the principles and rights that are supposed to be protected and guaranteed, and we must continue to reject such initiatives throughout the region.

5

SMART REGULACIÓN

In view of all of this, we believe that there is a need to draft a proposal for democratic, appropriate and intelligent regulation designed to ensure appropriate regulatory environments to protect human rights against the actions of technological giants. Specifically, we believe that steps must be taken to ensure the full exercise of freedom of expression and information and a free and open Internet. This should be a regulation regarding the actions of the owners of these web platforms with the aim of protecting users against the growing power of said owners over the Internet.

We also believe that this regulation must be respectful and compatible with the American Convention on Human Rights and take into account existing asymmetries. Such regulations can be applied to the largest Internet platforms without being a hindrance or obstacle to innovation, competition or the development of start-ups. They can also benefit small businesses and

community, educational or non-profit initiatives that should continue to emerge and exist on the Internet in a favorable regulatory environment.

Any proposal for democratic regulation should be based on the principles and recommendations arising from multi-stakeholder forums and approved by international bodies for freedom of expression and human rights (such as UNESCO and the Rapporteurs of Expression of the Inter-American Commission on Human Rights (IAHCR) and the United Nations).

REGIONAL AGENDA FOR FREEDOM OF EXPRESSION ON THE INTERNET

6

Finally, we believe that there is a need to promote these issues, proposals and perspectives regarding the agenda for freedom of expression in Latin America and its countries.
Related actions include advocating for and carrying out monitoring; identifying violations and investigations; and opening up spaces for dialogue and debate in events organized by our organizations or within the framework of national and international events that take place in the region and at the global level, so as to present a Latin American perspective on these issues. We also share a commitment to develop active advocacy strategies among international organizations and with regulators, policy makers and legislators of the countries of Latin America to achieve the set objectives.

Buenos Aires, February 26, 2019

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