

RIPE NCC Response to the European Commission Adoption of the Critical Entities Resilience (CER) Directive

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The RIPE NCC is an organisation that has contributed to the development of the Internet in Europe for nearly thirty years and provides a number of technical services that support the functioning of the global Internet, including operating one of the world's 13 global DNS root servers (K-root) and acting as the Regional Internet Registry for Europe. As such, the RIPE NCC welcomes the opportunity to share its feedback on the European Commission's adoption of the proposed Critical Entities Resilience (CER) Directive. We believe the CER Directive has the potential to affect not only our own operations and those of a large number of other digital service providers, but the European Union's fundamental approach to Internet governance.

The RIPE NCC fully understands the European Commission's need to update the existing European Critical Infrastructure (ECI) Directive and expand the breadth of sectors under scope to include digital infrastructure, as the healthy functioning of European societies and economies has undeniably become reliant on digital infrastructure, services and operators. However, as we stated in our response to the European Commission's adoption of the proposed NIS 2 Directive¹, we believe that including root server operations under the CER Directive's scope (via the definitions used in NIS 2) could in fact threaten, rather than strengthen, the resiliency of those operations that form the backbone of the global domain name system (DNS) and, by extension, the healthy functioning of the European digital single market.

In our response to NIS 2, the RIPE NCC urged the European Commission, Parliament and Council, as well as EU member states, to heed the concerns of the DNS operator community regarding the far-reaching and unintended consequences that the current proposal would have on DNS operations in the EU. We will not repeat those concerns in full here; however, we believe they threaten DNS operations to such an extent that we asked for root server operators to be excluded from the NIS 2 Directive's scope in order to allow them to continue to operate according to the proven bottom-up, multistakeholder model of self-governance that has strengthened the resiliency of the DNS throughout the Internet's history.

¹ https://www.ripe.net/participate/internet-governance/multi-stakeholder-engagement/ripe-ncc-response-to-the-european-commission2019s-proposed-nis-2-directive_march-2021.pdf

If root server operators are indeed excluded from the NIS 2 Directive's scope, we would urge the European Commission to maintain complete consistency between the NIS 2 and CER Directives in order to ensure that member states do not subsequently identify root server operators as critical entities under the CER Directive. Any divergence between the two directives would only cause confusion and lead to further de-harmonisation among member states.

We appreciate the European Commission's efforts throughout its proposed CER Directive to ensure consistency between the two directives. However, we question whether and how the CER Directive would come into force in the event that the NIS 2 Directive had not yet been agreed on, and would ask for further clarification on that matter, as the proposed CER Directive is heavily reliant on the definitions set out in the proposed NIS 2 Directive.

The RIPE NCC also appreciates the emphasis on taking a holistic view of the interactions between different sectors and the impact that disruptions in one sector might have on others. However, we note the importance of extending this holistic view to compliance, in ensuring that compliance measures taken in one sector do not negatively impact providers in other critical sectors who are governed under other (potentially conflicting) directives or regulations.

As always, the RIPE NCC remains committed to working with the European Commission, Parliament, Council and EU member states to share its technical expertise and facilitate knowledge sharing between those institutions and the European technical community.