Anna Loup Individual Comments on Proposed ICANN Community Anti-Harassment Policy Comment

January 10, 2017

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Speaking as an individual member of the community, I would like to applaud the development of an ICANN Community Anti-Harassment Policy. This policy is an integral part of the constantly evolving development and implementation of expected standards of behavior. I acknowledge the complexity of this issue, urge the constant reconsideration of these policies, and encourage ongoing, community-wide public discussion. This policy is not going to be perfect the first, the second, or, even, the tenth time it is updated, but the process of improvement, implementation, and debate create an environment where harassment is not tolerated and the issue is part of the public discourse.

 There are, however, some problems in the current draft of the policy. In this comment, I highlight the issues and suggest ways they could be improved.

Section 1

This section provides a list of specified characteristics that demonstrates the hard work ICANN staff has put into the development of this policy. I am concerned, however, about the terminology used in the first sentence. The terminology, “professional manner,” can carry cultural norms regarding professional power structures and practices. Instead of using this terminology, the following phrase is suggested: “Behave in a *manner that promotes a hospitable international working environment,* demonstrate appropriate behavior and treat all members of the ICANN community in a respectful, dignified, decent manner at all times…”

Section 2

This section is successful in its clear statement of ICANN’s harassment policy: “Refrain from Harassment of any type.” This language is successful in placing the responsibility not to harass others on the individual, avoiding victim blaming or sentiments of policing. There are, however, two main issues with this section:

1. *The definition of harassment.* This definition does not include the phrases “unwanted” or “unwelcome” as part of the definition. In many widely-used definitions of harassment (US Title IX, California Law, The UN) these phrases are used.
2. *The list of “inappropriate conduct” prohibited by the policy.* This list needs to be reworded or re-organized, in order to make it less focused on the issue of sexual harassment and more on *all* forms of harassment. For example, the list item “lewd or graphic comments or jokes of a sexual nature” should be changed to “*unwanted crude or graphic comments or jokes, including those of a sexual nature*.”

Section 3

This final section is the most important section of the policy because it intends to outline the recourse available for victims of harassment. In my opinion, however, it falls short.[[1]](#footnote-1)

1. *There is no statement that emphasizes anonymity and confidentiality.* An example of one such statement could be: “During this reporting and complaint procedure, the Ombudsperson will, to the best of her or his ability, ensure the anonymity of the reporting party and the confidentiality of the entire report, unless he or she determines that the community should be made aware of the circumstances.”
2. *There is no statement allowing for reporting parties to withdraw a report.* For example, “Reporting parties can withdraw a report without penalty at any time.”
3. *Considering the “credibility of each party” requires a specific definition of what credibility means within the ICANN community.* If considering the “credibility of each party,” the Ombudsperson must follow a specific definition of credibility using only documented evidence of previous deception and/or fraudulent claims. Currently, this policy lacks a specific definition of ‘credibility’ approved by the community and therefore should not be included.
4. *The Ombudsperson should not be the sole deciding party.* Subsections 3 and 4 give too much power to the Ombudsperson. Also, when deciding to report, victims may be dissuaded by the Ombudsperson’s gender, sexuality, nationality, etc. if he or she knows that the Ombudsperson is the sole deciding party. It is recommended, that while the Ombudsperson should remain the initial, single point of contact, a trained supporting committee of human resource coordinators must be utilized to examine the case, provide a determination, and call for remedial action.

Other issues not addressed in the policy:

1. *Education about how to identify and report harassment*. The best way to ensure that this anti-harassment policy functions as designed in the ICANN community is to provide readily available spaces for education. In order to report harassment, the community needs to have access to training about what harassment is and how report it in an international work environment. An international ethics and compliance firm could develop an educational training tool that would be available to all community members.
1. It should be noted that this comment borrows extensively from the US Title IX requirements of reporting and processing sexual harassment and assault reports. While this is a US based set of requirements, it is one that seeks to provide an environment where both the accuser and the accused have equal rights and protections. [↑](#footnote-ref-1)