

Comments from the Internet Infrastructure Coalition (i2Coalition)
January 12, 2017

The Internet Infrastructure Coalition (i2Coalition) appreciates the opportunity to comment on the **Proposed ICANN Community Anti-Harassment Policy**.

The i2Coalition's diverse membership represents both large and small Internet infrastructure providers such as web hosting companies, software services providers, data centers, registrars and registries. The i2Coalition has several key goals with ICANN, but chief among them is continuing to build a voice for underrepresented parts of the Internet ecosystem - in particular web hosts, data centers and cloud infrastructure providers - and ensuring that accountability and transparency are paramount. i2Coalition brings unique representation to ICANN as it is made up of companies representing the whole broad ecosystem of Internet infrastructure companies.

The i2Coalition appreciates ICANN staff's development of this Community Anti-Harassment Policy. Our comments will address several issues related to the general nature of the policy, implementation suggestions for effectiveness of the policy, and some serious concerns we have about an ombudsman taking on the role of an arbitrator.

General Nature of the Proposed Anti-Harassment Policy

The i2Coalition understands that the development and implementation of some sort of anti-harassment policy is necessary, given the complaints that have arisen at recent meetings related to inappropriate behaviors. However, we have concerns that the proposed policy may create a situation where the "cure is worse than the disease." In particular, the i2Coalition is concerned that the proposed policy is not focused enough on encouraging ICANN participants to treat everyone respectfully and with intercultural sensitivity. ICANN participants come from a large number of diverse cultures, yet the policy reads as-if it was written by North American males for a standard corporate environment. This kind of corporate approach to the policy will likely not be effective in preventing harassing behaviors from occurring at ICANN meetings.

Instead, we recommend that ICANN's policy should be updated to reflect the diverse cultural norms that ICANN participants have as baseline behaviors. As a concrete example, the way that people from different cultures greet each other varies widely. In some cultures, hugging and kissing is the norm when greeting or saying farewell to someone. Under the proposed policy, it appears that such a display of harmless cultural norms would fall under harassing conduct. One simple way to address these situations is to incorporate the notion of consent into the policy, for such things as kissing, hugging, and physical touch. Additionally, ICANN should consider creating two separate categories of harassing conduct - one where consent can be given by the individuals involved, which would mitigate the harassing nature of the conduct. The other category should include behaviors that are simply unacceptable (and also

illegal) such as physical violence, coercion, and stalking. The policy should also be updated to give the Ombudsperson concrete direction on what to do when a complaint involves clearly illegal behavior by a member of the community.

Implementation Suggestions

The i2Coalition wishes to also comment on some specific actions that should be incorporated into the implementation of an anti-harassment policy. ICANN must engage the community in regular conversations, reminders, and active promotion of good behavior. The exact shape and form of these kinds of activities does not need to be spelled out in the policy, but ICANN must be committed to an on-going dialog around respect, intercultural sensitivity, and behaviors that are simply unacceptable at ICANN meetings.

Additionally, ICANN must further promote the existence and purpose of the Ombudsperson's office. ICANN also must commit to increasing the diversity of the Ombudsman's office. Put simply, individuals who feel that they have been subjected to harassing conduct should be able to select from many potential ombudspersons when making their complaint. Ideally a victim of harassment will be able to discuss the issue with someone who has the same gender identity and a fundamental understanding of the cultural norms that are practiced by the victim.

Finally, we suggest that ICANN or the Ombudsman office publish some sort of anonymized annual report regarding the number of anti-harassment complaints received, the general nature of the complaint, and the outcome of the complaint. The report should be broken out on a per meeting basis, as well. No identifying information about the individuals involved in the dispute should be disclosed.

Ombudsperson or Arbitrator

The i2Coalition also has concerns regarding the nature of the Ombudsperson's role in the proposed policy. Fundamentally, an ombudsperson is an impartial mediator that helps resolve disputes. Yet, in the proposed policy, the Ombudsperson is given the duties of an arbitrator, not a mediator. Specifically, the policy states that the Ombudsperson is allowed to make findings of fact and determine remedial action. We suggest that another role within ICANN take on the fact finding and determination of remedial actions, if informal or formal dispute resolution or mediation processes are unable to resolve the situation to the satisfaction of the complainant. Additionally, we also suggest that an individual who is subject to any sort of adverse remedial action should have the option to appeal this decision in some manner.

This comment was drafted by Jay Sudowski and approved by our members.

