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ICANN Transcription

Council Committee for Overseeing and Implementing Continuous Improvement

Thursday, 18 August 2022 at 12:00 UTC

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NATHALIE PEREGRINE: Good morning, good afternoon, good evening, everybody. Welcome to the Council Committee for Overseeing and Implementing Continuous Improvement call taking place on Thursday 18th of August 2022. In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room only.

For today, we received apologies from the Desiree Miloshevic Evans, Flip Petillion, Thomas RIckert, and Philippe Fouquart.

Statements of Interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. If you need assistance updating your statements of interest, please e-mail the GNSO Secretariat.

All documentation and information can be found on the wiki space. Recordings will be posted on the public space shortly after the end

of the call. Please remember to state your names before speaking for it to be captured by the recording.

And as a reminder, those who take part in the ICANN multi stakeholder process are to comply with expected standards of behavior. And with this, I hand it over to our chair, Olga Cavalli. Please begin.

OLGA CAVALLI: Thank you very much. And apologies for changing the day. I had a commitment yesterday that I could not avoid. And for those that are not able to participate today, this will be recorded. So thanks for that possibility.

Good morning, good afternoon, good evening, wherever you are. We have the agenda on the screen. We start with the Work Stream 2 Recommendation 3, framework of interpretation for human rights. So we have to continue our deliberations that we already started two weeks ago. And we have documents that we will review. And then we will confirm next steps. So am I missing something, Marika or Ariel, or we just go into the documents, into the substance?

MARIKA KONINGS: I think you've covered it all for the call.

OLGA CAVALLI: Okay, thank you so much. So could we check the document and continue our deliberations that we started a while ago? Marika.

MARIKA KONINGS: I can maybe just briefly recap I think where we're at and the documents that we shared as part of the agenda. The first link is really to the background information that's in the background briefing and where we tried to capture all the relevant aspects to this recommendation, both from the report as well as conversations that already took place as well as links to relevant documents that capture some of these items.

And what we shared as well—and I'll just briefly share it here on the screen as well. As you recall, we tried to create a bit of a kind of a decision tree that might help facilitate the group's thinking about this recommendation. And we started, of course, discussing that last week, although I think we've maybe moved already a bit beyond this, because I think in the decision tree, we had a very kind of yes or no. And I think where we're maybe heading is a bit more of a maybe when it comes to, at least specifically, the human rights impact assessment part of the recommendation, because what we tried to do based on the conversation that the group started last week—and we want to recognize, it of course was an initial conversation. But there seemed to already be some kind of at least common threads or tentative maybe agreement of a potential direction that the group could take. So we thought it might be useful to try and see if we could capture that in a set of draft findings, possible recommendations to, again, help stimulate the conversation and get a sense from the group, is this indeed the direction that people believe you should be heading? Is this completely wrong? What aspects are missing? What kind of areas should further focus be put on? To kind of, again, help distill what

it is that the CCOICI eventually will want to recommend to GNSO Council on this topic.

So what we basically documented here is the first question, of course, from the Work Stream 2 recommendation was to consider defining and incorporating a human rights impact assessment. So that is, of course, what this is all about and what the group is already doing.

I think from the conversation last week as well, it's clear that everyone recognizes the importance of considering the impact of GNSO policy recommendations on all rights, including human rights, and noting as well that that is already something that is foreseen as part of the PDP manual that already asks working groups to include a statement that basically talks about the expected impact on a number of areas as a result of adopting and implementing GNSO policy recommendations.

I think at the same time—and I think—just add as well. And of course, there's also opportunity for public comment. So even if a working group may not recognize certain impacts, this is also something that then can get flagged through the various public comments that take place as part of the PDP process.

But at the same time, I think there was also a recognition that more could be done to recognize or highlight the importance of considering the impact on human rights and that this should not be limited necessarily to kind of one point or a single point in the PDP's lifecycle but that this could be kind of a continuous effort, starting out from the early phases of development or the request

of an issue report, either to the delivery of the final report and consideration by the ICANN Board.

So what was suggested by some, that to facilitate this continuous consideration of the impact, the recommendation could be to look at how existing templates, for example, the one for requesting an issue report, the preliminary issue report template, the charter template, the initial report and final report templates, because there are all templates that are used for that, how those might be or could be updated to kind of highlight this specific question and ensure that attention is given to that topic so that, for example, at the request of the issue report phase, a request already has the ability to say, "Hey, there is a likely impact here on human rights. So it's important to look at that." Or, "I don't anticipate there will be an impact on human rights. But of course, it's still something to check throughout the conversations and throughout the different phases."

So in this approach, it may then allow for kind of that early flagging, and in the cases where there is a determination or a sense that there is an impact on certain human rights, that that then could also be escalated and potentially result into a more detailed human rights impact assessment.

So we noted here as well, and I think this is something for the group to consider that, of course, at the end of the day, the Council is the manager of the policy development process. So it will as well be the Council's determination throughout the phases of the PDP to make sure that sufficient attention is paid to that topic. So again, it's also creating awareness at the Council level that that is something that there's an expectation that attention is

paid to that. And the Council also has the ability, of course, to call us out in its instructions to the PDP in either communication or as part of its charter.

So I think that is kind of what we captured, I believe, from the conversation. Again, this is really a starting point. I think everyone has the ability in this document to either add to it or change it, make new suggestions. One specific question that we did flag and might be worth further consideration is, of course, in kind of doing this type of assessment or an early kind of check on whether or not there's a potential impact on human rights, it might be helpful if there's a kind of checklist or kind of a template that could be made available or could be created that might help this.

Maybe there's a set of questions that one could ask with a very simple kind of yes or no that may already give an indication of, is there a potential impact on human rights?

From staff's side, I think we haven't done any research or looked into this. But I think this is a question we wanted to ask the group as well, if you are aware of this potentially existing in other environments that could potentially be adapted for this purpose. Because again, that might be a kind of tool that may make it easier for both I think staff as well as working groups, as well as Council to kind of make sure that it has kind of done its check and is able to reasonably confidently say at the end of a process we believe there is either no impact or we do believe there's an impact but that is either mitigated or we don't think it's of a concern, for example.

So again, this is I think where from a staff perspective, we think the conversation is more or less at, but we really would love to hear from the group if this is indeed kind of the right direction, if there's something missing, which are the areas that the committee should focus on more—because of course, again, this is trying to work towards developing this into kind of a specific set of conclusions and recommendations to put in front of the GNSO Council. So I'll pause there.

OLGA CAVALLI: Thank you, Marika. I think this is very interesting. Honestly, I don't recall—I was a member of the GNSO years ago and now again, but I don't have all the history about documents related with human rights in relation with the GNSO. So I cannot recall of such checklist or such a document that could gather all this together.

I think this is very useful, could be a starting point of a future checklist that we can develop or a template. But I will give the floor to colleagues that maybe have this idea in mind, and maybe I'm missing something about other documents that could gather this.

And unfortunately, we have several apologies from colleagues. So it could be good to flag this question to them maybe by e-mail or in the next call and see if they can recall this document.

Has anyone in the call any comments or remind about some document that is related with human rights and this possible checklist? I see no reaction. Honestly, I don't recall. But it may be. Marika, if you don't have that in mind, maybe it doesn't exist,

because you're kind of a group of knowledge together about GNSO yourself.

MARIKA KONINGS: Yeah, thanks, Olga. And yeah, I'm not aware in the ICANN context. Maybe it's something we can check as well with some of our colleagues, because I know some other groups are also working on this recommendation, although I don't believe they're that far along yet.

But I was actually more thinking maybe in other organizations, because of course, I think human rights impact assessments are done in a number of areas. And from the staff side, maybe we can kind of do a quick search to see if we stumble up on something and see if there's a way to kind of make that fit as well for the kind of policy development, of course, that the GNSO does, because I think there are a number of big companies that probably have public policies or documentation available on how they assess the impact of how they do business in certain markets and the impact they see that has on human rights there. So again, maybe there's something that we can find that could potentially be adapted to that purpose.

And I know as well that I think there's an ICANN—I don't know if it's a cross community working party or if it's an NCSG group that is focused on human rights, and they may also be a source of information in that regard. Or maybe they have already given thought to what something like that could look like because again, I think we're looking for something that is easy, because again, we have to recognize as well that neither from staff side nor working

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group or Council, I think, everyone is an expert in human rights. So just something that would ask some questions that could kind of trigger further consideration if it turns out that yes, having answered yes to all the questions seems to indicate that there may be an impact that needs further consideration. If all the answers are no, chances are low. And again, there are of course safeguards built into the PDP process that always allow as well for that external input to kind of flag if the group missed something or didn't factor in something that would be important to be considered.

OLGA CAVALLI: I remember by the time of the Work Stream 2, because I was in that, and I think there was were smaller working teams. I remember that about human rights, and there were several documents. I don't have all the details in my mind now, but we can check there and talk to the people that were involved at that time. I can remember some names.

And also, yeah, not many, but there are some things linked to ICANN and human rights. Any reactions, comments from colleagues in the call? Okay, no comments. Antonia, thank you for that. And Sebastien said that he promised to go through the document but he went off on a break. Okay, no problem. We have some time.

Okay, so let's try to find this. I will try to recall who were in that human rights group in the Work Stream 2—I think I can recall some names—and try to find some documents. And maybe other colleagues in the committee have some information about this. So

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we can flag this in an e-mail and try to find documents. So thank you very much for that.

So how do we move forward with—Anyway, I think this document, it's a good starting point. All the points that we have recollected here, it's a very good starting point for a future guide or guiding document for the GNSO. So maybe this would be the basis for the future document. And thank you very much for this. Marika.

MARIKA KONINGS: Yeah, thanks. Olga. I'm just wondering as well as maybe an action item we could assign to all the members—recognizing that we are a few short—whether this is maybe also a question that they could socialize with their respective groups. And as said, many, I think, also worked for big organizations and big companies that may deal with similar questions, and again, may have practices in place that we could at least kind of look at and see how this topic is approached. And again, if there's certain kind of templates or checklists that could serve as a starting point, that might be helpful, at least from a staff perspective, looking at kind of the templates that are there.

For now, it could be a very simple kind of statement that's included there or just kind of a pointer to note that this is a space where it needs to be flagged, whether or not it's the expectation of potential impact on human rights. But again, having some kind of checklist could help with making that assessment and kind of demonstrating as well that consideration has been given to the question and is also documented and can be referenced in further conversations.

And so from the documents, I understand, I think many may need some more time to review this. Again, there may be other ideas as well, because as said, I think when we had this initial conversation, we also didn't have everyone on the call. So I do want to make sure as well that just because we've kind of captured some of the ideas that were made during that meeting, that of course doesn't mean that other ideas or other directions are not welcome. We're still really very much at the, I think, initial phase of this conversation. So if further thoughts need to be put on the table or added here, feel free to do so. I think you all have comment rights to this document. So feel free to add or add further questions that the group may need to discuss. And based on that input, the group can then see how to move this into a more maybe final form at some point and really kind of capture what it is that the group is recommending. So again, the Council can also then review that and decide whether or not to follow that approach.

OLGA CAVALLI: Fantastic. Thank you very much for that. Any comments, reactions to that proposal? Let me check the chat. No comments. Okay. What else we have in the agenda?

MARIKA KONINGS: The one remaining item from the Work Stream 2 recommendations is this recommendation. Just to flag as well, maybe on the other ones that the group has already covered, the status designations as well as the recommendations for some of these, from our side, we've started working on the report. So that

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is hopefully something we can share with all of you soon as well, that basically just documents the conversation that the group has had and relies heavily on and as well the background briefing to provide the context both for Council and others who might be reading the report on kind of how the group got to its conclusions. Because of course, at the end of the day, this all needs to go back to the Council for their confirmation and hopefully acceptance of recommendations that are included here. So yes, this is basically the one remaining item that the Council committee is expected to deal with to basically finalize that report. So it's very dependent on, I think, the input from the group and direction on that.

OLGA CAVALLI: Thank you, Marika. So our to-do is to check what kind of information or background documents we can find about human rights within the ICANN context, or into the respective stakeholder groups or constituencies, and bring it as a background material for us in the group and see how we can build this checklist or document, and we can enhance the document that you already have prepared.

So that would be our task to do during the next two weeks. We will explain this in an e-mail after the call. If we can do that, that would be useful for the group, specially for those that were not present in the call. I think we had four apologies

Is it okay for the next call on Wednesday 31st of August? For me, it's no problem. I won't change again. I promise. Okay with Antonia. Okay. I see no other reaction. So I guess it's okay for everyone. Thank you, Juan Manuel. Thank you, Sebastien.

Okay, I think we have a plan. We have to check, find documents, enhance the document that staff has already prepared, and stay in tune with the issue, and we see virtually each other in two weeks. That's all for today. Thank you very much. This gives you a half an hour of your time. Have a nice rest of the week.

[END OF TRANSCRIPTION]