



Public Comment on ICANN's Proposed Updates to the ICANN Community Anti-Harassment Policy and Terms of Participation and Complaint Procedure.

Thank you for the opportunity to comment on the much-needed updates to the ICANN Community Anti-Harassment Policy. We, at CleanDNS believe the continued open and collaborative participation within the ICANN community processes remains one of the most vital aspects of the ICANN multistakeholder process, and the ability to do so in a safe environment free of harassment, and behaviour that would tend to prevent such a full participation, remains utterly foundational. We therefore appreciate the efforts to enhance clarity and procedural aspects of addressing instances of harassment within the ICANN community.

General Support for the Updates

We welcome the updated clarity regarding the procedural aspects of how an ICANN community member may address instances of harassment experienced while engaging with the ICANN community. The inclusion of additional examples is particularly commendable, as it can encourage victims and observers of such behaviour to speak up within the process, with more clarity and strength, where they previously may have dismissed some examples as being outside of remit, or indeed could be perceived as a waste of the Ombud's time. We believe the updates go somewhat to increasing accountability for participants, as well as strengthening the ability for all to speak up against unacceptable behaviour.

Concerns Regarding Section B.3

CleanDNS does, however, have significant concerns regarding the inclusion of Section B.3, which excludes a section of the ICANN community, namely ICANN Org staff members, from complaining or raising complaints on another's behalf, to the ICANN Ombuds about the behaviour of community members. ICANN staff are among the most visible and engaged groups in the ICANN multistakeholder model and this engagement often makes them more acutely aware of and indeed the potential target of harassment as defined under the policy.

We must consider the availability of any comparators in this policy and the clear conclusion is that no other company who participates the ICANN MSM has such a carve-out. Treating ICANN Org staff as a separate class of participants in such a manner seems tenuous at best and should be unacceptable to the community, given the importance of ICANN staff's participation. We furthermore note that the prohibition against ICANN staff filing complaints directly contradicts the clearer and update inclusions in Section 3 B.1, which grounds any complaint on the belief of the individual who identifies the harassment. While, like with any other company, we respect the ability of ICANN to implement their own company policy relating to reporting of harassment by their employees, as may be experienced working within the ICANN community, this remains a matter for internal ICANN Org Policy, and should not be included in a Community policy. Furthermore, ICANN Org may see fit to ALSO report identified behaviour to the Ombuds following an internal process, but ICANN community policy should not preclude the victim (or observer) from initiating such a complaint themselves, simply because they are employed by a particular company. Allowing complaints only when ICANN Org deems them valid is an exclusionary practice that undermines the integrity of the entire policy.



Impact on Policy Integrity

We understand that the intertwined nature of ICANN Org staff and the ICANN community may present challenges for ICANN Org's HR and legal teams; however, handling complaints of this nature should be no different from handling complaints from any other representative, of any other company in the ICANN community processes.

Distinguishing the Proposed Exclusion from the Bylaws

For clarity, we also feel it important to distinguish the proposed exclusion from a similar exclusion in ICANN bylaws. Such an exclusion, in the bylaws, is limited to the Ombud's Primary Function, as outlined in Article 5. This article addresses complaints by members of the ICANN community who believe that ICANN staff, the Board, or an ICANN constituent body has treated them unfairly. This seems like an appropriate exclusion, given the circumstances. This does not however justify or ground the exclusion of ICANN staff complaints against other community members, as is now purported in the proposed anti-harassment policy.

Support of the Tucows Comment

Having had the opportunity to consider the Tucows submission prior to our submission to this public comment process, we wish to also provide our support the that comment, which we believe shares many similar sentiments to ours.

Conclusion

In conclusion, while we welcome the updates to the Anti-Harassment Policy, we believe that the additional exclusion of ICANN staff is inappropriate, contrary to the spirit of the policy, and should be removed.

Thank you for considering our comments.

Sincerely,

Alan Woods
CleanDNS General Counsel & Chief Policy Officer

About CleanDNS

CleanDNS is an abuse management and online harm mitigation solution company on a mission to clean up the internet for good. CleanDNS works with infrastructure providers, cybersecurity companies, and law enforcement organizations to report, evidence, and mitigate abusive domains to prevent further victimization. With CleanDNS Abuse Insights Data, CleanDNS offers a revolutionary solution dataset enabling vetted organizations and researchers to access information on recently mitigated verified-abusive domains. The team of CleanDNS are comprised of many veteran members of the ICANN community, with members either currently serving or having served on the SSAC, Registries Stakeholders Group, and GAC/ Public Safety Working Group. We continue to be engaged with the ICANN multistakeholder community, formally as a member of the Business Constituency, working towards cohesive and cross community approach to problems that face all members of the community. Our focus remains matters relating to DNS abuse, online harms and the prevention of victimization online.