

About NCSG

NCSG represents the interests of non-commercial domain name registrants and end-users in formulating the Domain Name System policy within the Generic Names Supporting Organisation (GNSO). We are proud to have individual and organizational members in over 160 countries, and as a network of academics, Internet end-users, and civil society actors, etc, we represent a broad cross-section of the global Internet community. Since our predecessor's inception in 1999, we have facilitated global academic and civil society engagement in support of ICANN's mission, stimulating an informed citizenry and building their understanding of relevant DNS policy issues.

NCSG's comment:

Thank you for giving us the opportunity to provide a public comment on ICANN's anti harassment policy. Link to the revised policy:

<https://www.icann.org/en/public-comment/proceeding/proposed-revisions-to-community-anti-harassment-policy-04-11-2024>

We believe the following issues should be addressed:

- **No Specific Timeframe:** Although prompt reporting is emphasized, the policy does not provide a specific time frame or deadline for submitting a complaint or processing the complaint. We believe it should be rectified by clarifying timelines.
- In the revised ICANN Community Anti-Harassment Policy, intent is explicitly stated as not being a factor in determining harassment. The policy defines harassment as "unwelcome and/or non-consensual hostile or intimidating conduct" and clarifies that "conduct does not have to intend to harm, be directed at a specific target, or involve repeated incidents in order for it to be deemed harassment." We agree with this harm based, behavioral approach. We believe the policy outlines helpful and specific examples of prohibited conduct, such as inappropriate touching, offensive language, and violating someone's personal space, to help establish what constitutes harassment. Additionally, the complaint procedure involves an evaluation process where the Ombuds considers factors like the severity, frequency, and pervasiveness of the conduct, as well as the quality of the evidence, to determine appropriate remedial action.
- To understand the impact of the policy on open discourse, it should be evaluated and the community should be surveyed after six months to a year.
- The ICANN Community Anti-Harassment Policy primarily addresses interactions within the ICANN Community, including participants in its multistakeholder processes. For ICANN staff members, the policy outlines specific procedures. We believe as much as possible the Ombuds services should be provided to ICANN staff members as the internal complaint mechanisms might not be perceived as independent as ombuds service.

- **Transparency:** While the privacy of complainants and respondents is important, ICANN must be transparent about ongoing complaints and their nature to enhance community awareness of the environment.
- **Lack of Independence Measures:** The policy does not establish a governance structure to ensure the Ombuds Office's independence. This was a significant shortcoming of the previous Ombuds Office, and without clear process revisions, it's unclear how ICANN is addressing this issue.
- **Jurisdiction:** The ICANN Ombuds Office sometimes declines to process complaints, citing a lack of jurisdiction. Given ICANN's critical role in Internet governance, volunteers may commit harassment outside of ICANN, yet the dispute originates from ICANN's forums. ICANN needs a nuanced process for establishing jurisdiction.
- **Assuming responsibility to resolve disputes:** If community leaders and executive committees cannot or are unwilling to resolve harassment issues, ICANN must have processes in place and not rely solely on community leaders for resolution. If the community leaders are somehow involved with the complaint (either there is a complaint against them or they are subjected to attacks), ICANN Ombuds should take full leadership for resolving the issue.
- **Sanctions:** While offering a second chance to volunteers might be appropriate, repeated harassing behavior should result in expulsion rather than allowing resignation. ICANN should clearly define when it will expel volunteers and when it will not.
- These revisions aim to address concerns regarding transparency, independence, jurisdiction, and sanctions within ICANN's anti-harassment framework.
- The policy mentioned “**use of offensive language.**” without reference or definition of which language is offensive (clarity should be provided).