WS2 – Recommendation #3 Recommendation for a Framework of Interpretation for Human Rights

Deliberations

- Per the WS2 recommendations, the CCOICI is considering defining and incorporating Human Rights Impact Assessments (HRIAs) in the GNSO policy development processes.
- The CCOICI recognizes the importance of considering the impact of GNSO policy recommendations on other rights, including human rights.
- The CCOICI points out that the GNSO PDP Manual already foresees that a PDP Initial Report should include "A statement on the WG discussion concerning impact of the proposed recommendations, which could consider areas such as economic, competition, operations, privacy and other rights, scalability and feasibility". In addition, there is ample opportunity for the community to provide input on the potential impact on human rights of a certain topic during the various public comment periods that take place in the PDPs lifecycle.
- At the same time, the CCOICI recognizes there may be opportunities to further highlight the importance of considering the impact on human rights, but that this should not be limited to a single point in time during the PDP but should be a continuous effort. Similarly, considering the impact of GNSO policy development on human rights cannot be the responsibility of one single entity, but should be a shared responsibility between ICANN org, the ICANN community and the ICANN Board.
- The CCOICI supports building in a lightweight mechanism throughout the different stages of the GNSO PDP to facilitate the consideration of the possible impact on human rights. Such a mechanism could consist of a check-list of questions that help guide staff support as well as community members involved in the PDP or other GNSO policy processes to identify whether there is an expected impact on human rights which could in turn trigger further focus on this topic. Example questions for such a check-list are: 1) Is there a likely human rights impact, 2) who are the groups expected to be impacted, 3) what is the expected severity of the impact (high / medium / low). The CCOICI wants to emphasize that even if an impact is anticipated, it does not mean that work cannot proceed, it just means that further attention will need to be paid to this issue through questions such as: 1) is the proposed action necessary, 2) is the proposed action proportionate, 3) is the proposed action legitimate.
- The CCOICI has been informed that an ICANN Learn course on Human Rights is in the process of being developed. When this course is available, it should be included as part of the background and preparatory materials for PDP Working Groups as this may help promote the understanding of this topic and the potential impact ICANN policy development can have on human rights.

Draft Recommendations:

The CCOICI recommends to the GNSO Council that:
- To facilitate the continuous consideration of the impact of GNSO policy development on human rights, existing templates, such as the Request for an Issue Report, the Preliminary Issue Report, the Charter Template, the Initial Report and Final Report, as well as future templates for GNSO policy processes, are updated to include a check-list of

questions that aim to provide a lightweight mechanism to assess whether an impact to human rights is likely or expected as a result of the consideration of a specific topic and/or the related recommendations. The CCOICI is of the view that flagging potential impact on human rights at an early stage in the process will assist in focusing attention on this topic throughout the deliberations as well as allowing for a more detailed human rights impact assessment if an impact is expected or established.

- As the manager of the GNSO PDP, the GNSO Council will have the responsibility to consider at the various stages of the PDP cycle whether sufficient attention has been given to this topic and/or whether further action needs to be undertaken. For example, if the Council anticipates that there is likely a significant impact on human rights, it can call this out in the PDP team instructions and/or charter or it can request that a human rights impact assessment is undertaken before it considers policy recommendations for adoption.
- If the Council agrees with these recommendations, the Council is expected to instruct the GNSO Staff Support team to work on a proposed implementation of these recommendations, consulting relevant community experts as needed. This proposed implementation is to be reviewed by the GNSO Council before implementation is carried out.