

Relatório de participação

Evento: Internet & Jurisdiction Global Conference

Datas: 26 a 28 de Fevereiro de 2018

Local: Ottawa / Canadá

Conselheiro: Thiago Tavares Nunes de Oliveira
Representante do Terceiro Setor no CGI.br

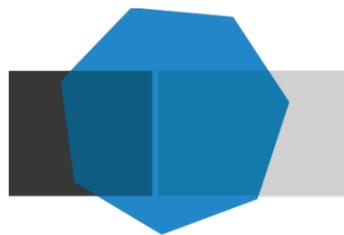
Nota introdutória: o presente relatório pretende registrar a minha participação no evento em epígrafe, com destaque para o *outcome* do *Contact Group* “Content and Jurisdiction”, do qual sou integrante. Procura-se evitar redundâncias e sobreposições com o relatório da delegação consolidado pela assessoria do CGI.br bem como outros relatórios dos conselheiros que participaram do mesmo evento e disponibilizaram seus respectivos relatórios.

O principal objetivo da minha participação na reunião, qual seja, o de contribuir com a elaboração do *Work Plan* do segmento “Content & Jurisdiction” foi plenamente atingido.

O relatório oficial da Secretaria do I&J está igualmente disponível online:

<https://www.internetjurisdiction.net/uploads/pdfs/Secretariat-Summary-and-Ottawa-Roadmap-second-Global-Conference-of-the-Internet-Jurisdiction-Policy-Network.pdf>

**ANEXO: RELATÓRIO E WORK PLAN DO SEGMENTO CONTENT &
JURISDICTION**



INTERNET
& JURISDICTION
POLICY NETWORK

CONTENT & JURISDICTION

WORK PLAN

This Work Plan was reviewed and refined by stakeholders gathered on February 26-28, 2018 in Ottawa, Canada for the 2nd Global Conference of the Internet & Jurisdiction Policy Network. Taking stock of the outcomes of the 1st Global Conference in 2016 in Paris, and the intersessional work conducted in 2017, this document will guide the work in the Content & Jurisdiction Program of the Policy Network in preparation for its 3rd Global Conference, which will take place in Berlin, Germany, on June 3-5, 2019.

Every day, hundreds of millions of posts and hundreds of thousands of hours of videos are uploaded on the major internet platforms and made globally accessible, greatly facilitating freedom of expression. At the same time, legitimate concerns are raised regarding increasing harmful behaviors, including hate speech, harassment, security threats, incitement to violence, or discrimination.

Protecting human rights and freedom of expression when dealing with such abuses on the internet is a major transnational challenge in the absence of clearly agreed substantive and procedural frameworks to handle the disparity of national laws: content legal in one country can be illegal in another one.

Moreover, the amount of individual restrictions decisions to be made is unprecedented, and case-by-case determinations need to carefully account for context and intent in a way analogous to national courts, but within very limited response times given viral propagation.

In this context, opposing demands are made regarding the responsibilities of intermediaries: one asking them to thoroughly police content posted on their platforms to guarantee the respect of national laws and protect their users; and the other objecting to them making determinations on their own and exercising proactive content monitoring, for fear of detrimental human rights implications.

Clear common guidelines and due process mechanisms are needed to address this common challenge of all actors: maximizing the necessary remediation of harm and minimizing restrictions to freedom of expression.

Objective

The fundamental aim is to define workable jurisdictional interfaces between disparate national legal rules. Participants in the Content & Jurisdiction Workstream at the second Global Conference of the Internet and Jurisdiction Policy Network in Ottawa, Canada on February 26-28, 2018, have agreed upon the identification of the current status as well as achieving clarification and coherence with respect to the following points as a common objective:

- Applicable substantive norms, including the interplay between agreed international and regional human rights, national laws, and companies' community guidelines,
- The respective obligations of states and the respective responsibilities and protections of other actors, including the identification of allegedly illegal content,
- Decision-making, standards and procedures, including the escalation path for individual decisions and appeal mechanisms,
- Legitimate purpose, necessity and proportionality regarding the geographic scope of restrictions,
- The necessary due process and transparency standards that should be applied across borders.

Structuring questions

Accordingly, further discussions to be facilitated by the Secretariat of the Internet & Jurisdiction Policy Network in the perspective of its third Global Conference in Berlin, on June 3-5, 2019, will be organized around the following structuring questions, on a topic-by-topic basis:

1. **Standards:** Addressing conflicts of different substantive norms to identify allegedly illegal content and determining the relationship/hierarchical nature of the relationship.
2. **Convergence:** Level of global convergence achievable or desirable in such definitions.
3. **Response time:** Appropriate reaction delays by intermediaries after reception of notices.
4. **Decision-making:** The architecture of decision-making and the role of different types of states and non-state actors (including intermediaries, governments, courts, regulators, and individuals that file requests).
5. **Algorithms:** Appropriate combination of algorithmic tools and human review considering the limits of algorithmic tools.
6. **Procedural standards:** Procedural standards assessing the legality of content: assessment standards, assurance and verification, roles and remedies.
7. **Geographic scope:** Situations - if any - that could, as a matter of exception from local filtering, justify global restrictions, including measures that address contradictory actions by different states.
8. **Transparency:** Expanding existing efforts and strengthening coordination among them.
9. **Request formats:** Documenting and circulating what proper [government] requests should contain.
10. **Notification:** Handling of notification of users and their capacity to object.
11. **Remediation:** Mechanisms for the prompt restoration of abusively restricted content.
12. **Types of content:** Characteristics of content including intention and possible effects; determining appropriate measures for addressing different types of content.
13. **Types of actors:** roles and responsibilities.

Members of the multistakeholder Contact Groups

The Contact Groups were set up under the Data, Content and Domains & Jurisdiction Programs of the Internet & Jurisdiction Policy Network. The Groups were composed of Members of different stakeholder constituencies, actively involved in addressing the jurisdictional challenges related to cross-border access to user data, online content restrictions and the abusive use of the Domain Name System. This neutral space allowed participants to map their respective perspectives, compare approaches, foster policy coherence, and identify possible steps for coordinated actions. Members of the three Contact Groups were:

Data & Jurisdiction Program

Kevin Bankston

Director
Open Technology Institute

Eduardo Bertoni

Director
Data Protection Authority (DNPDP), Argentina

Jennifer Daskal

Associate Professor
American University Washington College of Law

Lanah Kammourieh Donnelly

Public Policy Manager
Google

Jane Horvath

Senior Director, Global Privacy Law and Policy
Apple

Mark Lange

Director, EU Institutional Relations
Microsoft

Greg Nojeim

Senior Counsel and Director, Freedom, Security
And Technology Project
Center for Democracy & Technology

Alexander Seger

Executive Secretary, Cybercrime Convention
Committee
Council of Europe

Dan Svantesson

Co-Director of The Centre For Commercial Law
Bond University

Robert Young

Legal Counsel, Criminal, Security, and Diplomatic
Division
Global Affairs Canada

Cathrin Bauer-Bulst

E-Evidence Task Force
DG Home, European Commission

Aaron Cooper

Counsel to the Assistant Attorney General, Criminal
Division
United States Department of Justice

Fernanda Domingos

Federal Prosecutor
Federal Prosecutor's Office of the State of São Paulo,
Brazil

Brendan Eiffe

Head, Central Authority for Mutual Legal Assistance
Department of Justice and Equality, Ireland

Gail Kent

Global Public Policy Manager
Facebook

Brad Marden

Assistant Director Digital Crime Investigative Support
Interpol

Erik Planken

Senior Policy Advisor on Cybercrime
Ministry of Security and Justice, The Netherlands

Christoph Steck

Director, Public Policy and Internet
Telefonica

Peter Swire

Professor of Law and Ethics
Georgia Tech University

Content & Jurisdiction Program

Chinmayi Arun

Executive Director, Centre For Communication
Governance
National Law University, Delhi

Theo Bertram

Google Policy Strategy, EMEA
Google

Adeline Champagnat

Advisor To The Prefect In Charge of The Fight
Against Cyberthreats, Ministry of Interior, France

Elfa Ýr Gylfadóttir

Director, Media Commission
Ministry of Communications, Iceland

Daphne Keller

Director of Intermediary Liability
Stanford Law School, Center for Internet & Society

Edison Lanza

Special Rapporteur for Freedom Of Expression
Inter-American Commission on Human Rights

Rebecca Mackinnon

Director, Ranking Digital Rights
New America Foundation

Frane Maroevic

Director, Office of the OSCE Representative on
Freedom of The Media, OSCE

Paul Nemitz

Director, Fundamental Rights and Citizenship
DG JUST, European Commission

Christian Meyer Seitz

Head of Division, Consumer Policy in the
Information Society, Federal Ministry of Justice and
Consumer Protection, Germany

Thiago Tavares

President
Safernet Brazil

Luca Belli

Senior Researcher
Fundação Getulio Vargas (FGV) Law School

Ellen Blackler

Vice President, Global Public Policy
The Walt Disney Company

Raquel Gatto

Regional Policy Advisor
ISOC

Xianhong Hu

Assistant Programme Specialist, Communications
and Information, UNESCO

Gail Kent

Global Public Policy Manager
Facebook

Judith Lichtenberg

Executive Director
Global Network Initiative

Jeremy Malcolm

Senior Global Policy Analyst
Electronic Frontier Foundation

Gregory Mounier

Head of Outreach at European Cybercrime Centre
(EC3)
Europol

Nick Pickles

Head, UK Public Policy
Twitter

Wolfgang Schulz

Professor
Humboldt Institute for Internet And Society (HIIG)

Elena Lopatina

Programme Manager, Media and Internet Division
Council of Europe

Domains & Jurisdiction Program

Benedict Addis

Chair
Registrar of Last Resort (RoLR)

Maarten Botterman

Board Member
Internet Corporation for Assigned Names and Numbers (ICANN)

Edmon Chung

CEO
DotAsia Organization

Keith Drazek

Vice President, Public Policy and Government Relations
Verisign

Hartmut Glaser

Executive Secretary,
Brazilian Internet Steering Committee (CGI.br)

Byron Holland

President and CEO
Canadian Internet Registry Authority (CIRA)

Paul Mitchell

Senior Director Tech Policy
Microsoft

Alice Munyua

Founder,
Kenya ICT Action Network (KICTANet)

Richard Plater

Policy Executive
Nominet

Peter van Roste

General Manager,
Council of European National Top-Level Domain Registries (CENTR)

Fiona Alexander

Associate Administrator
United States Department of Commerce NTIA

Mark Carvell

Senior Policy Advisor, Global Internet Governance Policy
Department for Culture, Media and Sport, United Kingdom

Mason Cole

Vice President, Communications and Industry Relations,
Donuts

Elizabeth Behsudi

Vice President and General Counsel,
Public Interest Registry

Jamie Hedlund

Vice President, Contractual Compliance and Consumer Safeguards
Internet Corporation for Assigned Names and Numbers (ICANN)

Désirée Miloshevic

Senior Public Policy and International Affairs Advisor
Afilias

Cristina Monti

Head of Sector, Internet Governance and Stakeholders' Engagement
European Commission

Michele Neylon

CEO
Blacknight Internet Solutions

Rod Rasmussen

Co-chair
Anti-Phishing Working Group (APWG)

Thomas Schneider

Ambassador, Director of International Affairs,
Federal Office of Communications (OFCOM),
Switzerland