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.