Dynamic Coalition on Freedom of Expression and Freedom of the Media
Report of the IGF 2014 Meeting

The meeting of the Freedom of Expression and Freedom of the Media on the Internet Dynamic Coalition took place from 11 am on Friday 4 September at the 2014 Internet Governance Forum in Istanbul, Turkey.

The meeting was well attended by broad range of stakeholders representing both long term members of the coalition, together with many new faces. The meeting provided a valuable space for people with similar interests to gather, network and get up-to-date information about the most pressing issues relating to freedom of expression and freedom of the media on the internet – i.e. free content on the Internet.

Planned workshop had following speakers:

- **Karmen Turk**, attorney and doctoral student in internet and human rights related fields; A co-coordinator of dynamic coalition with Ben Wagner and Angela Daly; an expert attached to the Council of Europe committee on Cross-border flow of Internet traffic and Internet Freedoms.
- **Gabrielle Guillemin,** who is a Legal Officer at ARTICLE 19, an international free speech organization based in London. She is also an independent expert attached to the Council of Europe. Earlier she has worked at the European Court of Human Rights .
- **Marco Pancini** is a European policy counsel in Google. Marco is member of the Google policy team in Brussels, where his main areas of responsibility are open Internet issues, freedom of expression, child safety, and intermediary liability.
- **Nedal Al Salman**, Human right activist; Head of Advocacy in Bahrain center for human rights and Vice President of the Arab media monitoring group, after her lecture on "Two years of revolution: Bahrain's uprising and Britain's Position", Romanian Cultural Institute in London.
- **Martin Husovec** is a researcher for the International Max Planck Research School for Competition and Innovation. His doctoral thesis concentrates on the issue of injunctions against innocent third parties, such as intermediaries. He is having a very interesting blog on internet-human rights issues I encourage you all to follow: husovec.eu.

However, due to different unfortunate circumstance (e.g. Nedal accidently going to Internet Ungovernance Forum main hall instead of IGF, Karmen Turk being in Istanbul Hospital's emergency room due to car accident) the panel was far from the planned one.

Takedown systems

However, Gabrielle Guillemin took charge, moderated the meeting perfectly and incited some fruitful discussions with the audience.

Firstly, Gabrielle gave an overview of different challenges that exist with the current different take down systems. Namely, firstly, there are difficulties in challenging take-downs, filtering or blocking. There are problems in terms of remedies, due process and transparency. Secondly, people can share, upload their own content and rights holders want to challenge the content. It is easier to send their demands to ISPs, instead of users. The problem arises from the fact that even though intermediaries

are allowed protection (conditional liability regimes), they are held liable if they do not block contested material upon learning of the potentially illegal material. This creates myriad of problems – starting from creating chilling effects since the risks tend to bend intermediaries toward removing content than to safeguard freedoms of users.

European Court of Human Rights case in Delfi v Estonia

Gabrielle gave a thorough overview of the merits of the case as well as current status in the grand Chamber of the European Court of Human Rights.

Audience member shared views on Impact of censorship in some countries. It was acknowledged that if a country is regarded as free and open then there is no concentration on this country's deficiencies in other fields – e.g. intermediary liability and censorship.

Another audience member commented that blocking and filtering mechanisms are there for the protection of minors, children and copyright and these serve public interest. So there was a question arisen that how and if we can find a common ground – for public interest and free content. A third participant commented that notwithstanding these public interests, in reality for example blocking of certain applications was not for pornography, child pornography or other harmful content. However – in reality it was politicians notices with the aim to control the free information.

It was noted that this is exactly the "slippery slope" to be aware of – one starts to block one type of content and ends up in all other fields. Another side of the coin is under- and over-blocking: meaning that one is trying to take care of the "problematic content", but does not really succeed (either the attempt is unsuccessful of blocking illegitimate content due to technical reasons or the block reaches legitimate content on the way).

So what could be the answer? It was discussed that real and effective measures are:

- firstly, prosecution of those people that commit child pornography. And not blocking, filtering;
- secondly, empowering users. Meaning that letting the user choose and let a parent (for a minor) choose and take responsibility. Otherwise – we are not making people responsible for what they do. It is parents responsibility to install filters in their home-computers, but not the liability for the internet as the whole.
- thirdly, it is the society's responsibility to educate children and minors of the different content online.

A journalist from the audience shared thoughts on the Delfi case and other similar ones stating that these could only happen in Europe. Since in other parts of the world, administrative powers are considered more important than artist's ideas. In those regimes governments do block very different content. However, the more dangerous trend is that governments use social networks as their mouthpiece to distribute their messages, information and propaganda.

A audience member from India shared a concern on the situation in India. Namely, there is a case in Supreme Court and petition in the parliament to block all online pornography. Even though it is in fact technically unfeasible and a huge threat to freedom of expression, there is a strong support for the initiatives. The reasons are that there have been some high-profile sexual violence cases in offline

world. Thus there is this strong common understanding in the society that banning pornography online, will also reduce the problem offline. The underlying problem is that officials do not seem to be able to understand Internet and its technical (im)possibilities.

It was discussed in the audience that the problem is that it is very hard to define pornography. So how do we go ahead. Governmental filters are definitely not effective and thus not working.

It was also discussed that it is not just governments that are a threat to freedoms and user generated content. Some social media platforms are also arbitrarily blocking users for minor infringements of Terms of Services.

Audience member shared her view that violence and abuse against women online limit the ability of those women to express themselves online. So this would also need to be taken into account and not only concentrate on the freedom to share and express. It was generally agreed that there are threats to freedoms of those women. However – some people have robust way of speaking – it would be disproportionate to block that person from speaking out at all. So the solution is education of all parties.

An audience member shared a positive idea: there have been developments in some countries, where civil society has developed means to circumvent government blocking. For example, search engines are mirrored to access free information.

European Union Court of Justice case of Google, i.e. right to be forgotten

Gabrielle gave an overview of the ECJ decision that obliged Google to remove data from search results. The case is called a right to be forgotten case.

The challenge from legal perspective for the user is that if content gets removed because of the notice to Google, there is no remedy for a user to keep your content open. The other questions arisen are what happens when a measure in one country blocks illegal content, but the measure has effect in another country, where the content is legal. This raises different issues – whether the other country has a remedy? Is there a sovereignty issue arising?

Remote participation

Remote participants put for the 2 questions.

1. 1st remote participant's question concerned the right to be forgotten: is it applicable to the whole world or only Europe.
   Gabrielle answered that Google is currently enforcing the decision on .fr and .co.uk. This decision is contested by data protection commissioners, since the search in .com would still avail the information.
2. 2nd remote participant had a question in regards to school systems. Namely, how to make ICT more available to pupils in school, since the school systems are restricting traffic.
   It was noted that there are standards that allow access to the internet. However, the use of the internet is strictly restricted in some places, e.g. in workplaces, in schools. But

even in school system – the measure that restricts internet use, needs to be proportionate and reasonable.

Dynamic Coalition

The coordination team continues as of in 2014, i.e. Ben Wagner, Karmen Turk, Angela Daly.

The coalition would like to invite all interested stakeholders to participate in these discussions via the coalition mailing list at the group's new networking site, http://dcexpression.ning.com, and via the coalition mailing list which can be joined at http://mailman.ipjustice.org/listinfo/expression.