



## ***Internet intermediary liability: towards evidence-based policy and regulatory reform to secure human rights on the internet***

*The Wedgwood, 75A 2nd Ave. Melville, Johannesburg, 10-11 February 2014*

Building on research conducted by APC and its partners during 2012 and 2013 this event aims to:

- Increase awareness of current trends in internet intermediary liability in Africa
- Increase awareness among civil society groups, human rights activists, Internet Service Providers, network operators, media groups and other stakeholders of the importance of clear regulatory frameworks for intermediary liability to secure rights on the internet
- Facilitate dialogue and debate on the human rights implications of intermediary liability, especially in relation to freedom of expression, freedom of information, freedom of association and violence against women
- Increase capacity of intermediaries and other stakeholders to advocate for best practice internet intermediary regulatory measures
- Drive stronger collaboration and networking among and between different-stakeholders who are concerned with internet freedoms at regional, international and sectoral levels
- Based on the discussion and conclusions of the workshop, develop best practice guides for lawmakers and regulators in Africa.

Background papers:

Best practice overview: <https://www.apc.org/en/pubs/internet-intermediary-liability-identifying-best-p>

Country research studies: <http://www.apc.org/en/pubs/intermediary-liability-kenya>; <http://www.apc.org/en/pubs/intermediary-liability-uganda>; <http://www.apc.org/en/pubs/intermediary-liability-nigeria>; <http://www.apc.org/en/pubs/intermediary-liability-south-africa>

Synthesis paper: <http://www.apc.org/en/pubs/liability-internet-intermediaries-nigeria-kenya-so>

Participants are also welcome to join an optional internet rights training which will take place on the afternoon of 11 February 2014. Agenda followed after IIL agenda. Please RSVP to [emilar@apc.org](mailto:emilar@apc.org)

## AGENDA DAY 1: Monday 10 February 2014

0900-0930	Coffee as participants arrive
0930-0945	<b>Introductions and overview of agenda: Anriette Esterhuysen and Emilar Vushe, APC, Titi Akinsanmi, Google</b>
0945-1030	<p><b>Basic concepts: What are 'intermediaries' and 'internet intermediary liabilities'</b> Presentation by Nicolo Zingales, Tilburg University, The Netherlands (15 mins) Moderated by Anriette Esterhuysen, APC.</p> <p><b>Respondents:</b> Dominic Cull – South African ISP Association; Juan Carlos Lara - Derechos Digitales, Chile (5 mins each) followed by discussion. Questions to address include:</p> <ul style="list-style-type: none"> <li>• Are intermediaries defined different in different countries in Africa?</li> <li>• What does “Internet intermediary liability” mean to legal practitioners, activists, civil society organisations, women's rights defenders, social networking platforms, educators, artists and other content creators?</li> <li>• What implications for regulation or law drafting should be considered?</li> </ul>
1030-1045	Break
1045-1300	<p><b>Trends and current contexts in Africa:</b> Nigeria - Gbenga Sesan; South Africa - Dominic Cull; Kenya - Alice Munyua; Uganda - Lillian Nalwoga. Moderated by Nicolo Zingales.</p> <p>What data is being collected on IIL and by whom?</p> <p><b>Discussion:</b> How to develop data gathering consistency via country templates and building shared research strategies.</p>
1300 - 1400	Lunch
1400-1530	<p><b>International research and challenges in comparing contexts</b></p> <p>IIL and tech-enabled violence against women: APC - FLOW research and related issues, Jan Moolman, South Africa; UNESCO project, Elonnai Hickok, Centre for Internet and Society, India; Latin American research, J. Carlos Lara, Derechos Digitales, Chile.</p> <p>Followed by discussion. Session moderated by Alice Munyua, KictaNet.</p>
15.30-1600	Break
1600-1800	<p><b>What do we want?: Best practice for regulatory models for internet intermediary liability in Africa</b></p> <p>Session moderated by Nicolo Zingales and Lillian Nalwoga.</p> <p>Opening inputs from Dominic Cull and Gbenga Sesan followed by discussion to focus on trends, prospects and challenges in regulatory reform relating to:</p> <ul style="list-style-type: none"> <li>• Complaints</li> <li>• Notice, take-downs, filtering</li> <li>• Implications for users, intermediaries, and regulators</li> </ul>

## AGENDA DAY 2: Tuesday 11 February 2014

0830-0900	Coffee as participants arrive
0900-0915	Welcome and overview of day 1: Anriette Esterhuysen, Titi Akinsanmi, Nicolo Zingales
0915-1100	<p><b><i>Developing best practice and need to know guides: Small group discussion of 6 questions (1 or 2 questions per group).</i></b> Each group to make 3 recommendations. Facilitated by Emilar Vushe and Nicolo Zingales.</p> <p>(1) What to expect from States: e.g. should they insulate some areas of public policy from the decisions of private or self regulation? Should they be held responsible for failing to secure minimum protection standards, and where do we draw the line for those minimum standards? What can we consider as reasonable remedies available against affected parties?</p> <p>(2) What to expect from intermediaries: e.g. should they be required to police the Internet for "red flag" violations? Should they be expected to make fine distinctions over the legality of content, and if so, in what areas? Should they have to notify their users of any use of their data and of general changes to their policy and terms and conditions?</p> <p>(3) Is it better to have a "horizontal" IIL system or one responsive to the needs existing in different areas of law (e.g. copyright, defamation, hate speech, incitement to violence, discrimination and cybersecurity)? Is it recommendable to adopt a general limitation of liability or is it preferable to create special regimes for different types of activities, such as connectivity services, search services, educational services, news reporting and/or others?</p> <p>(4) What are the effects of approaches to IIL on users' behavior, in terms of production of innovation and free speech? What is the extent of multistakeholder input, or public participation, that should be adopted in the formulation of IIL regimes? And does the answer differ depending on whether the regulation is national, regional or global? And on whether it is horizontal or specific and which rights are involved?</p> <p>(5) How can we ensure that these regimes conform with basic rule of law requirements? What procedures should be followed to secure an appropriate balancing between rights and interests of users and those who are affected by their speech? Should the standard differ depending on whether it is a matter of civil or criminal liability?</p> <p>(6) Finally, who are the priority audiences for (a) best practice guides for regulators and lawmakers? Do we need to produce one, or several guides? And for the need to know guides for journalists, bloggers, and other content producers? <i>All groups should consider this question.</i></p>
1100-1245	Presentation of recommendations from each group followed by discussion on best practice and need to know guides.
1245-1300	Closing and evaluation followed by lunch

## OPTIONAL HALF DAY TRAINING ON THE INTERNET AND HUMAN RIGHTS \*

1400-1500	<p><b><i>Introduction to the Internet</i></b>  Trainer: Dixie Hawtin  Method: Presentation and Q&amp;A to cover: a very short history of the internet, understanding the internet (the layer model) and a brief overview of important actors and governance structures.  <i>Handout: Latest draft of "Travel Guide to the Digital World"</i></p>
1500-1530	Break
1530-1630	<p><b><i>Internet Rights are Human Rights Curriculum Module 1: Introduction</i></b>  Trainer: Beryl Aidi, Kenya Human Rights Commission, Dixie Hawtin, Global Partners, J. Carlos Lara, Derechos Digitales.  Overview, objectives and presentation: 20 mins  Group questions: 10 mins  Case study 1: 20 mins (Lillian Nalwoga): LBGT rights in Uganda  Case study 2: 20 mins (J Carlos Lara): TBC  Report back: 10 mins</p>
1630-1645	Break (15 mins)
1645-1745	<p><b><i>Module 2 Freedom of Expression &amp; Freedom of Information</i></b>  Presentation: 20 mins  Group questions: 10 mins  Case study 1: Jan Moolman (APC): Violence against women online – (20 mins)  Case study 2: TBD – (20 mins)  Report back: 10 min</p>
1745-1800	Closing and Evaluation