



An Roinn Fiontar,  
Trádála agus Fostaíochta  
Department of Enterprise,  
Trade and Employment

# Final Statement of the Ireland National Contact Point for the OECD Guidelines for Multinational Enterprises

**Specific instance Complaint from the Crypto Currency Resolution Trust (CCRT) and Chagos Refugees Group UK (CRG UK) against Afiliás Ltd., 101domain GRS Ltd. And Internet Computer Bureau Limited**

As noted in the Procedural Guidance to the [OECD Guidelines for Multinational Enterprises](#), following conclusion of a specific instance and after consultation with the parties involved, the NCP will make the results of the procedures publicly available.

As no agreement was reached, the NCP is issuing the following statement. This statement describes the issues raised, the reasons why the NCP decided that the issues raised merited further examination, and the procedures initiated by the NCP to assist the parties. This statement also identifies recommendations made by the NCP to the enterprise on the implementation of the Guidelines.

As specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot directly order compensation nor compel parties to participate in a conciliation or mediation process.

This statement is without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city, or area. The Ireland NCP recognises the sovereignty dispute regarding the ‘British Indian Ocean Territory (BIOT)’. However, the Ireland NCP is considering this specific instance complaint solely from the perspective of the OECD Guidelines.

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The OECD Guidelines for Multinational Enterprises are recommendations on responsible business conduct (RBC), addressed by Governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for RBC in a global context consistent with applicable laws and internationally recognised standards. As an adhering country, Ireland is required to maintain a National Contact Point (NCP) to promote and raise awareness of the Guidelines and to consider complaints of alleged non-observance of the Guidelines.

The Ireland NCP is a standalone unit in the Department for Enterprise, Trade and Employment.

## Executive Summary

- The Ireland NCP received a specific instance complaint lodged by an attorney (hereinafter “the Notifier”) acting on behalf of the Chagos Refugees Group UK (CRGUK) and the Crypto Currency Resolution Trust (hereinafter “the Complainants”). The complaint concerned Afilias Ltd. (Ireland), its subsidiary Internet Computer Bureau Limited and former subsidiary 101domain GRS Ltd. (hereinafter referred to as “Afilias”, “ICB”, “101domain GRS” and collectively as “the Companies”). The complaint argued that the Companies’ maintenance of the .io country code top-level domain and sale of the associated domain names are in breach of the OECD Guidelines, specifically provisions of Chapter IV (“Human Rights”) and Chapter VIII (“Consumer Interests”).
- The Ireland NCP received correspondence from the joint legal adviser of Afilias and ICB and from 101domain GRS. Both communications noted that 101domain GRS was no longer a subsidiary of Afilias and was therefore no longer affiliated with ICB. In response to a request from the NCP for a further response to the substance of the complaint, Afilias/ICB made substantial submissions. 101domain GRS declined to engage further with the specific instance process, a decision which the Ireland NCP regrets.
- The NCP offered its good offices as there were significant differences in perspective between the Complainants and the Company and, therefore, organising dialogue between the parties could contribute to a resolution of the issues.
- The Complainants accepted the NCP’s offer of good offices. Afilias/ICB declined the offer, stating that it did not believe that the complaint should proceed beyond initial assessment stage, and that mediation would not be useful or appropriate. The Ireland NCP regrets this decision, but notes the extensive written submissions made by Afilias/ICB to explain its position and engage with the complaint.
- To conduct an examination of the specific instance, in line with the rules of procedure, the NCP requested the Parties to submit additional information for its consideration in order to issue a final statement. The final statement includes recommendations.
- The NCP recommends that in business dealings which bring any company into contact with a contentious and well-documented issue touching on human rights, it should be able to demonstrate that it has undertaken human rights due diligence and furnish a human rights policy.
- The NCP recommends that when an enterprise is dealing with consumers, they should provide an appropriate non-judicial dispute resolution and redress mechanism, actively engage with public authorities to help prevent and address deceptive marketing practices, while also considering if there are other practices that could be effective and take the necessary steps to reduce e-commerce risks in line with the recommendations of Chapter VIII of the Guidelines.
- The NCP also recommends that when a company finds itself the subject of a specific instance complaint to a National Contact Point, it should engage with the complaint process, including making written submissions addressing the claims and responding to contacts from the NCP.
- In light of the scale of the disagreement between the parties to this complaint, it is the judgment of the NCP that a follow-up to this examination would not be constructive or

advance the aims of the Guidelines. The NCP therefore closes this specific instance.

## A. Submission and initial assessment

### The parties

1. The specific instance was submitted by an attorney (“the Notifier”) acting on behalf of the Crypto Currency Resolution Trust (CCRT) and Chagos Refugees Group UK (CRGUK) (referred to jointly as “the Complainants”).
2. The specific instance was directed against the Companies. However, during the initial assessment stage, the Ireland NCP was informed that the Companies were no longer part of the same group/structure. Afilias and ICB remain under common ownership, while 101domain GRS is no longer affiliated with them. The Companies are hereafter referred to in separate capacities as “Afilias/ICB” and “101domain GRS”.

### The complaint

3. The complaint arises from the Companies’ ownership of, and operations connected to, the .io ccTLD. The Complainants argued that the use of this digital asset was connected to adverse impacts relating to human rights and consumer interests, citing Chapters IV and VIII of the Guidelines. In its initial assessment, the NCP therefore referred to these as “the human rights claims” and “the consumer interests claims”.
4. The human rights claims arose from the association between the .io ccTLD and the British Indian Ocean Territory (BIOT), also known as the Chagos Islands. The Complainants alleged that the Companies were in a business relationship with the BIOT administration, providing technical services and making payments of royalties<sup>1</sup>. The Complainants therefore argued that in administering the ccTLD and marketing .io domain names, the Companies’ operations were connected to adverse human rights impacts affecting the Chagossians.
5. The consumer interest claims arose from the use of .io domain names for allegedly fraudulent purposes by third parties. The Complainants argued that the Companies had actively marketed .io domain names to “vendors of unregulated crypto assets”<sup>2</sup>. They further alleged that the Companies used the “unrestricted” status of the ccTLD to attract users, in full knowledge that a “significant criminal element” would use the domain names, making .io an “offshore haven for organized criminals using crypto assets”<sup>3</sup>.
6. Adducing marketing materials aimed at purchasers of .io domain names, the Complainants also claimed that the Companies had misled consumers by using terms and imagery associated with the Chagos Islands without sharing royalties with the Chagossians.
7. The Ireland NCP wrote to the Notifier seeking clarity on a number of aspects of the complaint. The Notifier submitted a detailed submission (“the Supplemental Briefing”)

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<sup>1</sup> Complainants’ submission, p. 9

<sup>2</sup> Complainants’ submission, p. 12.

<sup>3</sup> Complainants’ submission, p. 2.

addressing questions and refining the specific instance to the provisions cited below (“Relevant provisions of the Guidelines”).

8. The Supplemental Briefing refined the human rights claims to the specific paragraphs listed below. It claimed that the Companies did not have a policy commitment to human rights; that they had failed to carry out human rights due diligence; and that they had failed to co-operate in processes to remediate adverse human rights impacts.
9. The Supplemental Briefing refined the consumer interests claims and added one new ground of complaint. The Complainants now argued that the Companies had failed to provide consumers with sufficient non-judicial dispute resolution mechanisms; that they made representations that were deceptive, misleading, fraudulent or unfair; that they failed to co-operate fully with public authorities to prevent and combat deceptive marketing practices; and that they failed to take into consideration the specific challenges that e-commerce may pose for consumers.

### Relevant provisions of the Guidelines

10. The Complainants cited the following Chapters and paragraphs of the OECD Guidelines:

#### **Chapter IV: Human Rights**

**Chapter IV A.4:** Enterprises should “*Have a policy commitment to human rights*”.

**Chapter IV A.5:** Enterprises should “*Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts*”.

**Chapter IV A.6:** Enterprises should “*Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts*”.

#### **Chapter VIII: Consumer Interests**

**Chapter VIII A.3:** Enterprises should “*Provide consumers with access to fair, easy to use, timely and effective non-judicial dispute resolution and redress mechanisms, without unnecessary cost or burden*”.

**Chapter VIII A.4:** Enterprises should “*Not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent or unfair*”.

**Chapter VIII A.7:** Enterprises should “*Co-operate fully with public authorities to prevent and combat deceptive marketing practices (including misleading advertising and commercial fraud) and to diminish or prevent serious threats to public health and safety or to the environment deriving from the consumption, use or disposal of their goods and services*”.

**Chapter VIII A.8:** Enterprises should “*Take into consideration, in applying the above principles, i) the needs of vulnerable and disadvantaged consumers and ii) the specific challenges that e-commerce may pose for consumers*”.

### Remedy sought

11. With regards to remedy, the Complainants sought the following reliefs:
  - i. An accounting of payments made to the British Indian Ocean Territory (BIOT) or the Foreign, Commonwealth and Development Office (FCDO) by ICB.
  - ii. Payment of royalties claimed to be due to the Chagossian people.

- iii. Payment of a “fair percentage” of the acquisition price paid for the .io ccTLD.
- iv. An interim agreement between ICB and the Chagossian people including an annual payment schedule of royalties, a disbursement schedule of funds allegedly owed and provision for a Chagossian director on the board of ICB.
- v. Afiliat and ICB to “cease and desist from enabling criminal activities that damage the reputation and value of ccTLD .io” by working with the Complainants to eradicate cryptocurrency-based crime carried out using the .io ccTLD.
- vi. An evaluation of cryptocurrency crime issues and support in engaging with the BIOT administration in seizing assets used in crime in order to reimburse victims.
- vii. Support for the creation of a “crypto crime super fund” to be established by the cryptocurrency industry.
- viii. Failing the above, the complaint called on Afiliat to “divest from BIOT and transfer constructive ownership of ICB to the Complainants in exchange for the goodwill engendered and cancellation of obligations”.

### **Afiliat/ICB’s response**

12. Regarding the human rights claims, Afiliat/ICB noted their involvement in several multi-stakeholder and industry initiatives aiming to uphold practices relevant to human rights in the ICT industry. Afiliat/ICB argued that any obligation to remediate an adverse impact on human rights would require the establishment of an enterprise’s direct connection to such an impact. The companies argued that this had not been established.
13. Afiliat/ICB argued that they were not involved in the marketing of .io domain names, but rather were responsible for maintaining the ccTLD. As such, they were not responsible for deceptive, misleading, fraudulent or unfair representations or omissions allegedly made in the marketing of .io domains. They further noted the rules binding end users against illegal abuse of domain names and the requirements for users to provide valid, accurate and verifiable information. They also argued that they had cooperated with public authorities to prevent and combat deceptive marketing practices and illegal user behaviour as outlined in industry frameworks, and to the greatest degree practicable for the operators of a domain name register.

### **101domain GRS’s response**

14. 101domain GRS responded to the complaint stating it ceased to be a subsidiary of Afiliat prior to the sale of Afiliat to Donuts Inc. in 2020. As it is no longer a subsidiary, it believed there was no basis for it to respond to the complaint and that the reliefs requested did not relate to it or its role in relation to the .io ccTLD. However, the NCP requested 101domain GRS to respond, noting that it would have regard to the conduct of the business prior to the change in ownership. In a subsequent call with the NCP, 101domain GRS legal advisors stated they had been instructed not to respond to the request and had no further response other than to refute the complaint.

## Initial assessment by the NCP

15. The Ireland NCP issued its initial assessment of the complaint on 2 March 2023. This initial assessment was issued to the parties and published on the Ireland NCP website, available [here](#).
16. On the basis of submissions received, the Ireland NCP decided that there was a *prima facie* case to proceed to the offer of good offices.

## B. The proceedings of the NCP

17. Since receipt of the submission, the NCP has carried out the following actions:

<b><i>Receipt and initial assessment of the specific instance</i></b>	
28 July 2021	NCP receives complaint
16 August 2021	NCP forwards complaint to the legal advisers of Afilias
8 September 2021	Counsel for Afilias/ICB informs NCP that it is no longer affiliated with 101domain GRS
29 September 2021	NCP forwards complaint to 101domain GRS
12 October 2021	Counsel for 101domain GRS writes to NCP to clarify that it is no longer an Afilias/ICB subsidiary
15 October 2021	NCP receives submission from Afilias/ICB refuting complaint
15 October 2021	Ireland NCP writes to 101domain GRS encouraging submission
12 November 2021	Counsel for 101domain GRS informs the NCP that 101domain GRS does not intend to comment further on the complaint
25 February 2022	Ireland NCP contacts the Notifier to request further information on several points and clarification of the precise grounds of the complaint
20 March 2022	The Notifier submits a Supplemental Briefing to the Ireland NCP, providing further information and clarification on aspects of the complaint
28 March 2022	The Ireland NCP forwards the Notifier's Supplemental Briefing to the counsel for Afilias/ICB
22 April 2022	The Ireland NCP receives a reply to the Notifier's Supplemental Briefing from the counsel for Afilias/ICB
26 April 2022	On receipt of written assurances of confidentiality from the Notifier, the Ireland NCP forwards the counsel for Afilias/ICB reply to the Notifier
28 October 2022	Ireland NCP issues the draft initial assessment to the parties for comment
11 November 2022	Ireland NCP forwards the draft initial assessment to the UK and US NCPs
16 November 2022 & 2 December 2022	Afilias/ICB queries aspects of the draft initial assessment and requests a meeting with NCP officials
23 November 2022	101domain GRS submits comments on the draft initial assessment
6 December 2022	The Ireland NCP meets with the UK NCP to discuss the Afilias/ICB correspondence

16 December 2022	Afilias/ICB submits preliminary comments on the draft initial assessment pending a meeting with the Ireland NCP
20 December 2022	Ireland NCP meets with Afilias/ICB representatives to discuss their concerns regarding the draft initial assessment
23 December 2022	Afilias/ICB writes to the Ireland NCP with comments on the draft initial assessment
17 February 2023	Ireland NCP issues an updated initial assessment to parties for Information
1 March 2023	Afilias/ICB writes to Ireland NCP expressing disagreement with the updated initial assessment and declining an anticipated offer of good offices
2 March 2023	Ireland NCP publishes the initial assessment
<b><i>Good offices</i></b>	
14 March 2023	Ireland NCP offers its good offices to the Complainants and Afilias/ICB
16 March 2023	Afilias/ICB reiterates its refusal of good offices
19 March 2023	Complainants accept the offer of good offices
29 March 2023	Ireland NCP offers its good offices to 101domain GRS
5 April 2023	101domain GRS refuses the offer of good offices
<b><i>Conclusion of the specific instance</i></b>	
13 April 2023	Ireland NCP notifies Complainants that Afilias/ICB have refused mediation and requests a submission pending a final statement
20 April 2023	Afilias/ICB writes to the Ireland NCP with queries on the examination process
24 April 2023	Ireland NCP writes to Afilias/NCP responding to queries and highlighting points of particular interest
3 May 2023	Afilias/ICB writes to Ireland NCP responding to points highlighted on 24 April 2023
4 May 2023	Ireland NCP receives submission from Complainants pending a final statement
9 August 2023	Ireland NCP completes the final statement and shares the draft with the parties
21 August 2023	101domain GRS submits comments on the draft final statement
30 August 2023	Afilias/ICB submits comments on the draft final statement
27 September 2023	Final statement published

### **C. Offer to initiate the good offices process**

18. On receipt of the final draft of the initial assessment of the complaint, Afilias/ICB informed the Ireland NCP that it did not believe the complaint should proceed beyond initial assessment stage. Anticipating the procedures of the Ireland NCP, Afilias/ICB informed the NCP that it did not wish to participate in mediation should it be offered. The company believed that there was a disjoint between the relief sought and the allegations raised and that mediation would not be appropriate or productive.
19. Afilias/ICB further noted its extensive written submissions to the Ireland NCP, citing this engagement as evidence of its good-faith engagement with the specific instance



process.

20. While the Ireland NCP noted the position of Afiliias/ICB, it formally offered its good offices to the parties in line with its rules of procedure. In its correspondence the NCP noted that the process was aimed at achieving an agreed solution, and that the terms of reference of any mediation process would be subject to the agreement of all participants. The NCP stated that it advises all parties to specific instances that it is in their interests to participate in mediation processes. It further noted that if a party chooses not to engage in mediation, its procedures call for the issuance of a final statement reflecting its decision to exit the process.
21. Afiliias/ICB confirmed its decision not to participate in mediation while reserving its right to contribute to any fact-finding process, while 101domain GRS declined the offer.
22. On behalf of the Complainants, the Notifier accepted the Ireland NCP's offer of good offices.
23. With neither of the Companies willing to proceed with mediation, the Ireland NCP moved to the examination process outlined in its rules of procedure, resulting in the publication of a final statement.

#### **D. Examination and conclusions**

24. The Ireland NCP provided the opportunity for parties to provide further submissions to be considered at this stage in the process.
25. In correspondence with Afiliias/ICB, the NCP requested information on the significance of an administrative contact address on the Chagos Islands listed for ICB on the website of the Internet Assigned Numbers Authority. The NCP also requested clarification of comments made by a former director of ICB which the Complainants had cited as evidence of a business relationship between Afiliias and the BIOT administration.

#### **The Complainants' submission**

26. The Complainants responded to the invitation to provide a final submission. This document restated the claims advanced in the initial complaint and the Supplemental Briefing and made further arguments.
27. In relation to the human rights claims, the Complainants rejected the argument that Afiliias/ICB did not have a business relationship with the BIOT administration, noting that a forwarding address in the British Indian Ocean Territories for ICB Limited was listed in the delegation record for the .io ccTLD held by the Internet Assigned Numbers Authority.
28. In relation to the consumer interest claims, the Complainants restated their view that the Companies had enabled fraud in the digital space.
29. The Complainants further stated that they did not see compensation as the only possible solution to the specific instance, acknowledging that awarding compensation is not the purpose of the Guidelines.

#### **Afiliias/ICB's submission**

30. Afiliias/ICB wrote to the NCP to address the queries the NCP had raised when opening the examination process (see paragraph 30 above). The company stated that it did not

otherwise wish to supplement information and submissions it had previously put forward.

31. Regarding the administrative address on the Chagos Islands, Afiliias/ICB stated that [RFC-1591](#), a document outlining the rules governing the operation of the domain name system, requires the maintenance of an administrative and technical contact for top-level domains. For ccTLDs, this contact must reside in the country involved. The company stated that an exemption is available for the operation of ccTLDs representing territories without a permanent population, outlined in the “Framework of Interpretation Working Group (FOIWG) Final Report - Framework of Interpretation of current policies and guidelines pertaining to the delegation and redelegation of country-code Top Level Domain Names”.
32. Afiliias/ICB stated that it sought to adhere to the requirements of RFC-1591 in spite of the exemption. For this reason it had an arrangement whereby a private company named Sure (Diego Garcia) Limited provided a postal address for ICB in the Chagos Islands. Afiliias/ICB stated that this arrangement did not create a business relationship with the BIOT Administration or the UK Government.
33. Regarding the comments made by a former ICB director, Afiliias/ICB stated that these comments were hearsay and it could only speculate as to their meaning. They noted statements made by UK Government Ministers refuting the existence of a financial relationship between the BIOT administration and ICB. They also noted a statement from the UK Foreign, Commonwealth and Development Office stating that no revenue from the sale of .io domain names is received by the UK Government or the BIOT Administration.
34. 101domain GRS did not respond to the NCP’s call for a final submission.

## Recommendations

35. The Ireland NCP recommends that parties should note the non-judicial nature of the NCP mechanism and approach the process in a non-adversarial, constructive and future-oriented manner.
36. The NCP recommends that in cases in which a product, including a digital asset, is associated with long-running disputes regarding human rights, multinational enterprises should be able to demonstrate that they have carried out human rights due diligence. The NCP strongly recommends that multinational enterprises are thoroughly apprised of the OECD Guidelines for Multinational Enterprises and the related [OECD Due Diligence Guidance for Responsible Business Conduct](#) which calls for them to “identify and assess actual **and potential** adverse impacts associated with the enterprise’s operations, products or services”<sup>4</sup>.
37. The NCP recommends that all multinational enterprises express their commitment to human rights through a publicly available statement of policy, as called for in Chapter

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<sup>4</sup> OECD Due Diligence Guidance for Responsible Business Conduct, p. 25 (emphasis added).

IV, A.4 of the Guidelines and in line with the Commentary on Chapter IV<sup>5</sup>.

38. The NCP recommends that multinational enterprises dealing with consumers should provide appropriate non-judicial dispute resolution and redress mechanisms. The NCP notes the guidance set out in the OECD [Recommendation of the Council on Consumer Dispute Resolution and Redress](#), with particular regard to section IV, for the establishment of such mechanisms. In this regard the NCP notes the engagement of Afiliias/ICB with the Notifier prior to the opening of the specific instance, evidenced through correspondence submitted to the NCP.
39. The NCP recommends that enterprises actively engage with public authorities to help prevent and address deceptive marketing practices, while also considering if there are other practices that could be effective and take the necessary steps to reduce e-commerce risks in line with the recommendations of Chapter VIII of the Guidelines. In this regard, the NCP notes the role of Afiliias/ICB as a signatory of the [DNS Abuse Framework](#), outlining best practices for domain name registries with respect to domain name abuse.
40. Finally, the NCP recommends that any multinational enterprise informed by an NCP that it is the subject of a specific instance complaint should engage with the NCP, including making a submission outlining its position on the complaint. It is regrettable that 101domain GRS chose not to engage with the process.

## **Follow-up**

41. Noting the distance between the positions of the parties in this case, and the position taken by the Companies with respect to the NCP process, the NCP does not propose to carry out follow-up in this case. With this final statement, the NCP therefore closes the specific instance.

**ENDS**

**Ireland National Contact Point  
OECD Guidelines for Multinational Enterprises  
Department of Enterprise, Trade and Employment**

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<sup>5</sup> OECD Guidelines for Multinational Enterprises, p.33. This requirement is repeated in the 2023 edition of the Guidelines on p. 27.