

IETF Administration LLC

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Our Ref: TC/ADM838 26th January 2023

Dear Sirs,

Re: W3C

Further to our correspondence on 25th January regarding our concerns with the process and operation of the W3C (the "letter"), we are writing to clarify the letter's relevance to the Internet Engineering Task Force (IETF).

As mentioned in the letter, we act for the Movement for an Open Web ("MOW") seeking to secure an open and decentralised web as an anonymous entity on behalf of its members (players within digital markets). The letter outlines the importance of web standards on the web's architecture that must be set in a neutral and pro-competitive way. It outlined MOW's concerns that such standards have been/continue to be heavily infiltrated and influenced by BigTech companies who are pushing forward standards that work only to their benefit at the expense of other businesses as well as the fundamental operability of the web, which ultimately impacts web users (via lack of choice, latency, etc.).

Considering that IETF is also engaged in standards making and that the letter now is in the public domain, we wanted to bring it to your attention as IETF may also be subject to similar issues.

For example, one of the issues identified in the letter as inherently discriminatory is the issue of SameSite designation (see Annex 4, paragraph (A) in the letter), which initiated the discrimination between first- and third-party websites. IETF was the forum within which SameSite was promulgated in May 2019.² From this date, Google began implementing SameSite attribution by amending the coding in Chrome making it a **requirement** for developers to use SameSite otherwise resulting in a code that would not work as well. It inherently created a label for cookies that allows the browser to identify different business arrangements of big media owners and discriminate against smaller ones, affecting their competitive position, and interfered with the basic transport and functioning of the web, which is the responsibility of the IETF as a standards maker to maintain.

¹ MOW is, for example, the complainant in current DG Competition proceedings. See Commission guidelines on complaints para 81 and footnote 71 "Some persons may wish to inform the Commission about suspected infringements of Articles 81 or 82 without having their identity revealed to the undertakings concerned by the allegations. These persons are welcome to contact the Commission. The Commission is bound to respect an informant's request for anonymity unless the request to remain anonymous is manifestly unjustified." <u>EUR-Lex</u> - 52004XC0427(04) - FN - FUR-Lex (curona et al.)

⁵²⁰⁰⁴XC0427(04) - EN - EUR-Lex (europa.eu)

² See IETF Network Working Group Internet-Draft (10 May 2019) authored by Mike West, a software engineer in Google Chrome's team at https://datatracker.ietf.org/doc/html/draft-west-cookie-samesite-firstparty-01

Furthermore, whenever concern of the discrimination is pointed out on GitHub, it is regularly dismissed or ignored, and equal time to its discussion is not devoted.³

In a similar way as the W3C, time has come for the IETF to recognise its significance as making decisions that govern a resource used by many businesses and over 5 billion users. Hence, heavier consideration to due process should be taken to ensure that the standards being developed are truly impartial advancing the technological composition of the web rather than modelled to the benefit of some groups over others, which reinforce market positions and affect market outcomes.

We would be grateful to have the opportunity to discuss with you the principles that can be drawn from the work we have done and findings we have accumulated, which would assist to ensure compliance in the future.

Yours faithfully,

Preiskel & Co LLP

³ For example, see Github discussion at: https://github.com/httpwg/http-extensions/pull/1878#issuecomment-1010747597 where the discriminatory label of third-party cookies was codified into a document on Github by only a handful of engineers (including Google) to degrade a lawful and established standard for interoperability that a cookie offers to all data controllers and processors. This concern was raised on Github but then ignored; equal time for debate of this concern was not provided but instead tagged as not actionable due to it not relating to "technical capabilities".