



**Second Intervention on Criminalisation:
Fourth Session of the Ad Hoc Committee
to Elaborate a Comprehensive
International Convention on Countering
the Use of ICT for Criminal Purposes**

Chair, Excellencies, distinguished delegates,

Thank you for the opportunity for ICC United Kingdom to be heard again as we close the discussion on this chapter. We associate ourselves with the intervention of ICC as a whole, of which we are a founding member association, and of Microsoft. We would like to offer a few concluding thoughts which supplement those interventions and those we have made previously.

Firstly and most importantly, we are struck by the fact that we have a criminalisation chapter in a crime treaty where almost none of the offences clearly have a mens rea threshold: that the act be done with criminal intention.

At a practical level, such a result lends itself to different implementations of the same obligation across the globe, which as we know can and does frustrate findings of dual criminality, which itself is the foundation of international cooperation on criminal matters.

We have spoken about how, because of the lack of mens rea, several articles could result in journalists - and their sources - being subject to international cooperation in prosecuting them for doing their jobs.

We have also spoken, along with our other industry colleagues and many NGOs, about how the articles as written will subject white hats and cybersecurity researchers with prosecution and international cooperation on that prosecution when they do *their* jobs for the same reason.

Madame Chair, distinguished delegates, we take no pleasure at all in saying that because of this, as presently written, the criminalisation articles will lend themselves to making the Internet less safe, and have the real likelihood of resulting in more attack vectors for criminals to take advantage of due to a global chilling effect on the work of security researchers: the direct opposite of the objective of this negotiation. That's without the negative impacts of so many of the articles beyond Articles 6-10, which we have addressed in our [previous statements](#) and our [written submission](#) to this session.



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Many of the amendments proposed at this session are actually taking us in the opposite direction on this issue: we see more and more amendments to propose “without right” and “without authorisation” as thresholds, with intent left without qualifiers. At the same time, we have heard many welcome interventions reaffirming the importance of protecting security researchers and other white hats, and yet so far there are no proposals to do this in the CND.

There is much more we could say, Madame Chair, and in fact we have! We commend to delegations our written statement covering the session as a whole, and our previous interventions, all available on this session’s webpage, which also address the many articles in detail both conceptually and in textual amendments as well.

Thank you, Madame Chair and delegates for your kind attention.