

GAC ICANN80 Kigali Communiqué: Issues of Importance (17 June 2024) - ICANN Board Comments for Board-GAC Interactions Group (BGIG) Call

DRAFT Version 1.3
Updated (15 October 2024)

Issues of Importance

The section below contains comments related to the [ICANN80 Kigali Communiqué](#), in support of the Board-GAC Interactions Group (BGIG) Meeting @ 21 October 2024. **This scorecard will not be presented to the Board for resolution.**

Issue	Issue Text <i>(from the Communiqué)</i>	ICANN Board Comments
1. Transparency, GNSO Statements of Interest (SOIs) and Code of Ethics	<p>The GAC welcomes the will expressed by the Board to develop a code of ethics to, inter alia, address transparency issues in SOIs. We look forward to community discussions ahead of ICANN81 based on a discussion draft presented by the Board. The GAC expects that transparency conditions contained in the code are binding for participants in policy development processes.</p>	<ul style="list-style-type: none"> The Board thanks the GAC for its continued attention to this important topic. The Board is also looking forward to the community discussions on a draft, and hopes the GAC joins into the upcoming dialogue.
2. Registry Voluntary Commitments (RVCs) / Public Interest Commitments (PICs) in New gTLDs	<p>The GAC notes that the Board resolved on 8 June 2024 that, per the ICANN Bylaws, RVCs in New gTLD applications that “restrict content in new gTLDs” will neither be accepted nor enforced by ICANN as part of its contractual relationship with registries. In this regard, in order to maximize predictability for applicants, governments, and other participants in the community, the GAC requests that the Board, in consultation with the community, provide clear guidance well before the launch of the forthcoming application round regarding what the Board will consider as RVCs “restricting” content. Such guidance should include illustrative examples of RVCs which would, and would not, involve the restriction of content. The GAC also recognizes that other arrangements, outside of the new gTLD Registry Agreements, could be made between the registry and other parties which address content restrictions and their enforcement.</p> <p>In its resolution, the Board acknowledges that this decision “may limit the types of acceptable registry commitments, and in turn narrow applicants' options for addressing third-party concerns that arise from Objections, Advice, or comments with respect to their applied-for gTLD strings”. The GAC wishes to also underline that this approach will impact the manner in which the GAC may consider applications and limits the types of remedial actions that can be taken to address GAC concerns. The GAC will continue discussing this matter and particularly in relation to possible remedial actions.</p>	<p>The Board thanks the GAC for its input on the issue of PICs/RVCs. The Board notes the GAC’s request to provide guidance around the evaluation criteria that will be put in place to ensure that ICANN does not accept commitments proposed by applicants that would cause ICANN to violate the Bylaws restriction on regulating content in gTLDs. All relevant information to applicants - and other stakeholders in the new gTLD Program - will be included in the Applicant Guidebook. The Board understands that this topic has already been discussed at a high-level with the Implementation Review Team (IRT) and that a more in-depth discussion will take place in October and November 2024 - according to the schedule in the IRT’s Implementation Plan. The Board understands that ICANN org is aware of the request from the GAC for detailed guidance in relation to RVCs, and that this request is being taken into account in the drafting of AGB text for IRT discussion. The Board notes that the GAC has participated actively in the IRT and encourages GAC representatives to continue to do so and raise any issues or concerns with regard to this (or any other) issue in that forum.</p>
3. New gTLDs Subsequent Procedures Implementation	<p>During the bilateral session with the GNSO, the GAC posed a question about the high cost of the Registry Service Provider technical evaluation fee planned for the New gTLD process. The GAC expresses its concerns regarding financial barriers to entry for new applicants participating in</p>	<p>Per the SubPro recommendations, the Registry Service Provider Evaluation Program is expected to be operated on a cost-recovery basis. Per policy recommendation 6.8: “The RSP pre-evaluation program must be funded by those seeking pre-evaluation on a cost recovery basis”. The RSP program reduces the costs and time required for evaluating new gTLD applications by separating the evaluation of the technical aspects of operating a gTLD from the application of the gTLD label. In addition to technical evaluation,</p>

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Review Team (IRT)	the next round of gTLDs, specifically those from within the underserved regions.	<p>the RSP program streamlines additional Registry Services evaluation, including the review of IDN tables used by Registries for second-level IDN registrations. RSPs will only be evaluated once regardless of the number of gTLDs they provide service to, compared to the 2012 round where technical evaluation was carried out on a per application basis. In 2012, just the cost of panelists for technical and registry services evaluation was approximately \$22M USD, without accounting for systems development and business process design or other costs. In comparison, the estimated costs of implementing and running the RSP program in the next round are ~\$4.1M USD.</p> <p>Assuming a conservative number of applications from RSPs, the RSP evaluation fee has been established at a maximum of \$92,000 per RSP applicant. Depending on the actual number of RSP applications received during the pre-evaluation phase, the fee may be reduced in the form of a credit to \$77,000 (over 50 RSP applicants) or \$68,500 (over 60 RSP applicants). This approach, adjusting the final fee to the actual number of applicants received at the end of the pre-evaluation phase, aims to strike a balance between reducing risk for ICANN not recovering the costs and proper cost recovery amongst all RSP applicants.</p> <p>The Board notes that the GAC may have more general concerns regarding financial barriers to entry to the New gTLD Program. As noted above, the New gTLD Program is intended to operate on a cost-recovery basis. Additionally, as the GAC is aware, ICANN org has recently provided reports on its outreach and engagement efforts to ensure potential applicants are aware of the Applicant Support Program and that ICANN org is evaluating how the program is performing as qualified applications come in. Additionally, the Board is still considering the GAC’s advice from ICANN80 to “initiate a facilitated dialogue, involving representatives from the GAC, GNSO and the ALAC, to assess the feasibility of leveraging (including contracting and financing the services of) a platform to which new gTLDs, supported through the ASP, could move to eventually operate their own back-end services.” The Board continues to consider this advice and plans to discuss and provide updates on this advice with the GAC in the near future.</p>
4. DNS Abuse	<p>The GAC welcomed a session focused on DNS Abuse issues and trends in Africa. Speakers representing regulatory agencies and ccTLD operators in the Africa region shared the view that, given the growth of the number of domains in the region, DNS Abuse will likely become a growing challenge and priority. Speakers shared different examples of phishing cases in the financial sector. One speaker noted that the recent DNS Abuse contract amendments at ICANN for gTLD registries and registrars will likely have a positive impact on mitigating DNS Abuse in the region. Speakers in the session also urged further collaboration across the African region to address DNS Abuse, including among ccTLD operators. The GAC would welcome such learning opportunities from other regions on good practices to prevent and mitigate DNS Abuse at future ICANN meetings.</p> <p>The GAC looks forward to continuing discussions on DNS Abuse before and during ICANN81 where it expects to receive updates from ICANN Compliance on the implementation of contract amendments and from the Security and Stability Advisory Committee (SSAC) on Name Collisions (and its impact on the next round gTLD) as well as on advances in DNS Abuse mitigation.</p>	<p>Combatting DNS abuse supports ICANN Bylaws Sections 1.1–1.2; is an element of ICANN’s Strategic Plan, which states that a “coordinated approach is necessary to effectively identify and mitigate DNS security threats and combat DNS abuse”; and a CEO goal. The ICANN org has a cross-functional program focused on coordinating the efforts to mitigate DNS abuse.</p> <p>The ICANN Board approved amendments to the RAA and RA with an effective date of 5 April 2024 for registrars and gTLD registry operators. This is a significant achievement and represents a step forward in holding them accountable to combat DNS abuse.</p> <p>The amendments empower ICANN Contractual Compliance (Compliance) to take enforcement actions against registrars or registries who fail to adequately mitigate or disrupt well evidenced DNS abuse. Compliance has taken the following actions to enforce the new obligations:</p> <ul style="list-style-type: none"> • Issued a formal Notice of Breach against a registry operator and a formal Notice of Breach against a registrar for failing to comply with DNS Abuse mitigation requirements. • Initiated investigations resulting in the suspension of over 2,600 malicious domain names and the disabling of over 328 phishing websites. • Began publishing monthly reports detailing the number of reported instances of phishing, malware, botnets, pharming, and spam used to deliver DNS abuse as well as how these were addressed. The newly launched reports are broken out by the type of DNS abuse reported and contain a significant amount of data captured from received complaints and the related enforcement actions.

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		<ul style="list-style-type: none"> Launched an audit of registry operators to confirm, among other things, that the auditees are complying with the new DNS Abuse obligations <p>It is important to allow sufficient time for the implementation of the new amendments and to accurately measure impact. For example, Compliance metrics, while an important data source, alone cannot be relied on to measure the overall impact of the DNS Abuse Amendments. Compliance has visibility over the instances of DNS Abuse that are subject of Compliance’s cases, but not over the entire DNS market and how contracted parties or other actors within the DNS ecosystem address DNS Abuse. Accordingly, Compliance data can be considered alongside that of other third-party experts who also capture nuanced metrics. For instance Net Beacon’s MAP contains metrics across the global gTLD domain name market such as normalized abuse rates, median time to mitigate, and viewpoint of malicious versus compromised names.</p>
5. DNSSEC	<p>The GAC understands the importance of choice regarding the implementation of DNSSEC for individual registrants and encourages all registrants to enable it, especially those who operate important or critical services. The GAC emphasises that it is important for all parties to work together to promote the adoption of DNSSEC and invites participants in the ICANN community to exchange good practices and approaches to promote the adoption of DNSSEC.</p>	<p>The Board thanks the GAC for its comments. The Board agrees with the GAC on the importance of implementing DNSSEC and on registrar choice. Contributing to the adoption of the promotion of DNSSEC, ICANN org has developed the KINDNS (Knowledge-Sharing and Instantiating Norms for DNS and Naming Security), an initiative to develop and promote a framework that focuses on the most important operational best practices or concrete instances of DNS security best practices, including DNSSEC.</p>
6. Registration Data Request Service (RDRS)	<p>The GAC appreciates ICANN Org’s efforts to enhance RDRS and provide regular reporting of usage metrics. Six months into the RDRS pilot, the GAC finds that the usage of the tool could be further increased, and that the metrics have already shed light on potential improvements that could help the service meet its intended purpose. In this respect, the GAC recalls that several suggestions for improvement were already formulated in the San Juan Communique and stands ready to continue its work on the RDRS Standing Committee to address challenges and maximize the utility of the system for both requestors and registrars.</p> <p>The GAC reiterates the importance of the continued promotion of and education about RDRS to ensure the community, including both requestors and registrars, are aware of the uses and limits of this pilot program, as well as its intended purpose, to inform work toward an eventual Standardized System for Access and Disclosure (SSAD). When it comes to raising awareness amongst potential end users of the RDRS and SSAD, the GAC believes that providing a link to the RDRS via the ICANN registration data lookup tool could help in reaching potential RDRS users who may not be aware of the pilot. As stated in the ICANN79 San Juan Communique, the GAC continues to support efforts to maximize participation in the Registration Data Request Service (RDRS) and reiterates that widespread use of the pilot by both registrars and requestors will help the RDRS meet its intended purpose.</p>	<ul style="list-style-type: none"> The Board is grateful to the GAC for supporting usage of the Registration Data Request Service (RDRS). The more users we have and the more feedback we receive, the better ICANN can make the system. ICANN org is continuing to collect the feedback from various users and considering various changes to the service, together with the GNSO Standing Committee. The Board is also following the monthly RDRS Metrics Usage Reports and quarterly RDRS Survey Reports closely to assess RDRS operations and feedback from both registrars and requestors. At the request of the GNSO Standing Committee, ICANN org has recently published updates to several metrics in the monthly RDRS Metrics Usage Report and released new enhancements to both the requestor’s and registrar’s RDRS user interfaces. ICANN staff is working closely with the GNSO Standing Committee to hear feedback from users to ensure improvements can be considered and made in a timely fashion. This includes feedback pertaining to the current requestor interface, particularly with respect to requests from law enforcement and the applicability of various data protection frameworks. Proposed improvements will continue to be approached in a collaborative manner with the Standing Committee. Feasibility will be evaluated against effort and the remaining months in the proof of concept period. The Board encourages the GAC’s continued participation in the RDRS Standing Committee to raise new ideas for system and metrics enhancements. With nearly one year of the RDRS pilot completed, the Board sees value in the continued operation and enhancement of RDRS and is interested in hearing from the community on what enhancements would be beneficial for a long-term solution. The Board notes that information on the RDRS has been linked on ICANN’s Registration Data Look Up Tool in the section on non-public registration data to increase visibility. A link to RDRS is also included on the results page for the look up tool as well. Information and links to the RDRS can be added in the RDAP output of registries and registrars via the GNSO policy development process. The Board encourages the GAC to discuss this option with the GNSO Council. ICANN’s engagement and communications teams are both conducting outreach to various communities to increase usage of the system. The ICANN Board encourages the community to engage with potential requestor communities to present

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	<p>Where a registrar uses an affiliated proxy service provider, the GAC encourages registrars to consider making disclosure decisions in response to RDRS requests on behalf of their affiliated proxy service provider.</p> <p>Finally, the GAC notes that both requestors and registrars have identified challenges with regard to the RDRS and encourages all parties to work together in the spirit of consensus to achieve improvements.</p>	<p>materials ICANN org has available on RDRS or to participate in discussions where the benefits and importance of utilizing the system can be shared with broader audiences.</p> <ul style="list-style-type: none"> • ICANN org has downloadable user guides, flyers and FAQs (available in the 6 UN languages and Portuguese) published on the RDRS webpage. The webpage also contains links to announcements, blogs, webinar recordings and the monthly RDRS metric report and survey results. RDRS content is also regularly promoted via ICANN’s social media channels. ICANN org also provides a generic information presentation deck to share with constituencies. Outreach materials have also been provided to GSNO Standing Committee members so they can promote RDRS to their constituents and the community as well as assist in promoting participation in RDRS webinars. • The Board continues to strongly encourage both requestors and registrars using the RDRS to collaboratively communicate in the spirit of consensus and also respond to survey requests for feedback, to help guide and understand the challenges and opportunities as we move forward together. ICANN org will publish the third Quarterly Survey Report at the beginning of October.
<p>7. Registration Data Accuracy</p>	<p>The GAC reiterates that registration data accuracy is an important element in building trust for Internet users, as well as in law enforcement, cybersecurity, investigations to enforce Intellectual Property Rights, domain name registration management, and other legitimate third-party interests.</p> <p>The GAC takes note of the GNSO’s decision to pause the work of the Accuracy Scoping Team while the Contracted Parties and ICANN finalize their forthcoming Data Processing Specification (DPS) and appreciates the GNSO’s update at ICANN80 on the status of these negotiations. The GAC stresses the importance of completing the DPS as soon as possible so the community can resume efforts towards scoping policy work on accuracy of domain name registration data.</p>	<ul style="list-style-type: none"> • The Board recognizes that accuracy of registration data is an important matter for ensuring a stable and secure Domain Name System, and that it has been a longstanding topic of discussion within the community, including within the GAC. • It is important to note that while a data processing specification (DPS), which was open for public comment from 29 July 2024 to 23 September 2024, would be a positive step forward for both ICANN and the Contracted Parties, it would not be a “magic bullet” that will grant ICANN or other third parties unfettered access to personal data in registration data held by the contracted parties. Indeed, although it would be necessary or beneficial in scenarios involving the processing of a large amount of personal data to assess its accuracy, it would not resolve fundamental data protection challenges. These challenges include identifying a legal basis, passing the legitimate interest test, or meeting the criteria of necessity and minimization in the processing activity. • Even when the DPS is in place, ICANN’s access to registration data held by the contracted parties is limited by applicable laws and the applicable ICANN agreements and policies. For example, under the applicable contract provisions, ICANN’s access to registration data held by a registrar must be based on limited transactions or circumstances that are the subject of a compliance-related inquiry. • The Board welcomes the ongoing community conversation about the importance of registration data accuracy, and welcomes the GAC’s participation in those discussions.
<p>8. Support for the Privacy and Proxy Services Accreditation Implementation Review Team</p>	<p>The GAC appreciates ICANN Org’s efforts to facilitate a process to explore options for the implementation of recommendations that are still relevant from the previous Policy Development Process on Privacy and Proxy Services Accreditation Issues (PPSAI). Doing so will ensure the community is able to produce evidence-based registration data policy, including on the use of Privacy and Proxy services.</p>	<ul style="list-style-type: none"> • The Board very much appreciates the support of the GAC for this work, and believes the GAC’s involvement in these efforts will be instrumental to moving forward on this topic.