



Public Safety Working Group (PSWG) Update

Session 9

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Session Objective

The GAC Public Safety Working Group (PSWG) will provide an update on its work consistent with its strategic goals to mitigate DNS Abuse and cybercrime, preserve and improve access to domain registration data (and its accuracy) and ensure effective PSWG operations and stakeholders relations.

Background

Representatives from law enforcement and consumer protection agencies around the world have been involved in Internet policy deliberations at ICANN and through the Regional Internet Registries (AfriNIC, APNIC, ARIN, LACNIC and RIPE NCC).

While public safety agencies at ICANN initially focused on the need for open and accurate WHOIS information for international law enforcement investigations, the work quickly grew to include the prevention and response to the exploitation of domain registrations for malicious or criminal purposes (also known as "DNS Abuse").

Through their early work with the GAC and the ICANN Community, public safety agencies have made important contributions that continue to shape ICANN policy deliberations and contracted parties obligations to this day. Such contribution include:

- Recognition of the legitimate uses of WHOIS, as reflected in the GAC Principles Regarding gTLD WHOIS Services within the GAC Lisbon Communiqué (28 March 2007). These principles are regularly referenced by the GAC when providing input (as in the recent GAC Comments on the RDS-WHOIS2 Review Recommendations, 23 December 2019) or Advice to the ICANN Board (see rationale of Advice in the GAC San Juan Communiqué, 15 March 2018);
- Due Diligence Recommendations for ICANN¹ which were endorsed in the GAC Brussels
 Communiqué (25 June 2010) and eventually led to contractual amendments in the 2013

 Registrar Accreditation Agreement (RAA) adopted by the ICANN Board on 27 June 2013; and
- Introduction of New gTLD GAC Safeguards in the GAC Beijing Communiqué {11 April 2013} which led to specific Public Interest Commitment provisions in Specification 11 of the New gTLD Registry Agreement

In the <u>GAC Singapore Communiqué</u> (11 February 2015), the GAC agreed to establish a Working Group on Public Safety and Law Enforcement. During the ICANN53 meeting in Buenos Aires, the GAC endorsed the <u>Terms of Reference of the Public Safety Working Group (PSWG)</u> whose focus was to be "those aspects of ICANN's policies and procedures that implicate the safety of the public"

Issues

As reflected in its current <u>Work Plan 2020-2021</u> endorsed by the GAC on 16 March 2020, the PSWG is seeking to:

- Develop DNS Abuse and Cybercrime Mitigation Capabilities (Strategic goal #1), that is
 developing capabilities of the ICANN and Law Enforcement communities to prevent and
 mitigate abuse involving the DNS as a key resource
- Preserve and Improve Domain Name Registration Data Effectiveness (Strategic goal #2), that is ensuring continued accessibility and improved accuracy of domain registration information that is consistent with applicable privacy regulatory frameworks

¹ See <u>Law Enforcement Due Diligence Recommendations</u> (Oct. 2009)

Leadership Proposal for GAC Action during ICANN70

- 1. **Review status and progress of the PSWG Work Plan** endorsed by the GAC on 16 March 2020, as described in Annex to this briefing
- 2. GAC Members to consider encouraging their relevant public safety agencies (criminal and civil law enforcement, and consumer protection agencies), to share their experience, challenges and successes in the DNS space, and join the work of the PSWG where their operational experience, expertise and policy concerns are needed. The Working Group relies on the continued engagement of its stakeholders and continues to seek volunteers to contribute to and to take on a leading role in shepherding PSWG work.

Key Reference Documents

• PSWG Work Plan 2020-2021 (16 March 2020)

Further Information

- ICANN70 GAC Briefing on DNS Abuse
- ICANN70 GAC Briefing on WHOIS and Data Protection

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Annex 1	1 _ 1	DSWG	Work	Plan	2020	2021

Annex 2 - Progress Report on PSWG Work Plan 2020-2021



Work Plan - 2020-2021

STRATEGIC GOAL 1 - DEVELOP DNS ABUSE AND CYBERCRIME MITIGATION CAPABILITIES

Develop capabilities of the ICANN and Law Enforcement communities to prevent and mitigate abuse involving the DNS as a key resource

	Work Item	Description	Topic Lead
1.1	Implementation of CCT Review Recommendations for Subsequent Rounds of New gTLDs	Monitor and contribute to the consideration and implementation of recommendations issued by the Competition, Consumer Trust and Consumer Choice Review Team as they relate to public safety and consumer protection.	Laureen Kapin (US FTC)
1.2	Seek and Support Improved Registries Prevention and Response to Security Threats	Improve proactive steps registries may take against Security Threats and supporting registration practices such as Domain Generated by Algorithms (DGA). Assess effectiveness of Specification 11 3b, its related Advisory and the Security Framework for Registries to Respond to Security Threats in implementing the GAC Beijing Communique Safeguards Advice.	Gabriel Andrews (US FBI)
1.3	Seek and Support Registrars Adoption of Proactive Anti-Abuse Measures		
1.4	Survey and Review ccTLD Best Practices for adoption in the gTLD space	Survey and review ccTLD best practices in mitigating security threats such as abuse prediction, registrant validation and verification policies, with a view to promote their adoption and to elevate contractual standards in the gTLD space.	Tjabbe Bos (European Commission)
1.5	Ensure Enforceability and Effective Enforcement of Safeguards Provisions in ICANN Contracts	Monitor and contribute to implementation of relevant policies and review recommendations to ensure that related requirements in Registries and Registrars contracts are enforceable. Monitor compliance audit and complaint reporting and assess effectiveness of enforcement and remediation procedures, including in addressing patterns of recurrent non-compliance.	Laureen Kapin (US FTC)



Work Plan - 2020-2021

	Work Item	Description	Topic Lead
1.6	Improve DNS Abuse Data Collection, Quantification, Reporting and Use by Relevant Stakeholders	Seek the evolution of ICANN's Domain Abuse Activity Reporting (DAAR) to ensure effective registration and abuse data collection, accurate quantification of Security Threats, and enable appropriate use of granular data and reporting by all relevant stakeholders, including law enforcement, registries and registrars.	Gabriel Andrews (US FBI)
1.7	Improve Domain Seizure And Forfeiture Process, in Coordination With Contracted Parties	Work with Contracted Parties and ICANN org to establish standard procedures for the management of domain names seized as part of law enforcement investigations, and for which Contracted Parties may continue to bear a financial responsibility.	Gabriel Andrews (US FBI)
1.8	Follow-up on Previous GAC Advice Regarding the Mitigation of DNS Abuse	Follow-up as appropriate on the Hyderabad and Copenhagen Communiqués aimed at assessing the effectiveness of previous GAC Advice in relation to the 2013 Registrar Accreditation Agreement and the New gTLD Registry Agreement. The GAC also sought to assess the contribution of the SSR and Contractual Compliance departments of ICANN org to the prevention and mitigation of domain name abuse.	Gabriel Andrews (US FBI)
1.9	Assess Impact and Risks of DNS Encryption (DNS over HTTPS/TLS) on DNS Abuse Mitigation	Engage in ICANN Community efforts to evaluate the impact of the adoption of DNS encryption (DNS over HTTPS/TLS) Engage in ICANN Community efforts to evaluate the impact of the adoption of DNS encryption technologies such as HTTPS (DoH) and DNS over TLS (DoT), in particular as it	



Work Plan - 2020-2021

STRATEGIC GOAL 2 - PRESERVE AND IMPROVE DOMAIN REGISTRATION DATA EFFECTIVENESS

Ensure continued accessibility and improved accuracy of domain registration information that is consistent with applicable privacy regulatory frameworks

	Work Item	Description	Topic Lead		
2.1	Swift Implementation of New gTLD Registration Data Policy (EPDP Phase 1)	Monitor and contribute to the implementation of the EPDP Phase 1 policy recommendations, including via participation in the Implementation Review Team.	Laureen Kapin (US FTC)		
2.2	Effective Interim Mechanisms for Reasonable Access to Non-Public WHOIS Data (EPDP Phase 1 Rec. 18)	Ensure that the interim requirements for Registries and Registrars to provide reasonable access to non-public registration data is implemented in a consistent and efficient way, that meets the investigative needs of law enforcement agencies, other public authorities, cybersecurity practitioners and other legitimate third parties. Where needs are not met, ensure there are adequate mechanisms in place to report complaints and enforce compliance.	Laureen Kapin (US FTC)		
2.3	Swift Implementation of a Standardized System for Access and Disclosure to Non-Public gTLD Registration Data (EPDP Phase 2)	ess and Disclosure to efforts towards the timely delivery of the future Standardized System for Access and			
2.4	Accreditation of Public Authorities nto Future Systems for Access to gTLD Domain Registration Data Support implementation by ICANN and relevant authorities at national/territory level, of the GAC-approved Accreditation Principles for Public Authorities to access any future Standardized System for Access and Disclosure of Non-Public Data.		Chris Lewis-Evans (UK NCA)		
2.5	Long Term Access to Non-Public Domain Registration Data for Law Enforcement and Cybersecurity Practitioners Ensure that the evolving needs of law enforcement and their cybersecurity partners are met through all relevant policies, systems and mechanisms available or envisioned, including through evolutions and improvements where necessary.		Chris Lewis-Evans (UK NCA)		
2.6	Improve gTLD Registration Data Accuracy Pursue and monitor efforts aimed at improving the overall accuracy of WHOIS data based on regular assessments and reporting of inaccuracy, appropriate compliance enforcement and implementation of industry best practices.		Tjabbe Bos (European Commission)		



Work Plan - 2020-2021

	Work Item	Description	Topic Lead
2.7	Public Access to Legal Persons Registration Data (Legal vs. Natural)		
2.8	Seek Reverse Lookup Capabilities for Law Enforcement Investigations	Pursue the development and implementation of appropriate policies, processes and technologies, in the DNS ecosystem, to enable law enforcement to identify all assets controlled by nefarious individuals and entities under investigation.	Gabriel Andrews (US FBI)
2.9	Implementation of the Privacy/Proxy Services Accreditation Policy	Seek to resume and contribute to the implementation of an accreditation framework for Privacy/Proxy services providers, with appropriate disclosure requirements ensuring effective access by law enforcement to shielded registrant information.	TBD
2.10	Collection and Publication of The Chain of Parties Responsible For gTLD Domain Name Registrations		
2.11	Performance of ICANN's Mission in Relation to Domain Registration Data Services	Monitor ICANN's performance in relation to its key bylaw responsibilities regarding accuracy, access and protection of gTLD registration data. Pursue implementation of relevant recommendations of the bylaws-mandated WHOIS-RDS Reviews.	Cathrin Bauer-Bulst (European Commission)



Work Plan - 2020-2021

STRATEGIC GOAL 3 - EFFECTIVE PSWG OPERATIONS AND STAKEHOLDER RELATIONS

Ensure PSWG operations remain effective and consistent in meeting the needs of the GAC and public safety agencies.

	Work Item	Description	Topic Lead
3.1	Maintain PSWG Work Plan	Follow execution and adjustment of the work plan, consistent with PSWG Terms of Reference, GAC priorities, and ICANN Bylaws, taking into account current challenges and opportunities in ICANN Community processes.	Fabien Betremieux (GAC Support Team)
3.2	Reporting and Coordination with the GAC	Ensure alignment of PSWG activities with GAC guidance and priorities. Maintain GAC/PSWG leadership coordination. Coordinate GAC endorsement of key PSWG work products.	Laureen Kapin (US FTC) Cathrin Bauer-Bulst (European Commission)
3.2	Develop and Maintain Talking Points	Identify current and future policy issues and opportunities in support of the operational needs of public safety agencies. Seek expert input to inform contributions to the GAC and the ICANN Community.	Gregory Mounier (Europol)
3.3	Develop PSWG Documentation for Effective ICANN Meetings	Ensure continuous improvement of PSWG schedule and briefing documentation to facilitate PSWG Members' interactions with relevant ICANN stakeholders and processes during ICANN meetings.	Fabien Betremieux (GAC Support Team)
3.4	Develop PSWG Collaboration Resources	Develop PSWG usage of the GAC Website and other relevant resources to ensure ease of access to relevant public and private documentation	Fabien Betremieux (GAC Support Team)
3.5	Contribute PSWG Experience into Guidelines for GAC Working Groups	Follow and contribute to the work of the GAC Operational Principle Evolution Working Group, in particular regarding the development of Guidelines for GAC Working Group	Laureen Kapin (US FTC)
3.6	Develop Participation and Leadership in PSWG Activities	Provide regular and predictable structure of meetings to address the needs of interested GAC and PSWG stakeholders. Provide opportunities for participation at varying levels of expertise into PSWG work and initiatives.	Laureen Kapin (US FTC)

Strategic Goal 1: Develop DNS Abuse and Cybercrime Mitigation Capabilities

Work Item	Lead	Status	Next Step/Deadline
1.1. Implementation of CCT Review Recommendations for Subsequent Rounds of New gTLDs	Laureen Kapin (US FTC)	Challenged: Implementation of CCT Review Recommendations is still contested	While leadership of the CCT Review Team assesses the state of consideration and implementation of its recommendations, the PSWG is shifting its attention to concrete proposals in terms of contract provisions and their enforcement (Work Item 1.5).
1.2. Seek and Support Improved Registries Prevention and Response to Security Threats	Gabriel Andrews (US FBI)	Ongoing collaboration on a Framework to Address Malware and Botnet Domains at Scale	PSWG Talks with the RySG have a working goal in CY2021 to establish a "Framework to Address Malware and Botnet Domains at Scale"
1.3. Seek and Support Registrars Adoption of Proactive Anti-Abuse Measures	Gabriel Andrews (US FBI)	Ongoing discussions during and in between ICANN meetings	Continue discussion towards improving timeliness and success of requests for registration data. Continue exploration of possible incentives for registrar action vs their most abusive customer.
1.4. Survey and Review ccTLD Best Practices for adoption in the gTLD space	Tjabbe Bos (EC)	Pending further study and engagement with ccTLDs	Consideration of ongoing European Commission study of DNS Abuse (which is expected to inform many more areas of the PSWG's work). Consideration of possible collaboration with DNS Abuse Institute, which also considers collaboration with ccTLD registries.
1.5. Ensure Enforceability and Effective Enforcement of Safeguards Provisions in ICANN Contracts	Laureen Kapin (US FTC)	Ongoing work on Definition of DNS Abuse and per GAC ICANN69 Action Point for the PSWG to consider developing concrete proposals	Finalize PSWG contribution on ongoing debate about the definition of DNS Abuse, following adoption of a definition by Contracted Paries (Oct. 2020) and recent discussion in SSR2 Review Team. Follow-up on progress and conclusions of the Compliance Audit of registrars recently launched. Report progress on the ICANN69 GAC Action Point for the PSWG to consider developing a concrete proposal regarding DNS Abuse Mitigation.
1.6. Improve DNS Abuse Data Collection, Quantification, Reporting and Use by Relevant Stakeholders	Gabriel Andrews (US FBI)	Ongoing consideration of recent briefing by ICANN OCTO to the GAC and possibilities for DAAR to use BRDA data	Per OCTO briefing to the GAC (24 February), and in light of the recent SSR2 Review Final Recommendation, seek GAC support for advice that contracts require Bulk Registration Data Access (BRDA) be made available to OCTO and/or for research purposes.

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Work Item	Lead	Status	Next Steps (as of 25 Feb. 2021)
1.7. Improve Domain Seizure And Forfeiture Process in Coordination With Contracted Parties	Gabriel Andrews (US FBI)	Pending: Implementation may follow Framework to Address Malware & Botnet Domains at Scale per Work Item 1.2	A 'test-run' of US forfeiture order was to occur with Verisign in 2020. Next steps to be informed by lessons learned.
1.8. Follow-up on Previous GAC Advice Regarding the Mitigation of DNS Abuse	Gabriel Andrews (US FBI)	Pending decision on specific areas to follow-up on	Consider historical GAC/PSWG communications that may need follow-up in light of developments and prospects in various tracks of work as identified in the PSWG Work Plan
1.9 Assess Impact and Risks of DNS Encryption (DNS over HTTPS/TLS) on DNS Abuse Mitigation	Katie Noyes (US FBI) Janos Drienyovszki (EC)	Ongoing discussions with key players of the web browser software industry in preparation for a panel discussion during ICANN70	PSWG is preparing a panel discussion during ICANN70 to inform GAC Members on recent developments and expected impacts of this technology on DNS Abuse Mitigation capabilities.

Strategic Goal 2: Preserve and Improve Domain Registration Data Effectiveness

Work Item	Lead	Status	Next Steps (as of 25 Feb. 2021)
2.1. Swift Implementation of New gTLD Registration Data Policy (EPDP Phase 1)	Laureen Kapin (US FTC)	Ongoing EPDP Phase 1 Implementation. Timeline of completion remains unclear	Continue to follow and contribute to EPDP Phase 1 implementation (meetings twice monthly) and assess impact on the Thick WHOIS and Privacy/Proxy Implementations.
2.2. Effective Interim Mechanisms for Reasonable Access to Non-Public WHOIS Data (Ph. 1 Rec. 18)	Laureen Kapin (US FTC)	Ongoing although status of Implementation of GAC Montreal Advice by ICANN org is unclear	Follow-up on ICANN's Implementation of the Board's direction following the Montreal GAC Advice
2.3 Swift Implementation of Standardized System for Access and Disclosure to Non Public gTLD Registration Data (EPDP Phase 2)	Chris Lewis-Evans (UK NCA)	Challenged: Pending launch and conclusion of an expected Operational Design Phase to inform Board consideration	Follow and contribute to the Operational Design Phase (ODP) that is expected to be launched by the ICANN Board and to inform feasibility and financial sustainability of the GNSO policy recommendations.
2.4. Accreditation of Public Authorities into Future Systems for Access to gTLD Domain Registration Data	Chris Lewis-Evans (UK NCA)	Pending clarity on SSAD implementation of public authorities accreditation requirements and implementation timeline	Keep relevant public authorities informed on possible requirements to apply for accreditation, as well as on dependencies and timeline considerations for planning purposes.
2.5. Long Term Access to Non-Public Domain Registration Data for Law Enforcement and Cybersecurity Practitioners	Chris Lewis-Evans (UK NCA)	Challenged: Pending clarity on the outcome of ICANN Board consideration of the GNSO policy recommendations	Follow and contribute to the Operational Design Phase (ODP) that is expected to be launched by the ICANN Board and to inform feasibility and financial sustainability of the GNSO policy recommendations.
2.6. Improve gTLD Registration Data Accuracy	Tjabbe Bos (EC)	Ongoing: expected launch of a GNSO Scoping Team to consider the need for policy work. Unclear whether this overcome the consequences of the stalled ARS	GAC representatives are expected to join a soon to be launched GNSO Scoping Team to consider the need for specific policy work, while in the meantime the ICANN Community considers the implication of recent legislative developments in the EU (NIS2 Directive)
2.7. Public Access to Legal vs. Natural Persons Data	Laureen Kapin (US FTC)	Ongoing deliberations on GAC proposals in the EPDP Team as part of Phase 2A of its work	GAC Representatives on the EPDP continue arguing for their policy proposals. EPDP Team is due to report to the GNSO Council, prior or during the ICANN70 meeting on its chances to reach consensus.

Work	Item	Lead	Status	Next Steps (as of 25 Feb. 2021)
2.8	Seek Reverse Lookup Capabilities for Law Enforcement Investigations	Gabriel Andrews (US FBI) Chris Lewis-Evans (UK NCA)	Ongoing mostly as part of deliberations in EPDP Phase 2A, where this may be challenging to achieve	Follow deliberations of EPDP Phase 2A on GAC proposal to publish unique pseudonymized email addresses for each registrant across TLDs. Monitor development and implementation of RDAP capabilities for pivot search.
2.9.	Implementation of the Privacy/Proxy Services Accreditation Policy	TBD	Pending ongoing GNSO Council consideration of policy impact of EPDP Phase 1 and 2	Follow GNSO deliberations on ICANN org's analysis of the impact of the EPDP Phase 1 and 2 recommendations on the Privacy/Proxy Policy and its implementation
2.10	Collection and Publication of The Chain of Parties Responsible For gTLD Domain Name Registrations	TBD	Challenged: Implementation of relevant CCT Review Recommendations not conclusive	Progress on this matter would likely need a challenge of the way in which the relevant CCT Review recommendation was implemented.
2.11	Performance of ICANN's Mission in Relation to Domain Registration Data Services	Cathrin Bauer-Bulst (EC)	Pending further action by PSWG in relation to implementation of relevant ICANN Review Recommendations.	Further work on this matter would include following up on the implementation of the RDS2 Review Recommendations, and the expected Board consideration of relevant SSR2 Review recommendations.

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Strategic Goal 3: Effective PSWG Operations and Stakeholder Relations

Work Item	Lead	Status	Next Step/Deadline
3.1. Maintain PSWG Work Plan	GAC Support Team	Ongoing - Work tracking sheet updated as of 25 Feb. 2021 in advance of ICANN70 Progress Report to the GAC	PSWG to report to the GAC during the ICANN70 PSWG Update Session, as consider any updates to the Work Plan as needed.
3.2. Reporting and Coordination with the GAC	Laureen Kapin (US FTC) Cathrin Bauer-Bulst (EC)	Ongoing - Co-chairs regularly join GAC Leadership calls and PSWG provides regular updates to the GAC during ICANN meetings	Next update to the GAC is planned for ICANN70 with a presentation of progress on the Work Plan as well as substantive contributions including a proposed GAC Comment on the SSR2 Review Final Report and concrete proposals to improve the effectiveness of ICANN contracts in combatting DNS Abuse.
3.3. <u>Develop and Maintain Talking</u> <u>Points</u>	TBD	Challenged - This work item needs a new shepherd to be initiated	Consider current needs and develop initial talking points ahead of regular Community engagement during and in between ICANN meetings.
3.4. <u>Develop PSWG Documentation for Effective ICANN Meetings</u>	GAC Support Team	Ongoing - Developed PSWG Briefing and Notes in addition of the specific Schedule for PSWG Members	Considering future summaries of virtual bilaterals meetings. Welcoming input on effectiveness of current documentation.
3.5. <u>Develop PSWG Collaboration</u> <u>Resources</u>	GAC Support Team	Pending identification of needs and prioritization	Ability for PSWG members to leverage private resources on the GAC website remains a challenge due to the need for PSWG Members to be part of the GAC representation to receive website credentials.
3.6. Contribute PSWG Experience into Guidelines for GAC Working Groups	Laureen Kapin (US FTC)	Pending resuming of the GAC's GOPE WG activities	Review Draft Guidelines considered by the GAC's Operating Principles Working Group.
3.7. <u>Develop Participation and</u> <u>Leadership in PSWG Activities</u>	Laureen Kapin (US FTC)	Ongoing	Implement regular meeting schedule and consult PSWG on needs and interest in ongoing work items

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