

Pre-ICANN72 GAC Briefing Webinar

Manal Ismail (GAC Chair)

12 October 2021

ICANN | GAC

Governmental Advisory Committee

Agenda

1. Introductions

2. Briefing by GAC Topics Leads on GAC Priority Issues

including **update from ICANN org and Q&A**

- WHOIS and Data Protection
- DNS Abuse Mitigation
- IGO Protections
- Subsequent Rounds of New gTLDs

3. Closing Remarks

Introduction

Manal Ismail, GAC Chair

Introduction - Purpose

- This oral briefing session is intended to help GAC delegates prepare for several specific topic sessions during ICANN72
- As the committee continues to experience change-over among its membership, the need to provide a level-playing field of knowledge is important to maintaining an effective governmental presence in ICANN
- This session is part of a concerted effort to help GAC delegates develop baseline knowledge so that they all can effectively participate during the upcoming ICANN72 discussions.
- This is the first attempt regarding this type of oral briefing format. Feedback from briefers and attendees regarding the format, content and effectiveness is welcomed. We look to identify lesson-learned and to improve this particular format and the overall approach over time.

Introduction - Format

- The information regarding each today's four topic is designed to:
 - Explain why the topic is important to governments in the ICANN context;
 - Provide a general overview of the background and key updates from GAC topic leads and ICANN org staff subject matter experts;
 - Identify the goals/objectives for the relevant session during ICANN72
- This call today is not intended to duplicate or replace the ICANN session content or preclude GAC deliberations during the meeting - that is the purpose of the ICANN72 sessions themselves - however, after each topic overview, attendees are welcomed to ask questions of any of the briefers
- We have allocated about 20 minutes (in total) for each topic over the next 90-minutes
- We welcome comments from attendees about other potential topics that we can focus on in the future.
- Thank you to the GAC topic leads for devoting this additional time to helping the GAC prepare for the ICANN72 meeting sessions.

Agenda

1. Introduction

2. Briefing by GAC Topics Leads on GAC Priority Issues including update from ICANN org and Q&A

➤ WHOIS and Data Protection

- DNS Abuse Mitigation
- IGO Protections
- Subsequent Rounds of New gTLDs

3. Closing Remarks

WHOIS and Data Protection

Laureen Kapin, US FTC

WHOIS and Data Protection: Importance to the GAC

Why this is important for the GAC

Per the [GAC Principles Regarding gTLD WHOIS Services](#) (28 March 2007), recalled in the [GAC Abu Dhabi Communiqué](#) (1 Nov. 2017), the GAC noted they “continue to reflect the important public policy issues associated with WHOIS services” including that “WHOIS data [...] is used for a number of legitimate activities, including:

1. *Assisting law enforcement authorities in **investigations and in enforcing national and international laws**, assisting in **combatting against abusive use** of internet communication technologies;*
2. *Assisting businesses, other organizations, and users in **combatting fraud, complying with relevant laws, and safeguarding the interests of the public**;*
3. *Combatting **infringement and misuse of intellectual property**; and*
4. ***Contributing to user confidence in the Internet** as a reliable and efficient means of information and communication by helping users identify persons or entities responsible for content and services online.”*

And still relevant when considering compliance with Data Protection Law

The GAC advised the ICANN Board “it should use its best efforts to create a system that continues to facilitate the legitimate activities recognized in the 2007 Principles, including by:

1. ***Keeping WHOIS quickly accessible for security and stability purposes**, for consumer protection and law enforcement investigations, and for crime prevention efforts, through user-friendly and easy access to comprehensive information to facilitate timely action.*
2. ***Keeping WHOIS quickly accessible to the public** (including businesses and other organizations) for legitimate purposes, including to combat fraud and deceptive conduct, to combat infringement and misuse of intellectual property, and to engage in due diligence for online transactions and communications”*

WHOIS and Data Protection: Background

Background on Efforts to Define a New Policy Regime for Registration Data Services

- Expedited Policy Development Process (EPDP) Launched to replace the [Temporary Specification](#) (17 May 2018) now incorporated as the [Interim gTLD Registration Data Policy](#) (20 May 2019) which the GAC stressed “*created a fragmented system for providing access*” in the [Barcelona Communiqué](#) (25 Oct. 2018) and [letter to the ICANN Board](#) (24 April 2019)
- **EPDP Phase 1** (Aug. 2018 - Feb. 2019)
 - Laid out foundation of new policy framework (purposes, data elements, etc.)
 - Most recommendations [adopted](#) by ICANN Board (15 May 2019)
- **EPDP Phase 1 Implementation** (ongoing)
 - Continuing debates about impact on Thick WHOIS and Privacy Proxy Accreditation Policy implementation
 - Schedule requested per GAC Advice in [Montreal Communiqué](#), Follow-up in the [ICANN71 Communiqué](#)
- **EPDP Phase 2** (May 2019 - Jul. 2020)
 - Focus on a System for Standardized Access/Disclosure (SSAD)
 - [Final Report](#) published on 30 July 2020. GAC submitted a [Minority Statement](#) (24 August 2020)
 - GNSO Council [adopted](#) (24 Sep. 2020) the policy recommendations which ICANN org is assessing as part of an [Operational Design Phase](#) (ODP) directed by the ICANN Board before its consideration.
- **EPDP Phase 2A** (Dec. 2020 - Sep. 2021)
 - Focus on treatment of data from legal (vs. natural) entities and pseudonymized emails
 - [Final Report](#) published on 3 Sep. 2020. GAC submitted a [Minority Statement](#) (10 Sep. 2021)
- Issues around **Accuracy of Registration Data** being handled in a GNSO Scoping Effort (started Oct. 2021)

WHOIS and Data Protection: GAC Concerns

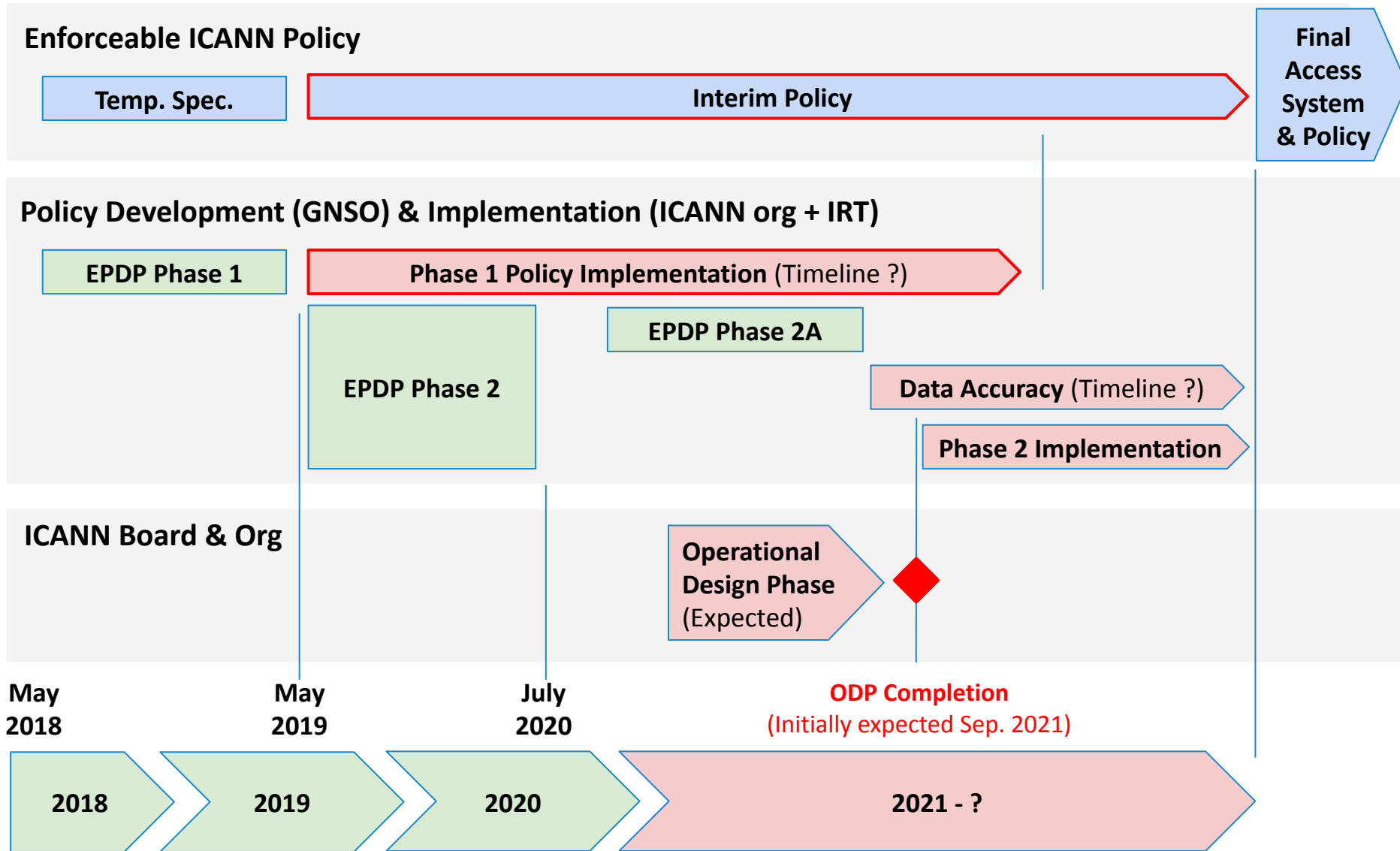
EPDP Phase 2: System for Standardized Access/Disclosure (SSAD)

- In the [GAC Minority Statement](#) (24 August 2020), the GAC provided “*input on its public policy concerns*” in the way in which the recommendations:
 - *Currently conclude with a **fragmented rather than centralized disclosure system**,*
 - *Do not currently contain enforceable **standards to review disclosure decisions**,*
 - *Do not sufficiently address **consumer protection** and consumer trust concerns;*
 - *Do not currently contain reliable **mechanisms for the System for Standardized Access/Disclosure (SSAD) to evolve** in response to increased legal clarity; and*
 - *May impose financial conditions that risk an SSAD that calls for **disproportionate costs for its users** including those that detect and act on cyber security threats.*

EPDP Phase 2A: Distinction of registration data from legal vs. natural persons

- In the [GAC Minority Statement](#) (10 September 2021), the GAC acknowledged “*the usefulness of many components of the Final Recommendations*” including:
 - *the creation of data fields to flag/identify legal registrants and personal data;*
 - *specific guidance on what safeguards should be applied to protect personal information when differentiating between the domain name registrations of legal and natural persons;*
- The GAC noted however that it “*remains concerned that almost none of the Final Recommendations create enforceable obligations*” which “*fall short of the GAC’s expectations for policies that would require the publication of domain name registration data that is not protected [...]*”

WHOIS and Data Protection: Timeline to New Regime



WHOIS and Data Protection: GAC Updates + ICANN72

System for Standardized Access/Disclosure (SSAD):

- GAC [response](#) (6 Oct. 2021) to ICANN Board Clarifying Questions regarding the ICANN70 GAC Advice (re: GAC Minority Statement on EPDP Phase 2 Final Report)
- **GAC members to respond** to the SSAD **Operational Design Phase (ODP)** [survey](#) on Accreditation of government entities and their users, as well as legal bases for various data processing scenarios.
Deadline extended to 15 October.

ICANN72 Objectives (Leadership Proposal For GAC Action in GAC Session Briefing)

1. Consider next steps, including potential GAC Advice subject to GAC discussion, regarding **public policy concerns related to GNSO Policy Recommendations** being considered for:
 - A System for Standardized Access/Disclosure of Registration Data (**SSAD**) and
 - Guidance for **voluntary distinction between legal and natural persons** in gTLD registration data.
2. Assess the **public interest impacts** of current interim gTLD registration data policy regime, in light of:
 - the **delayed implementation of policy recommendations** of EPDP Phase 1 and Phase 2
 - the impacts of the related **suspended implementations** (Thick WHOIS Transition Policy and Privacy/Proxy Accreditation Policy Recommendations)
3. **Consider GAC follow-up regarding** ICANN org's ongoing **SSAD Operational Design Phase (ODP)**, including a [survey](#) of GAC Members (closing on 15 October), regarding options for accreditation of public authorities and their legitimate users into a potential SSAD, as well as existing legal bases for a range of data processing, including access requests and data transfer across jurisdictions.

ICANN Org's GDPR/WHOIS Update

Pre-ICANN72 GAC Oral Briefing

Yuko Yokoyama
Elena Plexida

12 October 2021



SSAD ODP Updates (ICANN org)

SSAD ODP Project Update Webinar #2 (24 September)

- Data Collection Updates
 - Survey Analysis (Community and Contracted Parties)
 - Request for Information (RFI) Results and Summary
 - Market Research
- Progress on the Operational Design Assessment (ODA)
- Timeline and Next Steps

Recording is available at <https://www.icann.org/ssadodp>

ICANN72 SSAD ODP Session

- 28 October 2021
- 19:30 UTC - 21:00 UTC
- Agenda:
 - Identity Verification Methodology
 - GAC Survey Update
 - Contractual Compliance

Engage with ICANN



Thank You

<https://www.icann.org/ssadodp>

Email: ODP-SSAD@icann.org



[@icann](https://twitter.com/icann)



facebook.com/icannorg



youtube.com/icannnews



flickr.com/icann



linkedin/company/icann



soundcloud/icann



instagram.com/icannorg

Questions for GAC Topic Leads or ICANN Org ?

Agenda

1. Introduction

2. Briefing by GAC Topics Leads on GAC Priority Issues

including **update from ICANN org and Q&A**

- WHOIS and Data Protection

➤ **DNS Abuse Mitigation**

- IGO Protections
- Subsequent Rounds of New gTLDs

3. Closing Remarks

DNS Abuse Mitigation

Gabriel Andrews, US FBI

DNS Abuse Mitigation: Background

Why this is important for the GAC

- **Abuse of the DNS** understood as Security Threats such as *Phishing, Malware, Botnets* ([GAC Beijing Safeguard Advice](#)) and as “*intentionally deceptive, conniving, or unsolicited activities that actively make use of the DNS and/or the procedures used to register domain names*” (CCT Review definition quoted in the [GAC Statement on DNS Abuse](#), 18 September 2019) **constitute**:
 - **A threat to consumers and Internet users** (individual and commercial) and their trust in the DNS
 - **A threat to the security, stability and resiliency of DNS Infrastructure**
- Recognizing the importance of such threats, **the GAC established a Public Safety Working Group (PSWG)** in the [ICANN52 Singapore Communiqué](#) (11 February 2015)
 - to focus aspects of ICANN’s policies and procedures that implicate the safety of the Public (see [ToR](#))
 - As part of its strategic objectives, as reflected in its [Work Plan 2020-2021](#), the PSWG seeks to:
Develop capabilities of the ICANN and Law Enforcement communities to prevent and mitigate abuse involving the DNS as a key resource
- The GAC, the GAC Public Safety Working Group and **many ICANN stakeholder groups prioritize curbing DNS Abuse**, recognizing in particular that **current ICANN contracts do not provide sufficiently clear and enforceable obligations** to mitigate DNS Abuse and need to be improved. This is has been evidenced in:
 - Community discussions with - and statements from - ICANN Contractual Compliance
 - Board correspondence (in particular [with the Business Constituency in 2020/2019](#), see 12 Feb. 2020)
 - GAC Inputs in Reviews (CCT, RDS-WHOIS2, SSR2) and in GNSO PDPs (New gTLD Subsequent Procedures)

DNS Abuse Mitigation: Recent Developments

Recent developments underscore the need for improved contracts

- In November 2018, a [DNS Infrastructure Abuse Audit](#) of nearly **all gTLDs Registries** was launched to “ensure that the contracted parties uphold their contractual obligations with respect to DNS infrastructure abuse and security threats”. In its [report](#) of this audit (17 September 2019), ICANN concluded that:
 - *[...] the vast majority of registry operators are committed to addressing DNS security threats*
 - *The prevalence of DNS security threats is concentrated in a relatively small number of registry operators*
 - *Some Registry Operators interpret the contractual language of Specification 11 3(b) in a way that makes it difficult to form a judgment as to whether their efforts to mitigate DNS security threats are compliant and effective.*
- ICANN [released](#) the results of its **Audit of Registrars’ Compliance with DNS Abuse Obligations** (24 August 2021)
 - 126 registrars audited (managing over 90% of all registered domains in gTLDs)
 - 111 registrars not fully compliant with requirements related to the receiving and handling of DNS abuse reports
 - 92 registrars took actions to become fully compliant, 19 currently implementing changes
- The ICANN Board [took action](#) (22 July 2021) on the SSE2 Review Team’s 63 Final Recommendations (25 Jan. 2021). An associated ICANN org [blog](#) summarized the types of actions taken as follows:
 - 13 recommendations were approved (pending planning of their implementation),
 - 16 recommendations were rejected (incl. 6 that could not be approved in full),
 - 34 recommendations are pending further information and analysis.
 - The ICANN Board provided a [scorecard](#) detailing the recommendations and board responses.

DNS Abuse Mitigation: Recent GAC Communiqués

GAC ICANN68 Communiqué (27 June 2020)

- In the context of COVID-19, the GAC commended efforts of registries, registrars, SSAC and OCTO and shared the belief that capacity building and training should be prioritized by ICANN org for countries most affected
- The GAC noted “*that **new efforts to tackle DNS abuse should not replace, but rather complement, existing initiatives to improve accuracy of registration data, such as the Accuracy Reporting System, and to implement policy on privacy and proxy services, which are currently on hold despite having been recommended by a number of review teams and endorsed by previous GAC advice***”.
- The GAC called on the ICANN Board “*to **implement existing advice and on the ICANN community to seize this opportunity and commit to its different work streams on DNS Abuse [...]***”

GAC ICANN69 Communiqué (23 October 2020)

- The GAC took “*note of the GNSO Subsequent Procedures PDP Working Group determination that **DNS Abuse issues should be addressed in a holistic manner, such that any proposed approach/methodology for addressing DNS abuse would be applicable to both existing and new gTLDs***”
- The GAC noted that is belief that “[*b*eginning with the recommendations from the CCT-RT and the SSR2 RT and continuing through several cross-community sessions and more recent work on a DNS Abuse Framework”, “**there is now a solid expression of broad support for concrete steps to be taken to address the core components of effective DNS abuse mitigation**”.
- The GAC indicated that it “*stands **ready to work with the ICANN Board and the Community to advance this shared goal, including through proposals to improve policies and/or improve contract provisions and enforcement, in relation to curbing DNS Abuse.***”

DNS Abuse Mitigation: Recent GAC Communiqués

GAC ICANN70 Communiqué (25 March 2021)

- The GAC stated that ***“DNS Abuse should be addressed in collaboration with the ICANN community and ICANN org prior to the launch of a second round of New gTLDs. The GAC supports the development of proposed contract provisions applicable to all gTLDs to improve responses to DNS Abuse.”***
- The GAC emphasized ***“the importance of taking measures to ensure that Registries, Registrars and Privacy/Proxy Services providers comply with the provisions in the contracts with ICANN, including audits.”***
- The GAC welcomed ***“the recently-launched DNS Abuse Institute and encouraged community efforts to cooperatively tackle DNS Abuse in a holistic manner”***

GAC ICANN71 Communiqué (21 June 2021)

- The GAC recognized ***“the collaborative efforts taking place within the ICANN community to develop voluntary mechanisms to address DNS Abuse, such as the Framework on Domain Generating Algorithms Associated with Malware and Botnets, and appreciates the efforts from all parties within the multistakeholder community to identify opportunities for advancement on the topic of DNS Abuse when and where possible”.***
- The GAC acknowledged ***“the importance of ensuring that registries and registrars comply with ICANN contractual obligations”*** noting that ***“At the same time, the GAC continues to emphasize the need to develop and implement improved contract provisions, with clear and enforceable obligations, to better address DNS Abuse before further expanding the root through any subsequent application round for new gTLDs.”***
- The GAC indicated ***“it will continue to closely follow developments within the community”*** related to ***“Improvements to the measurement, attribution, and reporting of abuse”*** which it stressed were ***“much needed”***

DNS Abuse Mitigation: ICANN72

ICANN72 Objectives (Leadership Proposal For GAC Action in GAC Session Briefing)

1. **Consider the ICANN Board’s [Resolution](#) and [Scorecard](#) (22 July 2021) on the Recommendations of the Security Stability and Resiliency Review (SSR2) on which the GAC had submitted [Comments](#) (8 April 2021).**
2. **Consider the results of ICANN’s Audit on Registrars’ compliance with DNS Abuse obligations as reported in a [announcement](#) and [report](#) (24 August 2021).**
3. **Consider the SSAC proposal for an [Interoperable Approach to Addressing Abuse Handling in the DNS](#) (19 March 2021) including the proposed creation of a “Common Abuse Response Facilitator” as an independent non-governmental, not-for-profit organization that would act as a facilitator for the entire DNS ecosystem to streamline abuse reporting and minimize abuse victimization.**

ICANN Org's DNS Abuse Update

Pre-ICANN72 GAC Oral Briefing

Patrick Jones

12 October 2021



DNS Security Threat Mitigation Program (ICANN org)

Goal

Make the Internet safer for end users by reducing the rate of DNS security threats across the Internet.

Background

The DNS Security Threat Mitigation Program enables ICANN org a collaborative platform which provides visibility and clarity over the org's various DNS security threats related initiatives and projects, and allows for the formation and execution of a centralized strategy.

DNS security threats include five broad categories of harmful activity:

- Botnets
- Malware
- Pharming
- Phishing
- and Spam (as it is used to propagate other DNS security threats).

Program Activities (ICANN org)

Pillar 1: Recognized as Trusted Source

- DAAR
- DNSTICR
- Technical Workshops
- Encourage regional partner participation in ITHI
- Collaborate on research and measurement projects

Pillar 2: Tools for the Community

- ERSR
- Security Response Waiver
- DAAR
- DNSTICR
- [ICANN.org/DNSabuse](https://www.icann.org/dnsabuse)

Pillar 3: Enforce Contractual Provisions

- Registry/ Registrar Audits
- Abuse Complaints
- Enhanced Registrar Accreditation Evaluation

Learn More:

- [22 July 2021 ICANN Webinar: DNS Security Threat Mitigation Program](#)
- 22 October DNS Abuse Informational Session for Board
- [Gov participation to increase linguistic diversity in DNSTICR](#)
- [ccTLD's encouraged to participate in DAAR](#)
- [Discussions with CPH to expand DAAR to registrar level](#)

Questions for GAC Topic Leads or ICANN Org ?

Agenda

1. Introduction

2. Briefing by GAC Topics Leads on GAC Priority Issues

including **update from ICANN org and Q&A**

- WHOIS and Data Protection
- DNS Abuse Mitigation

➤ **IGO Protections**

- Subsequent Rounds of New gTLDs

3. Closing Remarks

IGO Protections

Alexandra Excoffier, OECD

Why is this important to the GAC?

- The GAC is seeking to resolve long-standing issues created by the divergence of policy recommendations provided to the ICANN Board by the GNSO and GAC Advice regarding the protections afforded to IGOs.
- Specifically, addressing the concerns that IGOs immunities (under international and national laws), have not been appropriately taken into account in the Final Report of the GNSO PDP WG on IGO Access to Curative Rights Protection Mechanisms, [adopted](#) in part by the GNSO Council which the GAC [advised](#) the ICANN Board to “*abstain from taking a decision on these recommendations inter alia to allow the parties sufficient time to explore possible ways forward*”.
- As a [response](#), the ICANN Board informed the GAC it would form a Board Caucus Group for the GNSO’s PDP WG Recommendations 1, 2, 3, and 4. Subsequently, a Board-GAC Consultation process on IGO Protections was initiated, and is still underway.
- The GAC is also reviewing the process to ensure that the GAC’s [IGO List of 22 March 2013](#) is updated, is as complete as possible, and is maintained in the future, consistent with [Advice](#) in the [GAC San Juan Communiqué](#), in response to which the Board [directed](#) a feasibility study.

IGO Protections

Background on EPDP Specific Curative Rights Protections for IGOs

- **Initial Report**: focuses on Recommendation #5 of the IGO-INGO Access to Curative Rights PDP which the GNSO Council elected not to approve, and referred to the RPM PDP Phase 2 work (now the EPDP on Specific Curative Rights Protections for IGOs).
- Recommendation #5:
 - tried to address a situation where an IGO has prevailed in a UDRP or URS proceeding, following which the losing registrant files suit in a court and the IGO asserts immunity from the jurisdiction of that court.
 - In such event, the original UDRP or URS panel decision would be “set aside” so the effect will be to put the parties to the dispute in their original situations, as if the UDRP or URS proceeding in which the IGO had prevailed had never been commenced.
- During GNSO Council deliberations on IGO-INGO PDP Final Report, concerns were raised on whether Recommendation #5 was fit for purpose, noting:
 - it would require a substantive modification to the UDRP and URS; and
 - result in a potential reduction of the existing level of curative protections currently available to IGOs.

ICANN Org's IGO Protections Update



Mary Wong

ICANN org

Context for Current Discussions on IGO Protections

Preventative Protections:

- Full Names: Existing Consensus Policy (IGO Full Names withheld from registration)
- Acronyms: No Consensus Policy at the moment (inconsistencies between GNSO policy recommendations from 2013 and GAC Consensus Advice)
 - Board has indicated intention to direct ICANN org to provide permanent post-registration notification to IGOs
 - Board-GAC Consultation Process initiated

Curative Protections:

- Recommendations #1 - #4 from IGO-INGO Curative Rights PDP (2019) currently pending with the Board
- EPDP Team proposing rejection of Recommendation #5 (relating to IGO privileges and immunities) in Initial Report
- EPDP Team Initial Report published for Public Comment (closed on **24 October 2021**)
- EPDP Team also proposing arbitration as an option following a UDRP or URS decision – some alternatives for these options remain under consideration

GAC ICANN71 Consensus Advice:

- Moratorium on IGO acronyms on GAC list to remain until EPDP Team completes work
- September 2021 Board resolution and [scorecard](#) – GAC has just responded to the Board's questions

Session Objectives Overview:

- At ICANN72 the GAC is seeking to:
 - Review recent developments from the EPDP Specific Curative Rights Protections for IGOs, including the publication of the Initial Report and GAC input to the EPDP; and
 - Engage in discussions on the GAC-ICANN Board consultation on IGO protections.

Questions for GAC Topic Leads or ICANN Org ?

Agenda

1. Introduction

2. Briefing by GAC Topics Leads on GAC Priority Issues

including **update from ICANN org and Q&A**

- WHOIS and Data Protection
- DNS Abuse Mitigation
- IGO Protections

➤ **Subsequent Rounds of New gTLDs**

3. Closing Remarks

Subsequent Rounds of New gTLDs

Luisa Paez, Canada
Jorge Cancio, Switzerland

Subsequent Rounds of New gTLDs

Why is this important to the GAC?

- The New gTLDs Subsequent Procedures (Sub Pro) PDP WG has reviewed and discussed the 2012 new gTLD program, soliciting community input on policy recommendations to improve the next round of new gTLDs since 2016.
- The SubPro PDP WG concluded its work in 2021 and delivered its [Final Report](#) to the ICANN Board for consideration.
- The outcome of this PDP WG will be the basis for the policy and rules governing the next gTLD expansion.
- Determining how and when ICANN conducts the next round of new gTLD applications is a fundamental and high priority for the GAC.

Subsequent Rounds of New gTLDs

Why is this important to the GAC?

- The New gTLD program or the 2012 round of New gTLDs was the product of a multi-year process of policy development, in which the GAC participated, with contributions in the form of policy principles, safeguard advice and objections to applications that could cause public policy concerns.
- Several processes that have been supporting deliberations on these findings and wider policy issues related to further expansion of gTLDs have been of interest to the GAC, in particular:
 - [The Consumer Trust, Consumer Choice and Competition Review](#) whose [Final Recommendations](#) are in the process of being implemented, amid intense debates, per the ICANN Board's [decision](#);
 - The GNSO's [Review of All Rights Protection Mechanisms in All gTLDs PDP](#) tasked to assess the effectiveness of instruments such as the UDRP, URS and TMCH and suggest new policy recommendations in these areas
 - The GNSO's [New gTLD Subsequent Procedures PDP \(Sub Pro PDP\)](#), and within it, the specific [Work Track 5 on Geographic Names at the Top Level](#)

Subsequent Rounds of New gTLDs

Background

- The Subsequent Rounds of New gTLDs [Final Report](#) was delivered to the GNSO Council on 18 January 2021 and the GNSO Council recommendations report was submitted to the ICANN Board for their review and consideration on 24 March 2021.
- SubPro PDP WG finalized its work and the GNSO Council delivered recommendations relative to the SubPro PDP WG Final Report to the ICANN Board for its consideration, which triggered a public comment proceeding on the [GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration](#).
- The GAC submitted a [collective comment](#) for the Board to consider prior to ICANN71.
- ICANN Board [approved](#) the initiation of an Operational Design Phase (ODP) on the Sub Pro PDP WG Final Report.
- Expectation that the ODP will initiate in late 2021, with an expected duration - once launched - of approximately 10 months.
- GAC members volunteered to create a small group for potential GAC input to ODP as required following an internal call for volunteers (UK, US)

ICANN Org's Subsequent Rounds of New Generic Top-Level Domains (gTLDs) Update

Lars Hoffmann

12 October 2021

ICANN org



Policy/Implementation Challenges for the Next Round

Auctions:

- Two of the five outputs within the topic of auctions (i.e., ‘ICANN Auctions of Last Resort’ and ‘Private Auctions’) did not receive consensus-level support, meaning that they were not approved by the GNSO Council.
- Specifically, there was no consensus on: (a) whether the auctions of last resort should be done as a sealed bid auction where bids are submitted towards the beginning of the process; and (b) whether private auctions should be allowed to resolve contention sets. Thus, no recommendation on these issues has been put before the Board.
- In its 2020 comment on the Draft Final Report, the Board expressed concern that if policies/procedures related to private resolution remain unchanged, applicants may submit applications with no intent to run the registry; intending instead to collect funds in private auctions or other types of private resolution to benefit financially or to leverage those funds to improve their positioning in other contention sets.

Policy/Implementation Challenges for the Next Round (cont'd)

Public Interest Commitments (PICs)/Registry Voluntary Commitments (RVCs):

- The language of the Bylaws specifically limits ICANN's negotiating and contracting power to PICs that are "in service of its Mission."
- In its 2020 comment on the Draft Final Report, the Board has asked the PDP WG to consider the conformity of the then-proposed recs on PICs/RVCs with the ICANN Bylaws.

Closed Generics:

- There was no specific policy or separate category with additional rules on the idea of 'Closed Generic' applications, evaluations, and delegations during the 2007 Introduction of New gTLD Domains PDP.
- 2013 GAC Advice stated: "for strings representing generic terms, exclusive registry access should serve a public interest goal."
- The SubPro PDP Working Group chartered to develop policy on 'closed generics' did not reach consensus on any 'closed generics' recommendations, as documented in Final Report.
- GNSO Council resolved that there is no consensus on Closed Generics and so the Board has no policy recommendation to consider at this moment.
- The ODP will consider the operational aspect of Closed Generics as there were no specific recommendations apart from what applies to all strings, bearing in mind that the ODP is not a forum to change or develop Policy.

The Value of the Next Round

- The ability for users to access the Internet in their chosen local languages (non-ASCII characters and scripts), private sectors, governments, and civil societies have the ability to better serve their communities and take advantage of significant business opportunities.
- The increase in non-traditional and IDN gTLDs will accelerate Universal Acceptance (UA) adoption.
- It will allow for prospective registry operators to apply for new gTLDs creating new options and choice for consumers in the market.
- Businesses will be able to more precisely target their market through registration of domains whose TLD is dedicated to their business industry.
- New opportunities for investment and brand strategy. As noted in a [letter](#) sent to the Board in April 2021, the Brand Registry Group's (BRG) conveyed strong interest in proceeding toward subsequent rounds of new gTLDs.
- New business model opportunities and a platform to innovation.

Subsequent Rounds of New gTLDs

ICANN72 Session Objectives Overview

- GAC Members to:
 - Discuss input on key topics for potential GAC Advice to the ICANN Board relative to Subsequent Rounds of New gTLDs; and
 - Review recent developments including the Operational Design Phase state of play and potential follow-up to the GAC Collective [comment](#) filed in June 2021.
- Priority Topics Identified by the GAC Collective [comment](#) (1 June 2021):
 - Predictability;
 - Registry Voluntary Commitments/Public Interest Commitments;
 - Applicant Support;
 - Closed Generics;
 - Name Collisions;
 - GAC Consensus Advice and GAC Early Warnings;
 - Community Applications;
 - Auctions:Mechanisms of Last Resort/Private Resolution of Contention Sets

Annex

- **History of past rounds of new gTLDs**
- **The 2012 new gTLD round**
- **Some lessons learnt from the 2012 round**



History and Framework: The Past Rounds

- **The First Round of 2000:** Proof of concept round for possible future introductions. Seven gTLDs were added in this round: .aero, .biz, .coop, .info, .museum, .name, .pro.
- **The Second Round of 2003:** The round of sponsored gTLDs. Seven gTLDs were added in this round: .asia, .cat, .jobs, .mobi, .tel, .travel, .xxx, .post.
- **2005:** ICANN's Generic Names Supporting Organization (GNSO) began a PDP to consider the introduction of new gTLDs, based on the results of trial rounds conducted in 2000 and 2003.
- **August 2007:** GNSO releases final overarching recommendations for introducing new gTLDs. One such recommendation provided that ICANN should introduce New gTLDs in rounds until the scale of demand is clear.
- **June 2011:** ICANN Board adopts the Applicant Guidebook and authorized the launch of the New gTLD Program.

The 2012 Round

- **January 2012:** Third round opening the gTLD market for all interested applicants. A total of 1,930 applications were submitted during the application period of the New gTLD Program. The first 4 TLDs, which were IDNs, were contracted in June/July 2012.
- **December 2012:** ICANN held a prioritization draw to determine the order in which applications would be processed during Initial Evaluation and subsequent phases of the program.
- **March 2013:** ICANN released the first set of Initial Evaluation results to applicants and the public.
- **October 2013:** the first new gTLDs were delegated.
- As of **31 August 2021**, a total of 1239 gTLDs were delegated. Out of **84** self-identified community applications, **54** Community-based TLDs were delegated, as well as **53** Geographic TLDs, and **97** Internationalized Domain Names (IDNs), **57** of which are in Chinese, followed by **9** in Japanese, **3** in Korean, **13** in Arabic, **8** in Cyrillic, **3** in Neo-Brahmi, and **4** are in other scripts.
 - *Please note: Delegated gTLD totals are not adjusted for TLDs that subsequently terminated their Registry Agreements and/or were removed from the root zone.*

The 2012 Round (cont'd)

- Application procedures for new gTLDs were established through the New gTLD Applicant Guidebook.
- An Applicant Support Program was created, which was expected to increase underserved regions' access to New gTLDs application. Three applicants applied for Applicant Support; one applicant succeeded (.KIDS).
- A Community TLD in contention with other applicants for a given string was given the option to participate in the Community Priority Evaluation (CPE) process, conducted by an independent panel. The CPE panel evaluated a community application against criteria set out in the Applicant Guidebook. Community TLD applicants that successfully completed CPE prevailed over other applicants in their contention set.
- ICANN auctions of last resort were used to resolve contention if applicants could not resolve contention amongst themselves or through CPE. As per the Applicant Guidebook, private resolution of contention sets was encouraged.
- The 2012 round allowed for an objection process, which was intended to afford businesses, individuals, governmental entities and communities an opportunity to advance arguments against introducing certain new gTLDs into the domain name system. There were 4 types of objections that could be submitted: String Confusion; Legal Rights; Limited Public Interest; and, Community Objections.

The 2012 Round (cont'd)

- The Applicant Guidebook allowed for GAC advice on new gTLD applications, including via: GAC Early Warnings, which was a notice from members of ICANN's Governmental Advisory Committee (GAC) that an application is seen as potentially sensitive or problematic by one or more governments; and GAC Advice on New gTLDs. An Early Warning was NOT a formal objection, nor did it directly lead to a process that can result in rejection of the application. The applicant could withdraw upon receipt of an Early Warning or proceed with its application. The GAC issued several instances of Consensus Advice on New gTLDs, starting with the Beijing Communique (April 2013), which encompassed nearly 500 applications.
- Public Interest Commitments (PICs) were created during the processing of applications, as a contractual mechanism between ICANN and Registry Operators, to implement various GAC advice related to public policy issues that emerged once New gTLDs applications were revealed. However, concerns have been raised about the conformity of PICs/RVCs with the Bylaws (post IANA Stewardship transition)—to the extent that they would require enforcement of commitments outside of ICANN's remit.
 - **Bylaws:** *“ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet’s unique identifiers or the content that such services carry or provide, outside the express scope of Section 1.1(a)”*

The 2012 Round: Lessons Learned

Lessons Learned for Application Processing:

- Design application change request processes and criteria prior to the start of the application processing and consider whether all types of application changes should be processed the same way.
- Consider defining a process to move applications that may not proceed in the Program to a final status and provide a refund if they are not withdrawn.

Lessons Learned for Application Evaluation:

- Work with evaluation panels to perform a pre-evaluation training and develop detailed procedures to ensure consistent and quality evaluations are achieved.
- Program process that allow for additional communication between the applicant and ICANN, such as the Applicant Outreach process used in evaluation, may be beneficial.
- Leverage IDN tools for future rounds and the Root Zone Label Generation Rules in the development of the String Similarity evaluation as it pertains to IDN variants.
- Consider the purpose and implications of the Geographic Names evaluation, particularly in terms of whether its purpose is limited to evaluation or if there are other implications to the Geographic Names designation.

The 2012 Round: Lessons Learned (cont'd)

Lessons Learned for Objections Procedures:

- Explore a potential review mechanism for the next round.
- Continue engagement with the GAC during the review process and the development of the future procedures to ensure that its input is incorporated into relevant process as early as possible.

Lessons Learned for Contention Resolution:

- Consider all dimensions of feedback received to revisit the Community Priority Evaluation scoring and framework before the next application round.

Lessons Learned for Contracting:

- Explore whether different applicant types could be defined in a fair and objective manner, and if there are to be different applicant types, consider whether there should be different versions of the Registry Agreement.

The 2012 Round: Lessons Learned (cont'd)

Lessons Learned for Continued Operations Instrument:

- Explore whether there are other more effective and efficient ways to fund an emergency back-end registry operator in the event of a TLD failure.

Lessons Learned for Program Management/Applicant Support:

- Consider researching globally recognized procedures that could be adapted for the implementation of the Applicant Support Program.
- In developing timelines for future applications rounds, provide an appropriate amount of time to allow for the use of best practices in system development.
- Perform full review of Program financials and application fee before fees are defined for the next application round.
- Leverage ICANN's Global Stakeholder Engagement team to promote awareness of the New gTLD Program within their regions/constituencies.

Questions for GAC Topic Leads or ICANN Org ?

Agenda

1. Introduction

2. Briefing by GAC Topics Leads on GAC Priority Issues

including **update from ICANN org and Q&A**

- WHOIS and Data Protection
- DNS Abuse Mitigation
- IGO Protections
- Subsequent Rounds of New gTLDs

3. Closing Remarks