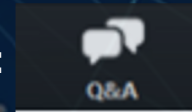


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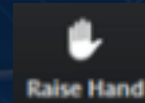
VIRTUAL POLICY FORUM

How to ask questions and comment:

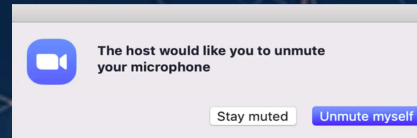
- Please use the Q&A pod to comments and ask questions:



- If time permits, verbal questions will be accepted. Please use the raised hand icon and you will be placed in the speaker queue



- When its your turn to speak, we will announce your name and unmute your mic.
- You will then be prompted to unmute



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Do you have a question or concern for the ICANN Ombudsman?

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VIRTUAL POLICY FORUM

68

GAC Meeting with ICANN Board

Session 12

Wednesday 24 June 2020 (830 - 930 UTC)

Session Lead - GAC Chair, Manal Ismail

ICANN | GAC
Governmental Advisory Committee

GAC - Board Meeting Agenda

A. Introductions

B. Brief Review of GAC Efforts Since ICANN67

C. Discussion of Specific GAC Priority Areas

- + New gTLD Subsequent Procedures
- + DNS Abuse Mitigation; and
- + Domain Name Registration Directory Service and Data Protection issues

D. Issue-Spotting - Recognition of Issues Coming up
(including - Global Public Interest, MSM Evolution, GAC Review (as chartering organization) of Auction Proceeds Recommendations and ATR3 Final Report)

E. Closing

GAC Areas/Topics of Interest to Discuss with ICANN Board

1. New gTLD Subsequent Procedures

Subsequent procedures for new gTLDs remain a high priority for the GAC. The GAC has participated in the GNSO PDP process and the committee provided summaries of its ICANN67 discussions in its ICANN67 GAC Communique.

Since ICANN67, the GAC has worked internally to develop particular positions on the high priority GAC topics being addressed in the GNSO PDP process and has shared several of those views in that venue. GAC leadership has also engaged with other communities, particularly the ALAC, to explore areas of common interest to ensure that all community views are thoroughly vetted during the PDP process. The GAC high priority topics already shared with the Board at ICANN67 include:

- + Applicant Support and Participation of Underserved Regions
- + Closed Generic TLDs
- + Public Interest Commitments (PICs)/Global Public Interest
- + GAC Early Warnings and GAC Advice
- + Community Based Applications

The GAC understands that the Final Report of the GNSO PDP is still being prepared. The committee will use the ICANN68 meeting to further refine its views in order to be prepared to share its views on the Final Report document when it is published.

It is important that the entire community be given sufficient time to review and respond to the Final Report of the PDP working group, noting that the decisions in this regard would normally be more convenient when the GAC is in a physical or virtual session.

GAC Areas/Topics of Interest to Discuss with ICANN Board

2. DNS Abuse Mitigation

a. Privacy/Proxy Services

Background:

Law Enforcement reported during ICANN68 that the majority of domains involved in pandemic-related fraud, phishing, or malware have employed **Privacy/Proxy Services** to hide the identity of the registrant.

Questions:

- What action can the Board take to reduce the negative impact of Privacy/Proxy services on
- the security of the DNS ?
 - the efficiency of Law Enforcement investigations of DNS Abuse ?



GAC Areas/Topics of Interest to Discuss with ICANN Board

2. DNS Abuse Mitigation (continued)

b. Proactive Anti-Abuse Measures

Background:

The CCT Review recommended that ICANN negotiate contractual provisions providing financial incentives for contracted parties to adopt proactive anti-abuse measures (Rec. 14). This recommendation has been placed in pending status by the ICANN Board. The GAC notes the recent adoption of a definition of DNS Abuse by the Registry and Registrar Stakeholder Groups.

Questions:

- Might the ICANN Board update the GAC on steps already taken “*to facilitate community efforts to develop a definition of ‘abuse’*” ?
- What steps do the ICANN Board and Org intend to take “*to inform further action on this recommendation*” ?
- What mechanisms are available to ICANN to incentivize pro-active anti-abuse measures such as validation of registrant information by Registrars?

GAC Areas/Topics of Interest to Discuss with ICANN Board

2. DNS Abuse Mitigation (continued)

c. Accuracy of gTLD Registration Data

Background:

*Extensive background on this issue is provided as an appendix slide to this presentation.
See slide # 11*

Question:

What does the ICANN Board intend to do to restore ICANN's ability to address gTLD registration data inaccuracies, including but not limited to resuming the ARS identity validation phase ?



GAC Areas/Topics of Interest to Discuss with ICANN Board

3. Domain Name Registration Directory Service and Data Protection issues

Background:

*Extensive background on this issue is provided as an appendix slide to this presentation.
See slide # 12*

Questions:

- How will the ICANN Board ensure that the current reasonable access requirement is effective and enforced by ICANN Contractual Compliance in the public interest ?
-
- How could the ICANN Board support any future system for accessing gTLD Registration Data to:
 - + better serve the interest of the public and
 - + to evolve in a timely manner to address future guidance or information available on the applicability of data protection law ?
- What is the status of the ICANN org-led survey on the need to differentiate between Natural and Legal entities for the purposes of domain name registration data and when will the results be provided to the EPDP team?

GAC Areas/Topics of Interest to Discuss with ICANN Board

4. Other Upcoming Topics of GAC Interest:

- Global Public Interest (ICANN Board Exercise)
- MSM Evolution
- GAC Review (as chartering organization) of Auction Proceeds Recommendations; and
- ATR3 Final Report



Appendix

Additional Background Information related to DNS Abuse Mitigation – Accuracy of gTLD registration data

In 2012, **the first WHOIS Review Team** found that *“the low level of accurate WHOIS data is unacceptable”* and recommended that one of ICANN’s priority should be to improve WHOIS data accuracy.

In 2015, ICANN started identifying and reporting inaccurate gTLD WHOIS data through the **WHOIS Accuracy Reporting System (ARS)**. In June 2018, as a consequence of the adoption Temporary Specification for gTLD Registration Data, **ICANN suspended operations of the ARS** limiting ICANN Compliance’s ability to investigate inaccuracies.

In September 2018, the **CCT Review recommended specific work to determine whether the ARS could proceed into its ultimate phase of identity validation**. The Board placed this recommendation in pending status until the outcome of the RDS-WHOIS2 Review.

In September 2019, **the RDS-WHOIS2 Review estimated that 30-40% of registration data was inaccurate and recommended resuming operations of the ARS or a comparable tool (Rec. 5.1)**. The ICANN Board placed this recommendation in pending status until the EPDP Phase 2 addresses the matter.

It is now clear that Phase 2 of the EPDP will not do so. The GNSO Council determined that WHOIS Accuracy is not on the critical path of Phase 2, **effectively delaying any meaningful progress indefinitely**.

In the meantime, pervasive gTLD registration **data inaccuracies continue to undermine the effectiveness of the gTLD registry directory service**, including in meeting the legitimate needs of law enforcement and in promoting consumer trust (ICANN Bylaws 4.6.e.ii). This situation may also jeopardize any future registration data access model when it comes to compliance with accuracy provisions in relevant data protection law.

Appendix

Additional Background Information related to Domain Name Registration Directory Service and Data Protection issues

- ICANN org has requested legal guidance from the European Data Protection Board (EDPB) to determine, among other things, to what extent a future system for accessing non-public gTLD Registration Data can centralize disclosure responsibilities and automate such disclosures.
- Recently, ICANN org has requested further guidance in the face of challenges for public authorities with a legitimate purpose to secure, data from Contracted Parties, reasonable access to non-public gTLD registration. On this occasion, ICANN org signaled that absent such guidance it may not be able to enforce some provisions of the Temporary Specification.
- The GAC notes that the EDPB is an independent authority that may not be able to provide the level of detailed guidance hoped for by ICANN org. Moreover, the GAC notes that when the EDPB does provide guidance to ICANN, stakeholders rarely agree on an interpretation of such guidance, let alone on how it should be implemented. As a consequence, when assessing their legal obligations and compliance exposure under any access model (current or future), contracted parties tend to adopt conservative positions by default, irrespective of legitimate third party interests in data disclosures, and irrespective of the lawfulness of such disclosures.
- The GAC understands that per the bylaws, ICANN’s mission include maintaining the security, stability and resiliency of the Domain Name System. As stated before by the GAC, in the eyes of governments, this requires what the Board has called “legitimate and proportionate access to registrant data”.
- Per Phase 1 Recommendation 17, ICANN org has been conducting a survey on the need to differentiate between Natural and Legal entities for the purposes of domain name registration data. This study was supposed to have been provided last month and despite requests for an executive summary and estimated completion date, no further information has been provided.