

Board-GAC Interaction Group (BGIG) Call

13 May 2024 - 1400 UTC

Summary Notes

In the spirit of issue spotting and candid information exchange, these high-level staff summary notes are intended to reflect the general nature of the discussion during the BGIG meeting. Certain specific aspects of the meeting discussions are provided to enable understanding of the flow and context of the discussions.

Meeting Agenda

- Welcome Remarks - Tripti Sinha
 - Opening Remarks - Nicolas Caballero and Becky Burr
 - Discussion of the ICANN79 GAC Communiqué Issues of Importance
 - AOB
 - Closing Remarks
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I. Opening Remarks

Tripti Sinha, ICANN Board Chair, welcomed members on the call, noting the importance of the discussion taking place between the Board and the GAC on issues of importance flagged at ICANN79. Tripti Sinha thanked the GAC for its recent advice which the Board took action on during the last Board workshop in Paris on 5 May 2024. Tripti Sinha flagged that the ICANN79 GAC Communiqué includes nine items flagged as issues of importance which will be discussed during this meeting, and conveyed the Board's appreciation for this discussion between the Board and the GAC to discuss these items.

Nicolas Caballero, GAC Chair, thanked Tripti Sinha and the Board for the upcoming discussion, noting that items for discussions impact security and stability of the Internet and are particularly important for governments, law enforcement agencies and regulatory bodies. Nicolas Caballero reviewed the agenda and topics for discussion.

Becky Burr, ICANN Board, thanked GAC members and reiterated the importance the Board places on the value of the discussion between the GAC and the Board as part of the Board GAC Interaction (BGIG) meetings.

1. Board dialogue on Issues of Importance to the GAC

DNS Abuse

Becky Burr, ICANN Board, noted that DNS Abuse requirements further enable ICANN Contractual Compliance (Compliance) to take enforcement actions against contracted parties who fail to adequately mitigate or disrupt well-evidenced DNS Abuse. On 5 April 2024, Compliance started enforcing the new DNS Abuse requirements consistent with the information in the accompanying [Advisory](#). As explained in the Advisory, what is prompt or actionable will greatly depend on the specific circumstances of each case. When conducting an investigation, Compliance requests registrars and registry operators to demonstrate compliance with all applicable provisions of the agreements in consideration of the specific circumstances of the case. A case-by-case review is then performed each time. This review examines the actions taken by the contracted party and, in particular when those actions occurred, how those actions were reasonably necessary to stop or disrupt the DNS Abuse, how the contracted party evaluated damage that occurred or could occur and to whom, including the potential of collateral damage and where, applicable, why the contracted party determined that the evidence provided was determined to be unactionable. The reasons for resolving each compliance case are logged and added to Compliance's public reporting.

Becky Burr further noted that in June 2024, Compliance intends to launch a report dedicated to the enforcement of the new DNS Abuse requirements. This report will eventually comprise a 12-month rolling series, updated every month, to illustrate historical trends over time. The report will include data such as the number of complaints received broken down by the type of DNS Abuse, compliance notifications sent to contracted parties under the DNS Abuse requirements, cases resolved with contracted parties and their outcomes, including whether the contracted party took action to stop or to disrupt the DNS Abuse or whether no action was taken because there was no actionable evidence; and cases resolved with contracted parties, and their outcomes, that resulted from complaints submitted by law enforcement agencies within the registrar's jurisdiction.

By Q2 2025, Compliance intends to prepare a more detailed report related to the enforcement of the DNS Abuse requirements during the first 6 months in force. Becky Burr explained that the

intent is that Compliance's reports contribute to measuring the impact of the DNS Abuse Amendments. However, determining the specific metrics and data sets that will allow measurement of such an impact should be a community-led effort, facilitated and supported by ICANN.

Becky Burr, ICANN Board, noted there is an ICANN org cross-functional team working on analyzing the information and determining how to approach these efforts. The team is considering all potential measurements and sources that could help with the task of supporting the community in obtaining that data. It is also important to allow sufficient time for the implementation of the new requirements to measure their impacts accurately.

Finally, Becky Burr, ICANN Board, noted that capacity development is an area ICANN org continues to improve, both for users/victims of DNS abuse and for registries and registrars. This is going to be more of a focus going forward and ICANN org expects to partner with industry and community on these efforts.

Susan Chalmers, GAC USA, asked clarifications pertaining to the monthly reporting and whether they would include the obligations created by the DNS Abuse provisions, and whether in addition to these reports there would be proactive audits carried out for registrars.

Jamie Hedlund, ICANN org, responded that monthly reports will begin at a granular level to address DNS abuse cases, including both complaints and actions taken proactively. The actual reports will be structured similarly to the current reports, but will essentially include more data. Audits are currently carried out twice a year, once for registries and once for registrars, however after one year ICANN org will revisit this to perform audits that focus specifically on compliance with the DNS Abuse amendments.

Cost Benefit Analysis of the New gTLD Program

Becky Burr, ICANN Board, noted the Board and GAC discussed this item thoroughly at ICANN79 in San Juan, and the Board recognizes that some members of the GAC were not satisfied with the Board's response on this topic. Becky Burr, ICANN Board, noted that the most important takeaway from this discussion is the mutual recognition of the critical importance of effective communication between the GAC and the Board. Clarity in Board communication with the GAC has significantly improved since ICANN56 Helsinki (June 2016), when the cost benefit analysis GAC advice stems from, and the Board is committed to communicating more effectively both when accepting advice to note exactly what is being accepted and having an open dialogue about what isn't being accepted.

Jorge Cancio, GAC Switzerland, underscored the importance of the discussion held at ICANN79 between the Board and the GAC, expressing appreciation for candid and frank exchanges on this topic. Jorge Cancio noted this is the best basis for further future fruitful discussions between the Board and the GAC and expressed his thanks to the Board for this.

Registry Voluntary Commitments (RVCs)/Public Interest Commitments (PICs) in New gTLDs

Becky Burr, ICANN Board, noted the Board's appreciation of the GAC's active engagement in the community consultation, focusing on ICANN's approach to implementing Registry Voluntary Commitments (RVCs) in the New gTLD Program: Next Round, which have the potential to include proposed restrictions on the content and/or usage of gTLDs. The Board appreciates GAC's response to the consultation questions, as well as the contribution of GAC selected panelists to the ICANN79 plenary session on PICs/RVCs.

Becky Burr, ICANN Board, further noted that the Board agrees with the GAC that PICs and RVCs must be enforceable. The Board notes that community groups that submitted input for the community consultation do not support an ICANN Bylaws amendment at this stage to clarify the scope of ICANN's contracting remit as it relates to Registry Agreement commitments that could restrict content in gTLDs. The Board reviewed input received from the community consultation and analyzed applicable Bylaws provisions to discuss the risks of permitting content-restrictive commitments in Next Round Registry Agreements in light of updates that have been made since the 2012 round of the New gTLD Program to the ICANN Bylaws language concerning the scope of ICANN's Mission and whether any mitigation measure, such as a "third-party monitor" approach proposed by the GNSO and explored in the Consultation, would eliminate the risk that content-restrictive commitments pose under the ICANN Bylaws.

Becky Burr, ICANN Board, noted that the Board plans to follow up with the GAC, as well as the broader ICANN community, regarding the proposed high-level implementation approach for RVCs and will appreciate further feedback, if any, from the GAC on the proposed implementation approach. The Board also hopes to discuss this topic during the GAC-Board bilateral meeting in ICANN80 Kigali.

GAC members reiterated the importance of a high level legal analysis being shared with the ICANN community to support a potential decision on Fundamental Bylaws Amendments, especially given the complexity of the topic and it being a dependency for the next round of the new gTLD program.

Registration Data - Registration Data Request Service (RDRS)

Becky Burr, ICANN Board, provided an update on the Registration Data Request Service (RDRS), noting this is a pilot that will operate for up to two years (until Nov. 2025) to gather usage and demand data that can inform the ICANN Board's consideration of the consensus policy recommendations related to a System for Standardized Access/Disclosure (SSAD) for nonpublic domain name registration data, and ongoing consultations with the GNSO Council. As of April 2024, 88 registrars are voluntarily participating in the system, covering approximately 57% of gTLD domains. Becky Burr, ICANN Board, expressed the Board's gratitude to the GAC for supporting usage of the service, since more usage will entail more feedback and improvements.

The Board is also following the monthly RDRS Metrics Usage Reports and is interested to hear the experience of both registrars and requestors, who are also providing feedback via surveys collected by ICANN org and whose results will be published. At the request of the GNSO Standing Committee, ICANN org has recently published a downloadable CSV for each monthly RDRS Metrics Usage Report that provides data from the Summary of Data Chart.

Becky Burr, ICANN Board, thanked GAC members of the Public Safety Working Group (PSWG) for the creative and interesting work carried out at ICANN79 on this topic, and encouraged GAC members to continue participating in the GNSO Standing Committee.

Finally, Becky Burr, noted that ICANN org is expected to publish a 6-month analysis of the RDRS prior to ICANN80 during prep week, and encouraged GAC members to look out for this.

Registration Data - Privacy and Proxy Accreditation Implementation

Becky Burr, ICANN Board, expressed the Board's appreciation of the GAC's interest in this topic and acknowledgement of ICANN org's most recent work to inform the way forward. The Board understands that ICANN org is in the process of convening an Implementation Review Team (IRT) to help define the best path to implementation of the existing policy recommendations on proxy and privacy services. Regarding the RDRS, as noted above, the team continues to work with the GNSO Standing Committee to gather and incorporate stakeholder feedback, including how to help address situations with the type of confusion described by the GAC.

Registration Data - Accuracy

Becky Burr, ICANN Board, noted that the Board is concerned about accuracy and flagged the assessment ICANN org provided to the GNSO Council in October 2023, which outlined possible

approaches for examining historical audit data on accuracy-related provisions in the Registrar Accreditation Agreement. ICANN org provided this information to support the work of the GNSO's Registration Data Accuracy Scoping Team, whose aim was to understand current efforts at accuracy enforcement and reporting, as well as to define and measure levels of accuracy. Becky Burr noted that the Scoping Team identified a lack of data it deemed necessary for its work, underscoring the importance of this because it notes the difficulty in knowing what kinds of inaccuracies appear in the registration data set, how prevalent they are and how they impact the ability of the use of registrant data for legitimate purposes.

ICANN org's views of what it is able to do at this time is to secure data from registries and registrars when it receives a report that the data is inaccurate at that moment. Once this occurs, the ICANN Board believes that ICANN org has a legitimate interest in looking at the data to evaluate it. Becky Burr noted that under the Registrar Accreditation Agreement, ICANN org is unable to proactively pull and process large swaths of registrant data without a workable definition of the inaccuracies that preclude the use of registrant data.

Becky Burr, ICANN Board, underscored the importance of continued community discussion on this important topic, particularly as the GNSO Council determines how to advance possible policy discussions and the work of the currently paused Accuracy Scoping Team.

Becky Burr noted the Board's alignment with the GAC in looking forward to completion of the Data Protection Specification (DPS). While this will be a welcome milestone, the Board recognizes that the DPS will not grant ICANN access to nonpublic registration data outside of that permitted under the governing contracts and applicable law, such that it will enable wide-scale accuracy studies previously proposed within the Accuracy Scoping Team.

Finally, Becky Burr noted that the OCTO INFERMAL (Inferential Analysis of Maliciously Registered Domains) is a research project being carried out by KOR Labs and funded by ICANN. The goal of this project is to conduct an in-depth analysis of maliciously registered domain names, aiming to uncover cyber attackers' preferences and possible measures to mitigate abusive activities within the domain name space. Becky Burr noted that the Board would like to clarify that the INFERMAL will not be analyzing domain name registration accuracy.

Transparency and GNSO Statements of Interest (SOI)

Becky Burr, ICANN Board, noted the Board's and GAC's full alignment on the importance of transparency in policy development at ICANN to ensure awareness of who is speaking, who is being represented and whose interests are impacted. The GNSO Council Committee for

Overseeing and Implementing Continuous Improvement (CCOICI) was tasked with reviewing the GNSO Statement of Interest (SOI), where there was a perceived lack of transparency in instances where an individual is participating in the GNSO policy process as a representative of another individual or entity, but is not required to fully describe the relationship. The GNSO SOI currently has an allowance for individuals to enter “Private” if professional ethical obligations prevent them from disclosing the individual or entity that they are representing. This allowance is rarely used.

Becky Burr noted that the CCOICI sought to refine the exemption process but was ultimately unable to come to agreement since Contracted Parties were adamant that full transparency was the only solution, which they believe to be in line with the ICANN Bylaws, while those that may have professional ethical obligations are of the view that removing the exemption could exclude them from participation if a client would not agree to disclosure.

This process led the Board to consider the development of an ethics code for participation within ICANN, which would cover Statements of Interest and disclosure requirements. Becky Burr noted this is a complex topic that the Board is still working on, and expects to continue to engage with the GAC on this item moving forward.

The GAC Chair reiterated the importance of this topic for the GAC and thanked the Board for its alignment with GAC views on the issue. GAC members noted the importance of addressing this matter as quickly as possible.

Jorge Cancio, GAC Switzerland, asked for the Board to consider whether the establishment of the rules of SOIs is under the GNSO Council’s purview only or whether this should be established by the ICANN community as a whole, since SOIs go beyond the GNSO’s work and the PDPs and impacts anyone participating in the Policy Development Process.

Regional Internet Registries

Becky Burr, ICANN Board, thanked the GAC for the committee’s input and views on this item and expressed that the Board shares the GAC’s concern in this area. ICANN org continues to monitor the progression of issues regarding AFRINIC’s governance challenges and stands ready to provide appropriate and proper support. Becky Burr noted that the multistakeholder model relies upon entities like AFRINIC functioning well in their designated capacity. The Board appreciates the initiative of the community in recognizing the need to evolve policies in light of these recent experiences, and supports work by the ASO to evolve the policies documented in ICP-2.

The GAC Chair asked whether the Board could clarify the timing to develop or evolve policies regarding ICP-2. The Board Chair, Tripti Sinha, responded that ICANN is fully engaged in this matter and the RIR are working closely with ICANN to evolve the ICP-2. The expectation is that it will take a couple of years to evolve the policy and the Board will continue to keep the GAC apprised of any changes.

IPv6

Becky Burr, ICANN Board, noted the Board's appreciation of the GAC's recognition for the need to accelerate the deployment of the IPv6. The Board continues to support efforts by the Regional Internet Registries (RIRs) in their respective communities in promoting the adoption of IPv6. Becky Burr, ICANN Board, flagged that the Board wished to note that IPv6 adoption has been trending in a positive direction. Data provided¹ shows that IPv6 continued to grow since 2008, as shown in statistics collected by Google about IPv6 adoption in the Internet on an ongoing basis.

Becky Burr, ICANN Board, noted that the Board encourages the GAC to continue to engage with their local ISPs to work and support Regional Internet Registries (RIRs) in their IPv6 initiatives, including where appropriate, initiating any necessary policies.

AOB

Rosalind Kennybirch, GAC UK, asked the Board for clarification on the timeline for the Financial Plan and communications and outreach strategy for the Applicant Support Program. Theresa Swinehart, ICANN org, responded that the timeline is in the works and under discussion with the ICANN Board. A timeline will be shared with the IRT shortly.

Martina Barbero, European Commission, asked the Board whether there is a timeline for the Board's discussion with the GNSO on the topic of "urgent requests". Becky Burr, ICANN Board, noted this was discussed at the Board workshop and a timeline should be shared shortly.

IV. Adjourn

Nicolas Caballero, GAC Chair, thanked the ICANN Board for their engagement with the GAC, noting this is invaluable to build a strong and secure Internet.

¹ Google statistics on IPv6: <https://www.google.com/intl/en/ipv6/statistics.html>

Tripti Sinha, ICANN Board Chair, thanked GAC members on behalf of the Board for this dialogue and adjourned the meeting.

Attendees:

GAC

Nicolas Caballero, GAC Chair
Stefan Vouk, Austria
Dr Shamsuzzoha, Bangladesh
Suada Hadzovic, Bosnia and Herzegovina
Alfonso Besada, Brazil
Rida Tahir, Canada
Jose Hernandez, Cayman Islands
Abdeldjalil Bachar Bong, Chad
Mislav Hebel, Croatia
Zdravko Jukić, Croatia
Manal Ismail, Egypt
Christine Arida, Egypt
Martina Barbero, European Commission
Rudy Nolde, Germany
Vincent Roberts, Grenada
Ashwin Sasongko Sastrosubroto, Indonesia
Adriano Daddario, Italy
Mina Ogihara, Japan
Alisa Heaver, Netherlands
Marco Hogewoning, Netherlands
Ana Neves, Portugal
Viacheslav Erokhin, Russian Federation
Waleed Aloriny, Kingdom of Saudi Arabia
Sasa Kovacevic, Serbia
Ana Maldonado, Spain
Jorge Cancio, Switzerland
Cheng-Nan Chiang, Chinese Taipei

'Esau Tupou, Tonga
Fikriye Gelgüç, Türkiye
Gloria katuuku, Uganda
Nigel Hickson, UK
Rosalind KennyBirch, UK
Susan Chalmers, USA
Kenneth Merrill, USA
Owen Fletcher, USA
Laureen Kapin, PSWG Co-Chair
Rodrigue Jacques Guiguemde, Smart Africa
Tracy Hackshaw, UPU
Brian Beckham, WIPO

ICANN Board

Tripti Sinha
Alan Barrett
Becky Burr
Danko Jevtović
Edmon Chung
Harald Alvestrand
James Galvin
Katrina Sataki
León Felipe Sánchez Ambía
Maarten Botterman
Wes Hardaker

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Amy Bivins
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