

# GNSO Council - GAC Intersessional Call

## 25 May 2021

### **Attendance:**

#### GNSO:

Philippe Fouquart, Tatiana Tropina, Pam Little, Jeff Neuman

#### GAC:

Manal Ismail, Chris Lewis-Evans, Jorge Cancio, Luisa Paez, Laureen Kapin, Velimira Grau

#### ICANN Support staff:

GNSO - Steve Chan, Ariel Liang, Caitlin Tubergen, Emily Barabas, Julie Hedlund, Nathalie Peregrine, Terri Agnew

GAC - Gülten Tepe, Fabien Betremieux, Benedetta Rossi, Robert Hoggarth, Devan Reed

### **Agenda:**

- Introduction
- Follow-Up to ICANN70
  - EPDP/SSAD and Phase 2A
  - Accuracy Scoping
  - DNS Abuse
- AOB - Subsequent Procedures and/or issues coming out of GNSO Council

### **Introduction:**

Attendees reviewed the agenda for the call. No additions or deletions were suggested.

### **Discussion - Follow-Up to ICANN70:**

#### EPDP/SSAD and Phase 2A

Regarding the EPDP/SSAD, Manal Ismail (MI) reported that the GAC has received the Board scorecard response to its ICANN70 Advice and is considering follow-up with the ICANN Board in light of the interpretation of the Advice and potential divergence of views on substantive issues

highlighted in the GAC Minority Statement on the Final Report of Phase 2 of the EPDP on gTLD Registration Data submitted in August 2020.

She noted the designation of Janis Karklins as the GNSO Council liaison to the SSAD Operational Design Phase and explained that the committee will be watching the ODP closely with plans to contribute to the effort as needed.

Regarding the EPDP Phase 2A, MI shared that the GAC expects that the anticipated Initial Report of the effort will reflect stakeholder disagreement on the current outcome, making it clear that any proposals to date do not reflect a consensus.

Regarding the considerations of Legal vs. Natural persons, MI noted that while the current expectation is that the Initial Report will propose only non-mandatory guidelines for registrars that wish to differentiate (as discussed by the GAC during ICANN70), the GAC believes that information not protected by the GDPR should be required to be published for the benefit of the public, law enforcement and consumer protection and not take the form of guidelines. Further, she noted that while voluntary practices of willing parties may be in the public interest and could raise the bar for other parties in this context, the shared goal of the community should be to address the behavior of those that do not comply with mandatory and enforceable requirements.

Regarding the feasibility of anonymized unique contacts, MI noted that the GAC believes that feasibility is proven by legal advice and EPDP Phase 1 recommendations that include this possibility for privacy/proxy registrations. She noted the GAC belief that, to date, not enough attention has been given to this topic in Phase 2A and that GAC comments on the Initial Report are likely to express these concerns.

Philippe Fouquart (PF) noted that any concerns regarding the Initial Report are premature - as the discussions are still ongoing in the working group. He noted the GNSO Council leadership's reluctance to prejudge the work of the group at this point. He noted that any questions regarding "how" consensus is called would be an issue for the Council. He expressed surprise at the lack at EPDP Team discussion of recent ICANN org feedback on these issues and he is counting on the working group leadership to be pragmatic about its work products.

Pam Little (PL) noted that PF's role as the Council liaison to the Phase 2A effort made him most qualified to comment on the progress to date. She noted the challenge of achieving consensus on these types of highly technical and complex issues and advised that not all processes of this type will ultimately achieve consensus.

Laureen Kapin (LK) agreed that these are difficult topics. She reiterated that comments from some GAC Members reflect a certain amount of frustration with the Phase 2A process to date, particularly in light of legal advice characterizing the risks of publishing certain non personal registrant contact information as “low” or “nominal”.

PF noted the practical value of establishing a clear framework, but explained that different community members clearly have different interpretations regarding the questions of liability and risk. He said the approach regarding consideration of guidelines offers a pragmatic way forward. He views the guidelines approach as a first step that may help some parties to see that in practice the risks are indeed low, thus leading to more stringent rules in subsequent policy or process steps. He noted the need to give the working group time to complete its work and expressed hope in the likelihood of the group achieving some useful progress. LK noted PF’s optimism and expressed hope that the proposed guidelines/best practices might serve as a prototype to spur wider adoption of clear rules in the future.

#### Accuracy Scoping

MI reported that the GAC had noted that the issue of accuracy was recognized during the 20 May GNSO Council call as an issue that had been needing further consideration in the EPDP process for some time (since November 2018). She noted that the concerns regarding inaccurate domain name registration data predated the EPDP and have been raised for many years.

MI reminded attendees that six months ago (December 2020), the GAC responded to an invitation to express interest in the scoping exercise and put forward four representatives who stand ready to start the discussion. She noted that the GAC again recently provided input on the [next steps](#) proposed by the GNSO Council Leadership regarding a scoping effort. She asked GNSO Council leaders when they expect the Small Team being formed to start its work and to deliver a new set of directions to this still-to-be convened scoping team. She indicated continued willingness on the part of the GAC to be involved early in the scoping effort and noted GAC concerns at the delay in that effort.

GNSO leaders clarified the current status and expectations regarding the GNSO discussions in relation to the scoping effort. They explained that there is a diversity of opinion within the Council on the urgency of this effort - including a strong opposition to start the scoping team before the Phase 2A work has concluded. They explained that the Council leadership had initially attempted its own informal effort to identify a path forward. They acknowledged that,

from the outside, this may appear to be a somewhat convoluted effort to establish a clear direction for the scoping team. They also acknowledged that there is a strong desire to include representatives from each Supporting Organization, Advisory Committee, Stakeholder Group and Constituency in the scoping effort. They expressed hope that such an arrangement can still be reached, but emphasized that the full Council must agree to any scoping team framework and that discussions have not yet reached a conclusion. They indicated that the Council understands that the matter of accuracy is of high importance to the GAC and that considerations of accuracy are much broader than just the EPDP.

GAC attendees thanked the GNSO leaders for the thorough explanation of the current process status and the related challenges in discussing the scoping issue internally within the GNSO Council. They re-emphasized that the scoping issues regarding data accuracy are crucial to the GAC as it is believed that the scoping effort will dictate what issues are teed-up for discussion and resolution in subsequent deliberation and the potential consideration of new policy. They implored the GNSO Council leaders to encourage as much broad community participation as possible in the scoping team effort.

Pam Little (PM) noted that the Council was very interested in the GAC-Board dialogue regarding accuracy. She asked the GAC leadership to share any initial GAC reactions to the Board's recent scorecard response on data accuracy. MI shared that the GAC is still thoroughly studying the Board scorecard response and is currently seeking to understand the process for follow-up with the Board so that the GAC can follow-up appropriately in a substantive way. She indicated hope that some clarity could be provided in an upcoming call with Board members. Jorge Cancio (JC) expressed the view that the scorecard document focused on potential differences rather than looking at common ground at the policy level.

The GNSO leaders are hoping that further guidance on the scoping team may be forthcoming after the Council's June 2021 meeting, but warned that the timeline could slip depending on the nature of the continuing discussions.

### DNS Abuse

MI noted that GAC Members have observed that DNS Abuse remains identified as an "Unplanned" topic in the GNSO Council Action/Decision Radar, with the GNSO Council "*to determine next steps, if any, on DNS Abuse*". (As of 20 May 2021).

MI noted that since ICANN70, the GNSO Council has appeared to have received briefings by the DNS Abuse Group of the GNSO's Contracted Party House (22 April 2021) and the SSAC

Leadership (20 May 2021). She also reminded the Council leaders of prior commitments of the previous GNSO Council leadership team to provide a framework of options for ways-forward on how to holistically address the matter of DNS Abuse including a statement by the previous GNSO Council Chair that the Council's goal, once it consults with Contracted Parties, is to come up with options consistent with the views of its constituents. Consequently, MI asked the Council leaders what are the takeaways from the recent consultations and when do they expect to come up with options to move this matter forward?

PF noted that MI had provided a good summary of recent events, noting his belief that the Council has been thoroughly reviewing DNS Abuse issues. He cautioned that at present he has no time frame to offer. He noted that even after the last three GNSO Council calls, the council is still trying to identify a reasonable scope for DNS Abuse issues to put in a policy context. PL explained that the Council continues to have a large number of issues on its agenda with several unplanned matters requiring their attention. PL noted that this larger issue remains on the Council's radar and has not been forgotten.

### **Closing**

Due to time constraints, there was no time for any AOB discussion. The attendees agreed that the GNSO liaison and the GAC point of contact would work to confirm the GAC-GNSO bilateral meeting agenda for 16 June during ICANN71.

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