
ICANN75 | AGM – GAC Capacity Building and Outreach Workshop 5: Key GAC Topics - Priority Interests for Governments
Sunday, September 18, 2022 – 10:30 to 12:00 KUL

(Recording started)

KAREL DOUGLAS: All right. Welcome back to the capacity building weekend. I trust you are all ready to go. Where is my document? One second. All right. So coming up next, we have Carlos Reyes who will be presenting on the PDP process. So basically what we are doing now, in recent years, the GAC has become more involved in policy development efforts to the point of the GAC participants directly becoming involved in cross-community working groups formed to discuss policy matters leading into the GNSO. The GAC [inaudible – 00:01:16] groups during the deliberation processes with the GNSO is something that we -- it's not a new thing but it's increasing and I think that's something that we need to recognize.

Over the past several years the GAC has expanded its involvement in ICANN policy development matters expanding beyond providing advice to the Board, but also to participating directly in the policy development process at earlier stages. In this session, attendees will get an overview of the GNSO PDP and learn about the fundamental government interests in a number of priority

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

areas of traditional concerns to governments in ICANN; specifically, new gTLDs, registration data services, WHOIS, and concerns regarding DNS abuse.

For this session block, Carlos Reyes of ICANN Org will provide information on what the PDP is. Now you recall of Mary Wong yesterday gave us an overview of the PDP, but Carlos will go deep. She promised Carlos would do a deep dive today and Carlos is here to do that. Karen Lentz referred to it in the context of new gTLD efforts earlier.

Carlos will be followed by a number of experienced GAC topic leads who will offer insights on several key topic work efforts now under way with insights on the GAC's experience in the PDP with SubPro, WHOIS and DNS abuse while sharing why these issues are of importance to many governments around the world. So I would like to introduce you to Carlos Reyes of ICANN org who will go through our presentation or a stand up. Go ahead. Thanks, Carlos.

CARLOS REYES:

Thanks, Tracy. Hi everyone, my name is Carlos Reyes. I've been with ICANN org for about 10 years. I'm based out of our Washington D.C. office. In the past, I've participated in a few GAC capacity building workshops so it's good to have these back in person. And I'm excited to speak with you today and spend a few

minutes with you today.

I know my colleague, Mary Wong, gave you a high-level overview of the different structures within the ICANN community, and the chartering scope for all those groups, so today I'm going to focus on the policy development work, specifically of the Generic Name Supporting Organization, and why the GNSO? Well, that's because most of the issues that consume the ICANN agenda are driven by the policy work of the GNSO.

Occasionally, we will see policy development processes in the Country Code Name Supporting Organization; in fact, I think there's maybe 4 PDPs in their history, but the GNSO, the volume is much more considerable. So a lot of the issues that your governments prioritize in terms of the ICANN mission are often related to GNSO efforts. There's a third supporting organization, which is the Address Supporting Organization, and that group deals with the global policy work for Internet Number Resources.

Their policy work is even more limited within the ICANN mission, and that is because the 5 regional Internet registries have to agree on the same policy before it becomes a global policy proposal here at ICANN. That's not to say that there's no policy work happening. It just happens elsewhere. So a lot of the policy work of the numbers community happens at the regional Internet

Registry Community meetings.

So, we're in the APAC region right now, the Asia Pacific Network Information Centre is the regional Internet registry for that region. They just had a meeting last week and some of their policy proposals reached consensus, but they're not at the global level so it doesn't impact the mission at ICANN. So, happy to chat further if you want to learn more about the ins and outs of the ASO and I also have colleagues who support the ccNSO, but we will focus today on the GNSO. And I'm going to try and limit the use of acronyms.

So, on the screen now you see an infographic that we developed a few years ago which really explains at a very high level the policy development processes for the supporting organizations. So even though we tend to say policy development process at ICANN, in the shorthand, there's really multiple policy development processes. The ASO has one. That's in the far-right column. The Country Code Name Supporting Organization has its own policy development process, that's in the middle, and then the GNSO in the column on the left.

And then some of the GNSO policy there's also an Expedited Policy Development Process, so even some of the groups have taken more steps to evolve their policy work, but at a high level,

there's a few steps that you have to keep in mind. And this is similar across all of the groups, and that's -- the first step is really to identify the issue. What are the problem statements? What are the questions out there around a particular topic as it relates to the mission of every supporting organization?

So, for example, for the Generic Name Supporting Organization they will focus on identifying an issue within their remit of generic top-level domains. So the GNSO cannot take up an issue about a country code for example, and the Country Code Name Supporting Organization cannot take up an issue related to Internet protocol addresses. The remits of the organizations are very specific for that reason.

So the second step is once the groups determine that an issue falls within their remit, they start to scope out the issue. Some of them may commission some sort of issue report to really explore what issues are unresolved or what issues require policy development. They will begin consultations within their own communities, and this in particular for the GAC is an area where the GAC could play a role within the GNSO. Any ICANN advisory committee can actually request an issue report from the Generic Name Supporting Organization. So that's an area where the GAC has a specific role in the policy development process of the Generic Name Supporting Organization.

Every supporting organization has a council to manage this work, so the interface between, for example, the GAC would be with the council of the Generic Name Supporting Organization. And the councils are representative bodies elected by the supporting organizations to manage their policy work. But often times, they may or may not be the people who are actually developing the policies. Councilors can voice the interests of their stakeholder groups or constituencies, but it's the members of those stakeholder groups and constituents that develop the policies, recommendations within working groups.

So sometimes, the councilors are aware of the discussions but they may not know the totality of all the details, but they do provide an opportunity for liaising and to serve as conduits from their community to the council at the GNSO.

The next step, once they scope the issue, in the GNSO Council, the council actually considers an issue report and then decides whether or not to trigger the policy development process. And the reason that there's a specific step there is, a policy development process requires allocation of resources, not only from the ICANN organization in terms of how we support that work, but also allocation of time, and volunteers from the different communities.

So it's a significant effort to advance an issue to the PDP phase. You need volunteers to form a working group, they need to form operational procedures to decide how that working group will run, and then you also need subject matter experts to contribute to the discussions. So, within the GNSO there are different models for how they structure their working groups, and that can determine how the GAC chooses to participate in a PDP effort. So there's another opportunity there for GAC involvement in policy work.

This is a very short description but the working group phase is actually the longest because this is where the discussions are happening, where deliberations happen between the different stakeholders around the table in a particular working group, where, drafting happens, where revising happens, where disagreement, all in the hopes of achieving consensus.

Now within the GNSO, there are multiple levels of consensus, so if you like to learn more about that, I'm happy to direct you to some resources we have for how the GNSO defines consensus, but ultimately, the goal of every working group is to come up with some sort of consensus-based policy recommendations for the council. The council then reviews the recommendations, and if the council votes to approve the recommendations, then they go to the Board. Often times in between this process there's

opportunities for public comment. Public comment is a process at ICANN to encourage input from stakeholders who are not involved in the policy development work itself.

So, advisory committees can provide input through public comment, if they're not doing so already within the PDP itself. But also, as the name suggests, it's for the public, so if you go on our website today, I think there's maybe 6 or so public comment opportunities, and anyone in the public can create an account, review the proposal and provide their perspectives on that. It's one of our multiple accountability and transparency mechanisms here at ICANN and it's something that is very important to the working groups because that's how they get input to their work, from the different stakeholders.

After the working group reviews any public comment submissions, they will often decide whether or not to modify or adjust their recommendations, and ultimately they develop some sort of final report. This is often years in the making, 2 to 3 years maybe, and then the report really reflects the totality of the conversations. The input from the working group, the input from the stakeholder groups and constituencies of the GNSO, perhaps input from advisory committees through public comment, or specific points of engagement with different ICANN community groups.

So, hopefully a final report is not a surprise to anyone. It's something that the council has been very deliberate to begin the PDP process, and it's something that the council has dedicated resources to. So, this Z chart is an overview of the GNSO PDP, and the different steps involved. So toward the bottom corner there, in the text there, we see Working Group Final Report.

Once it goes to the council, the council deliberates it. If the council approves it, it prepares recommendations to the Board for next steps, and there's another public comment opportunity, and then this is a new innovation in the last 2 years or so, but there's also an opportunity for ICANN org, if directed by the Board, to conduct an operational design phase. And that's really to understand how the policies could be implemented, what impact it will have on existing policies, and other resource related matters within the scope of the support of the ICANN organization.

So, that's new but it helps inform the Board's consideration of the issue, of the recommendations. And then hopefully at the end, we have a phase where the Board votes, and if the Board votes to approve the recommendations report from the GNSO, then we arrive at policy, and after policy, there's a whole separate team within the organization that takes the lead in preparing for

implementation and working with the contracted parties etcetera.

So, I'm only here to focus on how we get to that point, but hopefully that gives you a sense of what the process is like. Of course, it's difficult to track all of this over the lifetime of a policy development process. If you think about a 3 to 4, maybe 5 -ear horizon, people will come and go. People's job commitments change. And that institutional knowledge is important to sustain, and that's where our role as the organization comes in, we track everything. We have transcripts and recordings and minutes and we document everything so that when people come and go, they can see the proceedings, they can see how an issue evolves and they can see how a working group ultimately arrived at a decision because all of this has to be conducted obviously according to our mission for the benefit of the public, and that's the ICANN mission.

So, I'll pause here because the PDP can be overwhelming at times, but I think what you have to keep in mind is that the ICANN Bylaws and the GNSO policy development manual often require the GNSO to consult with the GAC in different phases depending on where the work stands. So there are opportunities there built in by the infrastructure itself, but how the GAC chooses to interact with a policy development process is really something that you

all will consider as a committee.

So I'll pause there and see if there are any questions before I get to two specific provisions in the Bylaws that I wanted to highlight. Any questions? I know it's a weekend and we're all here, but if you have no questions, feel free to approach me. If I don't have the answer, I'll direct you to some of my colleagues who might.

So let's move onto the next slide, please. So, these are some additional provisions that I wanted to highlight from the ICANN Bylaws. And this is specific to section 12 where the advisory committees are defined. So there's a section on the GAC, and the first area that I want to highlight is Notice. The language is here but I pulled this from section 12 of the Bylaws. Once the Board is considering the recommendations of the council from a final report of a policy development process, there's a requirement that, "The Board shall notify the GAC chair in a timely manner of any proposal raising public policy issues on which it or any of the supporting organizations or advisory committees seeks public comment and shall take duly into account any timely response to that notification prior to taking action." So clearly that was drafted by lawyers and I know some of you are probably lawyers.

But in practicality, this is where there's an interaction between the Board and the GAC that requires the Board to notify the GAC

of particular outcome from the GNSO that may impact public policy issues. And that is squarely within the remit of the GAC, so that's -- you know, if for some reason, the GAC and GNSO have not been talking for years, as policy work has been under way, this is an area where the Board says, "Okay, there are public policy considerations here, we need to work with the GAC on this before the Board votes on the matter," so the notice provision is important to keep in mind.

The second provision that I wanted to highlight involves Rejection. As you know, GAC consensus advice carries a special status within the ICANN Bylaws. And there are also provisions for thresholds that the Board must meet when rejecting GAC consensus advice, so that's outlined here in this provision. GAC consensus advice "may only be rejected by a vote of no less than 60% of the ICANN Board, and the GAC and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually-acceptable solution." So again, there's interaction between the GAC and the ICANN Board in the event of disagreement about how to proceed over the rejection of recommendations.

So, again, happy to refer you to more resources. Policy development can be very intimidating when you're a newcomer here at ICANN, but there are a lot of resources available to you.

Obviously, my colleagues and I on the policy team, you have an excellent GAC support team. We also have a lot of materials available through ICANN Learn, and other resources that we have to help explain these issues and these processes, but happy to take any questions.

I think I'm probably right on time. And if not, I apologize, but yeah, I think we are doing well here. Any questions? Yes.

ABDALMONEM GALILA: This is Abdalmonem Galila for the record. I see that the graph that has ccNSO, GNSO And the ASO, step number 1 is different in ccNSO for issues [CROSSTALK]. Could you elaborate more on this?

CARLOS REYES: Yeah, the wording is slightly different; Requests an issue report versus Identify the issue, but in essence it's the same. Basically, the groups are -- there's a deliberate step for the groups are trying to determine if an issue fits within their remit. In the ccNSO and the GNSO, the formal document that emerges from this is called an Issue Report and that's the scoping exercise really; so, yes, the wording is slightly different but the substance of the step is the same.

ABDALMONEM GALILA: Okay, the second one. For ASO, I think is the process for development of the policy is somehow first more than the others? Or some saying -- not here? It's 4 steps and I think it's fast track [Inaudible- oo:22:45] the other two types.

CARLOS REYES: Yes, so the reason for that is the bulk of the policy work for the numbers community happens outside of ICANN. It happens in the regional Internet registry communities. So if all 5 of them approve the same policy and then it triggers the global policy at ICANN, there's no policy development per se that happens at ICANN, that happens at the regional level within the communities, and what the ASO address council does is really just to ensure that every region approved it, it's the same one, they all followed their process. And then they take the steps to notify the ICANN Board and the IANA function, etcetera.

So it is shorter in that sense in terms of steps. Good observation.
Okay. Yes, Julia.

JULIA CHARVOLEN: Thank you. We have two hands raised in Zoom. We have Rudy and then Alisa.

RUDY NOLDE: Yes, thank you. Rudy Nolde from Germany for the record. I have a question concerning the third phase of the GNSO PDP. When the GNSO Council decides to initiate a PDP and a working group is assembled, who decides how this working group is composed? I mean, who chooses the members, and are there any rules to include stakeholders from different backgrounds to assure that their voices are being heard, and not only through advisory committees like the GAC or the ALAC, but also in the working group itself?

CARLOS REYES: Thanks, Rudy, for the question. So ultimately, because the working group is being chartered by the GNSO Council, the GNSO Council would determine how the working group is structured. And there are multiple membership models that the GNSO Council could consider. But fundamentally, they're all intended to bring in the different perspectives of the stakeholders within the GNSO.

In terms of stakeholders outside of the GNSO, like I said, some

working group models allow for liaisons or other type of mechanisms, but the baseline for how working groups conduct their work is to be open. So there's always observer status etcetera, and as I mentioned, the support that we provide from ICANN org is based on that principle of inclusion, so how the membership is allocated can vary based on the issue and the model that they adopt, but the driving principle is to include as many perspectives as possible. Good question. Yes?

JULIA CHARVOLEN: Yup, Alisa, please.

ALISA HEAVER: Yes, thank you. Good morning, this is Alisa Heaver for the record. Thank you first of all for your presentation. I was wondering going back to your last slide, if any GAC consensus advice has been rejected by the Board, and if yes, which advice was that? Thanks.

CARLOS REYES: I'm going to defer to Rob to see if -- I know he's leads your support there. Rob, do you know?

ROBERT HOGGARTH: I'm glad this is an informal environment, because I did not hear the question.

CARLOS REYES: Oh. Would you like to repeat your question?

ROBERT HOGGARTH: Yes, please.

ALISA HEAVER: Sure. So I was wondering if any GAC consensus advice has been rejected by the Board, and if yes, which advice was that?

ROBERT HOGGARTH: Somebody asked me that question quite recently, and I did the research and I did not come across any instance where the GAC provided advice that the Board rejected, at least in the last 7 or 8 years. Generally, the current approach that the Board takes – and I'm not speaking for the Board -- but from my observations is that the Board will work very hard to find a method to resolve any differences between what they are hoping to achieve and what the GAC wants. And so what that often transpires into is the advice being deferred, or you all may recall the chart that was shared by Nicolás yesterday, that showed that you get into this

conversation loop, if you will, that allows consultations to take place, and then if they are resolved, then the GAC can modify its advice.

And I think that going forward in the future, those types of discussions about whether that process works, how effective it is, etcetera, would take place within the BGIG, thank you.

CARLOS REYES: Thank you, Rob. I think that's it on my end. Are there any other questions? Yes, go ahead.

ASHWIN SASTROSUBROTO: Ashwin from Indonesia for the record. I think if we can also later on discuss about the study case on this GNSO problem or whatever it is. Perhaps it will be more interesting to see for example when a company proposes a gTLD, dot Islam and dot Halal, the discussion on that was so intense that only after 5 or 6 years finally the Board rejected the request, so that's kind of study case that perhaps makes it better for all of us to see how policy different processes are carried out for particular cases, thank you.

CARLOS REYES: I completely agree, and I think that's why we have some topic leads that will guide you through specific issues here next.

ASHWIN SASTROSUBROTO: Yeah.

CARLOS REYES: So that's probably a good transition. So, thank you so much.

KAREL DOUGLAS: Thank you so much, Carlos. Yes, a round of applause; it's well deserved for Carlos Reyes. Thank you so much for that PDP explanation, –it kind of reminds me of ensuring that all parties do have a voice, and/or say in the process, and a document is being organized or generated.

Certainly it does, I guess in the legal world, ensure that there are no challenges later. So so on somebody can't say that, "Oh, I didn't know, I wasn't part of the process." So again, thank you Carlos. And now we move on to an extremely important topic for all of you because some of the things that we discuss here you'll want to know what are those main issues. The topics now that we are going to look at would be the main issues that are being

discussed at GAC.

And we're very fortunate to have the topic leads of those issues, so we do have with us today, we have Jorge Cancio, who will speak a little bit about the new gTLD Subsequent Procedures topic, followed by Laureen Kapin and Gabriel Andrews who will talk about the DNS Abuse and also WHOIS. So I do don't want to keep the meeting any longer, so maybe those -- you could introduce yourself, Jorge, Laureen and Gabriel, and the floor is yours.

JORGE CANCIO: So, hello everyone, I hope you hear me okay and you can see me. I'm just checking that the connection is --

JULIA CHARVOLEN: Thank you, Jorge. We can hear you.

JORGE CANCIO: So that's great. So, happy to be with you, at least online. I'm very sorry not to be there in person. This time it wasn't possible. So we have a short while to go into Subsequent Procedures on new gTLDs.

My name is Jorge Cancio. I'm the GAC representative for Switzerland. I've been following the Subsequent Procedures process since it started in the current form, I think 6 years ago, so as it was said before, it's very difficult to follow such a very long process, which is not over yet, over so many years, especially considering that it is a very time-intensive process. So in the high time of the policy development process when the working group of the GNSO was active, this process meant many hours a week, hundreds of e-mails each week, and in the end, thousands of hours of volunteer time, so just to give you a sense of the time intensity of such a process.

But let's zoom out a little bit. We can go to the next slide I think. I'm trying to see it in my computer. Yeah, so zooming out, why do we care as governments? Why is it so important that we talk about top-level domains, about generic top-level domains in this case? So this brings us back to one of the main functions of ICANN, which is setting the rules for the generic top-level domains.

As you know, in the case of country code top-level domains, it's mostly an interaction between the local community and the local government, and the registry who set the rules in different models, which vary a lot from ccTLD to ccTLD, but in the case of

generic top-level domains, as we saw yesterday and as we heard today also from Karen and from Lars, it's really ICANN who sets the main rules, which are then established in consensus policies, which to a certain degree, then go over to the contractual relationship between ICANN and the registries and the registrars, and makes these rules binding on the actors of the top-level domains, or the generic top-level domains.

So, that is, in and for itself already quite important, and, of course, top-level domains -- I don't have to tell you, but they are very important identifiers on the Internet. They are unique, so you just have, at least in the ICANN root of course, you just have one top-level domain in each case with one string, with one term, or with one acronym.

These terms and acronyms carry meaning, so they have content. They mean something to people, of course. And at the same time, they are logical infrastructures we could say, which are run by the registries of the Domain Name System, and therefore, this means that they carry public policy implications.

So, what are these implications at the very high level? So, perhaps a first point of course it's that they are part of your economy, or the economy of the region, or the community where the registry of this top-level domain is based. It can have

implications for how the economy develops, at least the Internet economy, and so you may have an interest in this regard. You may have an interest in considering the possibility of having a top-level domain which is linked to products or services or businesses or regions or localities of your country, or of your territory, that might be already something worth considering.

For instance, in Switzerland -- I can mention an example, the country where I come from, we have one top-level domain from the 2012 round which is called .Swiss, so it's very apparent that this carries meaning because everything under the .Swiss will be very strongly connected to our country. So there was a story behind the Swiss government applying for the .Swiss during the 2012 round, and nowadays this generic top-level domain is run by my office, by the Swiss Office of Communications.

So, that's one example, and, of course, this connection with the name of our country, and the connection with all the products and services that are linked to Switzerland, was a consideration we made when applying for that top-level domain back in 2012. As I said, the top-level domains carry meaning, and this many times leads us to intellectual property.

I know that most of colleagues in the GAC are not coming from intellectual property offices in their countries, but normally it's

good to have good connections with our colleagues there because of course the questions of how such intellectual property rights are protected in the Domain Name System are very important to governments, and are discussed both in ICANN, and in other international fora like the World Intellectual Property Organization.

So, in order to protect names as top-level domains, there are a number of rules established in the policies of ICANN, and these are discussed not only in SubPro and the recommendations for the next round of top-level domains, but for instance also in another policy development process which is called the Review of Protection Mechanisms, where, amongst other things, in the coming years there will be a review of the Uniform Dispute Resolution Procedure, which is the main instrument for protecting trademarks and other rights under the generic top-level domains.

As I said, top-level domains are also sort of an infrastructure of the Internet, and the infrastructure leads us to safety, to resilience, to security considerations, because both the registries and the registrars who run in the end this infrastructure, carry certain responsibilities in the safety of these infrastructures. The GAC made many inputs during the 2012 round around these aspects which led to some contractual provisions between ICANN

and the registries and registrars, and nowadays we're still discussing how to still improve that, and these discussions are normally carried under the term of DNS Abuse.

I think Laureen and Gabriel will go into that later on. Of course, it's also one of the issues that the GAC has considered when talking about the new round of top-level domains.

As was discussed before, during the first session we had today, of course carrying meaning sometimes has geographic connotations. Some terms have a geographic meaning, and that normally has a very important connection to local, regional, national, and supranational institutions. The question of how to deal with geographic top-level domains with strings that have a geographic meaning was the subject of very long discussions during the Subsequent Procedures working group period, and there was even a specific work track dedicated only to this issue which worked around two years on this issue and established the recommendation that are included in the GNSO Subsequent Procedures recommendations on geographic terms.

So maybe that's something that might be of your interest looking in detail into that. And, of course, there are a number of instruments provided for in those recommendations that also come from the experience developed in the 2012 round, on how

both governments and the GAC as a whole can intervene if there are top-level domains that might give rise to public policy concerns.

And those instruments are called Early Warning, which may be issued at the very early moment of the process of applications by individual governments or groups of governments, and the GAC consensus advice of course that can be issued by the GAC on top-level domains, individually or on categories of top-level domains if we have a consensus. So I'll stop here just very briefly to see if there is any first reaction to this?

KAREL DOUGLAS:

Do we have any questions? Either in the chat or in person? That's a very interesting topic. I'm almost afraid to say that there have been a few issues where certain names have been proposed, and countries have taken objection. I know that's going to be a topic that will take us a little far, but you could only imagine the instances where somebody wants to have a name, and that could end up being a conflict.

Okay, so if we don't have any questions, Jorge?

JORGE CANCIO:

Yeah, I can continue. Thank you, Karel. So we can go to the next slide, and if I get this right – no, it's the previous one. So, this slide summarizes why this is of importance to the GAC or what are we looking at from the GAC, regarding this process? So, as we learned before from Karen and Lars, the policy discussions on the rules for the next round of new gTLDs are not over yet, so the GNSO phase finished in early 2021. Then the recommendations went to the ICANN Board, and ICANN Board directed ICANN Org to develop an Operational Design Phase, which will end in some months with an Operational Design Assessment, which in the end will form the basis for the Board to take a decision about the recommendations developed by the GNSO.

We, as GAC, have been following that process, which started in 2016, very closely. There is a track record of inputs from the GAC to the GNSO on this matter. We have seen a summary of the main inputs we made on a consensus basis in June 2021, and we are of course continuing to monitor the operational design phase now, and if we go to the next slide, please -- and the other one? Okay, then we see what lies ahead, and, of course, there are like four remaining fields where we can intervene as GAC.

There's always the possibility that we still issue GAC advice on any of the recommendations included in the GNSO final report, so that's still open, but it's really up to the GAC membership to come

forward with proposals that may reach a consensus in the GAC on any of the recommendations of the Subsequent Procedures working group.

There's a second aspect where we will have the opportunity to participate, which is the so-called GNSO Guidance Process on Applicant Support, which is aimed at improving or fleshing out recommendations on how the new rounds of top-level domains have more success, have more presence in underserved regions, especially in developing economies, and there we have very recently sent out a call for volunteers within the GAC, and I think there's already one delegate from Argentina that has come forward. It's important to participate in this process to improve education and awareness about the next rounds, the potential funding support for applicants from underserved regions or context to make the next round also a success in such regions where top-level domains have limited presence nowadays.

And if we go to the final slide, we see other two topics that might be of interest for you. First is the dialogue on Closed Generics between the GAC and the GNSO, and ALAC, where we will try to find a common solution to how to deal with such closed generics in the coming round. More details to follow on Monday, so tomorrow. And, of course, at the national, regional or local level, you might consider starting talking to your communities to see

whether there is interest to run for a new gTLD in the next round of generic top-level domains, whether there are possible top-level domains in your country, in your region, that could be of interest for you and you might start to investigate and to consider the pros, the cons, the costs, the resources needed to start such an application.

So, we will have a session on Monday, so tomorrow, at 15:00 local time, and that's 7 am UTC, where we will be discussing the current issues of interest to the GAC at a more policy level. So, I don't know if there are other questions? I think we are running a little bit short of time.

KAREL DOUGLAS: Yes, we do have two questions, Jorge. So we have a question from I believe it's Egypt. Gülten will read us the question.

GÜLTEN TEPE ÖKSÜZOĞLU: Thank you, Karel. So, [inaudible – 00:53:08] is accepted as a gTLD stream, not the full string of the country itself. Thank you, Abdalmonem.

JORGE CANCIO: Thank you, thank you, Egypt, for this question. I guess you referred to this because .Swiss was an accepted top-level domain during the 2012 round, and the answer is yes, I guess that a top-level domain .Egyptian would be acceptable because it doesn't fit into the categories of geographic top-level domains that are excluded or subject to specific rules under the recommendations developed by the GNSO, so that's probably something to watch out for.

KAREL DOUGLAS: Thank you.

JORGE CANCIO: And I think there's another question?

KAREL DOUGLAS: Yes, we do. Gülten?

GÜLTEN TEPE ÖKSÜZOĞLU: Thank you, Karel. We have a question from the GAC Malaysia delegation member, Mohamed going as: what happens when it comes to an application made on behalf of a community and having strong support from the respective community, but at the

same time facing objection by the government due to the fact that the name applied may also fall under the geographic name? Thank you.

JORGE CANCIO:

Thank you, and thank you, Malaysia. So we would have to look into the rules governing both the community applications and the geographic names. So, taking for granted that the community application rules are complied with, we would have to look whether the name itself, if it is geographic, falls into any of the specific categories defined in the recommendations where a non-objection from the relevant government or governments is needed.

So those are normally capital cities or city names where the intended use is geographic, and there are also a number of other categories like subnational regions on an ISO list where this would be applicable; so it depends a little bit if the name falls into one of those categories to really need the objection from the respective government, but if it doesn't, in principle, this non-objection wouldn't be needed, but of course, the government could also use early warning or try to convince the whole of the GAC to issue GAC consensus advice.

KAREL DOUGLAS: Thank you so much, Jorge. And unless there are any other questions, I think we could possibly move on. So first let me thank Jorge Cancio for an amazing presentation. Please give him a round of applause. Thank you, Jorge, and next time, we look forward to seeing you in person. We can now move to DNS Abuse, and I'm going to invite Laureen Kapin and Gabriel Andrews to present the topics. Laureen and Gabriel.

GABRIEL ANDREWS: Hi there, folks. This is Gabriel speaking. And you can go ahead and move to the next slide, if you please. I want to show my face here. I'll show my face again when we get to the Q&A towards the end. So first, I just want to do the introduction: who am I, what is the Public Safety Working Group. So I'm speaking here in my capacity as a member of the Public Safety Working Group and that's a group that advises the GAC. We are a collection of civil and law enforcement professionals from various countries who offers advice to the GAC on any issue that might touch upon public safety.

So any opinions given here, are going to be my own, they are from my perspective as a member of the PSWG, but they're not my employers', nor are they any position of any one government. And while my perspective is that of a public safety practitioner,

you will be hearing later today from other stakeholder groups on the similar talks of DNS abuse from other perspectives, and it's my sincere hope that these different perspectives might build upon each other as you hear them throughout the day, and help you better understand the work we do here at ICANN. This is going to be very high level. This is not going to be in the weeds.

Next slide. So I'm going to spend 10 minutes talking to you about DNS Abuse, then I thought I would pause for questions, spending another 10 minutes talking about WHOIS, otherwise known as RDS, Registration Directory Service, and then additional questions there. Next slide.

I do not want to insult your intelligence here but just to be clear that we are all using the same language, I think these are three words that it's very important to understand well. Registrant is the person that buys the domains. Registrar is usually who they go to to buy them from; there's about between 2 and 3,000 registrars in the world. And then the registries are the organizations that administer the top-level domains you just heard Jorge talk about; your .coms, your .nets, .orgs, .engine, .pizza, .whatever. Next.

So as we dive into DNS abuse, DNS is a very well understood term. The Domain Name System is the system that's responsible for

converting the human readable names like ICANN.or, to the machine routable numbers that we as people might have a harder time remembering. So when we say DNS abuse, does that then mean any abuse that uses the Domain Name System? Or is it abuse that specifically targets the Domain Name System, or is this something else entirely?

Next slide. And the answer, unfortunately, can depend a lot on who you ask. This slide is intended purely to show that there are multiple perspectives on what DNS abuse might mean. As a term, DNS abuse has not yet been defined in ICANN settings in a way that everyone agrees with. Now, this is possibly because depending on how you might try to define what DNS abuse means, some might interpret that as you setting the foundation for trying to either assign responsibility or deflect responsibility that comes with dealing with it.

Next slide. Even without perfect consensus on a definition however, we can try to quantify it, to measure it and to report on it. And the more specific we are, the easier that is to do, and I want to note that ICANN for example publishes domain abuse activity reporting, it's DAAR for short. You might hear us say that word a lot. This relies upon commercial reputation feeds; you might also hear them referred to as block lists or domain black lists. ICANN uses these block list feeds to count the number of domains that

they see associated with at least one of 4 different kinds of security threats like phishing, like malware distribution, botnets and SPAM. And I want to say that this reporting is very valuable to our conversations on DNS abuse, and we support ICANN's efforts to report on these issues.

It's important to remember though that when we talk about DNS abuse, keep in the back of your head the number of domains seen is not necessarily equal to the number of bad guys that are committing the abuse or the number of abusive schemes that exist, nor the number of victims. It's a very useful piece of the picture. But it's not the whole picture.

Next slide. So would you as a representative of your government speak to cybersecurity practitioners outside ICANN? Whether they're public safety officials or whether they're private sector security professionals? You might find that they don't really use the term DNS abuse much at all, and in my experience, in law enforcement outside ICANN, we discuss the same types of abuse, but we speak in terms of crime, or fraud schemes, or how much monetary loss a scheme is responsible for, or how many victims there were, and how can we protect those victims from being harmed in the future? So you might be familiar with the story where several blind men are touching an elephant and they're describing it. But their descriptions are very different because

they can describe only the part that they touch.

We are all talking about the same animals here, whether we call it crime or DNS abuse. But we have different perspectives on it, and so when our governments try to identify very important public safety issues, and we seek to bring them to ICANN for discussion, it benefits us to speak in terms that everybody within ICANN will understand. And to talk about the portion of the elephant that ICANN has power over, and to recognize where it does not.

Next slide. And so for that, I suggest that each of you become familiar with ICANN's Bylaws. The very section of its Bylaws in fact, which describes ICANN's mission and why ICANN exists. So highlighted here, ICANN is charged with ensuring the stable and secure operation of the Internet's unique identifier system. It's kind of a mouthful. And reading a little farther, we can see that that includes an obligation to maintain, and I'm quoting again, “resilience, security and/or stability of the DNS.” There are constraints however within these same Bylaws on whether ICANN policy can regulate website content. Any such regulation must be in scope of this mission. You will see these Bylaws referred to commonly in DNS abuse conversations, about whether or not a specific type of crime or abuse falls within ICANN's mission is important to be able to speak to, because if you can't show how

your issue falls within ICANN's mission, it may be very difficult indeed to develop the consensus on any policy you'd like to make on your issue.

Now that said, while not all harmful or illegal activities fall into ICANN's remit, the GAC remains an important venue for all governments to discuss DNS abuse and work towards solutions that could be accomplished both within, and outside of ICANN.

Let's go to the last slide on this topic now. Oh, skip that one, please. I think we jumped one more. Thank you kindly. Because this is a very high-level introduction to the topic, I wanted at the end to provide some additional links and resources to anyone that might be interested. Now, you can refer to this later, but this slide will include links to ICANN's abuse reporting DAAR that I mentioned. That informs all of our abuse conversations. There are past GAC public statements. There are community reports which go into detail on the issues of DNS abuse, and finally at the bottom with NetBeacon and the link to IC3, the Internet Crime Complaint Center, there's 2 means of reporting abuse that are commonly spoken about these days. NeatBeacon was developed by the DNS Abuse Institute, and it's a very new development, but it allows folks to report abuse that will automatically be routed to the registrars and registries as well as the FBI's Internet Crime Complaint Center; it publishes trends and alerts that pertain to

cybercrime, annual reports, and it also serves as the main U.S. intake for reports of criminal activity on the internet to our agency.

Next slide. With that, I'm going to take a pause here on the issue of DNS abuse before we switch to the discussion of WHOIS. And I invite folks to ask any questions, if I went to quickly over any one of the topics. If you want to either share your experiences or concerns about DNS issues or Internet crime; that can be from a policy perspective, it can be investigative, enforcement, whatever, or if you have any other requests for capacity building on this topic that you'd like us to dive into in the future. Open to anything.

KAREL DOUGLAS: Sure, I think ,Gabriel,, we do have a question.
Gulten?

GÜLTEN TEPE ÖKSÜZOĞLU: Thank you, Karel. We have a question from the Egyptian delegation. Are DDOS attacks considered as a DNS abuse mechanism or behavior? Thank you.

GABRIEL ANDREWS: Yeah, certainly. So again, this is going to depend upon who you ask, but I do note that DDOS can make use of the DNS system as part of its attack methodology. For folks in the room that don't know what DDOS is, it's a distributed denial of service attack. It's when you send so much internet traffic to your victim, that they can't respond to it. Imagine in the tennis match if at the very moment the server is going to serve the tennis ball, if everyone in the audience throws a tennis ball at the guy that's receiving it. He can't possibly hit the real ball because there's just too many in the air. That's DDOS. Now, DDOS attacks sometimes target DNS infrastructure, and they sometimes make use of it in the attack. And I think that there are arguments to be made that yes, this could indeed be an abuse of DNS mechanisms. That said, I know that ICANN's work in this area is very aware of it and there are subject matter experts that address these issues that go well beyond my own expertise, but it's not outside the realm of what is something that could be discussed in the GAC and with us as public safety working group leads on DNS abuse. If you want to bring any issue about DDOS, I'm happy to talk to you about it offline.

KAREL DOUGLAS: Thank you, Gabriel. There are no more questions I understand, so we could probably continue.

GABRIEL ANDREWS: Okay, awesome. So we're going to flip ahead now to the next topic of WHOIS. And what you're going to see here is a log of the very first internet message; and it wasn't called the Internet at the time of course, this is in October of '69. And this message was sent from a lab in UCLA, very near me, to the Stanford Research Institute. It was sent on what would be called the ARPANET, and what's amazing to me is that even so early as this, they understood how important it was to keep this log, to know who was doing what and when. Now, when I visited this particular lab, lab of Professor Kleinrock at UCLA, he made it clear to me that he felt there was one man in particular who deserved a lot of the credit for this detailed record keeping.

Next slide, if you would. And that man's name was Jon Postel. And you can see here, this is the very same log, a different date, two weeks before the Internet's first message was sent. There's a note from Jon Postel at 6:50 pm on October 14th, that when I read this, I just had to laugh out loud. It reads, "The above is unreadable and not signed. Please try harder, John."

So even before the Internet's first message was sent, someone was already getting upset that they couldn't identify the person

who had fingers on the keyboard. There's a lot of that that still goes on today. So Jon Postel was the first administrator of the Internet's names on numbers. He was ICANN before there was an ICANN. And for many years, Jon was the authoritative source who had what name and what number was assigned to who online, and you can bet he kept the locks.

Next slide. So today ICANN administers this task. And ICANN policies govern the WHOIS system. WHOIS is often described as the phone book of the internet. It's a database or a collection of databases. Of information about domain names that are registered now, and at its most basic level, it's designed to answer the question of who is using what domain and when.

You input a domain name, and here you can see I input CNN.com because I knew there was information associated with it, and you get back information, like when was the domain registered. You see that on the left under dates. Or which registrar was the domain registered at. And we talked about registrars, some 3,000 of them in the world, so that's the business that this person went to to register the name. And critically, who is the person behind this domain name

Now there's more information that's returned by a WHOIS query than I could easily fit into a single slide, so this is just part of it, but the registrant's name and the contact information you see there,

is arguably the most important part, it answers who is using this domain.

End users can make WHOIS requests in many different ways, not just through ICANN site that's shown here. You can use other sites that perform very similar functions, some commercial services, or you can even do it by command line like is shown here.

The big point being there are many methods for querying the WHOIS data, and regardless of the method that you might choose to use, it's free to end users to send a WHOIS query to the existing data bases. Now, as you can imagine, this tool has become incredibly useful to cybersecurity practitioners, and to law enforcement and the public safety. Anytime you need to know who's behind a website, and that means any time, not just for identifying the bad guys, but for victim notification purposes as well.

So what do I mean by victim notification? You can imagine law enforcement's investigating a ransomware case. Ransomware is where the bad guys will break into victim networks, they encrypt all of the victim's data, and they demand a ransom before they allow that data to be restored.

Law enforcement sometimes might be lucky enough to see that this is about to happen, and we might know that we have a very

short amount of time to alert the victim, whether it's a company, or a hospital, or a school, that their network is about to be attacked. The catch is, we might not know who the victim actually is, we may only know the IP address of this unknown victim.

WHOIS databases in the past have allowed us to turn that IP address into a domain name and maybe a technical point of contact or an administrative point of contact with a phone number and an address so that we can contact that victim to immediately let them know what's happening. And so this is just one example but a it's very important example given the rise of ransomware in recent years. WHOIS again, not just important in identifying the bad guys but also in protecting victims from cybercrime.

Next slide. So what's been changing is that public access to WHOIS information has been going away in recent years, and this is an example of what it commonly looks like today. You'll note there is no information for the technical or administrative points of contact that we used to maybe have.

Next slide, please. This is a slide that's taken from a presentation to the GAC in June of 2020. It shows domains associated with COVID-19 pandemic. So the FBI at the time had received many

complaints about domains being used for COVID-19 related fraud, and working collaboratively with a number of cooperating registrars, we referred more than 1.300 of these domains to various registrars. And looking at the WHOIS information, the registrant information associated with those domains, we saw that most often, we weren't actually seeing information associated with the subjects, the bad guys any more.

We saw two different types of redaction messages were occurring. The first type was redactions for privacy or similar messages. That might indicate that the redactions were made to comply with GDPR, the general data protection regulations that went into effect in May of 2018.

The second type, representing the far greater number of 65%, corresponded to proxy services. Now, proxy services are those that are typically provided by a registrar, where for a fee, they will register a domain on behalf of the registrant. This is relevant because some registrars have different policies for responding to public safety officials' requests for that registrant information based on whether the registrant paid for the privacy or whether they got it for free.

Next slide. The future of the WHOIS system is today still somewhat unclear. The 2018 implementation of GDPR has

accelerated what those commercial privacy and proxy services had already begun, which is the redaction of registrant information from publicly available WHOIS. Efforts are ongoing to develop a GDPR compliant WHOIS system and they've been the focus of a multi-year Expedited Policy Development Process here in ICANN, the EPDP.

This EPDP was to design a system for standardized access and disclosure of WHOIS information; for a while, we were calling it SSAD. It's now been renamed to the WHOIS Disclosure System, the outcome of which is still to be determined. There's ongoing discussions of the estimated cost of this system versus its anticipated value, and whether or not it will meet the needs of its intended users, who potentially include law enforcement, cybersecurity practitioners and many others.

Just as an example, questions about how long will it take for a registrar to respond to a "urgent request" from the law enforcement, are questions that are very of interest to us in the public safety arena. Arising from these discussions regarding the EPDP are additional conversations about such things as the accuracy of registrant information and to what degree it has to be verified. There's a scoping discussion on that now. And these questions and discussions might impact the reliability of the WHOIS data and how useful it is to those requesting it, when

and if they are granted access to it.

Finally, you should also be aware that the language of the WHOIS system itself is evolving, so there's a new technical protocol called RDAP, it stands for Registration Data Access Protocol, and is replacing the older WHOIS technical protocols. And the recently proposed registrar contracts make use of these new terms, and terms like registration data directory services where they used to just refer to WHOIS as a general catch all. I have an opinion that WHOIS is a term that's never going away, but I don't want these terms to surprise you if you come across them. Next slide.

And so coming to the conclusion here for you, folks. With so much changing, whether we end with a WHOIS system that looks like that on the left or one that looks like that on the right, is something that remains to be seen. It's going to be an ongoing debate. But the debate at its heart it's still about whether or not we want there to be a record of who is using what domain and when, and who we want to have access to those records. And now as before, I'm going to pause, open up the floor for questions and comments, and thank you for your attention this far.

KAREL DOUGLAS: Thank you, Gabriel. Do we have any questions at this point? Yes, we do have a couple of questions. So the first question from, I believe, Indonesia first.

ASHWIN SASTROSUBROTO: Yes, thank you. Just want to look at perhaps the legal aspect of the WHOIS is also important, especially for the government who suggest as example like the German EPAG legal dispute with ICANN, for example, regarding the WHOIS might be important to see how the case is evolving so that we can see the legal aspect of this kind of WHOIS in the legal system of different countries, and I believe that every countries have different, what you call it, legal system for this data protection and possibly for [inaudible – 01:20:59] protection. Thank you.

GABRIEL ANDREWS: Thank you for that. So I will take that as a point of future interest then, that there might be interest amongst the GAC for tracking any results of legal disputes over WHOIS information that might exist. On the same topic, I will note that ICANN itself does a session specifically on tracking the legislation and legislative and regulatory environments that surround ICANN policy development and they might just well be able to provide information about such topics.

KAREL DOUGLAS: Thank you. Yes, next please. Identify yourself.

BRAZIL: This is [inaudible – 01:21:45] from Brazil. Gabriel, thank you very much for the very comprehensive and interesting presentation. Something I find a bit puzzling about this discussion just as I have been following this for such a long time; in which point in time it was decided that ICANN had to comply with GDPR and it was unavoidable to comply, and then why it wasn't found quickly a solution where law enforcement authorities could still have access to this data in a more closed environment because I understand there are exceptions to law enforcement agencies, so it's difficult to understand why the FBI couldn't keep access to the WHOIS as it worked before. And it seems we evolved to such a complex and difficult process, and for somebody that's getting here later on, this is very puzzling to understand why, and how we got to this point. Thank you very much.

GABRIEL ANDREWS: I'm going to have to apologize that I'm not sure that I'm going to be best position to give you the perfect answer as to the why's of

how we got there I do note that my colleague and co-chair of the Public Safety Working Group, Laureen, has her hand raised and I will offer her an opportunity to address that question.

LAUREEN KAPIN:

This is Laureen Kapin speaking in my capacity as one of the co-chairs of the Public Safety Working Group. That is a very good question to ask for which regrettably there is no easy answer to. What I will reflect is that the ICANN multistakeholder model is composed of many different stakeholder groups, of which of course the Governmental Advisory Committee is an important one, and within that, law enforcement certainly has very important equities as we are protecting the public against a lot of undesired illegal behavior.

So, there isn't any easy answer other than to say that in the policy development process, which we just heard a great deal about in the earlier presentations, the issues and the balances among the different interests, how to protect privacy, how to protect the public, who should have access, and under what circumstances, can become very contentious and complicated discussions.

And so we haven't had an easy solution to the question that you're asking, I think implicitly, which is how can we ensure that

law enforcement has the tools it needs to do its job in a manner that is also compliant with privacy interests as well, and what I can tell you is that certainly the GAC and the Public Safety Working Group are closely following these issues, and are advocating to make sure that whatever ultimate solution is reached strikes what we feel is the appropriate balance between protecting the public, and also protecting privacy.

I'm not sure how satisfying that answer is going to be because I think we all would love simple solutions but in the realities of the policy development process, that is sometimes challenging to achieve.

KAREL DOUGLAS:

Thank you, Laureen, and I think you hit the nail on the head. It is a matter of trying to achieve balance in some regard.

Are there any further questions? Okay. All right. Well, if there are no further questions, then I would take the opportunity to thank Laureen, Gabriel, and Jorge for excellent presentations on very important topics that are engaged in the GAC at this point in time.

The issues of DNS abuse, the WHOIS, and, of course, the subsequent rounds of the applications for new gTLDs are critical

matters for us all and I know this is something that you will want to know more about, and over the next week we will be certainly discussing these topics in greater detail.

So I want to thank everyone for coming. We do take a break now for an hour, lunch time break; we resume at 13:15 I believe it is. I'm just looking at Rob, just to confirm; it is 13:15 so I'm correct On that one. So thank you again, and by all means, do return at 13:15 where we will continue these sessions. Thank you. Have a good day, a good lunch.

(Recording stopped)

[END OF TRANSCRIPTION]