



**Council of European National  
Top-Level Domain Registries**

**Report on**

# **ICANN58**



**Copenhagen**  
**11-16 March 2017**

# Contents

## **Executive Summary** **4**

## **ccNSO report** **5**

DK Hostmaster presentation	5
Working group updates	5
New gTLD Auction Proceeds	5
Guidelines Review Committee	5
CCWG on Use of Country/Territory Names as TLDs	5
ccNSO Strategic and Operational Planning WG	6
TLD-OPS Standing Committee	6
ccNSO-GAC meeting	6
ccNSO PDP on retirement of ccTLDs and review mechanisms for delegation, revocation and retirement of ccTLDs	6
Competition, Consumer Trust & Consumer Choice Review Team	7
Session on the Accountability Framework and Exchange of Letters	7
Accountability update	8
PTI update	8
Customer Standing Committee update	9
RZERC update	9
PTI FY18 budget	9
Technical development and Policy Implementation Update	9
Towards a data-driven ICANN	9
Other relevant sessions	10

<b>GAC report</b>	<b>11</b>
High interest topic: Geographic names, focus on 2-letters at second level	11
High interest topic: Data protection	12
Cross-community discussion with data protection commissioners (GNSO and Council of Europe Data Commissioners)	12
Meeting of the GeoTLD group	12
GAC meeting with CoE commissioners	13
High interest topic: DNS Abuse Mitigation	13
Public Working Safety Group (PSWG) - Overview of issues	14
Future gTLD policies – Focus on New gTLD Subsequent Procedures PDP	15

# Executive Summary

## ccNSO

The ccNSO Council gave the green light to start the work on the Policy Development Process on the review mechanisms for the delegation, revocation and retirement of ccTLDs and to combine this with a PDP for the retirement of ccTLDs.

The working group looking into the possibility of a harmonised framework for the use of country and territory names at top-level concluded that the existing policy on 2-letter codes should be preserved. They could not reach agreement on 3-letter codes or full and abbreviated country and territory names.

During an excellent session on the need for more data-driven decisions and discussions at ICANN, there was overall support for an integrated and transparent approach. Key areas focused around evidence-based policy, organisational/community development, a cleaner/safer DNS and business & innovation.

Katrina Sataki (.lv) was re-appointed as Chair of the ccNSO, Byron Holland (.ca) and Demi Getschko (.br) were re-appointed as Vice-Chairs.

## GAC

The GAC expressed its strong dissatisfaction with the ICANN Board's resolution on 2-letter country codes at the second level for new gTLDs. It was pointed out that previous GAC advice was simply ignored, the notification and comments period were scrapped and that the process lacked transparency.

A surprisingly big chunk of time of a global conference was dedicated to a "rather European problem", i.e. the potential clash of ICANN WHOIS requirements with the upcoming EU data protection regulation (GDPR).

The GAC's "workload issue" continues to reflect not only in the lack of GAC representation in cross-community working groups, but also in their internal working groups. In this context, individual GAC members are able to put forward (rather radical) ideas, for which they then seek endorsement by the GAC plenary. This often stalls their deliberations.

# ccNSO report

At the time of writing, the presentation slides were not yet available. They will be posted online [here](#).

## DK Hostmaster presentation

At ICANN58, the local host DIFO / DK Hostmaster did an excellent job in sharing their key messages with the ICANN community. They focussed on their increased cybercrime efforts, attention for registrant data accuracy and the need to add value to the core domain name product. They also showcased how ccTLDs are multistakeholder champions. Collaboration and co-creation leads to long-term growth.

## Working group updates

The bulk of the work at the ccNSO is being done in working groups. They typically have a few intersessional calls and meet on the first day of the ICANN meeting. Their reports at the ccNSO members' meeting give an excellent update of their progress.

## New gTLD Auction Proceeds

The Cross-Community Working Group on new gTLD Auction Proceeds ([CCWG Auction Proceeds](#)) is tasked with setting up the structure, the framework and scope for the process on how the income from the auctions of new gTLDs should be spent. This group designs mechanisms and considers legal aspects such as the potential impact on ICANN's tax (exempt) status. They are not making any recommendations on the allocation of funds. They have yet to develop and adopt a work plan, so the work of this CCWG is expected to last through the next few ICANN meetings. [View ICANN58 status update](#).

### Relevance to CENTR members

A few CENTR members have already fed in the discussion to share best practices regarding the development and management of community funds.

## Guidelines Review Committee

The Guidelines review committee ([GRC](#)) is updating and improving the guidelines that set out how the ccNSO operates. These efforts should be read as linked to the overall ICANN accountability improvements following the IANA stewardship transition. Next up on their worklist: Council election guidelines, travel funding guidelines, procedure for exercise of empowered community's rights to reject specified actions, and procedure for exercise of empowered community's rights to approve specific actions. In the absence of the oversight of the US government, the ICANN community has now the tools to hold ICANN accountable and apply correction mechanisms where needed.

## CCWG on Use of Country/Territory Names as TLDs

The Cross-Community Working Group on Use of Country/Territory Names as TLDs ([CWG-UCTN](#)) was tasked to find a common agreement between all SOs and ACs on how to treat country and territory names at top level. This included 2 and 3 letter codes, as well as full and abbreviated country names. The group reported that they did not believe a harmonised framework is feasible as the views are too diverse, not only between the groups but also within some of the SOs and ACs. They also point out that there are too many parallel processes that touch on the same issues (e.g. GAC working group on geographic names).

However, they did reach agreement on 2-letter codes and concluded that:

1. Existing ICANN policy of reserving 2-letter codes for ccTLDs should be preserved.
2. Definition of country and territory names should be decided outside ICANN, i.e. in the International Standards Organisation (ISO)
3. ICANN should not decide on what is and what is not a country

### Relevance to CENTR members

The interim report can be downloaded [here](#) and the public consultation on the report is open until 21 April. CENTR and the other regional organisations will be submitting a comment. With input from the consultation, updated recommendations will be sent to the ccNSO and gNSO councils at the next ICANN meeting.

**Announcement:** A cross-community session on geographic names and names of public interest at top-level will be held at ICANN59, Johannesburg. A Prep Webinar will take place on 25 April 2017.

### ccNSO Strategic and Operational Planning WG

The ccNSO Strategic and Operational Planning Working Group ([SOP WG](#)) will produce comments on draft ICANN FY 2018 operating plans and budget. They noted that ICANN predicts a ccTLD growth rate of 1.5% and an increased new gTLD growth rate from 29% to 56%. The ICANN operating plan seems sound, even though some parts lack detail. The voluntary contributions from the ccNSO are stable and expected to raise \$2.1 Million USD in FY 2018. The ccTLD contributions will be made public very shortly after this meeting.

### TLD-OPS Standing Committee

TLD-OPS Standing Committee ([TLD-OPS](#)) is a global technical response community for and by ccTLDs. 187 ccTLDs are participating. It extends member's existing response structures, but does not replace those structures. The main tool for communication is a contact repository email list. Since ICANN57, they saw four security alerts and two new members joined. The group held a successful closed workshop on 12 March in Copenhagen.

### Relevance to CENTR members

All ccTLDs from the EU region are members of TLD-OPS. Contact [Cristian Hesselman](#) (SIDN) for more details.

### ccNSO-GAC meeting

The joint session between the ccNSO and the GAC did spend – not surprisingly – most of its time on the

[interim report from the CWG-UCTN](#). Key points in the discussion:

- The dominance of GNSO interests in the cross-community working group
- The potential to merge this group with the GAC group on geographic names
- The fact that country names lack the legal protection trademarks benefit from
- The existing GAC advice on these matters and the fact that this advice should be taken into account (2005 GAC principles)
- The most challenging issue is with names that are not on ISO lists
- GAC advice states that all country names or abbreviations should be treated as ccTLDs
- One GAC member expressed surprise that 3-letter codes are an issue. He argued that these should be open for delegation if and when supported by the local internet community (including government and ccTLD operator)
- The status quo seems like the easiest path to an agreement

### ccNSO PDP on retirement of ccTLDs and review mechanisms for delegation, revocation and retirement of ccTLDs

This is only the third Policy Development Process (PDP) – ever – developed by the ccNSO. The fact that it took about one year to draft the framework and charter for the work of this group tells a lot about the expected complexities. At its meeting at the end of this ICANN meeting and based on the [issue report](#), the ccNSO Council decided to combine both processes in one PDP instead of two separate ones and that the initial focus needs to be on developing a policy for retirement of ccTLDs. Only after the substantive work has been concluded should they start on the recommendation for the review mechanisms. It is expected that this work will take at least two years.

### Relevance to CENTR members

By definition, members will have an interest in how ccTLDs can be retired, delegated and revoked. CENTR will keep its membership informed of any milestone from this PDP, as well as if or when input will be required.

## Competition, Consumer Trust & Consumer Choice Review Team

The Competition, Consumer Trust & Consumer Choice Review Team (CCT-RT) has published its [draft report](#) (open for public comment) and has shared the preliminary findings with the constituencies. They are cautiously positive on the effects of the introduction of new gTLDs on competition and consumer trust.

### Relevance to CENTR members

In addition to providing an interesting, data-driven overview of the domain name market, relevant questions for ccTLDs are related to market definition, and whether ccTLDs are part of that market. One important metric missing is a measurable indication that the new gTLDs are being actively used by registrants. The Chair of the CCT-RT commented that the parking ratio for new gTLDs seems to be 10% higher than for the legacy gTLDs. However, it is difficult to say if usage statistics confirm the existence of actual demand or not.

### ccNSO legal session

.eu (European Union), .cr (Costa Rica) and .au (Australia) were sharing experiences with take down or similar requests (seizure, redirection, transfer). These requests came from different parties (law enforcement, customs, ministries, title holders, public prosecutor or courts), had different motivations (IP infringements, collecting evidence, address verification or false information, non-payment, crime, child pornography, human trafficking, fraud) and triggered different responses from ccTLDs.

Presenters raised issues with requests, including jurisdiction (requests coming from abroad), legal grounds, syntax used, liability, etc. Despite problems of jurisdiction, however, pressure from international parties has increased, e.g. in .cr, which is why ccTLDs should have clear and up-to-date domain policies and processes regarding take-downs. Remarks also included that a perceived increase in take-down requests could be the result of increased collaboration with the different parties mentioned above. Such collaboration could in fact demonstrate that a ccTLD aims to be a trusted and safe space and adds to its credibility.

GoDaddy highlighted that as a registrar, it was contractually obligated to provide a separate and dedicated team of individuals with the power to take appropriate actions if law enforcement makes a request (e.g. take-down). In some cases, however, it was difficult to assess if something illegal was going on and/or if the request indeed came from a person or entity with the relevant authority. In such cases, it should become clear who is behind it, what the site is allegedly doing, what local jurisdictional (sometimes national) law is being broken (need for evidence), and whether law enforcement has tried to resolve the issue with the registrant or domain name holder. Information about how long they wish to suspend the site should also be included.

The UK's National Crime Agency was praised for the way it interacts with the domain name industry: they check and verify requests before they send them on to hosters, registrars and service providers. They also use a standardised communication detailing which Law Enforcement Agency (LEA) the letter is from, which type of crime and offence was being committed, the subject of the request with time stamp, the action requested and disclosure requirements.

Registrars appreciated that most of the registries present in the room confirmed that they send notifications to registrars in case they take a domain down. Presentations can be found [here](#).

### Session on the Accountability Framework and Exchange of Letters

This interesting session looked into the impact of the IANA stewardship transition (IST) on existing ccTLD agreements. There are two types of agreements: accountability frameworks (AFs) and exchanges of letters (EoLs).

From ICANN's perspective, AFs and EoLs are equal. The main difference is that AFs typically include an alternative dispute resolution clause. There are currently 29 AFs and 51 EoLs.

These agreements have a purely voluntary basis and are triggered by the ccTLD manager. ccTLDs that are interested in having an agreement in place should contact their ICANN regional office. Once the process is triggered by a ccTLD manager, the IANA database is checked to see if there is a pending transfer request or

revocation. Most of these agreements are template-based, but changes are possible.

The key question is if there is anything that needs to be changed to the existing AFs or EoLs after the IST. In most cases, there won't be a need for a review of the existing agreements as there is no reference to IANA in existing (template-based) documents.

However, some wording needs to be looked at in the context of the Framework of Interpretation (FoI) recommendations. For example, this is the case for the term "sponsoring organisation".

In the AFs, there is also language referring to Dispute Resolution. The dispute processes described in the new contract between IANA and PTI might overrule these clauses. ccTLDs with an EoL should check if it contains an Alternative Dispute Resolution (ADR) clause in case changes were requested to the template documents.

### Relevance to CENTR members

There is no clarity on the hierarchy between these instruments, but the legal risks flowing from this lack of clarity are deemed minimal. It is expected that the review mechanisms for delegation, revocation and retirement of ccTLDs PDP will address these issues.

## Accountability update

These are the most relevant updates on Work Stream 1 (WS1) implementation:

1. Empowered community (EC). Each of the participants in the EC (e.g. ccNSO) will need to define procedures to exercise the EC's powers.

Stephen Deerhake (.as) is the ccNSO administrator in the empowered community.

2. Independent Review Process: David McAuley is leading the Implementation Oversight Team. The selection process is about to start. They are looking for candidates independent from ICANN. As a ccTLD community, we have a broad network and should forward these calls for interest.

### 3. ccNSO Guidelines and accountability:

- a. Removing a councillor: Should the ccNSO be able to remove a councillor? Proposal: at least 3 members from his/her region initiate, not within first 6 months following election, may be initiated by the ccNSO Council.

4. Update on the 11 reviews that are currently taking place: As the ICANN Board fears work overload for the communities, some (e.g. the ccNSO review) might be postponed for one year.

Updates on Accountability Work Stream 2 (WS2): these are the projects that are essential to improve ICANN's accountability, but that were not timebound by the IST.

- Transparency
- Guidelines for good faith related to removal of ICANN director
- SO/AC accountability
- Human Rights
- Diversity
- Staff Accountability
- Ombudsman office
- Review of CEP
- Jurisdiction

Active consultations:

- Public comment in draft recommendations to improve ICANN's transparency
- Public comment on good faith guidelines for the removal of an ICANN director (this is an indemnity against any legal action for the part of the community that triggered the removal)
- Questionnaire related to ICANN's jurisdiction

### Relevance to CENTR members

The ccTLD community is strongly encouraged to get more actively involved in these consultations. In an earlier exchange with the Board, Mathieu Weill, co-chair of the CCWG, confirmed that the ccNSO participation in the working group is low in numbers, but that those that are involved take a very active role.



## PTI update

### Customer Standing Committee update

- Monitoring performance and briefing the community
- Reviewed 4 PTI reports and discussed PTI's IANA department 2016 customer survey
- Approved PTI dashboard (to be launched shortly)
- Launched [CSC website](#)

On average, a creation request for a gTLD is 2,8 days. Metrics are met if 90% of the time this is done in 10 days. Currently, there are no outstanding complaints. Upcoming reviews: CSC charter review, review of CSC effectiveness, review of PTI

#### Relevance to CENTR members

ccTLD registries will find the dynamic PTI dashboard quite useful to keep track of the PTI's performance. Direct complaints to PTI should go to [iana@iana.org](mailto:iana@iana.org). There is also an escalation address: [escalation@iana.org](mailto:escalation@iana.org)

### RZERC update

ccNSO appointee: Peter Koch

The [RZERC](#) reviews proposed architectural changes to the content of the DNS root zone, the systems including both hardware and software components used in executing changes to the DNS root zone, and the mechanisms used for distribution of the DNS root zone. The RZERC was formed as a result of the IST. Nine organisations have one appointee each in the RZERC.

### PTI FY18 budget

The PTI board recently approved the new budget. This is an 'IANA services budget' and part of the ICANN budget. The ICANN Bylaws foresee a 'caretaker' budget and the PTI Board proposed the FY18 PTI operating plan and budget to be adopted.

The FY 18 budget is USD 9.6 million, up from USD 9 million in 2017. The increase is triggered by extra staff, higher costs for shared services with ICANN.

## Technical development and Policy Implementation Update

1. Planned updates to existing root zone management system
  - New automated work-flows: goal is to have 100% interactions communicated via EPP by EoY
  - New DNSSEC algorithm support: aim is to support new stronger algorithms
2. Next generation 'rearchitecture'
  - New authorisation model: find a flexible mechanism to allow for different configurations. 'Authorisation' and 'published contacts' functions will be separated.
  - New technical check implementation
  - New customer API, allow customers to interact with RZMS via tools, remove error-prone manual form completion
  - New security options: eliminate email-based submission, add two-factor authentication, migrate to person based accounts, audit trail
  - FoI implementation requires new approaches:
  - Informed consent: use a pro-forma consent form that must be executed by current manager. This spells out the specific requirements derived from the Framework of Interpretation.
  - Delegation contact: to allow authorisation contacts in the new model to be configured individually with different rights and permissions.
  - Admin contact residency requirements (Admin contact needs to be in country)

## Towards a data-driven ICANN

As part of the effort to improve the process and availability of data/stats in ICANN, a session entitled "[moving towards a data-driven ICANN](#)" took place on Thursday. Led by Jay Daley (.nz), Ed Lewis (ICANN) and Jonathan Zuck (APP association, CCT-RT) the session aimed at discussing and raising awareness around the importance of data (ICANN and broader DNS community). Key areas focused around evidence-based policy, organisational/community development, a cleaner/safer DNS and business & innovation.

- Evidence-based policy
  - Many registries are doing a lot (domain popularity metrics, threat detection, name similarity, etc.) but there is no overall framework.
  - Key areas of evidence-based policy in ICANN: IANA SLEs data to inform current SLE targets, CCT-RT work, ICANN data and metrics WG, gTLD health index, etc.
- Emphasis on being an “open data” organisation (quote: “Sunlight is the best disinfectant”)
  - Reference to difficulty in accessing and consistency of data in ICANN (e.g. travel funding, remuneration, expenses, and reference made to AFNIC work in stats on ICANN gender diversity).
  - Need to tell the world about big picture data (people employed, business it generates, how communities are empowered, diversity, etc.)
- Cleaner/safer DNS – lots of work already in this area through many organisations in the community.
- Domain industry hard truths: slowing growth, increased competition, deficit in innovation translate into danger that registrants will consider domains as stale. Need to improve in market intelligence (target marketing), market new products to same or new customers.
- CENTRstats platform referenced as a great example of data co-operation
- Practical steps forward:
  - ICANN should employ a data specialist, begin a culture change, more community engagement around data, put data governance framework in place
  - Should be more public or easier to access: monitoring SLEs, monthly registry reporting
  - Deploy a pilot program, determine processes and which datasets to collect

Jay Daley stated that the domain community must innovate or things will get worse. This session highlighted a strong appetite from several key people in ICANN to push for this data initiative. Despite the relatively small number of participants, there was a healthy back and forth between panel leaders and the audience. One of the long-standing supporters of data in ICANN, Jonathan Zuck, seemed optimistic for the opportunity to keep this dialogue going through all ICANN meetings as projects are fleshed out and developed.

### Relevance to CENTR members

As the CENTR membership is clearly leading the way on many fronts with regards to data gathering and analysis, it will be important to remain engaged in these discussions, if only to keep sharing best practices in this critical area for the domain name industry.

### Other relevant sessions

ccTLD Registry updates included an interesting presentation by SIDN Labs on a collaborative system to improve load balancing.

ccNSO Council meeting: Katrina Sataki (.lv) was re-appointed as Chair, Byron Holland (.ca) and Demi Getschko (.br) were re-appointed as Vice-Chairs.

The ccNSO tech day featured some high-quality presentations, including one on a methodology to measure the value of a domain name by Alexander Mayrhofer (NIC.AT) and a presentation on the migration of the DNS Belgium registry system to the cloud by Maarten Bosteels. Presentations will be made available via the [Tech workshops webpage](#).

# GAC report

[GAC Communiqué](#)  
[Link to presentations](#)

## High interest topic: Geographic names, focus on 2-letters at second level

The GAC were thunderstruck by the ICANN Board Resolution on “Two-Character Domain Names in the New gTLD Namespace” ([2016.11.08.15](#)), which allows the release of all previously reserved 2-letter codes in new gTLD rounds (blanket authorisation). The 60-day comment period will be scrapped. At the same time, a standard set of registry requirements to avoid confusion will be put in place. Throughout the process, the GAC were not able to provide consensus advice that would have called for a ban on the release of 2-letter codes, as some countries already allow the use of “their” country code as second-level domains (SLDs).

**Background:** [Under the current round](#), if a gTLD registry wants to release 2-letter country codes (ISO-3166) at the second level, it can a) propose it directly to the related government and ccTLD manager, or b) seek approval by ICANN, which requires, however, that measures to avoid confusion with the corresponding country code are in place. The corresponding governments are then notified of such requests, if they wish to be (not all of them do and [opt out](#)), and then have 60 days to comment (providing details on the risk of confusion). Registries then have 60 days to propose mitigation measures addressing the concerns, which are then evaluated by ICANN’s Global Domains Division (GDD).

**Discussions:** The GAC uttered their overall unhappiness with the Board Resolution and them being confronted with a quasi “fait accompli” on various occasions, including the GAC-GNSO, GAC-ccNSO and GAC-ICANN Board meetings. They strongly feel their previous GAC Advice was not considered (despite the Board’s justification in the resolution). Brazil wondered why the resolution was passed at this point in time and why the delicate balance between generic and country code names was put

at risk. The European Commission was surprised at the substantive change to existing processes, given that so far, “only a handful of countries asked for prior notification”. Singapore raised the issue of cost if a government decided to “defensively register” “its” country code under (new) gTLDs, and called for safeguards. The Board (Chris Disspain) replied that countries “do not own 2-letters”; suggesting that the release of these codes “requiring countries to buy them because they are the representation of that country is simply not correct”. The European Commission was concerned “about the potential for consumer confusion” acknowledging however, that these were “not problems for everyone”. The Board replied that arrangements to avoid confusion had been put in place, e.g. if .au.bentley was related to Bentleys in Australia, this was not confusing. Rwanda called for the Board to open a new PDP for 3-letter country codes and “engage until full consensus is reached”. China stated that “the Board does not have the right or mandate to decide whether GAC members have the right over 2-character domain names”. The Netherlands stressed that they do not see “any sovereignty issues or ownership issues or confusing issues with 2-letter codes”. However, it was not happy about the process’ lack of transparency that led to the resolution. Chris Disspain closed the discussion by underlining that he would be happy to sit down with the GAC to discuss advice, “but I don’t want to suggest we are in a situation of negotiating the Board’s decision”.

### Relevance to ccTLDs

These discussions are highly relevant for ccTLDs, for which the release of the corresponding country codes is currently subject to a notification requirement (i.e. to their government and the ccTLD manager) and/or where governments have already submitted comments highlighting a risk for confusion. For ccTLDs, the process under a new gTLD round would change significantly, as all country codes at the second level would be released.

## High interest topic: Data protection

### Cross-community discussion with data protection commissioners (GNSO and Council of Europe Data Commissioners)

It is unclear whether the entire audience was aware of the delicate but essential differences among the panellists' affiliation, i.e. with the Council of Europe (CoE), European Data Protection Supervisor (EDPS), and Art. 29 Working Party (WP29). Respectively, they spoke about CoE [Convention 108](#) (from 1985), ratified by 50 Member States (MS), and the EU General Data Protection Regulation (GDPR), which will come into force in 28 European Union MS in May 2018. They both concern the protection of personal data, and the principles (data minimisation, accountability, data subjects' rights, etc.) largely overlap, which is why many referred to a "European framework" during the session.

**Highlights:** Some principles were discussed in more detail: 1) **purpose limitation**, i.e. that data may only be collected for a specific, explicit and legitimate purpose (and not outside of it), 2) **data minimisation**, whereby data processing is limited "to what is necessary" in relation to that purpose, 3) **accountability**, i.e. the need to demonstrate compliance. These requirements were linked to WHOIS and the debate around **access rights of third parties**, and if the purpose of WHOIS was indeed to give access to law enforcement, rights holders and security practitioners, etc. Even here, the "specific purpose" had to be considered, i.e. public safety, state security, suppression of criminal offense, etc.

Challenges mentioned by panellists: **Big Data and Open Data** and generally, that nowadays data was often collected not by the data controller but by someone else and often in a way that citizens were not aware of (both metadata and content data). Typical safeguards, such as anonymisation or pseudonymisation no longer functioned. At the same time, it was evident that the "use of data is becoming the **core resource for innovation**" (Thomas Schneider), and therefore "business need[ed] legal certainty" (Abigail Slater, GNSO). "**Competing equities**" (Abigail), i.e. among trademark enforcement, privacy issues, consumer protection, law enforcement require that a fair balance between the fundamental right to privacy and the free movement of personal data be found. But: "Is a

global EU privacy regime the correct regime?", Abigail wondered, and recalled that EU privacy regimes only applied to natural persons, whereas WHOIS data was often technical data. **Privacy by design** requirements and the fact that "data is moving" could confront registries and registrars with the cost of adjusting data management, differentiated access systems and the architecture of internal processes for collecting data and copying it elsewhere for storage, backup, or real time hot standby (James Galvin, GNSO). Policies were needed to meet privacy requirements.

**Discussion:** The issue of **thick versus thin versus ultra-thin WHOIS**, central versus decentralised and access rights (based on legitimacy) was raised. Yet, before even discussing this, it was important to clarify the purpose, i.e. why a contact person needed to be identifiable (Buttarelli) – a discussion that was currently taking place in the **Registry Directory Service (RDS) Working Group**. Also, the issue of **compliance with ICANN policy** for registrars and registries versus compliance with applicable law was raised (Abigail) and how RARs find themselves "pushed rather than squeezed" from one side to the other by intellectual property and law enforcement representatives (Tucows). Mr Tomesen (WP29) recalled that it was important for data controllers to ask themselves **why they process data**, if it is necessary, if it can be done in a less intrusive way, and – with regards to accountability – to be "able to show that you have the principles in mind".

### Meeting of the GeoTLD group

The group highlighted that while ccTLDs have local rules and laws which they often help develop, GeoTLDs closely cooperate with (local) governments regarding their more sensitive strings, but need to follow ICANN gTLD policy. From May 2018, when the GDPR applies, 35 European GeoTLDs could slip into a compliance dilemma (ICANN contractual obligations in the Registry Agreement incl. an Annex on WHOIS vs. GDPR). They are therefore requesting for ICANN to streamline the process for exemptions from the ICANN contract and seek the GAC's support for this (see below). Right now, it seems that in order to trigger the ICANN process for exemptions, you first had to "cross a red line", i.e. breach national law and be able to "prove that you are in trouble", i.e. that ICANN WHOIS requirements are in breach of the GDPR (e.g. with proof from a court).

## GAC meeting with CoE commissioners

The Netherlands picked up the GeoTLD issue and asked ICANN to suspend compliance on the basis of the old contract. Butarelli reiterated the need for RYs and RARs to start by assessing “what is **useful** [for third parties, such as law enforcement and intellectual property bodies] and what is **necessary** [for registries and registrars]” in terms of data processing and access to data. Data Protection Authorities (DPAs) could provide guidance. In the context of data accuracy and preventing misuse of data, it was important to “accommodate the legitimate interest of law enforcement, both civil and criminal... with the legitimate interest of data protection” (Cathrin Bauer-Bulst, European Commission).

### Relevance to ccTLDs

Obviously, the GDPR will have a significant impact on ccTLDs as data controllers (and also as data processors). As Mathieu Weill (Afnic) put it: “We have to start ourselves and look at our processes and what it means to follow the principles of the GDPR”. ccTLDs that also run GeoTLDs might find themselves “squeezed” between potentially conflicting requirements from the ICANN contract and the GDPR. Mathieu Weill underlined that “the most urgent challenge is to **streamline processes** and help registrars and registries to comply with the regulation and not hold them back by various waivers of other processes from ICANN”. The topic of data protection, including the practical implementation challenges of the GDPR, will be explored in various sessions at the CENTR Jamboree on 29-31 May 2017.

## High interest topic: DNS Abuse Mitigation

In its [ICANN57 Communiqué](#), the GAC advised the Board to provide written responses to a long series of questions on abuse mitigation related to registrars (e.g. WHOIS across field validation), new gTLD registries’ requirements and ICANN’s anti-abuse activities. The GAC felt that the implementation of its previous recommendations were not sufficiently followed up ([Law Enforcement](#) Due Diligence in RAA 2013 and AGB, Beijing GAC Advice on Safeguards). In the session, ICANN was expected demonstrate its capabilities, practices and efforts to achieve an effective community response; current trends

and industry responses to the abuse of the DNS were also discussed. ICANN had, in the meantime, provided [answers](#) to the GAC’s questionnaire, which were discussed in the session, but still deemed “insufficient” by the GAC.

**Highlights: The Anti-Phishing Working Group’s (APWG) statistics** showed an upward trend of phishing attacks (and malicious domain use) from 2008-2016. Abuse concentrates around certain TLD registries, registrars and hosting providers, often due to inattention and low price. According to [SURBL](#) (2017), a reputation service that lists domains for malware spam and phishing, the major cluster was around .com (approx. 480K domains listed), followed by .top (313K) and .science (135K). The first ccTLD on that list of top 20, .ru, ranked 13 with 33K domains listed. APWG recalled that mitigation was done by private parties, not law enforcement (which often struggled with the issue of jurisdiction). ICANN plays a role in that it accredits registrars and registry operators and puts policy in (enforceable) contracts with RARs, RYs and RANTs (including WHOIS provisions, prohibitions against malicious use of domain names, anti-abuse monitoring, response and reporting requirements). The APWG recommended that those contractual tools focus on the biggest and most harmful situations. **fTLD Registry Services** (.bank, .insurance) presented its policies and requirements for their highly sensitive strings. They include registrant eligibility, names selection, registrant verification prior to domain award (entity eligibility, confirmed phone number and mailing address, domain name eligibility, etc.), robust security requirements (DNSSEC, TLS suites, authenticated email, etc.), prohibition of privacy/proxy registrations and security requirements monitoring. **ICANN’s Security, Stability and Resiliency (SSR) team** presented its anti-abuse research project (beta phase). It looked at both gTLDs and registrars, i.e. a total of 1,236 gTLDs with approx. 195 million domains in zone and 606 registrants. The average abuse score of gTLDs was 0.5, that of registrars 2.5. .science, .study, .racing had the highest abuse scores. The SSR also explained its [identifier system attack mitigation methodology](#) (to be created). The **Contractual Compliance Team** explained what enforcement action it took against RARs in 2016. These included breach notices to 25 RARs, out of which 4 were escalated to suspension and termination. The reasons for notices are mostly “pay accreditation

fees” (13%), “maintain and provide communication records” (9%), “display renewal/redemption fees” (6%) and “investigate and correct WHOIS inaccuracy information” (5%). They dug deeper into WHOIS inaccuracies between November 2015 and November 2016, which made up approx. 70% of all complaints received by the team (32K, most of which are external complaints). Almost all complaints are resolved during the information resolution process. ICANN engages in “**proactive monitoring**”, which includes, e.g., automated tools that result in notifications to compliance, the review of previously resolved issues (WHOIS Inaccuracy Quality Review), and the review of registry abuse contact data on their websites. More details on stats can be found [here](#) (slides).

**Discussion:** John Carr recalled the community’s special duty towards keeping children safe (e.g. .kids and Russian equivalent), by verifying that those who want to register such domains have not been convicted of child abuse. Steven Metalitz (IP lawyer) asked if voluntary arrangements in the context of trademark protection should (not) be stopped, to which Greg Mounier (Europol) replied that the enforcement of trademarks was a very specific form of enforcement, distinct from cybercrime. Verisign pointed to the problem of domain hopping, i.e. when infringers of intellectual property rights jump from one gTLD to the next to continue the abuse and asked if ICANN could help RARs/RYS to collaborate when infringers have been identified (both gTLDs and ccTLDs) and communicate where they may be going. The CIA chimed in by asking if ICANN could not come up “with a list of names of bad actors”, to which ICANN’s CTO replied that “no one knows that you are a dog on the internet”. A recurring question of the GAC was whether ICANN’s auction proceeds could not be channelled into abuse mitigation actions. At the GAC-ICANN Board session, Steve Crocker explained that the money was subject to a community process; a WG started working on a framework, no specific projects existed yet. The GAC are welcome to bring their idea into the process.

**Conclusion:** The GAC appreciated the effort, yet stated that ICANN had failed to provide answers to all their questions. Either not enough information was available, or the available information was too confusing or unreliable to use it as a basis for action. In the Communiqué the GAC therefore advises the ICANN Board to provide answers by 5 May 2017 using their “follow-up scorecard”. The ICANN President volunteered to be the GAC’s contact.

## Relevance to ccTLDs

The high interest of the GAC in the issue and the increased pressure on ICANN to demonstrate action against DNS abuse is an important signal for ccTLDs to communicate more on their efforts to mitigate DNS abuse. Not only will this benefit cooperation with their governments and law enforcement, but a “safe” ccTLD can also be used as a trust mark vis-à-vis registrars and registrants.

## Public Working Safety Group (PSWG) - Overview of issues

**Background:** The Public Safety Working Group (PSWG) is an internal WG of the GAC. As such, any of its positions must be endorsed by the GAC plenary before they can be passed on (e.g. as GAC Advice to the Board). The PSWG comprises GAC members, as well as the CoE and law enforcement bodies, such as Europol, CIA and Interpol. It is looking at issues, including the use of the DNS to propagate or enhance unlawful activity or abuse; supporting public safety organisations to investigate, prevent or attribute and disrupt such unlawful activity. The GAC started a newsletter (three per year): the first issue (March 2017) is available [here](#). Presentations from ICANN58 PSWG meetings: [part 1](#), [part 2](#).

**Privacy / proxy services accreditation (PPSAI) - LEA disclosure framework:** A PDP was launched in 2013 and closed in Jan 2016. After this, the GAC shared their concerns about implementation in the Helsinki Communiqué, including: confidentiality of law enforcement and consumer protection requests, need for consideration of cross-border issues, access of privacy/proxy services to domains engaged in collection of money. The ICANN Board [launched the implementation of Policy recommendations](#) aiming to establish an accreditation regime governed by ICANN. A GAC Task Force was formed in January 2017 to engage with the implementation review team (IRT). It is currently drafting a proposal to address the needs of Law Enforcement, in particular: definition of law enforcement authority and issue of jurisdiction, definition of requirements for acceptable disclosure request, processing and prioritisation of request, notification of registrant. It hopes for GAC endorsement at ICANN59.

**Registry directory services (RDS) review:** The review was mandated by the new ICANN Bylaws (enforcement of ICANN policies relevant to RDS, to improve accuracy and access to gTLD registration data). In parallel, the GNSO worked on an [alternative proposal](#) to limit the scope of the forthcoming RDS Review and to avoid duplication with RDAP (in 9 recommendations). The GAC appointed 3 volunteers for the review team (including Cathrin Bauer-Bulst, EC), which now seeks guidance from the GAC define the scope of the review: should it include WHOIS address across field validation, or WHOIS accuracy reporting system implementation? The team suggests to support the GNSO recommendations except for recommendation 9, which states: “no duplication of work that is the responsibility of the GNSO’s RDS PDP WG”. Because the RDS RT is not a PDP, the process will be different. The GAC team, however, does not want the GAC to be prevented from looking at some of the issues the RDS PDP is looking at.

**Next generation RDS PDP WG and data protection:** The GAC’s aim is to make sure that the RDS meets the legitimate needs of law enforcement. The [RDS PDP](#) was launched in November 2015. In 3 phases, they will discuss whether a new RDS system (which would replace WHOIS) is needed or not. The WG has so far produced a [Problem Statement](#), a set of [Example Uses Cases](#), a Draft [Statement of Purpose](#) for Registration Data and Directory Services and hundreds of [potential requirements](#) it identified for a Next Generation PDP. Main issues for the GAC and PSWG include **data protection and privacy** (conflict between RDS policy and GDPR; legitimate interests of law enforcement and the public with regards to attributing responsibility for online content) and issues related to **gated access to registration information** and **jurisdiction**.

- 1) Gated or tiered access: In the current system, all data is public, but it may not be accurate; with tiered access, only part of that data would be public; with gated access, a log-in (accreditation) would be needed to access the information.
- 2) Jurisdictional issues: arise if LEA make cross-border requests; also, some states do not have procedural rules for cases when data is stored in other jurisdictions.

**Discussion:** Consumer protection rules stipulate that the public has an interest in knowing who they deal

with online (FTC). In the EU, the e-commerce directive requires the clear identification of companies (in the context of trade, not because of content online); also, any public statement requires the identification of the person responsible for it. Any future RDS would need to achieve a balance between privacy, the needs of law enforcement and public interests.

### Relevance to ccTLDs

Even though initiatives of the PSWG are directed at gTLDs, they can give indications about where governments and law enforcement might want to go at national level (access to WHOIS information for third parties, data accuracy in WHOIS, etc.). The collaboration between government representatives and law enforcement is very symbiotic, at least within the WG: it will be interesting to see on which side the balance between data protection/privacy vs. legitimate interest of law enforcement/public safety might tip.

### Future gTLD policies – Focus on the New gTLD Subsequent Procedures PDP

Currently, there are 3 processes running in parallel that are dealing with future gTLD policies: (1) [New gTLD Subsequent Procedures PDP](#); (2) [All Rights Protection Mechanisms \(RPM\) Review in all gTLDs PDP](#) (protection of intellectual property, including the evaluation of the uniform dispute resolution policy; will feed into Subsequent Procedures PDP), and (3) [Registration Directory Services \(RDS\) Review](#) (see above).

The [GNSO Subsequent Procedures PDP](#) was initiated in 2015; the related WG was tasked to determine what changes (if any) to existing policy recommendations are necessary when introducing new gTLDs. The GAC and several of its WGs are particularly interested in community applications, **geographic names (see high interest topic above)**, applicant support, CCT-RT, GAC recommended safeguards (consumer protection, for end-users, treatment of IDNs), the global public interest and the freedom of expression. The related PDP WG currently collects experiences from various parties (also the GAC) involved in the 2012 round. The GAC’s 2012 Advice on specific strings or the early warning process could well carry into the next “round” or other processes. The word “round” is used cautiously because no one wants to pretend that

this is the way forward with future gTLD procedures. Different “options” were already discussed at the Hyderabad meeting, i.e. “rounds” or batch groupings (similar to the 2012 round); first-come first-served (FCFS), i.e. an open and ongoing process; a mix of rounds and FCFS, which could start with 1 or 2 rounds and then move to a first-come first-served process; or a hybrid model, i.e. a predictable schedule of rounds per year to give more predictability for public comment and objection periods (string contention).

The GAC’s “**GeoNames**” (Protection of Geographic Names) WG aims to feed into this PDP with its draft on best practices for future rounds of new gTLDs. The draft focuses on **geographic names at the top-level** that are outside of any list (e.g. ISO) or defined category. The term “**geographic significance**” was therefore coined by the WG. The WG recommends a **default rule** in case no specific rules are in place for a category of new gTLDs. It wants ICANN to maintain a **repository of terms** (i.e. names), which applicants would be obliged to consult. The basic version of the repository would be the result of a community process; subsequently governments, public authorities and interested communities could add terms (supported by a reasonable explanation). Concerns would be raised on **(obligatory) public consultations**. If there is a match, the applicant would have to contact the government in question. Governments/authorities would have to state clearly **that they do not object**. Dispute resolution would be possible in case non-objection is not obtained. The WG seems rather pleased with its draft, yet also listed concerns that were uttered in the process, including the fact that there are multiple legitimate uses and meanings of strings, that there is no de facto legal right to certain terms, that free speech and legitimate commerce could be harmed, that the GAC’s own rules could be isolated from rest of community, that the legal status of the repository would be unclear, etc. The WG will continue working on a possible proposal as input to the PDP, which, however, requires endorsement by the whole GAC.

## Relevance to ccTLDs

The GAC increasingly slips into a debate about who “owns” or “has a right” to a (geographic) name. This concerns both full names and country codes (both at second and top levels). The suggested “repository” is symbolic for this trend: governments could, in principle, come up with any name of any mountain, river, region, “culture”, religion or language and create an endless list of reserved names – based on the meagre (but valid) argument that this could create “consumer confusion”. The top-level debate, however, should be of little concern to ccTLD registries, unless there is interest or involvement in 3-letter codes. There seems to be at least one cross-community consensus on this matter: 2-letter country codes at top level should remain reserved for ccTLDs, existing ones and those for “future” countries/territories. It will be important for ccTLDs to monitor these discussions, keeping in mind that there is still a long way to go until any future gTLD application “round”.

**ICANN59 will be held on 26-29 June 2017 in Johannesburg, South Africa.**





CENTR is the association of European country code top-level domain (ccTLD) registries, such as .de for Germany or .si for Slovenia. CENTR currently counts 53 full and 9 associate members – together, they are responsible for over 80% of all registered domain names worldwide. The objectives of CENTR are to promote and participate in the development of high standards and best practices among ccTLD registries.

CENTR vzw/asbl  
Belliardstraat 20 (6th floor)  
1040 Brussels, Belgium  
Tel: +32 2 627 5550  
Fax: +32 2 627 5559  
[secretariat@centr.org](mailto:secretariat@centr.org)  
[www.centr.org](http://www.centr.org)



*To keep up-to-date with CENTR activities and reports,  
follow us on Twitter, Facebook or LinkedIn*