



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

Report on

ICANN61

San Juan
10-15 March 2018

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Executive Summary

This ICANN meeting covered a wide range of topics, but the following stood out: GDPR (and how communities' interest clash), geographical names (and how governments get more defensive) and ICANN's own financial stability (now that the budget is shrinking).

The GAC is very concerned about progress with regards to ICANN's GDPR compliance. The interim model is a good step forward, but the lack of a temporary interim model until 25 May as well as certain elements of the current model are worrying the GAC. They also pushed back on an operational role (where they had to help set up national accreditation models).

The discussion on 2-letter country codes at the second level reflects how some GAC think quite possessively about "their" country code, while others believe it is a misperception to assume that the country code at second level really establishes that identifiable link to a country.

Work Track 5 (and also the .amazon case) underline a worrying trend that some GAC who are increasingly frustrated with the debate at ICANN-level want to elevate it to a multigovernmental one, preferably WIPO – a UN agency. New input into the discussions suggest that some GAC members believe that country and territory names are neither ccTLDs nor gTLDs. If that were to be the case, ICANN cannot develop policies according to the current bylaws.

In general, there appears to be general support across all communities for maintaining treatment established in the 2012 Applicant Guidebook: Two-character ASCII strings are not permitted as TLDs.

This is consistent with the recommendations of the Cross-Community Working Group on Use of Country and Territory Names as TLDs.

The Public Safety Working Group (PSWG's) work plan shows where the group wants to assert its role and where they expect a stronger ICANN involvement (policy!): WHOIS, abuse mitigation and proxy services. Their debates are informed by input from the national level and feed back to processes there.

During the opening session, the new ICANN Chair outlined his plans for a finetuned operational objectives. Financial stability is key. Affordability and trade-off will be new terms in ICANN's vocabulary. The Board is committed to align its priorities with the community.

The ICANN CEO suggested that money could be saved by reconsidering the timing for 9 ICANN internal reviews. (budgeted at 700k each)

The head of NTIA underlined the organisation's strong and continuing support for the multistakeholder model and urged ICANN to improve predictability and transparency. The NTIA opposes the Board's decision to postpone the review of the security and stability committee. The US governments priority is the preservation of WHOIS services and it will not accept that the WHOIS becomes unavailable to Law Enforcement Agencies.

Applications for the new gTLDs are planned for Q1 2021. The applicant guidebook for that round should be ready for comments by Q1 2020. This seems to be a very aggressive timeline, given the slow pace with which some policy debates (see also WT5 update) are currently moving.

ccNSO Report

ccNSO working group updates

TLD-Ops

[Presentation.](#)

The TLD-Ops is a global technical incident response community for and by ccTLDs open to all ccTLDs.

On a regular basis, contact repository emails (name, phonenumber, email, secondary email) are sent to list. There have been no security alerts since Abu Dhabi. The last alert to list: Malware use DNS to steal personal info (Feb 2018). The group held DDoS mitigation workshops @ ICANN 59 & 60 – the draft DDoS mitigation playbook will be sent to the list. If you are not on the list, please contact Jacques Latour.

Strategic and Operational Standing Committee

[Presentation.](#)

This group is providing input and comments on behalf of the ccTLD community into the ICANN operational plans and budget. The strategic comments for the FY19 budget are:

- In terms of funding estimates, the SOPC recommends ICANN to be more prudent when it comes to TLD growth estimates as the market is showing clear trends
- The SOPC fails to see the rationale behind the budget constraints vis-a-vis the further increase in head count
- The new plan format does not help the reader as info relating to the various goals, projects and activities are scattered across the various documents that are also drafted inconsistently. Metrics and accountability indicators should be included in Document 4.

For the first time, ICANN is experiencing a budget crunch: cash expense in Draft FY19 is 4.8 million USD lower than adopted budget 2018. (USD 138 vs. USD 142,8 Million).

ccWG new gTLD Auction Proceeds

[Presentation.](#)

Proceeds generated from auctions of last resort are being separated and reserved until the multisdtakeholder community develops a plan for their use. The ICANN Board must approve this plan. This group is restricted to auction proceeds, it does not include applicant fees.

Fund currently 233 Million USD, but can still grow with upcoming auctions. Goal of the group is to develop proposals on the mechanisms to allocate new gTLD auction proceeds.

The ccNSO as a decisional participant

[Presentation.](#)

The Empowered Community is an essential element in ICANN's new bylaws following the transition of IANA into PTI. It is one of the mechanisms that allow community control over ICANN org.

The Empowered Community (EC) includes the ccNSO (other Decisional Participants are ALAC, ASO, GAC and GNSO). The ccTLD Community was briefed on the latest with respect to the ECA.

According to the ICANN Bylaws, the Empowered Community needs to approve certain actions to become effective ("Approval Actions"). In addition, the Empowered Community may object to certain actions ("Rejection Actions"). The ccNSO as Decisional Participant is developing internal Guidelines to structure the Approval Action and Rejection Action processes. At this session the Guidelines were discussed to ensure ccTLDs are aware of their own roles and responsibilities, those of the ccNSO as a whole and of the ccNSO Council.

The ccNSO's most likely interaction with the Independent Review Process (IRP) will come as a Decisional Participant in the EC as "Claimant". In addition, the ccNSO may have to play a role in setting up the Panel itself. The purpose of IRP is mainly to enforce compliance with Bylaws and prevent mission creep.

Impact of natural disasters on ccTLDs

This session gave a [summary of the survey](#) run by the Regional Organisations. In addition, [.jp](#) and [.pr](#) shared their recent experiences.

Policy Updates

PDP Retirement WG

[Presentation.](#)

Nigel Roberts is stepping down as Chair of this WG following his nomination for the ICANN Board. Stephen Deerhake has been elected as the new Chair. This is one of the rare occasions where the ccNSO does Policy work. This PDP is to fill a gap in existing ccNSO policy as there was no policy to deal with code changes. The group has done work on identifying retirement scenarios (change of code element, removal of assigned category, no new ISO code assigned). Next steps will include comparative analysis and identifying process steps. The group will also identify all stakeholders that are impacted by retirement of a country code. It is felt that previous retirements were done hasty and did not take into account all relevant interests (e.g. link rot).

WT5 Update

[Presentation.](#)

Background: ICANN is planning for a new ‘round’ of new gTLDs. Since this will be an open ‘round’ it is called ‘subsequent procedures’. Work track 5 is one of the 5 working groups that prepare the policies that will decide which gTLDs can be applied for.

This work track combines all discussions related to geographical names. It will develop recommendations regarding the treatment of geographic names at the top-level. This is a large group with interest from all stakeholder groups. The group is formed as part of a gNSO PDP, instead of a cross-community working group because the bylaws do not allow to organise a PDP in a cross-community WG. With clearer rules, cases like .amazon could have been avoided.

Timeline is tight: to sync with other work tracks, the initial draft report should be published by the ICANN meeting Panama. Final report should be ready by Q1 2019. Many consider this to be too aggressive.

Expectations:

- Agreement on 2-letter codes: will not be available in the future for gTLDs
- Difficult to reach consensus on all other issues. Status quo to be expected

Recommended listening: webinar on history of geographic names

It is crucial that ccTLDs participate from now until Panama is this WT5. The current overview of all categories of names can be found [here](#).

Emoji in IDNA

Presentation can be found [here](#).

The issue at stake is confusability. Emoji are very complex for a wide range of reasons:

- Different interpretation by different operating systems
- Visually hard to keep apart (e.g. different skin colour will create two different labels)
- Emoji’s can be glued together to form another emoji

IDNA standards specified maximum set of characters that can be used as domain names. Characters in the Unicode Category “Symbol, Other” (So) were specifically not included; their derived property values are calculated as DISALLOWED in the IDNA standard. Because emoji and other emoji-like symbol characters (e.g., 😊,) belong to the Unicode “So” category, they are disallowed by IDNA. Since ICANN can only set policy for contracted parties, ccTLDs are not bound by these rules. 8 ccTLDs allow the registration of emoji’s.

SSAC Recommendations

Recommendation 1: The SSAC recommends that the ICANN Board reject any TLD (root zone label) that includes emoji

Recommendation 2: The SSAC strongly discourages the registration of any domain name that includes emoji in any of its labels. The SSAC also advises registrants of domain names with emoji that such domains may not function consistently or may not be universally accessible as expected

ccTLD news session

- [The Five Pillars of a Successful Registry](#). Joe Alagna (Afiliás)
- [.fo Umsitingin](#) (in English: The .fo Administration). Guðrun Poulsen (.fo)
- [.RU experience in increasing price for domain name registrations](#). Irina Danelia (.ru)
- [.US: 2017 Awareness and Outreach](#). Fernando España (.us)

ccNSO GDPR session

The legal session at the ccNSO focussed on GDPR compliance, but provided a practical look on how it will impact ccTLD operators. This session was mainly aimed at creating awareness for ccTLD operators outside Europe. Presentations included updates from .be, .as and .co.

Peter Vergote underlined the risk of relying on consent as a basis for processing personal data but explained that the GDPR does not mean that processing registrant contact data becomes impossible. He suggested that registries rely on 'performance of the contract, protection of vital interests, legal obligations and legitimate interests'. Check out his 9 points To Do list!

Presentations can be found [here](#).

GAC Report

Link to [GAC ICANN61 Communiqué](#)

Country and territory names / codes at second level, geographic names

Review of the .amazon case

The GAC reviewed the .amazon case and noted the Board’s request to the GAC to provide more information why the application should not proceed by the end of this meeting (more detail: [ICANN60 report](#), p.11). Brazil explained an ongoing tedious, formal process across eight countries of the Amazon Cooperation Treaty Organization (ACTO). Ministers instructed a technical working group (WG) to review the case. The WG had an exchange of letters with Amazon and various meetings. It aims to come up with a report by mid-April, which will then be sent to the respective political authorities for consideration and a “final response on the proposal”. It is unclear in how far this response will feed into the GAC and ICANN processes – not least because two ACTO countries (Bolivia and Ecuador) are currently not GAC members.

GAC Communiqué: The GAC sent a letter to the ICANN Board (attached to the Communiqué) clarifying that the GAC, at this point, does not have any further information to communicate but reiterates to pay heed to its ICANN60 advice. The letter avoids the use of the word “progress” following Peru’s stance that ‘progress’ could be interpreted as a “favourable opinion towards the proposal”. However, “we are not negotiating, we are simply analysing the proposal”.

Relevance to ccTLDs:

The .amazon case is a primary example to illustrate where (future) discussions about geographical names can go. It is also underlines the trend that governments are increasingly trying to take the discussion out of an ICANN context and onto a multigovernmental level (see WT5 discussions).

Two-letter country codes at the second level

There were no new arguments: some GAC members remain very unhappy about the approach taken by the Board (s.a. [ICANN60 report](#), p.10), which now allows the use of 2-letter country and territory codes at the second level in new gTLDs - provided that measures to avoid confusion are implemented. Brazil considered the Board’s approach, which “implied major change in the modus operandi”, “illegitimate”; Portugal believes that “this was an abuse”. Belgium was sorry about “the precedent that was set”. The Netherlands, however, warned fellow GAC members of a “misperception that a country code at the second level implies the right of the government of ownership or [the role of] controller of the code”. Whereas the country code on the top-level is very important, on the second level it is not obvious.

On a positive note, the GAC welcomed the improved communication between their committee and the Board. ICANN’s government engagement team reminded the GAC of two types of services that are provided to GAC members with concerns, namely

- ICANN org monitoring services: information related to the registration of 2-letter codes at the second level, shared 3 times per year; if to be shared more regularly, ICANN would look into automation and providing the GAC with a landing page;
- ICANN support if there are concerns about confusability, i.e. if a GAC cannot find a solution directly with the registry, it can log a complaint with ICANN compliance.

Relevance to ccTLDs:

Some GAC members remain irrationally possessive about “their” country code and insist that its use on the second level inevitably establishes a link to a country or territory. ICANN’s attempt at mitigating the issue is laudable. It seems on a good path to provide the necessary information and procedures to concerned GAC, though some GAC can still be expected to “bite back”.

New gTLD subsequent procedures (Work tracks 1 to 4)

The overarching questions on which the GAC will be expected to provide a view are: should there be a “new round” of gTLDs, and, if so, what shape should it take (one every year, first-come-first-served, etc.), what should the timing be etc. The time line for work tracks 1-4 is tight: an outcome is expected for April, which will be submitted to public comment. The GAC’s public policy interests include, among other things, support for developing countries, community based applications (e.g. .bank, .gay, .hotel), internationalised domain names, etc.

New gTLD subsequent procedures (Work track 5)

The major elements of discussions in the GAC are:

- **Attempts at elevating debates to an intergovernmental level:** Brazil (supported by a few other GAC) warned that discussions at ICANN about geographic names should not be “encapsulated” or “isolated” but rather also take account of “what is taking place elsewhere”, indiscernibly referring to the World Intellectual Property Organisation (WIPO), an agency of the UN. WIPO clarified that these discussions indeed take place in the [Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications](#) (SCT). A meeting will take place in Geneva on 23 April, particularly relating to various identifiers in the DNS.
- **Decision-making:** Some GAC fear that their voice will be drowned in consensus procedures of the PDP Working Group (which can reach from full consensus to consensus with minority objections). This does not allow the GAC to have a “meaningful impact” (Brazil), as not all GAC participate in WT5 and those participating cannot speak on behalf of the GAC. The US was wondering if they “could take that hat off and be able to engage in substance where there’s no clear GAC position”. The GAC will try to provide coordinated input before any initial report despite the challenging time line (see Communiqué).
- **Fear of setting a precedent:** Switzerland warned that the discussions in WT5 “may lay

the ground for very important rules in the next expansion of the gTLD space”. The GAC should intervene early in order to avoid being surprised by the outcomes. He referred to the “subsidiarity principle” (Applicant Guidebook 2012), i.e. that “each national community should establish the policy for its country at top-level domains”. A new framework should make sure that agreements (between authorities and applicants) is reached before an application goes forward. “Now is the chance, really, to avoid the dot Amazons of tomorrow”.

- **Clarity or confusion?** Olga Cavalli (Argentina) led on various sessions that address geographic names and terms, including (but not only) WT5. The effort to make the issue palpable to newcomers was laudable. However, the level of detail may have caused more confusion among the GAC than clarity.

General Data Protection Regulation (GDPR)

The GDPR dominated the ICANN61 agenda and was discussed on various occasions. The focus here will be on GAC/PSWG sessions and the two cross-community sessions.

In a nutshell: On 28 February, ICANN converged its three proposed models (published on 12 January) into a final “interim compliance model”, further detailed in a “cookbook” which was published on 8 March ([overview](#)). The Interim Model requires a shift from an open, publicly available WHOIS service to a layered/tiered access model based on an accreditation system, which is to be further fleshed out in consultation with the GAC, data protection authorities and contracted parties. It would enter into effect once approved by the Community and the Board. The model has also been submitted to European data protection authorities (DPAs).

In more detail: Key elements of the model are listed below (see slides cross-community session [part 1](#) and [part 2](#)) and have been subdivided into four categories (detail added).

1) Data collection, processing and retention (what data will be collected and once collected, where will it go, how long will it be retained)	
Collection from registrant (RANT) to registrar (RAR)	Full thick data
Data transfer from RAR to registry (RY)	Full transfer of data collected
Data transfer to escrow agents	Full transfer of data collected
Data retention	Life of registration + 2 years (note: existing waivers for European RARs would be preserved)
2) Applicability (who does the model apply to)	
Must model be applied globally or only to European Economic Area (EEA)?	Must be applied to EEA, may be applied globally, subject to a data processing agreement between ICANN and contracted parties
RANT types affected	Registrations of natural and legal persons
3) Layered/tiered access to WHOIS data: public WHOIS (what will appear in the public WHOIS)	
RANT name in public WHOIS?	Only RANT organisation (if applicable) in public WHOIS (not RANT name)
RANT postal address in Public WHOIS?	Only RANT state/province and country in public WHOIS (no RANT street, city, postal code)
RANT e-mail in public WHOIS?	Create anonymised e-mail or a web form to contact RANT
RANT phone and fax in public WHOIS? Admin & Tech-contact? Admin & Tech postal address?	NO
Admin & Tech contact e-mail in public WHOIS?	Create anonymised e-mail or web form to contact admin and tech-c
Admin & Tech contact phone in public WHOIS?	NO
RAR must offer RANT in opt-in to publish additional data in public WHOIS	YES
4) Layered/tiered access to WHOIS data: non public WHOIS (what will appear in the non-public WHOIS and how would accredited parties be able to access it)	
Self-certification access to non-public WHOIS?	NO. create anonymised e-mail address or a web form to contact RANT or due process
Accreditation programme for access to non-public WHOIS	Yes, in consultation with the GAC. Individual countries to provide GAC with a list of authorised law enforcement and other governmental authorities to have access. GAC to develop code of conduct for non-law enforcement agencies to abide by for access to non-public WHOIS data

Open questions, “competing views” within the Community

- Do registrars have to continue collecting the administrative and technical contacts?
- Can anonymised e-mail addresses be used?
- Could RY and RAR apply the model globally?
- Which elements of WHOIS data should remain public while an accreditation system for layered/tiered access is being developed?
- How would tiered or layered access actually work?
 - Who would be able to access it (law enforcement, governmental vs. non-governmental actors, e.g. anti-abuse entities, researchers, IP lawyers)
 - On what criteria would granting access be based (legitimate interest, code of conduct)
- What will the accreditation programme (access to non-public WHOIS) look like?
 - self-certification of third parties that define their legitimate purpose,
 - certification in combination with a code of conduct,
 - certification under an accreditation programme,
 - legal due process as per the applicable law.
- Can the practice of providing access to bulk WHOIS data be continued?

The GDPR within the GAC

On 29 January, the GAC [commented](#) on the three proposed models by ICANN and laid out its own model, which would satisfy the needs of law enforcement to continued access to personal data in the WHOIS in compliance with the GDPR (to investigate and counter serious crime, fraud, consumer deception, etc.).

The “cookbook” foresees an active role of the GAC (details in attachment 4). It suggests that individual governments “could provide to the GAC a list of authorised law enforcement authorities and other governmental agencies approved for access to non-public WHOIS data (p. 38)”. For other entities, the GAC could develop a “WHOIS data access code of conduct” with standardised criteria, limitations and responsibilities.

Discussions between GAC and ICANN Board

Göran Marby (ICANN President): Notwithstanding the possibility of “a big fee” in case ICANN does not comply with the GDPR, it is important to have community policies in place “to make sure that we aren’t over-compliant”. The GDPR, once enacted, would set a balance “between the need for privacy and the need for information”. If the Article 29 Working Party (WP29) and European DPAs do not issue “firm recommendations”, “there is a big risk that there will be a fragmented WHOIS in the end of May”. “When the law is enacted without guidance, I have no powers to actually affect the contracted parties” and cannot be expected to “actually enforce something which I can’t”. Since there was no commercial agreement, he could not “charge [contracted parties] for anything, because local law always supersedes”. He urged the GAC to “remember [that] what we are talking about here can have a direct effect on your cc’s as well or RIPE”. The GAC were not expected “to make a decision on policy forces” [law enforcement], rather, the model suggests that individual countries make that decision. The GAC should act as “vehicle”, i.e. a link to their governments, which “should make that decision for you”. As this wasn’t an operational task, the GAC would also be “a good place to come up with a code of conduct”. He stressed that “self-accreditation is not gonna be accepted by the DPA with knowledge we have today”, even though it seems the ICANN, in the multistakeholder context, “is seen as a self-accreditation model”.

The Netherlands recalled that it was important to know “where the responsibilities lie for what kind of action”. DPAs would be helpful “in interpretation”, but “first, there should be some model on the table”. DPAs cannot be expected to react on a model that is “not complete” but “fluid”. ICANN has responsibilities not only as a joint controller but also with regards to its mission, i.e. to ensure a “secure, stable system”, which would be damaged “by not granting access”, a failing system or by a lack of consumer trust. ICANN now has the “opportunity to make something which is harmonised for the rest of the world – one world, one internet”. Accrediting or self-accrediting agencies would therefore best be done in the ICANN environment. Belgium underlined that the “GAC is not the appropriate committee to establish a list of enforcement bodies or accreditation. It is an advisory committee; not all countries are represented in GAC”.

The US was also of the opinion that it is “not usually their [the DPAs’] task to tell anyone whether or not they are compliant. The US is concerned where this would “leave us if the DPA does not do so”.

Relevance to ccTLDs:

Rather late than never, the discussions about GDPR compliance picked up in speed and allowed stakeholders to voice their expectations and concerns about the now proposed interim model and to ask questions. The final model and its enforcement will have a direct impact on ccTLDs that manage or provide the backend to gTLDs (e.g. geo-TLDs). Though ICANN is no longer in denial about the need to comply with the GDPR, it risks proceeding based on wrong assumptions: the DPAs cannot possibly be expected to comment and give guidance on every organisation’s compliance model. Shifting responsibilities to different parts of the ICANN community, including the GAC, will not alleviate ICANN org of its own responsibilities and its responsibilities towards its registries and registrars, with which it has a contractual relationship.

Göran repeatedly referred to ccTLDs, which would inevitably be affected by what is being discussed “here”. It is unclear whether he meant to pass a message to the GAC that they better get “their” ccTLDs in reign if they want to avoid WHOIS fragmentation. Have we witnessed a premonition of ICANN trying to create a level-playing field by enforcing its policy (or model) over ccTLDs through the GAC?

Perspective of the PSWG

The PSWG welcomed that the model addresses the needs of law enforcement in that full “thick WHOIS” data can still be collected and that a role for the GAC is foreseen. Concerns, however, include:

- that registrants’ name and e-mail would be masked (both for natural and legal persons)
- the lack of temporary system (including an accreditation system) between now and once GDPR starts being enforced
- absence of measures to improve data quality and accuracy;
- lack of clarity about GAC role. It should not be operational.

GAC Communiqué:

As per its Abu Dhabi Communiqué, the GAC advises that the current structure of WHOIS be maintained to the greatest extent possible, while ensuring full and timely compliance with GDPR. The GAC does not envision an operational role but is willing to contribute the public policy perspective to a code of conduct. The GAC wants to see a rationale for each of the choices made in the interim model (particularly, to hide RANT e-mail). It wants access to legal persons’ data to remain public. There should be continued access to (non-)public WHOIS “for users with a legitimate purpose” (e.g. law enforcement) until the model is fully operational. Bulk requests should be possible if needed for an investigation; WHOIS queries by LEA should remain confidential.

The GAC offers to reach out to WP29 but only once the model is finalised. An interim model and temporary access mechanism could be mandated through temporary policies and/or special amendments to ICANN’s standard RY and RAR contracts. The GAC provide a rationale for their advice from page 9.

Cross-Community Session part 1: Extract of interventions from panellists

Göran Marby (ICANN): ICANN as an entity “has a role as some sort of controller”. He repeatedly “humbly begged” and addressed “pleas” to the GAC, who would be in a unique position to get in touch with their government and DPA. He expected the DPAs to “come up with firm advice”, as otherwise “ICANN’s possibility to enforce our contracts will diminished” and the WHOIS system would risk fragmentation.

Nick Wenban-Smith (Nominet) liked about the model that it prevents the blanket worldwide publication of RANT data and would allow for global application. Registry operators would not need to distinguish between different types of registrants. However, more consideration was needed to address cases where a RANT’s organisation overlapped with a RANT’s name. Also, it is not clear in how far access to the non-public WHOIS is compatible with the GDPR principle of purpose limitation. There is a risk of fragmentation of policies.

Thomas Rickert (eco) also welcomed the global applicability of the model and the limited publication of RANT data, which was replaced by anonymised e-mail and/or a web form. He warned that self-

accreditation for gated access “cannot work in compliant fashion” and wondered why retention was being required. He reminded the audience that the GAC “can offer legal advice but operationalising should be done by ICANN and its Community”, otherwise the role of the GAC as per the ICANN bylaws would be redefined.

Cathrin Bauer-Bulst (European Commission) stated that the “internet is a public resource governed by a set of private arrangements”. Contracts between private parties had to serve the public policy interest. The GDPR does not prohibit the publication of all personal data. However, publication has to be proportionate. The reason for not publishing RANT data (name and e-mail) is missing. Also, a short term solution was needed to account for the fact that an accreditation model is unlikely to be in place when the GDPR takes effect in May. The GAC can provide guidance on an accreditation mechanism, but, in the long term, it “cannot assume an operational role”. It “cannot relieve the joint controllers of their responsibility”.

Other speakers (IFPI, Domain Tools) recalled the importance of the RANT e-mail for contactability (e.g. in case of DMCA take-down requests), to investigate patterns of criminality (infringement of IP rights, etc.) and to ensure cyber security. Stephanie Perrin (Non-Commercial Stakeholder Group), however, stated that the continuing collection of thick data is not proportionate. An e-mail does not have to be public – also not for cybersecurity purposes. Purposes for processing should be tightly limited to ICANN’s purpose.

Cross-Community Session part 2: Extracts

The questions to ICANN org representatives by community stakeholders will give ICANN some more food for thought and more reason to flesh out its model. Here some examples:

- Layered access: will each accredited party gain full access or rather layered access (i.e. to certain subsets of data) (answer: different opinions, question will go to DPAs)
- Data protection impact assessments (DPIA): does ICANN have thoughts about the need to perform DPIAs? The criteria (WP29 guidance) seem to be met that require a DPIA according to the GDPR (mass processing and transfer outside the EEA) (answer: carefully looking at it)

- Contracted parties are independent controllers – has there been a legal analysis on this? (answer: there is no central ICANN WHOIS database, ICANN has no control over how each RY and RAR uses the data)
- Data minimisation: why does all this data still have to be collected?
- Data retention: why 2 years (or with a waiver 1 year) instead of “as long as necessary”?
- Can ICANN mandate the fast implementation of an interim model (to allow access to the WHOIS for crime investigation purposes)?
 - Answer 1: ICANN does not have a business contract and is not a government; there are voluntary agreements based on policy resulting from multistakeholder processes; therefore, if ICANN does not have guidance from the DPA, its ability to enforce policy will diminish
 - Answer 2: there is a special provision in ICANN contracts; an emergency provision that could be renewed every 3 months. It could be used for enforcement.
- Who are data controllers in what areas, what are liabilities and can we [registries] have that before 25 May? (answer: we cannot determine what type of data controller you are; a registry might have different uses of data than ICANN)

Public Safety Working Group (PSWG)

Laureen Kapin of the US Federal Trade Commission was appointed PSWG co-chair alongside Cathrin Bauer-Bulst (European Commission).

Update on PSWG work

- **WHOIS:** At an intersessional meeting, access of law enforcement agencies (LEA) to GDPR-compliant WHOIS data was discussed. Specific needs identified include: searchability features, data retention for changes of domain registration information, confidentiality of access, etc.)
- **Abuse mitigation:** the co-chairs proposed to come up with a set principles that would govern GAC policy input on measures for abuse mitigation.
- **Privacy / proxy accreditation services (PPAS)** with a focus on access of LEA to data

if PPAS is used; open issues include disclosure framework for law enforcement (in particular a 24h emergency procedure to which service providers are reluctant to agree), de-accreditation for providers harbouring actors engaged in deceptive or fraudulent conduct or repeatedly not responding to LEA requests. A public comment period will start in March or April.

PSWG Work Plan 2018-2019 (endorsed by GAC)

The updated work plan would cluster around 4 strategic goals

- **Develop DNS abuse and cybercrime mitigation capabilities:** DNS abuse reporting and prevention (reporting tools, industry self-regulation, law enforcement investigations across borders), consumers safeguards (work of the [CCT Review Team](#)), accountability (data sources to help evaluate existing policy and to inform new policies), prevention exploitation (main types of abuse and what can be done against them, special focus on child abuse material, e.g. in .kid because of user expectations that this is a safe space for children).
- **RDS/WHOIS - ensure continued accessibility, improved accuracy, consistent with applicable privacy law:** access to gTLD registration data for law enforcement, quality and accuracy of gTLD registration data
- **Build effective and resilient PSWG operations:** strategic planning, effective leadership, outreach in terms of membership as well as coordination of PSWG activities with the GAC.
- **Develop participation in PSWG work and seek stakeholder input**

The GAC also received an update on the [Domain Abuse Activity Reporting System \(DAAR\)](#), which is used to track abuse by aggregating several data from various public, open and commercial sources (DNS zone data, WHOIS data, commercial reputation blocklists). Once the independent analysis of the methodology behind DAAR has been completed, the PSWG expects regular updates identifying parties that are most associated with DNS abuse.

Relevance to ccTLDs:

The work of the PSWG is always a good indicator of what law enforcement and policy-makers concerned with public safety are up to – not only in Europe but globally. The PSWG sees WHOIS data as a major source of information to investigate and event prevent crime. It cannot be excluded that whatever is being discussed at ICANN will not eventually trickle down to or inform activities at national and therefore ccTLD level.

GAC Meeting with the ICANN Board

The Board enquired about the GAC's key objectives 2018. On substance, these include making sure that public policy considerations are taken into account with regards to GDPR compliance and to the work by the CCWG Accountability (especially regarding jurisdiction, diversity and human rights) and finding a satisfactory solution with regards to .amazon and related strings. On the operational side, the GAC wants to make sure to meaningfully participate in the empowered community and IRP arrangements. With regards to longer term goals, the GAC wants to find a sustainable approach to the use of geographic names at the top and other levels, to work towards a policy framework for future gTLD rounds and a framework for registration directory services (WHOIS), which meets the needs of the full range of stakeholders.

ICANN62 will be held on 25-28 June 2018 in Panama City.



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 54 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.

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