



Council of European National  
Top-Level Domain Registries

Report on

# ICANN65

**Marrakech**  
24-27 June 2019

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# Executive Summary

ICANN launched a new operational initiatives draft plan for community input. In the absence of more details, some of these proposed initiatives have raised essential questions. In particular, the plan to ‘formalise the ICANN funding model’ needs to be further clarified and substantiated.

The Subsequent Procedures Work Track 5 has reached a consensus on most areas related to geographic names. In the absence of better solutions for the few remaining issues, it seems likely that the recommendations will revert to the policies as outlined in the 2012 Applicant Guidebook.

The ccNSO Review Team’s initial report did not meet the community’s expectations and is unlikely to be a useful tool in significantly improving the ccNSO.

The Second Security, Stability and Resiliency Review is incurring delays due to under-resourcing and a widening gap between volunteers and ICANN staff. While there are diverging views on the reasons for these delays, it is regrettable that what is possibly the most relevant review is being put on hold as a result.

The ccNSO spent 76% of its meeting time in Marrakech on ccNSO- or ICANN-related processes. 24% of its meeting time was spent on new issues of relevance to ccTLD managers that did not relate to ICANN or ccNSO processes. The latter sessions are highlighted in a pale blue box in the report for easy reference.

The ccTLD news session was once again the highlight of the meeting and excellent updates were delivered by .nz, .au, .ar and .ng.

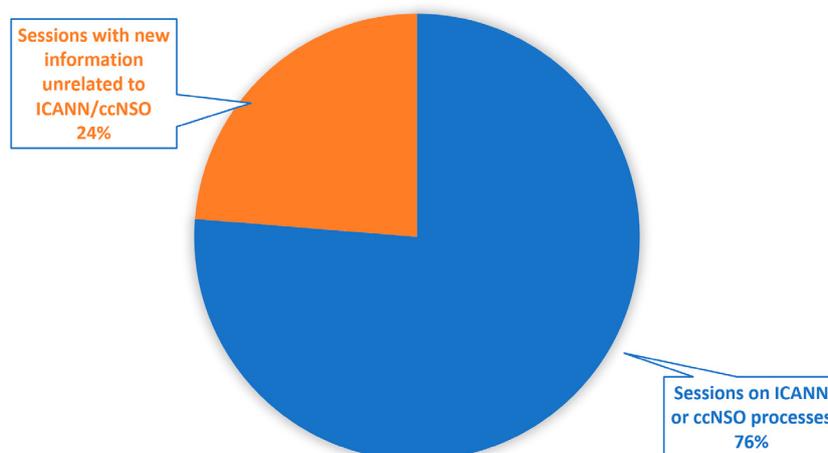
During its first meeting, the ccNSO Internet Governance Liaison Committee showed its potential as a place for information exchange and the synchronisation of ccTLDs’ efforts in the Internet Governance area.

The GAC continued to stress the importance of ensuring third party access to non-public registration data in the context of EPDP Phase 2 discussions. The GAC also discussed the possibility of a cross-community session on DNS abuse during the next ICANN66 meeting in Montreal, and of potentially further defining the types of DNS abuse.

The GAC also continues to be concerned over the ICANN Board’s unsubstantiated disregard of previous GAC advice on (not) releasing 2-character codes at second level, and (not) proceeding with .amazon applications. Following recent controversies over 2-character codes and .amazon, the GAC and the ICANN Board are considering options to improve the communication between themselves.

Special thanks to the ccNSO secretariat team for enabling frictionless remote participation!

## CCNSO 65 MEETING AT A GLANCE



# ccNSO Report

## Host presentation: update from .ma

.ma is operated by national telecom regulator ANRT and currently has 73,000 names in the zone. It has shown a healthy 9% average growth over the last ten years, an 81% renewal rate, and the average age of a domain is 5 years. Furthermore, Internationalized Domain Names (IDNs) are available for registration, and ANRT also runs the backend for the IDN *.El Magreb*. Their registration system is EPP-compliant and is based on a registry-registrar model. It only takes 15 minutes from registration to activation, though some registrations need prior validation (e.g. under gov.ma). The registry has auto-renewal and both Registrar and Registry Lock are available. There is a local presence requirement for registrars. The presentation included an overview of dispute resolution mechanisms, the legal basis for registry-registrar relations and information about .ma's extensive training program.

[Presentation](#)

## ccNSO Council priorities update

During the ccNSO review process it became clear that there is a lack of knowledge about the ccNSO Council. Katrina Sataki (.lv) provided an overview of the Council role and identified two key elements to it: representing and engaging on behalf of ccNSO members and administering the ccNSO.

The Council's priorities are as follows:

- PDP Retirement of ccTLDs;
- IDN ccTLDs review;
- Sending out statements (Fundamental Bylaws Review, Draft Final Report of the Second Country Code Names Supporting Organisation Review);
- Appointments (Customer Standing Committee, Root Zone Evolution Review Committee (RZERC) and Nominating Committee);
- Elections (ccNSO Council and ICANN Board seat 11);
- and following up on ccNSO Review Recommendations.

[Presentation](#)

## Working Group updates

### TLD-OPS Update

This repository for emergency ccTLD contacts acts as a global technical incident response community for and by ccTLDs. An updated contact list is circulated every two weeks.

The group is working on a disaster recovery playbook and a table-top exercise is planned for ICANN66 in Montreal. During this exercise, a full 'disaster lifecycle' will be simulated, and the playbook will be stress-tested. This exercise will be open to TLD-OPS members only.

[Presentation](#)

### Guideline Review Committee

This Committee is reviewing the guidelines that shape ccNSO processes and is currently working on a Special IANA Functions Review process.

[Presentation](#)

### Internet Governance Liaison Committee

Established in October 2018, the goal of this group is to facilitate and coordinate the participation and input from ccTLD managers in Internet Governance related discussions and processes. This group will sync with other groups within ICANN, but for the moment its main function is to exchange information between ccTLDs. Currently the group has 11 members (from Europe: Liana Galstyan, Maša Drogenik and Pierre Bonis).

The group identified the following relevant topics to follow in the Internet Governance spectrum:

- Local content;
- International Domain Names;
- Regulations;
- Technical;
- Digital Divide;
- Cybersecurity;
- Role of ccTLDs as promoters of the IGF.

At its first meeting, the committee Chair stressed that its goal is to share information. As a first step, the committee will compile a list of current ccTLD involvement in local and regional IG initiatives. This list should be a practical guide and a tool to avoid overlap. In its second phase, ccTLDs will discuss their motivation for engaging in Internet Governance. The committee understands the diversity of the ccTLD landscape and will steer clear of advising ccTLDs on what to do on Internet Governance matters.

## [Presentation](#)

More details and progress reports can be found on [the Committee's Wiki](#).

## **Strategic and Operation Planning Committee**

ICANN recently published two key documents via a blog post; their [financial projections](#) and their [operating plan](#) for 2021-2025. This operating plan is a draft and [open for community input](#). It lists 16 high-level initiatives but lacks consistency in explaining the rationale behind most of them. The session looked into the five strategic objectives as approved by the ICANN Board and tried to link the operational plans to these initiatives. At the moment no KPIs have been specified, as ICANN first wants community feedback on whether these are operational initiatives or day-to-day activities.

### Strategic Objective 1: Strengthen the security of the Domain Name System and the DNS Root Server System

- Promote DNSSEC and increase its deployment;
- Coordinate security in the DNS ecosystem.

Comments from the room: There are more protocols than just DNSSEC. We need to find the business case for DNSSEC. The deployment of DNSSEC is quite high but its promotion/usage by registrars is low. What is meant by 'coordinating security'? This is not new, but what does ICANN expect from this? What is the scope of this? Content regulation should be avoided at all cost.

### Strategic Objective 2: Improve the effectiveness of ICANN's multistakeholder model of governance.

- Evolve and strengthen the multistakeholder model to facilitate diverse and inclusive participation in policy-making;
- Evolve and strengthen the ICANN community's decision-making processes to ensure efficient and

effective policy making;

- Develop internal and external ethics policies;
- Review and evaluate the current meeting strategy.

Comments from the room included: The latter two initiatives are day-to-day activities. Most of these initiatives also seem very vague; it is impossible to judge if these are good or not.

### Strategic Objective 3: Evolve the unique identifier systems in coordination and collaboration with relevant parties to continue to serve the needs of the global internet user base.

- Formalize a framework for further cooperation and coordination among the domain name, internet numbers, and protocol parameter communities on risks associated with the evolution of the internet's system of unique identifiers;
- Root Zone Management Evolution;
- Promote and sustain a competitive environment in the Domain Name System.

Comments from the room included: There is confusion between ICANN's mission and its strategic plan. It is not clear what gap this fills. ICANN seems to take a leader's role for the DNS, Regional Internet Registries (RIRs) and Protocol communities. We are not sure anyone needs this. These strategic objectives lack aspiration.

### Strategic Objective 4: Address geopolitical issues impacting ICANN's mission to ensure a single, globally-interoperable internet.

- Evaluate, align and facilitate improved engagement in the internet ecosystem;
- Improve engagement and participation with Government, Intergovernmental Organizations;
- Monitor legislation, regulation, norms, principles and initiatives in collaboration with others that may impact the ICANN mission.

Comments from the room included: These initiatives seem mundane and disappointing. We have been doing this for years. The focus should be on how to act on the changing landscape. The relationship with governments is crucial and should get much more attention. These initiatives are formulated way too generally, e.g. engagement with governments seems to be about the training of GAC members.

## Strategic Objective 5: Ensure ICANN's long-term financial sustainability.

- Formalize the ICANN org funding model and improve the understanding of the long-term drivers of the domain name marketplace;
- Implement New gTLD Auction Proceeds recommendations;
- Planning at ICANN;
- ICANN reserves.

Comments from the room: There is support for building ICANN reserves. Prudent planning is a step forward and should be commended. What does 'formalising the funding model' mean? What would be the impact on ccTLDs? Should we comment on the gTLD auction proceeds raid to replenish the ICANN reserve fund? 20 ICANN staff members have an aggregate income of 10 million USD. Should we comment on this as it seems excessive?

### [Presentation](#)

## Policy Updates

### Empowered Community Administration Update

Following the IANA transition the community has approval or rejection powers over specific Board actions. This group is currently overseeing the following processes:

- The fundamental bylaw change is currently out for public comment (related to the composition of the IANA Function Review Team);

- Standard bylaw changes are up for public comment (related to leadership structure changes in the Root Server System Advisory Committee (RSSAC) and the Security and Stability Advisory Committee (SSAC));
- Potential upcoming Empowered Community Public Forums (TBC).

### [Presentation](#)

## PDP Retirement Working Group

The ccNSO agreed on a framework of interpretation. This showed there are still a few missing policies related to ccTLDs. The PDP Retirement Working Group and the Appeals Process Working Group aim to fill in two of these gaps.

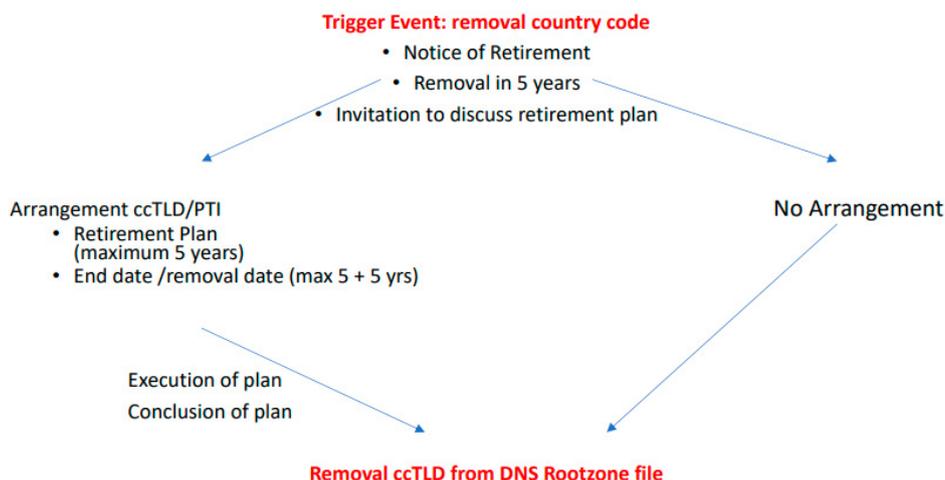
The following issues have been closed since Kobe:

- Applicability of Policy;
- Definitions of: Trigger Event & End Date for the Retirement Process;
- Removal Process;
- Duration of the Removal Process (5 or up to 10 years).

Next Steps:

- Oversight retirement process;
- Status of exceptionally-reserved country codes;
- IDN ccTLD retirement policies;
- Change of manager during retirement process;
- Testing policy and stress tests.

## Retirement Process Flow Chart



The group has repeatedly asked for GAC participation, but there have been no takers so far. During the update to the GAC, very few fundamental questions were asked. GAC members seem to struggle with the concept of the ISO 3166-1 list. It was suggested that the GAC should receive training on this topic.

[Presentation](#)

## Update IDN ccTLD Policy Review Working Group

Currently there are 61 IDN ccTLDs for 42 countries. These IDN ccTLDs are not eligible to become members of the ccNSO. There are quite a few outstanding issues that need to be addressed:

- Variant management;
- Evolution of process for confusing similarity evaluation under the Fast Track Process;
- Retirement of IDN ccTLDs.

Next Steps:

1. How to include IDN ccTLDs in the ccNSO?
2. How to update the IDN ccTLD string selection proposals and address open issues?

[Presentation](#)

## New gTLDs Work Track 5 Update and geographical names as TLDs (aka Work Track 5 update)

The group aims to wrap this up by the end of the year. (Hurray!)

The 2012 Applicant Guidebook (AGB) did not follow the 2007 GNSO policy when it came to geographical names. Having said that, the new gTLD process has been successful overall. However, what rules will prevail if there is no consensus on the changes? Geonames have proven to be particularly sensitive and contentious, with completely diverging views.

2012 rules in a nutshell:

- Blocked names:
  - All 2-letter combinations in the Latin alphabet (ISO 3166-1 and other combinations);
  - The ISO 3166-1 3-letter codes (274 out of 17.576 possible 3-letter combinations);
  - Country names (long form and short form) in any language, including “commonly known” names for the country (e.g. Holland).

- The following require support or a non-objection letter from relevant authorities:
  - Capital cities (Oslo, London etc.);
  - Sub-national names (Wales);
  - City names where the intention is to use it for that city-community (Casablanca, Newcastle).

The co-leads propose that the 13 preliminary recommendations in the Supplemental Initial Report should serve as a baseline for the next phase of deliberations. Any concerns or divergence in the summary documents will be considered in the context of whether or not they warrant deviation from these preliminary recommendations. Members should keep in mind that in order to adopt/integrate alterations, new elements and ideas, consensus is required from fellow WT5 members.

[Presentation](#)

## Emoji Study Group

This study group was established to provide a comprehensive overview of the issues associated with the use of emoji as second level domains to the ccTLD community and the ccNSO Council, as well as the need for and current practice by ccTLD managers of allowing emojis as second level domains.

The background to this is that an [SSAC report](#) indicated that there are security risks related to the use of emojis in the DNS and they violate IETF standards (IDNA2008 as defined in TFC 5890). However, most ccTLDs that provide emojis indicated that this was an error or a relic from old policies.

The potential for confusability with emoji is significant but has been contained so far, as only a small number of registries accept the registration of domain names which include emoji. However, some in the emoji domain name industry have proposed whitelisting as a potential solution to address confusability.

The group is planning to have a frank and open discussion with the ccTLDs who offer emojis and is also looking for input on the draft report by 19 July 2019, 23.59 UTC. Please find the details [here](#). The ESG will finalise their recommendation and submit the report to the ccNSO Council by early August.

[Presentation](#)

## Session with the ccNSO-appointed ICANN Board members

The Board Members explained what it means to be an ICANN Board Member and the work it entails. Chris Disspain will leave the Board at the 2020 Annual General Meeting, and the Board Members are encouraging ccNSO members to consider applying for the role. The Board Members then answered questions, including:

- In terms of the operational initiatives, what is the rationale behind selecting those initiatives? This is a rough draft for which we are looking for comments. It was more important for us to get something out before the Marrakech meeting in order to get the conversation started.
- How does the Board see the Multistakeholder Model evolving? The Board would like to see it become more effective and efficient. The main problems seem to occur in the GNSO. This needs to be a dialogue rather than a top-down exercise. Fatigue is also a real issue.
- Questioned on a possible impact of 'formalising the ICANN funding model' on ccTLDs, the Board Members declined to comment and preferred to answer the question off-line.

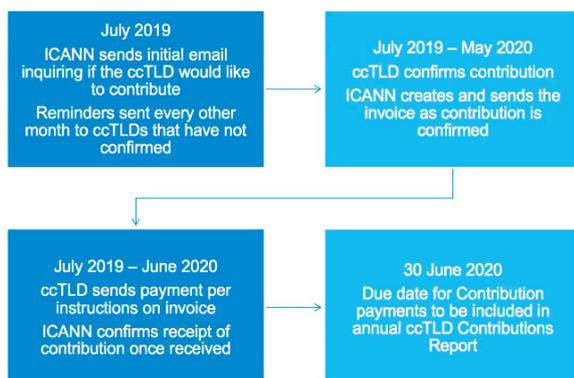
The Board would welcome closer cooperation with ccTLDs and Regional Organisations on data gathering.

## Finance Session

This session dealt with the practical aspects of invoicing ccTLDs and keeping the billing contacts up-to-date.

[Presentation](#)

### ccTLD Invoicing Process Overview– FY2019-2020 2/2



## PTI and IANA Functions update

### Technical Identifiers (PTI) Board Update

Lise Fuhr (Chair of the Board) presented PTI's strategic and operational plan. Until now, PTI has relied on ICANN's strategic plan as an interim strategy. The preliminary discussions show PTI's alignment with ICANN on:

- Objective 1: security
- Objective 2: governance
- Objective 3: unique identifiers: all of it
- Objective 4: geopolitics: build trust in IANA function
- Objective 5: finance: reflect on need for long-term IANA ops plan

PTI's plan also includes some strategic initiatives that were not found in ICANN's plan:

- The ICANN strategic plan does not cover IANA communities
- Reduction in relying on manual processing
- Continued adherence to SLAs
- Enhancing product quality
- Integration of customer focus

PTI is planning to finalise the plan by June 2020 with plenty of consultation rounds between now and then (ICANN 66 & 67, Public Comment period in April-May 2020).

Check out these inspiring slides: [Presentation](#)

### PTI Update

The budgeting process for FY21 has been kicked off, and a draft budget will be circulated for public consultation. A webinar will be held in July to provide initial input.

Budget assumptions:

- Customers are happy with the service, and no fundamental changes are required beyond the ongoing refinement and renewal of service delivery.
- New areas of activity are foreseen that involve adapting/expanding existing processes and systems:
- TLD variants

- Future round of gTLDs (expected costs to be funded by that program).
- Stable headcount and funding.

Some of the SLAs will be adjusted as a result of more detailed (long-term) measurements and datasets. The most complicated SLA is on ccTLD delegation and transfer.

The Customer Standing Committee (CSC) and IANA are currently discussing new metrics that would better measure performance of this process. IANA staff have proposed the following:

- Time for staff to evaluate and respond to each submission of supporting documentation;
- Time to author the delegation or transfer report for review by the ICANN Board of Directors after all materials provided by the requester have been deemed sufficient;
- Counting the number of interactions with the customer as an indication of the quality of the request (to be provided as information only).

Simultaneously, PTI is also working to update the documentation process for these transactions so that metric data can be collected, while also rewriting documentation and forms to make it clearer and easier for customers to submit a delegation or transfer request.

gTLD registries and registrars are required to implement the [Registration Data Access Protocol](#) (RDAP) by 26 August 2019.

Following a successful first KSK rollover in 2018, IANA is building a plan for future rollovers. These will become a normal part of the process, rather than unique projects.

[Presentation](#)

### Customer Standing Committee Update

In 2019 the CSC has been focussing on SLA changes and has had constructive dialogues with PTI. The [public comment period on IDN SLAs](#) is open for everyone to comment until 9 August 2019.

The CSC has been working on the effectiveness review. The review team made a number of recommendations including onboarding new members, mapping experience and skills for the CSC and its communication with stakeholders. The CSC also needs to develop a

process on how to handle complaints (its charter does not allow it to deal with individual complaints, only systemic ones).

### Third Accountability and Transparency Review update and community consultation

The review team asked the ccNSO how they feel about their relationship with the GAC. The PDP Retirement Chair Stephen Deerhake explained this is not satisfactory. The GAC has not been able to provide a representative to the PDP Retirement Working Group. Pierre Bonis pointed out that the relationship with the GAC is bilateral; ccTLDs have a relation with 'their' GAC. On a constituency level (ccNSO-GAC) this is unsatisfactory. The ccNSO Chair commented that the relationship with the GAC has been improving but that the GAC's involvement has not been reflected in the ccNSO Policy Work. Byron Holland suggested making the relationship more interactive and asking the GAC to signal how the ccNSO could make it easier for them.

Regarding EPDP transparency it was signalled that the bilateral discussions between ICANN and the European Data Protection Board are of some concern to European ccTLDs. This could have an impact on ccTLD operations and is currently lacking transparency.

[Presentation](#)

### Second Security, Stability and Resiliency Review update

The update is accurately reflected in the presentation. Immediately after the meeting, a letter from the SSR2 (Security, Stability, and Resiliency Review) Chair to the ICANN Board was circulated on the ccNSO Council list. It signals systemic under-resourcing and a very wide gap between the volunteers and ICANN staff. While this only offers a single-sided view, it is worrying that such an important review has incurred significant delays.

[Presentation](#)

## ccNSO Organisational Review session

This session was a Community Consultation on the draft recommendations of the ccNSO organisational review.

The draft recommendations are available on the [ICANN website](#).

Most comments from the audience reflected their disappointment with the proposed recommendations and the shallowness of the overall review. The review offers few new insights and does not offer any practical or actionable advice. The one thing that should definitely be addressed urgently is the lack of knowledge about how the ccNSO functions. This strikes seems quite ironic since 76% of the meeting time was spent discussing the ccNSO and ICANN processes. Furthermore, the ccNSO website should undergo a long overdue revamp and update.

## ccTLD News session | Session chair: Barbara Povse (.si)

### Blockchain Federal Argentina | Gabriela Ramirez & Robert Martin-Legene (.ar)

This was an interesting presentation that described the Argentinian multistakeholder-based approach to blockchain and how nic.ar is using it to securely decentralise its operations, thereby avoiding a central single point of failure or vulnerability.

More information [here](#).

[Presentation](#)

### Review of the .nz policy framework & policy-related response to terrorist attacks | Jordan Carter & Brent Carey (.nz)

InternetNZ is running a year-long process to adapt their policies to the current needs. Their tag line is “Making .nz secure, open and accessible to all New Zealanders”.

The Christchurch attacks had an enormous impact on the country. In response, InternetNZ developed an emergency response to keep the .nz domain name space a safe one. While in this case the content was not hosted under a .nz domain name, it was clear that a policy needed to be ready if ever this were the case.

This emergency response can only be triggered if a long list of strict criteria is met. This interim policy will be replaced following the community-based policy review.

A key element in this interim policy is that a domain name can only be used for a lawful purpose.

One comment from the room signalled that this sets a very dangerous precedent though some other comments underlined that this does not set a precedent. .ca has three exceptional circumstances that would require an action from the registry operator, all of which rely on the threat being ‘imminent’.

In other news: InternetNZ is hiring its first Chief Security Officer.

[Presentation](#)

## The Pathway to Introducing .au Direct Registration | Cameron Boardman & Bruce Tonkin (.au)

Following strong conclusions from a Policy Review Panel and market research, .au plans to introduce second level registration.

auDA is also including a Public Interest Test. The cancellation of a domain if in the public interest would be possible upon request by specific authorities. In order to request the deletion of a domain name, an enforcement body, consumer protection agency, Australian intelligence agency or a statutory body with enforcement powers must provide a written affidavit to the CEO which sets out:

- the grounds why the suspension or cancellation of the licence or the requested action is in the public interest;
- why the .au Domain Administration is considered the appropriate body to determine the request;
- why the requested action cannot be undertaken by another statutory body or under an Australian law;
- the licence suspension period or the period for which any other action is required;
- any other matter considered relevant to the request.

[Presentation](#)

## **.AM ccTLD past, present, and future | Kristina Hakobyan (.am)**

This presentation is accurately summarised in the title.

[Presentation](#)

## **Legal considerations: Premium Domain Name Auction using the Twitter Platform | Edith Udeagu (.ng)**

This was a refreshing presentation on .ng's strategic plan (for growth) and the importance of premium domain name auctions to accomplish this plan. Twitter will be used as an auction platform.

[Presentation](#)

# DNS-over HTTPs (DoH) and DNS-over-TLS (DoT)

Following a technical overview and a summary of the policy issues (see slides), the Q&A addressed the following issues:

- How does this relate to DNSSEC? It does not. It addresses vulnerabilities that are not addressed by DNSSEC. DNSSEC tackles one specific issue: it prevents man-in-the-middle attacks, thus securing the name record.
- Does DoT decrease network performance? Yes it could, but if set up properly this should not be noticeable.
- Doesn't QNAME minimalization solve these issues? QNAME avoids disclosing the full string, it is widely deployed.
- How did this ever get approved as a standard given the many issues that now show up? That is a fair question. The protocol is sound, but the devil is in the deployment. The ecosystem will have to adjust to that. Deployment models will vary and adapt.
- Chrome update: if the user's resolver already supports DoH, it will use this resolver. If the user wants, it can use a different resolver. Chrome is not going to force any choice on users or make them use public DNS.
- DoH is already used as an attack vector, is there any more information on this? No.
- Different applications could deliver different results. Some domains might be blocked by one application and not by others.
- DoH will be opaque to the user. Debugging will be problematic.
- What is the biggest concern with DoH? The biggest concern is the impact this could have on the openness of the internet. It changes the DNS from a network service to an application service. The application market (in which the web is the most used) is much more concentrated than the network. According to the panellist, 95% of the network market is covered by the top 1000 largest ISPs. 95% of the browser market is in the hands of the top 4 browser companies.
- DoH might lead to reduced user choice.
- There is a need for a shared policy.
- What would be the impact on ICANN? ICANN's mission could be impacted if the public resolvers were no longer public and instead restricted to a small number of private resolvers that could decide what can be reached and what cannot be reached via the DNS.
- To say there is user choice overlooks the fact that the overall majority of users would have no idea how to change resolver settings.
- What is the problem with consolidation and concentration? It is a problem of control. If 60% of the world uses the same resolver, this would be a big issue for privacy. The internet works well because it is distributed. With DoH we risk losing this resiliency. There is also a lot of money in that data (even in understanding what information people are trying to reach that is not even there.)
- There is no policy mechanism to force browser companies to do anything.
- Can big resolvers ignore the root? Yes, that is possible, but that is not a new thing with DoH or DoT.
- Why was DoH developed given its possible problematic consequences? Edward Snowden revealed that the DNS was used as a source of intelligence and monitoring. This is about encrypting DNS traffic.

Further reading: [CENTR Paper on DoH](#)  
[Presentation](#)

# GAC report

Link to the [GAC Marrakech Communiqué](#)

## WHOIS and Data Protection

On 20 May 2019, the [Temporary Specification on gTLD Registration Data](#) (hereinafter Temp Spec), which was intended as a temporary policy in response to the EU General Data Protection Regulation (GDPR), expired. The Temp Spec was replaced by the [Interim Registration Data Policy for gTLDs](#) (hereinafter the Interim Policy), a consensus policy that implements GNSO policy recommendations concerning data protection requirements for gTLDs. This Interim Policy implements one out of a [total 29](#) of the Expedited Policy Development Process (EPDP) Team's recommendations.

The Interim Policy requires gTLD registry operators and ICANN-accredited registrars (collectively, the "contracted parties") to continue implementing measures that are consistent with the Temp Spec on an interim basis. The Interim Policy will be replaced by the Registration Data Policy, which the EPDP Team initially recommended should be effective from 29 February 2020. During the Marrakech meeting, it became evident that this recommended deadline may not be met.

In the [GAC Communiqué from Barcelona](#) (25 October 2018), the GAC noted that the Temp Spec is failing to meet the needs of law enforcement, cybersecurity researchers and IP rightsholders. To reiterate previous developments and the division of work within the EPDP Team, the importance of ensuring third-party access to WHOIS data was not dealt with in the [Final Report](#) of the GNSO Council on the EPDP (in the so-called Phase 1). The adoption of the Final Report immediately set in motion the work of the EPDP Team on Phase 2 which aims to develop a system for standardised (and most likely distributed) access to non-public registration data. Based on the discussions in Marrakech, the finalisation of Phase 2 is expected to be around April 2020.

In parallel with the EPDP, the ICANN Org has been conducting work on the Framework for a Possible Unified Access Model for Continued Access to Full WHOIS Data (i.e. Unified Access Model). This work was conducted outside of the scope of the EPDP. In Barcelona, the ICANN Org set up a [Technical Study](#)

[Group for Access to Non-Public Registration Data](#) (TSG) who reviewed aspects of the possible Unified Access Model from a technical perspective. The purpose of the TSG was to explore technical solutions for authenticating, authorising and providing access to non-public registration data for third parties, with the intent to reduce any potential liability faced by contracted parties when providing such access under GDPR. The TSG [completed its work](#) on 30 April 2019. The technical model presented by the TSG is used by the ICANN Org "to determine whether a unified access model based on the Technical Model reduces legal liability for the contracted parties", in discussions with the European Commission and the European Data Protection Board.

The ICANN Org is planning to conduct further meetings with the European Commission and the European Data Protection Board to examine the possibility for ICANN to be a data controller, while contracted parties are to be data processors in the context of the GDPR. According to the Chair of the GNSO Council Keith Drazek (Verisign), if ICANN can take up such centralised role as a data controller, then the Unified Access Model can be developed while minimising the liability of ICANN's contracted parties. Drazek also pointed out that the EPDP and subsequent community discussions on the Unified Access Model/standardised system for access to non-public WHOIS data have resulted from a response towards only one regulatory development (GDPR). However, the policies and systems that are currently being designed by ICANN need to meet the needs of as many other laws and regulatory frameworks as possible. Due to its centralised role, ICANN will help manage any further responses towards other regulatory developments that are yet to come, according to Drazek. The need for reduced legal liability for contracted parties that will enable the development of a Unified Access Model was also highlighted by ICANN CEO Göran Marby on multiple occasions during the Marrakech meeting.

## Phase 2

In the [GAC Communiqué from Kobe](#), the GAC urged the ICANN Board to take the necessary steps to ensure that Phase 2 concludes in a similar expedited process as Phase 1. For the GAC, the third-party access to non-public WHOIS remains a priority.

In Marrakech, the GAC considered that there are still a number of outstanding policy issues regarding user groups, purposes and legitimate interest for accessing non-public WHOIS data. Some of the questions put forward by the ICANN Board for community input include questions directed at GAC members. In particular, they asked EU Member States to provide input on the identification of possible eligible user groups that might need access to the WHOIS data. In cooperation with Europol and the European Commission, a survey targeting EU Member States was launched to better understand what kind of public authorities make use of WHOIS information. The results of the survey proved to be more complex than expected. In addition to law enforcement authorities, several ministries and other agencies like consumer protection authorities, competition authorities, cybersecurity agencies etc. also require access to WHOIS data.

Russia raised concerns over the fact that a centralised unified access model to registration data is being developed by an organisation that is subject to one particular jurisdiction. According to Russia, ICANN should focus on developing concepts of access, rather than a single technical solution that can also be a single point of failure.

Iran expressed disbelief that Phase 2 will be concluded in the proposed timeline. The United States pointed out that there is the motivation and will to conclude Phase 2 as intended.

The European Commission highlighted that data protection authorities (DPAs) would have a final say on whether the standardised access model is consistent with the GDPR. However, the DPAs cannot guide ICANN within the process of developing such a system and would not be able to give 100% legal clarity either. The more detailed such a model is, the more feedback DPAs can provide.

**GAC Communiqué:** Members of the GAC volunteered to provide indicative lists of public authorities and other relevant parties requiring non-public registration data, in response to the request included in the “Draft

Framework for a Possible Unified Access Model” published on 20 August 2018. The GAC recalls its GAC Kobe Communiqué Advice and welcomes the actions being taken on the 2nd phase of the EPDP.

### Relevance to ccTLDs

For decades, ccTLDs have successfully argued that their policies should only adhere to local laws. ICANN’s overly ambitious parallel plans to build 1) a Unified Access Model that complies with as many regulatory frameworks as possible and 2) a centralised access system for the identification of law enforcement authorities and a wide range of other user groups might increase pressure on ccTLDs to revise their own governance models. Additionally, if the gTLD space were to be centrally managed and “unified” by ICANN under their interpretation of a regional law like the GDPR, it might also result in conflicting interpretations of the GDPR in the ccTLD space.

### DNS abuse

Closely linking it to the WHOIS discussion and EPDP, the Public Safety Working Group (PSWG) held a discussion with the GAC on the topic of DNS abuse.

During this session Cathrin Bauer-Bulst (European Commission) stated that while there are multiple references towards DNS abuse in the contracts with registries and registrars, there is no consistent or agreed definition as to what constitutes this type of abuse when we speak about technical infrastructure. There has been some division between infrastructure and content-related abuse, however there is no agreement within the community over what DNS abuse is.

It was also pointed out that the Competition, Consumer Trust and Consumer Choice Review (CCT) Team issued a [report](#) which identified consensus over what is a DNS abuse and the security abuse of the DNS and the infrastructure, namely malware, phishing, and botnets, as well as spam when used as a delivery method for these forms of abuse.

ICANN’s Contractual Compliance department highlighted the need to convene a community-wide discussion on DNS abuse, potentially with a separate policy development process around it. Furthermore, there is a strong chance that a cross-community session on DNS abuse will be held at the next ICANN

meeting in Montreal.

Bryan Schilling (ICANN Consumer Safeguards) highlighted the Internet & Jurisdiction Policy Network, and specifically the Domains & Jurisdiction programme, where some work on defining types of abuse has been already conducted. He expressed the need to bring these external developments into ICANN's ecosystem.

During the session, Denmark brought up the fact that increased requirements for identity checks and verification might mitigate some of the DNS abuse, as is being done by .dk. Cathrin Bauer-Bulst stated that despite some of the good examples of such practice within ccTLDs, it might be necessary to consider measures that are based on statistical analysis, rather than adding more steps for registering a domain name.

For example, ICANN's Domain Abuse Activity Reporting (DAAR) project aims to collect data about domain name registration and security threats that is also used to score gTLDs on the amount of abuse within their respective zones. Europol raised the fact that DAAR does not give much concrete detail about the abuse activity within gTLDs. This could be used as an economic incentive for gTLDs to keep their zones "cleaner". If DAAR could give more detail about which operators misbehave, these operators could be targeted with higher ICANN fees, which would be a direct economic incentive for them to reduce the amount of abuse within their zones.

The GAC was advised to consider a follow-up on the CCT Review Team's recommendations for their implementation. The ICANN Board has previously deferred these recommendations as it was decided that the community was not yet ready for them.

The US supported the suggestion for a cross-community session during the next ICANN meeting in Montreal. No further feedback was given by the GAC members.

### Relevance to ccTLDs

There seems to be a further push towards a policy development process on DNS abuse definitions, moving away from a strict dichotomy between "infrastructure" and "content"-types of abuse. For example, so-called "business e-mail compromise" attacks were highlighted as one of the largest types of fraud in the context of DNS abuse during ICANN65. "Business e-mail compromise" schemes

are used to exploit a single character change in the e-mail address domain to impersonate a CEO or a senior colleague and to initiate fraudulent transactions. These schemes typically use a great degree of social engineering to trick employees of a company or an NGO, rather than a strictly infrastructural type of abuse like botnets or malware. Therefore, it is more and more difficult to argue that registries should not look into content when assessing possible action at DNS level, especially when the types of DNS abuse are further being defined to include the cross-border cases between content and infrastructure.

## Two-character codes at second level

The current situation regarding the use and release of 2-character country codes at the second level allows for the registration and the use of country codes at the second level without any need of obtaining prior authorisation nor notification of the relevant ccTLD or the government. The GAC remains concerned that the release of 2-character country codes at the second level was authorised by the ICANN Board, disregarding their previous advice on the matter. In particular, the fact that the ICANN Board has adopted a decision that significantly affects the process recommended under GAC advice before considering and responding to the respective GAC advice, and without prior consultation with the GAC.

The [GAC advice](#) from Barcelona urged the ICANN Board to explain how the process that led to the retirement of the authorisation process was consistent with the previous GAC advice. On 22 January 2019, the ICANN Org issued a [Memo on the Implementation of the Procedure for Release of Two-Character Labels and Standard Measures to Avoid Confusion with Corresponding Country Codes](#) detailing the reasoning behind its decision. On 27 January 2019, the ICANN Board addressed the GAC Advice in its resolution. In its Memo the ICANN Board identifies two paths for releasing the 2-character country codes at the second level that are consistent with the New gTLD Registry Agreement: 1) Government and ccTLD approval ("Path 1"), or 2) ICANN approval ("Path 2"). Path 2 served as the basis for the implementation of the current procedures for the release of two-character codes.

However, the explanation put forward by the ICANN Board has not been deemed sufficient by some of the GAC members. Namely, the explanation does not respond to the question of whether the change of the release process was consistent with prior GAC advice.

In Marrakech, the GAC advised the ICANN Board to be aware of the issue of not formally rejecting GAC consensus advice, and to take necessary steps to avoid this type of situation in the future. Since the Barcelona meeting, the ICANN Board has been having post-communicé calls with the GAC to avoid any possible misunderstandings regarding the latter's advice.

In addition, the ICANN Org has developed a tool for governments to check whether their 2-character code is in use at the second level. The tool is currently being tested out by the GAC members before the ICANN meeting in Montreal.

In Marrakech, the ICANN Org outlined the intended use of the aforementioned tool that will allow governments to identify and report any usage of 2-character codes at the second level that are confusingly similar to existing common domain names, including in the respective zones of ccTLDs. Once the government identifies a confusingly similar use of a 2-character code, it needs to contact the respective registry for the latter to investigate and respond to the governmental concerns. If the contracted registry does not respond and resolve the issue, the government can notify ICANN to take any necessary measures.

**GAC Communiqué:** The GAC remains concerned that GAC advice on the procedure for the release of country codes at the second level under new gTLDs was not taken into consideration as intended and recommends that meaningful steps need to be taken to ensure this does not happen in the future.

### Relevance to ccTLDs

Managed and “unified” by ICANN under their Some countries remain possessive over the use of their country codes at the second level. The issue also continues to remain procedural, as the GAC considers that there has been no sufficient response from the ICANN Board yet on why the GAC consensus advice was not taken into account without any further explanation or a formal rejection. The ICANN Board seems to have a diverging view on the interpretation of

the previous GAC advice, illustrating tensions between governments and the ICANN Org in a multistakeholder governance model.

In addition, during the demonstration session of the 2-character code search tool developed by the ICANN Org to assist governments in reporting confusingly similar domain names with the ones operated by ccTLDs, the sensitive topic of the “ownership” of a 2-character code was brought up. India stated that if governmental concerns are not adequately responded to, the sovereign state can take up the measures to block the domain names in question. As a response, the ICANN Org went on reminding the GAC that the ISO 3166-1 list that is a basis for states' country codes is not a sufficient legal basis for a country's sovereign right to a 2-character code.

## DotAmazon

The contentious issue of the .amazon application dates back to 2012 when the US-based tech giant Amazon Inc. filed an application for the use of .amazon, following the procedures for new gTLDs under [Applicant Guidebook](#). Some of the GAC members, primarily belonging to the Amazonian region, objected to the .amazon application. This initiated the years-long back-and-forth between Amazon Inc. and eight countries of the Amazon Cooperation Treaty Organization (ACTO) regarding the .amazon application.

In the [Abu Dhabi Communiqué](#), the GAC advice to the ICANN Board was to “continue facilitating negotiations between the Amazon Cooperation Treaty Organization's (ACTO) member states and the Amazon corporation with a view to reaching a mutually acceptable solution to allow for the use of .amazon as a top level domain name”. In the course of the following year, the mutually acceptable solution between the parties concerned was not found.

On 10 March 2019, during the ICANN64 meeting in Kobe, the ICANN Board adopted a [resolution](#) regarding the .amazon applications in which it provided the ACTO countries and Amazon Inc. with the opportunity “to engage in a last effort” that allowed both parties to work towards a mutually acceptable solution regarding the .amazon applications over the subsequent four weeks. No solution was reached in the given timeframe.

On 15 May 2019, the ICANN Board [accepted](#) .amazon applications according to the policies and procedures of the New gTLD Program. The ICANN Board determined that there is no public policy reason for why the .amazon applications should not be allowed to proceed.

On 15 June 2019, Columbia transmitted a reconsideration request to the ICANN Board for resolutions that were approved on the matter during the ICANN Board meeting held on 15 May 2019.

During the GAC meeting on .amazon in Marrakech, Brazil expressed their deep concern over the fact that the ICANN Board chose to disregard previous GAC advice (in Abu Dhabi) and to ignore the “public policy authority” of governments. Brazil stated that it is troubling that a decision by the ICANN Board failed to adequately consider the public interest identified by eight countries, and in particular their need to safeguard the “natural, cultural and symbolic heritage of the countries and peoples of the Amazon region”.

The Brazilian statement was supported by Peru who stated that with this decision the ICANN Board is setting a precedent of giving priority to private commercial interests over public policy considerations of the states.

Switzerland expressed a view that proceeding further with the Amazon Inc. Application, without really giving a chance to find a mutually-acceptable solution between the company and the states concerned, was inconsistent with the GAC advice from Abu Dhabi. Switzerland also proposed engaging an independent international mediator to reconcile the present serious issue in the core of the “multistakeholder model embodied by ICANN”. The European Commission supported the need for a mediator.

Portugal stressed that the .amazon application issue is a matter of public policy. In Portugal’s view there has been a big misunderstanding within ICANN on the question of what public policy is. Portugal expressed its regret over the fact that private interests were served in this case.

The US stated that in their view the previous GAC advice was followed and that the US cannot support any further action on this issue that delays the application process of Amazon Inc.

The debates continued in the joint meeting with the ICANN Board. Brazil stated that there is an urgent need

to rethink the internet governance model. The public concerns have not been taken into account, while the .amazon issue is a very sensitive and political question. According to Brazil, the ICANN decision undermines the right of sovereign countries to secure public interests in internet governance.

Colombia expressed their view that the .amazon case is breaking the multistakeholder model in ICANN. The way the GAC advice was treated by the ICANN Board undermines the role of the GAC. Governments are subject to international law and their role to secure public interests of their constituencies needs to be respected. Portugal stressed that this trend of denying states their sovereignty should be stopped in ICANN.

China suggested remedying the existing situation with concrete actions, while Switzerland stressed the need to continue working on a mutually acceptable solution until all available means are exhausted.

In his responses to multiple GAC members, ICANN CEO Göran Marby stressed that the .amazon application was authorised based on the rules and procedures entailed in the Applicant Guidebook. According to Marby, there is no international legal basis for the Amazon region to be considered an official geographic name, hence why the rules of the Applicant Guidebook prevailed. According to Marby, ICANN did everything they could in good faith to facilitate the dialogue between Amazon Inc. and the ACTO states concerned.

**GAC Communiqué:** The GAC asks the Board to explain in writing whether and why it considers that its decision to proceed with the .amazon applications, based on a proposal that the eight Amazon countries considered did not address their concerns, complies with GAC Advice. This request for a written response from the Board should be considered a follow-up to the GAC-Board discussion during ICANN65 and should not be construed as new GAC Advice on this matter.

### Relevance to ccTLDs

The discussions over the ICANN Board’s decision to approve .amazon applications in favour of a large US-based company has rekindled the heated discussions between the GAC and the ICANN Board. The sovereign rights of a state, in light of the global nature of the internet, and ICANN’s seemingly “neutral” position are all being questioned in the debate over .amazon. This case is an illustration

of the difficulties that multistakeholder fora like ICANN face when trying to safeguard the interests of their community, especially when the same community consists of stakeholders with many conflicting stakes. ICANN's response to the concerned GAC members keeps insisting that the ICANN Org has done everything right under its internal rules. This type of one-way download falls deaf when geopolitical issues like a country's right to its regional and cultural heritage is being questioned. If the ICANN Org insists that it has no right nor capacity to decide what is a geographic region, then why has it gone the opposite way by factually deciding that .amazon does not represent a geographic region? By denying the Amazonian region its digital identifier, it is difficult to argue that the ICANN Org does not participate in the "public policy" discussions. To be continued...

## Improving communications between ICANN and the GAC

The discussions around the ICANN Board's (lack of) response to the GAC Advice on issues such as 2-character codes at second level and the .amazon applications illustrate the tensions between the ICANN Board and the GAC. In order to mitigate the issues of possible misunderstanding of the GAC advice to the ICANN Board, the [Board-GAC Interaction Group](#) (BGIG) was established in October 2018 (formerly the Board-GAC Review Implementation Working Group). The change of the name was supposed to serve as evidence of the commitment to "continued interaction and active cooperative efforts between the Board and the GAC".

Since the ICANN60 meeting in Abu Dhabi, the ICANN Board has provided updates to the GAC on the status of its advice. In summary, the Board went back and looked at the advice issued by the GAC since ICANN46 in April 2013 (Beijing). In total, those GAC communiqués make up 192 items, and 8 follow-up items have been issued via those communiqués.

During the meeting with the BGIG in Marrakech, Switzerland pointed out that the GAC and the Board started having post-communicé calls to discuss the advice given to the Board by the GAC in more detail. While this post-communicé conversation is a step in the right direction, according to Switzerland, the BGIG should look into further ways to improve

the communication between the GAC and the Board. According to Iran, considering how complex and diverging the views amongst GAC members are, the GAC as a whole cannot always convey the message to the ICANN Board in the shortest way. Iran supported the needs for further steps in improving the communication with the ICANN Board.

### Relevance to ccTLDs

The GAC increasingly feels that its interests and messages are being "lost in translation". Considering ICANN's plans to engage more with the governments of the world to "avoid another GDPR"-situation, it is crucial for ICANN to make sure it starts with its own stakeholder group – the GAC – and conveys the messages over the usefulness of the multistakeholder model and the neutrality of the ICANN Org to its relevant governmental stakeholder group first-hand. Based on the heated interactions between the ICANN Board and the GAC on the .amazon, it seems there is a need to improve this communication channel and to restore some of the GAC members' faith in internet governance.

## Other sessions of interest

### Evolving the Effectiveness of ICANN's Multistakeholder Model

At ICANN63 in Barcelona the ICANN Board asked the community for feedback on Strategic Objective #2 concerning ICANN's governance in the draft [ICANN Strategic Plan for Fiscal Years 2021-2025](#). Specifically, the community was asked how to improve the effectiveness of ICANN's multistakeholder model (MSM) of governance. The conversation on the effectiveness of ICANN's MSM continued in Kobe and the community was asked to develop a list of issues that challenge the effectiveness of MSM.

As result, [a list of 21 issues](#) in total was compiled. One particular overarching challenge for the effectiveness of ICANN's MSM that was communicated to the ICANN Board across all stakeholder groups was the fact that there are too many work streams at the same time.

Based on the list of issues, the next step will be to come up with a concrete work plan. This work plan will map issues to "owners" (i.e. an AC, SO, the Community, ICANN Board or the ICANN Org), identify the date by which owners will deliver a solution for approaching

the concrete issues, and identify resources needed in order to proceed with working on solutions. The work plan will be presented and discussed at ICANN66 and will become part of ICANN's 5-year Operating Plan.

During ICANN65 in Marrakech, the community was asked to reflect on the "ownership" of issues, and in particular, on the question of accountability for a workable solution to these issues.

The comments from the participants of the session reflected the need not to duplicate the efforts that are already being done by the community to address the workload and consensus-building (e.g. [GNSO PDP 3.0 Implementation Plan](#)).

Other comments reflected that the prioritisation of work streams should not be done by the ICANN Board, who should instead just follow whichever priorities the community sets. Another challenge of having too many workstreams and, as a result, a "volunteer burn-out" is the fact that the pool of resources is very limited and there should be a process that allows the community to assess the scarcity of resources when taking up more work.

No "owners" were identified during the session.

### **Meeting with the Global Commission on Stability in Cyberspace**

The GAC met with the Global Commission on Stability in Cyberspace (GCSC) that presented their on-going work on the set of norms for ensuring the safety and stability of cyberspace. The draft norms target both state and non-state actors to inter alia protect the "public core of the internet", that includes internet routing, the domain name system, certificates and trust, and communications cables. The norms are expected to be finalised by the end of November 2019.

The GCSC welcomed the fact that the norms are already getting traction within different initiatives on the matter. In particular, the norm on the "public core of the internet" has been codified in the latest piece of legislation on EU cybersecurity, the "EU Cybersecurity

Act", that has entered into force. The EU Cybersecurity Act gives the EU agency on cybersecurity, ENISA, a role to "support the security of the public core of the open internet and the stability of its functioning, including, but not limited to, key protocols (in particular DNS, BGP, and IPv6), the operation of the domain name system (such as the operation of all top-level domains), and the operation of the root zone".

The GCSC advised the governments to look into the EU Cybersecurity Act and to make a note of what to bring back to their respective countries.

The UK raised their reservations regarding the term "public core of the internet". According to the UK, it is unclear from the norm what it is attempting to entail when it speaks about "public". Clearly, some elements of infrastructure (e.g. cables, antennas and satellites) are privately owned, and the term public can be understood as "owned by government". The UK remains concerned that without further clarification of the norm, it can be understood in a completely unhelpful way.

The GCSC responded that when the norm speaks about a "public core", it is built on the notion of common public good, rather than a common public resource. The GCSC norm on "public core of the internet" establishes that some parts of the internet infrastructure need to be protected from exploitation. Further details of the norm and what it entails in practice is expected to be further refined through implementation by different governments.

**ICANN66 will be held on 2-8 November 2019 in Montréal, Canada.**



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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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)



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