Registries Stakeholder Group Statement

Issue: **Draft Final Report of The Second Security and Stability Advisory Committee Review (SSAC2)**

Date statement submitted: **3 December 2018**

Reference URL: https://www.icann.org/public-comments/ssac-review-final-2018-10-15-en

Background[1]

Analysis Group, the independent examiner conducting the SSAC2 Review, has published its draft final report for public comment. The draft final report [PDF, 3.18 MB] contains both an assessment of the SSAC and recommendations for improving its operations.

The purpose of the SSAC Review is to determine
(i) whether the SSAC has a continuing purpose in the ICANN structure,
(ii) if so, whether any change in structure or operations is desirable to improve its effectiveness and
(iii) whether the SSAC is accountable to its constituencies, stakeholder groups, organizations and other stakeholders

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Registries Stakeholder Group (RySG) comment:

The Registries Stakeholder Group (RySG) welcomes the opportunity to comment on the Draft Final Report of The Second Security and Stability Advisory Committee Review (SSAC2).

Comments on the SSAC Review Process

The RySG would like to express its support for the overall process of the Independent Review of the ICANN SSAC. The RySG appreciates the periodic updates provided by the Review Work Party and Independent Examiner, which have included both published documents and presentations via webinar and at ICANN meetings. In particular, we appreciate the various milestone extensions during the review process, which we believe have improved the overall quality of input to the review process during this especially busy period for the ICANN community.

[1] *Background: intended to give a brief context for the comment and to highlight what is most relevant for RO's in the subject document – it is not a summary of the subject document.*

The RySG considers the recommendations reasonable and striking the right balance. Our comments call out specific items of focus.

We have one overarching area of concern: Figure 1 of the Draft Final Report shows that the researchers didn't obtain a good diversity of thought in the interviews. The majority of those interviewed were SSAC themselves (1/2 of SSAC members) or the Board (over 1/3 of Board members). For some undisclosed reason, the researchers also interviewed staff and fellows, and only selected 8 members of the rest of the community for interviews (we note they justified this decision by the opinion that they were only after different views, not frequency of views). We are deeply concerned by this as we assume that at most, only one registry operator (other than SSAC members employed by registry operators) would have been contacted, and no registry operator shares the same views as all the others. **We urge the SSAC and the researchers to carefully consider our comments here as we were not approached for feedback earlier.**

Comments on the Draft Report Findings and Recommendations

The RySG endorses both Finding 1 - "The SSAC is widely acknowledged to be very important to the overall mission of ICANN. The role of the SSAC is closely aligned with ICANN's mission." - and Recommendation 1 - "The SSAC has a clear continuing purpose within ICANN. Its existence as an Advisory Committee should continue."

The RySG acknowledges and appreciates the ongoing work done by the SSAC. The RySG values the SSAC's demonstrated ability and effectiveness in filling the crucial role of providing technical advice to the ICANN Board, and believes that the decisions made by the ICANN Board are generally improved by SSAC's technical input.

The RySG comments on the remainder of the report are related to timely involvement, liaison activities, ICANN staff participation, SSAC recruitment, fiscal responsibility, and conflict of interest.

Timely Involvement

The RySG supports Recommendations 14-16. We think that Recommendation 15 still contains a gap as PDP WGs may not identify issues that might be security concerns until it's too late. We realize bandwidth is an issue for everyone and think that the liaison recommendations will help address this concern.

Liaison Activities

Section VI of the Draft Report focuses on "The SSAC's Integration with SO/ACs and the ICANN Community." The RySG generally supports the SSAC and its members engaging with the SO/ACs and the ICANN Community and believe that many community members could benefit from the knowledge and insight SSAC members have to offer. The RySG would favor having the improved insight into SSAC activities that a liaison would provide, which would improve transparency while not compromising the confidentiality of the SSAC. We have some concerns about the role of the external

liaisons described in Recommendation 14, but we believe the SSAC and Board should craft a liaison role that takes into account some of these concerns while still maintaining the independence and non-political nature of the SSAC. Specifically, we think the liaison program should consider the following potential risks:

- The liaison mechanism could be used by various SO/ACs to exert direct or indirect influence over the SSAC's work activities and/or conclusions;
- The proposed bi-directional nature of the proposed liaison role could place a heavy burden on the individual in that role and runs the risk of the liaison role being used as a "back channel" into the SSAC's work activities; and
- The SSAC's overall focus of accountability to the Board could eventually become diluted or skewed.

Specifically, regarding the accountability of the SSAC, the RySG appreciates that Recommendation 19 makes it clear that the SSAC is accountable to the ICANN Board. This accountability must be preserved and as such, we support Recommendation 19. We also support Recommendation 18, which encourages improvements to the SSAC website and communication processes.
For clarity, the RySG would like to note that, despite our opinions on the establishment of SSAC liaison roles as described in the Draft Report, we are not opposed to other, existing liaison roles (to the ICANN Board, the RSSAC, and the NomCom), which are captured in the SSAC Operating Procedures. We agree that these are central to SSAC's mission and purpose.

ICANN Staff Participation

Section VII of the Draft Report addresses SSAC membership and the RySG broadly supports the Recommendations contained in this section. However, in reviewing the Draft Report, it came to our attention that neither the survey referenced nor the Recommendations themselves make any mention of ICANN staff participating in SSAC deliberations and/or contributing to SSAC decisions. Participation of ICANN staff is documented in SSAC Reports but its influence is unclear. ICANN staff participation is not documented in the SSAC member list.

Based on published SSAC Reports, we note that ICANN staff participation generally originates from ICANN's OCTO. The RySG is deducing that this participation is occurring under the mechanism provided in Section 1.5 of the SSAC Operational Procedures (currently version 5.1), which states:

> "In addition, ICANN staff members with areas of technical expertise relevant to SSAC activities may request to participate on the SSAC. The Membership Committee evaluates these staff following the procedure for new members as described in Section 2.3 below. The ICANN staff that are approved to participate on the SSAC are not considered SSAC members and they must be re-evaluated each year."

The RySG is concerned that this procedure allows for ICANN staff to exercise unattributed and unaccountable influence over the advice the SSAC provides to the ICANN community. The RySG requests that the SSAC provide more information about the participation of ICANN staff in its work and suggests that guidelines be established to provide clear boundaries related to staff members' input into SSAC recommendations. While the RySG acknowledges the technical capabilities of ICANN staff, we note that ICANN staff have other avenues through which its technical advice can be provided to the ICANN Board.

For clarity, the RySG has no concerns with ICANN staff serving in the secretariat and support function for SSAC working activities.

Recruitment

We recognize the unique nature of SSAC's work makes recruitment challenging, but Recommendations 21-25 offer SSAC an opportunity to remedy some big gaps in recruitment and we strongly encourage SSAC to adopt these recommendations.

Recommendations 21-23 highlight that SSAC is a pretty closed group, with people being informally invited to join through networks. This sort of informal process ultimately leads to selection bias, (i.e. "more people like me") and reduces opportunities for all forms of diversity. The recommendations to create a recruitment and engagement plan and to build a formal process, including a reserve of potential invitees based on established criteria, reflect the reality that the SSAC has matured and needs to formalize the way it recruits and evaluates its members to ensure invitees are not only technically superior, but offer geographic, gender, age, and background diversity.

Finding 16 in Section VII of the Draft Report states that "some interviewees caution that the SSAC should avoid defining "technical" too narrowly, as SSR issues can be both technical and interdisciplinary." However, Recommendation 24 goes considerably further and states that SSAC should seek individuals with legal/policy expertise.

While we have no objection to the SSAC recruiting individuals with a technical background that is enhanced by other areas of expertise, the RySG notes that the SSAC is not a body that has legal or policy considerations as a primary focus. Policy-making is the province of other parts of ICANN and the RySG has concerns that emphasizing legal or policy expertise as a recruiting factor may represent an opening for the politicization of SSAC, which heretofore had not been a concern of the RySG.

Fiscal Responsibility

The RySG is concerned that, while other SO/ACs within ICANN are working on belt-tightening measures, SSAC should avoid additional travel simply for recruitment purposes.

Conflict of Interest

Finding 21 discusses the mechanisms SSAC uses to identify and disclose conflicts of interest, including the option to disclose whenever someone's interest is different (at least once a year) and an internal, informal practice of going around the room to declare any conflicts prior to discussing something new. Finding 21 and the 20th Nov 2018 webinar both note that the nature of the recruitment and work of SSAC offers more opportunities for conflicts to arise. The researchers felt the group was good at self-monitoring but there were no formal requirements like the ones the GNSO uses.

Recommendation 29 observes that the SSAC's SOI page notes when the page was last updated, but not when each member last updated their individual SOI, and recommends that slight change. However, we think the SSAC should do more to address conflicts of interest related to ICANN. In line with some of the other recommendations to codify good informal practices, the RySG recommends SSAC create a formal SOI policy that ensures SOIs are promptly updated when a member is selected for an independent review by ICANN or engaged by ICANN on contract.