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Governmental Advisory Committee

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The Governmental Advisory Committee's Comments on the Final Report and Recommendations of the Competition, Consumer Trust, and Consumer Choice Review Team (CCT)

ICANN's Governmental Advisory Committee (GAC) appreciates the work done by the CCT Review team since 2016 and its submission of the final report to the ICANN Board for consideration. The GAC considers several topics, findings and recommendations in the CCT final report as having a vital role in the public policy responsibilities of ICANN. Upon review of the final report and recommendations, the GAC offers the following comments that highlight the most important themes found throughout the report.

The Need for Data

The CCT Review team benefited from the data that was made available to them via reports and studies commissioned by ICANN, but also observed that "critical data was in short supply" for the analysis of the effectiveness of safeguards and the promotion of consumer trust. For that reason, the GAC endorses recommendations in the final report that encourage the collection of data to better inform policy making before increasing the number of new gTLDs. The increased collection of data, as suggested but not limited to Recommendations 1, 8, 11, 13, 17, and 18 should be amongst the more urgent priorities. Increased data collection on end user consumer trust, DNS abuse, domain wholesale and retail pricing, reseller information,¹ WHOIS accuracy, and other categories as identified in the report will allow for more informed decision and policy making within the ICANN community particularly with regard to future standard registry and registrar contract provisions and any subsequent rounds of gTLDs.²

¹ See Recommendation 17 (p. 102) and further discussion of issues associated with resellers of domain names (DNS Abuse Study section p.93, and rationale and details of Recommendation 15 (p. 100)

² ICANN's Open Data Initiative is a welcome example of an effort to identify and share certain data with the community. See Report of Public Comments on the list of datasets that ICANN has available to publish and the metadata that ICANN intends to publish along with each dataset
<https://www.icann.org/en/system/files/files/report-comments-odi-datasets-metadata-12sep18-en.pdf>

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When appropriate, this data should be collected and integrated with existing data efforts at ICANN, in particular the Domain Abuse Activity Reporting (DAAR) tool. Integration with DAAR would simultaneously support recommendation 16, that calls for increased transparency of the data on DNS abuse. In addition to collection of data, centralization of existing and new data should be a priority of ICANN, as mentioned in Recommendation 1. The use of expert personnel, such as a data scientist would be vital to centralizing data.

Proactive Measures to Combat Abuse

It is important to note the final report makes the following conclusion:

“The new gTLD safeguards alone do not prevent DNS Security abuse in the DNS and have consequently failed to meet their intended goal in preventing the abuse phenomenon from spreading to new gTLDs” (page 98).

As a result, it is appropriate to consider, and the GAC supports, more proactive measures to identify and combat DNS abuse, in line with ICANN's commitment to the operational stability, reliability, security, global interoperability, resilience, and openness of the DNS and the Internet. The report finds a clear role for ICANN to play in assisting the names community help fight DNS abuse.

This should include incentives (contractually and/or financially) by ICANN to encourage contracted parties to adopt proactive anti-abuse measures. An environment that further encourages contracted parties to proactively combat abuse, as opposed to waiting for complaints or actions by ICANN compliance, would benefit all users and could help ease the burden on public safety organizations. Consequently, the GAC supports Recommendation 14 for proactive anti-abuse measures. Furthermore, the GAC would also support Recommendation 15 which contemplates changes to ICANN's standard contracts with registries and registrars, stating:

“ICANN should establish thresholds of abuse at which compliance inquiries are automatically triggered, with a higher threshold at which registrars and registries are presumed to be in default of their agreements”

Privacy

Creating privacy baselines for all contracted parties, as mentioned in Recommendation 10, would be beneficial in clarifying what ICANN's expectations are with regards to the sharing of personal information held by these parties, beyond WHOIS data. While it is likely premature to issue such guidance or create a policy development process (PDP) to address this issue (given ongoing GDPR and data privacy related efforts such as the expedited PDP on WHOIS), identifying reasonable

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privacy expectations (with due consideration to local laws) would be a worthwhile project, upon conclusion of the EPDP or when further clarity is available on WHOIS compliance with relevant Data Protection legislation.

Sensitive and Highly Regulated gTLDs

We support the CCT Review Team's recommendations 12 and 23 which focus, *inter alia*, on creating incentives and eliminating disincentives to registries meeting user expectations about who can register gTLDs in sensitive or regulated industries and gathering data about complaints and rates of abuse in these gTLDs that often convey an implied level of trust to the public because of their names (e.g., .charity, .bank, .accountant). The GAC provided detailed advice on safeguards for sensitive, regulated and highly regulated gTLDs in its Beijing Communique and reiterated this advice in several subsequent Communiques. Consistent with GAC advice, the GAC particularly endorses Recommendation 23, which recommends an "audit to assess whether restrictions regarding possessing necessary credentials" in highly regulated gTLDs are being enforced.

Contractual Compliance

We support Recommendations 20 and 21 addressing improvements that can be made by ICANN Contractual Compliance. Specifically, the report makes reference to the GAC Beijing and Singapore Communiques where the GAC advised the ICANN Board on safeguards to be implemented in New gTLDs regarding the handling by registry operators and ICANN of complaints from government agencies and the public.³ By implementing recommendations 20 and 21, ICANN's contract compliance function would have a better understanding on whether the implementation of these safeguards are effective or need reform. It would also be in line with other recommendations that call for transparency of data, if ICANN Contractual Compliance can publish more details as to the nature of the complaints they are receiving and what safeguards they are aligned with. Future policy making and contractual safeguards will be enhanced with the availability of this data.

³ See Recommendation 20 and 21 accompanying discussion and rationale at pp. 108-112.

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Participation of Underserved Region

As indicated in the GAC's comment on the Draft Report of Recommendations⁴ (19 May 2017), the GAC believes that participation of Underserved Regions in ICANN processes and programs is a matter of Diversity (consistent with recommendations of the Accountability Cross-Community Working Group Work Stream 2 in this area⁵) and should be linked to broader ICANN strategic goals and integrated as part of ICANN departments objectives.

As it relates to the review of the Application and Evaluation Process of the New gTLD Program conducted by the CCT RT (Chapter 10 of the Report), the GAC supports the establishment of "clear, measurable goals for the Global South, including whether or when applications and even number of delegated strings should be objectives" of any New gTLD Application Round (Recommendation 29).

Subsequently, the GAC supports expanding and improving outreach to these regions noting that such outreach does require a more comprehensive approach and better targeting, building on the challenges identified with past initiatives (Recommendation 30).

In terms of enabling greater participation of Underserved Regions in potential future rounds of New gTLD Application, the GAC would support the proposed coordination by ICANN of a pro bono assistance program (Recommendation 31) and revisiting of the Applicant Financial Support Program so as to reduce the actual cost of participation (Recommendation 32). The latter program should consider the unique constraints that are specifically experienced in Underserved Regions, as outlined in our previous comments.

Community-Based Applications

The GAC supports that a thorough review of procedures and objectives related Community-Based Applications be conducted prior to the launch of any future round of New gTLD Application (Recommendation 34).

⁴ See <https://mm.icann.org/pipermail/comments-cct-rt-draft-report-07mar17/attachments/20170519/319f256a/CCTRTGACresponse19May2017.pdf>

⁵ See <https://www.icann.org/en/system/files/files/ccwg-acct-ws2-annex-1-diversity-final-recs-27mar18-en.pdf> published as part of the [public comment period](#) on the CCWG Accountability WS2 Final Report (30 March 2018)