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Via e mail: comments-ssr2-final-report-28jan21@icann.org

April 7, 2021

Ms. Jennifer Bryce
Project Manager
Reviews Support and Accountability
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Re: INTA Comments on SSRT2 Final Report

Dear Ms. Bryce:

INTA is pleased to submit its comments regarding the Second Security, Stability, and Resiliency (SSR2) Review Team Final Report. INTA is generally supportive of the recommendations within the Final Report and provides the following specific comments regarding certain individual recommendations of most importance to INTA members. Our recommendations are attached in chart form for ease of use.

In addition to its overarching support for all of the SSR2 recommendations, and its comments on the specific recommendations outlined in the chart, INTA also notes its strong support for, and encourages assigning High priority status to, recommendations 3 – improve SSR related budget transparency, 14 – create a temporary specification for evidence based security improvements, and 15 – launch an expedited policy development process (EPDP) for evidence based security improvements.

Thank you for your consideration of INTA's comments. If you have any further questions or comments regarding this submission, please feel free to contact Lori Schulman, Senior Director, Internet Policy at lschulman@inta.org or +1(202)704-0408.

Sincerely,

A handwritten signature in blue ink, appearing to read "Etienne Sanz De Acedo". The signature is fluid and cursive, with a prominent initial "E".

Etienne Sanz De Acedo
Chief Executive Officer

About INTA

INTA is a global not-for-profit association with more than 6,500 member organizations from over 185 countries. One of INTA's goals is the promotion and protection of trademarks as a primary means for consumers to make informed choices regarding the products and services they purchase. During the last two decades, INTA has also been the leading voice of trademark owners within the Internet community, serving as a founding member of the Intellectual Property Constituency of the Internet Corporation for Assigned Names and Numbers (ICANN). INTA's Internet Committee is a group of over 175 trademark owners and professionals from around the world charged with evaluating treaties, laws, regulations, and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, whose mission is to advance the balanced protection of trademarks on the Internet.

Recommendation 8: Enable and Demonstrate Representation of Public Interest in Negotiations with Contracted Parties

Recommendation	INTA Comments
<p>8.1 ICANN org should commission a negotiating team that includes abuse and security experts not affiliated with or paid by contracted parties to represent the interests of non-contracted entities and work with ICANN org to renegotiate contracted party contracts in good faith, with public transparency, and with the objective of improving the SSR of the DNS for end-users, businesses, and governments.</p>	<p>INTA strongly supports this recommendation and would see it elevated to a High priority status rather than a Medium priority status. Although the multi-stakeholder community is involved in developing policy that is used to craft registry and registrar contracts with ICANN, final contract language is generally a matter negotiated between ICANN and the contracted parties without involvement from the community - even though many aspects of the contracts impact the broader community, including with respect to matters like DNS abuse. INTA has seen time and time again that the specific and explicit language of the contracts is paramount - ICANN refuses to enforce obligations unless they have an express basis to do so under the terms of the contracts, even if certain contracted party activity clearly violates the spirit of the provision and the intent of the community policy that was the basis for the contractual provisions. Therefore, it is equally paramount that ICANN include independent third-party negotiators that are free from conflicts of interest and represent the non-contracted participants of the ICANN community in contractual negotiations to ensure final contract provisions faithfully implement community policies and properly facilitate enforcement of these policies.</p>

Recommendation 9: Monitor and Enforce Compliance

Recommendation	INTA Comments
<p>9.1 The ICANN Board should direct the compliance team to monitor and strictly enforce the compliance of contracted parties to current and future SSR and abuse-related obligations in contracts, baseline agreements, temporary specifications, and community policies</p>	<p>INTA strongly supports this recommendation and its assigned High priority level. INTA members have consistently and repeatedly voiced concerns about their substandard experiences with ICANN Compliance. These experiences have caused some members to refrain from filing compliance complaints at all because they have come to expect no meaningful engagement or assistance. Clearly, this is unacceptable and unsustainable where Compliance is tasked with the important role of ensuring that contracted parties fulfill the requirements set forth in their agreements with ICANN, particularly pertaining to SSR and abuse-related matters. As noted above,</p> <p>INTA believes stronger enforcement of existing registry and registrar contractual obligations (in addition to the negotiation of better contractual provisions) will be to the benefit of the health of the DNS, in service of ICANN’s mission to ensure the SSR of the DNS. Contracted parties are in a unique position to address DNS abuse and they must be held accountable when they fail to do so.</p>
<p>9.2 ICANN org should proactively monitor and enforce registry and registrar contractual obligations to improve the accuracy of registration data. This monitoring and enforcement should include the validation of address fields and conducting periodic audits of the accuracy of registration data. ICANN org should focus their enforcement efforts on those registrars and registries that have been the subject of over 50 complaints or reports per year regarding their inclusion of inaccurate data to ICANN org.</p>	<p>INTA strongly supports this recommendation and its assigned High priority level. Ensuring accurate registration data is of the utmost importance in ensuring the SSR of the DNS, which requires a meaningful level of accountability for domain name registrants. Verifying and validating registrant identities and contact information and the truthfulness of the data they use to register domain names is a fundamental component of such accountability. ICANN must ensure that its contracted parties are properly implementing existing data verification requirements (e.g. Section 3.7.8 and the WHOIS Accuracy Program Specification of the Registrar Accreditation Agreement). This is more important now than ever given the redaction of the majority of registrant data from public Registration Data</p>

	<p>Directory Services. INTA would go further than this recommendation in encouraging ICANN to implement even stronger data accuracy requirements, such as ID validation, to minimize the use of false or stolen data by bad actors.</p>
<p>9.3 ICANN org should have compliance activities audited externally at least annually and publish the audit reports and ICANN org response to audit recommendations, including implementation plans.</p>	<p>INTA strongly supports this recommendation and its High priority level. Where ICANN org is tasked with ensuring that contracted parties are living up to their obligations and the expectations of the multi-stakeholder community fails to provide meaningful oversight, then it must be the subject of oversight by an independent authority.</p>
<p>9.4 ICANN org should task the compliance function with publishing regular reports that enumerate tools they are missing that would help them support ICANN org as a whole to effectively use contractual levers to address security threats in the DNS, including measures that would require changes to the contracts.</p>	<p>INTA strongly supports this recommendation and its High priority level. If ICANN Compliance is not meeting the expectations of the multi-stakeholder community in its mandate to enforce contractual commitments by registry operators and registrars, it is important for the community to understand whether Compliance lacks the tools necessary to meet those expectations, up to and including changes to the contracts themselves.</p>

Recommendation 10: Provide Clarity on Definitions of Abuse-related Terms

Recommendation	INTA Comments
<p>10.1 ICANN org should post a web page that includes their working definition of DNS abuse, i.e., what it uses for projects, documents, and contracts. The definition should explicitly note what types of security threats ICANN org</p>	<p>INTA supports this recommendation and its High priority level. As many recent community discussions have demonstrated, there have been numerous overlapping and potentially conflicting efforts to define “DNS abuse” in a unified,</p>

<p>currently considers within its remit to address through contractual and compliance mechanisms, as well as those ICANN org understands to be outside its remit. If ICANN org uses other similar terminology—e.g., security threat, malicious conduct— ICANN org should include both its working definition of those terms and precisely how ICANN org is distinguishing those terms from DNS abuse. This page should include links to excerpts of all current abuse-related obligations in contracts with contracted parties, including any procedures and protocols for responding to abuse. ICANN org should update this page annually, date the latest version, and link to older versions with associated dates of publication.</p>	<p>consistent, and authoritative way that would allow for more frictionless reporting, responses, prevention and mitigation solutions, and consequences for abuse and contracted parties who fail to appropriately address it. INTA is concerned that a lack of a unified definition serves as an excuse for some parties to minimize or ignore obligations and best practices to address abusive activity that uses domain names as a vector.</p>
<p>10.2 Establish a staff-supported, cross-community working group (CCWG) to establish a process for evolving the definitions of prohibited DNS abuse, at least once every two years, on a predictable schedule (e.g., every other January), that will not take more than 30 business days to complete. This group should involve stakeholders from consumer protection, operational cybersecurity, academic or independent cybersecurity research, law enforcement, and e-commerce.</p>	<p>INTA supports this recommendation, although it could probably be reduced to a Medium priority. It is still important that definitions of DNS abuse evolve over time to keep pace with technological and other developments, and that the entire multi-stakeholder community be involved in such evolution.</p>
<p>10.3 Both the ICANN Board and ICANN org should use the consensus definitions consistently in public documents, contracts, review team implementation plans, and other activities, and have such uses reference this web page.</p>	<p>INTA supports this recommendation and its High priority level. For reasons outlined above, having a consistent and authoritative definition of DNS abuse (and other terms for that matter) is critical in ensuring an appropriate common understanding and expectations throughout the community, ensuring appropriate enforceability of commitments relating to such concepts, and of any policy development, structural reviews, or other community activities relating to such concepts.</p>

Recommendation 12: Overhaul DNS Abuse Analysis and Reporting Efforts to Enable Transparency and Independent Review

Recommendation	INTA Comments
<p>12.1 ICANN org should create a DNS Abuse Analysis advisory team composed of independent experts (i.e., experts without financial conflicts of interest) to recommend an overhaul of the DNS Abuse Reporting activity with actionable data, validation, transparency, and independent reproducibility of analyses as its highest priorities</p>	<p>INTA strongly supports this recommendation and would see it elevated to a High priority status rather than a Medium priority status given the importance of DNS abuse reporting activities to our members and the full ICANN community. It is critical that DNS abuse mitigation and reporting activities within ICANN be conducted free of conflicts of interest and in an open and transparent manner to the extent possible without jeopardizing the effectiveness of such efforts.</p>
<p>12.2 ICANN org should structure its agreements with data providers to allow further sharing of the data for noncommercial use, specifically for validation or peer reviewed scientific research. This special no-fee noncommercial license to use the data may involve a time delay so as not to interfere with commercial revenue opportunities of the data provider. ICANN org should publish all data-sharing contract terms on the ICANN website. ICANN org should terminate any contracts that do not allow independent verification of methodology behind blocklisting.</p>	<p>INTA supports this recommendation as is, including its proposed priority level (Medium).</p>
<p>12.3 ICANN org should publish reports that identify registries and registrars whose domains most contribute to abuse. ICANN org should include machine-readable formats of the data, in addition to the graphical data in current reports.</p>	<p>INTA strongly supports this recommendation and recommends elevating it to a High priority level. While INTA supports incentives for registry operators and registrars who are proactive in combating abuse, it also supports publicly identifying registry operators and registrars who allow abusive domain names to persist and proliferate within their namespaces. ICANN Compliance must also use this data to impose meaningful consequences on registry operators and registrars who do not act in good faith to address abusive domain names. Finally, it is not clear from the recommendation itself what data</p>

	<p>or metrics will be used to measure which domain names are contributing to abuse - INTA would recommend a variety of internal and external sources be used, including ICANN's own data (e.g. DAAR) as well as any sources available from government/law enforcement, industry associations, abuse and security threat analysis groups, and other trusted public or private entity sources.</p>
<p>12.4 ICANN org should collate and publish reports of the actions that registries and registrars have taken, both voluntary and in response to legal obligations, to respond to complaints of illegal and/or malicious conduct based on applicable laws in connection with the use of the DNS.</p>	<p>INTA strongly supports this recommendation and would see it elevated to a High priority level. Transparency with respect to anti-abuse activities will enable a better understanding of the landscape by all parties. INTA would go a step further and suggest incentives to encourage registry operators and registrars to be proactive in their anti-abuse efforts, in terms of meeting existing obligations under ICANN contracts and applicable law as well as through voluntary measures, in addition to negative consequences for registry operators and registrars that are not taking appropriate anti-abuse steps as noted above.</p>

Recommendation 13: Increase Transparency and Accountability of Abuse Complaint Reporting

<p>Recommendation</p>	<p>INTA Comments</p>
<p>13.1 ICANN org should establish and maintain a central DNS abuse complaint portal that automatically directs all abuse reports to relevant parties. The system would purely act as an inflow, with ICANN org collecting and processing only summary and metadata, including timestamps and types of complaint (categorical). Use of the system should become mandatory for all generic top-level domains (gTLDs); the participation of each country code top-level domain (ccTLD)</p>	<p>INTA strongly supports this recommendation, including its proposed High priority level. INTA notes that this type of system could be leveraged for an eventual, standardized system for access to non-public domain name registration data (and both systems could leverage existing ICANN reporting systems such as the Centralized Zone Data Service [CZDS] to minimize build costs and timelines). INTA members have noted that it can often cause delay and confusion when DNS abuse</p>

<p>would be voluntary. In addition, ICANN org should share abuse reports (e.g., via email) with all ccTLDs</p>	<p>reports must be provided to individual registry or registrar points of contact, which are often difficult to find especially for contracted parties operating in languages other than those of the reporting party.</p>
<p>13.2 ICANN org should publish the number of complaints made in a form that allows independent third parties to analyze the types of complaints on the DNS.</p>	<p>INTA strongly supports this recommendation, including its proposed High priority level. Additional public data regarding DNS abuse reports and related complaints (e.g. Compliance complaints) will be helpful in increasing transparency and accountability of contracted parties and ICANN in its oversight role.</p>