

Distribution	Public
Date	21 October 2019

Governmental Advisory Committee Comment on Competition, Consumer Trust and Consumer Choice Review Team Accepted Recommendations - Plan for Implementation and Next Steps

ICANN’s Governmental Advisory Committee (GAC) appreciates the work done by the Competition, Consumer Trust and Consumer Choice (CCT) Review team since 2016 and looks forward to implementation of its Recommendations. The current implementation plan addresses 6 of the 35 consensus Recommendations. Our comment provides feedback on the draft implementation plan.

We also take the opportunity to reiterate our concern with the outcome of the Board’s consideration of the majority of the CCT Review Team consensus recommendations, which to date are still in pending status. The CCT review is the first completed Bylaw-mandated review after the IANA Stewardship Transition and serves as a vital accountability mechanism. As noted previously, 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. In our Kobe Communiqué, we urged the Board to promptly meet with the CCT Review Team leadership to discuss the Board’s resolution and consider the possibility of revisiting certain decisions if agreed appropriate. Although these discussions took place, thus far the Board has not updated its resolution to accept additional recommendations. As many pending Recommendations relate to vital public policy issues, including DNS Abuse, a topic selected for a cross-community discussion at ICANN 66, we encourage the Board and the Review Team to consider what steps need to be taken to progress on the majority of Recommendations that still remain in the “pending” status.

Turning to the proposed implementation of the accepted Recommendations, we offer the following guidance on Recommendations 17 (Chain of Parties Responsible for Domain Name Registrations); 21 (More Detailed Information in ICANN Compliance Reporting); Recommendation 22 (Best Practices on Security Measures for Sensitive Health and Financial information) Recommendation 30 (Expand and improve outreach into the Global South); and Recommendation 31 (The ICANN organization to coordinate the pro bono assistance program.)

Recommendation 17: ICANN should collect data about and publicize the chain of parties responsible for gTLD domain registrations. The CCT RT noted that “[a]t present, there is no consistent mechanism for determining all of the ICANN-contracted and non-contracted operators associated with a gTLD domain name registration.” This lack of information also affects the ability “to discern resellers from registrars to determine the degree to which DNS Security Abuse rates may be driven by specific-resellers, which in turn affects overall levels of DNS Security abuse.” The current thick WHOIS requirements do not mandate the identification of resellers in the WHOIS records for a particular domain name. Instead, listing the reseller in the WHOIS record is optional. The proposed implementation notes that “no further implementation work is planned by ICANN org at this time” but noted that the recommendation is also directed to other parts of the ICANN community.

Although the ICANN Board accepted this recommendation, the proposed implementation plan is not robust. ICANN currently engages in efforts to curtail DNS Abuse, including such initiatives as the Domain Abuse Activity Reporting System and Identifier Technology Health Indicator, among others. Consistent with these efforts, ICANN should take a more active role in educating the community about why this information is necessary in order to track and publish information about DNS Abuse, and spearhead community discussions directed to requiring contracted parties to collect and publish this information in order to promote increased transparency and accountability.

Recommendation 21 - Include more detailed information on the subject matter of complaints in ICANN publicly available compliance reports. Specifically, more precise data on the subject matter of complaints, particularly: (1) the class/type of abuse; (2) the gTLD that is target of the abuse; (3) the safeguard that is at risk; (4) an indication of whether complaints relate to the protection of sensitive health or financial information; (5) what type of contractual breach is being complained of; and (6) resolution status of the complaints, including action details. These details would assist future review teams in their assessment of these safeguards.

The Board accepted this recommendation and noted that items 1,3,4, and 5 are already part of ICANN Compliance’s reporting process. Regarding item 6, the implementation plan notes that Compliance is currently working to publish this item. Item 2, however, (publishing the name of the gTLD that is the target of the abuse) requires further discussion. In particular, the Board directed ICANN org to “investigate the potential negative impacts of implementing this item on enforcement of compliance, track this effort and propose a mitigation plan in case of any negative effects. ICANN Contractual Compliance has the necessary data to publish. However, more discussion and alignment within the org and/or community is required on how to approach publishing such information.”

We applaud the work already done by ICANN Compliance to implement this recommendation. We note that the Monthly Dashboards published by ICANN Compliance now contain far more detailed information about the subject matter of complaints, including the type of DNS Abuse, safeguard at risk, type of contract breach, and resolution. Such additional information helps the community better understand what topics generate the most complaints, and the bases for ICANN Compliance’s ultimate disposition. We encourage ICANN to proceed expeditiously with complete implementation of this recommendation. Although, ICANN lists reaching a “common understanding of DNS Abuse” as a dependency for this effort, we do not agree. ICANN Compliance already lists certain categories of Abuse in its Monthly Dashboards (such as, among others, counterfeiting, fraudulent/deceptive practices, phishing/pharming, spam, trademark/copyright infringement). The submitter of the complaint identifies the abuse complained of and ICANN Compliance ultimately decides if the complaint falls within the scope of ICANN contracts and whether the complaint is well-grounded. None of these actions requires a common understanding of DNS Abuse. Publishing the gTLD that is the target of DNS Abuse will provide greater transparency and accountability for the community as it seeks to

understand the targets of DNS Abuse and what measures might succeed in reducing the incidents of DNS Abuse.

Regarding the topic of DNS Abuse, we note that certain key CCCT Recommendations focused specifically on DNS Abuse and encourage the Board to consider the CCT Review Teams' communications on this topic and take the steps necessary to reconsider their "pending" status as soon as possible. More specifically, the Board should revisit its consideration of Recommendations 14, 15, 16, 18 and 20 which recommended that:

- the ICANN organization negotiate amendments to existing Registry Agreements, or in consideration of new Registry Agreements associated with subsequent rounds of new gTLDs, include provisions in the agreements to provide incentives, including financial incentives for registries, especially open registries, to adopt proactive anti-abuse measures;
- ICANN Org negotiate amendments to the Registrar Accreditation Agreement and Registry Agreements to include provisions aimed at preventing systemic use of specific registrars or registries for DNS Security Abuse. In particular, 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;
- Further study the relationship between specific registry operators, registrars, and DNS Security Abuse by commissioning ongoing data collection, including but not limited to, the ICANN Domain Abuse Activity Reporting (DAAR) initiative. For transparency purposes, this information should be regularly published, ideally quarterly and no less than annually, in order to enable identification of registries and registrars that require greater scrutiny, investigation, and potential enforcement action by the ICANN organization. Upon identifying abuse phenomena, ICANN should put in place an action plan to respond to such studies, remedy problems identified, and define future ongoing data collection;
- Assessing whether additional steps are needed to improve WHOIS accuracy; and
- Assess whether mechanisms to report and handle complaints have led to more focused efforts to combat abuse

Trying to tackle DNS Abuse in the current DNS system should be a step in the critical path as considerations on a potential second round of additional gTLDs continue.

Recommendation 22 - Initiate engagement with relevant stakeholders to determine what best practices are being implemented to offer reasonable and appropriate security measures commensurate with the offering of services that involve the gathering of sensitive health and financial information. Such a discussion could include identifying what falls within the categories of “sensitive health and financial information” and what metrics could be used to measure compliance with this safeguard.

The draft implementation plan proposes “engagement with stakeholders on a particular topic,” developing an engagement plan, and executing the plan. While we welcome the Board’s acceptance of this recommendation, the implementation plan lacks specific details but includes lengthy timelines (more than 10 months). This recommendation involves a very specific topic which could be addressed with key representatives from various stakeholder groups. We think the proposed implementation would benefit from a more nimble and focused approach that includes identification of relevant stakeholder groups and a proposed series of virtual discussions culminating in a dedicated session during an ICANN meeting.

**Recommendation 30 - Expand and improve outreach into the Global South &
Recommendation 31 - The ICANN organization to coordinate the pro bono assistance program.**

As indicated in the [GAC’s comments](#) on the CCT Review Final Report of Recommendations, the GAC supports expanding and improving outreach to these regions noting that such outreach [in the Global South] does require a more comprehensive approach and better targeting, building on the challenges identified with past initiatives.

The GAC believes that new / appropriate definitions of the terms Global South, as used in the CCT-RT Final Report, underserved or underrepresented regions should be considered in order to reflect a wide range of aspects by including not only the broad geographical perspective but

also to consider, with more focus on the various stakeholders of the DNS ecosystem, the perspective of existing expertise and deficiencies in the different capacities related to the DNS industry (such as technical, legal, business, etc.).

According to the GAC Underserved Regions Working Group, focus is put on underserved regions by the DNS industry, and on least developed economies and small island developing states.

As per the ICANN org Plan for Implementation on CCT-RT Recommendation 30, ICANN org should identify which regions are considered as “underserved” and “underrepresented” and in what context are they defined as such.

Once identified, ICANN org should provide regional targeted capacity building efforts to all ICANN community stakeholders, on the Applicant Support Program for new gTLDs applications in preparation for subsequent rounds, in a timely manner to allow stakeholders to be prepared for the subsequent round, and better promote competition, consumer choice and consumer trust.