



31 August 2020

RE: Response to Complaint 00014095 re: Issues with the Public Comment Forum Structure used for the Phase 1 Initial Report of the Review of All Rights Protection Mechanisms in All gTLDs Policy Development Process

George Kirikos
Leap.com
Via electronic mail

Dear George Kirikos,

Thank you for your submission. I'm following up on the complaint(s) you submitted in May 2020 (see: <https://www.icann.org/complaints-report>) regarding the following issues you experienced:

- Ia. Ease of use for submitting comments to a Public Comment Forum, complaint submitted 1 May 2020
- Ib. Responsiveness of ICANN org to email requests, complaint submitted 1 May 2020
- II. Accessibility of submitted Public Comments, complaint submitted 15 May 2020
- III. Responsiveness of ICANN org for Observer status to a Working Group, complaint submitted 26 May 2020

I appreciate you bringing this to the attention of the ICANN org. I've researched the issue with various ICANN org departments and worked with them to provide you with this response.

Issue Ia. Ease of Use for Submitting Comments to a Public Comment Forum, Complaint Submitted 1 May 2020

Issue Ia. Relevant Details from Your Complaint

The [Phase 1 Initial Report of the Review of All Rights Protection Mechanisms in All gTLDs Policy Development Process](#) opened for public comment on 18 March 2020 and was scheduled to close on 4 May 2020. On 13 April 2020 you contacted ICANN org regarding difficulties you were having submitting your comments. Specifically, there was a character limit of 2,000 characters per question in place and it was making it difficult for you to submit your full comments. Additionally, you also requested an extension to the close date for the public comment forum. On 15 April 2020, ICANN org replied to your submission and advised you of an alternate submission method, a downloadable PDF or DOCX, for submitting your comments that was not subject to the 2,000-character limit. On 17 April, ICANN org notified you that the Rights Protection Mechanism-Working Group (RPM-WG) leadership had decided that extending the deadline for comments for one additional week would allow for additional comments to be submitted without unduly delaying the RPM-WG's progress. Later in the month of April, your complaint further notified ICANN org that there was a global character limit in the Google Form that was also hindering your ability to submit your full comments.

Issue Ia. Research Findings

A new, alternative format for handling public comment forum submissions, the Google Form/Sheet format, was developed and is the format that was used for the RPM-WG's initial report. This format was developed by ICANN org as an interim solution while it is building and implementing its [Information Transparency Initiative](#) (ITI), which will be more robust than what is currently available. At the time of your complaint, the Google Form/Sheet format had been used for other public comment

forums. It has also been used for public comment forums that opened subsequent to your complaint. The purpose of the interim format is to streamline and address the difficulty of reviewing and analyzing public comments when there are a large number of comments, the recommendations require more targeted comments, or when the subject matter pertains to denser topics. The Google Form/Sheet format asks the commenter to respond to a series of questions, the Google Form, regarding the subject matter of the comment forum and the answers to those questions automatically populate a Google Sheet which is available for public viewing. For the RPM-WG public comment forum, each question allowed up to 2,000 characters per response, and there is the opportunity at the end of the Google Form to provide free form text comments. Additionally, there appears to be a global character limit for the overall Google Form.

The Google Form stated there was a 2,000 character limit to encourage commenters to focus their comments where the RPM-WG was looking for targeted input, in view of the number of proposals that had not achieved sufficient support within the RPM-WG and for which the RPM-WG wished to see broader community input. The Google Form instructions advised of the character limit and provided an email contact address to request help if your comments exceeded the limits. The landing page of the public comment forum contained a downloadable PDF and Word version of the Google Form questions to enable offline work for those who may not have access to the Google Form.

When you reported to ICANN org that the 2,000-character limit was a challenge for you, you received a response within two days advising you of the alternative methods for submitting comments.

You did request an extension to the public comment forum's close date, which was granted for one-week. In public comment forums where it is a community group that is requesting comments, the length of the forum is generally set by the community group and its leadership within the framework recommended by ICANN org's public comments policy (generally a minimum of forty calendar days). Therefore, any extensions are up to the community group and its leadership. In the case of the RPM-WG public comment forum, the ICANN staff took your request to the WG leadership and once the leadership discussed and agreed to a one-week extension, ICANN staff notified you.

Issue Ia. ICANN Org's Response

ICANN org continually seeks to evolve and improve upon how it supports the community's work, and how it delivers its own work. The public comment forum process is one that ICANN org regularly reviews in order to identify if and where there are opportunities to improve. The Google Form/Sheet format for public comments was developed for this very reason -- to improve upon the effectiveness and efficiency of receiving, reviewing, considering and analyzing public comments. More specifically, public comment forums where the subject matter is particularly extensive, complex, or dense can be difficult to digest for both community participants and staff. It is my understanding that use of the Google Form/Sheet format has been useful to other Working Groups who have used it.

The feedback you submitted regarding the Google Form/Sheet format and your experience is useful to ICANN org as we continue to evaluate and improve how input is solicited from the public. Your feedback has been shared with relevant staff and functions within ICANN org to ensure it is considered in future improvements. Additionally, as ICANN org implements its ITI initiative, you will notice extensive improvements to the public comment forum process with the goal of having a more robust platform that can better support all parties participating in a public comment forum.

Issue Ib. Responsiveness of ICANN Org to Email Requests, Complaint Submitted 1 May 2020

Issue Ib. Relevant Details from Your Complaint

Between 13 April and 1 May, you sent thirteen emails to ICANN org regarding the accessibility and usability of the public comment forum. Your fourteenth email was a forward to the Complaints Office regarding this matter. In your thirteen emails you inquire about the character limits in the Google Form, you request to extend the comment period, you report issues you are having using the Google Form, and you follow up on your previous emails. You received two responses from the ICANN org, one on 15 April providing you with details for how to work-around the character limits and advising that an extension to the comment period is up to the RPM-WG and if they decide to extend the closing date the public comment page will be updated. The second response you received was on 21 April and it was to inform you that the public comment forum close date had been extended for one week. The public comments you provided were submitted using the alternative submission method that was published on the comment forum page and that ICANN org advised you of on 15 April.

Issue Ib. Research Findings

While ICANN org did address your questions April 15 and 21, ICANN org did not respond to the remainder of your emails.

It is generally ICANN org's policy to respond to emails and questions from stakeholders. In this particular case, some of the ICANN org recipients did not wish to escalate the situation. However, when situations like this arise - which they do from time to time - it is typically ICANN org's practice to respond to the email sender which may, in appropriate cases, include a request that the sender take a less aggressive approach. As you know, this did not happen in your case.

Issue Ib. ICANN Org's Response

ICANN org recognizes that you would have appreciated a response to your subsequent emails. ICANN org had already responded to your initial email and provided you with instructions for how to submit your comments so that you would be able to exceed the character limits. ICANN org did not want to further escalate the conversation and thought it prudent at the time to maintain the level of response that you received. When you continued to send emails regarding this, ICANN org should have responded to reaffirm the guidance it had given you, explained that there was no further information ICANN org had for you, and encouraged you to submit your comments using the alternative method that had been provided.

ICANN as a whole is diverse and includes persons from all over the world. The ICANN community, Board and staff come from a variety of cultures which have different customs and forms of communication. ICANN org staff regularly encounter situations where the need to appropriately handle communications arises, and this is an opportunity for ICANN org to remind staff of the importance of clear communication and of the internal resources available to guide staff in these circumstances.

Issue II. Accessibility of submitted Public Comments, Complaint Submitted 15 May 2020

Issue II. Relevant Details from Your Complaint

On 15 May you further notified the Complaints Office that you and other community participants were unable to download submitted comments for the RPM-WG public forum because the Google Sheet containing the comments had the export function disabled.

Issue II. Research Findings

ICANN org had disabled the download functionality in the Google Sheet. Google Sheets allows you to lock the Sheet from editing, and one can apply a secondary, additional lock that disables the Sheet so it cannot be printed, downloaded, or copy and pasted. The secondary lock is an all or nothing setting, meaning you can either lock all three functionalities -- printing, downloading, copy/pasting -- or none of them. The secondary lock was applied out of an abundance of caution to protect the email addresses of submitters.

The public comments in the Google Sheet were taken in full and entered into ICANN org's public comment report tool (PCRT), which is publicly available on the Community Wiki. The PCRT contains both the comments and some analysis, however the PCRT separates all public comments by question, rather than by submitter, which is different from how comments are structured in Google Sheets. Google Sheets shows the comments by submitter.

It is difficult to read and digest public comments in Google Sheets, particularly when there are a large number of questions and/or lengthy, substantive comments as comments are not structured data but are instead qualitative data.

Issue II. ICANN Org's Response

ICANN org continuously evaluates the public comment process in an effort to identify if improvements can be made to make it more efficient and effective. The Google Form/Sheet format is one such evolution that was designed to create more focused comments on the subject matter of the forum, and to better enable community participants and staff to effectively digest and analyze submitted comments. The Google Form/Sheet process has only been used a handful of times and ICANN org is still learning how its various functionalities work.

After further researching and analyzing ICANN org's ability to mask or redact the email addresses in the Google Sheet, it was decided that the column (B in the case of this forum) could be deleted and the secondary lock could be lifted thereby allowing viewers to export, print, and/or copy all of the comments. This additional, manual step cannot be applied until after the public comment forum has closed to ensure all submissions are handled uniformly and to preserve the integrity of the submissions. ICANN org removed the secondary lock for viewing the submitted comments for the RPM-WG initial report.

Issue III. Responsiveness of ICANN org for Observer Status to a Working Group, Complaint Submitted 26 May 2020

Issue III. Relevant Details from Your Complaint

On 26 May you copied the Complaints Office on an email thread where you had requested on 19 May that ICANN org add you as an observer to two newly created "subgroups" of the RPM-WG. ICANN org acknowledged your request the same day. On 25 and 26 May you sent three follow-up emails inquiring about the status of your request. In the email thread, you expressed concern that you were "intentionally being blocked" from the subgroups' observer list. On 28 May you were added as an observer to the two subgroups and staff notified you stating, "After consulting with the Working Group Co-Chairs, you have been added as an Observer on the two Sub Groups."

Issue III. Research Findings

The adding or removing of community participants to PDP-WG's and their related parts is at the discretion of the PDP-WG leadership. Your request to be added was quickly forwarded to the PDP-

WG leadership and once the leadership confirmed your observer status to staff, you were promptly added to as an observer to the two subgroups and notified of such.

Issue III. ICANN Org's Response

ICANN org was responsive to your request and promptly notified you once your request had been approved by the WG leadership. While I understand it would have been more helpful to you if staff had responded to your follow-up inquiries explaining they were waiting to hear from the WG leadership, my research did not find anything else ICANN org could have done to have you added to the subgroup more quickly. I have found this portion of your complaint to be a case where ICANN org's communication to you could have been more comprehensive and I have shared that feedback with the affected ICANN org parties. Additionally, your concerns with the amount of time it took for you to be approved and added to the subgroups might be something for you to share with the RPM-WG leadership.

Closing Comments

Thank you again for your submission and for bringing this to the attention of the Complaints Office. As discussed above, ICANN org will be making improvements to address those issues which pertain to ICANN org and the work it supports and delivers.

Additionally, as you are probably aware the role of the Complaints Office is to receive, analyze, and resolve complaints regarding the ICANN org as openly as possible. Your issue regarding the responsiveness to your request to be added as an observer participant to two subgroups of the RPM-WG is out-of-scope for my office. In situations where a delay or issue is related to one or more community participant(s), there are different processes available for you to seek assistance. While this is outside the scope of my office, I do want to provide you guidance as to where you can seek assistance. Should you wish to pursue the issue of timeliness in adding you to the subgroups further, you may want to consider one of the following options:

- ⦿ Submit a complaint to the ICANN Ombudsman (ombudsman@icann.org);
- ⦿ Address the matter yourself directly with the GNSO Council by correspondence or during one of its sessions at ICANN meetings which typically provide the opportunity for non-Council members to intervene.

Thank you for the opportunity to work with you and for your continued participation in ICANN's Multistakeholder model.

Kind regards,
Krista Papac
Complaints Officer
ICANN Organization