

ICANN72 Virtual Annual General Meeting GAC Communiqué: Board Action (16 January 2022)

GAC Consensus Advice Item	Advice Text	Board Understanding Following Board-GAC Call	Board Response
<p>§1.a.1 - Board Scorecard on SSR2 Review Final Report</p>	<p>a. The GAC advises the Board to:</p> <p>i. Undertake as a matter of priority the follow-up actions needed to support the swift implementation of the Board’s scorecard on the Final SSR2 Review Team Report, and to inform the GAC accordingly, including about the corresponding timeline.</p> <p><u>RATIONALE:</u></p> <p>This advice aims to support the effective follow-up action on the Board’s tasks set in the Board Scorecard on the Final SSR2 Review Team Final Report. Noting the need expressed by the Board for further analysis and consultation, and given the importance of the SSR2 recommendations to address cybersecurity and DNS Abuse, the GAC encourages the Board to proceed with the necessary action plan in a timely manner. The Board Scorecard identifies which action the Board expects from which entity (ICANN org, SSR2 Review Team Implementation Shepherds, and others), which is a very useful starting tool. The Board is expected to prioritize the different actions in the scorecard and accompany the proposed follow-up action plan by a clear timeline. This would help ICANN’s constitutive bodies to actively deliver on the Board Scorecard, while allowing issues prioritization and appropriate mobilization of the ICANN community.</p>	<p>The Board understands that the GAC would like the Board to diligently undertake the follow-up actions needed, specifically in addressing the pending recommendations, to proceed with subsequent implementation activities of the recommendations that the Board will adopt.</p>	<p>The Board agrees that addressing the 34 pending recommendations, noted in the scorecard accompanying the Board resolution 2021.07.22.13, in a timely manner is important. As noted in the Board resolution 2021.07.22.13, the Board expects an update within six months of its action (by 22 January 2022) on the status of this effort. For these pending recommendations, ICANN Org is tasked to resolve the actions identified by the Board in the Scorecard and has initiated the process to document the questions that need addressing for the Board to be able to make a final decision. These questions will be provided to the SSR2 Implementation Shepherds in advance of scheduled meetings, held to facilitate the production of answers by the Shepherds. During the call between the Board and the SSR2 Implementation Shepherds on 29 September 2021 (see public record), this process was discussed and the pending recommendations will be organized in groups for convenience: pending/likely to be approved, pending/likely to be rejected and pending/ additional clarification and information is needed.</p> <p>The outcome of this engagement and of the responses provided by the Shepherds will be taken into account by ICANN org in its analysis to prepare the Board to take further action on the pending recommendations.</p> <p>In total the Board approved 13 Recommendations, subject to prioritization, risk assessment and mitigation, costing, and implementation considerations; Of these 13 recommendations 2 are considered fully implemented.</p> <p>For the fully implemented recommendations, ICANN org will prepare reports of how these recommendations were implemented, to be assessed by the next review team. The remaining approved recommendations are awaiting prioritization and implementation design. Updated information on the status of the SSR2 Approved recommendations is available on the SSR2 webpage.</p>
<p>§1.b.1 - Board Scorecard on SSR2 Review Final Report</p>	<p>The GAC advises the Board to:</p> <p>i. Provide further information on the diverging interpretation by the Board and SSR2 Review Team of the level of implementation of certain recommendations.</p> <p><u>RATIONALE:</u></p> <p>The GAC believes that additional information would be helpful for the GAC to gain a deeper understanding of the diverging interpretations. This advice would allow ICANN and the ICANN community to gain a shared understanding of the issues effectively requiring further action.</p>	<p>The Board understands the GAC is seeking further information on the two recommendations, 4.1 and 9.1, which the Board approved and noted their implementation has already been completed.</p>	<p>The Board approved Recommendations 4.1 and 9.1, which were considered already fully implemented based on the measures of success defined by the SSR2 Review Team in its Final Report, and including rationale for its decision as detailed in the Scorecard accompanying the Board action. With regard to Recommendation 4.1, the Board noted that ICANN org already has policies, plans and programs in place through which Recommendation 4.1 has already been implemented. The Board continues its oversight role over ICANN org’s risk management efforts and is supportive of ICANN org in continuing the risk management activities and strategy that it is already carrying out.</p> <p>For Recommendation 9.1, the Board noted that the Contractual Compliance operations that ICANN org has in place already meet the SSR2 Review Team’s defined measures of success for this recommendation as audits are in place, have been completed and been the subject of public reports.</p>

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			<p>For these recommendations that are deemed to have already been implemented, as well as for all implemented recommendations, ICANN org will prepare and publish reports to detail out how the implementation was accomplished. The Board notes that as a formal matter the Bylaws (Section 4.6(b)(iii)) reserve to SSR3 (or other future SSRs) the role of final assessment of the completion of recommendations from prior SSR reviews.</p>

ICANN72 Virtual Annual General Meeting GAC Communiqué: Actions and Updates (16 January 2022)

GAC Follow Up on Previous Advice Item	Advice Text	Board Understanding Following Board-GAC Call	Board Response
<p>1. Domain Name Registration Directory Service and Data Protection</p>	<p>In response to the GAC Montreal Communiqué, the Board accepted the GAC’s advice to:</p> <p><i>“Instruct the ICANN organization to ensure that the current system that requires ‘reasonable access’ to non-public domain name registration is operating effectively.</i></p> <p><i>This should include:</i></p> <ul style="list-style-type: none"> - <i>educating key stakeholder groups, including governments, that there is a process to request non-public data;</i> - <i>actively making available a standard request form that can be used by stakeholders to request access based upon the current consensus policy; and</i> - <i>actively making available links to registrar and registry information and points of contact on this topic.”</i> <p>The GAC would welcome the Board providing an update on these three efforts. In particular, the GAC observes that information on how to make a request for non-public data does not appear to be prominently located or easy to find on ICANN’s website. The GAC also recognizes that the contracted parties have developed guidance on the Minimum Required Information for Whois Data Requests and notes that relevant stakeholders would also benefit from the prominent display of this information in the relevant section of ICANN’s website</p>	<p>Pursuing a standardized form for requests is similar to a centralized intake system; the SSAD recommended by the GNSO includes such a system.</p> <p>The Board understands that the GAC is looking for information on the next steps that will happen after the ODA. The Board acknowledges that the GAC expressed interest in receiving a presentation on the SSAD, similar to the one which was provided to the GNSO Council</p>	<p>Following acceptance by the Board, ICANN org collaborated with the gTLD Registries Stakeholder Group (RySG) and the Registrars Stakeholder Group (RrSG) regarding a standard form as requested by the GAC. The contracted parties recommended against such a form, due to the variety of request intake mechanisms, e.g. emails, webforms. Instead the Registrars agreed to produce and publish a standard set of suggested information -- the Minimum Required Information for Whois Data Requests -- that third parties should provide to contracted parties when requesting non-public registration data. This set of guidelines is available on the RrSG webpage as well as on ICANN’s DNS abuse page - www.ICANN.org/dnsabuse.</p> <p>The pursuit of a standardized form for requests touches on the desire for a centralized intake system for requests. The SSAD recommended by the GNSO would include such a system.</p> <p>Since the publication and promotion of the document by the RrSG, the ICANN org team has shifted its resources to focusing on the Operational Design Assessment of the GNSO’s recommended SSAD.</p> <p>It should be noted, the data from both Contractual Compliance and Global Support do not indicate this lack of centralized intake system to be a significant issue for Internet users. In a survey of Contracted Parties’ for the SSAD ODP, a majority of respondents (101 Contracted Parties representing more than 160 million domains under management) reported receiving less than 10 requests for non-public registration data a month. In 2020, 11 reported receiving 10-50 requests per month, and 8 reported receiving 40-149 requests per month. For additional information regarding the SSAD ODP survey, please see our September 2021 presentation.</p> <p>It should be further noted that the standard request form or the SSAD will not circumvent the GDPR or any other applicable legal restriction on registration data access and disclosure.</p> <p>Also, legislative developments, such as the possible extension of the “know your business customer” obligation to registries and registrars through the EU Digital Services Act (currently under negotiation), could affect 3rd Party requests for access to nonpublic registration data (RDDS/Whois) pursuant to ICANN policy and contractual requirements. This is because similar information would be collected and access would be provided pursuant to this legislation.</p> <p>The SSAD ODP team recently briefed the GNSO council on the estimated costs and fees associated with an SSAD design. The briefing marks the end of the org’s design work and the beginning of a consultation process the GNSO Council requested with the Board on the costs and benefits of an SSAD. A December blog summarized the meeting.</p>

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<p>2. EPDP Phase 1 Policy Implementation</p>	<p>The GAC notes its previous advice within the ICANN66 Montréal Communiqué and the follow-up on previous advice in the ICANN70 and 71 Communiqués with regard to Phase 1 of the EPDP on gTLD Registration Data and the request for “<i>a detailed work plan identifying an updated realistic schedule to complete its work.</i>” The GAC highlights with “continued concern that the Phase 1 Implementation Review Team (IRT) lacks a current published implementation timeline.”</p>	<p>The Board understands that the GAC is requesting a detailed work plan identifying an updated realistic schedule to complete the work of the EPDP Phase 1 implementation, and that the GAC has expressed continued concern that the Phase 1 Implementation Review Team (IRT) lacks a current published implementation timeline.</p>	<p>The Board appreciates the interest of the GAC in this work, and has shared updates on multiple areas of the EPDP Phase 1 policy implementation, noted below.</p> <p>Outstanding work on implementation of the Phase 1 recommendations includes completing the draft of the gTLD Registration Data Policy and a proposed implementation timeline to be shared for public comment, including the anticipated implementation time for contracted parties.</p> <p>ICANN org and a CPH discussion group are also developing a draft Data Processing Specification, pursuant to EPDP Phase 1, Recommendation 19. EPDP Phase 1, Recommendation 19 recommended that ICANN and the contracted parties negotiate and enter into required data protection agreements, as appropriate. The current thinking is that this Specification will be published for public comment along with the Registration Data Policy. To be clear, these data processing specifications will not change the current paradigm where the Contracted Party must make the decision to disclose the data to a requestor, as this is a function of complying with GDPR (and other relevant data privacy regulations).</p> <p>In regard to the timeline, the org has continued to work with the community and Board on clarifying and documenting the implementation requirements for some key recommendations, including Recommendation 7 on transfer of data, and Recommendation 12 on the organization field. The progress on these recommendations will help clear the way for several other implementation tasks, and puts the team in a better position to develop and share a meaningful timeline.</p> <p>The progress of the org with the contracted parties on data protection agreements continues to be a priority item for both sides to drive to completion. Recently the representatives from the contracted parties and ICANN org met for several hours over the course of multiple days to further this work.</p> <p>Milestones remaining for implementation of the policy include:</p> <ul style="list-style-type: none"> ○ Completion of the draft data protection specification ○ Completion of the draft Registration Data Policy ○ Completion of draft updates to existing policies and procedures impacted by the Phase 1 recommendations. ○ Completion of a public comment period on the implementation plan consisting of the above elements.

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			<ul style="list-style-type: none"> ○ Updates as needed to incorporate input received in public comments. ○ Announcement of effective date. <p>The Board understands that the org is also in the process of developing additional status tracking resources to be available for this project.</p> <p>The Board also notes that the Interim Registration Data Policy is in place while the Phase 1 implementation is in progress, which means a number of substantially similar provisions are already in place, including in some cases, requirements that are greater than what will be required by Phase 1.</p> <p>More generally in regards to discussions across the community at ICANN72 and specifically with the GAC the Board notes concerns regarding timelines for implementation or completion of certain work items. The Board and Org share these concerns as the extended timelines require more resources from ICANN as well as the community volunteers. When reviewing some of the on-going projects, some key themes do emerge, including the challenges that arise with community recommendations that are ambiguous, or where the community is not aligned on the path of implementation. These scenarios add significant time and complexity to implementation work. The Board urges the GAC, as a participant in the processes that yield community recommendations, to work with the respective community groups to achieve clarity and alignment across the community of what recommendations will institute regarding requirements or obligations.</p>