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Governmental Advisory Committee

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Governmental Advisory Committee Comments on the Amendments to the Base gTLD Registry Agreement (RA) and Registrar Accreditation Agreement (RAA) to Modify DNS Abuse Contract Obligations

1. Summary

The Governmental Advisory Committee (GAC) welcomes the proposed amendments to the generic Top-Level Domain (gTLD) Registry Agreement (RA) and 2013 Registrar Accreditation Agreement (RAA) (collectively, the “Agreements”) to address Domain Name System Abuse (DNS Abuse).¹

The GAC views the amendments as a significant achievement by ICANN org and the Contracted Parties House Negotiating Team (CPH NT). The proposed amendments are timely and relevant and, when adopted, will represent an important first step forward to combat DNS Abuse. The GAC supports the proposed amendments as a general matter, though invites ICANN org and the CPH NT to consider some specific issues related to the text of the amendments. In light of the ongoing threat that DNS Abuse poses to consumers and the public and private sectors, it is imperative that the improved contracts are swiftly adopted following the completion of the Public Comment process. The GAC looks forward to engaging in subsequent work with the multistakeholder community on DNS Abuse after the amendments are adopted. This work should include Policy Development Processes (PDPs) to further inform the updated RA and RAA, as well as other work on outstanding issues to address prior to the next application round for New gTLDs.

¹See the corresponding [ICANN Public Comment Proceeding page](#).

ICANN | GAC

Governmental Advisory Committee

2. Introduction

The GAC has focused on DNS Abuse as a matter of public policy priority for several years, producing a Statement on DNS Abuse in 2019 and dedicating many sessions at ICANN meetings to the subject.² Nearly all constituencies within ICANN have conducted work on DNS Abuse. Cross-community efforts have also yielded contributions to the discussion.

The establishment of baseline obligations for gTLD Registries and Registrars (collectively, the “Contracted Parties”) to promptly take reasonable and appropriate action to stop or otherwise disrupt DNS Abuse will constitute a milestone for ICANN in service of its mission, which is to ensure the stable and secure operation of the Internet’s unique identifier systems. The adoption of such measures will be seen as an important contribution to the work of ICANN ahead of the next application process for New gTLDs.

3. The Importance of Adopting the Proposed Amendments

DNS Abuse has been the subject of multistakeholder discussions at ICANN for many years. Given ICANN’s mission, it is important that the institution responds, particularly ahead of any further delegation of New gTLDs. Therefore, the GAC welcomes the efforts to amend the Agreements to address DNS Abuse. Although further clarification is needed, the proposed amendments are timely and relevant, and when adopted, will represent an important first step in combatting DNS Abuse.

All Governments are concerned by DNS Abuse. GAC representatives have noted with concern, *inter alia*, the negative impacts of mobile phishing and increasing prevalence of ransomware attacks. The GAC’s Public Safety Working Group (PSWG) has participated in many cross-community panels, capacity development workshops, and GAC briefings that highlighted key statistics and case studies on the harms caused to individuals and organizations through the effects caused by DNS Abuse.³

In light of the threats posed by DNS Abuse to consumers and the public and private sectors, it is imperative that the improved contracts are swiftly adopted following the completion of the Public Comment process.

² See <https://gac.icann.org/contentMigrated/gac-statement-on-dns-abuse> (18 September 2019).

³ See most recently during the [GAC Capacity Development Workshop on DNS Abuse](#) (11 June 2023) during the [presentation on DNS Security Threats reported to Law Enforcement and by Law Enforcement](#)

ICANN | GAC

Governmental Advisory Committee

4. Specific issues for consideration

The GAC supports the proposed amendments as a general matter, though invites ICANN org and the CPH NT to consider some specific issues related to the text of the amendments as they finalize their work.

- a. *The DNS Abuse Definition:* The GAC supports the proposed definition of DNS Abuse for the purposes of the currently proposed amendments to the Agreements. The approach taken is consistent with potential actions at the DNS level that fall well within ICANN's remit.
- b. *Reporting and Monitoring by Contracted Parties:*
 - i. **Proactive Monitoring.** As per the Washington Communiqué, the GAC encourages registrars "to proactively monitor the Registered Names that they sponsor to identify potential DNS Abuse" and stresses that registry operators should also obtain actionable evidence through their own proactive efforts.⁴
 - ii. **Enhanced Transparency.** Enhanced transparency through reporting supports accountability. The GAC therefore suggests the parties consider how to enhance the proposed reporting requirements with a view to promoting transparency of the Contracted Parties' policies and how they respond to DNS Abuse reports.
- c. *Compliance Considerations:*
 - i. **Consequences.** The proposed amendments do not expressly include consequences for non-compliance. *A priori*, these consequences depend on compliance action by ICANN org, and should be based on the provisions found within the Agreements. To ensure that the aims of the contract negotiations are ultimately met, the GAC encourages ICANN org and the CPH NT to specify, at a minimum, in the Advisory, what the consequences might be in the event of non-compliance.
 - ii. **Ability to Monitor Enforcement.** The data collected by ICANN org from the Contracted Parties pursuant to the reporting obligations provided for within the Agreements will be instrumental to enforcement, as well as understanding the overall effectiveness of the new regime. The GAC encourages ICANN org in particular to provide the community with the ability to monitor how compliance is enforced, and to link future work on DNS Abuse with the review of such data.

⁴ See section IV.4 p.7 at <https://gac.icann.org/contentMigrated/icann77-washington-d-c-communication>

ICANN | GAC

Governmental Advisory Committee

The GAC also invites the contracted parties to reflect upon the following points:

- *The Inevitable Evolution of DNS Abuse:* The nature of Internet technology is one of constant change and new threats emerge on a regular basis. SAC115, notes that “no particular list of abuse types will ever be comprehensive.”⁵ The GAC therefore supports periodic review of the definition of DNS Abuse, as suggested in SAC115. Such review “should involve stakeholders from consumer protection, operational cybersecurity, academic or independent cybersecurity research, law enforcement and e-commerce.”⁶
As forms of DNS Abuse evolve, so will the scenarios. The Advisory should therefore be updated from time to time by gathering and analyzing actual use cases. The PSWG of the GAC could play a helpful role in this regard, as many PSWG members have firsthand experience in investigating DNS Abuse.
- *Recognizing the Need to Address DNS Abuse Both Inside and Outside of ICANN:* The GAC recognizes that abuse on the Internet is not limited to the definition of DNS Abuse proposed for the purposes of the Agreements, and sees the need for a broader set of stakeholders, including those engaged at ICANN but also beyond its remit (e.g. Hosting Companies), to work together towards solutions for addressing illegal activity on the Internet. In this vein, the role of trusted notifier frameworks or allow lists, which could enable a broader set of actors to better handle abuse on a grander scale, merits consideration.
- *Policy Development Processes:* The GAC anticipates a series of targeted PDPs to supplement the contract amendments once they are adopted. These PDPs should be narrowly tailored to produce timely and workable outcomes. Possible areas of focus include:
 - **Guidance on Key Terms.** The GAC encourages refinement of and guidance on the interpretation of key terms such as “appropriate,” “prompt,” “actionable,” and “reasonable.” The GAC recognizes that such terms are intentionally left open to afford a measure of flexibility; the Contracted Parties are not a monolith. The appropriateness and promptness of the actions will depend on the specific circumstances of each case. At the same time, these key terms could be further refined through multistakeholder work. As one example, the establishment of a set of

⁵ See section 2.1 p. 12-13 of [SAC115](#), the SSAC Report on an Interoperable Approach to Addressing Abuse Handling in the DNS (19 March 2021)

⁶ SAC 115 at p, 13 citing Second Stability and Security Review Team Final Report Recommendation 10.2

ICANN | GAC

Governmental Advisory Committee

indicators or data elements for “Actionable Evidence” could assist greatly with compliance action. As another example, further guidance regarding “Appropriate Mitigation Actions” to be taken by parties to address different cases of DNS Abuse could also be helpful.

- **Due process considerations.** Such work could focus on ways in which to appeal suspension of a domain name by the registrant in such cases where they maintain that the decision to take action was not warranted.
- **Systemic Abuse.** The issue of how to address persistent DNS Abuse activity by recidivist registrants deserves further policy work. Both the CCT and SSR2 review teams have offered recommendations on this topic that could provide a useful foundation for future efforts including but not limited to:
 1. Consideration of provisions aimed at preventing systemic use of specific registrars or registries for DNS Security Abuse which could include identifying 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; and,
 2. Positive incentives for positive results in tackling abuse (financial and non-financial).
- **Training.** DNS Abuse prevention and mitigation training schemes for the existing and new actors in the ecosystem.

5. Conclusion

The GAC offers these comments as a contribution to the Public Comment process. We would be happy to have further dialogue with ICANN org and the Contracted Parties to elaborate on any of the above points.