
Agenda Item 19: Meeting with Non-Commercial Stakeholders Group (NCSG)

Issues

The NCSG has requested this meeting with the GAC.

They have indicated that they wish to discuss:

1. Background on NCSG, values and convergence of their values with the GAC.
2. Rights Protection Mechanisms: FoE (freedom of expression) perspective
3. Privacy issues.

GAC Action Required

To welcome the initiative from the NCSG to engage with the GAC.

To respond to specific points raised.

Current Position

NCSG background

The NCSG is one of the four broad stakeholder groups that make up the Generic Names Supporting Organisation. The others are Commercial Stakeholders, Registries and Registrars.

There are two constituencies within the NCSG: Non-Commercial Users (NCUC) and Not-for-profit Operational Concerns. The NCUC met with the GAC at ICANN 60 (Abu Dhabi) and provided its views on a range of issues including geographic names, ICANN jurisdiction, privacy safeguards and the role of governments generally (and not just in the ICANN context).

The NCSG Chair is Farzaneh Badii. Their representatives on the GNSO Council are: Stephanie Perrin, Tatiana Tropina, Rafik Dammak, Ayden Fénderline, Martin Silva Valent and Arsène Tungali.

NCSG views on role of the GAC

At a recent [inter-sessional meeting](#) of the GNSO's Non-Contracted Parties House (NCPH – basically all GNSO groups except for Registries and Registrars) some NCSG members argued that the GAC is too powerful under the Empowered Community Administration. This is consistent with previously expressed views.

There is also a view within the NCSG that the assertions of governments with regard to control of geographic names as TLDs are not legitimate and impinge on other rights.

Rights Protection Mechanisms (FoE Perspective)

Some NCSG members have expressed concern that restrictions on the release of new generic top level domains (gTLDs) – for example, on geographic names or those with religious or cultural significance – may unreasonably inhibit freedom of expression.

Rights protection mechanisms for gTLDs are currently subject to a [GNSO Policy Development Process](#) (PDP). The GAC received a comprehensive briefing on this at the Abu Dhabi meeting.

Privacy issues

The NCSG submitted the [following comment](#) on 29 January 2017 concerning proposed models for ICANN compliance with the European General Data Protection Regulation (GDPR):

Principles

Our evaluation of the models offered by ICANN are based on three fundamental principles. No model that fails to conform to all three is acceptable to the NCSG.

1. The purpose of WHOIS must be strictly tied to ICANN's mission. That is, the data that is collected and the data that are published must directly and demonstrably contribute to ICANN's mission as defined in Article 1 of its new bylaws. We reject any definition of WHOIS purpose that is based on the way people happen to make use of data that can be accessed indiscriminately in a public directory. The fact that certain people currently use WHOIS for any purpose does not mean that the purpose of WHOIS is to provide thick data about the domain and its registrant to anyone who wants it for any reason.

2. WHOIS service, like the DNS itself, should be globally uniform and not vary by jurisdiction. ICANN was created to provide globalized governance of the DNS so that it would continue to be globally compatible and coordinated. Any solution that involves fragmenting the policies and practices of WHOIS along jurisdictional lines is not desirable.

3. No tiered access solution that involves establishing new criteria for access can feasibly be created in the next 3 months. We would strongly resist throwing the community into a hopeless rush to come up with entirely new policies, standards and practices involving tiered access to data, and we do not want ICANN staff to invent a policy that is not subject to community review and approval.

Based on these three principles, we believe that Model 3 is the only viable option available. Model 3 minimizes the data publicly displayed to that which is required for maintaining the stability, security, and resiliency of the DNS. Model 3 could be applied across the board and would be presumptively legal regardless of which jurisdiction the registrar, registry or registrant are in. And Model 3 relies on established legal due process for gaining access to additional information.

There is room for discussion about how much data could be publicly displayed under Model 3 consistent with ICANN's mission. E.g., it may be within ICANN's mission to include additional data in the public record, such as an email address for the technical contact and even possibly the name of the registrant.

The process of gaining access to additional data in Model 1 is completely unacceptable. Self-certification by any third party requestor is, we believe, not compliant with GDPR nor does is such access justified by the purpose of WHOIS or ICANN's mission. Model 2 might possibly be acceptable if a suitable set of criteria and processes were devised, but it simply is not feasible for such a certification program to be developed in 3 months. A certification program thrown together in a rush poses huge risks for loopholes, poor procedures, and a legal challenge to ICANN, either from DPAs or from individuals affected.

Further Information

NCSG Website: [Non-Commercial Stakeholder Group](#)

NCPH Inter-Sessional Live Notes: https://docs.google.com/document/d/1RkG0bWGXDWs-eTYB7tbl1fAmwksYgfzaEjqZspp_HU0/edit

Document Administration

Title	Meeting with NCSG
GAC Brief No.	18-18
Distribution	GAC Members
Distribution Date	V1.0 20 February 2018 V1.1 1 March 2018