Meeting with: Non-Commercial Stakeholder Group (NCSG) leadership
Date: 16 April 2018
Attendees: Goran Marby (ICANN CEO); Farzaneh Badii (NCSG Chair); David Olive (SVP, Policy Development Support); ICANN Policy support staff

---

High level notes [these are only intended to capture the high level themes raised during the discussion]:

TOPIC 1: **GDPR/data privacy developments**

- To clarify, ICANN Org neither supports nor disagrees with the BC-IPC-proposed accreditation and access model; but if it (like any other proposal) results in something that the overall community supports, it will be something we can support. What we are supporting right now is the effort to develop a community-accepted model, not the specific contents of the proposal.
- We asked the Data Protection Authorities for guidance, and we received it in the form of a response from the Article 29 Working Party. We need certain clarifications, including around accreditation, to make sure we understand the specific scope for compliance (including reasons for legitimate access). We also need time to work on implementation, to make sure we do it correctly.
- Farzaneh: Will ICANN Org get the time it is asking for, given that the law has been in place for at least two years? NCSG does not support this; ICANN needs to complete work on a model that complies with the law. Goran: Nevertheless, even when there is an agreed model, what is needed is time to implement – consider, for instance, that all our Contracted Parties will need to work on technical and operational development.
- Goran will be meeting with the DPAs on Monday 23 April. If NCSG has views (e.g. what are the positive and negative aspects) or questions about the Article 29 Working Party opinion, it will be very helpful to have them in writing before the meeting.
- There are additional developments in Europe that can impact GDPR implementation, including by Contracted Parties and privacy issues. We need to analyze and discuss the implications. Farzaneh: in the US, there is also the Cloud Act.
- One is a new proposal for new European e-evidence legislation (work schedule published at http://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-cross-border-access-to-e-evidence). The objective is to ensure that there is a uniform way for law enforcement and courts to access information.
- Another directive has already been adopted – the 2016 Network & Information Systems (NIS) Directive, which mentions the DNS expressly: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.194.01.0001.01.ENG&toc=OJ:L:2016:194:TOC.
- Goran will be publishing a blog soon about proposals and legislation related to GDPR that are being discussed around the world – so that the community will know and can engage with various governments and authorities.
- Farzaneh: some feedback about the blog post on 12 April regarding a fragmented WHOIS and the need to take action against "bad actors" – NCSG members remain concerned about content regulation and the possibility that ICANN will be drawn into matters outside its mission (such as combating "fake news"). Goran: We do not become (or need to be) content regulators to assist with action against "bad actors" in ways that are within our mission. It is not about assisting intellectual property interests; there are other groups that are affected by access issues, e.g. the anti-spam community. Essentially, there is a need to balance the right to privacy with the

legitimate need for information. This is an important discussion that needs to take place within the ICANN context.

- GAC advice on GDPR has some differences from the Article 29 Working Party responses. Farzaneh: one problem is that the GAC view reflects mostly law enforcement perspectives (e.g. in the Public Safety Working Group).
- GDPR means that ICANN's ability to enforce our contracts will diminish. The Contracted Parties are not all big companies; they may end up coming up with different solutions without any guidance or time to implement an agreed model.

Action Item:

- Any questions that the NCSG would like raised with the Data Protection Authorities should be sent to Goran as soon as possible.

TOPIC 2: FY19 Budget

- There were some good discussions at the San Juan meeting that focused on essential matters.
- ICANN Org will be publishing a paper asking for community views on possibly postponing the next Accountability & Transparency review (ATRT) for a year, to FY20. The reasons are not just budgetary; there are community workload issues to consider. This is the only one that we can postpone since the others that are mandated by the Bylaws are already running. Farzaneh: it may be helpful to clarify this point when the paper is issued.
- ICANN Org is also interested in hearing the community's sense of the cadence of all the reviews that need to be conducted, especially given that review teams tend to be comprised of the same set of people – this goes to the workload issue. The recent blog by David Olive on supporting the community's work provides some interesting statistics and context about this: https://www.icann.org/news/blog/supporting-community-policy-and-advice-work-a-few-key-indicators
- The cost and length of ICANN meetings are other topics with budgetary implications.
- Farzaneh: If the community knows how much things cost, from specific sessions to additional meetings and translation/transcripton services, they may be more careful with what they request. Goran: If we can realize savings from some of these changes, we may be able to repurpose some of those savings to reinstate some projects the community wishes to fund, e.g. CROP or Fellowships. Farzaneh: NCSG has found the policy writing and other training courses (funded through the Additional Budget Request process) to be very useful for their capacity building efforts.

Action Item: None

TOPIC 3: ICANN Strategic Plan – strategic trends outlook exercise

- The ICANN Board is beginning to focus on the next strategic planning cycle. NCSG is encouraged to participate in this planning exercise so that feedback on trends that are identified as important by the community can be provided to the Board (e.g. increased threat of DDoS attacks which was first called out by the technical community, or increasing focus on privacy worldwide). All groups go through the same exercise and the feedback so far has been that it is a useful and interesting experience. The Board will review the community input, and provide some initial views on potential mitigating approaches for further community discussion.

Action Item: NCSG to contact Theresa Swinehart, David Olive or Mary Wong if they wish to participate in this exercise.