

# Impact of Regulatory Developments on ICANN Policy Topics

ICANN71 Plenary Session

## Description

This plenary session will provide an update from governmental authorities about proposed legislation and directives and their intent. When enacted, these regulations could fundamentally change the current landscape as it relates to domain name registration data collection, maintenance, and access. The update will be followed by an opportunity for discussion.

## Program and Participants

Joanna Kulesza, Moderator

### Part 1

#### Overview of Session; Specific Examples of Proposed Legislation/Regulations

(short slide presentations allowed)

- |                                               |                 |            |
|-----------------------------------------------|-----------------|------------|
| • Welcome                                     | Joanna Kulesza  | 5 minutes  |
| • Example #1: European Commission initiatives | Olivier Bringer | 10 minutes |
| • Example #2: Council of Europe initiatives   | Alexander Seger | 10 minutes |

### Part 2

#### Panel Discussion

30 minutes

(no slide presentations allowed)

Panelists to briefly describe how emerging legislative and regulatory proposals (such as the initiatives highlighted in Part 1) might affect their work.

- Philippe Fouquart, GNSO Chair
- Alejandra Reynoso, ccNSO Chair
- Matthias Hudobnik, ALAC Member
- Fred Baker, RSSAC Chair

Panelists from Part 1 will also be part of the panel in Part 2, allowing for panelists to pose questions to one another and to respond to the presentations from Part 1.

#### Community Discussion

Joanna Kulesza

30 minutes

## Questions

If NIS-2 is generally considered a good idea, 200 countries probably will want to write their own counterparts, meaning that the root server operators - who offer root DNS service at their own expense and assume all of the risk - find themselves having to respond to each of those regulations. The simplest response to NIS-2 is to not offer service within the regulated area, which hurts Europe and the Internet. When it's 200 countries, the corresponding response would be to voluntarily cease service. (comment from Fred Baker, RSSAC)

QUESTION #1 (for the community): ***Is there an expectation that ICANN (org and SOACs) should respond to these developments? How should the ICANN community respond? What are alternative [recommendations] [paths]?***

QUESTION #2A (for the panel and community?): ***How should the ICANN multistakeholder process take into account these developing proposals that could have an impact on ICANN policies and the DNS?***

QUESTION #2B (for the panel and community?): ***What lessons have we learned from experience, e.g. with the GDPR? What concrete steps can we take to be better prepared in the future?***

***[OR: How should the ICANN multistakeholder process take into account legislative and regulatory proposals that could have an impact on ICANN policies and the DNS, such as the examples highlighted in this session? What lessons have we learned from experience, e.g. with the GDPR, and how can we be better prepared in the future?]***

NIS-2:

- What are the problems the directive is meant to solve?
- Obligations of registries and registrars/resellers/privacy and proxy service providers
- Specific provisions
  - Data accuracy: verification of registration data
  - Legal vs. natural person distinction
  - Disclosure of legitimately requested data “without undue delay”
  - Public interest

COE:

# Planning Team

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Joanna Kulesza  
Rick Lane  
Dean Marks  
Bruna Martins dos Santos  
Susan Payne

## Planning Timeline and Resources

|                                                              |                                       |
|--------------------------------------------------------------|---------------------------------------|
| <b>Planning Call #1</b><br><a href="#">Zoom replay</a>       | <b>Tuesday, 18 May 2021 19:00 UTC</b> |
| <b>Planning Call #2</b><br><a href="#">Zoom replay</a>       | <b>Tuesday, 25 May 2021 19:00 UTC</b> |
| <b>Planning Call #3</b><br><a href="#">Zoom replay</a>       | <b>Tuesday, 1 June 2021 19:00 UTC</b> |
| <b>Dry Run</b><br>- Slides (if any) due Friday, 11 June 2021 | <b>Tuesday, 8 June 2021 19:00 UTC</b> |
| <b>ICANN71</b><br><a href="#">Register here</a>              | <b>Monday, 14 June 2021 10:30 UTC</b> |

# ARCHIVED MATERIAL

## ICANN71 Proposal: Developments in the Field of Data Protection and Cybersecurity

### Description

Recent legislative developments in the field of data protection and cybersecurity (for example, WHOIS/GDPR and NIS2) have posed (and may in future) significant potential impacts for the DNS, and therefore, the work of ICANN.

### Rationale and Desired Outcomes

This proposed plenary session would provide an opportunity to discuss the potential effects of recent developments (such as NIS2 and the Digital Services Act) on the DNS and exchange ideas for how ICANN might adapt its work to respond to these effects.

# ICANN70 Proposal: Governmental Regulatory Developments

## Description

This plenary session will provide an update from governmental authorities about proposed legislation and directives and their intent. When enacted, these regulations could fundamentally change the current landscape as it relates to domain name registration data collection, maintenance, and access. The update will be followed by an opportunity for discussion.

## Rationale and Desired Outcomes

Recent governmental regulations represent the most significant approach to registration data and its availability since the implementation of GDPR in 2018. These regulations will have an impact on registrars, registries, and those that seek registration data for legitimate purposes. Even as ICANN policy development continues, the community would be better equipped for taking policy work forward in a focused manner by gaining a better understanding of the goals and outcomes that governmental authorities seek to accomplish with these regulatory efforts.

The objective of this plenary session is for government experts from the European Commission and United States to inform the community in detail regarding the desired outcomes of legislation and proposed directives, so that ICANN policy development can proceed with knowledge of all relevant facts and resources, including community time.

## ICANN70 Planning Team

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Bruna Martins dos Santos  
Susan Payne

## ICANN70 Program

1. ICANN: Discussion of intersection of governments and multistakeholder process
  - a. Expected impact of governmental interventions in DNS policy (separate from GAC)
  - b. Areas where governmental intervention is on the horizon
2. EU: Overview of proposed NIS2 directive: DNS and Domain Name Registration Data
  - a. Overall objective of domain name-focused section of directive
  - b. Problems the directive is meant to solve
  - c. Obligations of registries and registrars/resellers/privacy and proxy service providers
  - d. Specific provisions
    - i. Data accuracy: verification of registration data
    - ii. Legal vs. natural person distinction
    - iii. Disclosure of legitimately requested data “without undue delay”
    - iv. Public interest
3. EU: Next steps
  - a. Public consultation
  - b. Process for adopting directive and transposing into member state law
  - c. Enforcement procedures once adopted
4. US: Overview of governmental / congressional interest in registration data policy (federal and state levels)
  - a. Why registration data is critical (public safety, cybersecurity, rights protection)
5. US: Objective of congressional language to NTIA
  - a. “Directed”, via GAC, to establish a global access model
  - b. “Encouraged” to require registries / registrars to make US-based data public
6. US: Next steps
  - a. NTIA initiatives
  - b. Potential legislation
7. Community discussion/question and answer session
8. Conclusion