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EUROPEAN REGIONAL AT-LARGE ORGANIZATION (EURALO) HOT TOPICS

BACKGROUND

The European Regional At-Large Organization (EURALO) unites European voices of ICANN's At-Large community, including Internet-related civil society and consumer interest groups, to ensure their views are included in the bottom-up, consensus-based, multistakeholder ICANN policy development process.

The current membership of EURALO includes more than 35 organizations working on Internet-focused issues, including Internet Society (ISOC) chapters and consumer groups across Europe. They are formed into individual At-Large Structures.

EURALO is governed by its own organizing documents, including a memorandum of understanding with ICANN.

Playing a key role in ICANN's regional strategies, EURALO partners with ICANN staff departments to facilitate the development of critical infrastructure for the Domain Name System.

This report identifies the key ICANN-related policy issues for EURALO and European end users in general, as well as outreach and engagement activities conducted by EURALO members. Alan Greenberg, the Chair of the At-Large Advisory Committee, and Olivier Crépin-Leblond, the Chair of EURALO, have approved this report.

A. POLICY ISSUES FOR EUROPEAN END USERS

1. CCWG-Accountability Work Stream 2 Topic: Jurisdiction
Summary
- Although there were discussions of the incorporation of ICANN under other legal system, such as Swiss not-for-profit, CCWG-Accountability Work Stream 1 did not make an explicit, jurisdiction-related proposal toward the globalization of ICANN.
- Within Work Stream 2, the primary jurisdiction issue to be investigated is the process for the settlement of disputes within ICANN, involving the choice of jurisdiction and of the applicable laws, but not necessarily the location where ICANN is incorporated.

Why should European end users care?
- The affordability of legal actions both in terms of costs and in terms of understanding of legal system has impact on European end users, especially individual registrants.
- As European registries and registrars have to deal with legal matters, or at least some components of those, within the US legislation, European registrants will eventually shoulder the costs.
- It is to European users' interests to conduct substantive examination of alternative

jurisdictions that would level the playing field.

2. CCWG-Accountability Work Stream 2 Topic: Human Rights

Summary

o In accordance with the CCWG-Accountability Work Stream 1 Recommendation 06, ICANN's Bylaws have been amended to include ICANN's commitment to respect Human Rights in order to comply with the NTIA criteria to maintain the openness of the Internet.

o This provision clarifies that no Independent Review Process (IRP) challenges can be made on the grounds of this Bylaw until a Framework of Interpretation on Human Rights (FOI-HR) is developed and approved as part of Work Stream 2 activities.

o Several work areas will be undertaken as part of Work Stream 2 in order to fully operationalize ICANN's commitment to respect Human Rights.

Why should European end users care?

o Europe has been a world leader in placing human rights at the center of the framework of principles and obligations that shape relations within the international community.

o The Universal Declaration of Human Rights was adopted by the UN General Assembly in Paris in 1948 and René Cassin of France was one of the main drafters. The European Convention on Human Rights (1952) and the Charter of Fundamental Rights of the European Union (2000) are among the highly regarded international human rights law and conventions. To promote, protect, and develop human rights and rule of law has been one of the key agendas of the Council of Europe.

o Within ICANN processes, Europeans have been leading or playing an active role in the CCWG-Accountability Work Stream 2 Human Rights Subgroup, the CCWP-Human Rights, and the GAC Working Group on Human Rights & International Law.

3. How ICANN Aims to Defend the Public Interest

Summary

o The discussions on the topic of the "public interest within ICANN's remit" and potential definitions of this term have been ongoing for years.

o While ICANN's Bylaws clearly names the Public Interest as a Core Value and its Affirmation of Commitments (AoC) employs the term several times, the notion of "public interest" is often contested by stakeholder groups and constituencies. ICANN's Strategy Panel on Public Responsibility attempted to define the global public interest in relation to the Internet, but its report received mixed reviews.

o As the Internet has become a critical part of the global public sphere, and the influence of commercial interests and state powers has been increasing, stakeholders need to work together and form a comprehensive vision on the Internet that addresses the protection of civil liberties, such as free speech and privacy.

o Within the ICANN context, there is a pressing need to devise mechanisms to effectively address the public interest, counterbalancing the commercial pressure.

Why should European end users care?

o The domain name industry is primarily dominated by big commercial players in the North American region. European end users' interests may be negatively affected when there is a conflict with the commercial interests.

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- o Many European countries have references in public laws and constitutions that trace the origin, evolution, and adoption of the public interest. Europeans need to contribute their experience and knowledge and help make the protection of public interest a guiding principle for ICANN's policy development.
- o Since its creation, EURALO has advocated for related principles such as Open Access, Free Software, and Creative Commons. Its leaders also drafted the [thesis paper on public interest](#) and led the creation of the [At-Large Public Interest Working Group](#).
- o One sub-topic of the public interest within ICANN's remit is the [Public Interest Commitments (PICs)](#), especially pertaining to the Category 1 TLDs defined by the GAC. This has been a core issue for both the At-Large Community and the GAC; Megan Richards from the European Commission has been co-leading an informal community collaborative group on this topic, and EURALO members have actively taken part in this group.

4. Registrar Data Retention Waiver Request & WHOIS Conflict with National Privacy Law
Summary
- o Independent registrars under contract with ICANN manage the WHOIS data. Required by ICANN's AoC, registrars need to provide unrestricted, public access to this information.
- o When the collection and/or retention of individual registrants' data is in conflict with national privacy laws, the Data Retention Specification of the 2013 Registrar Accreditation Agreement allows registrars to request a [waiver request](#).
- o However, the ICANN process of handling those requests has been problematic. It won't be triggered until a given registrar is served the legal notice from its national government for breaking the privacy law. This likely incurs unnecessary costs and legal headaches for registrars. In addition, ICANN has been treating those requests on a case by case basis, which is not efficient or preemptive.

Why should European end users care?
- o Many European countries have a strong emphasis on data protection and individual privacy in their national laws.
- o Often affected by the conflict between the WHOIS obligations and national laws, European registrars have to request the Data Retention Waiver. Individual registrants eventually need to shoulder the legal charges associated with the waiver requests and potential lawsuits.
- o The ALAC is keen on advising ICANN to improve the Registrar Data Retention Waiver Request process and to develop a preemptive solution that minimizes the legal, financial, and operational impact on non-US registrars. EURALO members are taking a lead on drafting an advice statement on behalf of the ALAC on this topic.

Additional Reference: [GNSO Liaison Report, 21 July 2016, Item 7: Next Steps on Proposed Modifications to the Procedure to Address WHOIS Conflicts with National Law](#)

5. Root Zone Label Generation Rules (LGR) Projects in Cyrillic, Greek, and Latin Scripts
Summary
- o In light of the rollout of new gTLDs, among which more than 100 are IDN gTLDs, ICANN facilitates the work of Generation Panels (GP), which consist of linguistic and technical experts, to set the Label Generation Rules (LGR) for the Root Zone.

- With regard to the European language scripts, the Cyrillic GP has been seated and started their work, the formation proposal of the Greek GP is pending ICANN's approval, and the formation proposal of the Latin GP is under development.
- Some EURALO members, who have strong links to their national governments and/or domain name industry representatives, have been involved in these GPs.

Why should European end users care?

- The work of those GPs would make the implementation of IDNs in Cyrillic, Greek, and Latin scripts at the top level a reality.
- Those IDN TLDs would give non-English speaking European users the same rights to access the web in their native tongue, making it easier for them to remember websites and promote local content via service providers likely in their own countries.
- It will likely increase the Internet penetration in emerging economies where English is not the primary language.

B. OUTREACH AND ENGAGEMENT ACTIVITIES IN EUROPE

As part of its Outreach Strategic Plan, EURALO has concentrated on many events in the region for outreach and capacity building purposes. In collaboration with relevant ICANN departments such as the Global Stakeholder Engagement (GSE), EURALO members have been actively leading or involved in the organization of the following events:

- The Second At-Large Summit at ICANN50 London in June 2014
- The EURALO General Assemblies and activities
- The annual EuroDIG events since 2008;
- The annual ICANN Studienkreis meetings in Europe;
- The European Summer School on Internet Governance (EuroSSIG) in Meissen, Germany;
- National IGF initiatives (particularly in Germany, Switzerland, France, UK, Ukraine, and Russia).

Additional Reference: EURALO Landing Page on the At-Large Website