

# **Accountability and Transparency at ICANN**

## **An Independent Review**

Interview Questionnaires



**Berkman**

The Berkman Center for Internet & Society  
at Harvard University

## INTERVIEW QUESTIONNAIRE FOR ICANN STAFF

### *New gTLD Program*

Name: _____	Title: _____
Group/ Department: _____	Phone: _____
Years of Service: _____	Date: _____

#### **1. BACKGROUND AND PURPOSE**

As you know, Harvard's Berkman Center for Internet & Society has agreed to assist ICANN's Accountability and Transparency Review Process by conducting an independent, exploratory study analyzing ICANN's decision-making processes and communications with stakeholders pursuant to the Affirmation of Commitments (AoC). The study will develop a framework and recommendations for understanding and improving ICANN's accountability and transparency.

As part of this process, the Berkman Center team is analyzing case examples that were suggested to the ATRT by the ICANN community during its interactions with the community at the ICANN meeting in Brussels, Belgium. Those case studies include the introduction of new gTLDs, the .xxx top level domain, and the DNS-CERT proposal. The Berkman Center team is collecting data, conducting research, and initiating interviews regarding these case studies to provide the ATRT with analysis and recommendations to improve accountability and transparency under the AoC. The interviews will help us understand the range of perspectives on each case, deepen our factual understanding of the core issues and strengthen our recommendations regarding the accountability and transparency of ICANN decision-making processes.

The ATRT has requested that we restrict the scope of our case studies to events that occurred before June 17th, 2010. However, we recognize that your responses may include reference to events or facts that have occurred after that date in order to reflect evolving developments. Such references will help us to deepen our understanding of the issue in question, but will not be included in the final published version of the case studies. Therefore, please mark in bold or italics any facts or responses that may, in whole or in part, refer to developments that have occurred after the June 17th cut-off date.

## **2. CONFIDENTIALITY**

We assure you that all your written and other comments will remain confidential. The collected comments, experience and suggestions from all of the interviewees will be anonymized and reviewed by the Berkman Center’s team.

While our final report will contain a list with the names of the individuals we have interviewed, it will not link specific comments to the respective names of individuals.

## **3. INTERVIEW INSTRUCTIONS**

Today, we would like to interview you regarding the introduction of new gTLDs (in short: the “new gTLDs program”). The information you provide in this interview is part of the fact-finding process. Together with the responses of other interviewees, your responses will help us to gain a deeper understanding of perceptions of accountability, transparency, and participation in the context of this case example; we hope it may also shed light on possible areas for improvement and “lessons learned.” Our interest is to learn from your experience. There are no right or wrong or desirable or undesirable answers. We would like you to feel comfortable with saying what you really think and how you really feel.

We have designed the interview – which will focus on ICANN’s operations in several different topic areas: public participation, transparency and accountability – as a two-step process:

1. First, we would like to ask you to respond in writing to the questionnaire below. We expect that this portion of the process will take about 60 minutes of your time. Given the aggressive timeline of the review process, we would appreciate if you could return the form within \_\_ days upon receipt in PDF format to [ugasser@cyber.law.harvard.edu](mailto:ugasser@cyber.law.harvard.edu).
2. Second, we would like to follow up with you either in a phone conversation or through a follow up email after we’ve reviewed your answers. The purpose of this follow up will be to clarify, where necessary, some of the written answers and/or to “dig deeper” where your written responses seem particularly valuable to us. Regarding phone calls, we will not tape our conversation, but a research assistant will take notes from the call. These notes will only be shared with the Berkman Center’s team.

## **4. AGREEMENT**

The nature and purpose of this project have been sufficiently explained to me and I agree to participate. I understand that I’m free to withdraw at any time.

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **5. QUESTIONS**

### **(A) Interviewee Background**

How long have you been involved with ICANN? In what capacity? What is your area of expertise/responsibility?

Please describe the capacity/manner in which you have been directly involved with the new gTLD program. How closely have you been following the issues with the introduction of new gTLDs? During what time period?

### **(B) Public Participation**

To begin, we would like to learn more about the ways in which inputs from the public have played a role in the introduction of new gTLD program (including the development of the DAG, the EOI, IRT, trademark decisions). More specifically:

- From your perspective, what were the biggest challenges in analyzing and assessing the public comments?
- How useful do you find the public comments process in general? Are there certain types or categories of comments that you find particularly helpful?
- In what ways do you think public input played a meaningful role in the decision-making process? At what level? How responsive has ICANN been to public comments surrounding the introduction of new gTLDs? Has ICANN responded appropriately?
- How are individual public comments weighted against each other during the development of new versions of the Draft Applicant Guidebook? Are there particular comments or commentators whom you thought were given too much or too little weight?
- How are public comments as a whole weighted against the views of various ACs and SOs?
- Based on your experiences with the new gTLD program, how could the processes and instruments of public participation offered by ICANN be improved?

Let's focus on the role of the Supporting Organizations (SOs) and Advisory Committees (ACs) in the context of the new gTLD program.

- How would you describe the roles of the GAC, the GNSO Council, the ALAC, and other stakeholders in the decision-making process? What have been their interactions with the Board?
- In your view, were the inputs of these stakeholders adequately considered during the process? Do you have specific examples in mind?

- How are the views of different SOs and ACs weighted against each other in the development of the DAG? Do some groups have opportunity for greater access or influence? If so, how? Why? In your opinion, have any groups been given too much weight? Too little?
- Did governmental actors provide input or recommendations via avenues other than the GAC? If so, what was the substance of their input, and how was it communicated?
- Against the backdrop of the new gTLD program, do you think the information flow between GAC and the ICANN staff and Board could be improved? If so, how, at what level and by what means?

### **(C) Transparency**

ICANN has a commitment to transparency. Looking at the new gTLD program, we would like to learn more about your views on how transparency is ensured – and, eventually, how it could be further improved.

- What have been the main processes and instruments used by ICANN in the context of the new gTLD program to ensure transparency?
- In your opinion, how successful was ICANN in creating transparency in this particular case? Can you give us some specific examples in support of your assessment?
- Do you think transparency in the development of the new gTLD program could be improved? If so, how, at what level and by what means?

### **(D) Accountability**

ICANN is an organization that seeks to be accountable to the Internet community. Against this backdrop, we would like to learn more about your observations regarding accountability in the context of the new gTLD program.

- In your interpretation, what does “accountability” mean in the context of the new gTLD program? What criteria would you use to “measure” it?
- Using these criteria, how accountable do you think ICANN has been throughout the process of the new gTLD program?
- In general, do you believe ICANN can meaningfully commit to timelines or final decisions? What are the key barriers to implementation?
- How do ICANN bodies define consensus? Is this definition appropriate? Consistent? Can ICANN processes reach consensus?
- Were the four new gTLD “overarching issues” given proper consideration?

- Is the selection of outside panelists or experts an appropriate way to resolve disputes over string confusion, morality and public order objections, geographical names, community support, and contention between applicants? What are the costs? What are the benefits? Do you have a sense of how external findings factor into decision-making processes?
- Who is accountable for the decisions of these panels? Are there relevant appeal mechanisms and clear rules regarding the finality of decisions?

### **(E) Case Specifics**

As part of the gTLD case study, the Berkman Team has been asked to examine several specific issues. Among these:

- Do you believe the staff was allotted enough time to consider public input on the EOI proposal – from both the public comment forum and from ICANN bodies – before submitting the proposal to the Board in December 2009?
- The domain name industry and the ALAC criticized the IRT for containing only trademark industry representatives and excluding consumers, Internet users and domain name registrants. In light of this, how did ICANN mediate between the concerns of consumers and those of intellectual property holders with respect to trademark protection in new gTLDs?

### **(F) In Conclusion**

Looking at the new gTLD program, what improvements would you suggest to strengthen ICANN's public participation mechanisms, transparency, and/or accountability?

Is there anyone you recommend we interview regarding these case studies or ICANN's public participation mechanisms, transparency and/or accountability in general?

Thank you very much for your time and consideration.

## INTERVIEW QUESTIONNAIRE FOR ICANN STAFF

### *.xxx Top level Domain*

Name: _____	Title: _____
Group/ Department: _____	Phone: _____
Years of Service: _____	Date: _____

### **1. BACKGROUND AND PURPOSE**

As you know, Harvard's Berkman Center for Internet & Society has agreed to assist ICANN's Accountability and Transparency Review Process by conducting an independent, exploratory study analyzing ICANN's decision-making processes and communications with stakeholders pursuant to the Affirmation of Commitments (AoC). The study will develop a framework and recommendations for understanding and improving ICANN's accountability and transparency.

As part of this process, the Berkman Center team is analyzing case examples that were suggested to the ATRT by the ICANN community during its interactions with the community at the ICANN meeting in Brussels, Belgium. Those case studies include the introduction of new gTLDs, the .xxx top level domain, and the DNS-CERT proposal. The Berkman Center team is collecting data, conducting research, and initiating interviews regarding these case studies to provide the ATRT with analysis and recommendations to improve accountability and transparency under the AoC. The interviews will help us understand the range of perspectives on each case, deepen our factual understanding of the core issues and strengthen our recommendations regarding the accountability and transparency of ICANN decision-making processes.

The ATRT has requested that we restrict the scope of our case studies to events that occurred before June 17th, 2010. However, we recognize that your responses may include reference to events or facts that have occurred after that date in order to reflect evolving developments. Such references will help us to deepen our understanding of the issue in question, but will not be included in the final published version of the case studies. Therefore, please mark in bold or italics any facts or responses that may, in whole or in part, refer to developments that have occurred after the June 17th cut-off date.

## **2. CONFIDENTIALITY**

We assure you that all your written and other comments will remain confidential. The collected comments, experience and suggestions from all of the interviewees will be anonymized and reviewed by the Berkman Center's team.

While our final report will contain a list with the names of the individuals we have interviewed, it will not link specific comments to the respective names of individuals.

## **3. INTERVIEW INSTRUCTIONS**

Today, we would like to interview you regarding the xxx. Top Level Domain. We are focusing on the role of the GAC and the IRP, with no intention of addressing litigation-relevant matters. The information you provide in this interview is part of the fact-finding process. Together with the responses of other interviewees, your responses will help us to gain a deeper understanding of perceptions of accountability, transparency, and participation in the context of this case example; we hope it may also shed light on possible areas for improvement and "lessons learned." Our interest is to learn from your experience. There are no right or wrong or desirable or undesirable answers. We would like you to feel comfortable with saying what you really think and how you really feel.

We have designed the interview – which will focus on ICANN's operations in several different topic areas: public participation, transparency and accountability – as a two-step process:

1. First, we would like to ask you to respond in writing to the questionnaire below. We expect that this portion of the process will take about 60 minutes of your time. Given the aggressive timeline of the review process, we would appreciate if you could return the form within \_\_ days upon receipt in PDF format to [ugasser@cyber.law.harvard.edu](mailto:ugasser@cyber.law.harvard.edu).
2. Second, we would like to follow up with you either in a phone conversation or through a follow up email after we've reviewed your answers. The purpose of this follow up will be to clarify, where necessary, some of the written answers and/or to "dig deeper" where your written responses seem particularly valuable to us. Regarding phone calls, we will not tape our conversation, but a research assistant will take notes from the call. These notes will only be shared with the Berkman Center's team.

## **4. AGREEMENT**

The nature and purpose of this project have been sufficiently explained to me and I agree to participate. I understand that I'm free to withdraw at any time.

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **5. QUESTIONS**

### **(A) Interviewee Background**

How long have you been involved with ICANN? In what capacity? What is your area of expertise/responsibility?

Please describe the capacity/manner in which you have been directly involved with the .xxx case. How closely have you been following the issues with .xxx case? During what time period?

### **(B) Public Participation**

To begin, we would like to learn more about the ways in which inputs from the public have played a role in the .xxx top-level domain process. More specifically:

- From your perspective, what were the biggest challenges in analyzing and assessing the public comments?
- Based on your experiences with the .xxx top level domain, how could the processes and instruments of public participation offered by ICANN be improved?
- Did you notice significant changes in the volume or substance of public input across ICANN's various comment periods on issues relating to ICM's .xxx proposal?

Let's focus on the role of the GAC in the context of the .xxx top level domain.

- How would you describe the role of the GAC in the context of the .xxx top level domain process?
- Through what channels or mechanisms has the GAC provided input on this case?
- On what specific .xxx issues has the GAC provided input to the Board?
- Against the backdrop of the .xxx top level domain process, do you think the information flow between GAC and the ICANN staff and board could be improved? If so, how, at what level and by what means?
- Did governmental actors provide input or recommendations via avenues other than the GAC? If so, what was the substance of their input, and how was it communicated?

Let's focus on the role of Supporting Organizations (SOs) and Advisory Committees (ACs) the ALAC in the context of the .xxx top level domain.

- How would you describe the role of these bodies in the context of the .xxx top level domain process?
- Through what channels or mechanisms has each body provided input on this case?

- On what specific .xxx issues has each body provided input to the Board?
- Against the backdrop of the .xxx top level domain process, do you think the information flow between these bodies and the ICANN staff and board could be improved? If so, how, at what level and by what means?

### **(C) Transparency**

ICANN has a commitment to transparency. Looking at the .xxx top level domain process, we would like to learn more about your views on how transparency is ensured – and, eventually, how it could be further improved.

- What have been the main processes and instruments used by ICANN in the context of the .xxx top level domain to ensure transparency?
- In your opinion, how successful was ICANN in creating transparency in this particular case? Can you give us some specific examples in support of your assessment?
- Do you think transparency in the .xxx top level domain process could have been improved? If so, how, at what level and by what means?

### **(D) Accountability**

ICANN is an organization that seeks to be accountable to the Internet community. Against this backdrop, we would like to learn more about your observations regarding accountability in the .xxx top level domain process.

- In your interpretation, what does “accountability” mean in the context of the .xxx top level domain process? What criteria would you use to “measure” it?
- Using these criteria, how accountable has ICANN been throughout the process of evaluating ICM's application?
- Without commenting on the specifics of the case, what are or could be mechanisms that allow the Board to reevaluate or revisit its decisions?

One mechanism aimed at ensuring accountability in ICANN's decision-making process is the Independent Review Panel (IRP). We would like to get your views on the IRP, both in general terms and in the specific context of the .xxx top level domain process.

- How well, in your opinion, has the IRP worked as an instrument to ensure accountability in the .xxx top level domain process?
- Do you think the IRP as interpreted by the arbitrators has provided the right level of scrutiny? Why? If not, how would you define the right level of scrutiny and implement it procedurally?

- In your view, why has there been only one IRP arbitration?
- Based on your experience with the IRP in the .xxx top level domain process (e.g., regarding its scope, duration, and/or cost), what do you think about its promise and limitation as an accountability tool more generally?
- In your view, what are the consequences of the IRP's ruling in the .xxx case for the future of the IRP and its effectiveness as an accountability mechanism?

### **(E) In Conclusion**

Looking at the .xxx top level domain case, what improvements would you suggest to strengthen ICANN's public participation mechanisms, transparency, and/or accountability?

Is there anyone you recommend we interview regarding these case studies or ICANN's public participation mechanisms, transparency and/or accountability in general?

Thank you very much for your time and consideration.

## INTERVIEW QUESTIONNAIRE FOR ICANN STAFF

### *DNS-CERT*

Name: _____	Title: _____
Group/ Department: _____	Phone: _____
Years of Service: _____	Date: _____

#### **1. BACKGROUND AND PURPOSE**

As you know, Harvard's Berkman Center for Internet & Society has agreed to assist ICANN's Accountability and Transparency Review Process by conducting an independent, exploratory study analyzing ICANN's decision-making processes and communications with stakeholders pursuant to the Affirmation of Commitments (AoC). The study will develop a framework and recommendations for understanding and improving ICANN's accountability and transparency.

As part of this process, the Berkman Center team is analyzing case examples that were suggested to the ATRT by the ICANN community during its interactions with the community at the ICANN meeting in Brussels, Belgium. Those case studies include the introduction of new gTLDs, the .xxx top level domain, and the DNS-CERT proposal. The Berkman Center team is collecting data, conducting research, and initiating interviews regarding these case studies to provide the ATRT with analysis and recommendations to improve accountability and transparency under the AoC. The interviews will help us understand the range of perspectives on each case, deepen our factual understanding of the core issues and strengthen our recommendations regarding the accountability and transparency of ICANN decision-making processes.

The ATRT has requested that we restrict the scope of our case studies to events that occurred before June 17th, 2010. However, we recognize that your responses may include reference to events or facts that have occurred after that date in order to reflect evolving developments. Such references will help us to deepen our understanding of the issue in question, but will not be included in the final published version of the case studies. Therefore, please mark in bold or italics any facts or responses that may, in whole or in part, refer to developments that have occurred after the June 17th cut-off date.

## **2. CONFIDENTIALITY**

We assure you that all your written and other comments will remain confidential. The collected comments, experience and suggestions from all of the interviewees will be anonymized and reviewed by the Berkman Center's team.

While our final report will contain a list with the names of the individuals we have interviewed, it will not link specific comments to the respective names of individuals.

## **3. INTERVIEW INSTRUCTIONS**

Today, we would like to interview you regarding the DNS-CERT proposal. The information you provide in this interview is part of the fact-finding process. Together with the responses of other interviewees, your responses will help us to gain a deeper understanding of perceptions of accountability, transparency, and participation in the context of this case example; we hope it may also shed light on possible areas for improvement and "lessons learned." Our interest is to learn from your experience. There are no right or wrong or desirable or undesirable answers. We would like you to feel comfortable with saying what you really think and how you really feel.

We have designed the interview – which will focus on ICANN's operations in several different topic areas: public participation, transparency and accountability – as a two-step process:

1. First, we would like to ask you to respond in writing to the questionnaire below. We expect that this portion of the process will take about 60 minutes of your time. Given the aggressive timeline of the review process, we would appreciate if you could return the form within \_\_ days upon receipt in PDF format to [ugasser@cyber.law.harvard.edu](mailto:ugasser@cyber.law.harvard.edu).
2. Second, we would like to follow up with you either in a phone conversation or through a follow up email after we've reviewed your answers. The purpose of this follow up will be to clarify, where necessary, some of the written answers and/or to "dig deeper" where your written responses seem particularly valuable to us. Regarding phone calls, we will not tape our conversation, but a research assistant will take notes from the call. These notes will only be shared with the Berkman Center's team.

## **4. AGREEMENT**

The nature and purpose of this project have been sufficiently explained to me and I agree to participate. I understand that I'm free to withdraw at any time.

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **5. QUESTIONS**

### **(A) Interviewee background**

How long have you been involved with ICANN? In what capacity? What is your area of expertise/responsibility?

Please describe the capacity/manner in which you have been directly involved with the DNS-CERT case. How closely have you been following the issues with the introduction of the DNS-CERT proposal? During what time period?

- Did you participate in the drafting of the “DNS-CERT Business Case,” the “Proposed Strategic Initiatives for Improved DNS Security, Stability, and Resiliency,” or any other ICANN documents relating to DNS security?

### **(B) Public Participation**

To begin, we would like to learn more about the ways in which inputs from the public played a role in ICANN’s DNS-CERT proposal and decision-making process. More specifically:

- On April 6-7, 2010, ICANN hosted a workshop in Washington, D.C. to identify the requirements for responding to Internet and DNS security events. Were the workshop proceedings adequately transparent? Did the workshop and the report it generated provide adequate opportunities for substantive input from the public?
- From your perspective, what were the biggest challenges in analyzing and assessing the public comments?
- In what ways do you think public input played a meaningful role in the decision-making process? At what level? How responsive has ICANN been to public comments surrounding the DNS-CERT proposal? Has ICANN responded appropriately?
- How have individual public comments been weighted against each other? Are there particular comments or commentators whom you thought were given too much or too little weight?
- Based on the DNS-Cert case, how could the processes and instruments of public participation offered by ICANN be improved?

Let’s focus on the role of Supporting Organizations (SOs) and Advisory Committees (ACs) in the context of the DNS-CERT proposal and decision-making process.

- What do you think of the feedback ICANN has received in response to its DNS-CERT proposal—particularly the concerns raised by ISOC, the ccNSO and the GNSO?
- In ICANN conversations about DNS-CERT thus far, how have the views of various stakeholders been represented and communicated?

## **(C) Transparency**

ICANN has a commitment to transparency. Looking at the DNS-CERT business case and decision-making process, we would like to learn more about your views on how transparency is ensured – and, eventually, how it could be further improved.

- Do you think ICANN properly handled the announcement of its DNS-CERT proposal?
- Are there other ways that ICANN could have announced the DNS-CERT proposal that would have been regarded as more transparent?
- Since the announcement of the proposal, what have been the main processes and instruments used to ensure ongoing transparency in communication between ICANN and the community? Have these methods been successful?
- In your opinion, how successful was ICANN in creating transparency in this particular case? Please give specific examples in support of your assessment.
- Do you think transparency in the DNS-CERT proposal could have been improved? If so, how, and at what level?

## **(D) Accountability**

ICANN is an organization that seeks to be accountable to the Internet community. Against this backdrop, we would like to learn more about your observations regarding accountability in the DNS-CERT proposal and decision-making process.

- In your interpretation, what does “accountability” mean in the context of the DNS-CERT proposal? What criteria would you use to “measure” it?
- Using these criteria, how accountable has ICANN been throughout the process of the DNS-CERT proposal?

## **(E) In Conclusion**

Finally, we’d like to get your thoughts on the utility of a DNS-CERT and ICANN’s role in its creation:

- What do you think about the substance of ICANN’s DNS-CERT proposal? Is there a need for a DNS-CERT? If so, what are its responsibilities?
- Is an independent DNS-CERT organization necessary? If so, what should ICANN’s role be in its creation?
- Is the creation of a DNS-CERT a matter for one of the ICANN Supporting Organizations or Advisory Committees? Is it in the direct remit of the CEO?

Looking at the DNS-CERT proposal and decision-making process, what improvements would you suggest to strengthen ICANN's public participation mechanisms, transparency, and/or accountability?

Thank you very much for your time and consideration.

## **DRAFT INTERVIEW PROTOCOL AND QUESTIONNAIRE**

### ***GAC MEMBERS***

Name: _____	Title: _____
Group/ Department: _____	Phone: _____
Years of Service: _____	Date: _____

#### ***1. BACKGROUND AND PURPOSE***

As you know, Harvard’s Berkman Center for Internet & Society has agreed to assist ICANN’s Accountability and Transparency Review Process by conducting an independent, exploratory study analyzing ICANN’s decision-making processes and communications with stakeholders pursuant to the Affirmation of Commitments (AoC). The study will develop a framework and recommendations for understanding and improving ICANN’s accountability and transparency.

As part of this process, the Berkman Center team is analyzing case examples that were suggested to the ATRT by the ICANN community during its interactions with the community at the ICANN meeting in Brussels, Belgium. Those case studies include the introduction of new gTLDs, the .xxx top level domain, and the DNS-CERT proposal. The Berkman Center team is collecting data, conducting research, and initiating interviews regarding these case studies to provide the ATRT with analysis and recommendations to improve accountability and transparency under the AoC. The interviews will help us understand the range of perspectives on each case, deepen our factual understanding of the core issues and strengthen our recommendations regarding the accountability and transparency of ICANN decision-making processes.

For GAC members, we have created the following written questionnaire in order to collect a variety of perspectives regarding the Governmental Advisory Committee’s (GAC) role in ICANN decision-making processes in general, and in the context of each of the case examples in particular. The information you provide is part of the fact-finding process. Together with the responses of other participants, your responses will help us to gain a deeper understanding of perceptions of accountability, transparency, and participation regarding the role of the GAC. We hope it may also shed light on possible areas for improvement and “lessons learned.” Our interest is to learn from your experience. There are no right or wrong or desirable or undesirable answers. We would like you to feel comfortable with writing what you really think and how you really feel.

## **2. CONFIDENTIALITY OPTION**

If you wish, we will treat your written and, where relevant, follow up comments as confidential. In this case, the collected comments, experience and suggestions from all of the interviewees will be anonymized and reviewed by the Berkman Center’s team. While our final report will contain a list with the names of the individuals we have interviewed, it will not link specific comments to the respective names of individuals.

Please indicate here whether you wish that your comments remain confidential:

YES: \_\_\_\_\_ NO: \_\_\_\_\_

Signature: \_\_\_\_\_

## **3. INSTRUCTIONS**

We have designed the questionnaire – which will focus on ICANN’s operations in several different topic areas: public participation, transparency and accountability – as a two-step process:

First, we would like to ask you to respond in writing to the questionnaire below. We expect that this portion of the process will take about 60 minutes of your time. Given the aggressive timeline of the review process, we would appreciate if you could return the form within 7 days upon receipt in PDF format to Urs Gasser <[ugasser@cyber.law.harvard.edu](mailto:ugasser@cyber.law.harvard.edu)>. Please don’t hesitate to be in touch should you have any questions or need any clarification while answering the questionnaire.

Second, we would like to follow up directly with a select sample of respondents— either in a phone conversation or through a follow up email—after we’ve reviewed your answers. The purpose of this follow up will be to clarify, where necessary, some of the written answers and/or to “dig deeper” where your written responses seem particularly valuable to us. Regarding phone calls, we will not tape our conversation, but a research assistant will take notes from the call. These notes will only be shared with the Berkman Center’s team.

## **4. QUESTIONS**

### **(A) General Questions Regarding the Role of the GAC**

Are the existing criteria for “public policy considerations” on which the GAC advises the Board clear? In particular, is there consensus between members of the GAC and the Board regarding the circumstances in which the Board must notify the GAC of an issue that may have such considerations? If not, what might be done to improve clarity on this issue?

What are the primary mechanisms through which GAC advice is submitted to the Board? Are there different types of GAC inputs to the policy development process? If yes, please describe examples of each and the means through which they are submitted.

What is the process by which the documents describing “GAC principles” are created?

How is the diversity of viewpoints among GAC members represented to the Board? Absent 'consensus' how do you expect the variety of positions to factor into the Board's decision-making process?

How would you describe the role of the GAC in ICANN's policy development processes, especially in light of the input of other actors and stakeholders? Are there ways in which it can enhance its role in the decision-making process?

In what instances has ICANN adequately taken into account the advice of the GAC in its decision-making processes, in what instances not? Do you have suggestions for improving the effectiveness of GAC-ICANN interactions?

Does the GAC play a role in the transparency and accountability of the ICANN Board? In what way?

Do you think the transparency and accountability of the GAC could be improved? If so, how, at what level and by what means?

### ***General Questions Regarding the Role of the GAC in the Context of the Case Studies***

#### **(B) .xxx Top Level Domain**

Please describe the capacity/manner in which you have been directly involved with the .xxx case. How closely have you been following the issues with case? During what time period?

Let's focus generally on the role of the GAC in the context of the .xxx top level domain.

- How would you describe the role of the GAC in the context of the .xxx top level domain process?
- Through what channels or mechanisms has the GAC provided input on this case?
- On what specific .xxx top level domain issues has the GAC provided input to the Board?
- Did governmental actors provide input or recommendations on the .xxx top level domain process via avenues other than the GAC? If so, what was the substance of their input and how was it communicated?
- Against the backdrop of the .xxx top level domain process, do you think the information flow between GAC and the ICANN staff and Board could be improved? If so, how, at what level and by what means?

More specifically:

- Has the GAC's input regarding the .xxx top level domain changed over time? How was this communicated to ICANN?

- Were members of the GAC generally in agreement regarding the GAC's stance towards .xxx? If not, what were the key points of disagreement?

### **(C) DNS-CERT**

Please describe the capacity/manner in which you have been directly involved with the DNS-CERT proposal. How closely have you been following the issues with the introduction of the proposal? During what time period?

- Let's focus generally on the role of the GAC in the context of the DNS-CERT case.
- How would you describe the role of the GAC in the context of the DNS-CERT process?
- Through what channels or mechanisms has the GAC provided input on this case?
- On what specific DNS-CERT issues has the GAC provided input to the Board?
- Against the backdrop of this process, do you think the information flow between GAC and the ICANN staff and Board could be improved? If so, how, at what level and by what means?
- Did governmental actors provide input or recommendations on the DNS-CERT case via avenues other than the GAC? If so, what was the substance of their input and how was it communicated?

Generally, is there consensus among GAC members about current DNS security needs? Is there consensus about the appropriate role of ICANN in meeting these needs? If not, what are the main areas of disagreement?

How would you characterize the GAC's reaction to the call for a DNS-CERT?

Do GAC members have significant problems with ICANN's DNS-CERT business case and proposed strategic initiatives?

### **(D) New gTLD Process**

Please describe the capacity/manner in which you have been directly involved with the new gTLD program. How closely have you been following the issues with the introduction of new gTLDs? During what time period?

Let's focus generally on the role of the GAC in the context of the gTLD case.

- How would you describe the role of the GAC in the context of the gTLD case?
- Through what channels or mechanisms has the GAC provided input on this case?
- On what specific new gTLD issues has the GAC provided input to the Board?

- Against the backdrop of this case, do you think the information flow between GAC and the ICANN staff and Board could be improved? If so, how, at what level and by what means?
- Did governmental actors provide input or recommendations on new gTLDs via avenues other than the GAC? If so, what was the substance of their input, and how was it communicated?

More specifically:

- Have the concerns of the GAC been adequately considered during the development of the new gTLD program? Are the GAC principles regarding new gTLDs adequately reflected in the Draft Applicant Guidebook (DAG)?
- What is your assessment of the role of the GAC and its interaction with the Board with respect to new gTLDs?
- Was the GAC given enough time to weigh in on the Expression of Interest proposal? During other stages of the DAG development process, were there any instances in which you felt the GAC was not given enough time to provide input? If so, please describe the situation(s).
- Under what circumstances should members of the GAC be able to object to proposed gTLD strings? What mechanisms or provisions should be built into the new gTLD program to enable these objections?

## **(E) In Conclusion**

What improvements would you suggest to strengthen ICANN's public participation mechanisms, transparency and/or accountability? Are there specific examples, with regard to the cases outlined above, that would best help us to understand the role, types of inputs, effectiveness and modes of communication between the GAC and the Board?

Is there anyone you recommend we interview regarding these case studies or ICANN's public participation mechanisms, transparency and/or accountability in general?

Thank you very much for your time and consideration.