

LACTLD REPORT ICANN 54 MEETING

18-22 October
2015

Dublin



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This report is partially based on the CENTR report of the ICANN 54 Meeting, which addresses more aspects of the GAC and GNSO meetings. CENTR report in English is available [here](#).

LACTLD REPORT ICANN 54 DUBLIN

The ICANN 54 meeting was held at the Dublin Convention Center and gathered 2,000 attendees.

During Fadi Chehadé's presentation at the opening session, the outgoing CEO highlighted the progress made by ICANN on several fronts, among them:

- 1,240 new TLDs and 760 already delegated.
- 340 meetings related to IANA Stewardship transition in 2015.
- ICANN contingency plans in the coming years to provide sustainability to the organization. (Especially considering that the revenue estimates provided by the new TLDs have been substantially lower than expected, which raises an important issue for the future budget and strategy).

[Link to the presentation](#)

ICANN LAC Space

As more than two years ago, and as a result of ICANN strategy in the region, ICANN meetings have a space for those stakeholders who are interested in LAC issues. Rodrigo de la Parra commented on ICANN's new strategy for 2016-2020 and the meeting held in September in Montevideo with the Steering Committee to adjust the plan.

The first presentation was: "Promotion of the production of audiovisual content in the region" by Ricardo Castanheira (Manager of Latin America Motion Pictures Association). Some of the data was questioned by some members of CGI.br as they considered that these numbers tended to favor the perception of piracy in the region.

The second presentation was on .ie, the ccTLD of Ireland by Dennis Jennings, its founder. He stressed that it is a respected registry that eludes fraud with its strict controls for domain name registration. The .ie took off from the university in 1999 and became a non-profit organization with a new council and updated policies. Jennings also stressed how Ireland has created an entrepreneurial ecosystem of organizations related to the DNS. Among the most salient are Afilias; Minds + Machines and Black Knight registrar. Although both the population and the Irish market are small, Jennings emphasized how the creation of an ecosystem can generate sustainable initiatives.

The .rio presentation performed by Vítor Zahdhaft, director of "I PlanRio", from the municipal government of the Brazilian state, highlighted the milestones in consolidating the single geographic domain name in the round of TLDs by LAC region. Registration was assigned in September 2014 and currently there are 4,200 domains and 9,000 interested expressions. The registry works with two registrars: HhostNet and Mexcorp.net and sell the domains to 130 reais (about 30 dollars). [Link to the LAC session presentations.](#)

ccNSO

The Agenda of ccNSO meeting session is available here:

<http://ccnso.icann.org/meetings/dublin54/agenda.htm>

The ccNSO meeting presentations are available here:

<http://ccnso.icann.org/meetings/dublin54/presentations.htm>

ccNSO and ICANN Board meeting

The agenda with the Board was focused on the following items:

1. To confirm the definitive archive of ICP-1, New Memo 1 and the 2000 GAC Principles as obsolete documents for referencing delegation and ccTLD authority policies. These measures were identified as necessary by the ccNSO board in the comments to the last document of the CWG, as well as GAC references on the subject, based on the 2005 GAC Principles.
2. There was a discussion around the potential need for inter-sessional meetings for the final proposal of the CCWG accountability (which finally was not necessary because it was publicly agreed on the last day at the Public Forum, as it will be shown in the CCWG Accountability section shortly). The need for this transition process to be finished by September 2016 was emphasized, with the aim of providing sufficient time for study and approval to the US Congress and NTIA, as well as to implement the recommendations within ICANN.
3. The implementation processes of CWG and CCWG proposals.

IANA Stewardship Transition and CCWG Accountability

The main requirements have been met and after the public comment period changes are being incorporated to the document until mid-November. Public comment period will open while the SO and AC be consulted. With this methodology the final document that raised the IANA Coordination Group (ICG) to the ICANN Board will take place in January. More information about ICG: <https://www.ianacg.org/icg-seventh-face-to-face-meeting-and-working-sessions-at-icann-54-dublin/>

The ccNSO organized five sessions during the two days of meetings (which occupied more than 50% of the time on the agenda) to discuss details of the CWG and CCWG Accountability proposal. Its main themes are presented below.

- **CWG/CCWG e ICG updates**

Once ICANN submits the proposal on behalf of the global Internet community, the US Congress and NTIA will have 4-5 months for review. It will be difficult to have all the processes implemented by September 2016.

The ICG confirmed that most of the work is already in place and there are minor issues to fix. Only 9% oppose the proposal of the ICG, and confirms that the NTIA requirements are met by the proposal.

The CCWG commented that they analyzed over 90 proposals and there was more support for this second one.

CWG update: the proposal was accepted in Buenos Aires, conditional on whether the recommendations received at WS1 of Accountability were incorporated. Legal advisers are drafting the statutes stipulated by the CCWG proposal. Future topics include: solving implementation of the Service Agreement and intellectual property issues associated with IANA. How is the brand going to be used? Who are going to be the owners of the Intellectual property rights? One of the most vocal proposals suggested transfer these rights to the IETF Trust.

- **Three key areas for ccTLDs**

IANA Service Agreements (SLA) – Jay Daley (.nz)

He clarified that the SLA (service level agreements) and SLE (expectations agreement) are the same for this working group. It is essential to understand the following of the CWG with this issue:

- a. To distinguish between the internal processes of IANA to the external ones (for example, a ccTLD).
- b. Operational principles 24 hs / 365 days
- c. A customer's request cannot disappear from the timeline.
- d. SLEs will be work in progress.

The group identified different service requirements, depending on the impact, the type of registration and the mechanisms that should be used for reporting. To address this efficiently they are working on the creation of a new real time dashboard. Its implementation requires specific metrics to achieve 100% accuracy levels.

There are some open questions about whether the transition will proceed without the SLA already implemented, and could have some difficulties complying with this because of the aggressive transition schedule.

- i. ICP 1 – Martin Boyle (.uk)

The ICP 1, acronym of "Internet Coordination Policy" 1 is a document that although is little known in the ccTLD community, it arose to notoriety with its inclusion in the CWG proposal. It was rejected by the ccNSO Council in the last round of public comments and it formally asked the ICG to withdraw it as a reference since it was a document that was never used nor accepted by ccTLDs for their policymaking.

Martin Boyle also noted that once the ICG document is approved and implemented, the ccNSO shall identify persons to serve on committees and new teams, such as Customer Standing Committee (CSC) or the IANA Functions Review Team. It is important that the ccTLD community is able to address these demands which are part of the proposals accepted by the community for the transition.

ii. ccNSO work and policy development process (PDP) - Keith Davidson (.nz)

There is a need for policy development processes within the ICG to examine processes such as ccTLD removal and appeal mechanisms.

CWG Accountability and ccNSO participation

Support to the "single member" model of the CCWG second proposal (versus the first version that was multi-member). The only power that a SO or AC individually has is the removal of a council member.

“Stress test 18”

This issue divided the GAC in the discussion and until the internal differences are not settled, the CCWG progress will probably be affected. This CCWG’s proposal exercise includes the effects of changes in the decision-making processes within the GAC and the explicit form of consensus as a requirement to modify the operating principles. In the scenario that "stress test 18" has not reached agreement within the GAC, it could marginalize this committee’s role in the process, or there could be a deletion of this stress test in the CCWG proposal.

Topics of discussion with members position in the ccNSO

Topic	ccNSO Position
Community power to approve changes to the fundamental statutes	Consensus, with reservations about its effects on the Policy Development Process (PDP)
Community power to reject General Statutes	Consensus, with reservations about its effects on the Policy Development Process (PDP)
Community power to remove the ICANN Board	Consensus
Need for community dialogue before using special powers	Consensus
Incorporate reviews of the Affirmation of Commitments to the statutes	Rough consensus
Incorporate commitments and principles of Affirmation of Commitments (AOC) to the statutes.	Consensus

ICANN and Human Rights

After the transition, ICANN will become a private corporation, without government control of the US. That means finding mechanisms to ensure that respect for international law and human rights. One solution might be to integrate this issue of fundamental laws. There was consensus to give priority to the issue in the first phase (currently), and engage in more detailed work after the transition.

Independent Review Panel (IRP)

According to Becky Burr (.us), the IRP is the "guardian of the crown jewels" for its central role in ensuring the proper IANA operation. While this panel will not handle the issues related to the ccTLD delegations

and redelegations it proposed that this issue to be developed through a policy development process (PDP) in the post-transition stage.

The IRP functions will be to resolve disputes over the power of communities; violations of laws and decisions related to IANA (excluding ccTLD delegations).

Members in the current model of CCWG

The current CCWG proposal that was extensively discussed at the ccNSO was about relationship models of SO / AC with ICANN. In the first proposal (May 2015), each SO and AC would be a member. As this idea had no consensus in the consultation process, it was changed for the "sole member" model in which the SO / AC together constitute a single member to ICANN and have the right to appoint or remove directors. After an extensive discussion of the implications in terms of the constraints and advantages of this model for the ccNSO there was enough consensus to support this model. In the words of Jordan Carter (.nz): "It is not about the best approach but the one with which we can all live with." This model was finally approved in the public consultation forum.

Legal Session

- **The Swedish Pirate Bay against IIS (.se) case, Elisabeth Ekstrand**

"The Pirate Bay" website offers materials often considered as "illegal" for infringing intellectual property rights. The .se was taken to court because they wrote off the site, knowing that contained these materials, but could act only by court order. The questions in this presentation takes intentionality of .se in its action, and complicity in fact, to be the domain name a tool for the organization and dissemination. The IIS (.se) is legally considered as a neutral author, and should not judge the contents found in one site. The court finally considered the factor of "social suitability" for the role of IIS to judge content and felt that their role was intentional, but eventually it was a proper conduct. It is interesting to think about the ccTLD in their role as intermediary.

- **TLD and IP blocks: transferable property?- Nigel Roberts, .je/.gg**

The presentation reviewed again the milestones around the case of ccTLDs corresponding to Iran and North Korea for the victims of terrorist attacks. They sued ICANN to hand over the ccTLD and IP blocks. ICANN has defended the position in the courts saying that ccTLDs are not property, and if they were, is not the type of property that can be transferred. ICANN also argued that even if they were, ICANN would never be able to act unilaterally. In sum, the debate about whether the ccTLD is a property and which kind, is still open.

- **Sovereignty and Property Rights: conceptualizing the relationship between ICANN, ccTLDs and governments** - Farzaneh Badieh (Alexander von Humboldt University), Milton Mueller (Syracuse University)

- The presentation focused on two questions:
- Are ccTLD ccTLDs sovereign space?
- Are TLD delegations property rights?

Following the categories proposed by Stephen Krasner on the concept of sovereignty, a ccTLD would correspond to the "International legal sovereignty" category (where there is mutual recognition between the parties). The work suggests that when it is in doubt as to whether a ccTLD is a service (which is the majority perception among present ccTLDs) or a property (the registrant's perspective), Badiuh Mueller said that recent failures tend to be in favor of the idea that it is a property. They propose that a registrant, the best way to adopt a ccTLD may be the free trade model to avoid problems in the courts of recent cases, but this model does not suit ccTLDs that are not under the "Common Law" law format, which is not the legal tradition in Latin America. While the intellectual work and categorization exercise is interesting, the proposed recommendations do not seem relevant or sufficiently informed of the diversity of contexts in which the ccTLDs operate.

ccTLD News session

- Julie Kung Zhu (.cn) presented the case of .cn and their actions in the Internet Governance ecosystem and why ccTLDs play an important role, which must continue to be played.
- Luis Medina Ramos, (.pr) presented the challenges and solutions for the adoption of DNSSEC in .pr, the first registry in Latin America and the Caribbean to adopt it.
- Jay Daley (.nz) introduced a new .nz service, the "National Broadband Map." It is a course of action that diversifies the portfolio of .nz services, but requires a similar ccTLD role as a neutral player with Internet data skills. This tool allows users to know the availability of Internet connections and strengthen the digital economy.
- Lise Fuhr, for DK Hostmaster presented the progress in the validation of address data and names of .dk registrants. This effort is part of the requirements of a law in Denmark which urges .dk to provide valid contact information, while continuing to guarantee anonymity for Danish registrants.

Perspectives from the GAC¹

- PSWG

The GAC's Power Safety Working Group for Public Safety (PSWG) gathered for the first time. The objective of this group is to create safeguards for consumers of new TLDs, improve the contractual terms with the registrars and the agreement with the registries and improve Whois accuracy.

More information about the open session: <https://meetings.icann.org/en/dublin54/schedule/mon-gac-pswg-afternoon>

- Online Pharmacies and illegitimates

Another area of work introduced by the GAC in a specific session with registrars and registries was on consumer protection before the threat of illegal drug industry. The session was co-organized by the Online Pharmaceutical Security Alliance (OPAS), the Center for Safe Internet Pharmacies and the

¹ These perspectives were kindly discussed and shared by Nina Elzer from Centr who attended these meetings.

National Association of Boards of Pharmacy (US. agency). The session called to encourage collaboration between sectors. The main points of discussion for registries focused on the mechanisms for downloading online content (some TLDs like .org can only take down content by court order), while some registrars are adopting measures promoted by LegitScript, whose services focus on controlling transactions of prescribed drugs in the digital environment without a due prescription. Among the main conclusions of that meeting it was established that compliance with the various measures to combat illicit drugs should be voluntary rather than coercive action and that any such measures should not come from ICANN.

More information: <https://meetings.icann.org/en/dublin54/schedule/mon-internet-pharmacies>

- **The use of country characters of three letters for TLDs**

The subject under study includes 300 country codes in the ISO 3166-1 alpha 3 list (eg BRA for Brazil) and 17,000 TLDs. Possible future use must be clearly distinguished from the country codes with 2 characters at the second level in "traditional" TLD (.com, .net, etc.) and they have won in the first round of implementation of new TLDs (eg. xyz).

GAC discussions focused on addressing questions and options: a) allow its use among TLDs while there is no conflict with country codes already identified in the list; b) not to permit its use by any registry (ccTLD, IDN gTLDs); c) allow its use only for ccTLDs; d) allow its use only if they are not ccTLDs. GAC questions also addressed the cases in which countries have "given away" the two-character code, would you be able to claim "its" 3-character code? If a government vetoes its use, how it could legally be applied? How to avoid confusion between a 2-character country code from that of 3 characters?

The GAC discussed ways to continue working on the issue, whether if it should be added in the future rounds of applications guide, or directly prevent ICANN from opening the possibility.

A questionnaire has been deployed based on seven questions prepared by the Working Group (UCTN) and responses will be evaluated in the coming months. More Information about this working group: <http://ccnso.icann.org/workinggroups/ccwg-unct.htm>

Stress Tess 18 and CCWG

This issue was commented on the ccNSO section (see p. 4)

GNSO

For more detailed information, we recommend the description at the GNSO section by Patrick Myles at the [CENTR Report](#), but there are two issues to highlight:

1. The discussion on how ICANN should invest the resources generated from the auctioning of new TLDs still continues (this information was circulated that day by Rodrigo de la Parra on our ag list)
2. Unfortunately there was no consensus for the election of a new Chair for the GNSO Council (since Jonathan Robinson from Afiliás already completed its mandate).