Middle East Space
Abu Dhabi, UAE
1 November 2017

Statement

We, the Middle East community members participating in the Internet Corporation for Assigned Names and Numbers' (ICANN) 60th international public meeting in Abu Dhabi, United Arab Emirates, and attending the Middle East Space session on Wednesday 1 November 2017, discussed ICANN's jurisdiction and access to the Domain Name System (DNS) in the Middle East.[1]

We believe that ICANN, being the impartial coordinator of the DNS as a global resource, should serve the global community regardless of their nationality or their country of residence. Thus, while considering applicable laws, ICANN should prioritize interconnection and refrain from arbitrary and unilateral measures that affect access to the DNS. Moreover, ICANN's jurisdiction should not affect participation in ICANN policy processes nor the availability to the global community of DNS training and other capacity building initiatives provided by ICANN.

In consideration of the above, we appreciate the ongoing work of ICANN's Cross-Community Working Group (CCWG) on Accountability's Work Stream 2 Jurisdiction Subgroup (Jurisdiction Subgroup), which is addressing how choice of jurisdiction and applicable laws for dispute settlement impact ICANN's accountability, and more specifically, the issues that ICANN's jurisdiction might raise for DNS customers, including end users. Some of these issues relate to the registration of domain names, accreditation of registrars, approval of registries, and delegations of country code top-level domains (ccTLDs).

ICANN's jurisdiction may create an array of problems,[2] particularly for some countries in the Middle East such as Iran, Libya, Somalia, Sudan, Syria, and Yemen. These issues have not been addressed neither by the ICANN organization nor the community over the past 19 years, and we are pleased that they are now being considered by the Jurisdiction Subgroup.

Several issues that ICANN's jurisdiction raises for DNS users and businesses, who are not on the specially designated nationals list provided by the U.S. Department of the Treasury's Office of Foreign Asset Control (OFAC), have been identified by the Jurisdiction Subgroup with the help of some of its members from the Middle East region. Most of these issues stem from United States-imposed sanctions.

As a community that is most affected by the U.S. sanctions regime, we support the

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[1] The Middle East-SWG's regional focus includes the 22 Arab States (as defined at: https://en.wikipedia.org/wiki/Arab_states), Iran, Afghanistan, Pakistan and Turkey.

[2] For a list of issues and problems please refer to this blog post: http://www.internetgovernance.org/2017/01/13/icanns-jurisdiction-sanctions-and-domain-names/. Also refer to the list of issues submitted by various groups to the jurisdiction group: https://docs.google.com/document/d/1WNYj8jfau11OMUzvguZN8UE-fGos54m8XTYUTnROgBU/edit

recommendations of the Jurisdiction Subgroup that, within the framework of the OFAC's sanctions program, ICANN should seek ways to provide optimal access for DNS customers. We specifically support the following recommendations of the Jurisdiction Subgroup:

- ICANN should commit to applying for and using best efforts to secure an OFAC license for all applicants for registrar accreditation and/or generic top-level domain (gTLD) registries resident in countries subject to U.S. sanctions if the applicant is otherwise qualified (and is not on the Specially Designated National List). During the licensing process, ICANN should be helpful and transparent with regard to the licensing process;

- ICANN should clarify to registrars that the mere existence of their registrar accreditation agreement (RAA) with ICANN does not cause them to be required to comply with OFAC sanctions; and

- ICANN should take steps to pursue one or more OFAC "general licenses" with the U.S. Department of Treasury in connection with DNS-related transactions. If unsuccessful, ICANN will need to find other ways to enable transactions between ICANN and residents of sanctioned countries to be consummated with a minimum of "friction."

In summary, we support the abovementioned recommendations and we look forward to ICANN's concrete actions for resolving the jurisdictional issues and implementing the solutions.