To: ICANN Board
From: Christian Dawson, Executive Director, i2Coalition
Date: March 7, 2022
Subject: Re: European Commission Report on DNS Abuse

Members of the ICANN Board,

As you have surely seen, the European Commission published a new report titled "Study on Domain Name System (DNS) abuse" which makes significant recommendations to the EU digital ecosystem on dealing with Internet abuse. In doing so, they leverage a very broad and inclusive definition of "DNS Abuse". I am writing today to make certain of our continued alignment on why this broad definition does not apply in an ICANN context.

The report notes that what it calls DNS Abuse is "any activity that makes use of domain names or the DNS protocol to carry out harmful or illegal activity". While useful for the purposes of the European Union, this definition does not make sense in the context of ICANN. Primarily, this is because, in both the above definition and in the general scope of the report, the authors include content issues, an area that falls outside of ICANN's remit as explicitly stated by its Bylaws.

We at the i2Coalition understand that the Board does not intend to respond to this report, as it is not primarily geared toward ICANN, but it is imperative that there is a clear understanding at the ICANN Board level why the new report should not be a catalyst for action to address this overly broad definition of "DNS Abuse" at the ICANN level, and that this understanding be reflected in any proposal brought before the Board for action.
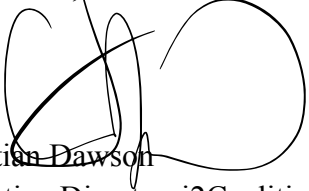
Certainly, the issues highlighted in the EU's report are important to tackle, and we as stakeholders in the broader Internet ecosystem, with a broader remit than ICANN, continue our active pursuits to address all manners of abuse online and to continually work to improve our significant efforts. We have and will continue to fight these Internet-wide abuse issues in all the appropriate venues.

Our colleagues at the Internet and Jurisdiction Policy Network have created a useful toolkit which highlights that dealing with abuse is a whole-of-internet ecosystem exercise. ICANN should not be facing pressure to solve issues that need to be addressed at other levels of the Internet ecosystem.

While abuse on the Internet will always exist in some form, it is being fought aggressively on an ongoing basis by Internet infrastructure companies. What is left now is to tackle the difficult cases, most of which happen to be outside of the technical remit of ICANN. We as stakeholders of the Internet ecosystem are doing this difficult work, through the appropriate channels and using the appropriate levers, rather than by pressuring ICANN to act outside of its corporate instruments.

ICANN should not be subjected to misguided attempts to recast broader Internet ecosystem problems as technical and within-scope ICANN problems. We hope that this letter can help in making the distinction between what is and isn't germane to the technical DNS functions your mandate puts you in the position to oversee.

All the best,

Christian Dawson
Executive Director, i2Coalition