2010-12-10-01 Annex to Board Submission - 2011 Asia Meeting Location

Confidential Bid Information Redacted

Confidential Bid Information Redacted

Confidential Bid Information Redacted

2010-12-10-01 Security prelim assessment - Asia locations 19Nov 2010

Confidential Security Assessment Redacted

Confidential Security Assessment Redacted

Confidential Security Assessment Redacted

2010-12-10-02 Board submission-SSR-annex

ANNEX TO BOARD SUBMISSION NO. 2010-12-10-02

SUBMISSION TITLE: **FY 11 Update to the Security, Stability & Resiliency Plan**

BACKGROUND & DISCUSSION

ICANN's Plan for Enhancing Internet Security, Stability & Resiliency (SSR)

- ICANN published an initial plan in May 2009 as a baseline document describing the organization-wide activities and programs related to security, stability & resiliency (http://www.icann.org/en/announcements/announcement-2-21may09-en.htm). The Board acknowledged receipt of the 2009 Plan (for Fiscal Year 2010) at the ICANN meeting in Sydney, Australia in June 2009.

- Following the signing of the Affirmation of Commitments, and based on the development of the 2010-13 ICANN Strategic Plan and FY 11 Operating Plan and Budget, ICANN staff updated the SSR Plan to reflect the current activities and programs for Fiscal Year 2011.

- Staff had intended to provide this update for the Board and community before the ICANN meeting in Brussels in June 2010, but the Plan was delayed until September. The revised plan was published on 13 September 2010 following a pre-publication briefing for SSAC.

- Based on an informal request from the At Large community, staff extended the public comment period to 5 November 2010, and several briefings were conducted with interested portions of the community during the comment period.

Now that the comment period has concluded and revisions have been incorporated into the FY 11 SSR Plan, ICANN staff is requesting that the Board acknowledge receipt of the updated Plan.

Consultations Undertaken

In preparation for the revision of the SSR Plan, ICANN's Security team organized a cross-functional team composed of staff from IANA & DNS Operations, Information Technology, Global Partnerships, Services, General Counsel, and Policy areas. The group suggested revisions and updates for the FY 11 version.

During the comment period, ICANN conducted briefings on the SSR Plan and ICANN activities in SSR with:

- Security & Stability Advisory Committee (SSAC) – 9 September 2010, 22 October 2010
- RIPE NCC Regional meeting (Moscow) – 29 September 2010
- Commercial Stakeholders Group meeting (Washington, DC) – 12 October 2010
- At Large community (remote briefing) – 18 October 2010
- Internetdagarna (Stockholm, Sweden via remote presentation) – 26 October 2010
- Organization of the Islamic Conference-CERT meeting (Kuala Lumpur, Malaysia) – 28 October 2010

Public Comment Summary - Potential objections and proposed responses

ICANN received seven public comments during the comment period that ran from 13 September to 13 October (and was extended to 5 November 2010).

Inputs were received from individuals in the DNS and academic research communities, top-level domain registry operators, Internet organizations, and business users. Commenters generally supported the description of ICANN's role in security, stability and resiliency of the unique identifier system, but asked for clarification that ICANN does not expand beyond its mission. Commenters suggested that ICANN focus on its mission on core threats to the DNS itself.

Commenters suggested revisions to the Plan (including description of activities related to Contractual Compliance, RPKI, and on a system-wide risk assessment for the DNS.

Several commenters noted ICANN work in DNSSEC and in DNS capacity building initiatives as positive examples of ICANN's work in security, stability and resiliency.

Staff has updated the SSR Plan based on public comments, including a redline version so that the community can see how comments were accommodated.

Resource implications – The Plan does not provide additional resource implications, but instead documents ICANN's SSR initiatives in the FY 11 Operating Plan and Budget in greater detail.

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2010-12-10-02 FY11 SSR Comments

FY 11 Update to ICANN Plan for Security, Stability & Resiliency (SSR)

Summary and Analysis of Comments

ICANN conducted a public comment period on the *FY 11 Update to the Plan for Enhancing Internet Security, Stability and Resiliency (SSR)* from 13 September to 13 October 2010. Based on an informal request from the At Large community, the comment period was extended on 4 October 2010 to 3 November 2010. Seven comments were received in the forum, along with 4 questions and responses from a briefing to the At Large community conducted on 18 October 2010.

In addition, staff conducted briefings on the SSR Plan and ICANN activities in SSR during the comment period on the following dates:

- Security & Stability Advisory Committee – 9 September 2010, 22 October 2010
- RIPE NCC Regional Meeting (Moscow, Russian Federation) – 29 September 2010
- Commercial Stakeholders Group (Washington, DC) – 12 October 2010
- At Large community (remote briefing) – 18 October 2010
- Internetdagarna (Stockholm, Sweden) – 26 October 2010
- Organization of The Islamic Conference-CERT meeting (Kuala Lumpur, Malaysia) – 28 October 2010

Summary of Comments

ICANN received input on the FY 11 SSR Plan from individuals in DNS and academic research communities, top-level domain registry operators, Internet organizations, and business users. A detailed analysis of these comments is provided below. Revisions will be made to the FY 11 SSR Plan based on the comments received.

ICANN also received input during the briefings listed above, which included a suggestion that ICANN clarify the title as it may be perceived as overreaching beyond ICANN's role, and that ICANN provide a definition for resiliency in a future version of the SSR Plan. Commenters suggested several citation updates and corrections so that the plan would be consistent with current work (such as reports related to root scaling, possible revisions to the Registrar Accreditation Agreement, an inventory of WHOIS service requirements, RPKI, and DNSSEC implementation).

Main Themes

1. Commenters generally supported the description of ICANN's role in security, stability and resiliency of the unique identifier system, but asked for clarification that ICANN does not expand beyond its mission. Commenters suggested that ICANN focus on its mission on core threats to the DNS itself.
2. Corrections should be made to the Contractual Compliance section to clarify that compliance remains a priority and that ICANN will work with the broader community, rather than only contracted parties.

3. Commenters stated there is a real need for a system-wide risk assessment, threat analysis and to assess how best to embed DNS expertise in the existing computer and network security response capability.
4. Several commenters noted ICANN work in DNSSEC implementation and in DNS capacity building initiatives as positive examples of ICANN's work in DNS security, stability and resiliency.

The comment forum can be viewed at http://forum.icann.org/lists/ssr-plan-fy11/.

Detailed Analysis

Stakeholder Comments – Individuals from DNS and academic research communities

Comments in this category included input from Eric Brunner-Williams, Dev Anand Teeklucksingh and Sivasubramanian Muthusamy via the Adobe Connect chat as part of the At Large briefing on 18 October 2010. At the request of At Large Advisory Committee (ALAC) Chair Cheryl Langdon-Orr, questions provided into the Adobe Connect chat session were posted into the comment forum with staff responses on 26 October 2010. Separately, Nevil Brownlee, Computer Science Department at the University of Auckland, provided a comment into the forum on 3 November 2010.

Nevil Brownlee

Brownlee noted that as an active member of the DNS research community, he would like to see the FY 11 SSR Plan made stronger by incorporating projects related to actual measurement and monitoring. He cited ICANN's report from the February 2010 Global DNS SSR Symposium in Kyoto, Japan on Measuring Health of the Domain Name System (http://www.icann.org/en/topics/ssr/dns-ssr-symposium-report-1-3feb10-en.pdf) as an example that more should be done to define what DNS health should mean to researchers, service providers, and ordinary Internet users.

Brownlee stated there are many DNS measurement projects underway in the global Internet research community, and he would "like to see ICANN devote some real effort to supporting DNS research, and working with the Research Community to ensure that its research outcomes are deployed and used to improve DNS service at all levels."

ICANN's Security team would welcome greater involvement from the research community and will look at opportunities to involve the research community in ICANN's SSR activities.

Eric Brunner-Williams

During the At Large briefing, Brunner-Williams suggested "if there is a conficker variant off of last year's .c variant (used the dns for rendevouz points), letting last years -dns list know is an option. A lot of the -dns people dropped off, so jc [John Crain] may need to do something more than just pick up the phone."

Staff responded "A table showing Conficker variants is included in the Conficker Summary & Analysis, which was published on 7 May 2010 (http://www.icann.org/en/security/conficker-summary-review-07may10-en.pdf). There are not just Conficker variants but also other malware that uses the same domain name generation idea. John Crain is leading ICANN's participation in the Conficker Working Group, and the working group is supposed to be discussing goals for 2011. Staff agrees that picking up the phone won't be enough, and further discussions with the working group and TLD operators will continue on best mechanisms for dealing

with Conficker."

On 2 November 2010, Brunner-Williams added he concurred with the Registry Stakeholder Group (RySG)'s urging that the FY 11 SSR Plan be amended to provide:

- A clear recognition that the industry's security mission is focused on core threats to the DNS itself. (Note – Brunner-Williams substituted "industry" for ICANN)
- "I also concur with the RyC's expression of preference for transparency and process, and their rejection of 'WHOIS' as an issue of comparable import."

Independently, he urged that the FY 11 SSR "Plan be amended to provide for the reduction of economic, ownership, and trust (EOT) barriers to research access to authoritative, and recursive resolver operational data." Staff notes that there is not currently policy under development on this topic, but that ICANN does participate in data sharing activities with other operators such as DNS-OARC (https://www.dns-oarc.net/). This is similar to the point raised by Nevil Brownlee, supporting improved work with the research community to better understand DNS behaviour.

Dev Anand Teelucksingh

Teelucksingh asked "Regarding ICANN Contractural Compliance, previous briefings from Contractural Compliance at ICANN meetings that Contractural Compliance appears to be understaffed to adequately perform compliance of the 20+ gTLD registries and the 900+ registrars of gTLDs. How/Can the Contractural Complance Dept. be able to implement the increased scope of compilance activities due to the SSR plan?"

Staff responded: "ICANN is currently seeking interested candidates for several positions on the Contractual Compliance team. You raise a good point about Compliance and this is a focus area for ICANN. Compliance will be working collaboratively with the law enforcement community and Internet community as a whole to identify contracted parties that may be engaged in malicious activity."

Based on this comment, and comments received from the Coalition for Online Accountability and Microsoft Legal & Corporate Affairs, the FY 11 SSR Plan will be updated to clarify that "The Contractual Compliance Department will continue to aggressively enforce ICANN's registrar and registry contracts in the interest of protecting registrants and encouraging public confidence in the DNS."

Sivasubramanian Muthusamy

Muthusamy asked "What are the targets for the DNSSEC program? Root Servers + Registry Servers ? Also National Internet Exchanges? What else?" He also asked "Has the Security and Stability program looked at all targets and is there a plan to make this an all inclusive exercise?"

The responses to his questions were provided as follows:
DNSSEC for the root zone is a joint effort between ICANN and VeriSign, with support from the U.S. Department of Commerce. Final deployment of DNSSEC has been completed in the root zone, meaning, all root server operators are serving the production signed root zone). ICANN is supporting efforts by all registry operators to sign TLD zones, and efforts to extend the chain of trust through to registrars. Information on DNSSEC for the root zone is available at http://www.root-dnssec.org/. In addition,

DNSSEC is a requirement for delegation in the draft Applicant Guidebook for the new gTLD process.

Implementation of DNSSEC in the root zone was a major step, involving substantial work from the technical community, VeriSign & the U.S. Department of Commerce. There is more work to be done, and ICANN staff (particularly ICANN's DNS Operations team, http://dns.icann.org/ksk/) will be working to educate, provide support and facilitate the adoption of DNSSEC across the spectrum by registries, registrars, and end users. While particular targets for DNSSEC adoption have not been set in the FY 11 SSR Plan, that is a suggestion that can be made in ICANN's upcoming 2011-2014 Strategic Plan and the FY 12 Operating Plan cycle. You correctly note that some of these targets may be beyond ICANN's relationships with registries and registrars, but ICANN intends to conduct outreach to promote DNSSEC adoption by the broader community.

Registry Operators, TLD Associations and Internet Organizations

Inputs in this category were received from the Internet Society, Nominet, and the Registries Stakeholder Group (RySG).

The Internet Society

ISOC noted its support for the Plan's statement of scope on ICANN's role. While it shares with ICANN the recognition of the importance of the stability, security and resiliency of the Internet's routing system, ISOC raised some concern with the language in the Plan addressing Resource Public Key Infrastructure (RPKI), as the section "could be seen as describing an inappropriate interpretation, which leads to an unfounded assertion of ICANN and IANA's role in operating a trust anchor repository for the RPKI standard being developed at the IETF."

ISOC does not see the basis for asserting ICANN's acquisition of such a strategy or responsibility.

ISOC suggested that the text in the SSR Plan be "adjusted to reflect ICANN's role as collaborator in RPKI implementation (through the IANA functions) and ultimately, maintainer of the root trust anchor (as ICANN, through the IANA functions, is the maintainer of the DNSSEC root trust anchor), not as having provided a basis for ICANN to acquire strategic responsibilities for the stability, security and resiliency of the entirety of the Internet's routing system."

ISOC's feedback on the RPKI section is welcomed. ICANN's technical experts within the DNS Operations and IANA functions teams are actively participating on the development of RPKI. Staff will clarify the section on RPKI that ICANN is not claiming to own the strategic responsibility for the security, stability and resiliency of the routing system.

Nominet

Nominet welcomed the opportunity to comment on the FY 11 SSR Plan but indicated disappointment that the FY 11 SSR did not incorporate the feedback received during the comment period on the Security Strategic Initiatives paper which closed in May 2010 (http://www.icann.org/en/public-comment/summary-analysis-strategic-ssr-initiatives-and-dns-cert-business-case-24may10-en.pdf).

Nominet asserts "there appears to be a real need to do a more complete risk assessment and gap analysis and to assess how best to embed DNS expertise in the existing computer and network security response capability, ensuring the best use of existing networks."

This point is consistent with the proposal for a more system-wide risk analysis from ICANN's Security Strategic Initiatives paper dated February 2010, and consistent with feedback received on that document. A Joint Security and Stability Analysis Working Group is also being formed with representatives from ALAC, ccNSO, GNSO, NRO and independent experts. Staff notes that the comment period on the Strategic Initiatives paper closed after the development of ICANN's FY 11 Operating Plan and Budget, but risk assessment initiative could be included into the FY 12 Strategic and Operating Plan process. The working group could also suggest alternative models of funding or structures to conduct a system-wide risk assessment in collaboration with the DNS community.

Nominet expressed its support for ICANN's capacity-building initiatives by working with other organisations. "We recognize the importance of a culture of emergency preparedness in the DNS community and of embedding best practice across the industry." Nominet raised some concern that many of its initiatives do not involve the DNS industry, such as its engagement with the Forum for Incident Response and Security Teams (FIRST).

Nominet asked for more detail on the ccNSO's involvement on the Attack & Contingency Response Planning or Registry Operations Course. Staff notes that ICANN, in partnership with the Network Startup Resource Center & ISOC, recently conducted a registry operations training course at the APTLD meeting in Amman, Jordan (2-6 November 2010). A similar course was conducted in Mali for AfTLD in September 2010. Details on the ccTLD Capacity Building Initiative are available at https://nsrc.org/trac/cctld/. Staff will update the SSR Plan with more information on this initiative.

Nominet also identified an omission on page 53 for deliverables of e-IANA implementation. This will be corrected in the updated document. Nominet notes that there is no discussion of IPv4 exhaustion and any security, stability or resilience implications, but section 5.1.1 of the Plan describes ICANN work with the RIRs on IPv4 exhaustion.

Finally, Nominet notes that it would be useful for the Plan to mark clearly those activities from the 2009 Plan that have been completed. This is a good point, and is preparing a chart to include with the updated plan showing completed activities from the 2009 Plan.

Registries Stakeholder Group (RySG)

The RySG submitted a consensus comment from the gTLD registries stakeholder group, appreciating ICANN's commitment to the security, stability and resiliency of the DNS. The RySG was generally pleased with the description of ICANN's role one pages 2-3, noting it "is important for ICANN to acknowledge and communicate its role, and to avoid 'mission creep' into areas outside of ICANN's mission." The RySG noted ICANN's withdrawal from operating a DNS-CERT was an appropriate choice as this was outside ICANN's role.

The RySG stated that ICANN should provide very specific examples of anticipated participation in activities with the broader Internet community to combat abuse of the unique identifier systems, as this statement is likely to be perceived as ICANN preparing to move beyond its scope and mission.

The RySG expressed its support for core DNS risk assessment and threat analysis, and requested that the FY 11 Plan be amended to provide:

- Assurance that there will be transparency and use of community processes in efforts to establish metrics, assessments and programs regarding health of the DNS and threats to its security and stability, including an assurance that SSAC will be a central participant in such efforts.
- A clear recognition that ICANN's security mission is focused on core threats to the DNS itself.

On WHOIS, the RySG noted that staff omitted the Inventory of WHOIS Service Requirements paper published in July 2010, http://gnso.icann.org/issues/whois/whois-service-requirements-final-report-29jul10-en.pdf. This omission will be corrected and a reference to the report will be included in the updated document.

Business Community

Comments were received from the Coalition for Online Accountability and Microsoft Legal and Corporate Affairs.

Coalition for Online Accountability

The Coalition for Online Accountability (COA) comment focused on two areas: 1) improvements to the Registrar Accreditation Agreement (RAA), and 2) contractual compliance. On the RAA, the comment identifies an omission on page 37 of the document – the Plan does not reference the recent work of a drafting team composed of GNSO & ALAC representatives on possible amendments to the RAA. COA is correct, and the SSR Plan will be updated to include this information. The final report on possible improvements to the RAA was published on 18 October 2010, during the comment period on the FY 11 SSR Plan. A link to the report is available at http://gnso.icann.org/issues/raa/raa-improvements-proposal-final-report-18oct01-en.pdf.

With regard to contractual compliance, COA states "it is disappointing to see how little attention it receives in the draft Plan." COA notes the contractual compliance section on page 43 is not clearly written and should be clarified. Staff appreciates this comment, and will be correcting the error in the Compliance section to read: "The Contractual Compliance Department will continue to aggressively enforce ICANN's registrar and registry contracts in the interest of protecting registrants and encouraging public confidence in the domain name system. In an effort encourage contract compliance and **enhance** public confidence, the Contractual Compliance Department is developing a system to publically identify **non-**compliant parties."

The Plan will also be clarified to reiterate the Contractual Compliance team will work with the broader community, not only contracted parties, to serve the public interest.

Microsoft Legal & Corporate Affairs

Russell Pangborn from Microsoft Legal and Corporate Affairs applauded ICANN's recognition of the mission of public trust in coordinating the Internet's unique identifier systems, but noted "the SSR Plan does not more clearly reflect this public trust responsibility." Pangborn called attention to the sections on contractual compliance and WHOIS and encouraged ICANN to continue its efforts to improve these areas. On new gTLDs, Pangborn indicated that the plan understates the SSR implications of the planned introduction [of new gTLDs] while simultaneously overstating the scope and anticipated efficacy of ICANN's efforts to mitigate these implications.

According to Pangborn, "ICANN has not sufficiently included key stakeholders such as enterprises or users in its security, stability, and resiliency initiatives, and the SSR Plan indicates that ICANN will continue to focus on the contracted parties in such initiatives." The SSR Plan was developed out of the Strategic and Operational Planning process, which the entire ICANN community had an opportunity to provide input. Briefings were conducted on ICANN SSR activities with a broad spectrum of the community, to users and enterprises, and many of the initiatives to be conducted in FY 11 involve a wide spectrum of the community, not only contracted parties. Staff has also reached out to Microsoft's security experts, as well as others in the security community for greater engagement in ICANN's SSR activities in FY 11.

The SSR Plan does not differentiate gTLD registries and registrars as core stakeholders separate from other users and enterprises. Pangborn states that "the referenced Kyoto and Georgia Tech symposia did not include numerous users and enterprises…many of the attendees at the symposia were employees of gTLD and ccTLD registries." While there were attendees at both symposia from the TLD community, attendees were also present from Internet Service Providers, such as Comcast and NTT, enterprises such as PayPal, Arbor Networks, NLNet Labs, ISC, Juniper Networks, representatives from security companies, representatives from the academic community and government (US Department of Defense, NIST, and NTIA). Future symposia could be improved by increased participation from experts in the broader spectrum of the DNS community and ICANN welcomes the opportunity for greater engagement from Microsoft's security & operations experts.

Next Steps

The FY 11 SSR Plan will be revised based on comments received, and a final version of the document will be provided to the ICANN Board for the upcoming ICANN meeting in Cartagena de Indias, Colombia 5-10 December 2010. ICANN staff will be briefing stakeholder groups, interested participants in the community, and ICANN Supporting Organizations & Advisory Committees during the Cartagena meeting.

Separately, ICANN will soon be posting a draft 2011-2014 Strategic Plan for public comment, and comments on ICANN's SSR activities and strategic focus areas are welcomed, as this will help inform the development of the FY 12 ICANN Operating Plan and the next iteration of the SSR Plan.

Comments Received

Nevil Brownlee - http://forum.icann.org/lists/ssr-plan-fy11/msg00007.html

Eric Brunner-Williams - http://forum.icann.org/lists/ssr-plan-fy11/msg00000.html and http://forum.icann.org/lists/ssr-plan-fy11/msg00002.html

The Internet Society - http://forum.icann.org/lists/ssr-plan-fy11/msg00005.html

Steven Metalitz on behalf of the Coalition for Online Accountability (COA) - http://forum.icann.org/lists/ssr-plan-fy11/msg00004.html

Microsoft Legal & Corporate Affairs - http://forum.icann.org/lists/ssr-plan-fy11/msg00006.html

Sivasubramanian Muthusamy - http://forum.icann.org/lists/ssr-plan-fy11/msg00000.html

Nominet - http://forum.icann.org/lists/ssr-plan-fy11/msg00003.html

Registries Stakeholder Group - http://forum.icann.org/lists/ssr-plan-fy11/msg00001.html

Dev Anand Teelucksingh - http://forum.icann.org/lists/ssr-plan-fy11/msg00000.html

2010-12-10-03 Annex NPCA MOU

ANNEX TO BOARD SUBMISSION NO. 2010-12-10-03

SUBMISSION TITLE: Memorandum of Understanding between the Corporation for Assigned Names and Numbers (ICANN) and the New Partnership for Africa's Development Planning and Coordinating Agency (NEPAD Agency)

The Memorandum of Understanding (MoU) is attached as the body of this Annex. The MoU is to encourage cooperation and collaboration between ICANN and NEPAD in promoting Internet Governance in Africa.

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MoU Not Executed at Time of Publication

MoU Not Executed at Time of Publication

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2010-12-10-07 Annex 1 - Strat Plan

ANNEX 1: ICANN BOARD SUBMISSION NO. 2010-12-10-07

TITLE: **Strategic Planning**

ANNEX 1: **Draft Strategic Plan**

ICANN STRATEGIC PLAN

JULY 2011 – JUNE 2014

DRAFT

One World. One Internet.

ICANN

One World. One Internet.

ICANN is a global organization that coordinates the Internet unique identifier systems for worldwide public benefit, enabling a single, global interoperable Internet. ICANN's inclusive multi-stakeholder model and community-developed policies facilitate the billions of computers, phones, devices and people connected into one Internet.

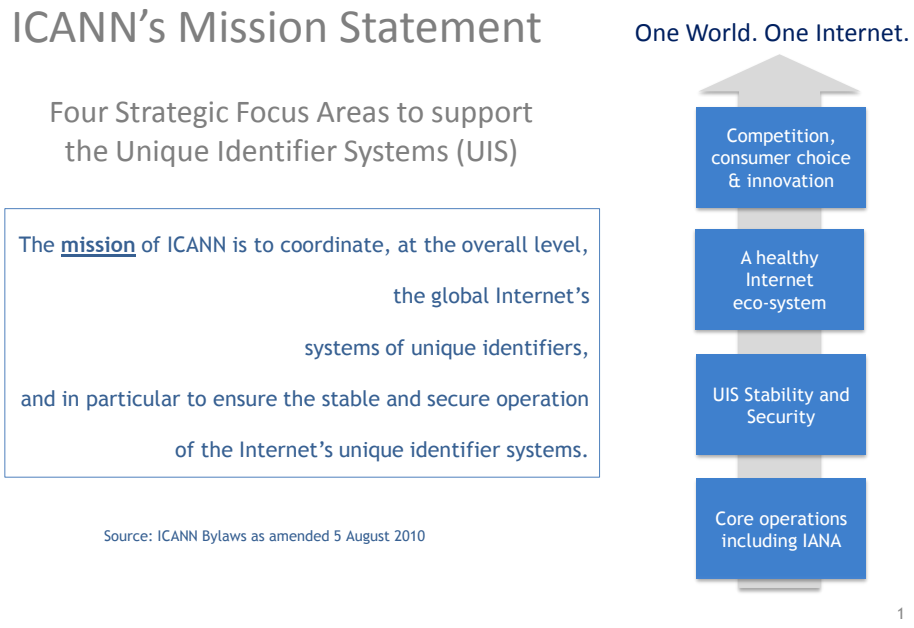
ICANN's **vision**: *One world. One Internet.*

ICANN's **mission**:

- coordinate, at the overall level, the global Internet's systems of unique identifiers; and
- ensure the stable and secure operation of the Internet's unique identifier systems.

The unique identifier systems are comprised of the Internet's: domain name system (DNS), Internet Protocol (IP) addresses, autonomous system (AS) numbers, and protocol ports & parameter numbers. Additionally, ICANN affirms its commitment to work for the maintenance of a single, global interoperable Internet.

ICANN's vision and mission encompass four strategic focus areas addressed in this plan.



Key themes for this strategic plan are: global coordination of the security, stability and resiliency (SSR) regime; internationalization of ICANN and its relationships; formulation of policies and enforceable agreements; and serving internet users through renewal of the IANA contract and launch of the New gTLD Program. ICANN is a non-profit, public benefit corporation with approximately 140 employees globally and supported by thousands of volunteers. Primarily through contracts with gTLD registries and registrars, ICANN receives approximately $64M in annual funding. ICANN works for the maintenance of a single, interoperable Internet. One World. One Internet.

DRAFT ICANN Strategic Plan 2011 to 2014 – Four Strategic Focus Areas

Supporting… One World. One Internet.

	DNS stability and security	Consumer choice, competition and innovation	Core operations including IANA	A healthy internet eco-system
Strategic Objectives	• Maintain & drive DNS uptime • Enhance DNS risk management • Broad DNSSEC adoption • Enhanced international DNS cooperation • Improved DNS resiliency	• Maintain single authoritative root • Increased TLD options in more languages • New gTLDs including IDNs • Lower registration abuse • Increased industry competition	• Flawless IANA operations • Resilient L-Root operations • Continual improvements (TQM) • Internationalization • Long-term IANA functions responsibility	• Continuing role in internet governance • Stakeholder diversity • World-class accountability and transparency • Enhanced trust in ICANN's stewardship • Focus on global public interest • Cross stakeholder working groups
Community Work	• Local DNSSEC adoption • Whois Internationalized Registration Data • Develop solutions for DNS security • IPv6 rollout	• IDNA protocol implementation • New TLD rollout • Registrar Accreditation Agreement amendments • gTLD Registrant Rights Charter	• Monitoring of performance • Key committee participation • Engagement within technical community • Final IPv4 address allocation • Root Zone Management (RZM)	• Increased multi-stakeholder participation • Contributing to international fora • Review SOs and ACs
Strategic Projects	• DNSSEC propagation • Facilitate work on DNS security • Full business continuity planning • IPv4 exhaustion risk management • Advocate IPv6 adoption • RPKI deployment	• Internationalized Domain Name (IDNs) expansion • Implement new gTLDs • Whois program improvements • Improve policy processes • Registrant protection	• IANA infrastructure upgrade • IANA services outreach • Monitoring root zone performance • IANA excellence efforts • Organizational Effectiveness Initiative (OEI) • Strengthening regional presence	• Affirmation of Commitments & organizational reviews • Retain & support existing community while attracting new & diverse community members • Build global support for single authoritative root • Enhanced cooperation in Internet Governance
Staff Work	• Collaborative business continuity planning (BCP) • Collaboration with RIRs & technical groups • DNSSEC operations & propagation • IPv4 & IPv6 engagement • Cooperative TLD training in developing countries	• Compliance improvements • Support SO & AC work • Global outreach • IDN ccTLD Fast Track • New gTLD implementation • ICANN regional footprint	• IANA request processing • Board support • Security and contingency operations • L-Root operations • Improve financial system and controls • Staff retention and engagement	• Thought leadership • Wider international engagement • Strengthen corporate, government & other stakeholder partnerships • Decision impact analysis & reporting • Enhance communications & better accessibility via improved web site • Enhanced translation strategy

Multi-stakeholder – Collaborative – International – Transparent - Accountable

DNS stability and security

Focus Area Definition: ICANN is chartered to: (i) ensure the stable and secure operation of the Internet's unique identifier systems, (ii) facilitate international participation in the DNS technical coordination, and (iii) coordinate operation and evolution of the DNS root name server system. This area focuses on external security and stability activities (cf., the IANA & Core Operations address internal activities).

Environmental Scan: The stability, security and resiliency (SSR) of the internet's global unique identifier systems (DNS, IP addresses & AS numbers, Parameters & Ports) are important priorities for ICANN, industry and Internet users globally. SSR form the core elements of ICANN's mission. Misuse of and attacks against the DNS and other Internet infrastructures challenge overall unique identifier security. Cyber security attacks continue to grow in size and sophistication, targeting individuals, corporations and governments. Business continuity planning (BCP) is gaining traction as more organizations plan and perform business interruption simulation testing. Additionally, new TLDs (including IDNs) and overall growth of domain names will continue to provide opportunities and challenges as ICANN and new TLD cooperate to maintain stability, security and resiliency. The last IPv4 addresse blocks are being allocated in an ICANN / RIR guided manner while the international community is adopting IPv6 addresses. To ensure the security, stability and resiliency that are crucial to the unique identifier systems, ICANN must work in partnership with others on these issues.

Strategic Objectives: ICANN has identified four strategic objectives in the focus area Stability, Security & Resiliency. Each objective has related projects, staff and community work to support the achievement of the strategic objectives over the life of this plan. The strategic objectives are:

Maintain and drive DNS uptime. Since its inception, ICANN has been working with the community to ensure the security, stability and resiliency of the DNS. Of course, this is an area where ICANN has a strong strategic objective (maintain 100% DNS uptime) without the means to assure its achievement. There are certain aspects that ICANN controls, certain aspects ICANN can materially affect, and certain areas where we have the bully pulpit. For example, ICANN can work to ensure stable, continuous L-root operations. ICANN also has contractual and other strong relationships with TLDs and registrars to leverage in this area. Strategic projects to support DNS uptime include Business Continuity Planning for Registries and Registrars, IPv4 Exhaustion Communications and facilitation of IPv6 Adoption. ICANN will work for RIR interests to advocate (through its constituency groups) for IPv6 adoption by ISPs, and consumer and business entities. Staff and community work will focus on building DNS capacity and better integration of global efforts.

Increase security of the overall systems of unique identifiers. Domain Name System Security Extensions (DNSSEC) implementation will continue to be a strategic objective for ICANN. DNSSEC provides a mechanism for authentication of DNS requests and reduces the risk of some malicious behavior. ICANN will continue to work with the community for DNSSEC deployment at all DNS levels with a goal that 30 TLDs in developing countries will have signed their zone by the by the end of calendar year 2011 and DNSSEC will be broadly adopted by the end of this plan period. Also, ICANN will develop a Resource Public Key Infrastructure (RPKI) as a means to increase Internet Protocol (IP) security.

Increase international participation in unique identifier security. Attacks on the unique identifier system can come from anywhere around the globe. Strong international security systems and skills are first line deterrents to bad behavior. Staff and community work will focus on global security outreach and collaboration with Regional Internet Registries (RIR) operators to improve overall security. ICANN will follow the lead of its community working groups to develop an approach to the establishment of solutions such as coordination of an emergency response team (DNS CERT) to address one of the issues of Internet security. Also, community work needs to facilitate the acceptance of internationalized registration data in the Whois database.

Coordinate DNS global risk management. ICANN will coordinate improved global DNS risk management through registry and registrar continuity planning and performance of business interruption simulation exercises. ICANN will work with others to protect the integrity of the global DNS through initiatives such as training for TLD operators. ICANN will also enhance collaboration with the global computer security and incident response community to improve BCP and testing to address risks and threats. ICANN will seek to work with others to develop objective risk management models.

Core operations including IANA

Focus Area Definition: ICANN is chartered – through its IANA function – to (i) coordinate the assignment of Internet technical parameters to maintain universal connectivity, (ii) perform and oversee functions for coordinating the IP address space and operation of the authoritative Internet DNS root server system, and (iii) coordinate allocation and assignment of three sets of unique identifiers (DNS, IP, Ports & Parameters); and also to: (iv) adhere to transparent & accountable budgeting & operational processes and (v) publish annual report of progress against Bylaws, strategic and operating plans.

This focus area provides for continuous improvement and excellence by, in each area:

1. Assessing the current environment
2. Creating a plan for specific improvements
3. Measuring the value of those improvements when implemented

Environmental Scan: ICANN's core operations are focused on building the capacity and ability to provide services and coordinate the Internet DNS. ICANN operates the L-root sever and has significant skills and documentation to share with the international community. Operations excellence is required to support the IDN Fasttrack and New gTLD Programs. As the Internet continues to grow and evolve, technical advancements (e.g., RPKI, new standards) should be considered as they relate to the evolution of ICANN services and operations. Over the life of this plan, there are many factors that will increase the load on operations, among them: the introduction of new top-level domains, an increasingly connected global community, and the rapidly growing number of devices. ICANN began performing the IANA operations in 1998 through an agreement with the US Government. The current multi-year contract expires September 30, 2011. ICANN will submit a proposal for the IANA contract renewal or its replacement, is well positioned to compete for the award, and expects to continue to operate the IANA function. ICANN, including its IANA function, also effectively participates with other global organizations to work for the maintenance of a single, interoperable internet.

Strategic Objectives: Below are the strategic objectives for the IANA and Core Operations focus area.

Continued flawless IANA operations. ICANN is committed to continued excellence in the Internet Assigned Numbers Authority (IANA) function and other core operations. The continuation of neutral delivery of IANA services will be secured through the anticipated award of a long-term IANA functions contract. ICANN continues to invest in the IANA infrastructure, and process improvements through the European Foundation for Quality Management (EFQM) model to support meeting or exceeding IANA service level agreements. During the term of this plan, the IANA function will develop advancements in security (specifically, deploy RPKI) and continue to upgrade its processes through automation (specifically, the root-zone management tool). The IANA function will remain focused on the timely processing of unique identifier requests and DNSSEC management. We will respond to community monitoring of IANA performance but also implement our own measurements and feedback mechanisms.

L-Root operational excellence. Enables ICANN to lead by example and provides the international Internet community a transparent and collaborative model for root server operations. ICANN will look for opportunities to share this knowledge through international outreach. ICANN will be recognized as a top-tier root zone manager.

Efficiency and effectiveness of operations. ICANN is implementing a long-term, culturally embedded operational effectiveness initiative to drive process, system and documentation improvements across core operations. ICANN is committed to improving the ongoing efficiency and effectiveness of policy

development and implementation processes and the multi-stakeholder model that engages the global community. It will support the ongoing GNSO initiative to improve the PDP and also encourage and support additional initiatives. ICANN will continue to strengthen the security, stability and continuity of its own operations through an Operational Effectiveness Initiative to ensure: continual operational improvement, and staff retention and engagement.

Strengthen international operations and presences. By providing adequate levels of service to stakeholders around the globe, working in multiple languages and in multiple time zones. The introduction of new IDNs and TLDs during the life of this plan will continue to require ICANN to build capability and presence. Another important aspect of strengthened operations is to maintain or improve service standards in all key operational measures during the life of this plan, including managing the impact of new gTLDs and new IDN ccTLDs. ICANN will also engage effectively with the technical community, e.g., the IETF and root server managers.

Improve the financial system and controls to realize: increased capacity and scalability of operational workload, increased operational efficiencies, reduction in operating costs, improved data integrity and availability, faster generation and publication of reports, better accessibility to financial information, improved customer service (both internal and external), greater sustainability of the base technology.

Consumer choice, competition and innovation

Focus Area Definition: ICANN is chartered to: (i) operate through open and transparent processes that enable competition and open entry in Internet-related markets, (ii) develop policies for determining circumstances under which new TLDs are added, (iii) introduce competition in the registration of domain names where practicable and beneficial in the public interest and (iv) promote consumer trust and choice in DNS the marketplace.

Environmental Scan: 2009 ended with an estimated 192,000,000 domain names, growing over 8% above 2008. Country code top level domains (ccTLDs) presently represent the fastest growing segment of this environment. In 2009, several internationalized top-level domain names were added to the Internet: for the first time, new language characters are "right of the dot". The .com generic top-level domain (TLD) was established in 1985; total TLDs have grown to over 290 in number. The Internet registry and registrar markets are still maturing and comprised of many different and evolving business models. Many new potential TLD (including IDN) operators have innovative businesses models and high expectations. As with any maturing market, some business models will survive and be emulated, while others will fail and fade away; importantly, ICANN has focused significant attention on continuity and registrant protection as new processes are implemented. Comments indicate the increasing importance of DNS security, improved compliance mechanisms, and earned consumer trust. By the end of this plan, over 100,000,000 new names may exist, in many innovative areas.

Strategic Objectives: ICANN has identified five strategic objectives in this focus area.

More TLDs available in multiple languages (IDNs). ICANN has a strategic goal to continue to open the Internet up to more languages and cultures around the globe. Strategic projects are to continue the implementation of IDNs, through the Fast Track, new gTLDs, and IDN Policy Development Process currently conducted in the ccNSO. New gTLDs offer the opportunity for more communities and languages to be represented on the Internet and for expanded customer choice for domain name registrations. ICANN will provide effective program management for the successful deployment of IDNs through the New gTLD and ccTLD Programs.

Increase regional participation in the industry. Expanding the global DNS skillset for technology and operations is a key goal for ICANN. The IDN and New gTLD Programs will result in more registries and registrars across all international regions. ICANN will build capacity to serve contracted parties and the interests of registrants and users across all regions. Specific strategic projects include conducting education and training programs in partnership with ISOC, local TLD operators, and the local Internet communities.

Mitigate malicious conduct. ICANN's goal is to reduce the incidence and impact of malicious conduct as it relates to the ICANN mandate. Related projects are to improve the contractual compliance regime for registrars and registries and pursue the implementation of an expanded WhoIs program and secure, predictable environments for users through a registrants rights charter and incorporation of Registrar Accreditation Agreement amendments. Staff and community will continue to work with WIPO and other authoritative bodies to protect and enforce intellectual property rights on the Internet.

Foster industry innovation. The Internet is a target and source of significant business and technological innovation. ICANN has a goal to see similar innovation brought to the stable evolution of the unique identifier system.

Promote fair opportunities for open entry to internet-related markets around the globe. ICANN's projects related to this objective are to continue to support the development and implement of open and transparent policies and processes that will enable competition. ICANN will promote the

implementation and deployment of the IDNA protocol to ensure that IDNs operate as expected. ICANN will work with the community to address potential assistance for disadvantaged organizations. Staff and community work will focus on capturing, evaluating and incorporating input for open entry programs such as IDNs and new gTLDs.

A healthy internet eco-system

Focus Area Definition: ICANN is chartered to (i) operate for the global public benefit of the Internet community as a whole, (ii) coordinate cross-community deliberations and policy development that germane to ICANN's mission, (iii) cooperate as appropriate with relevant international organizations, (iv) ensure that DNS technical coordination decisions are made in the public interest and are accountable and transparent, and (v) operate as a multi-stakeholder, private sector led organization with input from the public for whose benefit ICANN shall in all events act.

Environmental Scan: ICANN is charged to operate for the benefit of the Internet community as a whole. The public is a diverse and disparate collection of communities knitted together by the Internet and operating as a complex eco-system. As the Internet continues to be a greater enabler of gross domestic product, government daily operations and global security activities, the profile of Internet governance has also elevated. In September of 2009 the US Department of Commerce and ICANN signed the Affirmation of Commitments (Affirmation) that affirmed the transition of technical coordination of the Internet's DNS to a private sector led organization – ICANN. Over the past few years, the United Nations and other global bodies have also increased their participation in Internet governance.

Strategic Objectives: ICANN has identified four strategic objectives in the focus area of *A healthy internet eco-system*. Each objective has related projects, staff work and community work to support the achievement of the strategic objectives over the life of this plan. The strategic objectives are:

One unified, global internet. To deliver on ICANN's vision of "One World. One Internet." Strategic projects supporting this objective interweave this entire strategic plan. With the potential growth of ccTLDs, IDNs and new gTLDs, continued internationalization of ICANN is crucial to maintaining a single, global interoperable Internet and a single Internet zone file used globally. Staff work will include development of thought leadership on key issues in this space. In particular, preserve the stable management of the naming and addressing system.

Building stakeholder diversity. ICANN commits to ensure that the many global stakeholders are heard on Internet related issues. Strategic projects include continued refinement of the inclusive multi-stakeholder model that encourages and manages the active collection of views from the global community. ICANN will also actively participate in a wide range of constructive Internet governance-related debates in partnership with other organizations. ICANN will continue efforts to increase community participation utilizing more remote participation technologies. Importantly, ICANN will work to retain and support existing community members and build upon recent efforts to formalize a cross-stakeholder model (i.e., across the GAC, Supporting Organizations and other Advisory Committees). The multi-stakeholder model recognizes the influence of governments, corporations, not-for-profits and how they fit into the naming and addressing system. Starting with the new Board seat representing the At-Large community, we will also work to formalize input from the At-Large community into Board discussions.

Improve communications and accessibility through, among other things, web page improvements that facilitate the objectives set out in this strategic plan and addresses community concerns regarding translations, introductions for newcomers, and ease of access to information.

Ongoing accountability and transparency. ICANN is charged with fact-based policy development and decision making. Strategic projects related to this are the implementation of the Affirmation of Commitment reviews, implement impact reporting based upon the results of the reviews, provide Internet governance education to an expanding group of international participants and promote programs that enhance global participation. ICANN's Bylaws mandate ongoing review of its respective Supporting Organizations and Advisory Committees to ensure continued improvements to the

organization's structure and responsibility to the stakeholders. Staff work will focus on providing a thorough and reasoned explanation of decisions taken, the rational and sources of data.

International engagement. While preserving the stability of the unique identifier system, recognize the authority and participation of different actors with different remits such as law enforcement and democratic access to information. In order to achieve its goals, ICANN will: participate in constructive IGF fora, collaborate with international organizations such as the EC and OECD on standards and best practices, engage in offline discussions, write papers, and otherwise engage with industry participants.

Trust in ICANN's stewardship. Contributing to a healthy Internet eco-system. The ICANN Board has created the Board Global Relationships Committee to support ICANN's global capacity-building efforts. Staff work will provide thought leadership contributions to international forums and discussions on Internet governance, including the United Nations-organized Internet Governance Forum and other intergovernmental forums. Additionally, the ICANN Fellowship program provides training in partnership with other organizations to support the DNS needs in developing countries.

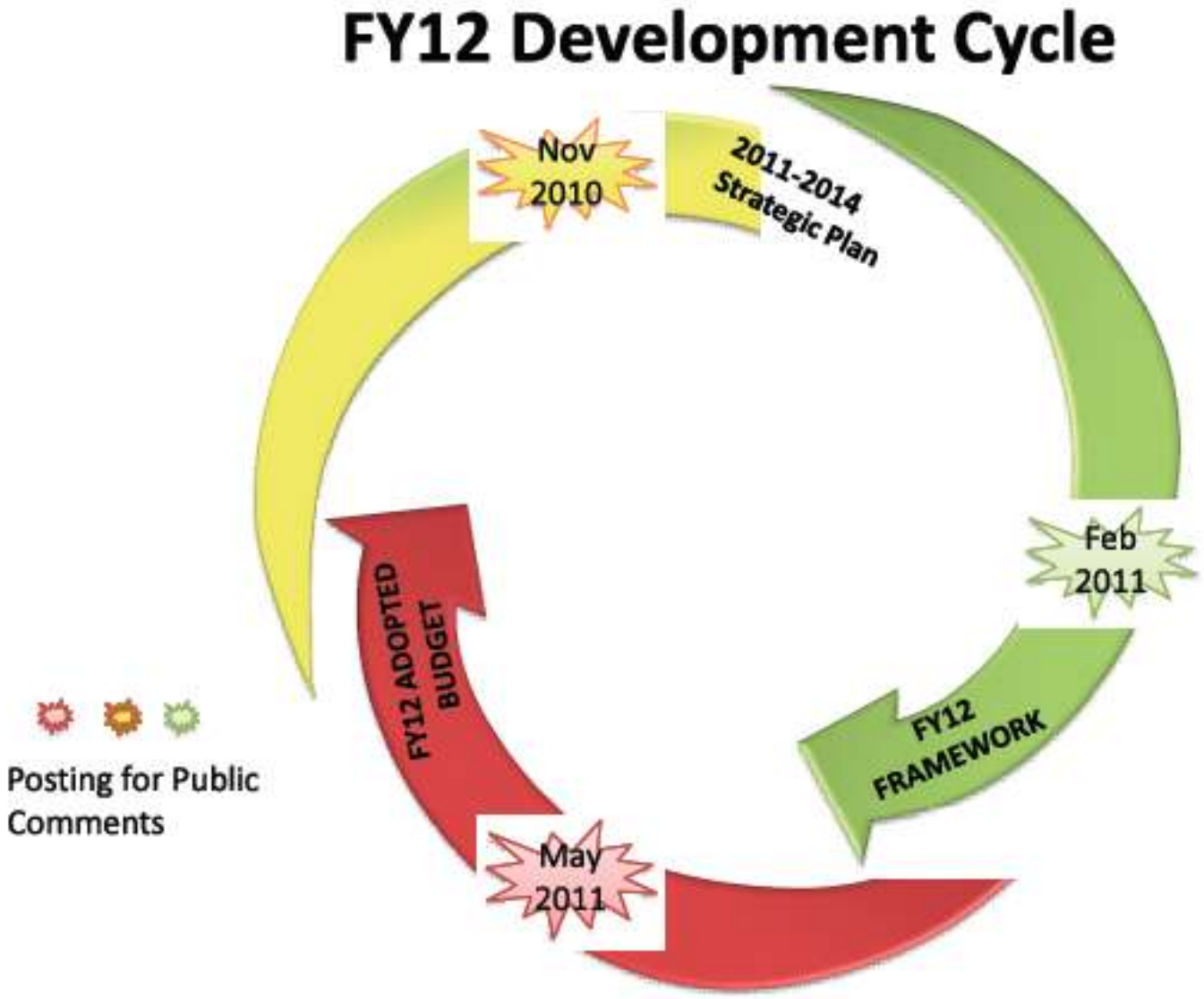
2010-12-10-07-Annex 2 Strat Plan

ANNEX 2

Revised Draft 2011-2014 Strategic Plan

23 November 2010

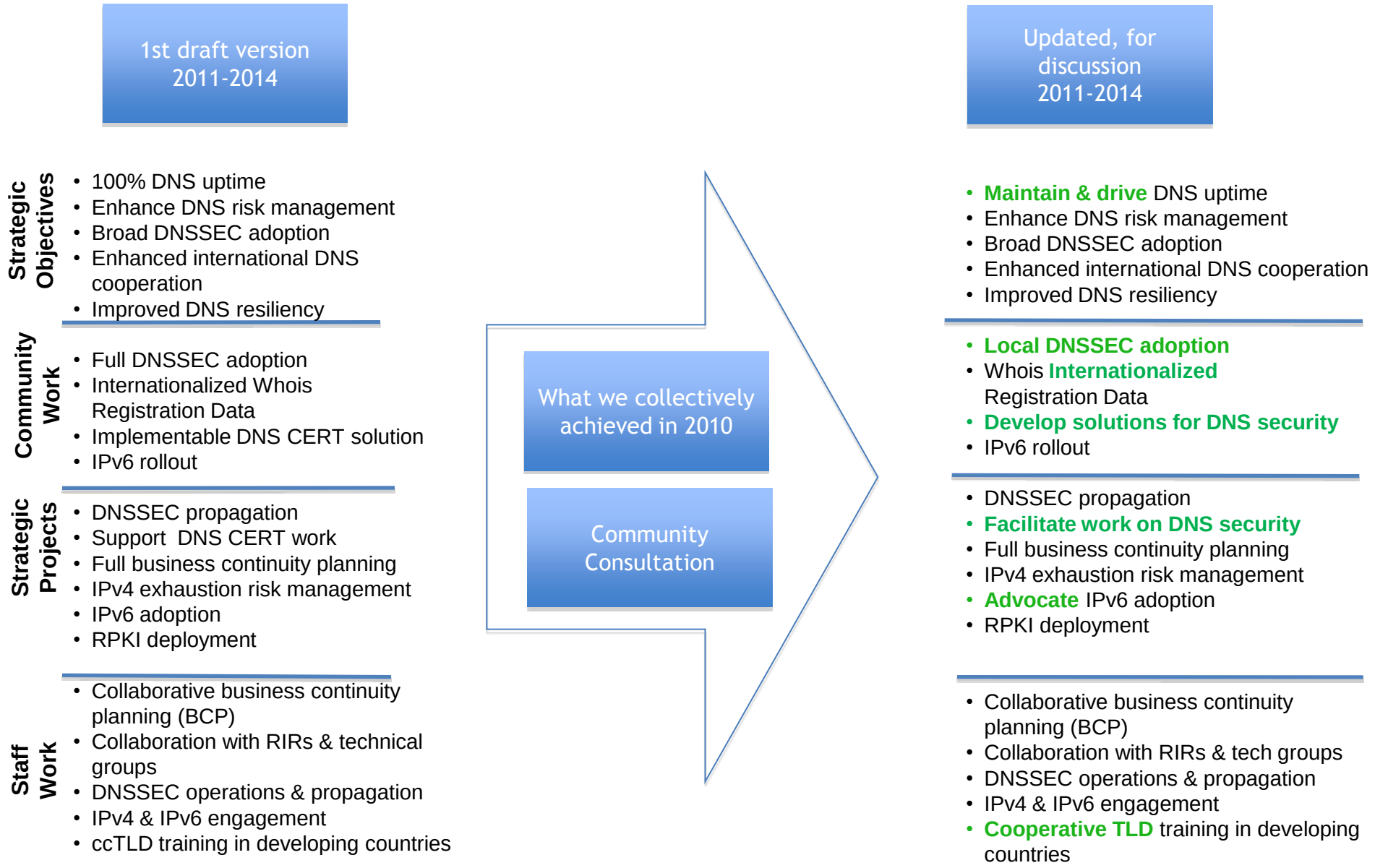
ICANN Planning Cycle



6

ICANN Strategic - One of the Four Strategic Focus Areas

DNS stability and security .



ICANN Strategic - One of the Four Strategic Focus Areas

Consumer choice, competition and innovation.

1st draft version 2011-2014

Strategic Objectives

- Everyone connected (unified root)
- New gTLDs including IDNs
- Lower registration abuse
- Increased industry competition
- More Regional TLD's

Community Work

- IDN protocols
- New TLD rollout
- Registrar Accreditation Agreement amendments
- Registrant Rights Charter

Strategic Projects

- Internationalized Domain Name (IDNs) expansion
- Implement new gTLDs
- Whois program improvements
- Improve policy processes
- Registrant protection

Staff Work

- Compliance improvements
- Support Supporting Organizations (SOs) & Advisory Committee (ACs) work
- Global outreach
- IDN ccTLD Fast Track
- New gTLD implementation
- Regional expansion

What we collectively achieved in 2010

Community Consultation

Topics for discussion for 2011-2014

- **Maintain single authoritative root**
- **Increased TLD options in more languages**
- New gTLDs including IDNs
- Lower registration abuse
- Increased industry competition

- **IDNA** protocol **implementation**
- New TLD rollout
- Registrar Accreditation Agreement amendments
- **gTLD** Registrant Rights Charter

- Internationalized Domain Name (IDNs) expansion
- Implement new gTLDs
- Whois program improvements
- Improve policy processes
- Registrant protection

- Compliance improvements
- Support SO & AC work
- Global outreach
- IDN ccTLD Fast Track
- New gTLD implementation
- **ICANN regional footprint**

Multi-stakeholder – Collaborative – International – Transparent - Accountable

ICANN Strategic - One of the Four Strategic Focus Areas

Core operations including IANA

1st draft version 2011-2014

Topics for discussion 2011-2014

Strategic Objectives

- Flawless IANA operations
- Resilient L-Root operations
- Continually improving (TQM)
- Internationalization
- Long-term IANA functions responsibility

Community Work

- Monitoring of performance
- Key committee participation
- Final IPv4 address allocation
- Root Zone Management (RZM)

Strategic Projects

- IANA infrastructure upgrade
- IANA services outreach
- Monitoring root zone performance
- IANA Excellence efforts
- Organization Effectiveness Initiative (OEI)
- Staff International plan

Staff Work

- IANA request processing
- Board support
- Security and contingency operations
- L-Root operations
- Implement new Financial System
- Implement new Strategic Plan process

What we collectively achieved in 2010

Community Consultation

- Flawless IANA operations
- Resilient L-Root operations
- Continual improvements (TQM)
- Internationalization
- Long-term IANA functions responsibility

- Monitoring of performance
- Key committee participation
- **Engagement within technical community**
- Final IPv4 address allocation
- Root Zone Management (RZM)

- IANA infrastructure upgrade
- IANA services outreach
- Monitoring root zone performance
- IANA excellence efforts
- Organizational Effectiveness Initiative (OEI)
- **Strengthening regional presence**

- IANA request processing
- Board support
- Security and contingency operations
- L-Root operations
- **Improve** financial system **and controls**
- **Staff retention and engagement**

Multi-stakeholder – Collaborative – International – Transparent - Accountable

ICANN Strategic - One of the Four Strategic Focus Areas

A healthy Internet ecosystem

1st draft version 2011-2014

Strategic Objectives

- One Internet through excellent internet governance
- Stakeholder diversity
- World-class accountability and transparency
- Enhanced trust in ICANN's stewardship
- Focus on global public interest

Community Work

- Increased multi-stakeholder participation
- Contributing to international fora
- Review SOs and ACs

Strategic Projects

- Affirmation of Commitments & organizational reviews
- Attract new & diverse community members
- Build global support for a unified root
- More constructive and mutually respectful Internet Governance

Staff Work

- Thought leadership
- Wider International engagement
- Strength Corporate & Government & other stakeholder partnership
- Decision impact analysis & reporting
- Improve web site

What we collectively achieved in 2010

Community Consultation

Topics for discussion 2011-2014

- **Continuing role in** internet governance
- Stakeholder diversity
- World-class accountability and transparency
- Enhanced trust in ICANN's stewardship
- Focus on global public interest
- **Cross stakeholder working groups**

- Increased multi-stakeholder participation
- Contributing to international fora
- Review SOs and ACs

- Affirmation of Commitments & organizational reviews
- **Retain & support existing community while** attracting new & diverse community members
- Build global support for **a single authoritative root**
- **Enhanced cooperation in** Internet Governance

- Thought leadership
- Wider international engagement
- Strengthen corporate, government & other stakeholder partnerships
- Decision impact analysis & reporting
- **Enhance communications & better accessibility via improved** web site
- **Enhanced translation strategy**

Multi-stakeholder – Collaborative – International – Transparent - Accountable

DRAFT ICANN Strategic Plan 2011 to 2014 – Four Strategic Focus Areas

Supporting… One World. One Internet.

	DNS stability and security	Consumer choice, competition and innovation	Core operations including IANA	A healthy internet eco-system
Strategic Objectives	• Maintain & drive DNS uptime • Enhance DNS risk management • Broad DNSSEC adoption • Enhanced international DNS cooperation • Improved DNS resiliency	• Maintain single authoritative root • Increased TLD options in more languages • New gTLDs including IDNs • Lower registration abuse • Increased industry competition	• Flawless IANA operations • Resilient L-Root operations • Continual improvements (TQM) • Internationalization • Long-term IANA functions responsibility	• Continuing role in internet governance • Stakeholder diversity • World-class accountability and transparency • Enhanced trust in ICANN's stewardship • Focus on global public interest • Cross stakeholder working groups
Community Work	• Local DNSSEC adoption • Whois Internationalized Registration Data • Develop solutions for DNS security • IPv6 rollout	• IDNA protocol implementation • New TLD rollout • Registrar Accreditation Agreement amendments • gTLD Registrant Rights Charter	• Monitoring of performance • Key committee participation • Engagement within technical community • Final IPv4 address allocation • Root Zone Management (RZM)	• Increased multi-stakeholder participation • Contributing to international fora • Review SOs and ACs
Strategic Projects	• DNSSEC propagation • Facilitate work on DNS security • Full business continuity planning • IPv4 exhaustion risk management • Advocate IPv6 adoption • RPKI deployment	• Internationalized Domain Name (IDNs) expansion • Implement new gTLDs • Whois program improvements • Improve policy processes • Registrant protection	• IANA infrastructure upgrade • IANA services outreach • Monitoring root zone performance • IANA excellence efforts • Organizational Effectiveness Initiative (OEI) • Strengthening regional presence	• Affirmation of Commitments & organizational reviews • Retain & support existing community while attracting new & diverse community members • Build global support for single authoritative root • Enhanced cooperation in Internet Governance
Staff Work	• Collaborative business continuity planning (BCP) • Collaboration with RIRs & technical groups • DNSSEC operations & propagation • IPv4 & IPv6 engagement • Cooperative TLD training in developing countries	• Compliance improvements • Support SO & AC work • Global outreach • IDN ccTLD Fast Track • New gTLD implementation • ICANN regional footprint	• IANA request processing • Board support • Security and contingency operations • L-Root operations • Improve financial system and controls • Staff retention and engagement	• Thought leadership • Wider international engagement • Strengthen corporate, government & other stakeholder partnerships • Decision impact analysis & reporting • Enhance communications & better accessibility via improved web site • Enhanced translation strategy

Multi-stakeholder – Collaborative – International – Transparent - Accountable

2010-12-10-09-Annex to M&PO

Annex: ICANN BOARD SUBMISSION NO. 2010-12-10-09

TITLE: **New gTLDs: Morality and Public Order**

(companion to: Consideration of the Proposed Final Applicant Guidebook)

Clarifying questions to Working Group

Dear All,

On behalf of Kurt and the other staff members that participated on Monday's consultation, thank you again for your time and attention. We appreciate and take seriously the implementation advice put forward by this working group in it Report, and we share with you the goal of implementing the best possible new gTLD program.

As discussed on the call, we plan to continue the dialogue with the CWG and, in preparation for that, some clarification from the CWG would be greatly appreciated.

In general, it would be helpful to identify issues that seem to indicate a difference of understanding between the CWG Report and the Proposed Final Applicant Guidebook (and the Explanatory Memorandum <http://icann.org/en/topics/new-gtlds/explanatory-memo-morality-public-order-12nov10-en.pdf>). For example:

1. With regard to the recommendations related to the role of the Board, is it the CWG's position that the ICANN Board be the primary trier of fact; that is the Board would hear (in the first instance) every Rec6 objection and be required to make a determination on the merits? It did not seem from our discussion that this was the intent. Rather, based on the discussion, some CWG members indicated that the CWG agreed that all objections would be filed in the first instance with a dispute resolution service provider (DRSP), which in turn would appoint independent expert panelists experienced in making determinations on issues such as those covered by Rec6. Then, only in certain circumstances, would the Board be asked to review the expert determination. In light of the Board's resolutions in Trondheim indicating that the Board "wishes to rely on the determinations of experts regarding these issues" and that the Board "intends to approve a standard process for staff to proceed to contract execution and delegation on applications for new gTLDs where certain parameters are met," how and at what point does the CWG envisage the Board's involvement in these objections?

2. With regard to the suggestion that the discrimination standard include additional protected classes (such as disability, gender, actual or perceived sexual orientation or gender identity, political or other opinion), is there research suggesting that

these additional classes are widely recognized around the world? For reference, the results of ICANN's research were described in an explanatory memorandum published last year <http://icann.org/en/topics/new-gtlds/morality-public-order-30may09-en.pdf>. Please consider that such inclusion might significantly broaden the types of objections that could be brought, thereby potentially blocking many more otherwise qualified new gTLD applications? (As an example, the CWG recommendation includes a mechanism for blocking applications that incite discrimination against any "opinion"?)

3. On the suggestion from the CWG that the GAC or ALAC should be able to bring objections, different views seem to have been expressed as to what that would entail; for example, would an objection from just one GAC or ALAC member be sufficient for the advisory committee (AC) as a group to file an objection? Is this intended to provide a veto by individual governments? Or would a majority or supermajority of AC members be required for the AC to lodge an objection?

As discussed on the call, a small drafting team (consisting of Jon Nevett, Richard Tindal, Avri Doria, Robin Gross, Evan Leibovitch, and Konstantinos Komaitis) have volunteered to attempt to clarify these issues and share their draft with the broader CWG prior to Cartagena. We look forward to the CWG responses to these questions in advance of Cartagena so our discussions there can reach resolution. Additionally, if the CWG thinks that its intent of any other recommendation in the Report was not understood, clarification now would be appreciated and productive.

Best Regards,

Margie

2010-12-10-10-Annex-Board-Submission-New-gTLDs-Geo-Names-GAC-Consultation

2010-12-10-10 ANNEX

Formerly ANNEX ICANN BOARD SUBMISSION NO. 2010-12-10-xx

TITLE: **New gTLDs – Geographic Names – GAC Consultation**

1. Attachment A attached is the ICANN Board Submission No. 2010-10-28-18 - New gTLDs—GAC Issues letter including geographic names.

2. Attachment B attached is the Annex for the ICANN Board Submission No. 2010-10-28-18 - New gTLDs—GAC Issues letter including geographic names.

Submitted by:	John O. Jeffrey
Position:	General Counsel and Secretary
Date Noted:	26 November 2010
Email and Phone Number	john.jeffrey@icann.org, +1-310-301-5834

2010-12-10-10-Annex-Attachment-A-Board-Submission-Geo-Names-GAC_Consultation

2010-12-10-10 ANNEX ATTACHMENT A

Previously ICANN BOARD SUBMISSION NO. 2010-10-28-18

TITLE: New gTLDs—GAC Issues letter including geographic names
PROPOSED ACTION: For Information

EXECUTIVE SUMMARY:
On 25 September 2010, the Board resolved that staff determine if the directions indicated by the Board regarding geographical names and other issues are consistent with GAC comments, and recommend any appropriate further action in light of the GAC's comments.

In the most recent communication from the GAC on version 4 of the Applicant Guidebook, dated 23 September 2010, "… the GAC notes that the guide still does not take fully into consideration the GAC's concerns about extending the protection of geographical names…"
http://www.icann.org/en/correspondence/dryden-to-dengate-thrush-23sep10-en.pdf

There has been regular communication in the form of face-to-face meetings, communiqués and correspondence between the GAC, staff and the Board on the treatment of geographic names and other issues, since the Board approved the GNSO recommendations for the introduction of new gTLDs in Paris in June 2008. A timeline including a snapshot of the key points of written communications is attached.

Many amendments have been made to the Guidebook in response to GAC requests regarding the treatment of geographical names after the GNSO recommended that no specific protections be put in place.

STAFF RECOMMENDATION:
However, as the Board and the GAC do not seem to be able to reach agreement on all aspects of the treatment of geographic names in the applicant guidebook, it is considered appropriate for the Board to advise the GAC of the reasons why it decided not to follow GAC advice on this issue. This would trigger the bylaw requirement that

the Board and the GAC try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

The Board should provide notice to the GAC of the differences and set a face-to-face discussion for the meeting in Cartagena.

Remaining areas of difference:

Based on the most recent correspondence from the GAC, the following areas, highlighted in bold, are considered outstanding. The Board position follows.

- **Country and territory names not be available in new gTLD rounds until the completion of the IDN ccPDP.**

  In correspondence to the GAC on 5 August 2010, Peter Dengate-Thrush advised that country and territory names would not be available to delegation in the first round of the new gTLD application process.

  The issue of the use of country and territory names in general is considered to be out of scope of the IDN ccPDP, and therefore the Board cannot commit to prolonging the exclusion of country and territory names from further new gTLD rounds until it understands the process that will be undertaken to deal with this issue. While it is not certain that the board would change the country name reservation after the first round, it has reserved that possibility. The ccNSO is considering the options available, and will advise the Board in due course. The Board may, at that time, reconsider whether to extend the prohibition on country and territory names.

- **Names by which countries are commonly known as and which do not appear in the ISO lists should also be given the same protection as country names that do appear.**

  In correspondence to the GAC on 5 August 2010, Peter Dengate-Thrush explained the reasons why the Board sought to remove the ambiguity of the term ‘meaningful representation’ from the definition of country and territory names. It is considered that the current definition is consistent with the Board’s

goal of providing greater clarity for applicants and appropriate safeguards for governments and the board community.

- **ICANN to review the proposal for city names in the applicant guidebook to ensure applicants do not avoid the safeguards of government support or non-objection by stating that the intended use of the name is for non-community purposes.**

  It is acknowledged in the Guidebook (and in correspondence and discussions with the GAC) that city names present challenges because city names may also be generic terms or brand names and, in many cases, no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, all city names are not afforded the same types of protection as country and capital city names.

  Rather, an application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name, will require support or non-objection from the relevant government or public authority.

  Applicants are required to provide a description/purpose of what the TLD will be used for, and to adhere to the terms and conditions of submitting an application including confirming that all statements and representations contained in the application are true and accurate. The Registry Agreement has the same clause.

- **Governments should not be required to pay a fee for raising objections to new gTLD applications.**

  The Community-based objection process has been accurately described as a methodology for objecting to applications for geographical names where that name might be misappropriated by the applicant. The Board discussed the GAC's position that governments should not be required to pay a fee for raising objections to new gTLD applications, during it's meeting in Trondheim. It is the

Board's view that governments that file objections should be required to cover costs of the objection process just like any other objector.

The objection process will be run on a cost-recovery basis and there is no source of funds to cover government objection expenses. It can be raised with the GAC that dispute resolution services are funded on a loser-pays basis (so the costs of the objection processes in which governments prevail will be borne by applicants). The Board noted some ambiguity in the GAC proposal for free government objections as it is not specific as to particular objection grounds or particular government objections (for example whether both national and local government objectors would be covered). In any case, resolving the ambiguity would probably not resolve this difference.

Resolution Text Superceded

Resolution Text Superceded

Submitted by:	Donna Austin	Kurt Pritz
Position:		Senior Vice President, Services
Date Noted:	28 October 2010	
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2010-12-10-10-Annex-Attachment-B-Board-Submission-New-gTLDs-Geo-Names-GAC-Consultaiton

2010-12-10-10 ANNEX ATTACHMENT B

Previously ANNEX TO BOARD SUBMISSION NO. 2010-10-28-18

SUBMISSION TITLE: New gTLDs—GAC Issues letter including geographic names

The table below provides a timeline relating to the treatment of geographic names in the new gTLD process.

Following the timeline is the current protections for geographic names in the applicant guidebook.

Date	***Position***
Lisbon 28 March 2007 GAC comminque	GAC Adopts *"Principles regarding new gTLDs", containing* two paragraphs addressing the issue of geographic names at the top and second level: 2.2 ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities. 2.7 Applicant registries for new gTLDS should pledge to: a) adopt, before the new gTLD is introduced, appropriate procedures for blocking, at no cost and upon demand of governments, public authorities or IGOs, names with national or geographic significance at the second level of any new gTLD; b) ensure procedures to allow governments, public authorities or IGOs to challenge abuses of names with national or geographic significance at the second level of any new gTLD.
Los Angeles GNSO submits final report to Board	Recommendation 20. An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted. Implementation Guideline P: … Opposition must be objection based. Reserved Names Working Group Report: There should be no geographical reserved names (i.e., no exclusionary list, no presumptive right of registration, no separate administrative procedure, etc.). The proposed challenge mechanisms currently being proposed in the draft new gTLD process would allow national or local governments to initiate a challenge, therefore no additional protection mechanisms are needed. Potential applicants for a new TLD need to represent that the use of the proposed string is not in violation of the national laws in which the applicant is incorporated. However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC principles, and the advisory role vested to it under the ICANN bylaws. Additionally, a summary overview of the obstacles encountered by previous applicants involving similar TLDs should be provided to allow an applicant to make an informed decision. Potential applicants should also be advised that the failure of the GAC, or an

	individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN bylaws.
Los Angeles 31 October 2007 GAC Communiqué	Appreciates work done by GNSO regarding the proposal for principles, recommendations and implementation guidelines for new gTLDs. GAC draws attention to the fact that the proposal does not properly take into account paragraph 2.2 in the *GAC principles regarding new gTLDs*, in particular the avoidance of country names. In practice some countries would not be in a position to avail them of the proposed objection mechanism especially those not participating in ICANN activities. Will monitor the implementation and provide further input as necessary. Agree to reflect on the need to provide advice on the final report by the GNSO on the intro of new gTLDs.
Los Angeles ccNSO Council Resolution	The ccNSO council resolved in Los Angeles, 31st October 2007, regarding the introduction of new gTLDs: Principle on meaningful representation of the name of a territory listed on the ISO 3166-1 in a non ASCII script - No name of a territory listed on the ISO 3166-1 or a meaningful abbreviation of it, whether represented in a non ASCII script or in any recognised language represented in that script, shall be available as a gTLD. This principle should be revisited once the IDN ccPDP recommendation, if any, is adopted by the Board. Principle on meaningful representation of the name of a territory listed on the ISO 3166-1 in ASCII - No name of a territory listed on the ISO 3166-1 or a meaningful abbreviation of it, whether represented in ASCII script or in any recognised language, shall be available as a gTLD. This principle should be revisited once the IDN ccPDP recommendation, if any, is adopted by the Board.
Paris June 2008	Board approves GNSO Recommendations for Introduction of New gTLDs and directs staff to develop implementation plan.
Paris 26 June 2008 GAC Communiqué	On the introduction of the gTLDs the GAC expressed concern to Board and GNSO that the GNSO proposals do not include provisions reflecting GAC Principles regarding new gTLDs, namely 2.2 and 2.7 (see Lisbon, 2007)
8 September 2008	Paul Twomey and staff had a conference call with the GAC to discuss their concerns about the treatment of 2.2 and 2.7 in the new gTLD process. This was followed up with a letter to the GAC on 2 October 2008.
2 October 2008	Letter from Paul Twomey to Janis Karklins regarding treatment of geographic names following teleconference with the GAC. Letter outlines proposal for way forward re para 2.2: • Supporting documentation, evidence of non-objection, from the relevant government or public authority will be required for strings which represent a country or territory name. ISO 3166-1 list will be used as reference list. • Place names was considered very broad and were defined as: o sub-national geographic identifiers such as counties, states, provinces. The ISO 3166-2 identified as the reference list, and support documentation, evidence of non-objection required; o city names are challenging because a city name can also be a generic term, or a brand name, and in many cases no city name is unique. Therefore, an applicant that clearly intends to use the TLD to leverage the city name, will require supporting documentation. • Regional language and people descriptions—difficult to determine the relevant government or public authority for a string which represents a

	language or people description as there are generally no recognized established rights for such descriptions Paragraph 2.7 (a) • ICANN would be reluctant to place blanket restrictions on the use of geo names at the second level due to anticipated mulit-national companies expected to apply for a brand name. Names with national and geographic significances difficult to define. Paragraph 2.7(b) • Names with national and geographic significance are difficult to define, as is what constitutes an 'abuse' of a name. UDRP protects rights at the second level. http://www.icann.org/correspondence/twomey-to-karklins-02oct08.pdf
22 October 2008	Explanatory Memorandum – Geographic Names Process – considers the positions of the GNSO recommendations and the GAC principles and explains the rationale behind the treatment of geographic TLDs in the Applicant Guidebook. • The GAC does not agree that the objection and dispute resolution procedures described by the GNSO policy recommendations is adequate for ensuring that governments and public authorities are aware of applications for strings which represent their country or territory names, or certain other geographic and geopolitical descriptions. • The Reserved Names Working Group, while not recommending the reservation of geographic names, believing the objection process to be adequate protection, the report recognized that applicants interested in applying for a geographic name should be advised of the GAC principles. • The approach outlined in the letter to the GAC of 2 October 2008, for country and territory names, sub-national names and city names was repeated in the explanatory memorandum. • Continents and UN Regions were called out as geographic names and would require support or non-objection from a substantial number of the relevant governments and/or public authorities. http://www.icann.org/en/topics/new-gtlds/geographic-names-22oct08-en.pdf
23 October 2008	**Applicant Guidebook Version 1 published** ***2.1.1.4.1 Requirements for Strings Intended to Represent Geographical Entities*** The following types of applications must be accompanied by documents of support or non-objection from the relevant government(s) or public authority(ies). • Applications for any string that is a meaningful representation of a *country or territory name* listed in the ISO 3166-1 standard (see http://www.iso.org/iso/country_codes/iso_3166_databases.htm). This includes a representation of the country or territory name in any of the six official United Nations languages (French, Spanish, Chinese, Arabic, Russian and English) and the country or territory's local language. • Applications for any string that represents a *subnational place name*, such as a county, province, or state, listed in the ISO 3166-2 standard. • Applications for a city name, where the applicant clearly intends to use the gTLD to leverage from the city name. • An application for a string which represents a continent or UN region appearing on the Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings list at http://unstats.un.org/unsd/methods/m49/m49regin.htm. **http://www icann.org/en/topics/new-gtlds/comments-en htm**
28 December 2008	ccNSO comments on version 1 of Applicant Guidebook – geographic names http://forum.icann.org/lists/gtld-evaluation/msg00015 html

	Issues: • the restriction of the 6 official United Nations languages and the country or territory's local language needs to be amended to translation in any language. • All country names and territory names are ccTLDs – not gTLDs • c*ountry and territory names and meaningful abbreviations thereof* of countries and territories in the ISO-3166-1 list, in all languages and scripts, are not allowed as gTLDs until the IDN ccPDP process has concluded.
18 February 2009	Analysis of public comment published, and included responses to comments received from the ccNSO. • The solution offered by the ccNSO to not allow country and territory names in the gTLD process until outcome of the ccPDP, will mean that country or territory names in ASCII at the top level would not be available before August 2011. • In considering the comments received on the issue of country and territory names in the gTLD space, the definition of meaningful representation will be expanded to include a representation of a country or territory name in any language to address the ccNSO's concern that "almost all non-Latin and Latin scripts can be entered as a gTLD without any restriction except that the country in question can object." http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf
Cairo 5 November 2008 GAC Communiqué	Appreciates level of engagement inter-sessionally with ICANN staff which lead to better reflection of the GAC principles in New gTLDs in the DAG, particularly principles 2.2 and 2.6. As a result became more sensitive to the potential blurring of the existing distinction between the ccTLD and gTLD namespace. Questions related to consideration of country and territory names need to be addressed further. Will continue consideration of whether the strings being meaningful representations or abbreviations of a country or territory name in any script or language should not be allowed in the gTLD space until the related ccTLD PDP is completed. The procedure recommended in 2.7a of the GAC principles also needs to be further considered in the DAG.
18 February 2009	**Applicant Guidebook Version 2** ***2.1.1.4.1 Categories of Strings Considered Geographical Names*** The following types of applications are considered geographical names and must be accompanied by documentation of support or non-objection from the relevant government(s) or public authority(ies): • An application for any string that is a meaningful representation of a *country or territory name* listed in the ISO 3166-1 standard (see http://www.iso.org/iso/country_codes/iso_3166_databases.htm), as updated from time to time. A meaningful representation includes a representation of the country or territory name in any language. A string is deemed a meaningful representation of a country or territory name if it is: o The name of the country or territory; or o A part of the name of the country or territory denoting the country or territory; or o A short-form designation for the name of the country or territory that is recognizable and denotes the country or territory. • An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard5, as updated from time to time.

	• An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard. • An application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. • An application for a string which represents a *continent or UN region* appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list at http://unstats.un.org/unsd/methods/m49/m49regin htm. In the case of an application for a string which represents a continent or UN region, documentation of support, or non-objection, will be required from a substantial number of the relevant governments and/or public authorities associated with the continent or the UN region. **http://www icann.org/en/topics/new-gtlds/comments-2-en htm**
Mexico City 4 March 2009 GAC Communiqué	GAC comments on the Draft Applicant Guidebook for new gTLD specify that: • The GAC expects ICANN to apply GAC gTLD principles in respect to the handling of geographic names and in particular principles 2.2 (including place names) and 2.7 that are not comprehensively addressed in the implementation proposals. • Strings being meaningful representations or abbreviations of a country and territory name in any script or language should not be allowed in the gTLD space until the related IDN ccTLD policy development processes have been completed • The proposed introduction of new gTLDs and in particular any process relating to the protection of geographic names should not result in an unreasonable administrative burden for government administrations
Board Workshop Mexico City	Board discussed v2 of Applicant Guidebook as it relates to geographic names and was in general agreement with the content. Considered that the 'meaningful representation' definition used for country and territory names was too broad and required tightening. Also considered that the threshold for continent and UN Regions was unworkable and needed refining. GAC principle 2.7 was considered difficult to implement and agreed to seek input from the GAC about how to do this
Board resolution 6 March 2009	Resolved (2009.03.06.07), the Board is generally in agreement with the proposed treatment of geographic names at the top-level, and staff is directed to revise the relevant portions of the draft Applicant Guidebook to provide greater specificity on the scope of protection at the top level for the names of countries and territories listed in the ISO 3166-1 standard, and greater specificity in the support requirements for continent names, and post the revised position for public comment. Resolved (2009.03.06.08), staff is directed to send a letter to the GAC by 17 March 2009 identifying the implementation issues that have been identified in association with the GAC's advice, in order to continue communications with the GAC to find a mutually acceptable solution. The Board would request a preliminary response by 24 April 2009 and a final report by 25 May 2009.
Correspondence relating to above Resolution **17 March 2009**	Twomey to Karklins, 17 March 2009 http://www.icann.org/correspondence/twomey-to-karklins-17mar09-en.pdf • Outlines Board resolution of 6 March 2009 • Board believes treatment of geographic names at the top level provides a workable compromise between paragraph 2.2 and the GNSO's policy recommendation 20. • Seeks the GAC's members input on possible options to resolve the outstanding implementation issues regarding the protection of geographic names at the second level, specifically paragraph 2.7.

24 April 2009	Karklins to Twomey, 24 April 2009 http://www.icann.org/correspondence/karklins-to-twomey-24apr09.pdf
	• Geographic Names at the top level:
	  ○ Rights of governments or public authorities in relation to the rights of the sovereign state or territory which they represent cannot be limited or made conditional by any procedures that ICANN introduces for new gTLDs.
	  ○ It would be sensible to enable Governments (or the GAC) to object to an application for a gTLD on public interests grounds without going through the time and cost of the formal objection process.
	  ○ ccNSO approach that country and territory names on the ISO list are treated as ccTLDs seems to be a sensible approach to ensure that geographic names are afforded sufficient protection.
	• Geographic names at the second level:
	  ○ Registries should be asked to indicate how they intend to incorporate GAC advice in their management of second level domains.
	  ○ .info procedure could be drawn upon as an example
	  ○ at a minimum, the names contained on three lists [ISO 3166-1; United Nations Group of Experts on Geographical Names, Part III Names of Countries of the World; and List of UN member states in 6 official UN languages prepared by the Working Group on Country Names of the United nations conference on the standardization of Geographical Names] must be reserved at the second level at no cost for the governments of all new gTLDs.
	• Potential misuse of respective names on the second level
	  ○ In the event that a government notifies ICANN that there is misuse of any second level domain name, ICANN shall notify the registry and request the suspension of the said name pending the withdrawal of the objection.

15 May 2009	Chair of GNSO to GAC, 15 May 2009 http://gnso.icann.org/correspondence/gnso-ltr-to-gac.pdf • Understands need to provide adequate protection for existing legal rights and believes such protection is defined in GNSO Recommendation 3. Recommendation 20 • Concerned that the GAC request to allow governments to or the GAC itself to object to an application without going through the formal objection process may be seen as a way to circumvent the process. There must be a level playing field for all participants in the new gTLD process. • GNSO Council considers that geographic names are already afforded special treatment in the Applicant Guidebook recognizing the GAC claim that geographic names are special cases deserving of special rules. • Concerned that governments being allowed to force any gTLD registry to suspend any name at the second level, does not give the registrant any avenue of recourse and is inconsistent with the rights determination procedures of the UDRP.
26 May 2009	Karklins to Twomey, 26 May 2009 http://www.icann.org/correspondence/karklins-to-twomey-29may09-en.pdf • Proposal in relation to geographic names at the second level is acceptable to the GNSO, and is repeated in the letter. • Notes that on other issues relating to geographic names at the top leve and

	the potential misuse o the respective names on the seconds, the GNSO and GAC are not in agreement. The GAC will engage in further discussion in Sydney.
9 April 2009	**ccNSO comments on version 2 of the Applicant Guidebook http://forum icann.org/lists/2gtld-guide/msg00018.html** • Reiterates principle that all country and territory names are ccTLDs – not gTLDs • The dividing line between gTLDs and ccTLDs will be blurred and sooner or later disappear if ICANN allows country and territory names to be gTLDs
16 May 2009	**Board Workshop in Vienna** • Agreed to revised definition of country and territory names, which no longer refers to 'meaningful representation' • Agreed to revised approval level of regional names • Agreed that country and territory names be allowed in new gTLD process as ccTLDs are two letter country codes; and everything else is a gTLD.
30 May 2009	Changes to treatment of geographic names in Applicant Guidebook: • In response to Board resolution of 6 March, meaningful representation of country and territory names definition provided in Applicant Guidebook Version 2 is replaced with a definition providing more clarity and less ambiguity for applicants. • The GAC's recommendation (letter of 26 May 2009) of a reservation of country/territory names contained on three lists at the second level is reflected in the draft registry agreement
30 May 2009	**Excerpt from Guidebook – Geographical Names – contains revised definitions** ***Categories of Strings Considered Geographical Names*** The following types of applications are considered geographical names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities: 1. An application for any string that is a *country or territory name*. A string shall be considered to be a country or territory name if: a. it is an alpha-3 code listed in the ISO 3166-1 standard.1 b. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language. c. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language. d. it is the short- or long-form name association with a code that has been designated2 as "exceptionally reserved" by the ISO 3166 Maintenance Agency.3 e. it appears in the "Remarks" column next to a code designation in the ISO 3166-1 standard as any of: "often referred to as," "includes," "comprises," "variant," or "principal islands," or a translation of the name in any language. f. it is a separable component of a country designated on the "List of Separable Country Names,"4 or is a translation of a name appearing on the list, in any language. g. it is a permutation or transposition of any of the names included in items "a" through "f". Permutations include removal of spaces, insertion of punctuation, and removal of grammatical articles like "the." 2. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard. 3. An application for any string that is a representation, in any language, of the

	capital city name of any country or territory listed in the ISO 3166-1 standard. 4. An application for an associated with the city name. 5. An application for a string which represents a *continent or UN region* appearing on the "Composition of macro geographical (continental) regions, geographical subregions, and selected economic and other groupings" list.5 In the case of an application for a string which represents a continent or UN region, documentation of support will be required from at least 60% of the relevant governments in the region, and there may be no more than one written objection to the application from relevant governments in the region and/or public authorities associated with the continent or the UN region. **http://www icann.org/en/topics/new-gtlds/draft-geographical-names-30may09-en.pdf**
31 May 2009	Analysis of public Comment Analysis on V2 of the Applicant Guidebook, which includes response to the ccNSO's comments. • While understanding the concern that it is important to maintain the distinction between a ccTLD and a gTLD, there is also anticipation that governments may want a .country name TLD, and at this time, this is only possible under the new gTLD process. The GAC has expressed the sentiment of a government's sovereign rights over the use of their respective country name. Therefore, it would seem inappropriate to deny a government (or better that ICANN does not have the authority to deny) the right to submit or support an application for a .country name TLD under the new gTLD process. The new gTLD process is clear that an application for a country or territory name must be accompanied by government support. http://www.icann.org/en/topics/new-gtlds/agv2-analysis-public-comments-31may09-en.pdf
Sydney 24 June 2009 GAC Communiqué	Discussed the Draft Applicant Guidebook version 2 and felt it did not yet respond to all the concerns raised by governments, in particular the need for adequate protection of geographic names (on the top and the second levels) and delegation/re-delegation procedures
6 July 09	ccNSO comments on Excerpt from Guidebook – Geographical Names http://forum.icann.org/lists/e-gtld-evaluation/msg00006.html • Reiterates previous comments • Wants the 'meaningful representation' definition be reinserted into the Guidebook • Allowing a TLD which represents a country name is likely to create a situation where ICANN will be caught up in the internal policy of a country
18 August 2009	GAC comments on Applicant Guidebook v2 • Strings that are a meaningful representation or abbreviation of a country name or territory name should not be allowed in the g TLD space. • gTLD strings with geographic names other than country names or territories (so called geo TLDs) should follow specific rules of procedure. Government or public authority should be able to initiate redelegation process perhaps because of infringement of competition legislation, misuse or breach of contract, or breach of the terms of support or non-objection. In cases of change in the ownership structure, ICANN should establish a new process of approval or non-objection. http://www.icann.org/correspondence/karklins-to-dengate-thrush-18aug09-en.pdf
22 September 2009	Letter from Peter Dengate-Thrush responding to GAC comments • it is only possible to provide country name TLDs under the new gTLD process at this time. Treatment of country and territory names in V2 was developed in context of points raised by GAC, ccNSO, and the GNSO policy recommendations. Safeguards have been developed to respect sovereign rights. It is ultimately the government or public authority's

	discretion whether to support or not support an application. • Nothing to prevent a government or public authority conditioning the granting of their approval of TLD requests to the TLD operator and so can influence policy making. If designated a community TLD will have restrictions in its agreement. http://www.icann.org/correspondence/dengate-thrush-to-karklins-22sep09-en.pdf
4 October 2009	**Applicant Guidebook Version 3** *2.1.1.4.1 Strings Considered Geographical Names* The following types of applications are considered geographical names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities: 1. An application for any string that is a *country or territory name.* A string shall be considered to be a country or territory name if: i. it is an alpha-3 code listed in the ISO 3166-1 standard. ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language. iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language. iv. it is the short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency. v. it is a separable component of a country name designated on the "Separable Country Names List," or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module. vi. It is a permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or removal of grammatical articles like "the." A transposition is considered a change in the sequence of the long or short–form name, for example, "RepublicCzech" or "IslandsCayman." 2. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard. 3. An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard. 4. An application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. 5. An application for a string which represents a *continent or UN region* appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list.5 In the case of an application for a string which represents a continent or UN region, documentation of support will be required from at least 69% of the relevant governments in the region, and there may be no more than one written objection to the application from relevant governments in the region and/or public authorities associated with the continent or the UN region. **http://icann.org/en/topics/new-gtlds/comments-3-en htm**
Seoul **28 October 2009**	Provided comments on the Applicant Guidebook version 2 in its letter to the Board dated 18 August 2009. Chairman of the Board replied on 22nd September. Following discussions in Seoul the GAC felt that many of its concerns remain outstanding, related in particular to the need to respect national public interests and sovereign rights regarding strings with geographical meaning.
21 November 2009	Letter from ccNSO to Board raising concerns about the treatment of geographic names. The ccNSO also submitted these comments via the public comments on v3 of the Applicant Guidebook. http://www.icann.org/correspondence/disspain-to-dengate-thrush-21nov09-en.pdf

	• Requests that ICANN prohibit the introduction of gTLDs consisting of the name of a territory listed in ISO 3166-1 or a meaningful abbreviation of it • Distinction between ccTLDs and gTLDs, as stated in RFC 1591 and acknowledged by ICANN in its own words, is that ccTLDs are country or territory designations while gTLDs are not. • V3 of Applicant Guidebook fails to address multitude of post-delegation issues ICANN is likely to face in connection with the introduction of country/territory designations in the gTLD space.
15 February 2010	Analysis of public comment on v3 of the Applicant Guidebook and includes response to ccNSO's comments. • The Board is aware of the possibility of entities seeking a .country name with appropriate government support, although this possibility is not the only consideration with regard to geographic names. If one of the practical characteristics of a ccTLD is to remain (for the time being) its two-character nature, then the only mechanism for delegating and deploying such strings is that of a new gTLD. As a basic principle, ICANN would not want to be in a position of opposing such delegation against the clear wishes of a national government. • It is acknowledged that post- delegation problems may arise with a .country name where a government may wish to see different arrangements apply because of changed circumstances. • A government or public authority has the option of applying conditions on a TLD operator as part of their initial support for a .country name, thereby putting itself in a position to influence the policies of the operator. • If a geographic name TLD designates itself as a community TLD it will have specific restrictions in its agreement which, if breached (for example, through registration restrictions), enable the government to lodge an objection and the decision maker can order the registry to comply or face sanctions. It is possible that a Government may take some comfort from the existence of a contract between ICANN and the .country operator, particularly if the government does not have a mechanism to provide input or contribute to the operations and management of its ccTLD. http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf
Nairobi 10 March 2010	GAC comments on Applicant Guidebook V3 http://www.icann.org/correspondence/karklins-to-dengate-thrush-10mar10-en.pdf • Provides an interpretation of para 2.2 of the GAC principle: "…strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccTLD PDP, and other geographical strings could be allowed in the gTLD space if in agreement with the relevant government or public authority." • Raised concerns about the lack of post-delegation procedures if the government or public authority withdraws its support for a registry. Suggested that a possible way to address this would be to include a clause in the registry agreement requiring that in the case of a dispute between the relevant government and registry operator, ICANN must comply with a legally binding decision in the relevant jurisdiction. • Definition of geographical strings continues to be insufficient and is not in line with GAC principles 2.2 and 2.7, for example commonly used abbreviations or regions not listed in ISO 316-2 should also be considered geographic names.
10 March 2010 Board resolution	The Board resolved in Nairobi (2010.03.12.25) ICANN shall also consider whether the Registry Restrictions Dispute Resolution Procedure (or a similar post-delegation dispute resolution procedure) could be implemented for use by government-supported TLD operators where the government withdraws its support of the TLD.

21/22 May 2010	Board workshop in Dublin Board agrees with ccNSO and GAC proposal to make country and territory names unavailable in the first round of the new gTLD process. They reconfirmed their support for the current definition of country and territory names in version 3 of the Applicant Guidebook.
31 May 2010	**Version 4 Applicant Guidebook** ***2.2.1.4 Geographical Names*** Applications for gTLD strings must ensure that appropriate consideration is given to the interests of governments or public authorities in geographic names. The requirements and procedure ICANN will follow are described in the following paragraphs. Applicants should review these requirements even if they do not believe their intended gTLD string is a geographic name. ***2.2.1.4.1 Treatment of Country or Territory Names[4]*** Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round. A string shall be considered to be a country or territory name if: i. it is an alpha-3 code listed in the ISO 3166-1 standard. ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language. iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language. iv. it is the short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency. v. it is a separable component of a country name designated on the "Separable Country Names List," or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module. vi. It is a permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or removal of grammatical articles like "the." A transposition is considered a change in the sequence of the long or short–form name, for example, "RepublicCzech" or "IslandsCayman." The following types of applied-for strings are considered geographical names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities: 1. An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard. In this case, it is anticipated that the relevant government or public authority would be at the national level. 2. An pplication for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. City names present challenges because city names may also be generic terms or brand names, and in many cases no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired. An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if: (a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city

	name; and (b) The applied-for string is a city name as listed on official city documents.[5] In the case of an application that meets conditions (a) and (b), documentation of support will be required only from the relevant governments or public authorities of the city named in the application. 3. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard. 4. An application for a string which represents a *continent or UN region* appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list.[6] In the case of an application for a string which represents a continent or UN region, documentation of support will be required from at least 60% of the respective national governments in the region, and there may be no more than one written objection to the application from relevant governments in the region and/or public authorities associated with the continent or the UN region. Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round. Explanatory Memorandum: Withdrawal of Government Support—Post delegation procedures http://www.icann.org/en/topicsnew-gtlds/withdrawal-government-support-28may10-en.pdf Recommends adoption of GAC's language that ICANN must comply with a legally binding decision in the relevant jurisdiction in the event of a dispute between a relevant Government and the registry operator; and processes and remedies also available under the Registry Restrictions Dispute Resolution Procedure are available to governments in cases where the geographic name is applied of as a community based TLD.
5 August 2010	Letter from Peter Dengate Thrush responding to GAC comments on v 3 of Applicant Guidebook • Country and territory names will not be available for delegation in the first round of the new gTLD process. • The definition of country and territory names will remain in order to provide clarity for applicants, and appropriate safeguards for governments and the broad community. • Recalls that much of the treatment of geographic names in the Applicant Guidebook was developed around the GAC Principles regarding new gTLDs. • Outlines communication with the GAC on geographic names since October 2008, regarding 2.2 • Paragraph 2.7 was resolved via a formal request from the Board and correspondence between the former CEO Paul Twomey, and former GAC Chair, Janis Karklins. • GAC's suggestion of including a clause in the registry agreement requiring that in the case of a dispute between a relevant Government and the registry operator, ICANN must comply with a legally binding decision in the relevant jurisdiction is adopted. • Registry Restrictions Dispute Resolution Procedure is available to governments in cases where the geographic name is applied for as a community-based TLD.
23 September 2010	Letter from Heather Dryden providing GAC comments on v4 of the Applicant Guidebook:

	• Guidebook still does not take fully into consideration the GAC's concerns about extending protection of geographic names. Definition of geographical strings continues to be insufficient and inconsistent with GAC gTLD principles and earlier advice. In particular, names by which countries are commonly known as and which do not appear in ISO should be given same protection as country names that do appear. • Asks ICANN to ensure that the criteria for community objections are implemented in a way that appropriately enables governments to use this instrument to protect their legitimate interests. • Revise city names proposal in Guidebook to ensure that this potential loophole does not arise. • Reiterates position that governments should not be required to pay a fee for raising objections to new gTLD applications.

Current protection for geographic names in the applicant guidebook:

The initial GAC advice on the treatment of geographic names in the new gTLD process was set out in the GAC Principles regarding new gTLDs, specifically the following paragraphs:

> 2.2 ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities; and
>
> 2.7 Applicant registries for new gTLDS should pledge to:
>
> > a) adopt, before the new gTLD is introduced, appropriate procedures for blocking, at no cost and upon demand of governments, public authorities or IGOs, names with national or geographic significance at the second level of any new gTLD;
> >
> > b) ensure procedures to allow governments, public authorities or IGOs to challenge abuses of names with national or geographic significance at the second level of any new gTLD.

The treatment of geographic names in the applicant guidebook was developed largely to respond to the GAC principles, while taking account of the GNSO view that there should be no geographical reserved names as "recommendation 20: an application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted" will allow national or local governments to initiate a challenge, therefore no additional protection mechanisms are needed.

Responding to paragraph 2.2

Country and territory names, as defined in the Applicant Guidebook, will not be available in the first round of new gTLDs.

Geographic names, as defined in the Applicant Guidebook, will require evidence of support, or non-objection, from the relevant government/s or public authority/s. The geographic names are categorized as follows:

- any string that is a representation, in any language, of the capital city name of any country or territory listed in the ISO 3166-1 standard,
- an application for a city name where the applicant declares that it intends to use the gTLD for purposes associated with the city name,
- an application for any string that is an exact match of a sub-national place name, such as a county, province, or state, listed in the ISO 3166-2 standard, and
- an application for a string listed as UNESCO[1] region or appearing on the UN "composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings[2]" list, or a translation of the string in any language.

Responding to paragraph 2.7

All new gTLD registry operators are required to provide certain minimum protections for country and territory names, including an initial reservation requirement and establishment of applicable rules and procedures for the release of these names.

Specification 5 of the Registry Agreement—Schedule of reserved names at the second level in GTLD registries

5. Country and Territory Names. The country and territory names contained in the following internationally recognized lists shall be initially reserved at the second level

[1] http://www.unesco.org/new/en/unesco/worldwide
[2] http://unstats.un.org/unsd/methods/m49/449regin.htm

and at all other levels within the TLD at which the Registry Operator provides for registrations:

5.1 the short form (in English) of all country and territory names contained on the ISO 3166-1 list, as updated from time to time;

5.2 the United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World; and

5.3 the list of United Nations member states in 6 official United Nations languages prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names.

Responding to possible withdrawal of government support for registry operator

A clause will be included in the Registry Agreement requiring that in the case of a dispute between a relevant Government and the registry operator, ICANN must comply with a legally binding decision in the relevant jurisdiction.

In addition, the processes and remedies of the Registry Restrictions Dispute Resolution Procedure are available to governments in cases where the geographic name is applied for as a community-based TLD.

Submitted by:	Donna Austin	Kurt Pritz
Position:		Senior Vice President, Services
Date Noted:	28 October 2010	
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2010-12-10-11 Annex SAC045 Board Cover Letter 15 November 2010

15 November 2010

To: ICANN Board
From: SSAC Chair
Via: SSAC Liaison to the ICANN Board

We hereby forward to you an SSAC Report: "SAC045 Invalid Top Level Domain Queries at the Root Level of the Domain Name System."

In this Report, we call attention to the potential problems that may arise should a new TLD applicant use a string that has been seen with measurable (and meaningful) frequency in a query for resolution by the root system and the root system has previously generated a response. We find that any new TLD registry operator may experience unanticipated queries and that some TLDs may experience a non-trivial load of unanticipated queries if the label it chooses corresponds to TLDs that have historically seen queries. We recommend that ICANN inform new TLD applicants of the problems that can arise when a previously seen string is added to the root zone as a TLD label and that ICANN should coordinate with the community to identify principles that can serve as the basis for prohibiting the delegation of strings that may introduce security or stability problems at the root level of the DNS.

In accordance with our usual practice, 48 hours after this document is sent to the Board, ICANN Staff will post the report to the SSAC web site.

SSAC welcomes comments from the Board concerning this Report and thanks the Board for its consideration of this important document.

Steve Crocker
Chair, ICANN Security and Stability Advisory Committee

2010-12-10-11 Annex SAC045 Invalid TLD Queries at the Root Level of the Domain Name System FINAL 15 Nov 2010

SAC 045
Invalid Top Level Domain Queries at the Root Level of the Domain Name System

A Report from the ICANN
Security and Stability
Advisory Committee
(SSAC)
15 November 2010

Preface

This is a report by the Security and Stability Advisory Committee (SSAC) on invalid Top Level Domain (TLD) queries at the root level of the domain name system (DNS). The report calls attention to the potential problems that may arise should a new TLD applicant use a string that has been seen with measurable (and meaningful) frequency in a query for resolution by the root system and the root system has previously generated a response.

The SSAC advises the ICANN community and Board on matters relating to the security and integrity of the Internet's naming and address allocation systems. This includes operational matters (e.g., matters pertaining to the correct and reliable operation of the root name system), administrative matters (e.g., matters pertaining to address allocation and Internet number assignment), and registration matters (e.g., matters pertaining to registry and registrar services such as WHOIS). SSAC engages in ongoing threat assessment and risk analysis of the Internet naming and address allocation services to assess where the principal threats to stability and security lie, and advises the ICANN community accordingly. The SSAC has no official authority to regulate, enforce or adjudicate. Those functions belong to others, and the advice offered here should be evaluated on its merits.

The contributors to this report, reference to the committee members' biographies and statements of interest, and committee members' objections to the findings or recommendations in this report, are at end of this report.

Table of Contents

1. Executive Summary

The introduction of new Top Level Domains (TLDs) involves technical considerations of the strings that may be proposed for use by applicants. This report calls attention to the potential problems that may arise should a new TLD applicant use a string that has been seen with measurable (and meaningful) frequency in a query for resolution by the root system and the root system has previously generated a response.

2. Introduction

The introduction of new TLDs involves technical considerations of the strings that may be proposed for use by applicants. With respect to the resolution of TLD strings at the root level of the domain name system (DNS), three conditions exist:

1. The string exists in the root zone and resolves, i.e., a positive result is returned for the query;
2. The string has never been seen in a query for resolution by the root system, i.e., the string has not been delegated and has not been queried;
3. The string has been queried and a root name server has responded to the query with a non-existent domain (NXDOMAIN) result, i.e., the string has not been delegated but has been queried; and
4. The string was resolved by root name servers at one time in the past but has been removed from the root zone, i.e., the string is a previously delegated string, and root name servers have returned positive responses to queries for that string.

This report calls attention to conditions (2) and (3) above and, specifically, the potential problems that may arise should a new TLD applicant use a string that has been seen with measurable (and meaningful) frequency in a query for resolution by the root system and the root system has previously generated a response.

3. Background

In the normal course of domain name resolution, a client on a host or application will query a resolver for resource records associated with a domain name. If the resolver can provide an answer to the query from local (cached) information, it does so. If the resolver cannot provide an answer, it uses a recursive process to resolve the domain name. Specifically, the resolver queries a root name server for the resource records associated with a domain name. For example, if the domain name in the query were `www.example.com`, the resolver asks a root name server for the full name. However, since the root servers do not maintain information about the full name, a referral response is returned that contains the list of name servers for the `.COM` TLD. The resolver next asks one of the `.COM` TLD name servers for the resource records for the full name. Since the .COM TLD name servers do not have the answer, a referral response is returned that contains the list of name servers for the `example.com domain.` The resolver then asks one of `example.com`'s name servers for the resource records associated with

`www.example.com`, and the answer is returned. If the TLD is unknown to the root servers (i.e., if the rightmost string in the domain name before the (optional) terminating "." is not in the root zone file), the resolver receives a negative response (`NXDOMAIN`), which is then relayed back to the requesting client.

4. NXDOMAIN Responses From the Root Level of the DNS

According to analyses of data collected by the Domain Name System Operations, Analysis, and Research Center (DNS-OARC) and reported by the Day in The Life of the Internet (DITL) project certain strings repeatedly appear at the root level of the DNS in queries seeking to resolve top-level domain (TLD) labels.[1] Such strings have not been delegated (included in the root zone). Figure 1 depicts the top invalid TLDs:

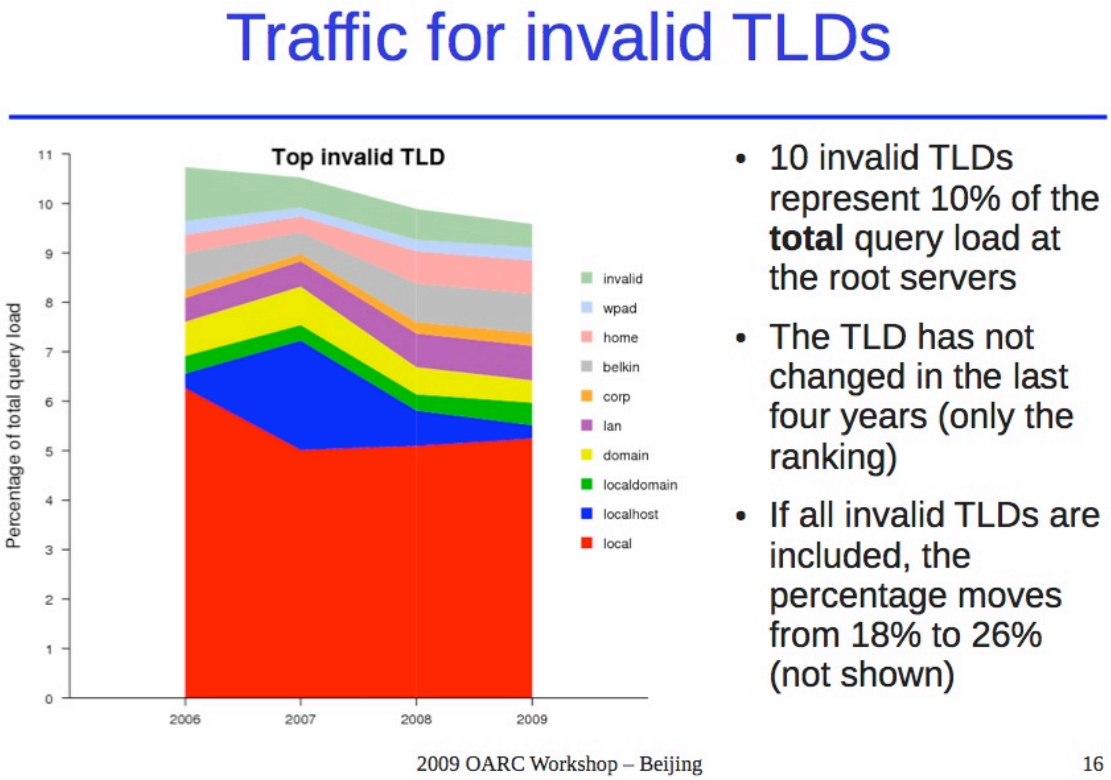

Figure 1. Traffic for invalid TLDs (2009)

These queries are wrongly directed at root name servers as a result of configuration errors or incorrect invocation of DNS in configurations where name spaces other than the DNS (e.g., Microsoft's "WINS") are used on private networks. (This "leakage" is part of a

[1] See "DNS Research Update from CAIDA: Status and Recent Experiences," KC Claffy, Root Server System Advisory Committee (RSSAC), March 22, 2009 <http://www.caida.org/publications/presentations/**2009**/rssac_dns/rssac_dns.pdf> and "DITL 2009: Analysis and Results of Four Years of DITL," Sebastian Castro, New Zealand Registry Services and The Cooperative Association for Internet Data Analysis (CAIDA), 2009 OARC Workshop, Beijing, China, <http://www.dns-oarc.net/files/workshop-**2009**11/Sebastian_Castro.pdf>.

broader set of invalid queries referred to as DNS pollution.) From these data, we note the following:

1. Currently, root name servers return NXDOMAIN responses to queries containing a variety of strings. According to a CAIDA report[1], NXDOMAIN responses (measured over a 24 hour period) account for more than 25 percent of the total responses from root name servers observed in the study, and the top ten such strings account for 10 percent of the total query load at the observed root name servers.[2]
2. In the future, a new TLD applicant could apply for a string that has appeared at the root. If the application (and string) were to be approved and the TLD included in the root zone, queries to the root level of the DNS for a string that hitherto returned NXDOMAIN would begin to return positive responses containing name servers of the new TLD.
3. It is likely that many of the same conditions that cause the current set of invalid TLD queries to appear at the root level of the DNS will persist despite efforts to encourage end users, private networks, software and equipment manufacturers to correct configuration and programming errors.
4. The behavior of the DNS for some end users and private networks will therefore be altered. In particular, the change from a NXDOMAIN response to a positive response will result in resolvers continuing recursive resolution. Consider what would happen if the string `.lan` (one of the top 10 invalid TLDs) were to be approved as a new TLD label. Currently, a client that queries `www.example.lan` receives an NXDOMAIN response from a root name server. Once the `.lan` TLD is approved and instantiated in the root zone, that client will begin to receive referral responses for the same query containing resource records for the `.lan` TLD name servers, and will query one of `.lan`'s name servers with the original query. If `example.lan` is registered in the `.lan TLD`, the resolver continues recursion and queries `example.lan` for the web site, which now resolves to a public server what the private network operator using `.lan` expected to be a local name for a local server.
5. The TLD registry operator for `.lan` will "inherit" query traffic. Whereas the root system is provisioned with sufficient capacity to manage the volume of all invalid TLDs without incident, the `.lan` TLD registry operator may not be prepared to deal with tens of millions of hitherto invalid queries
6. The `.lan` TLD registry operator – and generally, any TLD registry operator that chooses a string that has been queried with meaningful frequency at the root – potentially inherits millions of queries per day. These queries represent data that can be mined or utilized by the registry operator.

[2] The most frequently observed invalid TLDs in the sampled data from observed root name servers during 2006-2009 include strings such as `local, localhost, lan, home, domain, localdomain, corp`, and `belkin`. From these data, `local` appears to be the most frequent cause of a negative response.

The introduction of new TLDs creates the potential for another "inheritance" condition. The scenario is similar in some respects to a re-delegation or decommissioning of a country code TLD. [3] In this scenario the following actions may occur:

- ICANN approves a new TLD registry and string. The string is delegated, included in the root zone, and the root system returns referrals for this new string.
- The registry ceases operation and after a period of time, the TLD is decommissioned and the delegation is removed from the root zone. The root system returns NXDOMAIN responses for this TLD string.
- ICANN accepts an application for a new TLD that intends to use the decommissioned string. (Note that the ICANN New gTLD Draft Applicant Guidebook is silent on this at the moment.) The string is delegated a second time, included in the root zone, and the root system returns referrals for this new string.
- The new registry inherits queries for domains registered under the old version of the same string. Certain of the labels registered under the original TLD registry may persist in Uniform Resource Locators (URLs). If Resource Record Sets (RRsets) of these domains were DNS Security Extensions (DNSSEC)-signed then DNSSEC-aware clients would be able to note the change; however, other clients would accept the referral under circumstances where NXDOMAIN might have been more appropriate.

5. Finding

This report presents the following finding:

Finding: ICANN should make applicants for new TLDs aware of the following: Any new TLD registry operator may experience unanticipated queries and some TLDs may experience a non-trivial load of unanticipated queries if the label it chooses corresponds to TLDs that have historically seen queries.

Studies[1] illustrate that the amount of inherited query traffic could be considerable, i.e., on the order of millions of queries per day, should the applicant's chosen string be one that appears frequently at the root. While millions of queries per day is manageable from an operational perspective, it is prudent for ICANN to make applicants aware of the potential for inherited traffic so they are prepared to manage the volume, and will thus minimize the possibility of operational difficulties that would pose a stability or availability problem for their registrants and users.

[3] See Letter from Leslie Daigle, Chair, Internet Architecture Board to Oliver Smoot, President, International Organization for Standardization (ISO), September 26, 2003, <http://www.iab.org/documents/correspondence/2003-09-25-iso-cs-code html> and Letter from Leslie Daigle, Chair, Internet Architecture Board to Paul Twomey, President and Chief Executive Officer, Internet Corporation for Assigned Names and Numbers (ICANN), <http://www.iab.org/documents/correspondence/2003-09-25-icann-cs-code html>.

In addition, parties other than the TLD applicant may be affected, including parties whose systems are currently generating invalid TLD queries and registrants of domains in the TLD. Specifically, parties generating invalid TLD queries and receiving NXDOMAIN from the root servers today will now receive referrals. Whereas the NXDOMAIN forces the querying application or user into an error resolution condition, the referral response from a root name server could cause recursion to continue (consider again the `.lan` scenario describe above), with unpredictable results for the user.

6. Recommendations

This report presents the following recommendations:

Recommendation (1): The SSAC recommends that ICANN promote a general awareness of the potential problems that may occur when a query for a TLD string that has historically resulted in a negative response begins to resolve to a new TLD. Specifically, ICANN should:

- Study invalid TLD query data at the root level of the DNS and contact hardware and software vendors to fix any programming errors that might have resulted in those invalid TLD queries. The SSAC is currently exploring one such problem as a case study, and the vendor is reviewing its software. Future efforts to contact hardware or software vendors, however, are outside SSAC's remit. ICANN should consider what if any organization is better suited to continue this activity.
- Contact organizations that are associated with strings that are frequently queried at the root. Forewarn organizations who send many invalid queries for TLDs that are about to become valid, so they may mitigate or eliminate such queries before they induce referrals rather than NXDOMAIN responses from root servers.
- Educate users so that, eventually, private networks and individual hosts do not attempt to resolve local names via the root system of the public DNS.

Recommendation (2): The SSAC recommends that ICANN consider the following in the context of the new gTLD program.

- Prohibit the delegation of certain TLD strings. RFC 2606, "Reserved Top Level Domain Names," currently prohibits a list of strings, including `test`, `example`, `invalid`, and `localhost`.[4] ICANN should coordinate with the community to identify a more complete set of principles than the amount of traffic observed at the root as invalid queries as the basis for prohibiting the delegation of additional strings to those already identified in RFC 2606.
- Alert the applicant during the string evaluation process about the pre-existence of invalid TLD queries to the applicant's string. ICANN should coordinate with the

[4] See RFC 2606, "Reserved Top Level Domain Names," <http://www faqs.org/rfcs/rfc2606.html>.

community to identify a threshold of traffic observed at the root as the basis for such notification.

- Define circumstances where a previously delegated string may be re-used, or prohibit the practice.

7. Summary and Conclusions

In this report, we call attention to the potential problems that may arise should a new TLD applicant use a string that has been seen with measurable (and meaningful) frequency in a query for resolution by the root system and the root system has previously generated a response. We find that any new TLD registry operator may experience unanticipated queries and that some TLDs may experience a non-trivial load of unanticipated queries if the label it chooses corresponds to TLDs that have historically seen queries. We recommend that ICANN inform new TLD applicants of the problems that can arise when a previously seen string is added to the root zone as a TLD label and that ICANN should coordinate with the community to identify principles that can serve as the basis for prohibiting the delegation of strings that may introduce security or stability problems at the root level of the DNS.

8. Acknowledgments, Statements of Interests, and Objections and Withdrawals

In the interest of greater transparency, we have added these sections to our documents to provide the reader information on three aspects of our process. The Acknowledgments section lists the members who contributed to this particular document. The Biographies and Statements of Interest section points to the biographies of the Committee members and any conflicts of interest, real, apparent or potential, that may bear on the material in this document. The Objections and Withdrawals section provides a place for individual members to disagree with the content of this document or the process for preparing it.

8.1 Acknowledgments

The committee wishes to thank the following SSAC members and invited guests for their time, contributions, and review in producing this Report.

Sebastian Castro
KC Claffy
David Conrad
Stephen Crocker
Ray Plzak
Ram Mohan

8.2 Statements of Interest

SSAC member biographical information and Statements of Interest are available at: http://www.icann.org/en/committees/security/biographies-07jul10-en.htm.

8.3 Objections and Withdrawals

There are no objections or withdrawals.

2010-12-10-12-Annex-Board-Submission-ICM-Application

ANNEX ICANN BOARD SUBMISSION NO. 2010-12-10-xx

TITLE: **ICM Application for .XXX sTLD – GAC Consultation**

1. Attachment A attached is ICANN Board Submission No. 2010-10-28-20 - Review of Proposed ICM Registry Agreement for Potential Inconsistencies with GAC Advice.

2. Attachment B attached is the Annex and attachment thererto, of ICANN Board Submission No. 2010-10-28-20 - Review of Proposed ICM Registry Agreement for Potential Inconsistencies with GAC Advice

Submitted by:	John O. Jeffrey
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2010-12-10-12-Annex-Attchment-A-Board-Submission-ICM-Application

2010-12-10-12 ANNEX ATTACHMENT A

Previously - ICANN BOARD SUBMISSION NO. 2010-10-28-20

TITLE: Review of Proposed ICM Registry Agreement for Potential Inconsistencies with GAC Advice

PROPOSED ACTION: For Board Consideration and Action

I. EXECUTIVE SUMMARY AND STATUS OF PROCESS

Pursuant to Board resolutions in Nairobi and Brussels, ICANN posted for public comment a proposed Registry Agreement provided by ICM. The proposed Agreement and the Due Diligence materials not marked by ICM as confidential can be found at http://www.icann.org/en/public-comment/#xxx-revised-icm-agreement. Pursuant to the Board's resolution on 5 August 2010, staff now provides: (1) the Summary and Analysis of Comments received during the public comment forum; and (2) a recommendation of whether the proposed Registry Agreement is consistent with GAC advice on the proposed .XXX sTLD.

Staff recommends that the proposed Registry Agreement does include appropriate measures that are consistent with the four policy issues identified in the Wellington Communiqué. However, staff recommends that signing the proposed Registry Agreement would be inconsistent with the GAC's broader statements and advice regarding the .XXX sTLD. Staff therefore recommends that the Board continue to follow its processes and engage in limited consultation with the GAC.

II. EXECUTIVE SUMMARY OF PUBLIC COMMENT

Over 700 submissions were received into the public comment forum, at http://forum.icann.org/lists/xxx-revised-icm-agreement/. Over 50% were in favor of proceeding with the .XXX agreement, however, most of those were "form" comments and did not address the substance of the Registry Agreement. The most frequent theme of comments involved the sponsored community defined in the Registry Agreement. Many commenters questioned the propriety of the definition, the veracity of the support of the sponsored community, and whether ICM was relying upon pre-registration information to demonstrate that support. Another major theme of comments related to

the transparency of information available, including calls for release of the International Foundation for Online Responsibility (IFFOR) Board members names as well as an identification of who would serve on the IFFOR Policy Council. The IFFOR is the proposed Sponsor Organization, responsible for coordinating the policies applicable to the Sponsored Community. Similarly, commenters noted the lack of definition of IFFOR Policies.

ICANN received a few comments regarding the substance of the proposed Agreement. Some noted their opinion on the insufficiency of the trademark and rights protection mechanisms within the proposed Agreement, and asked for more robust process to be built in. Other substantive concerns included: a lack of precise definition of "adult content," which could lead to over classification of content; the registration fee is too high and will impose high costs on small business owners, particularly when used for defensive registration purposes. The comments that did not address the proposed Agreement raised familiar positions: those in support of a .XXX sTLD noted the import of proceeding to registration; those against raised questions of general community support, lack of necessity of the string, and fears of censorship and forced migration.

The complete Summary and Analysis is attached to the Annex at Attachment A. Staff has not identified areas within the proposed Registry Agreement requiring modification as a result of the Public Comment.

III. GAC ADVICE

See attached Chart providing discussion of GAC Advice and the correlating recommendations from Staff. Attached to the Annex is further information identifying the GAC advice received on the .XXX sTLD. ICM's identification of how the terms of its proposed Registry Agreement are consistent with GAC advice is also attached to the Annex.

IV. Proposed Process for GAC Consultation

If the Board is prepared to take an action that is inconsistent with the advice provided by the GAC, it must inform the GAC and "state the reasons why it decided not to follow that advice. The GAC and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution." (*See* ICANN Bylaws,

Article XI, Section 2.1.j.)

Staff recommends that if the Board determines this consultation process is required, the Board Chair reach out to the GAC Chair identifying the areas where consultation may be necessary. The Board Chair would then invite the GAC Chair to provide the GAC's position on whether consultation is required on the identified areas, and if so, solicit a proposal for the best process to conclude the consultation. Staff recommends that the Board Chair suggest that the consultation process conclude – if at all possible – prior to the ICANN meeting in Cartagena, Colombia.

Staff recommends that the written explanations and commitments requested by the GAC be included in the written outreach to the GAC Chair.[1]

** Privileged and Confidential Information Presented Below in Section V.**

Privileged Materials Redacted

[1] Staff recommends that written outreach to the GAC include two explanations requested by the GAC in the Wellington Communiqué and the 2 February 2007 letter. While these requests are not pieces of GAC advice, if the Board provides the information, staff recommends that the information be provided so that the requests can be considered closed. The requests are: (1) "a clear explanation of why the ICANN Board is satisfied that the .XXX application has overcome the deficiencies relating to the proposed sponsorship community."; and "[c]onfirmation from ICANN that the proposed Agreement would include enforceable provisions covering all of ICM Registry's commitments." On the sponsorship community issue, a limited explanation can be provided, relying upon the Independent Review Panel's declaration.

Privileged Materials Redacted

VI. CONCLUSION

Staff recommends that the ICANN Board continue to follow its processes; namely, some consultation with the GAC – irrespective of the ultimate outcome of the Registry Agreement decision – is adviseable. The consultation mechanism should be limited – not every issue that the GAC has raised is ripe for consultation, as the Board's approval of a Registry Agreement may not be inconsistent with every aspect of advice provided.

Resolution Text Superceded

Resolution Text Superceded

Submitted by:	John Jeffrey
Position:	General Counsel and Secretary
Date Noted:	20 October 2010
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2010-12-10-12-Annex-Attachment-B-Board-Submission-ICM-Application

ICM – Chart of GAC Advice* and Staff Recommendations

Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
GAC-BD-XXX-2006-02-28-01	Wellington Communiqué	Specify how Registry Agreement will take appropriate measures to restrict access to illegal and offensive content;	Appendix S imposes many related obligations on ICM: - promote development and adoption of responsibility business practices designed to combat child pornography - a registrar selection process requiring thorough understanding of the principles of the .xxx registration policies, and willingness to enforce those policies; - specifies .xxxlock – a "locking" service aimed at preventing malicious hijacking of registrations - requires Digital Certificates to provide higher levels of trust.	There is a clear requirement for validation of registrants, as well as policies against illegal and offensive material such as child pornography. The proposed Agreement also sets out processes to reduce the chance of malicious hijacking, which could lead to the posting of illegal or offensive content. Finally, the requirement that all registrants be verified – even if a privacy service is used – creates an expectation that all registrants will abide by the sTLD policies as they cannot mask their identity from the Registry. Placing further specification regarding other types of "offensive" material would require ICANN to take a role in content management.
GAC-BD-XXX-2006-02-28-02	Wellington Communiqué	Specify how Registry Agreement will support the development of tools and programs to protect vulnerable members of the community;	Within Appendix S, there is an obligation ICM to promote development and adoption of responsible business practices designed to combat child pornography, facilitate user choice and parental control of access to content. Appendix S also includes a rapid takedown provision for use in challenging abusive registrations including unauthorized registration of personal names.	The proposed Registry Agreement, along with the documents provided in the Due Diligence phase, such as the identification of ICM and IFFOR Responsibilities and Obligations, demonstrate the commitment to adopting best business practices in accordance with safeguarding children online, combating child abuse images, prohibiting misuse of personal information, ensuring clear and accurate consumer disclosures and prohibit deceptive marketing. *See* http://www.icann.org/en/tlds/agreements/xxx/iffor-responsibilities-obligations-20jul10-en.pdf. Further, the IFFOR Policy Council will include a Child Protection Advocate as one of its members. http://www.icann.org/en/tlds/agreements/xxx/appendix-d-iffor-organizational-chart-26jul10-en.pdf. ICM has also provided documentation relating to a Compliance Reporting

* The term "GAC Advice" means GAC statements that may constitute advice under Article XI, Section 2.1.j of the ICANN Bylaws based on inclusion in formal Communiqués or correspondence to the Board.

Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
				System to review complaints of non-compliant registrations or registrants operating in a manner that violates IFFOR policies, including special provisions regarding reports of child abuse images. Information on the Compliance Reporting System is available at http://www.icann.org/en/tlds/agreements/xxx/appendix-c-compliance-reporting-system-26jul10-en.pdf.
GAC-BD-XXX-2006-02-28-03	Wellington Communiqué	Specify how Registry Agreement will maintain accurate details of registrants and assist law enforcement agencies to identify and contact the owners of particular websites, if need be; and	The main Registry Agreement and Appendix S impose Whois data availability requirements. Under Appendix S, proxy registration will be allowed, but only pursuant to the xxxProxy service using authorized proxy agents, requiring the verified identity of registrants to be stored in the registry Authentication database. Appendix S, Part 6 also requires the creation of a Whois database searchable on multiple fields of data.	The provisions requiring verification of registrants, combined with the robust Whois searchability requirements and the limitation on using only ICM-approved proxy or privacy registration services meets the concern raised by the GAC regarding availability of registrant contact information. Further, the ICM Compliance Reporting System requires ICM to follow law enforcement direction in regards to the handling of reports of child abuse images.
GAC-BD-XXX-2006-02-28-04	Wellington Communiqué	Specify how Registry Agreement will act to ensure the protection of intellectual property and trademark rights, personal names, country names, names of historical, cultural and religious significance and names of geographic identifiers drawing on	Appendix 6 to the Registry Agreement contains a Reserved Names list, following standard Registry reservation requirements including a prohibition on two-character reservations, and the reservation of geographic and geopolitical names on the ISO 3166-1 list, in English and all related official languages. Appendix S contains a Start Up Trademark Opposition Procedure to	The proposed Registry Agreement contains many protections against abusive registrations that do not exist within other registries to date. ICM also propounds an ICM Registry Policy on Preventing Abusive Registrations that includes "common-law trademark claims, personal names, [and] cultural or religious terms" in the types of terms that can qualify for special protections within the Registry. This includes the creation of a mechanism whereby the GAC and/or the governments of any country or economy participating in the GAC may identify for reservation names that match words of cultural and/or religious significance.

* The term "GAC Advice" means GAC statements that may constitute advice under Article XI, Section 2.1.j of the ICANN Bylaws based on inclusion in formal Communiqués or correspondence to the Board.

Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
		best practices in the development of registration and eligibility rules.	allow intellectual property claimants to challenge registrations; an "IP Protect" service to allow Intellectual Property owners to designate non-resolving registrations; and Rapid Takedown process to allow quick takedown of registrations in clear cases of trade or service mark abused pending a full UDRP filing. The Registry Agreement also specified the applicability of ICANN consensus policies, including the UDRP. (Article III, Section 3.1 (b)).	http://www.icann.org/en/tlds/agreements/xxx/preventing-abusive-registrations-20jul10-en.pdf.
GAC-BD-XXX-2006-02-28-05	Wellington Communiqué and 2 February 2007 letter	The Wellington Communiqué noted that several GAC members were emphatically opposed from a public policy perspective to the introduction of an .XXX sTLD, and not contingent on the specifities of the proposed agreement. The GAC member opposition was reiterated in the 2 February 2007 letter.	N/A	The question remains whether a position taken by "several members of the GAC" can be equated with GAC advice on public policy matters. If it is not GAC advice, then the concern of inconsistency diminishes.
GAC-BD-XXX-2007-03-28-01	Lisbon Communiqué	The Lisbon Communiqué stated that ICANN could be moving towards assuming an ongoing	N/A	The concern of ICANN being required to oversee content, while mitigated through the creation of the ICM Compliance Reporting System, may not be fully eliminated through the proposed Registry Agreement. There is the possibility that

* The term "GAC Advice" means GAC statements that may constitute advice under Article XI, Section 2.1.j of the ICANN Bylaws based on inclusion in formal Communiqués or correspondence to the Board.

Reference	Source	GAC Advice*	Relevant Registry Agreement Terms	Additional Discussion
		management and oversight role regarding Internet content, which is inconsistent with its technical mandate.		ICANN may be required to take compliance action against ICM for content-related matters that also result in violations of the Registry Agreement. Further, regardless of the merit of such requests, if the .XXX sTLD Registry is delegated, registrants and others will likely turn to ICANN for assistance with content-related issues. ICANN cannot stop such requests for content oversight to occur. The ICANN Board and the GAC may benefit from further discussion of this potential issue.
GAC-BD-XXX-2010-08-04-01	4 August 2010 letter	The 4 August 2010 GAC letter called for a cross-community discussion to assist in the development of an objection procedure "that both recognizes the relevance of national laws and effectively addresses strings that raise national, cultural, geographic, religious and/or linguistic sensitivities or objections that could result in intractable disputes. These objection procedures should apply to all pending and future TLDs."	N/A	There are no objection procedures in place or contemplated to address the possibility that the .XXX string may raise national, cultural, geographic, religious and/or linguistic sensitivities or objections. ICANN has been dealing with this issue within the New gTLD program, however that work remains separate from the consideration of the .XXX sTLD, which is not subject to the timing or the requirements of the New gTLD program. Further, outside of the public comment periods, there was no formalized string objection process within the 2004 sTLD RFP process when ICM applied for the .XXX sTLD. If the "pending" TLD refers to .XXX, the approval of the .XXX sTLD Registry Agreement without allowing for these types of objections would be inconsistent with GAC advice.

* The term "GAC Advice" means GAC statements that may constitute advice under Article XI, Section 2.1.j of the ICANN Bylaws based on inclusion in formal Communiqués or correspondence to the Board.

2010-12-10-12-Annex-Attachment-C-Board-Submission-ICM-Application

2010-12-10-12 ATTACHMENT C

Previously ANNEX TO BOARD SUBMISSION NO. 2010-10-28-20

SUBMISSION TITLE: **Review of Proposed ICM Registry Agreement for Potential Inconsistencies with GAC Advice**

Additional Information for the Board:

The full Summary and Analysis of the Public Comment received on the Registry Agreement is attached here as Attachment A.

A chart identifying each of the communications containing GAC advice on the .XXX sTLD is attached as Attachment B.

ICM's identification of how the terms of its proposed Registry Agreement are consistent with GAC advice is attached as Attachment C.

A short chart identifying where ICANN is in the process of consideration of ICM's application is provided below.

Submitted by: John Jeffrey

Position: General Counsel and Secretary

Date Noted: 20 October 2010

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Attachment A

Summary and Analysis of Comments for Revised Proposed Registry Agreement for .XXX sTLD and Due Diligence Documentation.

Comment Period: 24 August 2010 to 23 September 2010

This summary is not a full and complete recitation of the relevant comments received. It is an attempt to capture in broad terms the nature and scope of the comments. The summary has been prepared in an effort to highlight key elements of these submissions in an abbreviated format, not to replace them. Every effort has been made to avoid mischaracterizations and to present fairly the views provided. Any failure to do so is unintentional.

BACKGROUND

On 25 June 2010, the Board of Directors determined to accept and act in accordance with some of the Independent Review Panel's findings in relation to ICM Registry LLC's (ICM) challenging ICANN's denial of ICM's application for the .XXX sTLD.

The Board of Directors directed ICANN staff to conduct expedited due diligence of ICM and to proceed into draft contract negotiations with ICM (board resolution 2010.06.25.20). *See* http://www.icann.org/en/minutes/resolutions-25jun10-en.htm#5.

On 5 August 2010, the Board directed staff, upon receipt of ICM's application documentation, to post ICM's supporting documents and proposed registry agreement for public comment for a period of no less than 30 days. *See* http://www.icann.org/en/minutes/resolutions-05aug10-en.htm#9.

SUMMARY AND ANALYSIS

General Overview

Approximately 720 comments were received during the public comment period.[1] A small number of postings were identified as sent in error, obvious spam, or repeat postings, and every attempt is made to exclude these posting from statistical analysis. In addition, the total comments do not necessarily equal the number of individual commenters, as some made multiple (though not duplicate) submissions, ICANN reviewed each of the submissions received.

As evidenced in prior public comment periods during the course of ICM's application for the .XXX sTLD, many comments addressed the general merits of a .XXX sTLD, and did not address

[1] Comment submissions are posted in the chronological order they are received by ICANN systems at ICANN's main offices at Marina del Rey, California (UTC-7). The date and time stamp in the submission header is applied by the sender's system and does not necessarily correspond with the date and time received by ICANN. Because of the limited number of submissions received after the formal close of the comment period, all are included in this summary.

the documents on which ICANN was seeking comment. Here, ICANN was seeking comment on the substance of ICM's due diligence materials and draft .XXX sTLD Registry Agreement, yet ICANN instead received substantial numbers of comments "for" or "against" entering a Registry Agreement without reference to the content of the agreement or the due diligence materials posted.

A majority of comments originated from a variety of email and webform campaigns. For example, over 400 comments in support of approving the .XXX sTLD appear to have originated from a campaign run by ICM. There were also a substantial number of form or campaign postings in opposition to the .XXX sTLD, generated from a few different campaign sources. The campaigns which addressed the substance of the public comment period are discussed in the main summary sections below, with more detailed extract summaries set out in Appendix A.

Due to the large number of submissions, it is not feasible to provide a summary of each individual comment. Further, many comments, while providing substantive analysis of the items posted for comment, re-state the positions put forth by other commenters. To that end, ICANN does not provide links to each of the related positions, but has attempted to make sure that the substance of the comments is reflected here.

As with other voluminous public comment periods, ICANN applied the following criteria to each submission to identify, which would be individually summarized:

(1) The submission must substantively discuss the Registry Agreement or Due Diligence documentation posted for public comment. Submissions that only contain a statement such as "sign the Registry Agreement" or "no to the Registry Agreement" are not individually summarized. Submissions that provide discussion on the general merits or perceived issues with the introduction of the .XXX sTLD, or impressions regarding the overall process surrounding the ICM application were not individually summarized, though information about those submissions are provided in the statistical analysis.
(2) The submission is not visibly a form response or substantially similar to a form response. ICANN attempts to identify each major thread of form responses outside of the individual summary section.
(3) The submission must contain substantial discussion capable of summarizing.

SUMMARY OF INDIVIDUAL SUBMISSIONS

George Kirikos, President of Leap of Faith Financial Services, Inc., provided comments in opposition to the draft .XXX sTLD Registry Agreement. Mr. Kirikos cited: (1) lack of support of the adult industry, with a self-defining – and unidentified – segment of the adult community serving as the sponsoring community; (2) lack of support from the broader Internet community, stating that all new TLDs should serve the broader public interest and should be subject to a "costs vs. benefits analysis"; (3) the .XXX sTLD Registry Agreement does not include price caps, which could create premium pricing for high value domain names, as well as place registrants at risk of unlimited increases in fees. Further, all TLD agreements should contain price caps; the lack of price caps in one registry agreement could induce other registries with price caps in their agreements to seek removal of those caps under "equitable treatment" clauses; and (4) the trademark protection provisions require the community to take time and money to make defensive registrations, while ICANN places its names on a reserved list for free. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00000.html.

"Itzmail" commented that Whois Privacy Protection should be allowed in the .XXX sTLD to protect free speech in restrictive regimes. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00001.html. Another commenter, Eric Shannon, states "ICANN should not allow whois privacy." *See* http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00004.html. Mr. Shannon's call for elimination of Whois privacy appears to relate to minimization of costs for the protection of trademarks.[2] In response to Itzmail's comment, Stewart Lawley – on behalf of ICM – clarified that approved proxy services are authorized under the proposed Registry Agreement. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00002.html.

Quentin Boyer, Director of Public relations at Pink Visual, notes the difficulties surrounding ICANN's consideration of ICM's application, and echoes the concerns raised by others regarding the self-definition of the sponsored community. Mr. Boyer notes that even if sponsorship is a closed issue, "ICANN ought to at least require ICM to define the "Policies and Best Practices that the Sponsored Community has (by ICM's own definition) apparently already 'agreed' to." Mr. Boyer also provided guidance to ICANN in considering future sTLDs, stating "ICANN should also establish objective criteria for demonstrating the support of the affected business sector at issue in any sTLD proposal." Mr. Boyer concludes that the Registry Agreement as written ignores the community that should be properly represented here, and will serve the interests of ICM and third party registrars to profit from sales in the .XXX sTLD. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00048.html.

Diane Duke, on behalf of the Free Speech Coalition, provided a lengthy letter. She urges that the "Board should not be prepared to approve ICM's application unless it is convinced that ICM can actually accomplish what it promises." Ms. Duke raises many questions regarding the sufficiency of the sponsored community when there already exists a community of responsible online adult entertainment providers – those who subscribe to the FSC's code of ethics – and those providers do not support the ICM application for the .XXX sTLD. Ms. Duke raised the issue of confusion or misrepresentation regarding the level of support for the sponsorship community. One issue is the concern that those who pre-registered in the .XXX sTLD are being identified as supporters of ICM, despite an ICM statement "that pre-registrations would not be used as a show of support for .XXX." Ms. Duke notes a lack of transparency into ICM's use of this preregistration information to show support for the .XXX, and requests that the ICANN Board to "make sure that pre-registrations are not considered as a component of sponsorship community support for ICM."

The FSC notes additional transparency concerns with the items posted for public comment, including the cloaking of the names of IFFOR Board members and proposed members of the policy council until a time "after ICM and IFFOR are enabled as content regulators." FSC calls for the release of the following information to allow for full information on the .XXX sTLD Registry Agreement:

1. The list of the IFFOR Board members;
2. The list of proposed members of the Policy Council;
3. IFFOR's Business Plan/Financials;
4. Business Plan/Financials Years 1-5 utilizing 125,000 initial Registrations;
5. The list of .XXX sTLD pre-registrants who have been identified to ICANN;
6. ICM's Proof of Sponsorship Community Support as submitted to ICANN.

[2] Eric Shannon also suggested a provision that all revenue from the .XXX sTLD be donated to "charity in support of the victims of the adult industry." http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00004.html. According to Mr. Shannon, the removal of Whois proxy protection and the donation of revenue will reduce the appearance that ".xxx is a business opportunity for ICANN."

The FSC requested the information above through ICANN's Documentary Information Disclosure Policy, and requested that, upon disclosure, the community have an additional 30 days to review this information and provide public comment. As part of the transparency argument, Ms. Duke raises the issue of how any group should be forced to consent "in advance to unknown regulations to be imposed by unknown people not directly responsible" to the adult entertainment community.

The FSC also noted that ICM is making promises both to the adult community and to those who want to burden sexually oriented expression regarding the policies that will be generated, and ICANN may ultimately be involved in the resulting conflicts. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00088.html.

The FSC provided two additional submissions to the public comment forum. One was an overview of a petition drive, where it posed the following statements on a questionnaire: (1) "I am a member of the online adult entertainment community and I opposed ICM's application for a .XXX sTLD" and (2) "I have defensively pre-registered .XXX domain names and I oppose .XXX." FSC reports that 201 out of 213 respondents checked approval for the first question, and 56 out of 213 respondents supported the second statements. FSC provided redacted email addresses for each of the 213 respondents, and a preliminary check against the persons submitting comments into the public comment forum did not reveal duplication. *See* http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00705.html.

The Free Speech Coalition also submitted a lengthy statement regarding the sponsored community, noting "FSC and the adult community believe that the facts surrounding level of support, or lack thereof, for ICM's proposal within the sponsorship community have been and are being confused or misrepresented." Diane Duke, writing on behalf of the FSC, attached a copy of a discussion thread from XBIZ.net, an adult community discussion board where Stuart Lawley engaged with members of the online adult community on that and other topics related to the .XXX sTLD. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00704.html.

ICM, through Stuart Lawley, submitted a response to the FSC's first statement, stating that the questions raised therein have been asked and answered, and should not be "reopened" pursuant to the Board's determination in Brussels to accept the finding of the Independent Review Panel that the Board already determined that ICM met the sponsorship criteria. ICM challenged FSC's position as the "'the' trade association for the global adult entertainment industry" and notes that FSC's has approximately 1,000 members and its activities are directed exclusively towards the U.S. ICM notes that "IFFOR is of a global nature, and to date, ICM has received pre-reservations from over 9,000 members of the Sponsored Community from over 80 different counties." ICM states that the definition of the sponsored community has not changed since ICM submitted its application to ICANN in March 2004 – it has always been self-defining. On the topic of pre-registration service, ICM states that pre-registrations have been "cited numerous times [] as evidence of the sponsored community's desire to register names in .XXX," and provides statistics on pre-registrations identified as "defensive" in the system. Further, the issue of the sponsored community was decided prior to the launch of the pre-registration service. On the IFFOR Policies, ICM notes that the baseline policies are "specif[ied] in detail, and particular the processes by which additional policies and procedures will be developed." ICM challenges the suggestion that either ICANN or the public has insufficient information as "patently absurd". http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00090.html.

Nick Hentoff of AttorneyWebNet noted his support for the Registry Agreement, and commented that Registry Agreements and registrar agreements should include provisions that domain

registrants are third party beneficiaries of those agreements. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00091.html.

Jason Hart, President of Northstar Productions LLC and a stated member of the adult online community, echoed concerns raised by others, that there is no need for an organization to represent a "responsible" global online community when such a community already exists through the FSC. Mr. Hart also echoed concerns relating to the transparency of information available on ICM's application, including the omission of IFFOR Board and policy council member names, and the lack of established "IFFOR Policies and Best Practices" with which the sponsored community will be required to comply. Mr. Hart also called for additional information to be made available prior to the close of the public comment period, to allow for "the appropriate level of feedback to the ICANN Board for it to make an informed decision." http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00106.html.

Danny Younger provided an extensive analysis of whether the proposed Registry Agreement is consistent with GAC advice, concluding that it is not. Mr. Younger's analysis, "predicated on the premise that any GAC commentary referencing the proposed .XXX sTLD [is] GAC Advice," is broken up into a number of headings, including: (i) controversial strings; (ii) personal names; (iii) country names and geographical identifiers; (iv) historical, cultural and religious names; (v) trade mark rights; (vi) access to illegal and offensive content; (vii) protecting vulnerable members of the community; (viii) maintaining accurate registrations and interaction with law enforcement; (ix) public interest benefits; (x) sponsored community and public interest criteria; (xi) enforceable contract provisions; (xii) 'opposition to the introduction of .XXX'; (xiii) 'deficiences [sic] identified by the sponsorship and community evaluation panel'; and (xiv) 'GAC advice on new TLDs'. Mr. Younger concludes under many headings that more specific guidance is needed from the GAC or that more specific provisions should be required from ICM. Mr. Younger also notes that after the Board accepted the certain findings of the Independent Review Panel, more outreach to the GAC should have occurred. Mr. Younger specifically notes the absence of information on how ICM's application serves the global public interest as a whole. Mr. Younger also urges the Board to consider whether the approval of the .XXX sTLD will result in lessening the burdens of government. Mr. Younger's answer to that question is no – but the GAC should be consulted. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00144.html.

A member of the adult community identified as "Tickler" expressed his lack of support for the .XXX sTLD. Tickler provided multiple reasons for objection, including a lack of detail in the .XXX proposal to make informed comments, including the need for domain dispute and resolution procedures to be fleshed out, the sources of members for the IFFOR Board needs to be clarified, as well as more details on the "mandates and financing." Tickler also questioned the reach of the IFFOR policy, and whether it would reach content on sites in existing TLDs, which sites are reached through redirecting traffic from a .XXX registration. Tickler also noted that the "whole issue with IFFOR has problems", including the fact that it is created and financed by ICM, not run by the adult industry, deals in very general terms. proposes a labeling system and is not needed, and that those who have come out in support of ICM are engaging in practices contrary to the IFFOR rules.

Tickler joined others in requesting additional action by ICANN, including:
1. Verify that companies that ICM has listed in support are viable "adult" businesses,
2. Verify that companies listed in support in fact do support ICM's current application for a .XXX TLD,
3. Determine how many pre-registrations claimed by ICM are in fact defensive registrations,

4. Determine how many pre-registrations are registrars or companies hoping to re-sell domain names.

Tickler also provided commentary on the GAC's advice on the .XXX, noting the ability for nations to block the .XXX sTLD through ISP communities, the risks of "inflammatory phrases" in TLDs without input from the true sponsored community. Tickler also discussed concerns with the self-defining nature of the .XXX sTLD sponsored community, and the lack of representation or support from the "REAL" adult community. See: http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00292.html

Allan B. Gelbard, an attorney to many members of the adult entertainment community, wrote to express his personal opposition to the .XXX sTLD. As it relates to provisions in the registry agreement, Mr. Gelbard notes that granting the Registry Agreement and "forcing trademark holders to pay ICM to defensively protect their marks" may constitute contributory trademark infringement under U.S. laws, which could expose ICANN and ICM to litigation, as well as potential antitrust litigation. Mr. Gelbard then reiterates many of the arguments already made during the comment period, regarding ICM's "attempt[ ] to mislead the ICANN Board as to the level of industry support", specifically in the use of pre-registrations to demonstrate community support, and calls for the disclosure of information requested by other commenters. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00311.html.

A commenter identified as Nigel questions whether the approval of the .XXX sTLD Registry Agreement will be in line with ICANN's core values, as it will fail to preserve and enhance the operational stability and global interoperability of the domain name system, and the ignoring of the "international outcry" of adult webmasters will also go against ICANN's core values. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00313.html.

Ed Pressman raised the issue that IFFOR appears to be a "pass-through" organization with a "prima facie conflict of interest" with ICM. Mr. Pressman pointed to issues such as ICM selecting the IFFOR Board members, and ICM will be afforded the only permanent Board seat on IFFOR to demonstrate the conflict of interest. Mr. Pressman also raised a concern that "little actual thought has been put into any of the serious governance issues" and questioned why ICANN would hand oversight over such issues to ICM or an organization run by ICM. Mr. Pressman urged ICANN to slow the process for the selection of the governance organization. Mr. Pressman then declared a personal interest due to his work with "an effort to develop an application that will objectively and scientifically deal with many . . . of the major governance issues involved in this matter," and urges ICANN to invite others to provide solutions to the governance issues that will be posed in the .XXX TLD. See: http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00347.html.

Tom Hymes, an FSC Board member and employee of AVN, writes in his personal capacity in opposition to the .XXX sTLD Registry Agreement. Mr. Hymes states that the sTLD process is flawed "due to its lack of transparency and the unfortunate decision to exclude the sponsor community from any direct role in the application, and also the fact that ICANN's internal processes for determining the accuracy of claims made by applicants are insufficient, at best." Mr. Hymes also expresses his hope that the Board will consider the issues raised by the GAC, and not determine those issues to be solved. Mr. Hymes states that ICANN has an active role to take in protecting rights of those at risk of censorship through the approval of this application. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00702.html.

The Intellectual Property Constituency (IPC) of ICANN's Generic Names Supporting Organization (GNSO) provided comment noting the strong commitment to rights protection mechanisms in the .XXX sTLD proposed Registry Policy. The IPC noted that additional "detail and transparency" to allow for implementation and application of the policies, particularly in light of the "uniquely sensitive implications" to rights holders as it relates to the .XXX sTLD. The IPC encourages the inclusion of additional detail, and provides specific questions, including: (1) ability for persons and entities not qualified for registration in the .XXX sTLD to recover names through the UDRP process; (2) proxy service provider restrictions; (3) details on the Charter Eligibility Dispute Resolution Process, Rapid Takedown and Registrant Disqualifications, and "STOP processes; (4) information on the "tie-breaker" mechanism; (5) scope of definition of "trademark holders" with access to discounted registrations; (6) how non-resolving names will be provided to those submitting pre-registration; and (7) definitions of "culturally significant names" or "country and geographic designators reserved list" and how they relate to trademark rights. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00718.html.

Some commenters provided suggestions for the operation of the .XXX sTLD – and potential items for inclusion within a Registry Agreement – without expressing support for or opposition to the Registry Agreement as currently proposed.

For example, Markus Grob suggests that the .XXX Registry Agreement should require registrations of subdomains based on existing TLDs, and not allow registrations directly at the second level. Mr. Grob also suggested that adult content should be migrated to the .XXX sTLD and off of the existing TLDs for "eas[e of] filtering for children." *See*: http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00006.html

Mark Randazza, while "agnostic" on the sTLD, notes that the introduction of the certain measures might "push [him] over the fence to supporting this proposal." These measures include: (1) forbidding "passive holding" of domain names, and requiring use (not including "pay per click" sites"; (2) "high value non-branded" domains are not available for general registration, and the Registry Operator may sell ad space on these domains; (3) creation of an arbitration process allowing for (i) quick takedown of sites and (ii) "blacklisting" of domains; (3) allowing existing adult sites to specify "unregisterable" status of protected names in the .XXX sTLD for payment of a nominal fee; (4) banning of content with underage or unwilling models; (5) a higher registration fee, with $50 going towards a legal defense fund to fight obscenity prosecution; and (6) creation of "repeat infringer policies" to take down web hosting domains with infringing content. *See* http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00097.html

OVERALL ANALYSIS OF COMMENTS

As with the prior comment period relating to ICM's application, many of the public comment submissions either did not address the documents posted for public comment, or the submissions focused on similar issues within those documents. Well over 50% of the submissions were based on common templates or campaigns. Some commenters provided helpful suggestions on ways that the Registry Agreement could be made more precise, and some pointed out information that the ICANN Board may wish to consider when considering a proposed Registry Agreement. While the public comment period was not seeking a community vote on whether to proceed with the .XXX sTLD, ICANN received nearly evenly divided commentary.

Comments in favor of the .XXX Registry Agreement

Over half of the commenters[3] supported ICANN entering the .XXX Registry Agreement. Only one major trend of those comments relates to the substance of the posted documents: "*The delegated policy making authority, in conjunction with the not-for profit IFFOR, is clearly articulated in the posted documents and allows for multi-stakeholder input whilst at the same time adhering firmly to its charter.*"

The other top reasons provided in support of entering the .XXX Registry Agreement and allowing registrations to begin were:

- The .XXX sTLD will provide a mechanism to filter adult-oriented content and protect kids;
- Registrations should begin, to allow for market forces to determine the need for the .XXX sTLD; and
- ICANN should abide by the decision of the Independent Review Panel and end the process surrounding ICM's application.

Within the comments in support of the .XXX Registry Agreement, over 90% of those submissions were made through common template or campaign submissions, set forth in Appendix A below. Nearly 60% of the commenters in support of the Registry Agreement claimed to be affiliated with the sponsored community to be served by the .XXX sTLD.

Comments in Opposition to the .XXX Registry Agreement or the .XXX sTLD

The comments received in opposition to the .XXX Registry Agreement also revealed major trends supporting the opposition:

Requests for More Information

As set out in the individual summaries, FSC called for two types of information: (1) for ICANN to verify information as it relates to pre-registrations in the .XXX sTLD; (2) for disclosure of information previously redacted by ICM or withheld as confidential, including the identities of the IFFOR Board members and the IFFOR Policy Council. This call for more information, accompanied by a request for an extension of the public comment period, was echoed in many common template and freeform submissions.

Many commenters also repeated concerns regarding the fact that the policies that registrants in the .XXX sTLD will have to agree to – policies to be formed through the IFFOR – have not yet been formed or identified.

Requests for Clarification of Policies

Separate from the argument that Policies are not well defined, there were calls for clarification of ICM's registration policies, particularly in relationship to trademark protections.

Additional Registry Agreement Related issues cited in opposition

- Registry Agreement is inconsistent with GAC advice;
- The Registration Fee is too high and will impose high costs on small business owners;

[3] Or nearly two-thirds of all commenters, if FSC's report of 213 survey recipients is not counted.

- Adult content is not well defined, and could result in over classification of content into the .XXX sTLD, of particular concern if governments move to mandate content into the .XXX sTLD;
- The Sponsored Community is improperly defined and/or does not actually support the creation of the .XXX sTLD; and
- ICM misrepresented to ICANN the scope of support from the sponsored community.

Non-Registry Agreement Related issues cited in opposition

Many commenters supported objection to the .XXX Registry Agreement on more general issues not directly related to the content of the Registry Agreement or the Due Diligence Material. The major reasons cited include:

- A lack of support from the general internet community;
- No proof of a demand for the establishment of the .XXX sTLD;
- The creation of the .XXX sTLD will not solve issues relating to kids' ability to access adult material – create a .KIDS instead;
- Content tagging already exists and the .XXX sTLD will not add further benefit;
- The risk of forced content migration to the .XXX sTLD through legislation, and the risk of censorship;
- The only party to benefit will be ICM; and
- ICANN will become involved in content discrimination through opening the .XXX sTLD.

All of these issues have been raised before in earlier public comments.

Sponsored Community Definition Issues

Many of those commenting in opposition to the .XXX Registry Agreement raised concerns regarding the sufficiency of the definition of the Sponsored Community. The issue of the sufficiency of the sponsored community comprised a large part of the issues considered by the Independent Review Panel in its February 2010 Declaration.

As seen in Mr. Kirikos' and the FSC comments, among others, there is a concern that the definition of the sponsored community, comprised of providers "who have voluntarily determined that a system of self-identification would be beneficial and have voluntarily agreed to comply with all [IFFOR] Policies", is too self-defining and is not capable of being objectively determined. Moreover the FSC and its supporters argue that though they are adult entertainment providers who are the likely registrants within the .XXX sTLD, that they are not truly members of the sponsored community because they do not agree to be bound to undetermined policies. Further, they argue, FSC's Code of Ethics already provide for such self-regulation. ICM responded to these arguments, noting the IRP's decision as accepted by the Board, and further noting that the self-defining nature of the sponsored community has been in place in prior agreements.

Another aspect of challenge to the sponsored community definition and measured support has to do with ICM's alleged use of the pre-registration lists to identify community support for the .XXX sTLD. Commenters cited a 2007 statement by ICM that certain pre-registrations would not be used to demonstrate the support of the sponsored community, and request confirmation from ICANN and ICM that pre-registrations are not being used in that fashion. Many commenters noted that they preregistered domain names in the .XXX sTLD to protect their own business interests, but that pre-registration does not equate to support for the .XXX sTLD, and they in fact do not support the creation of the .XXX sTLD. http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00341.html; see also http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00143.html (also noting that the industry has a means for self identification of sites for labeling).

Within the public comment process, there have been calls for ICANN to identify and determine who is a member of the sponsored community or adult entertainment stakeholders, and who is not. See, e.g., http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00262.html. ICANN has not attempted to verify the identity or affiliation of any person submitting public comment to the ICM forum, whether the person was in support of or opposed to the .XXX sTLD Registry Agreement. Further, ICANN has not attempted to verify the industry association or status of registrations within the ICM pre-registration information provided to ICANN.

Because of the prevalence of self-identification as a member of the Sponsored Community or as a member of the Adult Industry, ICANN provides some estimated numbers of how those members self-identifying compared to the overall contributions to the public comment forum.[4]

Position	Submissions Received		Percentage of Submissions		Webform/Standard Form Submissions		Self Identified Adult Industry	
	w/FSC	w/o FSC	w/FSC	w/o FSC	w/FSC	w/o FSC	w/FSC	w/o FSC
Support Registry Agreement	455	455	50%	65%	448	448	333	333
Do not Support Registry Agreement OR No XXX	434	231	48%	33%	304	111	349	146
Neutral	7	7	1%	1%	0	0	0	0

Extension of Public Comment

Regarding the call for the extension of the public comment period, that request was not granted. The extension was requested for an additional 30 days past the release of information provided in response to the FSC's request submitted under ICANN's Documentary Information Disclosure Policy (DIDP). The DIDP request did not result in the release of any additional information, as whatever information ICANN had that was responsive to the request was designated as confidential by ICM. ICANN requested that ICM release the confidential designation, and ICM denied ICANN's request.

NEXT STEPS

This summary will be presented to the ICANN Board for consideration at the 28 October 2010 Board meeting.

CONTRIBUTORS

[4] This chart provides an estimate of the overall comments received. Due to requests for removal from the comment thread, identified duplication and spam, there is some imprecision in the exact totals, but not to a statistically significant degree. The columns "w/FSC" reflect FSC's report on the 213 survey responses regarding the .XXX Registry Agreement. ICANN performed a spot-check and did not observe duplication between FSC's self-reported survey and those who commented directly to ICANN. For completeness, ICANN staff also reports totals without FSC's survey results.

Due to the large volume of postings, a listing of individual contributors will not be included in this report. Each of the contributors can be viewed via their public comments posted at http://forum.icann.org/lists/xxx-revised-icm-agreement

APPENDIX A – LISTING OF CAMPAIGN/TEMPLATE RESPONSES RECEIVED

Consistent with previous public comment periods in relation to ICM's application for the .XXX sTLD, various public comments were observed to be completely or partially adopting the form of template text submissions originating from various external campaigns.

The more commonly observed template responses that were received by the public forum have been outlined:

Common Templates in Support of Entering Registry Agreement:

"Please Approve the .XXX Registry Agreement" postings

ICM Registry created three variations of common template submissions. According to ICM, in a report on the email newsletter campaign, ICM sent emails to its subscribed database of pre-registrants and registered identified supporters. The email contained a click-through option, where a the user could click to post a comment, and a comments would be submitted to ICANN's public comment forum. ICM's report is available at http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00696.html.

As detailed in ICM's report, over 400 postings were received through ICM's efforts.[5] There was a "Long Form" posting, as well as two shorter postings – one including a statement that the submitter is a member of the sponsored community, and urging approval of the .XXX Registry Agreement, and a second with a short statement urging approval of the .XXX Registry Agreement without any identification of affiliation. The "Long Form" statement topically addresses some of the substance within the Registry Agreement raised in other comments, including a statement that the delegated policy making authority is "clearly articulated in the posted documents." The shorter form comments do not address substantive issues within the posted documents. Most of the comments received through ICM's thread contain a common subject line "Please Approve the .XXX Registry Agreement."

Long Form:

Subject: Please approve the .XXX Registry Agreement

Dear ICANN,

Please approve the Registry Agreement for the dot-xxx top-level domain in the form posted on your website.

I believe that the labelling of adult content online is a good and useful step forward.

The company behind dot-xxx, ICM Registry has spent many years trying to make the extension a reality, and has given considerable thought into how a self-regulated adult area online would work.

The delegated policy making authority, in conjunction with the not-for profit

[5] The 22 September and 23 September 2010 comment threads show nearly 300 entries related to ICM's campaign, entries that were posted in bulk within a very short period of time on 23 September 2010. The comments were received by ICANN in "real" time, as noted in the date and time stamp of the submission header, but a system limitation required them to be posted in bulk.

IFFOR, is clearly articulated in the posted documents and allows for multi-stakeholder input whilst at the same time adhering firmly to its charter.

I urge you to execute the Registry Agreement as soon as possible and so let the registration of .XXX names begin.

Short form variants:

Commenter self identifying with sponsored community:

Subject: Please approve the .XXX Registry Agreement

Dear ICANN,

As a member of the Sponsored Community for the dot-xxx top-level domain I urge you to execute the Registry Agreement as soon as possible and let registration of .XXX names begin.

Commenter not identifying with sponsored community but in favor of .XXX sTLD:

Subject: Please approve the .XXX Registry Agreement

Dear ICANN,

I urge you to execute the Registry Agreement with ICM Registry as soon as possible and so let the registration of .XXX names begin.

Some comments within the public comment forum addressed ICM's campaign submissions. ICM reported that it received three complains from those claiming to have clicked the link in error. ICANN also received complaints directly from persons who posted through ICM's email links, noting that they did not mean to consent to a public posting. ICANN removed three such postings. In addition, there were other comments received suggesting that postings through ICM's links – many titled "Please approve the .XXX Registry Agreement" and from members of the sponsored community – are not actually from people working in the adult entertainment industry. See http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00092.html; http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00285.html; http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00697.html; http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00700.html; http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00713.html.

Common Templates In Opposition to Proposed Registry Agreement or the .XXX sTLD

Request for Documentation posting

There were approximately 15 submissions provided by persons identified as members of the sponsored community for the .XXX sTLD to request ICANN's verification of information submitted by ICM and requesting the release of additional information as requested by the FSC.

Each person requesting information in this form noted that they do not support the application for the .XXX sTLD. The text included in this form submission mirrors the requests made by the FSC at http://forum.icann.org/lists/xxx-revised-icm-agreement/msg00088.html, summarized above. Some commenters modified the list or scope of information requested, but the common template language was substantially similar to the following text:

> *Dear ICANN,*
>
> *I am a member of the .XXX sTLD sponsored community. I do not support ICM's application for the .XXX sTLD.*
>
> *I request that ICANN does the following:*
>
> *1. Verify that companies which ICM has listed in support are viable adult businesses,*
>
> *2. Verify that companies listed in support in fact do support ICM's current application for a .XXX sTLD,*
>
> *3. Determine how many pre-registrations claimed by ICM are in fact defensive registrations,*
>
> *4. Determine how many pre-registrations are registrars or companies hoping to re-sell domain names.*
>
> *Additionally, I also request the following information also be released as requested in the DIDP from the FSC:*
>
> *1. The list of the IFFOR Board members;*
>
> *2. The list of proposed members of the Policy Council;*
>
> *3. IFFOR's Business Plan/Financials;*
>
> *4. Business Plan/Financials Years 1-5 utilizing 125,000 Initial Registrations;*
>
> *5. The list of .XXX sTLD pre-registrants who have been identified to ICANN;*
>
> *6. ICM's Proof of Sponsorship Community Support as submitted to ICANN.*

"Do Not Approve .XXX" posting.

The following form comment appears to be generated through a campaign run from the techyum.com website: http://techyum.com/2010/08/comment-period-now-open-on-xxx-make-your-voice-heard/#more-1565. Over 40 submissions contained nearly identical text to this submission.

> ***Subject: Do Not Approve .XXX***
>
> *Dear ICANN,*

This email is a comment in opposition to the Proposed Registry Agreement for the .XXX sTLD by ICM Registry. The .XXX sTLD should be rejected in finality for the following reasons:

** The .xxx TLD is opposed by every sector and community it affects. This includes people working in the adult entertainment industry (including Hustler, Vivid, Penthouse, porn's Free Speech Coalition, and Adult Friend Finder), anti-porn family and religious organizations (including The Family Research Council), thought leaders in the technology sector, and the ACLU.*

** Despite ICM's constant assurances of various industry representation and support, there is no evidence of community support for .XXX.*

** The .xxx TLD will do nothing to solve problems surrounding adult content, manage adult content or protect children from inappropriate content. The higher purposes of ICM's proposal have been abandoned. (As of this email the page on ICM Registry's website about "Promoting Online Responsibility" for .XXX is blank and reads "*Information to follow*" as does the page titled "Contracts, Policies and Bylaws.")*

** There has been absolutely no proof of an "unmet need" for the .XXX TLD.*

** There is no concrete, agreed-upon definition of "adult content."*

** The ACLU expresses serious concerns about the implications of .XXX outside the U.S., where in some countries, regulations around .XXX would certainly be enforced punitively. To this effect, the .XXX TLD raises human rights concerns.*

** .XXX makes no business sense except to profit from defensive registration (brand squatting).*

** Senators Max Baucus (D-MT) and Mark Pryor (D-AR) have introduced legislation to make the use of .XXX compulsory for all web sites that are "harmful to minors."*

** .XXX raises serious issues around spurious and unsupported TLD's in regard to the impact of ICANN on rulings on civil and human rights, and ICANN's role in content-based discrimination.*

In light of the above, I object to .XXX and urge ICANN to reject .XXX.

"I run adult websites and I do NOT want the .xxx tld" Posting

Nearly 50 comments were received containing a very short statement in opposition to the .XXX sTLD. The comments were submitted under a variety of headings. The comments read:

Subject: I run adult websites and I do NOT want the .xxx tld!

I run adult websites and I do NOT want the .xxx tld!

Industry Self-Regulation posting

A couple of postings that did not address the substance of the Registry Agreement or the due diligence documentation were nearly identical in form, stating:

> *I am completely against .xxx. Our industry has self-regulated itself from day one and to be perfectly honest, I think we have done a brilliant job. ICM's argument is ridiculous at best. More viruses are found in mainstream than on any adult website. Online stores such as Amazon.com and many other retail / service outlets have chargebacks much higher then most of our industry. As a site owner, the only place I see fraud is from the consumer. As for "the children", any responsible owner has ratings and codes in place on their site. All we need are the parents to tun their browser settings on.*
>
> *No matter what the banks, regulators and government have thrown our way over the years, we have always stepped up to the plate and come into compliance. .XXX is not going to help anyone: all it will achieve is to ghettoize adult sites and leave us vulnerable to censorship. It will compromise privacy policies, content creativity, hinder free speech, and take away our choices.*
>
> *ICM does not care one iota about our industry, to them this is just a money making opportunity, that will end with the small independent webmaster going out of business and create overall hardship within the industry itself.*
>
> *I have been in the industry, as a business owner, for the last 15 years. I know hundreds of adult webmasters and none of them are in favor of .XXX*

Community Already Represented posting

A couple of identical posts were made by self-identified members of the adult online community expressing the opinion that the community that ICM seeks to have represented in the .XXX sTLD is already established through adherence to the FSC Code of Ethics. The postings read:

> *Opposition To ICM's Proposed .XXX sTLD*
>
> *Gentlemen:*
>
> *Please consider these comments in opposition to ICM's Proposed .XXX sTLD. I am a professional member of the adult online community, the part most impacted by the ICANN Board's decision. My company, [*], the registered owner of [*] will be adversely affected if the ICM proposal is accepted. In this recessed economy, we, like many other companies, are struggling to keep our doors open. We do not need the added cost of registering another domain name, at grossly inflated charges, in an attempt to remain competitive. It is very clear by their actions that ICM is attempting to force the adult online community to subscribe to their domain, not in the interest of any entity, but themselves.*
>
> *ICM is pushing unnecessarily for a "responsible" global online community when the adult entertainment community already has an entity through which Internet publishers and others can self-identify as a responsible global online adult entertainment community through the Free Speech Coalition and its Code of Ethics. We do not need, nor do we desire, any similar Code to be established for us by a third-party profit making institution.*
>
> *In summary, ICM's Proposal is a self-serving solution to a problem that does not exist.*

Thank you for your consideration.

View Industry Movie posting

At least four comments followed all or part of the following common template inviting ICANN to view a movie created by the adult entertainment industry regarding issues "created" by the .XXX sTLD. The common language reads:

Please Do Not Approve .XXX

To Whom It May Concern,

First, let me state my complete and total opposition to .XXX and ICM Registry. It is a sham, a land grab, and is NOT supported by the adult entertainment industry. I have been in the online adult industry since [*], have followed this debacle from day one, and can honestly say that it is of no value to the adult industry, but rather comes with so many negative ramifications that it will harm the industry that it purports to assist.

I will keep it brief here, and simply ask all ICANN and other interested parties to view a short film that was created by leaders in the adult entertainment industry in August which shows, through satire, the many disastrous issues that .XXX creates. Appearing in the film are Larry Flynt (Huster CEO), Allison Vivas (PinkVisual CEO), John Stagliano (Evil Angel CEO), Ron Cadwell (CCBill CEO), Peter Acworth (Kink CEO), Mitch Farber (Netbilling CEO), and a host of other adult industry leaders. The film was written by longtime industry advocate and writer Theresa "Darklady" Reed and directed/produced by Wasteland CEO Colin Rowntree.

Please view the film at http://dotxxxopposition.com/

Again I am completely opposed to .XXX.

Attachment B

GAC Advice/Consultation

Staff has identified four communications from the GAC comprising the advice received by the ICANN Board as it relates to the proposed ICM Registry Agreement for the .XXX sTLD. Those items are listed below, with summarization of the relevant portions:

Wellington Communiqué 28 March 2006 http://gac.icann.org/communiques/gac-2006-communique-25	GAC published the "Wellington Communiqué" detailing its recent meeting and addressing a 11 February 2006 letter from ICANN's President that detailed the sTLD process and the steps the ICANN Board undertook in reviewing the .XXX sTLD Application. The Wellington Communiqué stated that the letter did not provide sufficient detail regarding the rationale for the Board determination that the .XXX application had overcome the deficiencies noted in the Evaluation Report. The GAC requested a written explanation of the Board decision surrounding the sponsored community and public interest criteria. The GAC outlined the public policy aspects and requested the Board confirm that any agreement with ICM contains enforceable provisions covering these issues. Finally, the GAC stated that several members are "emphatically opposed from a public policy perspective to the introduction of a .XXX sTLD." The Communiqué also stated that to the GAC's knowledge, the public interest benefits promised by ICM during its November 2005 presentation have not yet been included as ICM's obligations in the proposed .XXX Registry Agreement.
Letter from GAC Chair and Chair-Elect to the Chair of the ICANN Board 2 February 2007 http://www.icann.org/correspondence/tarmizi-to-cerf-02feb07.pdf	The GAC's Chair and Chair-Elect sent a letter to Vint Cerf requesting that the ICANN Board delay consideration of the Revised Agreement until after the GAC has an opportunity to review at the Lisbon meeting in March 2007. The letter also provided the GAC's formal response to the ICANN call for comments on the Revised Agreement. Specifically, the GAC was not satisfied with the Board's explanation for how the Revised Agreement overcame deficiencies relating to sponsorship community issues, the GAC was still awaiting the Board's response to policy-based queries, and the GAC suggested a face-to-face meeting with the Board during the Lisbon meeting.

Lisbon Communiqué 30 March 2007 http://gac.icann.org/communiques/gac-2007-communique-28	The Lisbon Communique reaffirmed the position of the GAC as stated in the Wellington Communique. The Lisbon Communique further stated that the ICANN Board did not provide sufficient information as to address the sponsorship concerns, and by approving the agreement as revised, ICANN would be assuming an ongoing management and oversight role inconsistent with its technical mandate.
Letter from GAC Chair to Chair of the ICANN Board 4 August 2010 http://www.icann.org/en/correspondence/gac-to-dengate-thrush-04aug10-en.pdf	The letter from the GAC discussed the creation of procedures for Addressing Culturally Objectionable and/or Sensitive Strings, and made a recommendation that an objection procedure be developed "that both recognizes the relevance of national laws and effectively addresses strings that raise national, cultural, geographic, religious and/or linguistic sensitivities or objections that could result in intractable disputes. These objection procedures should apply to all pending and future TLDs."

Attachment C

The Draft Registry Agreement Reflects GAC Input Re: .XXX sTLD

In 2006 and 2007 the GAC commented on ICANN's consideration of the ICM Registry application, and made several recommendations about the terms of the proposed registry agreement for operation of the .XXX sTLD. That input has been fully reflected – and the recommendations of the GAC have been fully implemented in the draft registry agreement.

The GAC statements are set out below, followed by a discussion of the ways in which this input has been addressed in the proposed agreement.[6]

1. The draft Registry Agreement fully reflects the GAC input expressed in its Communiqué from Wellington, New Zealand, dated 28 March 2006.

Relevant portions of the Communiqué appear in italics below, followed by an explanation of how the Registry Agreement responds to this input. The entire text is attached as Attachment 1.

GAC Statement: *However, the GAC does not believe the February 11 letter provides sufficient detail regarding the rationale for the Board determination that the application had overcome the deficiencies noted in the Evaluation Report. The GAC would request a written explanation of the Board decision, particularly with regard to the sponsored community and public interest criteria outlined in the sponsored top level domain selection criteria.*

Dr. Twomey responded to this request for a written response on 4 May 2006, when he wrote to the GAC, noting that eight of the ten sTLD applications received negative evaluations from the Sponsorship and Other Issues Evaluation Team, and providing further detail on the process the Board followed in re-evaluating six of those applications, including .asia, .jobs, .mobi, .travel, .tel, and .xxx.

On 19 February 2010, an Independent Review Panel ("Panel") issued a Declaration in the Independent Review proceedings filed by ICM Registry challenging ICANN's denial of ICM's application for the .xxx sTLD. The majority of the Panel found that: (i) "the Board of ICANN in adopting its resolutions of June 1, 2005, found that the application of ICM Registry for the .XXX sTLD met the required sponsorship criteria;" and (ii) "the Board's reconsideration of that finding was not consistent with the application of neutral, objective and fair documented policy." In Brussels, on 25 June 2010, the ICANN Board resolved to accept and act in accordance with those findings. (Resolution 2010.06.25.19) The record of the Independent Review in this matter contains voluminous material that forms the basis for the Panel's conclusions.

[6] We do not attempt to distinguish GAC "advice" as referenced in Article III, Section 6 and Article XI, Section 2.j. of the ICANN Bylaws from other GAC input. This paper examines all written GAC statements in the same light.

GAC Statement: In its application, supporting materials and presentation to the GAC in November 2005, ICM Registry promised a range of public interest benefits as part of its bid to operate the .xxx domain. To the GAC's knowledge, these undertakings have not yet been included as ICM obligations in the proposed .xxx Registry Agreement negotiated with ICANN. The public policy aspects identified by members of the GAC include the degree to which .xxx application would:

> *Take appropriate measures to restrict access to illegal and offensive content;*
>
> *Support the development of tools and programs to protect vulnerable members of the community;*
>
> *Maintain accurate details of registrants and assist law enforcement agencies to identify and contact the owners of particular websites, if need be; and*
>
> *Act to ensure the protection of intellectual property and trademark rights, personal names, country names, names of historical, cultural and religious significance and names of geographic identifiers drawing on best practices in the development of registration and eligibility rules.*

The GAC requested *("without in any way implying an endorsement of the ICM application," and noting that "several members of the GAC are emphatically opposed from a public policy perspective to the introduction of a .xxx sTLD")* confirmation *"that any contract currently under negotiation between ICANN and ICM Registry would include enforceable provisions covering all of ICM Registry's commitments, and such information on the proposed contract being made available to member countries through the GAC."*

The Draft Registry Agreement obligates ICM Registry to enter into a contract (the "Sponsoring Organization Agreement") with IFFOR. That contract specifies minimum baseline policies ("Baseline Policies") to be adopted by IFFOR and implemented and enforced by ICM, and delegates authority to IFFOR to adopt, and requires ICM to implement and enforce, additional policies and procedures designed, among other things, to protect free expression rights, promote the development and adoption of responsible business practices designed to combat child pornography, facilitate user choice and parental control regarding access to online adult entertainment, and protect the privacy, security, and consumer rights of consenting adult consumers of online adult entertainment goods and services.

The "Baseline Policies," which are attached to the agreement, (i) prohibit child pornography, conduct or content designed to suggest the presence of child pornography, and abusive registrations, (ii) obligate registrants to label .xxx sites and any non-.xxx site to which such sites are automatically redirected, permit monitoring to ensure compliance with these Policies and comply with future IFFOR policies; and (iii) obligate ICM to verify that prospective registrants are members of the Sponsored Community, and to authenticate prospective registrants using reasonable technological means to ensure that ICM Registry has accurate contact information. The Baseline Policies further establish requirements for registrant disqualification for violation of the Baseline Policies and/or other IFFOR Policies.

The Registry Agreement and the Sponsoring Organization Agreement obligate ICM to implement and enforce the ICM Registry Policy on "Preventing Abusive Registrations," which contains specific and robust mechanisms to protect IP rights, prevent registration of an individual's first and last name without his or her consent, names of cultural or religious significance, country names and geographic designators. The procedures for registrant verification and authentication, including collection and verification of contact information, require ICM to collect and retain accurate contact information for web site operators, whether or not they use a proxy service.

Offensive and illegal content. The labeling requirements will empower users and parents or guardians to block access to online adult entertainment sites registered in .xxx and, where a .xxx site automatically redirects to a non-.xxx site, in other TLDs. Child pornography, which is illegal in many, but not all countries, is completely banned from .xxx. National governments will retain authority for regulating content within their jurisdiction.

Tools and Programs to protect vulnerable Internet users. The Sponsoring Organization Agreement requires ICM to fund IFFOR's operations, including its policy development activities and its grants-making activities, by paying $10 per resolving registration to IFFOR. Grants-making activities will include support for tools and programs to protect vulnerable Internet users.

Accurate registrant contact information. The ICM Policy on Preventing Abusive Registrations includes a specific and detailed description of the steps ICM will take to ensure that ICM Registry collects accurate contact information for individuals and entities operating sites in .xxx, whether or not they use a proxy service.

Protection of IP/trademark rights, personal names, country names, names of historical, cultural and religious significance and names of geographic identifiers. The ICM Policy on Preventing Abusive Registrations includes a specific and detailed description of the steps ICM Registry will take, including the verification and authentication policies described above, rules regarding the use of proxy services, cost-based mechanisms to prevent and respond to attempts to register infringing names, including a rapid take-down procedure. The Policy also specifies the tools ICM will use to prevent registration of country and geographic designators, to permit governments to identify for reservation from registration names that match words of cultural and/or religious significance, and unauthorized registration of personal names.

Enforcement. The Sponsoring Organization Agreement specifies in detail ICM's Compliance Reporting System, which requires ICM to maintain an automated, auditable system for receiving, processing, and tracking reports of non-compliant registrations and/or registrants operating in violation of the mandatory policies of the sTLD. ICM's Compliance Manager will be responsible for this System, which will be subject to audit by IFFOR's independent ombudsman, no less frequently then quarterly during the first year and annually thereafter. This system will provide concrete, objective data regarding ICM's policy enforcement obligations.

The Registry Agreement contains numerous enforcement tools. In particular, it:

- Empowers ICANN to terminate the agreement for failure to cure any fundamental and material breach, backed up by a mandatory escrow of registry data;

- Authorizes ICANN to seek specific performance of ICM's obligations under the Registry Agreement;

- Permits ICANN to seek punitive, exemplary, and other damages for repeated/willful breach of contract;

- Enables ICANN to enforce its rights through binding arbitration.

2. The proposed Registry Agreement fully reflects the input contained in the correspondence from the Chair and Chair-Elect of the GAC on 2 February 2007.

The relevant portion of the letter appears below in italics, followed by an explanation of how the Registry Agreement responds to this input. The full text of the letter is attached as Attachment 2.

The Wellington Communiqué remains a valid and important expression of the GAC's views on .xxx.

See the explanation provided above in Section 1 with respect to the Wellington Communiqué.

We note that the Wellington Communiqué also requested written clarification from the ICANN Board regarding its decision of 1 June 2005 authorising staff to enter into contractual negotiations with ICM Registry, despite deficiencies identified by the Sponsorship and Community Evaluation Panel. Notwithstanding the ICANN President's letters to the GAC Chair on 11 February and 4 May 2006, as GAC Chair and GAC Chair Elect, we reiterate the GAC's request for a clear explanation of why the ICANN Board is satisfied that the .xxx application has overcome the deficiencies relating to the proposed sponsorship community.

See the discussion above in Section 1 regarding the GAC's request for an explanation of the Board's conclusions regarding ICM. On 19 February 2010, an Independent Review Panel ("Panel") issued a Declaration in the Independent Review proceedings filed by ICM Registry challenging ICANN's denial of ICM's application for the .xxx sTLD. The majority of the Panel found that: (i) "the Board of ICANN in adopting its resolutions of June 1, 2005, found that the application of ICM Registry for the .XXX sTLD met the required sponsorship criteria;" and (ii) "the Board's reconsideration of that finding was not consistent with the application of neutral, objective and fair documented policy." In Brussels, on 25 June 2010, the ICANN Board resolved to accept and act in accordance with those findings. (Resolution 2010.06.25.19) The record of the Independent Review in this matter contains the basis for the Panel's conclusions.

In Wellington, the GAC also requested confirmation from the ICANN Board that the proposed .xxx agreement would include enforceable provisions covering all of ICM Registry's commitments. The GAC notes that the ICM Registry referred to this request in material it posted on 5 January 2007, but that ICANN Board has yet to provide such confirmation to the GAC.

GAC members feel therefore that if ICANN intends to seek further formal GAC advice (in addition to that provided in Wellington) it would be appropriate to hold face-to-face discussions between GAC and the ICANN Board in Lisbon in March 2007. At this point, GAC members will have had the opportunity to discuss the issue themselves and the ICANN Board would be in a position to report on the results of the public consultation as well as address the other outstanding issues noted above.

The matter was deferred until Lisbon, where the Board and GAC met face-to-face.

Finally, we draw your attention to the fact that the Wellington Communiqué highlighted that several GAC members were "emphatically opposed from a public policy perspective to the introduction of an .xxx sTLD" and that this was not contingent on the specificities of the proposed agreement.

ICM Registry understands and respects the fact that some governments opposed in 2007 and likely continue to oppose creation of .xxx. This statement reflects a diversity of views within the GAC, and is consistent with the Operating Principles requirement (contained in the Principles as amended in March 2010, that the Chair convey the full range of views with respect to areas on which the GAC is unable to achieve consensus.)

In the interim and given the significant public and governmental interest in this matter, GAC members would urge the Board to defer any final decision on this application until the Lisbon meeting.

Done

3. The proposed Registry Agreement fully reflects the GAC's input contained in the GAC Communiqué from Lisbon, dated 28 March 2007.

Relevant portions of the Communiqué appear in italics below, followed by an explanation of how the Registry Agreement responds to this input. The entire text is attached as Attachment 3.

The GAC reaffirms the letter sent to the ICANN Board on 2nd February 2007. The Wellington Communiqué remains a valid and important expression of the GAC's views on .xxx. The GAC does not consider the information provided by the Board to have answered the GAC concerns as to whether the ICM application meets the sponsorship criteria.

See discussion in Section 1 and 2 above.

The GAC also calls the Board's attention to the comment from the Government of Canada to the ICANN online Public Forum and expresses concern that, with the revised proposed ICANN-ICM Registry agreement, the Corporation could be moving towards assuming an ongoing management and oversight role regarding Internet content, which would be inconsistent with its technical mandate.

As discussed below, this concern is fully addressed in the new agreement, which eliminates ICANN's approval rights with respect to IFFOR policy, and the ability to disapprove IFFOR's choice of a monitoring provider. Rather, IFFOR's Baseline Policies, which reflect the various commitments of ICM Registry in the application process, are set forth in detail in the agreement between ICM and IFFOR

Relevant portions of the input from the Canadian government, dated 2 February 2007, appears in italics below, followed by an explanation of how the Registry Agreement responds to this input. The Canadian comment is attached in its entirety as Attachment 3A.

We have reviewed the content of the revised proposed agreement with ICM and other materials provided by the company and we are concerned that many terms of the agreement appear to require, permit or encourage ICANN to venture far beyond its core technical functions. Specifically, the proposed agreement appears to give ICANN the right to monitor the fulfilment of ICM's obligations and policy implementation in areas beyond what might reasonably be considered a technically-focused mandate. Some examples:

- *ICANN is given an opportunity to review and negotiate policies proposed by the Registry Operator or the International Foundation for Online Responsibility (IFFOR), many having nothing to do with ICANN's technical mandate (e.g., promoting child safety and preventing child pornography)*

- *ICANN is also called upon to approve/disapprove of ICM's choice of a monitoring agency*

- *ICANN (and the GAC) will be called upon to identify names of "cultural and/or religious significance" as well as "names of territories, distinct economies, and other geographic and geopolitical names" to be reserved from use in the .xxx domain.*

The Registry Agreement no longer contains the provisions that authorized ICANN's review of and ability to negotiate IFFOR policies. Rather, the Sponsoring Organization Agreement sets out IFFOR's Baseline Policies in detail, and authorizes IFFOR to develop additional policies consistent with its mandate and in accordance with the IFFOR Policy Development Process, which is also fully described in the agreement. Likewise, while the agreement permits any government or distinct economy to identify names of cultural and/or religious significance for reservation from registration, the ICM Policy on Preventing Abusive Registration no longer contemplates input from the GAC or ICANN with respect to names to be included on a list of strings to be reserved from registration (although ICM would welcome input from GAC participants).

In conclusion, we note that the fact that someone may complain to ICANN about content is entirely distinct from the question of whether ICANN ventures "far beyond its technical functions." **That is a choice that ICANN will have to make** – and the .XXX TLD is not different from any other existing or contemplated TLD in that regard.

Conclusion

This analysis demonstrates that input from the Government Advisory Committee regarding the ICM application has been fully taken into account in drafting the proposed registry agreement for the .XXX sponsored top level domain. ICM and the sponsoring organization, IFFOR, have developed concrete legal arrangements, policies and procedures to ensure that the public policy benefits and the policy goals of the sTLD are delivered. The proposed registry agreement is enforceable as a matter of law and as a practical matter, and provides ICANN with concrete metrics against which ICM's compliance can be measured. Finally, the concerns regarding ICANN's over-involvement have been addressed by the developed policies and by requirement of a sophisticated, auditable web based system for receiving, processing, and documenting resolution of reports of non-compliance.

2010-12-10-13 Board.submission.workshop.RAA.3.7.7.3-1

ICANN BOARD SUBMISSION NO. 2010-12-10-13

TITLE: **Workshop on the Effectiveness of RAA §3.7.7.3**

PROPOSED ACTION: **For Information/Background Purposes Only**

EXECUTIVE SUMMARY:

This workshop on "The Effectiveness of the RAA Provision on Licensing Domain Names to Third Parties" is currently scheduled for 11:00-12:30 Wednesday, 8 December in Cartagena.

Subsection 3.7.7.3 in the RAA details responsibilities for parties licensing domain names to third parties. The workshop will focus on perceptions of the effectiveness of this provision and possible interpretations or changes, including whether an advisory concerning this provision is needed.

BACKGROUND INFORMATION:

The results of a recent ICANN study (http://icann.org/en/compliance/reports/privacy-proxy-registration-services-study-14sep10-en.pdf) indicate that at least 18% of domain names registered under the top 5 gTLDs are likely to have been registered using a privacy or proxy service. These types of registrations may create confusion around WHOIS and liability issues, especially where a party "owns" while another "uses" a domain name.

Under RAA Subsection 3.7.7.3, if a Registered Name Holder licenses the use of the domain name to a third party, that third party is a licensee, and is not the Registered Name Holder of record. A Registered Name Holder that licenses the use of a domain name to a third party still has to provide its own contact information (and keep it updated), and also accepts liability for harm caused by the wrongful use of the domain name unless the Registered Name Holder promptly identifies the licensee to a party providing the Registered Name Holder with reasonable evidence of actionable harm.

A Draft Advisory on Subsection 3.7.7.3 was made available for public comment between 14 May, 2010 and 9 July, 2010 (see http://icann.org/en/public-comment/public-comment-201007-en.htm#raa-3773**)**. The primary purpose of the

Draft Advisory was to clarify the role and responsibility of a Registered Name Holder and the acceptance of liability under RAA Subsection 3.7.7.3, as well as provide guidance on defining the terms "wrongful use," "promptly," and "reasonable evidence of actionable harm," in response to requests from certain members of the community to do so.

There was no consensus on the Draft Advisory among the comments received – the IPC and IP-related commentators generally supported the Draft Advisory, while registrars and proxy services generally opposed the Draft Advisory. The two issues most often raised and subject to opposing positions in the comments were: 1) whether the Draft Advisory is within the scope of ICANN's mission with regard to providing interpretations for the terms; and 2) the proposed guidance in defining the terms "prompt," "reasonable evidence of actionable harm," and "wrongful use" in the Draft Advisory.

Certain members of the community have also raised broader concerns on the language of Subsection 3.7.7.3 itself, within the context that the current language imposes liability on a privacy or proxy service that is a Registered Name Holder even if it is has no control over the licensee's use of a domain name; and that the RAA puts a chilling effect on the ability of non-commercial users who seek anonymity in domain name registration to use third party agents.

Given the lack of consensus and in view of the comments received, ICANN staff determined that the next steps would be to explore what revisions to the Draft Advisory might be appropriate and to re-evaluate the value in providing any definitions or guidance for the specific terms used in Subsection 3.7.7.3. ICANN also determined that such issues should continue to be discussed within the ICANN community through appropriate fora and processes to determine if consensus exists to pursue further guidance concerning these terms.

This workshop is designed to facilitate such community discussion on these issues.

Submitted by:	Brian Peck
Position:	Registrar Liaison Manager
Date Noted:	22 November 2010
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2010-12-10-14 Board-submission IRTP Audit

ICANN BOARD SUBMISSION NO. 2010-12-10-14

TITLE: **IRTP Compliance Audit**

PROPOSED ACTION: **For Information Purposes Only**

EXECUTIVE SUMMARY:

The Inter-Registrar Transfer Policy ("IRTP") prescribes how domain name registrations may be transferred between ICANN-accredited registrars. The policy aims to provide domain portability and better consumer choice.

However, transfer problems persistently top all consumer complaints received by ICANN. To address this issue, Contractual Compliance, in consultation with key registrar representatives, developed an "IRTP Audit Plan" and a beta audit was conducted in May 2010. The results of the beta audit were published in October 2010 (see link below).

Contractual Compliance commenced a formal IRTP compliance audit in September 2010 and the plan was to publish the audit results before the Cartagena meeting. However, some members of the Registrar Stakeholder Group expressed concerns over certain ambiguities in the IRTP concerning the role and responsibility of resellers vis-à-vis registrars. The Chair of the Registrar Stakeholder Group made a formal request that ICANN abstain from publishing the audit results until members of the Group have had an opportunity to discuss those issues and concerns with ICANN staff at the Cartagena meeting. The discussion is scheduled to take place at the Registrar Stakeholder Group meeting on 7 December 2010.

BACKGROUND, FURTHER INFORMATION AND LINKS:

The IRTP is one of ICANN's consensus policies. The policy first became effective on 12 November 2004 and a revised version was adopted and subsequently became effective on 15 March 2009. The policy is now being reviewed by the GNSO.

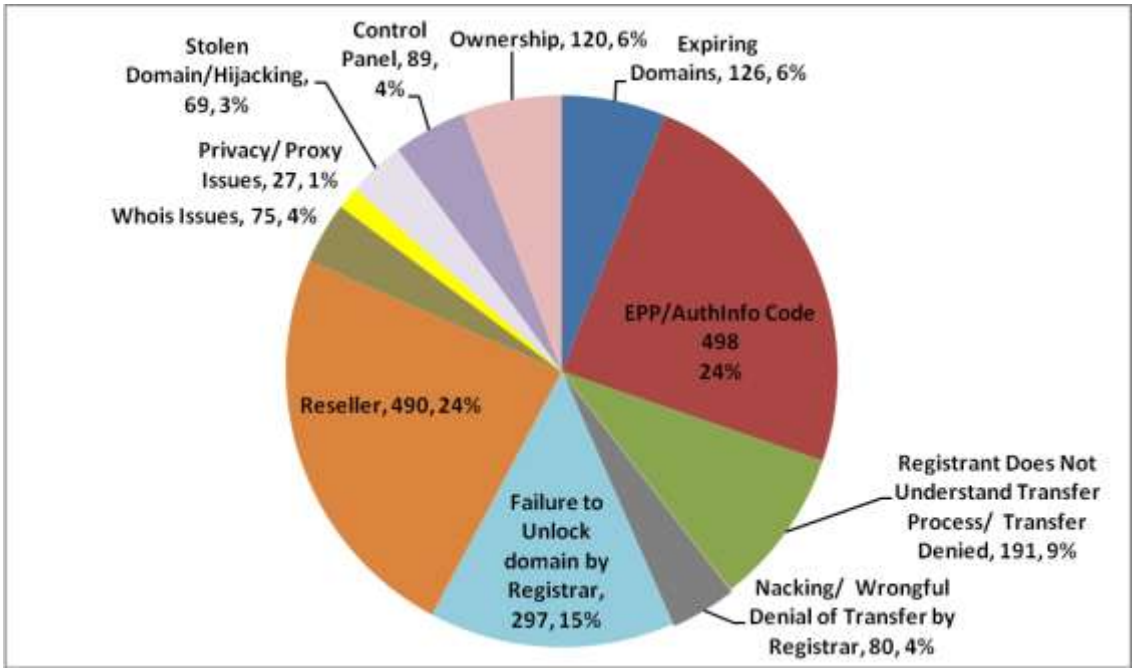
The IRTP is intended to provide for enhanced domain name portability, resulting in greater consumer choice. The policy is designed to simplify and standardize the

process, prevent abuses, and provide clear user information about the transfer process and options.

For a 12-month period up to October 2010, ICANN received 20,780 "consumer" complaints, out of which 5,814 related to transfer issues. This represents almost 30% of all complaints (or 70% after excluding those complaints that ICANN does not have contractual authority to address).

The following charts (based on data gathered by ICANN over a 5-month period, July – November 2009) indicate transfer-related complaints commonly arose from problems with delay or inability to obtain the AuthInfo Code, or domains still locked by the registrar of record. These two complaint categories are more prevalent where resellers were involved. The findings of the beta audit carried out in May 2010 confirm these trends.

ICANN C-TICKET TRANSFER COMPLAINT ANALYSIS



On the issue of providing "AuthoInfo" Codes to registered name holders, the IRTP does not recognise the role of resellers and simply provides:

> *"Registrars must provide the Registered Name Holder with the unique "AuthInfo" code within five (5) calendar days of the Registered Name Holder's*

initial request if the Registrar does not provide facilities for the Registered Name Holder to generate and manage their own unique "AuthInfo" code."

Based on the above language in the IRTP, some members of the Registrar Stakeholder Group do not agree that the registrar of record should be responsible for its resellers' actions or inactions and this is one of the key issues that the Group intends to discuss with ICANN staff during the Cartagena meeting.

Contractual Compliance continues to monitor trending in registrar compliance with the IRTP and has identified a number of measures (such as registrant education, audits and proactive enforcement actions) to improve the over-all compliance level. Some of these compliance efforts have been implemented and some are ongoing.

Links:

- Inter-Registrar Transfer Policy: http://www.icann.org/en/transfers/policy-en.htm.
- IRTP Beta Audit Results (published in Contractual Compliance's Newsletter October 2010): http://icann.org/en/compliance/archive/compliance-newsletter-201010-en.htm.
- Inter-Registrar Transfer Policy Part B Working Group Initial Report: http://gnso.icann.org/issues/transfers/irtp-b-initial-report-29may10-en.pdf .

Submitted by:	Pam Little
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Date Noted:	22 November 2010
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Policy Update-oct10-en

POLICY UPDATE

Internet Corporation for Assigned Names and Numbers

http://www.icann.org/topics/policy/

Volume 10, Issue 10 – October 2010

Across ICANN

ccNSO

GNSO

ASO

Proposal to Share More Information About Internet Number Resource Policy Developments

Other Issues Active in the ASO

Joint Efforts

Issues Open as Joint Efforts

At-Large

Regional At-Large Organizations Elect ALAC Representatives for 2010–2012 Terms

At-Large First to Create Workspace Using Confluence Collaborative Wiki

SSAC

SSAC Report on Protecting Domain Names Due Out Soon

Read in Your Preferred Language

ICANN Policy Update is available in all six official languages of the United Nations. *Policy Update* is posted on ICANN's website and is also available via online subscription. To receive the *Update* in your Inbox each month, visit the ICANN subscriptions page, enter your e-mail address, and select "Policy Update" to subscribe. This service is free of charge.

***ICANN Policy Update* statement of purpose**

Send questions, comments and suggestions to: policy-staff@icann.org.

Policy Supporting Organizations and Advisory Committees

Address Supporting Organization	ASO
Country Code Names Supporting Organization	ccNSO
Generic Names Supporting Organization	GNSO
At-Large Advisory Committee	ALAC
Governmental Advisory Committee	GAC

Root Server System Advisory Committee	RSSAC
Security and Stability Advisory Committee	SSAC

Across ICANN

Issues Currently Open for Public Comment

Numerous public comment periods are open on issues of interest to the ICANN community. Act now to share your views on such topics as:

- One and Two-Character ASCII .TEL Domain Names. Telnic has proposed amending Appendices 6 and 7 of its agreement with ICANN to allow one- and two-character ASCII .tel domain names. The proposal is available for public comment until 10 November.
- Summary of the Impact of Root Zone Scaling. ICANN seeks public comment for two documents pertaining to its ongoing efforts to ensure DNS (Domain Name System) stability in light of potential root zone growth from the delegation of new gTLDs. One of the papers, The Summary of the Impact of Root Zone Scaling, describes the potential impact to the root servers from the addition of significant numbers of new TLDs to the DNS root. This paper is available for public comment until 5 November.
- Delegation Rate Scenarios for New gTLDs. A companion to the Summary of the Impact of Root Zone Scaling paper, this paper describes the model and rationale for the maximum rate of applications that can be processed in the next few years. Both reasoning and process methodologies are described in the paper. This paper is also available for public comment until 5 November.
- Public Participation Committee Webinar Information. ICANN's Participation and Engagement staff and the Board Public Participation Committee (PPC) are gathering information from the community in order to create a more productive structure and content for ICANN public meetings. The PPC will host a public consultation at the Cartagena meeting, 5–10 December. Public comment on this work is invited until 3 November.
- FY 11 Update to Plan for Enhancing Internet Security, Stability and Resiliency. The SSR Plan originally published in May 2009 has been updated to reflect ICANN's Security activities from June 2010–July 2011. The deadline for public comment on the FY 11 SSR Plan has been extended to 3 November.

- Privacy Proxy Registration Services Study Report. The ICANN community has raised questions over the years about domain names registered using a privacy or proxy registration service. ICANN's 2009 exploratory study assessed an approximate percentage of domain names in the top five gTLD registries that used privacy or proxy registration services. The study revealed that 18% to 20% of the domain names in these registries used privacy or proxy registration services. This report is available for public comment until 28 October.
- ACDR Proposal to be Recognized as an Official Dispute Resolution Provider Under the UDRP. The Arab Center for Domain Name Dispute Resolution (ACDR) wishes to be recognized as an official dispute resolution provider under the UDRP. Since 2003, the ACDR has been active in resolving conflicts related to intellectual property through international arbitrators, and could be the first approved UDRP service provider headquartered in an Arab state. This proposal is open for public comment until 28 October.
- Community Working Group Report on Implementation of GNSO New gTLD Recommendation Number 6. The Cross Community Working Group on GNSO Recommendation 6 has published its Report, which relates to procedures for addressing objectionable strings while protecting internationally recognized freedom of expression rights. This report is available for public comment until 22 October.
- Accountability and Transparency Review – Community Feedback. The Accountability and Transparency Review Team (ATRT) has opened a public forum so that the community can comment and make suggestions at any point during the ATRT review. A closing date has not been defined.

For the full list of issues open for public comment, plus recently closed and archived public comment forums, visit the Public Comment page.

ccNSO

Members Nominate ccNSO Chair Chris Disspain to ICANN Board

At a Glance

The process for nominating members for election to the Board of Directors closed 6 October 2010, with one nomination, that of ccNSO Chair Chris Disspain. Mr. Disspain will start his term of service with the ICANN Board after the June 2011 ICANN meeting.

Recent Developments

The ccNSO Board nomination period was launched 15 September and closed 6 October 2010. The only nominee was Chris Disspain, who accepted the nomination. This means that no election by the ccNSO members is necessary.

Background

According to ICANN's bylaws, Article IX, section 3.9, the ccNSO Council selects candidates to fill seats 11 and 12 on the ICANN Board. Because ICANN Board seat 11 becomes vacant at the end of the June 2011 ICANN meeting, a call for nominees to fill the seat was conducted.

Next Steps

The ccNSO Council must formally adopt the result of the nomination process to select representatives in accordance with the ICANN bylaws. This was done at the Council meeting on 19 October 2010.

Mr. Disspain will take his seat on the ICANN Board after ICANN's meeting in June 2011.

More Information

- Nomination report
- Archives

Staff Contact

Gabriella Schittek, ccNSO Secretariat

Members Nominate ccNSO Counselors; Attend Elections in Asia-Pacific and European Regions

At a Glance

During the ccNSO Council nomination period ending 21 September 2010, seven people were nominated to the ccNSO Council. Elections in the Asia-Pacific and European regions end 26 October. Appointees will start their terms of service at the end of the March 2011 ICANN meeting.

Recent Developments

The following people were nominated and seconded and have accepted their nominations in the ccNSO Council nomination process:

African Region	Souleymane Oumtanaga	.ci

Asia-Pacific Region	Hiro Hotta Hong Xue	.jp .cn
European Region	Ondrej Filip Roelof Meijer	.cz .nl
Latin American Region	Victor Abboud	.ec
North American Region	Dotty Sparks de Blanc	.vi

Background

The ccNSO Council nomination period was launched 31 August and ended 21 September 2010.

Next Steps

Elections are held in the Asia-Pacific and European regions starting 12 October and ending on 26 October 2010.

The term of the appointed Counselors begins directly after the ICANN meeting in March 2011.

More Information

Archives

Staff Contact

Gabriella Schittek, ccNSO Secretariat

Other Issues Active in the ccNSO

- Must ccNSO Change to Include Internationalized Country Codes?
- Delegation and Redelegation of Country Code TLDs
- ITEMS External Review of the ccNSO

Bottom-Up Process Produces Implementation Advice on Issues Affecting Morality and Public Order

Working Group Develops Key Principles for the New gTLD Program

At a Glance

Comments are sought on recommendations from a cross-community working group to improve the proposed objection process for objectionable strings to protect freedom of expression rights. The ICANN Board reviewed the working group's report in August 2010 and resolved to accept those recommendations that are consistent with the existing process.

Background

ICANN is in the implementation planning stage of defining the processes for adding new generic top-level domain names to the Domain Name System. Over a two-year period, the GNSO worked to create policy recommendations, which are intended to guide the introduction of new gTLDs. ICANN is finalizing the implementation details for the launch of new gTLDs.

Recent Developments

ICANN's recently posted draft Applicant Guidebook version 4, which proposes procedures for addressing objections based on morality and public order concerns arising out of objectionable new gTLD strings. Among these is Recommendation 6 (Rec6), which states that:

> ***Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.***

A cross-community working group (CWG) composed of members of the GAC, GNSO, and the At Large community has published its Report [PDF, 1.06 MB] [addressing concerns by the ICANN community about the proposed implementation of Rec6. The report describes the results of this bottom-up process, and includes recommendations proposed by the CWG for improving the implementation plan proposed in the draft Applicant Guidebook version 4.

The ICANN Board reviewed the Report during its August 2010 retreat in Trondheim, Norway, and resolved to accept the Rec6 CWG recommendations

that are consistent with the existing process, as this can be done before the opening of the first gTLD application round.

A public comment forum on the report is open until 22 October 2010, providing an opportunity for interested parties to comment on any of the proposed recommendations.

Additional Information

- Public Comment Forum on the Report
- Proposed implementation plan for Recommendation 6
- GAC concerns regarding Recommendation 6
- ALAC Statement on Morality and Public Order
- ICANN Board resolution on Recommendation 6

Staff Contact

Margie Milam, Senior Policy Counselor

Staff Completes Analysis of Third Whois Study, Posts RFP on Fourth Study; GNSO Council Continues Discussions on Additional Whois Studies

ICANN staff members continue to scope additional study options; GNSO Council to discuss Whois Service Requirements Report.

At a Glance

Whois is the data repository containing registered domain names, registrant contacts, and other critical information. Because of the global scale and critical importance of Whois, adjustments to it must be handled with great care. Questions persist concerning the use and misuse of this important public resource. The GNSO Council continues its inquiries into the suitability of Whois as the Internet evolves, and is considering studies that could provide current, reliable information to further inform community discussions about Whois.

Recent Developments

The first Whois studies being considered are grouped into four broad categories:

- **Whois Misuse**. This study is to discover to what extent public Whois information is used for harmful purposes. ICANN issued a Request for Proposals (RFP) in September 2009, asking qualified researchers to estimate the costs and feasibility of conducting these studies. The GNSO

Council will proceed with this study and the research firm selected to conduct this study will be announced shortly.

- **Whois Registrant Identification**. This effort would examine the extent to which domain names registered by legal persons or for commercial purposes are not clearly represented in Whois data. ICANN issued an RFP, and staff members prepared an analysis of vendor responses for GNSO Council and community consideration. The Council is still considering whether this study should be conducted.
- **Whois Proxy and Privacy Services Abuse Study**. This study would focus on the extent to which domain names used to conduct illegal or harmful Internet activities are registered via privacy or proxy services to obscure the perpetrator's identity. ICANN staff posted an RFP on 20 May 2010 to engage independent research organizations to undertake this study. Three responses were received by the 20 July 2010 submittal deadline. Additional information was requested of those submitting the strongest responses. Staff has analyzed this information and the GNSO Council is now considering next steps. A link to the staff analysis is provided below.
- **Whois Proxy and Privacy Services Reveal Study**. This study would measure proxy and privacy service responsiveness to registrant "identity reveal" requests. An RFP to conduct this study was posted on 29 September 2010. A link to the announcement is provided below.

Two more important categories of potential study may follow the first four.

- **International Display Specifications.** Since its inception, Whois data has been primarily in English and other Western languages, but with Internationalized Domain Names in Arabic, Chinese, Cyrillic, and other scripts in greater use, more and more Whois entries are expected in non-Roman character sets. Without standards, Whois could turn into an unreadable polyglot mess. At ICANN's Sydney meeting In June 2009, the ICANN Board passed a resolution asking the GNSO and the SSAC to form a joint working group to study the feasibility of introducing display specifications so that the increasing prevalence of non-ASCII registration data does not compromise Whois accuracy. The working group is considering what should be required from internationalized registration data. The WG will also address technical questions on how data elements might be extensible to accommodate users who might benefit from registration information displayed in familiar characters from local languages and scripts.
- **Whois Service Requirements Report Now Complete**. Another important study area, requested separately by the GNSO in May 2009, is a comprehensive list of Whois service requirements based on current policies and previous policy discussions. The report is a compendium of potential technical requirements and makes no policy recommendations.

Some potential requirements included in this report are a mechanism to find authoritative Whois servers; structured queries; a standardized set of query capabilities; a well-defined scheme for replies; standardized error messages; improved quality of domain registration data; internationalization; security elements; thick vs. thin Whois; and a registrar abuse point of contact.

More Information

- GNSO Whois policy development page
- Background on Whois Studies
- Whois misuse RFP announcement
- Whois registrant identification RFP announcement
- Whois privacy and proxy abuse study announcement
- Staff analysis of the Whois Privacy and Proxy Service Abuse Studies [PDF, 436 KB]
- Whois privacy and proxy relay and reveal study announcement
- Staff Analysis of Whois Misuse and Registrant Identification Studies [PDF, 488 KB]
- SSAC037: Display and Usage of Internationalized Registration Data
- ICANN Board Resolution regarding display and usage of internationalized registration data
- Internationalized Data Registration Working Group Charter [PDF, 112 KB]
- Audio Briefing: Introduction to the Whois Service Requirements Inventory [MP3, 15 MB]
- Inventory of Whois Service Requirements – Final Report [PDF, 636 KB]

Staff Contact

Liz Gasster, Senior Policy Counselor

Inter-Registrar Transfer Policy WG Absorbs Comments on Initial Report

At a Glance

The Inter-Registrar Transfer Policy (IRTP) aims to provide a straightforward procedure for domain name holders to transfer their names from one ICANN-accredited registrar to another. The GNSO Council is reviewing and considering revisions to this policy and has established a series of working groups to conduct these efforts.

Recent Developments and Next Steps

The Inter-Registrar Transfer Policy Part B PDP Working Group published its Initial Report on 29 May. The report presents several preliminary conclusions and recommendations for community input, including a proposed Expedited Transfer Reverse Policy (ETRP). A fast "reverse transfer" process for returning a recently sold domain name to its original owner if it is hijacked, the ETRP is designed to correct fraudulent or erroneous transfers. It does not address or resolve disputes arising over domain control or use. A legitimate new owner would probably contest an ETRP, but a hijacker would not because of the risk of exposure.

Publication of the Initial Report was followed by a public comment forum that ran from 5 July to 8 August 2010. Seventeen community submissions from 13 parties were received, most focused on the proposed ETRP. The WG has started to review and analyze the comments received as part of its deliberations to develop a Final Report for submission to the GNSO Council.

For further information, please consult the IRTP Part B Working Group Workspace.

Background

The IRTP Part B Policy Development Process (PDP) is the second in a series of five PDPs addressing areas for improvement in the existing Inter-Registrar Transfer Policy. The working group will address five issues focusing on domain hijacking, the urgent return of an inappropriately transferred name, and lock status. For further details, refer to the group's Charter.

More Information

- IRTP Part B PDP Initial Report [PDF, 764 KB]
- Inter-Registrar Transfer Policy web page
- IRTP Part B Status Report of Ongoing Progress page
- IRTP Part B Issues Report [PDF, 256 KB]
- PDP Recommendations [PDF, 124 KB]
- Summary and Analysis of Public Comments received
- *ICANN Start* podcast: audio explanation of IRTP Part B [MP3, 18 MB]

Staff Contact

Marika Konings, Policy Director

GNSO Council Addresses Recommendations in the Registration Abuse Policies Final Report

At a Glance

Registries and registrars seem to lack uniform approaches for dealing with domain name registration abuse, and questions persist about what actions registration abuse refers to. The GNSO Council has launched a Registration Abuse Policies (RAP) Working Group to examine registration abuse policies.

Recent Developments

The Registration Abuse Policies (RAP) Working Group published its Final Report on 29 May. The report includes concrete recommendations to address domain name registration abuse in gTLDs for consideration by the GNSO Council. It includes recommendations addressing fake renewal notices, domain kiting, and deceptive or offensive domain names, as well as a wide-ranging list of online abuses and problems:

The RAP WG presented its report [PDF, 1.7 MB] and recommendations to the GNSO Council at the June ICANN meeting in Brussels. The GNSO Council then formed a group of volunteers to draft a proposed approach to the report's recommendations. The proposed approach could include the timing of forming groups to consider some of the recommendations in the final report, as well as how to deal with those recommendations that did not achieve unanimous consensus (click for further information).

The Registration Abuse Policies Implementation Drafting Team started its deliberations early in September, and is developing a matrix that will categorize the recommendations in order of priority, expected complexity and required resources, as well as next steps. Once the matrix has been completed, the drafting team will submit it to the GNSO Council for consideration.

Background

A short history of the RAP Working Group is available on ICANN's website.

More Information

- Registration Abuse Policies Working Group Final Report [PDF, 1.7 MB]
- Registration Abuse Policies Issues Report, 29 October 2008 [PDF, 400 KB] and translation of summary
- Registration Abuse Policies WG Charter
- Registration Abuse Policies Working Group Workspace (Wiki)
- Registration Abuse Policies Implementation Drafting Team Workspace (Wiki)

Staff Contacts

Marika Konings, Policy Director, and Margie Milam, Senior Policy Counselor

Post-Expiration Domain Name Recovery WG Closes Public Comment; Seeks Consensus

At a Glance

To what extent should registrants be able to reclaim their domain names after they expire? At issue is whether the current policies of registrars on the renewal, transfer and deletion of expired domain names are adequate.

Recent Developments and Next Steps

The GNSO Post-Expiration Domain Name Recovery (PEDNR) Policy Development Process (PDP) Working Group published its Initial Report on 31 May. On 12 July, a public comment forum opened on the report, which was extended to 15 August. During the public comment forum, it was also possible to participate in a survey that asked several specific questions about renewal and expiration practices. Nine public comment submissions were received, in addition to 412 survey responses (click here to see the summary and analysis).

Background

For a history of the ICANN community's policy development activities related to Post-Expiration Domain Name Recovery, please refer to the PEDNR Background page.

Next Steps

The WG has started to review and analyze the comments received as well as the survey results as part of the second phase of the PDP, during which the WG hopes to reach consensus on a proposed way forward for each of the charter questions.

More Information

- PEDNR PDP Initial Report [PDF, 1 MB]
- Details on PEDNR Public Consultation Session in Brussels
- GNSO Issues Report on Post-Expiration Domain Name Recovery [PDF, 416 KB]
- Translations of the GNSO Issues Report on Post-Expiration Domain Name Recovery
- Working Group presentation: Registrar Survey Final Results [PDF, 948 KB]

Staff Contact

Marika Konings, Policy Director

GNSO Improvements: Work Team Efforts Continue

At a Glance

Members of the Generic Names Supporting Organization (GNSO) community are working to implement a comprehensive series of organizational changes designed to improve the effectiveness and accessibility of the organization. The GNSO Improvements fall into five main areas:

- *Restructuring the GNSO Council*
- *Revising the GNSO Policy Development Process (PDP)*
- *Adopting a New Working Group Model for Policy Development*
- *Enhancing Constituencies*
- *Improving Communication and Coordination with ICANN structures*

The following update relates only the most recent developments regarding implementation of the GNSO Improvements. To understand the GNSO's new structure and organization, see the discussion and diagrams on the GNSO Improvements Information webpage (GII webpage). For the reasons and history motivating the improvements, see the Background page. The staff has also created a series of new dashboard pages for a quick review of implementation activities. A Status page and a Timeline Page are connected to the GII webpage.

Recent Developments

Community work team efforts continue in several important areas.

1. **Restructuring the GNSO Council.** The GNSO Council is learning to use some of the new operating rules and procedures approved at its 5 August meeting, including matters of voting abstentions and Councilor Statements of Interest and Declarations of Interest. Some of those procedures are getting a closer look from the Council and the GNSO Council Operations Work Team. Policy staff members remain available to assist GNSO constituency and stakeholder groups in using the new procedures. Specific information collection forms and graphic depictions of the new processes have also been prepared for the community. For further detail, see the new operating procedures [PDF, 428 KB] and the GNSO Admin Documents web page.
2. **Revising the PDP.** On 31 May, the Policy Development Process (PDP) Work Team (WT) presented its Initial Report [PDF, 2.36 MB] for community

input. The report includes 45 draft recommendations and a flow chart intended as the basis for the new Annex A of the ICANN bylaws. The public comment period on the Initial Report was extended until 30 September and is now closed. The PDP-WT will analyze the comments received, finalize the report, then submit it to the GNSO's Policy Process Steering Committee for review. Ultimately, the WT recommendations will go to the GNSO Council (and then the ICANN Board) for approval.

3. **Adopting a New Working Group Model.** At the end of May 2010, the Working Group Work Team (WG WT) submitted its GNSO Working Group Guidelines [PDF, 681 KB] to the Policy Process Steering Committee (PPSC) for review. The WG WT received feedback from the PPSC and met on 29 September to determine whether further changes should be made to the proposed guidelines based on the PPSC comments. The proposals will go eventually to the GNSO Council for approval.

4. **Improving Communications and Coordination with ICANN Structures.** The Policy department is fully engaged in implementing new GNSO web site improvements approved by the GNSO Council in August. The department hopes to share its progress with the GNSO Council and the community in time for the ICANN Cartagena meeting, 5–10 December 2010.

5. **Enhancing Constituencies.** At its 5 August meeting, the GNSO Council approved a report from the Constituencies and Stakeholder Group Work Team on consistent operational guidelines and best practices for GNSO constituencies and stakeholder groups. The recommendations have been incorporated into the GNSO operating procedures [PDF, 428 KB] and Policy staff have been actively working with several community groups to review the new recommendations and consider adopting them into their organizational processes and documents. The work team also is drafting recommendations on a global outreach program to encourage participation in GNSO constituencies and stakeholder groups. Those recommendations are now ready for review by the GNSO's Operations Steering Committee.

Permanent Stakeholder Group Charter Efforts. The GNSO's noncontract party communities continue work to develop permanent stakeholder group charters. All indications are that those efforts are on track to conclude by the end of 2010.

Next Steps

The GNSO's various implementation work teams will continue to develop recommendations for implementing the GNSO restructuring goals approved by the Board. Approved recommendations are being assimilated into existing community practices. Public comments on new proposals will be reviewed and summarized by ICANN staff. The ICANN Board is also due to consider reviewing several improvements matters, including the permanent stakeholder group

charters it approved in July 2009, existing constituency structures, operations and charters and potential new GNSO constituency proposals as well.

More Information

- GNSO Improvements Information Web Page
- New bylaws relevant to the New GNSO Council [PDF, 160 KB]
- New GNSO Council Operating Procedures [PDF, 428 KB]
- PDP Team wiki
- Working Group Team wiki
- Constituency Operations Team wiki

Staff Contact

Robert Hoggarth, Senior Policy Director

Other Issues Active in the GNSO

- GNSO Work Prioritization
- Fast Flux Hosting

ASO

Proposal to Share More Information About Internet Number Resource Policy Developments

At a Glance

The Number Resource Organization and the Address Supporting Organization Address Council recognize the need to better communicate information about the status of developments to the ICANN community. They recommend developing a summary slide presentation for delivery at appropriate sessions of ICANN meetings. These presentations are to be summary information only, and are not intended as the foundation for discussion or debate.

Recent Developments

The Number Resource Organization (NRO) Executive Committee and the Address Supporting Organization Address Council (ASO AC) have carefully considered how to best communicate information on the status of Internet

number resource policy developments to the greater ICANN community, and these groups have recommend the following steps going forward:

1. The ASO AC will prepare a regular summary of number resource policy development activities, including any global policy proposals which are under way and significant regional policy proposals, and of upcoming RIR open policy meetings.

2. The format of this summary will be a slide presentation, which will be given during the supporting organization day at each ICANN meeting, by the ASO AC Chair or other AC members as available.

3. This presentation will be provided for information of ICANN community members, but not for any substantive policy discussion or debate. Such discussions would be directed to the appropriate RIR meeting.

ICANN appreciates and welcomes the proposed initiative, which will bring a wider array of Internet number resource policy developments to the attention of the greater ICANN community. This initiative will also allow many in the wider ICANN community to learn more about the ASO during ICANN meetings.

Next Steps

This ASO AC reporting session at the Cartagena, Colombia, ICANN meeting in December will certainly be of service to both our organizations and the whole Internet community.

Staff Contact

Olof Nordling, Director Services Relations

Other Issues Active in the ASO

- Unified Global Policy for Recovered IPv4 Addresses

Joint Efforts

Issues Open as Joint Efforts

- Improvements to the Registrar Accreditation Agreement
- Internationalized Registration Data

- Geographic Regions Review

At-Large

Regional At-Large Organizations Elect ALAC Representatives for 2010–2012 Terms

At a Glance

Between August and October, all five At-Large Regional At-Large Organizations (RALOs) held elections for one of two elected regional representatives to the At-Large Advisory Committee (ALAC). The terms of these ALAC representatives will begin at the close of the ICANN annual general meeting in December 2010 and end at the close of the annual general meeting in 2012.

Recent Developments

RALO representatives elected to the ALAC for 2010–2012 are:

Tijani Ben Jemaa	AFRALO
Edmon Chung	APRALO
Sandra Hoferichter	EURALO
Sergio Salinas Porto	LACRALO
Evan Leibovitch	NARALO

Background

Under Article XI, Section 2, Article 4b of the ICANN bylaws, the ALAC consists of two members selected by each of the RALOs and five members selected by the Nominating Committee, for a total of 15 members. The two-year terms of the two elected At-Large representatives from each RALO are staggered, so that one ALAC representative is elected in any given year.

The ALAC is responsible for considering and providing advice on ICANN's activities as they relate to the interests of individual Internet users (the "At-Large" community). ICANN relies on the ALAC and the broader At-Large community to involve and represent a broad set of individual Internet user interests.

More Information

Complete information on the At-Large Elections 2010

Staff Contact

Matthias Langenegger, At-Large Secretariat

At-Large First to Create Workspace Using Confluence Collaborative Wiki

At a Glance

On 4 October, the At-Large Public Workspace was migrated officially to the Confluence collaborative software system. After recognizing its numerous benefits, the At-Large community asked to be the first ICANN community to have its public workspace migrated from Social Text software to Confluence. A series of training sessions ensured that all At-Large community members had an opportunity to become familiar with Confluence system operation.

Recent Developments

The At-Large migration from Social Text to Confluence is the culmination of close cooperation between members of the At-Large community and ICANN staff to development a new, improved public workspace.

Representatives of the At-Large Advisory Committee (ALAC) and regional officers attended a Confluence training session during the 38th ICANN meeting in Brussels, Belgium, in June. Additional telephonic training sessions were held in late September for all At-Large community members.

Next Steps

At-Large representatives will review the status of the migration and discuss next steps with members of ICANN's IT staff during the 39th ICANN meeting in Cartagena, Colombia, on 5–10 December.

ICANN's other communities will be migrating to the Confluence collaborative software system over the next several months.

More Information

- New At-Large public workspace

Staff Contact

Heidi Ullrich, Director for At-Large

SSAC Report on Protecting Domain Names Due Out Soon

The Security and Stability Advisory Committee is continuing to prepare a report that will help registrants in protecting their domain names and domain registration accounts against misuse. The report will complement SAC040 [PDF, 276 KB], which describes measures registrars could consider to reduce the risk of registration account compromise and domain registration abuse. The report, which is expected later this month, will identify measures that registrants can implement themselves, and will also provide guidelines to assist registrants in making informed decisions in choosing a registrar to manage their domain names.

For reports on other activities for 2010, refer to the SSAC Work Plan.

Staff Contact

Julie Hedlund, Director, SSAC Support

Colombia Information Book

Background information

39th ICANN Meeting

Cartagena de Indias, Colombia

5-10 December 2010

Table of Contents

Background on Cartagena / Colombia

Background on Colombia

Background:

Colombia gained its independence from Spain on 20 July 1810. Colombia was one of three countries that emerged from the collapse of Gran Colombia in 1830 (the others are Ecuador and Venezuela).

A four-decade long conflict between government forces and anti-government insurgent groups, principally the Revolutionary Armed Forces of Colombia (FARC) heavily funded by the drug trade, escalated during the 1990s. The insurgents lacked the military or popular support necessary to overthrow the government and violence has been decreasing since about 2002, but insurgents continue attacks against civilians and large areas of the countryside are under guerrilla influence or are contested by security forces.

More than 31,000 former paramilitaries had demobilized by the end of 2006 and the United Self Defense Forces of Colombia (AUC) as a formal organization had ceased to function. In the wake of the paramilitary demobilization, emerging criminal groups arose, whose members include some former paramilitaries.

The Colombian Government has stepped up efforts to reassert government control throughout the country, and now has a presence in every one of its administrative departments. However, neighboring countries worry about the violence spilling over their borders.

Population:

44,205,293 (July 2010 est.)
30th largest in world
Population growth rate: 1.184% (2010 est.)

Literacy: total population: 90.4%
male: 90.1%
female: 90.7% (2005)

Urbanization:
urban population: 74% of total population (2008)
rate of urbanization: 1.7% annual rate of change (2005-10 est.)

Time Zone:
UTC-5 (same time as Washington, DC during Standard Time)

Languages:
Spanish (official)

Country name:
conventional long form: Republic of Colombia
conventional short form: Colombia
local long form: Republica de Colombia
local short form: Colombia

Government structure
republic; executive branch dominates government structure

chief of state:
President Juan Manuel SANTOS Calderon (since 7 August 2010); Vice President Angelino GARZON (since 7 August 2010); note - the president is both the chief of state and head of government

Forming the government:
president and vice president elected by popular vote for a four-year term (eligible for a second term); election last held on 30 May 2010 with a runoff election 20 June 2010 (next to be held in May 2014).

Source: CIA World Factbook

Juan Manuel Santos Calderón

Born in Bogota on August 10, 1951. He was a cadet at the Navy Academy in Cartagena; he studied Economics and Business Administration and carried out graduate studies at the London School of Economics, Harvard University and the Fletcher School of Law and Diplomacy.

He was Chief of the Colombian delegation before the International Coffee Organization (ICO) in London; he was the most recent Designate to the Presidency and Colombia's first Foreign Trade Minister. He has also been Finance Minister and National Defense Minister. During this last position, he was in charge of leading the implementation of the government's Democratic Security Policy. He created the Good Government Foundation (Fundación Buen Gobierno) and founded the political party Partido de la U in the year 2005, currently Colombia's largest political party.

As a journalist he was a columnist and Deputy Director of the newspaper El Tiempo, he was awarded the King of Spain Prize and was president of the Freedom of Expression Commission for the Inter American Press Association (IAPA). He has published several books, among which the most significant are The Third Way, co-written with the former British Prime Minister Tony Blair, and Check on Terror (Jaque al Terror), where he describes the most important actions against the Farc terrorist group during his tenure as head of the Ministry of Defense.

On June 20, 2010, (after obtaining the largest vote during the first round of the presidential elections which took place on May 30 of the same year) at the second round of the

presidential elections, he was elected President of the Republic of Colombia for the four year period between August 7th, 2010 and August 7th, 2014. He obtained more than 9 million votes, the highest amount obtained by any candidate in the history of Colombian democracy.

During his campaign, he promised to lead a government of national unity that would carry out the transition from Democratic Security to Democratic Prosperity.

President Santos is married to María Clemencia Rodríguez, with whom he has three children: Martín (21), María Antonia (19) and Esteban (16).

Source:
http://wsp.presidencia.gov.co/Gobierno/Paginas/JuanManuelSantosCalderon_en.aspx

Economy - overview:

Colombia experienced accelerating growth between 2002 and 2007, chiefly due to improvements in domestic security, rising commodity prices, and to President URIBE's promarket economic policies. Foreign direct investment reached a record $10 billion in 2008.

A series of policies enhanced Colombia's investment climate: President URIBE's pro-market measures; pro-business reforms in the oil and gas sectors; and export-led growth fueled mainly by the Andean Trade Promotion and Drug Eradication Act. Inequality, underemployment, and narcotrafficking remain significant challenges, and Colombia's infrastructure requires major improvements to sustain economic expansion.

Because of the global financial crisis and weakening demand for Colombia's exports, Colombia's economy grew only 2.6% in 2008, and contracted slightly in 2009. In response, the URIBE administration cut capital controls, arranged for emergency credit lines from multilateral institutions, and promoted investment incentives, such as Colombia's modernized free trade zone mechanism, legal stability contracts, and new bilateral investment treaties and trade agreements.

The government also encouraged exporters to diversify beyond the US and Venezuela, traditionally Colombia's largest trading partners. The government is pursuing free trade agreements with European and Asian partners and awaits the approval of a Canadian trade accord by Canada's parliament. In 2009, China replaced Venezuela as Colombia's No. 2 trading partner, largely because of Venezuela's decision to limit the entry of Colombian products. The business sector remains concerned about the impact of the global recession on the economy, Venezuela's trade restrictions on Colombian exports, an appreciating currency, and the pending US Congressional approval of the US-Colombia Trade Promotion Agreement.

GDP - purchasing power parity:
$401.5 billion (2009 est.) – 29th in world

GDP - real growth rate:
0.1% (2009 est.) – 113th in world

GDP - per capita (PPP):
$9,200 (2009 est.) – 113th in world

Unemployment rate:
12% (2009 est.) – 133rd in world

Agricultural products:
coffee, cut flowers, bananas, rice, tobacco, corn, sugarcane, cocoa beans, oilseed, vegetables; forest products; shrimp

Exports:
petroleum, coffee, coal, nickel, emeralds, apparel, bananas, cut flowers

Industries:
textiles, food processing, oil, clothing and footwear, beverages, chemicals, cement; gold, coal, emeralds

Source: CIA World Factbook

Some facts about Cartagena

Cartagena de Indias (or Cartagena of the West Indies) was founded on 1 June 1533 by Spanish commander Pedro de Heredia, in the former location of the indigenous Caribbean

Calamarí village. The town was named after Cartagena, Spain, where most of Heredia's sailors came from.

The metropolitan area has a population of 1,240,000, and the city proper 1,090,000 (2005 census). It is the fifth largest urban area in Colombia, and a centre of economic activity in the Caribbean region, as well a popular tourist destination.

In 1984, Cartagena's colonial walled city and fortress were designated a UNESCO World Heritage Site.

Government: Mayor Judith Pinedo, Independent

Gabriel García Marquez's novel Love in the Time of Cholera although set in an unnamed city, is obviously in Cartagena. Also set in Cartagena, partially or totally, are other novels of his, among them The General in his Labyrinth and Strange Pilgrims.

The 1986 film The Mission with Robert De Niro was filmed in Cartagena and Brazil.

Source: Wikipedia

Internet in Colombia / South America

Colombia – Internet and Telecommunications Information

Internet Usage Colombia

Population: 44.2 million (2010)

Internet Users (Dec. 2009): 21.5 million

Penetration (% Population): 48.7%

User Growth (2000-2010): 2,352.1%

Broadband Internet connections (December 2009): 2.2 million

Source: www.internetworldstats.com

Internet Usage South America

Population: 396.6 million (6% of world)

Internet Users: 156.6 million (8% of world users)

Penetration (% Population): 39.5%

User Growth (2000-2010): 995.8%

Source: www.internetworldstats.com

General Communication Information Colombia

Internet hosts: 4.367 million (2009) – 17th in world

Telephones – main lines in use: 7.5 million (2009) – 25th in world

Telephones – mobile cellular: 42.16 million (2009) – 28th in world

general assessment:
modern system in many respects with a nationwide microwave radio relay system, a domestic satellite system with 41 earth stations, and a fiber-optic network linking 50 cities; telecommunications sector liberalized during the 1990s; multiple providers of both fixed-line and mobile-cellular services

domestic:
fixed-line connections stand at about 15 per 100 persons; mobile cellular telephone subscribership is about 90 per 100 persons; competition among cellular service providers is resulting in falling local and international calling rates and contributing to the steep decline in the market share of fixed line services

International country code - 57

Source: CIA World Factbook

Meeting Hosts

Meeting Hosts – .CO Internet S.A.S.

.CO Internet S.A.S. is a new company formed by Arcelandia S.A., a wholly-owned Colombian company, and the U.S. company Neustar, Inc, for the purpose of developing and operating the .CO Internet registry. This new partnership will be responsible for the promotion, administration, and technical operation of the .CO TLD.

.CO Internet S.A.S was appointed as the manager for the .co TLD through a public procurement process that took place in early 2009. The concession contract, which is dated September 3, 2009, is for an initial term of 10 years. .CO Internet received the re-delegation approval as the manager of the .co TLD by ICANN on December 9, 2009, and received formal confirmation of the request by the United States Department of Commerce on December 23, 2009.

Between 1991 and the redelegartion, .CO had been administered by the Universidad de los Andes.

As of September 23, 2010, CO Internet showed 516,000 .co domains registered.

.CO CEO Juan Diego Calle

CEO Juan Diego Calle has 10 years of experience managing successful Internet companies.

In 2000, he co-founded TeRespondo.com, the largest online search advertising network in Latin America. The company operated in USA, Brazil, Mexico and Argentina, and was acquired by Yahoo, Inc. in 2005. Subsequently, as manager of STRAAT Investments, he has been at the forefront of important Internet ventures such as FederatedTravel.com, owner of a large network of travel websites such as ParisHotels.com, NewYorkHotels.com, LondonHotels.com, among others.

Mr. Calle studied Industrial Engineering and Finance at the University of Miami and is a graduate of Harvard Business School's Owner President Management Program.

Source www.cointernet.co

Special Attendees Bios

Diego Molano Vega
Minister of Information Technologies and Communications

Diego Molano Vega, is an electronic engineer with expertise in economics from the Javeriana University and a Masters in Business from the Institute for Management Development (IMD) in Lausanne, Switzerland. He has over 20 years experience in the ICT industry in both public and private sector. He has held executive positions in multinational companies such as Ascom (Switzerland), BellSouth (USA) and Telefonica (Spain), with responsibilities in 18 countries in areas of corporate relations, wholesalers and regulation.

While at Telefónica he conducted research and publications on the impact of technology on public health, banking, the judiciary, education, SMEs, productivity, competitiveness and innovation in Latin America.

Molano Vega was director of the National Telecommunications Commission (CRT) between 1996 and 2000. Its management is focused on the liberalization of the sector and an increase in competition and private foreign investment in the country.

As Minister Molano has been a member of important international business organizations such as American Association of Telecommunications Operators (Ahciet)

Business Economic Forum of Mercosur (MEBF), European Business Forum, EU, Brazil and Colombia Chamber of Commerce in Spain. He was founder and President of the Telecommunications Regulators Association of Latin America (Regulatel) and member of the board of Adpostal Post, Colombia..

Source: http://www.mintic.gov.co/mincom/faces/index.jsp?id

Media Profile Colombia

Media Profile Colombia

Major media in Columbia

Colombia is one of the most dangerous places in the world for journalists to operate. Media workers face intimidation by drug traffickers, guerrillas and paramilitary groups. More than 120 Colombian journalists were killed in the 1990s, many for reporting on drug trafficking and corruption.

The media-freedom organisation Reporters Without Borders has denounced armed groups, corrupt politicians and drug barons as "enemies of press freedom".

Rebels have used radio to spread their propaganda. One of the main clandestine stations is the Farc-operated La Voz de la Resistencia, which the rebel group has described as another battlefront.

Colombia's main commercial media outlets are owned by a handful of large groups. Television is the medium of choice for most Colombians.

The press

- El Tiempo – Liberal Party daily, national circulation
- El Espacio – evening daily
- El Nuevo Siglo – Conservative Party daily
- El Colombiano – Medellin-based daily
- Vanguardia Liberal – daily
- El Espectador – daily
- La Republica – business daily
- Semana – weekly

Television

- Senal Colombia – state-run
- Cadena Uno
- Telecaribe
- RCN TV – operated by Radio Cadena Nacional
- Caracol TV – private commercial network

Radio

Hundreds of stations are registered with the Ministry of Communications. Among the main networks are:

- Radio Nacional de Colombia – state-run
- Cadena Super – including Radio Super and Super Stereo FM
- Caracol – runs several networks, including flagship station Caracol Colombia
- Radio Cadena Nacional (RCN Radio) – mediumwave (AM) network with many affiliates

Source: http://news.bbc.co.uk/2/hi/americas/country_profiles/1212798.stm#media

Colombia Communications
News Headlines

Colombia opts for secure, wider telecoms

UPI.com Nov 3

BOGOTA -- Colombia is spending $3 million on a plan to jettison its telecommunication sector into the 21st century as part of a wider strategy that expects Internet connectivity to help economic regeneration.

The secure telecommunications plan, which will affect also the way the country's business and financial and public sectors make use of telecommunications to boost productivity, makes Colombia's government a key stakeholder in a campaign called Vive Digital.

Vive Digital, a brand name for the official Information and Communication Technology policy, was introduced to participating exhibitors and public at ANDICOM 2010 international ICT convention in Bogota.

Colombian government strategies hope telecommunications modernization will also strengthen the state security industries in their fight against crime and narcotics exports to North America. Critics say better communications will also lead to greater government intervention in Colombian society.

The funds going into the program may seem modest in U.S. dollar terms -- $3 million -- but they are equal to 5.5 billion pesos, a substantial investment in Colombian terms, analysts said. The spending will go into achieving a "leap over the technological divide in the next four years by bringing the Internet to the general public and developing the country's digital ecosystem," an official statement said.

"Our commitment as a government will be to promote the use of the Internet by the general public, and thereby make a leap towards democratic prosperity," said ICT Minister Diego Molano Vega.

"It has been demonstrated that the use of ICT tools as part of every citizen's life strongly influences a country's competitiveness and development," he added.

Colombian President Juan Manuel Santos and his Cabinet used technology to introduce the plan and address ANDICOM's 2,000 participants. Santos was in Argentina for the funeral of former Argentine President Nestor Kirchner, who died Oct. 27.

Officials said Vive Digital will promote "expanded infrastructure, services creation, applications development and user appropriation of technology." Alliances between the private sector and technology initiatives in all the ministries and the president's office will play various enabling roles, officials said.

The government is setting up a technology board made up of business people and civil servants and coordinated by Santos. Officials said studies worldwide demonstrated a direct correlation between Internet penetration, technology use, job creation and a reduction in poverty. The World Bank reported that, in developing countries, a 10 percent increase in broadband penetration led to 1.4 percent rise in economic growth.

A study by Raul Katz, of Columbia University, N.Y., said a 10 percent increase in broadband penetration in Chile reduced the unemployment rate by 2 percent.

Vive Digital will aim to increase the percentage of homes connected to the Internet from 27 percent to 50 percent and the number of connected micro-, small- and medium-sized businesses from 7 percent to 50 percent.

The program aims to quadruple the number of Internet connections from 2.2 million to 8.8 million in a population of more than 45.5 million.

Source: http://www.upi.com/Business_News/Security-Industry/2010/11/03/Colombia-opts-for-secure-wider-telecoms/UPI-24991288825432/

COLOMBIA HAS MORE THAN 3.3 MILLION INTERNET CONNECTIONS AND 8 MILLION RESIDENTIAL USERS

Government Press Release -- 6 Sept 2010

The Connectivity Quarterly Report by the Ministry of Information Technologies and Communications showed an increase of 4.03% of total Internet subscribers in the first quarter of 2010. In Colombia, rose from 3,181,431 connections in December 2009 to 3,309,530 in March 2010, of which 128,099 are for new Internet subscribers.

The Connectivity Quarterly Report document that discusses the indicators of Internet penetration in Colombia shows an increase of 78,708 fixed access connections and 49,291 mobile Internet subscribers in the country at the beginning of the year. The study includes the number of Internet subscribers in the country discriminated according to the technology of network access, a ranking of the top ten service providers of dedicated fixed internet, the dedicated fixed internet coverage in the Caribbean regions, West and East.

As well, the revenue generated by the mobile Internet service, number of users of IP TV and advances in Internet social strategies implemented by the Ministry of ICT in the country.

The connectivity report determine that the Mobile Internet had an increase of 5.4%, as it grew from 915,280 users in December 2009 to 964,671 in March this year. Likewise, the report notes that the 92, 33% of fixed dedicated Internet accesses are broadband and it is estimated that the country has 8,009,745 residential users of fixed, switched and dedicated Internet.

The study developed by the ICT Ministry also notes that 61, 21% of the reported Internet connections have download speeds above 1024 kbps. A total of 908,548 users have a download speed between 1024 and 2048 kbps, 471 132

access at speeds between 2,048 and 4,096 and 33,915 of them have more than 4,096 kbps for download information.

Similarly, the sectorial report reveals that four suppliers serving the 82.83% of dedicated fixed subscribers in the country. EPM Telecommunications is the firm with the largest number of users with 516,991 followed by Telmex with 484,806, Colombia Telecommunications, 460,023 and ETB, 451,368.

On the other hand, the quarterly report said that connectivity to March 31, 2010, UNE EPM is the provider with the most broadband users to register 511,096, Telmex, 464,049, Colombia Telecommunications 453,594, and ETB 450,978.
As for the technological methods used for accessing the mobile Internet, the ICT Ministry's report indicates that 654,814 users use modem for Internet access and 51,835 people have 3G terminals to navigate.
Also, the study by the Ministry of ICT reveals that during the first quarter of 2010 were sent 1,766 million SMS and 5.16 million MMS. 5% of those messages were sent to the networks of other operators.

Finally, the study reveals the achievements of social program Compartel during the first quarter. Thanks to this program were connected 26,005 public institutions in different regions of the country. Among them, 21,919 educational institutions, 1,032 municipalities, 839 hospitals, 411 public libraries, 57 provincial centers of agribusiness management and others entities, 1047.

The Connectivity Quarterly Report is made from this year by the Section for Information Technologies and Communications Industry of the ICT Ministry Communications Department as was established in the article 15 of Law 1341 of 2009, according to which completion and publication of sectorial and connectivity reports that it came forward the -CRC- Communications Regulation Commission shall be borne by the Ministry of ICT.

This report is brought forward based on information that providers of networks and services are required to report quarterly to SIUST- Unique Information System of the Telecommunications Sector.

Source: http://archivo.mintic.gov.co/mincom/faces/index.jsp?id=19687

Colombian domain challenges .com

BBC News 9 November 2010 Last updated at 11:39 ET

The .co registry is hoping to attract up to five million registrations in the next five years

A domain name owned by the Colombian government is proving popular in the increasingly crowded space of web addresses.

The .co web address was assigned to Colombia by net regulator Icann but is now being run by a private firm. Since being launched in July, the .co domain name has attracted nearly 600,000 registrations and is being seen as a challenger to .com.

It comes ahead of a big shake-up in the way web addresses are assigned.

It has taken the Colombian government 10 years to get its domain name up and running on a commercial basis. Originally the .co address was administered by the University of the Andes in Bogota.

The university recognised the potential of the name but the commercial roll-out never got off the ground.

"It has been a long process of creating the laws and procurement process," said Juan Diego Calle, chief executive of the .co registry.

A quarter of the revenue the registry makes from .co will go to the Colombian government.

Mr Calle is hoping the name can compete with the dominance of .com.

"We are going for a global audience and in three to five years we hope to have three to five million registrations.

"The average person can try up to 20 times to register a domain and companies are starting to come up with long and silly urls," he said.

So far, 38% of firms registering for a .co domain are in the US, with 20% in Europe, the majority of these from the UK.

For countries lucky enough to have a domain name with a meaning beyond their own borders - such as the tiny South Pacific island of Tuvalu (.tv), domain names can be a rich income source.

The .tv web address has proved a hit with the broadcast industry, while Montenegro's me has appeal to the social networking generation.

The .co landgrab could be one of the last before Icann overhauls the way net addresses are assigned.

Next year the body is due to open up the system so that companies and individuals can register any name they want.

Mr Calle does not think it will impact the success of .co.

"You need technology resources to manage a domain name. Running a domain registry costs millions," he said.

The deregulation of web addresses will show that net names can go beyond the established names, he thinks.

"It will help educate consumers that you can type .co into a browser and get a valid website," he said.

Source: http://www.bbc.co.uk/news/technology-11720728?print=true

Columbia News Headlines

Columbia News Headlines (as of 12 November 2010)

Edgar Renteria puts emphasis on aid for Colombian flood victims

Associated Press 9 November 2010

BOGOTA, Colombia — Edgar Renteria, voted most valuable player of this year's World Series, asked that a celebration in his honor be called off in his home country, with the money that would be used for the event donated to Colombia flood victims.

Renteria, a 35-year-old shortstop, made his request about canceling the tribute from Miami on Tuesday. He is expected to arrive Thursday in Barranquilla, Colombia, where his family lives.

Renteria said there are "more important things back home" and noted it is critical to tend to the needs of those left homeless by the recent flooding.

Renteria, a five-time All-Star, is mulling his baseball future after the San Francisco Giants declined to exercise their option on his $9.5 million contract. He is considering a switch to second base for the 2011 season, according to MLB.com.

The Giants clinched the best-of-seven World Series against the Texas Rangers last week in five games. In Game 5, Renteria snapped a scoreless tie with a three-run homer in the seventh inning.

While playing for the Florida Marlins in the 1997 World Series, Renteria's two-out RBI single in the 11th inning of Game 7 gave the Marlins a 3-2 victory over Cleveland.

Source: http://seattletimes.nwsource.com/html/mariners/2013389272_base10.html

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Cruise season begins in Cartagena

Columbia Reports 05 November 2010

Cruise ship "Grandeur of the Seas" will on Monday bring almost 2,000 international tourists to Cartagena, marking the beginning of the 2010-2011 cruise season.

Cartagena expects to see the arrival of 208 ships with almost 500,000 tourists who will leave $40 million in the region.

"Every year the Colombian Caribbean has been an inevitable destination for international cruises and Cartagena is constantly prepared to receive tourists. Last year, we received 218 cruises with 346,693 tourists," the president of Proexport, Maria Claudia Lacouture said.

It is estimated that each traveller who descends from a cruise ship spends an average of $120 on taxis, restaurants, souvenirs and other services which boost the local economy.

The next stop of the 'Grandeur of the Seas" will be Santa Marta.

Proexport says that this cruise season will run until May 2011.

Source: http://www.colombiareports.com/travel-in-colombia/cartagena/12765-cruise-season-in-cartagena-opening.html

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Wayuu indigenous group to join UNESCO list

Columbia Reports 08 November 2010

Colombia's Wayuu indigenous group will be officially added to the UNESCO Intangible Cultural Heritage list on November 15 in Nairobi, Kenya, El Informador reports.

The Wayuu are being recognized by UNESCO, the U.N. Educational, Scientific and Cultural Organization, for their mediation process in solving conflicts.

"It is a great recognition for the indigenous mediators who have been using words to resolve conflicts which is an example for humanity," said Guillermo Ojeda Jarariyu, coordinator of the group's Board of Mediators.

According to the indigenous mediators, the UNESCO list is the starting point for the creation of an organization that aims at preserving the traditions of the Colombian and Venezuelan indigenous population.

Jarariyu said that the advantage of the Wayuu people is their dynamic social interaction with other cultures which over time has enriched their own culture.

Colombia is currently represented by four items on the heritage list; Pasto's Carnival of Blacks and Whites (2009), the Holy Week processions in Popayan (2009), the Carnival of Barranquilla (2008), and the cultural area of Palenque de San Basilio (2008).

Source: http://www.colombiareports.com/colombia-news/culture/12789-indigenous-recives-unesco-award.html

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House hunting in Colombia
New York Times

The 1,140-square-foot apartment has views of the city walls (which date to the 16th century) and San Felipe de Barajas castle, a fort built by the Spanish in the 17th century.

The apartment is on the second story of a three-story, walk-up building, constructed of concrete about 40 years ago. There are tile floors throughout and the interior doors are made of solid hardwood. The kitchen was renovated in 2007 and has ceramic tile and steel countertops. The rear of the apartment has two bedrooms and a bathroom; the master is the slightly larger of the two, with a window overlooking a small park. There is a 10 by 3 foot balcony off of the living room.

The apartment is in Cartagena's historic center, a Unesco World Heritage site known for its Colonial buildings. The old city is Cartagena's tourist and cultural center; shopping, dining and public transportation are within walking distance. Beaches are about a 15-minute walk away; Bocagrande, Cartagena's most popular beach, is about 10-minute drive; the airport is about 12 minutes by car.

MARKET OVERVIEW

Over the past five years, prices in Cartagena have skyrocketed by as much as 300 percent—and even 600 percent in some cases, said Patrick Enste, general manager at La Heroica, a luxury travel and real estate company.

"Cartagena is the most dynamic and expensive real estate market in Colombia," said Brian Requarth, a founder of VivaReal Network, an online real estate portal that specializes in Latin America. "There's been a lot of construction, a lot of investment, a lot of development." Renovations of Colonial buildings in the old city are commonplace, while new high-rise condominiums flank the beaches to the north.

There are many reasons for this, according to Mr. Requarth: Cartagena's old city has a lot of charm and history, making it an attractive destination; Colombia's Ministry of Commerce, Industry and Tourism has done a good job promoting the city; it has become an increasingly popular destination for international travelers in recent years; and though it's expensive by Colombian standards, Cartagena is still a bargain compared with other Caribbean destinations.

Though the volume of sales has slowed over the past year, prices remain relatively firm, according to Mr. Enste. This is, in part, because of limited buildable space, as well as a low supply of available property for sale — there are perhaps 20 or 30 historic buildings on sale at a given time, he said, and new condos must have a majority of their units sold before they break ground.

Colombia has not experienced a credit crisis like the United States and many parts of the world, according to Paul Juan, this property's listing agent. "Credit isn't as easy to get here," Mr. Juan said. Since interest rates on loans are around 18 percent, most people buy property in cash.

Property value in Cartagena varies widely. "There's a big, big difference between restored and nonrestored properties," Mr. Requarth said. Restored properties can cost twice as much, he added.

Buyers can expect to pay about $2,300 to $3,500 a square meter ($214 to $325 a square foot) for unrestored properties in the prime areas of the historic center, said Mr. Enste. Restored properties run about $4,500 to $6,000 a square meter ($418 to $558 a square foot).

Homes in the San Diego district, a central neighborhood with primarily single-story Colonial homes, are about $2,000 to $2,800 a square meter ($186 to $260 a square foot) unrenovated, and $4,000 to $5,000 a square meter ($372 to $465 a square foot) for renovated. New construction in Bocagrande and other beaches north of the city are about $1,700 to $3,000 a square meter ($158 to $279 a square foot).

WHO BUYS IN CARTAGENA

Americans are the most common foreign buyers in Cartagena, followed by Italians and Spanish, said Mr. Enste. They typically seek properties in the old city, followed by beachfront condominiums. There is also a sizable community of Colombian ex-pats buying retirement homes in Cartagena, Mr. Juan said.

BUYING BASICS

There are no restrictions on foreigners purchasing real estate in Cartagena. Buyers should estimate about 2.4 percent of the

selling price for purchase side costs, according to Mr. Juan. This includes a notary fee — which is about 0.35 percent to 0.5 percent, split between buyer and seller — said Mr. Enste, as well as a 1.5 percent sales tax and 0.5 percent registration fee. Individuals (not corporations) buying properties from other persons (not developers) pay an additional 1 percent tax, Mr. Enste added. Lawyers fees are typically $200 to $500, he said.

Non-Colombian buyers must register their investments with the government, which ensures their right to take their capital, plus gains, out of the country upon sale, Mr. Juan said. (The process is simple and is typically handled by a real estate agent or lawyer, said Mr. Juan; there are no additional fees.)

In addition, Colombian banks may ask for tax forms and bank statements, "to make sure that the money is from a legitimate activity," Mr. Juan said. Banks charge a fee of 0.004 percent upon transfer of funds to the seller.

For buyers seeking loans, interest rates are high — typically 15 to 18 percent — and most foreign buyers pay in cash, Mr. Juan said. Real estate agent's commissions are typically 3 percent and are paid by the seller.

Sourc: http://www.nytimes.com/2009/09/09/greathomesanddestinations/09gh-househunting-1.html

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Colombia, U.S. Reach "Open Skies" Agreement

Latin American Herald Tribune – 13 November 2010

BOGOTA – Colombia and the United States reached an "open skies" agreement that will enter into force on Jan. 1, 2013, and allow total liberalization of air traffic between the two countries.

"It means there will be total freedom," Colombian civil aviation chief Santiago Castro told reporters Thursday in announcing the accord, which was reached after three days of negotiations in Bogota with a U.S. delegation.

That team was headed by the acting director of the U.S. Office of Aviation Negotiations, Wendell Albright.

The new agreement updates the bilateral treaty that has governed aviation operations between the two countries since 1954, Colombian civil aviation authorities said in a statement.

A transition period will be in effect before the “open skies” system goes into force in 2013, during which time each country will be allowed to add another 21 weekly frequencies on currently operated routes and create new itineraries without restriction.

Between 2012 and 2013, both countries will be able to add another 21 frequencies on operated routes.

A total of 200 weekly flights are currently operated between Colombia and the United States.

Source: http://www.laht.com/article.asp?ArticleId=377167&CategoryId=12393

Media Clips board_book_8th_ed

ICANN Media Clips

Date Range:

16 October – 23 November 2010

ICANN set to open top-level domain floodgates

By Casey Johnston | Nov. 03, 2010

After decades of operating with no more than 21 generic top-level domains, the Internet Corporation for Assigned Names and Numbers (ICANN) is preparing to start registering up to a thousand top-level domains in a year, according to PCWorld. ICANN plans to post a new TLD application guidebook for hopefuls looking to join the ranks of .org, .net and .jobs as soon as November 9.

ICANN has spoken of adding TLDs to the Internet's repertoire since 1998, and has pushed a few through since then, including .info, .biz and .jobs. While a handful of the new ones have met success, resulting in over a million domain registrations, none have been able to match the runaway .com, which is associated with over half of the 196.3 million registered domain names.

Many entities have professed their desire to apply for TLDs of their very own, including .nyc, .berlin, and .unicef. Even registry operators for large TLDs like .org have expressed an interest in diversifying with variations of the ones they already own.

The ownership scale may go still smaller, to the company level. Canon has announced plans to get its own extension, and IBM may be contemplating its very own .ibm. But that is about where the plausibility of TLD ownership ends— just filing an application for a new TLD will run $185,000, which rules out those of us running websites from our home offices.

Of course, ICANN's dream of offering TLDs to every company has been some years in the making, and each time previous iterations of the guide have surfaced, they've left gaping policy questions unanswered. For instance, there were no rules regarding who could register which kinds of domains, such as whether a company could get a .paris address if the Parisian government owned the extension.

This issue seems to have fallen by the wayside, as there are multiple URL shortening services that use Libya's extension (bit.ly, 3.ly). The downside is those services are

subject to the whims of Libya, as when the government removed vb.ly for associations with pornography.

Another problem pointed out in the last version of the guide was the issue of trademarks—for example, if Apple registered .apple, should someone else be allowed to register .aapl? Or once .apple is registered, should a hold be placed on all similar TLDs? ICANN has stated that it was addressing trademark concerns, among other things, in the imminent version of the guide, so it may have established a clear-cut way to manage this issue.

ICANN plans to release its guidebook for more public comments on Nov. 9, and to approve it at its next board meeting in Colombia in the first half of December. If all goes smoothly, they will begin accepting applications in May 2011 for new TLDs that would start functioning sometime in 2012. ICANN has said they will draw the line at 1,000 new TLDs per year.

BBC Mobile
NEWS TECHNOLOGY

Nov. 09, 2010

Colombian domain challenges .com

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The .co web address was assigned to Colombia by net regulator Icann but is now being run by a private firm.

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It comes ahead of a big shake-up in the way web addresses are assigned.

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The university recognised the potential of the name but the commercial roll-out never got off the ground.

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A quarter of the revenue the registry makes from .co will go to the Colombian government.

Mr Calle is hoping the name can compete with the dominance of .com.

"We are going for a global audience and in three to five years we hope to have three to five million registrations.

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Next year the body is due to open up the system so that companies and individuals can register any name they want.

Mr Calle does not think it will impact the success of .co.

"You need technology resources to manage a domain name. Running a domain registry costs millions," he said.

The deregulation of web addresses will show that net names can go beyond the established names, he thinks.

"It will help educate consumers that you can type .co into a browser and get a valid website," he said.

THE GLOBE AND MAIL

Do we really want Iran or China in charge of the Net?

By Byron Holland | Nov. 12, 2010

Byron Holland is the President and CEO of the Canadian Internet Registration Authority.

The term Internet governance is a bit of a misnomer. In its brief history, governance of the Internet has been minimal, and led by a loose knit group of non-governmental organizations, governments and the private sector – namely, the people and the organizations that have a vested interest in ensuring the Internet is successful.

At the centre of the Internet governance world is the Internet Corporation for Assigned Names and Numbers, or ICANN, which has been coordinating and governing the Internet since 1999 (in Internet years, that's forever).

It's my opinion, and that of many others, that it is exactly this bottoms-up, light-handed approach to governance that has allowed the Internet to be the incredible economic and democratizing force it has become. "The Internet," in the words of ICANN president Rod Beckstrom, "has the power to transform human experience."

The International Telecommunication Union (ITU), a UN agency, recently wrapped up a three-week long Plenipotentiary Conference, the results of which show that numerous players at the event are intent on removing ICANN from the Internet governance landscape.

In the first week of the PP10, Russia, supported by a group of former Soviet nations, put forward a proposal in Guadalajara that would have seen ICANN's Government Advisory Committee (which Canada currently chairs) replaced by a UN-appointed body. In the second week, discussions focused on fixing what players like Syria, Russia and China see as a broken system (as defined by their own governments' ideologies).

Currently, the balance of power over the Internet resides with the people and organizations that have a vested interest in ensuring its success. Changing this, as proposed by Russia, is ill advised in my view. It would inevitably lead to a power play by governments that do not share our society's commitment to an open economy, free speech, and human rights. Even earlier this month, it became very apparent how

difficult it can be for Canada to be in a position of influence as exemplified by our failed bids for a seat on the UN Security Council and the ITU. On the flipside, Canada is in a position of strength at ICANN, which is appropriate given our long-term commitment to the development of the Internet.

What would the Internet be like if a multi-lateral body, like the UN or ITU, were put in charge? As history shows, it is often not the issues of the day that influence the discussions at these institutions. Rather, organizations like the ITU are hierarchical, top-down bodies that exist in a hyper-political environment. As such, they are susceptible to political intervention, influence and trade-offs.

The fact is the majority of the UN's (and the ITU's) membership do not fall into the democratic, free economy nation category. Many of these regimes have not received a mandate from an electorate that they then implement over time. Decisions are many times made at the whim of autocrats or theocrats. Is that how we want the Internet to be governed?

I do not believe it is in the best interest of the Internet to have Iran, who shut down the Internet within their borders to quell dissent, or China, who pushed Google to censor search results within its borders, in the driver's seat. Nor do I think that nations like United Arab Emirates and Saudi Arabia, who have been bullying RIM to loosen up the security on Blackberry devices so that they can monitor their citizens, should be in charge.

In the end, the ITU plenary grudgingly agreed to some watered down resolutions, one of which officially 'recognizes' that there are other players in the Internet world (an interesting notion, given that the ITU currently has very little to do with the Internet).

In a world where recognizing that you're not the only game in town is seen as a major step forward, I shudder to think how open and inclusive they would be if the ITU were actually in charge.

I think that the current multi-stakeholder, bottom-up approach to governing the Internet – an approach that gives the technicians and operators as much power as the policy-makers – is not a broken one. It has, in fact, been the driver of innovation and creativity that has made the Internet such a force for progress.

Let's make sure it remains that way. The Internet survived this round of attacks, but there is plenty of reason to believe a second attack might be more damaging.

Russia's Cyrillic IDN ccTLD Blasts Off, Through the 500K Mark in Under a Week

By Jon Lawrence| Nov. 17, 2010

Since last Thursday's launch of Russia's Cyrillic script IDN ccTLD, registration volumes have smashed all expectations, much like a Soyuz rocket blasting off into space from the Baikonur Cosmodrome.

At the time of writing (14:00 17/11/2010 UTC), .рф, which is Cyrillic for RF (short for Российская Федерация - Russian Federation) has just exceeded 500,000 registrations, having passed the 100,000 mark in the first three hours. It is already among the top 30 ccTLDs worldwide and heading towards the top 20 at high speed. Andrei Kolesnikov, Director of ccTLD.ru, the organisation that manages both .рф and Russia's ASCII script .ru ccTLD, said last week that he expected there would be 'as many as 100,000' domains registered in .рф by the end of 2010. Clearly, he was somewhat conservative with this projection! Less than two months after .ru joined the 3 million club, it is far from idle speculation to now start thinking about when .рф will overtake its older sibling.

It is also worth considering that the other recent TLD launch that has attracted significant registration volumes—the launch of second-level registrations under Colombia's .co—took two months to hit the half million mark. .рф managed that feat in only six days.

Registrations in .рф are restricted to Russian citizens and Russian-registered businesses and are priced at the same level as for .ru. RU Center—the largest Registrar in Russia—are selling both .ru and .рф for 600 Rubles, a shade under US$20.00 at current exchange rates. There are a total of 26 registrars currently accredited for .рф. The .рф string was selected in preference to a direct transliteration of 'RU' which would be 'PY' in Cyrillic, due to potential visual conflict with Paraguay's existing .py ASCII script ccTLD.

According to ccTLD.ru, the most popular letters in the addresses registered in the first hour were ы and я—Cyrillic characters with no equivalent in the Roman script. Clearly, the demand for domain names including these characters has been building since the internet became an everyday phenomenon in Russia.

Even if we assume that a large proportion of registrations are speculative at this early stage, the launch of .рф cannot be regarded as anything but a huge success. This success proves that there is real community demand for native script Top-Level

Domains, and bodes well for the prospects of other IDN Top-Level Domains, in both the ccTLD and gTLD contexts. It can also been seen as a vindication of the ICANN Board's decision to proceed with the IDN ccTLD program on a 'Fast Track', ahead of the finalisation of the new gTLD program, due to a perception of strong demand, particularly from the Russian and Chinese language communities. The reality of that demand has now been conclusively established.

As Milton Mueller pointed out back in 2007, the Fast Track program has created an opportunity for IDN ccTLDs to establish themselves in the market before the introduction of a wave of new gTLDs, which will likely include dozens, if not hundreds of IDN gTLDs covering dozens of scripts.

We look forward with eager anticipation to the launch of other IDN ccTLDs, including Qatar's رطق. which was recently approved for delegation by the ICANN Board. To date, ICANN have approved 34 IDN ccTLD strings, from 21 countries and covering 13 different scripts. 15 of these 34 strings have been delegated into the root. See ICANN's String Evaluation Completion page for the full list.

AusRegistry International is the Domain Name Registry Software and Services provider for the United Arab Emirates' .ae and □□ □□ □□. (.emarat) ccTLDs and for Qatar's .qa and □□□. (.qatar) ccTLDs.

By Jon Lawrence, Business Development Consultant, AusRegistry International

WIRED.CO.UK

By Mark Brown | Nov. 18, 2010

Russia’s new Cyrillic domain names surging

Almost half a million Russian websites now use the Cyrillic domain name .рф, despite it only having been opened up for registration a week ago, on 11 November.

It's the latest internationalised, country-code, top level domain name, and is already surging in popularity and climbing the rankings of most used domains. In December 2006, the ICANN board, which manages IP numbers and domain names, approved the use of non-English symbols in top level domain names, allowing for full website addresses to be written in foreign languages. The idea is to make the web more accessible around the globe.

It took almost four years until they were actually used, with the first foreign domains introduced in May 2010. Egypt, Saudi Arabia and the United Arab Emirates were the first, all receiving Arabic domain names like مصر (Egypt) and امارات (UAE). Russia's .рф was introduced soon

after, but kept exclusive to a few, specific websites, like the president's official site, and the Russian government's page.

On 11 November 2010, the .рф domain became open to the public, and was met with a tidal wave of registrations as website owners clamoured to score their Cyrillic domain. Just an hour after launch, nearly 80,000 registrations had been made. A week later, and almost half a million addresses have been taken.

The Coordination Centre for Russia's top level domain names (namely, the classic .ru and the new .рф) says 495,485 domains in total have been taken on the new namespace, with 24,600 registrations being made each day. For the moment, however, it remains a drop in the ocean compared to the three million .ru websites.

Unfortunately, we wouldn't be able to register Wired.рф: you need to be a citizen or registered business in Russia to get one. It wouldn't be too expensive though -- RU Center is offering виред.рф (which Google translate assures me is "Wired" in Cyrillic) for just 600 roubles a year: about £12.

The Frontline
Insights into the world of IT from the V3.co.uk newsdesk
V3.co.uk

Nov. 18, 2010

Icann finalises Applicant Guidebook for gTLDs

Internet oversight body Icann has announced the proposed final version of the new generic Top Level Domain (gTLD) Applicant Guidebook - the document which will describe the process for applying for the new TLDs.

In a move which has slipped under the radar of most news outlets, Icann appears to be almost near completion of a project first approved over two years ago at the Paris meeting of its stakeholders and one which is set to shake up the entire domain name industry.

There have been four versions of the Applicant Guidebook so far, each of which has undergone a lengthy period of feedback and rewriting. The feedback from the final proposed version will be considered at the 10 December Icann board meeting in Cartagena and the timing of the launch date.

"Upon approval of the final version of the Guidebook, a four-month global communications campaign will be undertaken," noted a statement on the Icann site.

"The aim of this campaign is to ensure potential participants in all regions of the world are aware of program details and how to apply."

Major changes to the applications process are few in this particular revision, indicating that the end of the process is nigh.

On the whole they appear to be common sense additions, such as the screening of applicants and their businesses to ensure those with criminal histories or who have been involved in cybersquatting, for example, aren't given the green light.

Likewise, registrars will be given the ability to own their own TLDs, while a limit of 1000 new TLDs per year will be added to the root under the new proposals.

All we can do is wait now, but the signs are that new gTLDs will begin rolling out next year.

Brave new world

How the trademark community is preparing for new gTLDs

This autumn, *WTR* conducted an in-depth survey to find out how industry is preparing for the launch of new gTLDs. The data reveals how outside counsel are devising new business models, what marketing professionals really think and how brand owners are bracing for their greatest trademark challenge yet

Feature
By **Adam Smith**

Click. The moment you take a photograph, it is uploaded to your own online album. The image is not only saved, but also shared. Friends and family can see what you're seeing – the foliage of a New England autumn, your daughter's birthday smile or a holiday feast. This is because you own a Canon camera and have activated your 'www.personalname.canon' domain name, which instantaneously connects your camera to the Internet. Canon controls its own zone on the Net, and you're a part of it.

This scenario is based on one rumoured application of Canon's proposed generic top-level domain (gTLD). The new gTLD policy may still be without form, but amid the chaos Canon has espied a unique opportunity. "We would like to see the programme kick off in a good direction to enable positive results for business and communication on the Internet," the Japanese firm said in a statement sent to *WTR*.

Canon added that it has only just started discussing how it might use its proposed gTLD, but its stated intention to run a branded registry stands as the only one made public so far. In August, a Nokia representative let slip at a gTLD policy meeting that the Finnish telecoms giant was pondering whether to apply. Nokia agreed to talk to *WTR* about this, but then pulled out, reflecting the decision of industry as a whole to stay very quiet on the subject of new gTLDs.

This makes it almost impossible for trademark counsel to strategise and share knowledge as they face the greatest challenge to trademarks since the dawn of the domain name industry. It is why *WTR* conducted our groundbreaking New gTLD Strategy Survey, open to trademark counsel both in-house and in private practice, marketing professionals, web directors and new gTLD applicants themselves. The exclusive results paint a vivid, three-dimensional picture of how industry is preparing – or not – for new gTLDs. For more information about how the survey was conducted, see the methodology box (page 27).

Going with the trend

Whether or not companies like the prospect of an expanded domain space, and whether or not they will publicly state their intentions, many are now moving towards their own new gTLD registry: 46% of in-house counsel said 'Yes', 'It's likely' or 'Maybe' when asked whether their companies will apply. Included in this positive response are representatives of technology powerhouses and automotive multinationals. One respondent from a Fortune 500 company said that a '.brand' gTLD provides the chance "to set or go with the trend, and will make us easier to find on the Web".

One international publishing company expects most of its content to be delivered online in the next decade. "We need to provide a safe and reliable web space that will give our customers the trust and confidence to trade with us," said its representative. "Our own gTLD would help this. We have website anarchy at the moment, with hundreds of sites for different businesses and products. With our own registry, we could control our web estate."

Taking control

Most trademark counsel are fearful of an entirely different type of anarchy: brand abuse exacerbated by an infinite range of new TLDs. However, Stephen Fridakis, chief of IT programmes and quality assurance at Unicef, thinks "quite the contrary". Outlining Unicef's high hopes of its proposed '.unicef' TLD, Fridakis explains: "There are advantages ranging from brand protection to message validation (email). The costs and migration are significant, but any long-term, comprehensive brand protection strategy should incorporate the acquisition of a gTLD."

Other non-legal staff agree. When *WTR* asked marketing professionals to select which possible application of new gTLDs would be of greatest interest to their company or client, the highest proportion (69%) said "an individual '.brand' strategy" (see Figure 1).

Figure 1. **Marketing professionals: What applications of running your own gTLD registry could be of interest to your company/client? (tick all that apply)**

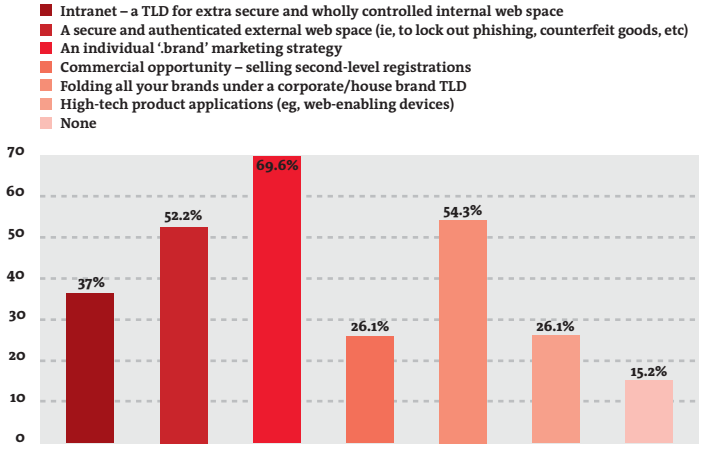
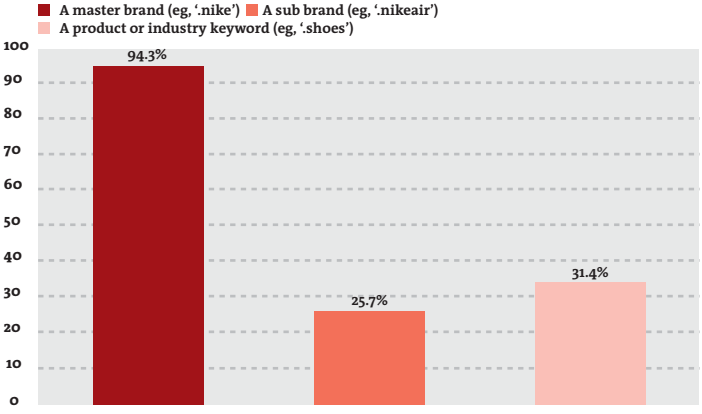


Figure 2. **In-house counsel who answered positively to whether they will apply: What kind of gTLD registry?**



And this is confirmed by attorneys. Of those in-house counsel who said that their company will definitely or probably apply, over 94% said that it will be for a '.brand' (see Figure 2).

So a '.brand' is a popular idea and will allow companies to build their own internet empires. They will no longer need to comply with rules set by another registry, such as VeriSign (which controls the '.com' and '.net' spaces). If a '.brand' owner wishes, it can fold its entire internet function under the brand – an application that resonates with companies threatened by fake websites. A Nike fan, for example, could learn not to trust any websites not included in the '.nike' space, as shoes sold elsewhere could be counterfeit.

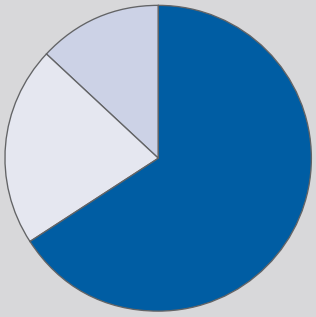
However they use their vanity gTLD, the shrewdest brand owners will step into the new space early on to demonstrate their uniqueness. Most observers expect Canon to use its gTLD as a market differentiator, adding value amid fierce competition. Canon is mulling over all its options. "It is necessary to conduct usability research in order to introduce new services that a typical user would be able to make use of," the company said. "A major factor for

WTR New gTLD Strategy Survey 2010: methodology

From mid-August to September 28 2010, *WTR* ran an online survey to uncover how industry is preparing for new gTLDs. In order to obtain a full picture, the survey instructed respondents to self-identify as in-house trademark counsel, trademark counsel in private practice or marketing professionals (eg, web directors, communications managers), and then asked a tailored set of questions.

Each set contained between 11 and 19 questions, depending on the respondent group and the respondents' answers, since some questions were dependent on previous answers. Respondents came from a wide range of industries internationally. The survey was designed to uncover awareness levels among these different groups and to reveal how they are approaching the issue of new gTLDs. It was promoted to *WTR*'s primary contact base of trademark counsel by email and through the International Trademark Association, MARQUES, the European Communities Trademark Association and European brands association AIM. It was also promoted on IP blogs such as IPKat and the Canadian Trademark Blog, through domain name service providers such as Com Laude, CSC, CT Corsearch, Melbourne IT and NetNames, and via the following associations of marketing professionals: the Bowen Craggs web network, the European Marketing Confederation, the Search Engine Marketing Professionals Organisation and the CMO Council. *WTR* would like to thank each individual and organisation that participated in or promoted the survey. In addition to the online survey, *WTR* sent a questionnaire to every new gTLD applicant with a public email address.

Encouraging marketing professionals to participate in the survey proved a challenge. "One can gather from the title of the publication that it is trademark focused," wrote new gTLD commentator Jothan Frakes on the Domain Name Wire blog, "so the odds are high that folks in marketing aren't strongly in the circulation pool." Since marketing professionals are not in *WTR*'s contact base, *WTR* invested significant time and energy in attracting their views through the associations above and others. The breakdown of the three respondent types is below.



Respondents	
Private practitioners	228 (66%)
In-house counsel	74 (21%)
Marketing professionals	46 (13%)
Total	348

"I know the periodical," Frakes added. "It is a good publication, but I have deep doubt that it is going to reflect positively on new TLDs." In fact, with the New gTLD Strategy Survey, *WTR* wishes not to take a position on the merits of new gTLDs, and during the post-survey interview process did not ask questions to that effect; instead, this research is designed to help brand owners and their agents to develop best practice in strategising for an expanded domain name space.

Figure 3. **Marketing professionals: Do you expect consumers to welcome and use new gTLDs?**

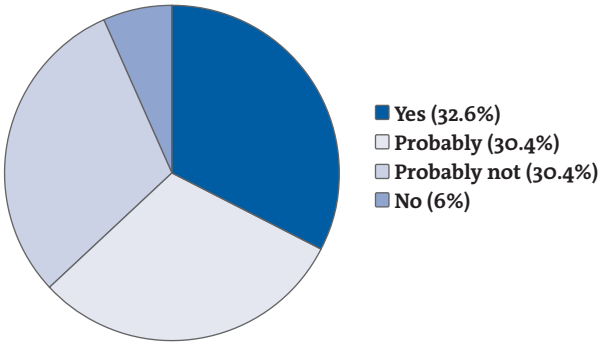
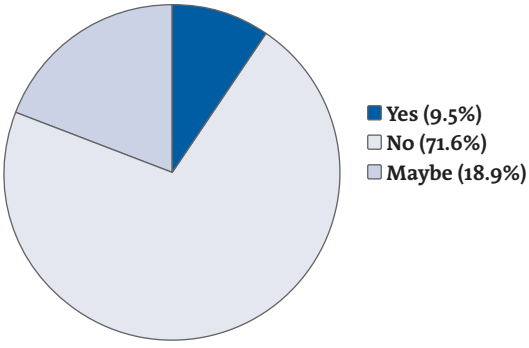


Figure 4. **In-house counsel: Do you believe that the trademark protection mechanisms as drafted in the applicant guidebook are strong enough to prevent trademark infringement under new gTLDs and offer sufficient remedies?**



consideration would be whether it strengthens the brand and whether it would be appropriate for the company and brand."

It is brave of Canon to announce its intentions without a concrete plan to back them up. Other companies are remaining tight-lipped, although most observers suspect that large multinationals are even now working out how consumers might use branded gTLDs. Russell Pangborn, Microsoft's head of trademarks, confirms that plenty of conversations are happening at Redmond. "You don't have to migrate your entire internet presence to it, but you can come in with a new business model," he says, perhaps revealing something of Microsoft's thinking. No doubt the world's largest technology company has some novel ideas in play, but the most pressing question to be answered first is that of demand.

"I hear a lot of people from the Internet Corporation for Assigned Names and Numbers (ICANN) and domain name registries talking about how the public supports this," comments Owen Smigelski, senior counsel at Sunrider International, who wrote to ICANN to query chief executive Rod Beckstrom's claims of public demand. Smigelski argues that these assertions lack evidence. He quotes a survey conducted by so-called ethical domain registrar Gandi, which found that 60% of consumers think that new gTLDs will change the Internet for the worse. "I am not against gTLDs, but my concern is ICANN falsely stating that the public supports, desires or wants new gTLDs," Smigelski adds.

WTR did not survey consumers for this study, but we did take in the perspective of the marketing profession, which prides itself on keeping close to consumer desires. And the question of demand was answered ambivalently (see Figure 3).

Watching the watchers

Brand owners will view such indifference with unease – but this brave new world poses an even greater problem for them: cybersquatting. Since the inception of the new gTLD programme, trademark counsel have argued that expanding the domain name space will lead to an explosion in abuse. Their logic is simple: more TLDs means more registrations, means exponential problems.

Danish toymaker Lego believes that it is one of the world's unluckiest companies when it comes to domain name abuse. "In an average month we see around 200 new domain names registered by third parties containing the LEGO trademark," reveals Mette Andersen, corporate counsel for Lego Group. Andersen participates in

Opinion: Don't it always seem to go that you don't know what you've got 'til its gone...

Fifteen years ago, Network Solutions was running the '.com', '.net' and '.org' registries, selling domains directly to anyone, anywhere, no questions asked, $100 each. Following an antitrust lawsuit, the price of a '.com' dropped to $35 and the business of domain speculation sparked into life.

By the end of 1999, when the newly formed ICANN broke the Network Solutions monopoly in favour of competing registries and registrars, 100,000 '.com's per week were filed. A wholesale price under $7 is no barrier to entry to the ambitious cybersquatter. WIPO devised the UDRP, ccTLDs introduced dispute resolution services and the foundations were laid for what most corporations today regard as best practice in domain management.

Now all that we know is at risk. What works across 253 ccTLDs and the 10 main gTLDs does not scale across the 500 new gTLDs that ICANN expects. The tools at our disposal are inadequate – the UDRP is too slow, reporting Whois inaccuracy is futile as registrars profit by masking the bad actors and defensive registration will not be affordable.

No wonder that 71% of in-house counsel think the measures to protect trademarks under the new gTLDs are insufficient. No surprise that 58% expect to need an increase in budget.

It is a pity that the IP community did not mobilise itself earlier. My unscientific count figures that four times the number of trademark professionals responded to *WTR*'s survey than submitted comments to ICANN following the Implementation Recommendation Team (IRT) report that advocated a tapestry of rights protection mechanisms. There were more comments against the proposed Globally Protected Marks List than in favour of it, though 38% of in-house counsel whose companies will not apply said that such a whitelist could help to change their mind.

Sixty five percent of brand owners would be more likely to apply if there were stronger rights protection mechanisms. This is surprising. Moving up in the browser from '.com' to '.brand' is not about protection. It is about secure communication from a trusted address, the delivery of innovative services, search engine optimisation and the sound management of critical internet infrastructure. The decision of whether to apply is being taken by brand and marketing experts who care very much about impact and market share, and not at all about "improvements in ICANN procedure including contract compliance" (prioritised by 42% of in-house counsel).

When the next applicant guidebook is published, probably in November, do not delegate

the responsibility to fight for enhanced protection to your professional association. It's a final chance to send in your own comments.

Nick Wood, managing director of ICANN-accredited registrar Com Laude and member of the IRT, has formed Valideus to provide consulting services to brands seeking to navigate the new gTLD process (a service prioritised by 47% of in-house counsel)

gTLD policy development as a resolute opponent – unsurprisingly, given her frontline position in the war against cybersquatters.

Despite Andersen's involvement in drafting the rights protection mechanisms for new gTLDs, she is not confident that rights will be secure. Her scepticism of these mechanisms, which have been subject to several iterations throughout the ICANN consultation process, is echoed by peers from other companies (see Figure 4).

It is natural that Lego feels this way: the company has won hundreds of decisions under the Uniform Domain Name Dispute Resolution Policy (UDRP), but has experienced no positive effect. "We win, but we don't see a decrease in cybersquatting," Andersen laments. "Other companies don't seem to see the same number of domain name issues as we do. That might be a reason why we're more worried than others about new gTLDs."

US brand owners can at least rely on the Anti-cybersquatting Consumer Protection Act (ACPA). Under this legislation, victims of domain name abuse have recovered millions of dollars from cybersquatters. US telecommunications giant Verizon has deployed a successful strategy against cybersquatting using ACPA, winning a $33.2 million judgment against domain registrar OnlineNIC and a $23.8 million judgment in a dispute with Lead Networks. In the latter case, the defendant was served with the lawsuit at a hotel during a domain name conference.

This unconventional tactic illustrates what less progressive brand owners have feared for some time: the Internet demands new methods of brand protection. New gTLDs in particular will require innovative thinking: the UDRP will not be enough. "The UDRP doesn't have a deterrent effect," claims Sarah Deutsch, vice president and associate general counsel at Verizon. "The loser doesn't have to pay a penny. The UDRP offers nothing compared to the statutory damages available through ACPA."

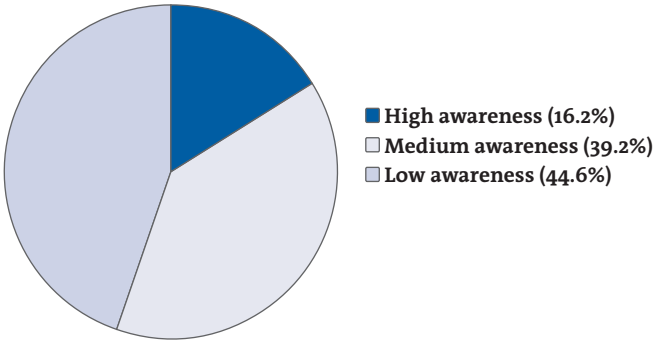
Actions taken under the US law have also given Verizon the chance – not to mention the funds – to bolster its robust anti-cybersquatting strategy. For example, Deutsch's team has learnt to measure success: the trademark group partners with Verizon's marketing department to count traffic to domain names that Verizon has seized back from cybersquatters. "We've made 120,000 confirmed sales just through domains that we reclaimed, activated and directed back to Verizon's websites," Deutsch reports. "There are now 22 million new people coming to our websites who otherwise would have navigated to other sites."

This astute approach arms Verizon with the intelligence it needs to take a decent shot at brand protection under the new gTLD regime. Conferring with other in-house attorneys, marketing, external trademark counsel and consultants gives Deutsch an insight into the infringer's mind. "You have to think like a cybersquatter and measure how many eyeballs will come to a particular website," she explains.

Time for tactics

Deutsch's example also proves that to combat cybersquatting, in-house counsel may need to work more closely than ever before with external advisers. But according to anecdotal evidence and *WTR*'s survey, most private practitioners are still out of the loop. Pangborn reports:

Figure 5. **In-house counsel: Within your organisation, what is the level of awareness of the new gTLD programme?**



Opinion: The lines are blurring

Lawyers continue to struggle with how to turn their involvement with ICANN into "billable moments". Trademark owners are inundated with information and free webinars trying to keep them updated on the new gTLD process. In fact, 54% respondents to *WTR*'s survey indicated that one of the three main sources of information regarding the new gTLD programme comes from trademark owner associations and registrars, neither of which charge for providing such information. Most clients are therefore not keen to pay external counsel for information that is otherwise available to them at no cost. While the survey shows that external counsel are a key source of such information, I suspect that most provide such information for free in the hope that clients will turn to them if they decide to proceed with an application for a new gTLD, if they wish to file an objection to any applied-for gTLD or if they have trademark issues post-launch. In fact, *WTR*'s survey shows that where advice has been supplied, it has been primarily at the instigation of external counsel and not the client (of those external counsel who had supplied information to a client, 36% – the greatest proportion – had done so at their own instigation).

So, how can external counsel provide added value for which a client is willing to pay? Clearly, lawyers will benefit from the additional rights protection mechanisms that ICANN plans to put into place, just as they did when the Uniform Domain Name Dispute Resolution Policy was rolled out (over half of external counsel believe that the proposed Uniform Rapid Suspension system will be a good business opportunity). They will likewise benefit from the objection process, to the extent that a trademark owner seeks to try to prevent a third party from operating a particular gTLD. However, operating a new gTLD encompasses so much more than these legal issues. It requires technical and financial skills that are typically outside the scope of expertise of external IP counsel. Brand protection companies such as Com Laude and MarkMonitor, which also act as registrars, are often much better equipped to handle these other facets of the application and post-launch processes (including the legal issues). They provide a one-stop shop to brand owners; external counsel simply cannot compete.

In fact, we are already seeing the lines blur as the scope of services provided by brand protection companies expands beyond traditional domain name management. However, the *WTR* survey indicates that almost 72% of in-house counsel do not believe that the trademark protection mechanisms as drafted in the applicant guidebook are strong enough to prevent trademark infringement under the new gTLDs and offer sufficient remedies. Thus, more work needs

to be done in this area – a fact that the ICANN board recognised at its September retreat in Norway.

We will see more and more external counsel focus on lobbying to try to help clients push through policies that provide for enhanced trademark protection.

__Caroline Chicoine__, of counsel in the IP practice at Fredrikson & Byron, chaired the Implementation Recommendation Team, the group charged by ICANN to develop rights protection mechanisms for new gTLDs

"Coming away from recent International Trademark Association meetings, it was my impression that many lawyers feel they are behind the eight-ball in counselling their clients on this topic."

Most attorneys have pushed the matter aside: for many, until the policy is finalised, there are more pressing matters at hand. One lawyer who has stayed in touch with developments is Jim Bikoff, chairman of the IP and internet practice group at Silverberg Goldman & Bikoff. He notes that "very few people have any idea what's going on", adding: "There's a total lack of awareness among the legal profession."

Critics of ICANN argue that it is doing too little to promote the programme. Nevertheless, the information is there for those who are keen to learn and develop an understanding ahead of competitors. Most trademark owner associations have campaigned tirelessly on this issue and it has been reported in depth for years in the specialist IP press, including *WTR*. Indeed, one-third of in-house counsel tap the specialist IP press as one of their three primary sources of information about new gTLDs; for private practitioners, the figure is 53%.

Those external attorneys with their ears to the ground are using the intelligence they gather to craft business models around new gTLDs. Bart Lieben, counsel at Crowell & Moring, has participated in the policy development process for several years. In September he launched the Clearinghouse for Intellectual Property (CHIP), a bold entry into the expected market for trademark validation across multiple new registries.

But if Lieben hopes that companies will understand the forthcoming protection challenge and come on board with CHIP, he has his work cut out for him (see Figure 5).

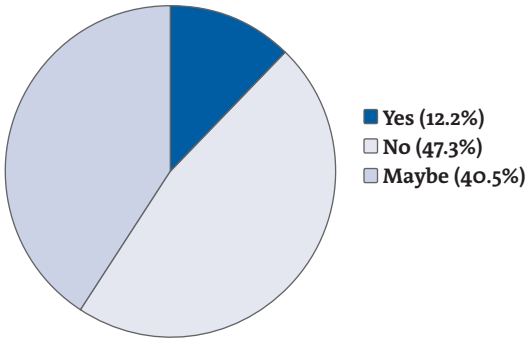
Private practice was even more pessimistic: 73% described clients' awareness of new gTLDs as 'low'. This disconnect means that external counsel's first task is to educate clients about new gTLDs and facilitate the launch of internal training programmes, if necessary. But when *WTR* asked attorneys to estimate the percentage of clients that they had spoken to about new gTLDs, the average was a very low 24%. Some said 95% or 100%, but most said zero or 20%.

External counsel not only can offer information about new gTLDs; there will soon come a day when they will need to provide expertise in connection with the rights protection mechanisms. The UDRP will no longer stand alone: new gTLDs will open the gates to a riskier landscape for trademark protection in the domain name space, from mandatory validation and clearinghouses to the controversial Uniform Rapid Suspension (URS) system. In-house counsel are far from certain that the URS will do what it says on the tin (see Figure 6).

This uncertainty is ripe for exploitation by external practitioners; most see the URS as a fruitful revenue stream (see Figure 7).

But at least one expert fears that lawyers' eagerness to help clients to file URS complaints could undermine the efficacy of the entire domain name dispute resolution ecosystem. David Taylor, partner at Hogan Lovells and head of its domain name practice, admits to having thought "in depth" about how he should approach new rights protection mechanisms on behalf of clients. He hopes that lawyers will recognise the differences between the URS and the UDRP. "We designed the URS in contrast to the UDRP – that is, without a

Figure 6. **In-house counsel: Will the URS provide a cost-effective, expedited process in clear-cut instances of trademark abuse?**



Opinion: Many brand owners' fears will not come to pass

The fact that 72% of in-house trademark attorneys surveyed believe that the new rights protection mechanisms required to be implemented with the introduction of new gTLDs will not be strong enough to prevent infringement comes as no surprise to those of us who are involved in this space. Had this question been asked prior to the launch of the new gTLD process in 2000, it would have yielded similar results. As an in-house trademark attorney, I know the extent to which corporate budgets to pursue cybersquatting, infringement and other IP matters are strained in this economy. The threat of potentially hundreds of new TLDs to monitor and engage with in enforcement actions without the budget to do so presents challenges that in-house counsel do not wish to contemplate.

I am sympathetic to the challenges that may await trademark owners and their attorneys when new gTLDs begin to launch. But I believe that many of their fears will not come to pass. While there will be a number of new gTLDs, the majority will occupy niche spaces, including community, linguistic, cultural, geographic and brand TLDs. Registries for these niche TLDs are likely to deploy greater rights protection mechanisms than the minimum required by ICANN, either because of the very nature of these TLDs or because of the desire to distance themselves from abusive behaviours occurring in certain gTLDs and country-code TLDs (whether real or perceived). Neustar not only has seen this first hand, but is encouraging each new gTLD applicant for which it intends to provide back-end registry services to adopt increased protection mechanisms.

Contrary to the belief of many trademark attorneys, the success of domain name registries does not depend on defensive registrations, cybersquatters or domainers. Domain name registries are more sophisticated today than ever. They know that a new gTLD must establish its own brand in order to succeed. The only way to do so is to make sure that domain name registrants in the TLD use the space and feel that their domain name is secure. Registries are reaching out to brands and trademark owners to establish a presence in their TLDs. Examples of recent successes include Twitter using '.co' for its link shortener and Overstock moving its B2B portal to 'Overstock.biz'. Simply put, gTLD usage is the real key to success.

As the sole registry participant in both ICANN's Implementation Recommendation Team (IRT) and Special Trademark Issues group, even without the added measures that new gTLDs will likely adopt voluntarily, I believe that the current slate of new rights protection mechanisms proposed in the Applicant Guidebook (as supplemented by the ICANN board at its September retreat) is a marked improvement over what we have seen in previous rounds. Greater protections than ever before are now provided

I understand that no rights protection mechanism short of

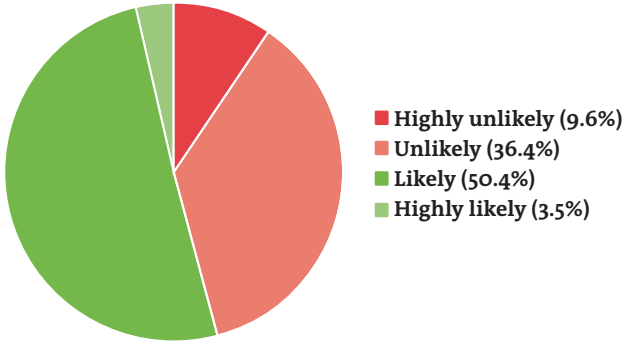
giving all trademark owners free domain names that are identical to, or what they believe are confusingly similar to, their trademarks will ever be good enough for certain well-known trademark owners and organisations. But the time has come to move on and test out the proposed rights protection mechanisms in new gTLDs.

Jeff Neuman *is vice president, law and policy at Neustar and a participant in various existing and former ICANN groups, including the IRT*

transfer," says Taylor, who helped to write the protocol. "Brand owners don't want to manage and renew the 1,000 domain names they recover from one cybersquatter. So the URS was proposed to kill them all in one swoop – to knock them out of the system."

Taylor adds that since the URS is cheaper and could be swifter than the UDRP, it may be abused by over-aggressive brand owners that have not received thorough advice. This note on strategic guidance provided by external lawyers is picked up by Bikoff. "Purely from a business point of view, yes, there will be increased work from UDRP and URS filings," he says. "But primarily, we think that clients will need firms to help work out strategies as to what and when to register, enforcement and how to budget for these things."

Figure 7. **External counsel: Will the URS be a good business opportunity for your practice?**



Andersen reports that no Danish firm has approached her with advice on this topic. "It seems that the private practitioners have been unaware of this issue until recently, so they're not at the same level as the rest of us," she told *WTR*. She adds that she does not expect external counsel to be able to supply much more than services linked to the rights protection mechanisms. "I don't think they can offer strategic advice," she says.

Taylor would disagree: his business model relies on helping clients to establish a successful and effective domain name practice. "Today, 85% of my business is linked to online brand protection and domain names," he says. Knowing, therefore, that he must stay ahead of the game, Taylor has other tricks up his sleeve. As revealed by *WTR* Daily, in October Hogan Lovells became the first law firm to gain ICANN accreditation as a domain name registrar. The firm will be able to cut out the middleman in helping brands to protect their valued terms in the domain name space.

Even before this groundbreaking leap, Taylor's specialist group

New gTLD myths debunked

Myth: Brand owners will need registrations in each new TLD.
Truth: A pharmaceutical company is unlikely to need to register its house brand name or product name under a '.shoes' TLD. This perspective is based on the public coming to trust a '.shoes' TLD as a space for shoe sellers only. New gTLDs will rely on the education and marketing campaigns of brands.

Myth: The public demands new gTLDs.
Truth: Despite ICANN's repeated insistence, this has not been proven.

Myth: A new gTLD is just another domain name.
Truth: A new gTLD is a string of characters similar to '.com' or '.net' and will be run as a registry, with domain names that come just before the final dot sold to registrants.

Myth: This issue is about one proposed registry for the word '.brand'.
Truth: '.Brand' is merely a useful term to refer to one application of infinite new gTLDs, which will likely include many branded registries such as '.canon' and '.unicef' (already announced). Any brand owner has the chance to apply to run its own registry.

Myth: It will cost $185,000 to run my own gTLD registry.
Truth: The fee to apply is $185,000, with a part refund in the case of an unsuccessful application. Applicants will incur other fees, such as those of registry providers, consultants and internal costs. Observers expect that new registries may cost up to $500,000, plus renewal costs.

Myth: Thanks to search engines, domain names don't matter any more.
Truth: Search engine optimisation depends on the relevance, quality and popularity of a domain name. While domains may become less important as more and more people access the Internet through new devices and apps, the key words that they contain will remain relevant.

Figure 8. **In-house counsel: Whether or not your company is applying to run a new gTLD registry, which internal groups are involved in deciding your strategy for the launch of the new gTLD programme? (tick all that apply)**

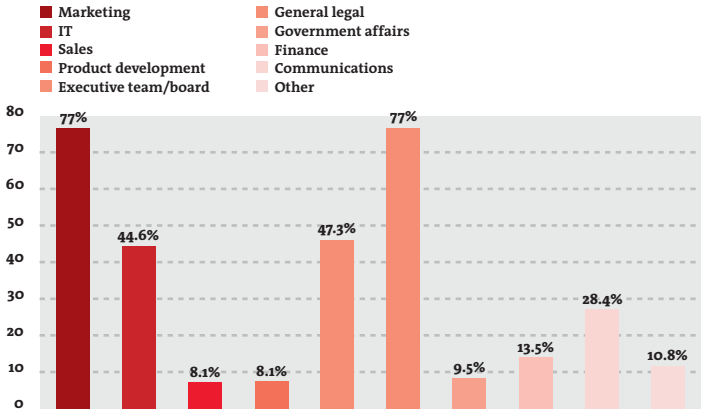
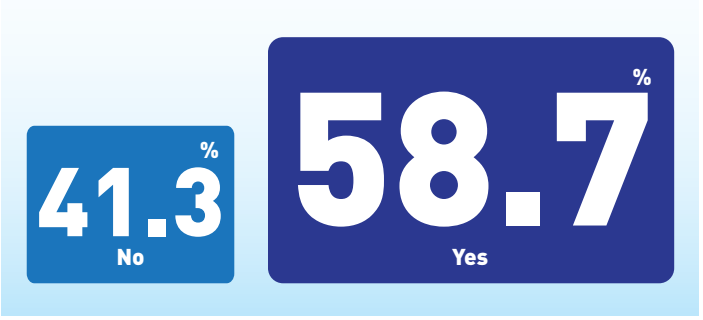


Figure 9. **Marketing professionals: Have you discussed the new gTLD programme with legal counsel (including trademark counsel), either in-house or externally?**



(five lawyers, five paralegals) was the only one of its kind in the world. Other firms have avoided setting up specialist practices because, as Taylor says, "Domain names are still considered to be the little brothers of trademarks." Put another way, lawyers cannot make as much money from domain names as they can from trademarks.

But that could soon change. Predicts Taylor: "When new gTLDs come online, there will be a need for more lawyers to specialise in this area." This was recognised early on by Taylor and a handful of other lawyers who became involved in ICANN's policy development process, a move that reinforced their credibility and boosted their profile – not least in *WTR*. No matter how much ICANN is criticised as a captured regulator, it has allowed an elite group of lawyers to rise to the top of what could become a cutthroat marketplace.

Team effort

And with 72% of in-house counsel believing that the rights protection mechanisms proposed during the new gTLD policy development will not be strong enough, it is clear that most will require an innovative and cost-effective strategy. "Some companies have very sophisticated online enforcement strategies that will require some modification," notes Pangborn. "Others will need an entirely new plan."

According to those lawyers who are already advising clients on this matter, even though the gTLD expansion has no set schedule, the time to prepare is now. "You can't wait for the date of introduction," warns Bikoff. "For several clients, we're already working on which brands, if any, should have their own gTLD, and how much it will cost."

As with litigation, clients will expect to be given a reasonable upfront fee projection. But also as with litigation, predicting costs will be very difficult. The expense of applying for and running a new gTLD registry is simply unknown. Companies that have never before run a domain name registry will be required by ICANN to outsource this function to a provider. They will be obliged to sign up to a validation and clearinghouse provider. And they will need to market their new gTLD. These functions will draw on expertise and budgets from across the company.

Even those companies that do not wish to apply will need a brand protection and second-level registration strategy that pools knowledge from disparate teams. When *WTR* asked in-house counsel which teams are involved in deciding strategy, the response showed just how many different people are being consulted (see Figure 8).

Despite being one of the trailblazing organisations to announce its intention to apply, Unicef is not yet developing a multi-level strategy. "Within the technology group we have developed an awareness campaign," says Fridakis, "but the rest of the organisation (business, legal, audit, finance) are not aware of the opportunity."

Proceedings at Canon appear to be further advanced. "Individuals from our IP and web management departments are involved in designing our new gTLD strategy," says the company. "This team has been in charge of activities related to the protection and utilisation of

the Canon brand since before discussions for the gTLD programme began." The company provided no further information. Canon may be talking, but given the unconfirmed nature of the new gTLD programme, it is not yet prepared to say much. Notably, marketing and PR are missing from the list of teams involved. However, *WTR*'s survey found that more often than not, marketing professionals are involved in at least the legal discussions on the issue (see Figure 9).

The most likely reason for not including other groups in the debate is the lack of certainty – the greatest frustration of in-house counsel. Not knowing the timetable for the new gTLD launch makes it very difficult to strategise internally. Trademark lawyers, who largely oppose the plan, do not want to approach colleagues with unconfirmed information and hearsay. "We haven't discussed it with anyone else," reveals Andersen. "Everyone is so uncertain that it's difficult for us to put figures on the approaching problem or sell it to marketing."

Other in-house counsel made the same admission. Just over 28% said that they were waiting to finalise strategy, 35% said that they had begun working on strategy and one-third said that they had not yet begun strategising. A confident 4% boasted that they were fully prepared for various scenarios. But however companies are strategising, very few are consulting with prospective registries. During our research for the survey, *WTR* spoke to Rob Rozicki, the self-styled TLD evangelist behind Adrenaline TLD, an enterprising company that will apply to run five new strings: '.bike', '.board', '.skate', '.ski' and '.surf'. "My advice to brand owners is to talk to new TLD applicants for extensions that relate to their business," said Rozicki. "I can speak for Adrenaline TLD when I say that we love talking to brand owners. So call us."

It is a hopeful statement from a man who notes that trademark owners' involvement in the policy development process has chilled application activity. "Applicants have been busy focusing on spreading the word among markets and internet users because messaging coming from brand owners and those that advise them has been relatively hostile," Rozicki told *WTR*. "Our goal is to create and provide value to internet users while not harming brand owners."

Other prospective registries echo Rozicki's call for discussion, agreeing that they exist to provide better services to internet users. Of course, that position is loaded with commercial optimism, but perhaps now that the policy is nearing its final version, it is time for brand owners to consult new registries.

The million-dollar question

Developing a relationship with new registries should be part of any brand owner's strategy. After all, registries that are aware of brand owners' concerns are more likely to participate in brand owner enforcement programmes. This could even save money in the long run – a factor likely to be very important as the domain name space expands. Of those in-house counsel who are already strategising, 58% said that they will require a greater enforcement budget. Just how much, nobody knows. "That's the million-dollar question," says Deutsch. "We don't know: we just know that it's going to cost a lot more." WTR

Adam Smith, *World Trademark Review*, London