

## **GNSO gTLD Registries Stakeholder Group Statement**

### **Issue: Draft Applicant Guidebook Version 4 – Modules 1-3**

Date: August 10, 2010

Issue Document URL: <http://icann.org/en/topics/new-gtlds/draft-rfp-clean-28may10-en.pdf>

This statement on the issue noted above is submitted on behalf of the gTLD Registries Stakeholder Group (RySG). The statement that follows represents a consensus position of the RySG as further detailed at the end of the document. The RySG statement was arrived at through a combination of RySG email list discussion and RySG meetings (including teleconference meetings).

### **Module 1**

#### **1.1.2.5 Public Comment**

The following paragraph was deleted in DAG3 and reinstated in DAG4: “*A distinction should be made between public comments, which may be relevant to ICANN’s task of determining whether applications meet the established criteria, and formal objections that concern matters outside those evaluation criteria. The formal objection process was created to allow a full and fair consideration of objections based on limited areas outside ICANN’s evaluation of applications on their merits. Public comments associated with formal objections will not be considered by panels during Initial Evaluation; however, they may be subsequently considered by an expert panel during a dispute resolution proceeding (see subsection 1.1.2.7).*”

Comments/questions:

1. ICANN staff consideration of comments may be different than how independent evaluators consider them. There should be guidelines for evaluators to use when assessing comments. How will those be determined? How will quality vs. quantity of comments be measured?
2. Theoretically there could be 500 comment periods open at once, depending on how many applications there are. How will this be managed?
3. The initial comment period is 45 days but is open to extension. At whose discretion and for what additional duration?
4. Comments may be used in Dispute Resolution Procedures (see 1.1.2.7); DRPs should be given guidelines regarding how to assess comments.

#### **1.5.2 Fees Required in Some Cases**

No changes were made to the possible fees for use of the RSEP Process. A 3-person RSEP panel is estimated to cost \$50,000. Costs could be higher for a 5-person panel or for other complexities.

Comments/questions:

1. This cost estimate seems extremely high. What are the individual cost factors that make up this estimate?
2. The RSEP process was implemented several years ago when there was no historical basis that could be used to develop a cost model. There are now some actual RSEP cases that have been processed. The cost model should be re-evaluated and made more cost effective.

## **Module 2**

### **2.2.1.1 String Similarity Review**

No changes were made to this section. The RySG had recommended after DAG2 and DAG3 that “When performing the string confusion review against existing TLDs, an appropriate exception should be allowed in cases where the applicant is applying for an IDN version of its existing gTLD name.” On 15 July the GNSO Council acted on a motion to recommend that extended evaluation be allowed in cases where string similarity may not be detrimental.

Comments: Strings that may be judged to be similar but in a non-detrimental way should not be eliminated in Initial Evaluation, but in case that does happen, the opportunity for correcting the possible error should be provided. The focus should be on a good user experience; it is very possible that two strings could be similar but not create confusion and instead provide for a better user experience.

### **2.2.2.3 Evaluation Methodology**

Some changes were made in the second paragraph as shown in red font: “*The evaluators may request clarification or additional information during the Initial Evaluation period. For each application, clarifying questions will be consolidated and sent to the applicant from each of the panels. The applicant will thus have an opportunity to clarify or supplement the application in those areas where a request is made by the evaluators. These communications will occur via the online application system, rather than by phone, letter, email, or other means. Unless otherwise noted, such communications will include a 3-week deadline for the applicant to respond. Any Supplemental information provided by the applicant will become part of the application.*”

1. Note that the evaluators are under no obligation to ask clarifying questions.
2. In commenting on DAG3, the RySG recommended that evaluators should be obligated to ask clarifying questions where needed and we repeat that recommendation here.

### **2.2.3.1 Definitions**

Comments:

1. No changes were made to the definitions of security and stability. The RySG recommended changes to the definitions in its comments to DAG3. The definitions in DAG4 read the same as in DAG3:

**“Security** – an effect on security by the proposed registry service means (1) the unauthorized disclosure, alteration, insertion or destruction of registry data, or (2) the unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.

**Stability** – an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF, or (2) creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant standards track or best current practice RFCs and relying on registry operator’s delegation information or provisioning services.”

2. These definitions need revision for the following reasons:

A. "Unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards" is too broad. That language potentially takes in a wide variety of small and large security incidents on the Internet, such as unauthorized access or data breaches on third-party networks, malware that has infected individual user systems, phishing on compromised web sites, etc. The mere fact that services are operating on a domain name does not imply or require registry involvement. Registries do not have any technical ability to mitigate many of those kinds of problems. And most do not threaten the systematic security, stability and resiliency of a TLD or the DNS itself, and are therefore out of ICANN’s mission scope.

After DAG3 the RySG suggested the language be changed to read: "Unauthorized disclosure, alteration, insertion or destruction of registry data, or the unauthorized access to or disclosure of registry information or resources on the Internet by registry systems operating in accordance with all applicable standards."

The DAG3 language seems to come from the Registry Services Evaluation Policy (RSEP) definition of an “effect on security” that is found in all Registry Agreements. The RSEP discusses how new registry services should not negatively impact security, and that new registry services should be compliant with applicable relevant standards. That context is missing in DAG3. Without that context, the language has become more expansive and open to interpretation. Both ICANN and the RySG desire that registries function within applicable standards, and that current or future registry services not be the genesis of security problems.

B. This language is unacceptable: “authoritative and published by a well-established, recognized, and authoritative standards body.” ICANN should not leave the language

open-ended and make contracted parties subject to any and all standards bodies. ICANN needs to more explicitly enumerate the standards and name the authoritative body, which we believe is the IETF. Application of additional standards should be considered via the consensus policy process instead.

The definitions also conflict with and exceed the draft gTLD Agreement, which names the IETF and enumerates RFCs:

“Specification 6:1. **Standards Compliance**

Registry Operator shall implement and comply with relevant existing RFCs and those published in the future by the Internet Engineering Task Force (IETF) including all successor standards, modifications or additions thereto relating to (i) the DNS and name server operations including without limitation RFCs 1034, 1035, 1982, 2181, 2182, 2671, 3226, 3596, 3597, 3901, 4343, and 4472; and (ii) provisioning and management of domain names using the Extensible Provisioning Protocol (EPP) in conformance with RFCs 3735, 3915, 5730, 5731, 5732, 5733 and 5734” etc.

C. The DAG4 definitions continue to be based on a misunderstanding of IETF practices and definitions. The contract language must be revised to adhere to proper terminology.

The inclusion of “Standards track” [sic] is inappropriate, since only some documents on the “standards track” are authoritative. IETF Internet specifications go through stages of development, testing, and acceptance. Within the Internet Standards process, these stages are called "maturity levels." These maturity levels include "Proposed Standard", "Draft Standard", and "Standard" Specifications.<sup>1</sup> Documents at lower maturity levels are not Internet Standards, do not enjoy enough development or vetting, and registries should not be required to follow them.

Contracted parties should not be required to adhere to IETF Best Practices or “best current practice RFCs”. By definition, best practices are not mandatory, and the IETF chose to make them Best Practices for a reason. Nor are IETF BCPs considered technical standards. They tend to deal with processes and procedures rather than protocols -- they represent a consensus of a way to do something because it is recognized that a user experience can be enhanced when there is an agreed-upon way to complete a task. However, interoperability is not usually applicable. As long as the user experiences standards-compliant behavior, ICANN does not need to say more about how that behavior is achieved.

### **Module 3**

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<sup>1</sup> <http://www.ietf.org/about/standards-process.html> and <http://tools.ietf.org/html/rfc2026#section-4>

# *New gTLD Dispute Resolution Procedure*

## **Article 13. The Panel**

### Comments:

1. Note that the number of panelists for both String Confusion and Community disputes is still restricted to one (1). There is an option for three panelists for Existing Legal Rights disputes and a requirement for three panelists for a Morality & Public Order objection.
2. Three panelists should be available for all disputes if requested; additional costs could be covered by the party requesting three panelists.

## **RySG Level of Support**

1. **Level of Support of Active Members:** Unanimous
  - 1.1. # of Members in Favor: 13
  - 1.2. # of Members Opposed: 0
  - 1.3. # of Members that Abstained: 0
  - 1.4. # of Members that did not vote: 0
2. **Minority Position(s):** N/A

## **General RySG Information**

- Total # of eligible RySG Members<sup>2</sup>: 14
- Total # of RySG Members: 13
- Total # of Active RySG Members<sup>3</sup>: 13
- Minimum requirement for supermajority of Active Members: 9
- Minimum requirement for majority of Active Members: 7
- # of Members that participated in this process: 13
- Names of Members that participated in this process: 13

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<sup>2</sup> All top-level domain sponsors or registry operators that have agreements with ICANN to provide Registry Services in support of one or more gTLDs are eligible for membership upon the “effective date” set forth in the operator’s or sponsor’s agreement (RySG Articles of Operation, Article III, Membership, ¶ 1). The RySG Articles of Operation can be found at <<http://gnso.icann.org/files/gnso/en/improvements/registries-sg-proposed-charter-30jul09-en.pdf>>. The Universal Postal Union recently concluded the .POST agreement with ICANN, but as of this writing the UPU has not applied for RySG membership.

<sup>3</sup> Per the RySG Articles of Operation, Article III, Membership, ¶ 6: Members shall be classified as “Active” or “Inactive”. A member shall be classified as “Active” unless it is classified as “Inactive” pursuant to the provisions of this paragraph. Members become Inactive by failing to participate in a RySG meeting or voting process for a total of three consecutive meetings or voting processes or both. An Inactive member shall have all rights and duties of membership other than being counted as present or absent in the determination of a quorum. An Inactive member may resume Active status at any time by participating in a RySG meeting or by voting.

1. Afilias (.info & .mobi)
  2. DotAsia Organisation (.asia)
  3. DotCooperation (.coop)
  4. Employ Media (.jobs)
  5. Fundació puntCAT (.cat)
  6. Museum Domain Management Association – MuseDoma (.museum)
  7. NeuStar (.biz)
  8. Public Interest Registry - PIR (.org)
  9. RegistryPro (.pro)
  10. Societe Internationale de Telecommunication Aeronautiques – SITA (.aero)
  11. Telnic (.tel)
  12. Tralliance Registry Management Company (TRMC) (.travel)
  13. VeriSign (.com, .name, & .net)
- Names & email addresses for points of contact
    - Chair: David Maher, [dmaher@pir.org](mailto:dmaher@pir.org)
    - Vice Chair: Jeff Neuman, [Jeff.Neuman@Neustar.us](mailto:Jeff.Neuman@Neustar.us)
    - Secretariat: Cherie Stubbs, [Cherstubbs@aol.com](mailto:Cherstubbs@aol.com)
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