

Process for gTLD Registry Agreement Amendment
Comments of the Registries Stakeholder Group
1 April 2010

The Registries Stakeholder Group (RySG) of the GNSO is pleased to provide this statement in response to ICANN's request for comments on the **Process for gTLD Registry Agreement Amendment**. The comments that follow represent a consensus position of the RySG as further detailed at the end of the document.

The RySG remains steadfast in its belief that the ICANN ecosystem has thrived for these many years under the current contracting scheme, which allows for Registry Agreements to be amended only upon mutual consent of the parties. This provides sufficient certainty for business investment, operational planning, and many other important benefits.

The current scheme also provides necessary flexibility to make changes to fundamentally important areas, such as security and stability, through the Consensus Policy and Temporary Specification mechanisms. ICANN has successfully implemented Consensus Policies, and thereby made changes that were beneficial to the community as a whole -- with input from the community as a whole. ICANN has never availed itself of the opportunity to utilize the Temporary Specifications mechanism, although this device would allow rapid reaction to unforeseen issues.

The RySG has often stated its position, and believes that other commenters and meeting participants have been virtually unanimous in opposing the ICANN staff's scheme to allow for unilateral amendments to registry agreements. To this point, the RySG has not heard convincing arguments as to what material amendments/flexibility is necessary beyond that which is available pursuant to the Consensus Policy bounds.

The RySG did proffer a compromise position on February 8, which, at its essence, requires occasional good faith discussions with ICANN staff about potential amendments. Although the proposal does not explicitly so state, this would require registry-by-registry negotiations.

There are a number of reasons why it is important that amendments not be voted up or down by a collection of registries, including, 1) if the potential amendment concerned pricing, collective voting or veto could raise problematic antitrust issues, and 2) even as to other issues, the fate of an individual registry might be determined by a democratic vote of its competitors.

The RySG is already on record as to why it opposes the amendment process outlined in v3 of the Draft Applicant Guidebook, and the same logic applies in opposition to a hybrid approach as suggested in the explanatory memorandum for the Process for Amendments to New gTLD Registry Agreements. The RySG is opposed to the possible model in that memorandum regarding utilization of a process similar to the RAA, as it believes that a “one size fits all” approach will not appropriately serve registries with varying business models, such as sponsored registries that have certain restrictions. Furthermore, a “one size fits all” approach is inconsistent with ICANN’s stated aim to encourage innovation, and any amendment process must provide the flexibility and accommodate the differences in the Registry Agreement that an innovative gTLD might require.

The RySG is very optimistic that a reasonable compromise can be reached on this issue, and looks forward to face-to-face meetings with ICANN on this topic in the month of April.

A supermajority of 11 RySG members supported this statement:

- Total # of eligible RySG Members¹: 14
- Total # of RySG Members: 13
- Total # of Active RySG Members²: 13

¹ 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.

- 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:
 1. Afilias (.info and .mobi)
 2. DotAsia Organisation (.asia)
 3. Dot Cooperation LLC (.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. Société Internationale de Télécommunication Aéronautiques – SITA (.aero)
 11. Telnic, Limited (.tel)
 12. Tralliance Registry Management Company (TRMC), (.travel)
 13. VeriSign (.com, .net & .name)

- Names & email addresses for points of contact:
 - a. Chair: David Maher, dmaher@pir.org
 - b. Alternate Chair: Jeff Neuman, Jeff.Neuman@Neustar.us
 - c. Secretariat: Cherie Stubbs, Cherstubbs@aol.com

Regarding the issue noted above, the level of support in the RySG for the Constituency statement is summarized below.

1. **Level of Support of Active Members: Supermajority**

² 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.

1.1. # of Members in Favor: 11

1.2. # of Members Opposed: 0

1.3. # of Members that Abstained: 0

1.4. # of Members that did not vote: 2

2. **Minority Position(s):** N/A