

GNSO gTLD Registries Stakeholder Group Comments

Issue: New Generic Top-Level Domains (gTLDs) Applicant Guidebook – May 2011

Date: 15 June 2011

May 2011 URL:

<http://www.icann.org/en/topics/new-gtlds/comments-7-en.htm>

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).

The RySG asks the following questions regarding Section 2.10 of the proposed gTLD Registry Agreement in Module 5 of the gTLD Applicant Guidebook dated 30 May 2011 (Section 2.10):

1. Section 2.10 currently restricts marketing programs to less than 180 days; given that one of the goals of the new gTLD program is to encourage innovation, is it ICANN's intention to limit the ability of a Registry to offer innovative bundles of services on an on-going basis?
2. Is it ICANN's intention that the 180 day limit also apply to marketing programs that are based on a registrar achieving certain performance levels such as number of renewals or renewal rate?
3. Can ICANN provide guidance on what types of marketing programs it would deem not to constitute discriminatory or abusive renewal pricing?
4. Is ICANN willing to add safe harbor language for those programs and practices it considers not to be abusive or discriminatory?
5. Similarly language regarding a requirement to offer a uniform price would appear to prevent a geographic TLD from offering a discount to (i) residents of the applicable geography; (ii) low income residents or (iii) new businesses that invest in the geography. Is it ICANN's intention to prohibit such practices, even though such practices would be beneficial in bringing internet services to the poor and underserved?

Assuming that ICANN seeks to advance each of the following goals:

- (i) protect registrants from abusive and/or discriminatory pricing;
- (ii) provide new registries with flexibility around discounting and marketing programs necessary to compete in the marketplace;
- (iii) provide sufficient notice of pricing to registrars and registrants,

- (iv) allow programs designed to reach underserved markets and promote economic growth
- (v) allowing for innovation for consumers and registrars alike

we suggest the following rewrite of Section 2.10

(a) *[No change from May Version of Application Guidebook]* With respect to initial domain name registrations, Registry Operator shall provide each ICANN accredited registrar that has executed Registry Operator’s registry-registrar agreement advance written notice of any price increase (including as a result of the elimination of any refunds, rebates, discounts, product tying or other programs which had the effect of reducing the price charged to registrars, unless such refunds, rebates, discounts, product tying or other programs are of a limited duration that is clearly and conspicuously disclosed to the registrar when offered) of no less than thirty (30) calendar days. Registry Operator shall offer registrars the option to obtain initial domain name registrations for periods of one to ten years at the discretion of the registrar, but not greater than ten years.

(b) *[Added language in red, consistent with subsection a.]* With respect to renewal of domain name registrations, Registry Operator shall provide each ICANN accredited registrar that has executed the registry-registrar agreement for the TLD advance written notice of any price increase (including as a result of the elimination of any refunds, rebates, discounts, product tying, Qualified Marketing Programs or other programs which had the effect of reducing the price charged to registrars, **unless such refunds, rebates, discounts, product tying or other programs are of a limited duration that is clearly and conspicuously disclosed to the registrar when offered**) of no less than one hundred eighty (180) calendar days. Notwithstanding the foregoing sentence, with respect to renewal of domain name registrations: (i) Registry Operator need only provide thirty (30) calendar days notice of any price increase if the resulting price is less than or equal to (A) for the period beginning on the Effective Date and ending twelve (12) months following the Effective Date, the initial price charged for registrations in the TLD, or (B) for subsequent periods, a price for which Registry Operator provided a notice pursuant to the first sentence of this Section 2.10(b) within the twelve (12) month period preceding the effective date of the proposed price increase; and (ii) Registry Operator need not provide notice of any price increase for the imposition of the Variable Registry-Level Fee set forth in Section 6.3. Registry Operator shall offer registrars the option to obtain domain name registration renewals at the current price (i.e. the price in place prior to any noticed increase) for periods of one to ten years at the discretion of the registrar, but no greater than ten years.

(c) *[Section Rewritten in its entirety]* **Registry Operator shall charge the same price for renewals of domain name registrations (“Renewal Pricing”) to all ICANN accredited registrars, provided, Registry Operator may charge a registrar a different renewal price:**

- (i) As the result of refunds, rebates, discounts, product tying or other promotional programs (collectively “Renewal Marketing Programs”) if the same opportunity to qualify for those Renewal Marketing Programs is available to all ICANN-accredited registrars; or**

(ii) Where for a particular domain name, the applicable registrar warrants to the Registry that the registrant expressly agreed in its registration agreement with its registrar to higher or lower Renewal Pricing for a particular domain at the time of the initial registration of the domain name or in connection with a prior renewal, following clear and conspicuous disclosure of such Renewal Pricing to such registrant.

(iii) The parties acknowledge that the purpose of this Section 2.10(c) is to prohibit abusive and/or discriminatory Renewal Pricing practices imposed by Registry Operator contrary to the reasonable expectations the applicable registrant at the time of the initial registration of the domain name. For purposes of this subsection “(c)(iii),” a Registry shall not be deemed to be engaging in abusive and/or discriminatory Renewal Pricing Practices with respect to a particular domain name if: the Registry offers Renewal Pricing with respect to that domain name that is equal to or less than either the initial registration price paid by the registrant or the initial registration price generally charged by Registry at the time of the renewal, or the Registry offers registrars the option to obtain renewals of such a domain name for a period of up to ten years at the Renewal Pricing charged by the Operator immediately preceding the start of the Renewal Marketing Program.

(d) *[No Change]* Registry Operator shall provide public query-based DNS lookup service for the TLD (that is, operate the Registry TLD zone servers) at its sole expense.

RySG Level of Support

1. **Level of Support of Active Members:** [Majority/Supermajority]
 - 1.1. # of Members in Favor: 8
 - 1.2. # of Members Opposed: 0
 - 1.3. # of Members that Abstained: 0
 - 1.4. # of Members that did not vote: 5
2. **Minority Position(s):** N/A

General RySG Information

- Total # of eligible RySG Members¹: 15

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 and ICM, Inc. have concluded registry agreements with ICANN, but as of this writing have not applied for RySG membership.

- Total # of RySG Members: 13
- Total # of Active RySG Members²: 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
 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
 - Vice Chair: Keith Drazek, kdrazek@verisign.com
 - Secretariat: Cherie Stubbs, Cherstubbs@aol.com
 - RySG representative for this statement: Chuck Gomes, cgomes@verisign.com

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.