

GNSO gTLD Registries Constituency Statement

Issue: **March 6, 2008 GNSO Council Draft Motion on: Domain Tasting¹**

Date: 21 March 2008

gTLD Registries Constituency (RyC) Information:

- Total # of eligible RyC Members²: 15
- Total # of RyC Members: 15
- Total # of Active RyC Members³: 15

Names of Members that participated in this process:

1. Afilias Limited (.info)
2. DotAsia Organisation (.asia)
3. DotCooperation (.coop)
4. Employ Media (.jobs)
5. Fundació puntCAT (.cat)
6. Global Name Registry (.name)
7. mTLD Top Level Domain (.mobi)
8. Museum Domain Management Association – MuseDoma (.museum)
9. NeuStar (.biz)
10. Public Interest Registry (.org)
11. RegistryPro (.pro)
12. Societe Internationale de Telecommunication Aeronautiques – SITA (.aero)
13. Telnic (.tel)
14. Tralliance Corporation (.travel)
15. VeriSign (.com & .net)

Names & email addresses for points of contact:

¹ <http://gns0.icann.org/issues/domain-tasting/dnt-motion-6mar08.shtml>

² 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 (Article III, Membership, ¶ 1). The RyC Articles of Operations can be found at http://www.gtldregistries.org/about_us/articles .

³ Per the RyC Articles of Operations, Article III, Membership, ¶ 4: 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 Constituency meeting or voting process for a total of three consecutive meetings or voting processes or both, or by failing to participate in meetings or voting processes, or both, for six weeks, whichever is shorter. 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 Constituency meeting or by voting.

- Chair: David Maher, dmaher@pir.org
- Vice Chair: Jeff Neuman, Jeff.Neuman@Neustar.us
- Secretariat: Cherie Stubbs, Cherstubbs@aol.com
- RyC rep. for this Statement: Adam Palmer; apalmer@pir.org

The following positions represent the views of the ICANN GNSO gTLD Registries Constituency (RyC) as indicated. Unless indicated otherwise, the RyC positions were arrived at through a combination of RyC email list discussion and RyC meetings (including teleconference meetings).

1. The GSNO Recommendations:

1.1. Applicability of the Add Grace Period

1.1.1. Section 1(a) of the motion under consideration by the GNSO for dealing with domain tasting (The Motion) proposes that “any gTLD which has implemented an AGP (‘Applicable gTLD Operator’)” shall be subject to the following restriction:

“a. During any given month, an Applicable gTLD Operator may not offer any refund to a registrar for any domain names deleted during the AGP that exceed (i) 10% of that registrar's net new registrations in that month (defined as total new registrations less domains deleted during AGP), or (ii) fifty (50) domain names, whichever is greater.”¹¹

1.2 Exemption procedure

1.2.1 Sections 1 (b) and (c) of the motion propose a restrictive and detailed procedure for seeking an exemption from the restriction “upon the documented showing of extraordinary circumstances.”

2. The Constituency Position:

2.1 The RyC is not opposed to the motion but believes that there are a number of considerations that appear to have been overlooked in a flawed process that led to its development.

2.2. The RyC reiterates its prior statement (in response to the 2007 Domain Tasting Issues Report) that a one-size-fits-all approach will not work for all Registries and Sponsors. The RyC, therefore, again suggests that it would be preferable to allow consideration of various approaches to be evaluated by individual Registries and Sponsors. Tasting does not occur in all domains, and its seriousness is not the same in those domains where it does occur. This is at least one reason why provisions for an add grace period do not appear in all registry or sponsorship agreements with ICANN. It should also again be emphasized that what is successful for one gTLD may not have the same results in another gTLD and, therefore, a broad consensus approach may not be effective.

2.3 The RyC urges recognition that every registry has different internal procedures, even though they externally appear to operate similarly. For example, the registry, billing and support systems for each TLD registry, although performing similar functions, have their own protocols. Any implementation of the Motion must provide the flexibility to take into consideration these internal differences. For example, there are differences between the pending service proposals by NeuStar and Afilias, although the substance of both proposals is virtually the same, and they address the add grace period in fundamentally the same way as the motion.

2.4 The RyC'S position on the motion is predicated on two assumptions, as follows:

2.4.1 First, the RyC assumes that the motion's restrictive approach to an add grace period would have no applicability to those registries that have a review or vetting procedure for domain name applicants. Those procedures are not add grace periods as that term is used in ICANN registry and sponsorship agreements.

2.4.2 Second, and more importantly, if The Motion is approved as a consensus policy, ICANN staff must not implement its own proposal for the collection of the applicable transaction fee on all registrations including those deleted during the add grace period. If this motion becomes a Consensus Policy, then domain name tasting, we believe, will be substantially eliminated. That being the case, the add grace period will become effective for legitimate purposes, namely, to protect consumers, prevent fraud, and the other reasons that have been expressed to date by ICANN registrars. The RyC believes that charging a transaction fee on these legitimate, non-abusive deletions would be an unnecessary and unjustified tax on registrants. We strongly urge the ICANN staff to reconsider this proposal in light of this motion.

2.5 The RyC also urges the ICANN Board to make a careful review of the motion's provisions for exemptions. The thrust of the motion's wording is clearly a presumption of guilty intent on the part of any registry that might believe there is a good business reason for allowing flexibility on some occasions. There is no demonstrated need for the bureaucratic approach set out in the motion.

2.6 Finally, the RyC urges the ICANN Board to be aware that this motion is the result of the kind of flawed quasi-legislative proceedings that should be addressed in the GNSO improvement process. The RyC has previously stated its position that certain steps are essential before making policy recommendations such as those proposed by this motion. These steps are: i) test proposed solutions to make sure that they have reasonable chances of solving identified problems; ii) minimize the possibility of creating new problems; iii) make best efforts to ensure that anticipated benefits are worth the implementation costs; iv) where possible, take advantage of existing mechanisms to solve problems before creating new policy.

3. Impact on the Constituency:

3.1 The impact of the motion on members of the Constituency will vary according to their present procedures for dealing with the add grace period. Neustar (.biz) and Afilias (.info) have already filed new service requests for ICANN that are substantially in accord with section 1(a) of the motion. Public Interest Registry (.org) would be compelled to alter its present policy known as the Excess Deletion Fee. Other registries would be required to implement entirely new procedures.

3.2 The financial impact of the motion will also vary, and the constituency does not have enough data on the current use of the add grace period by individual registries to make an overall assessment. Clearly, there will be no impact on some registries; there may be an impact on others. The RyC does not believe that financial considerations are large enough to alter the position taken in this statement.

4. The period of time that would likely be necessary to implement the policy: Each Registry or Sponsor would need to determine the time needed. It is reasonable to expect that Registrars be provided significant advance notice of this policy.