

gTLD Registries Constituency Comments

regarding

IDNgTLD CONSTITUENCY PETITION AND CHARTER

May 20, 2009

The GNSO gTLD Registries Constituency (RyC) submits these comments in response to the IDNgTLD Petition and Charter posted on 21 April 2009 for discussion by the ICANN community. Details regarding the level of participation and support for the comments are included at the end of the document.

SUMMARY:

RyC has two major concerns about this Petition and Charter:

1. The proposal to include government agencies in a constituency is inconsistent with the fundamental structure of ICANN in which governments participate in an advisory capacity through the Governmental Advisory Committee (GAC).
2. The proposal to include both commercial and non-commercial entities in a single constituency is premature because ICANN has not yet adopted procedures for preventing abuses resulting from potential double voting by constituency members.

For either or both of these reasons, RyC urges ICANN to postpone acceptance of the Petition and Charter until these concerns are addressed.

DISCUSSION:

The Petition and Charter states:

“This Constituency is further created to provide a formal voice and official representation in ICANN processes to for-profit and/or non-profit organizations, *government agencies*, research and educational institutions and individuals in their personal capacity, etc, that are engaged in or intend to be engaged in at least one of the following activities....” [emphasis added].

This description of representation raises distinctly challenging questions about the current structure of ICANN. In particular it challenges the concept of a non-voting role for governments in ICANN's structure. To date, governments have acted in an advisory role in the ICANN structure. This application, were it accepted as is, could enable governments to have direct impact on voting in the GNSO.

The explanatory letter accompanying the Petition and Charter states: "The IDNgTLD Constituency provides a home for both commercial stakeholders (and non-commercial stakeholders who may wish to join)", and recognizes that the proposed structure does not fit the new stakeholder structure of the GNSO. It acknowledges that it lies outside ICANN's structure and that it must be submitted to both the CSG and NCSG groups:

"This leaves the only logical and presumably more acceptable choice for the proposed IDNgTLDC to find a home within the Commercial Stakeholder Group, on the theory that a commercially inclined group would not find some non-commercial members in its ranks particularly unacceptable. That is by definition, the CSG would *de facto* include both commercial and non-commercial entities. On the basis of this reasoning we have submitted the IDNgTLDC proposal to the CSG and the NCSG."

ICANN has explicitly recognized the seriousness of this problem. In the latest Institutional Confidence draft document prepared by the President's Strategy Committee(PSC), PSC stated that participation should be allowed in different constituencies only so long as voting was allowed in only one:

"1.13.4 Create a framework which allows cross participation in Supporting Organizations, Advisory Committees and/or constituencies, but which prohibits and considers sanctions for voting by the same individual or organization in more than one ICANN entity."

If the Petition and Charter is approved at this time, it could lead to a possibility of double counting in GNSO voting. For example, if the Constituency is accepted by the NCSG and its members vote in the Stakeholder Group on GNSO issues, then the commercial members of this proposed constituency would have the ability to influence both sides of

the GNSO House, upsetting a carefully arranged check and balance in the GNSO structure.

If ICANN accepts the position of RyC regarding the Petition and Charter, it will not necessarily lead to a disenfranchisement of the members of the proposed Constituency. RyC (as well as the pending Registries Stakeholder Group) in its charter accepts observer members that have applied or intend to apply for registry contracts. Observer members have full rights of participation other than voting.

CONCLUSION:

For the foregoing reasons, RyC urges ICANN to postpone acceptance of the Petition and Charter until:

1. “government agencies” are removed from the proposed Constituency, and
2. ICANN adopts procedures as recommended by the PSC above to prevent double voting.

GNSO gTLD Registries Constituency Statement of Support

Issue: **IDNgTLD Petition and Charter**

Date: 20 May 2009

General RyC Information

- Total # of eligible RyC Members¹: 14
- Total # of RyC Members: 14
- Total # of Active RyC Members²: 14

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.

² 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

- Minimum requirement for supermajority of Active Members: 10
- Minimum requirement for majority of Active Members: 8
- # of Members that participated in this process: 14
- Names of Members that participated in this process:
 1. Afilias (.info)
 2. DotAsia Organisation (.asia)
 3. DotCooperation (.coop)
 4. Employ Media (.jobs)
 5. Fundació puntCAT (.cat)
 6. mTLD Top Level Domain (.mobi)
 7. Museum Domain Management Association – MuseDoma (.museum)
 8. NeuStar (.biz)
 9. Public Interest Registry (.org)
 10. RegistryPro (.pro)
 11. Societe Internationale de Telecommunication Aeronautiques – SITA (.aero)
 12. Telnic (.tel)
 13. The Travel Partnership Corporation – TTPC (.travel)
 14. VeriSign (.com & .net)
- Names & email addresses for points of contact:
 - Chair: David Maher, dmaher@pir.org
 - Alternate Chair: Jeff Neuman, Jeff.Neuman@Neustar.us
 - Secretariat: Cherie Stubbs, Cherstubbs@aol.com

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

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

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.

1.1. # of Members in Favor: 12

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