

gTLD REGISTRIES STAKEHOLDER GROUP

November 7, 2014

Dr. Steve Crocker
Board of Directors
Internet Corporation for Assigned Names and Numbers

Re: Registries Stakeholder Group review of ALAC's Los Angeles Input to GAC

Dear Dr. Crocker and the ICANN Board:

During the ICANN 51 meetings in Los Angeles, the At-Large Advisory Committee (ALAC) met with the Governmental Advisory Committee (GAC) to voice its ongoing concerns with the new gTLD program.

Central to this exchange was the ALAC's stated¹ desire to persuade ICANN to halt contracting of or delegating further new gTLDs that fall within Category 1 of the GAC's "safeguard" Advice presumably to subject gTLDs not yet under contract to more stringent requirements. Some members of the GAC expressed ongoing sympathy with the ALAC's position² and issued further Advice reiterating its preferences regarding Category 1 strings.³

While the Registries Stakeholder Group (RySG) recognizes and appreciates the GAC's and ALAC's continued interest in safeguards, it's critical to recognize that policymaking for new gTLDs was concluded long ago, and many affected gTLDs have already executed their Registry Agreements with ICANN. Freezing a subset of applications during contracting and delegation when policies have been finalized and other applications have been able to proceed would result in disparate treatment of registry operators, which is both unfair on its face and a violation of ICANN's bylaws, and would introduce inconsistencies across ICANN Registry Agreements.

Heeding the ALAC's request, therefore, would be inappropriate at this stage of the program. If the ALAC wishes to apply certain criteria to any gTLDs, including a subset of gTLDs, it can do so only (i) if the policies fall within the category of issues covered by Specification 1 of the Registry Agreement (i.e., so-called "Consensus Policy" within the "Picket Fence") and (ii) through the GNSO Policy Development Process (PDP), which would appropriately involve consultation from all impacted parties. If the community, collectively, elects to more heavily regulate specific categories of strings, it is imperative to do so via this avenue instead of freezing and regulating strings in an *ad hoc* fashion.

¹ <http://www.atlarge.icann.org/correspondence/correspondence-16oct14-en.htm>

² <http://la51.icann.org/en/schedule/tue-gac/transcript-gac-alac-14oct14-en>

³ <https://www.icann.org/en/system/files/correspondence/gac-to-board-15oct14-en.pdf>

Not only is it unadvisable to attempt to regulate speech through gTLD registration restriction, but doing so halfway through a successful program and outside of established procedure would disrupt public participation and create an unreasonable level of confusion.

We note that in May 2014, following receipt of third-party correspondence, ICANN froze a subset of health-related applications outside of established process to consider whether additional safeguards were appropriate. At its June 9 meeting, the ICANN Board determined that no resolution should be taken on the matter, and such strings were allowed to proceed using the existing framework for Category 1 safeguards.

Additionally, similar ideas were previously brought forward by the ALAC through the proposal to institute mandatory Policy Advisory Boards for strings identified within the GAC Category 1 Advice. When the topic was raised during the ALAC meeting with the ICANN Board during the ICANN 49 Public Meeting in Singapore, the Board, appropriately, advised the ALAC that introduction of new safeguards must pass through the PDP. As stated by Board member Bruce Tonkin:

“There is a provision in the bylaws that the ALAC can actually start a policy development process, starting with an issues report. Use that. Because this whole area of regulated industry, categories, it is very complicated and it is absolutely what the policy development process is designed to do to address those issues. That's where that should go.”

Cherine Chalaby, chair of the New gTLD Program Committee, echoed this position, affirming that implementation of additional safeguards was necessarily Consensus Policy. We support the Board's previous approach and urge it to continue to hold to its positions taken during the ICANN 49 Public Meeting.

The RySG urges the ICANN Board to comply with ICANN's Mission Statement and Core Values, and the terms of Specification 1 of the Registry and Registrar agreements; to carefully consider the implications of the ALAC's recommendations both in terms of ICANN's policy development process and end-user predictability; and to require that the ALAC's advice proceed through the PDP.

Sincerely,

Paul Diaz
Alternate Chair

cc: Jonathan Robinson, GNSO Council Chair
Alan Greenberg, ALAC Chair
Thomas Schneider, GAC Chair

RySG Level of Support

1. Level of Support of Active Members: Majority

- 1.1 # of Members in Favor: 24
- 1.2 # of Members Opposed: 0
- 1.3 # of Members that Abstained: 2
- 1.4 # of Members that did not vote: 16

2. Minority Position(s):

- Level of Support – Active Members: (Majority or Supermajority)
- Total # of eligible Voting RySG Members⁴: 45
- Total # of Voting and Non-voting RySG Members: 53
- Total # of Active Voting RySG Members⁵: 42
- Minimum requirement for supermajority of Active Voting Members: 28
- Minimum requirement for majority of Active Voting Members: 22
- Names of Members that participated in this process:
 - 1. Afilias, Ltd.
 - 2. Charleston Road Registry (non-voting member)
 - 3. .CLUB Domains LLC
 - 4. China Organization Name Administration Center (CONAC)
 - 5. CORE (non-voting member)

⁴ 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 RySG Articles of Operations can be found at http://gtldregistries.org/sites/gtldregistries.org/files/Charter_of_the_gTLD_Registries_Stakeholder_Group.pdf

⁵ Per the RySG 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.

6. DNS Belgium vzw
7. Donuts Inc.
8. DotAsia Organisation
9. dotBERLIN GmbH & Co. KG
10. dotCooperation (inactive)
11. Dot Kiwi Ltd.
12. Dot Latin, LLC
13. DotShabaka Registry
14. dotStrategy Co.
15. Employ Media LLC
16. European Broadcasting Union (EBU)
17. Famous Four Media
18. Foundation for Assistance for Internet Technologies and Infrastructure Development (FAITID) (non-voting member)
19. fTLD Registries LLC
20. Fundació puntCAT (inactive)
21. GMO Registry, Inc. (non-voting member)
22. ICM Registry LLC
23. InterNetX Corp. (non-voting member)
24. IRI Domain Management, LLC
25. KNET (non-voting member)
26. Minds + Machines
27. Museum Domain Management Association – MuseDoma (inactive)
28. National Association of Boards of Pharmacy (NABP)
29. National Association of Real Estate Investment Trusts Inc.
30. Neustar, Inc.
31. Nucleo de Informacao e Coordenacao do Ponto BR (NIC.br)
32. OP3FT
33. Plan Bee LLC
34. Public Interest Registry - PIR
35. Punkt.wien GmbH
36. Punkt Tirol GmbH
37. Punto 2012 S.A. de C.V.
38. Radix FZC
39. Region D Alsace
40. Richemont DNS
41. Rightside Registry (non-voting member)
42. Societe Internationale de Telecommunication Aeronautiques – SITA
43. Sky IP International Ltd.
44. Starting Dot Limited
45. Telnic Limited
46. The Foundation for Network Initiatives “The Smart Internet”
47. Top Level Design LLC
48. Tralliance Registry Management Company (TRMC)
49. Uniregistry Corp. (non-voting member)
50. Universal Postal Union (UPU)

- 51. VeriSign
- 52. XYZ.COM LLC
- 53. Zodiac

- Names & email addresses for points of contact
 - Chair: Keith Drazek, kdrzek@verisign.com
 - Alternate Chair: Paul Diaz, pdiaz@pir.org
 - Secretariat: Cherie Stubbs, rysgsecretariat@gmail.com
 - RySG representative for this statement: Mason Cole, mason@donuts.co

Regarding the issue(s) noted above, the following position(s) represent(s) the views of the ICANN GNSO gTLD Registry Constituency (RySG) as indicated. Unless stated otherwise, the RySG position(s) was (were) arrived at through a combination of RySG email list discussion and RySG meetings (including teleconference meetings).