

Report of Public Comments

Title:	Proposed Revised Process for Handling Requests for Removal of Cross-Ownership Restrictions on Operators of Existing gTLDs		
Publication Date:	17 August 2012		
Prepared By:			
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Section I: General Overview and Next Steps			
<p>To receive public comment on revisions to the proposed process that would allow existing registry operators to request removal of cross-ownership restrictions for the gTLDs they operate. The proposed process will place existing registry operators on an equal footing to new gTLD registry operators in relation to the Board approved removal of restrictions preventing new gTLD registries from owning or controlling registrars.</p> <p>This revised process reflects recent exchanges from interested competition authorities that have submitted their input to ICANN.</p> <p><u>Next Steps:</u></p> <p>This summary will be provided to the Board for consideration whether it is appropriate for the proposed revised process be adopted and implemented.</p>			
Section II: Contributors			

At the time this report was prepared, a total of four (4) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Registries Stakeholder Group	David Maher	RySG
Intellectual Property Constituency	Kristina Rosette	IPC
At Large Advisory Committee	ICANN At Large Staff	ALAC

Individuals:

Name	Affiliation	Initials
Christopher Wilkinson		CW

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

The RySG submitted its support for implementation of the proposed revised process “as soon as possible”.

The IPC commented that existing registry operators should be transitioned to the new gTLD registry agreement. The IPC submitted that if registry operators were permitted to modify their existing registry agreements to remove cross-ownership restrictions, the removal should be conditional on conforming the existing agreement with the new gTLD registry agreement which must include the following minimum amendments: (a) including the new gTLD registry Code of Conduct; (b) thick WHOIS; and (c) Section 2.8 and paragraphs 1 and 2 of Specification 7 of the new gTLD registry agreement to require new registrations and renewals of existing TLD domain names to comply with the PDDRP, RDDRP and URS.

ALAC submitted support for the removal of the cross-ownership restrictions for existing gTLD operators but expressed concern that the transition of existing gTLD operators to new gTLD registry agreements would remove the price caps in existing agreements and that this issue has not been publicly discussed. ALAC further commented that concurrent removal of price caps in the dominant existing gTLDs due to removal of operator cross-ownership restrictions should not occur without community involvement.

CW disagreed with ALAC's position to support the proposed removal of cross-ownership restrictions for existing registry operators and made reference to his earlier personal related submission dated May 2011 on the At Large wiki where he opposed the process altogether. CW also commented that the proposed change in policy would make it more difficult for small startup registries to compete with established registrars offering competing services.

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

General Comments:

A total of four comments were submitted with only three submissions commenting specifically on the proposed revised process. One commenter expressed unconditional support for the proposed process whilst two commenters expressed conditional support based on further inclusions to the registry agreement.

The comments of conditional support for the proposed revised process made reference to the following additional issues for consideration or inclusion:

(i) Consideration of price cap removals: This will be something that ICANN analyzes in each registry operator's request for removal of restrictions or transfer to the new gTLD base agreement. Further, all proposed substantive amendments will be posted for public comment.

(ii) Including the new gTLD registry Code of Conduct: The proposed revised process currently includes incorporating a covenant to comply with the new gTLD registry operator Code of Conduct referenced in Section 2.14 of the new gTLD registry agreement.

(iii) Including thick WHOIS: This issue has been recognized by the GNSO, which agreed to undertake a formal Policy Development Process (PDP) in the matter (see <http://gnso.icann.org/resolutions/#201203>). Any subsequent change arising from the PDP can be implemented separately and is automatically incorporated by reference into any registry agreement.

(iv) Including compliance with the PDDRP, RDDRP and URS rights protection mechanisms: This issue had been discussed, for example during the recent .COM registry agreement renewal, where it was determined that these new rights protection mechanisms (RPMs), being new and untested, required a sufficient "ramp up" period before they were considered robust enough to be able to cater for the volume demands of the existing TLD namespace and that registrants have procured existing TLD domains based on an understanding of the currently implemented RPMs.