2011-12-08-01-Annex-FT implementation Plan Amendment

ANNEX TO BOARD SUBMISSION NO. 2011-12-08-01

SUBMISSION TITLE: **[Approval of ccNSO resolution 68-02 to amend the Fast Track Implementation Plan]**

Background (History and timeline)

The IDN ccTLD Fast Track process was developed by the community as a joint effort by the ccNSO, the GAC and others. It is designed to introduce a limited number of non-contentious IDN ccTLDs associated with the ISO 3166-1 two-letter codes, and to meet near-term demand while the community develops the overall policy for a broader introduction of IDN ccTLDs.

Per the Final Implementation Plan for IDN ccTLD Fast Process [FTIP], approved by the ICANN Board at its annual meeting in Seoul, Republic of Korea on 30 October 2009 http://www.icann.org/en/minutes/resolutions-30oct09-en.htm#2, the DNS Stability Panel checks for string similarity between applied for strings and existing TLDs as well as all possible 2-character ASCII strings to prevent conflict with the allocation of ASCII ccTLD strings based on the alpha-2 codes defined by ISO 3166-1.

In the first review of the Fast Track program completed in March 2011, comments were received regarding clarification of the rules for assessing string similarity. After analyzing the public comments, ICANN staff recommended that the rules of assessing confusing similarity should be clarified through discussions with the community.

During the March 2011 ICANN meeting in San Francisco, a first session regarding assessment of confusing similarity was held. The goal of this session was to review the results of the first IDN ccTLD Fast Track Process with a special emphasis on the confusing similarity assessment criteria. As a result of this session (conducted with the ccNSO), there was an agreement that the community will benefit from further guidelines within the framework of existing rules for the IDN ccTLD Fast Track Process to improve the predictability of the evaluation relating to string confusion.

Later during its 16 March 2011 council meeting, the ccNSO passed resolution number 61-02 to "to develop, as soon as possible, guidelines (within the framework of the existing rules for the Fast Track) to improve the predictability of the evaluation relating to string confusion as defined in the IDNC Final Report and the Final Implementation report adopted by the ICANN Board in November 2009." The ccNSO created a sub-group within IDN ccPDP Working Group 1 to work on this issue. The purpose of IDN ccPDP Working Group 1 is to report on and identify a feasible policy for the selection and delegation of IDN ccTLDs associated with the territories listed in the ISO 3166-1(IDN ccTLDs) within the framework of the IDNccPDP.

During the ICANN meeting in Dakar, the ccNSO held another public session on 25 October 2011 to report on the progress of sub-group's work. The sub-group reported that while its primary work is on-going, it had reached a conclusion on the case where the requested IDN ccTLD string is a meaningful representation of the territory and is only confusingly similar with the two-letter ASCII country code that is associated with the same territory.

As a result, the ccNSO passed resolution number 68-02 to adopt this proposal (see Exhibit A - ccNSO Council Meeting Minutes.pdf). The ccNSO Chair sent a letter to the ICANN Board Chair to formally communicate the ccNSO resolution. The letter "requests the ICANN Board of Directors to direct the ICANN staff to amend the Final Implementation Plan for IDN ccTLD Fast Track Process as adopted by the ICANN Board of Directors at its Seoul meeting, November 2009." (See Exhibit B - Letter from ccNSO Chair to ICANN Board Chair on IDN Confusing Similarity, 26 October 2011.pdf)

Process changes:
The ccNSO resolution is to amend the string similarity assessment defined in the FTIP to allow an IDN ccTLD string that is a meaningful representation of the country or territory name and is only confusingly similar with the two-letter ASCII country code that is associated with the same territory to be deemed as valid, provided that the IDN ccTLD strings and existing ASCII string are operated by the same entity, and additional measures are in place to mitigate the risk of user confusion.

Implementation of the ccNSO resolution will result in the following changes to the IDN ccTLD Fast Track Process:

1. Documentation Update: The published FTIP Guidebook (http://www.icann.org/en/topics/idn/fast-track/idn-cctld-implementation-plan-16nov09-en.pdf) will be amended to describe the ccNSO clarifications and conditions under which ccTLDs may be eligible. A marked copy of the Final Implementation Plan for IDN ccTLD Fast Track Process document is provided. (see Exhibit C - Redline FTIP ccNSO ammendment.doc). The following text will be added to section 5.6.3, page 25 of the FTIP:

> *In the event that the DNS Stability Panel determines a requested IDN ccTLD string is only confusingly similar to an existing two-letter ASCII ccTLD corresponding to the same country or territory as the requesting country or territory entity, the DNS Stability Panel shall document this in its report to ICANN.*
>
> *If, at the time of the request or within two months after receiving the notification of the findings of the DNS Stability Panel, the requestor, and, if considered necessary by ICANN, the relevant public authority, provide(s) a clarification that documents and demonstrates to ICANN that:*
>
> 1. *The intended manager for the requested IDN ccTLD and the manager for the existing two-letter ASCII ccTLD are one and the same entity; and*
> 2. *The intended manager shall request the delegation for the IDN ccTLD string if validated; and*
> 3. *The IDN ccTLD and ccTLD shall remain to be managed by one and the same entity, and*
> 4. *The intended manager shall agree to specific and pre-arranged conditions with the goal to mitigate the risk of user confusion as of the moment the IDN ccTLD becomes*

operational,
then the requested string is deemed to have passed the DNS Stability Panel evaluation

2. Additional requirements to be met by requestor: To meet the conditions specified in the proposed amendment, the requesting party must demonstrate the criteria specified in the amended FTIP. These new requirements (listed above) are to mitigate the risk of user confusion as of the moment the IDN ccTLD becomes operational. The requesting party and relevant public authority will also be required to document their intentions for the registry manager following the conclusion of string evaluation process.

3. Impact on the DNS Stability Panel evaluations: The DNS Stability Panel will be required to amend its process to document its findings in the report provided to ICANN Staff. If the DNS Stability Panel determines that a requested IDN ccTLD string is confusingly similar, but is only confusingly similar to an existing two-letter ASCII ccTLD corresponding to the same country or territory as the requesting country or territory entity, the DNS Stability Panel shall note the potential for confusing similarity.

*******Confidential Information set forth below*******

Applicant Information

*******Confidential Information set forth above*******

Key Stakeholders and positions

The ccNSO approved the resolution and recommends the Board's adoption of the proposed amendments to the FTIP. The ccNSO is the key stakeholder of the IDN ccTLD Fast Track Process. To this date, IDN TLDs are still limited to ccTLDs only. The amendment is of limited scope and only addresses confusing similarity with a two-letter ASCII country code that is associated with the same territory of the requesting

entity. The ccNSO community is supportive of this amendment based in this limited scope.

The ccNSO sub-group created within IDN ccPDP Working Group 1 benefited from the expertise of members of the DNS Stability Panel who participated in the Working Group.

Consultations Undertaken
In December 2010, ICANN conducted the first review of the IDN ccTLD Fast Track Process. The review sought community input on a variety topics including assessment of confusingly similar strings. The review was conducted in two parts: A public session held during the ICANN meeting in Cartagena on 6 December 2010, and a public comment forum. In its analysis of the public comment, ICANN staff recommended that the rules of assessing confusing similarity should be clarified through discussions with the community.

As explained above, the string similarity topic was the focus of a public session held during ccNSO meetings during the ICANN meetings in San Francisco in March 2011. This meeting resulted in the ccNSO forming a sub-group created within IDN ccPDP Working Group 1 to work on providing more guidelines to improve the predictability of confusingly similar strings.

The ccNSO sub-group reported its findings during a public ccNSO session during the Dakar meeting in October 2011.

Other related issues:

Approving this amendment does not conflict with the variant work currently under review within the community. The community groups working on the IDN Variant Issues Project agree that variants stem from the same IDN language/script table. While some may believe that two strings that can be perceived as confusingly similar are variants, none of the community case study teams has considered this to be the case if the strings under review come from different scripts.

Resource Implications:

Amendment of the FTIP will not provide any additional resource implications.

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2011-12-08-02-Annex I - proposed-bylaws-revision-annex-a-clean-04nov11-en

Proposed New Text of ICANN Bylaws Annex A –

GNSO Policy Development Process

The following process shall govern the GNSO policy development process ("PDP") until such time as modifications are recommended to and approved by the ICANN Board of Directors ("Board"). The role of the GNSO is outlined in Article X of these Bylaws. If the GNSO is conducting activities that are not intended to result in a Consensus Policy, the Council may act through other processes.

Section 1. **Required Elements of a Policy Development Process**

The following elements are required at a minimum to form Consensus Policies as defined within ICANN contracts, and any other policies for which the GNSO Council requests application of this Annex A:

a. Final Issue Report requested by the Board, the GNSO Council ("Council") or Advisory Committee, which should include at a minimum a) the proposed issue raised for consideration, b) the identity of the party submitting the issue, and c) how that party Is affected by the issue;
b. Formal initiation of the Policy Development Process by the Council;
c. Formation of a Working Group or other designated work method;
d. Initial Report produced by a Working Group or other designated work method;
e. Final Report produced by a Working Group, or other designated work method, and forwarded to the Council for deliberation;
f. Council approval of PDP Recommendations contained in the Final Report, by the required thresholds;
g. PDP Recommendations and Final Report shall be forwarded to the Board through a Recommendations Report approved by the Council]; and
h. Board approval of PDP Recommendations.

Section 2. **Policy Development Process Manual**

The GNSO shall maintain a Policy Development Process Manual (PDP Manual) within the operating procedures of the GNSO maintained by the GNSO Council. The PDP Manual shall contain specific

additional guidance on completion of all elements of a PDP, including those elements that are not otherwise defined in these Bylaws. The PDP Manual and any amendments thereto are subject to a twenty-one (21) day public comment period, as well as Board oversight and review, as specified at Article X, Section 3.6.

Section 3. **Requesting an Issue Report**

Board Request. The Board may request an Issue Report by instructing the GNSO Council ("Council") to begin the process outlined the PDP Manual. In the event the Board makes a request for an Issue Report, the Board should provide a mechanism by which the GNSO Council can consult with the Board to provide information on the scope, timing, and priority of the request for an Issue Report.

Council Request. The GNSO Council may request an Issue Report by a vote of at least one-fourth (1/4) of the members of the Council of each House or a majority of one House.

Advisory Committee Request. An Advisory Committee may raise an issue for policy development by action of such committee to request an Issue Report, and transmission of that request to the Staff Manager and GNSO Council.

Section 3: **Creation of an Issue Report**

Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a properly supported motion from the GNSO Council; or (iii) a properly supported motion from an Advisory Committee, the Staff Manager will create a report (a "Preliminary Issue Report"). In the event the Staff Manager determines that more time is necessary to create the Preliminary Issue Report, the Staff Manager may request an extension of time for completion of the Preliminary Issue Report.

The following elements should be considered in the Issue Report:

a) The proposed issue raised for consideration;
b) The identity of the party submitting the request for the Issue Report;
c) How that party is affected by the issue, if known;
d) Support for the issue to initiate the PDP, if known;

e) The opinion of the ICANN General Counsel regarding whether the issue proposed for consideration within the Policy Development Process is properly within the scope of the ICANN's mission, policy process and more specifically the role of the GNSO as set forth in the Bylaws.

f) The opinion of ICANN Staff as to whether the Council should initiate the PDP on the issue

Upon completion of the Preliminary Issue Report, the Preliminary Issue Report shall be posted on the ICANN website for a public comment period of no less than 30 days

The Staff Manager is responsible for drafting a summary and analysis of the public comments received on the Preliminary Issue Report and producing a Final Issue Report based upon the comments received. The Staff Manager should forward the Final Issue Report, along with any summary and analysis of the public comments received, to the Chair of the GNSO Council for consideration for initiation of a PDP.

Section 4: **Initiation of the PDP**

The Council may initiate the PDP as follows:

Board Request: If the Board requested an Issue Report, the Council, within the timeframe set forth in the PDP Manual, shall initiate a PDP. No vote is required for such action.

GNSO Council or Advisory Committee Requests: The Council may only initiate the PDP by a vote of the Council. Initiation of a PDP requires a vote as set forth in Article X, Section 3, paragraph 9(b) and (c) in favor of initiating the PDP.

Section 5: **Reports**

An Initial Report should be delivered to the GNSO Council and posted for a public comment period of not less than 30 days, which time may be extended in accordance with the PDP Manual. Following the review of the comments received and, if required, additional deliberations, a Final Report shall be produced for transmission to the Council.

Section 6. **Council Deliberation**

Upon receipt of a Final Report, whether as the result of a working group or otherwise, the Council chair will (i) distribute the Final Report to all Council members; and (ii) call for Council deliberation on the matter in accordance with the PDP Manual.

The Council approval process is set forth in Article X, Section 3, paragraph 9(d) through (g), as supplemented by the PDP Manual.

Section 7: **Preparation of the Board Report**

If the PDP recommendations contained in the Final Report are approved by the GNSO Council, a Recommendations Report shall be approved by the GNSO Council for delivery to the ICANN Board.

Section 8. **Board Approval Processes**

The Board will meet to discuss the GNSO Council recommendation as soon as feasible, but preferably not later than the second meeting after receipt of the Board Report from the Staff Manager. Board deliberation on the PDP Recommendations contained within the Recommendations Report shall proceed as follows:

a. Any PDP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN community or ICANN. If the GNSO Council recommendation was approved by less than a GNSO Supermajority Vote, a majority vote of the Board will be sufficient to determine that such policy is not in the best interests of the ICANN community or ICANN.
b. In the event that the Board determines, in accordance with paragraph a above, that the policy recommended by a GNSO Supermajority Vote or less than a GNSO Supermajority vote is not in the best interests of the ICANN community or ICANN (the Corporation), the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council.
c. The Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement.

d. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such policy is not in the interests of the ICANN community or ICANN. For any Supplemental Recommendation approved by less than a GNSO Supermajority Vote, a majority vote of the Board shall be sufficient to determine that the policy in the Supplemental Recommendation is not in the best interest of the ICANN community or ICANN.

Section 9. **Implementation of Approved Policies**

Upon a final decision of the Board adopting the policy, the Board shall, as appropriate, give authorization or direction to ICANN staff to work with the GNSO Council to create an implementation plan based upon the implementation recommendations identified in the Final Report, and to implement the policy. The GNSO Council may, but is not required to, direct the creation of an implementation review team to assist in implementation of the policy.

Section 10. **Maintenance of Records**

Throughout the PDP, from policy suggestion to a final decision by the Board, ICANN will maintain on the Website, a status web page detailing the progress of each PDP issue. Such status page will outline the completed and upcoming steps in the PDP process, and contain links to key resources (e.g. Reports, Comments Fora, WG Discussions, etc.).

Section 11: **Additional Definitions**

"Comment Site", “Comment Forum”, “Comments For a” and "Website" refer to one or more websites designated by ICANN on which notifications and comments regarding the PDP will be posted.
"Supermajority Vote" means a vote of more than sixty-six (66) percent of the members present at a meeting of the applicable body, with the exception of the GNSO Council.
"Staff Manager" means an ICANN staff person(s) who manages the PDP.
"GNSO Supermajority Vote" shall have the meaning set forth in the Bylaws.

Section 12: **Applicability**

The procedures of this Annex A shall be applicable to all requests for Issue Reports and PDPs initiated after [insert date of adoption]. For all ongoing PDPs initiated prior to [insert date], the Council shall determine the feasibility of transitioning to the procedures set forth in this Annex A for all remaining steps within the PDP. If the Council determines that any ongoing PDP cannot be feasibly transitioned to these updated procedures, the PDP shall be concluded according to the procedures set forth in Annex A in force on [insert date prior to adoption].

2011-12-08-02-Annex II - proposed-bylaws-revision-annex-a-redline-04nov11-en

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An issue may be raised for consideration as part of the PDP by any of the following:

a.

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the PDP

At the meeting of

a)

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initiating the PDP, the Council shall decide, by a majority vote of members of each House, whether to appoint a task force to address the issue. If the Council votes:

a. In favor of convening a task force, it shall do so in accordance with the provisions of Item 7 below.

b. Against convening a task force, then it will collect information

b)

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5. Composition and Selection of Task Forces

a. Upon voting to appoint a task force, the Council shall invite each of the Constituencies and/or Stakeholder Groups of the GNSO to appoint one individual to participate in the task force. Additionally, the Council may appoint up to three outside advisors to sit on the task force. (Each task force member is referred to in this Annex as a "Representative" and collectively, the "Representatives"). The Council may increase the number of Representatives per Constituency or Stakeholder Group that may sit on a task force in its discretion in circumstances that it deems necessary or appropriate.

b. Any Constituency or Stakeholder Group wishing to appoint a Representative to the task force must submit the name of the Constituency or Stakeholder Group designee to the Staff Manager within ten (10) calendar days after such request in order to be included on the task force. Such designee need not be a member of the Council, but must be an individual who has an interest, and ideally knowledge and expertise, in the area to be developed, coupled with the ability to devote a substantial amount of time to task force activities.

c. The Council may also pursue other options that it deems appropriate to assist in the PDP, including appointing a particular individual or organization to gather information on the issue or scheduling meetings for deliberation or briefing. All such information

shall be submitted to the Staff Manager within thirty-five (35) calendar days after initiation of the PDP.

6. Public Notification of Initiation of the PDP

After initiation of the PDP, ICANN shall post a notification of such action to the Website. A public comment period shall be commenced for the issue for a period of twenty (20) calendar days after initiation of the PDP. The Staff Manager, or some other designated representative of ICANN shall review the public comments and incorporate them into a report (the "Public Comment Report") to be included in either the Preliminary Task Force Report or the Initial Report, as applicable.

7. Task Forces

a. *Role of Task Force*. If a task force is created, its role will generally be to (i) gather information detailing the positions of the Stakeholder Groups and the formal constituencies and provisional constituencies, if any, within the GNSO; and (ii) otherwise obtain relevant information that will enable the Task Force Report to be as complete and informative as possible.

The task force shall not have any formal decision-making authority. Rather, the role of the task force shall be to gather information that will document the positions of various parties or groups as specifically and comprehensively as possible, thereby enabling the Council to have a meaningful and informed deliberation on the issue.

b. *Task Force Charter or Terms of Reference*. The Council, with the assistance of the Staff Manager, shall develop a charter or terms of reference for the task force (the "Charter") within ten (10) calendar days after initiation of the PDP. Such Charter will include:

1. the issue to be addressed by the task force, as such issue was articulated for the vote before the Council that commenced the PDP;

2. the specific timeline that the task force must adhere to, as set forth below, unless the Board determines that there is a compelling reason to extend the timeline; and

3. any specific instructions from the Council for the task force, including whether or not the task force should solicit the advice of outside advisors on the issue.

The task force shall prepare its report and otherwise conduct its activities in accordance with the Charter. Any request to deviate from the Charter must be formally presented to the Council and may only be undertaken by the task force upon a vote of a majority of each house of the Council members.

c. *Appointment of Task Force Chair*. The Staff Manager shall convene the first meeting of the task force within five (5) calendar days after receipt of the Charter. At the initial

meeting, the task force members will, among other things, vote to appoint a task force chair. The chair shall be responsible for organizing the activities of the task force, including compiling the Task Force Report. The chair of a task force need not be a member of the Council.

d. *Collection of Information*

1. *Constituency and Stakeholder Group Statements*. The Representatives of the Stakeholder Groups will each be responsible for soliciting the position of their Stakeholder Groups or any of their constituencies, at a minimum, and other comments as each Representative deems appropriate, regarding the issue under consideration. This position and other comments, as applicable, should be submitted in a formal statement to the task force chair (each, a "Constituency/Stakeholder Group Statement") within thirty-five (35) calendar days after initiation of the PDP. Every Constituency/Stakeholder Group Statement shall include at least the following:

(i) If a Supermajority Vote was reached, a clear statement of the constituency's or Stakeholder Group's position on the issue;

(ii) If a Supermajority Vote was not reached, a clear statement of all positions espoused by constituency or Stakeholder Group members;

(iii) A clear statement of how the constituency or Stakeholder Group arrived at its position(s). Specifically, the statement should detail specific constituency or Stakeholder Group meetings, teleconferences, or other means of deliberating an issue, and a list of all members who participated or otherwise submitted their views;

(iv) An analysis of how the issue would affect the constituency or Stakeholder Group, including any financial impact on the constituency or Stakeholder Group; and

(v) An analysis of the period of time that would likely be necessary to implement the policy.

2. *Outside Advisors*. The task force, should it deem it appropriate or helpful, may solicit the opinions of outside advisors, experts, or other members of the public, in addition to those of constituency or Stakeholder Group members. Such opinions should be set forth in a report prepared by such outside advisors, and (i) clearly labeled as coming from outside advisors; (ii) accompanied by a detailed statement of the advisors' (A) qualifications and relevant experience; and (B) potential conflicts of interest. These reports should be submitted in a formal statement to the task force chair within thirty-five (35) calendar days after initiation of the PDP.

e. *Task Force Report*. The chair of the task force, working with the Staff Manager, shall compile the Constituency/Stakeholder Group Statements, Public Comment Report, and other information or reports, as applicable, into a single document ("Preliminary Task Force Report") and distribute the Preliminary Task Force Report to the full task force

within forty (40) calendar days after initiation of the PDP. The task force shall have a final task force meeting within five (5) days after the date of distribution of the Preliminary Task Force Report to deliberate the issues and try and reach a Supermajority Vote. Within five (5) calendar days after the final task force meeting, the chair of the task force and the Staff Manager shall create the final task force report (the "Task Force Report") and post it on the Comment Site. Each Task Force Report must include:

1. A clear statement of any Supermajority Vote position of the task force on the issue;

2. If a Supermajority Vote was not reached, a clear statement of all positions espoused by task force members submitted within the twenty-day timeline for submission of constituency or Stakeholder Group reports. Each statement should clearly indicate (i) the reasons underlying the position and (ii) the constituency(ies) or Stakeholder Group(s) that held the position;

3. An analysis of how the issue would affect each constituency or Stakeholder Group of the task force, including any financial impact on the constituency or Stakeholder Group;

4. An analysis of the period of time that would likely be necessary to implement the policy; and

5. The advice of any outside advisors appointed to the task force by the Council, accompanied by a detailed statement of the advisors' (i) qualifications and relevant experience; and (ii) potential conflicts of interest.

8. Procedure if No Task Force is Formed

a. If the Council decides not to convene a task force, the Council will request that, within ten (10) calendar days thereafter, each constituency or Stakeholder Group appoint a representative to solicit the constituency's or Stakeholder Group’s views on the issue. Each such representative shall be asked to submit a Constituency/Stakeholder Group Statement to the Staff Manager within thirty-five (35) calendar days after initiation of the PDP.

b. The Council may also pursue other options that it deems appropriate to assist in the PDP, including appointing a particular individual or organization to gather information on the issue or scheduling meetings for deliberation or briefing. All such information shall be submitted to the Staff Manager within thirty-five (35) calendar days after initiation of the PDP.

c. The Staff Manager will take all Constituency/Stakeholder Group Statements, Public Comment Statements, and other information and compile (and post on the Comment Site) an Initial Report within fifty (50) calendar days after initiation of the PDP. Thereafter, the PDP shall follow the provisions of Item 9 below in creating a Final Report.

9. Public Comments to the Task Force Report or Initial Report

a. The public comment period will last for twenty (20) calendar days after posting of the Task Force Report or Initial Report. Any individual or organization may submit comments during the public comment period, including any Constituency or Stakeholder Group that did not participate in the task force. All comments shall be accompanied by the name of the author of the comments, the author's relevant experience, and the author's interest in the issue.

b. At the end of the twenty (20) day period, the Staff Manager will be responsible for reviewing the comments received and adding those deemed appropriate for inclusion in the Staff Manager's reasonable discretion to the Task Force Report or Initial Report (collectively, the "Final Report"). The Staff Manager shall not be obligated to include all comments made during the comment period, including each comment made by any one individual or organization.

c. The Staff Manager shall prepare the Final Report and submit it to the Council chair within ten (10) calendar days after the end of the public comment period.

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b. The Council may, if it so chooses, solicit the opinions of outside advisors at its final meeting. The opinions of these advisors, if relied upon by the Council, shall be (i) embodied in the Council's report to the Board, (ii) specifically identified as coming from an outside advisor; and (iii) be accompanied by a detailed statement of the advisor's (x) qualifications and relevant experience; and (y) potential conflicts of interest.

11. Council

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The Staff Manager will be present at the final meeting of the Council, and will have five (5) calendar days after the meeting to incorporate the views of the Council into a report to be submitted to the Board (the "Board Report"). The Board Report must contain at least the following:

a. A clear statement of any Successful GNSO Vote recommendation of the Council;

b.

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f. In any case in which the Council is not able to reach GNSO Supermajority vote, a majority vote of the Board will be sufficient to act.

g. When a final decision on a GNSO Council Recommendation or Supplemental Recommendation is timely, the Board shall take a preliminary vote and, where practicable, will publish a tentative decision that allows for a ten (10) day period of public comment prior to a final decision by the Board.

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a. The initial suggestion for a policy;

b. A list of all suggestions that do not result in the creation of an Issue Report;

c. The timeline to be followed for each policy;

d. All discussions among the Council regarding the policy;

e. All reports from task forces, the Staff Manager, the Council and the Board; and

f. All public comments submitted.

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"Comment Site" and "Website" refer to one or more web sites designated by ICANN on which notifications and comments regarding the PDP will be posted.

"Supermajority Vote" means a vote of more than sixty-six (66) percent of the members present at a meeting of the applicable body, with the exception of the GNSO Council.

"Staff Manager" means an ICANN staff person(s) who manages the PDP.

"GNSO Supermajority Vote" shall have the meaning set forth in the Bylaws.

A "Successful GNSO Vote" is an affirmative vote of the GNSO Council that meets the relevant voting thresholds set forth in Article X, Section 3(9) including, without limitation, a GNSO Supermajority Vote.

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A "Successful GNSO Vote" is an affirmative vote of the GNSO Council that meets the relevant voting thresholds set forth in Article X, Section 3(9) including, without limitation, a GNSO Supermajority Vote.

2011-12-08-02-Annex III - Policy Development Process Manual

5 Policy Development Process Manual

As outlined before, in order to enhance flexibility of the Policy Development Process, the PDP-WT proposes to incorporate the details as well as further guidance on how to manage a PDP in a Policy Development Process Manual that would become an integral part of the GNSO Operating Procedures. Below is the WT proposed form of a PDP Manual that contains the main elements based on the recommendations outlined in the previous chapters.

5.1 PDP Manual - Introduction

These guidelines and processes supplement the requirements for PDPs described in Annex A of the ICANN Bylaws [insert link].

5.2 Requesting an Issue Report

As outlined in Annex A of the ICANN Bylaws, a request for an Issue Report may be initiated upon Board, Council or Advisory Committee request.

Requests for an Issue Report by the Board or by an Advisory Committee do not require any GNSO Council action, but are to be reviewed by Staff and prepared in accordance with Section 5.4 below.

5.3 Planning for Initiation of a PDP

Consistent with ICANN's commitment to fact-based policy development, the GNSO and Staff are encouraged to provide advice in advance of a vote on the request for an Issue Report specifying any additional research, discussion, or outreach that should be conducted as part of the development of the Issue Report, in order to ensure a balanced and informed Issue Report.

The GNSO is encouraged to consider scheduling workshops on substantive issues prior to the initiation of a PDP. Such workshops could, amongst others; facilitate community understanding of the issue; assist in scoping and defining the issue; gather support for the request of an Issue Report, and/or; serve as a means to gather additional data and/or information before a request is submitted. Where appropriate, the GNSO Council should consider requiring such a workshop

during the planning and initiation phase for a specific issue. To the extent such workshops are utilized by the GNSO, the invitations and/or announcements for workshops should be communicated as broadly as possible.

The GNSO Council should take into full account the resources available, both volunteers and staff, when making its decision on whether or not to initiate a PDP.

5.4 Recommended Format of Issue Report Requests

The recommended format of requests for Issue Reports under paragraphs (b) and (c) of Section 2 is described below:

Request for Issue Report	
Name of Requestor:	
Name of Stakeholder Group/Constituency/Advisory Committee (if applicable) in support of request:	
Please provide rationale for policy development:	
Brief explanation of how issue affects your SG / Constituency / Advisory Committee:	
Suggestions on specific items to be addressed in the Issue Report (if any):	
Please provide a concise definition of the issue presented and the problems raised by the issue, including quantification to the extent feasible:	
What is the economic impact or effect on competition, consumer trust, privacy and other rights:	
Please provide supporting evidence (if any):	
How does this issue relate to the provisions of the ICANN Bylaws, the Affirmation of Commitments and/or ICANN's Articles of Incorporation:	
Date Submitted:	

Expected Completion Date:	

Any request for an Issue Report, either by completing the template or in another form, must include at a minimum: the name of the requestor and the definition of the issue. The submission of any additional information, such as the identification and quantification of problems, and other as outlined for example in the template, is strongly encouraged.

5.5 Creation of the Preliminary Issue Report

Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a properly supported motion from the GNSO Council; or (iii) a properly supported motion from an Advisory Committee, the Staff Manager will create a report (a "Preliminary Issue Report"). In the event the Staff Manager determines that more time is necessary to create the Preliminary Issue Report, the Staff Manager may request an extension of time for completion of the Preliminary Issue Report, which request should be discussed with the Requestor.

In the event that the Issue Report was initially requested by the Board or an Advisory Committee, the requestor shall be informed of any extension of time for completion of the Issue Report. Any request for extension of time should include consideration of the complexity of the issue, the extent of research and outreach recommended, and the ICANN Staff workload.

The following elements should be considered in the Issue Report:

a) The proposed issue raised for consideration;
b) The identity of the party submitting the request for the Issue Report;
c) How that party is affected by the issue, if known;
d) Support for the issue to initiate the PDP, if known;
e) The opinion of the ICANN General Counsel regarding whether the issue proposed for consideration within the Policy Development Process is properly within the scope of the ICANN's mission, policy process and more specifically the role of the GNSO. In determining whether the issue is properly within the scope of the ICANN policy process, General Counsel's opinion should examine whether the issue:

a. is within the scope of ICANN's mission statement, and more specifically the role of the GNSO;
b. is broadly applicable;
c. is likely to have lasting value or applicability, albeit with the need for occasional updates;
d. is likely to enable ICANN to carry out its commitments under the Affirmation of Commitments;
e. will establish a guide or framework for future decision-making;
f. will implicate or affect an existing ICANN policy.

f) The opinion of ICANN Staff as to whether the Council should initiate the PDP on the issue

5.6 Public Comment on the Preliminary Issue Report

Upon completion of the preliminary Issue Report, the preliminary Issue Report shall be posted on the ICANN website for a public comment period of no less than 30 days. When posted for Public Comment, Staff is encouraged to translate the executive summary of Preliminary Issue Reports into the six UN languages to the extent permissible under the ICANN translation policy and the ICANN budget, though the posting of any version in English shall not be delayed while translations are being completed.

The Staff Manager is responsible for drafting a summary and analysis of the public comments received on the Issue Report and producing a Final Issue Report based upon the comments received. The Staff Manager should forward the Final Issue Report, along with any summary and analysis of the public comments received, to the Chair of the GNSO Council for consideration for initiation of a PDP.

The summary and analysis and the Final Issue Report are expected to be delivered to the Chair of the GNSO Council within 30 days of the closing of the public comment forum, though the Staff Manager may request an extension of that 30-day time for delivery.

5.7 Initiation of the PDP

The Council may initiate the PDP as follows:

Board Request: If the Board requested an Issue Report, the Council, within the timeframe set forth in the paragraph below, shall note for the record the confirmation of receipt of the Issue Report and the formal initiation of the PDP. No vote is required for such action.

GNSO Council or Advisory Committee Requests: The Council may only initiate the PDP by a vote of the Council. Initiation of a PDP requires a vote as set forth in Article X, Section 3, paragraph 9(b) and (c) in favor of initiating the PDP.

Timing of vote on Initiation of the PDP. The Council should endeavour to vote on whether to initiate the policy development process at the next scheduled Council meeting following the receipt of a Final Issue Report; provided that the Final Issue Report is received at least eight (8) calendar days prior to the GNSO Council meeting. If the Final Issue Report is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council should endeavour to vote on the initiation of the PDP at the subsequent GNSO Council meeting. At the request of any Council member, for any reason, consideration of the Final Issue Report may be postponed by not more than one (1) meeting, provided that the Council member details the rationale for such a postponement. Consideration of the Final Issue Report may only be postponed for a total of one (1) meeting, even if multiple Council members request postponement.

Upon consideration of the Final Issue Report the GNSO Council may, when necessary, vote to suspend further consideration of the Final Issue Report. Any motion to suspend further consideration of the Final Issue Report shall fail if the votes in favor of continuing consideration of the Final Issue Report is sufficient to initiate a PDP under Article X Section 9.b or 9.c of the Bylaws, as appropriate. The basis for suspension could include prioritization reasons such as insufficient Staff or community support available due to other ongoing PDP work, requests for additional data and requests for additional discussion. The GNSO Council is expected to use this procedure sparingly, and should generally endeavour to vote on the initiation of a PDP within 90 calendar days of the receipt of the Final Issue Report. Any decision to suspend consideration of the Final Issue Report is to be accompanied by a proposed timeline for further consideration, including a timeline for a vote on the initiation of the PDP.

In the event that the GNSO Council does not approve the initiation of the PDP, not including the possible suspension of further consideration of the Final Issue Report as described above, any Councillor may appeal the denial, and request that the GNSO Council hold a renewed vote on the initiation of the PDP at the next subsequent GNSO Council meeting.

In the event that the GNSO Council does not approve the initiation of the PDP following a Final Issue Report requested by an Advisory Committee (AC), the AC or its representatives should have the opportunity to meet with representatives of the GNSO, and in particular, those voting against the initiation of the PDP, to discuss the rationale for the rejection and why the AC feels that reconsideration is appropriate. Following this meeting, the AC may submit a statement to the GNSO Council requesting a re-vote and giving its rationale for such a re-vote. This process may be followed just once for any given Issue Report.

As part of its decision on the initiation of the PDP, the GNSO Council may include consideration of how ICANN's budget and planning can best accommodate the PDP and/or its possible outcomes, and, if applicable, how the proposed PDP is aligned with ICANN's Strategic Plan.

5.8 Development and Approval of the Charter for the PDP

Upon initiation of the PDP, a group formed at the direction of Council should be convened to draft the charter for the PDP Team. The Council should indicate the timeframe within which a draft PDP Charter is expected to be presented to the Chair of the GNSO Council. Such a timeframe should be realistic, but at the same time ensure that this task is completed as soon as possible and does not unnecessarily delay the formation of a Working Group. The elements of the Charter should include, at a minimum, the following elements as specified in the GNSO Working Group Guidelines: Working Group Identification; Mission, Purpose and Deliverables; Formation, Staffing and Organization, and; Rules of Engagement.

The Council should consider whether to approve the proposed PDP Charter at the Council meeting following the Chair's receipt of the proposed PDP Charter; provided that the proposed PDP Charter is received at least eight (8) calendar days prior to the GNSO Council meeting. If the proposed PDP Charter is forwarded to the GNSO Council Chair within the eight (8) calendar days immediately preceding the next GNSO Council meeting, the Council should endeavour to consider the proposed PDP Charter at the meeting after the next GNSO Council meeting.

The same voting thresholds that apply to the initiation of the PDP also apply to the approval of the proposed PDP Charter. Specifically, the proposed PDP Charter is to be approved with an affirmative vote of vote of more than one-third (1/3) of the Council members of each House or more than two-thirds (2/3) vote of one House in favour of approval of a Charter for a PDP within scope; unless the Staff Recommendation stated that the issue is not properly within the scope of the ICANN policy process or the GNSO, in which case a GNSO Supermajority Vote as set forth in Article X, Section 3, paragraph 9(c) in favour of approving the PDP Team Charter is specified to approve the PDP Charter.

Once approved, modification of any PDP Charter is discouraged, absent special circumstances. Approved charters may be modified or amended by a simple majority vote of each House.

In exigent circumstances, upon approval of the initiation of the PDP, the GNSO Council may direct certain work to be performed prior to the approval of the PDP Charter.

5.9 PDP Outcomes and Processes

Upon approval of the PDP Charter, the GNSO Council may form a working group, task force, committee of the whole or drafting team (the "PDP Team"), to perform the PDP activities. The preferred model for the PDP Team is the Working Group model due to the availability of specific Working Group rules and procedures that are included in the GNSO Operating Rules and Procedures. The GNSO Council should not select another model for conducting PDPs unless the GNSO Council first identifies the specific rules and procedures to guide the PDP Team's deliberations which should at a minimum include those set forth in the ICANN Bylaws and PDP Manual. The PDP Team is required to review and become familiar with the GNSO Working Group Guidelines, which also apply to PDP Working Groups (see http://gnso.icann.org/council/annex-1-gnso-wg-guidelines-07apr11-en.pdf), which includes further information and guidance on the functioning of GNSO Working Groups.

Once formed, the PDP Team is responsible for engaging in the collection of information. If deemed appropriate or helpful by the PDP Team, the PDP Team may solicit the opinions of outside advisors, experts, or other members of the public. The PDP Team should carefully consider the budgetary impacts, implementability, and/or feasibility of its proposed information requests and/or subsequent recommendations.

The PDP Team should formally solicit statements from each Stakeholder Group and Constituency in the early stages of the PDP. Stakeholder Groups and Constituencies should at a minimum have 35 days to complete such a statement from the moment that the statement is formally requested by the PDP Team. If appropriate, such statements may be solicited more than once by the PDP Team throughout the PDP process. The PDP Team is also encouraged to formally seek the opinion of other ICANN Advisory Committees and Supporting Organizations, as appropriate that may have expertise, experience, or an interest in the PDP issue. Solicitation of opinions should be done during the early stages of the PDP.

In addition, the PDP Team should seek input from other SOs and ACs. Such input should be treated with the same due diligence as other comments and input processes. In addition, comments from ACs and SOs should receive a response from the PDP Team. This may include, for example, direct reference in the applicable Report or embedded in other responsive

documentation or a direct response. The PDP Team is expected to detail in its report how input was sought from other SOs and ACs.

The PDP Team is encouraged to establish communication in the early stages of the PDP with other departments, outside the policy department, within ICANN that may have an interest, expertise, or information regarding the implementability of the issue. The Staff Manager is responsible for serving as the intermediary between the PDP Team and the various ICANN departments (finance, legal, compliance, etc.). The PDP Team Chair may escalate to the Vice President of Policy if the PDP Team is of the opinion that such communications have been hindered through the involvement of ICANN policy Staff. ICANN Staff may perform additional distinct roles for a PDP Team as requested and appropriate (see GNSO Working Group Guidelines for further details).

This Section illustrates the types of outcomes that are permissible from a PDP. PDP Teams may make recommendations to the GNSO Council regarding:

i. Consensus policies
ii. Other policies
iii. Best Practices
iv. Implementation Guidelines
v. Agreement terms and conditions
vi. Technical Specifications
vii. Research or Surveys to be Conducted
viii. Advice to ICANN or to the Board
ix. Advice to other Supporting Organizations or Advisory Committee
x. Budget issues
xi. Requests for Proposals
xii. Recommendations on future policy development activities

At the same time, a PDP Team may also conclude that no recommendation is necessary.

The Staff Manager is responsible for coordinating with the Chair(s) of the PDP Team to supervise and to carry out the PDP activities as necessary or appropriate, including, without limitation, making available the standard technical resources for the PDP Team, scheduling and attending PDP Team meetings, drafting and publishing PDP reports for public comment, and providing expertise where needed.

5.10 Publication of the Initial Report

After collection and review of information, the PDP Team and Staff are responsible for producing an Initial Report. The Initial Report should include the following elements:

- Compilation of Stakeholder Group and Constituency Statements
- Compilation of any statements received from any ICANN Supporting Organization or Advisory Committee
- Recommendations for policies, guidelines, best practices or other proposals to address the issue
- Statement of level of consensus for the recommendations presented in the Initial Report
- Information regarding the members of the PDP Team, such as the attendance records, Statements of Interest, etc.
- A statement on the WG discussion concerning impact of the proposed recommendations, which could consider areas such as economic, competition, operations, privacy and other rights, scalability and feasibility.

These elements may be included as content within the Initial Report or by reference to information posted on an ICANN website (such as through a hyperlink).

The Initial Report should be delivered to the GNSO Council and posted for a public comment period of not less than 30 days. If such a public comment period would coincide with an ICANN Public Meeting, the PDP Team is strongly encouraged to extend the public comment period a minimum of seven (7) days. Any public comment period on items other than the Issue Report and Initial Report shall be for a minimum of 21 days. The PDP Team is encouraged to explore other means to solicit input than the traditional public comment forum such as, for example, the use of a survey which might allow for asking more targeted questions.

5.11 Preparation of the Final Report

At the end of the public comment period, the Staff Manager will prepare a summary and analysis of the public comments received for the Working Group. Such a summary and analysis of the public comments should be provided at the latest 30 days after the closing of the public comment period, absent exigent circumstances. The Working Group shall review and take into consideration the public comments received. Following this review, the Staff Manager, in close coordination with the PDP Team, shall add those comments deemed appropriate for inclusion to the Initial Report. In addition, the Staff Manager and the PDP Team may update the Initial Report if there are any recommendations within the Initial Report that require modification to address comments received through public comment. Such a revised Report shall be put forward for consideration by the PDP Team. The Staff Manager and the PDP Team are not obligated to include all comments made during the comment period, including each comment made by any one individual or organization.

The PDP Team is expected to deliberate as appropriate to properly evaluate and address comments raised during the public comment period. This should include the careful consideration and analysis of the public comments; explaining the rationale for agreeing and disagreeing with the different comments received, and, if appropriate, how these will be addressed in the report of the PDP Team. Following the review of the comments received and, if required, additional deliberations, the PDP Team is expected to produce a Final Report for transmission to the Council. The analysis of the comments by the PDP Team is expected to be included or referenced as part of the Final Report.

While the Final Report is not required to be posted for public comment, in preparing the Final Report, the PDP Team should consider whether the Final Report should be posted for public comment as a [Draft] Final Report, with the goal of maximizing accountability and transparency with regards the PDP, especially when substantial changes have been made compared to the contents of the Initial Report. When posted for Public Comment, Staff should consider translating the executive summaries of the Initial Reports and Draft Final Reports into the six UN languages, to the extent permissible under the ICANN translation policy and the ICANN budget, though the posting of any version in English is not to be delayed while translations are being

completed. Upon completion of the Public Comment period, if any, and incorporation of any additional comments identified therein, or if no further comment period is necessary, the Final Report is to be forwarded to the GNSO Council Chair to begin the GNSO Council deliberation process.

In addition to any required public comment periods, the PDP Team may seek public comment on any item that the PDP Team notes it will benefit from further public input. The PDP Team does not have to seek approval from the GNSO Council to seek public comment on interim items. The minimum duration of a public comment period that does not concern the Initial Report is twenty (21) days.

Each recommendation in the Final Report should be accompanied by the appropriate consensus level designation (see section 3.6 – Standard Methodology for Making Decisions in the GNSO Working Group Guidelines).

5.12 Council Deliberation

The GNSO Council is strongly encouraged to allow sufficient time for Stakeholder Group, Constituency and Councillor review of the Final Report prior to a motion being made to formally adopt the Final Report. However, the GNSO Council is also encouraged to take formal action on a Final Report in a timely manner, and preferably no later than the second GNSO Council meeting after the report is presented. At the request of any Council member, for any reason, consideration of the Final Report may be postponed for no more than one (1) meeting, provided that such Council member details the rationale for such a postponement. Consideration of the Final Report may only be postponed for a total of one (1) meeting, even if multiple Council members request postponement**.** The GNSO Council may, if deemed appropriate, schedule a separate session with the PDP Team to discuss the Final Report and ask any clarifying questions that might arise.

The GNSO Council is expected to vote on the recommendations contained in the Final Report. Approval of the PDP recommendations contained in the Final Report requires an affirmative vote meeting the thresholds set forth at Article X, Section 3(9) d – f.

In the event that the Final Report includes recommendations that did not achieve the consensus within the PDP Team, the GNSO Council should deliberate on whether to adopt them or remand the recommendations for further analysis and work. Although the GNSO Council may adopt all or any portion of the recommendations contained in the Final Report, it is recommended that the GNSO Council take into account whether the PDP Team has indicated that any recommendations contained in the Final Report are interdependent. The GNSO Council is strongly discouraged from itemizing recommendations that the PDP Team has identified interdependent or modifying recommendations wherever possible. In the event the GNSO Council expresses concerns or proposes changes to the PDP recommendations, it may be more appropriate to pass these concerns or recommendations for changes back to the respective PDP Team for input and follow-up.

5.13 Preparation of the Board Report

If the PDP Recommendations contained in the Final Report are approved by the GNSO Council, the GNSO Council may designate a person or group responsible for drafting a Recommendations Report to the Board. If feasible, the Recommendations Report to the Board should be submitted to the Board in time for consideration at the next GNSO Council meeting following adoption of the Final Report. Staff should inform the GNSO Council from time to time of the format requested by the Board. These GNSO Council Reports supplement any Staff Reports that may highlight any legal, implementability, financial, and other operational concerns related to the PDP recommendations contained in the Final Report. In order to enhance ICANN's accountability and transparency, Staff is encouraged to publish its Staff Reports with minimal redactions wherever possible, without jeopardizing information that may be protected under attorney/client or other legal privileges.

5.14 GNSO Council Role in Implementation

Upon a final decision of the Board adopting the GNSO PDP policy, the Board may, as appropriate, give authorization or direction to ICANN staff to work with the GNSO Council to create an implementation plan based upon the implementation recommendations identified in the Final Report, and to implement the policy in as timely a fashion as possible. The GNSO Council may, but is not required to, direct the creation of an Implementation Review Team to assist Staff in developing the implementation details for the policy. In its Final Report, the PDP

Team should provide recommendations to the GNSO Council on whether an Implementation Review Team should be established and any other recommendations deemed appropriate in relation to such an Implementation Review Team (e.g. composition).

ICANN Staff should inform the GNSO of its proposed implementation of a new GNSO recommended policy. If the proposed implementation is considered inconsistent with the GNSO Council's recommendations, the GNSO Council may notify the Board and request that the Board review the proposed implementation. Until the Board has considered the GNSO Council request, ICANN Staff should refrain from implementing the policy, although it may continue developing the details of the proposed implementation while the Board considers the GNSO Council request.

5.15 Termination of PDP prior to Final Report

The GNSO Council may terminate a PDP prior to the publication of a Final Report only for significant cause, upon a motion that passes with a Supermajority Vote in favour of termination. The following are illustrative examples of possible reasons for a premature termination of a PDP:

1. **Deadlock**. The PDP Team is hopelessly deadlocked and unable to identify recommendations or statements that have either the strong support or a consensus of its members despite significant time and resources being dedicated to the PDP;
2. **Changing Circumstances**. Events have occurred since the initiation of the PDP that have rendered the PDP moot or no longer necessary; or
3. **Lack of Community Volunteers.** Despite several calls for participation, the work of the PDP Team is significantly impaired and unable to effectively conclude its deliberations due to lack of volunteer participation.

If there is no recommendation from the PDP Team for its termination, the Council is required to conduct a public comment forum first prior to conducting a vote on the termination of the PDP (as described above).

5.16 Amendments or Modifications of Approved Policies

Approved GNSO Council policies may be modified or amended by the GNSO Council at any time prior to the final approval by the ICANN Board as follows:

1. The PDP Team is reconvened or, if disbanded, reformed, and should be consulted with regards to the proposed amendments or modifications;
2. The proposed amendments or modifications are posted for public comment for not less than thirty (30) days;
3. The GNSO Council approves of such amendments or modifications with a Supermajority Vote of both Houses in favour.

Approved GNSO Council policies that have been adopted by the ICANN Board and have been implemented by ICANN Staff may only be amended by the initiation of a new PDP on the issue.

5.17 Periodic Assessments of Approved Policies

Periodic assessment of PDP recommendations and policies is an important tool to guard against unexpected results or inefficient processes arising from GNSO policies. PDP Teams are encouraged to include proposed timing, assessment tools, and metrics for review as part of their Final Report. In addition, the GNSO Council may at any time initiate reviews of past policy recommendations.

5.18 Miscellaneous

This Manual may be updated by the GNSO Council from time to time following the same procedures as applicable to amendments to the GNSO Operating Rules and Procedures.

In the event of any inconsistencies between the ICANN Bylaws or this Manual, the terms of the ICANN Bylaws shall supersede.

2011-12-08-05-Annex-Board-Submission-Board-Compensation

ANNEX TO ICANN BOARD SUBMISSION NO. 2011-12-08-05

TITLE: **Board Compensation**

1. Attachment A hereto is a redline showing proposed revisions to the Conflicts of Interest Policy.
2. Attachment B hereto is a redline showing proposed revisions to the ICANN Bylaws.
3. Attachment C hereto is the Independent Valuation Expert Report, dated 13 October 2011.
4. Attachment D hereto is the Report on Public Comment to the Proposed Revisions to ICANN's Conflicts of Interest Policy and Bylaws.

Submitted by:	John O. Jeffrey; Amy A. Stathos
Positions:	General Counsel and Secretary; Deputy General Counsel
Date Noted:	30 November 2011
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2011-12-08-05-Annex-Attachment-A-to-Board-Submission-Board-Compensation

EXHIBIT A

Conflicts of Interest Policy
Effective 30 July 2009

ARTICLE I -- PURPOSE AND ADMINISTRATION

Section 1.1 The purpose of the Conflicts of Interest Policy (the "COI Policy") is to ensure that the deliberations and decisions of ICANN are made in the interests of the global Internet community as a whole and to protect the interests of ICANN when ICANN is contemplating entering into a transaction, contract, or arrangement that might benefit the private interest of a Covered Person.

Section 1.2 A Covered Person (see Section VII below for definitions of all defined terms that can be identified throughout this Policy with initial capital letters) may not use his or her position with respect to ICANN, or confidential corporate information obtained by him or her relating to ICANN, in order to achieve a financial benefit for himself or herself or for a third person, including another nonprofit or charitable organization.

Section 1.3 This COI Policy is intended to supplement but not to replace any applicable laws governing conflicts of interest in nonprofit and charitable corporations.

Section 1.4 ICANN will encourage ICANN Supporting Organization and Advisory Committees and other ICANN bodies, as appropriate, to consider implementing the principles and practices of this COI Policy as relevant.

Section 1.5 The Board Governance Committee shall administer and monitor compliance with the COI Policy.

Section 1.6 Certain Capitalized Terms used in this COI Policy shall have the meanings set forth in Article VII of this COI Policy.

ARTICLE II -- PROCEDURES REGARDING CONFLICTS OF INTEREST

Section 2.1 **Duty to Disclose.**

(a) In connection with any proposed transaction, contract, or arrangement being considered by ICANN, a Covered Person shall promptly disclose to the Board Governance Committee the existence of any Potential Conflicts that may give rise to a Conflict of Interest with respect to the proposed transaction, contract, or arrangement.

(b) The disclosure to the Board Governance Committee of a Potential Conflict shall be made pursuant to such procedures as the Board Governance Committee may establish from time to time. The Covered Person making such disclosure is referred to herein as an Interested Person.

Section 2.2 **Determining Whether a Conflict of Interest Exists.**

(a) After disclosure of a Potential Conflict by an Interested Person, the Board Governance Committee shall have a discussion with the Interested Person regarding the material facts with respect to the Potential Conflict.

(b) Thereafter, in the absence of the Interested Person, Disinterested members of the Board Governance Committee shall determine whether or not the circumstances disclosed by the Interested Person regarding the Potential Conflict constitute a Conflict of Interest, and, subject to a contrary finding by the Disinterested Board members, the determination by the Disinterested members in this regard is conclusive and may not be challenged by the Interested Person. If the Interested Person is a Director, such determination shall be reported to the Disinterested Board members at the next Board meeting and shall be subject to Board ratification.

Section 2.3 **Procedures for Addressing a Conflict of Interest.**

(a) If the Board Governance Committee determines that a Conflict of Interest exists, the Conflicted Person may make a presentation to the Board Governance Committee regarding the transaction, contract, or arrangement. After any such presentation, the Conflicted Person shall leave the meeting and shall not be present during any discussion of the Conflict of Interest.

(b) The Chair of the Board Governance Committee shall, if appropriate, appoint a Disinterested person or committee to investigate alternatives to the proposed transaction, contract, or arrangement. If the Conflicted Person is a Board member, the findings shall be reported to the Board.

(c) After exercising due diligence, the Board Governance Committee shall determine whether ICANN can obtain with reasonable efforts a more advantageous transaction, contract, or arrangement in a manner that would not give rise to a Conflict of Interest. If the Conflicted person is a Board member, such determination shall be reported to the Board.

(d) If a more advantageous transaction, contract, or arrangement is not reasonably possible under circumstances not producing a Conflict of Interest, the Board Governance Committee, and where the Conflicted Person is a Board member, the Board, shall determine by a majority vote of the Disinterested members whether the transaction, contract, or arrangement is in ICANN's best interest, for its own benefit, and whether it is fair and reasonable to ICANN. In conformity with those determinations, the Board Governance Committee or the Board, as applicable, shall make its decision as to whether ICANN should enter into the transaction, contract or arrangement.

Section 2.4. **Duty to Abstain**

(a) No Director may vote on, and must abstain from voting on, on any matter in which the Director has a material Financial Interest that will be affected by the outcome of the vote, except that a Director need not abstain from, and may vote on, whether to accept or to reject a recommendation to the Board by an Independent Valuation Expert contained

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in a Reasoned Written Opinion from such Independent Valuation Expert regarding a compensation arrangement for services provided by the Director to ICANN in the Director's capacity as member of the Board of ICANN.

(b) In the event of such an abstention, the abstaining Director shall state the reason for the abstention, which shall be noted in the notes of the meeting in which the abstention occurred.

(c) Except as otherwise provided in Section 2.4(a), above, regarding a compensation arrangement for services provided by the Director to ICANN in the Director's capacity as member of the Board of ICANN, no Director may participate in Committee or Board deliberations on any matter in which he or she has a material Financial Interest without first disclosing the conflict and until a majority of Disinterested Committee or Board members present agree on whether and in what manner the Board member may participate.

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Section 2.5 **Violations of the Conflicts of Interest Policy.**

(a) If the Board Governance Committee has reasonable cause to believe a Covered Person has failed to disclose an actual or Potential Conflict of Interest, the Board Governance Committee shall inform the Covered Person, and initiate the procedures described in Section 2.2 and 2.3.

ARTICLE III-- RECORDS OF PROCEEDINGS

Section 3.1 The written or electronic records of the Board and the Board Governance Committee relating to Conflicts of Interest shall contain:

(a) The names of Covered Persons who disclosed or otherwise were found to have a Potential Conflict in connection with a proposed transaction, contract, or arrangement;

(b) The nature of the Potential Conflict;

(c) Any action taken to determine whether a Conflict of Interest was present;

(d) The Board's or Board Governance Committee's, as applicable, decision as to whether a Conflict of Interest in fact existed;

(e) The names of the persons who were present for discussions and votes relating to the transaction, contract, or arrangement;

(f) The content of the discussion, including any alternatives to the proposed transaction, contract, or arrangement; and

(g) A record of any votes taken in connection therewith.

ARTICLE IV -- COMPENSATION

Section 4.1 A Covered Person who receives compensation, directly or indirectly, from ICANN for services may not vote on matters pertaining to the Covered Person's compensation.

Section 4.2 A Covered Person may not vote on matters pertaining to compensation received, directly or indirectly from ICANN by a member of the Covered Person's Family or by an individual with whom a Covered Person has a close personal relationship, including, but not limited to, any relationship other than kinship, spousal or spousal equivalent that establishes a significant personal bond between the Covered Person and such other individual that in the judgment of the Board Governance Committee could impair the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

Section 4.3 No Covered Person who receives compensation, directly or indirectly, from ICANN, either individually or collectively, is prohibited from providing information to the Board or to any Committee regarding the Covered Person's compensation.

ARTICLE V -- ANNUAL STATEMENTS

Section 5.1 Each Covered Person shall annually sign a statement which affirms such Covered Person: (i) has received a copy of the COI Policy; (ii) has read and understands the COI Policy; (iii) has agreed to comply with the COI Policy; and (iv) understands ICANN is a tax-exempt organization described in § 501(c)(3) of the Internal Revenue Code and that in order to maintain its federal tax exemption, ICANN must engage primarily in activities which accomplish one or more of ICANN's tax-exempt purposes.

ARTICLE VI -- PERIODIC REVIEWS

Section 6.1 To ensure ICANN operates in a manner consistent with its tax-exempt purposes and does not engage in activities that could jeopardize its tax-exempt status, ICANN's Office of the General Counsel and Finance Department shall conduct periodic reviews of its purposes and activities.

Section 6.2 These periodic reviews shall, at a minimum, include the following subjects:

(a) Whether activities carried on by ICANN are consistent with and in furtherance of one or more of ICANN's tax-exempt purposes;

(b) Whether ICANN follows policies and procedures reasonably calculated to prevent private Inurement more than incidental private benefit, excess benefit transactions, substantial lobbying, and participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

(c) Whether compensation arrangements and benefits are reasonable, are based on appropriate data as to comparability, and are the result of arm's length bargaining.

(d) Whether partnerships, joint ventures, and arrangements with organizations that

provide management personnel or management services conform to ICANN's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further tax-exempt purposes, and do not result in private Inurement more than incidental private benefit, or in an excess benefit transaction.

Section 6.3 When conducting the periodic reviews, ICANN may, but need not, use outside experts and/or advisors. If outside experts and/or advisors are used, their use shall not relieve the Board of ICANN of its responsibility for ensuring periodic reviews are conducted in the manner prescribed in this Article.

ARTICLE VII -- DEFINITIONS

Section 7.1 As used in this COI Policy, the following terms shall have the meanings set forth below.

(a) "Board Liaison" shall mean those liaisons to the ICANN Board of Directors appointed in accordance with ICANN's Bylaws.

(b) "Compensation" includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

(c) "COI Policy" means this Conflict of Interest Policy as adopted by the Board of ICANN on 30 July 2009.

(d) A "Conflict of Interest" arises when the Board or Board Governance Committee, as applicable, following the procedures set forth in Articles II and III of this COI Policy, determines that a Covered Person has disclosed a Potential Conflict that may in the judgment of a majority of the Disinterested members of the Board or Board Governance Committee, as applicable, adversely impact the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

(e) "Conflicted Person" means a Person that has been determined by the Board Governance Committee to have a Conflict of Interest.

(f) "Covered Person" shall mean an Officer, Director, Board Liaison, or Key Employee of ICANN.

(g) A "Director" is any voting member of the Board of ICANN.

(h) "Disinterested" means not having a Potential Conflict with respect to a transaction, contract, or arrangement being considered by ICANN.

(i) "Domestic Partner" shall mean an individual who resides at the same residence as the Covered Person as his or her spousal equivalent.

(j) A "Duality of Interest" arises when with respect to a transaction, contract, or

arrangement, a Covered Person or a member of a Covered Person's Family has a fiduciary relationship with another party to a proposed transaction, contract, or arrangement which gives rise to a circumstance in which the fiduciary duties of the Covered Person to ICANN and the fiduciary duties of the Covered Person, or the fiduciary duties of the Family Member of the Covered Person, to the other party may be in conflict. A Duality of Interest does not constitute a Conflict of Interest if ICANN and all other parties to the transaction, contract, or arrangement, being in possession of all material facts, waive the conflict in writing.

(k) The "Family" of any Covered Person shall include the Covered Person's spouse; Domestic Partner; siblings and their spouses or Domestic Partners; ancestors and their spouses or Domestic Partners; and descendants and their spouses or Domestic Partners.

(l) A "Financial Interest" exists whenever a Covered Person has, directly or indirectly, through business, investment, or Family: (i) an ownership or investment interest in any entity with which ICANN has a transaction, contract, or other arrangement; (ii) a compensation arrangement with any entity or individual with which ICANN has a transaction, contract, or other arrangement; and (iii) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which ICANN is negotiating a transaction, contract, or other arrangement. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. Transactions, contracts, and arrangements include grants or other donations as well as business arrangements. A Financial Interest is a Potential Conflict but is not necessarily a Conflict of Interest. A Financial Interest does not become a Conflict of Interest until the Board Governance Committee, following the procedures set forth in Articles II and III of this COI Policy, determines that the Financial Interest constitutes a Conflict of Interest.

(m) An "Independent Valuation Expert" means a Person retained by ICANN to value compensation arrangements that: (i) holds itself out to the public as a compensation consultant; (ii) performs valuations regarding compensation arrangements on a regular basis, with a majority of its compensation consulting services performed for Persons other than ICANN; (iii) is qualified to make valuations of the type of services involved in any engagement by and for ICANN; (iv) issues to ICANN a Reasoned Written Opinion regarding a particular compensation arrangement; and (v) includes in its Reasoned Written Opinion a certification that it meets the requirements set forth in (i) through (iv) of this definition.

(n) An "Interested Person" is a Covered Person who has a Potential Conflict of Interest with respect to a particular transaction, contract, or arrangement under consideration by the Board or Board Governance Committee, as applicable.

(o) "Internal Revenue Code" shall mean the United States Internal Revenue Code of 1986, as amended, or any future revenue statute replacing the 1986 Code.

(p) "Inurement," as used in this COI Policy, shall mean: (i) a transaction in which ICANN provides an economic benefit, directly or indirectly, to or for the use of any

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Covered Person where the value of that economic benefit exceeds the value of the consideration (including the performance of services) that ICANN receives in exchange; or (ii) any transaction or arrangement by or through which a Covered Person receives a direct or indirect distribution of ICANN's net earnings (other than payment of fair market value for property or the right to use property and reasonable compensation for services).

(q) A "Key Employee" is an employee of ICANN designated as a member of the Executive Management team of ICANN, but who is not an Officer or Director.

(r) An "Officer" is an individual holding a position designated as an Officer by ICANN's Bylaws or by resolution of the Board and includes, without limitation, the President of ICANN.

(s) A "Person" includes an individual, corporation, limited liability company, partnership, trust, unincorporated association, or other entity.

(t) A "Potential Conflict" means any one or more of the following: (i) a direct or indirect Financial Interest in a transaction, contract or arrangement being considered by ICANN by a Covered Person or a member of a Covered Person's Family; (ii) a Duality of Interest by a Covered Person or a member of a Covered Person's Family with respect to another party to a transaction, contract, or arrangement being considered by ICANN that has not been waived in writing by all parties to the transaction, contract, or arrangement; or (iii) a close personal relationship between the Covered Person, or a member of a Covered Person's Family, with an individual who is, directly or indirectly through business, investment, or Family, a party to a transaction, contract, or arrangement being considered by ICANN.

(u) "Reasoned Written Opinion" means a written opinion of a valuation expert who meets the requirements of Section 7.1(m) (i) through (iv) of this Policy. To be reasoned, the opinion must be based upon a full disclosure by ICANN to the valuation expert of the factual situation regarding the compensation arrangement that is the subject of the opinion, the opinion must articulate the applicable valuation standards relevant in valuing such compensation arrangement, the opinion must apply those standards to such compensation arrangement, and the opinion must arrive at a conclusion regarding whether the compensation arrangement is within the range of Reasonable Compensation for the services covered by the arrangement. A written opinion is reasoned even though it reaches a conclusion that is subsequently determined to be incorrect so long as the opinion addresses itself to the facts and the applicable standards. However, a written opinion is not reasoned if it does nothing more than recite the facts and express a conclusion.

Section 7.2 Where terms used in this COI Policy, such as Reasonable Compensation (which shall have the meaning set forth in §53.4958-4(b)(1)(ii) of the Regulations), have a particular meaning under the Internal Revenue Code and/or any Regulations issued thereunder, this COI Policy shall be construed to incorporate that meaning as the context requires.

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Section 7.3 All other terms used in this COI Policy shall be given their ordinary, everyday meaning.

2011-12-08-05-Annex-Attachment-B-to-Board-Submission-Board-Compensation

Exhibit B

Section 22. COMPENSATION

1. Except for the President of ICANN, who serves ex officio as a voting member of the Board, each of the Directors shall be entitled to receive compensation for his/her services as a Director. The President shall receive only his/her compensation for service as President and shall not receive additional compensation for service as a Director.

2. If the Board determines to offer a compensation arrangement to one or more Directors other than the President and CEO of ICANN for services to ICANN as Directors, the Board shall follow a process that is calculated to pay an amount for service as a Director that is in its entirety Reasonable Compensation for such service under the standards set forth in §53.4958-4(b) of the Treasury Regulations.

3. As part of the process, the Board shall retain an Independent Valuation Expert to consult with and to advise the Board regarding Director compensation arrangements and to issue to the Board a Reasoned Written Opinion from such expert regarding the ranges of Reasonable Compensation for any such services by a Director. The expert's opinion shall address all relevant factors affecting the level of compensation to be paid a Director, including offices held on the Board, attendance at Board and Committee meetings, the nature of service on the Board and on Board Committees, and appropriate data as to comparability regarding director compensation arrangements for U.S.-based, nonprofit, tax-exempt organizations possessing a global employee base.

4. After having reviewed the expert's written opinion, the Board shall meet as necessary with the expert to discuss the expert's opinion and to ask questions of the expert regarding the expert's opinion, the comparability data obtained and relied upon, and the conclusions reached by the expert.

5. The Board shall adequately document the basis for any determination the Board makes regarding a Director compensation arrangement concurrently with making that determination.

6. In addition to authorizing payment of compensation for services as Directors as set forth in this Section 22, the Board may also authorize the reimbursement of actual and necessary reasonable expenses incurred by any Director and by non-voting liaisons performing their duties as Directors or non-voting liaisons.

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Deleted: The Chair of the ICANN Board shall be entitled to receive reasonable compensation for his/her services as a Director. The compensation committee shall be responsible for recommending a reasonable level of compensation for the Board Chair. Only those members of the Compensation Committee that are free from conflicts of interest with respect to the party for whom compensation is under consideration shall participate in the deliberations or voting on the recommendation to the Board. Only those members of the Board that are free from conflicts of interest with respect to the party for whom compensation is under consideration shall participate in the deliberations or voting on the approval of compensation for the Board Chair. At no time shall the Board Chair participate in deliberations or voting on compensation for the Board Chair. The Compensation Committee and the Board shall follow appropriate processes set forth in the United States Internal Revenue Code and applicable Treasury Regulations to ensure that there is a rebuttable presumption of reasonable compensation established for the Board Chair.

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7. As used in this Section 22, the following terms shall have the following meanings:

(a) An "Independent Valuation Expert" means a person retained by ICANN to value compensation arrangements that: (i) holds itself out to the public as a compensation consultant; (ii) performs valuations regarding compensation arrangements on a regular basis, with a majority of its compensation consulting services performed for persons other than ICANN; (iii) is qualified to make valuations of the type of services involved in any engagement by and for ICANN; (iv) issues to ICANN a Reasoned Written Opinion regarding a particular compensation arrangement; and (v) includes in its Reasoned Written Opinion a certification that it meets the requirements set forth in (i) through (iv) of this definition.

(b) A "Reasoned Written Opinion" means a written opinion of a valuation expert who meets the requirements of subparagraph 7(a) (i) through (iv) of this Section. To be reasoned, the opinion must be based upon a full disclosure by ICANN to the valuation expert of the factual situation regarding the compensation arrangement that is the subject of the opinion, the opinion must articulate the applicable valuation standards relevant in valuing such compensation arrangement, the opinion must apply those standards to such compensation arrangement, and the opinion must arrive at a conclusion regarding the whether the compensation arrangement is within the range of Reasonable Compensation for the services covered by the arrangement. A written opinion is reasoned even though it reaches a conclusion that is subsequently determined to be incorrect so long as the opinion addresses itself to the facts and the applicable standards. However, a written opinion is not reasoned if it does nothing more than recite the facts and express a conclusion.

(c) "Reasonable Compensation" shall have the meaning set forth in §53.4958-4(b)(1)(ii) of the Regulations issued under §4958 of the Code.

2011-12-08-05 Annex-Attachment-C-Board-Submission-Board Compensation

Internet Corporation for Assigned Names and Numbers (ICANN)

Board of Directors Compensation Considerations

A presentation to ICANN's Board of Directors
October 13, 2011

towerswatson.com

Table of Contents

Background and Introduction

- The Board of Directors (the Board) of Internet Corporation for Assigned Names and Numbers (ICANN) authorized the General Counsel to engage Towers Watson pursuant to Board Resolution[1] to evaluate the structure and reasonableness of independent director compensation program, which it last considered with Towers Watson's assistance in May 2010
- Over the past several years, ICANN has been considering issues surrounding Board compensation. The Board has publicly discussed the matter and has reviewed independent analysis and advice on the matter.
  - There were calls from the community in relation to ICANN Framework for Accountability and Transparency that the entire Board be compensated
  - Budget contingency discussions since FY08 have involved the concept of possible Board remuneration
  - Independent evaluation experts provided studies on other non-profit organizations and Board member remuneration
  - Boston Consulting Group ("BCG") suggested in their Board Review that relatively modest fees to compensate directors for time may be appropriate
  - The Board Review working group acknowledged general support from BCG and community for director remuneration, but recommended further study in coordination with General Counsel
  - The Accountability and Transparency Review Team specifically recommended that the Board should implement a compensation scheme for voting Directors.
- In August of 2010, the Board approved compensation for the Board Chair at the annual rate of $75,000
  - Since that time a call for all voting directors to be compensated has continued, most recently through Recommendation 5 from the Accountability and Transparency Review Team.
  - All ICANN Directors are reimbursed for travel expenses under an accountable expense plan

[1] http://www.icann.org/en/minutes/resolutions-25aug11-en.htm#4

Background and Introduction *continued*

- The scope of this report includes a reasonableness review of introducing director compensation and determining a reasonable total annualized cash compensation and pay program structure for outside (non-executive) directors.
  - This report does not address the roles of ICANN Board liaisons who have similar responsibilities to Board members but are not directors and serve as appointed representatives for ICANN constituent groups
- The objective of the report is to provide data to set reasonable Board compensation levels
- We also provide summary information on the applicable regulations in Appendices A and B
  - Intermediate Sanctions, Section 4958 of the Internal Revenue Code
  - California Nonprofit Corporations Code
- ICANN is an international, nonprofit, multi-stakeholder organization. It is responsible for the stability and interoperability of the DNS, the distribution of IP addresses and accurate recordation of protocol parameters
- Furthering this mission requires ICANN to serve a diverse stakeholder base in a transparent manner
- Over the past 10 years, both the Internet and ICANN have grown in complexity. In coming years, ICANN expects significant increases in the volume of policy and management oversight work that needs to be completed to fulfill its mission
- Service on ICANN's Board involves global responsibilities, necessitates a substantial time commitment and requires individuals with skills and experience across a broad range of areas
  - See Appendices C and D for time commitment data and calendar of ICANN meetings in 2010

Impact of Intermediate Sanctions on Setting Board Pay

- Board members are "disqualified persons" under Intermediate Sanctions rules of Internal Revenue Code Section 4958 and their compensation may be presumed to be reasonable if a committee of authorized, independent persons approves their compensation using comparable market data and thorough documentation
  - Based on ICANN's bylaws requirements it may not be possible to establish a presumption of reasonableness
  - The Board is considering market practices for purposes of establishing what is reasonable compensation

Suggested Process

- Directors agree to receive not more than "reasonable compensation" for their services
- ICANN follows a process in setting compensation that is reasonably calculated to prevent the payment of more than reasonable compensation
- It is recommended that ICANN retain and rely upon custom market-comparability studies conducted by independent valuation consultants
- Independent consultants provide a written opinion letter that meets the IRS requirements
- Documentation of the decision making process is thorough and meets the IRS requirements
- The governance process should be followed annually or with some regular frequency

Nonprofit Board Compensation Trends

- Compensation paid for service on nonprofit boards is rare
  - 23% of nonprofit organizations in the 2009 NACD Nonprofit Governance Survey report that they compensate directors
  - An annual survey conducted in 2010 by *BoardSource,* a governance advisory organization to nonprofits, reported that 3% of organizations compensate Board members
- Despite the minority practice, there are valid reasons for compensating nonprofit board members:
  - Promotes economic diversity, giving members an opportunity to serve who might otherwise be unable to do so
  - Promotes professionalism rather than amateurism
  - Attracts the most qualified and able individuals
  - Awards in a tangible way valuable personal time and contributions made for the mission
  - Promotes more risk taking
  - Stimulates better attendance at board and committee meetings
  - Holds board members more accountable for performance
- However, the Attorneys General in several states are scrutinizing nonprofit Board of Director pay
  - New York created a task force to investigate the executive, administrator and board compensation practices at nonprofits that receive taxpayer support
  - Massachusetts has a bill pending in the legislature to forbid compensating board members of "charities" (which are any form of nonprofit organization) unless the Attorney General approves of the basis for, and amount of, compensation

Background and Methodology

Defining a Comparable Market for ICANN's Board of Directors

- Similar to the framework for examining ICANN's executive compensation, we have assembled a peer group of for-profit and nonprofit organizations that we believe will serve as the best benchmark for outside director compensation at ICANN
- The peer group analysis was supplemented with data from published surveys
- We consider market data sources covering the following comparable markets to be relevant:
  - For-profit general industry companies of similar size (revenue)
  - Nonprofit organizations of similar size and complexity, particularly global, multi-stakeholder organizations

Comparability Data Sources Reviewed
• TWDS 2010-2011 Report on Director Compensation Policies and Practices
• NACD 2009 Nonprofit Board Governance Survey
• NACD 2010-2011 Director Compensation Report
• ICANN's Board/Committee Charters and Annual Report
• Select Form 990s (Nonprofit organizations)
• Select Proxy Reports (For-profit companies)

TWDS: Towers Watson Data Services
NACD: National Association of Corporate Directors

Board Compensation – Form of Compensation

- **Form of Compensation**: In terms of the structure of outside director compensation, organizations often provide one or more of the following:
  - **Annual retainer**: flat fee intended to cover annual board service; often paid annually or in quarterly installments; typically differentiated between normal directors and the independent chairman (if any)
  - **Board meeting fee**: per meeting fee paid for attendance at board meetings; reduced fee is often paid for telephonic meetings; all outside directors typically receive the same fee
  - **Committee retainer**: annual fee paid for committee service; often differentiated by committee and the associated workload/complexity; often differentiated between committee members and committee chairs; especially demanding committees may receive a premium
  - **Committee meeting fee**: per meeting fee paid for attendance at committee meetings; reduced fee is often paid for telephonic meetings; all outside directors typically receive the same fee
  - **Equity grant**: among publicly-traded, for-profit organizations, it is common to provide annual grants of restricted stock and/or stock options
- The chart below illustrates the typical method of payment for Board service:

Role/Service	Meeting Fees Only	Retainers Only	Meeting Fees & Retainers
Chairman of the Board	0%	66%	33%
Board Service	0%	50%	50%
Committee Member	70%	30%	0%
Committee Chair	61%	39%	0%

Source: 2010/2011 TWDS Survey Report on Board of Directors Compensation Policies and Practices

Board Compensation – Amount of Compensation

- To determine reasonable compensation levels, we focus on the average of median *cash* compensation, with 25th and 75th percentile data provided for information
- Due to the complexity and global impact of ICANN's mission and the need to attract and retain qualified leadership, both for-profit and nonprofit data are appropriate as the talent does reside within many sectors and is recruited globally
- The chart below summarizes actual Director pay (non-chair):

Source*:	Cash 25th %ile	Cash Median	Cash 75th %ile
2010-2011 NACD General Industry (For-Profit)	$38,762	$57,800	$84,166
Public Company Peer Group (For-Profit)	$32,500	$44,000	$50,000
990 Analysis (Nonprofit)	$13,415	$23,875	$30,995
2010-2011 TWDS Survey (Nonprofit)	$27,475	$45,000	$62,688
Average**	**$30,000**	**$45,000**	**$55,000**

* Data reflects a blend of "Micro" segment - Revenues of $50M < $500M and "Small Companies" segment - Revenues of $500M < $1.0B

**Average data rounded to the nearest $5,000.

Board Compensation – Amount of Compensation:
Nonprofit Boards

- Peer group compensation data were collected from each company's most recently filed Form 990 and are presented on the following page
  - The peer group of nonprofits who pay their outside directors is comprised of nonprofit peers identified in the executive compensation framework plus additional organizations included in the 2010 analysis
  - Ten of the eighteen organizations in the executive compensation framework do not pay their Board members as detailed in Appendix E
- Due to the particular reporting requirements in the Form 990s, we can only determine total compensation figures for the Board members of the peer group organizations
  - Data such as annual retainers and meeting fees are not reported separately
  - Board roles such as Committee Chairs and Committee members are not disclosed; due to limited role disclosure, the peer group data are summarized as follows:
    - Chair of the Board
    - Average of all other directors – this excludes the Chair of the Board and includes all other Board roles (Vice Chair, Committee Chair, Committee members and regular Board members)
- Published survey market data related to the structure of Board compensation at nonprofit organizations were also collected from the *2010/2011 TWDS Survey Report on Board of Directors Compensation, Policies & Practices*
  - While these data are limited, they serve as an additional point of reference to the total compensation data reported in the peer group 990s

Details of Select Nonprofits

Organization	Year of 990	Revenue ($000s)[5]	# of Directors Receiving Compensation[6]	Chairman as Multiple of Director Pay	Outside Chairman	Average Director Pay (Non-Chair)	Estimated Total Board Cost
Altarum Institute [1]	2009	$73,100	13	2	$44,125	$27,252	$371,152
American Bar Association[1]	2008	$148,492	2	2	$100,000	$50,000	$150,000
Analytic Services Institute	2009	$141,200	11	1	$33,750	$23,875	$272,500
CNA Corporation[2]	2009	$118,506	15	2	$33,750	$19,946	$313,000
Financial Accounting Foundation[3]	2009	$49,100	14	--	--	$36,014	$504,196
Institute for Study Abroad	2009	$39,941	8	-	--	$25,625	$205,000
Int. Institute of Tropical Agriculture	2010	$53,200	15	5	$64,002	$11,977	$231,678
Intl Acct Stds Committee Foundation	2009	$35,509	22	4	$117,488	$28,989	$726,267
Intl Food Policy Research Institute	2009	$70,000	14	2	$11,900	$6,435	$95,550
Ithaka Harbors Inc.[4]	2009	$52,900	7	--	--	$5,000	$35,000
Logistics Management Institute	2008	$208,000	11	1	$37,000	$33,000	$367,000
RAND Corporation[1]	2009	$282,900	13	2	$6,520	$3,094	$43,646
Riverside Research Institute	2008	$75,500	9	6	$110,000	$18,000	$254,000
Society for HR Management[1]	2009	$103,600	11	--	--	$14,852	$163,375
SRI International[1]	2009	$495,000	8	--	--	$46,313	$370,500
75th Percentile		**$144,846**	**14**	**3.6**	**$91,001**	**$30,995**	**$368,750**
Average		**$129,797**	**12**	**2.7**	**$55,854**	**$23,358**	**$273,524**
Median		**$75,500**	**11**	**1.9**	**$40,563**	**$23,875**	**$254,000**
25th Percentile		**$53,050**	**9**	**1.6**	**$33,750**	**$13,415**	**$156,688**

[1] Organizations included in the 2011 Executive Framework
[2] Chairman elected in December of 2008
[3] FAF approved a revised governance structure approved by the Board of Trustees in 2008 creating a new Chairman position
[4] Ithaka Harbors acquired JSTOR in January 2009
[5] Reflects most up to date revenue figures available
[6] Includes Directors receiving compensation and outside chairmen only

Notes on Select Nonprofit Market Data

- **Altarum Institute**. Data represent 2009 information. Reported 13 directors.
- **American Bar Association**. Data represent 2008 information. Reported 2 directors who received compensation. Does not include 35 directors who received no payment.
- **Analytic Services Institute**. Data represent 2009 information. Reported 11 directors.
- **CNA Corporation**. Data represent 2009 information. Reported 15 directors who received compensation. Does not include 3 directors who received no payment.
- **Financial Accounting Foundation**. Data represent 2009 information. Reported 14 trustees who received compensation. Does not include 5 trustees who received no payment. The Chairman of the Board is also an officer, pay has been excluded.
- **Institute for Study Abroad**. Data represent 2009 information. Reported 8 directors. The Chairman of the Board is also an officer, pay has been excluded.
- **International Institute of Tropical Agriculture**. Data represent 2010 information. Reported 15 directors.
- **International Accounting Standards Committee Foundation**. Data represent 2009 information. Reported 22 directors who received compensation.
- **International Food Policy Research Institute**. Data represent 2009 information. Reported 14 directors.
- **Ithaka Harbors Inc./JSTOR**. Data represent 2009 information. Chairman did not receive compensation as a director (received significant pay as President of a related nonprofit organization). All others reported received $5,000. Reported 7 directors receiving compensation. Does not include 8 directors who received no payment.
- **Logistics Management Institute**. Data represent 2008 information. Reported 11 directors.
- **RAND Corporation**. Data represent 2009 information. Reported 13 directors who received compensation.
- **Riverside Research Institute**. Data represent 2008 information. Reported 9 directors.
- **Society for HR Management**. Data represent 2009 information. Reported 11 directors who received compensation. The Chairman of the Board is also an officer, pay has been excluded.
- **SRI International**. Data represent 2009 information. Reported 8 directors. The Chairman of the Board is also an officer, pay has been excluded.

Details of Select For-profits

Company	2010 Revenue ($mm)	# of Outside Board Members	Fees Earned or Paid in Cash			Audit Committee		Compensation Committee		Nominating / Governance Committee	
			Retainer	Median Total Cash Compensation Paid - Board Member	Chairman Extra Retainer	Committee Extra Retainer	Chairman Extra Retainer	Committee Extra Retainer	Chairman Extra Retainer	Committee Extra Retainer	Chairman Extra Retainer
Ancestry.com Inc.	$301	6	$30,000	$34,424	--	$5,000	$13,000	$4,000	$10,000	$2,000	$5,000
ComScore, Inc.	$175	6	$25,000	$25,500	--	$10,000	$18,000	$5,000	$10,000	$1,000	$3,000
Digital River Inc.	$363	6	$15,000	$15,500	--	--	--	--	--	--	--
Internap Network Services Corp.	$244	8	$20,000	$48,125	$50,000	$7,500	$15,000	$5,000	$10,000	--	$7,500
iPass Inc	$156	8	$20,000	$48,000	$20,000	$5,000	$10,000	$5,000	$5,000	$5,000	$5,000
j2 Global Communications Inc.	$255	7	$50,000	$50,000	$42,000	--	$10,000	--	$10,000	--	$10,000
Limelight Networks, Inc.	$183	7	$25,000	$32,500	--	$5,000	$15,000	$2,000	$10,000	--	--
Openwave Systems Inc.	$156	6	$25,000	$52,250	$20,000	$15,000	$30,000	$9,000	$15,000	$5,000	$10,000
QuinStreet, Inc.	$403	6	$25,000	$44,000	--	--	$15,000	--	$15,000	--	$15,000
Travelzoo Inc.	$113	4	$30,000	$57,440	--	$30,000	--	--	--	--	--
ValueClick Inc.	$431	5	$25,000	$32,500	$5,000	$5,000	$20,000	$5,000	$7,500	$5,000	$7,500
VeriSign, Inc.	$681	6	$40,000	$64,293	$100,000	$25,000	$15,000	$20,000	$10,000	$10,000	$5,000
Web.com Group, Inc.	$120	6	$20,000	$28,000	$8,000	$7,500	$5,000	$4,000	$3,000	$1,500	$1,500
75th Percentile:	$363	7	$30,000	$50,000	$46,000						
Average:	$275	6	$26,923	$40,964	$35,000						
50th Percentile:	$244	6	$25,000	$44,000	$20,000						
25th Percentile:	$156	6	$20,000	$32,500	$14,000						

Footnotes:

* "Total cash compensation" for the typical director is based on the median value reported in the "fees earned or paid in cash" column of the director summary compensation table included in the most recent proxy statement. Directors serving in board leadership positions (chairs of the Audit, Compensation, Risk and Governance committees, lead director and/or chairman) are excluded from determining the median value. Similarly, directors that did not serve the entire year, but are otherwise included in the director summary compensation table in the proxy, are excluded from determining the median value.

Conclusions

- **Reasonableness and Range of Reasonable Compensation Data**
  - While not prevalent among nonprofits and consistent with our analysis in 2010, we feel it would be reasonable to introduce director compensation at ICANN based on a review of applicable market data and of the time commitment, skills and experience required for Board service at ICANN
  - Based on applicable market data contained in this report, the range of reasonable compensation data for total compensation to Board members is $30,000 to $45,000 annually
- **Potential Form and Amount**
  - Introduce annual cash retainer of $35,000 for outside directors and maintain the $75,000 for the Chairman of the Board (roughly two-times director retainer)
    - Average of the medians of the comparable market data
    - Flat retainer eliminates need to define a "meeting"
    - Eliminates any monetary incentive to hold more meetings or track telephonic meetings
  - An additional $5,000 annual retainer would be provided for committee chair (except the Chairman of the Board)
  - Allow directors to elect to waive the retainer
  - Commit to re-evaluating Board compensation periodically (both in terms of the practice itself, as well as compensation levels)

Appendix

Overview of Internal Revenue Code Section 4958

- Certain "disqualified persons," including directors, of a §501(c)(3) organization like ICANN may be assessed excise taxes if they are involved in an excess benefit transaction
- An excess benefit transaction is any transaction in which the director receives an economic benefit from the organization that is greater than the consideration, including services performed, that the director provides to the organization
- IRS rules provide a so-called "rebuttable presumption" process that triggers a presumption that compensation paid to a disqualified person, including a director, is reasonable
- The presumption is triggered if the organization complies with three requirements:
  - Compensation is approved by an authorized body whose members are free of financial conflict of interest regarding the compensation being reviewed
  - The authorized body considers "appropriate data as to comparability" prior to making its decision
  - The authorized body documents its decision making process adequately and within a reasonable amount of time after the decision
- When established, the presumption imposes on the IRS the burden of showing that comparability data relied upon are not valid, which is a substantial benefit in any dispute with the IRS
- If directors are compensated, however, the presumption cannot be established
- However, while the IRS considers establishing the presumption to be a "best practice," it is not a legal requirement
  - It is as concerned about the process of setting compensation as well as the amount

Overview of California Nonprofit Corporations Code

- California Nonprofit Corporations Code protects volunteer/unpaid directors of nonprofit corporations against personal liability for acts. Specifically, no cause of action for monetary damages may be asserted against a director or officer of a California Nonprofit Corporation qualifying under §501(c)(3) on account of any negligent act or omission occurring:
  - Within the scope of that person's duties as a director acting as a board member, or officer acting in an official capacity
  - In a manner that the person believes to be in the best interest of the corporation; and in the exercise of his or her policymaking judgment
  - Limitation only applies if the corporation maintains a general liability insurance policy of at least $1 million (for a corporation with an annual budget in excess of $50,000) in force both at the time of the injury and at the time that the claim is made. Limitation is also subject to carve-outs for self-dealing transactions, intentional or willful gross negligence, fraud and other bad faith action
- Compensated directors of California nonprofit corporations are still protected against personal liability for failure to discharge their obligations as a director, subject to the following:
  - Conduct is subject to the "business judgment rule," requiring directors to act in good faith, with reasonable inquiry and in the best interests of the corporation and exercising reasonable care as an ordinarily prudent person under like circumstances
  - Does not protect directors against liability for self-dealing actions or participation in tortious conduct
  - California Nonprofit Corporations Code also provides that directors of a nonprofit public benefit corporation, without regard to compensation, must be indemnified by the corporation if successful on the merits in defense of any proceeding

Other Considerations – Time Commitment

- When considering the introduction of compensation, it is important to consider relative time commitment

Item	BoardSource Nonprofit	Towers Watson Nonprofit	NACD Nonprofit	Towers Watson For-Profit	ICANN (2010)*
Board Meetings Per Year (in person and telephonic)	7.4 *(average)*	6 *(median)*	5.8 *(average)*	7 *(median)*	**13**
Avg. # of Committee Meetings for each Committee	--	3.6	3.7	4.3	**8.2*** **
Annual Workshop Prevalence	52%	--	--	--	**2**

*ICANN's Board currently holds three in-person meetings each year, each of which are six to seven days in length (not including travel), 10 special telephonic meetings, and two in-person workshops, each of which are two to three days in length (not including travel).

** Reported by ICANN for the2010 Towers Watson report.

***All directors serve on at least one Committee, but typically serve on two committees.

- The NACD survey reported that survey respondents spent (on average) 142.9 hours per year on board and committee-related matters (6.8% of a standard U.S. work year)

APPENDIX D

2010 ICANN Meeting Calendar

Date	Meeting Type
December-10	Regular Meeting of the ICANN Board of Directors – Latin America
December-10	Meeting of the Board Governance Committee
December-10	Special Meeting of the ICANN Board of Directors
December-10	Meeting of the Structural Improvements Committee
December-10	Meeting of the IANA Committee
December-10	Meeting of the Board Finance Committee
December-10	Meeting of the Audit Committee
December-10	Meeting of the Board Global Relationships Committee
December-10	Meeting of the Board Risk Committee
December-10	Meeting of the Board Governance Committee
December-10	Meeting of the Public Participation Committee
November-10	Meeting of the IANA Committee
4-5 November 2010	ICANN Board of Directors Special Meeting
November-10	Meeting of the Structural Improvements Committee
November-10	Meeting of the Board Risk Committee
November-10	Meeting of the Public Participation Committee
November-10	Meeting of the Board Governance Committee
November-10	Meeting of the Board Finance Committee
November-10	Meeting of the Audit Committee
November-10	Meeting of the Board Global Relationships Committee
October-10	Special Meeting of the ICANN Board of Directors
October-10	Meeting of the Audit Committee
October-10	Meeting of the Structural Improvements Committee
October-10	Meeting of the IANA Committee
September-10	Meeting of the Public Participation Committee
24-25 September 2010	Special Meeting of the Board of Directors
September-10	Meeting of the Audit Committee
September-10	Meeting of the Board Finance Committee
September-10	Meeting of the Board Governance Committee
September-10	Meeting of the IANA Committee
August-10	Meeting of the Audit Committee
August-10	Meeting of the Board Risk Committee
August-10	Meeting of the Board Governance Committee
August-10	Meeting of the Public Participation Committee
August-10	Meeting of the IANA Committee
August-10	Special Meeting of the ICANN Board of Directors
July-10	Meeting of the Executive Committee
July-10	Meeting of the Board Governance Committee
July-10	Meeting of the Public Participation Committee
July-10	Meeting of the Structural Improvements Committee
June-10	Regular Meeting of the ICANN Board of Directors - Brussels
June-10	Special Meeting of the ICANN Board of Directors - Brussels
June-10	Meeting of the Board Risk Committee
June-10	Meeting of the Board Finance Committee

Date	Meeting Type
June-10	Meeting of the Audit Committee
19 and 22 June 2010	Meeting of the Structural Improvements Committee
June-10	Meeting of the Public Participation Committee
June-10	Meeting of the Board Governance Committee
June-10	Meeting of the IANA Committee
June-10	Meeting of the Audit Committee
21-22 May 2010	ICANN Board of Directors Retreat, Dublin, Ireland
May-10	Meeting of the Structural Improvements Committee
May-10	Meeting of the Board Finance Committee
May-10	Meeting of the Board Risk Committee
May-10	Meeting of the Board Governance Committee
May-10	Meeting of the Public Participation Committee
May-10	Meeting of the Board Finance Committee
May-10	Meeting of the IANA Committee
April-10	Meeting of the Executive Committee
April-10	Meeting of the Board Governance Committee
April-10	Special Meeting of the ICANN Board of Directors
April-10	Meeting of the IANA Committee
April-10	Meeting of the Structural Improvements Committee
April-10	Meeting of the Public Participation Committee
March-10	Regular Meeting of the ICANN Board of Directors - Nairobi
March-10	Meeting of the Board Risk Committee
March-10	Meeting of the IANA Committee
6-7 March 2010	Meeting of the Structural Improvements Committee
March-10	Meeting of the Audit Committee
March-10	Meeting of the Public Participation Committee
March-10	Meeting of the Board Governance Committee
March-10	Meeting of the Board Finance Committee
February-10	Meeting of the Public Participation Committee
February-10	Special Meeting of the ICANN Board of Directors
February-10	Meeting of the Board Finance Committee
February-10	Meeting of the Audit Committee
February-10	Meeting of the Public Participation Committee
February-10	Meeting of the IANA Committee
February-10	Special Meeting of the ICANN Board of Directors
January-10	Meeting of the Board Finance Committee
January-10	Meeting of the Public Participation Committee
January-10	Meeting of the Board Risk Committee
January-10	Meeting of the Audit Committee
January-10	Special Meeting of the ICANN Board of Directors Agenda
January-10	Meeting of the Structural Improvements Committee
January-10	Meeting of the Public Participation Committee
January-10	Meeting of the Board Governance Committee
January-10	Meeting of the IANA Committee

Notes on Nonprofit Peer Group

- The following organizations included in the executive framework do not pay their outside Board members:

American Enterprise Institute for Public Policy Research	Heritage Foundation
American Institute Of Certified Public Accountants	International Financial Reporting Standards Foundation
Brookings Institution	Internet Society
Carnegie Institution Of Washington	National Academy Of Sciences
Center For Strategic and International Studies Inc.	World Resources Institute

- Organizations included in the 2010 analysis and excluded from this year's analysis include:
  - Hospital Billing & Collections Services and Intl Livestock Research Institute: no longer nonprofit organizations
  - ISO New England: based in Massachusetts and will become subject to pending regulations barring payment to Directors of nonprofit boards

Notes on Survey Sources

- *TWDS Survey*: Data represent 11 nonprofit organizations that participated in TWDS' 2010/2011 Report on Board of Directors Compensation, Policies and Practices
- *Proxy peer group*: Data represent 13 for-profit companies with median revenues of $244 million
- *Form 990 Research*: Data represent 15 nonprofit organizations with median revenues of $75 million
- *NACD General Industry:* Data represent a blend of "Micro" segment - Revenues of $50M < $500M and "Small Companies" segment - Revenues of $500M < $1.0B. 304 and 298 companies participated in the NACD's 2010-2011 Director Compensation Report (median revenues $253 and $681) respectively

2011-12-08-05-Annex-Attachment-D-Board-Submission-Board-Compensation

Translations: If translations will be provided please indicate the languages below:											

Report of Public Comments

Title:	Revisions to Conflicts of Interest Policy and Bylaws to Allow Board to Consider Compensation for Director Services
Publication Date:	
Prepared By:	Amy A. Stathos

Comment Period:	
Open Date:	2 September 2011
Close Date:	3 October 2011
Time (UTC):	06:59

Important Information Links
Announcement
Public Comment Box
View Comments Submitted

Staff Contact:	Amy A. Stathos	**Email:**	Amy.Stathos@icann.org

Section I: General Overview and Next Steps

Review of Potential Revisions to the ICANN Conflicts of Interest (COI) Policy http://www.icann.org/en/general/proposed-revisions-coi-policy-01sep11-en.pdf and ICANN Bylaws http://www.icann.org/en/general/proposed-bylaws-revision-vi-01sep11-en.pdf that are necessary for the Board to consider the question of compensating ICANN voting Directors for their service. The COI Policy revisions are necessary to allow the Board to discuss and consider Board compensation-related issues, and the Bylaws revisions are necessary to allow Directors to receive compensation if recommended.

This work is necessary to meet the Accountability and Transparency Review Team's (ATRT) Recommendation No. 5, recommending compensation for ICANN Directors.

Posting these documents for public comments are part of a broader process that was approved by the Board on 25 August 2011 regarding the consideration of compensation for Director services.

Next Steps:

Review the Independent Valuation Expert's Report, Board to consider posting the Report, and determine next steps in the process for considering Board Remuneration.

Section II: Contributors

At the time this report was prepared, a total of seven (7) 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
Public Interest Registry	David Maher	PIR
American Intellectual Property Law Association; the Coalition for Online Accountability; and International Trademark Association (Joint submission)	Steven J Metalitz	AIPLA, COA and INTA
Association of National Advertisers	Robert D Liodice	ANA
Ministère des Affaires étrangères et européennes (France)	Camille Angué	MAEE
Registry Stakeholder Group	David Maher	RySG
United States Council for International Business	Christopher G. Martin	USCIB
At-Large Advisory Committee	Matt Ashtiani	ALAC

Individuals: None

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).

PIR stated its support for: (i) the ATRT recommendations for compensation of ICANN Board Directors; (ii) revision of the COI Policy to allow the Board to consider the issue of compensation; and (iii) revision of the Bylaws to allow the Board to receive compensation if recommended.

In their joint submission, AIPLA, COA and INTA expressed general support for ATRT recommendations but do not take a position on the specific issue of directors' compensation. AIPLA, COA and INTA recommend that no action on the proposed COI Policy changes be taken until the following broader issues are included in changes to the COI Policy: (i) mandating voting abstention as currently exist, but also when the Director's financial interest will not be directly affected by the outcome of a vote (for example when the Director is a consultant for a party that would be affected by the decision, but the Director's compensation does not directly turn on the outcome of the vote); (ii) requiring that Board members employed by, represent, or have other affiliations with ICANN-contracted parties be recused from Board consideration of contract amendments and other decisions that directly affect ICANN-contracted parties, and clarifying when Directors must withdraw from consideration of other

matters before the Board; (iii) stating that whenever COI considerations of a matter require a Director to abstain from voting, the Director also be required to withdraw from Board deliberations or discussions on that matter, except to the extent such discussions are placed on the public record; (iv) divesting other Board members from the responsibility to make final decisions regarding COI questions involving fellow Directors, and using the ICANN Ombudsman or some other independent third party as the decision maker; and (v) imposing reasonable restrictions on post-service employment (or contracting) of ICANN Directors by parties under contract to ICANN, or whose businesses are materially affected by decisions taken by the Board during the Directors' tenure.

In relation to the proposed amendments to the COI Policy and Bylaws, the joint submission expressed the following suggestions: (i) clarify whether compensation will be made on an individual Director basis or uniformly across all Directors; and (ii) consider requiring that any Director compensation only take effect after the expiration of the term of the Director voting upon it – similar to safeguards used in some public administration contexts.

The ANA commented that it does not take a position on the proposed COI Policy and Bylaws revisions but requests ICANN to conduct an expanded "systematic review of its entire COI Policy and related Bylaws" rather than focusing on single issue of Board compensation. The ANA makes reference to the Affirmation of Commitments and submits that "strong COI protections keep NTIA's public interest mandates from being transformed into little more than an administrative charade. NTIA's words only have meaning if an impartial ICANN Board, fully and without bias, evaluates the public interest, uses substantiated facts to drive its decision making and reaches a conclusion in the public interest."

The ANA further suggests that the following issues be addressed via public comment: (i) should "Financial Interest" in the COI Policy be expanded to include future employment prospects with companies or organizations impacted by ICANN policy making and persons who are employed by, represent, or have other affiliations with TLD registries or registrars?; (ii) under what circumstances must ICANN's BGC determine that a conflict exists?; (iii) when a recusal is called for, should the COI Policy require the conflicted Director to withdraw from all deliberations unless such discussions are in or made public?; (iv) under what circumstances should the COI Policy divest other Directors of the responsibility to make final decisions regarding COI questions involving fellow Directors?; (v) should ICANN's COI Policy impose reasonable restrictions on post-service employment or contracting of ICANN Directors with parties under contract to ICANN, or whose businesses are materially affected by any Board decision made during the Director's tenure?; and (vi) should ICANN consider reasonable restrictions or a moratorium on post-service employment or contracting of ICANN staff with parties under contract to ICANN, or whose businesses are materially affected by any decision made by the Board during the staff member's tenure? If so, at what staff levels would any such measures be appropriate?

The MAEE did not express a position on the proposed COI Policy and Bylaws revisions. The MAEE commented on the need for the COI Policy to: (i) prevent a Board member from acting for his or her own financial benefit (or his or her employers) to the detriment of ICANN or the Internet community; and (ii) ICANN taking action contrary to the interests of the Internet community. The MAEE recommended that the Bylaws tasking a Board Committee with the responsibility for reviewing

conflicts be amended to: (i) create an independent committee, representative of the various stakeholders existing within ICANN; and (ii) provide for commercial sanctions against third parties that directly benefit from a conflict generated by a Board member or a prior Board member who has vacated the Board within the previous two years, such that ICANN suspends relations with organizations benefiting from a "strong suspicion" of conflict of interest. The MAEE also provided recommended edits to the COI Policy and Bylaws to reflect its comments.

The RySG stated its support for: (i) the ATRT recommendations for compensation of ICANN Board Directors; (ii) revision of the COI Policy to allow the Board to consider the issue of compensation; and (iii) revision of the Bylaws to allow the Board to receive compensation if recommended. The RySG comments were supported by a supermajority of its members.

The USCIB submitted no formal position on the issue of Board compensation but recognized the legal requirement for the Bylaws revision to allow the Board to consider the issue and supported the proposed revision. The USCIB also expressed its view that ICANN consider developing expanded ethics guidelines and also to specifically develop guidelines for terms of contract for an ICANN director or key employee after leaving ICANN to minimize reputational risk to ICANN.

The ALAC supports the proposed COI Policy and Bylaws amendments. The ALAC further suggested that the Board adopt broader but specific "categorical standards of independence" as a prerequisite to implementing board compensation or at a minimum to commit to such a review in the near future. Specific recommendations include: (i) ICANN should adopt broader "categorical standards of independence" than what is mandated by California and the definitions of conflict or independence must be specific in stating the (a) exact monetary levels beyond which "self-dealing" transactions may be considered as conflicts, (b) nature of material relationships, including but not limited to commercial, industrial, legal, consulting and familial relationships, and (c) other aspects that are appropriate to hold ICANN to higher standards as appropriate; (ii) ICANN Board not solely rely on self disclosure but create avenues/mechanisms for employees and public to report potential conflicts; and (iii) COI policy should be specific in courses of Board action to be taken to give the public clear indication of the Board's resoluteness to uphold high standards.

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.

PIR, RySG, USCIB and ALAC expressed support for the proposed COI Policy and Bylaws changes. Only the joint submission by AIPLA, COA and INTA provided comments specific to the proposed COI Policy and Bylaws revision. AIPLA, COA, INTA, ANA and USCIB did not express a formal position as to the issue of compensation in their submissions. AIPLA, COA, INTA, ANA, MAEE, USCIB and ALAC submissions all recommended that a broader review of the COI Policy be undertaken to address other issues in addition to the current proposed revisions regarding Board remuneration.

Specifically, the AIPLA, COA, INTA suggested: (i) clarification of whether the "all relevant factors" consideration in the proposed Bylaws Article VI, Section 22.3 means the basis of compensation will be uniform across all directors or on an individual director by director basis; and (ii) consideration requiring that any increase in director compensation only take effect after expiration of the director's term.

After hearing from the community, and understanding the Independent Valuation Expert Report, ICANN will consider all comments provided and make a determination at that time with respect to Board remuneration, while ensuring compliance with all applicable, laws, rules and regulations.

Requests regarding broader COI Policy review and other issues to be considered

Several submissions recommended a broader COI policy review, and the perceived concern of post-service activity by directors or ICANN staff was the most common theme raised. Many commenters suggest consideration of measures to restrict post tenure contact, employment or contracting by Directors or certain ICANN staff. Others suggest replacing the BGC as the group responsible for reviewing conflicts with another structure such as the Ombudsman, an independent third party, a committee of stakeholder representatives with investigative powers, or some other neutral party.

Commenters also ask: (i) how and when does the BGC determine existence of a conflict; (ii) should the definition of "Financial Interest" be expanded; (iii) should certain provisions of COI Policy be deleted; and (iv) should ICANN adopt a broader view of independence than required under California law? In addition, the ALAC suggests that the definitions of conflict or independence be specific as to: (i) exact monetary levels beyond which "self-dealing" transactions may be considered as conflicts; (ii) the nature of material relationships, including but not limited to commercial, industrial, legal, consulting and familial relationships; and (iii) other aspects as appropriate to hold ICANN to higher standards.

One commenter suggests applying commercial sanctions (such as refusal to do business) against third parties that directly benefit from a conflict of interests. Others suggest more transparency around the processes of Board action on disclosed and identified conflicts of interest.

Some have identified a specific manner of dealing with Board voting and participation in discussions when conflicts have been identified. Some suggest that a Director must abstain even if his or her financial interest will not be directly affected by the outcome of a vote. Others suggest that Board members employed by, represent, or who are affiliated with ICANN-contracted registries or registrars be recused from Board consideration of contract amendments and other decisions that directly affect ICANN's contracted parties. Still others suggest that when COI considerations require a Director to abstain from voting, the Director should also withdraw from Board deliberations unless the discussions are placed on the public record.

One group suggests that the Board not solely rely on self-disclosure, but create avenues/mechanisms for employees and public to report potential conflicts.

ICANN welcomes and appreciates all or the comments above relating to a broad review of its conflicts of interest identification and processes. To that end, during is 15 September 2011 meeting,

The BGC approved a motion leading to the following actions:

- Actions:
  - The CEO and the General Counsel are to review and propose revisions to the Conflicts of Interest Policy to clarify issues, including disclosure and abstention requirements, surrounding future interests or potential future interests.
  - The CEO and the General Counsel are to engage an external firm with expertise in advising on ethical issues, to advise and help develop an ICANN Ethics Regime or set of Guidelines for the Board, the staff and the community.
  - A work party of Cherine Chalaby, Bill Graham and Ray Plzak as current members of the BGC to review and guide staff efforts to revise the Conflicts of Interest Policy and development of the Ethics Regime or set of Guidelines.
  - Staff to provide BGC with progress report, and BGC to further discuss process and timeline in Dakar.

Each of these actions is underway and a report will be provided to the community on the status during the public session on Thursday, 27 October 2011 in Dakar. ICANN looks forward to any additional comments the community may have on these topics.

2011-12-08-06-Applicant Support Process_Dec1[1]

ICANN APPLICANT SUPPORT PROGRAM

1. OBJECTIVE OF THE PROGRAM

In response to the Joint Applicant Support Working Group report, Internet community input and in an effort to ensure diversity of and global access to the Internet, ICANN is pleased to announce the new gTLD Applicant Support Program. The program's core objective is to reduce barriers and level the playing field for new gTLD access, particularly for a subset of needy and worthy gTLD applicants. With this overarching goal in mind and to ensure resources are directed to appropriate candidates, ICANN has established a set of objective, fair, and clear criteria, alongside some key safeguards. ICANN will also create an independent Support Applicant Review Panel (SARP) to review and score applications. This effort is intended to ensure that the limited funding support is allocated only to those who are most worthy of funding support.

The program seeks to provide support to the maximum number of applicants, provide time to raise funds, provide time for potential support applicants to consider the process, and avoid abuses. In order to achieve these goals, a new timing regime will be implemented. Applications for support will not be evaluated prior to the submission of applications. Instead:

- All applicants, including those requesting support will submit gTLD applications by 12 Apr. Those seeking support will also submit an application for support.
- While the first batch of gTLD applications are being evaluated, the financial support applications will be evaluated against the financial support criteria (approximately Jun-Nov 2012). That is, those seeking support will only be evaluated against the financial support criteria and not against the new gTLD evaluation criteria until later.
- Those meeting the financial support threshold criteria will be evaluated against new gTLD evaluation criteria in the last batch.

This timing will provide additional time to raise funds and communicate more fully regarding evaluation criteria. Funding might be increased three ways:

- fund raising through ICANN coordinated efforts,
- fund raising by individual applicants or applicant support groups, and
- contribution to the fund in the event that substantial savings in evaluation expenses are realized after the first batch.

2. THE AWARD OPPORTUNITY

For this first round of the Support Program, the aim is to develop a simple program with the goal of making the most of the resources available and to provide meaningful assistance to deserving applicants. To that end, the first round of the Applicant Support Program will provide financial support in the form of a reduction of new gTLD program fees by $138,000 for the selected applicants. Under the regular process, applicants are required to pay $185,000 as part of the normal application fee to be considered for receiving and managing the registry for a new gTLD.

To launch this program, ICANN has committed $2 million for the first round of the Applicant Support Program, meaning at least 14 applicants will benefit from the $138,000 fee. ICANN hopes to provide assistance to as many additional applicants as possible depending on additional funds that may be raised from other sources. If funds remain available after all qualified applicants receive fee reductions, funding for a second round will begin.

In order to qualify for the fee reduction, applicants must demonstrate financial need, provide a public interest benefit, and possess the necessary management and financial capabilities. As this is the first round of the program and the size of the fee reduction is significant, it is likely that not all applicants who meet the criteria will be awarded funding support.

3. **OTHER APPLICANT SUPPORT SERVICES**

ICANN will seek to make additional aid to qualifying needy applicants such as translation services and staggered fees.

Beyond this funding program, all applicants to the ICANN new gTLD program are able to benefit from a range of applicant support services such as the gTLD Customer Service Center, Knowledge Base, and the Support Directory. Each of these tools is available to all applicants via the ICANN website. Applicants can use these resources to review technical resource materials, locate *pro-bono* support services, or obtain translation assistance. All applicants are encouraged to take advantage of these useful resources to assist in the development of their applications.

4. KEY ELEMENTS OF THE AWARD CRITERIA

Candidates will be evaluated against three criteria sets. Detailed criteria and scoring is published below. The categories are:

- **Public Interest Benefit** – applications that will be considered for this award are ones that will offer demonstrable benefit in the public interest.

  One key consideration of this criterion will be the amount by which an application would advance the goal of global diversity. The fee reduction will be awarded to applicants who best advance global diversity across areas such as languages, scripts, cultures, business models and geographic regions. The extent of financial support in the form of a fee reduction is currently limited to the $2MM ICANN seed fund and will be limited to that amount plus additional funding secured by the time of the financial support evaluation in June - November 2012.

- **Financial Need** – applicants selected to receive support will be those entities that demonstrate they lack sufficient financial resources to pay for application fees or otherwise execute their projects, or who would not be able to raise those resources through other means.

- **Financial Capabilities** – applicants receiving support will be required to demonstrate their management and financial capabilities.

5. OVERVIEW OF THE APPLICATION PROCESS

Given the short timeline and potential challenges in preparing their overall gTLD applications, ICANN has structured a Support Program Application Process that seeks to minimize the burden on applicants, while ensuring that sufficient documentation is available to enable the Support Application Review Panel (SARP) to make decisions about public interest and financial need across a diverse candidate pool.

The information requested in the gTLD application will submitted in parallel with that requested in the Applicant Support Program Application. However, the review of the materials for the Application Support Program will be completely separate from the overall gTLD application process.

The process is as follows:

1. the opportunity is advertised – including the publication of a Support Candidate Handbook to provide information about the Applicant Support Program and application requirements;
2. candidates submit applications to justify compliance with criteria;
3. applications are evaluated and scored or ranked by a Support Application Review Panel (SARP); and,
4. candidates are notified of the SARP's final disposition.

Pending the outcome of the SARP's deliberations, the following will occur:

- applications of candidates who are found to meet the threshold for funding by the SARP proceed to the Initial Evaluation of the standard gTLD review process;
    - candidates ranked highly enough to receive funding support will receive a $138,000 fee reduction;
    - candidates who are not ranked highly enough to receive funding support are given an opportunity to pay the full application fee and proceed into Initial Evaluation or apply for a full refund;
    - candidates who are found by the SARP to demonstrate financial need and benefit public interest, but who are not ranked highly enough to receive funding support and who are not able to pay for the full application fee will be given the option to withdraw their applications and receive a refund of the $47,000 fee;
- applications of candidates who are found by the SARP to not demonstrate financial need or benefit public interest by meeting the threshold criteria will not proceed further and, absent extraordinary criteria, will not receive a refund.

6. TIMELINE OF THE APPLICATION SUPPORT PROGRAM

- **December 2011:** Public Announcement of Applicant Support Program
- **January 12, 2012**: Application Window Opens
- **March 29, 2012:** Deadline for applicants to Register

- **Initial Deposit:** All applicants, including those requesting financial aid, must submit an initial 5,000 USD deposit. ICANN finance receives payment and then the applicant can submit its complete application.

- **April 12, 2012:** gTLD Applications, Applicant Support Program applications, and application fees are due. Applicants requesting Support will indicate on their applications that they are seeking support and will pay the $42,000 balance of the initial $47,000 fee. All applicants, including those requesting a fee reduction, must submit complete applications, including supporting documents, and the required fee.

- **April – June 2012:** ICANN Administrative Completeness Check. All applicants, including those requesting financial aid, are reviewed in the same way.

- **June 2012 – Nov 2012:** At this point in the process, all applicants seeking financial support will be evaluated separately by an independent Support Application Evaluation Panel (SARP). The SARP will only score applicants against financial need, public interest benefit and management capabilities criteria. The SARP will not evaluate applicants against ICANN gTLD program criteria.

  The SARP will score applicants in accordance with the established criteria and scoring guidelines.

  Based on the amount of funds available, the SARP will allocate fee reductions to the highest scoring applicants. The SARP will further use diversity as a guiding principle when allocating fee reduction opportunities across equally high scoring applicants.

  Since fee reduction decisions will be made in November 2012, additional funding will be pursued up to the date of those decisions in order to provide assistance to the greatest number of applicants.

6. PROGRAM NOTES AND CONSIDERATIONS

Public Comment Process

Public portions of all applications will be posted approximately on 1 May 2012, including those requesting financial support. Comments about Applicant Support Program candidates that relate to 'financial need' or 'public interest' will be made available to the SARP.

String Similarity Review

Since regular applications and Applicant Support Program Applications will be entering into the Initial Evaluation process in separate batches, the String Similarity review will be completed on all applications prior to the establishment of the two separate tracks (funded and non-funded) and any other batches.

For any contention sets that include an application in the Applicant Support Program, evaluation of all applications in the contention set will take place after the SARP makes its final support decisions, which will be done prior to the processing of the second batch. Therefore, new gTLD applications contending with applications requesting financial support will NOT be evaluated in the first batch. With the exception of this first batch prohibition, the regular rules for batching will apply.

Maintaining Eligibility

Throughout the ICANN application review process, candidates seeking support will be required to report any material changes which may result in their no longer being eligible for funding support. Failure to report such a material change may result in penalties including the requirement to pay the full amount of program fees of disqualification from the new gTLD program.

Procedural Safeguards

The evaluation criteria and review process have been developed to help ensure that only qualified and deserving candidates are selected for support, however, additional safeguards have been put in place to mitigate any potential for gaming.

If a candidate applies for financial support and the SARP determines it does not meet a basic threshold of financial need or public interest benefit, its application will not proceed further in gTLD process and its $47,000 fee is not refunded. Because of this risk, candidates must be confident that their application truly demonstrates financial need and benefits the public interest.

Applicants for the Support Program that meet a basic threshold of financial need or public interest benefit that are not awarded a fee reduction due to lack of funds will be able to continue in the new gTLD program by paying the remainder of the standard application fees or apply for a full refund.

Appeals Process

In order to keep the program as economical and straightforward as possible, there will be no opportunity for appeal of support applications.

Reporting

To provide for continual improvement in the program, applicants receiving support will be required to provide a feedback report describing how the significant reduction in fees helped with the execution of their project. This feedback will also be valuable in the development of a Round 2 Support Program.

2011-12-08-06-JAS Criteria

SECTION III: APPLICATION CRITERIA AND REQUIREMENTS

The Internet is a global resource, and the diversity, competition and innovation made possible by the new gTLD program should provide an inclusive opportunity for all to participate. The Applicant Support Program, conceptualized by ICANN volunteers through the Joint Applicant Support Working Group, seeks to serve the global public interest by ensuring worldwide accessibility to, and competition within, the new gTLD program.

This section provides an explanation of the criteria that will be used in this first round program to identify candidates who merit a reduction in their application fees. By establishing clear criteria and a transparent review process, ICANN aims to help ensure that it directs limited funds to those applicants and projects that demonstrate need and benefit the public interest.

1. CRITERIA OBJECTIVES

The Applicant Support Program is designed to provide financial support to deserving applicants in order to reduce barriers posed by the application fees.

ICANN already has detailed technical and operational criteria to evaluate and select candidates capable of running a registry and who will preserve the stability and interoperability of the Internet. Furthermore, all applicants for ICANN financial support will already have had to complete the new gTLD application – requiring clear demonstration of technical, operational and financial capabilities to execute their projects.

The Applicant Support Program does not relax existing criteria for a new gTLD, but would measure interested new gTLD applicants against additional criteria to identify those who best demonstrate: (1) service in the public interest; (2) financial need; and (3) minimum financial capabilities. New gTLD applicants found to best meet these criteria will be awarded a significant reduction in their application fees.

2. CRITERIA EXPLANATION AND EVALUATION PROCESS

The following section provides detail about eligibility, the Application Support Program criteria and the types of information that may be provided by applicants to demonstrate their qualifications for the Applicant Support Program.

a. Establishing Eligibility

All applicants requesting support through the Application Support Program first will undergo a review to determine eligibility for the Applicant Support Program. Candidates applying for the following will be <u>excluded</u> from consideration if they are:

- applying for a gTLD string that is intended to reference a trademarked brand;
- a national or federal governmental entity or an entity with controlling interest by a national or federal government*;*
- applying for a gTLD string that is a geographic name as described in the Applicant Guidebook;

Only one support application for any entity or affiliate of that entity will be considered. So while an entity may apply for multiple TLDs, it is allowed only one support application.

Eligible candidates will be required to pay a $47,000 application fee at the time of application submission.[1]

All applicants who meet these initial eligibility criteria and who pay the $47,000 application fee are then separated into the Applicant Support Program review process.

b. Criteria Overview

Based on the recommendation of the Joint Applicant Support Working Group, candidates will be evaluated against three criteria sets:

- **Public Interest Benefit** (to prioritize funds for those projects that would offer demonstrable benefit to the public or suitable community group).
- **Financial Need** (to distribute funds to those entities that lack sufficient financial resources to pay for application fees or otherwise execute their projects, or who would not be able to raise those resources through other means); and
- **Financial Capabilities** (to help ensure those receiving funding will be able to manage those funds and execute projects if successful).

The sequence of criteria reflects the order in which they should be assessed by the panel because the first test is core to the goal of new gTLDs Applicant Support Program.

c. Evaluation and Scoring

The scoring of the three main criteria will be performed by an independent Support Application Review Panel (SARP) based on information provided in the Applicant Support application. The SARP may also rely on the ICANN new gTLD Application, public comments, and independent research, if deemed desirable to reach informed scoring decisions. The criteria are, to a certain extent, subjective. That subjectivity is deemed necessary to enable the SARP to reach a fair result and provide the discretion to interpret the information provided to it in the best light. While efforts have been made to systematize the scoring process, interpretation of the criteria is at the sole discretion of the SARP.

All applicants to the Support Program will have already completed the new gTLD application. Guidance has been provided when components of standard application materials might also be applied to its Support Program application.

Notice: SARP panelists might have access to certain non-confidential standard ICANN application materials. The SARP's objective is to establish whether applicants meet the financial support criteria– but not to weigh relative merits of overall gTLD applications. Therefore, the SARP may arrive at different conclusions than ICANN review panels when evaluating similar

[1] Refunds can be obtained in certain circumstances: conditions for refunds of that fee can be found in the Applicant Support Process document.

documentation since different objectives, criteria and review processes will be the basis for its evaluations.

3. CRITERIA AND SCORING

The following are the criteria for the Application Support Program. The criteria is used both as a threshold and to rank qualifying applicants.

As stated in the Applicant Support Process document Support applicants first have to meet a threshold score to qualify for financial aid and keep their new gTLD application active. If the threshold is not met, the new gTLD application will be rejected. Those meeting the threshold will then be rank ordered using the same criteria.

To meet the threshold, support applications must score:

- 5 of 9 points on the first criteria set,
- 3 of 5 points on the second criteria set, and
- 1 of 2 points on the third criteria set.

The threshold is set high to discourage abuses as recommended in the Joint Applicant Support Working Group Report.

Criterion #1 - Public Interest (0-9 points; minimum score required: 5)

Applicants will receive points as indicated for demonstrating each of the following public interest criteria. Applicants should indicate on their application for funding support which criteria they believe thier application meets. Applicants do not need to meet all criteria, but priority will be given to those who are scored the highest.

- **Community based project (0-1 point)**
    - The ICANN Applicant Guidebook specifies that each applicant must declare if its application is a community-based project. Applicants for financial support that also have indicated that a project is community-based will be evaluated by the SARP teams against the four Community Priority evaluation criteria found in Module 4 of the Applicant Guidebook: community establishment, nexus between proposed string and community, registration policies, and community endorsement. Rather than following the strict scoring methodology in the Applicant Guidebook, the SARP will perform a high level review to determine whether the applicant generally meets those criteria. Applicants that generally meet the criteria in the four tests will be given 1 point. Applicants that do not meet this threshold will receive 0 points.

      It is important to note that while the SARP and the ICANN new gTLD evaluation panels are using similar criteria in certain cases, the SARP's objective is to identify those applicants most worthy of financial support to help reduce barriers to entry for the ICANN application process, not to evaluate an applicant's new gTLD application. Some applicants that receive funding support

may not ultimately be successful with their new gTLD applications. Given that the SARP's priority is to identify those candidates that meet public interest priorities and not to address a contention set, the SARP will be given instructions to be more liberal in its interpretation of the Community Based priority criteria. In this regard, SARP findings related to community-based projects may be somewhat inconsistent with the Guidebook described Community Priority Evaluation that the financial aid applicant may later face.

- **Public interest benefit including support for distinct cultural, linguistic or ethnic communities (0-1 point)**

    - The applicant support program targets those applications that provide benefit to the public interest. Those applications that support distinct cultural, linguistic or ethnic communities in a way that demonstrates a benefit to the public interest, enhances the public good, or promotes the general welfare will be given priority. Applicants who meet the community-based application threshold might also receive points under this criterion. However, some applicants not designating their applications as community-based applications, might still offer benefit for a distinct cultural, linguistic or ethnic community. For example, this might include groups with geographically dispersed diasporas or linguistic minorities protected by certain treaties. Applicants who demonstrate how their project will benefit such communities and serve the public interest will receive 1 point. Applicants may provide documentation already prepared to support their answer to Question 18 (Mission/Purpose) in the ICANN new gTLD application, but may also provide supplemental documentation as appropriate.

- **Service in an under-served language, the presence of which on the Internet has been limited (0-1 point)**
    - Candidates applying for a string that is providing build-out of a language or script whose web presence is limited will be given priority for funding support. This may include smaller script communities whose scripts are very limited on the web and communities that regularly use more than one script but might otherwise face challenges with the build out of two scripts. Applicants that provide data or other documentation demonstrating the lack of presence of their language on the Internet and how their project will support that language presence will receive 1 point.

- **Operation in a developing economy (0-2 points)**
    - Applicants from developed countries may apply, but priority will be given to those from developing economies. Evaluation will be based on the expected beneficiary community of the project and not the location of the back-end operations. Applications from or benefitting Least Developed Countries, Landlocked developing countries, and Small Island Developing States based on the listing of the UN Department of Economic and Social Affairs (UNDESA) will receive 2 points. Applications from or benefitting indigenous peoples as described in Article 1 of Convention No. 169 of the International Labour Organization and the UN Declaration on the Rights of Indigenous Peoples will

receive 2 points. Applications from or benefitting those from the UNDESA list of Developing Countries, who are not LDCs, LLDCs or SIDS, will receive 1 point. Applicants from all other (developed) countries and who are not Indigenous Peoples will receive 0 points.

- **Advocated by non-profit, civil society and/or non-governmental organizations in a manner consistent with the organizations' social service mission(s) (0-1 points)**
    - An applicant may demonstrate benefit to the public interest through support for their project from local or partner organizations such as non-profit, civil society, and/or non-governmental organizations. Applicants may meet this requirement by providing letters of support from such organizations that indicate how the proposed project would further the organization's social service mission or benefit the public interest; and evidence of gTLD project partners or donors/funding sponsors whose mission is aligned with the public interest.

- **Operation by a not-for-profit organization (0-2 points)**
    - Priority will be given to entities that are not formed as conventional for-profit businesses – i.e., non-governmental organizations, non-profit entities, civil society organizations, foundations, trusts, mission-based organizations, etc. Non-profit organizations and similarly organized entities are eligible for 2 points; other organizations such as public-private partnerships, and hybrid entities (e.g. those that are profit/non-profit) are eligible for 1 point.

- **Operation by a local entrepreneur or not-for profit organization in a developing economy providing demonstrable social benefit (0-1 points)**
    - While the applicant support program is not intended to be used as a substitute for conventional business risk, there is value in providing some support to entrepreneurs or non-profit organizations from developing countries whose project provides a demonstrable social benefit but who are unable to execute their project without funding support. The applicant can demonstrate that its project will provide social benefit including, but not limited to: (1) providing investment in the skill base of the target community; (2) fostering gender balance and the presence of minorities in the target community; (3) providing a positive contribution to the national or regional economy of its operation. Applicants will receive 1 point if able to document such social benefits.

Criterion #2 – Financial Need (0-5 points; minimum score required: 3 points)

A maximum of 5 points is possible on the Financial Need criterion. Applicants will be required to submit materials to detail various constraints that affect their ability to acquire and implement a gTLD without assistance.

As measured by:

- **Operational Environment (0-2)**

- A complete answer demonstrates why the applicant may have limited access to funding and specific environmental factors that have caused constraints to raising initial capital to pay for fees. The applicant may provide letters from other funding organizations that have considered requests for support on this or other efforts. A response will merit a 2 if its assertions are substantiated with documentation specific to the gTLD project application and its lack of ability to raise funds for the application fee or other initial expenses. A response will merit a 1 if the applicant generally describes a challenging operational environment, but does not have documentation specific to the financial aspects of its project. A response that does not provide adequate justification for why its operational environment poses a challenge to raising the financial capital to support its application or project is given 0 points.

- **Organizational size (0-1)**

  - Small and medium sized organizations often face specific challenges in obtaining sufficient human and financial resources to carry out their business or organizational mission. Moreover, these organizations may face disproportionate costs in meeting the administrative burden required by completing the ICANN gTLD application. To help address this barrier, the Applicant Support Program will give priority to small and medium sized organizations when evaluating applications. Small and medium sized organizations, not associated with a larger parent entity, will be given 1 point.

- **Project budget and funding resources (0-1)**

  - In order to complete its ICANN gTLD application, the applicant must provide financial projections that demonstrate a sustainable business (even if break-even is not achieved through the first three years of operation). Applicants to the Applicant Support Program should provide a narrative to correspond with their Financial Projections and their description of funding and revenue sources to identify where ICANN financial support would assist in ensuring sustainable operations or mitigating any projected risks. Applicants should provide tabular information on operational expenses and other relevant data that is also provided in their gTLD application. Applicants may also include letters from donors who may be promising project funding if the gTLD application is successful, but which may point to a lack in the initial start up funding to pay the $185,000 application fee. Applicants who clearly identify why financial support would help to improve their financial projections or mitigate any potential risks will be given 1 point. Applicants whose financial projections exhibit funding needs (or whose projections demonstrate inadequate start up capital and three years of sustainable operations) will be given 0 points.

- **Outreach for financial support (0-1)**

  - Applicants that have taken the extra steps to seek additional funding or create partnerships that could lead to additional support such as through matching grants or guaranteed loans or payments will be considered for an additional

point. The applicant may provide letters from other organizations that have considered requests for support on this or other efforts. A response will merit one point if its assertions are substantiated with documentation specific to this project, otherwise no points will be awarded.

Criterion #3 Financial Capabilities (0-2 points; minimum required score 1 point)

- **Basic financial capability (0-1) to operate an ongoing concern of the proposed registry**
  - While an applicant's project should demonstrate some level of need as described above, the applicant must also demonstrate basic financial capability to operate an ongoing concern of the size and complexity of a proposed registry through demonstrating managerial capabilities and financial resources. Applicants should provide a summary of their qualifications in meeting Questions 45-47 in the ICANN gTLD application section on basic financial capability. Applicants should provide emphasis on demonstrating their ability to manage an organization and finances relative to the size of their project. Those meeting the requirements are given 1-2 points, at the discretion of the SARP. Those who fail these requirements are given 0 points.

- **Previously executed projects (0-1 point)**
  - Applicants with proven results in managing organizations and projects of this complexity in the past will be given priority. Applicants who provide documentation citing previously managed and operated programs either by the organization or its key personnel will be given 1 point.

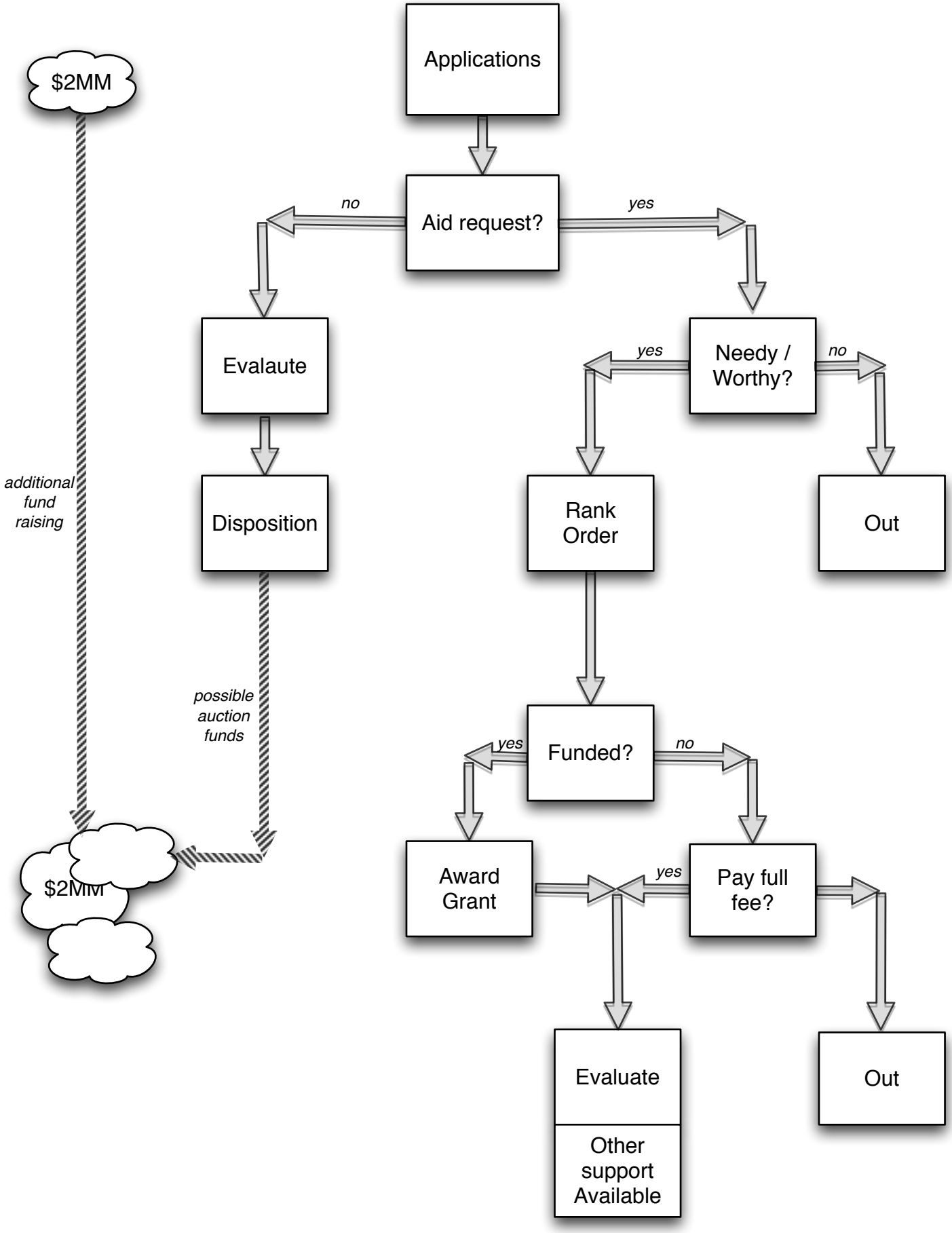
Award Decisions

In the case that available funding cannot meet all *bona fide* requests (i.e. request that meet the threshold scoring requirement) , the scoring system enables the SARP to rank and prioritize eligible applications and award financial aid to those determined to best meet the three criteria. Once the highest scoring candidates have been identified, the SARP also will work to ensure diversity in its final funding decisions across areas such as language, script, cultures, business models, and regions to ensure that those who receive the fee reduction will tend to most amplify the benefit.

A relatively high score threshold has been established to identify those who do not meet basic financial need and public interest benefit criteria and in order to help mitigate potential for gaming. Those candidates that meet the established need/public interest threshold, but who do not score highly enough to benefit from ICANN Financial Support will be given an opportunity to pay the balance of the $185,000 application fee and proceed forward into Initial Evaluation.

2011-12-08-06-Applicant Support Process Flow

APPLICANT SUPPORT PROCESS FLOW



2011-12-08-08-PPC-policy-Task1.8-Finalizeallstratification,prioritization,andcomment-replycycledecisions-221111-1335-4

Task 1.8-Finalize all stratification, prioritization, and comment-reply cycle decisions

As a resu t of feedback from both the Focus Group and the Pub c Comment so c tat on (31 August-15 October), the fo ow ng are Staff s f na recommendat ons concern ng the three major Phase II top cs schedu ed for mp ementat on on or before 31 December 2011. In add t on, Staff has nc uded status on a fourth recommendat on concern ng Techn ca Forum Improvements.

Stratification

Staff has ass m ated the var ous suggest ons made by the Focus Group and th s Pub c Comment Forum, e m nated dup cates, rev sed and s mp f ed word ng, and created the fo ow ng proposed set of 16 categor es. Mod f cat ons can be made after further exper ence and feedback:

- Top-Leve Doma ns
- Second-Leve Doma ns
- Internet Protoco Address ng
- Internet Governance
- Po cy Processes
- ICANN Board/By aws
- Contracted Party Agreements
- Inte ectua Property
- Transparency/Accountab ty
- Secur ty/Stab ty
- Pr vacy
- Rev ews/Improvements
- Part c pat on
- Events/Conferences
- Lega /Regu atory
- Operat ons-F nances

The Pub c Comment Box temp ate has been redes gned to accommodate a "Categor es" f e d and the Staff procedures have been rewr tten to requ re that Staff members ass gn one or more categor es to each new Pub c Comment top c that s pub shed after 1 January 2012.

Prioritization

The genera consensus among commun ty respondents s that Staff shou d cont nue to pursue f nd ng ways to ntroduce a "pr or t zat on" capab ty for Pub c Comments. Ideas that have been suggested nc ude:

1. A ow ng commun ty members to se f-rate top c pr or t zat on
2. Creat ng an "aud ence" f e d that wou d nd cate the commun ty member groups most affected by a so c tat on
3. Add ng a "phase" nd cat on or deve op a GANTT chart that wou d show where the top c s n the overa po cy process

Staff has eva uated the above deas and determ ned that they are not feas b e n the short-term. The f rst one may be poss b e f the Pub c Comments Forum s moved to a W k p atform and, n that prototype env ronment, Staff s test ng var ous opt ons. The other suggest ons are e ther too comp ex or wou d p ace Staff n a the d ff cu t pos t on of hav ng to make "pr or ty" determ nat ons that cou d un ntent ona y m s ead certa n commun ty groups/members.

Staff current y recommends that the f e ds added to the Pub c Comment Box dur ng Phase I cont nue to be supported:

- Purpose
- Current Status
- Next Steps

Comb ned w th a new Category f e d, Staff s hopefu that commun ty members w have suff c ent nformat on to make ndependent pr or ty dec s ons eff c ent y w thout hav ng to read the ent re background and descr pt on for each top c.

Comment/Reply Cycles

The or g na recommendat on to address the ATRT recommendat on was to estab sh a m n mum 30-day Comment per od for a Pub c Comments fo owed by a m n mum 15-day Rep y cyc e. Severa commun ty respondents commented that the Rep y cyc e durat on s too short, espec a y recogn z ng that many groups need to deve op consensus w th n the r organ zat ons before post ng pos t ons to a pub c forum. Another concern was expressed that extend ng the overa t me-frame has the abso ute effect of de ay ng ICANN dec s ons wh e poss b y benef tt ng the process marg na y. Near y a part c pants commented that Pub c Comment per ods shou d be "f ex b e" and adjust to the comp ex ty of the ssue as we as other re ated factors.

In cons derat on of these perspect ves and wh e stay ng true to the ATRT recommendat on, t s recommended that the fo ow ng gu dance be put nto effect as of 1 January 2012:

- The off c a m n mum Comment per od s 21 days
- The off c a m n mum Rep y cyc e s 21 days
- If no comments are rece ved dur ng the Comment per od then there w be no Rep y per od

Th s so ut on has the effect of mak ng the m n mum tota e apsed per od 42 days vs. 45 (Staff s or g na formu at on of 30 + 15).

The new procedures w emphas ze that the above gu de nes are to be cons dered "m n mums" and that the Comment and/or Rep y per od can be onger (nc ud ng commun ty requests for extens ons based upon extenuat ng c rcumstances from a commun ty member or group).

Therefore the m n mum 21 + 21 days structure m ght have the effect of ncreas ng the t me to obta n pub c comments, as groups m ght request more t me to nput. In some pub c comments t had been a custom to use 45 days so far. It s poss b e that some pub c comment per ods may extend beyond the m n mum 42 days, say, a 45-day Comment per od and 21 days for Rep y so n tota to 66 days.

Technical Forum Improvements

S nce ate June 2011, Staff has been work ng n para e on a prototype so ut on for Pub c Comments us ng ICANN s Conf uence W k p atform. The deve opment was comp eted at the end of October, as or g na y p anned, n order to conduct a m ted commun ty test dur ng November.

The test per od has now been determ ned to be 21 November - 20 December 2011. An announcement was sent to commun ty eaders by F z Y maz on 8 November 2011 request ng vo unteers to part c pate.

Staff w eva uate the commun ty feedback n the atter part of December and make a GO/NO-GO recommendat on to the Pub c Part c pat on Comm ttee n ear y January 2012 as to whether th s so ut on shou d rep ace the structures current y res dent on ICANN.org.

Compilation of News Clips

A Sampling of ICANN News Media Clips

Date Range:
11 September 2011 – 25 November 2011

ICANN Informs About Planned Domain Extension

09/23/2011

(Translated from German)

Berlin (dpa) - The Internet governance ICANN is preparing an information tour remains one of the biggest changes of the Internet. So will ensure more transparency and fairness for ICANN.

In four months, first applications for the planned new Internet address spaces will be accepted. ICANN wants in the complicated process to ensure that the award be transparent and fair, the new chief Rod Beckstrom said on Thursday (September 22) in Berlin. A few days ago, the organization has launched a website on the net, the information for applicants, potential applicants and interested simply holds.

Germany is one of the planned changes in the active regions, said Oliver Süme by Internet Association eco. Berlin especially new regional suffixes such as.. Or bayern. Hamburg are in high demand. How great will be the company's interest in extensions, remained to be seen. Overall, the number of interested applicants currently estimated between one hundred and some few thousand, said Beckstrom.

In a historic move, ICANN wants to expand the address space of the so-called top level domains (. Com,. Com,. Org) significantly. In addition to regional addresses like bayern. Berlin. Should also address areas such as. Or nokia. His trip is possible. With this step, the Internet will significantly international, Beckstrom said. Even trademark holders should be able to get with the new structure better future protection. The administration hopes that this more freedom and choice in the network. For memorable addresses the possibilities were recently become extremely scarce.

Login to such extensions, however, only companies and organizations - for a fee of $ 185 000. The process is very complex and the administrative costs are very high, said Beckstrom. ICANN as deserving non-profit organization anything of it. Nonprofit organizations such as the project. Hiv wants ICANN to support financially and technically.

The new extensions will give the Internet a new structure. Also search the net is likely to change fundamentally to all Internet users. A danger that users might be confused by the new structures rather see, not Süme. "I am sure that Internet search engines, the new top level domains will be installed quickly in their algorithms." See the majority of Internet users in the extension of additional opportunities that have a survey of the eco arise several years ago.

In Berlin on Thursday was also the Internet Society, Berlin (ISOC.Berlin) on their work. The company wanted to promote not only the future of the German group in the capital to exchange information and cooperate in the development of international and national standards on the Internet, said founding member Katrin Ohlmer. The ISOC was founded as a non-profit organization in 1992 to develop standards for the Internet and carry information about the media in the public. The ISOC, based in Virginia and Switzerland has regional offices in all continents. Beckstrom, welcomed the new "chapter" of the ISOC, which occurs as a liberal force for freedom of information - especially in Berlin, with its history.

From Dot Com To Dot Anything

27 Sep 2011
By Enoch Darfah Frimpong
MODERNGHANA.COM NEWS

Cape Town, South Africa… Have you thought about how you could get a designer Internet address, for example: you.yourname for a cool $185,000?

If not, then be aware that the Internet Corporation for Assigned Names and Numbers (ICANN), the main oversight agency for top-level domains (TLDs) and regulator of the Internet, is poised to making one of the biggest changes in the internet world since its creation by offering endless variations on domain addresses.

With the new system, address names will be able to end in almost any word in any language thereby drastically changing the way people find information online.

ICANN had estimated that only 17 per cent of the original four billion network addresses remained available, and that addresses were expected to run out within the next five years.

The board of ICANN then approved in June this year, a plan to allow an increase in the number of Internet address endings, also known as generic top-level domains (gTLDs), from the current 22, which include the standard ".com," ".net" and ".org." to allow companies to purchase new generic top-level domains ending in almost anything they wished.

Rather than have a domain that ends ".com" or ".org" or ".net" or ".com.gh", an individual or company could have a domain that ends ".kumasi" or ".accra" or ".news" or ".sex" or ".newspaper".

From January 12 next year, ICANN says it will allow users to change website suffixes or generic Top-Level Domains (gTLD -the dot com part) for a cool $185,000.

Officials of ICANN recently used the opportunity of a large gathering of African journalists in Cape Town South Africa under the auspices of Highway Africa Conference to inform journalists on the continent about the new and old gTLDs and the role that ICANN plays in Internet Governance.

Anne-Rachel Inne, in charge of ICANN's African Regional Relations and Brad White, in charge of Global Media Operations, briefed journalists on the new Internet naming system which was announced by ICANN in June this year.

Brad White said it "was a major change to the Internet's addressing system".

He said a website devoted to help corporations, cities or other organisations to determine whether they should apply for a gTLD would be opened soon.

Since the announcement of the new system in June this year, ICANN has come under heavy criticism with many media houses reporting that the new domains will be confusing.

Some argued, "...as it stands right now, the vast majority of Web surfers barely understand the structure of a domain and it is going to be a mess," PC World wrote.

The Guardian newspaper said "the move could also create enormous confusion for consumers and companies. It greatly expands the risks from "phishing" sites because they could use confusing domain names in language scripts that look similar to existing ones to capture people's' details.

Phishing is a way of attempting to acquire sensitive information such as usernames, passwords and credit card details by masquerading as a trustworthy entity in an electronic communication.

But speaking to journalists in Cape Town, ICANN African Regional Relations Manager, Anne-Rachel Inne said part of ICANN's upcoming announcement would deal with how the corporation would help developing economies take advantage of the new gTLD process.

Answering a question on how ICANN helps with access to information, Inne said "domain names and the IP addresses are things that make the internet work. These are the things we have to get correctly or else you end up somewhere else".

This is the way that we facilitate access, making sure that computers wherever they are, can access the Internet and can access information.

If the addressing system on the Internet is not internationally coordinated, it means that multiple people can have the same address which leads to confusion. ICANN's function is to make that addressing system work so that you can go where you want to go.

Brad White, for his part, explained that the functions of ICANN was more metaphorical: "The internet is like a series of roads. If you do not have addresses on the roads you would not know how to get to where you want to go regardless of how good the roads are. ICANN's function is to make sure that those addresses work.

White added that "access is only important if you have some place to go. You can have all the access in the world, but if the addressing system doesn't work properly when you get on your web browser, it's not going to do you any good to have access".

He explained that the decision for the new system came after years of discussions and deliberation among representatives of the online community, business groups and governments. Efforts were made to address concerns of involved parties and ensure security, stability and resiliency.

He said ICANN was beginning a global communications programme to tell the world about this change in domain names and raise awareness about the possibilities regarding gTLDs.

He also said applications for new gTLDs would be accepted beginning Jan. 12, 2012. The cost will be $185,000 to acquire a new suffix, and applicants will need to provide a legitimate claim to the name they are buying, which will discourage cybersquatting, a common practice during the early dot-com days.

Cybersquatting is the registering, trafficking in, or using a domain name with bad faith intent to profit from the goodwill of a trademark belonging to someone else. The cybersquatter then offers to sell the domain to the person or company who owns a trademark contained within the name at an inflated price.

In my view, the proposal to allow users to create their own top-level domains could offer up millions of new variations for web addresses.

It is like a process of opening up new real estate, new land, and people will go out and claim parts of that land and use it for various reasons they have, making it a massive increase in the geography of the real estate of the Internet.

Information has it that ebay, for instance, is a current contender to use its name, aiming to purchase the domain ".ebay", while cities such as New York and Berlin have been campaigning for their own domains as well.

This new system is coming after years of discussion and deliberation among representatives of the online community, business groups and governments. Efforts were made to address concerns of involved parties and ensure security, stability and resiliency.

ICANN's insistence that it was beginning a global communications programme to tell the world about this change in domain names and raise awareness about the possibilities regarding gTLDs and asking applicants to provide a legitimate claim to the name they will be buying so as to discourage cyber-squatting, a common practice during the early dot-com days is also welcome news.

However, paying $185,000 just to acquire a new suffix seems to be on the high side and the cost could deter some companies from hopping on board initially. For many organisations, the revenue gained from the change may not be worth the thousands required to implement it.

Hypothetically, companies or organisations could use the new domains to strengthen or cement their online brands or presence but on a downside, it would be difficult to see how this would be more effective than current domain-naming methodologies, especially given the cost. But in order to protect themselves from speculators or squatters, companies and high-profile individuals may feel compelled to buy and maintain related domains.

It is hoped that ICANN will open new possibilities for Internet communities in developing countries by providing additional alphabetical characters to capture local language content. It should, however, be noted that the new range of names could also cause confusion for users.

I think that ICANN's decision does two things: It dramatically broadens the number of legal names for Internet addresses, while potentially increasing consumer confusion by the same amount.

The good news about this decision is that many more domains will be available in non-Roman alphabets. So if you are a budding entrepreneur in China or Russia, this is great news. Ghana may also take advantage of this in future if our local languages content on the internet is improved.

The new suffixes could give scammers a new way to trick customers, however there will be a wider range of deceptive possibilities for cloaking spam but of course, the $185,000 price tag could be a spam deterrent.

The bad news for consumers could be that they will find it much harder to discriminate between legitimate Internet brands and those that want to deceive consumers.

BBC NEWS BUSINESS

Dot brand versus dot com: Internet domains go head to head

29 September 2011
By Fiona Graham

Business is good. Your bathroom fittings company has replaced the conveniences in half the homes in your neighbourhood. But there's one small fly in your ointment.

You were a bit late to the game when it came to the internet.

And when you finally decided to go online, www.bloggsbogs.com was already taken. You're pretty sure this must be the reason you haven't made quite the splash you wanted in other towns.

Is there another way?
Domain dominion

Beginning in January 2012, applications open for a new class of gTLD (generic top level domain).

The people who control the use of internet domains, Icann (Internet Committee for Assigned Names and Numbers), announced in June they were extending the suffixes used for web addresses beyond the existing 22 (.com, .net, .uk, etc).

Interested parties can apply to run one, and either retain it for themselves, or set up as a registrar selling domains within groups like .car or .bank.

The suffixes don't have to be roman letters, so could for example be Chinese characters.

Some rules do apply - for instance, they must have at least three letters (Icann is holding onto the remaining two letter domains in case new countries are created).

So now companies can bid for their own gTLD for the first time. Think .hitachi, .coke, .facebook.

Could .com's dominance be coming to an end?
Time limited

If your dream of registering .bloggsbogs is going to become reality, you'd better get your skates on. The application period opens on 12 January 2012, and closes three months later on 12 April.

Miss this and you may be twiddling your thumbs till 2015 according to Tim Callan, chief marketing officer at domain experts Melbourne IT DBS.

"[Companies] have to be prepping, and they have to be getting ready and figuring out what they're doing so they're ready."

Some may be left behind, says Simon Briskman, partner and IT specialist at law firm Field Fisher Waterhouse.

"I think it's difficult for brands to take this very short period we've got - the last quarter of this year - to assess and make a full business case."

Mr Briskman says some companies have stalled, initially put off by the cost.

"I think we've now got to the point where people are going: 'Hang on a minute, this is a drop in the ocean compared with the investment we make in the brand. We really do need to properly assess the business case.'

"[Some] big brands are going to miss the window - simple as that. You can't move large organisations at this speed."

Shirt off your back

Cost may cut out all but the megabrands.

Applying will set you back $185,000, and it doesn't stop there, says Melbourne IT DBS's Tim Callan: "Your corner mom-and-pop shop, this is not right for them.

"A good estimate is it will cost between $150,000 - $200,000 a year to run [a gTLD]. So costly yes, compared to your and my wallets, but for the companies we're talking about - trivial.

"I've yet to run into anybody who I would consider a prospect for this who has a cost objection."

Rebecca Moody, head of planning at advertising agency Euro RSCG, agrees: "It's a no-brainer for John Lewis or for Coca-Cola, for example, both successful big brands who can probably afford dot brand."

Bloggs Bogs may have to settle for registering for a dot category domain - if anyone applies for .toilet that is.

When the application period closes, Icann will decide who has a viable bid.

"They're taking the public facing internet, they're slicing chunks off and they're giving them to people to operate," says Mr Callan. "So they want to be confident people can run it correctly."

Where there are multiple qualifying bids, Icann has a set of criteria to decide who wins - in the case of dictionary words for example, open communities trump private ones.

If this process doesn't resolve the situation, then it goes to auction, with the highest bidder winning. The first gTLDs could be live by early 2013.

Return on investment

So what is pushing companies to buy their own dot brand?

Mr Callan says protecting your trademark is one motive, not only to thwart cybersquatters, but to beat other companies using the same name to it.

"Trademark law allows non-colliding trademarks to exist. If I'm operating in North America and you're operating in Europe and we don't cross over, then we can both have a trademark. But only one of us can have the TLD."

Then, he says, there's the marketing benefit.

"[Companies] think they can have a better connection between offline marketing and online traffic by having names that are shorter, more memorable, easier to pop out in a marketing campaign."

"For example, laptop.hitachi. Very crisp. Very easy to remember, very easy to communicate."

This includes the benefits a loaded url brings in terms of search engine optimisation (SEO) strategy, a process where sites are built to make them more attractive to search engines.

Security is another draw.

"There are a lot of people who won't do internet shopping because of the security, I think dot brand has a lot of potential there," says Field Fisher Waterhouse's Simon Briskman.

"[It] is going to really help as a seal of authenticity."

Perception is a big deal, according to Dr Jonathan Freeman, senior lecturer in psychology at Goldsmiths, University of London and managing director of i2 media research.

"A lot of this is consumer perception. Reassuring consumers is going to enhance the online behaviours and transactions. They'll feel a lot more happy dealing [with] it."

Despite this, he anticipates consumers will not immediately take to the new naming conventions.

"What people are used to doing is going to be a big determinant in how consumers adopt and use dot brand as it rolls out.

"I'd expect it to take a while to embed in consumer behaviour, especially given the extent to which consumers rely on search engines today."

So where does this leave the brands that cannot afford to be part of the new world order?

"There will inevitably be a new brand ranking system, which in a way I find kind of concerning." says Euro RSCG's Rebecca Moody.

"Do you risk looking like a second rate brand?"
Out of the loop

Understandably, smaller brands are uneasy.

"What the small businesses and not-for-profits have been complaining about is there's a significant barrier to entry," says Field Fisher Waterhouses's Simon Briskman.

"People are selling off slices of the internet real estate, and they feel they're going to get closed out."

He says subsequent rounds may prove a little cheaper.

"I think people will start to aggregate the running of these day-to-day, which ought to bring down some cost. I still don't think that it will be accessible to Martha with her boutique in Marylebone."

And the ubiquitous dot com? It's probably safe for some time to come.

"I don't believe anyone is going to be shutting their dot coms in the next five years," says Tim Callan of Melbourne IT DBS.

"But does any of us think we're going to be typing dot com in a hundred years? No."

Simon Briskman is somewhat more tempered.

"The reason dot com will survive is [for example] the Times - there's the Financial Times, the New York Times. It's just not possible for everyone to get the names that they want in the new dot com space."

"If you want a good presence, but maybe not the best presence, if you want someone else to run the infrastructure, you'll probably use dot coms.

"They'll happily co-exist I just don't think they'll have the same power that the dot brand does."

The Economist

Who should run the internet?

A plaything of powerful nations
Internet governance is under attack; it may have to mend its ways to survive

Oct 1st 2011 | NAIROBI | from the print edition

NETHEADS build, run and protect the internet. They often profit from it too. More than 2,000 of them from more than 100 countries descended on Nairobi this week for the latest Internet Governance Forum (IGF), a conference organised under United Nations auspices. The ponderous official theme was the internet "as a catalyst for change", with a lot of nodding to WikiLeaks and the Arab spring. The reality outside the conference hall, the UN headquarters in the Kenyan capital, was more striking. Kenyans nowadays often go online on their mobile phones. Surfing the web is getting faster and cheaper by the day. The internet is no longer a geeks' affair in the rich world, but woven into the fabric of business and life even in the poor one.

The IGF is not a typical UN meeting with a carefully staged agenda and much diplomatic protocol. All participants had the same right to take the floor. Government suits had to listen patiently to the complaints of internet activists. And the end of the shindig was not marked by a finely tuned communiqué, but by a workshop dedicated to what the organisers should do better.

All this makes the IGF an unusual grouping. It is in effect a poster child for what insiders like to call the "multi-stakeholder" model. All involved have a say and decisions are taken by "rough consensus". This approach has worked for the internet so far, but it is increasingly under attack. Governments now want to be given the last word on contentious issues rather than being merely treated as just another stakeholder.

The multi-stakeholder approach dates from the beginnings of the internet. Its founding fathers believed that more openness would be both more secure and better for innovation. What is more, since the internet is a network of independent networks, it is hard to construct a form of governance that allows anyone to dictate things from the top.

Until the early 2000s most governments were happy—at least in Western countries where most internet users lived. They had no problem with the network's standards being set by such organisations as the Internet Engineering Task Force, which is open to everybody. Nor did governments balk when America in 1998 set up the Internet Corporation for Assigned Names and Numbers (ICANN), also based on the multi-stakeholder model, to manage the internet's core: its address system.

Yet as the internet has become a global medium attitudes have changed. At the World Summit on the Information Society 2005 in Tunis, many participants pushed for the UN and one of its agencies, the International Telecommunication Union (ITU), which co-ordinates the radio spectrum among other things, to take over the running of the internet. The effort was resisted by America and other Western countries. The compromise included the creation of the IGF.

Now some countries are at it again, even more forcefully than before. In most places the internet is now a crucial driver of the economy. More importantly, says Shawn Gunnarson of Kirton & McConkie, a law firm, the Arab spring has shown governments that social-media networks can become powerful tools for the organisation of political protest.

China, Russia and others have proposed an “International Code of Conduct for Information Security”—an attempt to strengthen the role of governments. Some of the same countries have launched a renewed push to get the ITU more involved when the treaty that defines its remit is up for renegotiation next year. India, Brazil and South Africa have called for the creation of a “new global body” to regulate the internet. Against all these efforts, the OECD, a club of mostly rich countries, felt compelled to hold a high-level meeting in June to defend multi-stakeholderism.

The most immediate power struggle is taking place inside ICANN—between the body’s board and its stakeholder panel for countries, the Governmental Advisory Committee (GAC). Governments, even many Western ones, have long been unhappy with ICANN, which they think is not sufficiently transparent or accountable. The tensions came to a head when the board moved last year to allow many more “generic top-level domains”, as the suffixes of web addresses such as .com or the just launched .xxx (see article) are called. Officials are particularly worried about the introduction of controversial new domain names such as .jesus.

In June the board and the GAC at last agreed on a procedure to weed out unwanted domains. After all applications for new domains have been filed, countries can issue “early warnings” to signal that they object to a new domain. But only if the GAC as a whole does not like a suffix must the board take these objections into account—and then issue a detailed explanation if it overrides them. “Nobody really knows how this will work,” says Kieren McCarthy, who runs .Nxt, an online source of internet punditry.

If even ICANN cannot command the respect of its stakeholders, the entire multi-stakeholder model may be in danger. That is why the American government, long an ardent defender of the model, is expected to put a lot of pressure on ICANN to change its ways when a decision is taken next year whether the group should remain in charge of running the physical infrastructure of the internet’s address system, which—as critics keep pointing out—is still controlled by the American government.

Yet some experts argue that ICANN—and thus the multi-stakeholder model itself—can firmly establish itself only when it is underpinned by a proper constitution, complete with a bill of rights for stakeholders and a separate board of review (or supreme court). ICANN, they say, resembles the kings and parliaments of old whose power is coercive and unconstrained. Only if internet governance has a “constitutional moment”, declares Viktor Mayer-Schönberger, a professor at Oxford University, will it avoid becoming the “plaything of powerful nations”.

from the print edition | International

ICANN raises awareness of unique TLDs

By ITP.net Staff Writer
Published October 9, 2011

ICANN, the internet domain name creation and registration authority is attending GITEX TECHNOLOGY WEEK to raise awareness on the launch of new top level domains (TLDs) which can be company specific.

These new domain names can be company brands, such as .nike or .samsung, city or country names such as .london or .abudhabi, family names or community names, for example .zulu for people of Zulu background, or concept names such as .fun or .family.
“This new program is the most significant opening in the history of the domain name system. We are opening up the right of the dot more broadly than has been done before,” says to Rod Beckstrom, CEO of ICANN.

Registration for these new domain names is open from 12th January 2012 to 12th April 2012, but the application procedure requires applicants to fill in a 300 page application document, which features business plans for the company, as well as submit $185,000 with the application. The entire application process from submitting the application to implementing the domain name can cost up to $2 million, according to Bechstrom. This figure includes the fees for a company to write the applications on behalf of the interested business as well as the $400,000 in total fees to ICANN.

ICANN also conducts background checks on the businesses that apply to make sure that no member of the company has a criminal background and that the business is up to the rigorous standards necessary for the TLD implementation.

Priority for domain names goes to community groups rather than big business, so for example, if computer giant Apple and the Apple Growers association want the .apple domain name, the Apple Growers Association would have priority for that domain name.

So far in the internet there are 22 top-level domain names, such as .com, .ae, .net and .travel, but with the opening up of domain names, ICANN expects up to 4,000 new TLDs to be registered in total over the next four years.

ICANN has a maximum capacity to process and implement 1,000 domain names per year, so if companies miss the upcoming registration period, they may not get a chance to register for their TLD for five more years.

Rod Beckstrom, CEO of ICANN is currently undertaking a 20 country, two-month global tour to raise awareness about the availability of unique TLDs.

gulfnews.com

Arabic domain names a certainty from next year

Internet regulator's chief says move to benefit region

By Derek Baldwin, Senior Reporter
Published: October 10, 2011

Dubai: A new dimension is unfolding online for Arab internet users with the addition of Arab domain names such as .emarat after two decades of English as the only language, said the man at the helm of the international organisation that keeps the internet working.

Rod Beckstrom, president and CEO of the Internet Corporation for Assigned Names and Numbers (Icann), said in an exclusive interview with Gulf News at Gitex yesterday that companies and community groups in the UAE can now apply for personal generic top level domains (gTLDs) in Arabic as well.

Major corporations such as Emaar, for example, or government agencies such as the Telecommunications Regulatory Authority could, in theory, file an application to Icann in January to replace .com or .net suffixes on the internet with .emaar or .tra.

Actual applicants won't be known until the applications process opens in January and continues until April 12.

Article continues below

Priority for communities

"If you have a community based application, you will get a higher priority," Beckstrom said of the application process. "Our policy development process favours communities."

In an extreme illustration of the Icann board's approval process, Beckstrom said an Apple Growers' Association application may receive higher priority than Apple computers based in California.

That said, many observers in the technical industry are predicting "that the majority of applications would come from business", Beckstrom said.

Beckstrom said he had heard that a company in the UAE was planning to file three new gLTD applications to Icann.

He said he was very surprised to hear that Icann may see as many as 100 gLTD applications filed from India alone.

Some forecasts estimate that Icann may see as many as 4,000 applications submitted to the California-based not-for-profit corporation that oversees 180 million domain names globally and the global web that handles one trillion internet transactions daily.

The application process is not guaranteed to be approved by the Icann board, and it will be relatively expensive, with each application requiring "an evaluation fee of $185,000 (Dh679,523)."

Once approved, Icann will charge a $25,000 annual fee to keep and maintain an applicant's very own personal domain name, he said.

With thousands of applications predicted, Icann is expecting a small number of disputes and, as part of the approval process, has built in a 30-day objection period to allow other parties to have their say on a proposed top-level domain name

When final approvals are announced, Beckstrom said online visitors to gLTD sites can depend on a secure experience because they will be familiar with unique personal domains compared to millions of .coms.

The new personal domain names will also offer entire communities with a means to validate their identities as a group.

Beckstrom said he received a letter from the chief of the global Zulu tribe asking about the possibility of a new .zulu gLTD. Such a personal domain name would be welcomed by Zulus scattered across the world who "want a place for them to come together on the internet".

For Beckstrom, who will vacate his position in mid-2012, the road ahead is clear. "People, I think, will put more trust in top-level domain names," he said.

Time zone database has new home after lawsuit

By Anick Jesdanun
Updated 10/16/2011 1:19 PM

NEW YORK – The organization in charge of the Internet's address system is taking over a database widely used by computers and websites to keep track of time zones around the world.

The transition to the Internet Corporation for Assigned Names and Numbers, or ICANN, comes a week after the database was abruptly removed from a U.S. government server because of a federal lawsuit claiming copyright infringement.

Without this database and others like it, computers would display Greenwich Mean Time, or the time in London when it isn't on summer time. People would have to manually calculate local time when they schedule meetings or book flights.

The Time Zone Database allows people to set clocks simply by choosing a city. Select New York, for example, and the computer will know that it is normally five hours behind London, but four hours during a brief period when the U.S. is still on summer time and Britain is not.

The database is updated more than a dozen times a year and is used by a range of computer operating systems including Apple's Mac OS X, Oracle, Unix and Linux, but not Microsoft's Windows.

It's also used by several websites that tell people what the current time is around the world, or what time it will be in Sydney or Moscow next Tuesday at 8 p.m. in Los Angeles. Some non-Internet functions, such as calendar software, also incorporate the database.

Although those functions continued to work after the database disappeared from the government's server, computer systems couldn't get updates to reflect changes in time zones and in the duration of summer time.

Kim Davies, a technical manager at ICANN, said that because much of the Internet depends on the database, its management by ICANN is consistent with the organization's mission to maintain a stable Internet.

One of ICANN's main functions is to coordinate Internet domain names — the suffixes such as ".com" and ".org" in Internet addresses. Those are key for allowing computers to find websites and route email.

ICANN has been in discussions for months about taking over the database with the impending retirement of its longtime coordinator. Arthur David Olson, an employee of the National Institutes of Health who volunteered as coordinator as a side project, began looking for a new home for the database in 2009.

ICANN accelerated those discussions and took over management Friday after the database was removed from NIH's server on Oct. 6, following a lawsuit over historical data used.

Astrology software company Astrolabe argues that Olson and another volunteer at University of California, Los Angeles should have paid royalties for including data from its software. The defendants have insisted that the data are in the public domain and not subject to copyright. Their employers were not named as defendants.

The federal lawsuit, filed Sept. 30 in Boston, does not affect current time zone information, which comes from tips sent by volunteers through an email list.

However, ICANN is keeping the historical information in the database.

"We are aware of the lawsuit," Davies said. "We believe it's important to continue the operation of the database. We'll deal with any legal matters as they arise."

GULF TIMES

New Internet domain names to be launched

Publish Date: Tuesday,18 October, 2011, at 12:18 PM Doha Time
Peter Townson/Staff Reporter

Doha, Qatar… The most momentous "opening up" of the Internet is set to take place at the beginning of next year, according to a visiting expert, who explained that generic top level domain names will be opened up in an entirely new process next year.

President and CEO of the Internet Corporation for Assigned Names and Numbers (ICANN), Rod Beckstrom, explained that applicants will be able to apply for the new domain names, of which there are currently 22, between January and April, and provided there are no objections, they will be able to launch their own top level names, providing them greater security, control and other benefits.

"This is the largest opening in the history of the Internet," he said.

Generic top level domain names are Internet extensions, such as .com, .org, and .net, and Beckstrom explained that next year, organisations will be able to apply for new names based on countries, cities, brands or general terms, such as .qatar, .berlin, .nike or .music.

At the moment there are around very few generic top level domain names, but following the application process next year, there could be hundreds, representing institutions and organisations around the world.

This represents an historic development, according to Beckstrom, who explained that the last time generic top level domain names were opened up was in 2005, when eight names were added.

That process took a number of years to complete, and he said that although the organisation hopes to open the programme again, it will be "some number of years" before that is a possibility.

The application process is particularly thorough and there are some 300 pages of rules and regulations regarding submissions, but because of the significance and rarity of the opportunity, Beckstrom argued that organisations need to be made aware of the programme.

He explained that there will be two kinds of applications, for community based groups and for organisations.

"Any organisation can apply for generic top level domain names if they have the finance and the resources to support the application," he said, adding "however, community based applications will take precedence over others."

He explained that he has already been contacted by a chief from a Zulu tribe who is hoping to acquire the .zulu domain name to enable members of his community to interact all over the world, providing an example of a possible community based application.

Applicants must pay a non-refundable fee of $185,000 when they apply for the domain name, and then they will be charged a $25,000 annual fee if their application is successful.

Beckstrom explained that these fees are to cover the costs of reviewing the applications and completing the process, as ICANN is a non-profit organisation.

Certain applicants could be charged additional fees depending on the specific details of the submissions and the number of domain names involved in the process.

Beckstrom was in Qatar to lead a one-day conference on the programme in conjunction with ictQATAR, and he explained that his organisation have been conducting a worldwide tour to educate organisations across the globe about what the process of applying for a generic top level domain name entails.

“We are not here advocating the process, we are simply here to educate people,” he explained.

Beckstrom noted that the response in Qatar had been very encouraging, with a number of representatives of various organisations and sectors expressing their interest in the programme and asking numerous questions about the application process.

“We have had an excellent conversation with a lot of detailed questioning, people here definitely seem to be interested in the programme,” he said, adding “it will be interesting to see who applies next year when the list of names is published.”

Economy: ICANN resolves to support developing economies

30 October 2011

The Board of Directors of Internet Cooperation for Assigned Names and Numbers (ICANN) on Friday ended their meeting with a resolve towards helping applicants who want to run a new generic top-level internet domain and require, financial, technical or other assistance. This was contained in a resolution of the meeting which was the climax of the 42nd Dakar ICANN Meeting that wound up in Dakar, Senegal.

'It is very important that deserving applicants, such as those from emerging economies, be included in the new GTLD program,' said Rod Beckstrom, ICANN's President and Chief Executive Officer.

'It is necessary to encourage diverse participation in this new programme and to broaden the scope of our multi-stakeholder model.'

According to the resolution, the board also directed the President and CEO to develop a detailed plan by 8 December for the scoping and implementation of the recommendations, while opening the possibility of meeting to consider the plan sooner than that date.

The ICANN Board of Directors further said it would enhance the organization's 'policies relating to conflict of interest, ethics, confidentiality and an overall code of conduct'.

Pana 30/10/2011

Internet Change Makes Way for Dot-Anything

06 November 2011 (Audio Transcript)

A top-level domain is the part of an Internet address after the dot. The most common of what are called generic top-level domains are dot-com, dot-net and dot-org. There are twenty-two generic top-level domain names currently available. But get ready for many, many more.

The international organization that controls these names will begin accepting applications for new ones in January. This will open the door to dot-just-about-anything. Brad White is with ICANN, the International Corporation for Assigned Names and Numbers.

BRAD WHITE: "What we're talking about doing with the new generic top-level domain program is blowing the lid off that ceiling of twenty two. The interest is there to expand that. We no longer have to keep this to twenty-two. It can be almost any word combination. It can be in non-Latin characters, which is extremely important if you happen to speak Russian because of the Cyrillic alphabet, or Arabic, or Chinese."

ICANN officials met last month in Dakar, Senegal. Brad White says they discussed the new program for what are known as gTLDs.

BRAD WHITE: "This marks one of the biggest changes in the Internet's domain name system, the addressing system of the Internet that has ever occurred. We want to make sure that the process of getting these gTLDs into the Internet's root is methodical, careful and thoughtful."

Anyone can apply, including businesses, governments and individuals. The cost of a new name: one hundred eighty-five thousand dollars.

BRAD WHITE: "That's the cost that we've determined that is necessary to make sure that the applicant has the technical savvy to run an Internet registry, that there is no intellectual property or trademark problems, so on and so forth. But that hundred and eighty-five thousand is miniscule compared to the cost of actually operating an Internet registry."

In Dakar, ICANN passed a resolution to consider creating a support system to help rising economies with limited financial resources. For example, ICANN says Africa represented less than twelve percent of Internet growth worldwide in the last ten years. Mister White says that is slowly beginning to change.

BRAD WHITE: "It is a continent with many nations that are just now discovering the Internet, and what it brings to bear in terms of information flow. And we didn't want the advent of new gTLDS to in any way block that sort of entree into the Internet, and if anything to see how they might be used to facilitate those who are interested. It's another way to increase Internet penetration around the world."

ICANN will accept applications from January twelfth to April twelfth. Officials plan to publish a list of all of the proposed new names in May. Mr. White says the approval process that follows will take several months, and it could take up to a year for new names to become active.

ICANN says it will approve no more than one thousand new generic top-level domains each year.

And that's the VOA Special English Technology Report, online at voaspecialenglish.com -- or maybe we should think of something new. I'm Steve Ember.

We open Internet: ICANN President

07 November 2011 | 12:55

Sofia, Bulgaria - We are opening Internet giving countries an opportunity to determine the extension after the dot in Internet addresses, Rod Beckstrom, CEO and President of the Internet Corporation for Assigned Names and Numbers (ICANN), said in a lecture delivered in the University of National and World Economy in Sofia.

He explained that after the dot in an address there could be extensions such as Sofia and Plovdiv.

We give an opportunity to an organization to set up its own domain. This will give users and organizations more freedom, said Beckstrom.

He added that Bulgaria was the 18th country he was visiting in the past few weeks to promote the opening of Internet.

“The Cyrillic alphabet is an important example of what we call internationalized domains. The introduction of this program presupposes a check of reliability of technologies so that you do not get confused. Sometimes there are problems,” said Beckstrom when asked about a domain in Cyrillic.

NationalJournal

Coalition To Fight ICANN's New Domain Name Plan

By Juliana Gruenwald
November 10, 2011 | 10:58 AM

If you can't beat 'em, form a coalition!

Nearly 90 industry groups and companies announced Thursday they have formed a new coalition to try to block a plan, to allow for the introduction of an unlimited number of new Internet addresses. The Internet Corporation for Assigned Names and Numbers, the nonprofit group that manages the Internet's "top level" domain name system, plans to vastly expand the domain name space from the 22 groups of names such as .com now available to Internet users to almost any name such as .bank or .angrybirds.

The Coalition for Responsible Internet Domain Oversight says that ICANN's domain name plan will have costly implications for trademark owners, who could be forced to register their names in every new domain name launched or offer their own Internet address. The coalition also argues that ICANN has not taken their concerns seriously enough and failed to follow the consensus-driven process ICANN is supposed to use when enacting such new proposals.

ICANN is currently slated to begin accepting applications under the new domain name program in January.

"The major global industries represented by [the coalition] foresee immense damage to their constituents, consumers and the economy," Association of National Advertisers President and CEO Bob Liodice, said in a statement. "We implore ICANN to discontinue its efforts to roll out this ill-conceived, unwanted and destructive program."

Other groups in the coalition include the Grocery Manufacturers Association, the National Association of Manufacturers, the National Association of Broadcasters and the U.S. Chamber of Commerce as well as such companies as Adobe, Coca-Cola, Hewlett-Packard, Procter & Gamble, and Samsung.

"The new gTLD program is the result of six years of careful study, discussion and debate," ICANN spokesman Brad White said. "It evolved from 45 comment periods encompassing 2,400 comments and analyses. There were 55 explanatory memoranda or independent reports and seven drafts of the Applicant Guidebook."
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Sierra Leone: President Wade Invites Ambassador Bassir to ICANN Conference

By Ralph Ese'donnu Sawyerr
11 November 2011

Freetown — H.E the Sierra Leone Ambassador to Senegal Khadijatu Bassir over the weekend on the invitation of President Abdoulai Wade of Senegal, joined her colleague Ambassadors based in Senegal and other 35 African governments and Institutional representatives to attend the 42nd INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN) yearly Conference at the Meridian President Hotel in Dakar Senegal.

The "Internet Corporation for Assigned Names and Numbers" is the self-regulatory organization under the U.S Law, which is globally responsible for domain names and IP addresses. It organizes the application process for Top Level Domains. Delivering, his opening speech at the weeklong conference, President Wade, thanked the organizers for choosing Senegal for this year's ICANN Conference and extended a warm welcome (bienvenue) to all participants.

The internet he said has played and continued to play very important roles in world's affairs, bringing us much closer and to an extent shaping our developmental goals and achievements. President Wade stressed the need for registration, participation and greater collaboration for African integration into the net as one family. He referred to Africa as the fastest emerging market on the planet.

According, to an executive of ICANN Mdm. Crowder, African contribution to the internet is of paramount importance. She informed that this year's ICANN 42nd public meeting in Senegal has a

I,246 participants being one of the largest since its inception. 'African population is embracing the internet with 5.4% internet users in Africa. Doubtless Africa needed the internet for constructive interaction" She said. Steven Coker another ICANN Executive, referred to the internet as power, magic and success that brings people together. Ambassador Bassir during the conference took the opportunity to engage and discussed bilateral and other related issues with other Ministers, Ambassadors and African dignitaries, putting forward President Ernest Bai Koroma's AGENDA for CHANGE. She implored them to see the urgent need, for greater African integration and the opening up of our markets with the aid of the internet for African development.

Other issues discussed at the conference were Capacity Building, Accountability and transparency, Budget framework, non commercial and commercial and business users and above all Conflict and Ethics. The week preceding this main conference the Deputy Minister of Information and Communications Sheka Tarawalie and a senior Secretary at the Ministry Mr. Cooper attended a pre- ICANN workshop at the same venue that set the stage for this main one.

The Executive of ICANN at the end of the conference stressed that Africa is opening for business and with the spontaneous uprising in parts of Africa, due in no small way to the Internet the citizens of Africa have indicated that they are joining the connected global village.

THE NATIONAL LAW JOURNAL

Coalition of 87 Seeks to Postpone Unlimited Top-Level Domains

By Sheri Qualters
11/15/2011

An alliance of 87 business groups and companies has formed to protest next January's planned expansion of the 22 generic top-level domain names, such as .com and .org, to an almost limitless number. The resulting organization is called the Coalition for Responsible Internet Domain Oversight.

On Nov. 10, the Association of National Advertisers, the coalition's leader, wrote a letter to U.S. Department of Commerce Secretary John Bryson asking the agency and the National Telecommunications and Information Administration to persuade the Internet Corporation for Assigned Names and Numbers (ICANN) "to postpone the opening of the top-level domain application window."

On June 20, ICANN's board approved a plan to allow generic top-level domain registration of almost any word in any language starting on Jan. 12, 2012.

"ICANN's decision was not made in the public interest, does not promote consumer trust, and does not benefit the public, as required in the Affirmation of Commitments between ICANN and the National Telecommunications and Information Administration," states the letter sent by the coalition. The letter claims that expanding internet addresses would force the businesses "to spend ever-greater amounts of time and resources simply to protect their brand" and "increase the already unacceptable level of fraud and identity theft on the Internet."

In 2010, arbitration cases involving claims of cybersquatting, or improper use of trademarks in internet domain-name registrations, reached record levels. New domain name dispute filings jumped by 24 percent in 2010 at the National Arbitration Forum to 2,177, up from 1,759 cases in 2009. Cases climbed by 28 percent at the World Intellectual Property Organization to 2,696 in 2010 compared with 2,107 filings in 2009.

The coalition wants the internet address expansion delayed until ICANN can demonstrate that the plan would accomplish the following objectives: enhancing consumer trust; boosting internet security; creating extensive economic benefits across many sectors; and showing that the benefits will outstrip the costs of generic top-level domain expansion.

Signatories to the letter include two-well known intellectual property groups: the Intellectual Property Owners Association and the American Intellectual Property Law Association. Forty companies also signed the letter, including American Express, Ford Motor, General Electric and The Procter & Gamble Co.

The letter cc'd a half dozen Commerce Department officials and 17 members of Congress.

Members of Congress who received copies of the letter include Chairman Daniel Inouye, D-Hawaii, and ranking member Thad Cochran, R-Miss., of the Senate Committee on

Appropriations, and Chairman Harold Rogers, R-Ky., and ranking member Norm Dicks, D-Wash., of the House Committee on Appropriations.

The coalition also copied several Senate and House Judiciary Committee officials. On the Senate side, the list includes Judiciary Chairman Patrick Leahy, D-Vt., and ranking minority committee member Chuck Grassley, R-Iowa, along with Chairman Al Franken, D.-Minn., and ranking member Tom Coburn, R-Okla., of the Subcommittee on Privacy, Technology and the Law. On the House side, the recipients include Judiciary Chairman Lamar Smith, R-Texas, and ranking member John Conyers Jr., D.-Mich., and Chairman Bob Goodlatte, R-Va., and ranking member Mel Watt, D-N.C., of the Subcommittee on Intellectual Property, Competition and the Internet

The coalition also sent copies to Chairman John "Jay" Rockefeller, D-W.Va., and ranking member Kay Bailey Hutchison, R-Texas, of the Senate Committee on Commerce, Science & Transportation Committee, along with Chairman Fred Upton, R-Mich., and ranking member Henry Waxman, D-Calif., of the House Energy and Commerce Committee. Sen. Ron Wyden, D-Ore., who chairs the Senate Finance Committee Subcommittee on International Trade, Customs and Global Competitiveness, was also copied.

"We believe that this is a very significant issue that is not being treated with the importance it deserves," said Dan Jaffe, executive vice president for government relations for the Association of National Advertisers. The coalition believes that the current domain name expansion program "will have billions of dollars of impact on Internet brand holders," Jaffe said.

Large companies, with significant resources are "still highly concerned" but it's going to have an even greater impact on small businesses, charities, and foundations, Jaffe said. "It basically affects everybody that has a brand that matters."

Jaffe said his organization participated in the comment period for the proposal, but "it has come to the point where it looks like sending up warning flares and making concerns known is not going to be heard, and we have to find some other way to get the attention of ICANN."

Jaffe's association has also recently talked to 10 other groups that have expressed interest in joining the coalition. "We are starting to more and more show that a very, very substantial segment of the Internet community is far from pleased and is displeased [by this plan]."

A spokesperson for Goodlatte said the Congressman "has previously expressed concerns about ICANN's rollout of the [generic top-level domain] program due to concerns about ICANN's ability to enforce their own policies on all these [domains] and concerns expressed by IP owners. He is hopeful that the Commerce Department will take swift action to try to delay this program."

Grassley, Upton and Waxman were not immediately available for comment, according to spokespeople. The other members of Congress who received the letter did not respond to a request for comment. /p>

Neither the Department of Commerce nor the National Telecommunications and Information Administration responded to requests for comment.

ICANN's board overwhelmingly approved the expansion after six years of careful study, discussion, and debate by the entire ICANN internet community, said spokesman Brad White.

White said ICANN's Aug. 9 letter to the Association of National Advertisers told the organization that ICANN consulted with businesses; internet service providers; intellectual property holders;

governments; domain name registries and registrars; and internet user representatives from around the globe. "Specifically, it evolved from 45 comment periods encompassing 2,400 comments and analyses," White said. "There were 55 explanatory memoranda or independent reports and seven drafts of the Applicant Guidebook."

"We're still extremely concerned about this procedure," said executive director Q. Todd Dickinson of the American Intellectual Property Law Association. "It's burdensome. It's costly. It hasn't been given significant thought. We really support the goals of the people who organized the petition."

THE HILL

New coalition forms to fight Web domain-name plan

By Brendan Sasso - 11/10/11 12:12 PM ET

Eighty-seven companies and business associations announced on Thursday that they have formed a coalition to fight a plan that would allow for new domain addresses.

The Internet Corporation for Assigned Names and Numbers (ICANN), the nonprofit organization that manages the Internet's address system, approved a plan in June to allow for the registration of new top-level domains in addition to traditional domains such as ".com" or ".org." Beginning in 2012, organizations can register new addresses ending in almost any word or phrase.

The groups opposed to the plan argue it could force companies to spend thousands of dollars buying up new domain names to protect their brands. They also argue new domain addresses could confuse and mislead consumers.

The new group lobbying against the change, the Coalition for Responsible Internet Domain Oversight, includes the U.S. Chamber of Commerce, the National Restaurant Association, the Intellectual Property Owners Association, the National Association of Manufacturers, the Grocery Manufacturers Association and the World Federation of Advertisers. The Association of National Advertisers spearheaded the formation of the group.

“This unprecedented, united opposition to ICANN’s top-level domain expansion program clearly demonstrates the enormity of the dissatisfaction across the Internet stakeholder community,” Bob Liodice, president and CEO of the Association of National Advertisers, said in a statement. “The major global industries represented by CRIDO foresee immense damage to their constituents, consumers and the economy. We implore ICANN to discontinue its efforts to roll out this ill-conceived, unwanted and destructive program.”

Brad White, a spokesman for ICANN, said his organization made the decision to update the address system after a careful and thorough analysis of the issue.

“The ICANN Board overwhelmingly approved the new [generic top-level domain] program after six years of careful study, discussion and debate. It evolved from 45 comment periods encompassing 2,400 comments and analyses," he said.

Policy-update-nov11-en

POLICY UPDATE

Internet Corporation for Assigned Names and Numbers

http://www.icann.org/topics/policy/

Volume 11, Issue 11 – November 2011

Across ICANN

ccNSO

GNSO

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GNSO Improvements Move Forward with Council Approval of Updated PDP Final Report, Public Comment Period on Bylaw Changes.

Post-Expiration Domain Name Recovery Recommendations Adopted by ICANN Board

Other Issues Active in the GNSO

ASO

Policy Proposal for Recovered IPv4 Address Blocks Has Passed Final Call in All RIRs

Joint Efforts

Review of ICANN Geographic Regions: Draft Final Report Available for Community Comment

At-Large

At-Large Community Holds Record Number of Meetings in Dakar

Dakar Meetings Bring Completion of ALAC/At-Large Improvement Project Into Sight

Silvia Vivanco Joins ICANN's Policy Staff as Manager, At-Large Regional Affairs

SSAC

Issues Active in the SSAC

Read in Your Preferred Language

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***ICANN Policy Update* statement of purpose**

Send questions, comments and suggestions to: policy-staff@icann.org.

Policy Supporting Organizations and Advisory Committees

Address Supporting Organization	ASO
Country Code Names Supporting Organization	ccNSO
Generic Names Supporting Organization	GNSO
At-Large Advisory Committee	ALAC
Governmental Advisory Committee	GAC
Root Server System Advisory Committee	RSSAC
Security and Stability Advisory Committee	SSAC

Across ICANN

Public Comment Reply Cycle Wraps Up

At a Glance

Staff has completed the summary and analysis of community input into ICANN's proposed new Public Comment process. Community members contributed a total of 22 issues, suggestions and recommendations.

New Developments

Staff published two documents following the close of the Public Comment Period and subsequent "Reply" period on Phase II of the Public Comments Process Enhancements.

Report of Public Comments [PDF, 19.5 KB]: Summarizes the Public Comments received. Note that this report template is now in use consistently for all reports drafted by ICANN staff.

Analysis of Public Comments [PDF, 23 KB]: Within this analysis, comments are grouped into broad categories and evaluated. A checklist is included, noting categories and status of each. This template is new and staff will continue to consider community feedback on its usefulness. If you have suggestions for improvement, please let us know by writing to participate@icann.org.

You can also find these reports through links within the Public Comment Box.

Next Steps

Working with a group of volunteers, staff will perform limited community testing of a threaded discussion environment during November in response to positive

community interest on the issue. Based on the community test results, we will be able to work towards a technically improved interface.

While staff continues working on this technically improved interface, it is still “on target” for the Accountability and Transparency Review Team (ATRT) recommended components (Stratification/Prioritization and Comment/Reply Comment cycles) to be fully implemented by 31 December 2011, using the current interface that is already in use. With that, we will have concluded the implementations committed towards the ATRT recommendations 15, 16, 17 and 21.

Background

Phase I activities to improve ICANN's Public Comment Process were implemented effective 30 June 2011, in response to recommendations #15, 16, 17 and 21 of the ATRT. In that first phase, staff completely redesigned web pages, added new navigation menus, streamlined Announcement and Public Comment Box formats, and introduced an "Upcoming Topics" feature. New standardized data fields were added across all solicitations (e.g., Originating Organization, Purpose, Current Status, Next Steps) and opening and closing dates and times were clarified. To support these improvements staff also created internal document templates to facilitate publication and ensure presentation consistency in these pages.

After the launch of the redesigned Public Comment web pages in June, staff worked with a focus group of ICANN community volunteers identified by ICANN community leaders, to gather initial feedback on further improvements.

These further improvements were made available for wider community review and feedback though a public comment and reply period. The public comment includes a staff report where focus group feedback is referenced and linked for each relevant topic. The overall effort supports the implementation of the ATRT recommendations relating to how community members provide input on ICANN matters.

More Information

- Original announcement
- Accountability & Transparency web page

Staff Contact

Filiz Yilmaz, Senior Director, Participation and Engagement

First-time Participants Set Record in Dakar

At a Glance

At the ICANN Public Meeting in Dakar, at least 140 people were first-time attendees, based on the information gathered at the Newcomer Lounge. Many of those first-timers took advantage of the Newcomers Program Track on the Sunday before the meeting kick-off.

New Developments

The Newcomers sessions attracted a record amount of participants. Attendance at one session peaked at 110 people. Of those, 21 percent participated remotely.

Remote Participation Services were available for all 12 rooms of the meeting venue and all open sessions received the services as they were requested. You can find the recordings, presentation materials used, as well as the transcripts of the sessions, where applicable, at the individual session pages.

Background

The Newcomers Track sessions were introduced at the ICANN Public Meeting in Silicon Valley-San Francisco in March 2011. These sessions are designed for first-time participants but are open to all who are interested in expanding their knowledge of ICANN, how the community groups interact and current DNS policy issues.

In Dakar, session topics included:

- Introduction to Remote Participation
- Basic Training on ICANN's Community Wiki
- Welcome to ICANN
- Ombudsman 101
- Policy Update
- Contractual Compliance at ICANN
- New gTLD Basics
- DNSSEC for Beginners

Next Steps

As this Policy Update was written, staff was still collecting survey results about Newcomers Activities and Remote Participation Services provided in Dakar. We will share these details soon.

More Information

- Newcomers Track - Session Audio Recordings, Transcripts and More

Staff Contact

Filiz Yilmaz, Senior Director, Participation and Engagement

Issues Currently Open for Public Comment

Numerous public comment periods are currently open on issues of interest to the ICANN community. Act now to share your views on such topics as:

- Community Input on Draft 2012-2015 Strategic Plan. In preparation for the next round of strategic planning, ICANN leadership is looking for input into this year's amendment to the Strategic Plan. Closes 17 November 2011.
- Draft Final Report of the Internationalized Registration Data Working Group. The Working Group has published its Draft Final Report on how to deal with registration data in a broad range of languages and scripts, and seeks comments from the public. Closes 17 November 2011.
- Framework of Interpretation Working Group – Interim Report. The report summarizes issues and recommendations regarding how consent for ccTLD delegation and redelegation is obtained and documented. Closes 1 December 2011.
- Alternative Proposal by Registries Stakeholder Group for the Continuing Operations Instrument as Outlined in the New gTLD Applicant Guidebook. The Registries Stakeholder Group proposes a different approach to how new gTLD applicants demonstrate their ability to maintain critical registry functions in the event of failure. Closes 2 December 2011.
- Revisions to Annex A of the Bylaws to Adopt the New GNSO Policy Development Process. These Bylaw revisions formalize the new GNSO Policy Development Process that stemmed from the GNSO Improvements effort. Closes 5 December 2011.
- IDN Country Code Policy Development Process Working Group 2 – Draft Final Report. The WG offers its recommendations for how to include IDN ccTLD operators as ccNSO members. Closes 15 December 2011.
- Joint Applicant Support Final Report. Recommendations for how ICANN can provide assistance to needy new gTLD applicants are summarized in this report. Closes 16 December 2011.
- .asia One and Two Character Allocation Proposal. DotAsia proposes an amendment to its 2006 agreement permitting introduction of one- and two-character .asia domains to the marketplace. Closes 16 December 2011.

- Geographic Regions Review – Draft Final Report. Outlines specific recommendations regarding how the present Geographic Regions Framework can be modified to ensure that organizational principles of geographic and cultural diversity are honored and maintained. Closes 19 December 2011.

For the full list of issues open for public comment, plus recently closed and archived public comment forums, visit the Public Comment web page.

ccNSO

Survey Lauds New gTLD Session for ccNSO

At a Glance

Most participants who responded to the post-event evaluation survey of the two-day ccNSO meeting in Dakar rated the overall daily sessions as "excellent" or "good." A panel on new gTLDs drew many favorable responses.

Recent Developments

Meeting participants were asked to fill out a survey evaluating different aspects of the two-day sessions, including panels, program and remote participation.

Next Steps

The results are posted online and will be used to help define future agendas.

Background

An evaluation of the ccNSO meeting is conducted at the end, in order to give the Programme Working Group, which is responsible for setting the meeting agendas, an idea of what can be improved and what the community would like to see in future agendas.

More Information

- Survey Results

Staff Contact

Gabriella Schittek, ccNSO Secretariat

Burkina Faso Joins ccNSO

At a Glance

A country code operator from the Africa region was approved as a new ccNSO member in October 2011.

Recent Developments

The ccNSO Council approved the ccTLD operator of .bf (Burkina Faso) as a new ccNSO member. Burkina Faso is in western Africa, north of Ghana.

There are now a total of 121 ccNSO members.

More Information

- Welcome Announcement
- ccNSO Member List

Staff Contact

Gabriella Schittek, ccNSO Secretariat

Mike Silber Selected for Second Term on ICANN Board

At a Glance

ccNSO Council selects Mike Silber, .za, to serve another three-year term on the ICANN Board.

Recent Developments

At the ccNSO Council meeting on 26 October 2011, the Council unanimously selected Mr. Silber, .za, to serve on the ICANN Board for another three-year term.

Next Steps

Mr. Silber's second term starts at the end of June 2012.

Background

Mr. Silber is currently serving a three-year term on the ICANN Board and was eligible for re-election. During the nomination period, he was the only candidate to be nominated. He participated in a question and answer session with ccNSO members in Dakar, and had the opportunity to explain his goals and mission.

More Information

- ccNSO Board Nomination Report

Staff Contact

Gabriella Schittek, ccNSO Secretariat

Five ccNSO Council Seats Filled for 2012

At a Glance

Following an election for the open seat representing the African region, all five open seats on the ccNSO Council have been filled.

Recent Developments

Five open ccNSO Council seats – one in each geographic region – were filled through a nomination and election process that took place from August to October 2012. The full list of ccNSO Councilors who will be seated in March 2012 is now set:

- African Region: Vika Mpisane, .za (South Africa)
- Asia-Pacific Region: Young-Eum Lee, .kr (South Korea)
- European Region: Juhani Juselius, .fi (Finland)
- Latin American Region: Margarita Valdes, .cl (Chile), replacing Patricio Poblete, .cl
- North American Region: Byron Holland, .ca (Canada)

Next Steps

The Councilors' terms start straight after the ICANN Public Meeting in San Jose in March 2012 and last for three years.

Background

There are a total of 18 ccNSO Councilors, serving staggered three-year terms. Fifteen are elected according to their geographic region. The ICANN Nominating Committee appoints three to the Council. Nominations and elections to the ccNSO Council are held once every year.

More Information

- ccNSO Council Nomination & Election Report

Staff Contact

Gabriella Schittek, ccNSO Secretariat

Framework of Interpretation Working Group

At a Glance

The Framework of Interpretation Working Group (FoI WG) released for public comment an Interim Report containing draft recommendations on obtaining and documenting consent from proposed and/or incumbent operators for ccTLD delegations and redelegations.

Recent Developments

The Interim Report addresses the first of five topics – how consent is obtained and documented. This topic is identified as critical to the development of a Framework of Interpretation for the delegation and redelegation of ccTLDs.

Next Steps

Public comment on the Interim Report will be accepted through 1 December 2011. The WG will closely review all submitted comments and will consider whether to modify its report. According to its charter, the WG is not obligated to include all comments received, nor all those submitted by any one individual or organization.

The WG expects to formally publish its Final Report prior to the next ICANN meeting in San Jose in March 2012.

Background

The objective of the FoI WG is to develop and propose a Framework of Interpretation for the delegation and redelegation of ccTLDs. This framework should provide a clear guide to IANA and the ICANN Board on the interpretation of the current policies and guidelines pertaining to the delegation and redelegation of ccTLDs. Having a framework can foster consistent and predictable decisions while enhancing accountability and transparency for all stakeholders. The scope of the FoI WG also clearly specifies that:

- Any proposal to amend, update or change the Policy Statements is outside the scope of the FoI WG.
- The IANA functions contract between the U.S. Government and ICANN, including any contract implementation issues or procedures relating to it, are also outside the scope of the FoI WG.

After considering how consent is obtained and documented, the FoI WG will look at the remaining four topics individually and in this order:

- Obtaining and documenting support for delegation and redelegation requests from Significantly Interested Parties (sometimes referred to as Local Internet Community or LIC).

- Developing recommendations for “un-consented” redelegations.
- Developing a comprehensive glossary of the terms used for the delegation and redelegation of ccTLDs.
- Developing recommendations for IANA reports on delegation and redelegation.

More Information

- Framework of Interpretation WG Web Page

Staff Contact

Bart Boswinkel, Senior Policy Advisor

ccNSO Prepares for Expansion with IDN ccTLDs

At a Glance

A working group posted for public comment its recommendations on the Bylaw changes needed to include IDN ccTLDs in the ccNSO.

Recent Developments

The ccNSO IDN Country Code Policy Development Process Working Group 2 (IDN ccPDP WG 2) has published and presented its Draft Final Report with recommendations on changes to the ICANN Bylaws to include IDN ccTLDs in the ccNSO.

Next Steps

The WG will closely review all submitted comments to determine, at its reasonable discretion whether to modify its report and its recommendations. According to its charter, the WG is not obligated to include all comments made during the comment period, nor is it obligated to include all comments submitted by any one individual or organization.

The WG expects to formally submit its Final Report to the IDN ccPDP Issue Manager prior to the next ICANN Public Meeting in San Jose, Costa Rica.

Background

The purpose of the IDN ccPDP WG 2 is to report on and identify feasible recommendations for the inclusion of IDN ccTLDs in the ccNSO within the framework of the IDN ccPDP.

To date the WG has identified the following clusters of issues/topic areas:

1. Membership definition

2. Roles of members
    a. Eligibility and selection of Councilors to the ccNSO Council
    b. Initiation of PDP
    c. Voting (Policy development process, selection of Councilors)
3. Quorum for voting
4. Scope of PDP as defined in Annex C

The scope of the IDN ccPDP WG 2 is to focus on, without limitation, examination of Article IX of the ICANN Bylaws and associated Annexes B and C. It shall also take into account the proposals and recommendations of the first Working Group on the selection and delegation of IDN ccTLDs associated with the territories listed in a standard issued by the International Organization for Standardization (ISO), a network of the standards institutes of 157 countries.

As this IDN ccPDP WG 2 undertakes its activities within the framework of the IDN ccPDP, the limitations on the scope of a ccPDP, in particular by Article IX and Annex C to the Bylaws, applies accordingly.

More Information

- IDN ccPDP WG 2 Web Page
- Draft Final Report

Staff Contact

Bart Boswinkel, Senior Policy Advisor

Clarity for String Confusion

At a Glance

The ccNSO Council wrote to ICANN's Board of Directors last month recommending changes to sections of the Internationalized Domain Names (IDN) ccTLD Implementation Plan regarding instances of confusing similarity between IDN and ASCII two-letter codes.

Recent Developments

At its Dakar meeting, the ccNSO Council asked the ICANN Board of Directors to amend the relevant sections of the IDN ccTLD Implementation Plan. Specifically, the Council asked for amendments allowing validation of a requested string under the Fast Track Process if an IDN ccTLD string is a meaningful

representation of the name of the territory and is only confusingly similar with the two-letter [a-z] country code that is associated with the same territory.

Next Steps

The Board of Directors is considering the request.

Background

At its meeting in San Francisco, the ccNSO Council adopted a resolution to request a sub-group of the first Working Group to develop, as soon as possible, guidelines (within the framework of the existing Fast Track rules) to improve the predictability of the evaluation process relating to string confusion. The evaluation process was defined in the IDNC WG Final Report and the Final Implementation Plan as adopted by the ICANN Board in November 2009.

The issue of similarity between IDN and ASCII ccTLDs when both are associated with the same territory was one of the items identified for clarification by the sub-group.

More Information

- Letter from ccNSO Council Chair to ICANN Board Chair [PDF, 57 KB]
- ccNSO Meeting Highlight Report, Dakar

Staff Contact

Bart Boswinkel, Senior Policy Advisor

Two ccNSO Councilors to Focus on Joint Meetings with GNSO

At a Glance

The ccNSO Council asked Juhani Juselius and Reolof Meijer to collaborate with GNSO on joint meetings.

Recent Developments

The ccNSO Council appointed two of its members, Mr. Juselius and Mr. Meijer, to coordinate with a designated GNSO Councilor to prepare future joint meetings of the Councils.

Background

Since the ICANN Public Meeting in New Delhi in February 2008, the ccNSO and GNSO Councils have met to exchange information and to provide an update on current activities. To date the meeting agenda and topics for discussion have been set on an ad-hoc basis. The ccNSO has taken the initiative to further

improve the coordination of the meetings with the appointment of two of its councilors and requested the GNSO to appoint a counterpart.

Staff Contact

Bart Boswinkel, Senior Policy Advisor

GNSO

Registrars and ICANN Open New Negotiations To Update the RAA

At a Glance

ICANN accredited registrars and ICANN have opened negotiations to amend and update the current Registrar Accreditation Agreement (RAA). The negotiations are in response to the development of a list of recommendations made by law enforcement agencies and the broader Internet community to provide increased protections for registrants and greater security overall. Announcement from Dakar of immediate negotiations received broad support in the ICANN community.

Recent Developments

Prior to Dakar, staff published a Discussion Paper on the Next Steps for the RAA that recommended the immediate commencement of bi-lateral negotiations with the registrars. At Dakar, law enforcement representatives and other stakeholders debated the need for additional amendments to the RAA to protect registrants and the public from malicious conduct and cybercrime involving domain names. Recognizing the importance of these efforts regarding the RAA, the GAC encouraged the ICANN Board to take the necessary steps to ensure that ICANN's multi-stakeholder process effectively addresses the law enforcement recommendations as a matter of extreme urgency.

In Dakar, the ICANN Board responded by adopting a resolution acknowledging that the effort to evolve the RAA is an important element in a program to protect registrants and safeguard the stability of a single interoperable Internet. Directing that negotiations commence immediately, the ICANN Board called for proposed amendments to be provided for consideration at ICANN's meeting in Costa Rica in March 2012. The subject of the negotiations should include law enforcement and GNSO working group recommendations as well as other topics that would advance the twin goals of registrant protection and DNS stability. The ICANN

Board also requested the creation of an Issue Report to undertake a GNSO PDP as quickly as possible to address remaining items suited for a PDP.

The Registrars Stakeholder Group and ICANN announced the immediate commencement of negotiations on the RAA. These negotiations will occur regularly with the intention to arrive at a new agreement prior to ICANN's Public Meeting in March 2012. To ensure transparency, registrars and ICANN plan to update the community regarding the substance and progress of negotiations. Decision rationale will be included as part of those communications and at the time the new agreement is published for public comment.

Background

In 2009, the GNSO Council embarked on a collaborative process with the At-Large Advisory Committee regarding the RAA. As part of this process, a joint GNSO/ALAC drafting team was formed to conduct further work related to proposals for improvements to the RAA. The RAA Drafting Team reviewed proposals from the law enforcement community, the Intellectual Property Constituency, as well as other stakeholders, seeking to enhance the RAA. The RAA Drafting Team published a Final Report that identified potential topics for additional amendments to the RAA, as well as a proposal for next steps for the GNSO Council to consider in determining whether to recommend a new form of RAA.

More Information

- ICANN Board's Dakar resolution on the RAA
- Final Report on Improvements to the RAA
- Staff Discussion Paper published prior to Dakar
- Non-Lawyers Guide to the RAA

Staff Contact

Margie Milam, Senior Policy Counselor

GNSO Council to Decide Whether to Review and Update Uniform Domain Name Dispute Resolution Policy

At a Glance

In the Final Issue Report, staff recommends deferring commencement of a Policy Development Process (PDP) on the Uniform Domain Name Dispute Resolution Policy (UDRP) until after the New GTLD Program's Uniform Rapid Suspension System (URS) has been operational.

Recent Developments

During the ICANN Public Meeting in Dakar, the GNSO Council solicited reaction to the staff recommendations regarding a possible review of the UDRP as described in the Final Issue Report. Authored by staff, the report describes the UDRP as an effective alternative to costly litigation for cybersquatting disputes, and that its associated processes are generally fair to the affected registrants. The Final Issue Report describes the view shared by staff and many in the Community that although the UDRP is not perfect, it may not be advisable to conduct a comprehensive review at this time. In Dakar, the GNSO Council debated the staff recommendation to delay the commencement of a PDP of the UDRP until after data is available on the effectiveness of the new gTLD's newest rights protection mechanism, the URS, which was modeled after the UDRP.

Background

The UDRP was created in 1999, with the goal of providing an alternative to costly litigation for resolving disputes concerning cybersquatting in gTLDs. Since the adoption of the UDRP, over 30,000 complaints have been filed with the dispute resolution providers authorized by ICANN. The UDRP has not been reviewed or updated by the GNSO Council since its inception.

At the request of the GNSO Council, staff published a Final Issue Report on the current state of the UDRP for discussion at the Dakar Meeting. Upon review of the Final Issue Report, the GNSO Council will consider whether to commence a PDP to review and/or modify the UDRP.

More Information

- Details of and transcripts of the 22 October and 26 October discussions of the GNSO Council on the Current State of the UDRP
- Final Issue Report on the Current State of the UDRP
- Mailing list for the UDRP Drafting Team
- Archived recording of the Webinar on the Current State of the UDRP

Staff Contact

Margie Milam, Senior Policy Counselor

GNSO Improvements Move Forward with Council Approval of Updated PDP Final Report, Public Comment Period on Bylaw Changes

At a Glance

Members of the GNSO community are working to implement a comprehensive series of structural and operational changes designed to improve the effectiveness and accessibility of the organization. The effort is now in its final stages.

Recent Developments

As requested by the GNSO Council, the Policy Development Process Work Team (PDP-WT) reviewed the public comments received regarding its Final Report. Accordingly, the PDP-WT has revised its report and submitted the Updated Final Report to the GNSO Council for its consideration on 28 September. In addition to the report, a motion to adopt the report and its recommendations was submitted to the GNSO Council for consideration. The GNSO Council adopted the report and its recommendations at its meeting in Dakar. In addition, the ICANN Board resolved to open a public comment forum on the proposed changes to Annex A which outlines the GNSO Policy Development Process, before considering these proposed changes for adoption. Comments can be submitted until 5 December.

Background

The Updated Final Report contains 48 recommendations, an outline of the proposed new Annex A to the ICANN Bylaws and a supporting document that is envisioned to be included in the GNSO Council Operating Procedures as the PDP Manual.

The most substantial of the recommendations include:

- Recommending the use of a standardized Request for an Issue Report Template;
- The introduction of a Preliminary Issues Report which shall be published for public comment prior to the creation of a Final Issues Report to be acted upon by the GNSO Council;
- A requirement that each PDP Working Group operate under a Charter;
- Changing the existing Bylaws so that upon initiation of a PDP, public comment periods are optional rather than mandatory, at the discretion of the PDP Working Group;
- Changing the timeframes of public comment periods including (i) a required public comment period of no less than 30 days on a PDP

Working Group's Initial Report and (ii) a minimum of 21 days for any non-required public comment periods the PDP WG might choose to initiate at its discretion;

- Maintaining the existing requirement of PDP WG producing both an Initial Report and Final Report, but giving the WG discretion to produce additional outputs;
- A recommendation allowing for the termination of a PDP prior to delivery of the Final Report;
- New procedures on the delivery of recommendations to the Board including a requirement that all are reviewed by either the PDP Working Group or the GNSO Council and made publicly available; and
- The use of Implementation Review Teams.

Further details and background on the different recommendations, the proposed Annex A and PDP Manual can be found in the Updated Final Report [PDF, 1.51 MB] as well as in the overview of the differences between the Final Report and the Updated Final Report [PDF, 340 KB].

More Information

- GNSO Improvements Information Web Page (which provides links to new procedures and processes as well as to the organizational charters of the various GNSO entities)
- GNSO Home Page (which provides links and information regarding GNSO Council operations and processes and the status and background documents for various ongoing Council initiatives)
- PDP Work Team wiki
- Working Group Work Team wiki
- Constituency Operations Work Team wiki
- Commercial SG Charter [PDF, 307 KB]
- Non-Commercial SG Charter [PDF, 182 KB]
- New GNSO Constituency Recognition Process

Staff Contact

Marika Konings, Senior Policy Director

Post-Expiration Domain Name Recovery Recommendations Adopted by the ICANN Board

At a Glance

The ICANN community provided comments, which have been summarized and analyzed, on a report and recommendations related to what happens after domain names expire. The GNSO Council adopted the report in July 2011, concluding a two-year process that examined current registrar policies regarding the renewal, transfer and deletion of expired domain names.

Recent Developments

The recommendations made by the Post-Expiration Domain Name Recovery Working Group were adopted by the ICANN Board on 28 October 2011. The GNSO Council had approved the Final Report and recommendations back in July. Among the recommendations adopted by the Board are:

- Providing a minimum of eight days after expiration for renewal by a registrant;
- Having unsponsored gTLDs and registrars offer Redemption Grace Periods;
- Requiring posting of fees charged for renewal; requiring that at least two notices prior to expiration are sent at set times, one after expiration; that an expired web site must explicitly say that registration has expired, and offer instructions on how to redeem the domain; and
- Developing educational materials about how to prevent unintentional loss.

Next Steps

An Implementation Review Team will be formed to work with staff on developing an implementation plan.

Background

For a history of the ICANN community's policy development activities on this topic, please refer to the PEDNR background page.

More Information

- PEDNR Proposed Final Report [PDF, 971 KB]
- Details on PEDNR Public Consultation Session in Brussels
- GNSO Issues Report on Post-Expiration Domain Name Recovery [PDF, 416 KB]
- Translations of the GNSO Issues Report on Post-Expiration Domain Name Recovery

Staff Contact

Marika Konings, Senior Policy Director

Other Issues Active in the GNSO

- Registration Abuse Practices Discussion Paper; Council Action
- Whois Studies Continue to Progress

ASO

Policy Proposal for Recovered IPv4 Address Blocks Has Passed Final Call in All RIRs

At a Glance

Now that IANA has allocated all the addresses in IPv4, Regional Internet Registries (RIRs) have discussed a number of proposed global policies for handling IPv4 address space returned from the RIRs to IANA. The RIRs are getting closer to adoption of a new policy.

Recent Developments

After failing to reach consensus on two preceding proposals, a third proposal on allocation of recovered IPv4 address space has been launched and introduced in the five RIRs. APNIC, the registry that originated the proposal, has adopted it, and so have LACNIC and RIPE. The proposal has also passed the final call stage in both AfriNIC and ARIN.

In this proposal, IANA would establish and administer a pool of returned address space to be allocated to all RIRs simultaneously in equal blocks of smaller size than the traditional /8. Pool size permitting, allocations would occur every six months.

Next Steps

If and when this policy proposal is formally adopted by all five RIRs, the Number Resource Organization Executive Committee and the Address Supporting Organization Address Council will review the proposal and forward the policy to the ICANN Board for ratification and implementation by IANA.

Background

IPv4 is the Internet Protocol addressing system used to allocate unique IP address numbers in 32-bit format. With the massive growth of the Internet user population, the pool of unique numbers (approximately 4.3 billion) has been depleted and a 128-bit numbering system (IPv6) is taking its place.

More Information

- A Background Report for the third proposal is posted on the ICANN web site and includes a comparison between the proposals so far on this theme.

- Background Report for the second proposal.

Staff Contact

Olof Nordling, Director, Service Relations

Joint Efforts

Review of ICANN Geographic Regions: Draft Final Report Available For Community Comment

At a Glance

For the past two years a community-wide working group chartered by the ICANN Board has been working to (1) confirm the history, underlying principles and goals of the current geographic regions framework, (2) analyze how those goals and principles have been applied by the Board, staff and community and (3) consulted with the community on how those principles and goals can be best maintained in the future. That working group is now reaching the end of its efforts.

Recent Developments

The Geographic Regions Review Working Group's Draft Final Report reflects the penultimate step of the group's research and consultation effort. The draft document outlines specific recommendations from the Working Group to the ICANN Board regarding how the present Geographic Regions Framework can be modified to ensure that the organizational principles of geographic and cultural diversity are honored and maintained. Those recommendations are based on thorough research, extensive community consultation and reflect the points of view of a wide range of the ICANN community.

Mindful of the potential implications even small changes to the framework could have on the wider community, the working group decided to make the draft document available to the community for review and comment before the working group formally publishes its Final Report. The working group will closely review all submitted comments to determine if further modifications to the draft document are necessary.The working group published it Draft Final Report on 1 October and is asking the community to review and comment on its draft recommendations. The Public Comment Forum will be open through 19 December 2011.

The Working Group conducted a public workshop during the ICANN Public Meeting in Dakar to explain and discuss its recommendations with interested community members. A transcript [PDF, 147 KB] of that session is available.

Background

Geographic diversity is a fundamental component of the ICANN organization. The ICANN Bylaws (Article VI Section 5) currently define five geographic regions as Africa, North America, Latin America/Caribbean, Asia/Australia/Pacific and Europe.

The ICANN Geographic Regions were originally created to ensure regional diversity in the composition of the ICANN Board and were subsequently expanded in various ways to apply to the GNSO, ALAC and the ccNSO.

Next Steps

After the close of the Public Comment Forum on 19 December 2011, working group members will closely review all comments submitted and will determine whether to modify the recommendations in the Final Report. The working group expects to formally publish its Final Report early next year. At that time the Supporting Organizations and Advisory Committees will be asked to formally comment on the recommendations in the Final Report before evaluation by ICANN's Board.

More Information

- ICANN Board Resolution authorizing the Working Group
- Geographic Regions WG Charter
- Working Group Wiki Page
- Initial Report published in July 2009
- Interim Report published in November 2010
- Announcement of Draft Final Report availability
- Draft Final Report Public Comment Forum – open through 19 December 2011

Staff Contact

Robert Hoggarth, Senior Policy Director

At-Large

At-Large Community Holds Record Number of Meetings in Dakar

At a Glance

59 At-Large community members from all five regions attended the ICANN Public Meeting in Dakar in October. These representatives included Members of ALAC, officers of the five Regional At-Large Organizations (RALOs), representatives of At-Large Structures (ALSes), At-Large liaisons, At-Large delegates to the Nominating Committee (NomCom), At-Large representatives on the Whois and SSR of the DNS Review Teams, and representatives of the At-Large community.

Recent Developments

At-Large representatives participated in a record 25 meetings including 16 formal meetings with AFRALO holding an additional nine meetings as part of the successful AFRALO Dakar Events. These meetings resulted in numerous policy and process-related activities.

Among the many policy and process-related issues discussed during these meetings, the following matters were highlighted by the Chair of ALAC in his Report to the Board:

Creation of Several Working Groups and a Taskforce – The ALAC passed resolutions creating a number of new initiatives:

- Ad-hoc Working Group to develop an At-Large ICANN Academy – This WG will further develop the At-Large Project Proposal for an ICANN Academy: Learning how a multi-stakeholder Internet governance model works in practice. The first ICANN Academy is aimed to take place during the 2012 Annual General Meeting.
- Ad-hoc Rules of Procedure Working Group – This WG was created as part of the At-Large Improvements Project to review and update the ALAC Rules of Procedure. Cheryl Langdon-Orr will chair this WG.

- Working Group to Establish a Set of Metrics for members of the ALAC – This WG will establish a set of metrics to be designed and to evaluate performance of ALAC members.
- At-Large Improvements Project Taskforce – This taskforce will allocate the remaining recommendations and proposals of the At-Large Improvements Project to standing and ad hoc At-Large working groups. Cheryl Langdon-Orr will be the chair of this taskforce.

Further Progress Made in Transforming ALAC From Being Reactive to Forward-looking – Due in part to the progress the ALAC and the At-Large community have accomplished over the past three years since the first At-Large Summit held in March 2009, members are determined that the ALAC shall play its role more fully. This is in order to better discharge the duties of ALAC in the interest of the general Internet user. As a first manifestation of this work, the ALAC has set up a Future Challenges Working Group (FCWG). In Dakar, the FCWG held a meeting to discuss its themes of maximizing the effectiveness of the ALAC and registration abuse.

AFRALO/AfrICANN Preparatory Work on Cybercrime in Africa – The ALAC made particular note of and gave the highest compliments to the timely preparatory work of the African ICANN community (AfriICANN and AFRALO), regarding cybercrime in Africa. Following the incorporation of additional comments, the Statement of the African ICANN community on Cybercrime in Africa will be distributed to African national governments and CERTs as well as published in African media.

ALAC and At-Large Leadership Updates – The 2011 Annual General Meeting marks a change in leadership within the ALAC and its liaisons.

The ALAC recognized the valuable contributions of the following ALAC members and liaisons who left their leadership positions at the end of the Dakar Meeting.

- Mohamed El Bashir – ALAC representative elected by AFRALO (March 2007 – October 2011)
- Dave Kissoondoyal – NomCom appointed ALAC representative from the Africa Region (October 2009 – October 2011)
- Cheryl Langdon-Orr – ALAC representative elected by APRALO (June 2007 – October 2011)
- Sylvia Herlein Leite – ALAC representative elected by LACRALO (October 2009 – October 2011)
- Gareth Shearman – ALAC representative elected by NARALO (October 2009 – October 2011)
- James Seng – NomCom appointed ALAC representative from the Asian, Australasian and Pacific Islands Region (October 2009 – October 2011)

- Patrick Vande Walle – ALAC Liaison to the SSAC (November 2008 – October 2011)
- Andres Piazza – ALAC Liaison to Dotmobi (November 2008 - October 2011)

The ALAC was pleased to announce the incoming ALAC Officers, Representatives, and Liaisons, and At-Large Regional Officers.

- ALAC Officers:

  - Chair: Dr. Olivier Crépin-Leblond (Representative from the Europe Region)
  - Vice-Chair: Evan Leibovitch (Representative from the North America Region)
  - Vice-Chair: Carlton Samuels (Representative from the Latin America and Caribbean Islands Region)
  - Rapporteur: Tijani Ben Jemaa (Representative from the Africa Region)
  - Representative from the Asia, Australia, Pacific Region: Rinalia Abdul Rahim (NomCom Selectee to the ALAC from the Asia, Australia, Pacific Region)

- ALAC Representatives:

  - Titi Akinsanmi (NomCom Selectee to the ALAC from the Africa Region)
  - Yaovi Atohoun (AFRALO)
  - Olivier Crépin-Leblond (EURALO)
  - Eduardo Diaz (NARALO)
  - Natalia Enciso (LACRALO)
  - Dr. Ganesh Kumar (NomCom Interim Selectee to the ALAC from the North America Region; Term began on 6 September 2011)
  - Rinalia Abdul Rahim (NomCom Selectee to the ALAC from the Asia, Australia, Pacific Region)
  - Carlton Samuels (NomCom Selectee to the ALAC from the Latin America and Caribbean Islands Region)
  - Salanieta Tamanikaiwaimaro (APRALO)

- ALAC Liaisons

  - ccNSO Liaison: Cheryl Langdon-Orr (APRALO)
  - GNSO Liaison: Alan Greenberg (NARALO)
  - IDN Liaison: Edmon Chung (APRALO)
  - NCSG Liaison: Evan Leibovitch (NARALO)
  - DotMobi: To be determined
  - SSAC Liaison: To be determined

More Information

- See the ALAC Chair's Report of the ICANN Public Meeting in Dakar

Staff Contact

Heidi Ullrich, Director for At-Large

Dakar Meetings Bring Completion of ALAC/At-Large Improvements Project into Sight

At a Glance

Following the ICANN Board's acceptance of the ALAC/At-Large Improvements Milestone Report in Dakar, the ALAC created an At-Large Improvements Taskforce with instructions to complete the project by ICANN's June 2012 Public Meeting.

Recent Developments

On 11 October, staff submitted the ALAC/At-Large Improvements Project Milestone Report, to the Board's Structural Improvements Committee (SIC). This report described the recently completed proposals being used by the ALAC to conclude its implementation of the At-Large Improvements recommendations, listed in the 2009 Final Report of the ALAC Review Working Group on ALAC Improvements.

The SIC then passed the Milestone Report onto the ICANN Board. During its Dakar meeting, the Board (in resolution 2011.10.28.09) acknowledged receipt of the report and the substantial amount of work done thus far by the ALAC and At-Large community toward implementing the ALAC Review Working Group recommendations.

Also in Dakar, the ALAC passed a motion to create an At-Large Improvements Taskforce to complete the implementation of these recommendations. Heading this taskforce is Cheryl Langdon-Orr, the past ALAC Chair under whom the At-Large Improvements Project was launched.

Next Steps

The new At-Large Improvements Taskforce is currently being formed. It will continue the Improvements Project's bottom-up, global emphasis by including the members of ALSes from all five of the RALOs.

At-Large is planning on completing the implementation of the ALAC Review recommendations by ICANN's Public Meeting in Prague in June 2012.

More Information

- Main At-Large Improvements Workspace

Staff Contact

Seth Greene, Consultant for At-Large

Silvia Vivanco Joins Policy Staff as Manager, At-Large Regional Affairs

At a Glance

Ms. Silvia Vivanco has joined ICANN Policy Team as Manager, At-Large Regional Affairs. In this position, Ms. Vivanco will be working directly with the RALOs and the individual ALSes to support them in their process and policy-related activities.

Recent Developments

Ms. Vivanco brings vast experience in working with global multi-stakeholder communities within an international policy development environment to ICANN. She has worked as both legal counsel and project manager with the United Nations in Austria as well as part of a legal team of a multinational telecommunications company headquartered in the United States.

She holds an LLM from the Georgetown University Law Center and a bachelor's degree from the University of Lima. Ms. Vivanco holds Peruvian and U.S. citizenship and speaks English, Spanish and some German.

She is based in the Washington, D.C. office.

Staff Contact

Silvia Vivanco, Manager, At-Large Regional Affairs

SSAC

Issues Active in the SSAC

- SSAC Publishes Whois Report and Activities Update
- SSAC Work Plan for 2011 [PDF, 115 KB]

2011-11-29-01-Delegation-sx-annex

ANNEX TO ICANN BOARD SUBMISSION NO. 2011-11-XX-XX

TITLE: Delegation of the .SX domain representing Sint Maarten (Dutch part)

IANA REFERENCE: 449610

In accordance with ICANN's obligations for managing the DNS root zone, IANA[1] receives requests to delegate, redelegate and revoke top-level domains. This application has been compiled by IANA for presentation to the ICANN Board of Directors for review and appropriate action.

Sensitive Delegation Materials

[1] The term IANA is used throughout this document to refer to the department within ICANN that performed the IANA functions.

Submitted by:	Kim Davies
Position:	Manager, Root Zone Services
Date Noted:	14 November 2011
Email and Phone Number	kim.davies@icann.org; Contact Information

2011-11-29-01-Delegation-sx-enclosures

Draft Public Report —
Delegation of the .SX domain representing Sint Maarten (Dutch part)

ICANN has received a request to delegate the .SX domain, a country-code top-level domain representing the Dutch part of Sint Maarten, to "SX Registry SA B.V.". ICANN Staff have assessed the request, and provide this report for the ICANN Board of Directors to consider.

FACTUAL INFORMATION

Country

The Caribbean island of Saint Martin is divided into two distinct entities, referred to in ISO 3166-1 nomenclature as "Sint Maarten (Dutch part)" and "Saint Martin (French part)". The "SX" ISO 3166-1 code is designated for use to represent Sint Maarten (Dutch part), hereinafter "Sint Maarten".

Chronology of events

On 10 October 2010, the Netherlands Antilles was dissolved. Of its constituent parts, Curaçao and Sint Maarten both became new countries, whereas Bonaire, Saint Eustatius and Saba (collectively, "the BES islands"), became municipalities of the Netherlands.

On 15 December 2010, the ISO 3166 Maintenance Agency instantiated three new entries in the ISO 3166-1 database. These were for Curaçao, with the two-letter code of "CW"; for Sint Maarten (Dutch part), with the two-letter code of "SX"; and for the BES islands, with the two-letter code of "BQ".[1]

In May 2011, SX Registry SA, a Luxembourg-based entity, presented an initial application to ICANN for delegation of the .SX top-level domain. After dialogue concerning the contents of the application, particularly with respect to local presence requirements, the applicant undertook to incorporate a subordinate company in the country of Sint Maarten. The application was later amended to request delegation to the Sint Maarten-based entity, SX Registry SA B.V..

In March 2011, the applicant executed a "grand-father agreement" with the University of the Netherlands Antilles. In the agreement, it undertook to offer all existing Sint Maarten-based registrants of .AN domains — of which there are approximately 30 — the ability to register the matching domain within the .SX domain, prior to any other sunrise process for

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[1] http://www.iso.org/iso/iso_3166-1_newsletter_vi-8_split_of_the_dutch_antilles_final-en.pdf

the domain. This agreement was later revised in September 2011 to reflect the Sint Maarten-based entity.

Proposed Sponsoring Organisation and Contacts

The proposed sponsoring organisation is SX Registry SA B.V., a private company incorporated in Sint Maarten. It is wholly owned by SX Registry SA, based in Luxembourg.

The proposed administrative contact is Rudia Mezas, an employee of SX Registry SA B.V.. The contact is understood to be based in Sint Maarten.

The proposed technical contact is Jan Jansen, the Chief Technology Officer of OpenRegistry.

EVALUATION OF THE REQUEST

String Eligibility

The .SX top-level domain is eligible for delegation, as it is the assigned ISO 3166-1 two-letter code representing the country Sint Maarten.

Public Interest

The Government of Sint Maarten is in support of the application, which is the result of a contract between the proposed sponsoring organisation and the Bureau of Telecommunications and Post executed in July 2011. The application has further been endorsed by the Minister of Telecommunications.

Letters of support for the application have also been received on behalf of Scarlet and Caribserve, two local network providers in Sint Maarten that represent the entire market of private Internet access provision.

The application is consistent with known applicable local laws in Sint Maarten.

The proposed sponsoring organisation undertakes to operate the domain in a fair and equitable manner.

Based in country

The proposed sponsoring organisation is constituted in Sint Maarten. The proposed administrative contact is understood to not be resident in Sint Maarten, although has stated strong ties to the country and is frequently in country.

Effectively, much of the substance of the proposed operation will be based outside of the country.

It is considered that one of the premises upon which local presence requirements are based is the notion that the operations will be conducted and answerable under local law. Specifically, RFC 1591 notes the requirement for “a manager that supervises the domain names and operated the domain names system in that country”, and that “at least the administrative contact must reside in the country involved”.

In reference to this, the Sint Maarten Minister for Tourism, Economic Affairs, Transport and Telecommunications, H.E. Franklyn Meyers, writes: “While we appreciate [ICANN]’s theoretical concerns [relating to local presence], it is important to note that the contractual agreement that was formed between [the applicant] and [the government] does include clear review process (sic) and termination provisions under which the government retains the right to contract with another provider. ... Moreover, the relevant registrant data and DNS records will be mirrored on a server located in Sint Maarten [allowing for] continuity or even migration to another provider should it be necessary. [Local presence requirements] will therefore not be an issue.” The communication also notes the small size of Sint Maarten, and the inability of the local community to provide local service given “too limited resources and expertise in this field”.

Stability

The request is deemed uncontested.

Delegation of the .SX domain will also involve transition of some users of the .AN top-level domain. These transition issues were explored in more detail in the report to delegate the .CW domain for Curaçao, that was accepted by the ICANN Board on 11 October 2011. The proposed sponsoring organisation has entered into an agreement with the University of the Netherlands Antilles, undertaking to provide priority rights to existing .AN registrants located in Sint Maarten, allowing them first access to register their matching .SX domain.

Competency

The application has provided satisfactory details on the technical and operational infrastructure and expertise that will be used to operate the domain. Proposed policies for management of the domain have also been tendered.

EVALUATION PROCEDURE

The Internet Corporation for Assigned Names and Numbers (ICANN) is tasked with managing the Domain Name System root zone as part of a set of functions governed by a

contract with the U.S. Government. This includes managing the delegations of top-level domains.

A subset of top-level domains are designated for the local Internet communities in countries to operate in a way that best suits their local needs. These are known as country-code top-level domains, and are assigned by ICANN to responsible trustees (known as "Sponsoring Organisations") who meet a number of public-interest criteria for eligibility. These criteria largely relate to the level of support the trustee has from their local Internet community, their capacity to ensure stable operation of the domain, and their applicability under any relevant local laws.

Through an ICANN department known as the Internet Assigned Numbers Authority (IANA), requests are received for delegating new country-code top-level domains, and redelegating or revoking existing country-code top-level domains. An investigation is performed on the circumstances pertinent to those requests, and, when appropriate, the requests are implemented. Decisions on whether to implement requests are made by the ICANN Board of Directors, taking into account ICANN's core mission of ensuring the stable and secure operation of the Internet's unique identifier systems.

Purpose of evaluations

The evaluation of eligibility for country-code top-level domains, and of evaluating responsible trustees charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet's unique identifier systems. The evolution of the principles has been documented in "Domain Name System Structure and Delegation" (RFC 1591), "Internet Domain Name System Structure and Delegation" (ICP-1), and other informational memoranda.

In considering requests to delegate or redelegate country-code top-level domains, input is sought regarding the proposed new Sponsoring Organisation, as well as from persons and organisations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated.

The assessment is focussed on the capacity for the proposed sponsoring organisation to meet the following criteria:

- The domain should be operated within the country, including having its sponsoring organisation and administrative contact based in the country.
- The domain should be operated in a way that is fair and equitable to all groups in the local Internet community.

- Significantly interested parties in the domain should agree that the prospective trustee is the appropriate party to be responsible for the domain, with the desires of the national government taken very seriously.
- The domain must be operated competently, both technically and operationally. Management of the domain should adhere to relevant technical standards and community best practices.
- Risks to the stability of the Internet addressing system must be adequately considered and addressed, particularly with regard to how existing identifiers will continue to function.

Method of evaluation

To assess these criteria, information is requested from the applicant regarding the proposed sponsoring organisation and method of operation. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, various documentation is sought describing: the views of the local internet community on the application; the competencies and skills of the trustee to operate the domain; the legal authenticity, status and character of the proposed trustee; and the nature of government support fort he proposal. The view of any current trustee is obtained, and in the event of a redelegation, the transfer plan from the previous sponsoring organisation to the new sponsoring organisation is also assessed with a view to ensuring ongoing stable operation of the domain.

After receiving this documentation and input, it is analysed in relation to existing root zone management procedures, seeking input from parties both related to as well as independent of the proposed sponsoring organisation should the information provided in the original application be deficient. The applicant is given the opportunity to cure any deficiencies before a final assessment is made.

Once all the documentation has been received, various technical checks are performed on the proposed sponsoring organisation’s DNS infrastructure to ensure name servers are properly configured and are able to respond to queries for the top-level domain being requested. Should any anomalies be detected, IANA staff will work with the applicant to address the issues.

Assuming all issues are resolved, an assessment is compiled providing all relevant details regarding the proposed sponsoring organisation and its suitability to operate the top-level domain being requested. This assessment is submitted to ICANN’s Board of Directors for its determination on whether to proceed with the request.