



New gTLDs – Draft Applicant Guidebook

Input from UNINETT Norid AS on country/territory names to DAG, Version 3, published 2 October 2009

UNINETT Norid AS, the registry for .no, thanks ICANN for the opportunity to give input on the Draft Applicant Guidebook for introduction of new gTLDs Version 3. We are conscious of the difficulties ICANN face when trying to bring together all the separate public input in a balanced manner. It is disappointing however, to see that our main concerns are still not reflected in the changes of this third draft.

The inclusion of country and territory names in the gTLD space

The third draft of the Applicant guidebook still includes country and territory names in the gTLD process. This is in direct contradiction with the advice given by the ccNSO on numerous occasions¹ urging ICANN to prohibit the introduction of gTLDs consisting of the name of a country or territory listed in ISO 3166-1 or a meaningful abbreviation of it, whether represented in a non ASCII script or in any recognized language represented in that script. It is also in direct contradiction with the advice given by the GAC²

While we understand the need for balancing different interests when designing policy, we find it inexplicable that the combined advice of one of the three support organizations of ICANN and the Government Advisory Council are dismissed without there being clearly documented opposing interests that outweigh them.

The approach to country and territory names in DAG 3 also fails to address the multitude of post-delegation issues ICANN is likely to face in connection with the introduction of country/territory designations in the generic top level domain space. Some examples of potential problems that may appear because of this are given below. This list is by no means exhaustive, and should be taken as illustration only.

1. Change of registry operator

If ICANN allows .country gTLDs, and a government gives its support or non-objection to an applicant, ICANN must take into consideration that the situation in the country can change, out of several reasons. If the registry given the support or non-objection for example breaks the conditions under which it has received the support from a government, acts in contradiction with the laws of the country etc, the government may want to withdraw its support and change the registry manager.

¹ Council decision LA 31st October 2007, reiterated December 2008, April 2009, and July 2009

² “The GAC therefore proposes the following amendments to be incorporated in version 3 of the Draft Applicant Guidebook (further in the text – DAG3): i. Strings that are a meaningful representation of a country name or territory name should not be allowed in the gTLD space”
(GAC’s letter to ICANN’s Chair, Peter Dengate-Thrush regarding the DAG2:
<http://www.icann.org/correspondence/karklins-to-dengate-thrush-18aug09-en.pdf>)



For the ccTLD space ICANN/IANA have developed procedures over time that allows the problem to be sorted out locally. This is also in accordance with the GAC “Principles and guidelines for the delegation and administration of country code Top Level Domains”³ In the gTLD space ICANN/IANA will to a much larger degree be a part of a possible conflict. What will ICANN do if a .country gTLD operator follows its contract with ICANN, but breaches national law, causing the government to withdraw its support?

What rights, if any, will ICANN have to evaluate the capacity of the government’s choice of an alternative operator? How will ICANN deal with a government that have changed its mind in regards to allowing the country name to be a gTLD?

2. Conflict(s) with the interests of the local Internet community

A .country gTLD will be forced into a system designed with a completely different set of gTLDs in mind. The freedom to design rules and systems in accordance with local markets, and more importantly local laws, that the ccTLDs are afforded is not available for the .country TLDs in gTLD space. Some examples of this:

- A .country TLD must use only ICANN accredited registrars, meaning that it competes with other TLDs (that may have larger markets) for the registrars’ attention and willingness to sell its domain names. At the same time, it is locked inside that distribution channel. For smaller countries this may also mean that the domain holders have to exclusively deal with foreign based registrars, because the local businesses do not have the money required to become an ICANN accredited registrar
- A .country TLD is bound by ICANN’s policy for publication of data, currently through whois and zone-file downloads. These are policies that concerns areas that are generally regulated within a country (privacy legislation) and may therefore be at risk of conflicting with local law. E.g. the whois policy has been criticized earlier as breaching European Privacy law⁴
- A .country TLD must use the UDRP, even if a LDRP that have been specifically tailored to meet local needs exists

³ 7.1 Delegation and re-delegation is a national issue and should be resolved nationally and in accordance with national laws, taking into account the views of all local stakeholders and the rights of the existing ccTLD Registry. Once a final formal decision has been reached, ICANN should act promptly to initiate the process of delegation or re-delegation in line with authoritative instructions showing the basis for the decision. (http://gac.icann.org/index.php?name=Imp_doc)

⁴ “The Article 29 WP sees, in the current situation, *actual* conflicts between current WHOIS practice and EU data protection and privacy laws, not just *potential* conflicts as the title of the proposed procedure on ICANN’s website states. As a matter of fact, registrars operating in EU member states under the current ICANN registrar accreditation agreement face a generally present and unresolved conflict between EU data protection legislation and several international rules on the one hand, and current WHOIS practice on the other hand.” Letter from the Article 29 WP to the then Chair of ICANN, Vint Cerf, on the 12th March 2007. <http://www.icann.org/correspondence/schaar-to-cerf-12mar07.pdf>



In other words, including the .country name TLDs in gTLD space sets up a situation where a user will experience that the country *code* TLD and the country *name* TLD have radically different privacy policies, language requirements for the registrars, dispute resolutions etc. This will be confusing to say the least.

In conclusion, we would like to restate our opinion that country and territory names should be excluded from the gTLD space. We fully support the input made by ccNSO, latest the input from ccNSO Council posted 21st November 2009, and request that it is given serious consideration when revising the DAG, v3.

The definition of country and territory names

We would also like to reiterate our scepticism for the use of a list to define which strings should be regarded as country or territory names.

We note that the list has been changed from DAG 2 to DAG 3 to increase the protection afforded some countries and territories. Among these is one of the territories we used as an example in our input to the DAG 2. While we appreciate this, we would like to point out that these minor revisions still leaves the underlying problem of using a list untouched. The basic problem of a list is that it can be circumvented or may not cover what was intended by the broader definitions of a "meaningful representation".

One illustration of this is the difference in treatment of island names. While e.g. Åland islands and Faeroe islands are given protection for .åland and .faroe on the "separable country names list", other islands, like the Norwegian territory Bouvet islands is not afforded the same protection (.bouv-et-island is protected .bouv-et is not). We would like to emphasize that the reason that we use the Norwegian territories as examples is because these are the areas we have knowledge about. We are certain that there are more examples that we are not familiar with, and some of them are probably not participating in the ICANN process.

ICANN has already accepted the concept of a meaningful representation of a country or territory name in the context of the IDN ccTLD Fast Track, and we believe that a similar definition should be used in regards to the gTLD process.⁵

⁵ Under the IDN ccTLD Fast Track Process, an IDN ccTLD string(s) must be a meaningful representation of the name of the corresponding country or territory, and a string is deemed to be meaningful if it is in the official language of the country or territory and if it is: (a) the name of the country or territory; (b) part of the name of the country or territory denoting the country or territory; or (c) a short-form designation for the name of the country or territory that is recognizable and denotes the country or territory in the selected language. The meaningfulness requirement is verified as follows: (a) if the requested string is listed in the UNGEGN Manual, then the string fulfills the meaningfulness requirement; or (b) if the requested string is not listed in the UNGEGN Manual, then the meaningfulness must be substantiated by the requester providing documentation from an internationally recognized expert or organization.



We therefore request that the previous definition of "meaningful representation" of a country or territory name is reinstated and expanded according to the comments made from the ccNSO in their input in April 2009.