

## GNSO gTLD Registries Stakeholder Group Statement

**Issue:** At-Large White Paper on Future Challenges - "Making ICANN Relevant, Responsive and Respected"

**Date:** 11 January 2013

**Public Comment URL:**

<http://www.icann.org/en/news/public-comment/at-large-r3-white-paper-20nov12-en.htm>

This statement on the issue noted above is submitted on behalf of the gTLD Registries Stakeholder Group (RySG). The statement that follows represents a consensus position of the RySG as further detailed at the end of the document. The RySG statement was arrived at through a combination of RySG email list discussion and RySG meetings (including teleconference meetings).

### 1) The Global Public Interest

The At-Large White Paper says the following: "*ICANN lacks a clear engagement strategy to better serve the global public interest, and it lowers the level of respect and trust of Internet users towards the organization. Reversing this unfortunate trend can only be achieved if ICANN develops a clear concept to guide its policy development processes, a strategy for a more convincing engagement, and appropriate mechanisms to protect ICANN against capture by any of its constituent parts.*"

- The RySG agrees that the ICANN community does not have a common understanding of what 'global public interest' means. In fact, we would take that one step further and say that different groups in the community have different definitions for that term.
- Efforts to reach broad community consensus on a definition that most everyone would support might be helpful and it may be worthwhile to try to do so, but it should be recognized up front that it may be very challenging to arrive at a commonly accepted definition. At the same time, members of the RySG commits to participating in any process to achieve this objective.
- We suggest that a lowest common denominator for a definition is this: It is in the 'global public interest' to ensure the security, stability and resiliency of the domain name system through a bottom-up multi-stakeholder consensus process. And we believe that there would be broad support for this aspect of a definition.

### 2) The Multi-Stakeholder System---A Choice for the Future

The white paper says: "*The proliferation of constituencies and stakeholder groups in the ICANN structure needs to be accompanied by real efforts to achieve and maintain equality and balance among various stakeholder interests. Protections must exist to ensure that consensus procedures can no longer be opaquely*

*circumvented for political expediency. By-laws governing the status and role of stakeholders need to be revised so as to fully engender the informed consent of all ICANN's components, including sovereign states represented through its Governmental Advisory Committee (GAC)."*

- The RySG generally supports the goals of *'equality and balance among various stakeholder interests'*, *'Protections. . . to ensure that consensus procedures can no longer be opaquely circumvented for political expediency'* and *'to fully engender the informed consent of all ICANN's components'*.
  - But we are unsure what *'equality'* would mean or how it would be measured in the ICANN community because of the serious difficulty of adequately representing some groups and because of the fact that many currently defined groups overlap with one another.
  - How would *'informed consent'* be measured? How would large numbers of very diverse members communicate their consent? Would silence be interpreted as consent?
  - A goal stated in the white paper's first recommendation was *'to protect ICANN against capture by any of its constituent parts.'* It may or may not be true in the ICANN community for *'constituent parts'* to be captured by a few active participants. In any event, how would we protect against that happening? How would we determine whether positions put forward by leaders of a group actually reflect the views of the broader community it claims to represent?
  - ICANN already schedules regular reviews of the functioning of its constituent parts. This includes the forthcoming GNSO review. While the RySG recognizes the value of this practice, we also believe that all constituent groups that receive support from ICANN should be subject to objective reviews. In fact, the ICANN community should seriously consider postponing the overall GNSO review until all constituent groups have been reviewed. To assess the whole without an objective review of the parts runs the real risk that key constituent groups are not functioning as expected and/or have been captured by narrow special interests.
- The paper specifically sets a goal *'to fully engender the informed consent of . . . sovereign states represented through its Governmental Advisory Committee (GAC)'*.
  - We would be curious to understand from the authors of the white paper how they think this could happen.
  - Do they think that the GAC should have more than an advisory role? (We acknowledge the response in the R3 webinar on 19 December indicating that the authors of the paper were not at this time advocating that the GAC have more than an advisory role.)
  - Should we assume that a small group of active GAC participants represent most members of the GAC who are silent?
  - A fundamental recommendation of the AoC ATRT is to involve the GAC much earlier in policy development processes. Is it possible to get consent from the GAC if this problem is not solved first?

- We don't claim to have all the answers to these questions, but we think they need to be discussed.

### 3) Global Governance

We fully support the white paper goal of '*avoiding the pitfalls of intergovernmental solutions*' as well as the necessity '*to increase transparency and accountability to the international community*'. Moreover, we are very encouraged by the recent changes proposed and being implemented by ICANN leadership in these directions and believe that we are on the right track.

### 4) Institutional and Practical Cooperation

The paper says: "*ICANN has yet to demonstrate the ability to proactively, adequately and appropriately reach out, coordinate and cooperate with organizations outside of its technical coordination remit.*" While we agree that much more needs to be done in this regard, we think it is unfair to make it sound like ICANN staff and the community have totally failed in this area because we believe that some good steps have been taken over the last few years. And we are again very encouraged by even more aggressive steps that have been taken in the last couple of months.

### Recommendations

The RySG agrees with many of the recommendations in the white paper but we have concerns about the following.

#### Regarding **Global Public Interest**:

- The paper says "*Give all due consideration to Conflicts of Interest, and correct any situation where such a conflict, real or perceived, is detrimental to mutual trust and harmful to the public interest. Accepting mere statements of interest while allowing vested interests to influence policy affecting them is inefficient, and harmful to ICANN's credibility.*"
  - We agree with the first sentence.
  - But we have reservations about the second sentence. While recognizing the absolute importance of avoiding undue influence from parties with conflicting interests and also realizing that this area is essential for community trust, we wonder whether the Board has gone too far in reacting to one situation that occurred.
    - We believe that critical expertise from some Board members was avoided in decisions made regarding the New gTLD Program that ultimately resulted in actions that had to later be changed.
    - The ICANN community is by its very nature made up with people who have conflicting interests but, so long as these interests are disclosed, their expertise is essential in the decisions that need to be made.

- Information from experts who have conflicts may still be very useful as long as we acknowledge the conflicts and weigh the information with the conflicts in mind; we should not assume that information from conflicted parties is necessarily bad but should evaluate the information with an understanding of the source and make a judgment based on the public interest as to whether the information is valuable.
- In our community, conflicts are inevitable but are not necessarily the overarching problem to reaching sound decisions.

Regarding the **Multi-Stakeholder System**:

- The first bullet states “*Transform the roles of the Governmental Advisory Committee (GAC) and At-Large Advisory Committee (ALAC) from purely advisory to involvement in policy formation. This measure shall not be implemented separately from, nor before, a coordinated reform of structures affecting all Supporting Organizations (SOs) and Advisory Committees (ACs).*”
  - As stated earlier in our comments, we believe that much work is needed with regard to the GAC and especially the necessity to get the GAC involved early in policy formation, but we must ask the question ‘how?’
    - In the case of the GNSO, pretty much all efforts to date have failed.
    - Any suggestions that the authors of the paper have would be welcome.
  - We confess to not understanding the suggestion that the role of the ALAC should be transformed ‘*from purely advisory to involvement in policy formation.*’
    - We would not agree to a proposal for replacement of the current GNSO role in policy development.
    - As far as we can tell, the policy development process is already fully open to the ALAC and more broadly the At-Large community.
    - In fact, the ALAC has had consistent and excellent representation in nearly all, if not all, GNSO policy development efforts.
    - Assuming that the ALAC effectively represents the broader At-Large Community, what more are the authors of this paper asking for?
  - The second bullet suggests ‘*to improve balance and avoid silos*’. We are not sure what is *meant by “silos”* in this context. Silos is a pejorative term for the way the GNSO actually works. The whole concept of two Houses comprising SGs and constituencies allows the separate interest groups to have their say in policy development, which we believe is essential in the bottom-up process. The present system of Houses, Stakeholder Groups, Constituencies and Advisory Committees allows interest groups to be represented. The RySG does not believe that the present system is so broken that we want to replace the current role of the GNSO and its respective groups in policy development.

- We think that a more effective focus would be on improving processes to facilitate the collaboration and cooperation among the groups.
- The third bullet says “*Address the Country-Code Top-Level Domain (ccTLD) diversity of practices vis-a-vis ICANN's general standards and best practices.*” This sounds like a good goal but we would appreciate hearing from the authors of this paper and others on:
  - How this might be achieved?
  - Whether the ccNSO supports this goal?

Regarding **Internal Governance Arrangements:**

- What does the recommendation in the first bullet mean (“*Make the Board the executive committee of the ICANN community.*”)?
- The RySG strongly supports the second recommendation, i.e., “*Redirect the fiduciary duty of Directors to the community, not to ICANN itself.*” We believe that the Board needs to find a balance between its corporate fiduciary responsibility and its duty to benefit the community.
- The sixth recommendation says: “*Reform the procedures within the Board's Governance Committee (BGC) to increase transparency, accountability, and freedom from the risk of capture.*” We would like to understand what the authors of the white paper think are:
  - Ways that the BGC could improve transparency and accountability?
  - Risks of capture on the current BGC? Capture by whom?
- The RySG welcomes further discussion of the other recommendations in this section.

Regarding **Institutional and Practical Cooperation:**

- The third bullet says, “*Develop a network-based strategy for enhancing ICANN's global relations, coordination and cooperation with organizations working on the broad set of Internet Governance issues by leveraging on the strengths and diversity of connections/relationships that exist among members of the community.*”
  - What is ‘a network-based strategy’?
  - Do the authors of this paper think that the matrix management approach currently being implemented by ICANN's President and CEO is one way to fulfill this recommendation?

**RySG Level of Support**

1. **Level of Support of Active Members:** [Supermajority]

- 1.1. # of Members in Favor: 11
- 1.2. # of Members Opposed: 0
- 1.3. # of Members that Abstained: 0
- 1.4. # of Members that did not vote: 3

## 2. Minority Position(s): None

### General RySG Information

- Total # of eligible RySG Members<sup>1</sup>: 14
- Total # of RySG Members: 14
- Total # of Active RySG Members<sup>2</sup>: 14
- Minimum requirement for supermajority of Active Members: 10
- Minimum requirement for majority of Active Members: 8
- # of Members that participated in this process: 14
- Names of Members that participated in this process:
  1. Afiliás (.info, .mobi & .pro)
  2. DotAsia Organisation (.asia)
  3. DotCooperation (.coop)
  4. Employ Media (.jobs)
  5. Fundació puntCAT (.cat)
  6. ICM, Inc. (.xxx)
  7. Museum Domain Management Association – MuseDoma (.museum)
  8. NeuStar (.biz)
  9. Public Interest Registry - PIR (.org)
  10. Societe Internationale de Telecommunication Aeronautiques – SITA (.aero)
  11. Telnic (.tel)
  12. Tralliance Registry Management Company (TRMC) (.travel)
  13. Universal Postal Union (UPU) (.post)
  14. VeriSign (.com, .name, & .net)
- Names & email addresses for points of contact
  - Chair: Keith Drazek, [kdrazek@verisign.com](mailto:kdrazek@verisign.com)
  - Alternate Chair: Paul Diaz, [pdiaz@pir.org](mailto:pdiaz@pir.org)
  - Secretariat: Cherie Stubbs, [Cherstubbs@aol.com](mailto:Cherstubbs@aol.com)
  - RySG representative for this statement: **Chuck Gomes ([cgomes@verisign.com](mailto:cgomes@verisign.com))**

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<sup>1</sup> All top-level domain sponsors or registry operators that have agreements with ICANN to provide Registry Services in support of one or more gTLDs are eligible for membership upon the “effective date” set forth in the operator’s or sponsor’s agreement (RySG Charter, Article II, RySG Membership, Sec. A). The RySG Charter can be found at [http://www.gtldregistries.org/sites/gtldregistries.org/files/Charter\\_for\\_RySG\\_6\\_July\\_2011\\_FINAL.pdf](http://www.gtldregistries.org/sites/gtldregistries.org/files/Charter_for_RySG_6_July_2011_FINAL.pdf)

<sup>2</sup> Per the RySG Charter, Article II, RySG Membership, Sec.D: Members shall be classified as “Active” or “Inactive”. An active member must meet eligibility requirements, must be current on dues, and must be a regular participant in RySG activities. A member shall be classified as Active unless it is classified as Inactive pursuant to the provisions of this paragraph. Members become Inactive by failing to participate in three consecutively scheduled RySG meetings or voting processes or both. An Inactive member shall continue to have membership rights and duties except being counted as present or absent in the determination of a quorum. An Inactive member immediately resumes Active status at any time by participating in a RySG meeting or by voting.