

Registrar Stakeholder Group (RrSG) Comment on GAC Beijing Communiqué

13 MAY 2013

The Registrar Stakeholder Group (RrSG) welcomes the opportunity to comment on the Governmental Advisory Committee (GAC) Communiqué from the recently concluded meeting in Beijing. We welcome the ICANN board's decision to open up the advice to comment, as the scope and breadth of the advice merits consideration by the wider ICANN Community.

Please note that this comment the views of participating RrSG members, but does not necessarily represent the views of any given registrar. Member organizations reserve the individual right to alternative positions, which may change in the future.

gTLD “Safeguards” and “Categories”

Section 1(b) and Annex I of the Beijing Communiqué details the GAC advice regarding new operational requirements (“safeguards”) for all new gTLDs, and more stringent eligibility restrictions and registry requirements for “Sensitive Strings” and “Regulated Markets.”

For the reasons enumerated below, the RrSG opposes these measures, and urges the ICANN Board to reject the GAC advice proposing “safeguards” and “categories.”

- (1) The “safeguards” described in 6,7 and 8 (Annex I, p. 10) represent a fundamental change to the New gTLD program. The program was intended for Generic top-level domains, but the “safeguard” effectively converts the listed applications to Sponsored top-level domains (sTLDs). This is counter to the original purpose and goals of the New gTLD program.
- (2) Many (if not all) of the proposed “safeguards” were considered extensively during the development and implementation of the New gTLD program, as well as negotiations that resulted in the Draft 2013 Registrar Accreditation Agreement (RAA), and several PDP efforts. These proposals were rejected by the ICANN Community due to questions regarding their effectiveness, and their far-reaching impact on access and use of domain name registrations. The operational impact of implementing the suggested changes would be far reaching and would fundamentally change the relationship between registries, registrars and registrants. We feel that many of the GAC's concerns are addressed via the 2013 RAA, which is based in no little part on input from the GAC.
- (3) Similarly, the concept of gTLD “categories” and category-specific requirements was extensively discussed and rejected during the deliberations that led to the Applicant Guidebook, under the terms of which applicants developed their business plans and submitted their TLD applications

- (4) Many of the strings identified in Annex I were not included in the “Early Warnings” published in late 2012, which would have provided applicants an opportunity to better understand and perhaps address these concerns.
- (5) Many of the strings identified in Annex I represent generic terms. While they may be considered “sensitive” or “regulated” in a single or few jurisdictions, it is not appropriate to limit or restrict their use in other jurisdictions. Registries and Registrars are currently, and will continue to be, obligated to comply with appropriate local law and regulations.
- (6) Many of the strings identified in Annex I represent generic terms that may be considered a profession in some contexts, but not in others. For example, .vet could mean “veterinarian”, or “veteran.” There are numerous examples of these types of multiple meanings, and no compelling reason to justify use of the narrowest possible interpretation.
- (7) Many, if not all, of the proposed “safeguards” are related to the content of websites (or other services) associated with a domain name registration. This is outside the scope of ICANN’s remit as the organization charged with the management of the DNS.
- (8) Some applicants have indicated that they will employ specific criteria in how they run their registry if awarded. This voluntary choice of registry policy is more appropriate than a top-down decision by ICANN at this late stage in the process

Other comments

Additionally, the GAC has noted that it needs more time to consider applications identified in Section 1(c)(i), and has asked ICANN to place these applications “on hold” pending the outcome of Initial Evaluation, until the GAC meets again in Durban (JUL 2013). We would note that this (and any further) delay has the potential for significant adverse impact to the affected applicants, and that the GAC must issue its advice in a timely manner. If the GAC is unable to do so at or before the Durban meeting, we recommend that ICANN allow these applications to proceed.

Conclusions

Governments play an important role in the multi-stakeholder model of Internet Governance, but the implications of the GAC Beijing Communiqué represents a fundamental re-write of the New gTLD Program by a single stakeholder at the very end of a multi-year process.

The mandatory adoption of new “safeguards” and “categories” would have an adverse impact on the industry, particularly for investors and innovators in the commercial sector. Non-commercial users would also be affected, as the adoption of “safeguards” and “categories” could represent prior restraint and significantly impact access and expression on the Internet. Also, we note that there is nothing particularly novel about the proposals in Annex I, as they are familiar topics and ideas to veterans of the New gTLD process. Finally, these changes represent sweeping and fundamental changes at a this very late phase of the program. We urge the ICANN Board to reject the GAC advice regarding “safeguards” and “categories.”