

GNSO gTLD Registries Stakeholder Group Statement

Issue: Draft Final Report of the IGO-INGO PDP WG

Date: 11 October 2013

Public Comment URL:

<http://www.icann.org/en/news/public-comment/igo-ingo-final-20sep13-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).

We first want to thank the members of the WG for the huge amount of effort that they have put into this PDP. Special thanks go to Thomas Rickert as the chair and the ICANN policy staff that supported the WG.

The RySG support for all of the recommendations in the Draft Final Report of the IGO-INGO PDP WG are detailed in the attached spreadsheet. Note that the spreadsheet contains seven workbook tabs that each show the RySG support position for multiple recommendations for the applicable categories:

1. RCRC
2. IOC
3. IGOs
4. INGOs
5. General Recommendations
6. Existing gTLD Implementation
7. Exception Procedure Options

In addition to the RySG support position for each recommendation, each workbook (tab) shows the following:

- Total # of voting members
- # of voting members who voted
- # of voting members who voted in support of the recommendation
- % of total voting member support
- % of support from voting members who voted
- Comments submitted by individual members.

For all recommendations except for one, there was greater than super-majority (2/3) support for the position shown. The one exception was for Recommendation 8 in the INGO workbook; the RySG did not support this recommendation because only 50% of voting members voted in favor.

The RySG will continue to support the WG as they perform the final steps of incorporating public comments into a final report and deliver it to the GNSO Council.

(Note: The spreadsheet will be transmitted as a separate file)

RySG Level of Support

1. Level of Support of Active Members: Supermajority

1.1. # of Members in Favor: 13 *

1.2. # of Members Opposed: 0

1.3. # of Members that Abstained: 1

1.4. # of Members that did not vote: 2

* Note that one member voted in favor and submitted a minority statement that is attached below.

2. Minority Position(s): The UPU submitted a minority statement that is attached at the end of this document.

General RySG Information

- Total # of eligible RySG Members¹: 17
- Total # of voting RySG Members: 16
- Total # of Active Voting RySG Members²: 16
- Minimum requirement for supermajority of Active Voting Members: 11
- Minimum requirement for majority of Active Members: 9
- # of Members that participated in this process: 15
- Names of Voting Members that participated in this process:

¹ 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

² 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.

1. Afiliats (.info, .mobi & .pro)
 2. Donuts – (one new gTLD)
 3. DotAsia Organisation (.asia)
 4. DotCooperation (.coop)
 5. Employ Media (.jobs)
 6. Fundació puntCAT (.cat)
 7. ICM Registry LLC (.xxx)
 8. International Domain Registry (.shabaka)
 9. NeuStar (.biz)
 10. Public Interest Registry - PIR (.org)
 11. Societe Internationale de Telecommunication Aeronautiques – SITA (.aero)
 12. Telnic (.tel)
 13. Tralliance Registry Management Company (TRMC) (.travel)
 14. Universal Postal Union (UPU) (.post)
 15. VeriSign (.com, .name, & .net)
- Names of non-voting members that participated in this process:
 1. Minds & Machines
 2. Nucleo de Informacao e Coordnenacao do Ponto BR (Nic.br)
 - Names & email addresses for points of contact
 - Chair: Keith Drazek, kdrazek@verisign.com
 - Alternate Chair: Paul Diaz, pdiaz@pir.org
 - Secretariat: Cherie Stubbs, Cherstubbs@aol.com
 - RySG representative for this statement: Chuck Gomes (cgomes@verisign.com)

Minority statement submitted by the UPU on the RySG's statement concerning the Draft Final Report of the IGO-INGO PDP Working Group (11 October 2013)

The UPU hereby would like to reiterate that, as previously conveyed by other IGOs and acknowledged by the GAC, IGOs represent a wide range of essential public interests. For this reason, they enjoy a special status under public international law, which clearly places them in a different category than other DNS stakeholders:

- IGOs work towards cooperation between governments on vital issues and humanitarian causes;
- IGOs are created by treaty, they are the subject of international law like States, and they deserve the same treatment;
- IGOs are funded primarily by public funds provided by their Member States. Abusive registration of IGO names and acronyms imposes serious enforcement burden on IGOs, which should not have had to divert their public resources for this purpose;
- IGOs and the public interests which they represent are particularly vulnerable to misuse, fraud and confusion with respect to their identities on the Internet;
- IGOs enjoy certain immunities from legal process in order to protect their neutrality and impartiality from national influence.

The names and acronyms of IGOs are protected by international treaties within the scope of Article 6ter of the Paris Convention for the Protection of Industrial Property, as further extended by Article 16 of the Trademark Law Treaty and Article 2 of the WTO Agreement on Trade Related Aspects of Intellectual Property Rights. As a result, an overwhelming majority of jurisdictions in the world protect the names and acronyms of IGOs either by direct application of their treaty obligations or by enacting national legislation. It may be noted also that the governing

bodies of some IGOs have adopted decisions requesting their Member States to protect the identifiers of those organizations from unauthorized use.

Protection of the names and acronyms of IGOs is equally consistent with ICANN's mission, which includes, *inter alia*, protecting consumers from abuse in connection with the new gTLD program. Furthermore, ICANN's founding documents require ICANN to carry out its activities in conformity with relevant principles of international law and applicable international conventions and to cooperate with relevant international organizations (Articles of Incorporation, Article 4) and to duly take into account governments' and public authorities' recommendations, recognising that public authorities are responsible for public policy (By-Laws, Article 11).

Abusive registration of IGO names and acronyms harms the causes which IGOs represent (including without limitation public health, labour practices, universal postal services, financial and digital inclusion, food security, peacekeeping operations, containment of weapons proliferation, sustainable economic and social development and reconstruction, trade and commerce standards, children's rights, refugees, disaster relief, fundamental scientific research and other public policies).

The UPU is extremely concerned that the recommendations proposed by the PDP Working Group to the GNSO Council are not fully in line with such GAC advice, subject to clarification of certain implementation issues for second level protection of acronyms on which a dialogue is currently in progress.

In particular, the UPU is vehemently opposes any recommendations which propose protections for IGO full names, but not acronyms. As already expressed on many occasions, the majority of IGOs are best-known by their acronyms and it is these which have suffered and will time and again suffer misuse in the DNS. Therefore, a proposal to protect full names only would practically equate to proposing no protection at all. Such an unreasonable proposal would not only disregard GAC advice, international treaties and national laws, but also defy reality and common sense.

Furthermore, any acronym protection that would not be preventative would ignore the legal status of IGOs as distinct from other entities, and would merely put IGOs in the position of being informed as to any prospective or actual abuse, without a far more appropriate option to prevent such abuse in the first place.

In the light of the above, it is incumbent on ICANN as the mandating agency of the domain name system to implement appropriate policy measures to help mitigate these harms. ICANN's development of the domain name system must therefore demonstrate a capacity for serving that public interest within existing legal norms.