

Dear ICANN:

As one of the individuals who helped create the Policy Advisory Board (PAB) concept and has joined others to perfect its evolving model, I thank the At-Large Advisory Committee (ALAC) for ensuring that this important issue came before the full ICANN community and that the ICANN Board is full aware of the concerns underlying this proposal.

One of ICANN's first priorities is its responsibility to avoid or minimize the creation of potential public harms in the operations of the new gTLD program. That is precisely what the PAB model proposes to do in regard to new gTLDs that implicate regulated professions and industry sectors.

One group representing only applicants -- the New gTLD Applicant Group (NTAG) -- posted comments expressing concern in regard to the PAB proposal, contending that the New gTLD Program Committee (NGPC) has already addressed the underlying consumer protection concerns through the adoption of mandatory Public Interest Commitments (PICs) for all strings listed in the Governmental Advisory Committee's (GAC's) Beijing Communique of April 2013. However, Section 2 of Annex I of the GAC's Singapore Communique issued as recently as April 22, 2014 <https://gacweb.icann.org/download/attachments/27132037/BA%20MEETING%20MINUTES%20.pdf?version=1&modificationDate=1398244785000&api=v2>, less than three weeks ago, makes clear that the GAC continues to have multiple questions regarding the operation and effectiveness of PICs, including "the greater risks of fraud and deception" that will occur as a result of the NGPC's failure to implement various requirements requested by the GAC.

Therefore, it must be concluded that the implementation of effective consumer safeguards for Category 1 strings remains unfinished business.

It is the lack of effective registrant eligibility standards for regulated gTLDs to prevent fraud and deception that the PAB model is meant to address. The NTAG's contention that it is too late to consider the PAB model fails to note that the vast majority of new gTLDs have yet to be delegated (regulated industry strings cannot move forward without resolution of the PICs issue) and that the adoption and implementation of consumer safeguards sufficient to meet the GAC's concerns remains unaddressed.

Finally, the NTAG's contention that implementation of the proposal "would create unacceptable inequities... across subsets of applicants" would elevate applicant interests above the public interest and legitimate concerns about consumer protection.

Another respondent, Donuts (the largest applicant for multiple gTLDs, including several in the regulated industry space with public interest implications) contends that the PAB

concept has already been considered and rejected, and that the NGPC's acceptance of the GAC's Category 1 advice is complete. That contention is also incorrect.

While the NGPC chose to prevent the ICANN community from having an opportunity to comment on the PAB model, the process established by ICANN bylaws enables an Advisory Committee to call for public comment, which has resulted in this consultation with the broader community. ALAC clearly supports exploring the PAB as a viable mechanism to fulfill implementation of the GAC's requested safeguards demonstrating that through the bottom-up, consensus-building process of ICANN, the PAB model has not been rejected.

This extraordinary action of the ALAC (only the third time invoked in ICANN's history) to bring this matter before the public for comment is validation of the multi-stakeholder process; hardly an affront to it.

Certain respondents may seek to avoid any vetting of registrant bona fides in relation to strings that the general public may well assume are only available to legitimate profession or industry participants. This should be of concern to the NGPC, the larger ICANN Board and community. ICANN must fulfill its responsibility to protect against misuse of domains to an unsuspecting public, regardless of the pressure or interests of applicants for such strings if it is to be deemed worthy of operating free of U.S. or other such oversight.

It is important to refer again to the GAC Communique, as noted above, where it is made very clear that the GAC is not yet satisfied that its consumer protection concerns have been adequately addressed in certain strings. Donuts contends that adoption of the PAB model would be creation of a new policy. This, too, is not an accurate portrayal of the purpose of the PAB model; this model seeks to adequately address public interest concerns that have substantial foundation in the same principles that justify the implementation of the GAC safeguards and PICs.

From the perspective of those entities that support the PAB concept, I am pleased to make note of fTLD Registry Services, applicant for the .BANK and .INSURANCE gTLDs – which has already formed an Advisory Council to serve as an accountability mechanisms for those two regulated industry strings. Its letter's comments on certain mandatory elements of the PAB model fulfill the purpose of this public comment period, which is to seek broad feedback to help perfect the model.

Likewise, Byron Holland's comment that he believes *"the idea of Policy Advisory Boards to implement safeguard advice for "sensitive string" gTLDs associated with regulated industries and professions to address the concerns expressed by the Governmental Advisory Committee (GAC) to be conceptually sound"*, similar to the comment of DOTZON, identify concerns that can be addressed as the model goes through further refinements. Indeed, public consultation has already led to the modification that regulated

industry string registries would also have a seat on every PAB and be an equal to all impacted parties.

I further note support for the PAB concept expressed by the American Insurance Association *“because without it there are limited, if any, controls in place to address the concerns that the GAC has identified in the Beijing Communiqué and reiterated in the Singapore Communiqué”*. The PAB has also garnered support from RxRights, PharmacyChecker.com and the Canadian International Pharmacy Association, three organizations dedicated to protecting consumers against “rogue” online pharmacies.

Summing up, the primary opposition to implementation of the PAB model comes from new gTLD applicants who wish to maximize their ability to sell Category 1 gTLD domains to registrants absent any screening criteria. This fails to effectively implement the GAC’s requested Category 1 safeguards, and further fails to protect consumers against the bad actors who will inevitably register domains at relevant gTLDs to engage in consumer fraud and deception in the absence of registry policies established by an advisory board made up of impacted parties that sets effectively high registrant eligibility criteria.

It should also be well-noted that any discussion about unknown costs and burdens to ICANN and regulated industry TLD applicants is a red herring. Based upon my own experience as a new gTLD CEO in a prior round, the cost of establishing a policy advisory group is modest and limited, particularly when compared to the benefit to the integrity of the strings associated with regulated industries, and the implications for consumer fraud and abuse. It should be clearly understood that new gTLD policy creation is – for the most part – a one time, short-term activity that once completed transforms the Policy Advisory Board into a pseudo-auxiliary ‘watch group’ focused on integrity in that registry string, that can ably assist ICANN Compliance Department with zero cost to ICANN.

In conclusion, the PAB model has been proposed to address a glaring shortcoming in consumer protection and should be enacted immediately as an implementation matter for new gTLDs to enable regulated string applicants to move forward in their application process.

Sincerely,

Ron Andruff

This document was created with Win2PDF available at <http://www.win2pdf.com>.  
The unregistered version of Win2PDF is for evaluation or non-commercial use only.  
This page will not be added after purchasing Win2PDF.