



**DOMAIN NAME ASSOCIATION COMMENT
ON THE PROPOSED SPECIFICATION 13 OF THE REGISTRY AGREEMENT:**

CREATING A CATEGORY OF BRAND TLDs

Background

During the public discussion about, and after the approval of the Applicant Guidebook, brand and trademark holders (through the BRG) sought special accommodations for TLDs named with the brand name where the brand owner would be the sole registrant in the TLD. The two most urgent needs for “brand” TLDs are said to be to avoid: (1) re-delegation in the event the registry closes operations (because no registrants would be harmed, the DNS records will contain confidential data, and the brand name might be abused); and (2) the requirement for equal treatment of registrars given that the single-registrant registry is likely to team with one registrar to register its names.

After the Buenos Aires meeting, ICANN published a proposed amendment to the Registry Agreement seeking to address these concerns. The proposal lays out qualifying criteria to be a brand registry, allows “brand registries” to designate one or more ICANN accredited registrars as the exclusive registrar(s) for the TLD, and describes the circumstances where the TLD cannot be transferred for a period of two years.

Recommendations

The Domain Name Association supports efforts to make it easier for brands to launch their TLDs quickly and use them meaningfully. We believe this is good for everyone in the domain industry as it brings meaningful engagement and attention to the program that will benefit everyone.

- 1) The DNA supports brand owners seeking the accommodation to be protected against the harms likely to result from transfer of the TLD. The proposed re-draft of the Transition clause offers some additional process but really not much additional protection for Brand TLDs with respect to transfer of the TLD. More definitive or objective criteria might provide certainty for the brand owner that the TLD will not be transferred for a period of time.



- 2) If a separate class were to be created, brand owners and other single-registrant TLDs can easily be afforded additional accommodations to avoid unnecessary costs and effort (in addition to the ones included in the proposal). If a brand category is being created, other unnecessary trappings of general-use TLDs that are costly for registries and for ICANN to enforce: e.g., EPP SLAs, Sunrise, Whois reminder notices could be dispatched. In addition, UDRP transfers should be eliminated, as a UDRP transfer would be an automatic violation of the brand requirement.

It is not clear why single-registrant TLDs need an exemption from the requirement to treat registrars equally. Any registrant can choose any registrar it wants. So a single-registrant TLD can use any registrar it chooses and still be in compliance with the Code of Conduct. This supposition should be made clear by ICANN.

A slightly different point: qualification as a brand might simply trigger an exemption from the code of conduct.

- 3) We are concerned that the inclusion of "licensees" as part of a "single registrant" might be abused to inappropriately avoid the use of registrars. Understanding that there are cases where a licensee might be an appropriate registrant for a single-registrant TLD, a set of rules should be developed to govern and monitor this practice.

ⁱⁱ <http://newgtlds.icann.org/en/applicants/agb/base-agreement-spec-13-proposed-06dec13-en.pdf>