

Comments on Proposal for a Specification 13 to the ICANN Registry Agreement to Contractually Reflect Certain Limited Aspects of ".Brand" New gTLDs

Hong Kong Internet Registration Corporation Limited (HKIRC), the registry of the .hk and .香港 ccTLDs, submits the following comments on Proposal for a Specification 13 to the ICANN Registry Agreement to Contractually Reflect Certain Limited Aspects of ".Brand" New gTLDs. HKIRC is the consultant of the “.MTR” new gTLD application. “.MTR” is a Brand TLD application as defined by the proposed Specification 13.

Overall comment

HKIRC welcomes the opportunity to provide inputs on the proposal and would like to thank both the Brand Registry Group (BRG) and ICANN staff for their many months of excellent efforts and cooperative work dedicated to the tailoring of the Specification 13.

We would like to also support and echo the supportive comments on the proposal submitted by the New TLD Applicant Group (NTAG) on 20 December 2013 (<http://forum.icann.org/lists/comments-spec13-06dec13/pdfoNVV95Mw03.pdf>) and the NTAG’s proposed change, for which we will elaborate in the latter part of this letter.

We are of the view that the proposed Specification 13 would help Brand TLD registries, which accounted for about one-third of new gTLD applications, eliminate irrelevant and unnecessary processes and launch the TLDs of their brands and trademarks sooner. We believe that successful launches of Brand TLDs are one of the important indicators of the success of the ICANN New gTLD Program and the promotion and public awareness Brand TLD launches would bring to the domain name industry are invaluable. We encourage the ICANN Board to approve the captioned proposal and NTAG’s proposed change as soon as possible to facilitate many of the Brand TLD applicants invited to contracting to move forward with their delegation process.

Deferral of Sunrise requirement for Brand TLDs

HKIRC supports the NTAG proposed change to the Specification 13 that would allow Brand TLDs to roll out their “closed” TLDs without holding a Sunrise period. The Sunrise should be deferred to such time as when a Brand TLD registry may decide to open up its TLD to offer domains to unaffiliated third parties, at which point the terms of Specification 13 would no longer apply. We opined that this will be a more sensible right protection approach in the context of Brand TLD as the mandatory Sunrise under the current rules is not going to protect any right holders but merely an unnecessary and artificial delay for all Brand TLDs.

A clarifying question and suggestion regarding Trademark Clearinghouse (TMCH) registration requirement

With reference to clause 5.1 (i) a. of the proposed Specification 13, HKIRC would like to clarify and suggest that Brand TLD Registry Operators are only required to have their trademarks registered at the TMCH at the time of the signing of the Registry Agreement and that Registry Operators are not required to maintain their trademark registrations at the TMCH after the signing of the Registry Agreement. We understand that the purpose of this particular clause in question is to facilitate the verification of the TLD string as a valid trademark by means of the TMCH. As a result, we opine that Registry Operators should not be required to maintain the TMCH registration for more than one year and they shall have the freedom to deliberate if the TMCH registration is necessary and valuable to their right protection after the signing of the Registry Agreement and the expiry of the registration.