

Protection of International Olympic Committee (IOC) / Red Cross Names (RCRC) Drafting Team – Recommendations

Key Developments:

- IOC/RCRC Names are protected at the first level within the new gTLD first round per the 10 April 2012 Board resolution
- The ICANN Board passed a resolution on 13 September 2012 that the GNSO advise the ICANN Board prior to 31 January 2013 about any global public interest or security and stability concerns with second level protections for the IOC/RCRC names listed in section 2.2.1.2.3 of the Applicant Guidebook.

Recommendations:

1. The Drafting Team recommends that an expedited PDP is required to determine the appropriate protections for the IOC/RCRC names. The PDP will further the understanding around the legal ramifications of protecting these marks at the second level in time for first round delegation of new gTLDs. Ultimately, the PDP must also determine if extended protections should be granted at both the first and second levels for subsequent rounds of new gTLDs.

Note:

- The DT recognizes the IGO Final Issue Report will be delivered shortly to the GNSO Council for the possible creation of a PDP to address rights protections of Inter-Governmental Organizations. The Council should consider this development when deliberating recommendation #1 for a PDP on IOC/RCRC as described above.
2. In the interim of a PDP outcome or an ICANN Board resolution, the Drafting Team recommends temporary reservation of the UN6 exact match IOC/RCRC second level domain names listed in section 2.2.1.2.3 of the Applicant Guidebook and per the GAC recommendation of 14 September 2011.

Note:

- UN6 are the six official languages designated by the United Nations
3. The Drafting Team recommends the following be communicated to the GAC:
 - a. A PDP be initiated as soon as possible to cover possible protections for IOC/RCRC names within first and subsequent gTLD rounds.
 - b. That a temporary registration block be placed on exact match IOC/RCRC names pending the outcome of a PDP or ICANN Board resolution.
 - c. A rationale for that position with a particular emphasis on pointing out what can be accomplished via a PDP and that it will be difficult to adequately address additional protections otherwise.
 - d. That a sincere effort will be made to expedite the PDP; note that the work that has already been done on this issue should facilitate the process.
 - e. Feedback from the GAC as soon as possible on this position is welcome.

Appendix 1 – Stakeholder Position Statements

Registry Stakeholder Group (28 September 2012, Chuck Gomes/RySG):

<http://forum.icann.org/lists/gnso-iocrc-dt/msg00611.html>

The RySG supports the IOC/RC discussion group recommendations with the note that one RySG member recommended some wording edits that were considered but not made by the group because it was felt that they were out of scope for the discussion group.

At-Large Advisory Committee (27 September 2012, Alan Greenberg/ALAC):

<http://forum.icann.org/lists/gnso-iocrc-dt/msg00604.html>

The ALAC has discussed the compromise recommendation proposed by the RC/IOC DT via e-mail over the last week, generating more traffic on a single topic than I can recall in recent history. The issue was also discussed at length during the ALAC Teleconference on 25 September, 2012.

There was a strong consensus or perhaps unanimity that in the long-term issue (that is past new gTLD round 1), the issue should be addressed by a PDP.

The positions regarding temporary protections pending the outcome of a PDP were far more varied. Virtually all ALAC members who voiced an opinion felt that the RC and the IOC should never have been dealt with as a single issue, but rather should have been subject to separate evaluations and recommendations. Specifically, there was a strong belief that humanitarian organizations might deserve a different level of protection than other types of organizations. Some ALAC members expressed the view that on balance, no interim protection should be offered. Others felt that there was sufficient merit in granting the RC protection that the proposed compromise position should be supported.

A formal vote was taken and the outcome was that the ALAC did support the recommendations.

Non Commercial Stakeholder Group (27 September 2012, Mary Wong/NCSG):

<http://forum.icann.org/lists/gnso-iocrc-dt/msg00605.html>

The NCSG rejects the recommendations #2 and #3b¹ "temporary registration block" as defined in the IOC/IFRC Drafting Team's recommendation for a number of reasons:

1. Policy recommendations from the GNSO on reserved names can only be made by a PDP that is properly constituted and is run according to the process rules as established in the ICANN by-laws.
2. This drafting team continues to circumvent proper process by attempting to make policy as opposed to performing its proper function of fact gathering and presenting information to the council that can be used in deciding on the viability and charter for such a PDP.

¹ These two designations by NCSG was a clarification from original submission: <http://forum.icann.org/lists/gnso-iocrc-dt/msg00607.html>

The NCSG supports the PDP only on the condition that among the possible outcomes is the current status quo, no protection at the second level. We support the PDP as the only appropriate place to resolve this proposal among competing proposals. We believe it is illegitimate to change reserved name policy, no matter how it is euphemistically named, before the PDP runs its course.

The NCSG is also aware of other types of humanitarian organization that also demand these privileges and we feel that any discussion on granting such special reservations must include a full discussion of all who request such reservations.

Finally the NCSG does not believe that the reserved name list can be used solely for the purpose of new gTLDs, and that any decisions on adding names to the reserved list must take incumbent registries into account.

Individual (27 September 2012, Thomas Rickert/NCA):

<http://forum.icann.org/lists/gnso-iocrc-dt/msg00594.html>

All, as promised during yesterday's call, I herewith confirm in writing that I stand by my view that I have difficulties with a temporary reservation, but fully support the PDP section of the recommendation.

Red Cross (27 September 2012, Stephane Hankins, RCRC):

<http://gnso.icann.org/en/meetings/transcript-ioc-rc-19sep26-en.pdf>

Yes. Yes, I probably wouldn't go through, you know, the different points.

But maybe the other point I wanted to make is (unintelligible) discussion we had also last week.

I mean, we appreciate how Chuck and Jeff have delicately referred to the implications of the - of the final issue report on Intergovernmental Organizations. I mean, I'm not necessarily recommending to change that.

But I'm just a little bit curious, you know, what exactly we mean by, you know, the council should consider this development when deliberating Recommendation 1 for (PDP) and the implications of that.

I do realize that it is not the role in mandate scope of this group to discuss or to engage.

It's all on the terms of reference or the brief for an eventual (PDP).

But again, you know, I find it important that, you know, I would find it useful and important that we clarify, you know, that each case - whatever's decided in terms of scope of the (PDP) has to be examined on its own merits and separately.

But I don't think this has implications for this at this point and stage.

But again, you may recall, we did make the comment that, you know, it's important that, you know, that the specific cases be given, you know, individual review and individual conclusion.

And I don't know whether that element in any way requires (here) to be reflected or not.

So that is one comment.

And then I made an additional comment which relates to the identification of the designations as they are referred to under Section (22123) of the Applicant Guidebook.

Was in Paragraph 2, it refers to the (UN6) exact match IOC/Red Cross Red Crescent. And if I look at the list which is in the guidebook, it's not entirely bad.

But I, you know, if the text here remains the same, I don't think it has many implications because it's clear that it's the designations that are in the Applicant Guidebook in that chapter.

And then finally, we - just for the record, we did include and remind of some of the issues which had been addressed and tackled in the past within this group, but also within the GNSO recommendation of last March for top level in terms of, you know, other languages. Because that is implied within the Geneva Conventions, which protect the designation Red Cross Red Crescent.

You know, the desirability. If the (PDP) is going to examine first and second level, to consider the notion of a (string) similarity review.

And then the last point (unintelligible) is indeed this question of the entitlement to be preserved for the components of the Red Cross Red Crescent (moving) to register second-level domain names under the new gTLDs.

It's just a fact that, you know, Red Cross and Red Crescent actors do own second-level domain names, so we are restricting.

But I understand that, you know, from the discussions that at least in this group, the concept is that these issues will and would become a part of the brief for consideration in the (PDP) process.

I think this sums it up, Jeff, I'm afraid. That's all I have.

Individual (27 September 2012, Lanre Ajayi, NCA):

<http://gnso.icann.org/en/meetings/transcript-ioc-rc-19sep26-en.pdf>

No, that's fine. I just want to say that I attended the last call where the recommendations were put together. And that I support the recommendations that there should be a (PDP) and that there should be an (interim) (unintelligible) of the names of IOC/RCRC.

Internet Service Providers and Connectivity Providers (27 September 2012, Osvaldo Novoa, ISPCP):

<http://gnso.icann.org/en/meetings/transcript-ioc-rc-19sep26-en.pdf>

Yes. Our group supported - so they all supported the proposed recommendation. We would have liked to include all the IGOs in general, but we know it's not possible at this moment. And the recommendation (unintelligible) I think is a good compromise.

International Olympic Committee (26 September 2012, Jim Bikoff/IOC):

<http://forum.icann.org/lists/gnso-iocrc-dt/msg00582.html>

For the record, the IOC supports the IPC position, which reads:

The IPC does not believe that a PDP is necessary. We feel that the purpose of the DT was to refine implementation details to enact the GAC advice concerning additional protections for the IOC/RC names on the first and second levels. In fact, we did make specific recommendations with regard to additional protections on the top level.

Unfortunately, there is no consensus in the DT to provide the same type of recommendations on the second level. In contrast, the rough consensus is that the DT should recommend a PDP. While we disagree with this position, we believe it is an acceptable compromise to accede to the recommendation for a PDP so long as there is a temporary reservations of the IOC/RC names on the second level pending the outcome of the recommended PDP.

Thanks to you, Jeff and everyone on the drafting team for their hard work on this issue. We look forward to participating further in any discussions relating to the protection of the IOC words on the top and second level of the new gTLD program.

Universal Postal Union (26 September 2012, Ricardo Guilherme/UPU):

<http://forum.icann.org/lists/gnso-iocrc-dt/msg00578.html>

Thanks again for the opportunity to provide our comments; as said on previous occasions, we must emphasize our support for the establishment of a comprehensive PDP on the protection of the names and acronyms of international organizations (including as necessary the IOC/RC cases) that reaches its conclusions on a legally-sound basis and in line with binding international treaty provisions applicable, at least in the case of the UPU, to IGOs in general.

Nevertheless, we are concerned by the fact that the latest draft RySG recommendations do not seem to fully reflect the intent behind the consensus call and related conclusions quoted in the message below. In particular, the previously attached document must, in our view, be consistent with the underlying objectives of following a complete PDP process as well as rectifying a legally flawed approach related to the granting of special protections to two specific organizations.

Intellectual Property Constituency (26 September 2012, J Scott Evans/IPC):

<http://forum.icann.org/lists/gnso-iocrc-dt/msg00575.html>

The IPC does not believe that a PDP is necessary. We feel that the purpose of the DT was to refine implementation details to enact the GAC advice concerning additional protections for the IOC/RC names on the first and second levels. In fact, we did make specific recommendations with regard to additional protections on the top level.

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Appendix 2 – Drafting Team Members

- Jeff Neuman – DT leader - RySG
- Alan Greenberg - ALAC liaison to GNSO Council
- Chuck Gomes - RySG
- Edmon Chung - ALAC
- Zahid Jamil - CBUC
- Steve DelBianco - CBUC
- Jim Bikoff – IPC / International Olympic Committee
- J. Scott Evans - IPC
- David Heasley - IPC
- Philip Marano - IPC
- Kiran Malancharuvil - IPC / International Olympic Committee
- Gregory Shatan - IPC
- Brian Winterfeldt - IPC
- Osvaldo Novoa - ISPCP
- Lanre Ajayi - NCA
- Thomas Rickert - NCA
- Rafik Dammak - NCSG
- Wolfgang Kleinwächter - NCSG
- Joy Liddicoat - NCSG
- Wendy Seltzer - NCSG
- Avri Doria - NCSG
- Mary Wong – NCUC
- Alain Berranger – NPOC Chair
- David Heasley – Individual / International Olympic Committee
- Konstantinos Komaitis - Individual
- Debra Hughes - Individual / Red Cross
- Paul Donohoe – Individual / .POST Registry
- Christophe Lanord - Individual
- Stephane Hankins – Individual / Red Cross
- Stéphane van Gelder - observer - GNSO Council chair
- Wolf-Ulrich Knoben - observer - GNSO Council vice chair