

**CORE Internet Council of Registrars**

**Comments concerning GNSO Terms of Reference for the PDP on policies guiding contractual conditions for existing gTLD registry agreements (PDP-Feb06)**

\*1. Registry agreement renewal \*

1a. Examine whether or not there should be a policy guiding renewal, and if so, what the elements of that policy should be.

*The mechanism underlying the renewal procedure should be decided upon and managed at the level of the TLD community (e.g. higher education institutions for .edu, or banks for a .bank, or the museum community for .museum etc). As far as ICANN is concerned, presumptive renewal is a good policy for specialized TLDs. It can be made conditional upon the absence of serious, substantial and founded complaints from within the TLD community regarding the current sponsor/operator.*

*Moreover, any renewal policy should take into account the fact that beauty contests – as experienced in .org and .net – draw significant resources from the current registries, from the applicants and from ICANN. In many cases, the focus should be shifted towards the productive creation of alternatives, and away from beauty contests for the conquest of existing assets.*

1b. Recognizing that not all existing registry agreements share the same Rights of Renewal, use the findings from above to determine whether or not these conditions should be standardized across all future agreements.

**NO.**

*Standardization of renewals procedures across all TLDs would simply shift the focus of TLD contract negotiation to substitute criteria through which the negotiating partner would try to neutralize the renewal standard. It would do harm to all the smaller TLDs, prevent them from planning and saddle them with red tape. It would have no effect on those TLD operators who can afford extensive lobbying or even preemptive lawsuits against ICANN.*

2. Relationship between registry agreements and consensus policies

2a. Examine whether consensus policy limitations in registry agreements are appropriate and how these limitations should be determined.

*Limitations are needed for specialized TLDs as a protection against badly adapted policies. Ill-adapted policies could easily be a side-effect of political battles related to other TLDs.*

*Limitations should be specifically named in the contract and be negotiated with regard to*

- *the specificities and purpose of the TLD;*
- *the needs of the TLD community;*
- *the TLDs sponsor's ability and commitment to develop, enforce and review policies in the delegated areas through an adequate policy and oversight body.*

2b. Examine whether the delegation of certain policy making responsibility to sponsored TLD operators is appropriate, and if so, what if any changes are needed.

**YES.**

*The GNSO is too centralized a body to define policies specific to the charter of an sTLD.*

*An attempt by the GNSO to micro-manage sTLD policies would turn the GNSO into an eternal bottleneck. The GNSO would become ineffective, both for policies where the GNSO's involvement is needed and for those where its involvement is not needed at all. Needless to say that the quality of all GNSO policy would drop.*

*The existing sTLDs have a clearly specified set of areas subject to the delegation of policy-making authority.*

*This should also be the case for future sTLDs. Delegation of policy-making authority should be used as much as possible. Innovation, efficiency and effectiveness of policy-making on all level are best served by avoiding centralization.*

*One aspect of central policy-making is standardization. However, standard should be adopted, not imposed top-down. The Internet would never have worked if standards had been implemented by decree. The IETF does not impose standards. ICANN should not do that either. Each sTLD has enough of a vested interest in standardization to avoid a going-alone. In this context, GNSO or taskforce recommendations can be useful, and will readily be adhered to wherever they are useful.*

3. Policy for price controls for registry services

3a. Examine whether or not there should be a policy regarding price controls, and if so, what the elements of that policy should be. (note examples of price controls)

include price caps, and the same pricing for all registrars)

***It is important that all registrars have access to the same pricing, irrespective of size.***

***Other than that, price controls should only be applied if needed – e.g. if the TLDs has dominating market power.***

***If that need is established, the price controls should be decided upon by a body representing the as closely as possible the specific TLD community.***

3b. Examine objective measures (cost calculation method, cost elements, reasonable profit margin) for approving an application for a price increase when a price cap exists.

***(We support the position of the Registrar constituency in this respect.)***

#### 4. ICANN fees

4a. Examine whether or not there should be a policy guiding registry fees to ICANN, and if so, what the elements of that policy should be.

***YES.***

***The policy should ensure that the burden of ICANN's budget is shared equally based on the income derived by the registries.***

***It should ensure that fee schedules do not prevent innovation by setting implicit minimal prices per domain.***

***It should prepare a way for the current fixed-fee per domain-year fee to be replaced by fixed percentage of the price to the registrar.***

***It should prepare a method for registries to pay a fair contribution on substantial commercial revenue derived from other registry services, including services sold to other parties than registrars.***

4b. Determine how ICANN's public budgeting process should relate to the negotiation of ICANN fees.

***Balanced consideration must be given to all ICANN fees paid for registrations or other services in a given TLD, irrespective of who disburses the fee to ICANN.***

***TLDs operators should be able to negotiate lower fees to be paid by registrars if the ICANN fee were disproportionate for certain low-***

*cost (or free) domain registrations.*

*Alternatively, registrars' ICANN fees can be defined as percentage of the registry's price to the registrar.*

5. Uses of registry data

Registry data is available to the registry as a consequence of registry operation. Examples of registry data could include information on domain name registrants, information in domain name records, and traffic data associated with providing the DNS resolution services associated with the registry.

5a Examine whether or not there should be a policy regarding the use of registry data for purposes other than for which it was collected, and if so, what the elements of that policy should be.

*(We support the position of the Registrar constituency in this respect.)*

5b. Determine whether any policy is necessary to ensure non-discriminatory access to registry data that is made available to third parties.

*While non-discriminatory access is a generally desirable principle, it must only be imposed in a way that does not result in damage to the interests of the people from whom the data originated.*

6. Investments in development and infrastructure

6a. Examine whether or not there should be a policy guiding investments in development and infrastructure, and if so, what the elements of that policy should be.

*(We support the position of the Registrar constituency in this respect.)*