



May 5, 2009

Ms. Caroline G. Chicoine
Chair, Implementation Recommendation Team
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Ray, California 90292
(email: irtp-draft-report@icann.org)

**Re: Regions Financial Corporation's Comments on the Implementation
Recommendation Team's Preliminary Report**

Dear Ms. Chicoine:

Regions Financial Corporation ("Regions") welcomes the opportunity to provide comments on the preliminary report of the Implementation Recommendation Team ("IRT") (the "Preliminary Report"). Regions is currently serving as chair of the Internet Security and Stability subgroup within BITS, the operating and technology division of The Financial Services Roundtable ("BITS") and has participated actively through BITS and on its own behalf in ICANN's work, including the recent working group that addressed privacy issues in relation to the WHOIS service and submitting comments of the Draft Applicant Guidebook, Version 2 ("DAG 2"). We strongly support the important work of the IRT in recommending rights protection mechanisms ("RPMs") to be implemented in connection with any new gTLDs.

General Comments

Regions stated in comments on the DAG 2 that it remains very concerned about ICANN's proposal to expand the number of gTLDs and believes that the negative effects of issuing numerous new gTLDs far outweigh the potential benefits. While Regions recognizes that part of ICANN's long-term mission is to promote competition and consumer choice, we continue to believe that the roll-out of new gTLDs at this time will needlessly complicate and compromise Internet security and stability, while imposing substantial new costs on consumers, businesses and the financial services industry, in particular. ICANN's priorities should instead be on issues of security and stability, and

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Regions has urged that the launch of new gTLDs as currently proposed by ICANN should be suspended until such time as the program can be entirely reconsidered. Regarding concerns that are unique to the financial sector, a new gTLD in the financial services field – if not properly sponsored and operated – could negatively impact consumers as well as erode trust and confidence in Internet banking. We agree with the FDIC's recommendation that there should be a separate and distinct process for financial sector gTLDs.

Regions has observed that a majority of the comments submitted in response to the DAG 1 and DAG 2 recommended that the introduction of new gTLDs was not a good idea at this time.¹ In this regard, Regions has four general recommendations for the IRT:

1. The IRT final report *should contain a clear statement – right at the outset – that the report is not intended as an express or implied endorsement by members of the IRT in favor of ICANN's program to launch new gTLDs.* The first full paragraph on page 4 of the Preliminary Report includes a disclaimer to the effect that the work of the IRT is not endorsed by any particular IRT member, their clients, companies or affiliated companies. Similar care should be taken to stress that the IRT final report is not an endorsement of ICANN's new gTLD program.
2. The IRT final report should also emphasize that *any large-scale roll-out of new gTLDs by ICANN should not occur unless and until the RPMs proposed in the IRT final report are fully implemented.* In other words, the IRT final report should stress that the launch of any new gTLDs by ICANN should be entirely contingent on the RPMs being accepted, implemented and up-and-running at the time when the new gTLD program is launched. In its comment on the DAG 2, Regions stated that ICANN should require a standard set of RPMs, which should be low-cost, administratively efficient, and uniform across all new gTLDs. To avoid consumers and businesses from being unfairly burdened by having to deal with a diverse set of RPM processes, the uniformity of procedures is important.
3. One of the overarching goals for the IRT in its final report should be to propose a set of RPMs that eliminate the incentive or need to engage in (i) a defensive application for a new gTLD, or (ii) defensive second-level registrations within a new gTLD. In other words, if due to the policies and procedures of ICANN's new gTLD program, businesses or other stakeholders feel compelled to apply for one or more new gTLDs (or second-level domains within a new gTLD) merely as a defensive measure, then ICANN will have failed in its goals. Instead, ICANN and the registries/registrars will collect fees and substantial burdens will be imposed on those who – when confronted with a classic prisoner's dilemma caused by ICANN's program – will be obliged to apply for a gTLD (or new second-level domain registrations) for the wrong reasons: merely as a defensive measure. For

¹ Regions confirms that, based on its participation in consultations within the financial sector, there is no demand for new community-based gTLDs within this sector.

this reason, Regions strongly supports proposals that eliminate the need to consider defensive registration. ***Regions strongly supports all of the proposed RPMs included in the IRT's Preliminary Report***, including the IP Clearinghouse, Globally Protected Marks List, Standard Sunrise RPMs, Uniform Rapid Suspension System ("URS"), post-delegation dispute resolution mechanisms at the top-level, and robust thick WHOIS requirements for new TLDs.

4. Regions notes that "phased implementation" is listed on page 5 of the Preliminary Report as a proposal that warrants further consideration. ***Regions believes this proposal should be given more emphasis in the IRT final report.*** ICANN has stated that there "does not appear to be a way to fairly limit rounds and the efficiency gains from a smaller application pool are not a significant enough advantage to alter this position." Regions disagrees with this assessment. The clear benefit of a smaller number of gTLDs relates to the costs and burdens on consumers and businesses. ICANN should consider a system such as a Dutch auction process (e.g., the auctioneer begins with a high asking price which is lowered until some participant is willing to accept the auctioneer's price), with a minimum reserve application price, as a means of selecting a very limited number of entities who will then be permitted to proceed through the application process. This will identify those who place the highest value on a new gTLD. It is also a "fair" process for limiting the number of applications, although separate criteria may be needed for any "public interest" gTLDs.

Detailed Comments

1. IP Clearinghouse:

- (i) Mandatory: Regions supports the concept of the IP Clearinghouse and recommends that it be mandatory and that all new "open" gTLDs operators must interconnect with and use the services of (and offer services based upon) the IP Clearinghouse;

- (ii) Financial sector terms: the Preliminary Report indicates that the IP Clearinghouse "can hold information on rights of all kinds including both registered and unregistered rights." Footnote 1 on page 3 envisages that the IP Clearinghouse could be "structured so that it can accommodate a panoply of [] rights..." While Regions recognizes that the IRT has chosen to focus on trademarks in the Preliminary Report, Regions proposes that the following strings/terms related to the financial sector should also be allowed as data records to be held by the IP Clearinghouse:

“.bank”, “.fin”, “.finance”, “.banc”, “.ins”, “.insurance”, and “.broker.”

In its comments to ICANN on the DAG 2, Regions had urged that these financial-type gTLDs be removed completely from the application process. Should ICANN not adopt this recommendation, then in lieu of this, these strings should

be included in the data types as specified in Appendix Two of the IRT recommendation.

(iii) Quality and reliability of service provider: the Preliminary Report indicates that the IP Clearinghouse should be operated by a neutral service provider not affiliated with any party contracted with ICANN. Regions agrees that an outside service provider, unaffiliated with ICANN, should be chosen to operate the IP Clearinghouse. However, Regions wishes to emphasize that the quality, integrity, and financial stability of this service provider is of paramount concern. The IRT should be recommending service providers of the same caliber as WIPO, which has demonstrated its service, reliability and expertise in relation to administering UDRP cases, for administration of all of the RPMs to be adopted and implemented. A "not-for-profit" service provider may be the optimal model for providing these services. A weak service provider for any of the envisaged RPMs will undermine the system and the protections to rightsholders.

(iv) IP Claims Service for Non-GPM marks: The definition of an "identical match" should be extended include both the singular and plural form of all trademarks held within the IP Clearinghouse. We observed that this was not included among the characters on page 9 of the IRT recommendations. For example, in the case of Regions, whose name includes the "s", an identical match should include the singular word "region," which would trigger an IP Claims Service watch notice. Both words have the same root, although one form adds the "s." Similarly, the singular trademark DISNEY should trigger an identical match for purposes of the Claims Service if the term "DISNEYS" is applied for.

2. Uniform Rapid Suspension System: Regions supports the URS and similar mechanisms that are designed to reduce the cost and burden of taking action to protect against infringement and abuse. Regions also believes that, like the IP Clearinghouse, the URS should be mandatory for all new gTLDs. Similar to Regions' comment in relation to the IP Clearinghouse, the quality and reliability of the third-party provider of URS services is extremely important. A provider such as WIPO, which has demonstrated its consistency and reliability in relation to the UDRP, should be used as a model for implementation of the URS. Regions disagrees with footnote 15 on page, which states that a UDRP provider should not also be a URS provider because of an apparent "conflict of interest." Currently, Nominet operates a two-track dispute resolution service for the ".uk" ccTLD, in which decisions are made as to whether the case should be resolved by an expedited lower-cost procedure or the more expensive administrative procedure similar to the current UDRP. Nominet does not use a separate dispute resolution provider to determine whether a case fits within one procedure or the other.
3. Post-Delegation Dispute Mechanism: Regions strongly supports a proposed post-delegation dispute mechanism. Regions also emphasizes that the third-party complainant should be entitled to participate in all phases of the Post-Delegation

Dispute Mechanism if it chooses to do so. Regarding the remedy (paragraph 2.3), the panel should be entitled to not only issue a finding of whether or not the registry operator has acted in compliance with its registry agreement, but should also be able to recommend the appropriate enforcement mechanisms to ICANN. It is unrealistic to expect that a panel would make a finding on liability without consideration of the appropriate enforcement sanctions that might apply. ICANN, as a party to the conflict, should not be in the position of selecting the appropriate enforcement sanctions, as this involves a conflict of interest for ICANN. The panelists should be able to select from among the menu of sanctions as specified in paragraph 2.4

4. Thick WHOIS Model: Regions strongly supports a mandatory Thick WHOIS proposal as described and proposed in the IRT Preliminary Report.

Sincerely,



Michele Cantley
Senior Vice President &
Chief Information Security Officer



Hope D. Mehlman
Senior Vice President &
Associate General Counsel

About Regions Financial Corporation

Regions Financial Corporation, with \$142 billion in assets is a member of the S&P 100 Index and one of the nation's largest full-service providers of consumer and commercial banking, trust, securities brokerage, mortgage and insurance products and services. Regions serves customers in 16 states across the South, Midwest and Texas, and through its subsidiary, Regions Bank, operates 1,900 banking offices and approximately 2,300 ATMs. Its investment and securities brokerage trust and asset management division, Morgan Keegan & Company Inc., provides services from over 300 offices. Additional information about Regions and its full line of products and services can be found at www.regions.com.