

August 12, 2010

Via Email: vi-pdp-initial-report@icann.org

Re: Comments Regarding "Initial Report on Vertical Integration Between Registrars and Registries"

The American Red Cross ("Red Cross") is grateful for the opportunity to provide comments on the "Initial Report on Vertical Integration Between Registrars and Registries" prepared by the Vertical Integration PDP Working Group ("VIWG") and ICANN Staff that was delivered to the GNSO Council on 23 July 2010 as part of the Vertical Integration Policy Development Process (PDP). I am an employee of the American Red Cross ("Red Cross"), a not-for-profit philanthropic organization and one of approximately 180 member national societies of the International Federation of Red Cross and Red Crescent Societies.

Given the enormity of the issue and the timeline provided, Red Cross acknowledges the challenges in preparing such a report and is grateful to the VIWG for its efforts and the summary of its activities. Our comments are below.

I. Take all necessary steps to create exceptions to the absolute prohibition on vertical integration in the New gTLD Program

The Nairobi Board resolution on issue of vertical integration is untenable -- "there will be strict separation of entities offering registry services and those acting as registrars. No co-ownership will be allowed." Red Cross is concerned that the work of the VIWG will not be completed in time for the Board to review a consensus policy before the launch of the New gTLD Program. While the Initial Report describes various proposed solutions for restrictions on vertical integration between registrars and registries for adoption in the New gTLD Program, we urge the Board and ICANN Staff to recognize that the default position of no cross-ownership is unacceptable to many stakeholders in the ICANN Community.

We urge the ICANN Board to consider that not all new gTLDs will be used to offer domains for sale to the public. When speaking about the New gTLD Program, the ICANN website states: *"The expansion of the generic top-level domain (gTLD) space will allow for a greater degree of innovation and choice."* We hope that the spirit of that statement acknowledges the variety of ways the Internet is currently used and also acknowledges that some of its stakeholders are considering new and exciting ways to use the Domain Name System once the New gTLD Program is launched. We believe these diverse models complement the future success of ICANN and the global network and should be explored now and not dismissed, deferred or characterized as too difficult to consider.

II. Support for VI WG Emerging Principles

Red Cross understands that as a result of the work of the VIWG, "several principles are emerging which, when drafting is complete, may be supported by the VI Working Group members." Among those, Red Cross strongly encourages the entire VIWG and ICANN Board to support the principles listed below and take all necessary action to effectuate these aims as a part of the implementation process for the New gTLD Program.

A. Single registry, single registrant TLDs

Red Cross supports the principle identified in the Report: "that there be a specific exception for a category of applicants known as the single registry, single user (SRSU) TLDs."

In order to meet the needs of not-for-profit organizations that might register a new gTLD strictly to execute a public service mission and not for commercial purposes, ICANN should offer an exception to the limitations on vertical integration/cross ownership that provide for a "closed" new gTLD in which second level domains are registered and closely managed by the registry. Some have worried that the problem with this model is that second level domains might be "handed out to third parties for widespread public use"; however, this notion is contrary to the intent of those considering operating a closed new gTLD. This model provides an opportunity for organizations that want to operate a new gTLD in order to create a safer, more secure and more controlled environment to conduct their mission related activities, without offering second level domain for sale to the public.

In this "closed" new gTLD environment, second-level domain names would be assigned to employees, volunteers, departments or agents of the organization. The new gTLD registry would not be used to offer domains to the public for registration as currently done in existing gTLD registries like .com or .org. The linchpin to the success of this model is that the registry must be able to exercise maximum control over the use of domain names, email addresses, or any other application associated with second level domains. In this model, a registry should not be required to use an ICANN-accredited registrar for registration of second-level domain names, as this requirement is contrary to the purposes of the new gTLD under this model. Also, it is likely that for many registrars, a new gTLD where domains will not be sold to the public does not present a lucrative business enterprise and registrars might find the strict requirements related to processing registration applications cumbersome.

Red Cross hopes the ICANN community will take all necessary steps to allow vertical integration for the purposes described above.

B. Exceptions Procedure

Red Cross supports the principle that "in the event ICANN adopts a requirement of strict separation between registrars and registries, an exceptions procedure should be incorporated into the New gTLD Program."

Red Cross hopes that the ICANN community is able to create an exceptions procedure for the new gTLD Program that:

1. Adds no additional cost to the applicant for requesting the exception or for being evaluated for it. The evaluation would take place at an appropriate point following the Initial Evaluation. If the request is denied, the applicant may request an Extended Evaluation at no additional cost to the applicant. If a request is denied and the applicant does not wish to request an Extended Evaluation, or if the request is denied following an Extended Evaluation, the applicant may withdraw and receive the appropriate pro-rated refund;
2. Provides a list of exemplary circumstances that describe cases for which an exception would be allowed;

3. Provides review by an external review panel responsible for reviewing applications for exception; and
4. Outlines a set of guidelines for an external review panel, including selection of panelists, with a recommendation that panelists are familiar with the unique needs of not-for-profit organizations and other types of organizations that may make legitimate arguments in favor of an exception.

Red Cross hopes the ICANN community will take all necessary steps to create support for this principle.

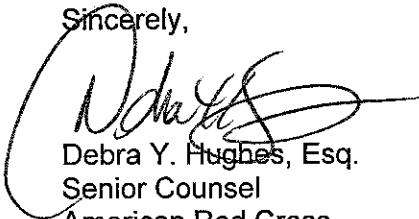
C. Compliance program

Red Cross believes ICANN should define and allocate sufficient compliance and enforcement resources for implementation of the New gTLD Program. As ICANN considers exceptions to the strict prohibition on vertical integration, it should prepare compliance resources accordingly, with a proactive approach, and prepare for implementation of the compliance and enforcement program at the launch phase of the new gTLDs. Red Cross agrees with the statement in the Initial Report that “[a] firm corporate commitment to compliance combined with the establishment of a genuine “culture of compliance” across all stakeholders in the community is absolutely necessary if ICANN is to devise and operate an effective enforcement bureau.” Red Cross acknowledges and commends the preliminary work performed by the VIWG on this topic, including the preliminary list of possible components of compliance and enforcement program and hopes that ICANN will take all necessary steps to assist the Community to create a robust, proactive and timely compliance and enforcement program.

III. Conclusion

Thank you for considering our comments on the “Initial Report on Vertical Integration Between Registrars and Registries.” Red Cross encourages ICANN to take all necessary steps to create exceptions to the absolute prohibition on vertical integration in the New gTLD Program as described above and to develop a robust and timely compliance and enforcement program. We welcome further discussions about the above and are available should you have any questions regarding our submission.

Sincerely,



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