

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*
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NetChoice comment on Proposal to Mitigate Name Collision Risks

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1. NetChoice wants a successful expansion of gTLDs

For nearly a decade, NetChoice has been deeply engaged at ICANN and in Internet governance. Our executive director Steve DelBianco has attended 23 ICANN meetings and is an elected officer of the Business Constituency (BC), although these comments are *not* filed on behalf of the BC. More broadly, Steve has recorded over 110K reads of his CircleID posts regarding ICANN and internet governance issues.

NetChoice supports expansion of gTLDs and has worked hard to improve the process and solve problems. DelBianco has testified in four US Congressional hearings on ICANN, including a 2011 session where we justified and defended ICANN's plans for gTLD expansion:

At the 4-May-2011 hearing on ICANN 's gTLD Expansion, Congressman Watt asked witnesses to state their reasons for expansion of generic top-level domains. I gave four reasons:

- 1. Internationalized Domain Names.** Presently, all generic top-level domains are in Latin alphabet and the English language. That may be good enough for the 1.5 billion users already on the Internet today. But of the next billion Internet users, less than half speak English. Moreover, 56% of the planet's population uses scripts other than Latin for reading and writing.
- 2. How can we grow the Internet if we stop the growth of the domain name system?** The Internet is enabling dramatic growth in the number of websites, pages of content, applications, and online services. If we do not expand the available top-level domains, this growth could be constrained if registrants cannot find an acceptable domain among the existing gTLDs.
- 3. Competition.** The original mandate that the US Government set for ICANN included increasing competition in the market for registration of domain names. For businesses using domain names, Competition is the availability of multiple suitable TLDs where registrants may seek their desired domain name at reasonable prices and terms.
- 4. Choice.** The Affirmation of Commitments executed between the US government and ICANN states that choice is among the imperatives for any expansion of new TLDs. For business users of the Internet domain name system, Choice is the availability of TLDs that offer different propositions as to the declared purpose and promised integrity of permitted registrants.

All this is to show that NetChoice has a proven interest in improving the gTLD expansion—not in derailing it.

However, NetChoice members also want to minimize their costs and problems with “negative externalities” of gTLD expansion, including rights protection and conflicts with internal domain

names and certificates. That's why we asked at the Durban Public Forum, Who is liable for costs of business interruption and costs technical mitigation for name collisions?

ICANN's CEO gave a reassuring reply that ICANN would take corrective action on strings that would cause collisions. But when I pressed about whom would be liable for any remaining costs of mitigation and business interruption, the CEO suggested these costs were the responsibility of the business that used the internal name.

Understandably, the CEO's reply raised our concern that ICANN would so casually create new costs and risks for business users of the DNS. So we read with interest ICANN's recent Proposal to Mitigate Name Collision Risks, hoping to see a more reasoned and responsible approach.

2. Comments Regarding ICANN's Proposal to Mitigate Name Collision Risks

We reviewed ICANN's Proposal to Mitigate Name Collision Risks (Proposal), and were relieved to see an approach that recognizes risks and proposes specific mitigation measures.

While we support the "hold" on two High-Risk strings, *corp* and *home*, we remain concerned about the proposal to delegate these if the applicant "**can provide evidence of the results from the steps taken to mitigate the name collision risks to an acceptable level.**"¹

This same test of "acceptable risk" is proposed to allow delegation of the 20% of strings falling in the category of "Uncalculated-Risk."

What would ICANN consider to be an "acceptable level" of costs and risks imposed on businesses? This question is not explicitly addressed in the Proposal, and there is no request for community input to define "acceptable level." Given the risk profile approach used in this Proposal, we might assume that "acceptable" means reducing collisions to match the query frequency of the "low-risk" category. Namely, "less frequently than existing TLDs with "empty zones" in the 2013 Day in The Life of the Internet (DITL) data used for the Study".

ICANN seems to be proposing that a numeric threshold is the *only* evidence needed for an applicant to show that their string now has "acceptable risk". Given the frequency ranks in Appendix B of the Interisle study, that threshold would be 50,000 queries. For applicants gathering evidence, what would be the period and mechanism to measure query frequency?

More important, the idea that *query frequency* is the only measure of risk ignores the interruption and mitigation costs imposed upon businesses actually impacted by collisions. If your business is impacted by collision, your contribution to the frequency test may just be a few queries. But the cost impact on your business would have no bearing at all in ICANN giving a green-light to a string in the Uncalculated-Risk and High-Risk categories.

Admittedly, it will not be easy to figure costs of interruption and mitigation into a test of acceptable risk. But gathering data on the actual mitigation costs and experiences of

¹ Page 3, ICANN's Proposal to Mitigate Name Collision Risks, at <http://www.icann.org/en/about/staff/security/ssr/new-gtld-collision-mitigation-05aug13-en.pdf>

businesses should be part of the Proposal, and possibly become part of the “acceptable risk” evidence test.

First, the Notification Requirements in Appendix A of the Proposal should also solicit mitigation information from Requestors (those doing queries against an undelegated TLD). This information could be compiled as an addition to the applicant’s documentation that notice was received. At the very least, we should attempt to learn what steps the Requestor took to mitigate, how they have tested their mitigation plan, and what costs they incurred.

In addition, ICANN could use the 120-day waiting period for the Low-Risk TLD activations to gather the same kind of information from users of internal names and certificates colliding with these TLDs. Data on mitigation measures and costs should be quickly published, in order to inform subsequent TLDs in giving more helpful notice to Requestors. Moreover, the actual cost and impact data might cause ICANN to revisit whether these TLDs were really as “Low-Risk” as expected.

After information is gathered on mitigation measures and costs for Low-Risk TLDs, it should become part of the “acceptable risk” test applied to any Uncalculated-Risk and High-Risk strings seeking delegation. In other words, actual data on mitigation costs could inform the test of what evidence needs to be shown before imposing risks on businesses and users. This could be a far more meaningful evidence test than relying only on the frequency of global queries.

NetChoice may submit further comment on the Proposal, but we are first requesting further information from ICANN to assess the entire picture of risk mitigation, as addressed below.

3. Request for publication of Board response to GAC Advice on SSR

NetChoice and many members of the Commercial Stakeholders Group discussed name collision risks with SSAC and GAC members while in Durban. This was driven by our concern that SSR issues previously raised by SSAC were not being adequately addressed by ICANN staff and management.

We were therefore reassured to see the GAC Durban Communiqué included explicit advice regarding SSR, including a request for a written briefing from the Board:²

8. DNS Security and Stability

a. The GAC shares the security and stability concerns expressed by the SSAC regarding Internal Name Certificates and Dotless Domains. The GAC requests the ICANN Board to provide a written briefing about:

i. how ICANN considers this SSAC advice with a view to implementation as soon as possible. The GAC believes that all such stability and security analysis should be made publicly available prior to the delegation of new gTLDs.

ii. The GAC Advises the ICANN Board to:

a. As a matter of urgency consider the recommendations contained in the SSAC Report on Dotless Domains (SAC053) and Internal Name Certificates (SAC057).

² GAC Communiqué – Durban, South Africa, 18-July-2013.
https://gacweb.icann.org/download/attachments/27132037/Final_GAC_Communique_Durban_20130718.pdf?version=1&modificationDate=1375787122785&api=v2

It should not be difficult for the Board to prepare and publish the “written briefing” requested by the GAC – *before the comment period ends for the collision Proposal.*

First, ICANN has taken the dotless domains issue “off the table” since Durban. Second, the issue of Internal Name Certificates (SAC057) is partly addressed in the Proposal, though it focuses mainly on collisions.

But in addition, the Durban GAC advice on SSR *implicitly* asks the Board for written briefing on name collision risks. This was abundantly clear to anyone attending the GAC-SSAC joint meeting on 16-July-2013 in Durban, where name collision risks were discussed extensively, including 14 explicit mentions of the term “collision”.³

Clearly, the GAC request for written briefing would include “name collision” risks as well as dotless domains and internal name certificates. As the GAC requested, the Board should publish the requested written briefing while the community still has time to comment on the collision Proposal.

Finally, ICANN should follow GAC Advice to publish any and all analysis the community might rely upon when evaluating the collision Proposal and any other SSR issues. Item 8a(i) of the GAC Durban advice was, “The GAC believes that *all such stability and security analysis* should be made publicly available *prior to the delegation of new gTLDs.*” We support this GAC advice and request publication of any staff and SSAC analysis and recommendations that might inform our assessment of risks and the adequacy of mitigation – before the Proposal comment period ends.

If the Board’s briefing and document publication aren’t available before the 17-September comment period terminates, ICANN should extend the comment period accordingly.

It just makes sense to align timing of the Board response to GAC SSR advice and the collision Proposal. Otherwise, the community will rightly call for yet another public comment period to assess the Board’s response to GAC Advice.

Sincerely,



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NetChoice is a trade association of online content and e-Commerce businesses promoting and protecting convenience, choice and commerce on the Net. Learn more about NetChoice at www.netchoice.org

³ Transcript of GAC Meeting with SSAC, 16-July-2013, <http://durban47.icann.org/meetings/durban2013/transcript-gac-ssac-16jul13-en.pdf>