

17 August 2016

Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes

Neustar fully supports the comments submitted by the Registries Stakeholder Group (RySG) in response to ICANN's Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion (Proposed Measures). For clarity, we reiterate the key points mentioned in the RySG comments:

- To avoid attributing rights to governments and country code managers that do not exist in law, the Exclusive Availability Pre-Registration Period must be **voluntary**.
- In order to satisfy the requirements of Specification 5, Section 2 of the Registry Agreement to avoid confusion, the Registry Operator can select from the following options:
 - A) Voluntary Exclusive Availability Pre-Registration Period; or
 - B) Registration Policy + Post-Registration Complaint Investigation; or
 - C) Voluntary Exclusive Availability Pre-Registration Period + Registration Policy + Post-Registration Period.
- ICANN will make available to registry operators a contact list for applicable governments and country code managers
- The reference to Section 2.8 of the Registry Agreement in the Post-Registration Complaint Investigation section of the Proposed Measures be removed.

Proposed Measures have been developed to address concerns of the few

Neustar would also like to underscore that a large number of registry operators have already been authorized by ICANN to release two character ASCII labels as a result of the process launched on 1 December 2014. These labels were released based on the registry operator's certification that it had implemented measures to avoid confusion, and the absence of comments from any individual government regarding the release. On [11 August 2015](#), Cyrus Namazi noted that as a result of this process, as at 5 August 2015, ICANN had authorized 97% of the 257,000 labels requested across approximately 560 TLDs.

With this in mind, we believe it is important that ICANN recognize that the Proposed Measures they have recommended were developed to respond to comments received from a small number of governments. Under no circumstances should ICANN retract any previously authorized two-character ASCII labels, nor should any future registry operator seeking authorization to use two-character ASCII labels be required to contact all country code managers and governments in the event that they chose to adopt the Exclusive Availability Pre-Registration Period as their preferred measure to avoid confusion. ICANN should be responsible for identifying those small number of governments and ccTLD managers that need to be contacted.

GAC advice

One of the overall challenges with the process that has ultimately lead to the posting of the Proposed Measures for public comment has been the iterative, inconsistent, and disproportionately burdensome, GAC advice. The latest iteration of GAC advice from the Helsinki communique is a case in point. In particular, ICANN should reject the GAC's demand that each registry receive affirmative consent of each and every government because "the GAC considers that, in the event that no preference has been stated, a lack of response should not be considered consent." This requirement is plainly unreasonable and unduly burdensome in light of the steps registries have voluntarily proposed to reduce potential confusion and the fact that neither the GAC nor any individual government has ever been able to provide any substantiated legal reasoning that they have rights over two character ASCII labels in the DNS. In this case, because the GAC cannot achieve a consensus view on the topic, it has elected to "advise" ICANN to obligate registries to refrain from making these strings available for legitimate purposes unless and until an individual government has affirmatively approved a particular use. Moreover, its inclusion by staff as requirements to be addressed through the Proposed Measures is completely inappropriate (and frankly, incomprehensible) when, to our knowledge, the ICANN Board has not even had the opportunity to consider the advice. In addition, the GAC advice is, once again, untimely. ICANN had publicly stated that they would publish the Proposed Measures for public comment by mid-June and had they met that deadline the GAC advice could not have been included. Therefore obligations that require registries to comply with the GAC advice from Helsinki should be removed from the Proposed Measures.

Yours sincerely

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