ICANN
RE: Public Comment Period on 2 Character Domains, Closing August 20 23:59 UTC

VIA EMAIL

While the comment period for Top Level Design's own request for a limited number of 2 character .wiki names to be released has already closed, I would like to take the opportunity in this related comment period to underscore the current deficiencies in this comment process and RSEP process and call on ICANN to recognize and mediate them immediately.

This comment period has stemmed from an RSEP; so, I would like to take a step back and first look at that process. It has been widely recognized that ICANN was not sufficiently prepared to handle the new world of RSEPs, wherein hundreds of TLD registries would be using the process for a variety of reasons. The most consistent request thus far is the release of 2 character domains. ICANN has worked with a complete disregard for the RSEP's stipulated timeframes and has since admitted its failures while simultaneously defending its long periods of non-response by pointing to its 'completeness checks' wherein no time constraints exist.

It was correctly pointed out during the August 20th RySG call (while ICANN staff was in attendance) that if the current RSEP process is not working, it is time to revisit the purpose and mechanics of the RSEP, not disregard it as it currently stands. In my personal view, I believe ICANN staff feels that the RSEP's problems have been identified and that it is nearly fixed. If this is the case, I think this assessment is lacking, especially with regards to 2 characters.

Addressing the requests at hand, there is no clear rationale for any 2 character comment period to take place (including that period which closed on Aug. 1). In another instance of the RSEP being broken and ICANN flouting its commitments, a public comment period should only be held under 3 circumstances: there are competition risks related to the request; there are security risks; or the proposed service requires a contractual amendment.

None of these 3 circumstances are pertinent to the 2 character requests that I have seen, including our own. Our Registry Agreements already provide for ICANN's approval of the 2 character domains, in Spec.5.2:

"The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN."

Thus, should measures to avoid confusion be taken, as demonstrated via the RSEP itself, ICANN staff is in a position to approve the request without Public Comment or Board Referral. Presumably, releasing all 2 characters that do not currently overlap with the ISO 3166-1 list is not confusing as this has been done repeatedly with legacy TLDs (see .org, .asia, .tel, .info, .cat, .travel, .biz, etc.)

From there, we can imagine that some requests will present innovative uses for 2 character domains that do not follow the trail blazed by legacy TLDs. Our own .wiki request is one of these. We defer to the use of another ISO list, the ISO 639-1 list, and our request aims to empower Wikipedia.org to break down access barriers to its gobally respected education resource across the developing world. There is absolutely no chance for confusion and we have demonstrated such in our RSEP.

In these instances, ICANN has the authority to approve the request without amendment. Instead, ICANN has inexplicably put us through a public comment process.

Nearly two weeks after the first public comment period on 2 characters closed, ICANN's Governmental Advisory Committee (GAC) sent a letter to Chairman Steve Crocker asking that all decisions on 2 character requests be postponed until after it meets at ICANN's Los Angeles meeting in October.

We submitted our request for 2 characters on February 21st. Our request was stalled by ICANN staff's inability to hold to its existing RSEP processing commitments (and was not posted for ICANN review until June 18); was sent to Public Comment period despite the fact that it was not required by the RSEP process; and now we are likely to be stalled by GAC deliberations that only take place at physical ICANN meetings.

This has been spiraling out of control for some time, and so, I once again implore ICANN staff to plot a clear way forward.

Please note that the GAC has been discussing applicants' interest in 2 character domains since the creation of the AGB, which was approved and already envisions the release of 2 character domains as per our Registry Agreement. More recently, the GAC discussed the issue at ICANN Buenos Aires and tabled the discussion in lieu of making a decision on the 2 character issue without all GAC members present . Even then, many representatives rejected the notion that they had the requisite authority to approve the requests or that they could make a decision that may affect nations that do not have representatives in the GAC (recording here; November 20, 2013, GAC Plenary).

I hope that ICANN staff duly considers the precedent set by legacy TLDs, the efforts made to prove an absence of potential confusion for those seeking ISO 3166-1 names, and approves the requests at hand for 2 characters based on the merits of these requests.

Should ICANN defer any decision pending further GAC input, it must work closely with the concerned parties, both the GAC and RySG, to create a clear process forward accompanied by a timeline. We believe this process already exists via our Registry Agreement and the RSEP, but there has been an astonishing disregard for both throughout the processing of these 2 character requests. New processes must stop being defined ad hoc and the current discrepancies must be remedied forthwith.

Respectfully yours,

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