

21 August 2015 NGPC Agenda

Consent Agenda

- 1. Approval of Minutes from 6 June 2015 and 21 June 2015 NGPC Meetings**

Main Agenda

- 1. GAC BA Communiqué – scorecard and discussion**
- 2. Ron Andruff's letter - discussion**
- 3. Sunsetting of the NGPC – for discussion**
- 4. .DOCTOR – for decision**
- 5. Topics for next NGPC meeting – for discussion**
- 6. AOB**

ICANN NGPC PAPER NO. 2015.08.21.NG2a

TITLE: **GAC Recommendations in the Buenos Aires
Communiqué**

PROPOSED ACTION: **For Discussion**

EXECUTIVE SUMMARY:

In its 21 June 2015 [Buenos Aires Communiqué](#), the Governmental Advisory Committee (GAC) issued recommendations to the NGPC concerning the New gTLD Program. The recommendations address: (1) safeguards for new gTLDs, (2) Community Priority Evaluation, and (3) protections for IGO names and acronyms at the top and second levels. The NGPC is being asked to discuss another iteration of the scorecard, which is attached to this briefing paper, to address the GAC's recommendations in the Buenos Aires Communiqué.

STAFF RECOMMENDATION:

Staff recommends that NGPC provide a written response to the GAC, a draft of which is included in the Reference Materials, in response to the GAC's recommendations in the Buenos Aires Communiqué concerning the New gTLD Program.

Signature Block:

Submitted by: Jamie Hedlund

Position: Vice President, Strategic Programs, Global Domains Division

Date Noted: 12 August 2015

Email: jamie.hedlund@icann.org

ICANN NGPC PAPER NO. 2015.08.21.NG2b

TITLE: **Phasing Out New gTLD Program Committee**

PROPOSED ACTION: **For Discussion**

EXECUTIVE SUMMARY:

At its 21 June 2015 meeting, the NGPC discussed whether it was time to begin planning for an eventual phasing out of the Committee as a standing committee of the Board. The NGPC discussed targeting ICANN 54 (Dublin) as a possible timeframe to wind up the remaining open New gTLD Program items that may require further action by the NGPC prior to phasing out the Committee.

To assist the NGPC with developing a work plan to wind down its activities, staff previously provided the NGPC with a chart summarizing the remaining open New gTLD Program items that may require further action by the NGPC prior to the phasing out of the Committee. [Attachment A](#) to this briefing paper is an updated version of the summary chart for discussion. The chart identifies the following:

1. *New gTLD Program matters currently under consideration by the NGPC.* The chart includes a current status and proposes a target timeline for the NGPC to conclude its work on the matters. The matters in this category are: .DOCTOR, and protections for IGO names and acronyms and certain Red Cross names and acronyms.
2. *New gTLD Program matters needing resolution to closeout the current round of the Program.* To address these matters, staff proposes that the NGPC consider adopting a resolution during ICANN 54 directing staff to take appropriate actions needed to bring the New gTLD Program to a timely conclusion by the end of FY17 as forecast in the [FY16 Operating Plan and Budget](#) adopted by Board at ICANN 53. If the NGPC adopts such a resolution, staff would prepare a plan encouraging applicants that fall into the following categories to withdraw and receive the refund outlined in the Applicant Guidebook:

- a. lost an objection but have not withdrawn from the Program;
 - b. did not prevail in contention resolution (e.g. an auction or Community Priority Evaluation) but have not withdrawn from the Program;
 - c. did not meet the deadline to sign the Registry Agreement; or
 - d. will not proceed due to the NGPC's acceptance of GAC advice or other reasons (e.g. .THAI, .CORP, .HOME, .MAIL)
3. *New gTLD Program matters that are the subject of the Independent Review and other accountability mechanisms.* Staff recommends that these matters be taken up by the full Board, or the Board Governance Committee, as appropriate. Some of the matters in this category include IRPs for .AMAZON, .HALAL, and .ISLAM.

Background on the Establishment and Purpose of the NGPC

On 10 April 2012, the Board established the NGPC, comprised of all voting members of the Board that are not conflicted with respect to the New gTLD Program. The Committee was granted all of the powers of the Board (subject to the limitations set forth by law, the Articles of Incorporation, Bylaws or ICANN's Conflicts of Interest Policy) to exercise Board-level authority for any and all issues that may arise relating to the New gTLD Program. The purpose of the NGPC is to make strategic and financial decisions relating to the New gTLD Program for the current round of the Program and as related to the Applicant Guidebook. The full scope of the Committee's authority is set forth in its charter at <http://www.icann.org/en/groups/board/new-gTLD>.

STAFF RECOMMENDATION:

This paper is provided for discussion.

Signature Block:

Submitted by: Jamie Hedlund

Position: Vice President, Strategic Programs, Global Domains Division

Date Noted: 12 August 2015

Email: jamie.hedlund@icann.org

ICANN NGPC PAPER NO. 2015.06.05.NG2a

TITLE: **Implementation of GAC Advice Regarding
.DOCTOR**

PROPOSED ACTION: **For Discussion**

EXECUTIVE SUMMARY:

At its 6 May 2015 meeting, the Board Governance Committee (BGC) recommend that “the NGPC again review the proposed implementation of a public interest commitment for the .DOCTOR TLD, and to re-evaluate the NGPC’s 12 February 2015 determination.” The BGC’s recommendation was in response to [Reconsideration Request 15-3](#) filed by Brice Trail, LLC (an entity related to Donuts Inc.) – one of the contending applicants for the .DOCTOR TLD. Brice Trail’s Reconsideration Request challenges staff and NGPC actions relating to the implementation of the GAC’s Buenos Aires advice about .DOCTOR. In the [Buenos Aires Communiqué](#) (20 November 2013), the GAC [advised](#) the Board to “re-categorize the string .doctor as falling within Category 1 safeguard advice addressing highly regulated sectors, therefore ascribing these domains exclusively to legitimate medical practitioners. The GAC notes the strong implications for consumer protection and consumer trust, and the need for proper medical ethical standards, demanded by the medical field online to be fully respected.”

On 5 February 2014, the NGPC addressed the GAC’s advice in an iteration of the [Scorecard](#) stating: “With respect to the additional advice in the Buenos Aires Communiqué on the Category 1 Safeguards, the NGPC accepts the advice to re-categorize the string .doctor as falling within Category 1 safeguard advice addressing highly regulated sectors and ensure that the domains in the .doctor TLD are ascribed exclusively to legitimate medical practitioners.”

To implement the NGPC’s 5 February 2014 action in the Scorecard, staff informed the three applicants for the .DOCTOR TLD that in addition to the eight PICs for “highly regulated” TLDs, an additional PIC would be required for the .DOCTOR Registry Agreement to ensure that domains in the TLD are ascribed exclusively to legitimate

medical practitioners. (The [Reference Materials](#) provide additional background on the GAC’s advice regarding .DOCTOR and the NGPC and staff actions to implement the advice.)

Brice Trail asserts that the implementation of the GAC’s advice will unfairly limit registrations in the TLD to “legitimate medical practitioners” at the exclusion of other potential registrants of .DOCTOR domains – such as professors, doctors of law and other credentialed parties, those who perform repairs or have “doctor” in their business name (e.g., “Rug Doctor,” “Computer Doctor”) and directories, review sites, commentators and services that provide information about medical and other types of doctors. Brice Trail contends that implementation of the GAC’s advice singles out the .DOCTOR TLD for treatment widely disparate from that given all other similarly situated TLDs, and severely limits expressive activity in the TLD, which has no historical precedent or basis. Moreover, Brice Trail argues that the staff and NGPC actions violate ICANN policy and GAC advice against discrimination.

This briefing provides some potential options for the NGPC to consider as it takes up the BGC recommendation to again review the proposed implementation of a public interest commitment for the .DOCTOR TLD, and to re-evaluate its 12 February 2015 determination.

- Option 1: The NGPC may wish to address the BGC’s recommendation by requiring that the Registry Agreement for the .DOCTOR TLD exclude the proposed PIC drafted to ensure that domains in the TLD are ascribed exclusively to legitimate medical practitioners. If this option is selected, the .DOCTOR Registry Agreement would include the eight Category 1 PICs required for strings associated with highly regulated industries or industries having closed entry requirements in multiple jurisdictions. (The [Reference Materials](#) include the eight Category 1 PICs that would be included in the .DOCTOR Registry Agreement if this option is selected.) This option would be consistent with the NGPC’s treatment of other strings designated as “highly regulated”, such as .ATTORNEY, .BANK, and .PHARMACY. One disadvantage of this option is that it may be

viewed as inconsistent with or disregarding the portion of the GAC’s Buenos Aires advice about “ascribing [the .DOCTOR] domains *exclusively* to legitimate medical practitioners.” (Emphasis added.)

- Option 2: The NGPC may wish to consider the suggestion made by Brice Trail in its Reconsideration Request about how to implement the GAC’s advice. Brice Trail asks the NGPC to consider a “compromise solution, namely to require a registrant to demonstrate ‘legitimate medical practitioner’ status only if the registrant holds itself out as a medical practitioner. An obstetrician applying for OBSTRETICS.DOCTOR, for example, would have to demonstrate his or her qualification to practice medicine.” Brice Trail notes that the benefit of this solution is that it “would help protect against abuse of medical uses of the domain by non-practitioners (the very conduct the GAC seeks to prevent), and at the same time avoid potential discrimination against other legitimate, nonmedical uses of the domain (conduct also opposed by the GAC).”

The downside to this proposed solution is that it may be seen to merely reiterate what is already required by one of the eight Category 1 PICs: *Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring a representation that the registrant possesses any necessary authorizations, charters, licenses and/or other related credentials for participation in the sector associated with the TLD.*

- Option 3: The NGPC may wish to direct staff to continue with the current approach of requiring the addition of a PIC in the .DOCTOR Registry Agreement restricting the TLD to legitimate medical practitioners.

STAFF RECOMMENDATION:

There is no staff recommendation at this time.

Signature Block:

Submitted by: Akram Atallah

Position: President, Global Domains Division

Date Noted: 27 May 2015

Email: akram.atallah@icann.org



Proposed New gTLD Program Committee Resolutions
21 August 2015
Meeting of the New gTLD Program Committee

1. Consent Agenda:	2
a. Approval of Minutes	2

1. Consent Agenda:

a. Approval of Minutes

Resolved (2015.08.21.NGxx), the Board New gTLD Program Committee (NGPC) approves the minutes of its 6 June 2015 and 21 June 2015 meetings.

New gTLD Program Committee Members,

Attached below please find Notice of the following New gTLD Program Committee Meeting:

21 August 2015 – NGPC Meeting at 13:00 UTC. This Committee meeting is estimated to last 90 minutes.

<http://www.timeanddate.com/worldclock/fixedtime.html?msg=Board+New+gTLD+Program+Committee+&iso=20150821T13>

Some other helpful time zones:

21 August 2015 – 6:00 a.m. PDT Los Angeles

21 August 2015 – 9:00 a.m. EDT Washington, D.C.

21 August 2015 – 3:00 p.m. CEST Brussels

21 August 2015 – 9:00 p.m. CST Taipei

21 August 2015 – 11:00 p.m. AEST Sydney

Consent Agenda

- 1. Approval of Minutes from 6 June 2015 and 21 June 2015 NGPC Meetings**

Main Agenda

- 1. GAC BA Communiqué – scorecard and discussion**
- 2. Ron Andruff’s letter - discussion**
- 3. Sunsetting of the NGPC – for discussion**
- 4. .DOCTOR – for decision**
- 5. Topics for next NGPC meeting – for discussion**
- 6. AOB**

Materials can be found [HERE on BoardVantage](#).

If you have trouble with access, please let us know and we will work with you to assure that you can use the BoardVantage Portal for this meeting.

If call information is required, it will be distributed separately.

If you have any questions, or we can be of assistance to you, please let us know.

John Jeffrey
General Counsel & Secretary, ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, California 90094-2536