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REFERENCE MATERIALS - NGPC PAPER NO. 2013.09.28.NG2a.d

**TITLE: Update on Remaining Items of GAC Advice in the
Durban and Beijing Communiqués**

[DRAFT] Proposal for Protections for IGO Acronyms

Text Superseded. See Proposal for IGO Acronyms transmitted to the GAC on 2 October 2013: <http://www.icann.org/en/news/correspondence/crocker-to-dryden-02oct13-en>

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Text Superseded. See Proposed Framework for Addressing Category 1 GAC Safeguards transmitted to the GAC on 4 November 2013: <http://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en.pdf>

Text Superseded. See Proposed Framework for Addressing Category 1 GAC Safeguards transmitted to the GAC on 4 November 2013: <http://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en.pdf>

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REFERENCE MATERIALS - NGPC PAPER NO. 2013.09.28.NG2a.f

TITLE: Update on Remaining Items of GAC Advice in the Durban and Beijing Communiqués

Beijing Communiqué Category 2 Safeguard Advice – Exclusive Generic Strings

In the Beijing Communiqué, the GAC proposed “Category 2” safeguard advice, which includes recommended restrictions for “exclusive access” TLDs. The GAC advice states that, “For strings representing generic terms, exclusive registry access should serve a public interest goal.” The GAC identified a non-exhaustive list of strings that “it considers to be generic terms, where the applicant is currently proposing to provide exclusive registry access.”

At its 25 June 2013 meeting, the NGPC adopted a resolution making changes to the Specification 11 in the New gTLD Registry Agreement for applicants not seeking to impose exclusive registry access. The new language in the PIC provision provides that “Registry Operator of a ‘Generic String’ TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person’s or entity’s ‘Affiliates’ (as defined in Section 2.9(c) of the Registry Agreement). ‘Generic String’ means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others.”

At that meeting, the NGPC also directed staff to defer moving forward with the contracting process for applicants seeking to impose exclusive registry access for generic strings to a single person or entity and/or that person’s or entity’s Affiliates.

The 186 applicants for strings listed in the GAC’s Category 2 advice were required to respond by a specified date indicating whether (a) the applicant was prepared to accept the PIC Specification that precludes exclusive registry access or (b) the applicant was unwilling to accept the proposed PIC Specification because the applicant intends to implement exclusive registry access.

- 173 of the applicants indicated that they did not intend to provide exclusive registry access and were prepared to accept the PIC Specification that precludes exclusive registry access.
- 10 applicants responded that they intend to provide exclusive registry access.
- 3 applicants were not responsive or provided an incomplete response to the information request. Staff will follow-up with those applicants who were not responsive or provided an incomplete response.

The NGPC is being asked to direct staff to move forward with the contracting process for the 173 applicants who responded that that they did not intend to provide exclusive registry access.¹

¹ To note, of the 173 applicants responding that they did not intend to provide exclusive registry access, 31 of the applicants indicated that this represented a change from their original applications. As a result, these applicants first would be required to submit a change request following the established change request procedure.



18 September 2013

Dr Steve Crocker, Chair, ICANN Board
Mr Cherine Chalaby, Chair, ICANN Board NGPC

Dear Steve, Dear Cherine,

GNSO Council policy concerns relating to string similarity in new gTLD applications

At the direction of the GNSO Council, I am writing to you to highlight issues relating to the string similarity review work within the new gTLD programme, especially in so far as these concerns relate to the application of existing policy.

In this context, the Council would like to draw your attention to the existing ICANN GNSO Final Report on the introduction of new generic top-level domains as approved by the GNSO in September 2007.

http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm#_Toc43798015

In particular, we would like to draw your attention to the following policy recommendations:

Recommendation 1: ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.

Recommendation 2: Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.

Recommendation 9: There must be a clear and pre-published application process using objective and measurable criteria.

The Council is aware of and has discussed the inconsistencies in the current output of the string similarity review process such that, when tested against the above recommendations, the output is apparently not consistent with the above policy recommendations of the GNSO.

Example inconsistencies of output which have given rise to the concern include; different outcomes (in favour of the applicant or the objector) in the case of identical strings (.cam & .com, cam & .com), different outcomes in the case of plurals (.sport & .sports, .hotel & .hotels) and different outcomes in the case of strings where there is only one letter different (.com & .ecom, .post and .epost).

At this point, the Council wishes to draw your attention to and highlight the apparent inconsistencies with existing policy. We intend to pick up this issue and look into the matter in more detail in the near future and will welcome any updates from you in the interim.

Should you require further clarification or input, please revert to me in my capacity as Chair of the GNSO Council.

Yours sincerely,

Jonathan Robinson
Chair, ICANN GNSO Council

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