



28 April 2015

Thomas Schneider
Chair, ICANN Governmental Advisory Committee

Re: Outstanding items from Los Angeles and Singapore Communiqués

Dear Mr. Schneider:

On behalf of the NGPC, I wish to provide you with responses to some of the outstanding items from the GAC's Los Angeles and Singapore Communiqués. Below please find responses to the GAC's request that the Board: (1) examine the feasibility of implementing an appeal mechanism for decisions by the Community Priority Evaluation (CPE) Panel; (2) publicly recognize verification and validation commitments by Registries of highly regulated strings as setting a best practices standard and suggest that similar Registries that have not made such commitments to review means and ways of introducing these provisions; and (3) consider refining the PICDRP and/or to consider developing a "fast track" process for regulatory authorities, government agencies, and law enforcement.

1. Community Priority Evaluation Appeal Mechanism

In its Los Angeles Communiqué, the GAC made the following request regarding the CPE mechanism:

The GAC has concerns about the consistency of the Community Priority Evaluation Process, following the rejection of a number of applications. There is a need to ensure that criteria for community priority treatment are applied consistently across the various applications.

a. The GAC requests the ICANN Board:

To look into this matter and urges the Board to examine the feasibility of implementing an appeal mechanism in the current round in case an applicant contests the decision of a community priority evaluation panel.

At its 12 – 14 October 2014 meeting, the NGPC took action to address perceived inconsistent and unreasonable Expert Determinations resulting from the New gTLD Program String Confusion Objections process. As part of its [rationale](#) (which is incorporated here by this reference), the NGPC also considered whether it was appropriate to expand the scope of a proposed review mechanism to include other Expert Determinations, which could include the Community Priority Evaluation (CPE) Expert Determinations.

The NGPC determined that to promote the goals of predictability and fairness, establishing a review mechanism more broadly may be more appropriate as part of future community discussions about subsequent rounds of the New gTLD Program. Applicants have already taken action in reliance on many of the Expert Determinations, including signing Registry Agreements, transitioning to delegation, withdrawing their

applications, and requesting refunds. Allowing these actions to be undone now would not only delay consideration of all applications, but would raise issues of unfairness for those that have already acted in



reliance on the Applicant Guidebook. The NGPC recommended that the development of rules and processes for future rounds of the New gTLD Program (to be developed through the multi-stakeholder process) should explore whether there is a need for a formal review process with respect to Expert Determinations more broadly, including CPE determinations.

Finally, the Ombudsman has commenced an investigation of the CPE process. Information on the Ombudsman's "Own Investigation" can be found at <http://omblog.icann.org/index.html%3Fp=1139.html>.

2. Verification and Validation for Strings Representing Highly Regulated Sectors

In the Singapore Communiqué, the GAC stated as follows:

"The GAC believes that its advised affirmative requirement for verification of credentials at the time of registration goes much further to meeting the goal of mitigating consumer harm and fraud than an after-the-fact complaint system. The GAC also notes that a significant number of Registries and Applicants for highly regulated strings have, consistent with GAC advice, voluntarily committed to undertaking the verification and validation of credentials.

- a. **The GAC urges the NGPC to:**
 - i. publicly recognize these commitments as setting a best practices standard that all Registries involved with such strings should strive to meet. In addition,
- b. **The GAC recommends:**
 - i. that ICANN suggest to those Registries for which such commitments have not yet been taken and for which contracts have already been signed with ICANN, that they review means and ways of introducing such provisions in view of the public policy concerns. This could also help to raise confidence in Internet-based commerce."

Discussions are taking place within the ICANN community regarding the possible establishment of a "Trust Mark" that would provide consumers with certification that the credentials or licenses of a registrant in a highly regulated sector have been validated and verified. It would: (a) reward those who engage in "best practices" by verifying and validating credentials; and (b) help consumers differentiate between those websites for which credentials have been verified and validated and those for which they have not.

Although granting seals of approval to individual websites might be an interesting opportunity for someone in the business of administering Trust Marks, this will increase the likelihood of deprioritizing developing regions to accelerate profits. Therefore, a more practical approach to achieve the goal of awarding "Trust Marks" should be considered at the registry level. A third party could review the registration policies of all registries of highly regulated sectors and award "Trust Marks" to the ones that meet or exceed predefined criteria. Consumers could visit the third party website to find out if and how a registry validates and verifies the credentials or licenses of a registrant in a highly regulated sector as well as those awarded "Trust Marks".

Supported by ICANN, several industry players recently decided to address the domain name industry's need to improve its image by creating DNS awards, which would act as a grass-roots, industry-based effort to encourage



industry responsibility by commending good actors in a public way. This effort is a volunteer-based, community-oriented approach to creating an independent organization that seeks to make the domain name industry a more secure, reliable, and self-monitoring space.

The volunteer group embarked on a DNS Seal and Award Project. The project endeavored to define an accreditation program; by defining "best practices" which would be monitored and assessed by an independent panel based on a pre-defined, industry-endorsed set of criteria.

This industry driven initiative could be a very effective mechanism to encourage good behavior, award good actors, and raise the standards for the benefit of the industry and above all the registrants.

PICDRP "fast track"

In the Singapore Communiqué, the GAC stated that it "considers the PICDRP to be complex, lengthy, and ambiguous, raising questions as to its effectiveness in addressing serious threats.

a. The GAC urges the NGPC to:

- i. consider refining the PICDRP and/or to consider developing a "fast track" process for regulatory authorities, government agencies, and law enforcement to work with ICANN contract compliance to effectively respond to issues involving serious risks of harm to the public.

In response, ICANN commits that it will acknowledge complaints submitted by governments and consumer protection agencies within two business days. ICANN further commits that complaints that appear to be well-founded will be handled expediently, regardless of the source of the complaint, and we will also commit to expedite processing of complaints based on factors such as the severity of the alleged breach and the harm that may result.

I hope this information is helpful. Please let us know if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Crocker". The signature is fluid and cursive.

Dr. Stephen Crocker
Chair, ICANN Board Of Directors