



7 October 2014

Cherine Chalaby
Chair, New gTLD Program Committee & Member, ICANN Board of Directors

Chris Disspain
Member, New gTLD Program Committee & ICANN Board of Directors

Dear Cherine, Dear Chris,

FOLLOW-UP TO MEETING ON POSSIBLE AMENDMENTS TO POLICY RECOMMENDATIONS

On behalf of the GNSO Council, I would like to thank Chris for participating on the GNSO Council call of 4 September 2014. As agreed on that call, this letter is the initial response of the Council to the Board's New gTLD Program Committee (NGPC) letter of 16 June 2014, in which the NGPC had requested that the Council consider amending those of the GNSO's remaining consensus recommendations concerning protections for International Governmental Organizations (IGOs) and International Non-Governmental Organizations (INGOs) that are inconsistent with GAC advice received by the Board on the topic.

Our understanding from our discussion with Chris is that the Board has yet to finalize a response to the GAC's advice from the GAC's London communiqué, but that the NGPC and the GAC have nevertheless reached a mutual understanding that in relation to IGO acronym protection the IGOs' initial request for permanent preventative protection (i.e. through reservation or from otherwise being withheld from registration) is not implementable. We understand also that while the GAC has not formally responded to the NGPC's March 2014 proposal on this topic the NGPC has discussed with the GAC a proposal for initial protection for IGO acronyms through the Trademark Clearinghouse (TMCH), in the form of notices to be provided to an affected IGO after a third party has registered that IGO's acronym, with no limitation on the period for which such notices must be provided (i.e. the TMCH notification process would be permanent in the sense that it will continue for the life of the TMCH). As the NGPC had noted in its 16 June 2014 letter to the GNSO Council, this differs from the GNSO's recommendation on IGO acronym protection, which limits the TMCH notification process to a 90-day period.

We note also that the NGPC and the GAC continue to discuss how affected IGOs might be able to rely on domain name dispute resolution procedures in a way that would be effective in providing curative protections for their acronyms. In this regard, we are pleased to note the NGPC's explicit acknowledgment that this is a question that the GNSO Council has appropriately resolved to address through a GNSO Policy Development Process (PDP) that it initiated in June 2014. As explained in the Briefing Note that the Council sent to the NGPC on 8 August 2014, we have chartered a Working Group (WG) for this PDP, and the WG has begun meeting weekly to deliberate on the issue.

On the topic of protections for a certain number of national Red Cross society names, our understanding is that the GAC advice remains as a request for permanent preventative protection for each of these names, in English and the applicable national language for each national society. As noted previously by the NGPC, this differs from the GNSO's recommendation, which was for limited (90-day) TMCH protection, via a similar notification process as would be used for IGO acronyms. We would greatly appreciate it if the NGPC can share with the Council its thoughts on the most appropriate form of protection for these national Red Cross society names, to ensure that if the Council decides to propose amendments for which it will need to reconvene the original PDP WG, it considers a proposal which will ultimately meet the needs of the NGPC.

As you know, the GNSO Council has discussed the NGPC's request to consider amending the GNSO's recommendations, but has not yet reached a decision on whether it will do so and in what way. As the procedure (laid out in Section 16 of the GNSO's PDP Manual) by which it may make such amendments has never been used before, the Council felt obliged initially to more fully understand the workings of the process as well as the NGPC's thinking on these topics before considering the exact nature of the amendments that the Council might propose. We therefore welcomed the chance to meet with Chris, as Section 16 makes it clear that it is for the Council to propose actual, specific amendments for which it will seek feedback from the original PDP WG as well as publish for public comment, prior to taking a final vote on the matter. We hope that our 4 September discussion was also helpful in outlining for Chris the GNSO's concerns over the implications of using the Section 16 procedure, including the irrevocability of any final changes that the GNSO Council might ultimately approve as a result.

The GNSO Council is willing to consider possibly amending the current GNSO recommendations through the Section 16 process, as we believe that our meeting with Chris on 4 September was helpful in clarifying for us the nature of the amendments that might be necessary in order to reconcile the inconsistencies between the GNSO's recommendations and GAC advice. Our understanding is summarized above in relation first to IGO acronyms and second to Red Cross national society names. As discussed with Chris, however, we would greatly appreciate it if the NGPC could confirm for us that our understanding of the matter is accurate.

On behalf of the GNSO Council, I look forward to your reply and confirmation.

Sincerely,

Jonathan Robinson
Chair, ICANN GNSO Council