To: Steve Crocker, chairman of the ICANN Board of Directors

Cc:
Chris Disspain, Mike Silber, Patrik Fältström, Thomas Schneider

Dear Steve

In response to the June 2015 Board resolution, I am pleased to provide the Board the requested further guidance on and refinement of the methodology of second string similarity review process. For the Board's convenience I have included the ccNSO Council's resolution (Annex A) and an overview of the development of the requested guidance, including the interaction between the ccNSO Working Group, SSAC and the ccNSO Council (Annex B).

In addition, I request the ICANN Board of Directors to discuss and adopt the ccNSO IDN ccTLD Policy Development Process (PDP). The proposed policy was submitted to the ICANN Board in September 2013. In parallel with this submission, the ccNSO requested the Board to introduce it first as part of the Fast Track Process to experiment with the methodology and two-panel mechanism. The Extended Process Similarity Review Panel was introduced in December 2013 and now, with conclusion of the 3rd review of the Fast Track process (March 2015) and the related proposed guidance on and refinement of the methodology, the ccNSO Council is of the view that the experimental Fast Track should be replaced by the overall policy.

On behalf of the ccNSO

Katrina Sataki,
Chair

ANNEX A

ccNSO Council 12 January 2017 Resolution

Resolution Adoption Final Report ccNSO WG EPSRP

Background
Process to date
The Extended Process Similarity Review was introduced in June 2013 at the request of the ccNSO, following the conclusion of the ccNSO IDN ccTLD PDP, the first and second review of the Fast Track Process and taking into account GAC advice. The review process became effective in December 2013, with the publication of the updated Fast Track Implementation Plan (November 2013), and the publication of the Guidelines for the Extended Process Similarity Panel (EPSRP) for IDN ccTLD Fast Track Process (see: https://www.icann.org/en/system/files/files/epsrp-guidelines-04dec13-en.pdf).

Since the introduction of the second review procedure, the EPSRP was requested to review the findings of the DNS Stability panel with respect to 3 strings (one in Cyrillic and two in Greek script) and published its findings in September 2014 (see: https://www.icann.org/resources/pages/epsrp-reports-2014-10-14-en).

Taking into account the results of the third review of the Fast Track Process, the ICANN Board of Directors requested the ccNSO, *in consultation with other stakeholders, including GAC and SSAC, to provide further guidance on and refinement of the methodology of second string similarity review process, in particular on the interpretation of its split recommendations* (see: https://www.icann.org/resources/board-material/resolutions-2015-06-25-en#2.a).

In response to the Board resolution, the ccNSO Council established a working group that was limited in its scope, in accordance with the Board request, therefore with a focus on the split recommendation i.e., on findings for upper- and lowercase by the EPSRP (see: EPSRP decisions September 2014).

The WG has developed two documents, one with observations to record the general discussions of the WG, and one to provide further guidance and refinement of the methodology of the EPSRP as requested. Both documents were subject to public consultation.

ALAC and GAC submitted comments which were supportive of the recommended guidance. Work done by the Working Group, and useful points were incorporated in the Working Group's final version of the revised guidelines and recommendation paper.

The fourth comment (SAC084) received from SSAC rejected the proposed guidance. SSAC recommended the Board not to accept proposed guidelines and request a review of the EPSRP to determine why its proposed guidelines do not respect the following 3 principles

from RFC 6912, and as restated by SSAC, also apply to decisions concerning the inclusion of IDN labels in the root zone:
- Conservatism Principle
- Inclusion Principle
- Stability Principle

Adherence to these principles is critical for continued interoperability and stability of the DNS root zone and deviation would increase the risk of root zone instability.

Following feedback from the ccNSO and a face-to-face meeting in Hyderabad (ICANN 57) SSAC agreed to and produced a clarifying document: SAC088 and an additional letter (SSAC 089). In this response SSAC asks that the principles set out in its previous comment SAC084 be entrenched in the EPSRP – despite those principles not being supported by current or previous decisions made by the ICANN community.

Per request of the ccNSO Council, the WG reviewed and updated its report, to take into account SSAC 088. The report now contains a reference to and clarified that its guidance should be interpreted in a way that is consistent with the RFCs, particularly RFC 6912, paragraph 6.

Procedural Considerations

In response to the comments provided and discussion with the WG and members of the ccNSO Council in Hyderabad, SSAC has provided two documents: SSAC 088 and SSAC 089. The WG focused on SSAC 088. To understand the feed-back received to date (including SSAC 084), SSAC distinguishes 3 types of documents:

- **Advisories** - These address a security or stability matter in a timely manner, with sufficient background information to appraise the community of the issue or threat.
- **Comments** - Comments are responses to public calls for comments by ICANN, the ICANN Board of Directors, ICANN committees, and committee task forces.
- **Reports -** Reports provide in-depth analyses of a topic and may recommend specific actions and policy recommendations for ICANN's consideration.

SSAC 084 has been designated a Comment, commenting on the Proposed Guidelines for the EPSRP as part of the IDN ccTLD Fast Track Process. SSAC 088 and 089 have been designated a Response (status not defined). Accordingly, SSAC 084 is first and foremost a document for consideration under the public comment process and should be considered part of that public comment process. As clarified in SSAC 08 and 089, it was not intended to circumvent a process. Hence it should be taken very seriously and interpreted as part of the public comment, in a similar manner as other public comments.

Substantive considerations

The WG agreed that the Conservatism principle is important and should be supported: a reference to it is now explicitly included in the updated version of the report.

Secondly, in its response, the SSAC notes that a major concern from their perspective is around Spoofing and Phishing. SSAC further notes that the '*Conservatism Principle reflects an "err on the side of caution" ethic that is very different from "give TLD applicants what they want unless it is clearly unsafe to do so."'*

In addition, SSAC noted in SSAC 084: *"the SSAC has initiated work to review both the harmonization of IDN related processes in ICANN and the relationship between confusability and security."*

The WG agreed that a cautious approach should be taken. However, this cautionary approach should always be proportionate and a function of a risk assessment. This approach is also advocated by expert groups in the area of IDNs. In Unicode Technical Report (UTR) #36 (up to version 9, 2010) the risk of spoofing and phishing based on visual confusion was explicitly mentioned and considered a major concern. Since 2010 (version 9): *It is also important to recognize that the use of visually confusable characters in spoofing is often overstated. Moreover, confusable characters account for a small proportion of phishing problems: most are cases like "secure-wellsfargo.com". For more information, see the* [Unicode Security FAQ](#).

Thirdly, the WG made the following observations: The ICANN Board has asked (policy) guidance for a very limited set of cases where there was a split finding by the EPSRP. It is not intended as a general overhaul of the procedures.

Finally, as the WG stated, the manner the current rules under the Fast Track process are applied to ccTLDs is disproportionate and, in addition, potentially discriminatory compared to new gTLD process.

- Disproportionate as a requested string is denied just on the basis of a small chance of use of visually confusable characters only at the top level (not considering a combination of TLD and other levels), whilst other less invasive mitigation measures are available. Some of these measures are listed in UTR #36 since 2010 (for the latest see # 15 section 2.11.4) and an analysis of and promotion of the merits of these measures may well assist TLD operators and the broader community.
- The WG agrees that spoofing and phishing is a major concern and should be addressed in the interest of all. However, with respect to ccTLDs this is first and foremost a local and sovereign matter. ccTLDs are very aware of the issues involved and many deal with the issue locally (2nd level and lower).
- Although the standard for visual confusion is the same under the IDN ccTLD Fast Track Process and new gTLD process, they are applied differently. In this respect there is no difference between the view of WG and SSAC (according to SSAC: *The fact that SSAC has not commented specifically on the acceptance of singular and plural forms in the new gTLD program should not be interpreted as implicit approval of the proposition that those forms are not confusingly similar in the context of the Conservatism Principle. The SSAC believes that a clear and consistent set of rules for 'confusing similarity' should be developed and the resulting rules should be applied to both ccTLDs and gTLDs.*). This being said, from a policy perspective, the difference in rules should not be one-sided and be interpreted at the detriment of IDN ccTLDs.

ccNSO Council Resolution 125-03:
1. **The ccNSO Council adopts the Final report of the ccNSO Extended Process Similarity Review Panel Working Group and the recommendations contained in that report.**

2. The chair of the ccNSO is requested to inform the chair of the ICANN Board of Directors accordingly, and further note that by submission of the requested guidance and refinement it has completed its work and considers the 3rd review of the Fast Track Process completed. Thirdly the Board should be requested to discuss and decide on the overall IDN ccTLD policy recommendations as submitted to the Board in September 2013, as foreseen in Annex B section 15 of the ICAN Bylaws to replace the Fast Track Process.
3. The Members, observers and other participants of the WG EPSRP are thanked wholeheartedly for their hard work, and the working group is closed. The secretariat is requested to inform the WG accordingly and publish this resolution as soon as possible.

ANNEX B

Overview of the development of the requested guidance

The **Extended Process Similarity Review** was introduced in June 2013 at the request of the ccNSO, following the conclusion of the ccNSO IDN ccTLD PDP, the first and second review of the Fast Track Process and taking into account GAC advice. The review process became effective in December 2013, with the publication of the **updated Fast Track Implementation Plan** (November 2013), and the publication of the **Guidelines for the Extended Process Similarity Panel** (EPSRP) for IDN ccTLD Fast Track Process (see: https://www.icann.org/en/system/files/files/epsrp-guidelines-04dec13-en.pdf)

Since the introduction of the two-panel methodology, the EPSRP was requested to review the findings of the DNS Stability panel with respect to 3 strings (one in Cyrillic and two in Greek script) and published its findings in September 2014 (see: https://www.icann.org/resources/pages/epsrp-reports-2014-10-14-en). Accordingly, and based on the method used, the EPSRP recommended that one of the applied Greek strings in upper case should be considered confusingly similar with two two-letter codes and in lower case should not be considered confusingly similar.

Taking into account the results of the third review of the Fast Track Process and the findings of the EPSRP, the ICANN Board of Directors requested the ccNSO, *in consultation with other stakeholders, including GAC and SSAC, to provide further guidance on and refinement of the methodology of second string similarity review process, in particular on the interpretation of its split recommendations* (see: https://www.icann.org/resources/board-material/resolutions-2015-06-25-en#2.a) .

In September 2015 and to meet the Board request, the ccNSO Council established a working group (WG) with a limited scope with a focus on the split recommendation, i.e., on findings for upper- and lowercase by the EPSRP (the WG charter can be found: https://ccnso.icann.org/workinggroups/charter-epsrp-11sep15-en.pdf).

The WG had developed two documents, one with observations to record the general discussions of the WG, and one to provide further guidance and refinement of the methodology of the EPSRP as requested, which were subject to public consultation from 20 July 2016 until 8 September 2016 (https://www.icann.org/public-comments/proposed-epsrp-guidelines-2016-07-20-en).

ALAC, Verisign and SSAC submitted comments directly as part of the public comment process. The GAC sent a letter to the chair of the ccNSO with a copy to the Board (https://gacweb.icann.org/download/attachments/27492514/20160928_GAC%20Chair%20letter%20to%20ccNSO%3ABoard_EPRSP%20WG%20.pdf?version=1&modificationDate=1475088071000&api=v2). The **GAC and ALAC expressed their support**. The GAC support was re-iterated as part of its Hyderabad communique.

The fourth comment was from SSAC (SSAC084: https://www.icann.org/en/system/files/files/sac-084-en.pdf), which rejected the proposed guidance. **SSAC recommended** the Board not to accept proposed guidelines. According to SSAC084 the Board should request a review of the EPSRP to determine why its proposed guidelines do not respect the principles from **RFC 6912**, which, as stated by SSAC, apply to decisions concerning the inclusion of IDN labels in the root zone.

Following the initial submission of its final report in September 2016 (see: https://ccnso.icann.org/workinggroups/epsrp-final-report-27sep16-en.pdf), the WG was requested to prepare an analysis of the SSAC 084 comment, and to share its views with the ccNSO Council with respect to SSAC 084.

Following the feedback provided by the WG and a face-to-face meeting during the Hyderabad meeting (ICANN 57), SSAC agreed to produce a clarifying response (SSAC088: https://www.icann.org/en/system/files/files/sac-088-en.pdf) on the analysis of the WG and further provided additional letter (SSAC 089: https://www.icann.org/en/system/files/files/sac-089-en.pdf).

After receiving SSAC088 and SSAC 089 and at the request of the ccNSO Council (ccNSO Council decision 15 December 2016), the WG reviewed its report again, taking into account SSAC 088 and SSAC 089, and updated it, if and when considered needed. The updated report (https://community.icann.org/download/attachments/63156511/FinalReport-EPSRP%20redline.pdf?version=1&modificationDate=1483974811000&api=v2) was submitted to the ccNSO Council and now includes a reference to conservatism principle and clarifies that its guidance should be interpreted in a way that is consistent with RFCs, particularly **RFC 6912**, paragraph 6.

At its 12 January 2017 meeting the ccNSO Council adopted the final report of the WG EPSRP, which is now submitted to the Board.