

# **21 June 2014 NGPC Meeting – Website Agenda**

## **Consent Agenda**

- **Approval of Minutes**

## **Main Agenda**

- **GAC Advice**
  - **Category 2 Safeguards, Exclusive Access**
  - **IGO Protections**
- **Consideration of Sensitive gTLDs**
- **Name Collision Framework**
- **New gTLD Program Financial Update**
- **AOB**

## ICANN NGPC PAPER NO. 2014.06.21.2a

**TITLE:** GAC Advice in Beijing Communiqué regarding  
Category 2 Safeguards – Exclusive Registry Access

**PROPOSED ACTION:** For Discussion

### EXECUTIVE SUMMARY:

This paper is being presented for discussion purposes, and provides potential options for the NGPC to consider to as it continues to deliberate on how to address the GAC’s Category 2 Safeguard advice in the Beijing Communiqué. This item of GAC advice remains as an open issue for the NGPC to address. 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.”

As previously reported, ICANN contacted the 186 applicants for strings identified in the GAC’s Category 2 safeguard advice. The applicants were asked to respond by a specified date indicating whether the applied-for TLD will be operated as an exclusive access registry. An overwhelming majority of the applicants (174) indicated that the TLD would not be operated as an exclusive access registry. The NGPC adopted a resolution directing staff to move forward with the contracting process for applicants for strings identified in the Category 2 Safeguards that were prepared to enter into the Registry Agreement as approved, since moving forward with these applicants was consistent with the GAC’s advice.

Twelve applicants responded that they intended to operate their applied-for TLD as an exclusive access registry. These 12 applicants have applied for the following strings: .BROKER, .CRUISE, .DATA, .DVR, .GROCERY, .MOBILE, .PHONE, .STORE, .THEATER, .THEATRE and .TIRES. ICANN solicited responses from these twelve applicants requesting them to explain how exclusive access registry for the applied-for TLD would serve a public interest goal <<http://newgtlds.icann.org/en/applicants/gac-advice/cat2-safeguards>>.

At its 14 May 2014 meeting, the NGPC noted that it was preparing an approach and timeline as a path forward to address this remaining open item of GAC advice.

Attached to this paper (Attachment 1) is a chart describing four potential options for the NGPC to consider as it continues its deliberations on how to address the GAC's Category 2 Safeguard advice in the Beijing Communiqué. The chart includes a brief discussion of next steps if a particular option is adopted, and possible pros and cons of selecting a particular approach. The four potential options presented in the chart are as follows:

1. Prohibit Exclusive Generic TLDs – Under this potential option, the NGPC would take action to not move forward with applicants who proposed to provide exclusive registry access for a generic string. Although this option may satisfy members of the community that believe ICANN should prohibit exclusive access for generic strings, this approach is inconsistent with the GNSO's position (see <http://gns0.icann.org/en/correspondence/robinson-to-crocker-chalaby-07mar13-en.pdf>) and the Applicant Guidebook, and is arguably inconsistent with the GAC's advice. (Note: the GAC advice does not say that exclusive registry access for a generic string should be prohibited, but rather says that the exclusive registry access should serve a public interest goal.)
2. Reject the GAC advice, and permit Exclusive Generic TLDs – By selecting this option, the NGPC would take an action that would allow applicants who proposed to provide exclusive registry access for a generic string to continue to move forward in the New gTLD Program. While this action may be consistent with the Applicant Guidebook and the GNSO position on exclusive access for generic TLDs, if this potential option is selected, the NGPC would need to begin the GAC-Board consultation process since the NGPC's action would not consistent with GAC advice, which provides that exclusive registry access should serve a public interest goal.
3. Ask the GAC for clarification – Under this potential option, the NGPC would develop a series of questions to pose to the GAC to help bring clarity to the implementation challenges. For example, if the GAC envisioned a framework for

how to evaluate whether strings representing generic terms served a public interest goal, the NGPC could pose specific questions to the GAC about what factors should be considered as part of this evaluation.

4. Accept the GAC advice, and implement the advice by requesting the impacted applicants to submit a PIC to be included in Specification 11 of the New gTLD Registry Agreement. This option is consistent with the treatment of other GAC advice, but has the potential to present future enforcement challenges if the PICs extend too far beyond the scope of ICANN's technical remit.

**STAFF RECOMMENDATION:**

This paper is provided for discussion purposes. There is no staff recommended action at this time.

**Signature Block:**

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## **ICANN NGPC PAPER NO. 2014.06.21.2b**

**TITLE:** **NGPC Consideration of Applications for Adult New gTLDs**

**PROPOSED ACTION:** **For Discussion**

### **EXECUTIVE SUMMARY:**

ICANN received applications for several adult-oriented strings including .adult, .porn, and .sex in the current round of new gTLDs. These applications propose to serve the same sector as the .XXX sTLD. As these applications are currently in the contracting and auction phases of the Program and given ICANN's history with ICM Registry, the registry operator for .XXX, ICANN staff has brought them to the NGPC's attention. At the NGPC's expressed desire to have further discussions on these applications, this paper was prepared to provide background information so as to inform the NGPC's discussion.

### **BACKGROUND:**

#### **New gTLD Application Processing**

ICM Registry is the applicant for .adult, .porn and .sex applications. The .sex string was also applied for by Internet Marketing Solutions Limited and is therefore in contention. The .sex string is currently scheduled for auction in March 2015.

All .adult, .porn, and .sex applications have moved through the New gTLD Program, satisfying all of the requirements to date. All four of these applications have passed Initial Evaluation and none have received GAC Early Warnings or GAC Advice. ICM's applications for .adult, .porn and .sex did not receive any objections. Internet Marketing Solutions Limited's application for .sex received a string confusion objection from SX Registry, the registry operator of the .SX ccTLD. However, Internet Marketing Solutions Limited prevailed in that objection.

There are a total of 806 application comments<sup>1</sup> submitted on these four applications. These comments generally raise concerns about child protection and the proliferation of harmful content.

### **ICANN History with .XXX**

Between 2000 and 2011 ICANN engaged in a protracted consideration of ICM Registry's application(s) for the .XXX sponsored TLD. See chronology here:

<https://www.icann.org/en/system/files/files/history-icm-involvement-31mar11-en.pdf>

After ICANN did not approve ICM's application for .XXX in the 2000 Proof of Concept Round, ICM applied for .XXX as a Sponsored TLD (sTLD) in 2004. After receiving GAC advice and significant concern from the community regarding the application, the ICANN Board voted against approval of the application in May 2006 and again in 2007 against ICM's revised application. In June 2008, ICM filed for Independent Review of the Board's decision. The Independent Review Panel issued its Declaration on 19 February 2010. These processes culminated in ICANN entering into a Sponsored TLD Registry Agreement in March 2011 with ICM as the registry operator for .XXX.

### **Sponsored TLD Requirements for .XXX**

The 2011 .XXX Registry Agreement<sup>2</sup>, as proposed<sup>3</sup> by ICM and approved by ICANN, includes obligations to serve the adult entertainment community by implementing (in most cases) a range of policies for the operation of the .XXX sTLD developed by the International Foundation for Online Responsibility ("IFFOR"). ICM/IFFOR baseline policies<sup>4</sup> covered registration restrictions, eligibility verification, labelling requirements, prohibition of child pornography, consent to monitoring, and prohibition of abusive registration and malicious conduct.

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<sup>1</sup> <https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments>

<sup>2</sup> <https://www.icann.org/resources/unthemed-pages/xxx-2012-02-25-en>

<sup>3</sup> <https://www.icann.org/news/announcement-2010-08-24-en>

<sup>4</sup> <https://www.icann.org/en/system/files/files/appendix-b-baseline-policies-26jul10-en.pdf>

## ICM and IMS New gTLD Applications

ICM stated in their new gTLD applications that they do not intend to follow the .XXX sTLD model or IFFOR policies for these new gTLDs. The ICM applications<sup>5</sup> state that they intend to target “members of the [Adult Entertainment Industry] who chose not to, or were unable to, participate in .XXX, whether on the basis of price, inability to satisfy the sTLD membership criteria, or a general unwillingness to adopt or implement the policies promulgated by IFFOR.” ICM states that it “... has listened to the concerns expressed to ICM by these constituencies and wishes to offer a new, alternative, adult targeted TLD that operates at a lower price point and does not have the same qualifying and operational requirements as those that exist in a sTLD like .XXX. Applicant’s mission and purpose is to expand the pool of adult-targeted TLDs and to provide the AEI an adult-targeted gTLD that clearly identifies their products and services to end-users, without certain perceived barriers to entry expressed by certain constituents within the global adult entertainment industry.”

The IMS application<sup>6</sup> for .sex proposes to “target the adult entertainment industry and indeed the wider and multiple market segments that can also identify to this TLD, offering an alternative to today’s current TLDs. This includes, but is not limited to various industry sectors such as sexual health, abuse prevention and education and free speech.”

Neither ICM nor IMS have submitted any voluntary PICs. Because no voluntary PICs have been submitted, the applicants for .adult, .porn and .sex will only be obligated to comply with the standard safeguards applicable to all new gTLDs that are built into the New gTLD Registry Agreement. There would be no provisions under the adult, .porn and .sex new TLD registry agreements to enforce compliance with the sponsored TLD obligations under the .XXX sTLD Registry Agreement to the extent those obligations are more stringent than the New gTLD Registry Agreement.

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<sup>5</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1417> ;  
<https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1416> ;  
<https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1418>

<sup>6</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/26>

Based on potential concerns about this situation ICANN has informally suggested to ICM that it might want to submit a voluntary PIC to incorporate .XXX-like safeguards, but ICM has declined. In declining to submit a Voluntary PIC, ICM contended that safeguards comparable to .XXX are already built into the provisions of the New gTLD Registry Agreement, and are already requirements for all New gTLD registry operators. For example, among the GAC mandated safeguards applicable to all new gTLDs is a requirement that Registrars include in their Registration Agreements a provision prohibiting Registered Name Holders from engaging in activities contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name. ICM, therefore, does not believe it is necessary to submit a voluntary PIC.

An analysis of the current safeguards applicable to all TLDs vis a vis the commitments and safeguards implemented in the .XXX Registry Agreement are provided in Reference Materials.

### **NGPC Consideration**

If ICANN allows these applications to proceed in accordance with the AGB and established processes these applicants (like all other applicants without voluntary PICs) would not be required to adhere to all the statements of plans and intentions in their applications. In ICM's case, there will be a discrepancy between the requirements of the the .XXX sTLD agreement, and its .adult, .porn, and .sex new gTLDs.

Alternatively, ICANN may wish to engage in further discussions with the applicants for these strings to translate the promises and commitments outlined in their applications into PICs to be incorporated into their new gTLD Registry Agreements.

To inform its discussion, the NGPC should be aware that under Module 5 of the Applicant Guidebook (AGB) "*The Board reserves the right to individually consider an application for a new gTLD to determine whether approval would be in the best interest of the Internet community.*"<sup>7</sup>

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<sup>7</sup> <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>, Section 5.1



**STAFF RECOMMENDATION:**

Staff recommends that the NGPC engage in a fulsome dialogue to consider the issues at hand and determine if further consideration by the NGPC is desired. If further consideration is not planned, ICANN will proceed with processing these applications in accordance with the AGB.

**Signature Block:**

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#ICANN50



20 June 2014

# Name Collision Occurrence Mitigation Framework

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# ICANN Staff Proposal

#ICANN50



# General Requirements for Registries

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- Name collision report handling
  - Respond within 2 hours
  - Available for the life of the TLD
- Controlled interruption for 90 days
  - Continuous interruption (i.e., not intermittent)
  - Using loopback address (127.0.53.53)
  - Add IPv6 option when available

# Registries Delegated **after** Proposal Adoption

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- Wildcarded controlled interruption
  - Mandatory for TLDs delegated after proposal adoption
  - Optional otherwise, but only if TLD has no active names
  - Apex and wildcard MX, SRV, TXT, and A records
  - No activation of names
- Registries will receive a waiver to do wildcarding and to insert required apex records
- RDDS (e.g., whois.nic.<tld>) and other obligations remain while in controlled interruption

# Registries Delegated **before** Proposal Adoption

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- SLD controlled interruption
  - For TLDs delegated before proposal adoption
  - MX, SRV, and A records for the SLDs in block list
- Release of names in SLD block list
  - Names can be allocated at any time (e.g., during Sunrise)
  - Names cannot be activated until after controlled interruption
  - No requirement that names undergo Sunrise, only Claims



# To Be Implemented by ICANN

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- Defer delegating *.mail* indefinitely (like *.corp* and *.home*) and work within the IETF to reserve those names
- Produce information materials on name collision
  - Have this information available on key web searches
- Work within IETF to identify IPv6 option
- Work with operators re: measurement and storage of root-server and TLD operators data for name collision prevention future needs



# To Be Implemented by ICANN

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- Limit emergency response re: name collision where there is clear & present danger to human life
- EBERO-like mechanism to cover registry unresponsiveness re: name collision reports
- Last-resort procedure to remove TLD causing harm (i.e., a dotless name)

# Differences with SAC 066

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## 1) Honeypot vs. use of loopback address

- Honeypot allows better notification for HTTP cases
- Honeypot provides support for IPv4 and IPv6
- Honeypot may expose personally identifiable information
- Honeypot exposes sensitive information to attackers
- Use of loopback address eases implementation for ccTLDs too

# Differences with SAC 066

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- 2) Intermittent vs. continuous controlled interruption
  - Intermittent CI seems more advantageous for remediation
  - Intermittent CI more difficult to troubleshoot
  - Intermittent CI has higher operational risk to implement
  - Affected parties have the name collision reporting mechanism

# Questions & Answers

## Social Media



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