

**From:** Ron Andruff

**Date:** Wednesday, 25 September 2013 15:40

**To:** Cherine Mohsen Chalaby

**Cc:** Heather Dryden, Peter Nettlefold, Olivier Crepin-Leblond

**Subject:** Regulated industry/sensitive new gTLDs PICS - Policy Advisory Board model

Dear Cherine,

During the NGPC discussions with the Government Advisory Committee at ICANN Beijing concerns emerged about how to ensure that new gTLDs from regulated industries/professions act in the public interest, and how they can demonstrate that they are fully supportive of the interests of those who are affected as users, not merely as registrants, in such gTLDs.

As you know, numerous applications for gTLDs that are representative of, or related to, regulated sectors were received by ICANN. In recognizing the GAC's interest in how regulated industry/sensitive string applicants will adequately address core concerns about the public interest impact of their applications, I have been working with others to develop approaches that are high level and standardized to a great extent. This approach would allow applicants for gTLD strings associated with regulated industries and professions (or other high risk sectors, such as .KIDS, etc.) to demonstrate how they will develop, implement, and enforce policies for the registration practices and standards in their respective gTLDs. In our view, these practices and standards should reflect the concerns of regulatory authorities, public interest organizations – and most importantly, users – to enable those gTLDs applicants to move ahead through the review process as expeditiously as possible. An appropriate Policy Advisory Board (PAB) should be established prior to approval of a new gTLD application by ICANN, as the practices and standards it develops will determine acceptable registrants and uses.

The attached Policy Advisory Board model documents provide a mechanism by which the GAC safeguard advice for protecting the public interest can be implemented to assure that, as Internet users interact with domains at new 'sensitive string' gTLDs associated with regulated industries and professions, they can be certain that the registrants are bona fide entities engaged in legitimate activities. This PAB approach establishes a standard framework for appropriate safeguards at sensitive string gTLDs that allows the flexibility to ensure that each Policy Advisory Board is reflective of a particular string and the concerns associated with it. The safeguards can be fully developed and implemented through the establishment of balanced and inclusive Policy Advisory Boards that can develop appropriate registrant eligibility criteria and registry policies – those policies, in turn, can be incorporated within enforceable Public Interest Commitments Specifications (PICS) for the registry.

The focus of this model is establishing baseline criteria and a standard threshold of certainty for the public, and for governments, through a standardized approach to accountability and public interest. On behalf of my colleagues and myself, we hope it might inform the NGPC and GAC deliberations on PICS in a useful and productive way.

I would welcome further discussion on this matter should you feel that would be of benefit to your Committee.

Kind regards,

RA

**Ron Andruff**  
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# Regulated Industry gTLD GAC Safeguards Implementation

via a

## Policy Advisory Board Model

[Document date: 24 September 2013]

**Introduction: This outline provides a mechanism by which the GAC safeguard advice for protecting the public interest can be implemented so that, as Internet users interact with domains at new “sensitive string” gTLDs associated with regulated industries and professions, they can be assured that the registrants are bona fide entities engaged in legitimate activities. The safeguards can be fully developed and implemented through the establishment of balanced and inclusive Policy Advisory Boards that can develop appropriate registrant eligibility criteria and registry policies -- that can then in turn be incorporated within enforceable Public Interest Commitments Specifications (PICS) for the registry.**

### Guiding Principles

- Limit the primary role of regulated industry gTLD operators to technical management of the gTLD and implementation of policies established by the representative and inclusive Policy Advisory Board; operator shall not have a seat or vote on the Policy Advisory Board
- Ensure that registrant eligibility policies are inclusive, transparent, pro-competitive and non-discriminatory and serve the affected community and the general public, particularly Internet users of domain registrant services
- Recognize that national laws, especially those relating to cross-border e-commerce, have not kept pace with the explosive growth of the commercial Internet over the past 15 years, and that therefore additional measures are required to ensure that standard and acceptable practices guide new gTLD policies and protect the public interest
- gTLD manager shall be responsible for authenticating registrants in conformance with Policy Advisory Board established eligibility criteria
- Registrants shall be responsible for adhering to the policies established for the particular gTLD
- Ensure adoption of a standard and accepted model capable of custom configuration for each sensitive string/regulated industry or profession gTLD via Advisory Board determinations that protect the rights and specify the responsibilities for gTLD applicants and registrants and thereby assure rights equivalency and elimination of undue advantage
- All costs associated with establishing and operating a gTLD Policy Advisory Board shall be borne by the new gTLD applicant

## Function

- To ensure that the protection and promotion of the public interest is furthered via the operation of a regulated industry/profession gTLD
- To ensure that new gTLD applicants for regulated industry gTLDs do not operate the registry in a manner that is antithetical to the overriding goals of competition and innovation
- To ensure that the Policy Advisory Board is inclusive of all affected parties and reflects global diversity, participation in the Board should be open to all parties with a demonstrated connection to the industry associated with the gTLD string. Such parties include regulators, wholesale and retail industry participants as well as their representative industry trade organizations, and consumer and public interest groups

## Representation

- All regulated industry gTLDs shall establish a Policy Advisory Board to determine the policies of the registry, including registrant eligibility policies
- Such Policy Advisory Board shall be made up of 12 -18 representative members from the broad spectrum of affected parties, including, but not limited to, users, suppliers, distributors, regulators, and consumers of registrant services reflective of global diversity in its overall composition [sample representation list attached]
- Policy Advisory Board applicants who are not accepted due to numerical limitations shall have an opportunity to rotate on to the Policy Advisory Board as others rotate off at appropriate intervals, however all interested parties must be regularly apprised of Board activities and decisions with formal avenues for providing input and feedback

## Appeals process

- Should any affected party feel that they are not adequately represented on the Policy Advisory Board, or feel that they are unduly rejected or barred from becoming a part of the Policy Advisory Board, or that the Policy Advisory Board is not meeting its obligations to the affected parties community, they shall have the right to take their grievance to neutral third party that will act as an Ombudsman to resolve the matter
- Should any potential applicant for the new gTLD be rejected or barred from registering a new gTLD, when they believe that they meet the applicable criteria, or that such criteria is unduly discriminatory, they shall have the right to take their grievance to a neutral third party that will act as an Ombudsman to resolve the matter.
- Any grievance brought before an Ombudsman shall be paid for by the new gTLD applicant and shall be free of costs for the aggrieved party

~ END ~

## Policy Advisory Board Representation

[Document date: 24 September 2013]

- **Accrediting organizations:** Organizations that accredit practitioners with proven track record of responsible selling of product/service online across the global span of the internet.
- **Experts & Advocates:** Experts and policy advocates with documented knowledge of the trustworthy delivery of product/service.
- **Safety Coalitions & Organizations:** Coalitions and other recognized organizations of stakeholders in favor of protecting access to safe online regulated products/services.
- **Internet Freedom Experts/Organizations:** Independent watchdogs of freedom of use of the Internet.
- **Global Internet Commerce Experts/Organizations:** Representation from individuals/groups from the relevant regulated industry/profession who can bring experience of best practices in online commerce in this global environment.
- **Consumers and Benefitting Organizations:** consumers and organizations that rely on the products/services and have developed expertise in safe processes that enable them to source products/services from other parts of the world.
- **Constituent groups:** those that recognize the need for the product/service to be delivered online for accessibility to affected constituents.
- **Global enforcement groups:** Internationally recognized authorities with global perspective of the need for the product/service and associated regulation and enforcement.
- **Human Rights expert:** with particular knowledge of the issues pertaining to access to the products/services.
- **National enforcement groups:** with first-hand experience dealing with complexities/benefits of distributing product/service within and across borders. Purpose would be to assist with the development of international protocols.