

GNSO New TLD Applicant Group (NTAG) Statement

Issue: Board Implementation of GAC Advice

Date: 12 August 2013

The RySG and NTAG thank the GAC and the ICANN Board NGPC for their tireless work on many key issues pertaining to the New gTLD program. We appreciate your difficult roles to balance competing interests with respect to GAC Advice and are grateful for the opportunity to comment on how you might consider implementing GAC Advice. In advance of the NGPC meeting on 13 August, we wanted to send a preliminary letter to share some of our views on this issue.

We understand how the current GAC Advice on new gTLDs can seem difficult to implement and agree with many of the concerns that the NGPC has raised in its 2 July 2013 resolution and elsewhere. Based on such concerns, we encourage the NGPC to resolve the GAC issues on as many strings as possible during the 13 August meeting or shortly thereafter. Further, as highlighted during sessions at the Durban ICANN meeting, we feel that the only way to really resolve the issues associated with the implementation of GAC advice is through the ability to engage in face-to-face (or via phone) meetings with the NGPC. We encourage the NGPC to work with the NTAG and RySG on how to accomplish this goal.

Having said that, we think that the NGPC should not continue to freeze all Category 1 applications from moving forward. This course of action was not requested by the GAC, and while a quick and sweeping approach may have seemed appropriate, we are now going on five months since the GAC's Beijing Advice. The NGPC 2 July 2013 resolution references a freeze "pending a dialogue with the GAC." Such dialogue began in Durban after that resolution.

We see no benefit from continuing the freeze. We also believe it is fundamentally unfair that the NGPC has singled out a fixed yet substantial number of applicants whose applications are listed in the Beijing Advice, when in reality the list of strings identified by the GAC was explicitly unfixed, i.e., "non-exhaustive". Under the current NGPC freeze, applicants of very similar strings, in some cases identical IDN translations, have a degree of certainty and predictability of moving forward while others, including those that have stated a willingness to address GAC Advice as part of the contracting process, are universally prohibited from doing so.

We note however that nothing in the GAC Advice suggests these Category 1 strings should not proceed to contracting. The GAC just suggests certain possible safeguards.

As you may be aware, as part of the contracting process, each applicant is required to sign a Supplemental Agreement pursuant to which ICANN may make unilateral changes to the Registry Agreement based on GAC Advice.

Lifting the current freeze and permitting applicants to proceed to contracting, subject to this Supplemental Agreement, simultaneously accomplishes two important goals: (i) promotes the same degree of business predictability for all applicants, and (ii) unambiguously preserves the NGPC's ability to address the GAC's Advice.

For these reasons we respectfully request that the freeze on Category 1 applications be lifted so that all applicants passing initial evaluation may proceed in an equitable manner as the process calls for. As provided in the Supplemental Agreement, ICANN may still modify the Registry Agreement based on continuing negotiations between the Board and the GAC and outcomes based on that process. Releasing applicants from the freeze at this time should have no impact on this negotiation process and would allow the gTLD program to proceed equitably for all applicants.

We thank the NGPC for considering this request, which we submit to help support the process for the GAC, ICANN, and Internet community, all of whom would benefit from a successful launch of the new gTLD program.

We remain committed to providing further information as may be useful to the NGPC in formulating a path forward on resolving the substantive aspects of the GAC's Advice, and anticipate reaching out to you further in this regard in the near future.

Respectfully submitted,

New gTLD Applicant Group (NTAG)