IN THE MATTER OF AN INDEPENDENT REVIEW PROCESS
BEFORE THE INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

AFILIAS DOMAINS NO. 3 LIMITED,

Claimant

v.

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS,

Respondent

ICDR Case No. 01-18-0004-2702

CLAIMANT'S EXHIBITS

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24 July 2020

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LIST OF EXHIBITS

Exhibit No.	Description
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C-125	Letter from Deborah A. Garza (US Department of Justice, Antitrust Division) to Meredith A. Baker (US Department of Commerce) (3 Dec. 2008)
C-126	Dennis Carlton (Compass Lexecon), Comments on Michael Kende's Assessment of Preliminary Reports on Competition and Pricing (5 June 2009)
C-127	New gTLD Application submitted to ICANN by Ruby Glen, LLC, Application ID 1-1527-54849 (13 June 2012)
C-128	New gTLD Application submitted to ICANN by Schlund Technologies GmbH, Application ID 1-1013-77165 (13 June 2012)
C-129	ICANN, Assignment: Change of Control of Registry Operator (29 Jan. 2016), available at https://www.icann.org/resources/change-of-control (last accessed 13 July 2020)
C-130	Derek Vaughn, "Inside the High Stakes Auction for .WEB," *InetServies* (25 July 2016), available at https://www.inetservices.com/blog/inside-the-high-stakes-auction-for-web/ (last accessed 19 July 2020)
C-131	Email from Christine Willett (ICANN) to Patrick Kane (16 Sep. 2016) [ICANN-WEB_000930 - ICANN-WEB_000932]
C-132	Email from Brian Leventhal to Eric Enson (7 Oct. 2016) [ICANN-WEB_000972]
C-133	ICANN, Board of Governance Committee, Agenda (2 Nov. 2016), available at https://www.icann.org/resources/board-material/agenda-bgc-2016-11-02-en (last accessed 17 July 2020)
C-134	ICANN, Board of Governance Committee, Meeting Minutes (2 Nov. 2016), available at https://www.icann.org/resources/board-material/minutes-bgc-2016-11-02-en (last accessed 17 July 2020)
C-135	ICANN, Board Audit Committee, Meeting Minutes (2 Nov. 2016), available at https://www.icann.org/resources/board-material/minutes-audit-2016-11-02-en (last accessed 17 July 2020)
C-136	ICANN, Board Finance Committee, Meeting Minutes (2 Nov. 2016), available at https://www.icann.org/resources/board-material/minutes-bfc-2016-11-02-en (last accessed 17 July 2020)
C-137	ICANN, Organizational Effectiveness Committee, Meeting Minutes (3 Nov. 2016), available at https://www.icann.org/resources/board-material/minutes-oec-2016-11-03-en (last accessed 17 July 2020)
C-138	ICANN, Board Risk Committee, Meeting Minutes (4 Nov. 2016), available at https://www.icann.org/resources/board-material/minutes-brc-2016-11-04-en (last accessed 17 July 2020)

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C-139	Regular Meeting of the ICANN Board, Papers: Posting for Public Comment – Draft ICANN Community-Anti-Harassment Policy (Submission No. 2016.11.05.1a) (5 Nov. 2016)
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C-141	ICANN, Regular Meeting of the ICANN Board, Agenda (5 Nov. 2016), available at https://www.icann.org/resources/board-material/agenda-2016-11-05-en (last accessed 17 July 2020)
C-142	ICANN, Regular Meeting of the ICANN Board, Minutes (5 Nov. 2016), available at https://www.icann.org/resources/board-material/agenda-2016-11-05-en (last accessed 17 July 2020)
C-143	ICANN, Regular Meeting of the ICANN Board, Approved Board Resolutions (5 Nov. 2016), available at https://www.icann.org/resources/board-material/ resolutions-2016-11-05-en (last accessed 17 July 2020)
C-144	Organizational Meeting of the ICANN Board, Papers: AGENDA – 8 NOVEMBER 2016 ORGANIZATIONAL BOARD MEETING (8 Nov. 2016)
C-145	Organizational Meeting of the ICANN Board, Agenda (8 Nov. 2016), available at https://www.icann.org/resources/board-material/agenda-2-2016-11-08-en (last accessed 17 July 2020)
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C-153	Regular Meeting of the ICANN Board, Adopted Board Resolutions (8 Nov. 2016), available at https://www.icann.org/resources/board-material/resolutions-2016-11-08-en (last accessed 17 July 2020)
C-154	ICANN, Board of Governance Committee, Agenda (5 Dec. 2016), available at https://www.icann.org/resources/board-material/agenda-bgc-2016-12-05-en (last accessed 17 July 2020)
C-155	ICANN, Board of Governance Committee, Meeting Minutes (5 Dec. 2016), available at https://www.icann.org/resources/board-material/minutes-bgc-2016-12-05-en (last accessed 17 July 2020)
C-156	Special Meeting of the ICANN Board, Papers: RSSAC Co-Chair Appointment (Submission No. 2016.12.13.1b) (13 Dec. 2016)
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C-158	Special Meeting of the ICANN Board, Agenda (13 Dec. 2016), available at https://www.icann.org/resources/board-material/agenda-2016-12-13-en (last accessed 17 July 2020)
C-159	Special Meeting of the ICANN Board, Minutes (13 Dec. 2016), available at https://www.icann.org/resources/board-material/minutes-2016-12-13-en (last accessed 17 July 2020)
C-160	Special Meeting of the ICANN Board, Adopted Board Resolutions (13 Dec. 2016), available at https://www.icann.org/resources/board-material/resolutions-2016-12-13-en (last accessed 17 July 2020)
C-161	ICANN, Board of Governance Committee, Agenda (16 Dec. 2016), available at https://www.icann.org/resources/board-material/agenda-bgc-2016-12-16-en (last accessed 17 July 2020)
C-162	ICANN, Board of Governance Committee, Meeting Minutes (16 Dec. 2016), available at https://www.icann.org/resources/board-material/minutes-bgc-2016-12-16-en (last accessed 17 July 2020)
C-163	Contact Information for Assignment - "Change of Control" (Oct. 2017)
C-164	ICANN, Change of Control Guide: How to Submit a Request for a Change of Control Assignment (13 Dec. 2017)
C-165	Letter from Steven Marenberg (Counsel for NDC) to John Jeffrey & Akram Atallah (ICANN) (28 Feb. 2018) [ICANN-WEB_000236 - ICANN-WEB_000237]
C-166	Email from Russ Weinstein (ICANN) to Lisa Carter et al. (6 June 2018) [ICAN-WEB_000458]
C-167	Email from Jared Erwin (ICANN) to Christopher Bare and Christine Willett (ICANN) (6 June 2018) [ICANN-WEB_000457]

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C-168	Email from Erika Randall (ICANN) to Russ Weinstein et al. (ICANN) (13 June 2018) [ICANN-WEB_000453]
C-169	Email from Grant Nakata (ICANN) to Christine Willett et al. (ICANN) (14 June 2018) [ICANN-WEB_00473]
C-170	Email from Grant Nakata to Christine Willett et al. (14 June 2018) [ICANN-WEB_000452 - ICANN-WEB_000453]
C-171	Email from Christine Willett (ICANN) to Correspondence (10 July 2018) [ICANN-WEB_000485]
C-172	Kevin Murphy, "Donuts Loses to ICANN in $135 million .web auction appeal," *DomainInCite* (16 Oct. 2018), available at http://domainincite.com/23581-donuts-loses-to-icann-in-135-million-web-auction-appeal (last accessed 7 Oct. 2019)
C-173	David Goldstein, "Donuts Loses Another Court Appeal Against ICANN Decision on .WEB," *DomainPulse* (17 Oct. 2018), available at https://www.domainpulse.com/2018/10/17/donuts-loses-another-court-appeal-against-icann-decision-on-web/ (last accessed on 7 Oct. 2019)
C-174	David Goldstein, "Neustar's Nicolai Bezsonoff Discusses the 'Vote of Confidence' In Being Awarded 10 More Years of .US," *DomainPulse* (21 July 2019), available at https://www.domainpulse.com/2019/07/21/neustars-nicolai-bezsonoff-awarded-us/ (last accessed 13 July 2020)
C-175	Dilantha De Silva, "VeriSign: An Overvalued Company With A Strong Moat," *Seeking Alpha* (23 Sep. 2019), available at https://seekingalpha.com/article/4293005-verisign-overvalued-company-strong-moat (last accessed 19 July 2020)
C-176	Ash Anderson, "VeriSign Is Immune From Coronavirus," *Seeking Alpha* (16 Mar. 2020), available at https://seekingalpha.com/article/4332180-verisign-is-immune-from-coronavirus (last accessed 19 July 2020)
C-177	Written Testimony of John W. Elias before the U.S. House Committee on the Judiciary (24 June 2020), available at https://judiciary.house.gov/uploadedfiles/elias_written_testimony_hjc.pdf?utm_campaign=4024-519 (last accessed 19 July 2020)
C-178	Delaware Department of State, Division of Corporations - Filings: Nu Dotco LLC (13 July 2020)
C-179	Comprehensive Business Report: Nu Dotco LLC (13 July 2020)
C-180	ICANN, Assignments: Change of Control of Registry Operator or Material Subcontracting Arrangement, available at https://www.icann.org/resources/assignments (last accessed 13 July 2020)
C-181	ICANN, New Generic Top-Level Domains: Frequently Asked Questions, available at https://newgtlds.icann.org/en/applicants/global-support/faqs/faqs-en (last accessed 13 July 2020)

Exhibit No.	Description
Exhibit submitted with Afilias' Application for Leave to Add **Exhibit C-182 to the Record of this IRP (21 July 2020)**	
C-182	Email from Jose Ignacio Rasco (NDC) to Peg Rettino (ICANN) (copy to John Jeffrey and Akram Atallah (ICANN)) (15 Dec. 2018) [ICANN-WEB_001061]
Authorities submitted with **Afilias' Response to the *Amicus Curiae* Briefs (24 July 2020)**	
CA-44	*Pennell v. City of San Jose*, 485 U.S. 1 (1988)
CA-45	*In re Cho*, 581 B.R. 452 (Bankr. D. Md. 2018)
CA-46	*In re Spoverlook, LLC*, 560 B.R. 358 (Bankr. D. N.M. 2016)
CA-47	*In re Aslan*, 65 B.R. 826 (Bankr. C.D. Cal. 1986), *rev'd in part on other grounds*, 909 F.2d 367 (9th Cir. 1990)
CA-48	*Vir2us, Inc. v. Sophos Inc.*, No. 2:19CV18, 2019 WL 8886440 (E.D. Va. Aug. 14, 2019)
CA-49	*In re Hat*, 310 B.R. 752 (Bankr. E.D. Cal. 2004)
CA-50	*U.S. v. Smithfield Foods, Inc.*, Case 1:10-cv-00120 (D.D.C.), Complaint (21 Jan. 2010)
CA-51	U.S. Department of Justice, *Smithfield Foods and Premium Standards Farms Charged with Illegal Premerger Coordination: Company Required to Pay $900,000 Civil Penalty* (21 Jan. 2010), available at https://www.justice.gov/opa/pr/smithfield-foods-and-premium-standard-farms-charged-illegal-premerger-coordination (last accessed 23 July 2020)
CA-52	*Principal Mut. Life Ins. Co. v. Vars, Pave, McCord & Freedman*, 65 Cal. App. 4th 1469 (1998)
CA-53	*Mountain of Fire & Miracles Ministries v. Oyeyemi*, No. B218591, 2012 WL 2373003 (Cal. Ct. App. June 25, 2012)
CA-54	*In re O'Neill Enterprises, Inc.*, 547 F.2d 812 (4th Cir. 1977)
CA-55	*Merriam-Webster Dictionary* (on-line version): inaccurate, available at https://www.merriam-webster.com/dictionary/inaccurate (last accessed 21 July 2020)
CA-56	*Merriam-Webster Dictionary* (on-line version): untrue, available at https://www.merriam-webster.com/dictionary/untrue (last accessed 21 July 2020)
CA-57	*Merriam-Webster Dictionary* (on-line version): subjugate, available at https://www.merriam-webster.com/dictionary/subjugation (last accessed 21 July 2020)
CA-58	*Boeing Co. v. March*, 656 F. Supp. 2d 837 (N.D. Ill. 2009)
CA-59	*U.S v. Cianci*, 378 F.3d 71 (1st Cir. 2004)
CA-60	*ICM Registry, LLC v. ICANN*, ICDR Case No. 50-117-T-00224-08, Expert Report of Jack Goldsmith (22 Jan. 2009)
CA-61	*ICM Registry, LLC v. ICANN*, ICDR Case No. 50-117-T-00224-08, ICANN's Response to ICM's Memorial on the Merits (8 May 2009)

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CA-62	Georg Schwarzenberger and Edward Brown, *A Manual of International Law* (6th ed. 1976)
CA-63	*Nuclear Tests (Australia v. France)*, Judgment (20 Dec.), 1974 I.C.J. 253
CA-64	*Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Judgment (11 June), 1998 I.C.J. 275
CA-65	Anthony D'Amato, "Good Faith" in *Encyclopedia of Public International Law* Vol. 2 (1995)
CA-66	*The Gibraltar Football Association (GFA) v. Union des Associations Européennes de Football (UEFA)*, CAS Case No. 2002/O/410, Award (7 Oct. 2003)
CA-67	*A. v. Fédération Internationale de Luttes Associées (FILA)*, CAS Case No. 2001/A/317, Award (9 July 2001)
CA-68	*G. v. Fédération Equestre Internationale (FEI)*, CAS Case No. 1991/A/53, Award (15 Jan. 1992) in 1 *Digest of CAS Awards Series Set* 79 (1998)
CA-69	*AEK Athens and SK Slavia Prague v. Union of European Football Associations (UEFA)*, CAS Case No. 98/200, Award (20 Aug. 1999)
CA-70	*Plama Consortium Ltd. v. Republic of Bulgaria*, ICSID Case No. ARB/03/24, Award (27 Aug. 2008)
CA-71	*AES Summit Generation Ltd. and AES-Tisza Erömü Kft. v. Republic of Hungary*, ICSID Case No. ARB/07/22, Award (23 Sep. 2010)
CA-72	*Ronald S. Lauder v. Czech Republic*, UNCITRAL Arbitration, Final Award (3 Sep. 2001)
CA-73	*Filippo Volandri v. International Tennis Federation (ITF)*, CAS Case No. 2009/A/1782, Award (12 May 2009)
CA-74	*Albert Ruckdeschel & Co. and Hansa-Lagerhaus Ströh & Co. v. Hauptzollamt Hamburg-St. Annen and Diamalt AG v. Hauptzollamt Itzenhoe*, Joined Cases 117/76 and 16/77, Judgment (19 Oct. 1977), 1977 E.C.R. 1753
CA-75	*Peter Überschär v. Bundesversicherungsanstalt für Angestellte*, Case 810/79, Judgment (8 Oct.), 1980 E.C.R. 2747
CA-76	*Bilka-Kaufhaus GmbH v. Karin Weber von Hartz*, Case 170/84, Judgment (13 May), 1986 E.C.R. 1620
CA-77	*Nykomb Synergetics Technology Holding AB v. Republic of Latvia*, SCC Arbitration, Award (16 Dec. 2003)
CA-78	*Saluka Inves. BV v. Czech Republic*, UNCITRAL Arbitration, Partial Award (17 Mar. 2006)
CA-79	*Kelly and Others v. United Kingdom*, ECHR, Case No. 30054/96, Final Judgment (4 Aug. 2001)
CA-80	Advisory Opinion OC-18/03 of September 17, 2003, Inter-Am. Ct. H.R., *Juridical Condition and Rights of the Undocumented Migrants*
CA-81	*S.D. Myers, Inc. v. Gov't of Canada*, UNCITRAL Arbitration, Partial Award (13 Nov. 2000)

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CA-82	*El Paso Energy Int'l Co. v. Argentine Republic*, ICSID Case No. ARB/03/15, Award (31 Oct. 2011)
CA-83	*LG&E Energy Corp. et al. v. Argentine Republic*, ICSID Case No. ARB/02/1, Decision on Liability (3 Oct. 2006)
CA-84	*Joseph Charles Lemire v. Ukraine*, ICSID Case No. ARB/06/18, Decision on Jurisdiction and Liability (14 Jan. 2010)
CA-85	United Nations Procurement Manual (30 June 2020)
CA-86	UNCITRAL Model Law on Public Procurement (2011)
CA-87	World Trade Organization, *Revised Agreement on Government Procurement and WTO related Legal Instruments* (in force 6 Apr. 2014)
CA-88	World Bank, *Bank Policy: Procurement in IPF and Other Operational Procurement Matters* (Nov. 2017)
CA-89	OECD, *Methodology for Assessing Procurement Systems (MAPS)* (2018)
CA-90	*Siemens A.G. v. Argentine Republic*, ICSID Case No. ARB/02/8, Award (17 Jan. 2007)
CA-91	*Parkerings-Compagniet AS v. Republic of Lithuania*, ICSID Case No. ARB/05/8, Award (11 Sep. 2007)
CA-92	Akira Kotera, "Regulatory Transparency" in *The Oxford Handbook of International Investment Law* 617 (Peter Muchlinski *et al.* eds., 2008)
CA-93	Case C-532/06, *Emm G. Lianakis AE et al. v. Dimos Alexandroupolis et al.*, Judgment (24 Jan. 2008)
CA-94	Sacha Prechal and Madeleine de Leeuw, "Dimensions of Transparency: The Building Blocks for a New Legal Principle?," *Rev. Eur. Admin. L.* Vol. O, No. 1 (2007)
CA-95	*Bosh Int'l, Inc. and B & P Ltd. Foreign Inves. Enter. v. Ukraine*, ICSID Case No. ARB/08/11, Award (25 Oct. 2012)
CA-96	*Spyridon Roussalis v. Romania*, ICSID Case No. ARB/06/1, Award (7 Dec. 2011)
CA-97	*Ioan Micula et al. v. Romania*, ICSID Case No. ARB/05/20, Award (11 Dec. 2013)
CA-98	*United States Olympic Committee (USOC) v. International Olympic Committee (IOC) and International Association of Athletics Federations (IAAF)*, CAS Case No. 2004/A/725, Award (20 July 2005)
CA-99	*Técnicas Medioambientales TECMED S.A. v. United Mexican States*, ICSID Case No. ARB(AF)/00/2, Award (29 May 2003)
CA-100	*United States - Sections 301-310 of the Trade Act of 1974*, WTO Case No. WT/DS152/R, Report of the Panel (22 Dec. 1999)
CA-101	World Bank Administrative Tribunal, *Walter Prescott v. International Bank for Reconstruction and Development*, Decision No. 253 (4 Dec. 2001)

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CA-102	*Sullivan v. The Judo Federation of Australia Inc.*, CAS Case No. 2000/A/284, Award (14 Aug. 2000)
CA-103	*CME Czech Republic B.V. v. Czech Republic*, UNCITRAL Arbitration, Partial Award (13 Sep. 2001)
CA-104	*AlterG, Inc. v. Boost Treadmills LLC*, 388 F.Supp.3d 1133 (N.D. Cal. 2019)
CA-105	*Coley v. Eskaton*, 2020 WL 3833018 (Cal. Ct. App. 2020)
CA-106	*Palm Springs Villas II Homeowners Assn., Inc. v. Parth*, 248 Cal.App.4th 268 (Cal. Ct. App. 2016)
CA-107	*Ekstrom v. Marquesa at Monarch Beach Homeowners Assn.*, 168 Cal.App.4th 1111 (Cal. Ct. App. 2008)
CA-108	Stuart Chemtob, U.S. Department of Justice, The Role of Competition Agencies in Regulated Sectors (5th International Symposium on Competition Policy and Law, Institute of Law, Chinese Academy of Social Science, Beijing, China, 11 May 2007), available at https://www.justice.gov/atr/speech/role-competition-agencies-regulated-sectors (last accessed 23 July 2020)
CA-109	*In the Matter of Policies Regarding Mobile Spectrum Holdings*, FCC, WT Docket No. 12-269, Ex Parte Submission of the United States Department of Justice (11 Apr. 2013)
CA-110	U.S. Department of Justice and the Federal Trade Commission, *Horizontal Merger Guidelines* (19 Aug. 2010)
CA-111	Clayton Act, 15 U.S.C. § 18 (1996)
CA-112	*Steves and Sons, Inc. v. JELD-WEN, Inc.*, 345 F.Supp.3d 614 (E.D. Va. 2018)
CA-113	*Singh v. Singh*, 114 Cal. App. 4th 1264 (2004)
CA-114	18A Am. Jur. 2d *Corporations* § 262 (2020)
CA-115	*Merriam-Webster Dictionary* (on-line version): accountability, available at https://www.merriam-webster.com/dictionary/accountability (last accessed 23 July 2020)
CA-116	*Oxford English Dictionary* (on-line version): accountability, available at https://www-oed-com.nyli.idm.oclc.org/view/Entry/1197?redirectedFrom=accountability&&print (last accessed 24 July 2020)
CA-117	Dictonary.com: redress, available at http://dictionary.reference.com/browse/redress (last accessed 23 July 2020)
CA-118	*Black's Law Dictionary* (11th ed. 2019): redress
CA-119	*Factory at Chorzów (Claim for Indemnity) (Merits)*, Judgment (Sep. 13), 1928 P.C.I.J. (Ser. A) No. 17
CA-120	Lexico.com: resolve, available at https://www.lexico.com/en/definition/resolve (last accessed 23 July 2020)

Exhibit No.	Description
CA-121	*Oxford English Dictionary* (on-line version): resolve, available at https://www-oed-com.nyli.idm.oclc.org/view/Entry/163733?rskey=u3QyP2&result=2&isAdvanced=false&print (last accessed 24 July 2020)
CA-122	*Interpretation of Judgments Nos. 7 and 8 (The Chorzów Factory)*, Judgment, 1927 P.C.I.J. (Ser. A) No. 13 (Dec. 16)
CA-123	Gary Born, *International Commercial Arbitration* (2d ed. 2014)
CA-124	Arbitration Act 1996 (Eng.)

EXHIBIT C-125

DEPARTMENT OF JUSTICE
Antitrust Division

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December 3, 2008

Meredith A. Baker
Acting Assistant Secretary for Communications
  and Information
National Telecommunications and
  Information Administration
United States Department of Commerce
Washington, D.C. 20230

Re: <u>ICANN's Draft RFP for New gTLDs</u>

Dear Ms. Baker:

This letter responds to the United States Department of Commerce's ("DOC") request for advice regarding competition issues raised by the draft request for proposal ("RFP") that would govern the issuance of new generic top level domains ("gTLDs") published by the Internet Corporation for Assigned Names and Numbers ("ICANN"). The Antitrust Division has reviewed the RFP and related materials published on ICANN's website, including a proposed registry agreement that ICANN will require successful applicants to execute. Our analysis of the issues raised by these materials is informed by our extensive experience with competition matters as well as the analysis we conducted in connection with our 2006 review of the revised .com registry agreement.[1]

As we explain below, some new gTLDs envisioned by the RFP likely would have market power, the exercise of which is not adequately addressed by the RFP or other constraints. Moreover, the creation of additional gTLDs is unlikely to constrain the exercise of market power by existing TLDs, especially the .com registry operated by VeriSign. Contrary to ICANN's apparent assumption, competition from existing TLDs – or from new gTLDs created pursuant to the RFP – is not likely to prevent the exercise of market power by new or existing TLD registries.

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[1] *See* Letter from Thomas O. Barnett to John M. R. Kneuer, dated September 6, 2006.

As a result, although new gTLDs may generate some consumer benefits, ICANN should take additional steps to ensure that the process of creating new gTLDs incorporates to the maximum extent possible competition-based mechanisms and also imposes other constraints on the exercise of market power by gTLD operators.

The Division makes two specific recommendations. First, ICANN's general approach to new gTLDs should be revised to give greater consideration to consumer interests. ICANN should more carefully weigh potential consumer harms against potential consumer benefits before adding new gTLDs and renewing new gTLD registry agreements. Second, the RFP process and proposed registry agreement should include provisions that would enable ICANN to constrain new registry operators from exercising market power. In particular, ICANN should establish competitive mechanisms for authorizing new gTLDs and renewals of gTLD registry agreements whereby prospective gTLD operators would compete for gTLDs by proposing registry terms – including maximum fee schedules – that would provide consumer benefits.

Background:
Introducing New gTLDs Likely Would Enable the Exercise of
Market Power by gTLD Operators and Likely Would Not Constrain the
Exercise of Market Power by .com and Other Existing TLDs

Our investigation of the proposed .com agreement generated several findings that bear on the likely effect of creating new gTLDs. First, we found that VeriSign possesses significant market power as the operator of the .com registry because many registrants do not perceive .com and other gTLDs (such as .biz and .info) and country code TLDs ("ccTLDs," such as .uk and .de) to be substitutes. Instead, registrants frequently purchase domains in TLDs other than .com as *complements* to .com domains, not as substitutes for them. In other words, registrants of a particular .com domain (e.g., google.com) will frequently also perceive a need to register the same domain in all or most available TLDs (e.g., google.info and google.biz) because of a desire to expand their presence on the Internet and to protect their brands from being exploited by others.[2]

We also concluded that existing gTLDs likely would not become a competitive threat to .com registrations because the network effects that make .com registrations so valuable to consumers will be difficult for other TLDs to overcome. Due to a first-mover advantage and high brand awareness, .com registrations account for the overwhelming majority of gTLD registrations. As a result, when users do not know the TLD in which a domain is registered, they most often simply append ".com" to a product or company name when attempting to find the

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[2] In this regard, we discovered that .info often seems to have little value as a stand alone gTLD. Many of the increased domain registrations in .info while those registrations were offered for free were simply bundled with purchases of the same domain in other TLDs or registered to existing users of the same domain in .com.

desired website. This phenomenon creates a strong preference for .com.[3] Accordingly, there will continue to be a need for Section 7.3 of the .com registry agreement to replace the discipline that market competition does not provide in this setting, as well as continuing DOC oversight of the .com registry under the Cooperative Agreement, which precludes VeriSign from amending or renewing the .com agreement without DOC approval.

Finally, our investigation of the .com agreement found evidence that other gTLD registry operators may possess a degree of market power. The market power inherent in the other gTLDs is less than the market power in .com, but is still material. The need of many registrants to purchase domains in many or most gTLDs allows each gTLD registry operator to impose costs on registrants that purchase domains simply because a gTLD exists. With respect to existing gTLDs, this power is constrained to some extent by the registry agreements applicable to the other gTLDs. Without those constraints, the gTLD operators likely could profitably charge even higher fees that reflect their market power as to registrants that are willing to pay a premium for their domains, since it appears that the operators may be able to identify those customers and charge discriminatorily high domain registration prices.[4] The fact that some registrants might view different gTLDs as substitutes would not necessarily constrain the gTLD operators from selectively exercising market power vis-a-vis those that are willing to pay a premium.

In light of these findings, we believe that the introduction of new gTLDs under the RFP could impose substantial additional domain registration costs on many consumers and that many new gTLD registry operators may have market power over registrants. Further, the introduction of new gTLDs is not likely to constrain the exercise of market power by existing gTLDs or ameliorate the continuing need for restraints to prevent VeriSign from exercising market power in the sale of .com domains.

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[3] VeriSign has argued that the increasing use of search engines will cause the importance of .com to diminish, but "direct navigation" continues to be a common practice. Computer users who type Internet destinations into their browser bars often assume that a domain is in the .com TLD whenever they are uncertain, due to the greater prevalence of .com names relative to other TLDs. As a result, new registrants often search for alternative domains in .com when their preferred .com domain is unavailable, rather than selecting their preferred domain in another TLD because investment in developing the domain in the new gTLD would likely benefit the owner of the domain in .com.

[4] Registrants that are willing to pay a premium would include those that engage in defensive registrations to protect their trademark or trade name and registrants that make significant investments in their domain names. A registry operator's ability to impose increased prices on registrants willing to pay a premium for domain names in a new gTLD assumes that the registry operator can identify these registrants. The antitrust laws likely would not constrain the unilateral pricing decisions of a gTLD operator whose market power derived from the creation of a new gTLD by ICANN.

Recommendations

1.   *ICANN Should Give Greater Consideration to Consumer Interests before Creating New gTLDs and Renewing Registry Agreements*

ICANN is obligated to manage gTLDs in the interests of registrants and to protect the public interest in competition.[5] ICANN appears to have assumed that the introduction of new gTLDs necessarily will enhance competition and promote choice and innovation, without offering any evidence to support that assumption. To our knowledge, ICANN has neither studied competition among gTLDs at the registry level, nor commissioned such a study, despite the ICANN Board of Director's specific direction to do so.[6] On October 18, 2006, the ICANN Board directed ICANN's President to commission an economic study to address questions such as:

- whether the domain registration market is one market or whether each TLD functions as a separate market,
- whether registrations in different TLDs are substitutable,
- what are the effects on consumer and pricing behavior of the switching costs involved in moving from one TLD to another,
- what is the effect of the market structure and pricing on new TLD entrants, and
- whether there are other markets with similar issues, and if so how are these issues addressed and by whom[7]

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[5] *See* Articles of Incorporation of ICANN, 4, as revised November 21, 1998 (http://www.icann.org/en/general/articles.htm); Joint Project Agreement Between the U.S. Department of Commerce and ICANN, Section II.C., dated Sept. 29, 2006 (http://www.icann.org/en/general/JPA-29sep06.pdf).

[6] ICANN has periodically referenced an OECD report published in 2004 as support for its position that introducing new gTLDs may enhance competition at the registry level. The OECD authors relied on data showing a decline in .com, .net, and .org registrations combined with a significant number of registrations in the new .info, .biz, and .name gTLDs during the six-month period immediately following the introduction of the new gTLDs in 2002. S. Paltridge and M. Matsui, OECD's Directorate for Science, Technology and Industry, *Generic Top Level Domains: Market Development and Allocation Issues*, 4, 22 (July 13, 2004). However, the authors acknowledge that the reduction in .com, .net, and .org registrations was at the end of the "internet bubble," and that registrations in those three gTLDs resumed growth during the succeeding six-month period, while registrations in the new gTLDs tailed off and actually declined in .info during the last six months of 2003, the last period for which registration data was available. *Id.* Indeed, with the benefit of additional, more recent information in our investigation of the new .com agreement, we found no indication that the other gTLDs impose a competitive constraint on sales of .com domains or on VeriSign's ability to charge the maximum .com registry price.

[7] ICANN, Special Meeting of the Board Minutes (Oct. 18, 2006) (http://www.icann.org/en/minutes/minutes-18oct06.htm) (last visited Nov. 17, 2008).

The Board recognized that such a study could help in future negotiations with TLD registry operators.[8] Now, more than two years later, ICANN has proposed to introduce a new gTLD approval process, complete with a new gTLD registry operator agreement, apparently without having even begun the requested study.

ICANN should revise its general approach to give greater consideration to potential consumer harms and benefits. The creation of new gTLDs could generate consumer harm. First, approval of new gTLDs would proliferate the number of TLDs in which registrants feel that they must purchase registrations to protect their domain names, increasing their costs.[9] Second, new gTLD operators may be able to exercise market power vis-a-vis some group of customers (e.g., because of a desire to register for defensive purposes or because of investments they make in a domain name).

At the same time, new gTLDs could generate benefits. It is possible, for example, that they would intensify competition among gTLDs other than .com for customers that do not feel compelled to register their domain names in multiple gTLDs. Whether this is likely would require further analysis. In addition, new gTLDs may benefit unique registrant populations that might value a domain in a particular gTLD. An example of this could be a new gTLD that represents a particular community of people, a type of application that ICANN anticipates receiving in response to the RFP. However, we are unaware of any effort by ICANN to quantify this consumer benefit. ICANN has not attempted to distinguish the registrants that might value having a domain in a gTLD other than .com, including a new gTLD, from those registrants that would feel compelled to purchase one or more domains in the new gTLD only because the gTLD was created.

The RFP neither provides for any evaluation of what effect, if any, the new gTLDs will have on competition at the registry level nor allows for objections based on the likely adverse competitive effects of the gTLD. The RFP also does not establish any mechanisms or processes that would minimize the potential for harm from new gTLDs while enabling the potential benefits to be realized. For example, the proposed registry agreement (unlike the .com agreement and other existing gTLD registry agreements) does not include any price caps that would limit the ability of new gTLD registry operators to charge the highest possible prices for domains in the new gTLDs. Similarly, the proposed agreement does not include any restrictions against price discrimination, bundling, and tying. It also does not require registry operators to offer domains pursuant to long term contracts, meaning that registry operators would be free to raise

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[8] *Id.*

[9] The circumstances under which registry operators may impose additional costs on registrants willing to pay a premium for a domain name depends on the registry operator's ability to price discriminate as well as their pricing strategy. The magnitude of the overall increase in costs will likely to some extent depend on the number of new gTLDS introduced as a result of the RFP process.

prices to registrants willing to pay a premium for specific domain names. The proposed registry agreement also allows for the perpetual renewal of every new gTLD registry agreement without regard to competitive effects or consumer-based objections.

ICANN should recognize that new gTLDs, while providing a desired choice for some registrants, are unlikely to restrain the exercise of market power by the .com registry operator and may impose significant costs on registrants, particularly those that will feel compelled to register their domains in the new gTLDs. ICANN should explicitly include this type of analysis as part of its evaluation of each new gTLD application, and should proceed cautiously in authorizing new gTLDs, attempting to assess both the likely costs and benefits of any new gTLD.[10] If ICANN is not prepared to act now to address the competition-related issues identified in this letter, it should at a minimum postpone the introduction of new gTLDs and the adoption of additional perpetually renewing gTLD agreements until it receives and reviews the study that the ICANN Board requested over two years ago.

2. **ICANN Should Revise the RFP Process and the Proposed Registry Agreement to Protect Consumers from the Exercise of Market Power**

ICANN should take steps to protect consumers from the exercise of market power by gTLD operators. First, the new gTLD approval and management process should be amended to reduce the potential adverse results of new gTLDs. The RFP process should require ICANN to consider, allow objections for, and retain authority to address any adverse consumer welfare effects that may arise during the new gTLD approval process and registry agreement renewal process. For example, ICANN should be sensitive to complaints that consumers may feel compelled to register domains in a new gTLD for defensive purposes, without expectation of receiving meaningful value from the new registration other than avoidance of even higher costs that would be incurred to combat third parties' improper use of the registrant's trade name in the new gTLD.

Second, once it has decided to authorize a new gTLD, ICANN should implement a process by which prospective gTLD operators compete for the privilege of operating a particular gTLD by offering terms that benefit consumers. Effectively implementing such a process would require

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[10] ICANN has consistently told us that its primary concern is with DNS management from a technical perspective and that it does not have the expertise or inclination to protect or preserve the public interest in competition and low domain costs, preferring instead to allow government competition authorities to take whatever action might be necessary to address issues of competitive abuse. The problem with ICANN's preferred approach is that the antitrust laws generally do not proscribe a registry operator's unilateral decisions made under the processes established by ICANN – such as, for instance, pricing decisions. *See, e.g., Verizon Commc'ns Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 407 (2004) ("The mere possession of monopoly power, and the concomitant charging of monopoly prices, is not . . . unlawful . . . ."). Accordingly, ICANN should create rules fostering a competitive environment to the greatest extent possible.

that ICANN evaluate bids from the perspective of the benefits they provide consumers, not merely the amount bidders are willing to pay to ICANN for the right to operate the gTLD. ICANN's requests for bids should expressly call for bids to specify an initial maximum price that would be charged by the operator for domain registrations, as well as limitations on price increases over time. ICANN should also encourage improved performance by asking bidders to propose any operating specifications that exceed the minimum standards established by ICANN. ICANN's requests for bids should also solicit other proposals for providing consumer benefit, such as commitments not to discriminate in price across registrants (in order to avoid the ability to "hold up" registrants that have made investments in a domain name) and not to require the purchase of other services from the registry operator as a condition of registration (to limit price cap evasion). All such terms should be incorporated in the registry agreement so that ICANN can enforce them.

Third, although a competitive bidding mechanism likely is the best mechanism for simulating a competitive outcome in most circumstances, it may not be effective in all cases. Because ICANN's proposed registry agreement lacks any of the kinds of safeguards included in Section 7.3 of the new .com agreement or other gTLD agreements, ICANN should consider revising the proposed registry agreement, at least for instances where there is not competitive bidding to operate a new gTLD, to include provisions designed to limit the ability of the registry operator to exercise market power, i.e., price caps and commitments against price discrimination and tying. In addition, it may be preferable to require long-term agreements (the .com agreement, for example, requires that the operator offer domains for terms of up to 10 years). If a competitive bidding mechanism is infeasible, protections of this sort would prevent the exercise of market power by the operators of many of the contemplated gTLDs. Even if a competitive bidding mechanism is implemented, moreover, it might still be appropriate to incorporate some protections into the standard registry agreement, to anticipate the possibility that there is not effective competition for a particular gTLD.

Finally, ICANN should require competitive bidding for renewals of a gTLD registry agreement, rather than granting the incumbent operator a perpetual right to renew without competition. Such a mechanism would both assist in disciplining the conduct of the incumbent during the initial term insofar as the incumbent would want to maximize the likelihood of renewal, and ensure the benefits of competition when potential operators bid for the right to operate the gTLD in the renewal term. Instead, ICANN has conformed the proposed registry agreement to the existing gTLD agreements, effectively granting perpetual renewal rights to registry operators without the prospect of periodic rebidding, and without regard to potential adverse competitive effect. Experience with the .net TLD and other gTLDs has shown that competitive bidding in the award of gTLD registry agreements, and periodic rebidding, has served as an effective tool for managing the interests of registrants in gTLDs. Indeed, competitive bidding has resulted in lower domain prices and higher operating specifications than what ICANN has achieved through non-competitive negotiations. In particular, competitive .

bidding prompts bidders to propose and accept registry improvements, higher operating standards, and lower registration fees to win the contract.

Opponents of competitive bidding on renewals have contended that ICANN needs to grant perpetual registry contracts in order to motivate registry operators to invest in their registries. However, incumbent registry operators have an incentive to make investments in order to maintain their competitive advantage in a rebid situation.[11] Thus, the effect on innovation of potential termination of a registry agreement is at worst inconclusive. Further, experience demonstrates that any concern about the risk of transferring a new gTLD registry after a rebid is misplaced. Management and operation of many gTLDs and ccTLDs have been successfully transferred without imposing undue burdens on DNS stability or security. For example, VeriSign successfully transferred the .org registry to the Public Interest Registry in January 2003.

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ICANN's approach to TLD management demonstrates that it has adopted an ineffective approach with respect to its obligation to promote competition at the registry level. We respectfully suggest that the DOC refrain from expressing satisfaction with ICANN's progress toward the goal of promoting competition among TLDs unless and until ICANN develops a credible and effective policy that compels it to employ tools such as competitive bidding to manage TLDs in a manner that safeguards the interests of registrants in obtaining high quality domains at the lowest possible prices. To date, we believe that ICANN has not come close to fulfilling its obligations to employ competitive principles in its management of TLD registry operations.

Sincerely,

Deborah A. Garza

cc: Kathy D. Smith, Esq.

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[11] We have identified no registry operator that reduced investment because of potential termination.

EXHIBIT C-126

**Comments on Michael Kende's Assessment of
Preliminary Reports on Competition and Pricing**

**Dennis Carlton
June 5, 2009**

I.   INTRODUCTION

A.   TASK

1.   I have been asked by ICANN to respond to the report submitted on

April 17, 2009 by Michael Kende entitled "Assessment of ICANN Preliminary Reports

on Competition and Pricing" prepared on behalf of AT&T.   The Kende report comments

on my March 2009 papers evaluating: (i) the likely impact on consumer welfare of

ICANN's proposed framework for authorizing new gTLDs;[1] and (ii) the appropriate role

of price caps for services provided by new gTLDs.[2]

2.   In the Consumer Welfare report, I concluded that, while the evaluation of

the ICANN proposal requires consideration of both costs and benefits, "… even if new

gTLDs do not compete with *.com* and other major TLDs for existing registrants, it is

likely that consumers would nonetheless realize significant benefits from new gTLDs due

to increased competition for new registrants and increased innovation that would likely

be fostered by entry."[3] In the Price Cap report, I concluded that, in the absence of

intellectual property concerns, "… price caps or ceilings on prices charged by operators

of new gTLDs are unnecessary to insure the potential competitive benefits of the new

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1. Preliminary Report of Dennis Carlton Regarding the Impact of New gTLDs on
    Consumer Welfare (March 2009), hereafter "Consumer Welfare report."
2. Preliminary Analysis of Dennis Carlton Regarding Price Caps for New gTLD Internet
    Registries (March 2009) hereafter "Price Cap report."
3. Consumer Welfare Report, p. 1

gTLDs" and that "imposing price caps on the registries for new TLDs could inhibit the marketplace acceptance of new gTLDs by limiting the pricing flexibility of entrants…"[4]

3.   In responding to my reports, Dr. Kende claims that "there is no evidence of the type of beneficial competition that Professor Carlton argues that the proposed gTLD framework will introduce."[5] He further argues that "[t]he economic study that the Board directed the staff to undertake in 2006 […] pointed the way to an appropriate and informed approach by ICANN, which would provide the answers to the questions that were addressed by Professor Carlton in his two preliminary studies."[6]

4.   Dr. Kende concludes that new gTLDs would impose costs on trademark holders by requiring "defensive registrations" and that my prior reports "… failed to analyze the present status and satisfaction of trademark holders with the current safeguards…"[7] He further concludes that price caps for new gTLDs would be appropriate due to the "…possibility that registries might [set prices] aimed at customers registering defensively, who may be less price sensitive"[8] Finally, he claims that the absence of price caps for new gTLDs could results in the elimination of price caps for existing registries.[9]

B.   SUMMARY OF CONCLUSIONS

5.   My major conclusions, explained in further detail in the following sections of this report, are as follows:

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4. Price Cap report, p. 1.
5. Kende, p. 11.
6. Kende, p. 19.
7. Kende, p. 11.
8. Kende, p. 19.
9. Kende, p. 13.

- There is no basis for Dr. Kende's claim that the study authorized by the ICANN Board in 2006, which proposed to analyze the scope of the market for registration services, is necessary for evaluating whether consumers would benefit from ICANN's proposed framework for introducing new gTLDs. Even if *.com* (or, for that matter, any other TLD) today exercises market power, new gTLDs could enhance consumer welfare by creating new products and fostering innovation, and promoting future competition with *.com* and other TLDs. That is, entry of a new gTLD can be desirable even if the gTLD does not erode any of the market power that *.com* may possess.

- While concerns about consumer confusion and defensive registrations need to be considered, Dr. Kende provides no basis for concluding that restricting the entry of new gTLDs is the best solution to reducing these costs. Alternative mechanisms exist, and others are actively being studied by ICANN, to protect trademark holders while preserving the procompetitive benefits of entry.

- Dr. Kende exaggerates costs associated with ICANN's gTLD proposal. He defines "defensive registrations" as those which direct traffic to other sites, but this definition fails to distinguish between productive registrations which attract and maintain traffic as well as those undertaken only to protect trademarks.

- Finally, I understand that there is no basis for Dr. Kende's claim that the absence of price caps for new gTLDs will require elimination of price caps for existing TLDs.

II. DR. KENDE INCORRECTLY CONCLUDES THAT THE 2006 STUDY AUTHORIZED BY ICANN IS NECESSARY TO UNDERSTAND THE POTENTIAL BENEFITS OF NEW gTLDs.

6. Dr. Kende asserts that two critical questions for studying the potential benefits of new gTLDs are "whether there is market power in the domain registration market, and whether there is evidence that entry would be sufficient to counteract such market power."[10] He claims that the results of the study requested by the ICANN Board in 2006 "would determine the extent of competition for existing gTLDs and how to identify where expansion would provide economic benefits in the form of choice for Internet users interested in registering a new core domain name."[11] He further claims that "such a study would necessarily have impacted Professor Carlton's conclusions."[12]

7. Dr. Kende's comments are incorrect and fail to properly recognize the role of entry in promoting consumer welfare in the presence of market power. As I have emphasized previously, new products and services are primary generators of increases in consumer welfare and restrictions on entry will impede innovation.[13]

8. Even if the new gTLDs authorized under the ICANN proposal would not compete with *.com* for *existing* registrants and did not result in the reduction of the fee for

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10. Kende, p.3.
11. The 2006 ICANN-authorized report was designed to address questions related to whether the domain registration market is one market or whether each TLD functions as a separate market.
12. Kende, p. 2.
13. See "Preliminary Report of Dennis Carlton Regarding the Impact of New gTLDs on Consumer Welfare" pp. 18-19 for a discussion of the economic literature on the importance of product innovation and technological progress.

.com registration below the price cap level, entry would still be likely to benefit consumers by increasing the likelihood of the successful introduction of new and innovative registration services which generate benefits to consumers. Successful new gTLDs also would be expected to lead existing registries to improve the quality of service they provide and to accelerate the introduction of new services in order to continue attracting new registrants.

9. As this analysis indicates, determining the scope of the market for registry services and the extent of competition between TLDs, as ICANN proposed in 2006, is not critical to the evaluation of the potential benefits from the entry of new gTLDs.

III. ENTRY RESTRICTIONS ARE AN INEFFICIENT MECHANISM FOR PREVENTING THE MISUSE OF TRADEMARKS

10. Dr. Kende claims that an overwhelming number of domain names reflect "defensive registrations" that do nothing more than direct traffic back to a "core registration" site. Dr. Kende claims that "[t]hese are registered to prevent a cybersquatter from registering them instead, or are recovered from cybersquatters who registered them first."[14] He claims that gTLDs are likely to impose significant costs on consumers by requiring new defensive registrations which serve no productive purpose other than to prevent trademark abuse.

11. This section shows (i) that restrictions on entry of new gTLDs are unlikely to be an efficient mechanism for reducing concerns about "cybersquatting" and defensive registrations; and (ii) that Dr. Kende incorrectly suggests that many domain names that merely redirect traffic to another site are unproductive and serve no other purpose than preventing cybersquatting. As such Dr. Kende appears to overstate inefficiencies

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14. Kende, p. 7.

imposed on trademark holders that are likely to result from the introduction of new gTLDs.

A. ENTRY RESTRICTIONS ARE LIKELY TO BE AN INEFFICIENT MECHANISM FOR PROTECTING TRADEMARKS.

12.   Dr. Kende claims that my Consumer Welfare report failed to adequately account for costs that new gTLDs would impose on trademark holders through defensive registrations and that restrictions on the entry of new gTLDs benefits consumers by limiting the need for defensive registrations.[15] While trademark holders' concerns about the potential impact of new gTLDs on the need for defensive registrations merit attention, and while protecting trademarks and intellectual property can promote consumer welfare, economic efficiency requires that trademark holders concerns be addressed at the minimum possible cost. Dr. Kende provides no support for his suggestion that restricting entry is the most efficient way of protecting trademark holders. To carry his example to other markets, the fact that car accidents impose costs does not imply that cars should be banned.

13.   As discussed in my prior report, mechanisms currently exist for protecting the use of trademarks in domain names. For example, ICANN maintains the Uniform Domain Name Dispute Resolution Policy (UDRP) for, among other things, resolving claims that a registrant owns a domain name that infringes an existing trademark. While a large number of disputes are routinely resolved under these procedures, Dr. Kende cites dissatisfaction with these rules by trademark holders.[16]

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15. Kende, p.8.
16. Kende, p.10.

14.   Entry restrictions are an extreme approach to addressing trademark concerns when alternative approaches, such as modifying existing dispute resolution mechanism, may also help achieve these goals while preserving the benefits to consumers of entry. As mentioned in my Consumer Welfare report, for example, implementation of a "user pays" rules in domain name disputes or other changes in dispute resolution mechanisms would help deter trademark infringements and baseless challenges of trademark violations.[17]

15.   In addition, ICANN has instituted a process to address concerns of trademark holders and to improve mechanisms for protecting trademark holders' property and preventing the unauthorized use of trademarks in domain names. In March 2009, ICANN formed the Implementation Recommendation Team ("IRT") whose purpose is to consider and recommend proposals that will help protect the legal rights of trademark owners focusing on, but not limited to, issues arising with respect to the introduction of new gTLDs.[18]

16.   The IRT recently has issued a report which proposes new mechanisms for protecting trademark holders. These include: creating a centralized intellectual property clearinghouse to support new gTLD registries; instituting a mechanism for blocking registration of domain names with certain globally protected trademarks (those included in the Globally Protected Marks List) in both the top and second level domain space; and creating a venue for expedited proceedings for blatant trademark infringement and abuse. The status of these recommendations is under review. Before resorting to the draconian

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17. Consumer Welfare Report, p. 21. A more extreme form of the "loser pays" rule would involve the loser paying a penalty.
18. IRT Report (http://www.icann.org/en/announcements/announcement-4-29may09-en.htm)

remedy of restricting entry, the existing and proposed alternative mechanisms for dealing

with gTLD-related trademark concerns should be pursued.

B.   DR. KENDE INCORRECTLY SUGGESTS THAT ALL "DEFENSIVE" REGISTRATIONS SERVE NO PRODUCTIVE PURPOSE.

17.   As noted above, Dr. Kende defines "defensive registrations" as those

which "redirect traffic back to a core registration." He claims that defensive registrations

serve no purpose other than to "prevent a cybersquatter from registering them."[19]

Dr. Kende, however, fails to recognize that many domains that "redirect traffic back to a

core registration" are undertaken for reasons wholly unrelated to cybersquatting concerns

and reflect attempts by registrants to attract traffic and efficiently structure the hosting of

Internet content.

18.   According to Dr. Kende, more than 97 percent the registrations by the five

representative firms he reviewed meet his definition of "defensive" registrations.

Dr. Kende, however, has not produced the questionnaire or data that provide the basis of

his analysis. As a result, I cannot determine whether survey respondents to the

MarkMonitor survey consider all registrations that merely redirect traffic to other

domains as unproductive expenditures designed to prevent cybersquatting or whether this

is Dr. Kende's interpretation.

19.   In fact, many registrations that direct traffic to other sites are

complementary to "core" registrations and help attract traffic to a "core" website and are

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19. Kende, p. 7. More fully, Dr. Kende defines defensive registrations as follows:
"*Defensive Registration:* These registrations are not unique, in that they do no resolve, or they redirect traffic back to a core registration, or do not contain unique content – for instance registrations that contain typos of a trademarked name. These are registered to prevent a cybersquatter from registering them instead, or are recovered from cybersquatters who registered them first."

not merely undertaken to prevent cybersquatting. For example, the following types of registrations that direct traffic to other sites would help attract traffic and would not be maintained simply to prevent cybersquatting:

- Registrations involving trademark names that direct traffic to the website of a corporate parent;

- Registrations involving trademark names no longer in active use;

- Registrations involving trademark names not currently used that may be used in the future;

- Registrations involving common misspellings that redirect traffic to the core site.

20. To take just one small example, my own firm – Compass Lexecon – currently maintains several dozen registrations in addition to *compasslexecon.com.* These include *compass.com* and *lexecon.com*, which were the registrations maintained by the two companies that merged to form Compass Lexecon.[20] These domains do not currently host content but instead route traffic to compasslexecon.com. Maintaining these registrations prevents the potential loss of traffic generated by individuals who may not be aware of the firm's name change. However, these would be considered unproductive "defensive registrations" under the standard adopted by Dr. Kende.

21. There are a myriad of reasons that firms maintain registrations that redirect traffic to another site that have little to do with trademark protections. While there is no doubt that some registrations are made to prevent trademark abuse, Dr. Kende's failure to distinguish "defensive registrations" designed to prevent

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20. In addition, Compass Lexecon maintains a variety of .cc registrations and related registrations that direct traffic to the *compasslexecon.com* site.

cybersquatting alone from those that help attract and maintain Internet traffic (while

redirecting it to another site) in summarizing the MarkMonitor data likely exaggerates the

costs associated with ICANN's gTLD proposal.

IV. THERE IS NO BASIS FOR DR. KENDE'S CONCERNS THAT ICANN'S PROPOSAL WILL LEAD TO THE REPEAL OF EXISTING PRICE CAPS.

22.   As noted above, Dr. Kende suggests that the absence of price caps for new

TLDs could result in the elimination of price caps for *.com, .net, .org, .info, .biz and*

others as a result of the "equitable treatment" clause in ICANN agreements.[21] We

understand from ICANN that there is no basis for this concern. The language in this

clause does not require identical treatment among all registries and recognizes that

differences across ICANN contracts with different registries can be "justified by

substantial and reasonable cause." ICANN's contracts with existing TLDs recognize that

different practices may be appropriate for different registries and allow ICANN latitude

to implement different procedures. I am aware of no statement either by ICANN or the

Commerce Department favoring the elimination of price caps specified in existing

registry contracts.

23.   Dr. Kende further claims that price caps for new gTLDs are necessary

because "defensive registrations are much less price sensitive than basic new

registrations."[22] However, the evidence from the introduction of new TLDs does not

support this argument. More specifically, the relatively small number of registrations in

newer TLDs such as *.info* and *.biz*, despite lower registry fees than those for *.com*, is

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[21] For example, the VeriSign agreement with ICANN states in Section 3.2(a) that "ICANN shall not apply standards, policies, procedures or practices arbitrarily, unjustifiably, or inequitably and shall not single out Registry Operator for disparate treatment unless justified by substantial and reasonable cause."

22. Kende, p.12.

inconsistent with Kende's assertion that the demand for defensive registrations by trademark owners is inelastic and thus likely to generate a high price.

V.   CONCLUSION

24.   While evaluation of ICANN's proposal requires the evaluation of both costs and benefits, new gTLDs would yield benefits to consumers even if they did not compete directly with *.com* and did not result in the reduction of *.com* fees below the price cap level. This implies that ICANN's proposed 2006 study, which would have analyzed whether .com or other existing TLDs are separate markets and could exercise market power in the absence of price caps, is superfluous to an assessment of whether consumers would benefit from new gTLDs.

25.   While Dr. Kende argues that the increase in costs for trademark owners from new TLDs should prohibit their introduction, he provides no evidence that restricting entry is the most efficient method for reducing these costs. ICANN, through the IRT, is currently studying possibilities for more efficient procedures to resolve trademark-related disputes involving registrations. Such improvements to existing procedures can help protect trademark holders while preserving the procompetitive effects of entry. In addition, the data reported by Dr. Kende appear to exaggerate the significance of "defensive" registrations designed to prevent cybersquatting and thus exaggerate the implied need for restricting entry in order to deter trademark abuse.

EXHIBIT C-127

C-127

New gTLD Application Submitted to ICANN by: Ruby Glen, LLC

String: web

Originally Posted: 13 June 2012

Application ID: 1-1527-54849

Applicant Information

1. Full legal name

Ruby Glen, LLC

2. Address of the principal place of business

Contact Information Redacted

3. Phone number

Contact Information Redacted

4. Fax number

Contact Information Redacted

5. If applicable, website or URL

Primary Contact

6(a). Name

Daniel Schindler

6(b). Title

EVP, Donuts Inc.

6(c). Address

6(d). Phone Number

Contact Information Redacted

6(e). Fax Number

6(f). Email Address

Contact Information Redacted

Secondary Contact

7(a). Name

Jonathon Nevett

7(b). Title

EVP, Donuts Inc.

7(c). Address

7(d). Phone Number

7(e). Fax Number

7(f). Email Address

Proof of Legal Establishment

8(a). Legal form of the Applicant

Limited Liability Company

8(b). State the specific national or other jursidiction that defines the type of entity identified in 8(a).

Delaware.

http:⁄⁄delcode.delaware.gov⁄title6⁄c018⁄sc01⁄index.shtml

8(c). Attach evidence of the applicant's establishment.

Attachments are not displayed on this form.

9(a). If applying company is publicly traded, provide the exchange and symbol.

9(b). If the applying entity is a subsidiary, provide the parent company.

9(c). If the applying entity is a joint venture, list all joint venture partners.

Applicant Background

11(a). Name(s) and position(s) of all directors

11(b). Name(s) and position(s) of all officers and partners

11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares

Covered TLD, LLC	N/A

11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility

Paul Stahura	CEO, Donuts Inc.

Applied-for gTLD string

13. Provide the applied-for gTLD string. If an IDN, provide the U-label.

web

14(a). If an IDN, provide the A-label (beginning with "xn--").

14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.

14(c). If an IDN, provide the language of the label (in English).

14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).

14(d). If an IDN, provide the script of the label (in English).

14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).

14(e). If an IDN, list all code points contained in the U-label according to Unicode form.

15(a). If an IDN, Attach IDN Tables for the proposed registry.

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Attachments are not displayed on this form.
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15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.

15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.

16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.

```
Donuts has conducted technical analysis on the applied-for string, and concluded that there
are no known potential operational or rendering issues associated with the string.
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The following sections discuss the potential operational or rendering problems that can arise, and how Donuts mitigates them.

Compliance and Interoperability

The applied-for string conforms to all relevant RFCs, as well as the string requirements set forth in Section 2.2.1.3.2 of the Applicant Guidebook.

Mixing Scripts

If a domain name label contains characters from different scripts, it has a higher likelihood of encountering rendering issues. If the mixing of scripts occurs within the top-level label, any rendering issue would affect all domain names registered under it. If occurring within second level labels, its ill-effects are confined to the domain names with such labels.

All characters in the applied-for gTLD string are taken from a single script. In addition, Donuts's IDN policies are deliberately conservative and compliant with the ICANN Guidelines for the Implementation of IDN Version 3.0. Specifically, Donuts does not allow mixed-script labels to be registered at the second level, except for languages with established orthographies and conventions that require the commingled use of multiple scripts, e.g. Japanese.

Interaction Between Labels

Even with the above issue appropriately restricted, it is possible that a domain name composed of labels with different properties such as script and directionality may introduce unintended rendering behaviour.

Donuts adopts a conservative strategy when offering IDN registrations. In particular, it ensures that any IDN language tables used for offering IDN second level registrations involve only scripts and characters that would not pose a risk when combined with the top level label.

Immature Scripts

Scripts or characters added in Unicode versions newer than 3.2 (on which IDNA2003 was based) may encounter interoperability issues due to the lack of software support.

Donuts does not currently plan to offer registration of labels containing such scripts or characters.

Other Issues

To further contain the risks of operation or rendering problems, Donuts currently does not offer registration of labels containing combining characters or characters that require IDNA contextual rules handling. It may reconsider this decision in cases where a language has a clear need for such characters.

Donuts understands that the following may be construed as operational or rendering issues, but considers them out of the scope of this question. Nevertheless, it will take reasonable steps to protect registrants and Internet users by working with vendors and relevant language communities to mitigate such issues.

- missing fonts causing string to fail to render correctly; and
- universal acceptance of the TLD;

17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/).

Mission/Purpose

18(a). Describe the mission/purpose of your proposed gTLD.

Q18A   CHAR: 7985

ABOUT DONUTS
Donuts Inc. is the parent applicant for this and multiple other TLDs. The company intends to increase competition and consumer choice at the top level. It will operate these carefully selected TLDs safely and securely in a shared resources business model. To achieve its objectives, Donuts has recruited seasoned executive management with proven track records of excellence in the industry. In addition to this business and operational experience, the Donuts team also has contributed broadly to industry policymaking and regulation, successfully launched TLDs, built industry-leading companies from the ground up, and brought innovation, value and choice to the domain name marketplace.

DONUTS' PLACE WITHIN ICANN'S MISSION
ICANN and the new TLD program share the following purposes:
1.   to make sure that the Internet remains as safe, stable and secure as possible, while
2.   helping to ensure there is a vibrant competitive marketplace to efficiently bring the benefits of the namespace to registrants and users alike.

ICANN harnesses the power of private enterprise to bring forth these public benefits. While pursuing its interests, Donuts helps ICANN accomplish its objectives by:

1.   Significantly widening competition and choice in Internet identities with hundreds of new top-level domain choices;
2.   Providing innovative, robust, and easy-to-use new services, names and tools for users, registrants, registrars, and registries while at the same time safeguarding the rights of others;
3.   Designing, launching, and securely operating carefully selected TLDs in multiple languages and character sets; and
4.   Providing a financially robust corporate umbrella under which its new TLDs will be protected and can thrive.

ABOUT DONUTS' RESOURCES
Donuts' financial resources are extensive. The company has raised more than US$100 million from a number of capital sources including multiple multi-billion dollar venture capital and private equity funds, a top-tier bank, and other well-capitalized investors. Should circumstances warrant, Donuts is prepared to raise additional funding from current or new investors. Donuts also has in place pre-funded, Continued Operations Instruments to protect future registrants. These resource commitments mean Donuts has the capability and intent to launch, expand and operate its TLDs in a secure manner, and to properly protect Internet users and rights-holders from potential abuse.

Donuts firmly believes a capable and skilled organization will operate multiple TLDs and benefit Internet users by:

1. Providing the operational and financial stability necessary for TLDs of all sizes, but particularly for those with smaller volume (which are more likely to succeed within a shared resources and shared services model);
2. Competing more powerfully against incumbent gTLDs; and
3. More thoroughly and uniformly executing consumer and rights holder protections.

THIS TLD
This TLD is attractive and useful to end-users as it better facilitates search, self-expression, information sharing and the provision of legitimate goods and services.   Along with the other TLDs in the Donuts family, this TLD will provide Internet users with opportunities for online identities and expression that do not currently exist. In doing so, the TLD will introduce significant consumer choice and competition to the Internet namespace – the very purpose of ICANN's new TLD program.

This TLD is a generic term and its second level names will be attractive to a variety of Internet users. Making this TLD available to a broad audience of registrants is consistent with the competition goals of the New TLD expansion program, and consistent with ICANN's objective of maximizing Internet participation.   Donuts believes in an open Internet and, accordingly, we will encourage inclusiveness in the registration policies for this TLD.   In order to avoid harm to legitimate registrants, Donuts will not artificially deny access, on the basis of identity alone (without legal cause), to a TLD that represents a generic form of activity and expression.

DONUTS' APPROACH TO PROTECTIONS
No entity, or group of entities, has exclusive rights to own or register second level names in this TLD. There are superior ways to minimize the potential abuse of second level names, and in this application Donuts will describe and commit to an extensive array of protections against abuse, including protections against the abuse of trademark rights.

We recognize some applicants seek to address harms by constraining access to the registration of second level names. However, we believe attempts to limit abuse by limiting registrant eligibility is unnecessarily restrictive and harms users by denying access to many legitimate registrants. Restrictions on second level domain eligibility would prevent law-abiding individuals and organizations from participating in a space to which they are legitimately connected, and would inhibit the sort of positive innovation we intend to see in this TLD. As detailed throughout this application, we have struck the correct balance between consumer and business safety, and open access to second level names.

By applying our array of protection mechanisms, Donuts will make this TLD a place for Internet users that is far safer than existing TLDs. Donuts will strive to operate this TLD with fewer incidences of fraud and abuse than occur in incumbent TLDs. In addition, Donuts commits to work toward a downward trend in such incidents.

OUR PROTECTIONS
Donuts has consulted with and evaluated the ideas of international law enforcement, consumer privacy advocacy organizations, intellectual property interests and other Internet industry groups to create a set of protections that far exceed those in existing TLDs, and bring to the Internet namespace nearly two dozen new rights and protection mechanisms to raise user safety and protection to a new level.

These include eight, innovative and forceful mechanisms and resources that far exceed the already powerful protections in the applicant guidebook. These are:

1. Periodic audit of WhoIs data for accuracy;
2. Remediation of inaccurate Whois data, including takedown, if warranted;
3. A new Domain Protected Marks List (DPML) product for trademark protection;
4. A new Claims Plus product for trademark protection;
5. Terms of use that prohibit illegal or abusive activity;
6. Limitations on domain proxy and privacy service;
7. Published policies and procedures that define abusive activity; and
8. Proper resourcing for all of the functions above.

They also include fourteen new measures that were developed specifically by ICANN for the new TLD process. These are:

1. Controls to ensure proper access to domain management functions;
2. 24⁄7⁄365 abuse point of contact at registry;
3. Procedures for handling complaints of illegal or abusive activity, including remediation and takedown processes;

4. Thick WhoIs;
5. Use of the Trademark Clearinghouse;
6. A Sunrise process;
7. A Trademark Claims process;
8. Adherence to the Uniform Rapid Suspension system;
9. Adherence to the Uniform Domain Name Dispute Resolution Policy;
10. Adherence to the Post Delegation Dispute Resolution Policy;
11. Detailed security policies and procedures;
12. Strong security controls for access, threat analysis and audit;
13. Implementation DNSSEC; and
14. Measures for the prevention of orphan glue records.

DONUTS' INTENTION FOR THIS TLD
As a senior government authority has recently said, "a successful applicant is entrusted with operating a critical piece of global Internet infrastructure." Donuts' plan and intent is for this TLD to serve the international community by bringing new users online through opportunities for economic growth, increased productivity, the exchange of ideas and information and greater self-expression.

18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

Q18B CHAR: 6457

Donuts will be the industry leader in customer service, reputation and choice. The reputation of this, and other TLDs in the Donuts portfolio, will be built on:
1. Our successful launch and marketplace reach;
2. The stability of registry operations; and
3. The effectiveness of our protection mechanisms.

THE GOAL OF THIS TLD

This and other Donuts TLDs represent discrete segments of commerce and human interest, and will give Internet users a better vehicle for reaching audiences. In reviewing potential strings, we deeply researched discrete industries and sectors of human activity and consulted extensive data sources relevant to the online experience. Our methodology resulted in the selection of this TLD – one that offers a very high level of user utility, precision in content delivery, and ability to contribute positively to economic growth.

SERVICE LEVELS

Donuts will endeavor to provide a service level that is higher than any existing TLD. Donuts' commitment is to meet and exceed ICANN-mandated availability requirements, and to provide industry-leading services, including non-mandatory consumer and rights protection mechanisms (as described in answers to Questions 28, 29, and 30) for a beneficial customer experience.

REPUTATION

As noted, Donuts management enjoys a reputation of excellence as domain name industry contributors and innovators. This management team is committed to the successful expansion of the Internet, the secure operation of the DNS, and the creation of a new segment of the web that will be admired and respected.

The Donuts registry and its operations are built on the following principles:

1. More meaningful product choice for registrants and users;
2. Innovative services;
3. Competitive pricing; and
4. A more secure environment with better protections.

These attributes will flow to every TLD we operate. This string's reputation will develop as a compelling product choice, with innovative offerings, competitive pricing, and safeguards for consumers, businesses and other users.

Finally, the Donuts team has significant operational experience with registrars, and will collaborate knowledgeably with this channel to deliver new registration opportunities to end-users in way that is consistent with Donuts principles.

NAMESPACE COMPETITION

This TLD will contribute significantly to the current namespace. It will present multiple new domain name alternatives compared to existing generic and country code TLDs. The DNS today offers very limited addressing choices, especially for registrants who seek a specific identity.

INNOVATION

Donuts will provide innovative registration methods that allow registrants the opportunity to secure an important identity using a variety of easy-to-use tools that fit individual needs and preferences.

Consistent with our principle of innovation, Donuts will be a leader in rights protection, shielding those that deserve protection and not unfairly limiting or directing those that don't. As detailed in this application, far-reaching protections will be provided in this TLD. Nevertheless, the Donuts approach is inclusive, and second level registrations in this TLD will be available to any responsible registrant with an affinity for this string. We will use our significant protection mechanisms to prevent and eradicate abuse, rather than attempting to do so by limiting registrant eligibility.

This TLD will contribute to the user experience by offering registration alternatives that better meet registrants' identity needs, and by providing more intuitive methods for users to locate products, services and information. This TLD also will contribute to marketplace diversity, an important element of user experience. In addition, Donuts will offer its sales channel a suite of innovative registration products that are inviting, practical and useful to registrants.

As noted, Donuts will be inclusive in its registration policies and will not limit registrant eligibility at the second level at the moment of registration. Restricting access to second level names in this broadly generic TLD would cause more harm than benefit by denying domain access to legitimate registrants. Therefore, rather than artificially limiting registrant access, we will control abuse by carefully and uniformly implementing our extensive range of user and rights protections.

Donuts will not limit eligibility or otherwise exclude legitimate registrants in second level names. Our primary focus will be the behavior of registrants, not their identity.

Donuts will specifically adhere to ICANN-required registration policies and will comply with all requirements of the Registry Agreement and associated specifications regarding registration policies. Further, Donuts will not tolerate abuse or illegal activity in this TLD, and will have strict registration policies that provide for remediation and takedown as necessary.

Donuts TLDs will comply with all applicable laws and regulations regarding privacy and data protection. Donuts will provide a highly secure registry environment for registrant and user data (detailed information on measures to protect data is available in our technical response).

Donuts will permit the use of proxy and privacy services for registrations in this TLD, as there are important, legitimate uses for such services (including free speech rights and the avoidance of spam). Donuts will limit how such proxy and privacy services are offered (details on these limitations are provided in our technical response). Our approach balances the needs of legitimate and responsible registrants with the need to identify registrants who illegally use second level domains.

Donuts will build on ICANN's outreach and media coverage for the new TLD Program and will initiate its own effort to educate Internet users and rights holders about the launch of this TLD. Donuts will employ three specific communications efforts. We will:

1. Communicate to the media, analysts, and directly to registrants about the Donuts enterprise.
2. Build on existing relationships to create an open dialogue with registrars about what to expect from Donuts, and about the protections required by any registrar selling this TLD.
3. Communicate directly to end-users, media and third parties interested in the attributes and benefits of this TLD.

18(c). What operating rules will you adopt to eliminate or minimize social costs?

Q18C Standard CHAR: 1440

Generally, during the Sunrise phase of this TLD, Donuts will conduct an auction if there are two or more competing applications from validated trademark holders for the same second level name. Alternatively, if there is a defined trademark classification reflective of this TLD, Donuts may give preference to second-level applicants with rights in that classification of goods and services. Post-Sunrise, requests for registration will generally be on a first-come, first-served basis.

Donuts may offer reduced pricing for registrants interested in long-term registration, and potentially to those who commit to publicizing their use of the TLD. Other advantaged pricing may apply in selective cases, including bulk purchase pricing.

Donuts will comply with all ICANN-related requirements regarding price increases: advance notice of any renewal price increase (with the opportunity for existing registrants to renew for up to ten years at their current pricing); and advance notice of any increase in initial registration pricing.

The company does not otherwise intend, at this time, to make contractual commitments regarding pricing. Donuts has made every effort to correctly price its offerings for end-user value prior to launch. Our objective is to avoid any disruption to our customers after they have registered. We do not plan or anticipate significant price increases over time.

Community-based Designation

19. Is the application for a community-based TLD?

No

20(a). Provide the name and full description of the community that the applicant is committing to serve.

20(b). Explain the applicant's relationship to the community identified in 20(a).

20(c). Provide a description of the community-based purpose of the applied-for gTLD.

20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).

20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.

20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).

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Attachments are not displayed on this form.
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Geographic Names

21(a). Is the application for a geographic name?

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No
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Protection of Geographic Names

22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.

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Q22  CHAR: 4979
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As previously discussed (in our response to Q18: Mission ⁄ Purpose) Donuts believes in an open
Internet.  Consistent with this we also believe in an open DNS, where second level domain
names are available to all registrants who act responsibly.
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The range of second level names protected by Specification 5 of the Registry Operator contract
is extensive (approx. 2,000 strings are blocked).  This list resulted from a lengthy process
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of collaboration and compromise between members of the ICANN community, including the Governmental Advisory Committee. Donuts believes this list represents a healthy balance between the protection of national naming interests and free speech on the Internet.

Donuts does not intend to block second level names beyond those detailed in Specification 5. Should a geographic name be registered in this TLD and used for illegal or abusive activity Donuts will remedy this by applying the array of protections implemented in this TLD. (For details about these protections please see our responses to Questions 18, 28, 29 and 30).

Donuts will strictly adhere to the relevant provisions of Specification 5 of the New gTLD Agreement.   Specifically:

1. All two-character labels will be initially reserved, and released only upon agreement between Donuts and the relevant government and country code manager.
2. At the second level, country and territory names will be reserved at the second and other levels according to these standards:
2.1. Short form (in English) of country and territory names documented in the ISO 3166-1 list;
2.2. Names of countries and territories as documented by the United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World; and
2.3. The list of United Nations member states in six official UN languages, as prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names.
Donuts will initially reserve country and territory names at the second level and at all other levels within the TLD. Donuts supports this requirement by using the following internationally recognized lists to develop a comprehensive master list of all geographic names that are initially reserved:

1. The short form (in English) of all country and territory names contained on the ISO 3166-1 list, including the European Union, which is exceptionally reserved on the ISO 3166-1 List, and its scope extended in August 1999 to any application needing to represent the name European Union [http:⁄⁄www.iso.org⁄iso⁄support⁄country_codes⁄iso_3166_code_lists⁄iso-3166-1_decoding_table.htm#EU].

2. The United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World.

3. The list of UN member states in six official UN languages prepared by the Working Group on Country Names of the United Nations Conference on the standardization of Geographical Names

4. The 2-letter alpha-2 code of all country and territory names contained on the ISO 3166-1 list, including all reserved and unassigned codes

This comprehensive list of names will be ineligible for registration. Only in consultation with the GAC and ICANN would Donuts develop a proposal for release of these reserved names, and seek approval accordingly. Donuts understands governmental processes require time-consuming, multi-department consultations. Accordingly, we will apportion more than adequate time for the GAC and its members to review any proposal we provide.

Donuts recognizes the potential use of country and territory names at the third level. We will address and mitigate attempted third-level use of geographic names as part of our operations.

Donuts' list of geographic names will be transmitted to Registrars as part of the onboarding process and will also be made available to the public via the TLD website. Changes to the list are anticipated to be rare; however, Donuts will regularly review and revise the list as changes are made by government authorities.

For purposes of clarity the following will occur for a domain that is reserved by the registry:
1. An availability check for a domain in the reserved list will result in a "not available" status. The reason given will indicate that the domain is reserved.
2. An attempt to register a domain name in the reserved list will result in an error.
3. An EPP info request will result in an error indicating the domain name was not found.

4. Queries for a reserved name in the WHOIS system will display information indicating the reserved status and indicate it is not registered nor is available for registration.
5. Reserved names will not be published or used in the zone in any way.
6. Queries for a reserved name in the DNS will result in an NXDOMAIN response.

Registry Services

23. Provide name and full description of all the Registry Services to be provided.

Q23 CHAR: 22971

TLD Applicant is applying to become an ICANN accredited Top Level Domain (TLD) registry. TLD Applicant meets the operational, technical, and financial capability requirements to pursue, secure and operate the TLD registry. The responses to technical capability questions were prepared to demonstrate, with confidence, that the technical capabilities of TLD Applicant meet and substantially exceed the requirements proposed by ICANN.

The following response describes our registry services, as implemented by Donuts and our partners. Such partners include Demand Media Europe Limited (DMEL) for back-end registry services; AusRegistry Pty Ltd. (ARI) for Domain Name System (DNS) services and Domain Name Service Security Extensions (DNSSEC); an independent consultant for abuse mitigation and prevention consultation; Equinix and SuperNap for datacenter facilities and infrastructure; and Iron Mountain Intellectual Property Management, Inc. (Iron Mountain) for data escrow services. For simplicity, the term "company" and the use of the possessive pronouns "we", "us", "our", "ours", etc., all refer collectively to Donuts and our subcontracted service providers.

DMEL is a wholly-owned subsidiary of DMIH Limited, a well-capitalized Irish corporation whose ultimate parent company is Demand Media, Inc., a leading content and social media company listed on the New York Stock Exchange (ticker: DMD). DMEL is structured to operate a robust and reliable Shared Registration System by leveraging the infrastructure and expertise of DMIH and Demand Media, Inc., which includes years of experience in the operation side for domain names in both gTLDs and ccTLDs for over 10 years.

1.0. EXECUTIVE SUMMARY

We offer all of the customary services for proper operation of a gTLD registry using an approach designed to support the security and stability necessary to ensure continuous uptime and optimal registry functionality for registrants and Internet users alike.

2.0. REGISTRY SERVICES

2.1. Receipt of Data from registrars

The process of registering a domain name and the subsequent maintenance involves interactions between registrars and the registry. These interactions are facilitated by the registry through the Shared Registration System (SRS) through two interfaces:

- EPP: A standards-based XML protocol over a secure network channel.
- Web: A web based interface that exposes all of the same functionality as EPP yet accessible through a web browser.

Registrants wishing to register and maintain their domain name registrations must do so

through an ICANN accredited registrar. The XML protocol, called the Extensible Provisioning Protocol (EPP) is the standard protocol widely used by registrars to communicate provisioning actions. Alternatively, registrars may use the web interface to create and manage registrations.

The registry is implemented as a "thick" registry meaning that domain registrations must have contact information associated with each. Contact information will be collected by registrars and associated with domain registrations.

2.1.1. SRS EPP Interface

The SRS EPP Interface is provided by a software service that provides network based connectivity. The EPP software is highly compliant with all appropriate RFCs including:

- RFC 5730 Extensible Provisioning Protocol (EPP)
- RFC 5731 Extensible Provisioning Protocol (EPP) Domain Name Mapping
- RFC 5732 Extensible Provisioning Protocol (EPP) Host Mapping
- RFC 5733 Extensible Provisioning Protocol (EPP) Contact Mapping
- RFC 5734 Extensible Provisioning Protocol (EPP) Transport over TCP
- RFC 5910 Domain Name System (DNS) Security Extensions for Extensible Provisioning Protocol (EPP)
- RFC 3915 Domain Registry Grace Period Mapping for EPP

2.1.1.1. SRS EPP Interface Security Considerations

Security precautions are put in place to ensure transactions are received only from authorized registrars in a private, secure manner. Registrars must provide the registry with narrow subnet ranges, allowing the registry to restrict network connections that originate only from these pre-arranged networks. The source IP address is verified against the authentication data received from the connection to further validate the source of the connection. Registrars may only establish a limited number of connections and the network traffic is rate limited to ensure that all registrars receive the same quality of service. Network connections to the EPP server must be secured with TLS. The revocation status and validity of the certificate are checked.

Successful negotiation of a TLS session begins the process of authentication using the protocol elements of EPP. Registrars are not permitted to continue without a successful EPP session establishment. The EPP server validates the credential information passed by the registrar along with validation of:

- Certificate revocation status
- Certificate chain
- Certificate Common Name matches the Common Name the registry has listed for the source IP address
- User name and password are correct and match those listed for the source IP address

In the event a registrar creates a level of activity that threatens the service quality of other registrars, the service has the ability to rate limit individual registrars.

2.1.1.2. SRS EPP Interface Stability Considerations

To ensure the stability of the EPP Interface software, strict change controls and access controls are in place. Changes to the software must be approved by management and go through a rigorous testing and staged deployment procedure.

Additional stability is achieved by carefully regulating the available computing resources. A policy of conservative usage thresholds leaves an equitable amount of computing resources available to handle spikes and service management.

2.1.2. SRS Web Interface

The SRS web interface is an alternative way to access EPP functionality using a web interface, providing the features necessary for effective operations of the registry. This interface uses the HTTPS protocol for secure web communication. Because users can be located worldwide, as

with the EPP interface, the web interface is available to all registrars over multiple network paths.
Additional functionality is available to registrars to assist them in managing their account. For instance, registrars are able to view their account balance in near real time as well as the status of the registry services. In addition, notifications that are sent out in email are available for viewing.

2.1.2.1. Web Interface Security Considerations

Only registrars are authorized to use the SRS web interface, and therefore the web interface has several security measures to prevent abuse. The web interface requires an encrypted network channel using the HTTPS protocol. Attempts to access the interface through a clear channel are redirected to the encrypted channel.

The web interface restricts access by requiring each user to present authentication credentials before proceeding. In addition to the typical user name and password combinations, the web interface also requires the user to possess a hardware security key as a second factor of authentication.

Registrars are provided a tool to create and manage users that are associated with their account. With these tools, they can set access and authorization levels for their staff.

2.1.2.2. Web Interface Stability Considerations

Both the EPP interface and web interface use a common service provider to perform the work required to fulfill their requests. This provides consistency across both interfaces and ensures all policies and security rules are applied.

The software providing services for both interfaces executes on a farm of servers, distributing the load more evenly ensuring stability is maintained.

2.2. Dissemination of TLD Zone Files

2.2.1. Communication of Status Information of TLD Zone Servers to Registrars

The status of TLD zone servers and their ability to reflect changes in the SRS is of great importance to registrars and Internet users alike. We ensure that any change from normal operations is communicated to the relevant stakeholders as soon as is appropriate. Such communication might be prior to the status change, during the status change and⁄or after the status change (and subsequent reversion to normal) — as appropriate to the party being informed and the circumstance of the status change.

Normal operations are:

- DNS servers respond within SLAs for DNS resolution.
- Changes in the SRS are reflected in the zone file according to the DNS update time SLA.

The SLAs are those from Specification 10 of the Registry Agreement.

A deviation from normal operations, whether it is registry wide or restricted to a single DNS node, will result in the appropriate status communication being sent.

2.2.2. Communication Policy

We maintain close communication with registrars regarding the performance and consistency of the TLD zone servers.

A contact database containing relevant contact information for each registrar is maintained. In many cases, this includes multiple forms of contact, including email, phone and physical mailing address. Additionally, up-to-date status information of the TLD zone servers is provided within the SRS Web Interface.

Communication using the registrar contact information discussed above will occur prior to any maintenance that has the potential to effect the access to, consistency of, or reliability of

the TLD zone servers. If such maintenance is required within a short timeframe, immediate communication occurs using the above contact information. In either case, the nature of the maintenance and how it affects the consistency or accessibility of the TLD zone servers, and the estimated time for full restoration, are included within the communication.

That being said, the TLD zone server infrastructure has been designed in such a way that we expect no downtime. Only individual sites will potentially require downtime for maintenance; however the DNS service itself will continue to operate with 100% availability.

2.2.3. Security and Stability Considerations

We restrict zone server status communication to registrars, thereby limiting the scope for malicious abuse of any maintenance window. Additionally, we ensure registrars have effective operational procedures to deal with any status change of the TLD nameservers and will seek to align its communication policy to those procedures.

2.3. Zone File Access Provider Integration

Individuals or organizations that wish to have a copy of the full zone file can do so using the Zone Data Access service. This process is still evolving; however the basic requirements are unlikely to change. All registries will publish the zone file in a common format accessible via secure FTP at an agreed URL.

DMEL will fully comply with the processes and procedures dictated by the Centralized Zone Data Access Provider (CZDA Provider or what it evolves into) for adding and removing Zone File access consumers from its authentication systems. This includes:

- Zone file format and location.
- Availability of the zone file access host via FTP.
- Logging of requests to the service (including the IP address, time, user and activity log).
- Access frequency.

2.4. Zone File Update

To ensure changes within the SRS are reflected in the zone file rapidly and securely, we update the zone file on the TLD zone servers following a staged but rapid propagation of zone update information from the SRS, outwards to the TLD zone servers - which are visible to the Internet. As changes to the SRS data occur, those changes are updated to isolated systems which act as the authoritative primary server for the zone, but remain inaccessible to systems outside our network. The primary servers notify the designated secondary servers, which service queries for the TLD zone from the public. Upon notification, the secondary servers transfer the incremental changes to the zone and publicly present those changes.

The mechanisms for ensuring consistency within and between updates are fully implemented in our TLD zone update procedures. These mechanisms ensure updates are quickly propagated while the data remains consistent within each incremental update, regardless of the speed or order of individual update transactions.

2.5. Operation of Zone Servers

ARI maintains TLD zone servers which act as the authoritative servers to which the TLD is delegated.

2.5.1. Security and Operational Considerations of Zone Server Operations

The potential risks associated with operating TLD zone servers are recognized by us such that we will perform the steps required to protect the integrity and consistency of the information they provide, as well as to protect the availability and accessibility of those servers to hosts on the Internet. The TLD zone servers comply with all relevant RFCs for DNS and DNSSEC, as well as BCPs for the operation and hosting of DNS servers. The TLD zone servers will be updated to support any relevant new enhancements or improvements adopted by the IETF.

The DNS servers are geographically dispersed across multiple secure data centers in strategic locations around the world. By combining multi-homed servers and geographic diversity, ARI's

zone servers remain impervious to site level, supplier level or geographic level operational disruption.

The TLD zone servers are protected from accessibility loss by malicious intent or misadventure, via the provision of significant over-capacity of resources and access paths. Multiple independent network paths are provided to each TLD zone server and the query servicing capacity of the network exceeds the extremely conservatively anticipated peak load requirements by at least 10 times, to prevent loss of service should query loads significantly increase.

As well as the authentication, authorization and consistency checks carried out by the registrar access systems and DNS update mechanisms, ARI reduces the scope for alteration of DNS data by following strict DNS operational practices:

- TLD zone servers are not shared with other services.
- The primary authoritative TLD zone server is inaccessible outside ARI's network.
- TLD zone servers only serve authoritative information.
- The TLD zone is signed with DNSSEC and a DNSSEC Practice⁄Policy Statement published.

2.6. Dissemination of Domain Registration Information

Domain name registration information is required for a variety of purposes. Our registry provides this information through the required WHOIS service through a standard text based network protocol on port 43. Whois also is provided on the registry's web site using a standard web interface. Both interfaces are publically available at no cost to the user and are reachable worldwide.

The information displayed by the Whois service consists not only of the domain name but also of relevant contact information associated with the domain. It also identifies nameserver delegation and the registrar of record. This service is available to any Internet user, and use of it does not require prior authorization or permission.

2.6.1. Whois Port 43 Interface

The Whois port 43 interface consists of a standard Transmission Control Protocol (TCP) server that answers requests for information over port 43 in compliance with IETF RFC 3912. For each query, the TCP server accepts the connection over port 43 and then waits for a set time for the query to be sent. This communication occurs via clear, unencrypted ASCII text. If a properly formatted and valid query is received, the registry database is queried for the registration data. If registration data exists, it is returned to the service where it is then formatted and delivered to the requesting client. Each query connection is short-lived. Once the output is transmitted, the server closes the connection.

2.6.2. Whois Web Interface

The Whois web interface also uses clear, unencrypted text. The web interface is in an HTML format suitable for web browsers. This interface is also available over an encrypted channel on port 43 using the HTTPS protocol.

2.6.3. Security and Stability Considerations

Abuse of the Whois system through data mining is a concern as it can impact system performance and reduce the quality of service to legitimate users. The Whois system mitigates this type of abuse by detecting and limiting bulk query access from single sources. It does this in two ways: 1) by rate limiting queries by non-authorized parties; and 2) by ensuring all queries result in responses that do not include data sets representing significant portions of the registration database.
In addition, the Whois web interface adds a simple challenge-response CAPCHA that requires a user to type in the characters displayed in image format.
Both systems have blacklist functionality to provide a complete block to individual IPs or IP ranges.

2.7. Internationalized Domain Names (IDNs)

An Internationalized Domain Name (IDN) contains at least one label that is displayed in a specific language script in IDN aware software. We will offer registration of second level IDN labels at launch,
IDNs are published into the TLD zone. The SRS EPP and Web Interfaces also support IDNs.
The IDN implementation is fully compliant with the IDNA 2008 suite of standards (RFC 5890, 5891, 5892 and 5893) as well as the ICANN Guidelines for the Implementation of IDN Version 3.0 〈http:⁄⁄www.icann.org⁄en⁄resources⁄idn⁄implementation-guidelines〉 . To ensure stability and security, we have adopted a conservative approach in our IDN registration policies, as well as technical implementation.

All IDN registrations must be requested using the A-label form, and accompanied by an RFC 5646 language tag identifying the corresponding language table published by the registry. The candidate A-label is processed according to the registration protocol as specified in Section 4 of RFC 5891, with full U-label validation. Specifically, the "Registry Restrictions" steps specified in Section 4.3 of RFC 5891 are implemented by validating the U-label against the identified language table to ensure that the set of characters in the U-label is a proper subset of the character repertoire listed in the language table.

2.7.1. IDN Stability Considerations

To avoid the intentional or accidental registration of visually similar characters, and to avoid identity confusion between domains, there are several restrictions on the registration of IDNs.
Domains registered within a particular language are restricted to only the characters of that language. This avoids the use of visually similar characters within one language which mimic the appearance of a label within another language, regardless of whether that label is already within the DNS or not.
Child domains are restricted to a specific language and registrations are prevented in one language being confused with a registration in another language; for example Cyrillic a (U+0430) and Latin a (U+0061).

2.8. DNSSEC

DNSSEC provides a set of extensions to the DNS that allow an Internet user (normally the resolver acting on a user's behalf) to validate that the DNS responses they receive were not manipulated en-route.
This type of fraud, commonly called 'man in the middle', allows a malicious party to misdirect Internet users. DNSSEC allows a domain owner to sign their domain and to publish the signature, so that all DNS consumers who visit that domain can validate that the responses they receive are as the domain owner intended.

Registries, as the operators of the parent domain for registrants, must publish the DNSSEC material received from registrants, so that Internet users can trust the material they receive from the domain owner. This is commonly referred to as a "chain of trust." Internet users trust the root (operated by IANA), which publishes the registries' DNSSEC material, therefore registries inherit this trust. Domain owners within the TLD subsequently inherit trust from the parent domain when the registry publishes their DNSSEC material.

In accordance with new gTLD requirements, the TLD zone will be DNSSEC signed and the receipt of DNSSEC material from registrars for child domains is supported in all provisioning systems.

2.8.1. Stability and Operational Considerations for DNSSEC

2.8.1.1. DNSSEC Practice Statement

ARI's DNSSEC Practice Statement is included in our response to Question 43. The DPS following the guidelines set out in the draft IETF DNSOP DNSSEC DPS Framework document.

2.8.1.2. Resolution Stability

DNSSEC is considered to have made the DNS more trustworthy; however some transitional considerations need to be taken into account. DNSSEC increases the size and complexity of DNS responses. ARI ensures the TLD zone servers are accessible and offer consistent responses over UDP and TCP.

The increased UDP and TCP traffic which results from DNSSEC is accounted for in both network path access and TLD zone server capacity. ARI will ensure that capacity planning appropriately accommodates the expected increase in traffic over time.

ARI complies with all relevant RFCs and best practice guides in operating a DNSSEC-signed TLD. This includes conforming to algorithm updates as appropriate. To ensure Key Signing Key Rollover procedures for child domains are predictable, DS records will be published as soon as they are received via either the EPP server or SRS Web Interface. This allows child domain operators to rollover their keys with the assurance that their timeframes for both old and new keys are reliable.

3.0. APPROACH TO SECURITY AND STABILITY

Stability and security of the Internet is an important consideration for the registry system. To ensure that the registry services are reliably secured and remain stable under all conditions, DMEL takes a conservative approach with the operation and architecture of the registry system.

By architecting all registry services to use the least privileged access to systems and data, risk is significantly reduced for other systems and the registry services as a whole should any one service become compromised. By continuing that principal through to our procedures and processes, we ensure that only access that is necessary to perform tasks is given. ARI has a comprehensive approach to security modeled of the ISO27001 series of standards and explored further in the relevant questions of this response.

By ensuring all our services adhering to all relevant standards, DMEL ensures that entities which interact with the registry services do so in a predictable and consistent manner. When variations or enhancements to services are made, they are also aligned with the appropriate interoperability standards.

Demonstration of Technical & Operational Capability

24. Shared Registration System (SRS) Performance

Q24   CHAR: 19964

TLD Applicant is applying to become an ICANN accredited Top Level Domain (TLD) registry. TLD Applicant meets the operational, technical, and financial capability requirements to pursue, secure and operate the TLD registry. The responses to technical capability questions were prepared to demonstrate, with confidence, that the technical capabilities of TLD Applicant meet and substantially exceed the requirements proposed by ICANN.

1.0. INTRODUCTION

Our Shared Registration System (SRS) complies fully with Specification 6, Section 1.2 and the SLA Matrix provided with Specification 10 in ICANN's Registry Agreement and is in line with the projections outlined in our responses to Questions 31 and 46. The services provided by the SRS are critical to the proper functioning of a TLD registry.

We will adhere to these commitments by operating a robust and reliable SRS founded on best practices and experience in the domain name industry.

2.0. TECHNICAL OVERVIEW

A TLD operator must ensure registry services are available at all times for both registrants and the Internet community as a whole. To meet this goal, our SRS was specifically engineered to provide the finest levels of service derived from a long pedigree of excellence and experience in the domain name industry. This pedigree of excellence includes a long history of technical excellence providing long running, highly available and high-performing services that help thousands of companies derive their livelihoods.

Our SRS services will give registrars standardized access points to provision and manage domain name registration data. We will provide registrars with two interfaces: an EPP protocol over TCP∕IP and a web site accessible from any web browser (note: throughout this document, references to the SRS are inclusive of both these interfaces).

Initial registration periods will comply with Specification 6 and will be in one (1) year increments up to a maximum of ten (10) years. Registration terms will not be allowed to exceed ten (10) years. In addition, renewal periods also will be in one-year increments and renewal periods will only allow an extension of the registration period of up to ten years from the time of renewal.

The performance of the SRS is critical for the proper functioning of a TLD. Poor performance of the registration systems can adversely impact registrar systems that depend on its responsiveness. Our SRS is committed to exceeding the performance specifications described in Specification 10 in all cases. To ensure that we are well within specifications for performance, we will test our system on a regular basis during development to ensure that changes have not impacted performance in a material way. In addition, we will monitor production systems to ensure compliance. If internal thresholds are exceeded, the issue will be escalated, analyzed and addressed.

Our SRS will offer registry services that support Internationalized Domain Names (IDNs). Registrations can be made through both the EPP and web interfaces.

3.0. ROBUST AND RELIABLE ARCHITECTURE
To ensure quality of design, the SRS software was designed and written by seasoned and experienced software developers. This team designed the SRS using modern software architecture principles geared toward ensuring flexibility in its design not only to meet business needs but also to make it easy to understand, maintain and test.

A classic 3-tier design was used for the architecture of the system. 3-tier is a well-proven architecture that brings flexibility to the system by abstracting the application layer from the protocol layer. The data tier is isolated and only accessible by the services tier. 3-tier adds an additional layer of security by minimizing access to the data tier through possible exploits of the protocol layer.

The protocol and services layers are fully redundant. A minimum of three physical servers is in place in both the protocol and services layers. Communications are balanced across the servers. Load balancing is accomplished with a redundant load balancer pair.

4.0. SOFTWARE QUALITY

The software for the SRS, as well as other registry systems, was developed using an approach that ensures that every line of source code is peer reviewed and source code is not checked into the source code repository without the accompanying automated tests that exercise the new functionality. The development team responsible for building the SRS and other registry software applies continuous integration practices to all software projects; all developers work on an up-to-date code base and are required to synchronize their code base with the master code base and resolve any incompatibilities before checking in. Every source code check-in triggers an automated build and test process to ensure a minimum level of quality. Each day an automated "daily build" is created, automatically deployed to servers and a fully-automated test suite run against it. Any failures are automatically assigned to developers to resolve in the morning when they arrive.

When extensive test passes are in order for release candidates, these developers use a test harness designed to run usability scenarios that exercise the full gamut of use cases, including accelerated full registration life cycles. These scenarios can be entered into the system using various distributions of activity. For instance, the test harness can be run to

stress the system by changing the distribution of scenarios or to stress the system by exaggerating particular scenarios to simulate land rushes or, for long running duration scenarios, a more common day-to-day business distribution.

5.0. SOFTWARE COMPLIANCE

The EPP interface to our SRS is compliant with current RFCs relating to EPP protocols and best practices. This includes RFCs 5910, 5730, 5731, 5732, 5733 and 5734. Since we are also supporting Registry Grace Period functionality, we are also compliant with RFC 3915. Details of our compliance with these specifications are provided in our response to Question 25. We are also committed to maintaining compliance with future RFC revisions as they apply as documented in Section 1.2 of Specification 6 of the new gTLD Agreement.

We strive to be forward-thinking and will support the emerging standards of both IPv6 and DNSSEC on our SRS platform. The SRS was designed and has been tested to accept IPv6 format addresses for nameserver glue records and provision them to the gTLD zone. In addition, key registry services will be accessible over both IPv4 and IPv6. These include both the SRS EPP and SRS web-based interfaces, both port 43 and web-based WHOIS interfaces and DNS, among others. For details regarding our IPv6 reachability plans, please refer to our response to Question 36.

DNSSEC services are provided, and we will comply with Specification 6. Additionally, our DNSSEC implementation complies with RFCs 4033, 4034, 4035, and 4509; and we commit to complying with the successors of these RFCs and following the best practices described in RFC 4641. Additional compliance and commitment details on our DNSSEC services can be found in our response to Question 43.

6.0. DATABASE OPERATIONS

The database for our gTLD is Microsoft SQL Server 2008 R2. It is an industry-leading database engine used by companies requiring the highest level of security, reliability and trust. Case studies highlighting SQL Server's reliability and use indicate its successful application in many industries, including major financial institutions such as Visa, Union Bank of Israel, KeyBank, TBC Bank, Paymark, Coca-Cola, Washington State voter registration and many others. In addition, Microsoft SQL Server provides a number of features that ease the management and maintenance of the system. Additional details about our database system can be found in our response to Question 33.

Our SRS architecture ensures security, consistency and quality in a number of ways. To prevent eavesdropping, the services tier communicates with the database over a secure channel. The SRS is architected to ensure all data written to the database is atomic. By convention, leave all matters of atomicity are left to the database. This ensures consistency of the data and reduces the chance of error. So that we can examine data versions at any point in time, all changes to the database are written to an audit database. The audit data contains all previous and new values and the date∕time of the change. The audit data is saved as part of each atomic transaction to ensure consistency.

To minimize the chance of data loss due to a disk failure, the database uses an array of redundant disks for storage. In addition, maintain an exact duplicate of the primary site is maintained in a secondary datacenter. All hardware is fully duplicated and set up to take over operations at any time. All database operations are replicated to the secondary datacenter via synchronous replication. The secondary datacenter always maintains an exact copy of our live data as the transactions occur.

7.0. REDUNDANT HARDWARE

The SRS is composed of several pieces of hardware that are critical to its proper functioning, reliability and scale. At least two of each hardware component comprises the SRS, making the service fully redundant. Any component can fail, and the system is designed to use the facility of its pair. The EPP interface to the SRS will operate with more than two servers to provide the capacity required to meet our projected scale as described in Question 46: Projections Template.

8.0. HORIZONTALLY SCALABLE

The SRS is designed to scale horizontally. That means that, as the needs of the registry grow, additional servers can be easily added to handle additional loads.

The database is a clustered 2-node pair configured for both redundancy and performance. Both nodes participate in serving the needs of the SRS. A single node can easily handle the transactional load of the SRS should one node fail. In addition, there is an identical 2-node cluster in our backup datacenter. All data from the primary database is continuously replicated to the backup datacenter.

Not only is the registry database storage medium specified to provide the excess of capacity necessary to allow for significant growth, it is also configured to use techniques, such as data sharing, to achieve horizontal scale by distributing logical groups of data across additional hardware. For further detail on the scalability of our SRS, please refer to our response to Question 31.

9.0. REDUNDANT HOT FAILOVER SITE

We understand the need for maximizing uptime. As such, our plan includes maintaining at all times a warm failover site in a separate datacenter for the SRS and other key registry services. Our planned failover site contains an exact replica of the hardware and software configuration contained in the primary site. Registration data will be replicated to the failover site continuously over a secure connection to keep the failover site in sync.

Failing over an SRS is not a trivial task. In contrast, web site failover can be as simple as changing a DNS entry. Failing over the SRS, and in particular the EPP interface, requires careful planning and consideration as well as training and a well-documented procedure. Details of our failover procedures as well as our testing plans are detailed in our response to Question 41.

10.0. SECURE ACCESS

To ensure security, access to the EPP interface by registrars is restricted by IP/subnet. Access Control Lists (ACLs) are entered into our routers to allow access only from a restricted, contiguous subnet from registrars. Secure and private communication over mutually authenticated TLS is required. Authentication credentials and certificate data are exchanged in an out-of-band mechanism. Connections made to the EPP interface that successfully establish an EPP session are subject to server policies that dictate connection maximum lifetime and minimal activity to maintain the session.

To ensure fair and equal access for all registrars, as well as maintain a high level of service, we will use traffic shaping hardware to ensure all registrars receive an equal number of resources from the system.

To further ensure security, access to the SRS web interface is over the public Internet via an encrypted HTTPS channel. Each registrar will be issued master credentials for accessing the web interface. Each registrar also will be required to use 2-factor authentication when logging in. We will issue a set of Yubikey (http://yubico.com) 2-factor, one-time password USB keys for authenticating with the web site. When the SRS web interface receives the credentials plus the one-time password from the Yubikey, it communicates with a RADIUS authentication server to check the credentials.

11.0. OPERATING A ROBUST AND RELIABLE SRS

11.1. AUTOMATED DEPLOYMENT

To minimize human error during a deployment, we use a fully-automated package and deployment system. This system ensures that all dependencies, configuration changes and database components are included every time. To ensure the package is appropriate for the system, the system also verifies the version of system we are upgrading.

11.2. CHANGE MANAGEMENT

We use a change management system for changes and deployments to critical systems. Because the

SRS is considered a critical system, it is also subject to all change management procedures. The change management system covers all software development changes, operating system and networking hardware changes and patching. Before implementation, all change orders entered into the system must be reviewed with careful scrutiny and approved by appropriate management. New documentation and procedures are written; and customer service, operations, and monitoring staff are trained on any new functionality added that may impact their areas.

11.3. PATCH MANAGEMENT

Upon release, all operating system security patches are tested in the staging environment against the production code base. Once approved, patches are rolled out to one node of each farm. An appropriate amount of additional time is given for further validation of the patch, depending on the severity of the change. This helps minimize any downtime (and the subsequent roll back) caused by a patch of poor quality. Once validated, the patch is deployed on the remaining servers.

11.4. REGULAR BACKUPS

To ensure that a safe copy of all data is on hand in case of catastrophic failure of all database storage systems, backups of the main database are performed regularly. We perform full backups on both a weekly and monthly basis. We augment these full backups with differential backups performed daily. The backup process is monitored and any failure is immediately escalated to the systems engineering team. Additional details on our backup strategy and procedures can be found in our response to Question 37.

11.5. DATA ESCROW

Data escrow is a critical registry function. Escrowing our data on a regular basis ensures that a safe, restorable copy of the registration data is available should all other attempts to restore our data fail. Our escrow process is performed in accordance with Specification 2. Additional details on our data escrow procedures can be found in our response to Question 38.

11.6. REGULAR TRAINING

Ongoing security awareness training is critical to ensuring users are aware of security threats and concerns. To sustain this awareness, we have training programs in place designed to ensure corporate security policies pertaining to registry and other operations are understood by all personnel. All employees must pass a proficiency exam and sign the Information Security Policy as part of their employment. Further detail on our security awareness training can be found in our response to Question 30a.

We conduct failover training regularly to ensure all required personnel are up-to-date on failover process and have the regular practice needed to ensure successful failover should it be necessary. We also use failover training to validate current policies and procedures. For additional details on our failover training, please refer to our response to Question 41.

11.7. ACCESS CONTROL

User authentication is required to access any network or system resource. User accounts are granted the minimum access necessary. Access to production resources is restricted to key IT personnel. Physical access to production resources is extremely limited and given only as needed to IT-approved personnel. For further details on our access control policies, please refer to our response to Question 30a.

11.8. 24∕7 MONITORING AND REGISTRAR TECHNICAL SUPPORT

We employ a full-time staff trained specifically on monitoring and supporting the services we provide. This staff is equipped with documentation outlining our processes for providing first-tier analysis, issue troubleshooting, and incident handling. This team is also equipped with specialty tools developed specifically to safely aid in diagnostics. On-call staff second-tier support is available to assist when necessary. To optimize the service we provide, we conduct ongoing training in both basic and more advanced customer support and conduct additional training, as needed, when new system or tool features are introduced or solutions to common issues are developed.

12.0. SRS INFRASTRUCTURE

As shown in Attachment A, Figure 1, our SRS infrastructure consists of two identically provisioned and configured datacenters with each served by multiple bandwidth providers.

For clarity in Figure 1, connecting lines through the load balancing devices between the Protocol Layer and the Services Layer are omitted. All hardware connecting to the Services Layer goes through a load-balancing device. This device distributes the load across the multiple machines providing the services. This detail is illustrated more clearly in subsequent diagrams in Attachment A.

13.0 RESOURCING PLAN

Resources for the continued development and maintenance of the SRS and ancillary services have been carefully considered. We have a significant portion of the required personnel on hand and plan to hire additional technical resources, as indicated below. Resources on hand are existing full time employees whose primary responsibility is the SRS.

For descriptions of the following teams, please refer to the resourcing section of our response to Question 31, Technical Review of Proposed Registry. Current and planned allocations are below.

Software Engineering:

- Existing Department Personnel: Project Manager, Development Manager, two Sr. Software Engineers, two, Sr. Database Engineer, Quality Assurance Engineer
- First Year New Hires: Web Developer, Database Engineer, Technical Writer, Build∕Deployment Engineer

Systems Engineering:

- Existing Department Personnel: Sr. Director IT Operations, two Sr. Systems Administrators, two Systems Administrators, two Sr. Systems Engineers, two Systems Engineers
- First Year New Hires: Systems Engineer

Network Engineering:

- Existing Department Personnel: Sr. Director IT Operations, two Sr. Network Engineers, two Network Engineers
- First Year New Hires: Network Engineer

Database Operations:

- Existing Department Personnel: Sr. Database Operations Manager, 2 Database Administrators

Information Security Team:

- Existing Department Personnel: Director of Information Security, Sr. Information Security Specialist, Information Security Specialists, Sr. Information Security Engineer, Information Security Engineer
- First Year New Hires: Information Security Engineer

Network Operations Center (NOC):

- Existing Department Personnel: Manager, two NOC Supervisors, 12 NOC Analysts
- First Year New Hires: Eight NOC Analysts

25. Extensible Provisioning Protocol (EPP)

Q25 CHAR: 20820

TLD Applicant is applying to become an ICANN accredited Top Level Domain (TLD) registry. TLD Applicant meets the operational, technical, and financial capability requirements to pursue, secure and operate the TLD registry. The responses to technical capability questions were prepared to demonstrate, with confidence, that the technical capabilities of TLD Applicant meet and substantially exceed the requirements proposed by ICANN.

1.0. INTRODUCTION

Our SRS EPP interface is a proprietary network service compliant with RFC 3735 and RFCs 5730-4. The EPP interface gives registrars a standardized programmatic access point to provision and manage domain name registrations.

2.0. IMPLEMENTATION EXPERIENCE

The SRS implementation for our gTLD leverages extensive experience implementing long-running, highly available network services accessible. Our EPP interface was written by highly experienced engineers focused on meeting strict requirements developed to ensure quality of service and uptime. The development staff has extensive experience in the domain name industry.

3.0. TRANSPORT

The EPP core specification for transport does not specify that a specific transport method be used and is, thus, flexible enough for use over a variety of transport methods. However, EPP is most commonly used over TCP∕IP and secured with a Transport Layer Security (TLS) layer for domain registration purposes. Our EPP interface uses the industry standard TCP with TLS.

4.0. REGISTRARS' EXPERIENCE

Registrars will find our EPP interface familiar and seamless. As part of the account creation process, a registrar provides us with information we use to authenticate them. The registrar provides us with two subnets indicating the connection's origination. In addition, the registrar provides us with the Common Name specified in the certificate used to identify and validate the connection.

Also, as part of the account creation process, we provide the registrar with authentication credentials. These credentials consist of a client identifier and an initial password and are provided in an out-of-band, secure manner. These credentials are used to authenticate the registrar when starting an EPP session.

Prior to getting access to the production interfaces, registrars have access to an Operational Test and Evaluation (OT&E) environment. This environment is an isolated area that allows registrars to develop and test against registry systems without any impact to production. The OT&E environment also provides registrars the opportunity to test implementation of custom extensions we may require.

Once a registrar has completed testing and is prepared to go live, the registrar is provided a Scripted Server Environment. This environment contains an EPP interface and database pre-populated with known data. To verify that the registrar's implementations are correct and minimally suitable for the production environment, the registrar is required to run through a series of exercises. Only after successful performance of these exercises is a registrar allowed access to production services.

5.0. SESSIONS

The only connections that are allowed are those from subnets previously communicated during account set up. The registrar originates the connection to the SRS and must do so securely using a Transport Layer Security (TLS) encrypted channel over TCP∕IP using the IANA assigned standard port of 700.

The TLS protocol establishes an encrypted channel and confirms the identity of each machine to its counterpart. During TLS negotiation, certificates are exchanged to mutually verify

identities. Because mutual authentication is required, the registrar certificate must be sent during the negotiation. If it is not sent, the connection is terminated and the event logged.

The SRS first examines the Common Name (CN). The SRS then compares the Common Name to the one provided by the registrar during account set up. The SRS then validates the certificate by following the signature chain, ensures that the chain is complete, and terminates against our store of root Certificate Authorities (CA). The SRS also verifies the revocation status with the root CA. If these fail, the connection is terminated and the event logged.

Upon successful completion of the TLS handshake and the subsequent client validation, the SRS automatically sends the EPP greeting. Then the registrar initiates a new session by sending the login command with their authentication credentials. The SRS passes the credentials to the database for validation over an encrypted channel. Policy limits the number of failed login attempts. If the registrar exceeds the maximum number of attempts, the connection to the server is closed. If authentication was successful, the EPP session is allowed to proceed and a response is returned indicating that the command was successful.

An established session can only be maintained for a finite period. EPP server policy specifies the timeout and maximum lifetime of a connection. The policy requires the registrar to send a protocol command within a given timeout period. The maximum lifetime policy for our registry restricts the connection to a finite overall timespan. If a command is not received within the timeout period or the connection lifetime is exceeded, the connection is terminated and must be reestablished. Connection lifecycle details are explained in detail in our Registrar Manual.

The EPP interface allows pipelining of commands. For consistency, however, the server only processes one command at a time per session and does not examine the next command until a response to the previous command is sent. It is the registrar's responsibility to track both the commands and their responses.

6.0. EPP SERVICE SCALE

Our EPP service is horizontally scalable. Its design allows us to add commodity-grade hardware at any time to increase our capacity. The design employs a 3-tier architecture which consists of protocol, services and data tiers. Servers for the protocol tier handle the loads of SSL negotiation and protocol validation and parsing. These loads are distributed across a farm of numerous servers balanced by load-balancing devices. The protocol tier connects to the services tier through load-balancing devices.

The services tier consists of a farm of servers divided logically based on the services provided. Each service category has two or more servers. The services tier is responsible for registry policy enforcement, registration lifecycle and provisioning, among other services. The services tier connects to the data tier which consists of Microsoft SQL Server databases for storage.

The data tier is a robust SQL Server installation that consists of a 2-node cluster in an active⁄active configuration. Each node is designed to handle the entire load of the registry should the alternate node go offline.

Additional details on scale and our plans to service the load we anticipate are described in detail on questions 24: SRS Performance and 32: Architecture.

7.0. COMPLIANCE WITH CORE AND EPP EXTENSION RFCs

The EPP interface is highly compliant with the following RFCs:

- RFC 5730 Extensible Provisioning Protocol
- RFC 5731 EPP Domain Name Mapping
- RFC 5732 EPP Host Mapping
- RFC 5733 EPP Contact Mapping
- RFC 5734 EPP Transport over TCP
- RFC 3915 Domain Registry Grace Period Mapping
- RFC 5910 Domain Name System (DNS) Security Extensions Mapping

The implementation is fully compliant with all points in each RFC. Where an RFC specifies optional details or service policy, they are explained below.

7.1. RFC 5730 EXTENSIBLE PROVISIONING PROTOCOL

Section 2.1 Transport Mapping Considerations - ack.
Transmission Control Protocol (TCP) in compliance with RFC 5734 with TLS.

Section 2.4 Greeting Format – compliant
The SRS implementation responds to a successful connection and subsequent TLS handshake with the EPP Greeting. The EPP Greeting is also transmitted in response to a ⟨hello⟩ command. The server includes the EPP versions supported which at this time is only 1.0. The Greeting contains namespace URIs as ⟨objURI⟩ elements representing the objects the server manages.

The Greeting contains a ⟨svcExtension⟩ element with one ⟨extURI⟩ element for each extension namespace URI implemented by the SRS.

Section 2.7 Extension Framework – compliant
Each mapping and extension, if offered, will comply with RFC 3735 Guidelines for Extending EPP.

Section 2.9 Protocol Commands – compliant

Login command's optional ⟨options⟩ element is currently ignored. The ⟨version⟩ is verified and 1.0 is currently the only acceptable response. The ⟨lang⟩ element is also ignored because we currently only support English (en). This server policy is reflected in the greeting.

The client mentions ⟨objURI⟩ elements that contain namespace URIs representing objects to be managed during the session inside ⟨svcs⟩ element of Login request. Requests with unknown ⟨objURI⟩ values are rejected with error information in the response. A ⟨logout⟩ command ends the client session.

Section 4 Formal syntax - compliant
All commands and responses are validated against applicable XML schema before acting on the command or sending the response to the client respectively. XML schema validation is performed against base schema (epp-1.0), common elements schema (eppcom-1.0) and object-specific schema.

Section 5 Internationalization Considerations - compliant
EPP XML recognizes both UTF-8 and UTF-16. All date-time values are presented in Universal Coordinated Time using Gregorian calendar.

7.2. RFC 5731 EPP DOMAIN NAME MAPPING

Section 2.1 Domain and Host names – compliant
The domain and host names are validated to meet conformance requirements mentioned in RFC 0952, 1123 and 3490.

Section 2.2 Contact and Client Identifiers – compliant
All EPP contacts are identified by a server-unique identifier. Contact identifiers conform to "clIDType" syntax described in RFC 5730.

Section 2.3 Status Values – compliant
A domain object always has at least one associated status value. Status value can only be set by the sponsoring client or the registry server where it resides. Status values set by server cannot be altered by client. Certain combinations of statuses are not permitted as described by RFC.

Section 2.4 Dates and Times – compliant
Date and time attribute values are represented in Universal Coordinated Time (UTC) using Gregorian calendar, in conformance with XML schema.

Section 2.5 Validity Periods – compliant
Our SRS implementation supports validity periods in unit year ("y"). The default period is 1y.

Section 3.1.1 EPP 〈check〉 Command – compliant
A maximum of 5 domains can be checked in a single command request as defined by server policy.

Section 3.1.2 EPP 〈info〉 Command – compliant
EPP 〈info〉 command is used to retrieve information associated with a domain object. If the querying Registrar is not the sponsoring registrar and the registrar does not provide valid authorization information, the server does not send any domain elements in response per server policy.

Section 3.1.3 EPP 〈transfer〉 Query Command – compliant
EPP 〈transfer〉 command provides a query operation that allows a client to determine the real-time status of pending and completed transfer requests. If the authInfo element is not provided or authorization information is invalid, the command is rejected for authorization.

Section 3.2.4 EPP 〈transfer〉 Command – compliant
All subordinate host objects to the domain are transferred along with the domain object.

7.3. RFC 5732 EPP HOST MAPPING

Section 2.1 Host Names – compliant
The host names are validated to meet conformance requirements mentioned in RFC 0952, 1123 and 3490.

Section 2.2 Contact and Client Identifiers – compliant
All EPP clients are identified by a server-unique identifier. Client identifiers conform to "clIDType" syntax described in RFC 5730.

Section 2.5 IP Addresses – compliant
The syntax for IPv4 addresses conform to RFC0791. The syntax for IPv6 addresses conform to RFC4291.

Section 3.1.1 EPP 〈check〉 Command – compliant
Maximum of five host names can be checked in a single command request set by server policy.

Section 3.1.2 EPP 〈info〉 Command – compliant
If the querying client is not a sponsoring client, the server does not send any host object elements in response and the request is rejected for authorization according to server policy.

Section 3.2.2 EPP 〈delete〉 Command – compliant
A delete is permitted only if the host is not delegated.

Section 3.2.2 EPP 〈update〉 Command – compliant
Any request to change host name of an external host that has associations with objects that are sponsored by a different client fails.

7.4. RFC 5733 EPP CONTACT MAPPING

Section 2.1 Contact and Client Identifiers – compliant
Contact identifiers conform to "clIDType" syntax described in RFC 5730.

Section 2.6 Email Addresses – compliant
Email address validation conforms to syntax defined in RFC5322.

Section 3.1.1 EPP 〈check〉 Command – compliant
Maximum of 5 contact id can be checked in a single command request.

Section 3.1.2 EPP 〈info〉 Command – compliant
If querying client is not sponsoring client, server does not send any contact object elements in response and the request is rejected for authorization.

Section 3.2.2 EPP 〈delete〉 Command – compliant
A delete is permitted only if the contact object is not associated with other known objects.

7.5. RFC 5734 EPP TRANSPORT OVER TCP

Section 2 Session Management – compliant
The SRS implementation conforms to the required flow mentioned in the RFC for initiation of a
connection request by a client, to establish a TCP connection. The client has the ability to
end the session by issuing an EPP ⟨logout⟩ command, which ends the session and closes the TCP
connection. Maximum life span of an established TCP connection is defined by server policy.
Any connections remaining open beyond that are terminated. Any sessions staying inactive
beyond the timeout policy of the server are also terminated similarly. Policies regarding
timeout and lifetime values are clearly communicated to registrars in documentation provided
to them.

Section 3 Message Exchange – compliant
With the exception of EPP server greeting, EPP messages are initiated by EPP client in the
form of EPP commands. Client-server interaction works as a command-response exchange where the
client sends one command to the server and the server returns one response to the client in
the exact order as received by the server.

Section 8 Security considerations – ack.
TLS 1.0 over TCP is used to establish secure communications from IP restricted clients.
Validation of authentication credentials along with the certificate common name, validation of
revocation status and the validation of the full certificate chain are performed. The ACL only
allows connections from subnets prearranged with the Registrar.

Section 9 TLS Usage Profile – ack.
The SRS uses TLS 1.0 over TCP and matches the certificate common name. The full certificate
chain, revocation status and expiry date is validated. TLS is implemented for mutual client
and server authentication.

8.0. EPP EXTENSIONS

8.1. STANDARDIZED EXTENSIONS

Our implementation includes extensions that are accepted standards and fully documented. These
include the Registry Grace Period Mapping and DNSSEC.

8.2. COMPLIANCE WITH RFC 3735

RFC 3735 are the Guidelines for Extending the Extensible Provisioning Protocol. Any custom
extension implementations follow the guidance and recommendations given in RFC 3735.

8.3. COMPLIANCE WITH DOMAIN REGISTRY GRACE PERIOD MAPPING RFC 3915

Section 1 Introduction – compliant
Our SRS implementation supports all specified grace periods particularly, add grace period,
auto-renew grace period, renew grace period, and transfer grace period.

Section 3.2 Registration Data and Supporting Information – compliant
Our SRS implementation supports free text and XML markup in the restore report.

Section 3.4 Client Statements – compliant
Client can use free text or XML markup to make 2 statements regarding data included in a
restore report.

Section 5 Formal syntax - compliant
All commands and responses for this extension are validated against applicable XML schema
before acting on the command or sending the response to the client respectively. XML schema
validation is performed against RGP specific schema (rgp-1.0).

8.4. COMPLIANCE WITH DOMAIN NAME SYSTEM (DNS) SECURITY EXTENSIONS MAPPING RFC 5910

RFC 5910 describes an Extensible Provisioning Protocol (EPP) extension mapping for the
provisioning and management of Domain Name System Security Extensions (DNSSEC) for domain
names stored in a shared central repository. Our SRS and DNS implementation supports DNSSEC.

The information exchanged via this mapping is extracted from the repository and used to publish DNSSEC Delegate Signer (DS) resource records (RR) as described in RFC 4034.

Section 4 DS Data Interface and Key Data Interface – compliant
Our SRS implementation supports only DS Data Interface across all commands applicable with DNSSEC extension.

Section 4.1 DS Data Interface – compliant
The client can provide key data associated with the DS information. The collected key data along with DS data is returned in an info response, but may not be used in our systems.

Section 4.2 Key Data Interface – compliant
Since our gTLD's SRS implementation does not support Key Data Interface, when a client sends a command with Key Data Interface elements, it is rejected with error code 2306.

Section 5.1.2 EPP 〈info〉 Command – compliant
This extension does not add any elements to the EPP 〈info〉 command. When an 〈info〉 command is processed successfully, the EPP 〈resData〉 contains child elements for EPP domain mapping. In addition, it contains a child 〈secDNS:infData〉 element that identifies extension namespace if the domain object has data associated with this extension. It is conditionally based on whether or the client added the 〈extURI〉 element for this extension in the 〈login〉 command. Multiple DS data elements are supported.

Section 5.2.1 EPP 〈create〉 Command – compliant
The client must add an 〈extension〉 element, and the extension element MUST contain a child 〈secDNS:create〉 element if the client wants to associate data defined in this extension to the domain object. Multiple DS data elements are supported. Since the SRS implementation does not support maxSigLife, it returns a 2102 error code if the command included a value for maxSigLife.

Section 5.2.5 EPP 〈update〉 Command – compliant
Since the SRS implementation does not support the 〈secDNS:update〉 element's optional "urgent" attribute, an EPP error result code of 2102 is returned if the "urgent" attribute is specified in the command with value of Boolean true.

8.5. PROPRIETARY EXTENSION DOCUMENTATION

We are not proposing any proprietary EPP extensions for this TLD.

8.6. EPP CONSISTENT WITH THE REGISTRATION LIFECYCLE DESCRIBED IN QUESTION 27

Our EPP implementation makes no changes to the industry standard registration lifecycle and is consistent with the lifecycle described in Question 27.

9.0. RESOURCING PLAN

For descriptions of the following teams, please refer to our response to Question 31. Current and planned allocations are below.

Software Engineering:

- Existing Department Personnel: Project Manager, Development Manager, 2 Sr. Software Engineers, Sr. Database Engineer, Quality Assurance Engineer
- First Year New Hires: Web Developer, Database Engineer, Technical Writer, Build⁄Deployment Engineer

Systems Engineering:

- Existing Department Personnel: Sr. Director IT Operations, two Sr. Systems Administrators, two Systems Administrators, two Sr. Systems Engineers, two Systems Engineers
- First Year New Hires: Systems Engineer

Network Engineering:

- Existing Department Personnel: Sr. Director IT Operations, two Sr. Network Engineers, two Network Engineers
- First Year New Hires: Network Engineer

Database Operations:

- Existing Department Personnel: Sr. Database Operations Manager, two Database Administrators

Information Security Team:

- Existing Department Personnel: Director of Information Security, Sr. Information Security Specialist, Information Security Specialists, Sr. Information Security Engineer, Information Security Engineer
- First Year New Hires: Information Security Engineer

Network Operations Center (NOC):

- Existing Department Personnel: Manager, two NOC Supervisors, 12 NOC Analysts
- First Year New Hires: Eight NOC Analysts

26. Whois

Q26 CHAR: 19908

1.0.   INTRODUCTION

Our registry provides a publicly available Whois service for registered domain names in the top-level domain (TLD). Our planned registry also offers a searchable Whois service that includes web-based search capabilities by domain name, registrant name, postal address, contact name, registrar ID and IP addresses without an arbitrary limit. The Whois service for our gTLD also offers Boolean search capabilities, and we have initiated appropriate precautions to avoid abuse of the service. This searchable Whois service exceeds requirements and is eligible for a score of 2 by providing the following:

- Web-based search capabilities by domain name, registrant name, postal address, contact names, registrar IDs, and Internet Protocol addresses without arbitrary limit.
- Boolean search capabilities.
- Appropriate precautions to avoid abuse of this feature (e.g., limiting access to legitimate authorized users).
- Compliance with any applicable privacy laws or policies.

The Whois service for our planned TLD is available via port 43 in accordance with RFC 3912. Also, our planned registry includes a Whois web interface. Both provide free public query-based access to the elements outlined in Specification 4 of the Registry Agreement. In addition, our registry includes a searchable Whois service. This service is available to authorized entities and accessible from a web browser.

2.0. HIGH-LEVEL WHOIS SYSTEM DESCRIPTION

The Whois service for our registry provides domain registration information to the public. This information consists not only of the domain name but also of relevant contact information associated with the domain. It also identifies nameserver delegation and the registrar of record. This service is available to any Internet user, and use does not require prior authorization or permission. To maximize accessibility to the data, Whois service is provided over two mediums, as described below. Where the medium is not specified, any reference to Whois pertains to both mediums. We describe our searchable Whois solution in Section 11.0.

One medium used for our gTLD's Whois service is port 43 Whois. This consists of a standard Transmission Control Protocol (TCP) server that answers requests for information over port 43 in compliance with IETF RFC 3912. For each query, the TCP server accepts the connection over

port 43 and then waits for a set time for the query to be sent. This communication occurs via clear, unencrypted text. If no query is received by the server within the allotted time or a malformed query is detected, the connection is closed. If a properly formatted and valid query is received, the registry database is queried for the registration data. If registration data exists, it is returned to the service where it is then formatted and delivered to the requesting client. Each query connection is short-lived. Once the output is transmitted, the server closes the connection.

The other medium used for Whois is via web interface using clear, unencrypted text. The web interface is in an HTML format suitable for web browsers. This interface is also available over an encrypted channel on port 443 using the HTTPS protocol.

The steps for accessing the web-based Whois will be prominently displayed on the registry home page. The web-based Whois is for interactive use by individual users while the port 43 Whois system is for automated use by computers and lookup clients.

Both Whois service offerings comply with Specification 4 of the New GTLD Agreement. Although the Whois output is free text, it follows the output format as described for domain, registrar and nameserver data in Sections 1.4, 1.5 and 1.6 of Specification 4 of the Registry Agreement.

Our gTLD's WHOIS service is mature, and its current implementation has been in continuous operation for seven years. A dedicated support staff monitors this service 24∕7. To ensure high availability, multiple redundant servers are maintained to enable capacity well above normal query rates.

Most of the queries sent to the port 43 Whois service are automated. The Whois service contains mechanisms for detecting abusive activity and, if abuse is detected, reacts appropriately. This capability contributes to a high quality of service and availability for all users.

2.1. PII POLICY

The services and systems for this gTLD do not collect, process or store any personally identifiable information (PII) as defined by state disclosure and privacy laws. Registry systems collect the following Whois data types: first name, last name, address and phone numbers of all billing, administration and technical contacts. Any business conducted where confidential PII consisting of customer payment information is collected uses systems that are completely separate from registry systems and segregated at the network layer.

3.0. RELEVANT NETWORK DIAGRAM(S)

Our network diagram (Q 26 - Attachment A, Figure 1) provides a quick-reference view of the Whois system. This diagram reflects the Whois system components and compliance descriptions and explanations that follow in this section.

3.1. NARRATIVE FOR Q26 - FIGURE 1 OF 1 (SHOWN IN ATTACHMENT A)

The Whois service for our gTLD operates from two datacenters from replicated data. Network traffic is directed to either of the datacenters through a global load balancer. Traffic is directed to an appropriate server farm, depending on the service interface requested. The load balancer within the datacenter monitors the load and health of each individual server and uses this information to select an appropriate server to handle the request.

The protocol server handling the request communicates over an encrypted channel with the Whois service provider through a load-balancing device. The WHOIS service provider communicates directly with a replicated, read-only copy of the appropriate data from the registry database. The Whois service provider is passed a sanitized and verified query, such as a domain name. The database attempts to locate the appropriate records, then format and return them. Final output formatting is performed by the requesting server and the results are returned back to the original client.

4.0. INTERCONNECTIVITY WITH OTHER REGISTRY SYSTEMS

The Whois port 43 interface runs as an unattended service on servers dedicated to this task.

As shown in Attachment A, Figure 1, these servers are delivered network traffic by redundant load-balancing hardware, all of which is protected by access control methods. Balancing the load across many servers helps distribute the load and allows for expansion. The system's design allows for the rapid addition of new servers, typically same-day, should load require them.

Both our port 43 Whois and our web-based Whois communicate with the Whois service provider in the middle tier. Communication to the Whois service provider is distributed by a load balancing pair. The Whois service provider calls the appropriate procedures in the database to search for the registration records.

The Whois service infrastructure operates from both datacenters, and the global load balancer distributes Whois traffic evenly across the two datacenters. If one datacenter is not responding, the service sends all traffic to the remaining datacenter. Each datacenter has sufficient capacity to handle the entire load.

To avoid placing an abnormal load on the Shared Registration System (SRS), both service installations read from replicated, read-only database instances (see Figure 1). Because each instance is maintained via replication from the primary SRS database, each replicated database contains a copy of the authoritative data. Having the Whois service receive data from this replicated database minimizes the impact of services competing for the same data and enables service redundancy. Data replication is also monitored to prevent detrimental impact on the primary SRS.

5.0. FREQUENCY OF SYNCHRONIZATION BETWEEN SERVERS

As shown in Figure 1, the system replicates WHOIS services data continuously from the authoritative database to the replicated database. This persistent connection is maintained between the databases, and each transaction is queued and published as an atomic unit. Delays, if any, in the replication of registration information are minimal, even during periods of high load. At no time will the system prioritize replication over normal operations of the SRS.

6.0. POTENTIAL FORMS OF ABUSE

Potential forms of abuse of this feature, and how they are mitigated, are outlined below. For additional information on our approach to preventing and mitigating Whois service abuse, please refer to our response to Question 28.

6.1. DATA MINING ABUSE

This type of abuse consists primarily of a user using queries to acquire all or a significant portion of the registration database.

The system mitigates this type of abuse by detecting and limiting bulk query access from single sources. It does this in two ways: 1) by rate-limiting queries by non-authorized parties; and 2) by ensuring all queries result in responses that do not include data sets representing significant portions of the registration database.

6.2. INVALID DATA INJECTION

This type of abuse is mitigated by 1) ensuring that all Whois systems are strictly read-only; and 2) ensuring that any input queries are properly sanitized to prevent data injection.

6.3. DISCLOSURE OF PRIVATE INFORMATION

The Whois system mitigates this type of abuse by ensuring all responses, while complete, only contain information appropriate to Whois output and do not contain any private or non-public information.

7.0. COMPLIANCE WITH WHOIS SPECIFICATIONS FOR DATA OBJECTS, BULK ACCESS, AND LOOKUPS

Whois specifications for data objects, bulk access, and lookups for our gTLD are fully compliant with Specifications 4 and 10 to the Registry Agreement, as explained below.

7.1. COMPLIANCE WITH SPECIFICATION 4

Compliance of Whois specifications with Specification 4 is as follows:

- Registration Data Directory Services Component: Specification 4.1 is implemented as described. Formats follow the outlined semi-free text format. Each data object is represented as a set of key∕value pairs with lines beginning with keys followed by a colon and a space as delimiters, followed by the value. Fields relevant to RFCs 5730-4 are formatted per Section 1.7 of Specification 4.
- Searchability compliance is achieved by implementing, at a minimum, the specifications in section 1.8 of specification 4. We describe this searchability feature in Section 11.0.
- Co-operation, ICANN Access and Emergency Operator Access: Compliance with these specification components is assured.
- Bulk Registration Data Access to ICANN: Compliance with this specification component is assured.

Evidence of Whois system compliance with this specification consists of:

- Matching existing Whois output with specification output to verify that it is equivalent.

7.2. COMPLIANCE WITH SPECIFICATION 10 FOR WHOIS

Our gTLD's Whois complies fully with Specification 10. With respect to Section 4.2, the approach used ensures that Round-Trip Time (RTT) remains below five times the corresponding Service Level Requirement (SLR).

7.2.1. Emergency Thresholds

To achieve compliance with this Specification 10 component, several measures are used to ensure emergency thresholds are never reached:

1) Provide staff training as necessary on Registry Transition plan components that prevent Whois service interruption in case of emergency (see the Question 40 response for details).
2) Conduct regular failover testing for Whois services as outlined in the Question 41 response.
3) Adhere to recovery objectives for Whois as outlined in the Question 39 response.

7.2.2. Emergency Escalation

Compliance with this specification component is achieved by participation in escalation procedures as outlined in this section.

8.0. COMPLIANCE WITH RFC 3912

Whois service for our gTLD is fully compliant with RFC 3912 as follows:

- RFC 3912 Element, "A Whois server listens on TCP port 43 for requests from Whois clients": This requirement is properly implemented, as described in Section 1 above. Further, running Whois on ports other than port 43 is an option.
- RFC 3912 Element, "The Whois client makes a text request to the Whois server, then the Whois server replies with text content": The port 43 Whois service is a text-based query and response system. Thus, this requirement is also properly implemented.
- RFC 3912 Element, "All requests are terminated with ASCII CR and then ASCII LF. The response might contain more than one line of text, so the presence of ASCII CR or ASCII LF characters does not indicate the end of the response": This requirement is properly implemented for our TLD.
- RFC 3912 Element, "The Whois server closes its connection as soon as the output is finished": This requirement is properly implemented for our TLD, as described in Section 1 above.
- RFC 3912 Element, "The closed TCP connection is the indication to the client that the response has been received": This requirement is properly implemented.

9.0. RESOURCING PLAN

Resources for the continued development and maintenance of the Whois have been carefully considered. Many of the required personnel are already in place. Where gaps exist, technical resource addition plans are outlined below as "First Year New Hires." Resources now in place, shown as "Existing Department Personnel", are employees whose primary responsibility is the registry system.

Software Engineering:

- Existing Department Personnel: Project Manager, Development Manager, two Sr. Software Engineers, Sr. Database Engineer, Quality Assurance Engineer
- First Year New Hires: Web Developer, Database Engineer, Technical Writer, Build∕Deployment Engineer

Systems Engineering:

- Existing Department Personnel: Sr. Director IT Operations, two Sr. Systems Administrators, two Systems Administrators, two Sr. Systems Engineers, two Systems Engineers
- First Year New Hires: Systems Engineer

Network Engineering:

- Existing Department Personnel: Sr. Director IT Operations, two Sr. Network Engineers, two Network Engineers
- First Year New Hires: Network Engineer

Database Operations:

- Existing Department Personnel: Sr. Database Operations Manager, two Database Administrators

Information Security Team:

- Existing Department Personnel: Director of Information Security, Sr. Information Security Specialist, Information Security Specialists, Sr. Information Security Engineer, Information Security Engineer
- First Year New Hires: Information Security Engineer

Network Operations Center (NOC):

- Existing Department Personnel: Manager, two NOC Supervisors, 12 NOC Analysts
- First Year New Hires: Eight NOC Analysts

11.0. PROVISION FOR SEARCHABLE WHOIS CAPABILITIES

The searchable Whois service for our gTLD provides flexible and powerful search ability for users through a web-based interface. This service is provided only to entities with a demonstrated need for it. Where access to registration data is critical to the investigation of cybercrime and other potentially unlawful activity, we authorize access for fully vetted law enforcement and other entities as appropriate. Search capabilities for our gTLD's searchable Whois meet or exceed the requirements indicated in section 1.8 of specification 4.

Once authorized to use the system, a user can perform exact and partial match searches on the following fields:

- Domain name
- Registrant name
- Postal address including street, city and state, etc., of all registration contacts
- Contact names
- Registrant email address
- Registrar name and ID
- Nameservers
- Internet Protocol addresses

In addition, all other EPP Contact Object fields and sub-fields are searchable as well. The

following Boolean operators are also supported: AND, OR, NOT. These operators can be used for joining or excluding results.

Certain types of registry related abuse are unique to the searchable Whois function. Providing searchable Whois warrants providing protection against this abuse. Potential problems include:

- Attempts to abuse Whois by issuing a query that essentially returns the entire database in the result set.
- Attempts to run large quantities of queries sufficient to reduce the performance of the registry database.

Precautions for preventing and mitigating abuse of the Whois search service include:

- Limiting access to authorized users only.
- Establishing legal agreements with authorized users that clearly define and prohibit system abuse.
- Queuing search queries into a job processing system.
- Executing search queries against a replicated read-only copy of the database.
- Limiting result sets when the query is clearly meant to cause a wholesale dump of registration data.

Only authorized users with a legitimate purpose for searching registration data are permitted to use the searchable Whois system. Examples of legitimate purpose include the investigation of terrorism or cybercrime by authorized officials, or any of many other official activities that public officials must conduct to fulfill their respective duties. We grant access for these and other purposes on a case-by-case basis.

To ensure secure access, a two-factor authentication device is issued to each authorized user of the registry. Subsequent access to the system requires the user name, password and a one-time generated password from the issued two-factor device.

Upon account creation, users are provided with documentation describing our terms of service and policies for acceptable use. Users must agree to these terms to use the system. These terms clearly define and illustrate what constitutes legitimate use and what constitutes abuse. They also inform the user that abuse of the system is grounds for limiting or terminating the user's account.

For all queries submitted, the searchable Whois system first sanitizes the query to deter potential harm to our internal systems. The system then submits the query to a queue for job processing. The system processes each query one by one and in the order received. The number of concurrent queries executed varies, depending on the current load.

To ensure Whois search capabilities do not affect other registry systems, the system executes queries against a replicated read-only version of the database. The system updates this database frequently as registration transactions occur. These updates are performed in a manner that ensures no detrimental load is placed on the production SRS.

To process successfully, each query must contain the criteria needed to filter its results down to a reasonable result set (one that is not excessively large). If the query does not meet this, the user is notified that the result set is excessive and is asked to verify the search criteria. If the user wishes to continue without making the indicated changes, the user must contact our support team to verify and approve the query. Each successful query submitted results in immediate execution of the query.

Query results are encrypted using the unique shared secret built into each 256-bit Advanced Encryption Standard (AES) two-factor device. The results are written to a secure location dedicated for result storage and retrieval. Each result report has a unique file name in the user's directory. The user's directory is assigned the permissions needed to prevent unauthorized access to report files. For the convenience of Registrars and other users, each query result is stored for a minimum of 30 days. At any point following this 30-day period, the query result may be purged by the system.

27. Registration Life Cycle

Q27 CHAR: 19951

1.0. INTRODUCTION
To say that the lifecycle of a domain name is complex would be an understatement. A domain name can traverse many states throughout its lifetime and there are many and varied triggers that can cause a state transition. Some states are triggered simply by the passage of time. Others are triggered by an explicit action taken by the registrant or registrar. Understanding these is critical to the proper operation of a gTLD registry. To complicate matters further, a domain name can contain one or more statuses. These are set by the registrar or registry and have a variety of uses.

When this text discusses EPP commands received from registrars, with the exception of a transfer request, the reader can assume that the command is received from the sponsoring registrar and successfully processed. The transfer request originates from the potential gaining registrar. Transfer details are explicit for clarity.

2.0. INDUSTRY STANDARDS
The registration life cycle approach for our gTLD follows industry standards for registration lifecycles and registration statuses. By implementing a registration life cycle that adheres to these standards, we avoid compounding an already confusing topic for registrants. In addition, since registrar systems are already designed to manage domain names in a standard way, a standardized registration lifecycle also lowers the barrier to entry for registrars.

The registration lifecycle for our gTLD follows core EPP RFCs including RFC 5730 and RFC 5731 and associated documentation of lifecycle information. To protect registrants, EPP Grace Period Mapping for domain registrations is implemented, which affects the registration lifecycle and domain status. EPP Grace Period Mapping is documented in RFC 3915.

3.0. REGISTRATION STATES
For a visual guide to this registration lifecycle discussion, please refer to the attachment, Registration Lifecycle Illustrations. Please note that this text makes many references to the status of a domain. For brevity, we do not distinguish between the domain mapping status ⟨domain:status⟩ and the EPP Grace Period Mapping status ⟨rgp:rgpStatus⟩ as making this differentiation in every case would make this document more difficult to read and in this context does not improve understanding.

4.0. AVAILABILITY
The lifecycle for any domain registration begins with the Available state. This is not necessarily a registration state, per se, but indicates the lack of domain registration implied and provides an entry and terminal point for the state diagram provided. In addition to the state diagram, please refer to Fig. 2 – Availability Check for visual representation of the process flow.

Before a user can register a new domain name, the registry performs an availability check. Possible outcomes of this availability check include:
1. Domain name is available for registration.
2. Domain name is already registered, regardless of the current state and not available for registration.
3. Domain name has been reserved by the registry.
4. Domain name string has been blocked because of a trademark claim.

5.0. INITIAL REGISTRATION
The first step in domain registration is the availability check as described above and shown in Fig. 2 – Availability Check. A visual guide to the description for domain registration in this section can be found in Fig. 3 – Domain Registration. If the domain is available for registration, a registrar submits a registration request.

With this request, the registrar can include zero or more nameserver hosts for zone

delegation. If the registrar includes zero or one nameserver host(s), the domain is registered but the EPP status of the domain is set to inactive. If the registrar includes two or more, the EPP status of the domain is set to ok.

The request may also include a registration period (the number of years the registrar would like the domain registered). If this time period is omitted, the registry may use a default initial registration period. The policy for this aligns with the industry standard of one year as the default period. If the registrar includes a registration period, the value must be between one and ten years as specified in the gTLD Registry Agreement.

Once the registration process is complete within the registry, the domain registration is considered to be in the REGISTERED state but within the Add Grace Period.

6.0. REGISTERED STATE - ADD GRACE PERIOD
The Add Grace Period is a status given to a new domain registration. The EPP status applied in this state is addPeriod. The Add Grace Period is a state in which the registrar is eligible for a refund of the registration price should the registration be deleted while this status is applied. The status is removed and the registration transitions from the Add Grace Period either by an explicit delete request from the registrar or by the lapse of five days. This is illustrated in Fig. 1 and Fig. 3 of the illustrations attachment.

If the registrar deletes the domain during the Add Grace Period, the domain becomes immediately available for registration. The registrar is refunded the original cost of the registration.

If the five-day period lapses without receiving a successful delete command, the addPeriod status is removed from the domain.

7.0. REGISTERED STATE
A domain registration spends most of its time in the REGISTERED state. A domain registration period can initially be between one year and ten years in one-year increments as specified in the new gTLD Registry Agreement. At any time during the registration's term, several things can occur to either affect the registration period or transition the registration to another state. The first three are the auto-renew process, an explicit renew EPP request and a successful completion of the transfer process.

8.0. REGISTRATION PERIOD EXTENSION
The registration period for a domain is extended either through a successful renew request by the registrar, through the successful completion of the transfer process or through the auto-renew process. This section discusses each of these three options.

8.1. EXTENSION VIA RENEW REQUEST
One way that a registrar can extend the registration period is by issuing a renew request. Each renew request includes the number of years desired for extension of the registration up to ten years. Please refer to the flow charts found in both Fig. 4 – Renewal and Fig. 5 – Renewal Grace Period for a visual representation of the following.

Because the registration period cannot extend beyond ten years, any request for a registration period beyond ten years fails. The domain must not contain the status renewProhibited. If this status exists on the domain, the request for a renewal fails.

Upon a successful renew request, the registry adds the renewPeriod status to the domain. This status remains on the domain for a period of five days. The number of years in the renew request is added to the total registration period of the domain. The registrar is charged for each year of the additional period.

While the domain has the renewPeriod status, if the sponsoring registrar issues a successful delete request, the registrar receives a credit for the renewal. The renewPeriod status is removed and the domain enters the Redemption Grace Period (RGP) state. The status redemptionPeriod is added to the status of the domain.

8.2. EXTENSION VIA TRANSFER PROCESS

The second way to extend the registration is through the Request Transfer process. A registrar may transfer sponsorship of a domain name to another registrar. The exact details of a transfer are explained in the Request Transfer section below. The successful completion of the Request Transfer process automatically extends the registration for one year. The registrar is not charged separately for the addition of the year; it comes automatically with the successful transfer. The transferPeriod status is added to the domain.

If the gaining registrar issues a successful delete request during the transferPeriod, the gaining registrar receives a credit for the transfer. The status redemptionPeriod is added to the status of the domain and transferPeriod is removed. The domain then enters the RGP state.

8.3. EXTENSION VIA AUTO-RENEW

The last way a registration period can be extended is passive and is the simplest way because it occurs without any action by the Registrar. When the registration period expires, for the convenience of the registrar and registrant, the registration renews automatically for one year. The registrar is charged for the renewal at this time. This begins the Auto Renew Grace Period. The autoRenewPeriod status is added to the domain to represent this period.

The Auto Renew Grace Period lasts for 45 days. At any time during this period, the Registrar can do one of four things: 1) passively accept the renewal; 2) actively renew (to adjust renewal options); 3) delete the registration; or 4) transfer the registration.

To passively accept the renewal, the registrar need only allow the 45-day time span to pass for the registration to move out of the Auto Renew Grace Period.

Should the registrar wish to adjust the renewal period in any way, the registrar can submit a renew request via EPP to extend the registration period up to a maximum of ten years. If the renew request is for a single year, the registrar is not charged. If the renew request is for more than a single year, the registrar is charged for the additional years that the registration period was extended. If the command is a success, the autoRenewPeriod status is removed from the domain.

Should the registrar wish to delete the registration, the registrar can submit a delete command via EPP. Once a delete request is received, the autoRenewPeriod status is removed from the domain and the redemptionPeriod status is added. The registrar is credited for the renewal fees. For illustration of this process, please refer to Fig. 6 – Auto Renew Grace Period.

The last way move a domain registration out of the Auto Renew state is by successful completion of the Request Transfer process, as described in the following section. If the transfer completes successfully, the autoRenewPeriod status is removed and the transferPeriod status is added.

9.0. REQUEST TRANSFER

A customer can change the sponsoring registrar of a domain registration through the Request Transfer process. This process is an asynchronous, multi-step process that can take many as five days but may occur faster, depending on the level of support from participating Registrars.

The initiation of the transfer process is illustrated in Fig. 8 – Request Transfer. The transfer process begins with a registrar submitting a transfer request. To succeed, the request must meet several criteria. First, the domain status must not contain transferProhibited or pendingTransfer. Second, the initial domain registration must be at least 60 days old or, if transferred prior to the current transfer request, must not have been transferred within the last 60 days. Lastly, the transfer request must contain the correct authInfo (authorization information) value. If all of these criteria are met, the transfer request succeeds and the domain moves into the Pending Transfer state and the pendingTransfer status is added to the domain.

There are four ways to complete the transfer (and move it out of Pending Transfer status):
1. The transfer is auto-approved.
2. The losing registrar approves the transfer.
3. The losing registrar rejects the transfer.

4. The requesting registrar cancels the transfer.

After a successful transfer request, the domain continues to have the pendingTransfer status for up to five days. During this time, if no other action is taken by either registrar, the domain successfully completes the transfer process and the requesting registrar becomes the new sponsor of the domain registration. This is illustrated in Fig. 9 - Auto Approve Transfer.

At any time during the Pending Transfer state, either the gaining or losing registrar can request the status of a transfer provided they have the correct domain authInfo. Querying for the status of a transfer is illustrated in Fig. 13 - Query Transfer.

During the five-day Pending Transfer state, the losing registrar can accelerate the process by explicitly accepting or rejecting the transfer. If the losing registrar takes either of these actions, the pendingTransfer status is removed. Both of these actions are illustrated in Fig. 10 - Approve Transfer and Fig. 11 - Reject Transfer.

During the five-day Pending Transfer state, the requesting registrar may cancel the transfer request. If the registrar sends a cancel transfer request, the pendingTransfer status is removed. This is shown in Fig. 12 - Cancel Transfer.

If the transfer process is a success, the registry adds the transferPeriod status and removes the pendingTransfer status. If the domain was in the Renew Period state, upon successful completion of the transfer process, this status is removed.

The transferPeriod status remains on the domain for five days. This is illustrated in Fig. 14 - Transfer Grace Period. During this period, the gaining Registrar may delete the domain and obtain a credit for the transfer fees. If the gaining registrar issues a successful delete request during the transferPeriod, the gaining registrar receives a credit for the transfer. The status redemptionPeriod is added to the status of the domain and transferPeriod is removed. The domain then enters the RGP state.

10.0. REDEMPTION GRACE PERIOD
The Redemption Grace Period (RGP) is a service provided by the registry for the benefit of registrars and registrants. The RGP allows a registrar to recover a deleted domain registration. The only way to enter the RGP is through a delete command sent by the sponsoring registrar. A domain in RGP always contains a status of redemptionPeriod. For an illustrated logical flow diagram of this, please refer to Fig. 15 - Redemption Grace Period.

The RGP lasts for 30 days. During this time, the sponsoring registrar may recover the domain through a two-step process. The first step is to send a successful restore command to the registry. The second step is to send a restore report to the registry.

Once the restore command is processed, the registry adds the domain status of pendingRestore to the domain. The domain is now in the Pending Restore state, which lasts for seven days. During this time, the registry waits for the restore report from the Registrar. If the restore report is not received within seven days, the domain transitions back to the RGP state. If the restore report is successfully processed by the registry, the domain registration is restored back to the REGISTERED state. The statuses of pendingRestore and redemptionPeriod are removed from the domain.

After 30 days in RGP, the domain transitions to the Pending Delete state. A status of pendingDelete is applied to the domain and all other statuses are removed. This state lasts for five days and is considered a quiet period for the domain. No commands or other activity can be applied for the domain while it is in this state. Once the five days lapse, the domain is again available for registration.

11.0. DELETE
To delete a domain registration, the sponsoring registrar must send a delete request to the registry. If the domain is in the Add Grace Period, deletion occurs immediately. In all other cases, the deleted domain transitions to the RGP. For a detailed visual diagram of the delete process flow, please refer to Fig. 7 - Delete.

For domain registration deletion to occur successfully, the registry must first ensure the

domain is eligible for deletion by conducting two checks. The registry first checks to verify that the requesting registrar is also the sponsoring registrar. If this is not the case, the registrar receives an error message.

The registry then checks the various domain statuses for any restrictions that might prevent deletion. If the domain's status includes either the transferPending or deleteProhibited, the name is not deleted and an error is returned to the registrar.

If the domain is in the Add Grace Period, the domain is immediately deleted and any registration fees paid are credited back to the registrar. The domain is immediately available for registration.

If the domain is in the Renew Grace Period, the Transfer Grace Period or the Auto Renew Grace Period, the respective renewPeriod, transferPeriod or autoRenewPeriod statuses are removed and the corresponding fees are credited to the Registrar. The domain then moves to the RGP as described above.

12.0. ADDITIONAL STATUSES
There are additional statuses that the registry or registrar can apply to a domain registration to limit what actions can be taken on it or to limit its usefulness. This section addresses such statuses that have not already addressed in this response.

Some statuses are applied by the registrar and others are exclusively applied by the registry. Registry-applied statuses cannot be altered by registrars. Status names that registrars can add or remove begin with "client". Status names that only the registry can add or remove begin with "server". These statuses can be applied by a registrar using the EPP domain update request as defined in RFC 5731.

To prevent a domain registration from being deleted, the status values of clientDeleteProhibited or serverDeleteProhibited may be applied by the appropriate party.

To withhold delegation of the domain to the DNS, clientHold or serverHold is applied. This prevents the domain name from being published to the zone file. If it is already published, the domain name is removed from the zone file.

To prevent renewal of the domain registration clientRenewProhibited or serverRenewProhibited is applied by the appropriate party.

To prevent the transfer of sponsorship of a registration, the states clientTransferProhibited or serverTransferProhibited is applied to the domain. When this is done, all requests for transfer are rejected by the registry.

If a domain registration contains no host objects, the registry applies the status of inactive. Since there are no host objects associated with the domain, by definition, it cannot be published to the zone. The inactive status cannot be applied by registrars.

If a domain has no prohibitions, restrictions or pending operations and the domain also contains sufficient host object references for zone publication, the registry assigns the status of ok if there is no other status set.

There are a few statuses defined by the domain mapping RFC 5731 that our registry does not use. These statuses are: pendingCreate, pendingRenew and pendingUpdate. RFC 5731 also defines some status combinations that are invalid. We acknowledge these and our registry system disallows these combinations.

13.0. RESOURCING
Software Engineering:
- Existing Department Personnel: Project Manager, Development Manager, two Sr. Software Engineers, Sr. Database Engineer, Quality Assurance Engineer
- New Hires: Web Developer, Database Engineer, Technical Writer, Build∕Deployment Engineer
Systems Engineering:
- Existing Department Personnel: Sr. Director IT Operations, 2 Sr. Systems Administrators, 2 Systems Administrators, 2 Sr. Systems Engineers, 2 Systems Engineers
- New Hires: Systems Engineer

Network Engineering:
- Existing Department Personnel: Sr. Director IT Operations, two Sr. Network Engineers, 2
Network Engineers
- New Hires: Network Engineer
Database Operations:
- Existing Department Personnel: Sr. Database Operations Manager, 2 Database Administrators
Network Operations Center:
- Existing Department Personnel: Manager, 2 NOC Supervisors, 12 NOC Analysts
- New Hires: Eight NOC Analysts

28. Abuse Prevention and Mitigation

Q28 Standard CHAR: 29543

1.0. INTRODUCTION

Donuts will employ strong policies and procedures to prevent and mitigate abuse. Our intention
is to ensure the integrity of this top-level domain (TLD) and maintain it as a trusted space
on the Internet. We will not tolerate abuse and will use professional, consistent, and fair
policies and procedures to identify and address abuse in the legal, operational, and technical
realms

Our approach to abuse prevention and mitigation includes the following:

- An Anti-Abuse Policy that clearly defines malicious and abusive behaviors;
- An easy-to-use single abuse point of contact (APOC) that Internet users can use to report
the malicious use of domains in our TLD;
- Procedures for investigating and mitigating abuse;
- Procedures for removing orphan glue records used to support malicious activities;
- Dedicated procedures for handling legal requests, such as inquiries from law enforcement
bodies, court orders, and subpoenas;
- Measures to deter abuse of the Whois service; and
- Policies and procedures to enhance Whois accuracy, including compliance and monitoring
programs.

Our abuse prevention and mitigation solution leverages our extensive domain name industry
experience and was developed based on extensive study of existing gTLDs and ccTLDs for best
registry practices. This same experience will be leveraged to manage the new TLD.

2.0. ANTI-ABUSE POLICY

The Anti-Abuse Policy for our registry will be enacted under the Registry-Registrar Agreement,
with obligations from that agreement passed on to and made binding upon all registrants,
registrars, and resellers. This policy will also be posted on the registry web site and
accompanied by abuse point-of-contact contact information (see below). Internet users can
report suspected abuse to the registry and sponsoring registrar, and report an orphan glue
record suspected of use in connection with malicious conduct (see below).

The policy is especially designed to address the malicious use of domain names. Its intent is
to:

1. Make clear that certain types of behavior are not tolerated;
2. Deter both criminal and non-criminal but harmful use of domain names; and
3. Provide the registry with clearly stated rights to mitigate several types of abusive
behavior when found.

This policy does not take the place of the Uniform Dispute Resolution Policy (UDRP) or the
Uniform Rapid Suspension System (URS), and it is not to be used as an alternate form of
dispute resolution or as a brand protection mechanism.

Below is a policy draft based on the anti-abuse policies of several existing TLD registries

with exemplary practices (including .ORG, .CA, and .INFO). We plan to adopt the same, or a substantially similar version, after the conclusion of legal reviews.

3.0. TLD ANTI-ABUSE POLICY

The registry reserves the right, at its sole discretion and at any time and without limitation, to deny, suspend, cancel, redirect, or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, or similar status as it determines necessary for any of the following reasons:

(1) to protect the integrity and stability of the registry;
(2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process;
(3) to avoid any liability, civil or criminal, on the part of the registry operator, its affiliates, subsidiaries, officers, directors, or employees;
(4) to comply with the terms of the registration agreement and the registry's Anti-Abuse Policy;
(5) registrant fails to keep Whois information accurate and up-to-date;
(6) domain name use violates the registry's acceptable use policies, or a third party's rights or acceptable use policies, including but not limited to the infringement of any copyright or trademark;
(7) to correct mistakes made by the registry operator or any registrar in connection with a domain name registration; or
(8) as needed during resolution of a dispute.

Abusive use of a domain is an illegal, malicious, or fraudulent action and includes, without limitation, the following:

– Distribution of malware: The dissemination of software designed to infiltrate or damage a computer system without the owner's informed consent. Examples include computer viruses, worms, keyloggers, trojans, and fake antivirus products;
– Phishing: attempts to acquire sensitive information such as usernames, passwords, and credit card details by masquerading as a trustworthy entity in an electronic communication;
– DNS hijacking or poisoning;
– Spam: The use of electronic messaging systems to send unsolicited bulk messages. This includes but is not limited to email spam, instant messaging spam, mobile messaging spam, and the spamming of Internet forums;
– Use of botnets, including malicious fast-flux hosting;
– Denial-of-service attacks;
– Child pornography∕child sexual abuse images;
– The promotion, encouragement, sale, or distribution of prescription medication without a valid prescription in violation of applicable law; and
– Illegal access of computers or networks.

4.0. SINGLE ABUSE POINT OF CONTACT

Our prevention and mitigation plan includes use of a single abuse point of contact (APOC). This contact will be a role-based e-mail address in the form of "abuse@registry.tld". This e-mail address will allow multiple staff members to monitor abuse reports. This role-based approach has been used successfully by ISPs, e-mail service providers, and registrars for many years, and is considered an Internet abuse desk best practice.

The APOC e-mail address will be listed on the registry web site. We also will provide a convenient web form for complaints. This form will prompt complainants to provide relevant information. (For example, complainants who wish to report spam will be prompted to submit the full header of the e-mail.) This will help make their reports more complete and accurate.

Complaints from the APOC e-mail address and web form will go into a ticketing system, and will be routed to our abuse handlers (see below), who will evaluate the tickets and execute on them as needed.

The APOC is mainly for complaints about malicious use of domain names. Special addresses may be set up for other legal needs, such as civil and criminal subpoenas, and for Sunrise issues.

5.0. ABUSE INVESTIGATION AND MITIGATION

Our designated abuse handlers will receive and evaluate complaints received via the APOC. They will decide whether a particular issue merits action, and decide what action is appropriate.

Our designated abuse handlers have domain name industry experience receiving, investigating and resolving abuse reports. Our registry implementation plan will leverage this experience and deploy additional resources in an anti-abuse program tailored to running a registry.

We expect that abuse reports will be received from a wide variety of parties, including ordinary Internet users; security researchers and Internet security companies; institutions, such as banks; and law enforcement agencies.

Some of these parties typically provide good forensic data or supporting evidence of the alleged malicious behavior. In other cases, the party reporting an issue may not be familiar with how to provide evidence. It is not unusual, in the Internet industry, that a certain percentage of abuse reports are not actionable because there is insufficient evidence to support the complaint, even after additional investigation.

The abuse handling function will be staffed with personnel who have experience handling abuse complaints. This group will function as an abuse desk to "triage" and investigate reports. Over the past several years, this group has investigated allegations about a variety of problems, including malware, spam, phishing, and child pornography∕child sexual abuse images.

6.0. POLICIES, PROCEDURES, AND SERVICE LEVELS

Our abuse prevention and mitigation plan includes development of an internal manual for assessing and acting upon abuse complaints. Our designated abuse handlers will use this to ensure consistent and fair processes. To prevent exploitation of internal procedures by malefactors, these procedures will not be published publicly.

Assessing abuse reports requires great care. The goals are accuracy, a zero false-positive rate to prevent harm to innocent registrants, and good documentation.

Different types of malicious activities require different methods of investigation and documentation. The procedures we deploy will address all the abuse types listed in our Anti-Abuse Policy (above). This policy will also contain procedures for assessing complaints about orphan nameservers used for malicious activities.

One of the first steps in addressing abusive or harmful activities is to determine the type of domain involved. Two types of domains may be involved: 1) a "compromised domain"; and∕or 2) a maliciously registered domain.

A "compromised" domain is one that has been hacked or otherwise compromised by criminals; the registrant is not responsible for the malicious activity taking place on the domain. For example, most domain names that host phishing sites are compromised. The goal in such cases is to inform the registrant of the problem via the registrar. Ideally, such domains are not suspended, since suspension disrupts legitimate activity on the domain.

The second type of potentially harmful domain, the maliciously registered domain, is one registered by a bad actor for the purpose of abuse. Since it has no legitimate use, this type of domain is a candidate for suspension.

In general, we see the registry as the central entity responsible for monitoring abuse of the TLD and passing any complaints received to the domains' sponsoring registrars. In an alleged (though credible) case of malicious use, the case will be communicated to the domain's sponsoring registrar requesting that the registrar investigate, act appropriately, and report on it within a defined time period. Our abuse handlers will also provide any evidence they collect to the registrar.

There are several good reasons for passing a case of malicious domain name use on to the registrar. First, the registrar has a direct relationship and contract with the registrant. It is important to respect this relationship as it pertains both to business in general and any legal perspectives involved. Second, the registrar holds a better position to evaluate and act

because the registrar typically has vital information the registry operator does not, including domain purchase details and payment method (i.e., credit card, etc.); the identity of a proxy-protected registrant; the IP address from which the domain purchase was made; and whether a reseller is involved. Finally, it is important the registrar know if a registrant is in violation of registry or registrar policies and terms—the registrar may wish to suspend the registrant's account, or investigate other domains the registrar has registered in this TLD or others.

The registrar is also often best for determining if questionable registrant activity violates the registrar's legal terms of service or the registry Anti-Abuse Policy, and deciding whether to take any action. Registrars will be required to include language in their registrar-registrant contracts that indemnifies the registrar if it takes action and allows the registrar to suspend or cancel a domain name.

If a registrar does not take action within the time indicated by us in the report (i.e., 24 hours), we may take action ourselves. In some cases, we may suspend the domain name(s), and we reserve the right to act directly and immediately. We plan to take action directly if time is of the essence, such as with a malware attack that may cause significant harm to Internet users.

It is important to note that strict service level agreements (SLAs) for abuse response and mitigation are not always appropriate, additional tailoring of any SLAs may be required, depending on the problem. For example, suspending a domain within 24 hours may not be the best course of action when working with law enforcement or a national clearinghouse to address reports of child pornography. Officials may need more than 24 hours to investigate and gather evidence.

7.0. ABUSE MONITORING AND METRICS

In addition to addressing abuse complaints, we will actively monitor the overall abuse status of the TLD, gather intelligence and track abuse metrics to address criminal use of domains in the TLD.

To enable active reporting of problems to the sponsoring registrars, our plan includes proactive monitoring for malicious use of the domains in the TLD. Our goal is to keep malicious activity at an acceptably low level, and mitigate it actively when it occurs—we may do so by using professional blocklists of domain names. For example, professional advisors such as LegitScript (www.legitscript.com) may be used to identify and close down illegal "rogue" Internet pharmacies.

Our approach also incorporates recordkeeping and metrics regarding abuse and abuse reports. These may include:

– The number of abuse reports received by the registry's abuse point of contact described above and the domains involved;
– The number of cases and domains referred to registrars for resolution;
– The number of cases and domains for which the registry took direct action;
– Resolution times (when possible or relevant, as resolution times for compromised domains are difficult to measure).

We expect law enforcement to be involved in only a small percentage of abuse cases and will call upon relevant law enforcement as needed.

8.0. HANDLING REPORTS FROM LAW ENFORCEMENT, COURT ORDERS

The new gTLD Registry Agreement contains this requirement: "Registry Operator shall take reasonable steps to investigate and respond to any reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of the TLD. In responding to such reports, Registry Operator will not be required to take any action in contravention of applicable law." (Article 2.8)

We will be responsive as required by Article 2.8. Our abuse handling team will comply with legal processes and leverage both experience and best practices to work effectively with law enforcement and other government agencies. The registry will post a Criminal Subpoena Policy

and Procedure page, which will detail how law enforcement and government agencies may submit criminal and civil subpoenas. When we receive valid court orders or seizure warrants from courts or law enforcement agencies of relevant jurisdiction, we will expeditiously review and comply with them.

9.0. PROHIBITING DOMAIN HIJACKINGS AND UNAPPROVED UPDATES

Our abuse prevention and mitigation plan also incorporates registrars that offer domain protection services and high-security access and authentication controls. These include services designed to prevent domain hijackings and inhibit unapproved updates (such as malicious changes to nameserver settings). Registrants will then have the opportunity to obtain these services should they so elect.

10.0. ABUSE POLICY: ADDRESSING INTELLECTUAL PROPERTY INFRINGEMENT

Intellectual property infringement involves three distinct but sometimes intertwined problems: cybersquatting, piracy, and trademark infringement:

- Cybersquatting is about the presence of a trademark in the domain string itself.
- Trademark infringement is the misuse or misappropriation of trademarks – the violation of the exclusive rights attached to a trademark without the authorization of the trademark owner or any licensees. Trademark infringement sometimes overlaps with piracy.
- Piracy involves the use of a domain name to sell unauthorized goods, such as copyrighted music, or trademarked physical items, such as fake brand-name handbags. Some cases of piracy involve trademark infringement.

The Uniform Dispute Resolution Process (UDRP) and the new Uniform Rapid Suspension System (URS) are anti-cybersquatting policies. They are mandatory and all registrants in the new TLD will be legally bound to them. Please refer to our response to Question #29 for details on our plans to respond to URS orders.

The Anti-Abuse Policy for our gTLD will be used to address phishing cases that involve trademarked strings in the domain name. The Anti-Abuse Policy prohibits violation of copyright or trademark; such complaints will be routed to the sponsoring Registrar.

11.0. PROPOSED MEASURES FOR REMOVAL OF ORPHAN GLUE RECORDS

Below are the policies and procedures to be used for our registry in handling orphan glue records. The anti-abuse documentation for our gTLD will reflect these procedures.

By definition, a glue record becomes an "orphan" when the delegation point Name Server (NS) record referencing it is removed without also removing the corresponding glue record. The delegation point NS record is sometimes referred to as the parent NS record.

As ICANN's SSAC noted in its Advisory SAC048 "SSAC Comment on Orphan Glue Records in the Draft Applicant Guidebook" (http:⁄⁄www.icann.org⁄en⁄committees⁄security⁄sac048.pdf), "Orphaned glue can be used for abusive purposes; however, the dominant use of orphaned glue supports the correct and ordinary operation of the Domain Name System (DNS)." For example, orphan glue records may be created when a domain (example.tld) is placed on Extensible Provisioning Protocol (EPP) ServerHold or ClientHold status. This use of Hold status is an essential tool for suspending malicious domains. When placed on Hold, the domain is removed from the zone and will stop resolving. However, any child nameservers (now orphan glue) of that domain (e.g., ns1.example.tld) are left in the zone. It is important to keep these orphan glue records in the zone so that any innocent sites using that nameserver will continue to resolve.

We will use the following procedure—used by several existing registries and considered a generally accepted DNS practice—to manage orphan glue records.. When a registrar submits a request to delete a domain, the registry first checks for the existence of glue records. If glue records exist, the registry checks to see if other domains in the registry are using the glue records. If other domains in the registry are using the glue records, then registrar EPP requests to delete the domain will fail until no other domains are using the glue records. (This functionality is currently in place for the .ORG registry.) However, if a registrar submits a complaint that orphan glue is being used maliciously and the malicious conduct is

confirmed, the registry operator will remove the orphan glue record from the zone file via an exceptional process.

12.0. METHODS TO PROMOTE WHOIS ACCURACY

12.1. ENFORCING REQUIRED CONTACT DATA FIELDS

We will offer a "thick" registry system. In this model, all key contact details for each domain name will be stored in a central location by the registry. This allows for better access to domain data and provides uniformity in storing the information.

As per the EPP specification, certain contact data fields are mandatory. Our registry will enforce those, plus certain other fields as necessary. This ensures that registrars are providing required domain registration data. The following fields (indicated as "MANDATORY") will be mandatory at a minimum:

Contact Name [MANDATORY]
Street1 [MANDATORY]
City [MANDATORY]
State∕Province [optional]
Country [MANDATORY]
Postal Code [optional]
Registrar Phone [MANDATORY]
Phone Ext [optional]
Fax [optional]
Fax Ext [optional]
Email [MANDATORY]

In addition, our registry will verify formats for relevant individual data fields (e.g. e-mail, and phone∕fax numbers) and will reject any improperly formatted submissions. Only valid country codes will be allowed, as defined by the ISO 3166 code list.

We will reject entries that are clearly invalid. For example, a contact that contains phone numbers such as 555.5555, or registrant names that consist only of hyphens, will be rejected.

12.2. POLICIES AND PROCEDURES TO ENHANCE WHOIS ACCURACY COMPLIANCE

We generally will rely on registrars to enforce WHOIS accuracy measures, but will also rely on review and audit procedures to enhance compliance.

As part of our RRA (Registry-Registrar Agreement), we will require each registrar to be responsible for ensuring the input of accurate Whois data by its registrants. The Registrar∕Registered Name Holder Agreement will include specific clauses to ensure accuracy of Whois data, as per ICANN requirements, and to give the registrar the right to cancel or suspend registrations if the registered name holder fails to respond to the registrar's query regarding accuracy of data. In addition, the Anti-Abuse Policy for our registry will give the registry the right to suspend, cancel, etc., domains that have invalid Whois data.

As part of our RRA (Registry-Registrar Agreement), we will include a policy similar to the one below, currently used by the Canadian Internet Registration Authority (CIRA), the operator of the .CA registry. It will require the registrar to help us verify contact data.

"CIRA is entitled at any time and from time to time during the Term…to verify: (a) the truth, accuracy and completeness of any information provided by the Registrant to CIRA, whether directly, through any of the Registrars of Record or otherwise; and (b) the compliance by the Registrant with the provisions of the Agreement and the Registry PRP. The Registrant shall fully and promptly cooperate with CIRA in connection with such verification and shall give to CIRA, either directly or through the Registrar of Record such assistance, access to and copies of, such information and documents as CIRA may reasonably require to complete such verification. CIRA and the Registrant shall each be responsible for their own expenses incurred in connection with such verification."
http:∕∕www.cira.ca∕assets∕Documents∕Legal∕Registrants∕registrantagreement.pdf

On a periodic basis, we will perform spot audits of the accuracy of Whois data in the

registry. Questionable data will be sent to the sponsoring registrars as per the above policy.

All accredited registrars have agreed with ICANN to obtain contact information from registrants, and to take reasonable steps to investigate and correct any reported inaccuracies in contact information for domain names registered through them. As part of our RRA (Registry-Registrar Agreement), we will include a policy that allows us to de-accredit any registrar who a) does not respond to our Whois accuracy requests, or b) fails to update Whois data or delete the name within 15 days of our report of invalid WHOIS data. In order to allow for inadvertent and unintentional mistakes by a registrar, this policy may include a "three strikes" rule under which a registrar may be de-accredited after three failures to comply.

12.3. PROXY∕PRIVACY SERVICE POLICY TO CURB ABUSE

In our TLD, we will allow the use of proxy∕privacy services. We believe that there are important, legitimate uses for such services. (For example, to protect free speech rights and avoid receiving spam.)

However, we will limit how proxy∕privacy services are offered. The goal of this policy is to make proxy∕privacy services unattractive to abusers, namely the spammers and e-criminals who use such services to hide their identities. We believe the policy below will enhance WHOIS accuracy, will help deter the malicious use of domain names in our TLD, and will aid in the investigation and mitigation of abuse complaints.

Registry policy will require the following, and all registrars and their registrants and resellers will be bound to it contractually:

a. Registrants must provide complete and accurate contact information to their registrar (or reseller, if applicable).. Domains that do not meet this policy may be suspended.
b. Registrars and resellers must provide the underlying registrant information to the registry operator, upon written request, during an abuse investigation. This information will be held in confidence by the registry operator.
c. The registrar or reseller must publish the underlying registrant information in the Whois if it is determined by the registry operator or the registrar that the registrant has breached any terms of service, such as the TLD Anti-Abuse Policy.

The purpose of the above policy is to ensure that, in case of an abuse investigation, the sponsoring registrar has access to the registrant's true identity, and can provide that data to the registry. If it is clear the registrant has violated the TLD's Anti-Abuse Policy or other terms of service, the registrant's identity will be published publicly via the Whois, where it can be seen by the public and by law enforcement.

13.0. REGISTRY-REGISTRAR CODE OF CONDUCT AS RELATED TO ABUSE

Donuts does not currently intend to become a registrar for this TLD. Donuts and our back-end technical operator will comply fully with the Registry Code of Conduct specified in the New TLD Registry Agreement, Specification 9. For abuse issues, we will comply by establishing an adequate "firewall" between our registry operations and the operations of any affiliated registrar. As the Code requires, the registry will not "directly or indirectly show any preference or provide any special consideration to any Registrar with respect to operational access to registry systems and related registry services". Here is a non-exhaustive list of specific steps to be taken to enforce this:

– Abuse complaints and cases will be evaluated and executed upon using the same criteria and procedures, regardless of a domain's sponsoring registrar.
– Registry personnel will not discuss abuse cases with non-registry personnel or personnel from separate entities operating under the company. This policy is designed to both enhance security and prevent conflict of interest.
– If a compliance function is involved, the compliance staff will have responsibilities to the registry only, and not to a registrar we may be "affiliated" with at any point in the future. For example, if a compliance staff member is assigned to conduct audits of WHOIS data, that person will have no duty to any registrar business we may be operating at the time. The person will be free of conflicts of interest, and will be enabled to discharge his or her duties to the registry impartially and effectively.

14.0. CONTROLS TO ENSURE PROPER ACCESS TO DOMAIN FUNCTIONS

Our registry incorporates several measures to ensure proper access to domain functions, including authentication provisions in the RRA relative to notification and contact updates via use of AUTH-INFO codes.

IP address access control lists, SSL certificates, and proper authentication will be used to control registrar access to the registry system. Registrars will be given access only to perform operations on the objects they sponsor.

Every domain will have a unique AUTH-INFO code as per EPP RFCs. The AUTH-INFO code is a 6- to 16-character code assigned by the registrar at the time the name is created. Its purpose is to aid identification of the domain owner so proper authority can be established. (It is the "password" to the domain name.) Registrars must use the domain's password to initiate a Registrar-to-Registrar transfer. It is used to ensure that domain updates (update contact information, transfer, or deletion) are undertaken by the proper registrant, and that this registrant is adequately notified of domain update activity. Only the sponsoring Registrar of a domain has access to the domain's AUTH-INFO code stored in the registry, and this is accessible only via encrypted, password-protected channels.

Our Registry-Registrar contract will require that each registrar assign a unique AUTH-INFO code to every domain it creates. Due to security risk, registrars should not assign the same AUTH-INFO code to multiple domains.

Information about other registry security measures such as encryption and security of Registrar channels are confidential to ensure the security of the registry system. Details can be found in our response to Question #30(b).

15.0. RESOURCING PLAN

Our back-end registry operator will perform the majority of Abuse Prevention and Mitigation services for this TLD, as required by our agreement with them. Donuts staff will supervise the activity of the provider. In some cases Donuts staff will play a direct role in the handling of abuse cases.

The compliance department of our registry operator has two full time staff members who are trained in DNS, the investigation of abuse complaints, and related specialties. The volume of abuse activity will be gauged and additional staff hired by our back-end registry operator as required to meet their SLA commitments. In addition to the two full-time members, they expect to retain the services of one or more outside contractors to provide additional security and anti-abuse expertise – including advice on the effectiveness of our policies and procedures.

Finally, Donuts' Legal Department will have one attorney whose role includes the oversight of legal issues related to abuse, and interaction with courts and law enforcement.

29. Rights Protection Mechanisms

Q29 Standard CHAR: 25023

1.0. INTRODUCTION

To minimize abusive registrations and other activities that affect the legal rights of others, our approach includes well-developed policies for rights protection, both during our TLD's rollout period and on an ongoing basis. As per gTLD Registry Agreement Specification 7, we will offer a Sunrise Period and a Trademark Claims service during the required time periods, we will use the Trademark Clearinghouse, and we will implement Uniform Rapid Suspension (URS) on an ongoing basis. In addition to these newly mandated ICANN protections, we will implement

two other trademark protections that were developed specifically for the new TLD program. These additional protections are: (i) a Domain Protected Marks List (DPML) for the blocking of trademarked strings across multiple TLDs; and (ii) a Claims Plus product to alert registrars to registrations that potentially infringe existing marks.

Below we detail how we will fulfill these requirements and further meet or exceed ICANN's requirements. We also describe how we will provide additional measures specific to rights protection above ICANN's minimum, including abusive use policies, takedown procedures, and other covenants.

Our RPM approach leverages staff with extensive experience in a large number of gTLD and ccTLD rollouts, including the Sunrises for .CO, .MOBI, .ASIA, .EU, .BIZ, .US., .TRAVEL, TEL, .ME, and .XXX. This staff will utilize their first-hand, practical experience and will effectively manage all aspects of Sunrise, including domain application and domain dispute processes.

The legal regime for our gTLD will include all of the ICANN-mandated protections, as well as some independently developed RPMs proactively included in our Registry-Registrar Agreement. Our RPMs exceed the ICANN-required baseline. They are:

- Reserved names: to protect names specified by ICANN, including the necessary geographic names.
- A Sunrise Period: adhering to ICANN requirements, and featuring trademark validation via the Trademark Clearinghouse.
- A Trademark Claims Service: offered as per ICANN requirements, and active after the Sunrise period and for the required time during wider availability of the TLD.
- Universal Rapid Suspension (URS)
- Uniform Dispute Resolution Process (UDRP)
- Domain Protected Marks List (DPML)
- Claims Plus
- Abusive Use and Takedown Policies

2.0. NARRATIVE FOR Q29 FIGURE 1 OF 1

Attachment A, Figure 1, shows Rollout Phases and the RPMs that will be used in each. As per gTLD Registry Agreement Specification 7, we will offer a Sunrise Period and a Trademark Claims service during the required time periods. In addition, we will use the Trademark Clearinghouse to implement URS on an ongoing basis.

3.0. PRE-SUNRISE: RESERVED AND PREMIUM NAMES

Our Pre-sunrise phase will include a number of key practices and procedures. First, we will reserve the names noted in the gTLD Registry Agreement Specification 5. These domains will not be available in Sunrise or subsequent registration periods. As per Specification 5, Section 5, we will provide national governments the opportunity to request the release of their country and territory names for their use. Please also see our response to Question 22, "Protection of Geographic Names."

We also will designate certain domains as "premium" domains. These will include domains based on generic words and one-character domains. These domains will not be available in Sunrise, and the registry may offer them via special means such as auctions and RFPs.

As an additional measure, if a trademark owner objects to a name on the premium name list, the trademark owner may petition to have the name removed from the list and made available during Sunrise. The trademark must meet the Sunrise eligibility rules (see below), and be an exact match for the domain in question. Determinations of whether such domains will be moved to Sunrise will be at the registry's sole discretion.

4.0. SUNRISE

4.1. SUNRISE OVERVIEW

Sunrise registration services will be offered for a minimum of 30 days during the pre-launch

phase. We will notify all relevant trademark holders in the Trademark Clearinghouse if any party is seeking a Sunrise registration that is an identical match to the name to be registered during Sunrise.

As per the Sunrise terms, affirmed via the Registry-Registrar Agreement and the Registrar-Registrant Agreement, the domain applicant will assert that it is qualified to hold the domain applied for as per the Sunrise Policy and Rules.

We will use the Trademark Clearinghouse to validate trademarks in the Sunrise.

If there are multiple valid Sunrise applications for the same domain name string, that string will be subject to auction between only the validated applicants. After receipt of payment from the auction winning bidder, that party will become the registrant of the domain name. (note: in the event one of the identical, contending marks is in a trademark classification reflective of the TLD precedence to that mark may be given during Sunrise).

Sunrise applicants may not use proxy services during the application process.

4.2. SUNRISE: ELIGIBLE RIGHTS

Our Sunrise Eligibility Requirements (SERs) are:

1. Ownership of a qualifying mark.

a. We will honor the criteria in ICANN's Trademark Clearinghouse document section 7.2, number (i): The registry will recognize and honor all word marks that are nationally or regionally [see Endnote 1] registered and for which proof of use — which can be a declaration and a single specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse.

b. In addition, we may accept marks that are not found in the Trademark Clearinghouse, but meet other criteria, such as national trademark registrations or common law rights.

2. Representation by the applicant that all provided information is true and correct; and

3. Provision of data sufficient to document rights in the trademark. (See information about required Sunrise fields, below).

4.3. SUNRISE TRADEMARK VALIDATION

Our goal is to award Sunrise names only to applicants who are fully qualified to have them. An applicant will be deemed to be qualified if that applicant has a trademark that meets the Sunrise criteria, and is seeking a domain name that matches that trademark, as per the Sunrise rules.

Accordingly, we will validate applications via the Trademark Clearinghouse. We will compare applications to the Trademark Clearinghouse database, and those that match (as per the Sunrise rules) will be considered valid applications.

An application validated according to Sunrise rules will be marked as "validated," and will proceed. (See "Contending Applications," below.) If an application does not qualify, it will be rejected and will not proceed.

To defray the costs of trademark validation and the Trademark Claims Service, we will charge an application and∕or validation fee for every application.

In January 2012, the ICANN board was briefed that "An ICANN cross-functional team is continuing work on implementation of the Trademark Clearinghouse according to a project plan providing for a launch of clearinghouse operations in October 2012. This will allow approximately three months for rights holders to begin recording trademark data in the Clearinghouse before any new gTLDs begin accepting registrations (estimated in January 2013)." (http:∕∕www.icann.org∕en∕minutes∕board-briefing-materials-4-05jan12-en.pdf) The Clearinghouse Implementation Assistance Group (IAG), which Donuts is participating in, is

working through a large number of process and technical issues as of this writing. We will follow the progress of this work, and plan our implementation details based on the final specifications.

Compliant with ICANN policy, our registry software is designed to properly check domains and compare them to marks in the Clearinghouse that contain punctuation, spaces, and special symbols.

4.5. CONTENDING APPLICATIONS, SUNRISE AUCTIONS

After conclusion of the Sunrise Period, the registry will finish the validation process. If there is only one valid application for a domain string, the domain will be awarded to that applicant. If there are two or more valid applications for a domain string, only those applicants will be invited to participate in a closed auction for the domain name. The domain will be awarded to the auction winner after payment is received.

After a Sunrise name is awarded to an applicant, it will then remain under a "Sunrise lock" status for a minimum of 60 days in order to allow parties to file Sunrise Challenges (see below). Locked domains cannot be updated, transferred, or deleted.

When a domain is awarded and granted to an applicant, that domain will be available for lookup in the public Whois. Any party may then see what domains have been awarded, and to which registrants. Parties will therefore have the necessary information to consider Sunrise Challenges.

Auctions will be conducted by very specific rules and ethics guidelines. All employees, partners, and contractors of the registry are prohibited from participating in Sunrise auctions.

4.6. SUNRISE DISPUTE RESOLUTION PROCESS (SUNRISE CHALLENGES)

We will retain the services of a well-known dispute resolution provider (such as WIPO) to help formulate the language of our Sunrise Dispute Resolution Process (SDRP, or "Sunrise Challenge") and hear the challenges filed under it. All applicants and registrars will be contractually obligated to follow the decisions handed down by the dispute resolution provider.

Our SDRP will allow challenges based on the following grounds, as required by ICANN. These will be part of the Sunrise eligibility criteria that all registrants (applicants) will be bound to contractually:

(i) at the time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty;

(ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration;

(iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or

(iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

Our SDRP will be based generally on some SDRPs that have been used successfully in past TLD launches. The Sunrise Challenge Policies and Rules used in the .ASIA and .MOBI TLDs (minus their unique eligibility criteria) are examples.

We expect that that there will be three possible outcomes to a Sunrise Challenge:

1. Original registrant proves his/her right to the domain. In this case the registrant keeps the domain and it is unlocked for his/her use.

2. Original registrant is not eligible or did not respond, and the challenger proved his⁄her right to the domain. In this case the domains is awarded to the complainant.
3. Neither the original registrant nor the complainant proves rights to the domain. In this case the domain is cancelled and becomes available at a later date via a mechanism to be determined by the registry operator.

After any Sunrise name is awarded to an applicant, it will remain under a "Sunrise Lock" status for at least 60 days so that parties can file Sunrise Challenges. During this Sunrise Lock period, the domain will not resolve and cannot be modified, transferred, or deleted by the sponsoring registrar. A domain name will be unlocked at the end of that lock period only if it is not subject to a Sunrise Challenge. Challenged domains will remain locked until the dispute resolution provider has issued a decision, which the registry will promptly execute.

5.0. TRADEMARK CLAIMS SERVICES

The Trademark Claims Service requirements are well-defined in the Applicant Guidebook, in Section 6 of the "Trademark Clearinghouse" attachment. We will comply with the details therein. We will provide Trademark Claims services for marks in the Trademark Clearinghouse post-Sunrise and then for at least the first 60 days that the registry is open for general registration (i.e. during the first 60 days in the registration period(s) after Sunrise). The Trademark Claims service will provide clear notice to a prospective registrant that another party has a trademark in the Clearinghouse that matches the applied-for domain name—this is a notice to the prospective registrant that it might be infringing upon another party's rights.

The Trademark Clearinghouse database will be structured to report to registries when registrants are attempting to register a domain name that is considered an "Identical Match" with the mark in the Clearinghouse. We will build, test, and implement an interface to the Trademark Clearinghouse before opening our Sunrise period. As domain name applications come into the registry, those strings will be compared to the contents of the Clearinghouse.

If the domain name is registered in the Clearinghouse, the registry will promptly notify the applicant. We will use the notice form specified in ICANN's Module 4, "Trademark Clearinghouse" document. The specific statement by the prospective registrant will warrant that: (i) the prospective registrant has received notification that the mark(s) is included in the Clearinghouse; (ii) the prospective registrant has received and understood the notice; and (iii) to the best of the prospective registrant's knowledge, the registration and use of the requested domain name will not infringe on the rights that are the subject of the notice.

The Trademark Claims Notice will provide the prospective registrant access to the Trademark Clearinghouse Database information referenced in the Trademark Claims Notice. The notice will be provided in real time (or as soon as possible) without cost to the prospective registrant or to those notified.

"Identical Match" is defined in ICANN's Module 4, "Trademark Clearinghouse" document, paragraph 6.1.5. We will examine the Clearinghouse specifications and protocol carefully when they are published. To comply with ICANN policy, the software for our registry will properly check domains and compare them to marks in the Clearinghouse that contain punctuation, spaces, and special symbols.

6.0. GENERAL REGISTRATION

This is the general registration period open to all registrants. No trademark or other qualification will be necessary in order to apply for a domain in this period.

Domain names awarded via the Sunrise process, and domain strings still being contended via the Sunrise process cannot be registered in this period. This will protect the interests of all Sunrise applicants.

7.0. UNIFORM RAPID SUSPENSION (URS)

We will implement decisions rendered under the URS on an ongoing basis. (URS will not apply to Sunrise names while they are in Sunrise Lock period; during that time those domains are subject to Sunrise policy and Sunrise Challenge instead.)

As per URS policy, the registry will receive notice of URS actions from ICANN-approved URS providers. As per ICANN's URS requirements, we will lock the domain within 24 hours of receipt of the Notice of Complaint from the URS Provider. Locking means that the registry restricts all changes to the registration data, including transfer and deletion of domain names, though names will continue to resolve.

Our registry's compliance team will oversee URS procedures. URS e-mails from URS providers will be directed immediately to the registry's Support staff, which is on duty 24∕7∕365. Support staff will be responsible for executing the directives from the URS provider, and all support staff will receive training in the proper procedures.

Support staff will notify the URS Provider immediately upon locking the domain name, via e-mail.

Support staff for the registry will retain all copies of e-mails from the URS providers. Each case or order will be assigned a tracking or ticket number. This number will be used to track the status of each opened URS case through to resolution via a database.

Registry staff will then execute further operations upon notice from the URS providers. Each URS provider is required to specify the remedy and required actions of the registry, with notification to the registrant, the complainant, and the sponsoring registrar.

The guidelines provide that if the complainant prevails, the registry "shall suspend the domain name, which shall remain suspended for the balance of the registration period and would not resolve to the original web site. The nameservers shall be redirected to an informational web page provided by the URS Provider about the URS. The WHOIS for the domain name shall continue to display all of the information of the original Registrant except for the redirection of the nameservers. In addition, the WHOIS shall reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration." We will execute the DNS re-pointing required by the URS guidelines, and the domain and its WHOIS data will remain unaltered until the domain expires, as per the ICANN requirements.

8.0. ONGOING RIGHTS PROTECTION MECHANISMS - UDRP

As per ICANN policy, all domains in the TLD will be subject to a Uniform Dispute Resolution Process (UDRP). (Sunrise domains will first be subject to the ICANN-mandated Sunrise SDRP until the Sunrise Challenge period is over, after which those domains will then be subject to UDRP.)

9.0 ADDITIONAL RIGHTS PROTECTION MECHANISMS NOT REQUIRED BY ICANN

All Donuts TLDs have two new trademark protection mechanisms developed specifically for the new TLD program. These mechanisms exceed the extensive protections mandated by ICANN. These new protections are:

9.1   Claims Plus: This service will become available at the conclusion of the Trademark Claims service, and will remain available for at least the first five years of registry operations. Trademark owners who are fully registered in the Trademark Clearinghouse may obtain Claims Plus for their marks. We expect the service will be at low or no cost to trademark owners (contingent on Trademark Clearinghouse costs to registries). Claims Plus operates much like Trademark Claims with the exception that notices of potential trademark infringement are sent by the registry to any registrar whose customer performs a check-command or Whois query for a string subject to Claims Plus. Registrars may then take further implementation steps to advise their customers, or use this data to better improve the customer experience. In addition, the Whois at the registry website will output a full Trademark Claims notice for any query of an unregistered name that is subject to Claims Plus. (Note: The ongoing availability of Claims Plus will be contingent on continued access to a Trademark Clearinghouse. The technical viability of some Claims Plus features will be affected by eventual Trademark Clearinghouse rules on database caching).

9.2   Domain Protected Marks List: The DPML is a rights protection mechanism to assist trademark holders in protecting their intellectual property against undesired registrations of strings containing their marks. The DPML prevents (blocks) registration of second level domains that contain a trademarked term (note: the standard for DPML is "contains"— the

protected string must contain the trademarked term). DPML requests will be validated against the Trademark Clearinghouse and the process will be similar to registering a domain name so the process will not be onerous to trademark holders. An SLD subject to DPML will be protected at the second level across all Donuts TLDs (i.e. all TLDs for which this SLD is available for registration). Donuts may cooperate with other registries to extend DPML to TLDs that are not operated by Donuts. The cost of DPML to trademark owners is expected to be significantly less than the cost of actually registering a name.

10.0 ABUSIVE USE POLICIES AND TAKEDOWN PROCEDURES

In our response to Question #28, we describe our anti-abuse program, which is designed to address malware, phishing, spam, and other forms of abuse that may harm Internet users. This program is designed to actively discover, verify, and mitigate problems without infringing upon the rights of legitimate registrants. This program is designed for use in the open registration period. These procedures include the reporting of compromised websites∕domains to registrars for cleanup by the registrants and their hosting providers. It also describes takedown procedures, and the timeframes and circumstances that apply for suspending domain names used improperly. Please see the response to Question #28 for full details.

We will institute a contractual obligation that proxy protection be stripped away if a domain is proven to be used for malicious purposes. For details, please see "Proxy∕Privacy Service Policy to Curb Abuse" in the response to Question 28.

11.0. REGISTRY-REGISTRAR CODE OF CONDUCT AS RELATED TO RIGHTS PROTECTION

We will comply fully with the Registry Code of Conduct specified in the New TLD Registry Agreement, Specification 9. In rights protection matters, we will comply by establishing an adequate "firewall" between the operations of any registrar we establish and the operations of the registry. As the Code requires, we will not "directly or indirectly show any preference or provide any special consideration to any registrar with respect to operational access to registry systems and related registry services". Here is a non-exhaustive list of specific steps we will take to accomplish this:

- We will evaluate and execute upon all rights protection tasks impartially, using the same criteria and procedures, regardless of a domain's sponsoring registrar.
- Any registrar we establish or have established at the time of registry launch will not receive preferential access to any premium names, any auctions, etc. Registry personnel and any registrar personnel that we may employ in the future will be prohibited from participating as bidders in any auctions for Landrush names.
- Any registrar staff we may employ in the future will have access to data and records relating only to the applications and registrations made by any registrar we establish, and will not have special access to data related to the applications and registrations made by other registrars.
- If a compliance function is involved, the compliance staffer will be responsible to the registry only, and not to a registrar we own or are "affiliated" with. For example, if a compliance staff member is assigned to conduct audits of WHOIS data, that staffer will not have duties with the registrar business. The staffer will be free of conflicts of interest, and will be enabled to discharge his or her duties to the registry effectively and impartially, regardless of the consequences to the registrar.

12.0. RESOURCING PLAN

Overall management of RPMs is the responsibility of Donuts' VP of Business Operations. Our back-end registry operator will perform the majority of operational work associated with RPMs, as required by our agreement with them. Donuts VP of Business Operations will supervise the activity of this vendor.

Resources applied to RPMs include:

1. Legal team
a. We will have at least one legal counsel who will be dedicated to the registry with previous experience in domain disputes and Sunrise periods and will oversee the compliance and support teams with regard to the legal issues related to Sunrise and RPM's
b. We have outside counsel with domain and rights protection experience that is available to

us as necessary
2. Dispute Resolution Provider (DRP): The DRP will help formulate Sunrise Rules and Policy,
Sunrise Dispute Resolution Policy. The DRP will also examine challenges, but the challenger
will be required to pay DRP fees directly to the DRP.
3. Compliance Department and Tech Support: There will be three dedicated personnel assigned to
these areas. This staff will oversee URS requests and abuse reports on an ongoing basis.
4. Programming and technical operations. There are four dedicated personnel assigned to these
functions.
5. Project Manager: There will be one person to coordinate the technical needs of this group
with the registry IT department.

13.0. ENDNOTES

1 "Regional" is understood to be a trans-national trademark registry, such as the European
Union registry or the Benelux Office for Intellectual Property.

30(a). Security Policy: Summary of the security policy for the proposed registry

Q30A Standard CHAR: 19646

1.0.   INTRODUCTION

Our Information Security (IS) Program and associated IS Policy, Standards and Procedures apply
to all Company entities, employees, contractors, temps, systems, data, and processes. The
Security Program is managed and maintained by the IS Team, supported by Executive Management
and the Board of Directors.

Data and systems vary in sensitivity and criticality and do not unilaterally require the same
control requirements. Our security policy classifies data and systems types and their
applicable control requirements. All registry systems have the same data classification and
are all managed to common security control framework. The data classification applied to all
registry systems is our highest classification for confidentiality, availability and
integrity, and the supporting control framework is consistent with the technical and
operational requirements of a registry, and any supporting gTLD string, regardless of its
nature or size. We have the experienced staff, robust system architecture and managed security
controls to operate a registry and TLD of any size while providing reasonable assurance over
the security, availability, and confidentiality of the systems supporting critical registry
functions (i.e., registration services, registry databases, zone administration, and provision
of domain name resolution services).

This document describes the governance of our IS Program and the control frameworks our
security program aligns to (section 1.0), Security Policy requirements (section 2.0); security
assessments conducted (see section 3.0), our process for executive oversight and visibility of
risks to ensure continuous improvement (section 4.0), and security commitments to registrants
(section 5). Details regarding how these control requirements are implemented, security roles
and responsibilities and resources supporting these efforts are included in Security Policy B
response.

2.0. INFORMATION SECURITY PROGRAM

The IS Program for our registry is governed by an IS Policy aligned to the general clauses of
ISO 27001 requirements for an Information Security Management System (ISMS) and follows the
control objectives where appropriate, given the data type and resulting security requirements.
(ISO 27001 certification for the registry is not planned, however, our DNS∕DNSSEC solution is
27001 certified). The IS Program follows a Plan-Do-Check-Act (PDCA) model of continuous
improvement to ensure that the security program grows in maturity and that we provide
reasonable assurance to our shareholders and Board of Directors that our systems and data are
secure.

The High Security Top Level Domain (HSTLD) control framework incorporates ISO 27002, the code of practice for implementing an ISO 27001 ISMS. Therefore, our security program is already closely aligned HSTLD control framework. Furthermore, we agree to abide by the HSTLD Principle 1 and criteria 1.1 - 1.3. (See specifics in Security Policy B response):

Registry systems will be in-scope for Sarbanes-Oxley (SOX) compliance and will follow the SOX control framework governing access control, account management, change management, software development life cycle (SDLC), and job monitoring of all systems. Registry systems will be tested frequently by the IS team for compliance and audited by our internal audit firm, Protiviti, and external audit firm, Price Waterhouse Coopers (PWC), for compliance.

2.1. SECURITY PROGRAM GOVERNANCE

Our Information Security Program is governed by IS Policy, supported by standards, and guided by procedures to ensure uniformed compliance to the program. Standards and associated procedures in support of the policy are shown in Attachment A, Figure 1. Security Program documents are updated annually or upon any system or environment change, new legal or regulatory requirements, and⁄or findings from risk assessments. Any updates to security program are reviewed and approved by the Executive Vice President (EVP) of Information Technology (IT), EVP of Legal & General Counsel, and the EVP of People Operations before dissemination to all employees.

All employees are required to sign the IS Policy upon hire, upon any major changes, and⁄or annually. By signing the IS Policy, employees agree to abide by the supporting Standards and Procedures applicable to their job roles. To enable signing of the IS Policy, employees must pass a test to ensure competent understanding of the IS Policy and its key requirements.

3.0. INFORMATION SECURITY POLICY

3.1. INFORMATION ASSET CLASSIFICATION

The following data classification is applied to registry systems: High Business Impact (HBI): Business Confidential in accordance with the integrity, availability and confidentiality requirements of registry operations. All registry systems will follow Security Policy requirements for HBI systems regardless of the nature of the TLD string, financial materiality or size. HBI data if not properly secured, poses a high degree of risk to the Company and includes data pertaining to the Company's adherence to legal, regulatory and compliance requirements, mergers and acquisitions (M&A), and confidential data inclusive of, but is not limited to: Personally Identifiable Information (PII) (credit card data, Social Security Numbers (SSN) and account numbers); materially important financial information (before public disclosure), and information which the Board of Directors⁄Executive team deems to be a trade secret, which, if compromised, would cause grave harm to the execution of our business model.

HBI safeguards are designed, implemented and measured in alignment with confidentiality, integrity, availability and privacy requirements characterized by legal, regulatory and compliance obligations, or through directives issued by the Board of Directors (BOD) and Executive team. Where guidance is provided, such as the Payment Card Industry (PCI) Data Security Standard (DSS) Internal Audit Risk Control Matrices (RCMs), local, state and federal laws, and other applicable regulations, we put forth the appropriate level of effort and resources to meet those obligations. Where there is a lack of guidance or recommended safeguards, Risk Treatment Plans (RTP's) are designed in alignment with our standard risk management practices.

Other data classifications for Medium Business Impact (MBI): Business Sensitive and Low Business Impact (LBI): Public do not apply to registry systems.

3.2. INFORMATION ASSET MANAGEMENT

All registry systems have a designated owner and⁄or custodian who ensures appropriate security classifications are implemented and maintained throughout the lifecycle of the asset and that a periodic review of that classification is conducted. The system owner is also responsible for approving access and the type of access granted. The IS team, in conjunction with Legal, is responsible for defining the legal, regulatory and compliance requirements for registry system and data.

3.3. INFORMATION ASSET HANDLING, STORAGE & DISPOSAL

Media and documents containing HBI data must adhere to their respective legal, regulatory and compliance requirements and follow the HBI Handling Standard and the retention requirements within the Document Retention Policy.

3.4. ACCESS CONTROL

User authentication is required to access our network and system resources. We follow a least-privileged role based access model. Users are only provided access to the systems, services or information they have specifically been authorized to use by the system owner based on their job role. Each user is uniquely identified by an ID associated only with that user. User IDs must be disabled promptly upon a user's termination, or job role change.

Visitors must sign-in at the front desk of any company office upon arrival and escorted by an employee at all times. Visitors must wear a badge while on-site and return the badge when signing out at the front desk. Dates and times of all visitors as well as the name of the employee escorting them must be tracked for audit purposes.

Individuals permitted to access registry systems and HBI information must follow the HBI Identity & Access Management Standard. Details of our access controls are described in Part B of Question 30 response including; technical specifications of access management through Active Directory, our ticketing system, physical access controls to systems and environmental conditions at the datacenter.

3.5. COMMUNICATIONS & OPERATIONAL SECURITY

3.5.1. MALICIOUS CODE

Controls shall be implemented to protect against malicious code including but not limited to:
- Identification of vulnerabilities and applicable remediation activities, such as patching, operating system & software upgrades and∕or remediation of web application code vulnerabilities.
- File-integrity monitoring shall be used, maintained and updated appropriately.
- An Intrusion Detection Solution (IDS) must be implemented on all HBI systems, maintained & updated continuously.
- Anti-virus (AV) software must be installed on HBI classified web & application systems and systems that provide access to HBI systems. AV software and virus definitions are updated on a regular basis and logs are retained for no less than one year.

3.5.2. THREAT ANALYSIS & VULNERABILITY MANAGEMENT

On a regular basis, IS personnel must review newly identified vulnerability advisories from trusted organizations such as the Center for Internet Security, Microsoft, SANS Institute, SecurityFocus, and the CERT at Carnegie-Mellon University. Exposure to such vulnerabilities must be evaluated in a timely manner and appropriate measures taken to communicate vulnerabilities to the system owners, and remediate as required by the Vulnerability Management Standard. Internal and external network vulnerability scans, application & network layer penetration testing must be performed by qualified internal resource or an external third party at least quarterly or upon any significant network change. Web application vulnerability scanning is to be performed on a continual basis for our primary web properties applicable to their release cycles.

3.5.3. CHANGE CONTROL

Changes to HBI systems including operating system upgrades, computing hardware, networks and applications must follow the Change Control Standard and procedures described in Security Policy question 30b.

3.5.4. BACKUP & RESTORATION

Data critical to our operations shall be backed up according to our Backup and Restoration Standard. Specifics regarding Backup and Restoration requirements for registry systems are

included in questions 37 & 38.

3.6. NETWORK CONTROLS

 - Appropriate controls must be established for ensuring the network is operated consistently and as planned over its entire lifecycle.
 - Network systems must be synchronized with an agreed upon time source to ensure that all logs correctly reflect the same accurate time.
 - Networked services will be managed in a manner that ensures connected users or services do not compromise the security of the other applications or services as required in the HBI Network Configuration Standard. Additional details are included in Question 32: Architecture response.

3.7. DISASTER RECOVERY & BUSINESS CONTINUITY

The SVP of IT has responsibility for the management of disaster recovery and business continuity. Redundancy and fault-tolerance shall be built into systems whenever possible to minimize outages caused by hardware failures. Risk assessments shall be completed to identify events that may cause an interruption and the probability that an event may occur. Details regarding our registry continuity plan are included in our Question 39 response.

3.8 SOFTWARE DEVELOPMENT LIFECYCLE

Advance planning and preparation is required to ensure new or modified systems have adequate security, capacity and resources to meet present and future requirements. Criteria for new information systems or upgrades must be established and acceptance testing carried out to ensure that the system performs as expected. Registry systems must follow the HBI Software Development Lifecycle (SDLC) Standard.

3.9. SECURITY MONITORING

Audit logs that record user activities, system errors or faults, exceptions and security events shall be produced and retained according to legal, regulatory, and compliance requirements. Log files must be protected from unauthorized access or manipulation. IS is responsible for monitoring activity and access to HBI systems through regular log reviews.

3.10. INVESTIGATION & INCIDENT MANAGEMENT RESPONSE

Potential security incidents must be immediately reported to the IS Team, EVP of IT, the Legal Department and∕or the Incident Response. The Incident Response Team (IRT) is required to investigate: any real or suspected event that could impact the security of our network or computer systems; impose significant legal liabilities or financial loss, loss of proprietary data∕trade secret, and∕or harm to our goodwill. The Director of IS is responsible for the organization and maintenance of the IRT that provides accelerated problem notification, damage control, investigation and incident response services in the event of security incidents. Investigation and response processes follow the requirements of the Investigation and Incident Management Standard and supporting Incident Response Procedure (see Question 30b for details).

3.11. LEGAL & REGULATORY COMPLIANCE

All relevant legal, regulatory and contractual requirements are defined, documented and maintained within the IS Policy. Critical records are protected from loss, destruction and falsification, in accordance with legal, contractual and business requirements as described in our Document Retention Policy. Compliance programs implemented that are applicable to Registry Services include:

- Sarbanes Oxley (SOX): All employees managing and accessing SOX systems and∕or data are required to follow SOX compliance controls.
- Data Privacy and Disclosure of Personally Identifiable Information (PII): data protection and privacy shall be ensured as required by legal and regulatory requirements, which may include state breach and disclosure laws, US and EU Safe Harbor compliance directives.

Other compliance programs implemented but not applicable to Registry systems include the Payment Card Industry (PCI) Data Security Standard (DSS), Office of Foreign Assets Control

(OFAC) requirements, Copyright Infringement & DMCA.

4.0. SECURITY ASSESSMENTS

Our IS team conducts frequent security assessments to analyze threats, vulnerabilities and risks associated with our systems and data. Additionally, we contract with several third parties to conduct independent security posture assessments as described below. Details of these assessments are provided in our Security Policy B response.

4.1. THIRD PARTY SECURITY ASSESSMENTS

We outsource the following third party security assessments (scope, vendor, frequency and remediation requirements of any issues found are detailed in our Security Policy B response); Web Application Security Vulnerability testing, quarterly PCI ASV scans, Sarbanes-Oxley (SOX) control design and operating effectiveness testing and Network and System Security Analysis.

4.2. INTERNAL SECURITY ASSESSMENTS

The IS team conducts routine and continual internal testing (scope, frequency, and remediation requirements of any issues found are detailed in our Security Policy B response) including; web application security vulnerability testing, external and internal vulnerability scanning, system and network infrastructure penetration testing, access control appropriateness reviews, wireless access point discovery, network security device configuration analysis and an annual comprehensive enterprise risk analysis.

5.0. EXECUTIVE OVERSIGHT & CONTINUOUS IMPROVEMENT

In addition to the responsibility for Information Security residing within the IS team and SVP of IT, risk treatment decisions are also the responsibility of the executive of the business unit responsible for the risk. Any risk with potential to impact the business financially or legally in a material way is overseen by the Incident Response Management team and∕or the Audit Committee. See Figure 2 in Attachment A. The Incident Response Management Team or Audit Committee will provide assistance with management action plans and remediation.

5.1. GOVERNANCE RISK & COMPLIANCE

We have deployed RSA's Archer Enterprise Governance Risk and Compliance (eGRC) Tool to provide an independent benchmarking of risk, compliance and security metrics, assist with executive risk reporting and reduce risk treatment decision making time, enforcing continuous improvement. The eGRC provides automated reporting of registry systems compliance with the security program as a whole, SOX Compliance, and our Vulnerability Management Standard. The eGRC dashboard continuously monitors risks and threats (through automated feeds from our vulnerability testing tools and third party data feeds such as Microsoft, CERT, WhiteHat, etc.) that are actionable. See Attachment A for more details on the GRC solutions deployed.

6.0. SECURITY COMMITMENTS TO REGISTRANTS

We operate all registry systems in a highly secured environment with appropriate controls for protecting HBI data and ensuring all systems remain confidential, have integrity, and are highly available. Registrants can assume that:

1. We safeguard the confidentiality, integrity and availability of registrant data through access control and change management:
 - Access to data is restricted to personnel based on job role and requires 2 factors of authentication.
 - All system changes follow SOX-compliant controls and adequate testing is performed to ensure production pushes are stable and secure.
2. The network and systems are deployed in high availability with a redundant hot datacenter to ensure maximum availability.
3. Systems are continually assessed for threats and vulnerabilities and remediated as required by the Vulnerability Management Standard to ensure protection from external malicious acts.
 - We conduct continual testing for web code security vulnerabilities (cross-site scripting, SQL Injection, etc.) during the development cycle and in production.
4. All potential security incidents are investigated and remediated as required by our

Incident Investigation & Response Standard, any resulting problems are managed to prevent any
recurrence throughout the registry.

We believe the security measures detailed in this application are commensurate with the nature
of the TLD string being applied for. In addition to the system⁄ infrastructure security
policies and measures described in our response to this Q30, we also provide additional safety
and security measures for this string.

These additional measures, which are not required by the applicant guidebookare:

1.Periodic audit of Whois data for accuracy;
2.Remediation of inaccurate Whois data, including takedown, if warranted;
3.A new Domain Protected Marks List (DPML) product for trademark protection;
4.A new Claims Plus product for trademark protection;
5.Terms of use that prohibit illegal or abusive activity;
6.Limitations on domain proxy and privacy service;
7.Published policies and procedures that define abusive activity; and
8.Proper resourcing for all of the functions above.

7.0   RESPONSIBILITY OF INFORMATION SECURITY
See Question B Response Section 10.

EXHIBIT C-128

C-128

New gTLD Application Submitted to ICANN by: Schlund Technologies GmbH

String: WEB

Originally Posted: 13 June 2012

Application ID: 1-1013-77165

Applicant Information

1. Full legal name

Schlund Technologies GmbH

2. Address of the principal place of business

Contact Information Redacted

3. Phone number

Contact Information Redacted

4. Fax number

Contact Information Redacted

5. If applicable, website or URL

```
http:⁄⁄www.schlundtech.com
```

Primary Contact

6(a). Name

```
John Kane
```

6(b). Title

```
Vice President, Corporate Services
```

6(c). Address

6(d). Phone Number

Contact Information Redacted

6(e). Fax Number

6(f). Email Address

Contact Information Redacted

Secondary Contact

7(a). Name

```
Alex Howerton
```

7(b). Title

```
Account Manager
```

7(c). Address

7(d). Phone Number

Contact Information Redacted

7(e). Fax Number

7(f). Email Address

Contact Information Redacted

Proof of Legal Establishment

8(a). Legal form of the Applicant

```
limited liability corporation (Gesellschaft mit beschränkter Haftung, GmbH)
```

8(b). State the specific national or other jursidiction that defines the type of entity identified in 8(a).

```
Germany
```

8(c). Attach evidence of the applicant's establishment.

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Attachments are not displayed on this form.
```

9(a). If applying company is publicly traded, provide the exchange and symbol.

9(b). If the applying entity is a subsidiary, provide the parent company.

```
InterNetX GmbH
```

9(c). If the applying entity is a joint venture, list all joint venture partners.

```
not a joint venture
```

Applicant Background

11(a). Name(s) and position(s) of all directors

11(b). Name(s) and position(s) of all officers and partners

Thomas Mörz	CEO

11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares

InterNetX GmbH	not applicable

11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility

Applied-for gTLD string

13. Provide the applied-for gTLD string. If an IDN, provide the U-label.

```
WEB
```

14(a). If an IDN, provide the A-label (beginning with "xn--").

14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.

14(c). If an IDN, provide the language of the label (in English).

14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).

14(d). If an IDN, provide the script of the label (in English).

14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).

14(e). If an IDN, list all code points contained in the U-label according to Unicode form.

15(a). If an IDN, Attach IDN Tables for the proposed registry.

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Attachments are not displayed on this form.
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15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.

15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.

16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.

Schlund Technologies GmbH, supported by Afilias, the back-end provider of registry services, anticipates the introduction of this TLD without operational or rendering problems. Based on a decade of experience launching and operating new TLDs, Afilias, the back-end provider of registry services for this TLD, is confident the launch and operation of this TLD presents no known challenges. The rationale for this opinion includes:
• The string is not complex and is represented in standard ASCII characters and follows relevant technical, operational and policy standards;
• The string length is within lengths currently supported in the root and by ubiquitous Internet programs such as web browsers and mail applications;
• There are no new standards required for the introduction of this TLD;
• No onerous requirements are being made on registrars, registrants or Internet users, and;
• The existing secure, stable and reliable Afilias SRS, DNS, WHOIS and supporting systems and staff are amply provisioned and prepared to meet the needs of this TLD.

17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/).

Mission/Purpose

18(a). Describe the mission/purpose of your proposed gTLD.

.WEB is intended to become one of the most common and easily accessible TLDs on the Internet, vastly expanding options for creating domains, and giving new opportunities to those who were unable to obtain a desired domain name under the existing TLD structure.

At the end of 2011, there were 95.5 million registered .com domain names and 220 million total registered domain names (Source: http:⁄⁄royal.pingdom.com⁄2012⁄01⁄17⁄internet-2011-in-numbers⁄). The interest and demand for new domains is only expected to grow. The .WEB TLD will help facilitate the expansion of those opportunities for Internet users, with a concise and memorable extension.

We expect that the demand to create and own new domains will drive the rapid expansion of the .WEB TLD. In conjunction with our branding and registrar promotion, we forecast 1,371,900 domains under management (DUMs) after three years.

18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

.WEB will quickly develop into one of the premier, open TLDs on the Internet.

i General goals
Schlund Technologies GmbH will engage in general marketing and branding, as well as outreach and marketing support to registrars to establish awareness of the .WEB TLD and its intended uses in the minds of the public. The anticipated popularity of this TLD will make it very attractive to registrars, incentivizing them to work with Schlund Technologies GmbH to make the TLD grow rapidly.

ii How .WEB adds to the current space
.WEB facilitates greatly expanded opportunities for domain creation and innovative use of the

Internet. Individuals and entities who have felt limited in their opportunities to obtain a desired domain name will have new options available to them.

With a TLD as concise and memorable as .WEB, Internet users will have a truly unburdened space to create an online entity devoid of associations with a commercial enterprise. Despite its broad use, the .com extension has a market perception of domains with a business or commercially focused purpose. With a .WEB domain, the average consumer has an option to create content, host mail servers or provide other services with a name that does not carry images of a business. For the online-only retailer, there will exist the opportunity to create a brand without a brick-and-mortar expectations. Overall, the vast and Internet-focused character of .WEB adds a universally understandable new home for domains.

iii User experience goals
Schlund Technologies GmbH intends for .WEB to be one of the most recognizable and useful TLDs on the Internet. .WEB will be positioned as not simply an alternative to existing generic gTLDS, but as an expanded option beyond existing opportunities to develop an Internet identity and presence. The explosion of new domain possibilities will foster innovation and creativity on the part of registrants, who will then create new and diverse user experiences for users. The competition among new registrants, as well as with established site operators, will improve the user experience.

iv Registry policies
.WEB will be an open TLD, generally available to all registrants (except in the Sunrise period).

In general, domains will be offered for periods of one to ten years, but no greater than ten years. Initial registrations made in the Sunrise period may have a minimum number of years required. For example, there may be a policy that all Sunrise names must be registered for an initial term of at least two years.

The roll-out of our TLD is anticipated to feature the following phases:
• Reservation of reserved names and premium names, which will be distributed through special mechanisms (detailed below).
• Sunrise — the required period for trademark owners to secure their domains before availability to the general public. This phase will feature applications for domain strings, verification of trademarks via Trademark Clearinghouse and a trademark verification agent, auctions between qualified parties who wish to secure the same string, and a Trademark Claims Service.
• General Availability period — real-time registrations, made on a first-come first-served basis. Trademark Claims Service will be in use at least for the first 60 days after General Availability applications open.
The registration of domain names in the .WEB TLD will follow the standard practices, procedures and policies Afilias, the back-end provider of registry services, currently has in place. This includes the following:
• Domain registration policies (for example, grace periods, transfer policies, etc.) are defined in response #27.
• Abuse prevention tools and policies, for example, measures to promote WHOIS accuracy and efforts to reduce phishing and pharming, are discussed in detail in our response #28.
• Rights protection mechanisms and dispute resolution mechanism policies (for example, UDRP, URS) are detailed in #29.

Other detailed policies for this domain include policies for reserved names.

Reserved names

There are two categories of reserved names for this TLD: registry reserved and premium names.
Registry reserved names

We will reserve the following classes of domain names, which will not be made generally available to registrants via the Sunrise or subsequent periods:
• All of the reserved names required in Specification 5 of the new gTLD Registry Agreement;
• The geographic names required in Specification 5 of the new gTLD Registry Agreement, and may

be released to the extent that Registry Operator reaches agreement with the government and country-code manager;
• The registry operator's own name and variations thereof, and registry operations names (such as registry.tld, and www.tld), for internal use;
• Names related to ICANN and Internet standards bodies (iana.tld, ietf.tld, w3c.tld, etc.), and may be released to the extent that Registry Operator reaches agreement with ICANN.

The list of reserved names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know which names have been set aside.

Premium names
The registry will also designate a set of premium domain names, set aside for distribution via special mechanisms. The list of premium names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know that these names are not available. Premium names may be distributed via mechanisms such as requests for proposals, contests, direct sales, and auctions.
For the auctioning of premium names, we intend to contract with an established auction provider that has successfully conducted domain auctions. This will ensure that there is a tested, trustworthy technical platform for the auctions, auditable records, and reliable collection mechanisms. With our chosen auction provider, we will create and post policies and procedures that ensure clear, fair, and ethical auctions. As an example of such a policy, all employees of the registry operator and its contractors will be strictly prohibited from bidding in auctions for domains in the TLD. We expect a comprehensive and robust set of auction rules to cover possible scenarios, such as how domains will be awarded if the winning bidder does not make payment.

v. Privacy and confidential information protection
As per the New gTLD Registry Agreement, we will make domain contact data (and other fields) freely and publicly available via a Web-based WHOIS server. This default set of fields includes the mandatory publication of registrant data. Our Registry-Registrar Agreement will require that registrants consent to this publication.

We shall notify each of our registrars regarding the purposes for which data about any identified or identifiable natural person ("Personal Data") submitted to the Registry Operator by such registrar is collected and used, and the intended recipients (or categories of recipients) of such Personal Data (the data in question is essentially the registrant and contact data required to be published in the WHOIS). We will require each registrar to obtain the consent of each registrant in the TLD for the collection and use of such Personal Data. The policies will be posted publicly on our TLD web site. As the registry operator, we shall not use or authorize the use of Personal Data in any way that is incompatible with the notice provided to registrars.

Our privacy and data use policies are as follows:
• As registry operator, we do not plan on selling bulk WHOIS data. We will not sell contact data in any way. We will not allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations.
• We may use registration data in the aggregate for marketing purposes.
• DNS query data will never be sold in a way that is personally identifiable.
• We may from time to time use the demographic data collected for statistical analysis, provided that this analysis will not disclose individual Personal Data and provided that such use is compatible with the notice provided to registrars regarding the purpose and procedures for such use.

As the registry operator we shall take significant steps to protect Personal Data collected from registrars from loss, misuse, unauthorized disclosure, alteration, or destruction. In our responses to Question 30 ("Security Policy") and Question 38 ("Escrow") we detail the security policies and procedures we will use to protect the registry system and the data contained therein from unauthorized access and loss.

Please see our response to Question 26 ("WHOIS") regarding "searchable WHOIS" and rate-limiting. That section contains details about how we will limit the mining of WHOIS data by spammers and other parties who abuse access to the WHOIS.

In order to acquire and maintain accreditation for our TLD, we will require registrars to adhere to certain information technology policies designed to help protect registrant data. These will include standards for access to the registry system and password management protocols. Our response to Question 30, "Security Policy" provides details of implementation.

We will allow the use of proxy and privacy services, which can protect the personal data of registrants from spammers and other parties that mine zone files and WHOIS data. We are aware that there are parties who may use privacy services to protect their free speech rights, or to avoid religious or political persecution.

18(c). What operating rules will you adopt to eliminate or minimize social costs?

Schlund Technologies GmbH, supported by Afilias, the back-end provider of registry services, has adopted the above-mentioned and other policies to ensure fair and equitable access and cost structures to the Internet community, including:
• no new burdens placed on the Internet community to resolve name disputes
• utilization of standard registration practices and policies (as detailed in responses to questions 27, 28, 29)
• protection of trademarks at launch and on-going operations (as detailed in the response to question 29)
• fair and reasonable wholesale prices
• fair and equitable treatment of registrars

As per the ICANN Registry Agreement, we will use only ICANN-accredited registrars, and will provide non-discriminatory access to registry services to those registrars.

Pricing Policies and Commitments

Pricing for domain names at General Availability will be €6 per domain year for the first year, then increase 5.0% per year in subsequent years for the next five years. Applicant reserves the right to reduce this pricing for promotional purposes in a manner available to all accredited registrars. Registry Operator reserves the right to work with ICANN to initiate an increase in the wholesale price of domains if required. Registry Operator will provide reasonable notice to the registrars of any approved price increase.

Community-based Designation

19. Is the application for a community-based TLD?

No

20(a). Provide the name and full description of the community that the applicant is committing to serve.

20(b). Explain the applicant's relationship to the community identified in 20(a).

20(c). Provide a description of the community-based purpose of the applied-for gTLD.

20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).

20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.

20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).

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Attachments are not displayed on this form.
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Geographic Names

21(a). Is the application for a geographic name?

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No
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Protection of Geographic Names

22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.

```
We will protect names with national or geographic significance by reserving the country and
territory names at the second level and at all other levels within the TLD, as per the
requirements in the New TLD Registry Agreement (Specification 5, paragraph 5).
```

```
We will employ a series of rules to translate the geographical names required to be reserved
by Specification 5, paragraph 5 to a form consistent with the "host names" format used in
domain names.
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```
Considering the Governmental Advisory Committee (GAC) advice "Principles regarding new
gTLDs", these domains will be blocked, at no cost to governments, public authorities, or IGOs,
```

before the TLD is introduced (Sunrise), so that no parties may apply for them. We will publish a list of these names before Sunrise, so our registrars and their prospective applicants can be aware that these names are reserved.

We will define a procedure so that governments can request the above reserved domain(s) if they would like to take possession of them. This procedure will be based on existing methodology developed for the release of country names in the .INFO TLD. For example, we will require a written request from the country's GAC representative, or a written request from the country's relevant Ministry or Department. We will allow the designated beneficiary (the Registrant) to register the name, with an accredited Afilias Registrar, possibly using an authorization number transmitted directly to the designated beneficiary in the country concerned.

As defined by Specification 5, paragraph 5, such geographic domains may be released to the extent that Registry Operator reaches agreement with the applicable government(s). Registry operator will work with respective GAC representatives of the country's relevant Ministry of Department to obtain their release of the names to the Registry Operator.

If internationalized domains names (IDNs) are introduced in the TLD in the future, we will also reserve the IDN versions of the country names in the relevant script(s) before IDNs become available to the public. If we find it advisable and practical, we will confer with relevant language authorities so that we can reserve the IDN domains properly along with their variants.

Regarding GAC advice regarding second-level domains not specified via Specification 5, paragraph 5: All domains awarded to registrants are subject to the Uniform Domain Name Dispute Resolution Policy (UDRP), and to any properly-situated court proceeding. We will ensure appropriate procedures to allow governments, public authorities or IGO's to challenge abuses of names with national or geographic significance at the second level. In its registry-registrar agreement, and flowing down to registrar-registrant agreements, the registry operator will institute a provision to suspend domains names in the event of a dispute. We may exercise that right in the case of a dispute over a geographic name.

Registry Services

23. Provide name and full description of all the Registry Services to be provided.

Throughout the technical portion (#23 - #44) of this application, answers are provided directly from Afilias, the back-end provider of registry services for this TLD. Schlund Technologies GmbH chose Afilias as its back-end provider because Afilias has more experience successfully applying to ICANN and launching new TLDs than any other provider. Afilias is the ICANN-contracted registry operator of the .INFO and .MOBI TLDs, and Afilias is the back-end registry services provider for other ICANN TLDs including .ORG, .ASIA, .AERO, and .XXX.

Registry services for this TLD will be performed by Afilias in the same responsible manner used to support 16 top level domains today. Afilias supports more ICANN-contracted TLDs (6) than any other provider currently. Afilias' primary corporate mission is to deliver secure, stable and reliable registry services. This TLD will utilize an existing, proven team and platform for registry services with:
• A stable and secure, state-of-the-art, EPP-based SRS with ample storage capacity, data security provisions and scalability that is proven with registrars who account for over 95% of all gTLD domain name registration activity (over 375 registrars);
• A reliable, 100% available DNS service (zone file generation, publication and dissemination) tested to withstand severe DDoS attacks and dramatic growth in Internet use;
• A WHOIS service that is flexible and standards compliant, with search capabilities to address both registrar and end-user needs; includes consideration for evolving standards, such

as RESTful, or draft-kucherawy-wierds;
• Experience introducing IDNs in the following languages: German (DE), Spanish (ES), Polish (PL), Swedish (SV), Danish (DA), Hungarian (HU), Icelandic (IS), Latvian (LV), Lithuanian (LT), Korean (KO), Simplified and Traditional Chinese (CN), Devanagari (HI-DEVA), Russian (RU), Belarusian (BE), Ukrainian (UK), Bosnian (BS), Serbian (SR), Macedonian (MK) and Bulgarian (BG) across the TLDs it serves;
• A registry platform that is both IPv6 and DNSSEC enabled;
• An experienced, respected team of professionals active in standards development of innovative services such as DNSSEC and IDN support;
• Methods to limit domain abuse, remove outdated and inaccurate data, and ensure the integrity of the SRS, and;
• Customer support and reporting capabilities to meet financial and administrative needs, e.g., 24x7 call center support, integration support, billing, and daily, weekly, and monthly reporting.

Afilias will support this TLD in accordance with the specific policies and procedures of Schlund Technologies GmbH (the "registry operator"), leveraging a proven registry infrastructure that is fully operational, staffed with professionals, massively provisioned, and immediately ready to launch and maintain this TLD.

The below response includes a description of the registry services to be provided for this TLD, additional services provided to support registry operations, and an overview of Afilias' approach to registry management.

Registry services to be provided

To support this TLD, Schlund Technologies GmbH and Afilias will offer the following registry services, all in accordance with relevant technical standards and policies:
• Receipt of data from registrars concerning registration for domain names and nameservers, and provision to registrars of status information relating to the EPP-based domain services for registration, queries, updates, transfers, renewals, and other domain management functions. Please see our responses to questions #24, #25, and #27 for full details, which we request be incorporated here by reference.
• Operation of the registry DNS servers: The Afilias DNS system, run and managed by Afilias, is a massively provisioned DNS infrastructure that utilizes among the most sophisticated DNS architecture, hardware, software and redundant design created. Afilias' industry-leading system works in a seamless way to incorporate nameservers from any number of other secondary DNS service vendors. Please see our response to question #35 for full details, which we request be incorporated here by reference.
• Dissemination of TLD zone files: Afilias' distinctive architecture allows for real-time updates and maximum stability for zone file generation, publication and dissemination. Please see our response to question #34 for full details, which we request be incorporated here by reference.
• Dissemination of contact or other information concerning domain registrations: A port 43 WHOIS service with basic and expanded search capabilities with requisite measures to prevent abuse. Please see our response to question #26 for full details, which we request be incorporated here by reference.
• Internationalized Domain Names (IDNs): Ability to support all protocol valid Unicode characters at every level of the TLD, including alphabetic, ideographic and right-to-left scripts, in conformance with the ICANN IDN Guidelines. Please see our response to question #44 for full details, which we request be incorporated here by reference.
• DNS Security Extensions (DNSSEC): A fully DNSSEC-enabled registry, with a stable and efficient means of signing and managing zones. This includes the ability to safeguard keys and manage keys completely. Please see our response to question #43 for full details, which we request be incorporated here by reference.

Each service will meet or exceed the contract service level agreement. All registry services for this TLD will be provided in a standards-compliant manner.

Security
Afilias addresses security in every significant aspect – physical, data and network as well as process. Afilias' approach to security permeates every aspect of the registry services

provided. A dedicated security function exists within the company to continually identify existing and potential threats, and to put in place comprehensive mitigation plans for each identified threat. In addition, a rapid security response plan exists to respond comprehensively to unknown or unidentified threats. The specific threats and Afilias mitigation plans are defined in our response to question #30(b); please see that response for complete information. In short, Afilias is committed to ensuring the confidentiality, integrity, and availability of all information.

New registry services

No new registry services are planned for the launch of this TLD.

Additional services to support registry operation

Numerous supporting services and functions facilitate effective management of the TLD. These support services are also supported by Afilias, including:
• Customer support: 24x7 live phone and e-mail support for customers to address any access, update or other issues they may encounter. This includes assisting the customer identification of the problem as well as solving it. Customers include registrars and the registry operator, but not registrants except in unusual circumstances. Customers have access to a web-based portal for a rapid and transparent view of the status of pending issues.
• Financial services: billing and account reconciliation for all registry services according to pricing established in respective agreements.

Reporting is an important component of supporting registry operations. Afilias will provide reporting to the registry operator and registrars, and financial reporting.

Reporting provided to registry operator
Afilias provides an extensive suite of reports to the registry operator, including daily, weekly and monthly reports with data at the transaction level that enable the registry operator to track and reconcile at whatever level of detail preferred. Afilias provides the exact data required by ICANN in the required format to enable the registry operator to meet its technical reporting requirements to ICANN.

In addition, Afilias offers access to a data warehouse capability that will enable near real-time data to be available 24x7. This can be arranged by informing the Afilias Account Manager regarding who should have access. Afilias' data warehouse capability enables drill-down analytics all the way to the transaction level.

Reporting available to registrars
Afilias provides an extensive suite of reporting to registrars and has been doing so in an exemplary manner for more than ten years. Specifically, Afilias provides daily, weekly and monthly reports with detail at the transaction level to enable registrars to track and reconcile at whatever level of detail they prefer.

Reports are provided in standard formats, facilitating import for use by virtually any registrar analytical tool. Registrar reports are available for download via a secure administrative interface. A given registrar will only have access to its own reports. These include the following:
• Daily Reports: Transaction Report, Billable Transactions Report, and Transfer Reports;
• Weekly: Domain Status and Nameserver Report, Weekly Nameserver Report, Domains Hosted by Nameserver Weekly Report, and;
• Monthly: Billing Report and Monthly Expiring Domains Report.

Weekly registrar reports are maintained for each registrar for four weeks. Weekly reports older than four weeks will be archived for a period of six months, after which they will be deleted.

Financial reporting
Registrar account balances are updated real-time when payments and withdrawals are posted to the registrars' accounts. In addition, the registrar account balances are updated as and when

they perform billable transactions at the registry level.

Afilias provides Deposit⁄Withdrawal Reports that are updated periodically to reflect payments received or credits and withdrawals posted to the registrar accounts.

The following reports are also available: a) Daily Billable Transaction Report, containing details of all the billable transactions performed by all the registrars in the SRS, b) daily e-mail reports containing the number of domains in the registry and a summary of the number and types of billable transactions performed by the registrars, and c) registry operator versions of most registrar reports (for example, a daily Transfer Report that details all transfer activity between all of the registrars in the SRS).

Afilias approach to registry support

Afilias, the back end registry services provider for this TLD, is dedicated to managing the technical operations and support of this TLD in a secure, stable and reliable manner. Afilias has worked closely with Schlund Technologies GmbH to review specific needs and objectives of this TLD. The resulting comprehensive plans are illustrated in technical responses #24-44, drafted by Afilias given Schlund Technologies GmbH requirements. Afilias and Schlund Technologies GmbH also worked together to provide financial responses for this application which demonstrate cost and technology consistent with the size and objectives of this TLD.

Afilias is the registry services provider for this and several other TLD applications. Over the past 11 years of providing services for gTLD and ccTLDs, Afilias has accumulated experience about resourcing levels necessary to provide high quality services with conformance to strict service requirements. Afilias currently supports over 20 million domain names, spread across 16 TLDs, with over 400 accredited registrars.

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

With over a decade of registry experience, Afilias has the depth and breadth of experience that ensure existing and new needs are addressed, all while meeting or exceeding service level requirements and customer expectations. This is evident in Afilias' participation in business, policy and technical organizations supporting registry and Internet technology within ICANN and related organizations. This allows Afilias to be at the forefront of security initiatives such as: DNSSEC, wherein Afilias worked with Public Interest Registry (PIR) to make the .ORG registry the first DNSSEC enabled gTLD and the largest TLD enabled at the time; in enhancing the Internet experience for users across the globe by leading development of IDNs; in pioneering the use of open-source technologies by its usage of PostgreSQL, and; being the first to offer near-real-time dissemination of DNS zone data.

The ability to observe tightening resources for critical functions and the capacity to add extra resources ahead of a threshold event are factors that Afilias is well versed in. Afilias' human resources team, along with well-established relationships with external organizations, enables it to fill both long-term and short-term resource needs expediently.

Afilias' growth from a few domains to serving 20 million domain names across 16 TLDs and 400 accredited registrars indicates that the relationship between the number of people required and the volume of domains supported is not linear. In other words, servicing 100 TLDs does not automatically require 6 times more staff than servicing 16 TLDs. Similarly, an increase in the number of domains under management does not require in a linear increase in resources. Afilias carefully tracks the relationship between resources deployed and domains to be serviced, and pro-actively reviews this metric in order to retain a safe margin of error. This enables

Afilias to add, train and prepare new staff well in advance of the need, allowing consistent delivery of high quality services.

Demonstration of Technical & Operational Capability

24. Shared Registration System (SRS) Performance

Answers for this question (#24) are provided directly from Afilias, the back-end provider of registry services for this TLD.

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE " 〈 " and " 〉 " CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias operates a state-of-the-art EPP-based Shared Registration System (SRS) that is secure, stable and reliable. The SRS is a critical component of registry operations that must balance the business requirements for the registry and its customers, such as numerous domain acquisition and management functions. The SRS meets or exceeds all ICANN requirements given that Afilias:
• Operates a secure, stable and reliable SRS which updates in real-time and in full compliance with Specification 6 of the new gTLD Registry Agreement;
• Is committed to continuously enhancing our SRS to meet existing and future needs;
• Currently exceeds contractual requirements and will perform in compliance with Specification 10 of the new gTLD Registry Agreement;
• Provides SRS functionality and staff, financial, and other resources to more than adequately meet the technical needs of this TLD, and;
• Manages the SRS with a team of experienced technical professionals who can seamlessly integrate this TLD into the Afilias registry platform and support the TLD in a secure, stable and reliable manner.

Description of operation of the SRS, including diagrams

Afilias' SRS provides the same advanced functionality as that used in the .INFO and .ORG registries, as well as the fourteen other TLDs currently supported by Afilias. The Afilias registry system is standards-compliant and utilizes proven technology, ensuring global familiarity for registrars, and it is protected by our massively provisioned infrastructure that mitigates the risk of disaster.

EPP functionality is described fully in our response to question #25; please consider those answers incorporated here by reference. An abbreviated list of Afilias SRS functionality includes:
• Domain registration: Afilias provides registration of names in the TLD, in both ASCII and IDN forms, to accredited registrars via EPP and a web-based administration tool.
• Domain renewal: Afilias provides services that allow registrars the ability to renew domains under sponsorship at any time. Further, the registry performs the automated renewal of all domain names at the expiration of their term, and allows registrars to rescind automatic renewals within a specified number of days after the transaction for a full refund.
• Transfer: Afilias provides efficient and automated procedures to facilitate the transfer of sponsorship of a domain name between accredited registrars. Further, the registry enables bulk transfers of domains under the provisions of the Registry-Registrar Agreement.
• RGP and restoring deleted domain registrations: Afilias provides support for the Redemption Grace Period (RGP) as needed, enabling the restoration of deleted registrations.
• Other grace periods and conformance with ICANN guidelines: Afilias provides support for other grace periods that are evolving as standard practice inside the ICANN community. In addition, the Afilias registry system supports the evolving ICANN guidelines on IDNs.

Afilias also supports the basic check, delete, and modify commands.

As required for all new gTLDs, Afilias provides "thick" registry system functionality. In this model, all key contact details for each domain are stored in the registry. This allows better access to domain data and provides uniformity in storing the information.

Afilias' SRS complies today and will continue to comply with global best practices including relevant RFCs, ICANN requirements, and this TLD's respective domain policies. With over a decade of experience, Afilias has fully documented and tested policies and procedures, and our highly skilled team members are active participants of the major relevant technology and standards organizations, so ICANN can be assured that SRS performance and compliance are met. Full details regarding the SRS system and network architecture are provided in responses to questions #31 and #32; please consider those answers incorporated here by reference.

SRS servers and software

All applications and databases for this TLD will run in a virtual environment currently hosted by a cluster of servers equipped with the latest Intel Westmere multi-core processors. (It is possible that by the time this application is evaluated and systems deployed, Westmere processors may no longer be the "latest"; the Afilias policy is to use the most advanced, stable technology available at the time of deployment.) The data for the registry will be stored on storage arrays of solid state drives shared over a fast storage area network. The virtual environment allows the infrastructure to easily scale both vertically and horizontally to cater to changing demand. It also facilitates effective utilization of system resources, thus reducing energy consumption and carbon footprint.

The network firewalls, routers and switches support all applications and servers. Hardware traffic shapers are used to enforce an equitable access policy for connections coming from registrars. The registry system accommodates both IPv4 and IPv6 addresses. Hardware load balancers accelerate TLS∕SSL handshaking and distribute load among a pool of application servers.

Each of the servers and network devices are equipped with redundant, hot-swappable components and multiple connections to ancillary systems. Additionally, 24x7 support agreements with a four-hour response time at all our data centers guarantee replacement of failed parts in the shortest time possible.

Examples of current system and network devices used are:
- Servers: Cisco UCS B230 blade servers
- SAN storage arrays: IBM Storwize V7000 with Solid State Drives
- SAN switches: Brocade 5100
- Firewalls: Cisco ASA 5585-X
- Load balancers: F5 Big-IP 6900
- Traffic shapers: Procera PacketLogic PL8720
- Routers: Juniper MX40 3D
- Network switches: Cisco Nexus 7010, Nexus 5548, Nexus 2232

These system components are upgraded and updated as required, and have usage and performance thresholds which trigger upgrade review points. In each data center, there is a minimum of two of each network component, a minimum of 25 servers, and a minimum of two storage arrays.

Technical components of the SRS include the following items, continually checked and upgraded as needed: SRS, WHOIS, web admin tool, DNS, DNS distributor, reporting, invoicing tools, and deferred revenue system (as needed).

All hardware is massively provisioned to ensure stability under all forecast volumes from launch through "normal" operations of average daily and peak capacities. Each and every system application, server, storage and network device is continuously monitored by the Afilias Network Operations Center for performance and availability. The data gathered is used by dynamic predictive analysis tools in real-time to raise alerts for unusual resource demands. Should any volumes exceed established thresholds, a capacity planning review is instituted which will address the need for additions well in advance of their actual need.

SRS diagram and interconnectivity description

As with all core registry services, the SRS is run from a global cluster of registry system data centers, located in geographic centers with high Internet bandwidth, power, redundancy and availability. All of the registry systems will be run in a ⟨n+1⟩ setup, with a primary data center and a secondary data center. For detailed site information, please see our responses to questions #32 and #35. Registrars access the SRS in real-time using EPP.

A sample of the Afilias SRS technical and operational capabilities (displayed in Figure 24-a) include:
• Geographically diverse redundant registry systems;
• Load balancing implemented for all registry services (e.g. EPP, WHOIS, web admin) ensuring equal experience for all customers and easy horizontal scalability;
• Disaster Recovery Point objective for the registry is within one minute of the loss of the primary system;
• Detailed and tested contingency plan, in case of primary site failure, and;
• Daily reports, with secure access for confidentiality protection.

As evidenced in Figure 24-a, the SRS contains several components of the registry system. The interconnectivity ensures near-real-time distribution of the data throughout the registry infrastructure, timely backups, and up-to-date billing information.

The WHOIS servers are directly connected to the registry database and provide real-time responses to queries using the most up-to-date information present in the registry.

Committed DNS-related EPP objects in the database are made available to the DNS Distributor via a dedicated set of connections. The DNS Distributor extracts committed DNS-related EPP objects in real time and immediately inserts them into the zone for dissemination.

The Afilias system is architected such that read-only database connections are executed on database replicas and connections to the database master (where write-access is executed) are carefully protected to ensure high availability.

This interconnectivity is monitored, as is the entire registry system, according to the plans detailed in our response to question #42.

Synchronization scheme

Registry databases are synchronized both within the same data center and in the backup data center using a database application called Slony. For further details, please see the responses to questions #33 and #37. Slony replication of transactions from the publisher (master) database to its subscribers (replicas) works continuously to ensure the publisher and its subscribers remain synchronized. When the publisher database completes a transaction the Slony replication system ensures that each replica also processes the transaction. When there are no transactions to process, Slony "sleeps" until a transaction arrives or for one minute, whichever comes first. Slony "wakes up" each minute to confirm with the publisher that there has not been a transaction and thus ensures subscribers are synchronized and the replication time lag is minimized. The typical replication time lag between the publisher and subscribers depends on the topology of the replication cluster, specifically the location of the subscribers relative to the publisher. Subscribers located in the same data center as the publisher are typically updated within a couple of seconds, and subscribers located in a secondary data center are typically updated in less than ten seconds. This ensures real-time or near-real-time synchronization between all databases, and in the case where the secondary data center needs to be activated, it can be done with minimal disruption to registrars.

SRS SLA performance compliance

Afilias has a ten-year record of delivering on the demanding ICANN SLAs, and will continue to provide secure, stable and reliable service in compliance with SLA requirements as specified in the new gTLD Registry Agreement, Specification 10, as presented in Figure 24-b.

The Afilias SRS currently handles over 200 million EPP transactions per month for just .INFO and .ORG. Overall, the Afilias SRS manages over 700 million EPP transactions per month for all TLDs under management.

Given this robust functionality, and more than a decade of experience supporting a thick TLD registry with a strong performance history, Afilias, on behalf of Schlund Technologies GmbH, will meet or exceed the performance metrics in Specification 10 of the new gTLD Registry Agreement. The Afilias services and infrastructure are designed to scale both vertically and horizontally without any downtime to provide consistent performance as this TLD grows. The Afilias architecture is also massively provisioned to meet seasonal demands and marketing campaigns. Afilias' experience also gives high confidence in the ability to scale and grow registry operations for this TLD in a secure, stable and reliable manner.

SRS resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

Over 100 Afilias team members contribute to the management of the SRS code and network that will support this TLD. The SRS team is composed of Software Engineers, Quality Assurance Analysts, Application Administrators, System Administrators, Storage Administrators, Network Administrators, Database Administrators, and Security Analysts located at three geographically separate Afilias facilities. The systems and services set up and administered by these team members are monitored 24x7 by skilled analysts at two NOCs located in Toronto, Ontario (Canada) and Horsham, Pennsylvania (USA). In addition to these team members, Afilias also utilizes trained project management staff to maintain various calendars, work breakdown schedules, utilization and resource schedules and other tools to support the technical and management staff. It is this team who will both deploy this TLD on the Afilias infrastructure, and maintain it. Together, the Afilias team has managed 11 registry transitions and six new TLD launches, which illustrate its ability to securely and reliably deliver regularly scheduled updates as well as a secure, stable and reliable SRS service for this TLD.

25. Extensible Provisioning Protocol (EPP)

Answers for this question (#25) are provided by Afilias, the back-end provider of registry services for this TLD.

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE " ⟨ " and " ⟩ " CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias has been a pioneer and innovator in the use of EPP. .INFO was the first EPP-based gTLD registry and launched on EPP version 02∕00. Afilias has a track record of supporting TLDs on standards-compliant versions of EPP. Afilias will operate the EPP registrar interface as well as a web-based interface for this TLD in accordance with RFCs and global best practices. In addition, Afilias will maintain a proper OT&E (Operational Testing and Evaluation) environment to facilitate registrar system development and testing.

Afilias' EPP technical performance meets or exceeds all ICANN requirements as demonstrated by:
• A completely functional, state-of-the-art, EPP-based SRS that currently meets the needs of various gTLDs and will meet this new TLD's needs;

• A track record of success in developing extensions to meet client and registrar business requirements such as multi-script support for IDNs;
• Supporting six ICANN gTLDs on EPP: .INFO, .ORG, .MOBI, .AERO, .ASIA and .XXX
• EPP software that is operating today and has been fully tested to be standards-compliant;
• Proven interoperability of existing EPP software with ICANN-accredited registrars, and;
• An SRS that currently processes over 200 million EPP transactions per month for both .INFO and .ORG. Overall, Afilias processes over 700 million EPP transactions per month for all 16 TLDs under management.

The EPP service is offered in accordance with the performance specifications defined in the new gTLD Registry Agreement, Specification 10.

EPP Standards

The Afilias registry system complies with the following revised versions of the RFCs and operates multiple ICANN TLDs on these standards, including .INFO, .ORG, .MOBI, .ASIA and .XXX. The systems have been tested by our Quality Assurance ("QA") team for RFC compliance, and have been used by registrars for an extended period of time:
• 3735 - Guidelines for Extending EPP
• 3915 - Domain Registry Grace Period Mapping
• 5730 - Extensible Provisioning Protocol (EPP)
• 5731 - Domain Name Mapping
• 5732 - Host Mapping
• 5733 - Contact Mapping
• 5734 - Transport Over TCP
• 5910 - Domain Name System (DNS) Security Extensions Mapping for the Extensible Provisioning Protocol (EPP)

This TLD will support all valid EPP commands. The following EPP commands are in operation today and will be made available for this TLD. See attachment #25a for the base set of EPP commands and copies of Afilias XSD schema files, which define all the rules of valid, RFC compliant EPP commands and responses that Afilias supports. Any customized EPP extensions, if necessary, will also conform to relevant RFCs.

Afilias staff members actively participated in the Internet Engineering Task Force (IETF) process that finalized the new standards for EPP. Afilias will continue to actively participate in the IETF and will stay abreast of any updates to the EPP standards.

EPP software interface and functionality

Afilias will provide all registrars with a free open-source EPP toolkit. Afilias provides this software for use with both Microsoft Windows and Unix∕Linux operating systems. This software, which includes all relevant templates and schema defined in the RFCs, is available on sourceforge.net and will be available through the registry operator's website.

Afilias' SRS EPP software complies with all relevant RFCs and includes the following functionality:
• EPP Greeting: A response to a successful connection returns a greeting to the client. Information exchanged can include: name of server, server date and time in UTC, server features, e.g., protocol versions supported, languages for the text response supported, and one or more elements which identify the objects that the server is capable of managing;
• Session management controls: ⟨login⟩ to establish a connection with a server, and ⟨logout⟩ to end a session;
• EPP Objects: Domain, Host and Contact for respective mapping functions;
• EPP Object Query Commands: Info, Check, and Transfer (query) commands to retrieve object information, and;
• EPP Object Transform Commands: five commands to transform objects: ⟨create⟩ to create an instance of an object, ⟨delete⟩ to remove an instance of an object, ⟨renew⟩ to extend the validity period of an object, ⟨update⟩ to change information associated with an object, and ⟨transfer⟩ to manage changes in client sponsorship of a known object.

Currently, 100% of the top domain name registrars in the world have software that has already been tested and certified to be compatible with the Afilias SRS registry. In total, over 375 registrars, representing over 95% of all registration volume worldwide, operate software that has been certified compatible with the Afilias SRS registry. Afilias' EPP Registrar Acceptance Criteria are available in attachment #25b, EPP OT&E Criteria.

Free EPP software support
Afilias analyzes and diagnoses registrar EPP activity log files as needed and is available to assist registrars who may require technical guidance regarding how to fix repetitive errors or exceptions caused by misconfigured client software.

Registrars are responsible for acquiring a TLS∕SSL certificate from an approved certificate authority, as the registry-registrar communication channel requires mutual authentication; Afilias will acquire and maintain the server-side TLS∕SSL certificate. The registrar is responsible for developing support for TLS∕SSL in their client application. Afilias will provide free guidance for registrars unfamiliar with this requirement.

Registrar data synchronization

There are two methods available for registrars to synchronize their data with the registry:
• Automated synchronization: Registrars can, at any time, use the EPP ⟨info⟩ command to obtain definitive data from the registry for a known object, including domains, hosts (nameservers) and contacts.
• Personalized synchronization: A registrar may contact technical support and request a data file containing all domains (and associated host (nameserver) and contact information) registered by that registrar, within a specified time interval. The data will be formatted as a comma separated values (CSV) file and made available for download using a secure server.

EPP modifications

There are no unique EPP modifications planned for this TLD.

All ICANN TLDs must offer a Sunrise as part of a rights protection program. Afilias uses EPP extensions that allow registrars to submit trademark and other intellectual property rights (IPR) data to the registry. These extensions are:
• An ⟨ipr:name⟩ element that indicates the name of Registered Mark.
• An ⟨ipr:number⟩ element that indicates the registration number of the IPR.
• An ⟨ipr:ccLocality⟩ element that indicates the origin for which the IPR is established (a national or international trademark registry).
• An ⟨ipr:entitlement⟩ element that indicates whether the applicant holds the trademark as the original "OWNER", "CO-OWNER" or "ASSIGNEE".
• An ⟨ipr:appDate⟩ element that indicates the date the Registered Mark was applied for.
• An ⟨ipr:regDate⟩ element that indicates the date the Registered Mark was issued and registered.
• An ⟨ipr:class⟩ element that indicates the class of the registered mark.
• An ⟨ipr:type⟩ element that indicates the Sunrise phase the application applies for.

Note that some of these extensions might be subject to change based on ICANN-developed requirements for the Trademark Clearinghouse.

EPP resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused

way.

108 Afilias team members directly contribute to the management and development of the EPP based registry systems. As previously noted, Afilias is an active member of IETF and has a long documented history developing and enhancing EPP. These contributors include 11 developers and 14 QA engineers focused on maintaining and enhancing EPP server side software. These engineers work directly with business staff to timely address existing needs and forecast registry⁄registrar needs to ensure the Afilias EPP software is effective today and into the future. A team of eight data analysts work with the EPP software system to ensure that the data flowing through EPP is securely and reliably stored in replicated database systems. In addition to the EPP developers, QA engineers, and data analysts, other EPP contributors at Afilias include: Technical Analysts, the Network Operations Center and Data Services team members.

26. Whois

Answers for this question (#26) are provided by Afilias, the back-end provider of registry services for this TLD.

Afilias operates the WHOIS (registration data directory service) infrastructure in accordance with RFCs and global best practices, as it does for the 16 TLDs it currently supports. Designed to be robust and scalable, Afilias' WHOIS service has exceeded all contractual requirements for over a decade. It has extended search capabilities, and methods of limiting abuse.

The WHOIS service operated by Afilias meets and exceeds ICANN's requirements. Specifically, Afilias will:
• Offer a WHOIS service made available on port 43 that is flexible and standards- compliant;
• Comply with all ICANN policies, and meeting or exceeding WHOIS performance requirements in Specification 10 of the new gTLD Registry Agreement;
• Enable a Searchable WHOIS with extensive search capabilities that offers ease of use while enforcing measures to mitigate access abuse, and;
• Employ a team with significant experience managing a compliant WHOIS service.

Such extensive knowledge and experience managing a WHOIS service enables Afilias to offer a comprehensive plan for this TLD that meets the needs of constituents of the domain name industry and Internet users. The service has been tested by our QA team for RFC compliance, and has been used by registrars and many other parties for an extended period of time. Afilias' WHOIS service currently serves almost 500 million WHOIS queries per month, with the capacity already built in to handle an order of magnitude increase in WHOIS queries, and the ability to smoothly scale should greater growth be needed.

WHOIS system description and diagram

The Afilias WHOIS system, depicted in figure 26-a, is designed with robustness, availability, compliance, and performance in mind. Additionally, the system has provisions for detecting abusive usage (e.g., excessive numbers of queries from one source). The WHOIS system is generally intended as a publicly available single object lookup system. Afilias uses an advanced, persistent caching system to ensure extremely fast query response times.

Afilias will develop restricted WHOIS functions based on specific domain policy and regulatory requirements as needed for operating the business (as long as they are standards compliant). It will also be possible for contact and registrant information to be returned according to regulatory requirements. The WHOIS database supports multiple string and field searching through a reliable, free, secure web-based interface.

        Data objects, interfaces, access and lookups
Registrars can provide an input form on their public websites through which a visitor is able to perform WHOIS queries. The registry operator can also provide a Web-based search on its

site. The input form must accept the string to query, along with the necessary input elements to select the object type and interpretation controls. This input form sends its data to the Afilias port 43 WHOIS server. The results from the WHOIS query are returned by the server and displayed in the visitor's Web browser. The sole purpose of the Web interface is to provide a user-friendly interface for WHOIS queries.

Afilias will provide WHOIS output as per Specification 4 of the new gTLD Registry Agreement. The output for domain records generally consists of the following elements:
• The name of the domain registered and the sponsoring registrar;
• The names of the primary and secondary nameserver(s) for the registered domain name;
• The creation date, registration status and expiration date of the registration;
• The name, postal address, e-mail address, and telephone and fax numbers of the domain name holder;
• The name, postal address, e-mail address, and telephone and fax numbers of the technical contact for the domain name holder;
• The name, postal address, e-mail address, and telephone and fax numbers of the administrative contact for the domain name holder, and;
• The name, postal address, e-mail address, and telephone and fax numbers of the billing contact for the domain name holder.
The following additional features are also present in Afilias' WHOIS service:
• Support for IDNs, including the language tag and the Punycode representation of the IDN in addition to Unicode Hex and Unicode HTML formats;
• Enhanced support for privacy protection relative to the display of confidential information.

Afilias will also provide sophisticated WHOIS search functionality that includes the ability to conduct multiple string and field searches.

         Query controls
For all WHOIS queries, a user is required to enter the character string representing the information for which they want to search. The object type and interpretation control parameters to limit the search may also be specified. If object type or interpretation control parameter is not specified, WHOIS will search for the character string in the Name field of the Domain object.

WHOIS queries are required to be either an "exact search" or a "partial search," both of which are insensitive to the case of the input string.

An exact search specifies the full string to search for in the database field. An exact match between the input string and the field value is required.

A partial search specifies the start of the string to search for in the database field. Every record with a search field that starts with the input string is considered a match. By default, if multiple matches are found for a query, then a summary containing up to 50 matching results is presented. A second query is required to retrieve the specific details of one of the matching records.

If only a single match is found, then full details will be provided. Full detail consists of the data in the matching object as well as the data in any associated objects. For example: a query that results in a domain object includes the data from the associated host and contact objects.

WHOIS query controls fall into two categories: those that specify the type of field, and those that modify the interpretation of the input or determine the level of output to provide. Each is described below.

The following keywords restrict a search to a specific object type:
• Domain: Searches only domain objects. The input string is searched in the Name field.
• Host: Searches only nameserver objects. The input string is searched in the Name field and the IP Address field.
• Contact: Searches only contact objects. The input string is searched in the ID field.
• Registrar: Searches only registrar objects. The input string is searched in the Name field.
By default, if no object type control is specified, then the Name field of the Domain object is searched.

In addition, Afilias WHOIS systems can perform and respond to WHOIS searches by registrant name, postal address and contact names. Deployment of these features is provided as an option to the registry operator, based upon registry policy and business decision making.

Figure 26-b presents the keywords that modify the interpretation of the input or determine the level of output to provide.

By default, if no interpretation control keywords are used, the output will include full details if a single match is found and a summary if multiple matches are found.

        Unique TLD requirements
There are no unique WHOIS requirements for this TLD.

        Sunrise WHOIS processes
All ICANN TLDs must offer a Sunrise as part of a rights protection program. Afilias uses EPP extensions that allow registrars to submit trademark and other intellectual property rights (IPR) data to the registry. The following corresponding data will be displayed in WHOIS for relevant domains:
• Trademark Name: element that indicates the name of the Registered Mark.
• Trademark Number: element that indicates the registration number of the IPR.
• Trademark Locality: element that indicates the origin for which the IPR is established (a national or international trademark registry).
• Trademark Entitlement: element that indicates whether the applicant holds the trademark as the original "OWNER", "CO-OWNER" or "ASSIGNEE".
 • Trademark Application Date: element that indicates the date the Registered Mark was applied for.
• Trademark Registration Date: element that indicates the date the Registered Mark was issued and registered.
• Trademark Class: element that indicates the class of the Registered Mark.
• IPR Type: element that indicates the Sunrise phase the application applies for.

IT and infrastructure resources
All the applications and databases for this TLD will run in a virtual environment hosted by a cluster of servers equipped with the latest Intel Westmere multi-core processors (or a more advanced, stable technology available at the time of deployment). The registry data will be stored on storage arrays of solid-state drives shared over a fast storage area network. The virtual environment allows the infrastructure to easily scale both vertically and horizontally to cater to changing demand. It also facilitates effective utilization of system resources thus reducing energy consumption and carbon footprint.

The applications and servers are supported by network firewalls, routers and switches. The WHOIS system accommodates both IPv4 and IPv6 addresses.

Each of the servers and network devices are equipped with redundant hot-swappable components and multiple connections to ancillary systems. Additionally, 24x7 support agreements with our hardware vendor with a 4-hour response time at all our data centers guarantees replacement of failed parts in the shortest time possible.

Models of system and network devices used are:
• Servers: Cisco UCS B230 blade servers
• SAN storage arrays: IBM Storwize V7000 with Solid State Drives
• Firewalls: Cisco ASA 5585-X
• Load balancers: F5 Big-IP 6900
• Traffic shapers: Procera PacketLogic PL8720
• Routers: Juniper MX40 3D
• Network switches: Cisco Nexus 7010, Nexus 5548, Nexus 2232

There will be at least four virtual machines (VMs) offering WHOIS service. Each VM will run at least two WHOIS server instances - one for registrars and one for the public. All instances of the WHOIS service is made available to registrars and the public are rate limited to mitigate abusive behavior.

Frequency of synchronization between servers

Registration data records from the EPP publisher database will be replicated to the WHOIS
system database on a near-real-time basis whenever an update occurs.

Specifications 4 and 10 compliance

The WHOIS service for this TLD will meet or exceed the performance requirements in the new
gTLD Registry Agreement, Specification 10. Figure 26-c provides the exact measurements and
commitments. Afilias has a 10 year track record of exceeding WHOIS performance and a skilled
team to ensure this continues for all TLDs under management.

The WHOIS service for this TLD will meet or exceed the requirements in the new gTLD Registry
Agreement, Specification 4.

RFC 3912 compliance
Afilias will operate the WHOIS infrastructure in compliance with RFCs and global best
practices, as it does with the 16 TLDs Afilias currently supports.

Afilias maintains a registry-level centralized WHOIS database that contains information for
every registered domain and for all host and contact objects. The WHOIS service will be
available on the Internet standard WHOIS port (port 43) in compliance with RFC 3912. The WHOIS
service contains data submitted by registrars during the registration process. Changes made to
the data by a registrant are submitted to Afilias by the registrar and are reflected in the
WHOIS database and service in near-real-time, by the instance running at the primary data
center, and in under ten seconds by the instance running at the secondary data center, thus
providing all interested parties with up-to-date information for every domain. This service is
compliant with the new gTLD Registry Agreement, Specification 4.

The WHOIS service maintained by Afilias will be authoritative and complete, as this will be a
"thick" registry (detailed domain contact WHOIS is all held at the registry); users do not
have to query different registrars for WHOIS information, as there is one central WHOIS
system. Additionally, visibility of different types of data is configurable to meet the
registry operator's needs.

Searchable WHOIS

Afilias offers a searchable WHOIS on a web-based Directory Service. Partial match capabilities
are offered on the following fields: domain name, registrar ID, and IP address. In addition,
Afilias WHOIS systems can perform and respond to WHOIS searches by registrant name, postal
address and contact names.

Providing the ability to search important and high-value fields such as registrant name,
address and contact names increases the probability of abusive behavior. An abusive user could
script a set of queries to the WHOIS service and access contact data in order to create or
sell a list of names and addresses of registrants in this TLD. Making the WHOIS machine
readable, while preventing harvesting and mining of WHOIS data, is a key requirement
integrated into the Afilias WHOIS systems. For instance, Afilias limits search returns to 50
records at a time. If bulk queries were ever necessary (e.g., to comply with any applicable
laws, government rules or requirements, requests of law enforcement, or any dispute resolution
process), Afilias makes such query responses available to carefully screened and limited staff
members at the registry operator (and customer support staff) via an internal data warehouse.
The Afilias WHOIS system accommodates anonymous access as well as pre-identified and profile-
defined uses, with full audit and log capabilities.

The WHOIS service has the ability to tag query responses with labels such as "Do not
redistribute" or "Special access granted". This may allow for tiered response and reply
scenarios. Further, the WHOIS service is configurable in parameters and fields returned,
which allow for flexibility in compliance with various jurisdictions, regulations or laws.

Afilias offers exact-match capabilities on the following fields: registrar ID, nameserver name, and nameserver's IP address (only applies to IP addresses stored by the registry, i.e., glue records). Search capabilities are fully available, and results include domain names matching the search criteria (including IDN variants). Afilias manages abuse prevention through rate limiting and CAPTCHA (described below). Queries do not require specialized transformations of internationalized domain names or internationalized data fields

Please see "Query Controls" above for details about search options and capabilities.

Deterring WHOIS abuse

Afilias has adopted two best practices to prevent abuse of the WHOIS service: rate limiting and CAPTCHA.

Abuse of WHOIS services on port 43 and via the Web is subject to an automated rate-limiting system. This ensures that uniformity of service to users is unaffected by a few parties whose activities abuse or otherwise might threaten to overload the WHOIS system.

Abuse of web-based public WHOIS services is subject to the use of CAPTCHA (Completely Automated Public Turing test to tell Computers and Humans Apart) technology. The use of CAPTCHA ensures that uniformity of service to users is unaffected by a few parties whose activities abuse or otherwise might threaten to overload the WHOIS system. The registry operator will adopt a CAPTCHA on its Web-based WHOIS.

Data mining of any sort on the WHOIS system is strictly prohibited, and this prohibition is published in WHOIS output and in terms of service.

For rate limiting on IPv4, there are configurable limits per IP and subnet. For IPv6, the traditional limitations do not apply. Whenever a unique IPv6 IP address exceeds the limit of WHOIS queries per minute, the same rate-limit for the given 64 bits of network prefix that the offending IPv6 IP address falls into will be applied. At the same time, a timer will start and rate-limit validation logic will identify if there are any other IPv6 address within the original 80-bit(/48) prefix. If another offending IPv6 address does fall into the /48 prefix then rate-limit validation logic will penalize any other IPv6 addresses that fall into that given 80-bit (/48) network. As a security precaution, Afilias will not disclose these limits.

Pre-identified and profile-driven role access allows greater granularity and configurability in both access to the WHOIS service, and in volume/frequency of responses returned for queries.

Afilias staff are key participants in the ICANN Security & Stability Advisory Committee's deliberations and outputs on WHOIS, including SAC003, SAC027, SAC033, SAC037, SAC040, and SAC051. Afilias staff are active participants in both technical and policy decision making in ICANN, aimed at restricting abusive behavior.

WHOIS staff resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

Within Afilias, there are 11 staff members who develop and maintain the compliant WHOIS systems. They keep pace with access requirements, thwart abuse, and continually develop software. Of these resources, approximately two staffers are typically required for WHOIS-related code customization. Other resources provide quality assurance, and operations

personnel maintain the WHOIS system itself. This team will be responsible for the
implementation and on-going maintenance of the new TLD WHOIS service.

27. Registration Life Cycle

Answers for this question (#27) are provided by Afilias, the back-end provider of registry
services for this TLD.

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE " $\langle$ " and " $\rangle$ " CHARACTERS), WHICH ICANN
INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS.
HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias has had experience managing registrations for over a decade and supports comprehensive
registration lifecycle services including the registration states, all standard grace periods,
and can address any modifications required with the introduction of any new ICANN policies.

This TLD will follow the ICANN standard domain lifecycle, as is currently implemented in TLDs
such as .ORG and .INFO. The below response includes: a diagram and description of the
lifecycle of a domain name in this TLD, including domain creation, transfer protocols, grace
period implementation and the respective time frames for each; and the existing resources to
support the complete lifecycle of a domain.

As depicted in Figure 27-a, prior to the beginning of the Trademark Claims Service or Sunrise
IP protection program, Afilias will support the reservation of names in accordance with the
new gTLD Registry Agreement, Specification 5.

Registration period

After the IP protection programs and the general launch, eligible registrants may choose an
accredited registrar to register a domain name. The registrar will check availability on the
requested domain name and if available, will collect specific objects such as, the required
contact and host information from the registrant. The registrar will then provision the
information into the registry system using standard Extensible Provisioning Protocol ("EPP")
commands through a secure connection to the registry backend service provider.

When the domain is created, the standard five day Add Grace Period begins, the domain and
contact information are available in WHOIS, and normal operating EPP domain statuses will
apply. Other specifics regarding registration rules for an active domain include:
• The domain must be unique;
• Restricted or reserved domains cannot be registered;
• The domain can be registered from 1-10 years;
• The domain can be renewed at any time for 1-10 years, but cannot exceed 10 years;
• The domain can be explicitly deleted at any time;
• The domain can be transferred from one registrar to another except during the first 60 days
following a successful registration or within 60 days following a transfer; and,
Contacts and hosts can be modified at any time.

The following describe the domain status values recognized in WHOIS when using the EPP
protocol following RFC 5731.
• OK or Active: This is the normal status for a domain that has no pending operations or
restrictions.
• Inactive: The domain has no delegated name servers.
• Locked: No action can be taken on the domain. The domain cannot be renewed, transferred,
updated, or deleted. No objects such as contacts or hosts can be associated to, or
disassociated from the domain. This status includes: Delete Prohibited ∕ Server Delete
Prohibited, Update Prohibited ∕ Server Update Prohibited, Transfer Prohibited, Server Transfer
Prohibited, Renew Prohibited, Server Renew Prohibited.
• Hold: The domain will not be included in the zone. This status includes: Client Hold, Server
Hold.

• Transfer Prohibited: The domain cannot be transferred away from the sponsoring registrar. This status includes: Client Transfer Prohibited, Server Transfer Prohibited.

The following describe the registration operations that apply to the domain name during the registration period.

a. Domain modifications: This operation allows for modifications or updates to the domain attributes to include:
i. Registrant Contact
ii. Admin Contact
iii. Technical Contact
iv. Billing Contact
v. Host or nameservers
vi. Authorization information
vii. Associated status values

A domain with the EPP status of Client Update Prohibited or Server Update Prohibited may not be modified until the status is removed.

b. Domain renewals: This operation extends the registration period of a domain by changing the expiration date. The following rules apply:
i. A domain can be renewed at any time during its registration term,
ii. The registration term cannot exceed a total of 10 years.

A domain with the EPP status of Client Renew Prohibited or Server Renew Prohibited cannot be renewed.

c. Domain deletions: This operation deletes the domain from the Shared Registry Services (SRS). The following rules apply:
i. A domain can be deleted at any time during its registration term, f the domain is deleted during the Add Grace Period or the Renew∕Extend Grace Period, the sponsoring registrar will receive a credit,
ii. A domain cannot be deleted if it has "child" nameservers that are associated to other domains.

A domain with the EPP status of Client Delete Prohibited or Server Delete Prohibited cannot be deleted.

d. Domain transfers: A transfer of the domain from one registrar to another is conducted by following the steps below.
i. The registrant must obtain the applicable ⟨authInfo⟩ code from the sponsoring (losing) registrar.
• Every domain name has an authInfo code as per EPP RFC 5731. The authInfo code is a six- to 16-character code assigned by the registrar at the time the name was created. Its purpose is to aid identification of the domain owner so proper authority can be established (it is the "password" to the domain).
• Under the Registry-Registrar Agreement, registrars will be required to provide a copy of the authInfo code to the domain registrant upon his or her request.
ii. The registrant must provide the authInfo code to the new (gaining) registrar, who will then initiate a domain transfer request. A transfer cannot be initiated without the authInfo code.
• Every EPP ⟨transfer⟩ command must contain the authInfo code or the request will fail. The authInfo code represents authority to the registry to initiate a transfer.
iii. Upon receipt of a valid transfer request, the registry automatically asks the sponsoring (losing) registrar to approve the request within five calendar days.
• When a registry receives a transfer request the domain cannot be modified, renewed or deleted until the request has been processed. This status must not be combined with either Client Transfer Prohibited or Server Transfer Prohibited status.
• If the sponsoring (losing) registrar rejects the transfer within five days, the transfer request is cancelled. A new domain transfer request will be required to reinitiate the process.
• If the sponsoring (losing) registrar does not approve or reject the transfer within five days, the registry automatically approves the request.

iv. After a successful transfer, it is strongly recommended that registrars change the authInfo code, so that the prior registrar or registrant cannot use it anymore.
v. Registrars must retain all transaction identifiers and codes associated with successful domain object transfers and protect them from disclosure.
vi. Once a domain is successfully transferred the status of TRANSFERPERIOD is added to the domain for a period of five days.
vii. Successful transfers will result in a one year term extension (resulting in a maximum total of 10 years), which will be charged to the gaining registrar.

e. Bulk transfer: Afilias, supports bulk transfer functionality within the SRS for situations where ICANN may request the registry to perform a transfer of some or all registered objects (includes domain, contact and host objects) from one registrar to another registrar. Once a bulk transfer has been executed, expiry dates for all domain objects remain the same, and all relevant states of each object type are preserved. In some cases the gaining and the losing registrar as well as the registry must approved bulk transfers. A detailed log is captured for each bulk transfer process and is archived for audit purposes.

Schlund Technologies GmbH will support ICANN's Transfer Dispute Resolution Process. Schlund Technologies GmbH will work with Afilias to respond to Requests for Enforcement (law enforcement or court orders) and will follow that process.

1. Auto-renew grace period
The Auto-Renew Grace Period displays as AUTORENEWPERIOD in WHOIS. An auto-renew must be requested by the registrant through the sponsoring registrar and occurs if a domain name registration is not explicitly renewed or deleted by the expiration date and is set to a maximum of 45 calendar days. In this circumstance the registration will be automatically renewed by the registry system the first day after the expiration date. If a Delete, Extend, or Transfer occurs within the AUTORENEWPERIOD the following rules apply:
i. Delete. If a domain is deleted the sponsoring registrar at the time of the deletion receives a credit for the auto-renew fee. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.
ii. Renew∕Extend. A domain can be renewed as long as the total term does not exceed 10 years. The account of the sponsoring registrar at the time of the extension will be charged for the additional number of years the registration is renewed.
iii. Transfer (other than ICANN-approved bulk transfer). If a domain is transferred, the losing registrar is credited for the auto-renew fee, and the year added by the operation is cancelled. As a result of the transfer, the expiration date of the domain is extended by minimum of one year as long as the total term does not exceed 10 years. The gaining registrar is charged for the additional transfer year(s) even in cases where a full year is not added because of the maximum 10 year registration restriction.

2. Redemption grace period
During this period, a domain name is placed in the PENDING DELETE RESTORABLE status when a registrar requests the deletion of a domain that is not within the Add Grace Period. A domain can remain in this state for up to 30 days and will not be included in the zone file. The only action a registrar can take on a domain is to request that it be restored. Any other registrar requests to modify or otherwise update the domain will be rejected. If the domain is restored it moves into PENDING RESTORE and then OK. After 30 days if the domain is not restored it moves into PENDING DELETE SCHEDULED FOR RELEASE before the domain is released back into the pool of available domains.

3. Pending delete
During this period, a domain name is placed in PENDING DELETE SCHEDULED FOR RELEASE status for five days, and all Internet services associated with the domain will remain disabled and domain cannot be restored. After five days the domain is released back into the pool of available domains.

Other grace periods

All ICANN required grace periods will be implemented in the registry backend service provider's system including the Add Grace Period (AGP), Renew∕Extend Grace Period (EGP), Transfer Grace Period (TGP), Auto-Renew Grace Period (ARGP), and Redemption Grace Period

(RGP). The lengths of grace periods are configurable in the registry system. At this time, the grace periods will be implemented following other gTLDs such as .ORG. More than one of these grace periods may be in effect at any one time. The following are accompanying grace periods to the registration lifecycle.

Add grace period

The Add Grace Period displays as ADDPERIOD in WHOIS and is set to five calendar days following the initial registration of a domain. If the domain is deleted by the registrar during this period, the registry provides a credit to the registrar for the cost of the registration. If a Delete, Renew⁄Extend, or Transfer operation occurs within the five calendar days, the following rules apply.
i. Delete. If a domain is deleted within this period the sponsoring registrar at the time of the deletion is credited for the amount of the registration. The domain is deleted from the registry backend service provider's database and is released back into the pool of available domains.
ii. Renew⁄Extend. If the domain is renewed within this period and then deleted, the sponsoring registrar will receive a credit for both the registration and the extended amounts. The account of the sponsoring registrar at the time of the renewal will be charged for the initial registration plus the number of years the registration is extended. The expiration date of the domain registration is extended by that number of years as long as the total term does not exceed 10 years.
iii. Transfer (other than ICANN-approved bulk transfer). Transfers under Part A of the ICANN Policy on Transfer of Registrations between registrars may not occur during the ADDPERIOD or at any other time within the first 60 days after the initial registration. Enforcement is the responsibility of the registrar sponsoring the domain name registration and is enforced by the SRS.

Renew ⁄ extend grace period

The Renew ⁄ Extend Grace Period displays as RENEWPERIOD in WHOIS and is set to five calendar days following an explicit renewal on the domain by the registrar. If a Delete, Extend, or Transfer occurs within the five calendar days, the following rules apply:
i. Delete. If a domain is deleted within this period the sponsoring registrar at the time of the deletion receives a credit for the renewal fee. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.
ii. Renew⁄Extend. A domain registration can be renewed within this period as long as the total term does not exceed 10 years. The account of the sponsoring registrar at the time of the extension will be charged for the additional number of years the registration is renewed.
iii. Transfer (other than ICANN-approved bulk transfer). If a domain is transferred within the Renew⁄Extend Grace Period, there is no credit to the losing registrar for the renewal fee. As a result of the transfer, the expiration date of the domain registration is extended by a minimum of one year as long as the total term for the domain does not exceed 10 years.
If a domain is auto-renewed, then extended, and then deleted within the Renew⁄Extend Grace Period, the registrar will be credited for any auto-renew fee charged and the number of years for the extension. The years that were added to the domain's expiration as a result of the auto-renewal and extension are removed. The deleted domain is moved to the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.

Transfer Grace Period

The Transfer Grace period displays as TRANSFERPERIOD in WHOIS and is set to five calendar days after the successful transfer of domain name registration from one registrar to another registrar. Transfers under Part A of the ICANN Policy on Transfer of Registrations between registrars may not occur during the TRANSFERPERIOD or within the first 60 days after the transfer. If a Delete or Renew⁄Extend occurs within that five calendar days, the following rules apply:
i. Delete. If the domain is deleted by the new sponsoring registrar during this period, the registry provides a credit to the registrar for the cost of the transfer. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.
ii. Renew⁄Extend. If a domain registration is renewed within the Transfer Grace Period, there is no credit for the transfer. The registrar's account will be charged for the number of years the registration is renewed. The expiration date of the domain registration is extended by the

renewal years as long as the total term does not exceed 10 years.

Auction

This TLD will conduct an auction for certain domain names. Afilias will manage the domain name auction using existing technology. Upon the completion of the auction, any domain name acquired will then follow the standard lifecycle of a domain.

Registration lifecycle resources

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way. Virtually all Afilias resource are involved in the registration lifecycle of domains.

There are a few areas where registry staff devote resources to registration lifecycle issues:
a. Supporting Registrar Transfer Disputes. The registry operator will have a compliance staffer handle these disputes as they arise; they are very rare in the existing gTLDs.
b. Afilias has its development and quality assurance departments on hand to modify the grace period functionality as needed, if ICANN issues new Consensus Policies or the RFCs change.

Afilias has more than 30 staff members in these departments.

28. Abuse Prevention and Mitigation

Schlund Technologies GmbH, working with Afilias, will take the requisite operational and technical steps to promote WHOIS data accuracy, limit domain abuse, remove outdated and inaccurate data, and other security measures to ensure the integrity of the TLD. The specific measures include, but are not limited to:
• Posting a TLD Anti-Abuse Policy that clearly defines abuse, and provide point-of-contact information for reporting suspected abuse;
• Committing to rapid identification and resolution of abuse, including suspensions;
• Ensuring completeness of WHOIS information at the time of registration;
• Publishing and maintaining procedures for removing orphan glue records for names removed from the zone, and;
• Establishing measures to deter WHOIS abuse, including rate-limiting, determining data syntax validity, and implementing and enforcing requirements from the Registry-Registrar Agreement.

Abuse policy

The Anti-Abuse Policy stated below will be enacted under the contractual authority of the registry operator through the Registry-Registrar Agreement, and the obligations will be passed on to and made binding upon registrants. This policy will be posted on the TLD web site along with contact information for registrants or users to report suspected abuse.

The policy is designed to address the malicious use of domain names. The registry operator and its registrars will make reasonable attempts to limit significant harm to Internet users. This policy is not intended to take the place of the Uniform Domain Name Dispute Resolution Policy (UDRP) or the Uniform Rapid Suspension System (URS), and it is not to be used as an alternate form of dispute resolution or as a brand protection mechanism. Its intent is not to burden law-abiding or innocent registrants and domain users; rather, the intent is to deter those who use domain names maliciously by engaging in illegal or fraudulent activity.

Repeat violations of the abuse policy will result in a case-by-case review of the abuser(s), and the registry operator reserves the right to escalate the issue, with the intent of levying sanctions that are allowed under the TLD anti-abuse policy.

The below policy is a recent version of the policy that has been used by the .INFO registry since 2008, and the .ORG registry since 2009. It has proven to be an effective and flexible tool.

.WEB Anti-Abuse Policy

The following Anti-Abuse Policy is effective upon launch of the TLD. Malicious use of domain names will not be tolerated. The nature of such abuses creates security and stability issues for the registry, registrars, and registrants, as well as for users of the Internet in general. The registry operator definition of abusive use of a domain includes, without limitation, the following:

• Illegal or fraudulent actions;
• Spam: The use of electronic messaging systems to send unsolicited bulk messages. The term applies to email spam and similar abuses such as instant messaging spam, mobile messaging spam, and the spamming of web sites and Internet forums;
• Phishing: The use of counterfeit web pages that are designed to trick recipients into divulging sensitive data such as personally identifying information, usernames, passwords, or financial data;
• Pharming: The redirecting of unknowing users to fraudulent sites or services, typically through, but not limited to, DNS hijacking or poisoning;
• Willful distribution of malware: The dissemination of software designed to infiltrate or damage a computer system without the owner's informed consent. Examples include, without limitation, computer viruses, worms, keyloggers, and Trojan horses.
• Malicious fast-flux hosting: Use of fast-flux techniques with a botnet to disguise the location of web sites or other Internet services, or to avoid detection and mitigation efforts, or to host illegal activities.
• Botnet command and control: Services run on a domain name that are used to control a collection of compromised computers or "zombies," or to direct distributed denial-of-service attacks (DDoS attacks);
• Illegal Access to Other Computers or Networks: Illegally accessing computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (e.g., port scan, stealth scan, or other information gathering activity).

Pursuant to the Registry-Registrar Agreement, registry operator reserves the right at its sole discretion to deny, cancel, or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, or similar status, that it deems necessary: (1) to protect the integrity and stability of the registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (3) to avoid any liability, civil or criminal, on the part of registry operator, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) per the terms of the registration agreement and this Anti-Abuse Policy, or (5) to correct mistakes made by registry operator or any registrar in connection with a domain name registration. Registry operator also reserves the right to place upon registry lock, hold, or similar status a domain name during resolution of a dispute.

The policy stated above will be accompanied by notes about how to submit a report to the registry operator's abuse point of contact, and how to report an orphan glue record suspected of being used in connection with malicious conduct (see below).

Abuse point of contact and procedures for handling abuse complaints

The registry operator will establish an abuse point of contact. This contact will be a role-based e-mail address of the form "abuse@registry.WEB". This e-mail address will allow multiple staff members to monitor abuse reports on a 24x7 basis, and then work toward closure of cases as each situation calls for. For tracking purposes, the registry operator will have a ticketing system with which all complaints will be tracked internally. The reporter will be

provided with the ticket reference identifier for potential follow-up. Afilias will integrate its existing ticketing system with the registry operator's to ensure uniform tracking and handling of the complaint. This role-based approach has been used successfully by ISPs, e-mail service providers, and registrars for many years, and is considered a global best practice.

The registry operator's designated abuse handlers will then evaluate complaints received via the abuse system address. They will decide whether a particular issue is of concern, and decide what action, if any, is appropriate.

In general, the registry operator will find itself receiving abuse reports from a wide variety of parties, including security researchers and Internet security companies, financial institutions such as banks, Internet users, and law enforcement agencies among others. Some of these parties may provide good forensic data or supporting evidence of the malicious behavior. In other cases, the party reporting an issue may not be familiar with how to provide such data or proof of malicious behavior. It is expected that a percentage of abuse reports to the registry operator will not be actionable, because there will not be enough evidence to support the complaint (even after investigation), and because some reports or reporters will simply not be credible.

The security function includes a communication and outreach function, with information sharing with industry partners regarding malicious or abusive behavior, in order to ensure coordinated abuse mitigation across multiple TLDs.

Assessing abuse reports requires great care, and the registry operator will rely upon professional, trained investigators who are versed in such matters. The goals are accuracy, good record-keeping, and a zero false-positive rate so as not to harm innocent registrants.

Different types of malicious activities require different methods of investigation and documentation. Further, the registry operator expects to face unexpected or complex situations that call for professional advice, and will rely upon professional, trained investigators as needed.

In general, there are two types of domain abuse that must be addressed:
a) Compromised domains. These domains have been hacked or otherwise compromised by criminals, and the registrant is not responsible for the malicious activity taking place on the domain. For example, the majority of domain names that host phishing sites are compromised. The goal in such cases is to get word to the registrant (usually via the registrar) that there is a problem that needs attention with the expectation that the registrant will address the problem in a timely manner. Ideally such domains do not get suspended, since suspension would disrupt legitimate activity on the domain.
b) Malicious registrations. These domains are registered by malefactors for the purpose of abuse. Such domains are generally targets for suspension, since they have no legitimate use.

The standard procedure is that the registry operator will forward a credible alleged case of malicious domain name use to the domain's sponsoring registrar with a request that the registrar investigate the case and act appropriately. The registrar will be provided evidence collected as a result of the investigation conducted by the trained abuse handlers. As part of the investigation, if inaccurate or false WHOIS registrant information is detected, the registrar is notified about this. The registrar is the party with a direct relationship with—and a direct contract with—the registrant. The registrar will also have vital information that the registry operator will not, such as:
• Details about the domain purchase, such as the payment method used (credit card, PayPal, etc.);
• The identity of a proxy-protected registrant;
• The purchaser's IP address;
• Whether there is a reseller involved, and;
• The registrant's past sales history and purchases in other TLDs (insofar as the registrar can determine this).

Registrars do not share the above information with registry operators due to privacy and liability concerns, among others. Because they have more information with which to continue the investigation, and because they have a direct relationship with the registrant, the registrar is in the best position to evaluate alleged abuse. The registrar can determine if

the use violates the registrar's legal terms of service or the registry Anti-Abuse Policy, and can decide whether or not to take any action. While the language and terms vary, registrars will be expected to include language in their registrar-registrant contracts that indemnifies the registrar if it takes action, and allows the registrar to suspend or cancel a domain name; this will be in addition to the registry Anti-Abuse Policy. Generally, registrars can act if the registrant violates the registrar's terms of service, or violates ICANN policy, or if illegal activity is involved, or if the use violates the registry's Anti-Abuse Policy.

If a registrar does not take action within a time period indicated by the registry operator (usually 24 hours), the registry operator might then decide to take action itself. At all times, the registry operator reserves the right to act directly and immediately if the potential harm to Internet users seems significant or imminent, with or without notice to the sponsoring registrar.

The registry operator will be prepared to call upon relevant law enforcement bodies as needed. There are certain cases, for example, Illegal pharmacy domains, where the registry operator will contact the Law Enforcement Agencies to share information about these domains, provide all the evidence collected and work closely with them before any action will be taken for suspension. The specific action is often dependent upon the jurisdiction of which the registry operator, although the operator in all cases will adhere to applicable laws and regulations.

When valid court orders or seizure warrants are received from courts or law enforcement agencies of relevant jurisdiction, the registry operator will order execution in an expedited fashion. Compliance with these will be a top priority and will be completed as soon as possible and within the defined timelines of the order. There are certain cases where Law Enforcement Agencies request information about a domain including but not limited to:
• Registration information
• History of a domain, including recent updates made
• Other domains associated with a registrant's account
• Patterns of registrant portfolio

Requests for such information is handled on a priority basis and sent back to the requestor as soon as possible. Afilias sets a goal to respond to such requests within 24 hours.

The registry operator may also engage in proactive screening of its zone for malicious use of the domains in the TLD, and report problems to the sponsoring registrars. The registry operator could take advantage of a combination of the following resources, among others:
• Blocklists of domain names and nameservers published by organizations such as SURBL and Spamhaus.
• Anti-phishing feeds, which will provide URLs of compromised and maliciously registered domains being used for phishing.
• Analysis of registration or DNS query data [DNS query data received by the TLD nameservers.]

The registry operator will keep records and track metrics regarding abuse and abuse reports. These will include:
• Number of abuse reports received by the registry's abuse point of contact described above;
• Number of cases and domains referred to registrars for resolution;
• Number of cases and domains where the registry took direct action;
• Resolution times;
• Number of domains in the TLD that have been blacklisted by major anti-spam blocklist providers, and;
• Phishing site uptimes in the TLD.

Removal of orphan glue records

By definition, orphan glue records used to be glue records. Glue records are related to delegations and are necessary to guide iterative resolvers to delegated nameservers. A glue record becomes an orphan when its parent nameserver record is removed without also removing the corresponding glue record. (Please reference the ICANN SSAC paper SAC048 at: http:⁄⁄www.icann.org⁄en⁄committees⁄security⁄sac048.pdf.) Orphan glue records may be created when a domain (example.tld) is placed on EPP ServerHold or ClientHold status. When placed on Hold, the domain is removed from the zone and will stop resolving. However, any child

nameservers (now orphan glue) of that domain (e.g., ns1.example.tld) are left in the zone. It is important to keep these orphan glue records in the zone so that any innocent sites using that nameserver will continue to resolve. This use of Hold status is an essential tool for suspending malicious domains.

Afilias observes the following procedures, which are being followed by other registries and are generally accepted as DNS best practices. These procedures are also in keeping with ICANN SSAC recommendations.

When a request to delete a domain is received from a registrar, the registry first checks for the existence of glue records. If glue records exist, the registry will check to see if other domains in the registry are using the glue records. If other domains in the registry are using the glue records then the request to delete the domain will fail until no other domains are using the glue records. If no other domains in the registry are using the glue records then the glue records will be removed before the request to delete the domain is satisfied. If no glue records exist then the request to delete the domain will be satisfied.

If a registrar cannot delete a domain because of the existence of glue records that are being used by other domains, then the registrar may refer to the zone file or the "weekly domain hosted by nameserver report" to find out which domains are using the nameserver in question and attempt to contact the corresponding registrar to request that they stop using the nameserver in the glue record. The registry operator does not plan on performing mass updates of the associated DNS records.

The registry operator will accept, evaluate, and respond appropriately to complaints that orphan glue is being used maliciously. Such reports should be made in writing to the registry operator, and may be submitted to the registry's abuse point-of-contact. If it is confirmed that an orphan glue record is being used in connection with malicious conduct, the registry operator will have the orphan glue record removed from the zone file. Afilias has the technical ability to execute such requests as needed.

Methods to promote WHOIS accuracy

The creation and maintenance of accurate WHOIS records is an important part of registry management. As described in our response to question #26, WHOIS, the registry operator will manage a secure, robust and searchable WHOIS service for this TLD.

        WHOIS data accuracy
The registry operator will offer a "thick" registry system. In this model, all key contact details for each domain name will be stored in a central location by the registry. This allows better access to domain data, and provides uniformity in storing the information. The registry operator will ensure that the required fields for WHOIS data (as per the defined policies for the TLD) are enforced at the registry level. This ensures that the registrars are providing required domain registration data. Fields defined by the registry policy to be mandatory are documented as such and must be submitted by registrars. The Afilias registry system verifies formats for relevant individual data fields (e.g. e-mail, and phone∕fax numbers). Only valid country codes are allowed as defined by the ISO 3166 code list. The Afilias WHOIS system is extensible, and is capable of using the VAULT system, described further below.

Similar to the centralized abuse point of contact described above, the registry operator can institute a contact email address which could be utilized by third parties to submit complaints for inaccurate or false WHOIS data detected. This information will be processed by Afilias' support department and forwarded to the registrars. The registrars can work with the registrants of those domains to address these complaints. Afilias will audit registrars on a yearly basis to verify whether the complaints being forwarded are being addressed or not. This functionality, available to all registry operators, is activated based on the registry operator's business policy.

Afilias also incorporates a spot-check verification system where a randomly selected set of domain names are checked periodically for accuracy of WHOIS data. Afilias' .PRO registry system incorporates such a verification system whereby 1% of total registrations or 100 domains, whichever number is larger, are spot-checked every month to verify the domain name

registrant's critical information provided with the domain registration data. With both a highly qualified corps of engineers and a 24x7 staffed support function, Afilias has the capacity to integrate such spot-check functionality into this TLD, based on the registry operator's business policy. Note: This functionality will not work for proxy protected WHOIS information, where registrars or their resellers have the actual registrant data. The solution to that problem lies with either registry or registrar policy, or a change in the general marketplace practices with respect to proxy registrations.

Finally, Afilias' registry systems have a sophisticated set of billing and pricing functionality which aids registry operators who decide to provide a set of financial incentives to registrars for maintaining or improving WHOIS accuracy. For instance, it is conceivable that the registry operator may decide to provide a discount for the domain registration or renewal fees for validated registrants, or levy a larger cost for the domain registration or renewal of proxy domain names. The Afilias system has the capability to support such incentives on a configurable basis, towards the goal of promoting better WHOIS accuracy.

Role of registrars

As part of the RRA (Registry Registrar Agreement), the registry operator will require the registrar to be responsible for ensuring the input of accurate WHOIS data by their registrants. The Registrar∕Registered Name Holder Agreement will include a specific clause to ensure accuracy of WHOIS data, and to give the registrar rights to cancel or suspend registrations if the Registered Name Holder fails to respond to the registrar's query regarding accuracy of data. ICANN's WHOIS Data Problem Reporting System (WDPRS) will be available to those who wish to file WHOIS inaccuracy reports, as per ICANN policy (http:∕∕wdprs.internic.net∕).

Controls to ensure proper access to domain functions

Several measures are in place in the Afilias registry system to ensure proper access to domain functions, including authentication provisions in the RRA relative to notification and contact updates via use of AUTH-INFO codes.

IP address access control lists, TLS∕SSL certificates and proper authentication are used to control access to the registry system. Registrars are only given access to perform operations on the objects they sponsor.

Every domain will have a unique AUTH-INFO code. The AUTH-INFO code is a 6- to 16-character code assigned by the registrar at the time the name is created. Its purpose is to aid identification of the domain owner so proper authority can be established. It is the "password" to the domain name. Registrars must use the domain's password in order to initiate a registrar-to-registrar transfer. It is used to ensure that domain updates (update contact information, transfer, or deletion) are undertaken by the proper registrant, and that this registrant is adequately notified of domain update activity. Only the sponsoring registrar of a domain has access to the domain's AUTH-INFO code stored in the registry, and this is accessible only via encrypted, password-protected channels.

Information about other registry security measures such as encryption and security of registrar channels are confidential to ensure the security of the registry system. The details can be found in the response to question #30b.

Validation and abuse mitigation mechanisms

Afilias has developed advanced validation and abuse mitigation mechanisms. These capabilities and mechanisms are described below. These services and capabilities are discretionary and may be utilized by the registry operator based on their policy and business need.

Afilias has the ability to analyze the registration data for known patterns at the time of registration. A database of these known patterns is developed from domains and other associated objects (e.g., contact information) which have been previously detected and suspended after being flagged as abusive. Any domains matching the defined criteria can be

flagged for investigation. Once analyzed and confirmed by the domain anti-abuse team members, these domains may be suspended. This provides proactive detection of abusive domains.

Provisions are available to enable the registry operator to only allow registrations by pre-authorized and verified contacts. These verified contacts are given a unique code that can be used for registration of new domains.

Registrant pre-verification and authentication

One of the systems that could be used for validity and identity authentication is VAULT (Validation and Authentication Universal Lookup). It utilizes information obtained from a series of trusted data sources with access to billions of records containing data about individuals for the purpose of providing independent age and id verification as well as the ability to incorporate additional public or private data sources as required. At present it has the following: US Residential Coverage - 90% of Adult Population and also International Coverage - Varies from Country to Country with a minimum of 80% coverage (24 countries, mostly European).

Various verification elements can be used. Examples might include applicant data such as name, address, phone, etc. Multiple methods could be used for verification include integrated solutions utilizing API (XML Application Programming Interface) or sending batches of requests.

• Verification and Authentication requirements would be based on TLD operator requirements or specific criteria.
• Based on required WHOIS Data; registrant contact details (name, address, phone)
• If address∕ZIP can be validated by VAULT, the validation process can continue (North America +25 International countries)
• If in-line processing and registration and EPP∕API call would go to the verification clearinghouse and return up to 4 challenge questions.
• If two-step registration is required, then registrants would get a link to complete the verification at a separate time. The link could be specific to a domain registration and pre-populated with data about the registrant.
• If WHOIS data is validated a token would be generated and could be given back to the registrar which registered the domain.
• WHOIS data would reflect the Validated Data or some subset, i.e., fields displayed could be first initial and last name, country of registrant and date validated. Other fields could be generic validation fields much like a "privacy service".
• A "Validation Icon" customized script would be sent to the registrants email address. This could be displayed on the website and would be dynamically generated to avoid unauthorized use of the Icon. When clicked on the Icon would show limited WHOIS details i.e. Registrant: jdoe, Country: USA, Date Validated: March 29, 2011, as well as legal disclaimers.
• Validation would be annually renewed, and validation date displayed in the WHOIS.

Abuse prevention resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way. Abuse prevention and detection is a function that is staffed across the various groups inside Afilias, and requires a team effort when abuse is either well hidden or widespread, or both. While all of Afilias' 200+ employees are charged with responsibility to report any detected abuse, the engineering and analysis teams, numbering over 30, provide specific support based on the type of abuse and volume and frequency of analysis required. The Afilias security and support teams have the authority to initiate mitigation.

Afilias has developed advanced validation and abuse mitigation mechanisms. These capabilities and mechanisms are described below. These services and capabilities are discretionary and may be utilized by the registry operator based on their policy and business need.

This TLD's anticipated volume of registrations in the first three years of operations is listed in response #46. Afilias and the registry operator's anti-abuse function anticipates the expected volume and type of registrations, and together will adequately cover the staffing needs for this TLD. The registry operator will maintain an abuse response team, which may be a combination of internal staff and outside specialty contractors, adjusting to the needs of the size and type of TLD. The team structure planned for this TLD is based on several years of experience responding to, mitigating, and managing abuse for TLDs of various sizes. The team will generally consist of abuse handlers (probably internal), a junior analyst, (either internal or external), and a senior security consultant (likely an external resource providing the registry operator with extra expertise as needed). These responders will be specially trained in the investigation of abuse complaints, and will have the latitude to act expeditiously to suspend domain names (or apply other remedies) when called for.

The exact resources required to maintain an abuse response team must change with the size and registration procedures of the TLD. An initial abuse handler is necessary as a point of contact for reports, even if a part-time responsibility. The abuse handlers monitor the abuse email address for complaints and evaluate incoming reports from a variety of sources. A large percentage of abuse reports to the registry operator may be unsolicited commercial email. The designated abuse handlers can identify legitimate reports and then decide what action is appropriate, either to act upon them, escalate to a security analyst for closer investigation, or refer them to registrars as per the above-described procedures. A TLD with rare cases of abuse would conform to this structure.

If multiple cases of abuse within the same week occur regularly, the registry operator will consider staffing internally a security analyst to investigate the complaints as they become more frequent. Training an abuse analyst requires 3-6 months and likely requires the active guidance of an experienced senior security analyst for guidance and verification of assessments and recommendations being made.

If this TLD were to regularly experience multiple cases of abuse within the same day, a full-time senior security analyst would likely be necessary. A senior security analyst capable of fulfilling this role should have several years of experience and able to manage and train the internal abuse response team.

The abuse response team will also maintain subscriptions for several security information services, including the blocklists from organizations like SURBL and Spamhaus and anti-phishing and other domain related abuse (malware, fast-flux etc.) feeds. The pricing structure of these services may depend on the size of the domain and some services will include a number of rapid suspension requests for use as needed.

For a large TLD, regular audits of the registry data are required to maintain control over abusive registrations. When a registrar with a significant number of registrations has been compromised or acted maliciously, the registry operator may need to analyze a set of registration or DNS query data. A scan of all the domains of a registrar is conducted only as needed. Scanning and analysis for a large registrar may require as much as a week of full-time effort for a dedicated machine and team.

29. Rights Protection Mechanisms

Rights protection is a core responsibility of the TLD operator, and is supported by a fully-developed plan for rights protection that includes:
• Establishing mechanisms to prevent unqualified registrations (e.g., registrations made in violation of the registry's eligibility restrictions or policies);
• Implementing a robust Sunrise program, utilizing the Trademark Clearinghouse, the services of one of ICANN's approved dispute resolution providers, a trademark validation agent, and drawing upon sunrise policies and rules used successfully in previous gTLD launches;

• Implementing a professional trademark claims program that utilizes the Trademark Clearinghouse, and drawing upon models of similar programs used successfully in previous TLD launches;
• Complying with the URS requirements;
• Complying with the UDRP;
• Complying with the PDDRP, and;
• Including all ICANN-mandated and independently developed rights protection mechanisms ("RPMs") in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD.

The response below details the rights protection mechanisms at the launch of the TLD (Sunrise and Trademark Claims Service) which comply with rights protection policies (URS, UDRP, PDDRP, and other ICANN RPMs), outlines additional provisions made for rights protection, and provides the resourcing plans.

Safeguards for rights protection at the launch of the TLD

The launch of this TLD will include the operation of a trademark claims service according to the defined ICANN processes for checking a registration request and alerting trademark holders of potential rights infringement.

The Sunrise Period will be an exclusive period of time, prior to the opening of public registration, when trademark and service mark holders will be able to reserve marks that are an identical match in the .WEB domain. Following the Sunrise Period, Schlund Technologies GmbH will open registration to qualified applicants.

The anticipated Rollout Schedule for the Sunrise Period will be approximately as follows:
•   Launch of the TLD – Sunrise Period begins for trademark holders and service mark holders to submit registrations for their exact marks in the .WEB domain.
•   Quiet Period – The Sunrise Period will close and will be followed by a Quiet Period for testing and evaluation.
•   One month after close of Quiet Period – Registration in the .WEB domain will be opened to qualified applicants.

Sunrise Period Requirements & Restrictions

Those wishing to reserve their marks in the .WEB domain during the Sunrise Period must own a current trademark or service mark listed in the Trademark Clearinghouse.

Notice will be provided to all trademark holders in the Clearinghouse if someone is seeking a Sunrise registration. This notice will be provided to holders of marks in the Clearinghouse that are an Identical Match (as defined in the Trademark Clearing House) to the name to be registered during Sunrise.

Each Sunrise registration will require a minimum term, to be determined at a later date.

Schlund Technologies GmbH will establish the following Sunrise eligibility requirements (SERs) as minimum requirements, verified by Clearinghouse data, and incorporate a Sunrise Dispute Resolution Policy (SDRP). The SERs include: (i) ownership of a mark that satisfies the criteria set forth in section 7.2 of the Trademark Clearing House specifications, (ii) description of international class of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.

The SDRP will allow challenges based on the following four grounds: (i) at time the challenged domain name was registered, the registrants did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration

on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

Ongoing rights protection mechanisms

Several mechanisms will be in place to protect rights in this TLD. As described in our responses to questions #27 and #28, measures are in place to ensure domain transfers and updates are only initiated by the appropriate domain holder, and an experienced team is available to respond to legal actions by law enforcement or court orders.

This TLD will conform to all ICANN RPMs including URS (defined below), UDRP, PDDRP, and all measures defined in Specification 7 of the new TLD agreement.

        Uniform Rapid Suspension (URS)
Schlund Technologies GmbH will implement decisions rendered under the URS on an ongoing basis. Per the URS policy posted on ICANN's Web site as of this writing, the registry operator will receive notice of URS actions from the ICANN-approved URS providers. These emails will be directed immediately to the registry operator's support staff, which is on duty 24x7. The support staff will be responsible for creating a ticket for each case, and for executing the directives from the URS provider. All support staff will receive pertinent training.

As per ICANN's URS guidelines, within 24 hours of receipt of the notice of complaint from the URS provider, the registry operator shall "lock" the domain, meaning the registry shall restrict all changes to the registration data, including transfer and deletion of the domain names, but the name will remain in the TLD DNS zone file and will thus continue to resolve. The support staff will "lock" the domain by associating the following EPP statuses with the domain and relevant contact objects:
• ServerUpdateProhibited, with an EPP reason code of "URS"
• ServerDeleteProhibited, with an EPP reason code of "URS"
• ServerTransferProhibited, with an EPP reason code of "URS"
• The registry operator's support staff will then notify the URS provider immediately upon locking the domain name, via email.

The registry operator's support staff will retain all copies of emails from the URS providers, assign them a tracking or ticket number, and will track the status of each opened URS case through to resolution via spreadsheet or database.

The registry operator's support staff will execute further operations upon notice from the URS providers. The URS provider is required to specify the remedy and required actions of the registry operator, with notification to the registrant, the complainant, and the registrar.

As per the URS guidelines, if the complainant prevails, the registry operator shall suspend the domain name, which shall remain suspended for the balance of the registration period and would not resolve to the original web site. The nameservers shall be redirected to an informational web page provided by the URS provider about the URS. The WHOIS for the domain name shall continue to display all of the information of the original registrant except for the redirection of the nameservers. In addition, the WHOIS shall reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration."

        Rights protection via the RRA
The following will be memorialized and be made binding via the Registry-Registrar and Registrar-Registrant Agreements:

• The registry may reject a registration request or a reservation request, or may delete, revoke, suspend, cancel, or transfer a registration or reservation under the following criteria:
a. to enforce registry policies and ICANN requirements; each as amended from time to time;
b. that is not accompanied by complete and accurate information as required by ICANN requirements and⁄or registry policies or where required information is not updated and⁄or corrected as required by ICANN requirements and⁄or registry policies;
c. to protect the integrity and stability of the registry, its operations, and the TLD system;

d. to comply with any applicable law, regulation, holding, order, or decision issued by a court, administrative authority, or dispute resolution service provider with jurisdiction over the registry;

e. to establish, assert, or defend the legal rights of the registry or a third party or to avoid any civil or criminal liability on the part of the registry and∕or its affiliates, subsidiaries, officers, directors, representatives, employees, contractors, and stockholders;

f. to correct mistakes made by the registry or any accredited registrar in connection with a registration; or

g. as otherwise provided in the Registry-Registrar Agreement and∕or the Registrar-Registrant Agreement.

Reducing opportunities for behaviors such as phishing or pharming

In our response to question #28, Schlund Technologies GmbH has described its anti-abuse program. Rather than repeating the policies and procedures here, please see our response to question #28 for full details.

In the case of this TLD, Schlund Technologies GmbH will apply an approach that addresses registered domain names (rather than potentially registered domains). This approach will not infringe upon the rights of eligible registrants to register domains, and allows Schlund Technologies GmbH internal controls, as well as community-developed UDRP and URS policies and procedures if needed, to deal with complaints, should there be any.

Afilias is a member of various security fora which provide access to lists of names in each TLD which may be used for malicious purposes. Such identified names will be subject to the TLD anti-abuse policy, including rapid suspensions after due process.

Rights protection resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

Supporting RPMs requires several departments within the registry operator as well as within Afilias. The implementation of Sunrise and the Trademark Claims service and on-going RPM activities will pull from the 102 Afilias staff members of the engineering, product management, development, security and policy teams at Afilias, which is on duty 24x7, and the support staff of the registry operator. A trademark validator will also be assigned within the registry operator, whose responsibilities may require as much as 50% of full-time employment if the domains under management were to exceed several million. No additional hardware or software resources are required to support this as Afilias has fully-operational capabilities to manage abuse today.

30(a). Security Policy: Summary of the security policy for the proposed registry

The answer to question #30a is provided by Afilias, the back-end provider of registry services for this TLD.

Afilias aggressively and actively protects the registry system from known threats and vulnerabilities, and has deployed an extensive set of security protocols, policies and procedures to thwart compromise. Afilias' robust and detailed plans are continually updated and tested to ensure new threats are mitigated prior to becoming issues. Afilias will continue

these rigorous security measures, which include:
• Multiple layers of security and access controls throughout registry and support systems;
• 24x7 monitoring of all registry and DNS systems, support systems and facilities;
• Unique, proven registry design that ensures data integrity by granting only authorized access to the registry system, all while meeting performance requirements;
• Detailed incident and problem management processes for rapid review, communications, and problem resolution, and;
• Yearly external audits by independent, industry-leading firms, as well as twice-yearly internal audits.

Security policies and protocols

Afilias has included security in every element of its service, including facilities, hardware, equipment, connectivity∕Internet services, systems, computer systems, organizational security, outage prevention, monitoring, disaster mitigation, and escrow∕insurance, from the original design, through development, and finally as part of production deployment. Examples of threats and the confidential and proprietary mitigation procedures are detailed in our response to question #30(b).

There are several important aspects of the security policies and procedures to note:
• Afilias hosts domains in data centers around the world that meet or exceed global best practices.
• Afilias' DNS infrastructure is massively provisioned as part of its DDoS mitigation strategy, thus ensuring sufficient capacity and redundancy to support new gTLDs.
• Diversity is an integral part of all of our software and hardware stability and robustness plan, thus avoiding any single points of failure in our infrastructure.
• Access to any element of our service (applications, infrastructure and data) is only provided on an as-needed basis to employees and a limited set of others to fulfill their job functions. The principle of least privilege is applied.
• All registry components – critical and non-critical – are monitored 24x7 by staff at our NOCs, and the technical staff has detailed plans and procedures that have stood the test of time for addressing even the smallest anomaly. Well-documented incident management procedures are in place to quickly involve the on-call technical and management staff members to address any issues.

Afilias follows the guidelines from the ISO 27001 Information Security Standard (Reference: http:∕∕www.iso.org∕iso∕iso_catalogue∕catalogue_tc∕catalogue_detail.htm?csnumber=42103) for the management and implementation of its Information Security Management System. Afilias also utilizes the COBIT IT governance framework to facilitate policy development and enable controls for appropriate management of risk (Reference: http:∕∕www.isaca.org∕cobit). Best practices defined in ISO 27002 are followed for defining the security controls within the organization. Afilias continually looks to improve the efficiency and effectiveness of our processes, and follows industry best practices as defined by the IT Infrastructure Library, or ITIL (Reference: http:∕∕www.itil-officialsite.com∕).

The Afilias registry system is located within secure data centers that implement a multitude of security measures both to minimize any potential points of vulnerability and to limit any damage should there be a breach. The characteristics of these data centers are described fully in our response to question #30(b).

The Afilias registry system employs a number of multi-layered measures to prevent unauthorized access to its network and internal systems. Before reaching the registry network, all traffic is required to pass through a firewall system. Packets passing to and from the Internet are inspected, and unauthorized or unexpected attempts to connect to the registry servers are both logged and denied. Management processes are in place to ensure each request is tracked and documented, and regular firewall audits are performed to ensure proper operation. 24x7 monitoring is in place and, if potential malicious activity is detected, appropriate personnel are notified immediately.

Afilias employs a set of security procedures to ensure maximum security on each of its servers, including disabling all unnecessary services and processes and regular application of security-related patches to the operating system and critical system applications. Regular

external vulnerability scans are performed to verify that only services intended to be available are accessible.

Regular detailed audits of the server configuration are performed to verify that the configurations comply with current best security practices. Passwords and other access means are changed on a regular schedule and are revoked whenever a staff member's employment is terminated.

Access to registry system
Access to all production systems and software is strictly limited to authorized operations staff members. Access to technical support and network operations teams where necessary are read only and limited only to components required to help troubleshoot customer issues and perform routine checks. Strict change control procedures are in place and are followed each time a change is required to the production hardware∕application. User rights are kept to a minimum at all times. In the event of a staff member's employment termination, all access is removed immediately.

Afilias applications use encrypted network communications. Access to the registry server is controlled. Afilias allows access to an authorized registrar only if each of the authentication factors matches the specific requirements of the requested authorization. These mechanisms are also used to secure any web-based tools that allow authorized registrars to access the registry. Additionally, all write transactions in the registry (whether conducted by authorized registrars or the registry's own personnel) are logged.

EPP connections are encrypted using TLS∕SSL, and mutually authenticated using both certificate checks and login∕password combinations. Web connections are encrypted using TLS∕SSL for an encrypted tunnel to the browser, and authenticated to the EPP server using login∕password combinations.

All systems are monitored for security breaches from within the data center and without, using both system-based and network-based testing tools. Operations staff also monitor systems for security-related performance anomalies. Triple-redundant continual monitoring ensures multiple detection paths for any potential incident or problem. Details are provided in our response to questions #30(b) and #42. Network Operations and Security Operations teams perform regular audits in search of any potential vulnerability.

To ensure that registrar hosts configured erroneously or maliciously cannot deny service to other registrars, Afilias uses traffic shaping technologies to prevent attacks from any single registrar account, IP address, or subnet. This additional layer of security reduces the likelihood of performance degradation for all registrars, even in the case of a security compromise at a subset of registrars.

There is a clear accountability policy that defines what behaviors are acceptable and unacceptable on the part of non-staff users, staff users, and management. Periodic audits of policies and procedures are performed to ensure that any weaknesses are discovered and addressed. Aggressive escalation procedures and well-defined Incident Response management procedures ensure that decision makers are involved at early stages of any event.

In short, security is a consideration in every aspect of business at Afilias, and this is evidenced in a track record of a decade of secure, stable and reliable service.

Independent assessment

Supporting operational excellence as an example of security practices, Afilias performs a number of internal and external security audits each year of the existing policies, procedures and practices for:
• Access control;
• Security policies;
• Production change control;
• Backups and restores;
• Batch monitoring;
• Intrusion detection, and

• Physical security.

Afilias has an annual Type 2 SSAE 16 audit performed by PricewaterhouseCoopers (PwC). Further, PwC performs testing of the general information technology controls in support of the financial statement audit. A Type 2 report opinion under SSAE 16 covers whether the controls were properly designed, were in place, and operating effectively during the audit period (calendar year). This SSAE 16 audit includes testing of internal controls relevant to Afilias' domain registry system and processes. The report includes testing of key controls related to the following control objectives:
• Controls provide reasonable assurance that registrar account balances and changes to the registrar account balances are authorized, complete, accurate and timely.
• Controls provide reasonable assurance that billable transactions are recorded in the Shared Registry System (SRS) in a complete, accurate and timely manner.
• Controls provide reasonable assurance that revenue is systemically calculated by the Deferred Revenue System (DRS) in a complete, accurate and timely manner.
• Controls provide reasonable assurance that the summary and detail reports, invoices, statements, registrar and registry billing data files, and ICANN transactional reports provided to registry operator(s) are complete, accurate and timely.
• Controls provide reasonable assurance that new applications and changes to existing applications are authorized, tested, approved, properly implemented and documented.
• Controls provide reasonable assurance that changes to existing system software and implementation of new system software are authorized, tested, approved, properly implemented and documented.
• Controls provide reasonable assurance that physical access to data centers is restricted to properly authorized individuals.
• Controls provide reasonable assurance that logical access to system resources is restricted to properly authorized individuals.
• Controls provide reasonable assurance that processing and backups are appropriately authorized and scheduled and that deviations from scheduled processing and backups are identified and resolved.

The last Type 2 report issued was for the year 2010, and it was unqualified, i.e., all systems were evaluated with no material problems found.

During each year, Afilias monitors the key controls related to the SSAE controls. Changes or additions to the control objectives or activities can result due to deployment of new services, software enhancements, infrastructure changes or process enhancements. These are noted and after internal review and approval, adjustments are made for the next review.

In addition to the PricewaterhouseCoopers engagement, Afilias performs internal security audits twice a year. These assessments are constantly being expanded based on risk assessments and changes in business or technology.

Additionally, Afilias engages an independent third-party security organization, PivotPoint Security, to perform external vulnerability assessments and penetration tests on the sites hosting and managing the Registry infrastructure. These assessments are performed with major infrastructure changes, release of new services or major software enhancements. These independent assessments are performed at least annually. A report from a recent assessment is attached with our response to question #30(b).

Afilias has engaged with security companies specializing in application and web security testing to ensure the security of web-based applications offered by Afilias, such as the Web Admin Tool (WAT) for registrars and registry operators.

Finally, Afilias has engaged IBM's Security services division to perform ISO 27002 gap assessment studies so as to review alignment of Afilias' procedures and policies with the ISO 27002 standard. Afilias has since made adjustments to its security procedures and policies based on the recommendations by IBM.

Special TLD considerations

Afilias' rigorous security practices are regularly reviewed; if there is a need to alter or

augment procedures for this TLD, they will be done so in a planned and deliberate manner.

Commitments to registrant protection

With over a decade of experience protecting domain registration data, Afilias understands registrant security concerns. Afilias supports a "thick" registry system in which data for all objects are stored in the registry database that is the centralized authoritative source of information. As an active member of IETF (Internet Engineering Task Force), ICANN's SSAC (Security & Stability Advisory Committee), APWG (Anti-Phishing Working Group), MAAWG (Messaging Anti-Abuse Working Group), USENIX, and ISACA (Information Systems Audits and Controls Association), the Afilias team is highly attuned to the potential threats and leading tools and procedures for mitigating threats. As such, registrants should be confident that:
• Any confidential information stored within the registry will remain confidential;
• The interaction between their registrar and Afilias is secure;
• The Afilias DNS system will be reliable and accessible from any location;
• The registry system will abide by all polices, including those that address registrant data;
• Afilias will not introduce any features or implement technologies that compromise access to the registry system or that compromise registrant security.

Afilias has directly contributed to the development of the documents listed below and we have implemented them where appropriate. All of these have helped improve registrants' ability to protect their domains name(s) during the domain name lifecycle.
• [SAC049]: SSAC Report on DNS Zone Risk Assessment and Management (03 June 2011)
• [SAC044]: A Registrant's Guide to Protecting Domain Name Registration Accounts (05 November 2010)
• [SAC040]: Measures to Protect Domain Registration Services Against Exploitation or Misuse (19 August 2009)
• [SAC028]: SSAC Advisory on Registrar Impersonation Phishing Attacks (26 May 2008)
• [SAC024]: Report on Domain Name Front Running (February 2008)
• [SAC022]: Domain Name Front Running (SAC022, SAC024) (20 October 2007)
• [SAC011]: Problems caused by the non-renewal of a domain name associated with a DNS Name Server (7 July 2006)
• [SAC010]: Renewal Considerations for Domain Name Registrants (29 June 2006)
• [SAC007]: Domain Name Hijacking Report (SAC007) (12 July 2005)

To protect any unauthorized modification of registrant data, Afilias mandates TLS∕SSL transport (per RFC 5246) and authentication methodologies for access to the registry applications. Authorized registrars are required to supply a list of specific individuals (five to ten people) who are authorized to contact the registry. Each such individual is assigned a pass phrase. Any support requests made by an authorized registrar to registry customer service are authenticated by registry customer service. All failed authentications are logged and reviewed regularly for potential malicious activity. This prevents unauthorized changes or access to registrant data by individuals posing to be registrars or their authorized contacts.

These items reflect an understanding of the importance of balancing data privacy and access for registrants, both individually and as a collective, worldwide user base.

The Afilias 24∕7 Customer Service Center consists of highly trained staff who collectively are proficient in 15 languages, and who are capable of responding to queries from registrants whose domain name security has been compromised – for example, a victim of domain name hijacking. Afilias provides specialized registrant assistance guides, including specific hand-holding and follow-through in these kinds of commonly occurring circumstances, which can be highly distressing to registrants

Security resourcing plans

Please refer to our response to question #30b for security resourcing plans.

EXHIBIT C-129

Assignment: Change of Control of Registry Operator

This page is available in:

English |
العربية (http://www.icann.org/resources/pages/change-of-control-2016-01-29-ar) |
Español (http://www.icann.org/resources/pages/change-of-control-2016-01-29 es) |
Français (http://www.icann.org/resources/pages/change-of-control-2016-01-29 fr) |
日本語 (http://www.icann.org/resources/pages/change-of-control-2016-10-03-ja) |
Português (http://www.icann.org/resources/pages/change-of-control-2016-01-29-pt) |
Русский (http://www.icann.org/resources/pages/change-of-control-2016-01-29-ru) |
中文 (http //www icann org/resources/pages/change of control 2016 01 29 zh)

> Please note that the English language version of all translated content and documents are the official versions and that translations in other languages are for informational purposes only.

A direct or indirect change of control of a Registry Operator is one type of assignment identified in the Registry Agreement and will be referred to as a "Change of Control" assignment Additional information regarding Change of Control assignments (also known as and referred to on icann.org as a Registry Transition Process with Proposed Successor) can be found on the Registry Transition Process webpage (/resources/pages/transition-processes-2013 04 22 en)

- View list of completed Direct Changes of Control (/resources/pages/registry agreement assignment direct changes of control-2017-01-27-en)

If a Registry Operator is contemplating both a Change of Control AND a Material Subcontracting Arrangement, the Registry Operator should begin working with ICANN (Internet Corporation for Assigned Names and Numbers)

early on, and <u>prior</u> to completing their transaction. Note, only the currently contracted Registry Operator may formally request a Change of Control of Registry Operator. However, both the existing and proposed Registry Operators are strongly encouraged to work collaboratively with ICA N (Internet Corporation for Assigned Names and Numbers) to process the assignments.

- <u>Download How-to-Guide for Submitting an Assignment: Change of Control (/en/system/files/files/change-of-control-guide-13dec17-en.pdf)</u> [PDF, 605 KB]

- <u>Download Contact Information document (/en/system/files/files/contact-info-assignment-change-control-11oct17-en.pdf)</u> [PDF, 602 KB]

Note that when evaluating a Change of Control assignment, ICANN (Internet Corporation for Assigned Names and Numbers) may refer the proposed Registry Operator to external evaluation panels to conduct an independent review and analysis. If ICANN (Internet Corporation for Assigned Names and Numbers) determines that an external evaluation is required, the Registry Operator would be expected to cooperate with any request for information made by the panel. Registry Operator would be responsible for fees incurred.

<u>View Assignments main page (/resources/assignments)</u>

*Workflow for Indirect Change of Control coming Fall 2017

DIRECT CHANGE OF CONTROL

Affiliated Assignee
[Subject to RA Section 7.5(f)(iii)]

Documentation Required:
1) Proof of Affiliated Assignee relationship
2) Assignment and Assumption Agreement
3) Proof of establishment of Assignee if established less than a year

Existing Registry Operator
[Subject to RA Section 7.5(f)(iv)]

New Registry Operator

New Registry Operator may be subject to background checks and financial review among other reviews.

If Registry Operator provides satisfactory proof of Affiliated Assignee relationship, ICANN provides acknowledgement of assignment.

Registry Operator should have an updated Continued Operations Instrument and Data Escrow Agent agreement in accordance with the Registry Agreement.

Registry Operator provides documentation required for ICANN to process the assignment request, including the following:
1) Sufficient Continued Operations Instrument (COI), of form and substance agreeable to ICANN
2) Data Escrow Agent agreement (required at the time of and after delegation)
3) Assignment and Assumption Agreement, of form and substance agreeable to ICANN

Documents provided pass evaluations.

ICANN provides consent.

Documents provided do not pass evaluations.

ICANN withholds consent or objects to assignment.

In certain circumstances, ICANN may provide conditional consent.

Registry Operator may work with ICANN to update documentation, if Registry Operator chooses to continue to pursue its request for an assignment.

In the case that ICANN withholds consent, the Registry Operator may submit a new assignment request.

Version 1.1 – August 2017

(/sites/default/files/assets/registry-change-of-control-7650x9900-21aug17-en.png)

Previous Version(s) of Workflow

Version 1.0 – November 2015 (/sites/default/files/assets/registry-change-of-control-1880x2450-30nov15-en.png)

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EXHIBIT C-130

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INSIDE THE HIGH STAKES AUCTION FOR .WEB

Home / Industry Insights & News / Inside the High Stakes Auction for .Web

JULY 25, 2016   BY **DEREK VAUGHAN**

Inside the High Stakes Auction for .Web

Some very deep-pocketed internet giants are facing off on July 27, 2016 for a high stakes game of poker. The pot isn't cash but the rights to sell the coveted .web top level domain (TLD) extension to eager website owners, domain speculators, online entrepreneurs, developers, designers and digital ad agencies. Google, Web.com, United Internet and Afilias are among the seven competing entities who will bid in real time on July 27 via an online auction conducted by the non-profit organization ICANN (Internet Corporation for Assigned Names and Number) to confer the rights to sell .web.

The auction

If you have a ton of time on your hands and want to brush up on the legal details of how the auction process works you can read all about it here. For those who aren't lawyers here's a tl;dr version of how it works.

Step 1 – Become eligible for participating in the auction. The criteria are basically you must have an extra large sum of American dollars (auctions are all conducted in American dollars regardless of the top level domain) and be in good standing with ICANN.

Step 2 – Login to the auction interface on the day of the auction to bid. The larger your deposit is, the higher you can bid. A deposit of $2 million gives you an unlimited bidding potential. The bids are made through a series of "rounds" where the floor and ceiling of that round are specified. If all bidders meet the ceiling of the round then a new round is started after a short break with the floor being set at the ceiling of the previous round. The rounds continue at higher and higher floors until there is only one bidder remaining. That bidder pays the second place bidder's highest bid.

Big money bids and big money profits

So exactly what would the rights to sell the .web TLD be worth and what might the winning bid be? Consider that on Jan. 27, 2016 a number of large firms including Amazon, were bidding via an ICANN auction for the rights to the .shop TLD. After 14 rounds of bidding GMO Registry, Inc. won the rights with a winning bid of $41,501,000. Clearly the expectation is that the revenues derived from the .shop domains would well exceed the price paid. Note also that the current champion of newly minted TLDs is .xyz which

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ha [regi tered a total of nearly 6 5 million domain](#) a of July 20, 2016 At a con ervative e timate of only a one year registration period and an average price of $10 per domain that works out to around $65 million so far Clearly the current bidder for web hope that the number of web regi tration urpa tho e of xyz making it potential worth in excess of $65 million.

So what could a winning bid look like? Using .shop as a proxy – it is certainly possible that .web could fetch a higher bid that hop ($41,501,000) but how much higher? Only the bidder know what their upper limits are. It is clear that the bidders all have substantial funds to bring to bear on the auction. Here are the recent market cap of three of the bidder who are publicly traded

Alphabet Inc Clas A (Google) $514 Billion
United Internet AG – $8 Billion
Web com $950 Million

Would Google with it ma ive war che t of ca h even blink at paying $50 million or more? Not likely In fact Google paid over $18 million just to [submit a list of TLDs](#) that it wanted to pursue before ever arriving at the final ale price

Could .Web become the new .Com

I it likely that web will be a tandout among new TLD ? Here are a few point that may indicate web i poised to gain traction relative to other recently introduced TLDs.

1. We're already used to using the term 'web' for internet-related activities. We refer to online properties as 'web ite ' or 'web page ' and the talent who create them are 'web de igner ' and 'web developer ' We u e 'web servers' and 'web browsers' and even 'web apps'. The common references make a transition to a web domain a natural activity for a ma online and mobile audience

2 Web i hort and memorable With the explo ion of new top level domain , it' literally hard to keep track of them all or their proper use. A short generic term like .web could cut through all the clutter. It's just impler to type yourcomany web than ay yourcompany company or yourcompany olution It' certainly less prone to confusion as well. Was it yourcompany.solution or yourcompany.solutions?

3. Large companies set standards. Imagine if Google won the auction and decided that every time someone earched for anything related to 'domain name ' on Google they would ugge t trying the web TLD as an alternative to .com. Standard set.

4. Dictionary names and short phrases are still available on .web. This is true of all new TLDs so it's not unique to web However, imply offering a hort, memorable and generic alternative to com could be enough if the momentum gets behind this new domain.

Stuart Melling is co-founder of [UK domain name firm 34SP.com](#) with decades of domain name experience and he offered up hi expert opinion on whether web could be the next com

"There' uch a huge array of new domain available to buyer now making it very difficult for them to really understand the selection on offer. Likewise, I've yet to see any registrar (ourselves included) deliver a domain earch tool that really nail domain di covery," he ay "It boil down to marketing might at thi point. The registries that will win are most likely going to be those that have the heftiest budgets to market and promote their domain I per onally ee com being the de facto domain for any new web ite for ome time to come. Right now, the new TLDs seem to represent a fallback, a secondary area to secure a relevant domain if the com pace i n't viable I'd imagine it would take year to unseat thi kind of approach; but then this is the web, and making predictions is really a fools game."

What other domain experts think

Mark Medina, Director of Product, Domain Names with [Dreamhost](#) has been selling domain names to web bu ine se for over 15 year Medina ha ome trong prediction for web "The winning bid for hop wa $41.5M, so I think the winning bid will definitely be north of $50M. Because there are multiple bidders, one of them being the mighty Google, I can fore ee ome pretty aggre ive bid , which I think will take the final winning bid into the $80M – $100M range."

"Everyone still want a com We've done user testing on people searching for domains, where user speak their thoughts during the test, and almost all of them say 'Where's the .com?' With that said, I can't foresee web becoming the new com, but I think it will be one of the more popular new TLDs that could overtake .net in a few years," Medina says. "The .net TLD has been losing its popularity, and I think TLDs like a .web or a xyz could become more popular than net in a few years time Com will remain number 1 but number 2 is up for the taking."

Chris Sheridan is currently Head of Channel Sales at Weebly.com and has also held senior positions at domain registrar eNom and VeriSign

Sheridan shares his take "When new TLDs first launched, the larger registrar had to dedicate themselve to just focusing on the integration of hundreds of new TLDs per quarter. I look at 2014 as a year basically focused on integrating as many of the new TLD as possible so that 2015 and 2016 could be more focused on marketing and sales. What I see today is more focus by the larger registrars on marketing the new TLDs and raising their visibility to their existing customer base Since new TLD are typically priced higher than a '.com' they give the advantage to the registrars of driving higher revenue sales and allowing them to capture more margin on each individual domain name sale as well"

He continue "I think the web TLD has big potential For starter, there is no consumer education hurdle here. I think people will just get it…so that is a major advantage. I think we will have to see how the future web registry addresse two key area pricing and marketing"

"In regards to pricing, the wholesale cost to registrar will be key to adoption by larger registrar and it inclusion in key hosting bundles managed by the larger registrars (which impacts distribution). In regards to marketing, there will need to be a big effort to raise awarene of web globally This will require the help of the larger registrars (marketing programs) but will also require the .web registry to be involved as well," Sheridan say "The manner in which the future web registry addre pricing and marketing could potentially dictate its success. The future delegation of .web to a registry provider represents the final batch of remaining new TLD to go live I think it i great to have a big TLD like web being delegated toward the end of this long new TLD rollout. It generates more media attention to the overall program and re ignite excitement around domain So that i good thing on all level"

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EXHIBIT C-131

EXHIBIT C-132

EXHIBIT C-133

C-133

Agenda | Board Governance Committee (BGC)

02 Nov 2016

1. **Approval of Minutes (18 October 2016)**

2. **Reconsideration Request 16-13: Merck KGaA (merck.pharmacy)**

3. **Discussion of Committee Slating**

4. **Discussion of Reconsideration Process Under New Bylaws**

5. **Board Member Skill Sets   Guidance to Nominating Committee**

6. **Discussion of Transparency Process for Committees**

7. **Officers and Board Members Statements of Interest Summary**

8. **Code of Conduct Annual Report**

9. **Accountability Mechanism Annual Report**

10. **Status of Pending Independent Review Process Proceedings**

11. **Any Other Business**

Published on 27 October 2016

EXHIBIT C-134

Minutes | Board Governance Committee (BGC) Meeting

02 Nov 2016

BGC Attendees: Rinalia Abdul Rahim, Cherine Chalaby, Chris Disspain (Chair), Mike Silber, Bruce Tonkin, and Suzanne Woolf

BGC Member Apologies: Erika Mann

Other Board Member Attendees: Steve Crocker, Ron da Silva, Asha Hemrajani, Rafael Lito Ibarra, Markus Kummer, and Lousewies Van der Laan

ICANN (Internet Corporation for Assigned Names and Numbers) Executive and Staff Attendees: Akram Atallah (President, Global Domains Division), Susanna Bennett (Chief Operating Officer), Michelle Bright (Board Operations Content Manager), Samantha Eisner (Deputy General Counsel), Allen Grogan (Chief Contract Compliance Officer), John Jeffrey (General Counsel and Secretary), Melissa King (VP, Board Operations), Vinciane Koenigsfeld (Board Operations Content Manager), Wendy Profit (Board Operations Specialist), and Amy Stathos (Deputy General Counsel)

Invited Guests: Maarten Botterman, J. Beckwith Burr, Khaled Koubaa, and Akinori Maemura

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The following is a summary of discussions, actions taken, and actions identified:

1. Reconsideration Request 16-13 – At the BGC's request, it was provided an overview of Merck KGaA's (Requester's) request seeking reconsideration of the Contractual Compliance department's decision to internally evaluate the Requester's Public Interest Commitment Dispute Resolution Procedure complaint (PICDRP (Public Interest Commitment Dispute Resolution Procedure) Complaint) rather than submitting that complaint to the standing panel for consideration. The dispute surrounds the decision by the National Association of Boards of Pharmacy (NABP), the registry operator for .PHARMACY, to resolve contention for the second level domain of merck.phramacy in favor of

a party other than the Requester. In preparation for the meeting, the BGC reviewed the materials related to Request 16-13 (including Request 16-13 and the exhibits to Request 16-13), as well as the Contractual Compliance department's conduct with respect to the Requester's complaint. As set forth in the BGC Determination, after evaluating the Contractual Compliance department's actions and its compliance with the PICDRP (Public Interest Commitment Dispute Resolution Procedure), the BGC concluded that the all applicable policies and procedures were followed in the investigation of the Requester's claims and in finding that the Registry had not violated its contractual obligations. The applicable policy, i.e., the PICDRP (Public Interest Commitment Dispute Resolution Procedure), expressly permits ICANN (Internet Corporation for Assigned Names and Numbers) to proceed by way of internal determination under the circumstances presented here; and ICANN (Internet Corporation for Assigned Names and Numbers)'s internal investigation of the PICDRP (Public Interest Commitment Dispute Resolution Procedure) Complaint thoroughly and comprehensively reviewed the claims and found no evidence suggesting that the Registry violated its contractual obligations. The BGC further discussed that the Requester's claim to trademark rights in the "Merck" mark does not change the analysis because, among other things, both the Requester and Merck Sharp and Dohme Corp., which prevailed in the contention for merck.pharmacy, hold trademark rights in "Merck." The BGC therefore determined that Request 16-13 be denied and that the Determination be issued as directed by the BGC.

2. Committee Slating – The BGC discussed proposed membership for the Board Committees and working groups to recommend to the Board for approval. The BGC noted that it would be useful to include information regarding the frequency of meetings for each of the Committees and working groups, in order to better understand members' time commitments. The BGC requested that the meeting frequency over the last twelve months be included for consideration relating to the Committee and working group slating. The BGC also discussed ways in which to ensure that each Committee is populated with members with the skills and experience necessary to complete the tasks of the committee, while also allowing for training opportunities, a succession plan, and diverse outlooks. The BGC also discussed creating development plans with formalized training for new Board and Committee members. The BGC noted that it would be

useful for slating and succession purposes to have a description from each Committee as to what skill sets and experience are needed in order for the Committee to complete its tasks. The BGC Chair ndicated that he would reach out to each Committee and request a Committee member position description that includes the skills, attributes, experience and/or expertise preferred for that Committee's membership. The BGC also briefly discussed whether it would be seful to create a BGC sub committee or separate committee to deal ith accountability mechanism-related matters, and the BGC agreed to discuss this with the full Board The BGC agreed to recommend the proposed slate for Committee and working group membership to the Board for approval

- Action:
  - Add meeting frequency over the last twelve months to each Committee and working group list.

  - BGC Chair to reach out to each Committee and request a Committee member position description that includes the sk lls, attributes, experience and/or expertise needed to conduct the business of the Committee.

  - Submit Committee and working group slate recommendations to the Board for approval

3. Reconsideration Process Under New Bylaws – At the BGC's request, t was provided with an overview of the changes to the Reconsideration process under the new Bylaws. It was noted that there are a few key changes to the process including expansion of the grounds for reconsideration of staff and Board actions, limiting the BGC to recommendations (not determinations), timing parameters, and the opportunity for the Requester to submit a rebuttal to the BGC recommendation In addition, the Ombudsman will now have a role in the Reconsideration process and must perform a "substantive evaluation" of the Reconsideration Request and provide that to the BGC. The BGC discussed that Reconsideration Requests submitted after 1 October 2016 will be subject to this revised process, and those submitted before will be subject to the Bylaws in place before 1 October 2016 The BGC also discussed the need to have a thorough discussion with the Ombudsman regarding the new role, the applicable procedures, and the resources needed, if any The BGC requested that a process path be created to map out the steps and

timing in the Reconsideration process under the new Bylaws from submission of a Request through Board determination. The BGC further noted that Workstream 2 relating to the Ombudsman role and responsibilities is still in process and completion of that work will nform the upcoming search for the next Ombudsman.

- Action:
    - Prepare a process path for the Reconsideration process under the new Bylaws.

4. Board Member Skill Sets - Guidance to Nominating Committee – The BGC briefly reviewed the draft advice to the Nominating Committee NomCom) regarding desired Board skill sets, to be used in the omCom's selection of Board members based upon its review of the candidates' attributes, experience, expertise, and interests. The BGC decided to provide the draft advice to the Board and request input from the Board members regarding the types of experience and attributes that should be listed in the advice to the NomCom.

- Action:
    - Board members to provide input on guidance document.

5. Officers and Board Members Statements of Interest Summary – The BGC reviewed the summary of the Board members' statements of nterest for conflict of interest purposes.

CANN (Internet Corporation for Assigned Names and Numbers)'s conflict of interest policy requires Board members to disclose any actual, potential or perceived conflicts of interest with respect to CANN (Internet Corporation for Assigned Names and Numbers), and the BGC's charter requires it to review those disclosures on a regular basis. The BGC discussed edits to the summary as well as what level of information should be provided by Board members in completing their statements of interest, and were reminded that when something changes, the Board members should update their disclosure statements. The BGC discussed potential conflicts related to funding sources for organizations that ICANN (Internet Corporation for Assigned Names and Numbers) Board members are affiliated with and requested that such detail be included in the summary (if provided), and that an additional question be added to the statement of interest questionnaire directed at funding sources for affiliated organizations. The BGC also discussed potential conflicts related to clients of Board members, and reviewed and discussed potential procedures by which

Board members should disclose that information. The BGC noted that the summary of the statements of interest will be posted prior to the Board meeting.

6. <u>Code of Conduct Annual Report</u> – The BGC was provided with a brief overview of the Code of Conduct Annual Report, which is required under the Code of Conduct itself, and is part of the BGC's Charter responsibilities. It was noted that there have been no allegations of non-compliance with the Code of Conduct by any Board members in the last year. As always, the Report will be posted on the BGC page.

7. <u>Accountability Mechanism Annual Report</u> – The BGC was provided ith a brief overview of the Accountability Mechanism Annual Report, hich is required under the BGC's Charter and which will be posted as t is every year. The report provides a summary of Reconsideration Requests, Independent Review Process Requests, and Documentary nformation Disclosure Policy Requests initiated and acted upon in the ast year. The BGC requested that the format of the report be reviewed and potentially revised to permit further analysis regarding possible mprovements on how to manage the processes.

   - <u>Action</u>:
     - Review and potentially revise format of Accountability Mechanism Annual Report to permit further analysis regarding possible improvements.

EXHIBIT C-135

Minutes | Board Audit Committee (AC (Advisory Committee; or Administrative Contact (of a domain registration))) Meeting

02 Nov 2016

Published on 03 February 2017

AC (Advisory Committee; or Administrative Contact (of a domain registration)) Attendees: Steve Crocker, Asha Hemrajani, Erika Mann (Chair), and Mike Silber

AC (Advisory Committee; or Administrative Contact (of a domain registration)) Member Apologies Bruno Lanvin

Other Board Member Attendees: Rinalia Abdul Rahim, Ron da Silva, Rafael Lito Ibarra, and Lousewies van der Laan

ICANN (Internet Corporation for Assigned Names and Numbers) Executives and Staff Attendees Susanna Bennett (Chief Operating Officer), Xavier Calvez (Chief Financial Off cer), Jessica Castillo (Operations Project Coordinator), Samantha Eisner (Deputy General Counsel), John Jeffrey (General Counsel and Secretary), Melissa King (VP, Board Operations), Vinciane Koenigsfeld (Board Operations Content Manager), Becky Nash (VP, Finance), Wendy Profit (Board Operations Specialist), and Amy Stathos (Deputy General Counsel)

Invited Guests: Maarten Botterman, Khaled Koubba, Ak nori Maemura, and Gary Rolfes   independent financial advisor to the Audit Committee

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The following is a summary of discussions, actions taken and actions identified:

1   Committee Charter Review   The AC (Advisory Committee; or Administrative Contact (of a domain registration)) briefly discussed the value of reviewing the Charter on an annual basis to determine if there are any questions or suggested changes. The AC (Advisory Committee; or Administrative Contact (of a domain registration))

Charter is structured pursuant to laws applicable to non-profit entities, and is focused on the audit and the oversight that the AC (Advisory Committee; or Administrative Contact (of a domain registration)) provides to the performance of the audit. The AC (Advisory Committee; or Administrative Contact (of a domain registration)) further noted that the addition of PTI does not require any changes to the AC (Advisory Committee; or Administrative Contact (of a domain registration)) Charter.

2. Audited Financial Statements – The AC (Advisory Committee; or Administrative Contact (of a domain registration)) recalled that at the ast meeting the AC (Advisory Committee; or Administrative Contact of a domain registration)) briefly discussed the audited financial statements, and also noted that the audited financial statements were published on ICANN (Internet Corporation for Assigned Names and umbers)'s website on 25 October 2016. The audited financial statements contain three sections: (i) the report of the auditor, which is a clean opinion; (ii) the statements of activities, operation, and cash flows; and (iii) the notes, which provide clarity and details on policies and procedures underlying the financial statements. In addition, Note 3 provides the breakdown between the two segments that the financial statements contain, which are the ICANN (Internet Corporation for Assigned Names and Numbers) operations and the New gTLD generic Top Level Domain) Program. The AC (Advisory Committee; or Administrative Contact (of a domain registration)) was reminded that the auditors review the financial statements produced by management to determine the accuracy of the financial statements and issue their report. The AC (Advisory Committee; or Administrative Contact (of a domain registration)) then discussed where oversight sits on whether the money is spent in the way it was intended.

3. Overview of Finance Team – The Vice President of Finance provided a brief overview of the members of the finance team who work on a daily basis on the financial statements and manage the support to the auditors. The overview provided an explanation of the organization and structure of the finance team, which includes a team of professionals that participate and contribute to the annual audit process. The AC (Advisory Committee; or Administrative Contact (of a domain registration)) then discussed whether ICANN (Internet Corporation for Assigned Names and Numbers) currently maintains an nternal auditor position, and was informed that this function is being

developed and is very timely due to the implementation of the ERP system The AC (Advisory Committee; or Administrative Contact (of a domain registration)) further noted that the AC (Advisory Committee; or Administrative Contact (of a domain registration)) Charter allows for certain oversight and the possibility to mandate internal audit activities.

4   Audit of PTI   The Vice President of Finance provided a brief overview of the audit requirements for PTI, reminding the AC (Advisory Committee; or Administrative Contact (of a domain registration)) that PTI is required to have an independent audit and audit report, as required of non profit legal entities In addition, from an audit standpoint, PTI is an affiliate of ICANN (Internet Corporation for Assigned Names and Numbers) for which ICANN (Internet Corporation for Assigned Names and Numbers) is the sole member, so the audit of PTI will be consolidated into the ICANN (Internet Corporation for Assigned Names and Numbers) audit. The Chief   inancial Officer then provided an overview of how the PTI audit will be organized, along with recommendations regarding auditor selection It was noted that the selection of the PTI auditor will be the decision of the PTI Board.

5   Auction Proceeds Audit Impact   The Chief Financial Officer provided an overview of the audit impact of the auction proceeds and disbursement It was noted that even though the use and method of the auction disbursements will be organized pursuant to the multistakeholder process, it remains an asset of ICANN (Internet Corporation for Assigned Names and Numbers) and there is a fiduciary requirement to ensure that the disbursements are consistent   ith ICANN (Internet Corporation for Assigned Names and Numbers)'s mission and that ICANN (Internet Corporation for Assigned Names and Numbers) is accountable for the uses of the funds. The AC (Advisory Committee; or Administrative Contact (of a domain registration)) also discussed that, as a result, ICANN (Internet Corporation for Assigned Names and Numbers) must ensure that evaluation and monitoring policies and procedures exist, are effective, and ensure compliance of the funds disbursements and usage

EXHIBIT C-136

C-136

Minutes | Board Finance Committee (BFC) Meeting

02 Nov 2016

BFC Attendees: Cherine Chalaby (Co-Chair), Ron da Silva, Chris Disspain, Asha Hemrajani (Co-Chair), Markus Kummer, and George Sadowsky

Other Board member Attendees: Steve Crocker, Rafael Lito Ibarra, Erika Mann, Bruce Tonkin, Lousewies van der Laan, and Suzanne Woolf

ICANN (Internet Corporation for Assigned Names and Numbers) Organization Attendees: Susanna Bennett (Chief Operating Officer), Xavier Calvez (Chief Financial Off cer), Samantha Eisner (Deputy General Counsel), Melissa King (VP, Board Operations), Vinciane Koenigsfeld (Board Operations Content Manager), Becky Nash (VP, Finance), Wendy Profit (Board Operations Specialist), and Amy Stathos (Deputy Genera Counsel)

Invited Guests: Maarten Botterman, J. Beckwith Burr, and Akinori Maemura

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The following is a summary of discussions, actions taken and actions identified:

1. Approval of Minutes – The BFC approved the Minutes from its 30 August 2016 meeting.

2. BFC Schedule – The BFC reviewed the BFC schedule for the prior Y17 Q1, the current FY17 Q2, and the upcoming FY17 Q3

3. Financials – The BFC reviewed the FY17 Budget, which is showing US$132.4 million in revenue and US$141.3 million in expenses, for a net deficit of US$8.8 million, which correlates to the FY17 budget for expenses related to the IANA (Internet Assigned Numbers Authority) Stewardship transition. The BFC then reviewed the actuals for FY17 Q1, and noted that ICANN (Internet Corporation for Assigned Names and Numbers) Operations funding is higher than budgeted by US$3.4 million, which was primarily due to a higher number of registrations than forecasted (resulting in US$2.3 million in Registrar application and accreditation fees). In addition, the FY17 Q1 ICANN (Internet

Corporation for Assigned Names and Numbers) Operations expenses are lower than budgeted by US$2.1 million, mainly due to lower personnel costs. The BFC also noted that ICANN (Internet Corporation for Assigned Names and Numbers) total funding (which includes new gTLD (generic Top Level Domain) funding) for FY17 Q1 is US$137 million higher than budgeted, primarily due to the auction proceeds of US$135 million. The BFC also reviewed the FY17 contingency fund and noted that, of the US$5.0 million reserved for the contingency fund, US$2.9 million has been spent, with US$2.1 million remaining. The BFC discussed and noted that for FY18, it is intended that the contingency fund will be 5% of the ICANN (Internet Corporation for Assigned Names and Numbers) Operations baseline expenses. The BFC further reviewed the four "funds" under management including the new gTLD (generic Top Level Domain) auction proceeds, the new gTLD (generic Top Level Domain) funds, the Operating Fund, and the Reserve Fund. As of 30 September 2016, the Reserve Fund was US$64 million, the Operating Fund was US$44 million, the new gTLD (generic Top Level Domain) funds were US$133 million, and the auction proceeds were US$235 million. The BFC noted that the new gTLD (generic Top Level Domain) funds are to be used to fund the New gTLD (generic Top Level Domain) Program expenses and that the use of the auction proceeds would be defined by the ongoing multistakeholder community process. The BFC further discussed the FY17 expenditures related to the IANA (Internet Assigned Numbers Authority) Stewardship transition, noting that the Project Cost Support Team (PCST) recommended community budget ownership over costs for the IANA (Internet Assigned Numbers Authority) Stewardship transition and that a monthly reporting process for costs versus budget has been set in place. The BFC noted that approximately US$3 million, of the total US$8.8 million annual budget for PCST expenses, has been spent in FY17 Q1. The BFC further noted that a significant portion of these expenditures were due to ANA (Internet Assigned Numbers Authority) Stewardship transition mplementation activities, which are now largely completed. The BFC also discussed and noted that the PCST expense report will continue to be produced, reviewed, and published on a monthly basis.

4. ew gTLD (generic Top Level Domain) Program Fund and Auction Proceeds Fund: Investment Performance Review – The BFC reviewed the investment policy for the new gTLD (generic Top Level Domain) funds and the auction proceeds, and noted that it is a conservative

policy with the following objectives, in order of priority: (i) preservation of capital; (ii) liquidity of investments; and (iii) rate of return The Chief Financial Officer then provided the BFC with an overview of the nvestment performance of these funds over the last few years The BFC noted that for the next performance review, Bridgebay Financial (ICANN (Internet Corporation for Assigned Names and Numbers)'s nvestment advisor) will prepare a consolidated investment performance review based on input from the three fund managers that manage the investments of the new gTLD (generic Top Level Domain) funds and the auction proceeds

5. Reserve Fund Replenishment – The BFC recalled that during its meeting in Brussels, the BFC noted that the current target level for the Reserve Fund (as per the current Investment Policy) is twelve months of operating costs, and that this means there is a projected shortfall in the Reserve Fund of US$81 million by the end of FY17. The BFC discussed the proposed target level for the Reserve Fund and the rationale for the target level, as well as possible actions for replenishing the Reserve Fund and the need for a governance policy. After further discussion, the BFC decided that next steps nclude submitting the proposed target level and the underlying rationale, including benchmarks and identified risks, to the Board for review and approval, and then engaging with the community regarding the appropriate target level for the Reserve Fund.

6. BFC Chair – The BFC noted that it has been asked to review the feedback provided by the BFC members regarding BFC leadership, and make a recommendation to the BGC. The BFC discussed options regarding BFC leadership and succession planning, and decided on ts recommendations to the BGC regarding the BFC Chair and a Vice-Chair position

EXHIBIT C-137

C-137

Minutes | Organizational Effectiveness Committee (OEC) Meeting

03 Nov 2016

OEC Attendees: Rinalia Abdul Rahim – Chair, Markus Kummer, Kuo-Wei Wu and Lousewies van der Laan

Other Board Member Attendees: Chris Disspain, Lito Ibarra and Bruce Tonkin

Observers: Maarten Botterman, Khaled Koubaa and Akinori Maemura

Executive and Staff Attendees: Samantha Eisner, Larisa Gurnick, Lars Hoffmann, Melissa King, Margie Milam, Wendy Profit, Laena Rahim, Charla Shambley and Theresa Swinehart

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The following is a summary of discussions, decisions, and actions identified:

The Meeting was called to order at 7:30 a.m. local time in Hyderabad, India.

1. Agenda – The Chair established the agenda for the meeting and gave an overview of items to be discussed.

2. Review of Open Action Items and OEC Activities Report – The OEC approved the OEC's activities report (January   September 2016)

   The Chair noted that the document is a tool to enable the OEC to track CANN (Internet Corporation for Assigned Names and Numbers)'s progress towards completing the action items identified in previous meetings Some of the open action items will be completed during the discussion at the current meeting. There are several action items which will be followed up on in time for the next OEC meeting; and there are also other action items which would require more time to complete

3. OEC Charter Review – This item is on the agenda in order for OEC members to be well versed in the OEC Charter The OEC is also responsible for performing a review of its charter on an annual basis. Given that the OEC Charter was recently revised in July 2015, the

OEC concluded its review of the OEC Charter without recommendation of further modification.

As part of the Charter review, the OEC considered each of the elements listed in within the Charter, which is available at https://www.icann.org/resources/pages/charter-oec-2015-08-14-en /resources/pages/charter-oec-2015-08-14-en). There was a short conversation on the process through which the OEC oversees the review of constituent body charters, which is a process reserved to the OEC and requires the OEC's endorsement and recommendation to the Board. The Chair noted that in addition to the community and CANN (Internet Corporation for Assigned Names and Numbers) organization's work on the charters before they reach the OEC, the OEC also has been in a role of providing feedback prior to consideration. The OEC has also considered how to innovate the constituent charter review process to reduce the time needed for OEC action, such as confirming that the OEC may take unanimous actions by email between meetings. This constituency charter process will ikely be used several times over the coming months, as ICANN Internet Corporation for Assigned Names and Numbers)'s Policy Support team has been working with several Stakeholder Groups and Constituencies on updating their charters.

- Action Item:
  - For future OEC meetings, ICANN (Internet Corporation for Assigned Names and Numbers) Organization to include a s ide on the roles and responsibilities of the different parties nvolved in Organizational Reviews on the OEC meeting s ide deck, for the OEC's ease of reference.

4. At-Large Review Update – The OEC was provided with a brief update on the At-Large Review for the OEC's information.

 TEMS International, the independent examiner conducting the At-Large Review, has conducted 90 interviews and has launched an online survey to collect input from the At-Large community in English, French and Spanish. Nearly 250 people have responded to the survey. The OEC was briefed on the regional and respondent categories distribution. In addition to the one-on-one interviews and the online survey, ITEMS International met with the At-Large Review Working

Party, participated in At-Large activities at ICANN56 and attended several regional events

Furthermore, ICANN (Internet Corporation for Assigned Names and Numbers) Organization is working closely with ITEMS International to ensure that their recommendations will adhere to the SMART principles (i e specific, measurable, actionable, relevant, time based) to set the right expectations and drive successful outcomes.

 he Chair noted that the At Large review, including ICANN (Internet Corporation for Assigned Names and Numbers) Organization's approach to the review itself, is benefiting significantly from lessons earned from the previous GNSO (Generic Names Supporting Organization) review Additionally, given that the At Large Community s particularly concerned about the current regional At-Large Structures, it is crucial to obtain substantive feedback on this issue from the At-Large community as part of the At-Large Review.

 he next steps for the At Large review include

- Preliminary Findings – November 2016

- Draft Report for At-Large Working Party – December 2016

- Draft Report for Public Comment   January 2017

- Final Report for At-Large Working Party – March 2017

- Publish Final Report – April 2017

    - Action Item:
        - CANN (Internet Corporation for Assigned Names and umbers) Organization to provide the OEC with relevant statistics to demonstrate the regional spread of the respondents from the At-Large Community (i.e. the number of ALSes, based on their geographic regions, ho responded to the survey).

5. GNSO (Generic Names Supporting Organization) Review Update – The OEC was provided with a brief update on the GNSO (Generic ames Supporting Organization) Review for the OEC's information.

The Final Report on the organizational review of the GNSO (Generic ames Supporting Organization) was delivered by Westlake Governance (the independent examiner) on 15 September 2015. The GNSO (Generic Names Supporting Organization) Council adopted the GNSO (Generic Names Supporting Organization) Review Working Party's recommendations on 14 April 2016, and the Board adopted the Final Report and approved 34 of 36 recommendations in June 2016. In the Board's resolution, it requested "that the GNSO (Generic ames Supporting Organization) Council convene a group that oversees the implementation of Board-accepted recommendations. An mplementation plan, containing a realistic timeline for the mplementation, definition of desired outcomes and a way to measure current state as well as progress toward the desired outcome, shall be submitted to the Board as soon as possible, but no later than six (6) months after the adoption of this resolution." The GNSO (Generic ames Supporting Organization) Review Implementation Working Group was established and work is underway to submit a proposal in December 2016/ January 2017. ICANN (Internet Corporation for Assigned Names and Numbers) Organization noted that the separation of the implementation planning from the consideration of the recommendations might have added some complexity to the process, and recommended that for future reviews, the GNSO Generic Names Supporting Organization) Review Working Group have an opportunity to consider implementation planning during the feasibility assessment phase prior to submitting to the OEC for their consideration. The OEC agreed with this process improvement for future reviews.

The OEC also discussed the survey feedback received from the orking Party. One of the main concerns raised by the Working Party s that the independent examiner was perceived to be unresponsive towards community feedback, especially towards the final phase of the review. On the other hand, the concept of the Working Party was well-received; and the support provided from the Board and ICANN Internet Corporation for Assigned Names and Numbers) Organization received positive feedback.

6. Overview of Upcoming Reviews: Nominating Committee (NomCom) Review – Staff supporting the NomCom review sought feedback from the OEC on NomCom review scope and criteria, as well as criteria for selection of the independent examiner.

The OEC was briefed on the preparations that are underway for the upcoming NomCom Review. The NomCom has formed a Working Party and is in the process of providing input on the request for proposal (RFP) for an independent examiner. Part of the review will nclude an assessment of the recommendations from the prior omCom Review and progress made on implementing mprovements. In relation to the RFP, the scope of the review is to determine the following:

    i. does the NomCom have a continuing purpose in the ICANN (Internet Corporation for Assigned Names and Numbers) structure?

    ii. should there be any change in the structure or operations to improve its effectiveness?

    iii is NomCom accountable to its constituencies, stakeholder groups, organizations and other stakeholders?

Other issues which the independent examiner is expected to review nclude:

- hether prior recommendations were effectively implemented;

- mpact of the past failure to change the size of the NomCom; and

- mpact that the new bylaws could have on the NomCom and its ider role in the ICANN (Internet Corporation for Assigned ames and Numbers) community.

n terms of the criteria for the NomCom independent examiner, the criteria are very similar to those used for the At-Large review e.g. understanding the assignment, knowledge and expertise, proposed methodology, independence, flexibility, reference checks and financial alue.

Pr or to the appointment of the independent examiner scheduled in January 2017, ICANN (Internet Corporation for Assigned Names and umbers) Organization will provide an assessment of the bidders to the OEC according to the criteria used, and the OEC will have the

opportunity to provide feedback and/or agree with the assessment for the selection of the independent examiner.

Upon being briefed by ICANN (Internet Corporation for Assigned ames and Numbers) Organization on the upcoming NomCom review, some observations and feedback from the OEC include:

- Feedback from the constituencies and community impacted by the NomCom Review should be a top priority for the independent examiner;

- The OEC will expect updates from the independent examiner as part of the OEC's oversight role; and

- To ensure that the independent examiner interviews NomCom members familiar with new processes introduced since 2013, so as to enable them to provide feedback on how those processes have worked.

The OEC was also briefed on the estimated timeline for the NomCom review:

- Appoint Independent Examiner – January 2017

- Launch Review – February 2017

- nterviews; Community Surveys – Feb- July 2017

- Preliminary Findings – August 2017

- Draft Report for Working Party – September 2017

- Draft Report for Public Comment – October 2017

- Final Report for Working Party – February 2018

- Final Report – March 2018

7. mplications of New Bylaws and Transition – The OEC discussed the mpact of the new bylaws on the post-transition ICANN (Internet Corporation for Assigned Names and Numbers) and the work of the OEC.

Furthermore, the OEC further considered the schedule for upcoming reviews There are multiple reviews happening simultaneously The OEC noted the potential need for additional resources to support the multiple overlapping reviews, given that the timing for each review is set through the Bylaws and cannot be modified. The OEC also noted the significant impact this schedule will have on the community bandwidth. Various innovations such as a unified template for RFPs for independent examiners could help streamline processes across multiple reviews. However, addressing the problem of multiple reviews happening at the same time will require longer range solutions and potentially changes to the bylaws.

  he OEC discussed whether, in the post transition environment, the OEC might be a good place for the coordination of oversight of the Specific Reviews", reviews that were formerly incorporated in the Affirmation of Commitments. The OEC agreed that it was willing to take on this role if the remainder of the Board agreed

Another area of discussion focused on how to make the Organizational Reviews more effective at assessing organizational accountability. The OEC noted that both the new requirement that reviews consider how the organization under review remains accountable to its members, as well as the WS2 effort on SO (S pporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Accountability might be valuable nputs into this process

- Action Items:
    - CANN (Internet Corporation for Assigned Names and umbers) Organization to prepare a board paper to initiate a discussion with the Board as to whether or not to consolidate oversight of the Specific Reviews under the OEC, including consideration of the scope of the OEC Charter.

    - CANN (Internet Corporation for Assigned Names and umbers) Organization to conduct in-depth research in relation to the community's perception that Organizational Reviews fall short in assessing organizational accountability – to ascertain and address their specific concerns.

- CANN (Internet Corporation for Assigned Names and Numbers) Organization to prepare a comprehensive proposal on the process improvements for the OEC's consideration

- Going forward, ICANN (Internet Corporation for Assigned ames and Numbers) Organization to include this agenda tem at each OEC meeting to track improvements and to address these issues concretely.

8. Operating Standards – The OEC received an update on the development of the Operating Standards for reviews, which are required under the new Bylaws and which will be discussed with the community during ICANN57.This area involves developing an ntegrated approach to reviews, with the aim of supplementing the bylaws. In essence, the Operating Standards should reflect the following elements:

- A system which enables reviews to be conducted efficiently and effectively;

- Developed through collaboration – community, Board and staff;

- Aligned with ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws;

- Designed to support and lead into implementation of Board-approved recommendations as part of ICANN (Internet Corporation for Assigned Names and Numbers)'s continuous mprovement;

- Guidance and tools to assist with the review process; and

- Evolving to reflect lessons learned and best practices.

9 Review Recalibration and Streamlining/Review Framework The OEC continued its discussion on the importance of reviews post-transition.

Reviews are a well established accountability mechanism producing mportant improvements in how ICANN (Internet Corporation for Assigned Names and Numbers) operates Challenges with reviews stem from several areas e.g. differing opinions regarding what reviews are supposed to achieve and how to achieve it, volunteer bandwidth,

nature of recommendations and resources required to conduct reviews and implement improvements

 n-depth research and analysis by ICANN (Internet Corporation for Assigned Names and Numbers) Organization would be required to understand the challenges involved in attempting to recalibrate and streamline reviews in the future Community involvement would be crucial as they now play a more prominent role in relation to reviews; and timing is also an issue that needs to be carefully considered

As an initial step, the OEC agreed that it should initiate engagement with the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) leaders to obtain their input and feedback on how to recalibrate and streamline reviews n the future. In this regard, it is essential for the OEC to have clarity on what the challenges are, so that there is a shared understanding to facilitate their discussion with the SO (Supporting Organization)/ACs.

- Action Item
  - CANN (Internet Corporation for Assigned Names and Numbers) Organization to commence work and formulate a proposal for the OEC for its engagement with the SO (S pporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) eadership on this broader discussion

  - The OEC to inform the Board of its proposed engagement ith the community on this issue.

10. Any Other Business

For purposes of succession planning, the Chair invited OEC members ho are interested to be nominated as the Vice-Chair of the OEC to contact her directly.

The Chair called the meeting to a close at 9:30 a.m. local time Hyderabad, India).

EXHIBIT C-138

C-138

Minutes – Board Risk Committee (BRC) Meeting

04 Nov 2016

BRC Attendees Rafael Lito Ibarra, Ram Mohan (Co Chair), George Sadowsky, Mike Silber (Co-Chair), Jonne Soininen, Kuo-Wei Wu, and Suzanne Woolf

Other Board Member Attendees: Asha Hemrajani

Board Member Elect Observing Maartern Botterman, Akinori Maemura,

ICANN (Internet Corporation for Assigned Names and Numbers) Organization Attendees Susanna Bennett (Chief Operating Officer), Xavier Calvez (Chief Financial Off cer), David Conrad (Chief Technology Officer), Samantha Eisner (Deputy General Counsel), John Jeffrey (General Counsel & Secretary), Melissa King (VP, Board Operations), Elizabeth Le (Senior Counsel), Wendy Profit (Board Operations Specialist), and Amy Stathos (Deputy General Counsel)

The following is a summary of discussions, actions taken, and actions identified

1. Minutes – The BRC approved the minutes of the 26 June 2016 meeting

2. Overview of BRC Charter – The Committee reviewed and discussed ts Charter as approved by the Board on 6 March 2009, and whether any refinements or revisions would be appropriate to capture the scope and purpose of the Committee

   - Actions:

     - BRC members to review the current Charter and provide any suggested refinements or revisions by 18 November 2016

     - Prepare draft Charter incorporating proposed revisions for approval by the BRC and then submitting to the Board

Governance Committee.

3. <u>Community Engagement Strategy</u> – The Committee continued its discussion regarding the strategy for community engagement relative to risk assessment. Specifically, the BRC focused on two facets: (1) hat need is the BRC trying to address (such as accountability, transparency, and community engagement); and (2) how the BRC can address these needs. The BRC noted the positive community feedback with prior engagement efforts of an ad hoc working group for the budget and discussed whether a similar approach would be appropriate relative to risk assessment. Participation to the ad hoc orking group would be open to any community member with interest. The BRC agreed to launch the community engagement strategy at CANN (Internet Corporation for Assigned Names and Numbers) 58.

   - Actions:

      - Provide invitation to BRC Co-Chairs to send to the community to join the working group.

      - Prepare to launch working group at ICANN (Internet Corporation for Assigned Names and Numbers) 58.

4. <u>Communication Between the BRC and the Board</u> – The BRC reviewed and discussed its efforts to support Board members' exercise of their responsibility in managing risk. In June 2016, the BRC initiated a BRC activity report that will be submitted to the Board semi-annually. The BRC has conducted two risk workshops in the past year. One of the Co-Chairs noted that a risk workshop at every meeting could be an on-going approach to exchanging on risk assessment and mitigation ithin the Board.

   - Actions:

      - Prepare additional presentation materials for workshop setting forth the objectives of the session.

      - Consider including a stress test process of the mitigation plan in the next workshop.

5. <u>AOB - BRC Member Position Description</u> – The BRC addressed the question that the BGC has asked, which is what attributes do the BRC

believe are appropriate for a BRC member to have. The BRC noted that the Committee deals with technical, legal, policy, operational, and financial risks. The BRC identified some general skills and qualities it believes a BRC member should have, and agreed to draft a BRC member position description to provide to the BGC.

- Action

  - Document a position description for Risk Committee members

Published on 1 February 2017

EXHIBIT C-139

TITLE:	**Posting for Public Comment – Draft ICANN Community-Anti-Harassment Policy**
PROPOSED ACTION:	**For Board Consideration and Approval**

EXECUTIVE SUMMARY:

During and after ICANN55, the issue of certain community-member conduct toward one another was raised in various sessions and on various email lists, and the Board agreed to address this matter. First, ICANN undertook the revision of ICANN's Expected Standards of Behavior (see https://www.icann.org/resources/pages/expected-standards-2016-06-28-en), which now includes specific reference to harassment and other conduct that is not acceptable.

In addition, the organization has worked with experts, as needed and appropriate, to help develop a draft "Community Anti-Harassment Policy" for the Community's consideration, which if adopted should be followed at ICANN Public meetings and during all community interactions. The Board is now being asked to authorize the posting for public comment the draft Community Anti-Harassment Policy, which can be found as the Reference Materials to this Board paper.

PROPOSED RESOLUTION:

Whereas, during and after ICANN55, the issue of certain community-member conduct toward one another was raised in various ICANN sessions and on various ICANN email lists.

Whereas, the ICANN Board agreed to address the issue of ICANN Community member conduct toward one another.

Whereas, on 25 June 2016, following receipt and consideration of public comments, the Board approved (see https://www.icann.org/resources/board-material/resolutions-2016-06-25-en#2.f) revised Expected Standards of Behavior, which more specifically addresses the issue of harassment than the earlier version had.

Whereas, in furtherance of the public comments referenced above, in consultation with an expert, as needed and appropriate, the Organization has developed a draft ICANN Community Anti-Harassment Policy for the Community's consideration.

Resolved (2106.11.05.xx), the Board hereby authorizes the posting of the draft ICANN Community Anti-Harassment Policy for public comment for 60 days in order to give the Community sufficient time to discuss the draft Policy, as well as formulate and submit public comment(s) on the draft Policy.

Resolved (2016.11.05.xx), following receipt of public comment, the Board will evaluate those comments and will again engage with the Community to the extent significant changes to the proposed Policy are suggested.

PROPOSED RATIONALE:

During and after ICANN55, the issue of certain community-member conduct toward one another was raised in various sessions and on various email lists, and the Board agreed to address this matter. In response, the Board has confirmed and reiterated that ICANN's Board and staff take the issue of harassment or other improper conduct at its meetings very seriously. ICANN and members of the community share the goal of ensuring that ICANN community members are able to participate and contribute within an environment that remains free from harassment.

As an organization, ICANN has robust internal policies regarding the issue, including mandatory training. While ICANN community members are not bound to the same policies and rules as the ICANN organization or the Board, everyone who participated in ICANN processes should expect community members to adhere to certain Expected Standards of Behavior. In addressing the issues identified at ICANN55, one step taken was to revise the Expected Standards of Behavior to specifically call out issues of harassment and the fact that such conduct is not acceptable in any ICANN fora. The revised Board-approved version of ICANN's Expected Standards of Behavior can be found at: https://www.icann.org/resources/pages/expected-standards-2016-06-28-en.

In addition, as directed by the Board, the organization worked with an expert, as appropriate and necessary, to develop a draft "Community Anti-Harassment Policy" for the Community's consideration and comment. If adopted, the Policy should be followed at ICANN Public meetings and throughout other ICANN community interactions. The draft Community Anti-Harassment Policy is the Reference Materials document to this Board Paper and incorporates many of the ideas suggested in response to the public comments received on the revised Expected Standards of Behavior (for report on those comments, see https://www.icann.org/en/system/files/files/report-comments-expected-standards-revisions-11jul16-en.pdf).

It is not anticipated that this decision will have any fiscal impact on ICANN, and it will not have any impact on the security, stability or resiliency of the domain name system.

This decision is an Organizational Administrative Function that is directly leading to public comment on this topic.

Submitted By: Amy A. Stathos, Deputy General Counsel
Dated Noted: 31 October 2016
Email: amy.stathos@icann.org

5 November Regular Meeting of the ICANN Board – Agenda

Main Agenda

• Draft ICANN Community Anti-Harassment Policy
• AOB

Executive Session - confidential

Directors and Liaisons,

Attached below please find Notice of date and time for a Regular Meeting of the ICANN Board of Directors.

5 November 2016 – Regular Meeting of the ICANN Board of Directors - at 08:00 UTC (1:30pm in Hyderabad). This Board meeting is estimated to last approximately 90 minutes.

http://www.timeanddate.com/worldclock/fixedtime.html?msg=Regular+Meeting+of+the+ICANN+Board&iso=20161105T1330&p1=505&ah=1&am=30

Some other time zones:

5 November 2016 – 1:00am PDT Los Angeles

5 November 2016 – 4:00am EDT Washington, D.C.

5 November 2016 – 9:00am CEST Brussels

5 November 2016 – 4:00pm CST Taipei

REGULAR MEETING OF THE ICANN BOARD

Main Agenda

• Items Arising out of ICANN 57
• AOB

Executive Session

MATERIALS – You can access the Board Meeting materials, when available, in Google Drive here:

Contact Information Redacted

If you have trouble with access, please let us know and we will work with you to assure that you get access to the documents.

If call information is required, it will be distributed separately.

If you have any questions, or we can be of assistance to you, please let us know.

John Jeffrey

General Counsel & Secretary, ICANN

[John.Jeffrey@icann.org <John.Jeffrey@icann.org>](mailto:John.Jeffrey@icann.org)

<[mailto:John.Jeffrey@icann.org <mailto:John.Jeffrey@icann.org>](mailto:John.Jeffrey@icann.org) >

EXHIBIT C-140

REFERENCE MATERIALS - ICANN BOARD SUBMISSION NO. 2016.11.05.1a

TITLE: **Posting for Public Comment – Draft ICANN Community-Anti-Harassment Policy**

ICANN Community Anti-Harassment Policy

and

Terms of Participation and Complaint Procedure[1]

As a condition of participation in ICANN's multistakeholder processes, those who take part must:

1. **Behave in a professional manner, demonstrate appropriate behavior and treat all members of the ICANN community in a respectful, dignified, decent manner at all times, including in face-to-face and on-line communications, irrespective of Specified Characteristics so that individuals of all backgrounds and cultures are made to feel welcome.** Specified Characteristics means age, ancestry, color, physical or mental disability, genetic information, medical condition (cancer and genetic characteristics), marital status, national origin, race, religion, sex (which includes pregnancy, childbirth, medical conditions related to pregnancy or childbirth, gender, gender identity and gender expression), sexual orientation, citizenship, primary language, or immigration status.

2. **Refrain from harassment of any type. Harassing conduct or commentary** may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Conduct does not have to intend to harm, be directed at a specific target, or involve repeated incidents in order for it to be deemed harassment. Examples of the types of inappropriate conduct that are prohibited by this policy include, but are not limited to, the following:

   • Sexually suggestive touching
   • Grabbing, groping, kissing, fondling, hugging, stroking someone's hair, or brushing against another's body
   • Touching that the actor may not have intended to be sexually suggestive but which constitutes uninvited touching, such as rubbing or massaging someone's neck or shoulders
   • Violating someone's "personal space" after being told you are doing so
   • Leering, stalking, or suggestive whistling

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[1] This Policy is not intended to impede or inhibit free speech.

- Gesturing in a sexually suggestive manner

- Circulating or posting written or graphic materials that show hostility or disrespect toward or that demean individuals because of Specified Characteristics as set forth above

- Lewd or graphic comments or jokes of a sexual nature

- Distribution of sexually suggestive images and references to sexual behavior

- Repeated requests for dates, or unwanted communications of a romantic nature, after the individual receiving them indicates that she or he does not wish to receive them.

3. **Refrain from retaliation** against anyone for reporting any conduct or commentary that is inconsistent with the terms set forth above ("inappropriate behavior") or for participating in an investigation of any such report or complaint.

Reporting and Complaint Procedure

The following reporting and complaint procedure is available to anyone who identifies inappropriate behavior.

1. The individual who identifies inappropriate behavior may: (i) communicate with the person(s) responsible and attempt to resolve the issue informally; and/or (ii) promptly report to the Ombudsperson the facts giving rise to a belief that inappropriate behavior has occurred and cooperate fully in the ensuing investigation of the complaint.

2. The Ombudsperson will review and evaluate the complaint. The evaluation will include the following, as appropriate in the sole discretion of the Ombudsperson, in an effort to obtain an understanding of the facts: (i) communication with the complainant to clarify the facts giving rise to the complaint; (ii) inquiries of the accused to obtain a response to the complaint if, in the Ombudsperson's discretion, the complainant has provided sufficient facts to support the allegation that inappropriate behavior has occurred; and (iii) communication with other percipient witnesses, and review of documentary evidence, if any and if appropriate.

3. The Ombudsperson will determine whether inappropriate behavior has occurred and will communicate the results to the complainant and the accused. No "corroboration" is required to support a finding; the [Ombudsperson] [Resolutions Committee] will consider the credibility of each party in making a determination.

4. The Ombudsperson will determine what remedial action, if any, is appropriate in light of the findings of the evaluation. If the Ombudsperson in its discretion, finds that remedial action is appropriate, that remedial action may include, but is not limited to, excusing any individual responsible for inappropriate behavior from further participation in the ICANN process for a specified period of time, limiting the individual's participation in some manner, and/or requiring satisfaction of pre-requisites such as a written apology as a condition of future participation.

EXHIBIT C-141

Agenda | Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

05 Nov 2016

Main Agenda

- Items Arising out of ICANN (Internet Corporation for Assigned Names and Numbers) 57

- AOB

EXHIBIT C-142

C-142

Minutes | Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is available in:

English |
العربية (http://www.icann.org/resources/board-material/minutes-2016-11-05-ar)
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中文 (http://www.icann.org/resources/board_material/minutes_2016_11_05_zh)

05 Nov 2016

A Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors was held in Hyderabad, India on 5 November 2016 at 13:30 local time.

The meeting was called to order by Board Member Chris Disspain who stood in for the Chair until the Chair and Vice Chair arrived during the roll call.

The following Directors participated in all or part of the meeting: Rinalia Abdul Rahim, Cherine Chalaby (Vice Chair), Steve Crocker (Chair), Ron da Silva, Chris Disspain, Asha Hemrajani, Rafael Lito Ibarra, Markus Kummer, Erika Mann (telephonically), Göran Marby (President and CEO), George Sadowsky (telephonically), Bruce Tonkin, Lousewies van der Laan, and Kuo Wei Wu.

The following Directors sent their apologies: Bruno Lanvin and Mike Silber.

The following Board Liaisons participated in all or part of the meeting: Ram Mohan (SSAC (Security and Stability Advisory Committee) Liaison), Jonne Soininen (IETF (Internet Engineering Task Force)

Liaison), and Suzanne Woolf (RSSAC (Root Server System Advisory Committee) Liaison).

The following Board Liaisons sent their apologies: Thomas Schneider (GAC (Governmental Advisory Committee) Liaison).

Observing: Maarten Botterman, Becky Burr, Khaled Koubaa, Akinori Maemura, and Kaveh Ranjbar.

Secretary: John Jeffrey (General Counsel and Secretary).

The following ICANN (Internet Corporation for Assigned Names and Numbers) Executives and Staff participated in all or part of the meeting: Susanna Bennett (Chief Operating Officer); Melissa King (VP, Board Operations); Wendy Profit (Board Operations Specialist); Amy

1. Main Agenda:

    a Posting for Public Comment – Draft ICANN (Internet Corporation for Assigned Names and Numbers) Community-Anti-Harassment Policy
          Rationale for Resolutions 2016.11.05.01 – 2016.11.05.02

    b Any Other Business

1. Main Agenda:

    a Posting for Public Comment – Draft ICANN (Internet Corporation for Assigned Names and Numbers) Community-Anti-Harassment Policy

    John Jeffrey introduced the agenda item. He stated that the Board was being asked to take action to publish for public comment a draft anti-harassment policy. He noted that the organization consulted with the community and an external expert to develop the draft policy, which is proposed to be published for 60 days.

    The Board discussed the proposed anti-harassment policy and the plan to publish it for public comment. Rinalia Abdul Rahim inquired about whether the proposed policy should also include provisions encouraging the community to behave in a mutually

respectful way with staff members who are supporting them. John explained that the policy is primarily community focused, and complaints concerning members of the organization   ould be handled through the organization's Human Resources Department procedures. John commented that the organization has an obligation to protect staff and the proposed policy would not be the appropriate place to focus on that sort of activity.

Rinalia also suggested that the documentation associated with the proposed anti-harassment policy highlight the CEO's concern regarding the lack of civility and mutual respect across the ICANN (Internet Corporation for Assigned Names and Numbers) ecosystem

Steve Crocker asked whether the draft policy includes enforcement mechanisms, and Amy Stathos explained that proposed policy includes a complaints procedure whereby complaints would be sent to the Ombudsman The Ombudsman would evaluate the complaint and recommend what actions should be taken to address the matter

Lito Ibarra asked about the role of the new Complaints Officer with respect to the proposed anti harassment policy John stated that no matter where the complaint originated, it would be taken very seriously He noted that it was anticipated that the Complaints Officer would refer a harassment complaint to the Ombudsman and the handling of the complaint would follow the process outlined in the proposed policy. Asha Hemrajani encouraged the CEO to have more proactive communication about the Complaints Officer to provide greater clarity to the community

The Göran Marby further clarified the role of the Ombudsman in contrast to the types of matters the Complaint Officer is anticipated to handle to increase transparency and accountability He also explained the reporting structure for the Complaints Officer, as compared to the Ombudsman, who reports directly to the Board as required by the Bylaws Chris Disspain suggested that the Board have separate its discussion about the Complaints Officer from its discussion on publishing for public comment the proposed anti-harassment policy.

Cherine Chalaby suggested that when the policy is posted for public comment, the documentation include references to the ICANN (Internet Corporation for Assigned Names and Numbers) Expected Standards of Behavior.

The Board took the following action after its discussion:

Whereas, during and after ICANN55, the issue of certain community-member conduct toward one another was raised in various ICANN (Internet Corporation for Assigned Names and Numbers) sessions and on various ICANN (Internet Corporation for Assigned Names and Numbers) email lists.

Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Board agreed to address the issue of ICANN (Internet Corporation for Assigned Names and Numbers) Community member conduct toward one another.

Whereas, on 25 June 2016, following receipt and consideration of public comments, the Board approved (see https://www.icann.org/resources/board-material/resolutions-2016-06-25-en#2.f (/resources/board-material/resolutions-2016-06-25-en#2.f)) revised Expected Standards of Behavior, which more specifically addresses the issue of harassment than the earlier version had.

Whereas, in furtherance of the public comments referenced above, in consultation with an expert, as needed and appropriate, the Organization has developed a draft ICANN (Internet Corporation for Assigned Names and Numbers) Community Anti-Harassment Policy for the Community's consideration.

Resolved (2106.11.05.01), the Board hereby authorizes the posting of the draft ICANN (Internet Corporation for Assigned Names and Numbers) Community Anti-Harassment Policy for public comment for 60 days in order to give the Community sufficient time to discuss the draft Policy, as well as formulate and submit public comment(s) on the draft Policy.

Resolved (2016.11.05.02), following receipt of public comment, the Board will evaluate those comments and will again engage with the Community to the extent significant changes to the proposed Policy are suggested.

All members of the Board present voted in favor of Resolutions 2106.11.05.01 – 2106.11.05.02. Bruno Lanvin and Mike Silber were unavailable to vote on the Resolutions. The Resolutions carried.

Rationale for Resolutions 2016.11.05.01 – 2016.11.05.02

During and after ICANN55, the issue of certain community-member conduct toward one another was raised in various sessions and on various email lists, and the Board agreed to address this matter. In response, the Board has confirmed and reiterated that ICANN (Internet Corporation for Assigned Names and Numbers)'s Board and staff take the issue of harassment or other improper conduct at its meetings very seriously. ICANN (Internet Corporation for Assigned Names and Numbers) and members of the community share the goal of ensuring that ICANN (Internet Corporation for Assigned Names and Numbers) community members are able to participate and contribute within an environment that remains free from harassment.

As an organization, ICANN (Internet Corporation for Assigned Names and Numbers) has robust internal policies regarding the issue, including mandatory training. While ICANN (Internet Corporation for Assigned Names and Numbers) community members are not bound to the same policies and rules as the ICANN (Internet Corporation for Assigned Names and Numbers) organization or the Board, everyone who participated in ICANN (Internet Corporation for Assigned Names and Numbers) processes should expect community members to adhere to certain Expected Standards of Behavior. In addressing the issues identified at ICANN55, one step taken was to revise the Expected Standards of Behavior to specifically call out issues of harassment and the fact that such conduct is not acceptable in any ICANN (Internet Corporation

for Assigned Names and Numbers) fora. The revised Board-approved version of ICANN (Internet Corporation for Assigned Names and Numbers)'s Expected Standards of Behavior can be found at: https://www.icann.org/resources/pages/expected-standards-2016-06-28-en (/resources/pages/expected-standards-2016-06-28-en).

In addition, as directed by the Board, the organization worked with an expert, as appropriate and necessary, to develop a draft "Community Anti-Harassment Policy" for the Community's consideration and comment. If adopted, the Policy should be followed at ICANN (Internet Corporation for Assigned Names and Numbers) Public meetings and throughout other ICANN (Internet Corporation for Assigned Names and Numbers) community interactions. The draft Community Anti-Harassment Policy is the Reference Materials document to this Board Paper and incorporates many of the ideas suggested in response to the public comments received on the revised Expected Standards of Behavior (for report on those comments, see https://www.icann.org/en/system/files/files/report-comments-expected-standards-revisions-11jul16-en.pdf (/en/system/files/files/report-comments-expected-standards-revisions-11jul16-en.pdf)).

It is not anticipated that this decision will have any fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers), and it will not have any impact on the security, stability or resiliency of the domain name system.

This decision is an Organizational Administrative Function that is directly leading to public comment on this topic.

b Any Other Business

Göran Marby informed the Board that it was his intent to renew ICANN (Internet Corporation for Assigned Names and Numbers)'s membership in the Internet Society (ISOC (Internet Society)). He noted that the membership cost is below the threshold requiring Board approval of the expenditure of funds, but the matter was being brought to the Board's attention as part of the new process developed to ensure that the Board

has a holistic view and understanding of ICANN (Internet Corporation for Assigned Names and Numbers)'s portfolio of engagements across the community.

The Chair called the meeting to a close

Published on 14 December 2016

EXHIBIT C-143

C-143

Approved Board Resolutions | Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

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English |
العربية (http://www.icann.org/resources/board-material/resolutions-2016-11-05-ar) |
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中文 (http://www.icann.org/resources/board_material/resolutions_2016_11_05_zh)

05 Nov 2016

1 Main Agenda
  a Posting for Public Comment – Draft ICANN (Internet Corporation for Assigned Names and Numbers) Community Anti-Harassment Policy
      Rationale for Resolutions 2016 11 05 xx 2016 11 05 xx

1. Main Agenda:

    a Posting for Public Comment – Draft ICANN (Internet Corporation for Assigned Names and Numbers) Community-Anti-Harassment Policy

    Whereas, during and after ICANN55, the issue of certain community-member conduct toward one another was raised in various ICANN (Internet Corporation for Assigned Names and Numbers) sessions and on various ICANN (Internet Corporation for Assigned Names and Numbers) email lists.

    Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Board agreed to address the issue of ICANN (Internet Corporation for Assigned Names and Numbers) Community member conduct toward one another.

Whereas, on 25 June 2016, following receipt and consideration of public comments, the Board approved (see https://www.icann.org/resources/board-material/resolutions-2016-06-25-en#2.f (/resources/board-material/resolutions-2016-06-25-en#2.f)) revised Expected Standards of Behavior, which more specifically addresses the issue of harassment than the earlier version had.

Whereas, in furtherance of the public comments referenced above, in consultation with an expert, as needed and appropriate, the Organization has developed a draft ICANN (Internet Corporation for Assigned Names and Numbers) Community Anti-Harassment Policy for the Community's consideration.

Resolved (2106.11.05.01), the Board hereby authorizes the posting of the draft ICANN (Internet Corporation for Assigned Names and Numbers) Community Anti-Harassment Policy for public comment for 60 days in order to give the Community sufficient time to discuss the draft Policy, as well as formulate and submit public comment(s) on the draft Policy.

Resolved (2016.11.05.02), following receipt of public comment, the Board will evaluate those comments and will again engage with the Community to the extent significant changes to the proposed Policy are suggested.

Rationale for Resolutions 2016.11.05.01-2016.11.05.02

During and after ICANN55, the issue of certain community-member conduct toward one another was raised in various sessions and on various email lists, and the Board agreed to address this matter. In response, the Board has confirmed and reiterated that ICANN (Internet Corporation for Assigned Names and Numbers)'s Board and staff take the issue of harassment or other improper conduct at its meetings very seriously. ICANN (Internet Corporation for Assigned Names and Numbers) and members of the community share the goal of ensuring that ICANN (Internet Corporation for Assigned Names and Numbers) community members are able to

participate and contribute within an environment that remains free from harassment

As an organization, ICANN (Internet Corporation for Assigned Names and Numbers) has robust internal policies regarding the issue, including mandatory training. While ICANN (Internet Corporation for Assigned Names and Numbers) community members are not bound to the same policies and rules as the ICANN (Internet Corporation for Assigned Names and Numbers) organization or the Board, everyone who participated in ICANN (Internet Corporation for Assigned Names and Numbers) processes should expect community members to adhere to certain Expected Standards of Behavior   In addressing the issues identified at ICANN55, one step taken was to revise the Expected Standards of Behavior to specifically call out issues of harassment and the fact that such conduct is not acceptable in any ICANN (Internet Corporation for Assigned Names and Numbers) fora. The revised Board-approved version of ICANN (Internet Corporation for Assigned Names and Numbers)'s Expected Standards of Behavior can be found at https //www icann org/resources/pages/expected standards-2016-06-28-en (/resources/pages/expected-standards 2016 06 28 en)

In addition, as directed by the Board, the organization worked with an expert, as appropriate and necessary, to develop a draft "Community Anti-Harassment Policy" for the Community's consideration and comment   If adopted, the Policy should be followed at ICANN (Internet Corporation for Assigned Names and Numbers) Public meetings and throughout other ICANN (Internet Corporation for Assigned Names and Numbers) community interactions   The draft Community Anti Harassment Policy is the Reference Materials document to this Board Paper and incorporates many of the ideas suggested in response to the public comments received on the revised Expected Standards of Behavior (for report on those comments, see https://www.icann.org/en/system/files/files/report-comments-expected standards revisions 11jul16 en pdf (/en/system/files/files/report-comments-expected-standards-revisions 11jul16 en pdf))

It is not anticipated that this decision will have any fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers), and it will not have any impact on the security, stability or resiliency of the domain name system.

This decision is an Organizational Administrative Function that is directly leading to public comment on this topic.

EXHIBIT C-144

AGENDA – 8 NOVEMBER 2016 ORGANIZATIONAL BOARD MEETING

Time, etc.	Agenda Item	Shepherd	Expected Action	Move/Second Speak
Discussion & Decision	**1. Main Agenda**			
	1.a. Election of Board Chair	Cherine Chalaby	Approval	
	1.b. Election of Vice Chair	Steve Crocker	Approval	
	1.c. Appointment of Membership of Board Committees	Chris Disspain	Approval	
	1.d. Board Appointments to the Board-GAC Recommendation Implementation Working Group	Markus Kummer	Approval	
	1.e. Board Appointments to the Board IDN Variant Working Group	Ram Mohan	Approval	

AGENDA – 8 NOVEMBER 2016 ORGANIZATIONAL BOARD MEETING

Time, etc.	Agenda Item	Shepherd	Expected Action	Move/Second Speak
	1.f. Board Appointments to the Board Working Group on Registration Directory Services (BWG-RDS)	Chris Disspain	Approval	
	1.g. Board Appointments to the Board Working Group on Internet Governance (BWG-IG)	Markus Kummer	Approval	
	1.h. Confirmation of President of PTI	Steve Crocker	Approval	
	1.i. Confirmation of Officers of ICANN	Steve Crocker	Approval	
	1.j. AOB			

EXHIBIT C-145

C-145

Agenda | Organizational Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

08 Nov 2016

Main Agenda

- Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Chair

- Election of ICANN (Internet Corporation for Assigned Names and Numbers) Vice Chair

- Appointment of Membership of Board Committees and Changes to Membership of Board Working Groups

- Confirmation of Officers of CANN (Internet Corporation for Assigned Names and Numbers)

- AOB

Published on 26 October 2016

EXHIBIT C-146

C-146

Minutes | Organizational Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is available in:
English |
العربية (http://www.icann.org/resources/board-material/minutes-2-2016-11-08-ar) |
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Français (http://www.icann.org/resources/board-material/minutes-2-2016-11-08-fr) |
Русский (http://www.icann.org/resources/board-material/minutes-2-2016-11-08-ru) |
中文 (http://www.icann.org/resources/board_material/minutes_2_2016_11_08_zh)

08 Nov 2016

An Organizational Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors was held publically in Hyderabad, India on 8 November 2016 at 09:00 local time.

Steve Crocker, Chair, promptly called the meeting to order.

In addition to the Chair, the following Directors participated in all or part of the meeting: Rinalia Abdul Rahim, Maarten Botterman, Becky Burr, Cherine Chalaby (Vice Chair), Ron da Silva, Chris Disspain, Asha Hemrajani, Rafael Lito Ibarra, Khaled Koubaa, Markus Kummer, Akinori Maemura, Göran Marby (President and CEO), George Sadowsky, Mike Silber, and Lousewies van der Laan.

The following Board Liaisons participated in all or part of the meeting: Ram Mohan (SSAC (Security and Stability Advisory Committee) Liaison), Kaveh Ranjbar (RSSAC (Root Server System Advisory Committee) Liaison), Thomas Schneider (GAC (Governmental Advisory Committee) Liaison), and Jonne Soininen (IETF (Internet Engineering Task Force) Liaison).

Secretary: John Jeffrey (General Counsel and Secretary).

1. Main Agenda
   a. Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Chair

   b. Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Vice Chair

   c. Appointment of Membership of Board Committees

   d. Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group

   e. Board IDN Variant Working Group

   f. Board Working Group on Registration Directory Services

   g. Board Working Group on Internet Governance

   h. Confirmation of Officers of CANN (Internet Corporation for Assigned Names and Numbers)

   i. Confirmation of President of PTI

1. Main Agenda

Steve Crocker introduced the initial meeting of the new Board and asked for Cherine Chalaby to assume leadership of the meeting for the first item.

a Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Chair

Cherine Chalaby introduced the agenda item. Lousewies van der Laan moved and Asha Hemrajani seconded the proposed resolution. The Board took the following action:

> Resolved (2016.11.08.26), Steve Crocker is elected as Chairman of the Board.

All members of the Board approved of Resolution 2016.11.08.26 by acclamation. The Resolution carried.

b Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Vice Chair

Lousewies van der Laan introduced the agenda item. Rinalia Abdul Rahim moved and Khaled Koubaa seconded the proposed resolution. The Board took the following action:

> Resolved (2016.11.08.27), Cherine Chalaby is elected as Vice-Chairman of the Board.

All members of the Board voted in favor of Resolution 2016.11.08.27. The Resolution carried.

c. Appointment of Membership of Board Committees

The Chair of the Board Governance Committee, Chris Disspain, introduced the agenda item and read the proposed slate of members to serve on various Board Committees.

Chris Disspain moved and Ram Mohan seconded the proposed resolution. The Board took the following action:

> Resolved (2016.11.08.28), membership of the following Board Committees is established as follows
>
> **Audit**
> Mike Silber (Chair)
> Steve Crocker
> Ron da Silva
> Chris Disspain
> Lousewies van der Laan
>
> **Compensation**
> George Sadowsky (Chair)
> Steve Crocker
> Chris Disspain
> Ram Mohan (Liaison)
> Jonne Soininen (Liaison)

Executive

Steve Crocker (Chair)

Cherine Chalaby

Chris Disspain

Göran Marby

Finance

Asha Hemrajani (Chair)

Ron da Silva (Vice-Chair)

Becky Burr

Cherine Chalaby

Markus Kummer

George Sadowsky

Lousewies van der Laan

Governance

Chris Disspain (Chair)

Rinalia Abdul Rahim

Cherine Chalaby

Asha Hemrajani

Markus Kummer

Ram Mohan (Liaison)

Mike Silber

Organizational Effectiveness

Rinalia Abdul Rahim (Chair)

Khaled Koubaa (Vice-Chair)

Rafael "Lito" Ibarra

Markus Kummer

George Sadowsky

Risk

Ram Mohan (Liaison) (Co-Chair)

Mike Silber (Co-Chair)

Maarten Botterman

Rafael "Lito" Ibarra

Akinori Maemura

Kaveh Ranjbar (Liaison)

Jonne Soininen (Liaison)

All members of the Board voted in favor of Resolution 2016.11.08.28. The Resolution carried.

d Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group

Markus Kummer, Co-Chair (from the Board) of the Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group, introduced the agenda item and read the proposed slate of Board members to serve on the Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group.

Markus Kummer moved and Mike Silber seconded the proposed resolution. The Board took the following action:

> Resolved (2016.11.08.29), membership of the Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group is established as follows:
>
> Markus Kummer (Co-Chair from the Board)
> Maarten Botterman
> Chris Disspain
> Ram Mohan (Liaison)
> Mike Silber
> Lousewies van der Laan

All members of the Board voted in favor of Resolution 2016.11.08.29. The Resolution carried.

e Board IDN Variant Working Group

Ram Mohan, Chair of the Board IDN Variant Working Group, introduced the agenda item and read the proposed slate of Board members to serve on the Working Group.

Chris Disspain moved and George Sadowsky seconded the proposed resolution. The Board took the following action:

> Resolved (2016.11.08.30), membership of the Board IDN Variant Working Group is established as follows:
>
> Ram Mohan (Liaison) (Chair)
> Rinalia Abdul Rahim
> Khaled Koubaa
> Akinori Maemura
> Kaveh Ranjbar (Liaison)
> Jonne Soininen (Liaison)

All members of the Board voted in favor of Resolution 2016.11.08.30. The Resolution carried.

f. Board Working Group on Registration Directory Services

Chris Disspain, Chair of the Board Working Group on Registration Directory Services, introduced the agenda item and read the proposed slate of Board members to serve on the Working Group.

Chris Disspain moved and Khaled Koubaa seconded the proposed resolution. The Board took the following action:

> Resolved (2016.11.08.31), membership of the Board Working Group on Registration Directory Services is established as follows:
>
> Chris Disspain (Chair)
> Rinalia Abdul Rahim
> Cherine Chalaby
> Steve Crocker
> Markus Kummer
> Akinori Maemura
> Kaveh Ranjbar (Liaison)

All members of the Board voted in favor of Resolution 2016.11.08.31. The Resolution carried.

g Board Working Group on Internet Governance

Markus Kummer, Chair of the Board Working Group on Internet Governance, introduced the agenda item and noted that the Working Group was established earlier this year. He read the proposed slate of Board members to serve on the Working Group.

Lito Ibarra moved and George Sadowsky seconded the proposed resolution. The Board took the following action:

> Resolved (2016.11.08.32), membership of the Board Working Group on Internet Governance is established as follows:
>
> Markus Kummer (Chair)
> Rinalia Abdul Rahim
> Ron da Silva
> Chris Disspain
> Rafael "Lito" Ibarra
> Khaled Koubaa
> George Sadowsky
> Lousewies van der Laan

All members of the Board voted in favor of Resolution 2016.11.08.32. The Resolution carried.

h Confirmation of Officers of ICANN (Internet Corporation for Assigned Names and Numbers)

Steve Crocker introduced the agenda item and took note of the corporate and Bylaws requirements to appoint various persons as officers of ICANN (Internet Corporation for Assigned Names and Numbers) He read the proposed slate of Officers of ICANN (Internet Corporation for Assigned Names and Numbers)

Steve Crocker moved and George Sadowsky seconded the proposed resolutions The Board took the following action

Resolved (2016.11.08.33), Göran Marby is elected as President and Chief Executive Officer

Resolved (2016.11.08.34), John Jeffrey is elected as General Counsel and Secretary

Resolved (2016.11.08.35), Xavier Calvez is elected as Chief Financial Officer

Resolved (2016.11.08.36), Akram Atallah is elected as President, Global Domains Division

Resolved (2016.11.08.37), Susanna Bennett is elected as Chief Operating Officer

Resolved (2016.11.08.38), David Olive is elected as Senior Vice President, Policy Development Support & General Manager, ICANN (Internet Corporation for Assigned Names and Numbers) Regional Headquarters – Istanbul

Resolved (2016 11 08 39), Ashwin Rangan is elected as Senior Vice President Engineering & Chief Information Officer

All members of the Board voted in favor of Resolutions 2016.11.08.33 – 2016.11.08.39. The Resolutions carried.

i. Confirmation of President of PTI

Steve Crocker introduced the agenda item and commented that because of the IANA (Internet Assigned Numbers Authority) stewardship transition, the Board, as the member of Public Technical Identifiers, needed to elect a President of Public Technical Identifiers.

Steve Crocker moved and Ron da Silva seconded the proposed resolution. The Board took the following action:

Resolved (2016.11.08.40), in its role as the Member of Public Technical Identifiers (PTI), the ICANN (Internet

> Corporation for Assigned Names and Numbers) Board
> elects Elise Gerich as President, PTI

All members of the Board voted in favor of Resolution 2016.11.08.40. The Resolution carried.

The Chair called the meeting to a close

Published on 14 December 2016

EXHIBIT C-147

C-147

Adopted Board Resolutions | Organizational Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is available in:

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中文 (http://www.icann.org/resources/board_material/resolutions_2_2016_11_08-zh)

08 Nov 2016

1 Main Agenda

    a Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Chair

    b Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Vice Chair

    c Appointment of Membership of Board Committees

    d Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group

    e Board IDN Variant Working Group

    f Board Working Group on Registration Directory Services

    g Board Working Group on Internet Governance

    h Confirmation of Officers of ICANN (Internet Corporation for Assigned Names and Numbers)

    i Confirmation of President of PTI

1. Main Agenda

    a Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Chair

       Resolved (2016.11.08.26), Steve Crocker is elected as Chairman of the Board.

    b Election of ICANN (Internet Corporation for Assigned Names and Numbers) Board Vice Chair

       Resolved (2016.11.08.27), Cherine Chalaby is elected as Vice-Chairman of the Board.

    c. Appointment of Membership of Board Committees

       Resolved (2016.11.08.28), membership of the following Board Committees is established as follows:

       Audit
       Mike Silber (Chair)
       Steve Crocker
       Ron da Silva
       Chris Disspain
       Lousewies van der Laan

       Compensation
       George Sadowsky (Chair)
       Steve Crocker
       Chris Disspain
       Ram Mohan (Liaison)
       Jonne Soininen (Liaison)

       Executive
       Steve Crocker (Chair)
       Cherine Chalaby
       Chris Disspain
       Göran Marby

Finance

Asha Hemrajani (Chair)

Ron da Silva (Vice-Chair)

Becky Burr

Cherine Chalaby

Markus Kummer

George Sadowsky

Lousewies van der Laan

Governance

Chris Disspain (Chair)

Rinalia Abdul Rahim

Cherine Chalaby

Asha Hemrajani

Markus Kummer

Ram Mohan (Liaison)

Mike Silber

Organizational Effectiveness

Rinalia Abdul Rahim (Chair)

Khaled Koubaa (Vice-Chair)

Rafael "Lito" Ibarra

Markus Kummer

George Sadowsky

Risk

Ram Mohan (Liaison) (Co Chair)

Mike Silber (Co-Chair)

Maarten Botterman

Rafael "Lito" Ibarra

Akinori Maemura

Kaveh Ranjbar (Liaison)

Jonne Soininen (Liaison)

d **Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group**

Resolved (2016.11.08.29), membership of the Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group is established as follows:

Markus Kummer (Co-Chair)
Maarten Botterman
Chris Disspain
Ram Mohan (Liaison)
Mike Silber
Lousewies van der Laan

e Board IDN Variant Working Group

Resolved (2016.11.08.30), membership of the Board IDN
Variant Working Group is established as follows:

Ram Mohan (Liaison) (Chair)
Rinalia Abdul Rahim
Khaled Koubaa
Akinori Maemura
Kaveh Ranjbar (Liaison)
Jonne Soininen (Liaison)

f. Board Working Group on Registration Directory Services

Resolved (2016.11.08.31), membership of the Board Working
Group on Registration Directory Services is established as
follows:

Chris Disspain (Chair)
Rinalia Abdul Rahim
Cherine Chalaby
Steve Crocker
Markus Kummer
Akinori Maemura
Kaveh Ranjbar (Liaison)

g Board Working Group on Internet Governance

Resolved (2016.11.08.32), membership of the Board Working
Group on Internet Governance is established as follows:
Markus Kummer (Chair)
Rinalia Abdul Rahim
Ron da Silva

Chris Disspain
Rafael "Lito" Ibarra
Khaled Koubaa
George Sadowsky
Lousewies van der Laan

h Confirmation of Officers of ICANN (Internet Corporation for Assigned Names and Numbers)

Resolved (2016.11.08.33), Göran Marby is elected as President and Chief Executive Officer.

Resolved (2016.11.08.34), John Jeffrey is elected as General Counsel and Secretary.

Resolved (2016.11.08.35), Xavier Calvez is elected as Chief Financial Officer.

Resolved (2016.11.08.36), Akram Atallah is elected as President, Global Domains Division.

Resolved (2016.11.08.37), Susanna Bennett is elected as Chief Operating Officer.

Resolved (2016.11.08.38), David Olive is elected as Senior Vice President, Policy Development Support & General Manager, ICANN (Internet Corporation for Assigned Names and Numbers) Regional Headquarters – Istanbul

Resolved (2016.11.08.39), Ashwin Rangan is elected as Senior Vice President Engineering & Chief Information Officer.

i. Confirmation of President of PTI

Resolved (2016.11.08.40), in its role as the Member of Public Technical Identifiers (PTI), the ICANN (Internet Corporation for Assigned Names and Numbers) Board elects Elise Gerich as President, PTI.

EXHIBIT C-148

ICANN BOARD SUBMISSION NO. 2016.11.08.2b

TITLE: **Consideration of the *Corn Lake, LLC v. ICANN* Independent Review Process Final Declaration**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

On 19 October 2016, the parties received the Independent Review Process (IRP) Panel's (Panel's) Final Declaration in the IRP filed by Corn Lake, LLC (Corn Lake) (s*ee* Final Declaration, Attachment A to Reference Materials) (Final Declaration). The IRP challenged: (1) the Expert Determination sustaining the Community Objection against Corn Lake's application for .CHARITY; (2) the Board Governance Committee's (BGC's) denial of Corn Lake's Reconsideration Request 14-3 challenging the Expert Determination; and (3) the Board's decision to not include the Expert Determination in the review mechanism to address perceived inconsistent or unreasonable string confusion objection determinations (Final Review Procedure).

The IRP request was denied in part and granted in part, and the Panel determined Corn Lake to be the prevailing party. (Final Declaration at ¶¶ 7.14, 8.96, 11.1(a).) Specifically, the Panel declared that Corn Lake's challenges to the Expert Determination and the BGC's denial of Reconsideration Request 14-3 were "out of time" and therefore time-barred from consideration in the IRP. (Final Declaration at ¶¶ 7.14, 8.34.) The Panel further declared that "omitting .CHARITY from the [Final Review Procedure] was inconsistent with the Articles of Incorporation and Bylaws." (Final Declaration at ¶ 11.1(b).) The Panel further declared that because "these IRP proceedings involve extraordinary circumstances," "no costs shall be allocated to the prevailing party." (Final Declaration at ¶¶ 9.3-9.5 11.1(e).)

The Panel also declared that: (i) "there is no suggestion that the Board had a conflict of interest, and the IRP Panel finds that the Board acted without conflict." (*id.* at ¶ 8.70); and (ii) "the Board members exercised independent judgment, believed to be in the best

interests of the community" (*id.* at ¶ 8.74). The Panel further stated: "[t]his IRP Panel does not suggest that ICANN lacks discretion to make decisions regarding its review processes as set out in the Applicant Guidebook, which may well require it to draw nuanced distinctions between different applications or categories of applications. Its ability to do so must be preserved as being in the best interest of the Internet community as a whole." (*Id.* at ¶ 8.98).

In addition, the Panel recommended that: (1) "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination"; and (2) "the Board continue to stay any action or decision in relation to [Spring Registry's] .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel." (Final Declaration at ¶¶ 11.1(c)-(d).)

In accordance with Article IV, section 3.21, the Board is being asked to consider and adopt the findings of the Panel's Final Declaration in the Corn Lake IRP. (*See* https://www.icann.org/resources/pages/governance/bylaws-en/#IV.)

PROPOSED RESOLUTION:

Whereas, on 19 October 2016, ICANN received the Independent Review Process (IRP) Final Declaration in the IRP filed by Corn Lake, LLC (Corn Lake) against ICANN (Final Declaration).

Whereas, the IRP Panel declared that: (i) Corn Lake's challenges to the determination rendered by an expert panelist sustaining the Independent Objector's (IO's) Community Objection against Corn Lake's application for .CHARITY (Expert Determination) and the Board Governance Committee's (BGC's) denial of Corn Lake's Reconsideration Request 14-3 challenging the Expert Determination were time-barred; (ii) "the Board acted without conflict [of interest]"; and (iii) "the Board members exercised independent judgment, believed to be in the best interests of the community." (*See* Final Declaration, ¶¶ 7.14, 8.70, 8.74, https://www.icann.org/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf.)

Whereas, the Panel further declared that "the [Board] action of omitting .CHARITY from the [the review mechanism to address perceived inconsistent or unreasonable string confusion objection determinations (Final Review Procedure)] was inconsistent with the Articles of Incorporation and Bylaws." (Final Declaration at ¶ 11.1(b).)

Whereas, the Panel further declared that "Claimant, Corn Lake, is the prevailing party" and that "no costs shall be allocated to the prevailing party." (Final Declaration at ¶¶ 11.1(a), (e).)

Whereas, the Panel recommended that: (1) "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination"; and (2) "the Board continue to stay any action or decision in relation to [Spring Registry Limited's] .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel." (Final Declaration at ¶¶ 11.1(c)-(d).)

Whereas, in accordance with Article IV, section 3.21 of ICANN's Bylaws, the Board has considered the Final Declaration.

Resolved (2016.11.XX.XX), the Board accepts the following findings of the Final Declaration: (i) Corn Lake is the prevailing party in the *Corn Lake, LLC v. ICANN* IRP; (ii) Corn Lake's challenges to the Expert Determination and the BGC's denial of Corn Lake's Reconsideration Request 14-3 were time-barred; (iii) the Board acted without conflict of interest; (iv) "the Board members exercised independent judgment, believed to be in the best interests of the community"; (v) "the [Board] action of omitting .CHARITY from the [Final Review Procedure] was inconsistent with the Articles of Incorporation and Bylaws"; and (vi) the parties shall each bear their own costs.

Resolved (2016.11.XX.XX), the Board directs the President and CEO, or his designee(s), to take all steps necessary to implement the Panel's recommendation that "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination."

Resolved (2016.11.XX.XX), the Board directs the President and CEO, or his designee(s), to refrain from taking any further action or decision in relation to Spring Registry Limited's .CHARITY application until after the results of the Final Review Procedure are known, and then to proceed pursuant to established processes with the processing of both Corn Lake's and Spring Registry Limited's applications in accordance with the results of Final Review Procedure.

PROPOSED RATIONALE:

Corn Lake, LLC (Corn Lake) initiated Independent Review Process (IRP) proceedings challenging: (1) the determination rendered by an expert panelist sustaining the Independent Objector's (IO's) community objection against Corn Lake's application for .CHARITY (Expert Determination); (2) the Board Governance Committee's (BGC's) denial of Corn Lake's Reconsideration Request 14-3 challenging the Expert Determination; and (3) the Board's decision to not include the Expert Determination in the review mechanism to address perceived inconsistent or unreasonable string confusion objection determinations (Final Review Procedure).

Corn Lake applied to ICANN for the opportunity to operate the .CHARITY new gTLD. Spring Registry Limited ("SRL") also submitted an application for .CHARITY, and Excellent First Limited (Excellent First) submitted an application for .慈善 (the Chinese translation of "charity"). ICANN's Independent Objector (IO) filed Community Objections against the two .CHARITY applications, as well as the application for .慈善, meaning charity. The IO was concerned that, among other things, the lack of any policy restricting registrations in these gTLDs to charitable or not-for-profit organizations created a likelihood of detriment to the rights or legitimate interests of the charity community, to users, and to the general public. (*See* IO's Community Objection at Para. 46, pgs. 16-17, http://www.independent-objector-newgtlds.org/home/the-independent-objector-s-objections/charity-cty-corn-lake-llc/.)

The International Centre for Expertise of the International Chamber of Commerce (ICC) expert panel evaluating the IO's Community Objection to Corn Lake's application

rendered a determination (Expert Determination) in favor of the IO, finding that, because Corn Lake's .CHARITY application did not include registration restrictions to charitable organizations, "there is a likelihood of material detriment to the charity sector community were the Application to proceed." The same ICC expert panel also evaluated the IO's Community Objections to SRL's application and Excellent First's application, rendering determinations in favor of SRL and Excellent First Limited. Specifically, the expert panel found that SRL's and Excellent First's commitments set out in their applications to restrict registrations in the applied-for string to charitable organizations was sufficient to negate any concern of material detriment to the targeted community.

On 24 January 2014, Corn Lake filed Reconsideration Request 14-3 (Request 14-3) seeking reversal of the Expert Determination. On 27 February 2014, the Board Governance Committee (BGC) denied Request 14-3, finding no evidence that the expert panel violated any process or policy in reaching its determination.

Separately, in April 2013, the Governmental Advisory Committee (GAC) recommended in the Beijing Communiqué that the Board adopt eligibility restrictions for "sensitive strings," including .CHARITY. (*See* Beijing Communiqué at https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf.) The New gTLD Program Committee (NGPC) adopted the GAC's recommendation by a 5 February 2014 resolution (*see* https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-02-05-en), which, according to the Panel, effectively required that whichever applicant ultimately operated the .CHARITY gTLD would need to restrict registrations to charitable organizations. Also at that 5 February 2014 meeting, the NGPC adopted a resolution that authorized the ICANN President and CEO to initiate a public comment period with respect to a proposed review mechanism to address perceived inconsistent string confusion objection determinations (Final Review Procedure). At its creation, the Final Review Procedure was limited to the review of certain string confusion expert determinations for .CAR/.CARS, .CAM/.COM, and .SHOP/.ONLINESHOPPING (in Japanese characters). In March 2014, via the public comment process, Corn Lake's parent company (Donuts, Inc.) asked the Board to extend the Final Review Procedure to perceived inconsistent determinations of community

objection, such as that concerning .CHARITY. The Board did not do so when the procedure was implemented in a 12 October 2014 Board resolution ("12 October 2014 Resolution"). (*See* https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en.)

Corn Lake's IRP Request, submitted on 24 March 2015, sought a declaration that the ICANN Board's decision not to include the .CHARITY determination in the 12 October 2014 Resolution violates ICANN's Articles and Bylaws, and also asked the Panel to review the Expert Determination and the BGC's denial of Request 14-3.

On 17 October 2016, the three-member IRP Panel (Panel) issued its Final Declaration, which was circulated to the parties on 19 October 2016. After consideration and discussion, pursuant to Article IV, Section 3.21 of the ICANN Bylaws, the Board adopts the findings of the Panel, which are summarized below, and can be found in full at https://www.icann.org/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf.

The Panel held that the IRP request was denied in part and granted in part, and determined Corn Lake to be the prevailing party. (Final Declaration at ¶¶ 7.14, 8.96, 11.1(a).) As a threshold issue, the Panel declared that Corn Lake's challenges to the Expert Determination and the BGC's denial of Request 14-3 were "out of time" and therefore time-barred from consideration in this IRP. (Final Declaration at ¶¶ 7.14, 8.34.)

The Panel also declared that: (i) with respect to setting filing deadlines, "ICANN is entitled and indeed required to establish reasonable procedural rules in its Bylaws, including in respect of filing deadline, in order to provide for orderly management of its review processes" (*id.* at ¶ 7.9); (ii) "it is now well established that: '…the IRP Panel is charged with 'objectively' determining whether or not the Board's actions are in fact consistent with the Articles, Bylaws and Guidebook, which the Panel understands as requiring that the Board's conduct be appraised independently, and without any presumption of correctness'" (*id.* at ¶ 8.18); (iii) "[t]here is no suggestion that the Board had a conflict of interest, and the IRP Panel finds that the Board acted without conflict." (*id.* at ¶ 8.70); and (iv) "[t]here is no indication that the Board members were acting in

any way other than in good faith and exercising independent judgment, with the subjective belief that they were acting in the best interests of the community. The IRP Panel finds that the Board members exercised independent judgment, believed to be in the best interests of the community" (*id.* at ¶ 8.74). The Panel further stated: "[t]his IRP Panel does not suggest that ICANN lacks discretion to make decisions regarding its review processes as set out in the Applicant Guidebook, which may well require it to draw nuanced distinctions between different applications or categories of applications. Its ability to do so must be preserved as being in the best interest of the Internet community as a whole." (*Id.* at ¶ 8.98).

The Panel stated that "[t]he sole issue before this Panel is whether the Board properly or improperly excluded the .Charity Expert Determinations from the [Final Review Procedure] in the first place." (Final Declaration at ¶ 8.97, fn. 246.) In considering this issue, the Panel noted that the Expert Determination was largely based on the fact that Corn Lake's application originally had not made clear that it would restrict registrations to charitable organizations. The Panel felt that the NGPC's acceptance of the Beijing Communiqué created a "levelling effect," effectively requiring that whichever .CHARITY applicant prevailed, it would be required to implement restricted registration policies. The Panel noted: "We make no finding that the Board's failure to consider the impact of its adoption of the Beijing Communiqué recommendations was malicious or intentional. We find simply that the levelling effect on the eligibility requirements in the pending applications of the new PIC requirement was a material fact that should have been considered, and apparently it was not." (Final Declaration at ¶ 8.73.) The Panel therefore declared that that "the action of omitting .CHARITY from the [Final Review Procedure] was inconsistent with the Articles of Incorporation and Bylaws." (Final Declaration at ¶ 11.1(b).) The Panel noted that its finding "is further supported by the ICANN Board's [later] decision to include the .HOSPITAL Expert Determinations [in the Final Review Procedure], despite those Determinations appearing to have been less clearly within the criteria tha[n] the .CHARITY Determinations." (Final Declaration at ¶ 8.101.) The Panel further noted that "this is a unique situation and peculiar to its own unique and unprecedented facts[; and t]his unique set of circumstances created what was

doubtless a difficult situation for ICANN to consider in establishing the scope of the new review process[.]" (Final Declaration at ¶ 8.97.)

The Panel further declared that "these IRP proceedings involve extraordinary circumstances," and therefore "no costs shall be allocated to the Claimant as the prevailing party," "each Party shall bear its own costs in respect of this IRP Panel proceeding." (Final Declaration at ¶¶ 9.3-9.5.)

In addition, the Panel recommended that: (1) "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination"; and (2) "the Board continue to stay any action or decision in relation to [Spring Registry's] .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel." (Final Declaration at ¶¶ 11.1(c)-(d).) Subsequent to the issuance of the Final Declaration, the Board received a letter on 28 October 2016 (dated 27 October) from Corn Lake's counsel "urg[ing] the Board to reinstate its .CHARITY application without" "[g]oing through the motions of such review[, which] will cost money to ICANN and Corn Lake, and unnecessary time for all .CHARITY applicants." Corn Lake requests that the Board "reinstat[e] Corn Lake's .CHARITY application and allow[] it to compete for the domain without going through the additional time and expense [of the Final Review Procedure]." (See https://www.icann.org/en/system/files/correspondence/genga-to-icann-board-27oct16-en.pdf.) The Board had the opportunity to review Corn Lake's correspondence and has taken it into consideration in reaching its Resolution regarding the Panel's recommendation.

As required, the Board has considered the Final Declaration. As this Board has previously indicated, the Board takes very seriously the results of one of ICANN's long-standing accountability mechanisms. Accordingly, and for the reasons set forth in this Resolution and Rationale, the Board has accepted the Panel's Final Declaration as indicated above.

Adopting the Panel's Final Declaration and implementing the Panel's recommendation will have a direct financial impact on the organization, but that impact will not impact the

underlying budget for FY17. Adopting the Panel's Final Declaration will not have any direct impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative function that does not require public comment.

Submitted By: Amy A. Stathos, Deputy General Counsel
Date Noted: 21 October 2016
Email: amy.stathos@icann.org

EXHIBIT C-149

ICANN BOARD PAPER NO. 2016.11.08.1b

TITLE: **Appointment of Jacques Latour and Tara Whalen to the Security and Stability Advisory Committee**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Chair of the Security and Stability Advisory Committee (SSAC) respectfully requests the appointment of Jacques Latour and Tara Whalen as new Committee members.

COMMITTEE RECOMMENDATION:

The Committee desires the appointment of Jacques Latour and Tara Whalen to the SSAC.

PROPOSED RESOLUTION:

Whereas, the Security and Stability Advisory Committee (SSAC) does review its membership and make adjustments from time-to-time.

Whereas, the SSAC Membership Committee, on behalf of the SSAC, requests that the Board should appoint Jacques Latour and Tara Whalen to the SSAC for three-year terms beginning immediately upon approval of the Board and ending on 31 December 2019.

It is resolved (2016.11.08.xx) that the Board appoints Jacques Latour and Tara Whalen to the SSAC for three-year terms beginning immediately upon approval of the Board and ending on 31 December 2019.

PROPOSED RATIONALE:

The SSAC is a diverse group of individuals whose expertise in specific subject matters enables the SSAC to fulfill its charter and execute its mission. Since its inception, the SSAC has invited individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems.

The SSAC's continued operation as a competent body is dependent on the accrual of talented subject matter experts who have consented to volunteer their time and energies to the execution of the SSAC mission. Jacques Latour is currently the CTO at CIRA, the Canadian Internet Registry Authority for .ca, a position he has held for the past 6 years. He also is an active member of the ccNSO community and the IETF DNS community. Jacques has extensive country code registry experience and all of the related technologies. He has been an active member of the SSAC's DNSSEC Workshop Program Committee for several years.

Tara Whalen has a PhD in Computer Science followed by a Masters in Law with a concentration in Law and Technology. She has over 20 years of experience in security and privacy, including working in the Office of the Privacy Commissioner of Canada, as a Privacy and Security Standards Engineer at Apple, and is currently a Staff Privacy Analyst at Google. She has been active in the IETF (intrusion detection working group) and is currently active in the W3C (Privacy Interest Group). She is generally engaged in an operational role around the nexus of security and privacy.

The SSAC believes Jacques Latour and Tara Whalen would be significant contributing members of the SSAC.

Submitted by: Ram Mohan

 Position: Liaison to the ICANN Board from the Security & Stability

                     Advisory Committee

Date Noted: 18 October 2016

Email: mohan@afilias.info

TITLE: SSAC Member Reappointments

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

One of the recommendations arising out of the organizational review of the Security and Stability Advisory Committee (SSAC) is for SSAC membership appointments to be for a term of three years renewable by the Board at the recommendation of the SSAC indefinitely, and that the terms be staggered to allow for the terms of one-third of the SSAC members to expire at the end of every year. On 05 August 2010 the ICANN Board approved Bylaws revisions that created three-year terms for SSAC members and assigned initial one-, two-, and three-year terms to all SSAC members. Each year the SSAC Membership Committee evaluates those members whose terms are ending in the calendar year, in this case 31 December 2016. The Membership Committee submitted its recommendations for member reappointments to the SSAC, which approved the reappointments of the following SSAC members: Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson.

COMMITTEE RECOMMENDATION:

The Committee recommends the Board reappoint the SSAC members as identified in the proposed resolution.

PROPOSED RESOLUTION:

Whereas, Article 12, Section 12.2(b) of the Bylaws governs the Security and Stability Advisory Committee (SSAC).

Whereas, the Board, at Resolution 2010.08.05.07 approved Bylaws revisions that created three-year terms for SSAC members, required staggering of terms, and obligated the SSAC Chair to recommend the reappointment of all current SSAC members to full or partial terms to implement the Bylaws revisions.

Whereas, the Board, at Resolution 2010.08.05.08 appointed SSAC members to terms of one, two, and three years beginning on 01 January 2011 and ending on 31

December 2011, 31 December 2012, and 31 December 2013.

Whereas, in January 2016 the SSAC Membership Committee initiated an annual review of SSAC members whose terms are ending 31 December 2016 and submitted to the SSAC its recommendations for reappointments in September 2016.

Whereas, on 21 September 2016, the SSAC members approved the reappointments.

Whereas, the SSAC recommends that the Board reappoint the following SSAC members to three-year terms: Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson.

Resolved (2016.11.08.xx), the Board accepts the recommendation of the SSAC and reappoints the following SSAC members to three-year terms beginning 01 January 2017 and ending 31 December 2019: Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson.

PROPOSED RATIONALE:

The SSAC is a diverse group of individuals whose expertise in specific subject matters enables the SSAC to fulfil its charter and execute its mission. Since its inception, the SSAC has invited individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems. The above-mentioned individuals provide the SSAC with the expertise and experience required for the Committee to fulfill its charter and execute its mission.

Submitted by:	Ram Mohan
Position:	Liaison to the ICANN Board from the Security & Stability Advisory Committee
Date Noted:	18 October 2016
Email:	mohan@afilias.info

TITLE: **Appointment of D-, E-, G-, and H-Root Server Operator Representatives to the RSSAC**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

Per ICANN Bylaws (Article XI, Section 2.3), the Root Server System Advisory Committee (RSSAC) is submitting the following members for appointment to the RSSAC:

D-Root: University of Maryland, Tripti Sinha

E-Root: National Aeronautics and Space Administration, Kevin Jones

G-Root: United States Department of Defense, Kevin Wright

H-Root: United States Army Research Laboratory, Howard Kash

These individuals have been selected by their root server operator (RSO) organizations to serve on the RSSAC.

RSSAC RECOMMENDATION:

The RSSAC Co-Chairs recommend the ICANN Board of Directors appoint Tripti Sinha as the representative for D-root server operator, Kevin Jones as the representative for E-root server operator, Kevin Wright as the representative for G-root server operator, and Howard Kash as the representative of H-root server operator.

PROPOSED RESOLUTION:

Whereas, the ICANN Bylaws call for the establishment of a Root Server System Advisory Committee (RSSAC) with the role to advise the ICANN community and ICANN Board of Directors on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System.

Whereas, the ICANN Bylaws call for the ICANN Board of Directors to appoint one RSSAC member from each Root Server operator organization, based on recommendations from the RSSAC Co-Chairs.

Whereas, the RSSAC Co-Chairs have recommended for ICANN Board of Directors consideration the appointments of representatives from the D-, E-, G, and H-root server operators to the RSSAC.

Resolved (2016.11.08.xx), the ICANN Board of Directors appoints the representatives from the D-, E-, G-, and H-root server operators, Tripti Sinha, Kevin Jones, Kevin Wright, and Howard Kash, respectively, through 31 December 2019.

PROPOSED RATIONALE:

In May 2013, the root server operators (RSO) agreed to an initial membership of RSO representatives for RSSAC, and each RSO nominated an individual. The ICANN Board of Directors approved the initial membership of RSSAC in July 2013 with staggered terms.

The representatives from the D-, E-, G-, and H-root server operators were appointed to an initial three-year term, which expires on 31 December 2016. These appointments are for full, three-year terms.

The appointment of these RSSAC members is not anticipated to have any fiscal impact on ICANN, though there are budgeted resources necessary for ongoing support of the RSSAC.

This resolution is an organizational administrative function for which no public comment is required. The appointment of RSSAC members contributes to ICANN's commitment to strengthening the security, stability, and resiliency of the DNS.

Signature Block:

Submitted by: Suzanne Woolf

Position: RSSAC Liaison to the ICANN Board of Directors

Date Noted: 17 October 2016

Email: suzworldwide@gmail.com

ICANN BOARD PAPER NO. 2016.11.08.1e

TITLE: **Investment of Auction Proceeds**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

To date, ICANN has collected auction proceeds totaling US$233 million. Consistent with ICANN's investment strategy to minimize the risk of custody, the auction proceeds are to be distributed across three different investment firms for custody and investment management. In addition, several factors, including the progress of the Community work on the future use of these funds, create the need for these funds to be readily available on a short term basis.

As a result, the Board is being asked to consider that the organization's and the Board Finance Committee's (BFC) recommendation set forth below.

ORGANIZATION and BFC RECOMMENDATION:

The Organization and the BFC recommend that the Board approve the distribution of auction proceeds to three different investment managers to reduce the risk of custody, and to be invested in safe and liquid financial instruments.

 PROPOSED RESOLUTION:

Whereas, to date ICANN has collected US$233 million of auction proceeds.

Whereas, the Board Finance Committee has determined that auction proceeds need to be invested in a manner that preserves capital and keeps these funds readily available.

Whereas, the Board Finance Committee recommends that auction proceeds be distributed across three different investment managers, and invested in safe and liquid financial instruments.

Resolved (2016.11.08.xx), the Board authorizes the President and CEO, or his designee(s), to take all actions necessary to distribute the auction proceeds across three different investment managers, which will be tasked with investing those proceeds in safe and liquid financial instruments.

 PROPOSED RATIONALE:

To date ICANN has collected auction proceeds totaling US$233 million. ICANN continuously mitigates the risk of custody by distributing investments across more than one investment management firm. Considering the amount of auction proceeds collected to date, the number of firms used to manage these funds need to be increased from the one firm currently used, to three firms. Through an RFP conducted in 2013 for the New gTLD Program, ICANN has already qualified three investment management firms. The auction funds will be distributed across these three firms, in separate and distinct accounts holding exclusively auction proceeds. In addition, considering the intended usage of these funds in the near future, as per the ongoing community process, the BFC has recommended that the managers hold these funds in safe and liquid financial instruments.

As a result, the organization recommends that the auction proceeds be invested at three different investment managers to reduce the risk of custody, and be invested in safe and liquid financial instruments.

This action is not expected to have any fiscal impact, or any impact on the security, stability and resiliency of the domain name system.

This is an Organizational Administrative Function that does not require public comment.

Submitted by: Xavier Calvez, CFO
Date Noted: 21 October 2016
Email: Xavier.calvez@icann.org

TITLE: **ICANN Delegation of Authority Guidelines**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

To provide clear guidance and clarification of roles between the Board and CEO/Management, the Board is being asked to adopt Delegation of Authority Guidelines ("Guidelines"). The Guidelines identify the respective key roles of the Board, key roles of CEO/Management, and the key interdependencies in those relationships.

As outlined in the Guidelines, a primary source of the Board's powers come directly from the ICANN Bylaws, as well as internal policies. Among others, these key powers include: (1) acting collectively by voting at meetings to authorize and direct management to take action on behalf of the ICANN organization, (2) interacting with the ICANN community to ensure that ICANN is serving the global public interest within ICANN's mission, and (3) considering policy recommendations arising out of Supporting Organizations, including participating in consultation processes if necessary.

The ICANN CEO is authorized to act within the authority delegated by the Board. The CEO may designate key management to assist in carrying out these responsibilities. The CEO's responsibilities, include, but are not limited to: (1) interacting with the ICANN community to ensure that ICANN is serving the global public interest within ICANN's mission, (2) maintaining open line of communication with the Board, (3) interacting with governments within the scope of ICANN's mission and Board's directives, and (4) leading and overseeing ICANN's day-to-day operations.

Across the roles and obligations that the Board, CEO and senior management share, there are numerous interdependencies in these relationships. These include: the CEO speaking for the ICANN organization, but serving at the pleasure of the Board, and senior management leading the activities to develop budget, operating and strategic plans, while the Board approves such plans and sets priorities.

By adopting the Guidelines, the Board will help clarify the key roles in the organization, as well help the organization run efficiently and effectively within the scope of ICANN's mission.

The Board discussed the Delegation of Authority document with the CEO on two occasions: (1) on 24 June 2016 at the ICANN 56 Board workshop, and (2) on 15 September 2016 at the Brussels workshop. Based on the conversation at the 15 September workshop, the document has been modified to reflect the Board and management role in the meeting venue selection process, specifically that while the Board approves any need to move the location of an ICANN Public Meeting or vary from the meetings strategy, it is the management responsibility to identify and select the meeting locations.

STAFF RECOMMENDATION:
Staff recommends that the Board consider adopts the Delegation of Authority Guidelines, which are presented in Attachment A. This document has been presented in draft form to the Board on two prior occasions for review and discussion, and has been modified to reflect the Board's inputs.

PROPOSED RESOLUTION:
Whereas, ICANN Bylaws Article II establishes that with certain exceptions, the powers of ICANN shall be exercised by, and its property controlled and its business and affairs conducted by or under the direction of, the Board.

Whereas, ICANN Bylaws Article XII establishes officers of ICANN, and designates the President to be the Chief Executive Officer (CEO) of ICANN in charge of all of its activities and business. All other officers and staff shall report to the President or his or her delegate, unless stated otherwise in the Bylaws.

Whereas, the Board desires to set out a clear line of delegation of authority between the role of the Board and the roles of CEO and management.

Resolved (2016.11.08.xx), the Board hereby adopts the "ICANN Delegation of Authority Guidelines" to provide clear guidance and clarification of roles between the ICANN Board and the ICANN CEO/Management ("Guidelines"). The Guidelines shall be reviewed regularly and amended from time to time by resolution of the Board.

PROPOSED RATIONALE:

The Board is taking action at this time to adopt a set of guidelines to provide greater clarity of roles between the Board and CEO/Management. These guidelines, titled "ICANN Delegation of Authority Guidelines," identify the respective key roles of the Board, key roles of CEO/Management, and the key interdependencies in those relationships. As outlined in the Guidelines, a primary source of the Board's powers come directly from the ICANN Bylaws, as well as internal policies. Among others, these key powers include: (1) acting collectively by voting at meetings to authorize and direct management to take action on behalf of the ICANN organization, (2) interacting with the ICANN community to ensure that ICANN is serving the global public interest within ICANN's mission, and (3) considering policy recommendations arising out of Supporting Organizations, including participating in consultation processes if necessary.

The ICANN CEO is authorized to act within the authority delegated by the Board. The CEO may designate key management to assist in carrying out these responsibilities. The CEO's responsibilities, include, but are not limited to: (1) interacting with the ICANN community to ensure that ICANN is serving the global public interest within ICANN's mission, (2) maintaining open line of communication with the Board, (3) interacting with governments within the scope of ICANN's mission and Board's directives, and (4) leading and overseeing ICANN's day-to-day operations.

By adopting these Guidelines, the Board intends to ensure that the Board and CEO/Management continue to operate within the scope of its mission. The Board's approval of the Guidelines will have positive impact on the community as provides additional transparency and clarity about the roles and responsibilities of key members in the ICANN organization. Additionally, it provides additional accountability to the community by clearly defining the roles and responsibilities.

There is no anticipated fiscal impact of the Board taking this action, and there are no expected security, stability, or resiliency issues related to the DNS associated with the Board's approval of the Guidelines.

This decision is an Organizational Administrative Function that does not require public comment.

Signature Block:

Submitted by: John Jeffrey

Position: General Counsel/Secretary

Date Noted: 19 October 2016

Email: john.jeffrey@icann.org

ICANN BOARD PAPER NO. 2016.11.08.1g

TITLE: **Renewal of .TEL Registry Agreement**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Board is being asked to approve renewal of the .TEL Registry Agreement. In connection
with the renewal of the legacy .TEL registry agreement, ICANN and the Registry Operator have
agreed to transition to the form of the New gTLD Registry Agreement and to incorporate terms
unique to a legacy TLD, such as .TEL, through an Addendum to the New gTLD Registry
Agreement (collectively, the "Renewal Registry Agreement"). Taken together, these two
documents comprise the proposed Renewal Registry Agreement and would replace the 30 May
2006 legacy agreement between ICANN and the Registry Operator, which is set to expire on 01
March 2017 <https://www.icann.org/resources/unthemed-pages/tel-2012-02-25-en>.

The proposed Renewal Registry Agreement includes modified provisions to bring the Agreement
in line with the form of the New gTLD Registry Agreement. In order to account for the specific
nature of the .TEL TLD, a Sponsored TLD, relevant provisions in the 30 May 2006
Sponsored TLD Registry Agreement have been carried over to this renewal Agreement in
Specification 12. A similar approach was taken for the renewal of the .JOBS (20 February 2015),
.CAT (08 October 2015) and .TRAVEL (09 October 2015) Sponsored TLD Registry
Agreements. A Sponsored TLD is a specialized TLD that has a charter which defines the purpose
for which the sponsored TLD has been created and will be operated. As part of the renewal,
some of the Sponsored TLD Charter of .TEL was incorporated into the proposed Renewal
Registry Agreement as Specification 12, a special section in the New gTLD Registry Agreement
reserved for TLDs who were approved by the New gTLD Program with the "Community"
designation. A "Community" TLD is operated for the benefit of a clearly delineated community.
In the case of .TEL, Specification 12 incorporates the language of the original Sponsorship
Charter - Appendix S in the current .TEL TLD Agreement, with modifications to remove the
requirement that the Registry control the name servers of delegated domain names, and the
restriction that registrants cannot define the contents of the zone for their domain names. As the
.TEL TLD was originally approved under this premise, the change will transform the .TEL TLD

into a gTLD with a limited set of community parameters. These parameters will be optional rather than required.

In transitioning to the New gTLD Registry Agreement format, provisions have been added to protect registrants as well as allow for swifter action in the event of certain threats to the security or stability of the DNS. Additionally, this transition makes contract administration more manageable, and enables more predictable Contractual Compliance enforcement.

As Telnic Limited is an existing Registry Operator for the .TEL TLD, the start-up provisions in the New gTLD Registry Agreement are inapplicable, including Sunrise and Claims (rights protection mechanisms), and the Continued Operations Instrument which is normally required of New gTLD registries for funding critical registry functions on an annual basis in case of registry failure in the first few years of operation. Significant provisions included in the proposed Renewal Registry Agreement are detailed in the supporting Reference Materials document.

The proposed Renewal Registry Agreement was posted for public comment. Commenters expressed their views in three key areas during the public comment period:

- o Extension of .TEL Registry Agreement: Some of the commenters expressed support for the extension of .TEL Registry Agreement, while others suggested that operational improvements should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended
- o Proposed Renewal Registry Agreement for .TEL: Three key issue areas were raised on the specific text of the proposed Renewal Registry Agreement:
    - o General Views – Some commenters positively noted the technical and operational advantages to the New gTLD Registry Agreement which benefit registrants and the Internet community over the earlier versions of the legacy Agreements
    - o Rights Protection Mechanisms – One commenter sought clarity over the language proposed in Section 1 of Specification 7 regarding applicability and implementation of rights protection mechanisms. While the revisions to Specification 7 were consistent with prior legacies, ICANN has made a modification to the language of the proposed Renewal Registry Agreement to address the comment

- o Registration Data Directory Service (Whois) – Some commenters raised concerns with continuing the unique Registration Data Directory Service that ICANN's Board approved in 2007 for the .TEL TLD
- o The continued operation of the .TEL TLD by Telnic Limited: Concerns were expressed over Telnic Limited continuing to be the Registry Operator of the .TEL TLD claiming, among other things, that Telnic Limited has violated ICANN's regulations several times and no longer has stable financials to continue the operation of the .TEL TLD

With respect to transitioning the .TEL TLD to the form of Agreement used by New gTLDs, ICANN notes that the existing .TEL TLD Registry Agreement presumptively renews in accordance with its terms at its expiration so long as certain requirements are met. This would have resulted in few, if any, improvements. The proposed Renewal Registry Agreement is the result of the negotiation of renewal terms reasonably acceptable to ICANN and the Registry Operator on the New gTLD form. The renewal terms being presented to the Board for approval are the result of the bilateral negotiations required by the current Registry Agreement. As noted above, the new form of the Registry Agreement provides technical and operational advantages and benefits to registrants and the Internet community. It also allows ICANN to designate an emergency interim Registry Operator in the event that emergency thresholds for critical Registry Services are reached, requires Public Interest Commitments including the obligation to only use registrars under the 2013 RAA and requires the implementation of additional Rights Protection Mechanisms (RPMs) to protect rights holders.

STAFF RECOMMENDATION:
Taking into consideration community feedback requesting clarity over the language in Section 1 of Specification 7 and a typographical error identified by staff in Section 2.19, staff has prepared a revised version of the Renewal Registry Agreement, which is included in the board reference materials. Staff recommends that the Board approve the revised Renewal Registry Agreement with Telnic Limited for operation of the .TEL top-level domain.

PROPOSED RESOLUTION:

Whereas, ICANN commenced a public comment period from 04 August 2016 to 13 September 2016 on a proposed Renewal Registry Agreement for the .TEL TLD.

Whereas, the proposed .TEL Renewal Registry Agreement includes modified provisions to bring the .TEL Registry Agreement into line with the form of the New gTLD Registry Agreement.

Whereas, the public comment forum on the proposed Renewal Registry Agreement closed on 13 September 2016, with ICANN receiving twenty-seven (27) comments, both by individuals and organizations/groups. A summary and analysis of the comments were provided to the Board and in one instance, ICANN modified the proposed Renewal Registry Agreement to incorporate additional clarifying language in response to the public comments related to the RPM language proposed in Section 1 of Specification 7 regarding applicability and implementation of applicable rights protection mechanisms.

Whereas, the proposed .TEL Renewal Registry Agreement that was published for public comment included one typographical error, identified by staff, in Section 2.19. The typographical error was corrected to conform the text of the Renewal Registry Agreement to consistently reflect the terms agreed to by the parties.

Whereas, ICANN conducted a review of Telnic's recent performance under the current .TEL Registry Agreement and found that Telnic substantially met its contractual requirements.

Resolved (2016.11.08.xx), the .TEL Renewal Registry Agreement, as revised, is approved and the President and CEO, or his designee(s), is authorized to take such actions as appropriate to finalize and execute the Agreement.

PROPOSED RATIONALE:

Why the Board is addressing the issue now?

ICANN and Telnic Limited (the "Registry Operator") entered into a Registry Agreement on 30 May 2006 for operation of the .TEL top-level domain. The current .TEL Registry Agreement expires on 01 March 2017. The proposed Renewal Registry Agreement was posted for public

comment between 04 August 2016 and 13 September 2016. At this time, the Board is approving the Renewal Registry Agreement for the continued operation of the .TEL TLD by the Registry Operator.

What is the proposal being considered?

The revised Renewal Registry Agreement approved by the Board includes modified provisions to bring the Agreement into line with the form of the New gTLD Registry Agreement. The modifications include: updating technical specifications; Public Interest Commitments including the obligation to only use registrars under the 2013 Registrar Accreditation Agreement; and requiring the implementation of additional Rights Protection Mechanisms, namely the Uniform Rapid Suspension and the Post-Delegation Dispute Resolution Procedure.

Specifically, all approved registry services in the current .TEL Registry Agreement carry over to the revised Renewal Registry Agreement. Such services include Bulk Transfer After Partial Portfolio Acquisition, Registry Controlled DNS Records Service, Domain data change notifications, Whois private contact information opt-out for Individuals, Special Access Service, Additional RDDS Data Fields and Internationalized Domain Names.

With regard to the Schedule Of Reserved Names, the revised Renewal Registry Agreement includes existing provisions permitting the Registry Operator to allocate previously reserved one and two-character names through ICANN-accredited registrars via a Phased Allocation Program. However, all single-character numerical labels continue to be reserved at the second level.

As part of the adaptation needed to carry over the Sponsored TLD Charter of .TEL to the revised Renewal Registry Agreement, Specification 12 incorporates the language of the original Sponsorship Charter - Appendix S in the current .TEL TLD Agreement, with modifications to remove the requirement that the Registry control the name servers of delegated domain names, and the restriction that registrants cannot define the contents of the zone for their domain names. As .TEL was originally approved under this premise, the change will transform the .TEL TLD into a gTLD with a limited set of community parameters. These parameters will become optional rather than required.

Which stakeholders or others were consulted?

ICANN conducted a public comment period on the proposed .TEL Renewal Registry Agreement from 04 August 2016 through 13 September 2016, following which time the comments were summarized and analyzed. Additionally, ICANN engaged in bilateral negotiations with the Registry Operator to agree to the package of terms to be included in the proposed Renewal Registry Agreement that was posted for public comment.

What concerns or issues were raised by the community?

The proposed Renewal Registry Agreement was posted for public comment. Commenters expressed their views in three key areas during the public comment period:

- Extension of .TEL Registry Agreement: Some of the commenters expressed support for the extension of .TEL Registry Agreement, while others suggested that improvements should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended.
- Proposed Renewal Registry Agreement for .TEL: Three key issue areas were raised on the specific text of the renewal:
    - General Views – Some commenters positively noted there are technical and operational advantages to the New gTLD Registry Agreement form that serve as a benefit to registrants and the Internet community over earlier versions of the legacy Agreement. Additionally, there was support for ICANN's efforts at bilateral negotiations with legacy TLD registries in order to transition to the New gTLD Registry Agreement and the procedural benefit of consistency that will come with ICANN's bilaterally negotiating for transition to provisions of the New gTLD Registry Agreement not only with .TEL but with other legacy TLDs like .JOBS, .CAT, .PRO, and .TRAVEL.
    - Rights Protection Mechanisms – One commenter sought clarity over the language proposed in Section 1 of Specification 7 regarding applicability and implementation of rights protection mechanisms.

- o Registration Data Directory Service (Whois) – Some commenters raised concerns with continuing the unique Registration Data Directory Service that ICANN's Board approved in 2007 for the .TEL TLD.
- o The continued operation of .TEL by Telnic Limited: Concerns were expressed over Telnic Limited continuing to be the Registry Operator of .TEL, claiming, among other things that Telnic has violated ICANN's regulations several times and Telnic no longer has stable financials to continue the operation of .TEL.

What significant materials did the Board review?

As part of its deliberations, the Board reviewed various materials, including, but not limited to, the following materials and documents:

- .TEL form of the New gTLD Registry Agreement:
  <https://www.icann.org/sites/default/files/tlds/tel/tel-proposed-renewal-04aug16-en.pdf>
- .TEL Addendum to form of the New gTLD Registry Agreement:
  <https://www.icann.org/sites/default/files/tlds/tel/tel-proposed-renewal-addendum-04aug16-en.pdf>. At this time, ICANN is proposing to implement the incorporation of terms unique to a legacy TLD, such as .TEL, through an "Addendum" to the Registry Agreement. The Addendum will show the terms of the .TEL Registry Agreement that are unique from the New gTLD Registry Agreement that are incorporated into the renewal.
- Public comments: <https://forum.icann.org/lists/comments-tel-renewal-04aug16/>
- Summary and analysis of public comments:
  <https://www.icann.org/en/system/files/files/report-comments-tel-renewal-07oct16-en.pdf>
- 27 September 2016 letter from Telnic CEO to ICANN Board:
  https://www.icann.org/en/system/files/correspondence/mahdavi-to-icann-board-27sep16-en.pdf. Telnic's observations on past achievements and opportunities for .tel.
- Current .TEL Registry Agreement and Appendices:
  <https://www.icann.org/resources/unthemed-pages/tel-2012-02-25-en>

- New gTLD Registry Agreement – Updated 09 January 2014
  <http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf >
- 18 December 2007 Board Resolution that approved changes to .TEL's Registration Data Directory Service (Whois) requirements

What factors has the Board found to be significant?

The Board carefully considered the public comments received for the Renewal Registry Agreement, along with the summary and analysis of those comments. The Board also considered the terms agreed to by the Registry Operator as part of the bilateral negotiations with ICANN. The Board acknowledges the concerns expressed by some community members regarding suggested improvements that should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended. However, the terms of the .TEL Registry Agreement set forth the contractual obligations that must be fulfilled by Telnic Limited in its operation of the .TEL registry but do not prescribe or proscribe the Registry Operators' business model. Additionally, the Staff Report of Public Comment Proceeding encouraged those commenters that desire to see changes in the business model of the .TEL registry to contact Telnic Limited to discuss these matters.

The Board acknowledges the request for clarity over the RPM language proposed in Section 1 of Specification 7 regarding applicability and implementation of applicable rights protection mechanisms. While the revisions to Specification 7 were consistent with prior legacies, a modification was made to the language of the Renewal Registry Agreement for .TEL to address the comment. The revision is now reflected in Section 1 of Specification 7 of the revised Renewal Registry Agreement to read "Registry Operator will include all RPMs required by this Specification and any additional RPMs developed and implemented by Registry Operator in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD."

The Board acknowledges the concerns raised with continuing the unique Registration Data Directory Service that the Board approved in 2007 for the .TEL TLD. The Board notes the 18

[December 2007 Board Resolution](#) that approved changes to .TEL's Registration Data Directory Service (Whois) requirements was based on unique business and legal circumstances stating, "…the Board concludes that the requested modifications are justified by the unique business and legal circumstances of the .TEL toplevel domain…". After conferring with Telnic Limited, ICANN has confirmed that, to the knowledge of the Registry Operator, the legal circumstances related to Registration Data Directory Service (Whois) have not changed. Therefore, the Registration Data Directory Service (Whois) requirements which were ultimately replicated from the prior agreement between ICANN and Telnic Limited will be retained in the Renewal Registry Agreement.

Additionally, the Board has considered comments regarding the continued operation of .TEL by Telnic Limited, including concerns that Telnic has violated ICANN's regulations several times and Telnic no longer has stable financials to continue the operation of .TEL. As part of the renewal process ICANN conducts a review of contractual compliance under the .TEL Registry Agreement. Telnic Limited was found to be in substantial compliance with their contractual requirements. Also, during the past 10 years of operation, ICANN has no knowledge of Telnic Limited experiencing financial or other operational impediments that have caused a failure of registry operations or security and stability concerns. If Telnic Limited were to experience financial problems that resulted in the Registry Operator failing to comply with its obligations under the Registry Agreement, ICANN can take action to protect registrants and ensure continuity of registry operations.

Finally, the Board notes that existing Registry Agreement calls for presumptive renewal of the Agreement at its expiration so long as certain requirements are met. These provisions are intended to promote stability and security of the registry by encouraging long-term investment in TLD operations which benefits the community in the form of reliable operation of registry infrastructure. The Renewal Registry Agreement is subject to the negotiation of renewal terms reasonably acceptable to ICANN and the Registry Operator. The renewal terms approved by the Board are the result of the bilateral negotiations called for in the current Registry Agreement.

Are there positive or negative community impacts?

The Board's approval of the Renewal Registry Agreement also offers positive technical and operational benefits. Pursuant to Renewal Registry Agreement, in the event that any of the emergency thresholds for registry functions is reached, Registry Operator agrees that ICANN may designate an emergency interim Registry Operator of the registry for the TLD, which would mitigate the risks to the stability and security of the Domain Name System. Also, technical onboarding of the Registry Operator to comply with the provisions in the New gTLD Agreement will allow the registry to use uniform and automated processes, which will facilitate operation of the TLD.

There will also be positive impacts on registrars and registrants. The transition to the New gTLD Registry Agreement will provide consistency across all registries leading to a more predictable environment for end-users and also the fact that the proposed Renewal Registry Agreement requires that the Registry Operator uses ICANN accredited registrars that are party to the 2013 Registrar Accreditation Agreement (RAA) only will provide more benefits to registrars and registrants.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

There is no significant fiscal impact expected if ICANN approves the proposed .TEL Renewal Registry Agreement. It should be noted however that as a result of approval of the Renewal Registry Agreement, projected annual registry fees to ICANN will result in a minimal negative fiscal impact. This change has been considered in ICANN's budget.

Are there any security, stability or resiliency issues relating to the DNS?

There are no expected security, stability, or resiliency issues related to the DNS if ICANN approves the proposed .TEL Renewal Registry Agreement. The proposed Renewal Registry Agreement in fact includes terms intended to allow for swifter action in the event of certain threats to the security or stability of the DNS. As part of ICANN's organizational administrative function, ICANN posted the draft Renewal Registry Agreement for public comment on 04 August 2016.

Signature Block:

Submitted by: Cyrus Namazi

Position: Vice President, Domain Name Services & Industry Engagement

Date Noted: 09 November 2016

Email: cyrus.namazi@icann.org

ICANN BOARD PAPER NO. 2016.11.08.2a

TITLE:	**Two-character Domain Names in the New gTLD**
	Namespace - GAC Helsinki Advice 30 June 2016
PROPOSED ACTION:	**For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Board is being asked to take action to address reserved two-letter domain names (e.g. "it", "cn", etc.) in the new gTLD namespace by: (1) addressing the GAC advice in the Helsinki Communiqué regarding two-character labels, and (2) authorizing new gTLD registry operators to release the reserved names on the condition that they implement community-developed protections to avoid confusion with corresponding country codes.

After the launch of new gTLDs, several registry operators submitted requests to ICANN pursuant to the Registry Services Evaluation Policy to request release of two-character labels required to be reserved by the New gTLD Registry Agreement[1]. Under the Registry Agreement, the reserved two-character labels may be released to the extent that registry operator reaches agreement with the applicable government and country-code manager, or the registry operator may propose the release of the names based on implementation of measures to avoid confusion with the corresponding country code, subject to approval by ICANN. ICANN notified the GAC about these requests.

The topic of releasing reserved two-character labels in new gTLDs has been discussed for the past two years since the first requests from new gTLD registry operators to release these labels were submitted. Some governments and ccTLD operators take the position that the release of such labels should be subject to government and/or ccTLD operator approval; other members of the community, such as gTLD registry operators and the IPC, take the position that governments and ccTLD operators do not have special rights to two-character labels at the second level and should not be given "veto power" over the labels'

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[1] These names are not reserved, and in use, in many legacy TLDs (delegated prior to the 2012 New gTLD application round), which have not caused apparent security, stability or resiliency issues in relation to the DNS.

release. Per the New gTLD Registry Agreement, ICANN has the ability to approve requests from registry operators.

On 16 October 2014, the Board adopted a resolution directing ICANN to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD Registry Agreement, taking into account the GAC's advice in the Los Angeles Communiqué on the matter.

On 1 December 2014, ICANN launched the Authorization Process for Release of Two-Character ASCII Labels.[2] The general process includes three key components:

1. For all number/number, letter/number, and number/letter two-character ASCII labels (e.g. "24", "2n" and "n2") – ICANN authorized all new gTLD registries to release these labels.[3]

2. For all letter/letter two-character ASCII labels (e.g. "us", "za", etc.) – ICANN posted requests from registries for a 60-day comment period, and notified governments of the request. After the comment period, ICANN released all letter/letter labels that did not receive negative comments from governments.

3. For all letter/letter labels that received negative comments from governments, ICANN launched a community consultation process to (i) ask governments to identify how release of the requested label might result in confusion with the corresponding country code, and (ii) request that registries submit measures to address confusion identified by the governments. The inputs received as part of this community consultation process were published on ICANN's website (see Two-Character Letter/Letter Label Comments and Mitigation Measures). All comments were fully considered.

Taking into consideration the feedback provided by governments and registry operators (as

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[2] The Process was updated in February 2015 and October 2015 in response to Board directive addressing newly received GAC advice and to make enhancements to the system to submit comments.

[3] The GAC confirmed it was only concerned with letter/letter combinations. See: https://www.icann.org/en/system/files/correspondence/crocker-to-dryden-2-02sep14-en.pdf and https://www.icann.org/en/system/files/correspondence/dryden-to-crocker-10sep14-en.pdf

described in #3), ICANN created and published for public comment a standard set of requirements to be implemented by registry operators to avoid confusion with country codes (see Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes).[4] These requirements incorporated advice from the GAC's Helsinki Communiqué, in which the GAC advised the Board to "urge the relevant Registry or the Registrar to engage with the relevant GAC members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered." In addition, the requirements include pre- and post-registration measures that were to be implemented concurrently so that confusion could be avoided throughout the lifecycle of a letter/letter two-character domain. The proposed mandatory measures required registry operators to:

1. implement an exclusive availability pre-registration for governments or ccTLD operators to register domains corresponding to their country codes, before the names are generally available;

2. include a provision in the registry's registration policy requiring registrants to avoid misrepresenting affiliation with a government or ccTLD; and

3. investigate and respond to reports of confusion from government or ccTLD operators.

These requirements are in addition to other safeguards already built into the Registry Agreement and other measures that registries implement at their discretion.

STAFF RECOMMENDATION:

Taking into consideration community feedback received during the public comment period, staff has prepared a revised version of the requirements, which is included in the Board reference materials. Staff recommends that the Board approve the revised requirements which have been changed to make the exclusive availability pre-registration period a voluntary measure, rather than a mandatory measure, and to clarify the post-registration complaint investigation measure. The change to the exclusive availability measure was made due to minimal support from commenters, and to address concerns raised in public comments

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[4] ICANN released the labels where governments did not identify confusion with the relevant country code in the comments submitted.

including concerns that the measure would create an unnecessary burden on governments and that the measure would create an assumption that governments and ccTLD operators have priority rights that are not found in international law. The modification to the post-registration complaint investigation measure was made to better align the measure with the intent to have registry operators investigate and respond to reports of conduct corresponding to confusion with the relevant country-code.

By taking this action, the Board would be: 1) addressing GAC advice from the Helsinki Communiqué, and 2) authorizing ICANN's President and CEO, or his designee(s), to issue a blanket authorization that allows all new gTLD registry operators who implement the required measures, as revised, to release all letter/letter two-character ASCII labels not otherwise reserved pursuant to Specification 5, Section 6 of the New gTLD Agreement. The current authorization process, whereby a registry operator submits an individual request subject to a 60-day comment period and ICANN's review of comments, will be retired.

PROPOSED RESOLUTION:

Whereas, Specification 5, Section 2 of the New gTLD Registry Agreement requires registry operators to reserve two-character ASCII labels within the TLD at the second level. The reserved two-character labels "may be released to the extent that Registry Operator reaches agreement with the related government and country-code manager of the string as specified in the ISO 3166-1 alpha-2 standard. The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN."

Whereas, the GAC has issued advice to the Board in various communiqués on two-character domains. The Los Angeles Communiqué (15 October 2014) stated, "The GAC recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC is not in a position to offer consensus advice on the use of two-character second level domains names in new gTLD registry operations, including those combinations of letters that

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are also on the ISO 3166-1 alpha 2 list." The GAC also issued advice in the Singapore Communiqué (11 February 2015) and the Dublin Communiqué (21 October 2015).

Whereas, on 16 October 2014, the Board directed ICANN to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD Registry Agreement, taking into account the GAC's advice in the Los Angeles Communiqué on the matter. ICANN launched this procedure (the "Authorization Process") on 1 December 2014.

Whereas, as part of the Authorization Process, ICANN launched a community consultation process to help develop a standard set of proposed measures to avoid confusion with country codes. The measures were intended to be mandatory for new gTLD registries seeking to release reserved letter/letter two-character labels.

Whereas, in the GAC's Helsinki Communiqué (30 June 2016), the GAC advised the Board to "urge the relevant Registry or the Registrar to engage with the relevant GAC members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered." The advice was incorporated in the proposed measures to avoid confusion.

Whereas, on 8 July 2016, ICANN published for public comment the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, which listed measures registry operators could adopt to avoid confusion with corresponding country codes. The measures incorporated the GAC's advice issued in the Helsinki Communiqué. Forty-three comments were submitted by individuals, governments and groups/organizations.

Whereas, the Board considered the public comments, staff summary and analysis report of public comments and GAC advice. The proposed measures were updated to take into account the public comments and GAC advice relating to the proposed measures and two-character labels.

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Resolved (2015.11.08 xx), the Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes as revised are approved, and the President and CEO, or his designee(s), is authorized to take such actions as appropriate to authorize registry operators to release at the second level the reserved letter/letter two-character ASCII labels not otherwise reserved pursuant to Specification 5, Section 6 of the Registry Agreement, subject to these measures.

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PROPOSED RATIONALE

Why the Board is addressing the issue?

On 16 October 2014, the Board adopted a resolution directing staff to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD Registry Agreement, taking into account the GAC's advice in the Los Angeles Communiqué on the matter.

For nearly two and a half years, ICANN has been developing and implementing a procedure as directed by the Board. On 1 December 2014, ICANN launched the first phase of the procedure, an Authorization Process for Release of Two-Character ASCII Labels. The finalization of this procedure is the implementation of a framework containing standardized measures registry operators can implement to avoid confusion, in accordance with the Registry Agreement, and allow for the release of all letter/letter two-character ASCII labels corresponding with country codes not otherwise reserved pursuant to Specification 5, Section 6 of the Registry Agreement.

The GAC has issued advice on this topic in various communiqués over the past two years including, most recently, the Helsinki Communiqué. Per Article XI, Section 2.1 of the ICANN Bylaws, the GAC may "put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies." The ICANN Bylaws require the Board to take into account the GAC's advice on public policy matters in the formulation and adoption of the policies.

What is the proposal being considered?

The proposal is to address requests from registry operators to release reserved letter/letter two-character ASCII labels and the advice from the GAC on reserved letter/letter labels. The Board is taking action to approve the Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, as revised. By approving the revised measures, the Board is authorizing ICANN to issue a blanket authorization that

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allows new gTLD registry operators who implement the required measures to release all reserved letter/letter two-character ASCII labels not otherwise reserved pursuant to Specification 5, Section 6 of the New gTLD Agreement. The current authorization process, whereby a registry operator submits an individual request subject to 60-day comment period and ICANN's review of comments, will be retired.

Which stakeholders or others were consulted?

ICANN initiated multiple public comment periods and consulted with various stakeholders on this matter over a period of nearly two and a half years.

From June through September 2014, ICANN staff initiated 5 public comment forums to obtain feedback from the community on the amendments that resulted from various RSEPs to implement the proposed new registry service of releasing from reservation two-character ASCII labels[5] for 203 TLDs. Various members of the community submitted comments, including the At-Large Advisory Committee (ALAC), gTLD registry operators, the Brand Registry Group (BRG), INTA Internet Committee (INTA), the Business Constituency (BC), the Intellectual Property Constituency (IPC) and a registrar.

Since 1 December 2014 at the launch of the Authorization Process for Release from Two-Character ASCII Labels, all authorization requests for letter/letter two-character ACII labels were subject to a comment period. Over 646 requests have been received under this process.

Throughout the nearly two and a half years, ICANN notified 1) the GAC for amendments posted from June through September 2014 and 2) governments for requests under the Authorization Process since December 2014, when two-character requests from registry operators were posted for comment. The GAC had not submitted comments under the Public

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[5] 12 June 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-06-12-en>; 8 July 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-07-08-en>; 23 July 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-07-23-en>; 19 August 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-08-19-en>; and 12 September 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-09-12-en>

Comment Periods for the amendments to release two-character labels. Under the Authorization Process, the GAC had not submitted comments, but various individual governments submitted comments on requests.

On 6 October 2015, ICANN corresponded with governments who previously submitted comments requesting that clarification of their comments be provided via a new comment form within 60 days; new comments were required to be submitted via the new comment form.

On 25 February 2016, ICANN corresponded with registry operators requesting they provide proposed measures to avoid confusion with corresponding country codes in order to respond to governments' confusion concerns within 60 days.

On 8 July 2016, taking into consideration the inputs from governments and registry operators, ICANN published for public comment the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, which listed measures registry operators could adopt to avoid confusion with corresponding country codes and which incorporated the GAC's advice issued in its Helsinki Communiqué. As part of the proposal, registry operators who adopt the measures would be authorized to release all letter/letter two-character ASCII labels not otherwise reserved in other sections of the Registry Agreement, and the current process would be retired. 43 comments were received, including comments from the RySG, the BRG, the IPC, the NCSG, LACNIC, various governments, ccTLD registry operators and gTLD registry operators.

What concerns or issues were raised by the community?

From the 5 public comment periods from 2014 on registry agreement amendments that resulted from RSEPs, the majority of the comments received were in favor of the release of two-character domain names.

The arguments made in favor of the release of the two-character domain names included:

- The introduction of two-character domain names would increase competition since the current restrictions hinder competition, in particular for the new gTLDs which are competing with legacy TLDs that are allowed to offer such registrations. The current restrictions to the new gTLD registry operators create a discriminatory situation which is contrary to the ICANN Bylaws Article II, Section 3 which provide for Non-Discriminatory Treatment of ICANN stakeholders.

- The introduction of two-character domain names poses a limited risk of confusion, or no risk at all, as demonstrated by prior use of two-character domain names in existing TLDs.

- The release of two-character domain names would provide opportunities for companies and brands to have tailored segmented domain names to connect with the public as well as provide localized content, thus expanding consumer choice and driving economic growth, in particular in developing countries.

- There is uniform precedent regarding the release of two-character domain names in the history of relevant RSEP requests.

- The release of country codes and names is allowed by the Applicant Guidebook.

The arguments made in opposition to the release of the two-character domain names expressed two general concerns: the first concern is related to the general recognition and associated use of the two character domain names leading to user confusion or abuse; the second concern is how to specifically protect ccTLDs when country and territory names are newly formed.

From the public comment forum for the [Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes](), which established a standard set of registry operator requirements to avoid confusion, comments indicated support for the release of two-character labels reserved pursuant to Specification 5, Section 2 of the New gTLD Registry Agreement overall, including comments of support from the NCSG, IPC and RySG among others. Comments noted that the Registry Agreement allows for 2 paths by which registry operators may release two-character labels: one path of agreement with the government and country-code manager, and a second path of ICANN approval.

There was moderate support for the Proposed Measures to the extent the Proposed Measures allows for the release of two-character labels, including comments of support from the RySG and BRG among others. Comments that seem to generally support the Proposed Measures made specific suggestions about how the framework could be improved, such as noting that two of the three proposed measures (registration policy and post-registration investigation) pertained to confusion and suggesting one measure (exclusive availability pre-registration period) be made voluntary.

Some commenters took the position that governments do not have special rights to two-character labels that correspond with country codes, and that the labels should be released as soon as possible. Conversely, some governments and ccTLD operators commented with objections to the release of two-character labels that correspond with country codes and took the position that government and/or ccTLD operator approval is required.

Over the past two years, the GAC has issued advice through various communiqués and formal correspondence to ICANN. Members of the GAC have varying views on the topic. In the Los Angeles Communiqué (15 October 2014), the GAC stated, "The GAC recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC is not in a position to offer consensus advice on the use of two-character second level domains names in new gTLD registry operations, including those combinations of letters that are also on the ISO 3166-1 alpha 2 list." In the Helsinki Communiqué (30 June 2016), the GAC stated, "Some countries and territories have stated they require no notification for the release of their 2 letter codes for use at the second level. The GAC considers that, in the event that no preference has been stated, a lack of response should not be considered consent. Some other countries and territories require that an applicant obtains explicit agreement of the country/territory whose 2-letter code is to be used at the second level."

The Singapore Communiqué (11 February 2015) and Dublin Communiqué (21 October 2015) advised improvements to the process such as extending the comment period from 30 days to 60 days and working with the GAC Secretariat to address technical issues on the

comment form. In both communiqués, the GAC advised that comments from relevant governments should be fully considered. In its Helsinki Communiqué, the GAC also advised the Board to "urge the relevant Registry or the Registrar to engage with the relevant GAC members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered."

What significant materials did the Board review? What factors did the Board find to be significant?

The Board reviewed several materials and also considered several significant factors during its deliberations about whether or not to approve the request. The significant materials and factors that the Board considered as part of its deliberations, included, but not limited to the following:

- Specification 5, Section 2 of the New gTLD Registry Agreement (updated 9 January 2014)
- RSTEP Report on the Proposal for the Limited Release of Initially Reserved Two-Character Names (4 December 2006)
- Correspondence from the Board to the GAC regarding requests for release of two-character labels as second-level domains in New gTLDs (2 September 2014)
- Correspondence from the GAC to the Board regarding requests for release of two-character labels as second-level domains in New gTLDs (10 September 2014)
- GAC Los Angeles Communiqué (15 October 2014)
- ICANN Board Resolution 2014.10.16.14: Introduction of Two-character Domain Names in the New gTLD Namespace (16 October 2014)
- Authorization Process for Release of Two-Character ASCII Labels (launched 1 December 2014, last updated 14 April 2016)
- GAC Singapore Communiqué (11 February 2015)
- ICANN Board Resolution 2015.02.12.2016: Release of Two-Letter Codes at the Second Level in gTLDs (12 February 2015)
- Correspondence from RySG to the President of the Global Domains Division regarding the treatment of government comments on requests to release two-character

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- ASCII labels (13 March 2015)
- Response from the President of the Global Domains Division to the RySG regarding the treatment of government comments on requests to release two-character ASCII labels (23 March 2015)
- Joint Correspondence from the BRG, the BC and the IPC to the Board regarding the release of 2-letter labels and country names for Specification 13 registries (14 April 2015)
- Response from the President of the Global Domains Division to the BRG, the BC and the IPC regarding the release of 2-letter labels and country names for Specification 13 registries (15 June 2015)
- Correspondence from GAC to the President of the Global Domains Division regarding two-character codes as Second Level Domains (16 July 2015)
- Response from the President of the Global Domains Division to the GAC regarding two-character codes as Second Level Domains (6 August 2015)
- Two-Character Letter/Letter Labels Comments Consideration Process (launched 8 October 2015, last updated 25 February 2016)
- GAC Dublin Communiqué (21 October 2015)
- Correspondence from RySG to the Board regarding advice contained in the GAC's Dublin communiqué regarding the use of two-letter country codes (9 November 2015)
- Response from the Board to the RySG regarding advice contained in the GAC's Dublin communiqué regarding the use of two-letter country codes (30 March 2016)
- GAC Helsinki Communiqué (30 June 2016)
- Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (8 July 2016)
- Public Comment Summary and Analysis Report on Proposed Measures (23 September 2016)
- Correspondence from the Secretariat General of the Cooperation Council for the Arab States of the Gulf to the ICANN President and CEO regarding the proposed measures for letter/letter two-character ASCII labels (received 3 October 2016)
- Correspondence from the Communication and Information Technology Regulatory

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Authority of Kuwait to the ICANN President and CEO regarding the proposed measures for letter/letter two-character ASCII labels (12 October 2016)

Are there positive or negative community impacts? Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public? Are there any security, stability or resiliency issues relating to the DNS?

The overall impact on the community is anticipated to be positive as new opportunities for diversification, competition and targeted content creation in the gTLD namespace are created, while minimal risk of user confusion has been identified.

It is not expected that there will be any significant fiscal impact on ICANN.

In December 2006, the Registry Services Technical Evaluation Panel (RSTEP) issued a report regarding the release of two-character labels and found that "taken in the context of our overall understanding, none of the observations point to the proposed release of two-character Second Level Domain having a material security or stability impact on the Internet." Additionally, these names are not reserved in many legacy TLDs, which have not caused apparent security, stability or resiliency issues in relation to the DNS.

It is expected that the release of these names in new gTLDs will not cause security, stability or resiliency issues.

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?

This is an Organizational Administrative Function for which public comments were received.

Signature Block:
Submitted by: Cyrus Namazi

Position: Vice President, Domain Name Services & Industry Engagement

Date Noted: 09 November 2016

Email: cyrus.namazi@icann.org

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Pages 39 -46 Removed. Updated with Revised Briefing Materials.

ICANN BOARD PAPER NO. 2016.11.08.2c

TITLE: **Thank You to the Global Multistakeholder Community**

PROPOSED ACTION: **For Board Consideration and Approval**

PROPOSED RESOLUTION

Whereas, on 14 March 2014, the National Telecommunications and Information Administration (NTIA) of the United States Department of Commerce announced its intention to transition the stewardship of the IANA Functions to the global multistakeholder community.

Whereas, NTIA asked ICANN to convene global stakeholders to develop a proposal to transition the current role, played by NTIA, in the coordination of the Internet's domain name system (DNS). NTIA required that the proposal for transition must have broad community support and uphold the following principles:

- Support and enhance the multistakeholder model;

- Maintain the security, stability, and resiliency of the Internet DNS;

- Meet the needs and expectation of the global customers and partners of the IANAservices; and,

- Maintain the openness of the Internet.

NTIA also stated it would not accept a proposal that replaces the NTIA role with a government-led or an inter-governmental organization solution.

Whereas in the Board resolutions 2016.03.10.12-15 the ICANN Board resolved to accept the IANA Stewardship Transition Coordination Group's (ICG) IANA Stewardship Transition Proposal, reflecting he proposals developed by CRISP, IANA Plan and the

CWG-Stewardship, and approve the transmittal of the Proposal to NTIA of the United States Department of Commerce in response to NTIA's 14 March 2014 announcement.

Where as the Board further resolved that the President and CEO, or his designee, was directed to plan for the implementation of the Proposal so that ICANN is operationally ready to implement in the event NTIA approves of the Proposal and the IANA Functions Contract expires.

Whereas in its Board resolutions 2016.03.10.16-19, the ICANN Board resolved to accept the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) Work Stream 1 Report ("Report"), and approve the transmittal of the Report to NTIA to accompany the IANA Stewardship Transition Proposal developed by the ICG.

Whereas the Board further resolved that the President and CEO, or his designee, is directed to plan for the implementation of the Report so that ICANN is operationally ready to implement in the event NTIA approves of the IANA Stewardship Transition Proposal and the IANA Functions Contract expires.

Whereas, on 27 May, the Board adopted resolution 2016.05.27.01-04, resolving that the New ICANN Bylaws will be deemed effective upon the expiration the IANA Functions Contract between ICANN and NTIA, and directed the President and CEO, or his designee, to plan for the implementation of the Bylaws so that ICANN is operationally ready to meet its obligations in the event NTIA approves of the IANA Stewardship Transition Proposal and the IANA Functions Contract expires. Whereas, on 9 June NTIA stated informed ICANN that NTIA had completed its review of the IANA Stewardship Proposal along with the other US agencies, and determined that the proposal meets the criteria set out by NTIA in March 2014 when it announced its intent to transition NTIA''s stewardship of key Internet domain name functions to the global multistakeholder community. NTIA noted and outlined in their report that there was still some work to be done before the IANA functions stewardship transition could occur, and requested that

ICANN provide NTIA with an implementation planning status report by August 12, 2016.

Whereas, on 12 August, ICANN provided NTIA with the [implementation planning status report](#) noting that: "ICANN, working with the multistakeholder community, confirms that all required IANA functions stewardship transition tasks specified in NTIA's June 9, 2016 letter are complete, and all other tasks in support of the IANA stewardship transition are either in a final review stage or awaiting approval, which will be complete in advance of September 30, 2016 to allow the IANA functions contract to expire."

Whereas on 1 October, the [NTIA advised ICANN](#) and the global multistakeholder community that the IANA Functions contract had expired.

Resolved (2016.11.08.xx), the Board expresses its deep appreciation for the tireless efforts of the global multistakeholder community, including the leadership of the various community-led groups contributing to the Proposals The development of the coordinated Proposals across the global community, that met the criteria set out by NTIA, and the work to achieve implementation to allow for the contract to lapse on 30 September 2016, is unprecedented and serves as an historical record of the success of the work of the community to achieve a longstanding goal.

Resolved (2016.11.08.xx), the Board expresses its deep appreciation to the US Department of Commerce, for standing by the long-standing commitment to end the IANA Functions contract, and for its dedication, and tireless efforts as a partner with ICANN and the community to achieving this historical goal.

AGENDA – 8 NOVEMBER 2016 REGULAR BOARD Meeting

Last Updated 25 October

Time, etc.	Agenda Item	Shepherd
Assembly, Roll Call & Consent Agenda Vote	**1. Consent Agenda**	
	1.a. Approval of Minutes from 9 Aug, 15 Aug, 17 Sept and 30 Sept 2016	Steve Crocker
	1.b. Security and Stability Advisory Committee (SSAC) Member Appointment	Ram Mohan
	1.c. Security and Stability Advisory Committee (SSAC) Member Reappointment	Ram Mohan
	1.d. Appointment of Root Server Operator Representatives to (RSSAC)	Suzanne Woolf
	1.e. Investment of Auction Proceeds	Asha Hemrajani
	1.f. ICANN's Delegation of Authority Guidelines	Göran Marby John Jeffrey
	1.g. Renewal of .TEL Registry Agreement	Akram Atallah Cyrus Namazi

AGENDA – 8 NOVEMBER 2016 REGULAR BOARD Meeting

Last Updated 25 October

Time, etc.	Agenda Item	Shepherd
	1.h. Thank You to Community Members *(to be formally recognized after Public Board Meeting, so no need to read through all names during board meeting)*	Steve Crocker
	1.i. Thank You to Local Host of ICANN 57 Meeting	Steve Crocker
	1.j. Thank you to Sponsors of ICANN 57 Meeting	Steve Crocker
	1.k. Thank you to Interpreters, Staff, Event and Hotel Teams of ICANN 57 Meeting	Steve Crocker
Discussion & Decision	**2. Main Agenda**	
	2.a. Two-Character Domain Names in the New gTLD Namespace	Bruce Tonkin
	2.b. Consideration of the Corn Lake, LLC v. ICANN Independent Review Process Final Declaration	John Jeffrey

AGENDA – 8 NOVEMBER 2016 REGULAR BOARD Meeting

Last Updated 25 October

Time, etc.	Agenda Item	Shepherd
Discussion & Decision (cont'd)	2.c. Thank You to the Global Multistakeholder Community in Support of the Transition	Steve Crocker
	2.d. Thank You to Bruno Lanvin for his service to the ICANN Board	
	2.e. Thank You to Erika Mann for her service to the ICANN Board	
	2.f. Thank You to Kuo-Wei Wu for his service to the ICANN Board	
	2.g. Thank You to Suzanne Woolf for her service to the ICANN Board	
	2.h. Thank You to Bruce Tonkin for his service to the ICANN Board	
	2.i. AOB	

Directors and Liaisons,

Attached below please find Notice of date and time for our Annual General Meeting, consisting of a Regular Meeting of the ICANN Board of Directors, followed by an Organizational Meeting of the ICANN Board of Directors:

8 November 2016 – Annual General Meeting of the ICANN Board of Directors - at 03:00am UTC (8:30am in Hyderabad). These Board meetings are estimated to last approximately 90 minutes.

http://www.timeanddate.com/worldclock/fixedtime.html?msg=Annual+General+Meeting&iso=20161108T0830&p1=505&ah=1&am=30

Some other time zones:

7 November 2016 – 7:00pm PST Los Angeles

7 November 2016 – 10:00pm EST Washington, D.C.

8 November 2016 – 4:00am CEST Brussels

8 November 2016 – 11:00am CST Taipei

REGULAR MEETING OF THE ICANN BOARD

Consent Agenda:

- Approval of Minutes from 9 August, 15 August, 17 September and 30 September 2016
- Security and Stability Advisory Committee (SSAC) Member Appointments and Reappointments
- Appointment of D-, E-, G-, and H-Root Server Operator Representatives to the Root Server System Advisory Committee (RSSAC)
- Investment of Auction Proceeds
- ICANN's Delegation of Authority Guidelines
- Renewal of .TEL Registry Agreement
- Thank You to Community Members
- Thank You to Local Host of ICANN 57 Meeting

- Thank You to Sponsors of ICANN 57 Meeting
- Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN 57 Meeting

Main Agenda

- Two-character Domain Names in the New gTLD Namespace
- Consideration of the *Corn Lake, LLC v. ICANN* Independent Review Process Final Declaration
- Thank You to the Global Stakeholder Multistakeholder Community in Support of the Transition
- Thank You to Bruno Lanvin for his service to the ICANN Board
- Thank You to Erika Mann for her service to the ICANN Board
- Thank You to Kuo-Wei Wu for his service to the ICANN Board
- Thank You to Suzanne Woolf for her service to the ICANN Board
- Thank You to Bruce Tonkin for his service to the ICANN Board
- AOB

ORGANIZATIONAL MEETING OF THE ICANN BOARD

Main Agenda

- Election of ICANN Board Chair
- Election of ICANN Vice Chair
- Appointment of Membership of Board Committees and Changes to Board Working Groups
- Confirmation of Officers of ICANN
- AOB

MATERIALS – You can access the Regular Meeting of the ICANN Board materials in Google Drive here:

Contact Information Redacted

If you have trouble with access, please let us know and we will work with you to assure that you get access to the documents.

If call information is required, it will be distributed separately.

If you have any questions, or we can be of assistance to you, please let us know.

John Jeffrey
General Counsel & Secretary, ICANN
John.Jeffrey@icann.org <John.Jeffrey@icann.org>
<mailto:John.Jeffrey@icann.org <mailto:John.Jeffrey@icann.org> >

EXHIBIT C-150

![SSAC ICANN Security and Stability Advisory Committee logo]

18 October 2016

To: ICANN Board
From: The SSAC Chair
Via: The SSAC Liaison to the ICANN Board

The purpose of this letter is to bring you up-to-date on proposed changes to the membership of the Security and Stability Advisory Committee (SSAC) and to provide an explanation for the attached request for Board action. This change is the result of ongoing new member evaluations conducted by the SSAC Membership Committee and approved by the SSAC.

The SSAC Membership Committee considers new member candidates and makes its recommendations to the SSAC. The SSAC has agreed with the Membership Committee's recommendation to nominate Jacques Latour and Tara Whalen as new members.

Jacques Latour is currently the CTO at CIRA, the Canadian Internet Registry Authority for .ca, a position he has held for the past 6 years. He also is an active member of the ccNSO community and the IETF DNS community. Jacques has extensive country code registry experience and all of the related technologies. He has been an active member of the SSAC's DNSSEC Workshop Program Committee for several years.

Tara Whalen has a PhD in Computer Science followed by a Masters in Law with a concentration in Law and Technology. She has over 20 years of experience in security and privacy, including working in the Office of the Privacy Commissioner of Canada, as a Privacy and Security Standards Engineer at Apple, and is currently a Staff Privacy Analyst at Google. She has been active in the IETF (intrusion detection working group) and is currently active in the W3C (Privacy Interest Group). She is generally engaged in an operational role around the nexus of security and privacy.

The SSAC believes Jacques and Tara would be significant contributing members of the SSAC.

The SSAC Membership Committee respectfully requests that the Board appoint Jacques Latour and Tara Whalen to the SSAC for a 3-year term beginning immediately upon approval of the board and ending on 31 December 2019. Attached are their CVs for your reference.

The SSAC welcomes comments from the Board concerning this request.

Patrik Fältström, SSAC Chair

JACQUES LATOUR

Contact Information Redacted

Information Technology & Security Executive

Executive Profile

Jacques Latour s current y the Ch ef Techno ogy Off cer at the Canad an Internet Reg strat on Author ty (CIRA). Jacques jo ned CIRA n March 2010 as D rector of IT w th the object ve to transform the IT organ zat on nto a wor d c ass organ zat on. Jacques br ngs w th h m more than 25 years of exper ence n the IT sector. At CIRA, Jacques manages a h gh perform ng team of more than 35 peop e. W th a budget n excess of $6.5 m on, Jacques oversees the operat ons, deve opment and secur ty of the .CA reg stry and the under y ng g oba .CA DNS infrastructure that supports Canada's country code top eve doma n name.

H s exper ence n manag ng budgets, perform ng f nanc a p ann ng and hand ng f nanc a matters s broad and deep, n both the pr vate and not for prof t sectors. He a so ho ds an E ectron cs Eng neer ng Techno og st d p oma from A gonqu n Co ege n Ottawa, and s ITIL v3 Foundat on cert f ed.

As the CTO at the fastest grow ng country code top eve doma n n the wor d, Jacques understands the nat ona Canad an and g oba Internet env ronments, the fast pace cyber secur ty andscape and assoc ated treats, the Internet of Th ngs phenomenon and the need to promote and adopt new techno og es such as IPv6 and DNSSEC.

Jacques has a so d background n start up, turnaround, transformat on and opt m zat on of IT nfrastructure, and s w de y recogn zed by emp oyees and peers as an expert author ty on techno ogy matters.

- *Chief Information and Security Officer experience*
    - Respons b e the operat ons and secur ty of m ss on cr t ca nfrastructures.

- *VP Managed Services Technologies experience*
    - Respons b e for deve op ng and manag ng remote ICT Operat on Center (NOC) nfrastructures.

- *Chief Technology Officer experience*
    - Respons b e for deve opment of techno ogy v s on and roadmaps a gned w th bus ness dr vers.

- *Chief Security Officer experience*
    - Respons b e for manag ng the r sks prof e and secur ty nfrastructure

Leadership Traits and Strengths

- *Visionary*
- *Problem Solver*
- *Results Oriented*
- *Leadership by Example*

- *Proven Track Record*
- *Customer-Centered*
- *Change Agent*
- *"Out of Box" Thinking*

Tara Whalen

Contact Information Redacted

Profile

- 20 years' experience in computer secur ty and privacy, includ ng 10 years of Internet and technology policy work n both ndustry and government roles
- Experienced with standards work as W3C Privacy Interest Group co-cha r and IETF participant
- Hold graduate degrees in computer science and law

Work Experience

Staff Privacy Analyst, Google Inc.

August 2014 to present, Mounta n View, CA

Apply privacy expertise to reduce privacy risk in products and infrastructure. Resolve complex privacy decisions in multiple product areas. Coordinate with policy, engineering, legal, and communications teams on privacy matters. Develop and document policies, including guidance for engineering teams. Develop and deliver privacy training for employees.

Privacy and Security Standards Engineer, Apple Inc.

April 2013 to July 2014, Cupertino, CA

Provided privacy guidance across entire product line, helping teams to design privacy safeguards into new features and technologies. Designed, analyzed, and audited privacy aspects of features and systems. Coordinated with Legal and Government Affairs teams on privacy policy matters. Educated teams about privacy-related technology issues.

IT Research Analyst, Office of the Privacy Commissioner of Canada

December 2009 to March 2013, Ottawa, Ontario, Canada

Provided technical expertise to multiple branches of the office and researched the privacy implications of emerging technology. Acted as technical lead for multiple investigations (public and private sector); conducting technical analyses of products and services; wrote communications documents and guidance tools; delivered presentations at public events; interpreted technical implications of legislation; and informed policy efforts.

Post-Doctoral Research Associate, Carleton University

January 2009 to November 2009, Ottawa, Ontario, Canada

Investigated the human factors of security. Led projects on the usability of Secure Socket Layer certificates and novel authentication methods. Responsible for planning and conducting group research projects, including development of websites for experimentation, analysis, and writing research results.

Computer Network Researcher, Communications Research Centre Canada (CRC)

1999 to 2002, Ottawa, Ontario, Canada

In addition to core network research work, developed proposals for international telecommunications standards bodies and represented the organization at standards meetings; wrote research reports for national and international agencies, frequently used to develop policy; served as CRC's security principal for multilateral project on secure interoperable networks that involved eight NATO nations.

SSAC
ICANN Security and Stability
Advisory Committee

18 October 2016

To: ICANN Board
From: The SSAC Chair
Via: The SSAC Liaison to the ICANN Board

The purpose of this letter is to bring you up-to-date on proposed changes to the membership of the Security and Stability Advisory Committee (SSAC) and to provide an explanation for the attached requests for Board actions. These changes are the result of the annual membership evaluation process instituted by the SSAC and completed by the SSAC Membership Committee in September 2016.

The SSAC Membership Committee considers new member candidates and makes its recommendations to the SSAC. It also evaluates SSAC members whose terms are ending with the calendar year. The Membership Committee is comprised of the SSAC Chair, the SSAC Vice Chair, the SSAC Board Liaison, and other SSAC member volunteers. At the conclusion of the 2016 evaluation process, the SSAC agreed with the Membership Committee's recommendation to reappoint the following SSAC members to three-year terms ending 31 December 2019 Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson. The SSAC respectfully requests that the ICANN Board should reappoint the above-mentioned members to three-year terms. The biographical information and disclosures of interest for members for which the SSAC is requesting reappointment are attached for your reference.

In addition, the SSAC asks the Board to join it in acknowledging with gratitude the deep and lasting contribution made by departing member Shinta Sato, whose term will end on 31 December 2016.

The SSAC welcomes comments from the Board concerning these requests.

Patrik Fältström, SSAC Chair

Attachment: Biographical Information and Disclosures of Interest

Jeffrey Bedser

Jeffrey R. Bedser is co-founder and CEO of ICG, Inc – iThreat Cyber Group Inc. (formerly Internet Crimes Group). Under Mr. Bedser's leadership, ICG has set industry standards in developing responses to Internet threat communities and cybercrime.

Mr. Bedser has been a facilitator and speaker for ASIS International, INFRAGARD, HTCIA, The Conference Board, ICANN and the FBI Training Academy at Quantico.

Volunteer Activities

- ICANN – Member – Security and Stability Advisory Council 2007 –
- US Chamber of Commerce – National Security Task Force/Cybersecurity Working Group
- Cyber Threats Taskforce (ASIS International) Chairman 2000-2002
- Joint Council for Information Age Crime (JCIAC), Member, BoD 2002-2007.
- IACP – Ad hoc Committee on Computer Crime and Digital Evidence 2006 –
- Security Journal (Palgrave McMillan Ltd) – Editorial Board 2001 –
- Cyber Crime Summit 2001 (and 2002) – Program originator, facilitator and coordinator
- Scout Master – Boy Scout Troop 66, West Windsor New Jersey

Certification

- ASIS International board Certified Protection Professional (CPP)
- High Tech Crime Network Certified Computer Crime Investigator – CCCI (advanced)

Publications

- The Impact of the Internet on Security, Security Journal, 2007, 20, (55-56) Palgrave Macmillan Ltd 0955-1622/07
- Law and Order in a Networked World, Security Counsel, CSO Magazine, March 2003, CXO Media Inc.

Statement of Interest: Mr. Bedsers' company, ICG, Inc. has on occasion been retained by ICANN and ARIN for investigative and threat intelligence services.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Employer: ICG, Inc – iThreat Cyber Group Inc.. Position: CEO
2. Please identify the type(s) of work performed at #1 above: I am the executive responsible for the overall performance and operations of the company We are privately held. Our services involve high level consultation, investigation and analysis of internet threat communities and such via large scale data collection and analysis. We perform functions for many market sectors including government.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: ICG has occasionally been retained by ICANN for threat consultation work. ICG does work for ICANN under annual contract for the SSRO.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is

"yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Ben Butler

Ben Butler has been with Go Daddy since 2001. In 2002, He formed the Go Daddy Abuse Department, and served as Director of Network Abuse for over 10 years. In this role, Ben helped create and enforce company and public policies dealing with every form of potential abuse that happens online, including spam, phishing, identity theft, copyright infringements, cyberbullying, child exploitation issues, and rogue internet pharmacies. He recently took on a new role as Director of IT Security Operations. Ben comes from a strong technical background including several years as a network and email administrator, and has experience in customer service, business management, and marketing.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Employer: GoDaddy.com, Inc. Position(s): Director, IT Security Operations (Transitional) Director, Network Abuse.
2. Please identify the type(s) of work performed at #1 above: As Director of Security Operations, oversee planning, implementation, and maintenance of all security measures across GoDaddy's network. I also oversee the Digital Crimes Unit, focusing on egregious criminal activity. I have also been responsible for investigation of all forms of abuse by Go Daddy customers.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: Go Daddy is the largest domain Registrar, and thus plays a key role in the ICANN community and specifically in the Registrar Stakeholder Group. Go Daddy may also represent interests of CA's and Hosting providers accordingly. Go Daddy applied to operate a small number of new gTLD's. Go Daddy has a material partnership in the .ME and .CO Registry operations as well. My individual position plays no active role in these interests.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Merike Kaeo

Merike is the CTO of Farsight Security, responsible for developing the technical strategy and executing its vision. She is a recognized global expert in information security and author of the Cisco Press book "Designing Network Security". Prior to joining Farsight Security, Merike held positions as CISO for Internet Identity (IID), where she created the strategic direction for improving and evolving the corporate security posture and founder of Doubleshot Security, where she worked with numerous companies creating strategic operational security and resilient networking architectures. She led security and IPv6 focused strategies at numerous companies, including Boeing, Comcast and T-Mobile.

From 1993-2000 Merike was employed by Cisco Systems, Inc. where she instigated and lead the company's first security initiative in 1997. She also focused on technical issues relating to network and application performance, routing protocols and large-scale network design.

Merike is a member of the IEEE and has been an active contributor in the IETF since 1992. She co-chaired the IP Performance Metrics (IPPM) working group from 2000–2003 and had actively contributed to numerous IETF working groups with a specific focus on operational sanity. She was named an IPv6 Forum Fellow in 2007 for her continued efforts to raise awareness of IPv6 related security paradigms. Merike received her BSEE from Rutgers University and her MSEE from The George Washington University.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): CTO, Farsight Security.
2. Please identify the type(s) of work performed at #1 above: I contribute in industry outreach, technical workshops, technical standards development and global public policy development pertaining to infrastructure security and data sharing issues.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: Farsight Security provides security services both directly and through channels to some gTLD registries and registrars and has subcontracted to other organizations on various ICANN-directed research projects/studies. Farsight Security is also a reseller of domain registrations (largely its own and for security, sinkholing, and research) from varying gTLD registrars.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Warren Kumari

Warren Kumari is a Senior Network Engineer/Senior Network Security Engineer with Google, and has been with the company since 2005. As a senior engineer, Warren is responsible for all aspects of keeping the Google production network both secure and operational as well as mentoring other members of his team. He also participates in Google's industry standards groups.

Warren has over 17 years of experience in the Internet industry, ranging from tiny start-up ISPs to large enterprises. Prior to Google, he was a Senior Network Engineer at AOL and before that he was Lead Network Engineer at Register.com (when the Shared Registry System first started).

With security concerns becoming more and more prevalent, Warren has chosen to be an active participant of the IETF, the ICANN Security and Stability Advisory Committee, and NANOG. These groups afford him the opportunity to contribute to the community in a vital way by supporting and advancing Internet standards and protocols.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): I am employed by Google Inc as a Senior Network Security Engineer, in the Internet Evangelism group. I am also a (no-fee) consultant to Internet Systems Consortium (ISC), assisting with operation of F-root and am serving as their alternate on RSSAC.
2. Please identify the type(s) of work performed at #1 above: The Internet Evangelism Group's mission is to promote the spread of Internet, including through standards efforts. As such, I participate in multiple bodies, including the IETF, various network operators groups and ICANN SSAC, representing the interests of the Internet. While I was initially involved in Google's New

gTLD applications, I have firewalled myself off from that group to minimize Conflicts of Interest, and have no day-to-day interaction with the New gTLD group.

3. Please list any financial or other material relationship beyond *de minimus* stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: Google Inc. (an ICANN-accredited registrar and, via its wholly owned subsidiary Charleston Road Registry is an applicant for a number of top level domain names) pays my salary and provides me with other forms of compensation, including stock and stock options. I have no immediate family members / significant others with relations to ICANN or ICANN activities.

4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Xiaodong Lee

Prof. Dr. Xiaodong Lee is the CEO of National Engineering Laboratory for Naming and Addressing Technologies(NATLab), and the CEO&CEO of CNNIC, he received his Ph.D. of Computer Architecture in the Institute of Computing Technology of Chinese Academy of Sciences (CAS). Dr. Xiaodong Lee now holds the positions of Research Professor of Chinese Academy of Sciences. He used to be the Vice President for Asia Pacific of ICANN.

Under the leadership of Dr. Xiaodong Lee, many critical construction projects were implemented, such as global service platform for national domain name system, Data Backup Centers, Monitoring and Analysis Platform and so on. Moreover, Dr. Xiaodong Lee organized and accomplished several international and domestic technology standards in the fields of domain name and email, the application and delegation of "dotChina", he used to be the main IDN contributor and co-Chair of EAI WG of IETF, as well as the research and development of the first series of software and hardware system of domain name service in China.

Previously honored as one of the "Ten Outstanding Youth" in China's software industry and awarded "Outstanding Youth Medal of China" in 2009, Dr. Xiaodong Lee is currently Member of All-China Youth Federation, and the Member of Global Agenda Council on Cyber Security of World Economic Forum(WEF). He was named as "Young Global Leader" of WEF (2014).

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Employer: CNNIC, China Internet Network Information Center. Position: Chief Executive Office (has position of Chief Technology Office too). I am now Research Professor of Chinese Academy of Sciences. CNNIC is an independent Non-for-Profit corporate entity since 2015.

2. Please identify the type(s) of work performed at #1 above: I am in charge of the organization operational matters of NATLab and CNNIC, and need to supervise the Ph.D. and Master Candidate.

3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN.: CNNIC is a ccTLD registry, and applied the new gTLDs of "dot Company" and "dot Network" in Chinese, and EBERO, DEA, RDE TPP accredited by ICANN.

4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is

"yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Carlos Martinez-Cagnazzo

Carlos Martinez-Cagnazzo is an Electrical Engineer from Uruguay with more than 12 years of experience in the Telecommunications field. He started working in Operations and Management of IP networks and gradually transitioned to Network Planning and then to Computer and Information Security. From 2005 until 2010 he worked exclusively in the field of computer security for CSIRT-ANTEL, the computer security incident response team of ANTEL (the largest telecom operator in Uruguay), the first incident response team in the country recognized by the Forum of Incident Response Teams (FIRST). In mid-2010 Carlos joined LACNIC, the Latin American and Caribbean Internet Addresses Registry as the first member of the newly formed Research and Development group. Among other projects, he was involved in both IPv6 and Resource PKI initiatives. In early 2013 Carlos was appointed as LACNIC's Security and Stability Program Manager. His current role involves the coordination and oversight of all security and stability initiatives at LACNIC. Some of his projects and research interests include BGP and routing security, improvements to de DNS (domain name system), specifically DDoS mitigation and DNSSEC deployment. Carlos has also taught Computer Security and Computer Networking classes for the Computer Science Institute of UDELAR (Universidad de la Republica) and Universidad de Montevideo, both important and widely recognized universities in Uruguay.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): I work for LACNIC, the Latin American and Caribbean Internet Address Registry. In its role as a RIR LACNIC is responsible for assigning and managing number resources for the LAC region. Currently I serve as Program Manager for Security and Stability.
2. Please identify the type(s) of work performed at #1 above: A stable and secure Internet is now part of LACNIC's vision and mission. I have been assigned the role of overseeing all the security and stability initiatives of LACNIC. In this role my duties include: Creating strategy plans and documents including tracking actions and progress and reporting to upper management. Overseeing different activities including: Deployments of root server copies in LACNIC's service region; Training events, including Incident Response, DNSSEC, Secure Routing / RPKI among others. RPKI development and deployment: Participating in best practices development and standardization activities, including the IETF. Participating in outreach activities.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: LACNIC, as one of the five existing RIRs and thus being a member of the Number Resource Organization, has a relationship with ICANN governed by the Memorandum of Understanding between the NRO and ICANN. Said MoU can be found at [http://aso.icann.org/documents/memorandum-of-understanding/]
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

1.

Danny McPherson

Danny McPherson is a Senior Vice President and the Chief Security Officer for Verisign where he is responsible for strategic direction, innovation, and operations in infrastructure and information security. He currently serves on the FCC's Communications Security, Reliability and Interoperability Council (CSRIC), ICANN's Security and Stability Advisory Committee, the U.S. Department of Homeland Security Advisory Council's Cybersecurity Subcommittee, and several other industry forums. Previously, Mr. McPherson was CSO of Arbor Networks, and prior to that he held technical leadership positions with Amber Networks, Qwest Communications, Genuity, MCI Communications, and the U.S. Army Signal Corps, and has also served multiple terms on the Internet Architecture Board (IAB) along with numerous IETF leadership positions. He has been active within the Internet operations, security, research, and standards communities for over 20 years, and has authored a number of books, standards, research papers, and other publications related to these topics.

Disclosure of Interests:

1. Please identify your current employer(s) and position(s): VeriSign, Inc.; Senior Vice President & Chief Security Officer.
2. Please identify the type(s) of work performed at #1 above: All aspects of information and infrastructure security, resiliency, cyber security, risk management, compliance and intelligence-driven security. I am also engaged in Internet standards and research and development activities. For additional details, please refer to my biography at https://www.verisign.com/en_US/innovation/verisign-labs/innovators/danny-mcpherson/index.xhtml
3. Please list any financial or other material relationship beyond de minimus stock ownership that you, your employer, or an immediate family member/significant other has with ICANN or with any individual, company, or other entity that to your knowledge has a current or planned financial or other material relationship with ICANN: Verisign is my sole employer. Verisign is a contracted party with ICANN . Verisign is the ICANN-approved registry operator for the .com, .net, and .name generic top-level domain names, as well as for 13 additional top-level domain names that have been delegated as a part of ICANN's new gTLD program. In addition, Verisign is contracted to provide back-end registry services to approximately 152 gTLDs . Verisign is the current Root Zone Maintainer under an agreement with the U.S. Department of Commerce's National Telecommunications Information and Information Administration, and also operates two Internet root servers (A and J). More information about Verisign can be found in its public filings, available at verisign.com.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Statement of Interest:

I am a Vice President and the Chief Security Officer at VeriSign. VeriSign is the registry operator for the .com, .net and .name gTLDs and also provides backend registry services in support of Employ Media for the .jobs gTLD. VeriSign is also the registry operator for two ccTLDs, .cc and .tv.

As an employee who supports VeriSign's naming services business, I have access to Registry Sensitive information including information about registrars. With regard to both our gTLD and ccTLD registration services businesses as well as other VeriSign businesses, our customers and business associates have interests in various ICANN policy issues and may be members of other GNSO constituencies and/or supporting organizations.

In addition to registry agreements with ICANN for .com and .net, VeriSign also has obligations to the U.S. Department of Commerce through a cooperative agreement that was initiated in 1993 and has been amended many times since then. Those obligations include operating the A root server as well as interacting with the IANA functions operator to implement and publish root zone changes. I am also an appointed member of the Internet Architecture Board, which among many other things, has numerous interactions with the Internet Assigned Numbers Authority (IANA) functions operator. VeriSign (VRSN) is a publicly traded company. I own shares of VeriSign stock.

<u>**Attachment A**</u>

ICANN's Delegation of Authority Guidelines
19 October 2016 Draft

<u>**Purpose**</u>

To identify the respective key roles of the Board and the CEO and the delegation of authority from the Board to the CEO and key staff. This document also identifies the key interdependencies in those relationships.

<u>**ICANN Board – Key Roles**</u>

A primary source of the Board's powers comes directly from the ICANN Bylaws, as well as internal policies. The Board's key powers and roles include:

- The Board acts collectively by voting at meetings to authorize and direct management to take action on behalf of the ICANN organization.
- Interact with the ICANN community to ensure that ICANN is serving the global public interest within ICANN's mission.
- Respect and support accountability mechanisms, including:
    - Participating in the Empowered Community processes as specified in Bylaws (upon transition);
    - Considering Requests for Reconsideration; and
    - Considering final Independent Review Process declarations.
- Consider policy recommendations arising out of SOs, including participating in consultation processes if necessary.
- Acknowledge advice from ACs and consider advice as appropriate.
- When necessary, follow consultation processes relating to AC advice.
- When necessary, create Advisory Committees and working groups to report recommendations and findings to the Board.
- Appoint membership of the RSSAC and SSAC, pursuant to the recommendations from the respective groups.
- Exercise strategic oversight, including oversight of the development of the strategic plan.
- Oversight of enterprise risk work within the organization.
- Delegate the Board's authority (within statutory limitations) to Board committees and management.
- Select the CEO and appoint other officers; and undertake CEO succession planning.
- Setting of officer compensation and adoption of an officer conflict of interest policy.
- Set the fiscal year, adopt annual budget, operation and strategic plans, appoint independent auditors and cause the annual financial report to be published.
- Overseeing the development of, and approval of, key financial direction such as the investment policies and reserve fund management policies.
- Set fees and charges for ICANN services.

- Appoint and oversee the performance of the Ombudsman.
- Authorize entering into expenditures and obligations as required by Contracting and Disbursement Policy.
- Approve new ICANN office locations, including hubs and engagement centers.
- Approve the need to move an ICANN Public Meetings from a previously identified locations, or need to vary from approved meeting strategy.
- Consider recommendations from review teams.
- Selecting PTI Board membership.
- Act in accordance with documented policies and procedures.

ICANN CEO – Key Roles

- The CEO acts within the authority delegated by the Board.
- Interacts with the ICANN community to ensure that ICANN is serving the global public interest within ICANN's mission.
- Maintains open line of communication with the Board, and leads organizational communications with the Board.
- Interacts with governments within the scope of ICANN's Mission and Board's directives.
- Interacts with the broader Internet community and other interested parties within the scope of ICANN's Mission and Board's directives.
- Speaks for ICANN organization and serves as the external face of the organization.
- Leads and oversees ICANN's day-to-day operations (*i.e. CEO is day-to-day decision maker*)
- Leads the ICANN organization, including the retention and supervision of staff.
- Act in accordance with documented policies and procedures.

ICANN CEO and Senior Management – Key Roles

- Act within ICANN's Mission.
- Act in accordance with ICANN's Articles and Bylaws.
- Support accountability and transparency mechanisms, including coordination of review teams, supporting and advising the Board in considering Reconsideration Requests and declarations from Independent Review Processes, and document disclosure requests.
- Supporting the Empowered Community processes as necessary (after transition).
- Provide the Board with information as requested to enable the Directors to act on an informed manner
- Implement the decisions of the Board, including implementation of policies approved by the Board and review team recommendations approved by the Board.

- Perform operational work in accordance with the strategic direction of the Board.
- Manage within the approved Budget.
- Identify sites for ICANN's Public Meetings within the approved Budget and meetings strategy.
- Upon Board approval of need to move a previously-announced ICANN Public Meeting or variance from meetings strategy, identify sites for ICANN Public Meetings within approved Budget and variance.
- Support community in development of and then implement Strategic Plan/Operating Plan as approved by Board.
- Ensure that ICANN remains in compliance with all applicable legal/regulatory requirements.
- Proactively protect the organization from third-party claims.
- Monitor and mitigate risks to the organization.
- Act in accordance with documented policies and procedures.
- Within budget, authorize entering into expenditures and obligations as required by Contracting and Disbursement Policy.
- Follow all applicable conflict of interest policy, confidentiality, employee conduct guidelines, applicable expense policies and travel guidelines, etc.

Interdependencies of Relationships

Across the roles and obligations that the Board, CEO and senior management share, there are numerous interdependencies in these relationships. These include:
- The CEO speaks for the ICANN organization, but serves at the pleasure of the Board.
- ICANN Board relies on management for information upon which the Board will base its decisions. The Board also relies on management to support the Board's interactions with the ICANN community.
- CEO oversees day-to-day operations, while the Board exercises oversight over the CEO, and is responsible for the identification of the strategic direction that the operations will serve.
- Management implements Board resolutions and acts within the scope of delegated authority reflected within those resolutions.
- Board and management actively engage with the community to ensure that ICANN serves the global public interest within ICANN's mission.
- Interdependencies highlighted through ICANN accountability mechanisms, including:
  - Empowered Community rights *(upon transition)*
  - Reconsideration of Board or staff actions
  - Independent review of Board or staff actions
- The Board and CEO must be unified in their understanding and goals for ICANN.
- Management is responsible for leading the activities to develop budget and operating and strategic plans, and the Board approves those budget and operating and strategic plan and sets priorities

- Once approved, the CEO (or to a person designated by the CEO) implements budget, plans and priorities approved by the Board.
- CEO has authority and obligation to lead day-to-day operations, within budget, plans and priorities
- Board and CEO should communicate freely and frequently to avoid misunderstandings.
- Trust and mutual respect is key.

<u>**Attachment A**</u>

ICANN's Delegation of Authority Guidelines
3 November 2016 Draft

<u>**Purpose**</u>

To identify the respective key roles of the Board and the Chief Executive Officer
(CEO) and the delegation of authority from the Board to the CEO and key staff. This
document also identifies the key interdependencies in those relationships.

<u>**Guiding Principles**</u>
- *The Board and CEO should be unified in their understanding and goals for ICANN.*
- *Board and CEO should communicate freely and frequently to avoid misunderstandings.*
- *Trust and mutual respect is key to the relationship between the CEO and the Board.*

This list includes what has been discussed by the Board and the CEO regarding
delegation of authority, but other issues as they arise and are discussed will be
added to the document after being confirmed by the Board.

<u>**ICANN Board – Key Roles**</u>

A primary source of the Board's powers comes directly from the ICANN Bylaws, as
well as internal policies. The Board's key powers and roles include:
- The Board acts collectively by voting at meetings to authorize and direct management to take action on behalf of the ICANN organization.
- Interact with the ICANN community to ensure that ICANN is serving the global public interest within ICANN's mission.
- Respect and support accountability mechanisms, including:
  - Participating in the Empowered Community processes as specified in Bylaws;
  - Considering Requests for Reconsideration; and
  - Considering final Independent Review Process declarations.
- Consider policy recommendations arising out of Supporting Organizations (SOs_, including participating in consultation processes if necessary.
- Acknowledge advice from Advisory Committee (ACs) and consider advice as appropriate.
- When necessary, follow consultation processes relating to AC advice.
- When necessary, create ACs and working groups to report recommendations and findings to the Board.
- Appoint membership of the RSSAC and SSAC, pursuant to the recommendations from the respective groups.
- Appoint the Nominating Committee Chair and Chair-Elect.

- Exercise strategic oversight, including oversight of the development of the strategic plan.
- Oversight of enterprise risk work within the organization.
- Delegate the Board's authority (within statutory limitations) to Board committees and management.
- Select the CEO and appoint other officers; and undertake CEO succession planning.
- Elect the Chair and Vice-Chair of the Board.
- Appoint members to membership and chair positions of the various board committees and working groups
- Setting and approving compensation structure for CEO. Approving compensation for officers.
- Setting and overseeing enforcement of conflicts of interest policy.
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- Selecting PTI Board membership.
- Setting agenda for the Board, and identifying the structure and information needed to support that agenda.
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ICANN CEO – Key Roles

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- Executing global compensation structure for the organization based upon Board policies per legal obligations.
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Across the roles and obligations that the Board, CEO and senior management share, there are numerous interdependencies in these relationships. These include:

- The CEO (or his designee) is the spokesperson for ICANN. The Chair is the spokesperson for the ICANN Board, unless delegated to other board members.
- Working together on Board workshop and Board meeting agendas, with the Organization responsible for timely delivery of materials to the Board in the circumstances when the Organization is informed that it should provide Board briefing materials.
- ICANN Board relies on management for information upon which the Board will base its decisions. The Board also relies on management to support the Board's interactions with the ICANN community.
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Attachment A

ICANN's Delegation of Authority Guidelines
3 November 2016 Draft

Purpose

To identify the respective key roles of the Board and the Chief Executive Officer (CEO) and the delegation of authority from the Board to the CEO and key staff. This document also identifies the key interdependencies in those relationships.

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* *The Board and CEO should be unified in their understanding and goals for ICANN.*
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* Acknowledge advice from Advisory Committee (ACs) and consider advice as appropriate.
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* Appoint membership of the RSSAC and SSAC, pursuant to the recommendations from the respective groups.
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- Speaks for ICANN organization and serves as the external face of the organization.

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Interdependencies of Relationships

Across the roles and obligations that the Board, CEO and senior management share, there are numerous interdependencies in these relationships. These include:

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- Management is responsible for leading the activities to develop budget and operating and strategic plans, and the Board approves those budget and operating and strategic plan and sets priorities.
- Once approved, the CEO (or to a person designated by the CEO) implements budget, plans and priorities approved by the Board.
- CEO has authority and obligation to lead day-to-day operations, within budget, plans and priorities.

REFERENCE MATERIALS - BOARD PAPER NO. 2016.11.08.1g

TITLE: Renewal of .TEL Registry Agreement

These Reference Materials provide additional provisions included in the proposed renewal of the .TEL Registry Agreement:

- Registry-Level Fees: (Article 6)
- Approved Services (Exhibit A)
- Schedule of Reserved Names (Specification 5)
- Rights Protection Mechanisms (Specification 7)
- Service Level Agreement Matrix (Specification 10)
- Emergency Transition (Specification 10)
- Public Interest Commitments (Specification 11)
- Community Registration Policies (Specification 12)

Registry-Level Fees: (Article 6): The existing .TEL Registry Agreement has variable pricing based upon average quarterly registrations. As a result of approval of the .TEL renewal Registry Agreement, the projected annual registry fees to ICANN will result in a minimal negative fiscal impact. This change has been considered in ICANN's budget.

Approved Services (Exhibit A): All Approved Services in the current .TEL Registry Agreement carry over to the proposed renewal Agreement. Such services include Bulk Transfer After Partial Portfolio Acquisition, Registry Controlled DNS Records Service, Domain data change notifications, Whois private contact information opt-out for Individuals (per the 18 December 2007 Board Resolution that approved changes to .TEL's Registration Data Directory Service (Whois) requirements), Special Access Service, Additional RDDS Data Fields and Internationalized Domain Names.

Additionally, language describing the DNS, Anti-Abuse Services, and Whois Contact Lookup from the New gTLD Registry Agreement is included in the proposed renewal Registry Agreement, including a 270-day (9 month) implementation grace period to

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allow sufficient time for Telnic Limited to complete the transition of its technical operations to meet all the requirements of the proposed Renewal Registry Agreement.

Schedule of Reserved Names (Specification 5): The proposed renewal Registry Agreement reflects the current provisions in Amendment 3 (dated 17 November 2010) regarding the changes in Appendix 6 (Schedule of Reserved Names) permitting the Registry Operator to allocate previously reserved one and two-character names through ICANN-accredited registrars via a Phased Allocation Program. However, all single-character numerical labels will continue to be reserved at the second level. As the Board/NGPC agreed to provide temporary protections prior to the launch of New gTLDs, the proposed renewal Registry Agreement does not include the provisions in the New gTLD Registry Agreement pertaining to the protection of International Olympic Committee, International Red Cross, Red Crescent Movement and Intergovernmental Organizations names and acronyms. It should be noted, however, that .TEL will eventually be subject to consensus policy recommendations in the Protection of IGO-INGO Identifiers in All gTLDs Policy Development Process, which implementation plan is currently being developed as directed by ICANN Board Resolution 2014.04.30.05.This consensus policy addresses the protection of IGO and INGO names and acronyms, including the Red Cross/Red Crescent Movement and the International Olympic Committee.

Rights Protection Mechanisms (Specification 7): The proposed renewal Registry Agreement states Registry Operator may develop and implement rights protection mechanisms to protect rights holders. The Registry Operator will comply with the Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) and the Uniform Rapid Suspension system (URS). However, the TLD will neither be subject to Rights Protection Mechanisms set forth in the Trademark Clearinghouse Requirements nor to the Registry Restrictions Dispute Resolution Procedure (RRDRP). Taking into consideration community feedback requesting clarity over the language in Section 1 of Specification 7 and typographical errors identified by staff in Section 2.19, a revised Renewal Registry Agreement (redlined) was approved.

Service Level Agreement Matrix (Specification 10): The proposed renewal Registry Agreement provides a Service Level Agreement Matrix by which the Registry Operator is encouraged to do maintenance for the different services at the times and dates of statistically lower traffic for each service. If the Registry Operator declares an outage on services under a service level agreement and performance requirements, it will notify the ICANN emergency operations department so ICANN can suspend emergency escalation services for the monitored services involved.

Emergency Transition (Specification 10): The proposed renewal Registry Agreement states that the Registry Operator agrees that, in the event that any of the emergency thresholds for registry functions is reached, ICANN may designate an emergency interim registry operator of the registry for the TLD which will mitigate the risks to the stability and security of the Domain Name System.

Public Interest Commitments (Specification 11): The Registry has agreed to additional safeguards to protect registrants in the form public interest commitments, which shall be enforceable through the Public Interest Commitment Dispute Resolution Process (PICDRP). This includes the requirement that the Registry Operator to only use ICANN accredited registrars that are party to the 2013 Registrar Accreditation Agreement. The 2013 RAA, with its substantial improvements, provides more benefits to both registrars and registrants. Additionally, the RRA referred to in Section 2.9 refers to the RRA used by the Registry Operator immediately prior to the renewal so that registrars are ensured continuity as it relates to the RRA's terms.

Community Registration Policies (Specification 12): As part of the renewal, some of the Sponsored TLD Charter of .TEL were incorporated into the proposed renewal Registry Agreement as Specification 12. Specification 12 incorporates the language of the original Sponsorship Charter - Appendix S in the current .TEL TLD Agreement, with modifications to remove the requirement that the Registry control the name servers of delegated domain names, and the restriction that registrants cannot define the contents of

the zone for their domain names. As the .TEL TLD was approved under this premise, the change will transform the .TEL TLD into a gTLD with a limited set of community parameters. These parameters will become optional rather than required.

Signature Block:

Submitted by: Cyrus Namazi

Position: Vice President, Domain Name Services & Industry Engagement

Date Noted: 09 November 2016

Email: cyrus.namazi@icann.org

Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes

(9 November 2016)

The following are proposed measures for release of two-letter second-level domains in gTLDs. If adopted, all gTLD Registry Operators who implement these measures would be authorized to release all reserved two-letter second-level domains (except those otherwise reserved pursuant to Specification 5 Section 6).

Registry Operators continue to be subject to all other safeguards, measures and requirements as set forth by the Registry Agreement; for example, TLDs included on the Governmental Advisory Committee (GAC) Category 1 Strings list[1] must adhere to safeguards above and beyond the measures identified below.

Registry Operators may implement additional measures at their discretion.

In addition to the measures identified below, in accordance with advice issued in the GAC Helsinki Communiqué, ICANN "urge[s] the relevant Registry or the Registrar to engage with the relevant GAC members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered."

MEASURES TO AVOID CONFUSION
EXCLUSIVE AVAILABILITY PRE-REGISTRATION PERIOD (voluntary) Registry Operator may implement a 30-day period in which registration of letter/letter two-character ASCII labels that are country codes, as specified in the ISO 3166-1 alpha-2 standard, will be made exclusively available to the applicable country-code manager or government. All registrations will remain subject to compliance with all other requirements in the registry agreement, such as community TLD policies pursuant to Specification 12, or the Trademark Clearinghouse Rights Protection Mechanism Requirements. The Registry Operator commits to affirmatively reaching out to those country-code managers and governments to provide notice of the Exclusive Availability Pre-Registration Period, including dates and registration process. **NOTE:** TLDs with an executed Specification 13 or Exemption from Specification 9 - Code of Conduct should not implement this measure based on the fact that all registrations in the TLD must be registered exclusively to Registry Operator, its Affiliates or, if applicable, its Trademark Licensees.
REGISTRATION POLICY Registry Operator must include a provision in its publicly available registration policy requiring a representation that the registrant of a letter/letter two-character ASCII label will take steps to ensure against misrepresenting or falsely implying that the registrant or its business is affiliated with a government or country-code manager if such affiliation, sponsorship or endorsement does not exist.
POST-REGISTRATION COMPLAINT INVESTIGATION Registry Operator shall take reasonable steps to investigate and respond to any reports from governmental agencies and ccTLD operators of conduct that causes confusion with the corresponding country code in connection with the use of a letter/letter two-character ACSCII domain. In responding to such reports, Registry Operator will not be required to take any action in contravention of applicable law.

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[1] ICANN NGPC Resolution No. 2014.02.05.NG01: https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-2-05feb14-en.pdf

TITLE: Two-Character Domain Names in the New gTLD
                                Namespace – GAC Helsinki Advice 30 June 2016

1. **REVISED MEASURES FOR LETTER/LETTER TWO-CHARACTER ASCII LABELS TO AVOID CONFUSION WITH CORRESPONDING COUNTRY CODES (REDLINED)**

2. **TIMELINE OF RELEVANT EVENTS REGARDING TWO-CHARACTER DOMAIN NAMES**

1. REVISED MEASURES FOR LETTER/LETTER TWO-CHARACTER ASCII LABELS TO AVOID CONFUSION WITH CORRESPONDING COUNTRY CODES (REDLINED)
(9 November 2016)

See Attachment 1.

2. TIMELINE OF RELEVANT EVENTS REGARDING TWO-CHARACTER DOMAIN NAMES
(9 November 2016)

- **Updated 09 January 2014:** Per Specification 5, Section 2 of the New gTLD Agreement, two-character ASCII labels must be reserved at the second level. "[T]wo-character label strings may be released to the extent that Registry Operator reaches agreement with the related government and country-code manager of the string as specified in the ISO 3166-1 alpha-2 standard. The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN."

- **After the launch of new gTLDs,** new gTLD registry operators requested the release of two-character labels at the second level.

- **15 October 2014:** The GAC issued its Los Angeles Communiqué, stating, "The GAC recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC is not in a position to offer consensus advice on the use of two-character second level domains names in new gTLD registry operations, including those combinations of letters that are also on the ISO 3166-1 alpha 2 list."

- **16 October 2014:** The Board adopted a resolution directing the ICANN Organization to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD Registry Agreement, taking into account the GAC's advice in the Los Angeles Communiqué on the matter.

- **1 December 2014:** ICANN launched the Authorization Process for Release of Two-Character ASCII Labels as directed by the Board.

- **11 February 2015:** The GAC issued advice to improve the process for release of two-character labels.

- **12 February 2015:** The Board adopted a resolution accepting GAC advice issued in the Singapore Communiqué (11 February 2016) and directed the ICANN Organization to implement improvements to the process to alert relevant governments and extend to 60

days the comment period for two-character requests.

- **13 March 2015**: The RySG wrote to the President of the Global Domains Division (GDD) seeking clarity on how ICANN will handle requests that receive comments from governments. The correspondence commented that any objections from governments "should be supported by specific reference to local or international law. There should not be attempts by governments to veto the use of a Letter/Letter combination without legal justification."

- **14 April 2015:** The BRG, the BC and the IPC wrote a joint correspondence to the Board regarding the release of two-letter labels for Specification 13 registries. The correspondence stated that the 11 February Board resolution "does not require that all objections from governments will be summarily accepted, regardless of legal merit or consideration of any security, stability, technical or competition concerns, of which the GAC has already advised, in its ICANN 51 Communiqué, there are none."

- **11 August 2015:** ICANN published a blog on a process to address two-character requests that have received comments from relevant governments. The process would also allow ICANN to more fully consider comments received from relevant governments. Labels that received comments not pertaining to confusion with the corresponding country code were authorized for release from reservation.

- **6 October 2015:** ICANN announced the launch of the Two-Character Letter/Letter Comments Consideration Process.

- **21 October 2015:** The GAC advised the Board in its Dublin Communiqué that "comments submitted by the relevant Governments be fully considered regardless of the grounds for objection. The GAC further advises the Board to be mindful of governments´ capacity limitations and asks the Board to facilitate simplification of the process for providing comments to address their concerns. With respect to new requests for release, the GAC advises the Board to: i. task ICANN to work with the GAC Secretariat to address the technical issues with comment forms and in the interim ii. offer alternative means for comments."

- **9 November 2015:** The RySG urged the Board "to instruct staff to proceed with the process as announced on 6 October 2015 and not to bow to unacceptable government pressure."

- **October 2015 through April 2016:** ICANN worked with the GAC Secretariat to address the technical issues with comment forms and, in the meantime, offered alternative means for comments, and proceeded with the Comments Consideration Process by requesting comment clarifications from governments and measures to avoid confusion from registry operators. Labels that received comments not pertaining to confusion with the corresponding country code were authorized for release from reservation.

- **8 July 2016:** Taking into consideration the confusion concerns received from governments and the measures to avoid confusion received from registry operators, ICANN drafted and published for public comments the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, which listed measures registry operators could adopt to avoid confusion with corresponding country codes and which incorporated the GAC's advice as issued in the Helsinki Communiqué. As part of the proposal, registry operators who adopted the measures would be authorized to release all letter/letter two-character ASCII labels not otherwise reserved in other sections of the Registry Agreement.

- **16 August 2016:** The public comment period concluded.

- **23 September 2016:** The Public Comment Summary and Analysis Report was published.

ICDR CASE NO. 01-15-0002-9938

BETWEEN

CORN LAKE, LLC

Claimant

-and-

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Respondent

_____

FINAL DECLARATION
_____

Independent Review Panel
Mark Morril
Michael Ostrove
Wendy Miles QC (Chair)

Dated 17 October 2016

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1. **OVERVIEW**

1.1 ICANN's Approved Board Resolutions, dated 12 October 2014 and 12 February 2014, established a new 'Review Mechanism to Address Perceived Inconsistent Expert Determinations on String Confusion Objections' in the context of ICANN's New gTLD Program. Such perceived inconsistent Expert Determinations were not considered to be "in the best interest of the New gTLD Program and the Internet community". ICANN limited the scope of the new review mechanism to certain expert determinations concerning specifically designated string confusion objections. ICANN excluded from the new review mechanism the Claimant's .CHARITY Expert Determination concerning community objections.

1.2 The Claimant contends that the .CHARITY Expert Determinations "follow a pattern identical to the objection determinations for which the Board did order review." The Claimant asks the Panel in this Independent Review Process: to review the "decision or action by the Board" to exclude the Claimant's inconsistent .CHARITY Expert Determinations from the scope of the new review mechanism; to declare that "decision or action" to be "inconsistent with the Articles of Incorporation or Bylaws" of ICANN; and that this "materially affected" the Claimant. The Claimant appears also to seek review of the Expert Determination itself and/or its Request for Reconsideration of that Determination. This Final Declaration deals with the Claimant's requests for review.

2. **THE PARTIES AND THEIR LAWYERS**

2.1 The Claimant is Corn Lake, LLC, a limited liability company organised and existing under the laws of the State of Delaware.

2.2 The Claimant is represented by:

John Genga, Esq.
Genga & Associates P.C.
15260 Ventura Boulevard
Suite 1810
Sherman Oaks, CA
91403
USA

and

Don Moody Esq. and Khurram Nizami

The IP and Technology Legal Group P.C.
15260 Ventura Boulevard
Suite 1810
Sherman Oaks, CA
91403
USA

2.3   The Respondent is the Internet Corporation for Assigned Names and Numbers ("ICANN"), a non-profit public corporation organised and existing under the State of California with its principal place of business at:

12025 Waterfront Drive
Suite 300
Los Angeles, CA
90094-2536
USA

2.4   The Respondent is represented by:

Kate Wallace, Jeffrey LeVee and Eric Enson
Jones Day
555 South Flower Street
50th Floor
Los Angeles, CA
90071-2300
USA

3.   THE PANEL

3.1   On 17 September 2015, the full Independent Review Process ("**IRP**") Panel was confirmed in accordance with the International Centre for Dispute Resolution's International Arbitration Rules (the "**ICDR Rules**") and its Supplementary Procedures for Internet Corporation for Assigned Names and Numbers (ICANN) Independent Review Process issued in accordance with the independent review procedures set forth in Article IV, Section 3 of the ICANN Bylaws (the "**Supplementary Rules**").

3.2   The members of the IRP Panel are:

Mark Morril
Michael Ostrove
Wendy Miles QC (Chair)

4. PROCEDURAL HISTORY

4.1 On 24 March 2015, the Claimant filed a Request for Independent Review Process (the "**Request**") with the ICDR. The Claimant alleges that ICANN's Board of Directors (the "**Board**") divested the Claimant of its right to compete for the .CHARITY new generic top level domain ("**gTLD**"), on the basis that "a single ICC panelist upheld a community objection against Corn Lake's application for the .CHARITY gTLD and, at the same time, that same panelist denied an identical objection against a similarly situated applicant for the same string."[1]

4.2 On 15 May 2015, the Respondent filed ICANN's Response to the Claimant's Request for Independent Review Process (the "**Response to Request**").

4.3 On 3 November 2015, the Parties and the Panel conducted by telephone the first procedural hearing.

4.4 On 9 November 2015, following the first procedural hearing, the Panel issued Procedural Order No. 1 ("**PO1**") setting out the procedural stages and timetable for the proceedings and page limits for the Parties' respective submissions.

4.5 On 17 November 2015, the Panel issued Procedural Order No. 2 ("**PO2**") ruling on document production requests.

4.6 On 4 December 2015, the Parties produced documents as directed under PO2.

4.7 On 9 December 2015, the Claimant submitted its Reply (the "**Reply**").

4.8 On 8 January 2016, the Respondent submitted its Sur-Reply (the "**Sur-Reply**"). In its Sur-Reply, the Respondent objected to the Claimant allegedly having exceeded the mandate for its Reply as set out by the Panel at PO1.[2]

4.9 On 20 January 2016, the Panel noted that certain aspects of the Claimant's Reply did exceed the scope of PO1. The Panel notified the parties that it would take this into account when considering their respective written and oral submissions but that it was not inclined to

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[1] Claimant's Request for independent Review Process ("**Claimant Request**"), at page 1, para. 2.
[2] Respondent's Sur-Reply (the "**ICANN Sur-Reply**"), at para. 1.

strike the Reply, instead reserving its position to take its scope into account in any costs decision.

4.10   Also on 20 January 2016, the Panel notified the parties that it had set time aside to meet together in London for the hearing and deliberations thereafter. It invited the parties' views as to whether or not this would be acceptable and whether they considered it necessary for the party representatives also to attend the hearing in person in London, or to join by videoconference.

4.11   On 20 January 2016, the Respondent informed the Panel that it had no objection to the Panel convening in London. It further proposed that, as all counsel were in Los Angeles, they could meet together at Jones Day's Los Angeles office, and the Panel could convene at Jones Day's London office to facilitate the video link.

4.12   On 8 February 2016, the Independent Review Process hearing proceeded by video link with the Panel convened in London and counsel convened in Los Angeles. Claimant and Respondent each submitted PowerPoint slides summarizing their hearing arguments. The Panel accepted the PowerPoint slides as part of the record.

4.13   On 17 February 2016, as requested by the Panel at the close of the hearing on 8 February 2016, the Claimant and Respondent each submitted a supplemental submission concerning the 3 February 2016 Board Resolution regarding .HOSPITAL (the "**Claimant Supplemental Submission**" and "**Respondent Supplemental Submission**", respectively).

4.14   Subsequently, on 16 May 2016, ICANN sent to the Panel the Final Declaration in the *Donuts v. ICANN* IRP proceeding issued 5 May 2016, involving the .SPORTS and .RUGBY strings. ICANN submitted that the Final Declaration addressed many issues relevant to the *Corn Lake v. ICANN* IRP and invited the Panel to permit each party to submit a four-page supplemental brief to address **only** the *Donuts* Final Declaration and its relevance to these proceedings.

4.15   On 18 May 2016, the Claimant disagreed with the need for additional briefing regarding the IRP Final Declaration involving the strings .SPORTS and .RUGBY and set out its detailed reasons for disagreement.

4.16   On 19 May 2016, ICANN provided its response to the Claimant's reasons in the form of a further written submission. On 20 May 2016, the Panel directed that the Claimant provide

its response submission, not more than 4 pages, by 25 May 2016, which was submitted (and accepted) on 27 May 2016.

4.17   On 11 July 2016, the ICDR notified the parties that the Panel had determined that the record for this matter had been closed as of 27 June 2016 and that the Panel expected to have the determination issued by no later than 26 August 2016.

4.18   On 3 August 2016, the Claimant sent to the Panel the Final Declaration in the *Dot Registry v. ICANN* IRP proceeding issued 29 July 2016.   The Claimant submitted that the Final Declaration addressed many issues relevant to the *Corn Lake v. ICANN* IRP and invited the Panel to permit each party to submit a four-page supplemental brief to address **only** the *Dot Registry* Final Declaration and its relevance to these proceedings.

4.19   On 10 August 2016, the Panel directed that the record for this matter be reopened for the limited purpose of each party providing a brief of no more than 4 pages to address the Final Declaration in the *Dot Registry v. ICANN* IRP proceeding.   On 15 August and 19 August, respectively, the Claimant and ICANN submitted further briefs accordingly.

4.20   On 26 August 2016, the Panel notified the parties that it had determined that the record for this matter had been reclosed as of 22 August 2016.

5.   **OVERVIEW OF THE ICANN NEW GTLD PROGRAM**

5.1   This section sets out the relevant factual background to the ICANN Board's 12 October 2014 Resolutions, including a brief description of: (i) the ICANN New gTLD Program; (ii) the New gTLD Program application process; (iii) the New gTLD Program dispute resolution procedure; (iv) the GAC Beijing Communiqué and ICANN's response; and (v) the New Inconsistent Determinations Review Process.

       (i)   ICANN's New gTLD Program

5.2   ICANN is responsible for allocating Internet Protocol ("**IP**") address space, assigning protocol identifiers and Top-Level Domain names, and managing the Domain Name System. ICANN's Domain Name System ("**DNS**") centrally allocates Internet domain names for use in place of IP addresses. Top-Level Domains ("**TLDs**") exist at the top of the DNS naming hierarchy. These characters, which follow the rightmost dot in domain names, and are either generic TLDs ("**gTLDs**") or country code TLDs ("**ccTLDs**").

5.3   The main ICANN policy-making body for gTLDs is the Generic Names Supporting Organization ("**GNSO**").   In June 2008, the ICANN Board approved the GNSO recommendations for new gTLDs and adopted 19 specific GNSO policy recommendations for implementing new gTLDs, with certain allocation criteria and contractual conditions. Based on the GNSO recommendations as adopted, in June 2011, ICANN's Board of Directors approved a new Applicant Guidebook (the "**Applicant Guidebook**") and authorized the launch of the 2012 gTLD Program (the "**New gTLD Program**").[3]

5.4   ICANN describes the New gLTD Program's goals as:

"enhancing competition and consumer choice, and enabling the benefits of innovation via the introduction of new gTLDs, including both new ASCII and internationalized domain name (IDN) top-level domains."[4]

      (ii)   The New gTLD Program Application Process

5.5   The three-month registration period for the New gLTD Program opened on 12 January 2012 and closed on 12 April 2012, with applications due by June 2013.[5]   The stages of the application process are as follows:[6]

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[3] In relation to the Dispute Resolution Procedure, the Applicant Guidebook states that: "[f]or a comprehensive statement of filing requirements applicable generally, refer to the New gTLD Dispute Resolution Procedure ("Procedure") included as an attachment to this module. In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail", Applicant Guidebook, **ICANN Appendix C**, page 3-11, para. 3.3.

[4] ICANN Response, para. 18.

[5] Applicant Guidebook, Module 1, **ICANN Appendix C**, pages 1-2 to 1-3.

[6] Applicant Guidebook, **ICANN Appendix C**, page 1-4.
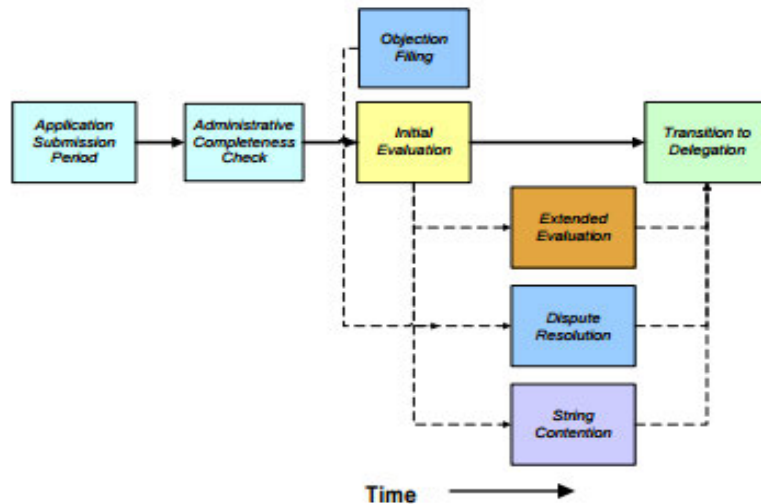
Figure 1-1 – Once submitted to ICANN, applications will pass through multiple stages of processing.

5.6   The application process allows for public comment and a formal objection procedure. The formal objection procedure is to allow full and fair consideration of objections based on certain limited grounds outside ICANN's evaluation of applications on their merits. Formal objections may be filed on four grounds:

"**String Confusion Objection** – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied for gTLD string in the same round of applications.

Legal Rights Objection – The applied-for gTLD string infringes the existing legal rights of the objector.

Limited Public Interest Objection – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law.

Community Objection – There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted."[7]

5.7   Community objections – as in the current case – may be made by (i) "[e]stablished institutions associated with clearly delineated communities"; or (ii) the Independent Objector ("**IO**").[8] In both scenarios, "[t]he community named by the objector must be a

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[7] Claimant Request, para. 10. Applicant Guidebook, **ICANN Appendix C**, page 3-4, para. 3.2.1.
[8] Applicant Guidebook, **ICANN Appendix C**, pages 3-7 to 3-8, para. 3.2.2.4, and pages 3-9 to 3-10, para. 3.2.5.

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community strongly associated with the applied-for gTLD string in the application that is the subject of the objection".[9]

5.8   The IO's limited mandate and scope permit it to file objections against "'highly objectionable' gTLD applications to which no objection has been filed."[10] The Applicant Guidebook sets out that:[11]

"The IO does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet. In light of this public interest goal, the Independent Objector is limited to filing objections on the grounds of Limited Public Interest and Community. Neither ICANN staff nor the ICANN Board of Directors has authority to direct or require the IO to file or not file any particular objection. If the IO determines that an objection should be filed, he or she will initiate and prosecute the objection in the public interest."

5.9   Following any formal objection (including a Community Objection), the applicant can (i) "work to reach a settlement with the objector, resulting in withdrawal of the objection or the application"; (ii) "file a response to the objection and enter the dispute resolution process" (within 30 days of notification); or (iii) "withdraw, in which case the objector will prevail by default and the application will not proceed further." [12]

        (iii)   The New gTLD Program Dispute Resolution Procedure

5.10   In the event that an applicant elects to file a response to an objection, the parties' dispute resolution process is governed by the Applicant Guidebook, Module 3, which sets out the New gTLD Dispute Resolution Procedure (the "**Procedure**"). The designated Dispute Resolution Service Provider ("DRSP") for disputes arising out of community objections in particular is the International Centre for Expertise of the International Chamber of Commerce (the "**ICC Centre for Expertise**").[13]

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[9] Applicant Guidebook, **ICANN Appendix C**, page 3-9, para. 3.2.5. See also ICANN Response, para. 21.
[10] Applicant Guidebook, **ICANN Appendix C**, page 3-9, para. 3.2.5.
[11] Applicant Guidebook, **ICANN Appendix C**, page 3-9, para. 3.2.5.
[12] Applicant Guidebook, **ICANN Appendix C**, page 3-9, para. 3.2.4.
[13] Applicant Guidebook, **ICANN Appendix C**, New gTLD Dispute Resolution Procedure, Article 3.

5.11 Following an initial administrative review by the ICC Centre for Expertise for procedural compliance, a response to an objection is deemed filed and the application will proceed.[14] Consolidation of Objections is encouraged.[15] Within 30 days after receiving the response to an objection, the ICC Centre for Expertise must appoint a panel comprising a single expert (the "**Expert Panel**").[16]

5.12 The procedure is governed by the Rules for Expertise of the ICC, supplemented by the ICC as needed. In the event of any discrepancy, the Procedure prevails.[17] The Expert Panel must remain impartial and independent of the parties.[18] The ICC Centre for Expertise and the Expert Panel must make reasonable efforts to ensure that the Expert Determination is rendered within 45 days of the constitution of the Expert Panel. The Expert Panel is required to submit its Expert Determination in draft form to the ICC Centre for Expertise's scrutiny as to form before it is signed. The ICC Centre for Expertise can make suggested modifications limited to the form of the Expert Determination only. The ICC Centre for Expertise communicates the Expert Determination to the parties and to ICANN.[19]

5.13 Substantively, the Expert Determination proceedings arising out of a Community Objection consider four tests to "enable a DRSP panel to determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted."[20] These four tests, based on the Applicant Guidebook, require objector to prove[21]:

(a) "that the community expressing opposition can be regarded as a clearly delineated community", taking into account various identified factors;

(b) "substantial opposition within the community it has identified itself as representing", taking into account various identified factors;

(c) "a strong association between the applied-for gTLD string and the community represented by the objector", taking into account various identified factors; and

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[14] Applicant Guidebook, **ICANN Appendix C**, page 3-14, para. 3.4.1.
[15] Applicant Guidebook, **ICANN Appendix C**, New gTLD Dispute Resolution Procedure, Article 12.
[16] Applicant Guidebook, **ICANN Appendix C**, New gTLD Dispute Resolution Procedure, Article 13.
[17] Applicant Guidebook, **ICANN Appendix C**, New gTLD Dispute Resolution Procedure, Article 4.
[18] Applicant Guidebook, **ICANN Appendix C**, New gTLD Dispute Resolution Procedure, Article 13.
[19] Applicant Guidebook, **ICANN Appendix C**, New gTLD Dispute Resolution Procedure, Article 21.
[20] Applicant Guidebook, **ICANN Appendix C**, page 3-22, para. 3.5.4.
[21] Applicant Guidebook, **ICANN Appendix C**, pages 3-22 to 3-24, para. 3.5.4

(d) "that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted", taking into account the:

(i) "nature and extent of damage to the reputation of the community . . . that would result from the applicant's operation of the applied-for gTLD string";

(ii) "evidence that the applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely";

(iii) "interference with the core activities of the community that would result from the applicant's operation of the applied-for gTLD string";

(iv) "dependence of the community represented on the DNS for its core activities";

(v) "nature and extent of concrete or economic damage to the community that would result from the applicant's operation of the applied-for gTLD string"; and

(vi) "level of certainty that alleged detrimental outcomes would occur".[22]

"The objector must meet all four tests in the standard for the objection to prevail".[23]

5.14 Following an Expert Determination, the applicant may further apply for: (i) reconsideration by ICANN's Board Governance Committee (the "**BGC**") through a ("**Reconsideration Request**"); and/or (ii) independent third-party review of Board actions alleged by an affected party to be inconsistent with ICANN's Articles of Incorporation or Bylaws through an IRP.

5.15 ICANN has designated the International Centre for Dispute Resolution ("**ICDR**") to operate the IRP for String Confusion, Existing Legal Rights, Morality and Public Order and Community Objections. The ICDR constitutes the panel of independent experts and

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[22] Applicant Guidebook, **ICANN Appendix C**, page 3-24, para. 3.5.4
[23] Applicant Guidebook, **ICANN Appendix C**, page 3-25, para. 3.5.4

administers the proceedings in accordance with ICANN's New gTLD Dispute Resolution Procedure, which incorporates by reference the ICDR's International Rules.[24]

5.16   Every applicant in the New gTLD Application Process expressly agrees to the resolution of disputes arising from objections in accordance with the new gTLD Dispute Resolution Procedure (and, by reference, the relevant ICDR rules) when submitting an application to ICANN.

(iv)   The GAC Beijing Communiqué and ICANN's Response

5.17   On 11 April 2013, the ICANN Board Governmental Advisory Committee ("**GAC**") proposed new safeguards for certain "sensitive strings" in sectors the GAC viewed as "regulated" or "highly regulated" (the "**Beijing GAC Communiqué**").[25] Specifically, the GAC recommended that ICANN adopt certain pre-registration eligibility restrictions in connection with the "sensitive strings" that it designated as "Category 1" and "Category 2." The GAC identified .CHARITY as a Category 1 sensitive string.[26] In this regard, the Beijing Communiqué contained important departures from the Applicant Guidebook. However, the Beijing GAC Communiqué was not binding on applicants until or unless it was adopted by the ICANN Board.

5.18   On 12 July 2013, ICANN sent to the gTLD Board a paper prepared for the New gTLD Program Committee (the "**NGPC**") setting out its concerns relating to the GAC Beijing Communiqué.[27] ICANN's cover email described the paper as having been "prepared for the NGPC dialogue with the GAC" taking place the following Sunday.[28]

5.19   On 29 October 2013, ICANN wrote to the GAC to inform it that the NGPC intended "to accept the GAC Beijing Communiqué's advice concerning Category 1 and Category 2 Safeguards."[29] In relation to the proposed safeguards for Category 1, ICANN noted that:

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[24] ICANN Bylaws, **ICANN Appendix A**, Article IV, Section 3(4) (*See also:* https://www.icdr.org/icdr/faces/icdrservices/icann?_afrLoop=290874254740950&_afrWindowMode=0&_afrWindowId=null#%40%3F_afrWindowId%3Dnull%26_afrLoop%3D290874254740950%26_afrWindowMode%3D0%26_adf.ctrl-state%3D108xg7by0c_22.

[25] https://www.icann.org/en/system/files/correspondence/gac-to-board-18apr13-en.pdf

[26] Id., Annex I, page 9.

[27] NGPC Memo and Attachment, 12 July 2013, **Claimant Exhibit 22**.

[28] NGPC Memo and Attachment, 12 July 2013, **Claimant Exhibit 22**.

[29] ICANN Letter to GAC, 29 October 2013, **Claimant Exhibit 13**, page 1.

"The text of the Category 1 Safeguards has been modified as appropriate to meet the spirit and intent of the advice in a manner that allows the requirements to be implemented as public interest commitments in Specification 11 of the New gTLD Registry Agreement ("PIC Spec"). The PIC Spec and a rationale explaining the modifications are attached."[30]

5.20   The effect of ICANN's 29 October 2013 statement was publicly to announce that new, mandatory registration requirements would be imposed in any and all registration agreements for Category 1 and Category 2 strings. In the case of .CHARITY, a Category 1 string, this would mean the imposition of a mandatory registration requirement under any .CHARITY registry agreement requiring that any domain operators using the .CHARITY gTLD demonstrate that they were a registered charity.[31] This requirement would be imposed in any registry agreement, irrespective of the content of any existing PIC or gTLD application content relating to .CHARITY. As discussed in further detail below, ICANN's 29 October 2013 announcement came while the Expert Determination process arising out of the .CHARITY community objections were underway.[32]

5.21   On 5 February 2014, the ICANN Board passed Resolution 2014.02.05.NG01, formally adopting the GAC's Beijing Communiqué recommendation.[33] Annexed to that Resolution was a list of eight safeguards that would apply to certain Category 1 strings (including .CHARITY) and that would be included in Specification 11 of the New gTLD Registry Agreement.[34]

(v)   ICANN's New Inconsistent Determinations Review Process

5.22   In the course of the New gTLD Program, in late 2013, concerns arose in respect of a small number of Expert Determinations involving the same or similar string confusion objections ("**SCO**"s) which resulted in different outcomes. These initially included:

(a)   three separate Expert Determinations arising out of SCOs by the registrants of .COM to applications to register .CAM, whereby two objections were overruled and one was upheld; and

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[30] ICANN Letter to GAC, 29 October 2013, **Claimant Exhibit 13**, page 1.
[31] ICANN Letter to GAC, 29 October 2013, **Claimant Exhibit 13**.
[32] See paragraphs 6.24 to 6.25, below.
[33] **Claimant Exhibit 14**.
[34] **Claimant Exhibit 14**, Annex 2, pages 1 and 3.

(b)   three separate Expert Determination arising out of SCOs by the registrants of .CAR to applications to register .CARS, whereby two objections were overruled and one was upheld.[35]

5.23   On 10 October 2013, as a result of these perceived inconsistent decisions, the BGC requested that:

"staff draft a report for the NGPC on String Confusion Objections (SCOs) 'setting out options for dealing with the situation raised within this [Reconsideration] Request, namely the differing outcomes of the String Confusion Objection Dispute Resolution process in similar disputes involving Amazon's Applied – for String and TLDH's Applied-for String'".[36]

5.24   The NGPC then:

"considered potential paths forward to address perceived inconsistent Expert Determinations from the New gTLD Program SCO process, including possibly implementing a new review mechanism".[37]

5.25   On 5 February 2014, the NGPC published Approved Resolutions, which included discussion of the report prepared in response to the BGC's 10 October 2013 request. The NGPC directed the ICANN President and CEO to initiate a public comment period on framework principles of a potential review mechanism to address perceived inconsistent SCO Expert Determinations. The NGPC stated that the review mechanism would be "limited to the String Confusion Objection Expert Determinations for .CAR/.CARS and .CAM/.COM".[38]

5.26   On 11 February 2014, ICANN published its "Proposed Review Mechanism to Address Perceived Inconsistent Expert Determinations on String Confusion Objections: Framework Principles" (the "**Proposed Framework Principles**").[39] The Proposed Framework Principles addressed two cases where SCOs were raised by the same objector against different applications for the same string, where the outcomes of the SCOs differed, namely .CAR/.CARS and .CAM/.COM.

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[35] ICANN Board Proposed Review Mechanism, 11 February 2014, **Claimant Exhibit 15**, page 2.

[36] NGPC Resolutions, 5 February 2014, **Claimant Exhibit 14**, page 3.

[37] As set out in summary in NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 3.

[38] NGPC Resolutions, 5 February 2014, **Claimant Exhibit 14**, page 3.

[39] ICANN Board Proposed Review Mechanism, 11 February 2014, **Claimant Exhibit 15**.

5.27   The Proposed Framework Principles set out the proposed standard of review as being whether the Expert Panel could "have reasonably come to the decision reached on the underlying SCO through an appropriate application of the standard of review as set forth in the Applicant Guidebook and procedural rules".[40] The proposed review process would be conducted by a new three member panel constituted by the ICDR as a "Panel of Last Resort" (the "**Inconsistent Determinations Review Procedure**").[41]

5.28   ICANN specifically noted in the Proposed Framework Principles that the proposed review procedure mechanism must be limited and that:

"[t]he use of a strict definition for Inconsistent SCO Expert Determinations conversely means that all other SCO Expert Determinations are *not inconsistent*. As a result, the review mechanism, or Panel of Last Resort, shall not be applicable to those other determinations."[42]

5.29   ICANN defined the "strict definition" as "objections raised by the same objector against different applications for the same string, where the outcomes of the SCOs differ."[43]

5.30   On 14 March 2014, as part of the public consultation process, the Claimant's parent company, Donuts Inc., submitted that SCO Expert Determinations relating to .SHOP should also be included, as follows:

"… this limited review should be extended to include a third contention set where there is an incongruent outcome. In the .SHOP vs. SHOPPING objection, the same panelist who found .SHOP to be confusing to a Japanese .IDN found in favor of the objector with regard to the Donuts' .SHOPPING application."[44]

5.31   Donuts concluded: "Finally, we urge ICANN to undergo a similar review mechanism in cases of inconsistent outcomes with the Limited Public Interest and Community objections."

5.32   On 12 October 2014, the NGPC issued Approved Resolutions "to address perceived inconsistent and unreasonable Expert Determinations resulting from the New gTLD Program

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[40] ICANN Board Proposed Review Mechanism, 11 February 2014, **Claimant Exhibit 15**, page 2

[41] ICANN Board Proposed Review Mechanism, 11 February 2014, **Claimant Exhibit 15**, pages 2 to 3.

[42] ICANN Board Proposed Review Mechanism, 11 February 2014, **Claimant Exhibit 15**.

[43] ICANN Board Proposed Review Mechanism, 11 February 2014, **Claimant Exhibit 15**, page 2.

[44] http://forum.icann.org/lists/comments-sco-framework-principles-11feb14/pdfJC5UktBBxf.pdf

String Confusion Objections process."[45] The NGPC directed ICANN's President and CEO to establish a three-member panel to re-evaluate the materials presented in the two identified SCO Expert Determinations for .COM/.CAM and .SHOP/通販.[46]

5.33   The 12 October 2014 Approved Resolutions set out in detail the scope of the New Inconsistent Determinations Review Procedure:

(a)   the NGPC took "action to address certain perceived inconsistent or otherwise unreasonable SCO Expert Determinations by sending back to the ICDR for a three-member panel evaluation of certain Expert Determinations";[47]

(b)   the NGPC identified these Expert Determinations as "not in the best interest of the New gTLD Program and the Internet community";[48]

(c)   "the identified SCO Expert Determinations present exceptional circumstances warranting action by the NGPC because each of the Expert Determinations falls outside normal standards of what is perceived to be reasonable and just";[49] and

(d)   the "record on review shall be limited to the transcript of the proceeding giving rise to the original Expert Determination, if any, expert reports, documentary evidence admitted into evidence during the original proceeding, or other evidence relevant to the review that was presented at the original proceeding", and the "standard of review to be applied by the Review Panel is: whether the original Expert Panel could have reasonably come to the decision reached on the underlying SCO through an appropriate application of the standard of review as set forth in the Applicant Guidebook and the ICDR Supplementary Procedures for ICANN's New gTLD Program".[50]

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[45] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16**, pages 5 to 6.

[46] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16**, page 5. The NGPC noted in relation to the SCO Expert Determinations for .CAR/.CARS that the parties "recently have resolved their contending applications" so "the NGPC is *not* taking action to send these SCO Expert Determinations back to the ICDR for re-evaluation to render a Final Expert Determination." NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16**, page 10.

[47] The dispute with respect to .CAR/.CARS was resolved and the new Inconsistent Determinations Review Procedure went forward with respect to the .SHOP/通販 and .CAM/.COM disputes. NGPC Resolutions, 5 February 2014, **Claimant Exhibit 14**, pages 5-6.

[48] NGPC Resolutions, 5 February 2014, **Claimant Exhibit 14**, page 3.

[49] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 10.

[50] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 7.

5.34   The NGPC also set out in detail its reasons for limiting application of the new process to the identified SCO Expert Determinations and "particularly why the identified Expert Determinations should be sent back to the ICDR while other Expert Determinations should not":[51]

(a)   the Applicant Guidebook (Section 5.1) provides that 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. Under exceptional circumstances, the Board may individually consider a gTLD application";[52]

(b)   "[a]ddressing the perceived inconsistent and unreasonable String Confusion Objection Expert Determinations is part of the discretionary authority granted to the NGPC in its Charter regarding 'approval of applications' and 'delegation of gTLDs,' in addition to the authority reserved to the Board in the Guidebook to consider individual gTLD applications under exceptional circumstances";[53]

(c)   "[w]hile some community members may identify other Expert Determinations as inconsistent or unreasonable, the SCO Expert Determinations identified are the only ones that the NGPC has deemed appropriate for further review";[54]

(d)   "while on their face some of the Expert Determinations may appear inconsistent, including other SCO Expert Determinations, and Expert Determinations of the Limited Public Interest and Community Objection processes, there are reasonable explanations for these seeming discrepancies, both procedurally and substantively";[55]

(e)   "on a procedural level, each expert panel generally rests its Expert Determination on materials presented to it by the parties to that particular objection, and the objector bears the burden of proof" and "[t]wo panels confronting identical issues could –

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[51] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at pages 10 to 11.
[52] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at pages 9 to 10. (*See also:* Applicant Guidebook, **ICANN Appendix C**, page 5-1, para. 5.1.)
[53] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 10.
[54] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 10.
[55] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 11.

and if appropriate should – reach different determinations, based on the strength of the materials presented";[56]

(f)   "on a substantive level, certain Expert Determinations highlighted by the community that purportedly resulted in 'inconsistent' or 'unreasonable' results, presented nuanced distinctions relevant to the particular objection" which "should not be ignored simply because a party to the dispute disagrees with the end result";[57]

(g)   "the standard guiding the expert panels involves some degree of subjectivity, and thus independent expert panels would not be expected to reach the same conclusions on every occasion";[58]

(h)   "for the identified Expert Determinations, a reasonable explanation for the seeming discrepancies is not as apparent, even taking into account all of the previous explanations about why reasonable 'discrepancies' may exist" and "[t]o allow these Expert Determinations to stand would not be in the best interests of the Internet community";[59]

(i)   the NGPC "considered whether it was appropriate, as suggested by some commenters, to expand the scope of the proposed review mechanism to include other Expert Determinations, such as some resulting from Community and Limited Public Objections";[60]

(j)   the comments presented by various stakeholders "highlight the difficulty of the issue and the tension that exists between balancing concerns about perceived inconsistent Expert Determinations, and the processes set forth in the Guidebook that were the subject of multiple rounds of public comment over several years";[61]

(k)   "[a]s highlighted in many of the public comments, adopting a review mechanism this far along in the process could potentially be unfair because applicants agreed to the

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[56] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 11.
[57] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 11.
[58] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 11.
[59] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 11.
[60] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at pages 11-12.
[61] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 9.

processes included in the Guidebook, which did not include this review mechanism, and applicants relied on these processes";[62]

(l)   "Applicants have already taken action in reliance on many of the Expert Determinations, including signing Registry Agreements, transitioning to delegation, withdrawing their applications, and requesting refunds";[63]

(m)   "[a]llowing these actions to be undone now would not only delay consideration of all applications, but would raise issues of unfairness for those that have already acted in reliance on the Applicant Guidebook";[64] and

(n)   the NGPC "determined that to promote the goals of predictability and fairness, establishing a review mechanism more broadly may be more appropriate as part of future community discussions about subsequent rounds of the New gTLD Program".[65]

5.35   The NGPC summarized its conclusion by noting that, "while on balance, a review mechanism is not appropriate for the current round of the New gTLD Program, it is recommended that the development of rules and processes for future rounds of the New gTLD Program (to be developed through the multi-stakeholder process) should explore whether a there is a need for a formal review process with respect to Expert Determinations".[66]

5.36   As a result of this analysis, the New Inconsistent Determinations Review Procedure was therefore introduced to provide an additional layer of review in the New gTLD Program Application Process for a very limited category of applications – i.e. two SCOs. The .CHARITY applications were not included.

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[62] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 10.
[63] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 12.
[64] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 12.
[65] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 12.
[66] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at page 9.

6. FACTUAL BACKGROUND TO THE .CHARITY EXPERT DETERMINATIONS

6.1   A brief summary of the specific facts relating to the .CHARITY applications is below. The Panel has considered the Parties' written and oral submissions in full, even where not included in the below summary and subsequent analysis.

(i) Claimant's .CHARITY Application

6.2   On 13 June 2012, the Claimant filed application no. 1-1384-49318 to operate the new gTLD .CHARITY (the "**Application**").[67] The Claimant purports to have invested $185,000 for the application fee along with other significant resources in making the Application.[68]

6.3   The Claimant's .CHARITY Application was one of the 1,930 applications made in the New gTLD Application Process in 2015.

6.4   The Claimant applied for .CHARITY to "allow consumers to make use of the gTLD in accordance with the meanings they ascribe to that dictionary word."[69] It described the "mission/purpose" of its proposed gTLD as follows:

"The CHARITY TLD will be of interest to the millions of persons and organizations worldwide involved in philanthropy, humanitarian outreach, and the benevolent care of those in need. This broad and diverse set includes organizations that collect and distribute funds and materials for charities, provide for individuals and groups with medical or other special needs, and raise awareness for issues and conditions that would benefit from additional resources. In addition, the term CHARITY, which connotes kindness toward others, is a means for expression for those devoted to compassion and good will. We would operate the .CHARITY TLD in the best interest of registrants who use the TLD in varied ways, and in a legitimate and secure manner."[70]

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[67] Corn Lake, LLC June 2012 Application for .CHARITY, App. ID 1-1384-49318, **Claimant Exhibit 1**.
[68] Claimant Request, para. 9.
[69] Claimant Request, para. 9. See also ICANN Response, para. 2.
[70] Corn Lake, LLC June 2012 application for .CHARITY, App. ID 1-1384-49318, **Claimant Exhibit 1**, para. 18(a), 3. See also Claimant Request, para. 16.

(ii) SRL and Excellent First's .CHARITY Applications

6.5   Also on 13 June 2012, Spring Registry Limited ("SRL") filed a separate application, no. 1-1241-87032, also to operate the new gTLD called .CHARITY (the "SRL Application").[71] In the SRL Application, SRL described the "mission/purpose" of its proposed gTLD as follows:

"… the aim of 'charity' is to create a blank canvas for online charity services set within a secure environment. The Applicant will achieve this by creating a consolidated, versatile and dedicated space to access charity information and donation services. … [T]here will be a ready marketplace specifically for charity-based enterprises to provide their goods and services."

6.6   Further, Excellent First Limited submitted an application for the Chinese character translation of .CHARITY.[72]

6.7   By 5 March 2013, each applicant was required to submit a TLD-specific Public Interest Commitments Specification ("**PIC**").[73] Both the Claimant and SRL submitted PICs prior to 5 March 2013.[74] Neither the Claimant nor SRL, (nor, as far as the IPP Panel is aware Excellent First), addressed eligibility requirements in their original PICs.

(iii)   The .CHARITY Applications Independent Objections

6.8   On 12 March 2013, Professor Alain Pellet, acting as IO, submitted a Community Objection to the ICC Centre for Expertise in relation to the Application by the Claimant.[75] The IO's objection was submitted on the basis that .CHARITY should be limited to "charities and charitable organizations".[76] In particular, the Claimant's IO stated that a "community objection" is warranted when "there is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly targeted."[77]

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[71] Spring Registry Ltd. June 2012 application for .CHARITY, **Claimant Exhibit 10**.

[72] ICANN Response, para. 6, http://newgtlds.icann.org/en/program-status/odr/determination

[73] https://www.icann.org/resources/pages/base-agreement-2013-02-05-en

[74] Donuts Public Interest Commitment (PIC), **Claimant Exhibit 9**. SRL's original PIC is not in evidence in the proceedings.

[75] IO 12 March 2013 objection to Corn Lake application, **Claimant Exhibit 2**.

[76] As per Claimant Request, para. 17. The Respondent explains the process in its Response, para. 2.

[77] IO 12 March 2013 objection to Corn Lake application, **Claimant Exhibit 2**, para. 6.

6.9 The IO worked through the four tests of a community objection and found these to be met, including the community test, substantial opposition, targeting and detriment. In relation to the detriment test in particular, the IO contended that the Claimant "has not addressed the specific needs of the charity community in its proposed management of the gTLD .Charity, and there are three key factors that demonstrate the likelihood of detriment to the charity community."[78]

6.10 The three key factors were that the Claimant's Application: (i) "has not been framed by [the Claimant] and its subsidiary as a community based gTLD",[79] (ii) "does not propose any eligibility criteria for the string";[80] and (iii) proposes security mechanisms "aimed at reacting to abuse [that] are unlikely to meet the specific requirements and needs of the charity community" as well as making "no commitment concerning the specific content of the "Anti-Abuse Policy".[81]

6.11 The IO also brought separate Community Objections against SRL and Excellent First Limited, the two other applicants for the .CHARITY gTLD in English and Chinese respectively, on similar grounds.[82]

6.12 On 7 May 2013, the ICC Centre for Expertise notified the Claimant that it had decided to consolidate the IO's objection to Claimant's application with the two other proceedings relating to the applications by SRL and Excellent First Limited.

(iv) The .CHARITY Independent Expert Panels

6.13 On 6 June 2013, the Claimant submitted to the ICC Centre for Expertise a response to the IO's objection (the "**Response to IO Objection**").[83] The Claimant submitted that the IO lacked standing to make the objection and that the objection failed on its merits. It further submitted that the IO's Community Objection constituted a restriction on "rights of free

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[78] IO 12 March 2013 objection to Corn Lake application, **Claimant Exhibit 2**, para. 41.
[79] IO 12 March 2013 objection to Corn Lake application, **Claimant Exhibit 2**, para. 42.
[80] IO 12 March 2013 objection to Corn Lake application, **Claimant Exhibit 2**, para. 43.
[81] IO 12 March 2013 objection to Corn Lake application, **Claimant Exhibit 2**, para. 45.
[82] As per Claimant Request, para. 18. The Respondent provides further descriptions in its Response, para. 3. http://newgtlds.icann.org/en/program-status/odr/determination
[83] Corn Lake 6 June 2013 response to IO objection, **Claimant Exhibit 3**.

expression"[84] which was contrary to the New gTLD program objective "to enhance choice, competition and expression in the namespace."[85]

6.14   On the merits, the Claimant submitted that the IO invoked no clearly delineated community, demonstrated no substantial opposition within the community he claims to represent, demonstrates no strong association between the community and applied for string and does not prove material detriment.[86]

6.15   Specifically in response to the IO's objection based on material detriment, the Claimant reiterated that it had:

"clearly stated its opposition to such constraints on access, expression and innovation: 'attempts to limit abuse by limiting registrant eligibility is unnecessarily restrictive and harms users by denying access to many legitimate registrants. Restrictions on second level domain eligibility would prevent law-abiding individuals and organizations from participating in a space to which they are legitimately connected, and would inhibit the sort of positive innovation we intend to see in this TLD.'"[87]

6.16   On 4 July 2013, the ICC Centre for Expertise appointed Mr. Tim Portwood of Bredin Prat as the Independent Expert Panel in the consolidated proceedings.

6.17   On 22 August 2013, the IO submitted to the ICC Centre for Expertise a reply (the "**IO Reply**").[88] Among other things, the IO observed that the detriment test standard pursuant to the Applicant Guidebook is the "likelihood of detriment."[89] The IO considered that he had "developed many elements establishing that there exists a likelihood of detriment, in particular because of the Applicant's unwillingness to propose preventative security measures assuring the charitable nature, the integrity and the trustworthiness of the entities represented and the information provided under the gTLD."[90]

6.18   Specifically in relation to the GAC Beijing Communiqué, the IO noted that the Claimant:

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[84] As per Claimant Request, para. 19.

[85] Corn Lake 6 June 2013 response to IO objection, **Claimant Exhibit 3**, page 1.

[86] Corn Lake 6 June 2013 response to IO objection, **Claimant Exhibit 3**.

[87] Corn Lake 6 June 2013 response to IO objection, **Claimant Exhibit 3**, page 13.

[88] IO 22 August 2013 reply in further support of objection, **Claimant Exhibit 4**.

[89] IO 22 August 2013 reply in further support of objection, **Claimant Exhibit 4**, para. 22.

[90] IO 22 August 2013 reply in further support of objection, **Claimant Exhibit 4**, para. 24.

"continues to ignore the specificity of this string despite the fact that the GAC Beijing Communiqué of 11 April 2013 listed the .Charity gTLD within the 'sensitive strings that merits particular safeguards' because this string is 'likely to invoke a level of implied trust from consumers, and carry higher levels of risk associated with consumer harm'."[91]

6.19   On 6 September 2013, the Claimant submitted to the ICC Centre for Expertise a further response (the "**Expert Panel Sur-Reply**").[92] In its Expert Panel Sur-Reply, the Claimant argued that the word charity does not clearly delineate any community, the separate targeting test was not satisfied, the IO demonstrates no substantial opposition and that the IO mischaracterizes the material detriment standard "in a misplaced effort to justify having failed to satisfy it."[93] The Claimant further objected to the IO's reliance on the GAC's Beijing Communiqué,[94] submitting that it "has little (if any) bearing on the material detriment analysis" and that,

"[w]hatever measures ICANN enacts will require implementation by Applicant in the form of a PIC [Public Interest Commitment], then embodied in a formal registry agreement by which Applicant must bind itself to undertake those measures under penalty of losing the registry." [95]

6.20   On 6 September 2013, SRL also submitted to the ICC Centre for Expertise its further response (the "**SRL Sur-Reply**").[96] In the SRL Sur-Reply, it specifically offered to amend its PIC to take into account the IO's concerns. According to the Claimant, SRL's amendment to its PIC:

"would impose eligibility criteria in a .CHARITY domain that would limit registration of second-level names to those who could 'establish that they are a charity of a 'not-for-profit' enterprise with charitable purposes.'"[97]

6.21   SRL's amended PIC stated that SRL "appreciates the opportunity to restate and once again commit to the following operational measures, where those matters are within its control,

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[91] IO 22 August 2013 reply in further support of objection, **Claimant Exhibit 4**, para. 24. See footnote 11: http://www.icann.org/en/news/correspondence/gac-to-board-18apr13-en.pdf, Annex 1, Category 1, p. 8 (annex 1).
[92] Corn Lake 6 September 2013 sur-reply in further support of opposition to objection, **Claimant Exhibit 5**.
[93] Corn Lake Sur-Reply, p.5.
[94] Corn Lake Sur-Reply, p.7.
[95] Corn Lake Sur-Reply, pp.8-9.
[96] September 6, 2013 email from SRL to ICC w/attachments, **Claimant Exhibit 23**.
[97] Claimant Request, para. 22.

as outlined in our application."[98] SRL further noted that "[w]e reserve the right to amend or change this PIC Spec once the details of the Program are finalized."[99] Specifically in relation to eligibility, SRL stated in its amended PIC that:[100]

"[o]nly incorporated associations or entities, foundations or trusts which can establish that they are a charity or 'not for profit' enterprise with charitable purposes will qualify to be a registrant of a .CHARITY domain name."

6.22   On 25 October 2013, SRL notified the Expert Panel by email of its "amended PIC SPEC" and sent a link to the document on the ICANN website.[101] In its cover email, SRL noted that it was making its unsolicited submission:

"merely to make you aware of independent evidence that our eligibility policy is progressing through the new gTLD application process, and in the interests of justice I hope you can consider this evidence. It merely confirms what was stated in our Rejoinder, and should only take a moment to consider.

Articles 17 and 18 of the Dispute Rules do provide the Panel with the power to admit additional material, and making this submission is the only way to draw it to your attention."

6.23   There is no record of any objection to the 25 October 2013 communication by the IO or the Expert Panel and no record that it was rejected by the Expert Panel.

6.24   On 3 December 2013, the Claimant notified the Expert Panel and the IO by email of further information "to update the Panel regarding matters raised in the Objection and further submissions made by the Objector."[102]

6.25   Specifically, the Claimant notified the Expert Panel that "ICANN has formally announced its intention to adopt the "GAC's Beijing Communiqué advice concerning Category 1 and Category 2 Safeguards"". The Claimant further explained that as a result, the:

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[98] SRL PIC, **Claimant Exhibit 12**, page 1.

[99] SRL PIC, **Claimant Exhibit 12**, page 1.

[100] SRL PIC, Claimant Exhibit 12.

[101] October 25, 2014 email from SRL to ICC, **Claimant Exhibit 24**.

[102] Corn Lake 3 December 2013 further requested submission, **Claimant Exhibit 6**.

"… Applicant must implement the safeguards, if awarded the subject string, as a term of its registry agreement with ICANN for the string. Applicant therefore respectfully submits that, to the extent Objector claims material detriment based on Applicant's alleged lack of GAC-recommended safeguards, ICANN's recent action has rendered that portion of the Objection moot, and eliminates it as a basis for denying Applicant its presumptive right to compete for and, if awarded, operate the string."

6.26 On 5 December 2013, the IO objected to the Claimant's further submission on procedural and substantive grounds.

6.27 On 11 December 2013, the ICC Centre for Expertise wrote to the parties and Expert Panel reserving to the Expert Panel the decision as to whether to admit the Parties' further submissions.

6.28 On 13 December 2013, the Expert Panel rejected the Claimant's further submission on the grounds that (a) further submissions "were not contemplated by the procedural timetable" of 9 August 2013 and (b) "the Expert Determination in each of the consolidated cases was submitted in draft to the Centre within the 45 day time period provided for in Article 21(a) of the ICANN New gTLD Dispute Resolution Procedure (the "**Procedure**") for scrutiny by the Centre pursuant to Article 21(b) of the Procedure and Article 12(6) of the ICC Rules for Expertise (the "**Rules**").[103]

6.29 There was no further correspondence between the Parties, the IO and/or the Expert Panel prior to the issuance of the Expert Determinations.

(v) The .CHARITY Applications Expert Determinations

6.30 On 9 January 2014, the Expert Panel issued its three separate Expert Determinations in respect of the applications by the Claimant and SRL, respectively, despite the proceedings having been consolidated.[104] The Expert Determination in relation to the IO in the Claimant's Application had a different outcome to the SRL and Excellent First Expert

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[103] Letter from Expert Panel to Parties, 13 December 2013, **Claimant Exhibit 7**, page 1. Article 21(a) provides that: "*(a) The DRSP and the Panel shall make reasonable efforts to ensure that the Expert Determination is rendered within forty-five (45) days of the constitution of the Panel. In specific circumstances such as consolidated cases and in consultation with the DRSP, if significant additional documentation is requested by the Panel, a brief extension may be allowed*", Applicant Guidebook, **ICANN Appendix C**, Module 3, page P-10.

[104] Expert Determination Corn Lake, 9 January 2014, **Claimant Exhibit 8** and Expert Determination SRL, 9 January 2014, **Claimant Exhibit 11**. Expert Determination Excellent First is at:
https://newgtlds.icann.org/sites/default/files/drsp/17jan14/determination-1-1-961-6109-en.pdf.

Determinations. The reasoning sections in the Expert Panel Determinations for the Claimant and SRL community objections are virtually identical, and very similar for the Expert Determination for the Excellent First community objection, up to the determination concerning the detriment test.

6.31 The Expert Panel upheld the community objection against the Claimant, as set out by the IO on the basis that "there is a likelihood of material detriment to the charity sector community were the Application to proceed" and that:[105]

"the targeted community … would be harmed if access to the '.CHARITY' string were not restricted to persons … which can establish that they are a charity or a not-for-profit enterprise with charitable purposes".[106]

6.32 However, the Expert Panel rejected the IO's identical community objections against both SRL and Excellent First.[107]

6.33 In relation to SRL, the Expert Panel concluded that eligibility policy contained in its amended PIC "will be included in any registry agreement which Applicant would sign with ICANN if its Application is successful and which Applicant will therefore be contractually obliged to implement at the risk of legal action under the PIC Dispute Resolution Procedure in the event of breach."[108] On that basis:

"the SRL Expert Panel found that SRL's commitment set out its .CHARITY application to restrict registration 'to members of the charity sector' was sufficient to negate any concern of material detriment to the targeted community."[109]

6.34 In relation to Excellent First, the Expert concluded that its commitment in its application to limit registrations to: "charitable organizations or institutions which must represent and warrant that they are authorized to conduct charitable activities" was sufficient to negate concerns of material detriment.[110]

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[105] Expert Determination Corn Lake, 9 January 2014, **Claimant Exhibit 8**. *See* As per ICANN Response, para. 4.
[106] As per Claimant Request, para. 24.
[107] Expert Determination SRL, 9 January 2014, **Claimant Exhibit 11**. ICANN Response, para. 6.
[108] Expert Determination SRL, 9 January 2014, **Claimant Exhibit 11**, para. 90.
[109] ICANN Response, para. 5.
[110] ICANN Response, para. 6. *See*: http://newgtlds.icann.org/en/program-status/odr/determination

6.35   In both the SRL and Excellent First Expert Determinations, the Expert Panel included the following paragraph:

"Provided that Applicant's undertaking [in respect of eligibility requirements] is honored, the Expert Panel considers therefore, that there would be no material detriment as identified by IO to the charity sector – registrants being limited to the members of that sector."[111]

6.36   In the preceding paragraph in the Excellent First Expert Determination (but not the SRL Expert Determination), the Expert Panel further noted that:

"… according to the Applicant the eligibility policy has been developed following and in response to the GAC Advice and will be further developed with ICANN."[112]

6.37   The Expert Panel thus clearly relied on the differing PIC Specs as between SRL and Excellent First, on the one hand, and the Claimant on the other, in reaching differing results with respect to the identical community objections addressed to each application. The Expert Panel did not take into account ICANN's 29 October 2013 announcement that it intended to adopt the Beijing Communiqué's recommendation and the effect this would have on the three applications.

(vi)   Claimant's Board Governance Committee Reconsideration Request

6.38   On 24 January 2014, the Claimant filed a Reconsideration Request to the ICANN Board Governance Committee (the "**BGC**") regarding action by ICANN that the Claimant alleged was contrary to established ICANN policies pertaining to Community Objections to New gTLD Applications.[113] The Claimant requested that the BGC reconsider the action by the ICC Centre for Expertise as DRSP for community objections and, in particular, the 9 January 2014 Expert Determination.

6.39   The Claimant submitted in relation to jurisdiction in respect of the Reconsideration Request that:

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[111] Expert Determination SRL, 9 January 2014, **Claimant Exhibit 11**, para. 132 and Expert Determination Excellent First is at: https://newgtlds.icann.org/sites/default/files/drsp/17jan14/determination-1-1-961-6109-en.pdf, para. 131.
[112] https://newgtlds.icann.org/sites/default/files/drsp/17jan14/determination-1-1-961-6109-en.pdf, para. 130.
[113] https://www.icann.org/en/system/files/files/request-corn-lake-24jan14-en.pdf.

"The [Expert Determination] Ruling fails to follow ICANN processes and policies concerning community objections as expressed in Sections 3.5 and 3.5.4 of the gTLD Applicant Guidebook… . ICANN has determined that the reconsideration process can properly be invoked for challenges of the third party DRSP's decisions as challenges of the staff action where it can be stated that … the DRSP failed to follow the established policies or processes in reaching the decision … ."[114]

6.40   The Claimant submitted in relation to the merits of the Reconsideration Request that the Expert Panel contravened ICANN process and policy by reaching the opposite result in relation to two identical applications for the .CHARITY string. It pointed out that:

"In the SRL case, … the Panel held that the alleged community would not likely incur material detriment because of obligations that SRL had indicated in a supplemental filing it would assume in its registry agreement with ICANN. The Panel in that case accepted SRL's additional evidence negating the IO's claim of material detriment, and denied the objection. Here, by contrast, the Panel refused to consider a proffered further submission showing that, by its proposed adoption of Government Advisory Council ("GAC") advice regarding the String, ICANN would require Corn Lake to employ stringent protection mechanisms of the type the Panel found sufficient in SRL."[115]

6.41   The Claimant submitted that reconsideration properly lies to remedy the Expert Determination as inconsistent with ICANN policy and process and with the Panel's own decision in consolidated cases.

(vii)   The Board Governance Committee's Reconsideration Decision

6.42   On 27 February 2014, the BGC issued its determination in respect of the Claimant's Reconsideration Request. The BGC determined that the Expert Panel had adhered to the factors in the Applicant Guidebook in determining whether the community invoked by the IO (the charity sector) was a delineated community and properly determined that the charity sector indeed "constitutes a clearly delineated community".[116]

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[114] https://www.icann.org/en/system/files/files/request-corn-lake-24jan14-en.pdf, para. ii.

[115] https://www.icann.org/en/system/files/files/request-corn-lake-24jan14-en.pdf, para. iv.

[116] 27 February 2014 Determination, at page 8. https://www.icann.org/en/system/files/files/determination-corn-lake-27feb14-en.pdf.

6.43   The BCG further determined that the Expert Panel did not fail to apply the proper standard for evaluating the likelihood of material detriment. It noted that:

"[t]he lack of an eligibility policy in the Requestor's application ensuring that registration will be limited to members of the charity sector is precisely what distinguishes the Panel's determination in the instant proceeding from that in the SRL proceeding. In the SRL proceeding, the Panel articulated the same concerns present here, namely the need to clearly distinguish charitable organizations from for-profit enterprises in particular in public giving and fund-raising activities. … In the SRL proceeding, however, the Panel found that SRL's proposed eligibility policy adequately assuaged the Panel's concerns:
'The eligibility criteria policy defined by Applicant and inspired by the criteria of the UK Charities Act 2011 which will be included in any registration agreement entered into by the Applicant with ICANN together with appropriate safeguards for registry operators respond in the Expert Panel's view to the Detriment test concerns raised by IO.'

Specifically, SRL committed to an eligibility policy that defined the subset of the community to which registration will be limited as 'incorporated entities, unincorporated associations or entities, foundations or trusts which can establish that they are a charity or 'not for profit' enterprise with charitable purposes'."[117]

6.44   The BGC concluded that "[b]ecause the Requester presented no evidence that it intended to or was otherwise willing to adopt a similar eligibility policy, there is no support for the Requestor's claim that "nothing distinguishes the application of SRL from that of Corn Lake.""[118]

6.45   As to the allegation of different treatment of the Claimant and SRL's respective additional submissions dealing with eligibility, the BGC noted that SRL's additional submission was "expressly requested and approved by the Expert Panel in the SRL proceeding before the close of evidence. Indeed, in the Panel's determination in the SRL proceeding, the Panel stated that 'on 9 August 2013, … the Expert Panel wrote to the Parties informing them of its view that it would be assisted by a second round of written submissions and inviting the

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[117] 27 February 2014 Determination, at page 11. https://www.icann.org/en/system/files/files/determination-corn-lake-27feb14-en.pdf.
[118] 27 February 2014 Determination, at page 12. https://www.icann.org/en/system/files/files/determination-corn-lake-27feb14-en.pdf.

Parties each to submit an Additional Witness Statement … .'"[119] SRL did so on 6 September 2014.

6.46   The BGC noted that by contrast, the evidence closed on 6 September 2014 and only on 4 December did the Claimant proffer new information regarding the proposed implementation of the GAC's Beijing Communiqué. The Expert Panel had rejected that additional submission. Based on all of those grounds, the BGC concluded that the Claimant had not stated proper grounds for reconsideration and denied the Reconsideration Request. The BGC noted that "[i]f the Requester believes that it has somehow been treated unfairly in the process, the Requester is free to ask the Ombudsman to review this matter."[120]

(viii)   Office of the Ombudsman Review

6.47   On 8 July 2014, the Office of the Ombudsman issued a report relating to the dispute resolution process used for competing applicants to new gTLDs, initiated by the Claimant or a related entity.[121] The Ombudsman determined that he did not have jurisdiction to look at any of the issues raised. He stated in his report that:

"In the context of the New gTLD Program, the reconsideration process does not call for the BGC to perform a substantive review of expert determination. Accordingly, the BGC is not required to evaluate the Panel's substantive conclusion that there is substantial opposition from a significant portion of the community to which the string may be targeted. Rather, the BGC's review is limited to whether the Panel violated any established policy or process.

"My jurisdiction is very similar, although I have a different approach, based on whether the way in which the expert processed the decisions was unfair, but like the BGC, I cannot review the substance of the determination. It is useful to refer to my bylaw which refers to unfairness and delay, but underlying this is the issue that there must be a failure of process. The comments from Donuts have looked to interpret the differences in the panel decisions as a failure of process, but that is not the correct interpretation of my jurisdiction. Procedural fairness is very different from making an error of law in the decision itself. It is

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[119] 27 February 2014 Determination, at page 12. https://www.icann.org/en/system/files/files/determination-corn-lake-27feb14-en.pdf.

[120] 27 February 2014 Determination, at pages 14 to 15. https://www.icann.org/en/system/files/files/determination-corn-lake-27feb14-en.pdf.

[121] Report from Ombudsman Case 14-00122 In a matter of a Complaint by Donuts, **Claimant Exhibit 25**.

not appropriate for me to enter into any discussion or evaluation of the decisions themselves however. If I were to undertake the exercise urged upon me by Donuts, then I would step well outside my jurisdiction, and have not done so accordingly."[122]

> (ix)   Claimant's Cooperative Engagement Process Request

6.48   On 18 July 2014, the Claimant filed a Cooperative Engagement Process ("CEP") Request pursuant to Article 5.1 of the Bylaws. Article 5.1 provides that:

"[b]efore either party may initiate arbitration pursuant to Section 5.2 below, ICANN and Registry Operator, following initiation of communications by either party, must attempt to resolve the dispute by engaging in good faith discussion over a period of at least fifteen (15) calendar days."

6.49   The Cooperative Engagement Process description further provides that:

"prior to initiating an independent review process, the complainant is urged to enter into a period of cooperative engagement with ICANN for the purpose of resolving or narrowing the issues that are contemplated to be brought to the IRP. It is contemplated that this cooperative engagement process will be initiated prior to the requesting party incurring any costs in the preparation of a request for independent review."[123]

6.50   On 20 March 2015, in accordance with that Cooperative Engagement Process, the Independent Review Process filing date for the Claimant was extended to 24 March 2015.[124]

6.51   On 24 March 2015, the Claimant submitted the current Notice and Request for IRP. The procedural history thereafter is summarized at Section 4 above.

6.52   In its Notice and Request for IRP, the Claimant seeks, or potentially seeks, review of the following:

(a)   the ICANN Board's 27 February 2014 decision to permit inconsistent Expert Determinations from the Corn Lake and SRL applications for .CHARITY to continue by denying the Claimant's Reconsideration Request;

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[122] July 8, 2014 Ombudsman letter, **Claimant Exhibit 25**, page 2.

[123] ICANN Cooperative Engagement Process description, **ICANN Appendix H**.

[124] Cooperative Engagement and IRP Status Update 20 March 2014, **Claimant Exhibit 17**.

(b)   the ICANN Board's 12 October 2014 decision to treat the Expert Determinations for .CHARITY differently to those for .COM/.CAM and/or .CAR/.CARS and/or .SHOP/ .通販 in respect of the new Inconsistent Determinations Review Procedure recorded in its Approved Resolutions;[125] and/or

(c)   "somewhat alternatively" (as characterized by ICANN),[126] the ICANN Board's action to establish a new standard for review of all "inconsistent and unreasonable" decisions and decision not to apply that standard to .CHARITY, even though, in Claimant's view, "the decisions on the .CHARITY objections, and no others [that were excluded], come within the realm of review established by the NGPC".[127]

7.   IRP PANEL'S ANALYSIS OF ADMISSIBILITY

7.1   This IRP is the final stage in the ICANN New gTLD Application dispute resolution procedure. The process is governed by the ICANN Bylaws, Articles and "Core Values".

7.2   In the course of its written and oral submissions, the Claimant invites the IRP Panel to review certain ICANN Board "actions or decisions" arising out of or relating to the Expert Determination upholding the community objection in the Claimant's .CHARITY Application. The IRP Panel appears to be invited to review some or all of the following alleged "actions or decisions":

(a)   the Claimant's Expert Determination dated 9 January 2014;

(b)   the Board's Denial of the Claimant's Reconsideration Request dated 27 February 2014 and published in the Board Minutes of 27 February 2014, which were posted to the ICANN website on 13 March 2014, arising out of the Claimant's Expert Determination;

(c)   the NGPC Approved Resolutions, 5 February 2014, proposing the new Inconsistent Determinations Review Procedure and the ensuing consultation (the "**5 February 2014 Decision and Action**"); and

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[125] Claimant Request at para. 47.
[126] ICANN Response at para 52.
[127] Claimant Request at para. 42.

(d)   the NGPC Approved Resolutions, 12 October 2014, adopting the new Inconsistent Determinations Review Procedure and omitting .CHARITY from its purview (the "**12 October 2014 Decision and Action**").

7.3   The requirements for an IRP are that: (a) the Claimant was materially affected by a decision or action of the Board; (b) the decision or action is inconsistent with the Articles of Incorporation or Bylaws; and (c) the request for the IRP was made within 30 days of the posting of the Board minutes recording that decision or action.[128] The issues of material effect and inconsistency with the Articles of Incorporation or Bylaws are integral to the exercise of substantive review, and are dealt with in Section 8 below. The question of timeliness, by contrast, may be disposed of as a threshold admissibility issue.

7.4   As to the threshold issue of timeliness of the request to review the 12 October 2014 Decision (and to the extent that the subsequent decision was based on it, the 5 February 2014 Decision or Action), there is no dispute between the Parties. ICANN has not asserted any timeliness objection in relation to the IRP Panel's review of these decisions and actions and proceeds on the basis that review is not precluded on timing grounds.[129] On that basis, this IRP Panel accepts that it has jurisdiction in respect of the 12 October 2014 Decision and Action (and to the extent that the subsequent decision was based on it, the 5 February 2014 Decision or Action). The IRP Panel's review of those "decisions and actions" is set out below, including in relation to material effect and inconsistency.

7.5   As to the threshold issue of timeliness of the request to review the Expert Determination and/or Denial of the Reconsideration Request, there is a dispute between the Parties as to admissibility.

7.6   The Claimant's primary position is that its request that the IRP Panel review the Expert Determination and the BCG's Denial of the Reconsideration Request is timely despite its failure to file its IRP request within the time period specified in Article IV, Section 3.3 of the

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[128] The Claimant's Request for IRP was submitted on 24 March 2015, the filing deadline previously agreed by the parties. Cooperative Engagement and IRP Status Update 20 March 2014, **Claimant Exhibit 17**.

[129] Claimant Request, para. 31 and fn 26. ICANN and Claimant agreed to toll until 24 March 2015 the deadline for Claimant to file an IRP in relation to the 12 October 2014 action while Claimant pursued the CEP.

Bylaws. In particular, the Claimant contended at the hearing that the filing deadline provided in the Bylaws is "not a statute of limitations" and "lacks the rationale."[130]

7.7   ICANN, in response, denies that the Claimant's request for IRP in relation to the Denial of the Reconsideration Request is timely. It refers to the posting on 13 March 2014 of the 27 February 2014 minutes of the meeting at which the BCG denied Claimant's Reconsideration Request. According to ICANN, the Claimant's right to file an IRP Request in relation to that decision expired on 28 March 2014.[131] In support of that position, ICANN specifically relies on the Bylaws, which provide that:

"[a] request for independent review must be filed within thirty days of the posting of the minutes of the Board meeting (and the accompanying Briefing Materials, if available) that the requesting party contends demonstrates that ICANN violated its Bylaws of Articles of Incorporation."[132]

7.8   There is no suggestion by either party that the deadline for an IPR application concerning the Reconsideration Request (or Expert Determination) has been tolled.

7.9   Having carefully considered the submissions of both Parties in relation to admissibility, the IRP Panel has determined that the Claimant's application for review of the Expert Determination Denial of the Reconsideration Request is out of time. The Panel considers that ICANN is entitled and indeed required to establish reasonable procedural rules in its Bylaws, including in respect of filing deadlines, in order to provide for orderly management of its review processes.

7.10   Article IV, Section 3.3 of ICANN's Bylaws clearly states that:

"[a] request for independent review must be filed *within thirty days of the posting of the minutes* of the Board meeting (and the accompanying Briefing Materials, if available) that the requesting party contends demonstrates that ICANN violated its Bylaws of Articles of Incorporation."[133]

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[130] Claimant's Hearing Slides at 5.2

[131] ICANN Sur-Reply, para. 40; The Panel notes that the date 30 days after the 13 March 2014 posting of the 27 February minutes was 12 April 2014, a Saturday.

[132] ICANN Sur-Reply, para. 40 and Bylaws, Article IV, Section 3.3.

[133] ICANN Sur-Reply, para. 40 and Bylaws, Article IV, Section 3.3. (Emphasis added.)

7.11   The Claimant failed to file its request for independent review within 30 days of the posting of the 27 February 2014 Minutes of the Board meeting in respect of the 27 February 2014 Denial of Request for Reconsideration concerning the .CHARITY Expert Determination of 9 January 2014. Claimant did not file the IRP request at issue here until 24 March 2015 and, arguably, did not raise the 27 February 2014 denial of its Reconsideration Request until its Reply Memorandum in this IRP, filed on 10 December 2015. [134]

7.12   Moreover, the Claimant did not file its CEP request, which would have extended the independent review filing period, until 18 July 2014.[135] By that time, the 30 day period following publication of the Denial of the Reconsideration Request had already expired, i.e., on 28 March 2014, or, at latest, in mid-April 2014.

7.13   Although the CEP rules contemplate a process that will take place prior to initiating an IRP, the record before this Panel is insufficient to conclude that Claimant's CEP request operated to revive the already-expired time to file an IRP as to the denial of Claimant's Reconsideration Request or that ICANN waived that deadline.[136] Accordingly, the Panel has not considered the Denial of the Reconsideration Request (or indeed the underlying Expert Determination) in this IRP proceeding, except as background.

7.14   In summary, the Panel has determined that Claimant's only timely claim in this IRP is its application for relief from the Board's specific action to omit .CHARITY from the purview of its Resolution of 12 October 2014, and, to the extent related thereto, the 5 February 2014 Decision or Action.[137] Therefore, the Panel proceeds on the basis that the other "actions or decisions" discussed at length in the parties' submissions are background to the specific "action or decision" recorded in the 12 October 2014 Approved Resolutions.

7.15   The Parties further addressed the threshold question whether or not an Expert Determination was a "board decision" capable of review within the IRP process. As the Panel has already rejected any invitation to review the Expert Determination on the basis of timeliness, it is not required to address this further threshold issue.

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[134] See ICANN Sur-Reply at para. 38-40; Corn Lake Reply at fn. 60.
[135] Witness Statement of Jonathon Nevett at para. 15
[136] Claimant Request, **Appendix H**.
[137] Claimant Request, para. 31.

8. IRP PANEL REVIEW OF THE BOARD'S "ACTION OR DECISION"

8.1 The IRP of ICANN Board's 12 October 2014 Decision and Action (and its preceding 5 February 2014 Decision and Action) to adopt the Inconsistent Determination Review Process and omit .CHARITY from its purview is set out below.

      (i)   Summary of Alleged Grounds for Review

8.2 The Claimant has raised four separate grounds for review. *First*, the Claimant relies on Article II of the Bylaws, which sets out the powers of ICANN, including restrictions at Section 2 and non-discriminatory treatment standards at Section 3. Specifically, Article II, Section 3, provides that:[138]

> "ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition."

8.3 The Claimant stated in its submissions to the Panel and at the hearing that "discrimination is the primary basis for Corn Lake's IRP… ."[139]

8.4 *Second*, the Claimant relies on ICANN's "Core Values" set out in the ICANN Bylaws, Article I, Section 2, together with ICANN's mission statement. Specifically, the 11 core values that the ICANN Bylaws, Article I, Section 2 states "should guide the decisions and actions of ICANN" when it is "performing its mission" include to:

    (a)   preserve and enhance the operational stability, reliability, security, and global interoperability of the Internet;[140]

    (a)   respect the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to matters within ICANN's mission;[141]

    (b)   to the extent feasible and appropriate, delegate coordination functions;[142]

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[138] ICANN Bylaws, **ICANN Appendix A**, Article II, Section 3. *See* Claimant Request para. 4(a).

[139] Claimant's hearing slides at 1.1 ("Framing the Issues").

[140] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.1.

[141] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.2.

[142] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.3.

(c)   seek and support broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet;[143]

(d)   *where feasible and appropriate, to promote and sustain a competitive environment*;[144]

(e)   *introduce and promote competition in the registration of domain names*;[145]

(f)   employ open and transparent policy development mechanisms;[146]

(g)   make decisions by applying documented policies neutrally and objectively, with integrity and fairness;[147]

(h)   act with a speed that is responsive to the needs of the Internet;[148]

(i)   *remain accountable to the Internet community through mechanisms that enhance ICANN's effectiveness*;[149] and

(j)   recognize that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.[150]

8.5   The Claimant relies in particular on core values at Article I, Sections 2.5, 2.6 and 2.10, as italicized above.[151]

8.6   Article I of the Bylaws further provides that the core values are "deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances." The Bylaws state that:

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[143] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.4.

[144] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.5.

[145] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.6.

[146] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.7.

[147] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.8.

[148] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.9.

[149] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.10.

[150] ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.11.

[151] ICANN Bylaws, **ICANN Appendix A**, Article I, Sections 2.5 and 2.6. *See* Claimant Request para. 4(b). ICANN Bylaws, **ICANN Appendix A**, Article I, Section 2.10. *See* Claimant Request para. 4(d).

"[a]ny ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values."[152]

8.7   *Third*, the Claimant relies on the ICANN Articles of Incorporation, Article 4, which requires that ICANN operate for the benefit of the Internet community as a whole:[153]

"The corporation shall operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable competition and open entry in Internet-related markets. …"

8.8   *Fourth*, and anticipating the IRP Standard of Review provided in Article IV, Section 3.4, the Claimant asserts that the:

"Board simply failed to 'exercise due diligence and care in having a reasonable amount of facts in front of them' regarding the .CHARITY objection decisions when it refused to provide for their review as similarly 'inconsistent and unreasonable' as the determinations for which it did order review."[154]

8.9   As to procedure, Article IV, Section 3 of the ICANN Bylaws – as part of the accountability and review provisions – deals with the IRP. The process is confined to review of ICANN Board actions asserted by an affected party to be inconsistent with the Articles of Incorporation or Bylaws.[155] In particular, Article IV, Section 3.2 provides that:

"Any person materially affected by a decision or action by the Board that he or she asserts is inconsistent with the Articles of Incorporation or Bylaws may submit a request for independent review of that decision or action. In order to be materially affected, the person must suffer injury or harm that is directly and causally connected to the Board's

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[152] ICANN Bylaws, **ICANN Appendix A**, Article I.

[153] ICANN Articles of Incorporation, **ICANN Appendix B**, Article 4. *See* Claimant Request para. 4(c).

[154] Claimant Request, para. 47.

[155] ICANN Bylaws, **ICANN Appendix A**, Article IV (3) (1).

alleged violation of the Bylaws or the Articles of Incorporation, and not as a result of third parties acting in line with the Board's action."

8.10   For the sake of completeness, the Panel further notes that the Applicant Guidebook is described in its preamble as being "the implementation of Board approved consensus policy concerning the introduction of new gTLDs, and has been revised extensively via public comment and consultation over a two-year period." It is described in the IRP Final Declaration in *Booking.com v ICANN* as "the crystalization of Board-approved consensus policy concerning the introduction of new gTLDs."[156]

(ii)   Standard of Review

8.11   Both Parties accept that the standard of review is set out at Article IV, Section 3.4 of the Bylaws and Article 8 of the Supplemental Procedures.

8.12   Article IV, Section 3.4 of the Bylaws provides that:

"Requests for such independent review shall be referred to an Independent Review Process Panel ("IRP Panel"), which shall be charged with comparing contested actions of the Board to the Articles of Incorporation and Bylaws, and with declaring whether the Board has acted consistently with the provisions of those Articles of Incorporation and Bylaws. The IRP Panel must apply a defined standard of review to the IRP request, focusing on:

(a)   did the Board act without conflict of interest in taking its decision?;

(b)   did the Board exercise due diligence and care in having a reasonable amount of facts in front of them?; and

(c)   did the Board members exercise independent judgment in taking the decision, believed to be in the best interests of the company?"

8.13   Article 8 of the Supplementary Rules reiterates those three questions and further provides as follows:

"8. Standard of Review

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[156] *Booking.com v ICANN* IRP Final Declaration, 3 March 2015, **ICANN Appendix I**, at para. 54.

The IRP is subject to the following standard of review: (i) did the ICANN Board act without conflict of interest in taking its decision; (ii) did the ICANN Board exercise due diligence and care in having sufficient facts in front of them; (iii) did the ICANN Board members exercise independent judgment in taking the decision, believed to be in the best interests of the company?

If a requestor demonstrates that the ICANN Board did not make a reasonable inquiry to determine it had sufficient facts available, ICANN Board members had a conflict of interest in participating in the decision, or the decision was not an exercise in independent judgment, believed by the ICANN Board to be in the best interests of the company, after taking account of the Internet community and the global public interest, the requestor will have established proper grounds for review."

8.14   The IRP Panels in *Booking.com v ICANN* and *ICM Registry v ICANN* confirmed that the defined standard quoted above does not constitute the exclusive basis for an IRP of ICANN's Board action or inaction. Rather, they described this business judgement rule standard as "the default rule that might be called upon in the absence of relevant provisions of ICANN's Articles and Bylaws and of specific representations of ICANN … that bear on the propriety of its conduct."[157] Where, as here, the Board's action or inaction may be compared against relevant provisions of ICANN's governing documents, the IRP Panel's task is to *compare* the Board's action or inaction to the governing documents and to *declare* whether they are consistent.[158]

8.15   The IRP in *Booking.com v ICANN* further elaborated the standard at paragraphs 108 to 110 and 115 of its Final Declaration:

108.   "The only substantive check on the conduct of the ICANN Board is that such conduct may not be inconsistent with the Articles of Incorporation or Bylaws – or, the parties agree, with the Guidebook. In that connection, the Panel notes that Article 1, Section 2 of the Bylaws also clearly states that in exercising its judgment, the Board (indeed "[a]ny ICANN body making a recommendation or decision") shall itself "determine which core values are most relevant and how they apply to the specific circumstances of the case at hand."

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[157] *ICM Registry v ICANN* Final Declaration, 19 February 2010, **ICANN Appendix K**, para. 123.
[158] *Vistaprint v ICANN*, Final Declaration, 9 July 2015, **ICANN Appendix E**, para. 123 to 124.

109.   "In other words, in making decisions the Board is required to conduct itself reasonably in what it considers to be ICANN's best interests; where it does so, the only question is whether its actions are or are not consistent with the Articles, Bylaws and, in this case, with the policies and procedures established in the Guidebook."

110.   "There is also no question but that the authority of an IRP panel to compare contested actions of the Board to the Articles of Incorporation and Bylaws, and to declare whether the Board has acted consistently with the Articles and Bylaws, does not extend to opining on the nature of those instruments. …"

…

115.   "[I]t is not for the Panel to opine on whether the Board could have acted differently than it did; rather, our role is to assess whether the Board's action was consistent with applicable rules found in the Articles, Bylaws and Guidebook. Nor, as stated, is it for us to purport to appraise the policies and procedures established by ICANN in the Guidebook … but merely to apply them to the facts."[159]

8.16   Taking into account the Board's broad authority as described above, IRP Panels nonetheless consistently have declined to adopt a deferential review standard.   As the IRP Panel in *Vistaprint v ICANN* stated:

"the IRP is the only accountability mechanism by which ICANN holds itself accountable through *independent third-party review* of its actions or inactions. Nothing in the Bylaws specifies that the IRP Panel's review must be founded on a deferential standard, as ICANN has asserted. Such a standard would undermine the Panel's primary goal of ensuring accountability on the part of ICANN and its Board, and would be incompatible with ICANN's commitment to maintain and improve robust mechanisms for accountability… ."[160]

8.17   The IRP Panel in *Booking.com v ICANN* concurred, noting:

"Nevertheless, this does not mean that the IRP Panel may only review ICANN Board actions or inactions under the deferential standard advocated by ICANN in these proceedings. Rather, … the IRP Panel is charged with 'objectively' determining whether or not the Board's

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[159] *Booking.com v ICANN*, Final Declaration, 3 March 2015, **ICANN Appendix I**, paras. 108 to 110 and 115.
[160] *Vistaprint v ICANN*, Final Declaration, 9 July 2015, **ICANN Appendix E**, para. 124.

actions are in fact consistent with the Articles, Bylaws and Guidebook, which the Panel understands as requiring that the Board's conduct be appraised independently, and without any presumption of correctness."[161]

8.18   Having reviewed the IRP Final Declarations in the *Vistaprint v ICANN*, *ICM Registry v ICANN* and *Booking.com v ICANN*, this Panel concludes that it is now well established that:

"… the IRP Panel is charged with 'objectively' determining whether or not the Board's actions are in fact consistent with the Articles, Bylaws and Guidebook, which the Panel understands as requiring that the Board's conduct be appraised independently, and without any presumption of correctness."[162]

8.19   While it is in no way bound by these earlier decisions, this IRP Panel agrees with those conclusions and sees no reason to depart from the standard of review set out in *Booking.com v ICANN*, which in turn relied on the Final Declaration in *ICM Registry LLC v ICANN*, dated 19 February 2010. That the Panel is not called upon to revisit or vary the substance of the Articles, Bylaws or Guidebook generally does not lessen its charge to analyse the specific Board action or inaction at issue here objectively against the standards contained in those instruments.

8.20   The current IRP Request raises a direct and concededly timely challenge to an ICANN "action or decision", namely the Board's 12 October 2014 establishment of the new Inconsistent Determinations Process and specifically, the Board's determination to limit that process to String Confusion Objections and not to extend it to inconsistent Community and Limited Public Interest Objections, such as .CHARITY.

        (iii)   Analysis

8.21   In accordance with the standard adopted by the IRP Panels in the *Booking.com v ICANN* and *ICM Registry v ICANN*, this Panel considers below whether the Board acted consistently with ICANN's Articles of Incorporation, Bylaws and the procedures established in the Applicant Guidebook. We initially compare the Board's action to Article II, Section 3 of the Bylaws. In addition, we compare the Board's action to the standard set out in Article IV, Section 3.4 of

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[161] *Booking.com v ICANN*, Final Declaration, 3 March 2015, **ICANN Appendix I**, paras. 111.
[162] *Booking.com v ICANN*, Final Declaration, 3 March 2015, **ICANN Appendix I**, paras. 111.

the Bylaws and Article 8 of the Supplementary Rules and consider other relevant Bylaws and ICANN governing documents, including the Guidebook and ICANN's Core Values.

8.22   The issues addressed in turn are:

(a)   Did the Board Apply Its Standards, Policies, Procedures or Practices Inequitably or Single Out Any Particular Party for Disparate Treatment Without Substantial and Reasonable Justification? (Bylaws Article II, Section 3)

(b)   As to the Defined Review Standard (Bylaws Article IV, Section 3.4):

   i.   Did the Board act without conflict of interest in taking its decision to omit .CHARITY, as a Community Objection determination, from the new Inconsistent Determinations Review Procedure?

   ii.   Did the Board exercise due diligence and care in having a reasonable amount of facts in front of them in taking its decision to omit .CHARITY, as a Community Objection determination, from the new Inconsistent Determinations Review Procedure?

   iii.   Did the Board members exercise independent judgment in taking the decision to omit .CHARITY, as a Community Objection determination, from the new Inconsistent Determinations Review Procedure, believed to be in the best interests of the community?

(c)   Did the Board Act in the Best Interests of the Internet Community? (Articles of Incorporation, Article 4)

(d)   Did the Board Abdicate Its Accountability Responsibility? (Bylaws, Article I, Section 2.10)

8.23   Each of these issues is considered in relation to the 12 October 2014 Decision and Action (and the preceding 5 February 2014 Decision and Action) to adopt the Inconsistent Determination Review Procedure which omitted .CHARITY from its purview of the new Inconsistent Determinations Review Procedure.

ISSUE 1: Did the Board Apply Its Standards, Policies, Procedures or Practices Inequitably or Single Out Any Particular Party for Disparate Treatment Without Substantial and Reasonable Justification?

8.24   The first ground for review is whether or not the Board applied its standards, policies, procedures or practices inequitably or singled out any particular party for disparate treatment. The applicable Bylaw is Article II, Section 3, set out above.[163]

8.25   This IRP Panel is required to determine whether or not the ICANN Board, in its 12 October 2014 Approved Resolutions "action or decision" not to extend the new Inconsistent Determination Review Procedure to the Claimant's .CHARITY Expert Determination, accorded the Claimant unfair or disparate treatment without substantial and reasonable cause as compared to other unsuccessful applicants who had received perceived inconsistent Expert Determinations, i.e., the unsuccessful applicants for the gTLDs for .CAM and .通販 (and originally .CARS).

(i)   The Claimant's Position

8.26   First, the Claimant contends that the Board's decision to establish a review process for "inconsistent and unreasonable" determinations whilst at the same time excluding .CHARITY from that review process materially affected the Claimant. In this regard, the Claimant refers, among other things, to:

(a)   the NGPC's 5 February 2014 proposed review mechanism "for addressing perceived inconsistent Expert Determinations from the New gTLD Program String Confusion Objections process", established for public comment;[164]

(b)   community criticism at the time that the review proposal was not sufficiently expansive and that the review process should be widened;

(c)   the Board decision to encompass the .CAM and .COM decisions as "inconsistent or otherwise unreasonable" and "not in the best interest of the Internet community" in relation to "objections raised by the same objector against different applications for the same string, where the outcomes of the [objections] differ",[165] in circumstances where the description of the problem arising out of inconsistent decisions on .CAM

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[163] ICANN Bylaws, **ICANN Appendix A**, Article II, Section 3. *See* Claimant Request para. 4(a).
[164] Claimant Request, para. 28.
[165] Claimant Request, para. 30.

and .COM applies to the .CHARITY situation, according to the Claimant, "*exactly*";[166] and

(d) ICANN's characterization of the "strict definition" of "inconsistency" contained in the NGPC 12 October 2014 Resolution as extending to "objections raised by the same objector against different applications for the same string, where the outcome of the [objections] differ".[167]

8.27 Based on those factors, the Claimant submits that the Board's decision to not include .CHARITY (as a Community Objection determination) has resulted in the Claimant being "materially affected by a decision or action by the Board".[168] According to the Claimant, it was materially affected because it was deprived of an opportunity for review of an objection where another party subject to the identical circumstances was granted an opportunity for review.

8.28 The Claimant further submits that those same factors render that decision "inconsistent with the Articles of Incorporation or Bylaws".[169] In the Claimant's submission, the Board established a process for handling inconsistent and unreasonable objection decisions and then consciously disregarded that process in the case of .CHARITY.[170]

8.29 The Claimant submits that it "does not challenge the Board's decision not to extend review beyond only 'inconsistent and unreasonable' objection determinations."[171] Rather, it submits that its complaint arises out of "the Board's stated rationale for limiting its review only to one type of objection, SCO", which the Claimant submitted "raises at least three critical issues that the Board appears to have overlooked."[172] Essentially addressing the question of whether there was "substantial and reasonable cause" for the limitation, the Claimant notes, in particular:

(a) the Board did not identify any action taken by anyone in reliance on an inconsistent objection determination of any type and, in particular, in relation to .CHARITY,

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[166] Claimant Request, para. 31 (emphasis in original); see also Claimant Request, para. 42.
[167] Claimant Request, para. 31; 11 February 2014 Proposed Review Mechanism, **Claimants Exhibit 15**, at page 2.
[168] Claimant Request, para. 32.
[169] Claimant Request, para. 32.
[170] Claimant Request, para. 37.
[171] Claimant Request, para. 39.
[172] Claimant Request, para. 39.

nothing indicates that SRL has done anything to pursue its application further after the objection ruling in its favor;[173]

(b)   the Board's concern about actions taken in reliance on the Applicant Guidebook ignores those applications for new gTLDs made in reliance upon the Applicant Guidebook's strict criteria and made in the expectation that experts would apply those criteria properly;[174] and

(c)   the Board's conclusion that to expand the review would unfairly impact a number of participants without reasonably considering the available facts ignores the fact that "*only* the decisions on the .CHARITY community objections, and *no others*, come within the realm of review established by the NGPC."[175]

8.30   The Claimant further relies on recent decisions in which Final Review Panels established pursuant to the October 2014 Resolution have overturned "inconsistent and unreasonable" new gTLD objection determinations.[176]   In particular, the Claimant relies on Final Review Determinations issued by both of the three member Final Review Panels convened as a result of the Board's October 2014 Resolution to re-review two specifically identified string confusion objection expert determinations.

8.31   The Claimant argues that each of these Final Expert Determinations reversed the SCO challenged determinations and provide evidence that the Panel "cannot reasonably uphold the disparate treatment that Corn Lake has suffered."   The Panel is asked to correct this situation.[177]

8.32   The Claimant submits that:

"[*a*]t minimum, it [ICANN] can and should defer to the same review mechanism provided for in the Resolution: a 3-member review panel, examining only the materials offered in the original proceedings, asking solely 'whether the original Expert Panel could have reasonably

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[173] Claimant Request, para. 40.
[174] Claimant Request, para. 41.
[175] Claimant Request, para. 42.
[176] Reply, paras. 21 to 28.
[177] Reply, para. 23.

come to the decision reached … through an *appropriate* application of the standard review *as set forth in the Applicant Guidebook*.'"[178]

8.33   In the course of its written and oral submissions in this IRP, the Claimant put forward its substantive concerns as to the content of the original Expert Determination and Denial of the Reconsideration Request in support of its position for further review.[179] In particular, it submitted that:

(a)   "a single ICC panelist upheld a community objection against Corn Lake's application for the .CHARITY gTLD and, at the same time, that same panelist denied an identical objection against a similarly situated applicant for the same string"[180] and such differing determinations are "inconsistent and unreasonable" in the same sense the Board applied those terms to the SCO determinations to which it extended the new review mechanism;

(b)   in "[r]eviewing the decision against Corn Lake and the ruling in favor [of] SRL together, it becomes clear that the PIC offered by SRL formed the sole basis for the differing outcomes. The analyses on the other three community objection criteria track closely, and often verbatim, in the two rulings";[181]

(c)   "[n]o legitimate basis exists … to distinguish the two applications" because "[b]oth the IO's objection and the panel's ruling against Corn Lake turn entirely on its perceived lack of the type of protections to which the panel found SRL had acceded in its PIC";[182]

(d)   "[b]ecause Corn Lake must in fact implement such protections as a contractual condition to an award of the TLD, and because SRL has the unilateral right to change its PIC language, the applicants should not be subject to disparate treatment";[183]

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[178] Claimant Request, para. 45 (emphasis in original). See also, Reply, para. 15 ("Corn Lake does not, as ICANN contends, seek substantive review of the Ruling. Rather, it claims that the Ruling improperly discriminates against Corn Lake. The Board acted by failing to rectify the Ruling despite the requirement that the Board ensure the integrity of its processes, which include consistency, fairness and non-discriminatory treatment of similarly situated applicants.")
[179] Claimant Request, para. 27.
[180] Claimant Request, Introduction. See also, Reply, para. 12.
[181] Claimant Request, para. 26.
[182] Claimant Request, para. 27.
[183] Claimant Request, para. 27.

(e)   the Claimant "made clear to the IO that it would fully comply with more stringent safeguard requirements (or PICs) should they be adopted by ICANN"[184] and, as a result, the disparate treatment between the Claimant's and SRL's eligibility criteria, which it alleges was effectively the same, was inconsistent and unreasonable;

(f)   the procedure by which SRL was permitted to make additional submissions was inconsistent with the procedure afforded to the Claimant and unreasonable. In particular, despite ICANN's publicly stated commitment to transparency and accountability, it failed to make public the substance of SRL's proposed amendment for almost two months – during a critical phase in the application process. Moreover, ICANN published the new mandatory PICs applicable to .CHARITY only for comment. According to the Claimant, this effectively left it in the dark;[185]

(g)   "even though the panel had accepted SRL's late submission, it rejected Corn Lake's identical attempt to support its own application" to alert the Expert Panel that ICANN had accepted the GAC's Beijing Communiqué recommendations, thereby mooting the IO's objection;[186]

(h)   the Expert Panel based the decision to deny the IO's objection against SRL's .CHARITY application entirely on the amended PIC that was the subject of SRL's late submission and "[t]he panel's decision to deny the objection against SRL's application allowed SRL's .CHARITY application to move forward in the process," whereas Claimant's application was disqualified and removed from contention altogether;[187] and

(i)   as a result, the Board's actions have materially affected the Claimant in that it has now seemingly lost the right to the .CHARITY domain, by refusing to allow Corn Lake to provide evidence of the PIC it would have to adopt.[188]

8.34   In relation to this position, as set out in Section 7 above, the IRP Panel has determined that, irrespective of whether or not the Expert Determination and/or Denial of the Reconsideration Request were subject to review, the current IRP application as applied to those actions is out of time. Therefore, in its analysis below the IRP Panel takes the

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[184] Reply, para. 5.
[185] Reply, para. 7.
[186] Reply, para. 8.
[187] Reply, para. 9-10.
[188] Reply, para. 10.

aforementioned factors into account by way of background only, and does not review the merits of the Expert Determination or the Denial of the Reconsideration Request. Irrespective of what might have happened in the expert proceeding or the reconsideration process, this Panel addresses the Board's independent obligation, at the time it acted to adopt the new review mechanism, to act in accordance with the requirements of its Bylaws, other governing documents and ICANN's Core Values on the facts and the record then before it.

8.35   The Claimant made further post-hearing submissions regarding the ICANN Board's 3 February 2016 Resolution[189] to address the "perceived inconsistency and unreasonableness" of the .HOSPITAL Limited Public Interest objection Expert Determination by referring the objection proceeding to the Inconsistent Determinations Review Procedure. The .HOSPITAL Expert Determination was found to have been the only Limited Public Interest objection out of nine "health-related" Limited Public Interest objections that resulted in a determination in favor of the objector rather than the applicant.   As a consequence, the Board invoked the Inconsistent Determinations Review Procedure for the third time – this time beyond the original string confusion objections scope referred to in the 12 October 2014 Approved Resolutions. In the .HOSPITAL: case, identical objections were lodged by the same objector, not to the same string, but to strings related by subject matter.

8.36   The Claimant contended that the Board's action with respect to .HOSPITAL provides additional evidence of the disparate treatment of .CHARITY in that the .CHARITY situation is "*more* similarly situated to .CAM and .SHOP than is .HOSPITAL."[190]

8.37   The Claimant relies on the Final Declaration in *Dot Registry v. ICANN* to urge that ICANN must establish that it complied with its Bylaw obligations regarding accountability, diligence and independent judgment based on affirmative proof of the record on which the Board relied in denying Claimant's Reconsideration Request and in excluding the .CHARITY expert determinations from the new review mechanism.

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[189] Claimant Post-Hearing Submission dated 16 February 2016.
[190] Claimant Post-Hearing Submission dated 16 February 2016.

(ii)   The Respondent's Position

8.38   ICANN rejects the Claimant's arguments: (a) that the .CHARITY Expert Determinations should have been included in the 12 October 2014 Approved Resolutions relating to the limited review mechanism for expert determinations from specifically identified sets of String Confusion Objections; and (b) that the Board should have expanded the limited review process and implemented a similar review to cover the .CHARITY Expert Determinations.[191]

8.39   ICANN denies that the Claimant was materially affected by the Board establishing a review process for "inconsistent and unreasonable" determinations whilst excluding .CHARITY from that review process.   It submits that the NGPC identified several bases to distinguish inconsistent Expert Determinations between specifically identified sets of objections to string confusion and other Expert Determinations which were not included in the new process. In particular:

"the NGPC identified several bases to distinguish the seemingly inconsistent determinations resulting from specifically identified sets of String Confusion Objections on the one hand, and the expert determinations resulting from Community Objections, such as those relating to .CHARITY or . 慈善, on the other. Based upon these differences, the NGPC concluded that permitting the specifically identified sets of String Confusion Objections to stand 'would not be in the best interests of the Internet community,' but that 'reasonable explanations' existed for the seeming discrepancies concerning determinations on Community Objections, such as for .CHARITY."[192]

8.40   ICANN further submits that the 12 October 2014 Approved Resolutions were deliberately narrow and consciously limited to only the String Confusion Objection Expert Determinations relating to .COM/.CAM and .SHOP/通販.[193]   The Respondent submits therefore that the NGPC did not establish a new standard for review of all "inconsistent and unreasonable" Expert Determinations and was under no obligation to provide such a review mechanism.[194]

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[191] ICANN Response, para. 52. See also ICANN Sur-Reply, para. 9.
[192] ICANN Response, para. 11.
[193] ICANN Response, para. 53.
[194] ICANN Response, para. 62.

8.41   ICANN argues that in limiting the review to two specifically identified sets of String Confusion Objection Expert Determinations, the NGPC did not breach its obligations under the Bylaws or Articles of Incorporation.[195] It cites two recent IRP Final Declarations (claiming that such decisions have "precedential value"[196]) that it submits contradict the Claimant's arguments, and rejects the Claimant's reliance on the third case.[197]

(a)   *Vistaprint v ICANN*: ICANN relies on the following findings:

(i)   "the Panel is not tasked with reviewing the actions or decisions of ICANN staff or other third parties who may be involved in ICANN activities or provide services to ICANN";[198] and

(ii)   "the ICANN Board has no affirmative duty to review the result in any particular SCO [string confusion objection] case";[199] and has no duty to establish an appeals process to challenge Expert Determinations in objection proceedings[200] and "had properly limited its consideration to whether the contested actions comported with established policies and procedures."[201]

(b)   *Merck v ICANN*: ICANN relies on the IRP Final Declaration findings that:

(i)   "the claimant's disagreement with the outcome of the Merck Expert Determination cannot form the basis for an IRP";[202] and

(ii)   "the Guidebook does not include any appeals process for determinations on objection proceedings."[203]

(c)   *DCA v ICANN*: ICANN argues that this determination is not applicable because "[t]he DCA Panel premised its declaration on the GAC's status as an ICANN constituent

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[195] ICANN Response, para. 11.

[196] ICANN Sur-Reply, para. 7. See also, ICANN Bylaws, as amended 30 Jul 2014, **ICANN Appendix A**, Art. IV, para. 3.21.

[197] ICANN Sur-Reply, paras. 3-6.

[198] ICANN Sur-Reply, para. 15, as per Final Declaration, *Vistaprint Ltd v. ICANN*, ICDR No. 01-14-0000-6505,**ICANN Appendix K**, para. 127.

[199] ICANN Sur-Reply, para. 16, as per Final Declaration, *Vistaprint Ltd v. ICANN*, ICDR No. 01-14-0000-6505, **ICANN Appendix K**, para. 157.

[200] ICANN Sur-Reply, para. 17.

[201] ICANN Sur-Reply, para. 18.

[202] ICANN Sur-Reply, para. 20.

[203] ICANN Sur-Reply, para. 20.

body, but here neither the ICC nor the expert panels it established to preside over the two objection proceedings at issue are constituent bodies of ICANN."[204]

8.42   In addition, ICANN argues that the review mechanism which was approved was "a very narrow review mechanism to be applied only to specifically identified Expert Determinations arising out of the String Confusion Objection process. The NGPC explicitly decided not extend the review to any Community Objection expert determinations. Moreover, the NGPC was not obligated to create or implement a broader review mechanism."[205]   There is no appellate mechanism in the Bylaws, the Articles or the Guidebook "for objection proceedings that are conducted as part of the New gTLD Programme."[206]

8.43   ICANN rejects the Claimant's reliance on the Final Determinations (as exhibited to the Reply) by IRP Panels convened as a result of the Board's October 2014 Resolution to re-review two specific SCO Expert Determinations. ICANN submits that the Claimant's reliance on these is inapplicable because: (i) the NGPC was explicit that the New Inconsistent Determination Review Process would encompass only the SCOs addressed in the October 2014 Approved Resolutions; (ii) these findings have no bearing on community objection Expert Determinations; (iii) the New Inconsistent Determination Review Process involved different Expert Panels; and (iv) the Claimant is incorrect to presuppose that the Board has an affirmative duty to intervene with respect to the Corn Lake Expert Determination.[207]

8.44   Finally in response to the Claimant's submissions regarding the content of the Expert Determination and Denial of the Reconsideration Request, ICANN noted that:[208]

(a)   "[e]valuation of a Community Objection necessarily goes far beyond a review of the string, and instead requires careful consideration of the application materials and an applicant's proposed commitments, which (and likely do, as here) vary among applicants. As a result, one could reasonably expect that Community Objections

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[204] ICANN Sur-Reply, para. 24.
[205] ICANN Response, para. 12.
[206] ICANN Response, para. 12.
[207] ICANN Sur-Reply, para. 10.
[208] ICANN Response, para. 24. See also Applicant Guidebook, **ICANN Appendix C**, para. 3.5.4.

filed against different applications, even applications for the same string, may be resolved differently";[209]

(b)   the IO found that the "various comments in opposition" to Claimant's .CHARITY Application had "mainly focused on the views that the string should be administered by a not for profit organization and/or that there are insufficient protection mechanisms in place such that non-bona fide organizations may adopt the .CHARITY gTLD, and create confusion in the mind of the public over what is in fact a charity"[210] and, as such, the IO concluded that in the absence of preventative security measures assuring the charitable nature of the applicant i.e. Corn Lake, adopting .CHARITY as a gTLD would create "likelihood of detriment to the rights or legitimate interests of the charity community, to users and to the general public";[211]

(c)   the Expert Determination further found that the public opposition statements "point out the absence of any limitation in the Application of the '.CHARITY' string to not-for-profit or charitable organizations … and emphasize the need for strict registration eligibility criteria limited to persons regulated as charitable bodies or their equivalent depending upon domestic law";[212]

(d)   the IO and the Expert Panel clearly considered that harm would occur if .CHARITY gTLD was not limited to persons or entities who could clearly establish that they were charities or not-for-profit organizations and that the IO had established the likelihood of material detriment;[213]

(e)   the IO had raised the same concerns in respect of the Claimant's and SRL's applications but the SRL Expert Panel considered that: "[t]he eligibility policy defined by the Applicant [SRL] and inspired by the criteria of the UK Charities Act 2011 which will be included in any registration agreement entered into by Applicant

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[209] ICANN Response, para. 25.

[210] As per ICANN Response, para. 28. See also IO 12 March 2013 Community Objection to Corn Lake's Application, **Claimant Exhibit** 2, para. 4.

[211] ICANN Response, para. 28.

[212] ICANN Response, para. 32. See also Panel 9 January 2014 objection determination against Corn Lake, **Claimant Exhibit 8**, paras. 150-151.

[213] ICANN Response, para. 33.

with ICANN together with appropriate safeguards for registry operators respond in the Expert Panel's view to the Detriment test concerns raised by IO";[214]

(f)   unlike the Claimant, SRL had committed to an eligibility policy that indicated registration would be limited to entities that could establish that they were a charity or a not-for-profit entity with charitable purposes;[215]

(g)   "it is not the role of the Board (or, for that matter, this IRP Panel) to second-guess the substantive determination of independent, third-party experts"[216] or inject itself into the objection process and it was not for the Board to reverse the Corn Lake Expert Determination;[217] and

(h)   the Applicant Guidebook contains no suggestion – and certainly no requirement – that the Board should conduct substantive reviews of expert panel determinations.[218]

8.45   As to ICANN's post-hearing submission concerning .HOSPITAL, ICANN relied primarily on the argument that different panels assessed the nine health-related applications and only the .HOSPITAL panel sustained an objection. It also argued that the .HOSPITAL situation confirms that the Board has, and may exercise, discretion to act where it believes there has been an unjust result.

8.46   In its .HOSPITAL post-hearing submission, ICANN confirmed that it did not dispute Claimant's position that ".CHARITY was the only other TLD … where the same objector brought the same objection to different applications for the same strings and reached different results to the detriment of the losing applicant."[219] Nonetheless, ICANN argued that other applicants also have complained that the results in their Expert Determinations were "unreasonable" and to give credence to Claimant's arguments here "would risk opening a floodgate of "appeals" for other objection determinations.

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[214] ICANN Response, para. 34, as per Panel 9 January 2014 objection determination in favor of SRL; **Claimant Exhibit 11**, para. 129.
[215] ICANN Response, para. 35.
[216] ICANN Response, para. 48.
[217] ICANN Response, para. 49.
[218] ICANN Sur-Reply, para. 2.
[219] ICANN letter 2 February 2016 at fn 5.

8.47   ICANN contends that the facts at issue in the *Dot Registry v. ICANN* IRP are not remotely similar to those present here and the *Dot Registry* Final Declaration has little relevance to the instant IRP.

(iii)   The Panel's Decision

8.48   As stated above, this IRP Panel is not reviewing the Expert Determination or the Denial of the Reconsideration Request, as any application in respect of either is out of time. The Panel's analysis does not end there, however. Irrespective of what might have happened in the expert proceeding or the reconsideration process, this Panel has before it a separate and timely challenge to the Board's Decisions and Actions of 12 October 2014 and 5 February 2014. The Panel therefore analyses the Board's independent obligation, at the time it acted to adopt the new review mechanism, to act in accordance with the requirements of its Bylaws, other governing documents and ICANN's Core Values on the facts and the record then before it.

8.49   In its consideration as to whether or not the Board applied its standards, policies, procedures or practices inequitably or singled out any particular party for disparate treatment, this IRP Panel specifically examines the Board's "decision or action" in determining "whether it was appropriate … to expand the scope of the proposed review mechanism to include other Expert Determinations, such as some resulting from Community and Limited Public Objections".[220]

8.50   In that specific context, the IRP Panel considers whether or not the Board "singled out" the Claimant for "disparate treatment" without substantial and reasonable cause, in contravention of Article II, Section 3 of the Bylaws, by excluding the .CHARITY Expert Determination, being the only community objection where the same objection from the same objector led to a different determination, from its consideration. The Panel further considers whether or not the Board's decision was based on an exercise of due diligence and care in having a reasonable amount of facts in front of it.

8.51   The IRP Panel accepts that, subject to its duty to act in the best interests of the community as discussed below at Issue 3, ICANN was under no obligation to create the new Inconsistent Determinations Review Procedure. However, once it had done so, this IRP

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[220] NGPC Resolutions, 12 October 2014, **Claimant Exhibit 16** at pages 11-12.

Panel considers that the Bylaws required ICANN to ensure that it did not single out a similarly situated applicant for disparate treatment in relation to the application of the new Inconsistent Determinations Review Procedure without "substantial and reasonable cause".

8.52   It is central to this Panel's analysis that ICANN has admitted that ".CHARITY was the only other TLD … where the same objector brought the same objection to different applications for the same strings and reached different results to the detriment of the losing applicant."[221] In other words, ICANN has accepted that the Expert Determination at issue here fits within the "strict definition" of inconsistent Expert Determinations that the ICANN Board used to determine the scope of the new review procedure.

8.53   Ultimately, the 12 October 2014 Decision and Action (and its preceding 5 February 2014 Decision and Action) was not to extend the scope of the new review mechanism to apparently inconsistent Expert Determinations made as to objections other than certain designated Expert Determinations based on string confusion objections. Rather, the Board's decision was to limit the new Inconsistent Determinations Review Procedure to a hand-picked subset of inconsistent SCO Expert Determinations.[222] ICANN accepted that "to promote the goals of predictability and fairness" a broader review mechanism "may be more appropriate as part of future community discussions about subsequent rounds of the New gTLD Program," but declined to extend the new review mechanism at the time it acted because:

(a)   "Applicants have already taken action in reliance on many of the Expert Determinations, including signing Registry Agreements, transitioning to delegation, withdrawing their applications, and requesting refunds";

(b)   "[a]llowing these actions to be undone now would not only delay consideration of all applications, but would raise issues of unfairness for those that have already acted in reliance on the Applicant Guidebook";

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[221] ICANN letter 2 February 2016 at fn 5.

[222] Notably, the Board did not refer the full suite of inconsistent SCO determinations to the new review process to reconcile the differing outcomes. Rather, the Board selected only one determination from each set for review in the new process. Reply, fn. 10. The basis on which the Board made this selection was not disclosed, other than to state that each "falls outside normal standards of what is perceived to be reasonable and just." Approved Resolutions, 12 October 2014 resolution, **Claimant Exhibit 16**. This Panel's review of whether the Board had a reasonable basis to distinguish the selected string contention objection Expert Determinations, which were subjected to the new process, from the community objections to .CHARITY, which were excluded, is limited by this non-disclosure.

(c)   while on their face other SCO Expert Determinations and Expert Determinations of the Limited Public Interest and Community Objections might appear inconsistent, there were "reasonable explanations for these seeming discrepancies, both procedurally and substantively";[223] and

(d)   those "reasonable explanations" lay in the "materials presented," i.e. the applications and the parties' responses to the IO's objection and in "nuanced distinctions" between the Expert Determinations relevant to the particular objection."[224]

8.54   These factors may have explained the different treatment in respect of other perceived inconsistent Expert Determinations, but in relation to the .CHARITY Expert Determinations they are problematic for the reasons explained below.

8.55   **First**, as acknowledged by ICANN, pending the outcome of this IRP Final Determination, the .CHARITY applicant SRL has taken no action in reliance on the Expert Determination overruling the IO's Community Objection to its application, including but not limited to signing Registry Agreements, transitioning to delegation, withdrawing its application or requesting refunds.

8.56   **Second**, as a consequence, there are no actions in respect of the .CHARITY applications to be undone such as to delay consideration of all applications, were the new review mechanism to apply. As to issues of unfairness for those that have already acted in reliance on the Applicant Guidebook, there is no evidence in the carefully documented record that the Board considered the fact that ICANN Board's October 2013 decision that it would adopt the Beijing Communiqué recommendations – some three months prior to the .CHARITY Expert Determinations – materially changed the Applicant Guidebook requirements in respect of the .CHARITY registration eligibility requirements, equally affecting *all* applicants and potentially eliminating any meaningful distinction between the pending applications.

8.57   **Third**, given ICANN's admission that on their face the .CHARITY Expert Determinations appear "inconsistent" within the same "strict definition" the Board relied upon in considering the new review mechanism, and in light of the Board's October 2013

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[223] Approved Resolutions, 12 October 2014 resolution, **Claimant Exhibit 16**.
[224] Approved Resolutions, 12 October 2014 resolution, **Claimant Exhibit 16**.

announcement that it would adopt the Beijing Communiqué recommendations, there do not appear to be "reasonable explanations for these seeming discrepancies, both procedurally and substantively".

8.58   *Fourth*, as to the existence of "reasonable explanations" that the perceived inconsistency in the .CHARITY Expert Determinations could be explained by the "materials presented" or "nuanced distinctions" between the different applications, the carefully documented record of the Board's 5 February 2014 and 12 October 2014 consideration of the new process contains no consideration of the potentially levelling impact of the October 2013 announcement that the Board intended to adopt of the GAC Beijing Communiqué recommendations – three months before the Expert Determinations were issued.[225]

8.59   The IRP Panel recognizes and has carefully considered the fact that the Expert Panel had rejected as untimely the Claimant's attempt to introduce evidence of the October 2013 announcement in the Expert Determination proceeding. The IRP Panel takes no position as to the correctness of that procedural decision, as the IRP Panel has concluded that the Claimant's IRP claims as to the Expert Determination itself are untimely. In any event, it is doubtful that such a procedural decision would in any case have been subject to an IRP, even if timely.

8.60   Nevertheless, situating this IRP Panel's review at the time that the Board took its decision not to extend the new review procedure to the inconsistent .CHARITY determinations, nothing in the record indicates that the Board took into account the following:

(a)   that the decision that ICANN would adopt the GAC Beijing Communiqué recommendations was a major policy development for ICANN, announced in October 2013, that would lead to the establishment of new undertakings in its registry agreements, which would be mandatory and applicable across-the-board to all Category I and Category II gTLD's, including but not limited to .CHARITY, providing an important change to the Applicant Guidebook;

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[225] This is despite the fact that the Claimant's Reconsideration Request was pending at the time the NGPC first published framework principles of a potential review mechanism that would be limited only to "perceived Inconsistent String Confusion Expert Determinations." The Claimant filed its Reconsideration Request on 24 January 2014 and the NGPC published Approved Resolutions formally adopting the recommendations of the Bejing Communiqué and describing the new review mechanism, which would be limited to identified SCO Expert Determinations, on 5 February 2014. Approved Resolutions, 5 February 2014 resolutions, **Claimant Exhibit 14**, page 3.

(b)   that the Board indicated publicly that it planned to adopt the GAC Beijing Communiqué recommendations relating to .CHARITY three months prior to the issuance of the inconsistent .CHARITY Expert Determinations;

(c)   that the effect of that decision was to render the eligibility requirements in respect of all applicants for the .CHARITY gTLD identical, including those proposed by the Claimant;

(d)   that all .CHARITY gTLD applicants originally elected to protect their positions in respect to any future action relating to the Beijing Communiqué by clearly stating in their application materials that they would comply with any ICANN registration requirements, including in the submission of their final PICs for approval;

(e)   that the IO had lodged identical objections in March 2013 to the .CHARITY applications based on the initial lack of a commitment to operate a limited registry, but the Expert Panel nevertheless overruled the IO community objection for the SRL and Excellent First applications based on their amended commitment to limit the eligibility requirements in a manner that was consistent with the GAC Beijing Communiqué recommendations and, in the case of Excellent First's amended commitment, explicitly referred to the recommendation; and

(f)   that the Expert Panel upheld the IO community objection to the Claimant's application despite the practical effect of ICANN's announcement in October 2013 that it intended to adopt the GAC Beijing Communiqué's recommendations concerning Category I and Category II safeguards, coupled with the Claimant's (and SRL and Excellent First's) advance undertakings to comply with such safeguards being to level all applications for the .CHARITY gTLD, to put all three applications on a level playing field and rendering them functionally indistinguishable in respect of eligibility requirements.

8.61   Given the procedural and substantive effect of the announcement that the Board would adopt the GAC Beijing Communiqué recommendations, at the time the Board determined the scope of the new Inconsistent Determination Review Process, any practical differences in the "materials presented", as well as any "nuanced distinctions" perceived to have existed between the .CHARITY applications in relation to eligibility requirements prior to October 2013, had ceased to have any material effect prior to the .CHARITY Expert Determinations.

8.62   For the same reasons, any "reasonable explanations" for perceived inconsistencies between the .CHARITY Expert Determinations based on the different eligibility requirement undertakings prior to October 2013 were eliminated by the ICANN Board's announcement that it would adopt the GAC Beijing Communiqué recommendations. The effect of that decision, coupled with *all* applicants' undertakings to follow any GAC Beijing Communiqué recommendations adopted by ICANN, was to render the applicants' eligibility requirements criteria identical across all three applications.

8.63   The Panel concludes that the Board's decision not to expand the scope of the proposed mechanism to include other Expert Determinations, and in particular the .CHARITY Expert Determinations, failed to take into account the following factors:

   (a)   the .CHARITY Expert Determinations were the only other set of inconsistent Expert Determinations dealing with the same objection by same objector to identical strings that was outstanding at the time that the ICANN Board determined the scope of the process, making them the only other non-SCO Expert Determinations to fit the "strict definition" of "inconsistent" the NGPC set forth in the 5 February 2014 Approved Resolution;[226]

   (b)   the Claimant, SRL and Excellent First were the only applicants for the .CHARITY gTLD and at the time of the Expert Determinations and the Claimant's application was distinguished only by the absence of a separately proffered amended public interest commitment to operate a limited registry in response to the IO's objection;

   (c)   as at 12 October 2014, SRL had not taken any action in reliance on the Expert Determination, including signing Registry Agreements, transitioning to delegation, withdrawing their applications, and requesting refunds; and

   (d)   the effect of ICANN's action in determining it would implement new mandatory registration requirements applicable to all Category I and Category II gTLDs was to eliminate any practical distinction between the competing .CHARITY applications, including the basis on which the Expert Panel had distinguished the Claimant's applications by upholding the community objection in relation to it.

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[226] As far as the IRP Panel is aware, any other inconsistent Expert Determinations did not involve identical objections to identical strings, including .Vistaprint and .HOSPITAL. In the circumstances, there is no support in the record for ICANN's contention that extending review to Claimant risks opening floodgates.

8.64   As a result of these factors, the impact on "predictability and fairness" in the application process of including this additional set of similarly situated Expert Determinations in the new Inconsistent Determination Review would be limited.

8.65   The fact that the inconsistent Expert Determinations in the .CHARITY applications were the only other inconsistent determinations of identical objections by the same objector to the same gTLD string that existed at the time the Board determined the scope of the new review process, and the fact that the Claimant was the only party prejudiced by such an inconsistent Expert Determination that was not entitled to participate in the new review process, strongly suggests that it was an inequitable action and did single out the Claimant. The requirement for discrimination is not that it was malicious or even intentional, and this Panel has not been presented with any evidence that ICANN acted maliciously or intentionally to single out the Claimant. Rather, the requirement for discrimination is that a party was treated differently from others in its situation without "substantial and reasonable" justification. The IRP Panel does find that this standard was met.

8.66   For the reasons discussed above, the Panel finds the reasons ICANN advanced for limiting the scope of the new process to the designated SCO determinations insufficient to constitute "substantial and reasonable cause" to subject Claimant to the disparate treatment of being denied access to the new process.

8.67   Although the Panel believes that it is appropriate to determine whether the Board acted in conformance with the Articles, Bylaws and Guidebook primarily based on the record of the Board's contemporaneously stated rationale for its actions, the Panel also has considered two further arguments that ICANN advanced in the IRP proceeding as follows.

(a)   ICANN submitted that community and limited public interest objections differ from string contention objections in that the latter can be judged on the face of competing strings, while the two former categories of objection require recourse to the underlying applications for determination. The Panel finds this argument inconsistent, however, with the Board's contemporaneously stated rationale in its 12 October 2014 Decision and Action to exclude apparently inconsistent Expert Determinations other than the ones referred to the new process, *including other SCO Expert Determinations*, on the basis that "reasonable explanations" of the

apparent inconsistencies in differing Expert Determinations were found in the "materials presented" and the existence of other "nuanced distinctions."[227]

(b) ICANN submitted that there was less need for an additional process to review the apparently inconsistent Expert Determinations of the competing .CHARITY applications because they were determined by a single expert panelist "who therefore had all of the evidence for both objection proceedings in hand." ICANN contrasts this situation to the SCO determinations the Board designated for review, which were determined by different panels.[228] Although ICANN at the hearing characterized the new process as a "re-evaluation" in which "a single expert panel was tasked with re-evaluating the determinations,"[229] the Inconsistent Determination Review Process ICANN actually adopted did not involve reconciliation of the differing results of "both [SCO] objection proceedings", but rather independent review of a single SCO expert determination from each of the two sets which the NGPC designated, for reasons it chose not to state. The Panel finds ICANN's distinction on the basis that different panels issued the inconsistent SCO determinations insufficient to constitute "substantial and reasonable cause" for disparate treatment of the .CHARITY inconsistent determinations as compared to the SCO determinations that were accorded access to the new process.

8.68 The Panel therefore determines that the Board's action in excluding the Claimant from the new Inconsistent Determinations Review Procedure was inconsistent with the non-discrimination provision of Article II, Section 3 of ICANN's Bylaws.

ISSUE 2: Defined Review Standard (Article IV, Section 3.4)

8.69 The IRP Panel's findings as to the Defined Review Standard (Bylaws Article IV, Section 3.4) are set out below.

 i. *Did the Board act without conflict of interest in taking its decision to omit .CHARITY from the new Inconsistent Determinations Review Procedure?*

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[227] The distinction between open and limited registries may also be relevant to the resolution of string contention objections where the objection alleges a likelihood of confusion in relevant markets. The commitment to a limited registry, or lack thereof, appears in application materials and is not apparent from the face of the gTLD string. Report of Final Review Panel, *Verisign, Inc. v. United TLD Holdco Ltd.,* ICDR No. 01-15-0003-3822, **ICANN Appendix L**.
[228] ICANN Sur-Reply at para. 49; ICANN's hearing slides at 21.
[229] ICANN hearing slides at 21.

8.70   There is no suggestion that the Board had a conflict of interest, and the IRP Panel finds that the Board acted without conflict.

> *ii.   Did the Board exercise due diligence and care in having a reasonable amount of facts in front of them in taking its decision to omit .CHARITY from the new Inconsistent Determinations Review Procedure?*

8.71   As to the 12 October 2014 Decision and Action (and its preceding 5 February 2014 Decision and Action), the research, analysis, investigation and consultation process undertaken by the ICANN Board in establishing its new Inconsistent Determination Review Process is carefully documented.   The Approved Resolutions of 12 October 2014 appear comprehensively to summarize the matter on which the Board relied in determining to limit the scope of application of the new process to selected inconsistent SCO Expert Determinations.

8.72   The carefully documented record does not reflect, however, that the Board considered the effect of its then-recent adoption of the GAC Beijing Communiqué recommendations in determining the scope of application of the new review mechanism. In particular, the Board does not appear to have considered the levelling effect on the pending .CHARITY applications of its decision to adopt the new PIC requirement.

8.73   The Board's announcement that it would adopt the GAC's Beijing Communiqué recommendations was a fact known to ICANN. ICANN, in exercising due diligence and care in deciding whether or not to include the perceived inconsistent .CHARITY Expert Determinations in the new Inconsistent Determinations Review Procedure at minimum should have taken that into account.   Absent such consideration, in light of the circumstances outlined above, the IRP Panel must conclude that Bylaw standard of due diligence and care was not met on this occasion.   Again, we make no finding that the Board's failure to consider the impact of its adoption of the Beijing Communiqué recommendations was malicious or intentional. We find simply that the levelling effect on the eligibility requirements in the pending applications of the new PIC requirement was a material fact that should have been considered, and apparently it was not.

> *iii.   Did the Board members exercise independent judgment in taking the decision to omit .CHARITY from the new Inconsistent Determinations Review Procedure, believed to be in the best interests of the community?*

8.74 There is no indication that the Board members were acting in any way other than in good faith and exercising independent judgment, with the subjective belief that they were acting in the best interests of the community. The IRP Panel finds that the Board members exercised independent judgment, believed to be in the best interests of the community.

ISSUE 3: Did the Board Act For the Benefit of the Internet Community as a Whole? (ICANN Articles of Incorporation, Section 4)

(i) The Claimant's Position

8.75 The Claimant further submits that ICANN's Articles state that the Board must act "for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law."[230] The Claimant considers that the Board has failed to do so in relation to its .CHARITY Application. By failing to reconcile differing outcomes for the same objection, at least in respect to the differing .CHARITY Expert Determinations, which Claimant contends fit the same definition of "inconsistent determinations" the Board applied to .COM and .CAM, the Board has failed to act in the best interests of the Internet community.

8.76 ICANN adopted its new gTLD programme "to enhance choice and competition in domain names and promote free expression online."[231] The Claimant argues that the Board must remain "faithful to 'the public interest' and 'accountable to the Internet community'."[232] Furthermore, the Claimant considers that the Board has not acted in the best interests of the Internet community in its decision in relation to the Claimant and should have granted a review for "inconsistent and unreasonable" objection rulings.[233]

8.77 The Claimant also argues that the Bylaws and Articles compel the Board to remain accountable to the Internet community, as well as acting in the best interests of the Internet community. The Claimant further argues that the Board has conceded that it has not acted in the best interests of the Internet community: "[t]he Board fails the Bylaw directive of 'remaining accountable to the Internet community' by refusing to employ the

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[230] Claimant Request, para. 48.
[231] Claimant Request, para. 9.
[232] Claimant Request, para. 7
[233] Claimant Request, para. 8.

very 'mechanism' it created to right the wrong perpetrated by the types of conflicting objection rulings that include those made regarding. CHARITY".[234]

8.78   The Claimant relies on *Booking.com v ICANN* to show that "even where the Board acts reasonably and in what it believes to be the best interests of ICANN, a panel must still independently determine whether the Board acted or chose not to act in a manner 'consistent with the Articles, Bylaws, and … the policies and procedures of the Guidebook.'"[235]

(ii)   The Respondent's Position

8.79   ICANN takes the position that the 12 October 2014 Decision and Action (and the preceding 5 February 2014 Decision and Action) are purposefully narrow and limited specifically to SCOs.[236] It expressly distinguished the objection decisions rendered in the context of other objection proceedings, such as those relating to Community Objections. The NGPC's procedural rationale was that "[t]wo panels confronting identical issues could – and if appropriate should – reach different determinations based on the strength of the material presented."

8.80   ICANN goes on to conclude that the materials presented to the two Expert Panels in .CHARITY were not the same and, in particular:

"SRL presented evidence demonstrating its commitment to limit registration in .CHARITY to members of the charity sector, while Corn Lake did not and instead maintained that .CHARITY would be 'open to all consumers.'"[237]

8.81   According to ICANN, SRL's proposed registration eligibility requirements for the .CHARITY gTLD were in the best interests of the community and the Claimant's open registration was not.

(iii)   The Panel's Decision

8.82   The ICANN Articles of Incorporation, Article 4, require that ICANN act:

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[234] Claimant Request, Introduction.
[235] Reply, para. 37.
[236] ICANN Response, at para. 53.
[237] ICANN Response, at para. 56.

"for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and … local law."

8.83   It is plainly in the best interests of the Internet community as a whole that ICANN maintains a procedurally fair system with the highest levels of consistency and integrity. The Panel is of the view that well-reasoned, non-discriminatory application of the new Inconsistent Review Procedure would be in the best interests of the Internet community.

8.84   Prior to the issuance of the .CHARITY Expert Determinations, ICANN had announced that it would adopt the GAC Beijing Communiqué. As a consequence, *all* applicants were committed to the same registration limitations, both because the recommendations became mandatory and, importantly, because all had indicated in their applications a commitment to comply with any adopted recommendations. The impact of the decision to adopt the GAC Beijing Communiqué recommendations was a material factor in determining whether or not there were reasonable explanations for the perceived inconsistences in the .CHARITY Expert Determinations.

8.85   ICANN's failure to take the impact of its decision to adopt the GAC Beijing Communiqué recommendations into account was not in conformity with its own Bylaws or generally accepted standards of natural justice and due process reflected in its Core Values and other governing documents. Accordingly, the Panel finds that in this instance, ICANN cannot be found to have acted for the benefit of the Internet community as a whole.

8.86   It is not suggested by the Claimant that ICANN was motivated by anything other than the best interests of the Internet community. However, assessing its actions from an objective standard, failure to take into account material factors in its decision-making results in a procedural unfairness and disparate treatment that is not in the interests of that community as a whole.

8.87   For the reasons discussed above, we find the reasons the Board advanced at the time of its action to exclude .CHARITY insufficient to meet this standard. We likewise, for the reasons discussed, find ICANN's *post hoc* justification based on the fact that the .CHARITY applications were decided by a single Expert Panelist also insufficient.

ISSUE 4: Did the Board Action Abdicate Its Accountability Obligation?

8.88   The Claimant submits that one of ICANN's core values is for the Board to remain accountable to the Internet community through mechanisms that can enhance ICANN's effectiveness.[238] It submits that:

"[t]he Board had an opportunity to bring such accountability to all of the inconsistent objection results reached on common TLDs, but excluded the sole community objection situation that fell within the ambit of what it did."[239]

8.89   The Claimant appears to argue that by deciding not to review all inconsistent Expert Determinations, the Board somehow abdicated its accountability obligation to uphold a certain standard in all Expert Determinations rendered pursuant to its procedures.[240]

(ii)   The Respondent's Position

8.90   The Respondent submits that the Reconsideration Request is the only way for it to be involved in review of the Expert Determination of the objection to Claimant's Application because:

"[r]econsideration is an accountability mechanism available under ICANN's Bylaws and involves a review by ICANN's Board Governance Committee ("BGC"). The BGC's consideration of reconsideration requests is limited to assessing whether the challenged action (or inaction) violated established policies or procedures."[241]

8.91   The Respondent also argues that the Claimant's challenge of the BGC's denial of Request 14-3 is time-barred because the Claimant did not assert any such claim in its IRP Request and waited until its Reply to raise the argument.[242] The Bylaws provide that such a claim should be submitted within thirty days of the posting of the Board meeting contested by the

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238 Claimant Request, para. 54.
239 Claimant Request, para. 55.
240 Claimant Request, para. 57.
241 ICANN Sur-Reply, para. 8.
242 ICANN Sur-Reply, para. 39.

prospective applicant.[243] On 27 February 2014, the BGC denied the Claimant's Request 14-3. The Claimant's right to file an IRP Request on this issue expired on 28 March 2014.[244]

8.92   The Respondent argues in favor of dismissal of the Claimant's claims in this respective on time-barred grounds alone.

8.93   The Respondent also argues that the Claimant's claims fail substantively too because the Claimant has been unable to identify any Bylaws or Articles which have been allegedly breached by the BGC.[245]

(iii)   The Panel's Decision

8.94   The Panel has carefully considered the parties' respective positions concerning the allegation of ICANN's abdication of its accountability responsibilities and finds there to be no basis for those claims. We do not fault ICANN for its attempt to enhance its accountability through the creation of the new process. Rather, we have found that having created the process, ICANN's Core Values and Bylaws required that it be extended on a non-discriminatory basis to similarly situated applicants and that such distinctions as were to made regarding the scope of the process were required to be determined based on a reasonable factual record.

8.95   As to any suggestion that ICANN abdicated obligations by its Denial of the Reconsideration Request, as set out above in Section 7, any application to review to Reconsideration Request is out of time.

IPR PANEL REVIEW CONCLUSION

8.96   In conclusion, the IRP Panel determines that the ICANN Board's 12 October 2014 Decision and Action (as preceded by its February 2014 Decision and Action) is a "decision or action by the Board" that is "inconsistent with the Articles of Incorporation of Bylaws" of ICANN and "materially affected" the Claimant.

8.97   This Panel stresses that this is a unique situation and peculiar to its own unique and unprecedented facts. The facts were rendered particularly complicated and unusual by a

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[243] ICANN Sur-Reply, para. 40.
[244] ICANN Sur-Reply, para. 40.
[245] ICANN Sur-Reply, para. 41.

combination of (i) the Claimant's insistence throughout the Expert Determination proceeding that it would operate .CHARITY as an open registry – up to and until it became apparent that ICANN had decided not to permit that to occur, and (ii) the exceedingly unlikely and difficult timing of the Board's announcement that it would adopt the GAC's Beijing Communiqué recommendations – coming after the Expert Panel had closed the record but before the Expert Determination was made.[246] This unique set of circumstances created what was doubtless a difficult situation for ICANN to consider in establishing the scope of the new review process, but it does not relieve ICANN from its ultimate responsibility to act in accordance with its Bylaws and Articles of Incorporation.

8.98   This IRP Panel does not suggest that ICANN lacks discretion to make decisions regarding its review processes as set out in the Applicant Guidebook, which may well require it to draw nuanced distinctions between different applications or categories of applications. Its ability to do so must be preserved as being in the best interests of the Internet community as a whole.

8.99   In reaching this conclusion, the Panel carefully considered other relevant IRP Final Determinations and considers its approach to be consistent with these. In particular, the IRP Panels in *Booking.com v ICANN*, *Vistaprint v ICANN* and *ICM Registry v ICANN* were asked to review underlying Expert Determinations, which had been, or might have been, subject to Reconsideration Requests. Each considered that Reconsideration Review provides for procedural review and is not a substantive appeal (and that ICANN's Board was under no obligation to create a different appeal mechanism). For example:

(a)   *Booking.com v ICANN* found it "crucial" to its decision that the Claimant there was not challenging the validity or fairness of the process and that no such challenge would have been timely;

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[246] These circumstances, in which ICANN agreed to adopt the Beijing Communiqué recommendations while the .CHARITY Expert Determinations were still underway but after the record was closed led to a circumstance in which the Expert upheld a community objection that the Claimant could legitimately have considered moot. As noted already, however, it is outside the scope of this Panel's mission to determine whether the Expert rightly or wrongly excluded the Claimant's late submission regarding the Beijing Communiqué. It is also beyond this Panel's mission to express a view as to whether review of that Expert Determination under the Inconsistent Determinations Review Procedure, applying the standard of review determined by ICANN, should or will lead to a reversal of that Expert Determination. The sole issue before this Panel is whether the Board properly or improperly excluded the .CHARITY Expert Determinations from the Inconsistent Determinations Review Procedure in the first place.

(b)   *ICM Registry v ICANN* found the "fundamental obstacle" to the Claimant's assertions to be that the established process had been followed in all respects and the time "long had passed" to challenge the processes themselves;[247]

(c)   *Donuts v ICANN*[248] considered whether the Board should have extended the Inconsistent Determinations Review Procedure "to correct and prevent community objection rulings exceeding or failing to apply documented Guidebook standards"[249] and found that "the only differences in treatment that implicate Bylaws Article II, Section 3 are those which occur in like circumstances" and thus held that the record did not allow it to conclude that the "considerable consistency issues" raised in connection with string similarity cases were present in "community objection cases as a whole…"; and

(d)   *VistaPrint v ICANN* characterized the claim as arising from "similarly situated" strings, as compared to the "inconsistent determinations" the NGPC addressed in the 12 October 2014 Resolution, (i.e. .WEB./WEBS being similar to .CAR/.CARS) and the claim of disparate treatment "a close question",[250] recommending that the Board conduct the Reconsideration Request step in the process that was, at the time of the IRP Panel, not yet engaged.

8.100   The Panel considers the Final Determination in *Dot Registry v ICANN*, which addressed primarily issues of adequacy and burden of proof in respect to the BCG's denial of a Reconsideration Request, to be of little relevance here. The Panel has found the instant IRP request untimely in respect to the denial of Claimant's Reconsideration Request.   In reaching its findings in respect of the basis on which the NGPC acted in determining the scope of the new review mechanism, the Panel here has relied on a record it considered carefully documented and apparently comprehensive.

8.101   The current IRP is not a review of a Reconsideration Request or Expert Determination but, rather, of a decision not to extend the scope of the new Inconsistent Determinations Review Procedure to the .CHARITY Expert Determinations, despite those Determinations meeting the strict criteria for inclusion. This is further supported by the ICANN Board's

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[247] ICM Registry v ICANN, para. 129.

[248] As addressed in post hearing submissions.

[249] Final Declaration of the Independent Review Panel in Donuts, Inc. and ICANN at para. 73.

[250] Final Declaration, *VistaPrint Ltd. v. ICANN*, ICDR No. 01-14-0000-6505, **ICANN Appendix K**, at para. 176

subsequent decision to include the .HOSPTIAL Expert Determinations, despite those Determinations appearing to have been less clearly within the criteria that the .CHARITY Determinations.

9. COSTS

9.1 The Supplementary Rules provide, at Article 11 that:

"The IRP PANEL shall fix costs in its DECLARATION. The party not prevailing in an IRP shall ordinarily be responsible for bearing all costs of the proceedings, but under extraordinary circumstances the IRP Panel may allocate up to half of the costs to the prevailing party, taking into account the circumstances of the case, including the reasonableness of the parties' positions and their contribution to the public interest."

9.2 The ICDR Rules, Article 34, define costs to include the fees and expenses of the arbitrators and Administrator as well as the reasonable legal and other costs incurred by the parties.

9.3 The IRP Panel considers that these IRP proceedings involve extraordinary circumstances. The relevant factors, which go to the reasonableness of the parties' positions and their contribution to the public interest, include as follows:

(a) the exceedingly unlikely and difficult timing of the Board's announcement that it would adopt the GAC's Beijing Communiqué recommendations – coming after the Expert Panel had closed the record but before the Expert Determination was made;

(b) the unique impact of the Beijing Communiqué recommendations on the .CHARITY applications and the nuances thereof;

(c) the Claimant's insistence throughout the Expert Determination proceeding that it would operate .CHARITY as an open registry – up to and until it became apparent that ICANN had agreed not to permit that to occur;

(d) the lack of any deliberate disparate treatment of the Claimant by ICANN;

(e) the Panel's 20 January 2016 determination that the Claimant's Reply exceeded the scope of PO1; and

(f) the fact that the new Inconsistent Determination Review Process is to be funded by ICANN.

9.4   These factors created what was doubtless a difficult situation for ICANN to consider in establishing the scope of the new review process. Although they do not relieve ICANN from its ultimate responsibility to do so in accordance with its Bylaws and Articles of Incorporation, they do influence the IRP Panel's costs determination.

9.5   The IRP Panel accordingly determines that, although ICANN is not the prevailing party in the IRP, due to the extraordinary circumstances described above, ICANN shall not be responsible for bearing all costs of the proceedings. Instead, pursuant to Article 11 of the Supplementary Rules, the IRP Panel determines that no costs shall be allocated to the Claimant as the prevailing party. Consequently, each Party shall bear its own costs in respect of this IRP Panel proceeding.

10.   RELIEF REQUESTED

10.1   The Claimant seeks:

(a)   a direction from the Panel to ICANN's Board of Directors to reverse the .CHARITY objection ruling against CORN LAKE, LLC;

(b)   a direction from the Panel to ICANN's Board of Directors to subject that ruling to the same review as provided in the Resolution for the .COM and .CAM decisional conflicts; or

(c)   a direction from the Panel to ICANN's Board of Directors to reinstate CORN LAKE, LLC's application conditioned upon its acceptance of the PIC, agreed to by SRL; and

(d)   an order from the Panel [to ICANN's Board of Directors] to place all .CHARITY applications on hold during the course of these proceedings and for ICANN to refrain from engaging in any contracting or delegation processes related to the same.

11.   DISPOSITIVE

11.1   In Accordance with Article IV, Section 3.11 of the Bylaws, the Panel:

(a)   Declares that the Claimant, Corn Lake, is the prevailing party;

(b)   Declares that the action of the Board in omitting .CHARITY from the new Inconsistent Determinations Review Procedure was inconsistent with the Articles of Incorporation and Bylaws;

(c) Recommends that the Board extend the new Inconsistent Determinations Review Procedure to include a review of Corn Lake's .CHARITY Expert Determination;

(d) Recommends that the Board continue to stay any action or decision in relation to SRL's .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel; and

(e) Determines that no costs shall be allocated to the prevailing party.

Signed:

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Mark Morril

Date: 17 October 2016

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Michael Ostrove

Date: 17 October 2016

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Wendy Miles QC

Date: 17 October 2016

TITLE: Consideration of *Corn Lake, LLC vs. ICANN* Independent
                   Review Process Final Declaration

Document/Background Links

The following attachment is relevant to the Board's consideration of the Panel's Final

Declaration in the Corn Lake IRP:

- Attachment A is the Panel's Final Declaration issued on 17 October 2016.

Other Relevant Materials

The documents submitted during the course of the Corn Lake IRP are available at:

https://www.icann.org/resources/pages/corn-lake-v-icann-2015-04-07-en.

The BGC Determination on Reconsideration Requests 14-3 is available at:

https://www.icann.org/en/system/files/files/determination-corn-lake-27feb14-en.pdf.

Reconsideration Request 14-3 is available at:

https://www.icann.org/en/system/files/files/request-corn-lake-24jan14-en.pdf.

The IO's Community Objection to Corn Lake's application for .CHARITY and the

Expert Determination are available at: http://www.independent-objector-

newgtlds.org/home/the-independent-objector-s-objections/charity-cty-corn-lake-llc/.

The IO's Community Objection to Spring Registry Limited's application for .CHARITY

and the expert determination are available at: http://www.independent-objector-

newgtlds.org/home/the-independent-objector-s-objections/charity-cty-spring-registry-

limited/.

The IO's Community Objection to Excellent First Limited's application for .CHARITY

in Chinese characters and the expert determination are available at:

http://www.independent-objector-newgtlds.org/home/the-independent-objector-

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GAC Beijing Communiqué is available at:

https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf

NGPC Resolutions 2014.02.05.NG01 and 2014.02.05.NG02 approved at the 5 February
2014 NGPC meeting available at: https://www.icann.org/resources/board-
material/resolutions-new-gtld-2014-02-05-en.

NGPC Resolutions 2014.10.12.NG02-2014.10.12.NG03 approved at the 12 October 2014
NGPC meeting available at: https://www.icann.org/resources/board-material/resolutions-
new-gtld-2014-10-12-en

Submitted by: Amy A. Stathos, Deputy General Counsel
Date Noted: 21 October 2016
Email: amy.stathos@icann.org

EXHIBIT C-151

C-151

Agenda | Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

08 Nov 2016

Consent Agenda:

- Approval of Minutes from 9 August, 15 August, 17 September and 30 September 2016

- Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Appointments and Reappointments

- Appointment of Root Server Operator Representatives to the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee))

- Investment of Auction Proceeds

- ICANN (Internet Corporation for Assigned Names and Numbers)'s Delegation of Authority Guidelines for Board & CEO/Management

- Renewal of .TEL Registry Agreement

- Thank You to Community Members

- Thank You to Local Host of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

- Thank You to Sponsors of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

- Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

Main Agenda

- Two-Character Domain Names in the New gTLD (generic Top Level Domain) Namespace

- Consideration of the *Corn Lake, LLC v. ICANN (Internet Corporation for Assigned Names and Numbers)* Independent Review Process Final Declaration

- Thank You to the Global Stakeholder Multistakeholder Community in Support of the Transition

- Thank You to Bruno Lanvin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

- Thank You to Erika Mann for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

- Thank You to Kuo-Wei Wu for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

- Thank You to Suzanne Woolf for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

- Thank You to Bruce Tonkin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

- AOB

Published on 26 October 2016

EXHIBIT C-152

C-152

Minutes | Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is avai ab e in
English | العربية (http://www.icann.org/resources/board-material/minutes-2016-11-08-ar) |
Español (http://www.icann.org/resources/board-material/minutes-2016-11-08-es) |
Français (http://www.icann.org/resources/board-material/minutes-2016-11-08-fr) |
Русский (http://www.icann.org/resources/board-material/minutes-2016-11-08-ru) |
中文 (http://www.icann.org/resources/board-material/minutes-2016-11-08-zh)

08 Nov 2016

A Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors was held publically in Hyderabad, India on 8 November 2016 at 08:30 local time.

Steve Crocker, Chair, promptly called the meeting to order.

In addition to the Chair, the following Directors participated in all or part of the meeting: Rinalia Abdul Rahim, Cherine Chalaby (Vice Chair), Ron da Silva, Chris Disspain, Asha Hemrajani, Rafael Lito Ibarra, Markus Kummer, Göran Marby (President and CEO), George Sadowsky, Mike Silber, Bruce Tonkin, Lousewies van der Laan, and Kuo-Wei Wu.

The following Directors sent their apologies: Bruno Lanvin and Erika Mann.

The following Board Liaisons participated in all or part of the meeting: Ram Mohan (SSAC (Security and Stability Advisory Committee) Liaison), Thomas Schneider (GAC (Governmental Advisory Committee) Liaison), Jonne Soininen (IETF (Internet Engineering Task Force) Liaison), and Suzanne Woolf (RSSAC (Root Server System Advisory Committee) Liaison).

Secretary: John Jeffrey (General Counsel and Secretary).

1. Consent Agenda:
    a. Approval of Board Meeting Minutes

    b. Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Appointments
        Rationale for Resolution 2016.11.08.02

    c. Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Reappointments
        Rationale for Resolution 2016.11.08.03

    d. Appointment of D-, E-, G-, and H-Root Server Operator Representatives to the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee))
        Rationale for Resolution 2016.11.08.04

    e. Investment of Auction Proceeds
        Rationale for Resolution 2016.11.08.05

    f. ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines
        Rationale for Resolution 2016.11.08.06

    g. Renewal of .TEL Registry Agreement
        Rationale for Resolution 2016.11.08.07

    h. Thank You to Community Members

1. ## Consent Agenda:

Steve Crocker provided a brief overview of the items on the Consent Agenda. Steve then called for a vote, and the Board took the following action:

Resolved, the following resolutions in this Consent Agenda are approved:

a. ### Approval of Board Meeting Minutes

Resolved (2016.11.08.01), the Board approves the minutes of the 9 August, 15 August, 17 September and 30 September 2016 meetings of the ICANN (Internet Corporation for Assigned Names and Numbers) Board.

b. ### Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Appointments

Whereas, the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) reviews its membership and makes adjustments from time-to-time.

Whereas, the SSAC (Security and Stability Advisory Committee) Membership Committee, on behalf of the SSAC (Security and Stability Advisory Committee), requests that the Board should appoint Jacques Latour and Tara Whalen to the SSAC (Security and Stability Advisory Committee) for three-year terms beginning immediately upon approval of the Board and ending on 31 December 2019.

Resolved (2016.11.08.02), that the Board appoints Jacques Latour and Tara Whalen to the SSAC (Security and Stability Advisory Committee) for three-year terms beginning immediately upon approval of the Board and ending on 31 December 2019.

Rationale for Resolution 2016.11.08.02

The SSAC (Security and Stability Advisory Committee) is a diverse group of individuals whose expertise in specific subject matters enables the SSAC (Security and Stability Advisory Committee) to fulfill its charter and execute its mission. Since its inception, the SSAC (Security and Stability Advisory Committee) has invited individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems.

The SSAC (Security and Stability Advisory Committee)'s continued operation as a competent body is dependent on the accrual of talented subject matter experts who have consented to volunteer their time and energies to the execution of the SSAC (Security and Stability Advisory Committee) mission. Jacques Latour is currently the CTO at CIRA, the Canadian Internet Registry Authority for .CA, a position he has held for the past 6 years. He also is an active member of the ccNSO (Country Code Names Supporting Organization) community and the IETF (Internet Engineering Task Force) DNS (Domain Name System) community. Jacques has extensive country code registry experience and all of the related technologies. He has been an active member of the SSAC (Security and Stability Advisory Committee)'s DNSSEC (DNS Security Extensions) Workshop Program Committee for several years.

Tara Whalen has a PhD in Computer Science followed by a Masters in Law with a concentration in Law and Technology. She has over 20 years of experience in security and privacy, including working in the Office of the Privacy Commissioner of Canada, as a Privacy and Security (Security – Security, Stability and Resiliency (SSR)) Standards Engineer at Apple, and is currently a Staff Privacy Analyst at Google. She has been active in the IETF (Internet Engineering Task Force) (intrusion detection working group) and is currently active in the W3C (World Wide Web Consortium) (Privacy Interest Group). She is generally engaged in an operational role around the nexus of security and privacy.

The SSAC (Security and Stability Advisory Committee) believes Jacques Latour and Tara Whalen would be significant contributing members of the SSAC (Security and Stability Advisory Committee).

c. ## Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Reappointments

Whereas, Article 12, Section 12.2(b) of the Bylaws governs the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)).

Whereas, the Board, at Resolution 2010.08.05.07 approved Bylaws revisions that created three-year terms for SSAC (Security and Stability Advisory Committee) members, required staggering of terms, and obligated the SSAC (Security and Stability Advisory Committee) Chair to recommend the reappointment of all current SSAC (Security and Stability Advisory Committee) members to full or partial terms to implement the Bylaws revisions.

Whereas, the Board, at Resolution 2010.08.05.08 appointed SSAC (Security and Stability Advisory Committee) members to terms of one, two, and three years beginning on 01 January 2011 and ending on 31 December 2011, 31 December 2012, and 31 December 2013.

Whereas, in January 2016 the SSAC (Security and Stability Advisory Committee) Membership Committee initiated an annual review of SSAC (Security and Stability Advisory Committee) members whose terms are ending 31 December 2016 and submitted to the SSAC (Security and Stability Advisory Committee) its recommendations for reappointments in September 2016.

Whereas, on 21 September 2016, the SSAC (Security and Stability Advisory Committee) members approved the reappointments.

Whereas, the SSAC (Security and Stability Advisory Committee) recommends that the Board reappoint the following SSAC (Security and Stability Advisory Committee) members to three-year terms: Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson.

Resolved (2016.11.08.03), the Board accepts the recommendation of the SSAC (Security and Stability Advisory Committee) and reappoints the following SSAC (Security and Stability Advisory Committee) members to three-year terms beginning 01 January 2017 and ending 31 December 2019: Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson.

Rationale for Resolution 2016.11.08.03

The SSAC (Security and Stability Advisory Committee) is a diverse group of individuals whose expertise in specific subject matters enables the SSAC (Security and Stability Advisory Committee) to fulfill its charter and execute its mission. Since its inception, the SSAC (Security and Stability Advisory Committee) has invited individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems. The above-mentioned individuals provide the SSAC (Security and Stability Advisory Committee) with the expertise and experience required for the Committee to fulfill its charter and execute its mission.

d. ### Appointment of D-, E-, G-, and H-Root Server Operator Representatives to the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee))

Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for the establishment of a Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)) with the role to advise the ICANN (Internet Corporation for Assigned Names and Numbers) community and ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System.

Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors to appoint one RSSAC (Root Server System Advisory Committee) member from each Root Server operator organization, based on recommendations from the RSSAC (Root Server System Advisory Committee) Co-Chairs.

Whereas, the RSSAC (Root Server System Advisory Committee) Co-Chairs have recommended for ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors consideration the appointment of representatives from the D-, E-, G, and H-root server operators to the RSSAC (Root Server System Advisory Committee).

Resolved (2016.11.08.04), the Board appoints to the RSSAC (Root Server System Advisory Committee) the following representatives from the D-, E-, G-, and H-root server operators: Tripti Sinha, Kevin Jones, Kevin Wright, and Howard Kash, respectively, through 31 December 2019.

Rationale for Resolution 2016.11.08.04

In May 2013, the root server operators (RSO) agreed to an initial membership of RSO representatives for RSSAC (Root Server System Advisory Committee), and each RSO nominated an individual. The ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors approved the initial membership of RSSAC (Root Server System Advisory Committee) in July 2013 with staggered terms.

The representatives from the D-, E-, G-, and H-root server operators were appointed to an initial three-year term, which expires on 31 December 2016. These appointments are for full, three-

year terms.

The appointment of these RSSAC (Root Server System Advisory Committee) members is not anticipated to have any fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers), though there are budgeted resources necessary for ongoing support of the RSSAC (Root Server System Advisory Committee).

This resolution is an organizational administrative function for which no public comment is required. The appointment of RSSAC (Root Server System Advisory Committee) members contributes to ICANN (Internet Corporation for Assigned Names and Numbers)'s commitment to strengthening the security, stability, and resiliency of the DNS (Domain Name System).

e. Investment of Auction Proceeds

Whereas, to date ICANN (Internet Corporation for Assigned Names and Numbers) has collected US$233 million of auction proceeds.

Whereas, the Board Finance Committee has determined that auction proceeds need to be invested in a manner that preserves capital and keeps these funds readily available.

Whereas, the Board Finance Committee recommends that auction proceeds be distributed across three different investment managers, and invested in safe and liquid financial instruments.

Resolved (2016.11.08.05), the Board authorizes the President and CEO, or his designee(s), to take all actions necessary to distribute the auction proceeds across three different investment managers, which will be tasked with investing those proceeds in safe and liquid financial instruments.

Rationale for Resolution 2016.11.08.05

To date ICANN (Internet Corporation for Assigned Names and Numbers) has collected auction proceeds totaling US$233 million. ICANN (Internet Corporation for Assigned Names and Numbers) continuously mitigates the risk of custody by distributing investments across more than one investment management firm. Considering the amount of auction proceeds collected to date, the number of firms used to manage these funds need to be increased from the one firm currently used, to three firms. Through an RFP conducted in 2013 for the New gTLD (generic Top Level Domain) Program, ICANN (Internet Corporation for Assigned Names and Numbers) has already qualified three investment management firms. The auction funds will be distr buted across these three firms, in separate and distinct accounts holding exclusively auction proceeds. In addition, considering the intended usage of these funds in the near future, as per the ongoing community process, the BFC has recommended that the managers hold these funds in safe and liquid financial instruments.

As a result, the organization recommends that the auction proceeds be invested at three different investment managers to reduce the risk of custody, and be invested in safe and liquid financial instruments.

This action is not expected to have any fiscal impact, or any impact on the security, stability and resiliency of the domain name system.

This is an Organizational Administrative Function that does not require public comment.

f. ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws Article 2 (/resources/pages/governance/bylaws-en/#article2) establishes that with certain exceptions, the powers of ICANN (Internet Corporation for Assigned Names and Numbers) shall be exercised by, and its property controlled and its business and affairs conducted by or under the direction of, the Board.

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws Article 15 (/resources/pages/governance/bylaws-en/#article15) establishes officers of ICANN (Internet Corporation for Assigned Names and Numbers), and designates the President to be the Chief Executive Officer (CEO) of ICANN (Internet Corporation for Assigned Names and Numbers) in charge of all of its activities and business. All other officers and staff shall report to the President or his or her delegate, unless stated otherwise in the Bylaws.

Whereas, the Board desires to set out a clear line of delegation of authority between the role of the Board and the roles of CEO and management.

Resolved (2016.11.08.06), the Board hereby adopts the "ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines (/en/system/files/files/delegation-of-authority-guidelines-08nov16-en.pdf)" to provide clear guidance and clarification of roles between the ICANN (Internet Corporation for Assigned Names and Numbers) Board and the ICANN (Internet Corporation for Assigned Names and Numbers) CEO/Management ("Guidelines"). The Guidelines shall be reviewed regularly and amended from time to time by resolution of the Board.

Rationale for Resolution 2016.11.08.06

The Board is taking action at this time to adopt a set of guidelines to provide greater clarity of roles between the Board and CEO/Management. These guidelines, titled "ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines," identify the respective key roles of the Board, key roles of CEO/Management, and the key interdependencies in those relationships. As outlined in the Guidelines, a primary source of the Board's powers come directly from the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws, as well as internal policies. Among others, these key powers include: (1) acting collectively by voting at meetings to authorize and direct management to take action on behalf of the ICANN (Internet Corporation for Assigned Names and Numbers) organization, (2) interacting with the ICANN (Internet Corporation for Assigned Names and Numbers) community to ensure that ICANN (Internet Corporation for Assigned Names and Numbers) is serving the global public interest within ICANN (Internet Corporation for Assigned Names and Numbers)'s mission, and (3) considering policy recommendations arising out of Supporting Organizations (Supporting Organizations), including participating in consultation processes if necessary.

The ICANN (Internet Corporation for Assigned Names and Numbers) CEO is authorized to act within the authority delegated by the Board. The CEO may designate key management to assist in carrying out these responsibilities. The CEO's responsibilities, include, but are not limited to: (1) interacting with the ICANN (Internet Corporation for Assigned Names and Numbers) community to ensure that ICANN (Internet Corporation for Assigned Names and Numbers) is serving the global public interest within ICANN (Internet Corporation for Assigned Names and Numbers)'s mission, (2) maintaining open lines of communication with the Board, (3) interacting with governments within the scope of ICANN (Internet Corporation for Assigned Names and Numbers)'s mission and Board's directives, and (4) leading and overseeing ICANN (Internet Corporation for Assigned Names and Numbers)'s day-to-day operations.

By adopting these Guidelines, the Board intends to ensure that the Board and CEO/Management continue to operate within the scope of its mission. The Board's approval of the Guidelines will have positive impact on the community as provides additional transparency and clarity about the roles and responsibilities of key members in the ICANN (Internet Corporation for Assigned Names and Numbers) organization. Additionally, it provides additional accountability to the community by clearly defining the roles and responsbilities.

There is no anticipated fiscal impact of the Board taking this action, and there are no expected security, stability, or resiliency issues related to the DNS (Domain Name System) associated with the Board's approval of the Guidelines.

This decision is an Organizational Administrative Function that does not require public comment.

g. Renewal of .TEL Registry Agreement

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) commenced a public comment period from 04 August 2016 to 13 September 2016 on a proposed Renewal Registry Agreement for the .TEL TLD (Top Level Domain).

Whereas, the proposed .TEL Renewal Registry Agreement includes modified provisions to bring the .TEL Registry Agreement into line with the form of the New gTLD (generic Top Level Domain) Registry Agreement.

Whereas, the public comment forum on the proposed Renewal Registry Agreement closed on 13 September 2016, with ICANN (Internet Corporation for Assigned Names and Numbers) receiving twenty-seven (27) comments, both by individuals and organizations/groups. A summary and analysis of the comments were provided to the Board. ICANN (Internet Corporation for Assigned Names and Numbers) modified the proposed Renewal Registry Agreement to correct typographical errors and to incorporate additional clarifying language in response to the public comments related to the RPM (Rights Protection Mechanism) language proposed in Section 1 of Specification 7 regarding applicability and implementation of applicable rights protection mechanisms.

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) conducted a review of Telnic's recent performance under the current .TEL Registry Agreement and found that Telnic substantially met its contractual requirements.

Resolved (2016.11.08.07), the .TEL Renewal Registry Agreement, as revised, is approved and the President and CEO, or his designee(s), is authorized to take such actions as appropriate to finalize and execute the Agreement.

Rationale for Resolution 2016.11.08.07

Why the Board is addressing the issue now?

ICANN (Internet Corporation for Assigned Names and Numbers) and Telnic Limited (the "Registry Operator") entered into a Registry Agreement (/resources/unthemed-pages/tel-2012-02-25-en) on 30 May 2006 for operation of the .TEL top-level domain. The current .TEL Registry Agreement expires on 01 March 2017. The proposed Renewal Registry Agreement was posted for public comment between 04 August 2016 and 13 September 2016. At this time, the Board is approving the Renewal Registry Agreement for the continued operation of the .TEL TLD (Top Level Domain) by the Registry Operator.

What is the proposal being considered?

The revised Renewal Registry Agreement approved by the Board includes modified provisions to bring the Agreement into line with the form of the New gTLD (generic Top Level Domain) Registry Agreement. The modifications include: updating technical specifications; adding Public Interest Commitments including the obligation to only use registrars under the 2013 Registrar Accreditation Agreement; and requiring the implementation of additional Rights Protection Mechanisms, namely the Uniform Rapid Suspension and the Post-Delegation Dispute Resolution Procedure.

Specifically, all approved registry services in the current .TEL Registry Agreement carry over to the revised Renewal Registry Agreement. Such services include Bulk Transfer After Partial Portfolio Acquisition, Registry Controlled DNS (Domain Name System) Records Service, Domain data change notifications, Whois private contact information opt-out for Individuals, Special Access Service, Additional RDDS Data Fields and Internationalized Domain Names.

With regard to the Schedule of Reserved Names, the revised Renewal Registry Agreement includes existing provisions permitting the Registry Operator to allocate previously reserved one and two-character names through ICANN (Internet Corporation for Assigned Names and Numbers)-accredited registrars via a Phased Allocation Program. However, all single-character numerical labels continue to be reserved at the second level.

As part of the adaptation needed to carry over the Sponsored TLD (Top Level Domain) Charter of .TEL to the revised Renewal Registry Agreement, Specification 12 incorporates the language of the original Sponsorship Charter - Appendix S (/resources/unthemed-pages/appendix-s-2011-02-02-en) in the current .TEL TLD (Top Level Domain) Agreement, with modifications to remove the requirement that the Registry control the name servers of delegated domain names, and the restriction that registrants cannot define the contents of the zone for their domain names. As .TEL was originally approved under this premise, the change will transform the .TEL TLD (Top Level Domain) into a gTLD (generic Top Level Domain) with a limited set of community parameters. These parameters will become optional rather than required.

Which stakeholders or others were consulted?

ICANN (Internet Corporation for Assigned Names and Numbers) conducted a public comment period on the proposed .TEL Renewal Registry Agreement from 04 August 2016 through 13 September 2016, following which time the comments were summarized and analyzed. Additionally, ICANN (Internet Corporation for Assigned Names and Numbers) engaged in bilateral negotiations with the Registry Operator to agree to the package of terms to be included in the proposed Renewal Registry Agreement that was posted for public comment.

What concerns or issues were raised by the community?

The proposed Renewal Registry Agreement was posted for public comment. Commenters expressed their views in three key areas during the public comment period:

- Extension of .TEL Registry Agreement: Some of the commenters expressed support for the extension of .TEL Registry Agreement, while others suggested that improvements should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended.

- Proposed Renewal Registry Agreement for .TEL: Three key issue areas were raised on the specific text of the renewal:
    - General Views – Some commenters positively noted there are technical and operational advantages to the New gTLD (generic Top Level Domain) Registry Agreement form that serve as a benefit to registrants and the Internet community over earlier versions of the legacy Agreement. Additionally, there was support for ICANN (Internet Corporation for Assigned Names and Numbers)'s efforts at bilateral negotiations with legacy TLD (Top Level Domain) registries in order to transition to the New gTLD (generic Top Level Domain) Registry Agreement and the procedural benefit of consistency that will come with ICANN (Internet Corporation for Assigned Names and Numbers)'s bilaterally negotiating for transition to provisions of the New gTLD (generic Top Level Domain) Registry Agreement not only with .TEL but with other legacy TLDs like .JOBS, .CAT, .PRO, and .TRAVEL.
    - Rights Protection Mechanisms – One commenter sought clarity over the language proposed in Section 1 of Specification 7 regarding applicability and implementation of rights protection mechanisms.
        - Registration Data Directory Service (Whois) – Some commenters raised concerns with continuing the unique Registration Data Directory Service that ICANN (Internet Corporation for Assigned Names and Numbers)'s Board approved in 2007 for the .TEL TLD (Top Level Domain).
    - The continued operation of .TEL by Telnic Limited: Concerns were expressed over Telnic Limited continuing to be the Registry Operator of .TEL, claiming, among other things that Telnic has violated ICANN (Internet Corporation for Assigned Names and Numbers)'s requirements several times and Telnic no longer has stable financials to continue the operation of .TEL.

What significant materials did the Board review?

As part of its deliberations, the Board reviewed various materials, including, but not limited to, the following materials and documents:

- .TEL form of the New gTLD (generic Top Level Domain) Registry Agreement: <https://www.icann.org/sites/default/files/tlds/tel/tel-proposed-renewal-04aug16-en.pdf (/sites/default/files/tlds/tel/tel-proposed-renewal-04aug16-en.pdf)>

- .TEL Addendum to form of the New gTLD (generic Top Level Domain) Registry Agreement: <https://www.icann.org/sites/default/files/tlds/tel/tel-proposed-renewal-addendum-04aug16-en.pdf (/sites/default/files/tlds/tel/tel-proposed-renewal-addendum-04aug16-en.pdf)>. At this time, ICANN (Internet Corporation for Assigned Names and Numbers) is proposing to implement the incorporation of terms unique to a legacy TLD (Top Level Domain), such as .TEL, through an "Addendum" to the Registry Agreement. The Addendum will show the terms of the .TEL Registry Agreement that are unique from the New gTLD (generic Top Level Domain) Registry Agreement that are incorporated into the renewal.

- Public comments: <https://forum.icann.org/lists/comments-tel-renewal-04aug16/ (https://forum.icann.org/lists/comments-tel-renewal-04aug16/)>

- Summary and analysis of public comments: <https://www.icann.org/en/system/files/files/report-comments-tel-renewal-07oct16-en.pdf (/en/system/files/files/report-comments-tel-renewal-07oct16-en.pdf)>

- 27 September 2016 letter from Telnic CEO to ICANN (Internet Corporation for Assigned Names and Numbers) Board: https://www.icann.org/en/system/files/correspondence/mahdavi-to-icann-board-27sep16-en.pdf (/en/system/files/correspondence/mahdavi-to-icann-board-27sep16-en.pdf). Telnic's observations on past achievements and opportunities for .TEL.

- Current .TEL Registry Agreement and Appendices: <https://www.icann.org/resources/unthemed-pages/tel-2012-02-25-en (/resources/unthemed-pages/tel-2012-02-25-en)>

- New gTLD (generic Top Level Domain) Registry Agreement – Updated 09 January 2014 <http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf (http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf) >

- 18 December 2007 Board Resolution (/resources/board-material/minutes-2007-12-18-en) that approved changes to .TEL's Registration Data Directory Service (Whois) requirements

What factors has the Board found to be significant?

The Board carefully considered the public comments received for the Renewal Registry Agreement, along with the summary and analysis of those comments. The Board also considered the terms agreed to by the Registry Operator as part of the bilateral negotiations with ICANN (Internet Corporation for Assigned Names and Numbers). The Board acknowledges the concerns expressed by some community members regarding suggested improvements that should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended. However, the terms of the .TEL Registry Agreement set forth the contractual obligations that must be fulfilled by Telnic Limited in its operation of the .TEL registry but do not prescribe or proscribe the Registry Operators' business model. Additionally, the Staff Report of Public Comment Proceeding (/en/system/files/files/report-comments-tel-renewal-07oct16-en.pdf) encouraged those commenters that desire to see changes in the business model of the .TEL registry to contact Telnic Limited to discuss these matters.

The Board acknowledges the request for clarity over the RPM (Rights Protection Mechanism) language proposed in Section 1 of Specification 7 regarding applicability and implementation of applicable rights protection mechanisms. While the revisions to Specification 7 were consistent with prior legacies, a modification was made to the language of the Renewal Registry Agreement for .TEL to address the comment. The revision is now reflected in Section 1 of Specification 7 of the revised Renewal Registry Agreement to read "Registry Operator will include all RPMs required by this Specification and any additional RPMs developed and

implemented by Registry Operator in the registry-registrar agreement entered into by ICANN (Internet Corporation for Assigned Names and Numbers)-accredited registrars authorized to register names in the TLD (Top Level Domain)."

The Board acknowledges the concerns raised with continuing the unique Registration Data Directory Service that the Board approved in 2007 for the .TEL TLD (Top Level Domain). The Board notes the 18 December 2007 Board Resolution (/resources/board-material/minutes-2007-12-18-en) that approved changes to .TEL's Registration Data Directory Service (Whois) requirements was based on unique business and legal circumstances stating, "…the Board concludes that the requested modifications are justified by the unique business and legal circumstances of the .TEL top-level domain…" After conferring with Telnic Limited, ICANN (Internet Corporation for Assigned Names and Numbers) has confirmed that, to the knowledge of the Registry Operator, the legal circumstances related to Registration Data Directory Service (Whois) have not changed. Therefore, the Registration Data Directory Service (Whois) requirements which were ultimately replicated from the prior agreement between ICANN (Internet Corporation for Assigned Names and Numbers) and Telnic Limited will be retained in the Renewal Registry Agreement.

Additionally, the Board has considered comments regarding the continued operation of .TEL by Telnic Limited, including concerns that Telnic has violated ICANN (Internet Corporation for Assigned Names and Numbers)'s requirements several times and Telnic no longer has stable financials to continue the operation of .TEL. As part of the renewal process ICANN (Internet Corporation for Assigned Names and Numbers) conducts a review of contractual compliance under the .TEL Registry Agreement. Telnic Limited was found to be in substantial compliance with their contractual requirements. Also, during the past 10 years of operation, ICANN (Internet Corporation for Assigned Names and Numbers) has no knowledge of Telnic Limited experiencing financial or other operational impediments that have caused a failure of registry operations or security and stability concerns. If Telnic Limited were to experience financial problems that resulted in the Registry Operator failing to comply with its obligations under the Registry Agreement, ICANN (Internet Corporation for Assigned Names and Numbers) can take action to protect registrants and ensure continuity of registry operations.

Finally, the Board notes that existing Registry Agreement calls for presumptive renewal of the Agreement at its expiration so long as certain requirements are met. These provisions are intended to promote stability and security of the registry by encouraging long-term investment in TLD (Top Level Domain) operations, which benefits the community in the form of reliable operation of registry infrastructure. The Renewal Registry Agreement is subject to the negotiation of renewal terms reasonably acceptable to ICANN (Internet Corporation for Assigned Names and Numbers) and the Registry Operator. The renewal terms approved by the Board are the result of the bilateral negotiations called for in the current Registry Agreement.

Are there positive or negative community impacts?

The Board's approval of the Renewal Registry Agreement also offers positive technical and operational benefits. Pursuant to the Renewal Registry Agreement, in the event that any of the emergency thresholds for registry functions is reached, Registry Operator agrees that ICANN (Internet Corporation for Assigned Names and Numbers) may designate an emergency interim Registry Operator of the registry for the TLD (Top Level Domain), which would mitigate the risks to the stability and security of the Domain Name (Domain Name) System. Also, technical onboarding of the Registry Operator to comply with the provisions in the New gTLD (generic Top Level Domain) Agreement will allow the registry to use uniform and automated processes, which will facilitate operation of the TLD (Top Level Domain).

There will also be positive impacts on registrars and registrants. The transition to the New gTLD (generic Top Level Domain) Registry Agreement will provide consistency across all registries leading to a more predictable environment for end-users and also the fact that the proposed Renewal Registry Agreement requires that the Registry Operator uses ICANN (Internet Corporation for Assigned Names and Numbers) accredited registrars that are party to the 2013 Registrar Accreditation Agreement (RAA (Registrar Accreditation Agreement)) only will provide more benefits to registrars and registrants.

Are there fiscal impacts or ramifications on ICANN (Internet Corporation for Assigned Names and Numbers) (strategic plan, operating plan, budget); the community; and/or the public?

There is no significant fiscal impact expected if ICANN (Internet Corporation for Assigned Names and Numbers) approves the proposed .TEL Renewal Registry Agreement. It should be noted however that as a result of approval of the Renewal Registry Agreement, projected annual registry fees to ICANN (Internet Corporation for Assigned Names and Numbers) will result in a minimal negative fiscal impact. This change has been considered in ICANN (Internet Corporation for Assigned Names and Numbers)'s budget.

Are there any security, stability or resiliency issues relating to the DNS (Domain Name System)?

There are no expected security, stability, or resiliency issues related to the DNS (Domain Name System) if ICANN (Internet Corporation for Assigned Names and Numbers) approves the proposed .TEL Renewal Registry Agreement. The proposed Renewal Registry Agreement in fact includes terms intended to allow for swifter action in the event of certain threats to the security or stability of the DNS (Domain Name System). As part of ICANN (Internet Corporation for Assigned Names and Numbers)'s organizational administrative function, ICANN (Internet Corporation for Assigned Names and Numbers) posted the draft Renewal Registry Agreement for public comment on 04 August 2016.

h. Thank You to Community Members

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) wishes to acknowledge the considerable effort, skills, and time that members of the stakeholder community contribute to ICANN (Internet Corporation for Assigned Names and Numbers).

Whereas, in recognition of these contributions, ICANN (Internet Corporation for Assigned Names and Numbers) wishes to acknowledge and thank members of the community when their terms of service end on the Supporting Organizations (Supporting Organizations), Advisory Committees (Advisory Committees) and Nominating Committee.

Whereas, the following members of the Address Supporting Organization (Supporting Organization) are concluding their terms of service:

- Dmitry Kohmanyuk, Address Supporting Organization (Supporting Organization) Address Council Member

- John Sweeting, Address Supporting Organization (Supporting Organization) Address Council Member

Resolved (2016.11.08.08), Dmitry Kohmanyuk and John Sweeting have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the County Code Names Supporting Organization (Supporting Organization) are concluding their terms of service:

- Becky Burr, County Code Names Supporting Organization (Supporting Organization) Council Member

- Celia Lerman Friedman, County Code Names Supporting Organization (Supporting Organization) Council Member

- Vika Mpisane, County Code Names Supporting Organization (Supporting Organization) Council Member

- Ron Sherwood, County Code Names Supporting Organization (Supporting Organization) Liaison to the At-Large Advisory Committee (Advisory Committee)

Resolved (2016.11.08.09), Becky Burr, Celia Lerman Friedman, Vika Mpisane, and Ron Sherwood have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the Generic Names Supporting Organization (Supporting Organization) are concluding their terms of service:

- David Cake, Generic Names Supporting Organization (Supporting Organization) Councilor

- Mason Cole, Generic Names Supporting Organization (Supporting Organization) Liaison to the Governmental Advisory Committee (Advisory Committee)

- Jennifer Gore, Generic Names Supporting Organization (Supporting Organization) Councilor

- Volker Greimann, Generic Names Supporting Organization (Supporting Organization) Councilor

- Carlos Ra (Registrar)úl Gutiérrez, Councilor

- Michele Neylon, Registrar Stakeholder Group Chair

- Darcy Southwell, Registrar Stakeholder Group Vice Chair

- Rudi Vansnick, Not-for-Profit Operational Concerns Constituency Chair

Resolved (2016.11.08.10), David Cake, Mason Cole, Jennifer Gore, Vo ker Greimann, Carlos Ra (Registrar)úl Gutiérrez, Michele Neylon, Darcy Southwell, and Rudi Vansnick have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the At-Large community are concluding their terms of service:

- Satish Babu, Asian, Australasian and Pacific Islands Regional At-Large Organization Vice Chair

- Humberto Carrasco, Latin American and Caribbean Islands Regional At-Large Organization Secretariat

- Olivier Crépin-Leblond, At-Large Advisory Committee (Advisory Committee) Liaison to the Generic Names Supporting Organization (Supporting Organization)

- Timothy Denton, At-Large Advisory Committee (Advisory Committee) Member

- Sandra Hoferichter, At-Large Advisory Committee (Advisory Committee) Member

- Barrack Otieno, African Regional At-Large Organization Secretariat

- Vanda Scartezini, At-Large Advisory Committee (Advisory Committee) Member

- Jimmy Schulz, At-Large Advisory Committee (Advisory Committee) Member

- Alberto Soto, Latin American and Car bbean Islands Regional At-Large Organization Chair

- Siranush Vardanyan, Asian, Australasian and Pacific Islands Regional At-Large Organization Chair

Resolved (2016.11.08.11), Satish Babu, Humberto Carrasco, Olivier Crépin-Leblond, Timothy Denton, Sandra Hoferichter, Barrack Otieno, Vanda Scartezini, Jimmy Schulz, Alberto Soto, and Siranush Vardanyan have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the Root Server System Advisory Committee (Advisory Committee) are concluding their terms of service:

- Jim Cassell, Member

- Ashley Heineman, National Telecommunications and Information Administration Liaison to the Root Server System Advisory Committee (Advisory Committee)

- Lars-Johan Liman, Co-Chair

- Jim Martin, Member

Resolved (2016.11.08.12), Jim Cassell, Ashley Heineman, Lars-Johan Liman, and Jim Martin have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following member of the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) is concluding his term of service:

- Shinta Sato, Member

Resolved (2016.11.08.13), Shinta Sato has earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for his terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes him well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the Nominating Committee are concluding their terms of service:

- Stephen Coates, Member

- Sylvia Herlein Leite, Member

- Hans Petter Holen, Chair-Elect

- Zahid Jamil, Member

- Wolfgang Kleinwächter, Associate Chair

- Yrjö Länsipuro, Member

- Stéphane Van Gelder, Chair

Resolved (2016.11.08.14), Stephen Coates, Sylvia Herlein Leite, Hans Petter Holen, Zahid Jamil, Wolfgang Kleinwächter, Yrjö Länsipuro, and Stéphane Van Gelder have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

i. Thank You to Local Host of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

The Board wishes to extend its thanks to the local host organizer, Minister Ravi Shankar Prasad and the Government of India including Ministry of Electronics and Information Technology, Ministry of External Affairs, National Security (Security – Security, Stability and Resiliency (SSR)) Council Secretariat, Ministry of Home Affairs, Government of Telangana and National Internet Exchange of India (NIXI).

j. Thank You to Sponsors of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

The Board wishes to thank the following sponsors: CentralNic, Knipp Median und Communication GmbH, Afilias plc, Public Interest Registry, China Internet Network Information Center, Nominet, Web Werks India Pvt. Ltd., Radix FZC, Verisign, .blog, Directi Web Technology Private Limited, BNSL, Tata Tele Services, Atria Convergence Technologies Pvt. Ltd. (ACT) and GMR.

k. Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

The Board expresses its deepest appreciation to the scribes, interpreters, audiovisual team, technical teams, and the entire ICANN (Internet Corporation for Assigned Names and Numbers) staff for their efforts in facilitating the smooth operation of the meeting.

The Board would also l ke to thank the management and staff of the Hyderabad International Convention Center for providing a wonderful facility to hold this event. Special thanks are extended to V jay Ramnath Ugale, Event Manager; Varun Mehrotra, Director of Sales - Meetings & Events; Gorav Arora, Director of Sales and Marketing; Shyam Sunder, Director of Convention; Ravindra Reddy, Assistant Manager of Client Services; Johnet Pereira, Manager of Client Services; Rambabu Talluri, IT Manager; Anand Prakash Ravi, Operational Manager; Ramu Dasari, Asst. Manager of Client Services; Mr. Ranjan Alu, Asst. Manager F&B; Executive Chef Amanaraju; and Gilbert Yeo from Pryde Live.

All members of the Board present voted in favor of Resolutions 2016.11.08.01, 2016.11.08.02, 2016.11.08.03, 2016.11.08.04, 2016.11.08.05, 2016.11.08.06, 2016.11.08.07, 2016.11.08.08, 2016.11.08.09, 2016.11.08.10, 2016.11.08.11, 2016.11.08.12, 2016.11.08.13, and 2016.11.08.14. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolutions. The Resolutions carried.

2. Main Agenda:

a. Two-Character Domain Names in the New gTLD (generic Top Level Domain) Namespace

Bruce Tonkin introduced the agenda item. He stated that the topic of two-character domain names corresponding to country codes had been heavily examined over the past two years, and noted that there were at least five public comment periods on the topic as well as discussions with the Governmental Advisory Committee (Advisory Committee) (GAC (Governmental Advisory Committee)). Bruce explained that the Board examined the issue with respect to ICANN (Internet Corporation for Assigned Names and Numbers)'s mission, commitments and core values, and commented that the Board shared the GAC (Governmental Advisory Committee)'s concern that use of two-character strings corresponding to country codes should not be done in a way to deceive or confuse consumers. He stated that the Board's position is that the proposed resolution being considered is consistent with the GAC (Governmental Advisory Committee)'s advice on the topic.

Bruce Tonkin moved and Kuo-Wei Wu seconded the proposed resolutions. The Board took the following action:

Whereas, Specification 5, Section 2 of the New gTLD (generic Top Level Domain) Registry Agreement requires registry operators to reserve two-character ASCII labels within the TLD (Top Level Domain) at the second level. The reserved two-character labels "may be released to the extent that Registry Operator reaches agreement with the related government and country-code manager of the string as specified in the ISO (International Organization for Standardization) 3166-1 alpha-2 standard. The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN (Internet Corporation for Assigned Names and Numbers)."

Whereas, the GAC (Governmental Advisory Committee) has issued advice to the Board in various communiqués on two-character domains. The Los Angeles Communiqué (/en/system/files/correspondence/gac-to-board-15oct14-en.pdf) (15 October 2014) stated, "The GAC (Governmental Advisory Committee) recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC (Governmental Advisory Committee) is not in a position to offer consensus advice on the use of two-character second level domains names in new gTLD (generic Top Level Domain) registry operations, including those combinations of letters that are also on the ISO (International Organization for Standardization) 3166-1 alpha 2 list." The GAC (Governmental Advisory Committee) also issued advice in the Singapore Communiqué (/en/system/files/correspondence/gac-to-board-11feb15-en.pdf) (11 February 2015) and the Dublin Communiqué (/en/system/files/correspondence/gac-to-board-21oct15-en.pdf) (21 October 2015).

Whereas, on 16 October 2014, the Board directed ICANN (Internet Corporation for Assigned Names and Numbers) to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD (generic Top Level Domain) Registry Agreement, taking into account the GAC (Governmental Advisory Committee)'s advice in the Los Angeles Communiqué on the matter. ICANN (Internet Corporation for Assigned Names and Numbers) launched this procedure (the "Authorization Process") on 1 December 2014.

Whereas, as part of the Authorization Process, ICANN (Internet Corporation for Assigned Names and Numbers) launched a community consultation process to help develop a standard set of proposed measures to avoid confusion with country codes. The measures were intended to be mandatory for new gTLD (generic Top Level Domain) registries seeking to release reserved letter/letter two-character labels.

Whereas, in the GAC (Governmental Advisory Committee)'s Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf) (30 June 2016), the GAC (Governmental Advisory Committee) advised the Board to "urge the relevant Registry or the Registrar to engage with the relevant GAC (Governmental Advisory Committee) members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered." The advice was incorporated in the proposed measures to avoid confusion.

Whereas, on 8 July 2016, ICANN (Internet Corporation for Assigned Names and Numbers) published for public comment the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf), which listed measures registry operators could adopt to avoid confusion with corresponding country codes. The measures incorporated the GAC (Governmental Advisory Committee)'s advice issued in the Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf). Forty-three comments were submitted by individuals, governments and groups/organizations.

Whereas, the Board considered the public comments, the staff summary and analysis report of public comments, and GAC (Governmental Advisory Committee) advice. The proposed measures were updated to take into account the public comments and GAC

(Governmental Advisory Committee) advice relating to the proposed measures and two-
character labels.

Resolved (2016.11.08.15), the Measures for Letter/Letter Two-Character ASCII Labels to
Avoid Confusion with Corresponding Country Codes (/en/system/files/files/revised-
measures-ltr-ltr-two-char-ascii-labels-country-codes-08nov16-en.pdf) as revised are
approved, and the President and CEO, or his designee(s), is authorized to take such
actions as appropriate to authorize registry operators to release at the second level the
reserved letter/letter two-character ASCII labels not otherwise reserved pursuant to
Specification 5, Section 6 of the Registry Agreement, subject to these measures.

**All members of the Board present voted in favor of Resolution 2016.11.08.15. Lito
Ibarra abstained from voting on the Resolution. In abstaining from the vote, Lito
made the following statement:**

> *Some months ago LACTLD (Latin American and Caribbean ccTLDs), the
> association of ccTLDs registries for Latin American, the Caribbean, made public a
> declaration on this issue. I, being a member of LACTLD (Latin American and
> Caribbean ccTLDs), endorse publicly this declaration. And although it -- it is not
> that different from the resolution, I would rather abstain in this opportunity.*

**Bruno Lanvin and Erika Mann were unavailable to vote on the Resolution. The
Resolution carried.**

Rationale for Resolution 2016.11.08.15

Why the Board is addressing the issue?

On 16 October 2014, the Board adopted a resolution directing staff to develop and
implement an efficient procedure for the release of two-character domains currently
required to be reserved in the New gTLD (generic Top Level Domain) Registry
Agreement, taking into account the GAC (Governmental Advisory Committee)'s advice in
the Los Angeles Communiqué (/en/system/files/correspondence/gac-to-board-15oct14-
en.pdf) on the matter.

For nearly two and a half years, ICANN (Internet Corporation for Assigned Names and
Numbers) has been developing and implementing a procedure as directed by the Board.
On 1 December 2014, ICANN (Internet Corporation for Assigned Names and Numbers)
launched the first phase of the procedure, an Authorization Process for Release of Two-
Character ASCII Labels (/resources/two-character-labels). The finalization of this
procedure is the implementation of a framework containing standardized measures
registry operators can implement to avoid confusion, in accordance with the Registry
Agreement, and allow for the release of all letter/letter two-character ASCII labels
corresponding with country codes not otherwise reserved pursuant to Specification 5,
Section 6 of the Registry Agreement.

The GAC (Governmental Advisory Committee) has issued advice on this topic in various
communiqués over the past two years including, most recently, the Helsinki Communiqué
(/en/system/files/correspondence/gac-to-board-30jun16-en.pdf). Per Article XI, Section
2.1 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws
(http://www.icann.org/en/about/governance/bylaws#XI), the GAC (Governmental Advisory
Committee) may "put issues to the Board directly, either by way of comment or prior
advice, or by way of specifically recommending action or new policy development or
revision to existing policies." The ICANN (Internet Corporation for Assigned Names and
Numbers) Bylaws require the Board to take into account the GAC (Governmental
Advisory Committee)'s advice on public policy matters in the formulation and adoption of
the policies.

What is the proposal being considered?

The proposal is to address requests from registry operators to release reserved letter/letter two-character ASCII labels and the advice from the GAC (Governmental Advisory Committee) on reserved letter/letter labels. The Board is taking action to approve the Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, as revised. By approving the revised measures, the Board is authorizing ICANN (Internet Corporation for Assigned Names and Numbers) to issue a blanket authorization that allows new gTLD (generic Top Level Domain) registry operators who implement the required measures to release all reserved letter/letter two-character ASCII labels not otherwise reserved pursuant to Specification 5, Section 6 of the New gTLD (generic Top Level Domain) Registry Agreement. The current authorization process, whereby a registry operator submits an individual request subject to 60-day comment period and ICANN (Internet Corporation for Assigned Names and Numbers)'s review of comments, will be retired.

Which stakeholders or others were consulted?

ICANN (Internet Corporation for Assigned Names and Numbers) initiated multiple public comment periods and consulted with various stakeholders on this matter over a period of nearly two and a half years.

From June through September 2014, ICANN (Internet Corporation for Assigned Names and Numbers) staff initiated five public comment forums to obtain feedback from the community on the amendments that resulted from various RSEPs to implement the proposed new registry service of releasing from reservation two-character ASCII labels[1] for 203 TLDs. Various members of the community submitted comments, including the At-Large Advisory Committee (Advisory Committee) (ALAC (At-Large Advisory Committee)), gTLD (generic Top Level Domain) registry operators, the Brand Registry Group (BRG (Brand Registry Group)), INTA (International Trademark Association) Internet Committee (INTA (International Trademark Association)), the Business Constituency (BC (Business Constituency)), the Intellectual Property Constituency (IPC (Intellectual Property Constituency)) and a registrar.

Since 1 December 2014 at the launch of the Authorization Process for Release from Two-Character ASCII Labels (/resources/two-character-labels), all authorization requests for letter/letter two-character ACII labels were subject to a comment period. Over 646 requests have been received under this process.

Throughout the nearly two and a half years, ICANN (Internet Corporation for Assigned Names and Numbers) notified 1) the GAC (Governmental Advisory Committee) for amendments posted from June through September 2014 and 2) governments for requests under the Authorization Process since December 2014, when two-character requests from registry operators were posted for comment. The GAC (Governmental Advisory Committee) had not submitted comments under the Public Comment Periods for the amendments to release two-character labels. Under the Authorization Process, the GAC (Governmental Advisory Committee) had not submitted comments, but various individual governments submitted comments on requests.

On 6 October 2015, ICANN (Internet Corporation for Assigned Names and Numbers) corresponded with governments who previously submitted comments requesting that clarification of their comments be provided via a new comment form within 60 days; new comments were required to be submitted via the new comment form.

On 25 February 2016, ICANN (Internet Corporation for Assigned Names and Numbers) corresponded with registry operators requesting they provide proposed measures to avoid confusion with corresponding country codes in order to respond to governments' confusion concerns within 60 days.

On 8 July 2016, taking into consideration the inputs from governments and registry operators, ICANN (Internet Corporation for Assigned Names and Numbers) published for public comment the Proposed Measures for Letter/Letter Two-Character ASCII Labels to

Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf), which listed measures registry operators could adopt to avoid confusion with corresponding country codes and which incorporated the GAC (Governmental Advisory Committee)'s advice issued in its Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf). As part of the proposal, registry operators who adopt the measures would be authorized to release all letter/letter two-character ASCII labels not otherwise reserved in other sections of the Registry Agreement, and the current process would be retired. Forty-three comments were received, including comments from the RySG (Registries Stakeholder Group), the BRG (Brand Registry Group), the IPC (Intellectual Property Constituency), the NCSG (Non-Commercial Stakeholders Group), LACTLD (Latin American and Caribbean ccTLDs), various governments, ccTLD (Country Code Top Level Domain) registry operators and gTLD (generic Top Level Domain) registry operators.

What concerns or issues were raised by the community?

From the five public comment periods from 2014 on registry agreement amendments that resulted from RSEPs, the majority of the comments received were in favor of the release of two-character domain names.

The arguments made in favor of the release of the two-character domain names included:

- The introduction of two-character domain names would increase competition since the current restrictions hinder competition, in particular for the new gTLDs, which are competing with legacy TLDs that are allowed to offer such registrations. The current restrictions to the new gTLD (generic Top Level Domain) registry operators create a discriminatory situation, which is contrary to the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws Article II, Section 3 that provide for Non-Discriminatory Treatment of ICANN (Internet Corporation for Assigned Names and Numbers) stakeholders.

- The introduction of two-character domain names poses a limited risk of confusion, or no risk at all, as demonstrated by prior use of two-character domain names in existing TLDs.

- The release of two-character domain names would provide opportunities for companies and brands to have tailored segmented domain names to connect with the public as well as provide localized content, thus expanding consumer choice and driving economic growth, in particular in developing countries.

- There is uniform precedent regarding the release of two-character domain names in the history of relevant RSEP (Registry Services Evaluation Policy) requests.

- The release of country codes and names is allowed by the Applicant Guidebook.

The arguments made in opposition to the release of the two-character domain names expressed two general concerns: the first concern is related to the general recognition and associated use of the two character domain names leading to user confusion or abuse; the second concern is how to specifically protect ccTLDs when country and territory names are newly formed.

From the public comment forum for the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf), which established a standard set of registry operator requirements to avoid confusion, comments indicated support for the release of two-character labels reserved pursuant to Specification 5, Section 2 of the New gTLD (generic Top Level Domain) Registry Agreement overall, including comments of support from the NCSG (Non-Commercial Stakeholders Group), IPC (Intellectual Property Constituency) and RySG (Registries Stakeholder Group) among others. Comments noted that the Registry Agreement allows for two paths by which registry operators may release two-character labels: one path of agreement with

the government and country-code manager, and a second path of ICANN (Internet Corporation for Assigned Names and Numbers) approval.

There was moderate support for the Proposed Measures to the extent the Proposed Measures allows for the release of two-character labels, including comments of support from the RySG (Registries Stakeholder Group) and BRG (Brand Registry Group) among others. Comments that seem to generally support the Proposed Measures made specific suggestions about how the framework could be improved, such as noting that two of the three proposed measures (registration policy and post-registration investigation) pertained to confusion and suggesting one measure (exclusive availability pre-registration period) be made voluntary.

Some commenters took the position that governments do not have special rights to two-character labels that correspond with country codes, and that the labels should be released as soon as possible. Conversely, some governments and ccTLD (Country Code Top Level Domain) operators commented with objections to the release of two-character labels that correspond with country codes and took the position that government and/or ccTLD (Country Code Top Level Domain) operator approval is required.

Over the past two years, the GAC (Governmental Advisory Committee) has issued advice through various communiqués and formal correspondence to ICANN (Internet Corporation for Assigned Names and Numbers). Members of the GAC (Governmental Advisory Committee) have varying views on the topic. In the Los Angeles Communiqué (/en/system/files/correspondence/gac-to-board-15oct14-en.pdf) (15 October 2014), the GAC (Governmental Advisory Committee) stated, "The GAC (Governmental Advisory Committee) recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC (Governmental Advisory Committee) is not in a position to offer consensus advice on the use of two-character second level domains names in new gTLD (generic Top Level Domain) registry operations, including those combinations of letters that are also on the ISO (International Organization for Standardization) 3166-1 alpha 2 list." In the Helsinki Communiqué (https://gacweb.icann.org/download/attachments/27132037/20160630_GAC%20ICANN%2056%20Communique_FINAL%20%5B1%5D.p version=1&modificationDate=1469016353728&api=v2) (30 June 2016), the GAC (Governmental Advisory Committee) stated, "Some countries and territories have stated they require no notification for the release of their 2 letter codes for use at the second level. The GAC (Governmental Advisory Committee) considers that, in the event that no preference has been stated, a lack of response should not be considered consent. Some other countries and territories require that an applicant obtains explicit agreement of the country/territory whose 2-letter code is to be used at the second level."

The Singapore Communiqué (/en/system/files/correspondence/gac-to-board-11feb15-en.pdf) (11 February 2015) and Dublin Communiqué (/en/system/files/correspondence/gac-to-board-21oct15-en.pdf) (21 October 2015) advised improvements to the process such as extending the comment period from 30 days to 60 days and working with the GAC (Governmental Advisory Committee) Secretariat to address technical issues on the comment form. In both communiqués, the GAC (Governmental Advisory Committee) advised that comments from relevant governments should be fully considered. In its Helsinki Communiqué (https://gacweb.icann.org/download/attachments/27132037/20160630_GAC%20ICANN%2056%20Communique_FINAL%20%5B1%5D.p version=1&modificationDate=1469016353728&api=v2), the GAC (Governmental Advisory Committee) also advised the Board to "urge the relevant Registry or the Registrar to engage with the relevant GAC (Governmental Advisory Committee) members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered."

What significant materials did the Board review? What factors did the Board find to be significant?

The Board reviewed several materials and also considered several significant factors during its deliberations about whether or not to approve the request. The significant materials and factors that the Board considered as part of its deliberations, included, but not limited to the following:

- Specification 5, Section 2 of the New gTLD (generic Top Level Domain) Registry Agreement (https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.htm) (updated 9 January 2014)

- RSTEP (Registry Services Technical Evaluation Panel) Report on the Proposal for the Limited Release of Initially Reserved Two-Character Names (/en/system/files/files/rstep-gnr-proposal-review-team-report-04dec06-en.pdf) (4 December 2006)

- Correspondence from the Board to the GAC (Governmental Advisory Committee) regarding requests for release of two-character labels as second-level domains in New gTLDs (/en/system/files/correspondence/crocker-to-dryden-2-02sep14-en.pdf) (2 September 2014)

- Correspondence from the GAC (Governmental Advisory Committee) to the Board regarding requests for release of two-character labels as second-level domains in New gTLDs (/en/system/files/correspondence/dryden-to-crocker-10sep14-en.pdf) (10 September 2014)

- GAC (Governmental Advisory Committee) Los Angeles Communiqué (/en/system/files/correspondence/gac-to-board-15oct14-en.pdf) (15 October 2014)

- ICANN (Internet Corporation for Assigned Names and Numbers) Board Resolution 2014.10.16.14: Introduction of Two-character Domain Names in the New gTLD (generic Top Level Domain) Namespace (/resources/board-material/resolutions-2014-10-16-en#2.b) (16 October 2014)

- Authorization Process for Release of Two-Character ASCII Labels (/resources/two-character-labels) (launched 1 December 2014, last updated 14 April 2016)

- GAC (Governmental Advisory Committee) Singapore Communiqué (/en/system/files/correspondence/gac-to-board-11feb15-en.pdf) (11 February 2015)

- ICANN (Internet Corporation for Assigned Names and Numbers) Board Resolution 2015.02.12.2016: Release of Two-Letter Codes at the Second Level in gTLDs (/resources/board-material/resolutions-2015-02-12-en#2.a) (12 February 2015)

- Correspondence from RySG (Registries Stakeholder Group) to the President of the Global Domains Division regarding the treatment of government comments on requests to release two-character ASCII labels (/en/system/files/correspondence/rysg-to-atallah-13mar15-en.pdf) (13 March 2015)

- Response from the President of the Global Domains Division to the RySG (Registries Stakeholder Group) regarding the treatment of government comments on requests to release two-character ASCII labels (/en/system/files/correspondence/atallah-to-rysg-23mar15-en.pdf) (23 March 2015)

- Joint Correspondence from the BRG (Brand Registry Group), the BC (Business Constituency) and the IPC (Intellectual Property Constituency) to the Board regarding the release of 2-letter labels and country names for Specification 13 registries (/en/system/files/correspondence/sutton-cooper-shatan-to-crocker-14apr15-en.pdf) (14 April 2015)

- Response from the President of the Global Domains Division to the BRG (Brand Registry Group), the BC (Business Constituency) and the IPC (Intellectual Property Constituency) regarding the release of 2-letter labels and country names for Specification 13 registries (/en/system/files/correspondence/atallah-to-sutton-et-al-15jun15-en.pdf) (15 June 2015)

- Correspondence from GAC (Governmental Advisory Committee) to the President of the Global Domains Division regarding two-character codes as Second Level Domains (/en/system/files/correspondence/schneider-to-atallah-16jul15-en.pdf) (16 July 2015)

- Response from the President of the Global Domains Division to the GAC (Governmental Advisory Committee) regarding two-character codes as Second Level Domains (/en/system/files/correspondence/atallah-to-schneider-1-06aug15-en.pdf) (6 August 2015)

- Two-Character Letter/Letter Labels Comments Consideration Process (/resources/pages/two-character-comments-consideration-2015-10-06-en) (launched 8 October 2015, last updated 25 February 2016)

- GAC (Governmental Advisory Committee) Dublin Communiqué (/en/system/files/correspondence/gac-to-board-21oct15-en.pdf) (21 October 2015)

- Correspondence from RySG (Registries Stakeholder Group) to the Board regarding advice contained in the GAC (Governmental Advisory Committee)'s Dublin communiqué regarding the use of two-letter country codes (/en/system/files/correspondence/diaz-to-crocker-09nov15-en.pdf) (9 November 2015)

- Response from the Board to the RySG (Registries Stakeholder Group) regarding advice contained in the GAC (Governmental Advisory Committee)'s Dublin communiqué regarding the use of two-letter country codes (/en/system/files/correspondence/chalaby-to-diaz-30mar16-en.pdf) (30 March 2016)

- GAC (Governmental Advisory Committee) Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf) (30 June 2016)

- Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf) (8 July 2016)

- Public Comment Summary and Analysis Report on Proposed Measures (/en/system/files/files/report-comments-proposed-measures-two-char-ascii-23sep16-en.pdf) (23 September 2016)

- Correspondence from the Secretariat General of the Cooperation Council for the Arab States of the Gulf to the ICANN (Internet Corporation for Assigned Names and Numbers) President and CEO regarding the proposed measures for letter/letter two-character ASCII labels (https://www.icann.org/en/system/files/correspondence/al-zayani-to-marby-03oct16-en.pdf) (3 October 2016)

- Correspondence from the Communication and Information Technology Regulatory Authority of Kuwait to the ICANN (Internet Corporation for Assigned Names and Numbers) President and CEO regarding the proposed measures for letter/letter two-character ASCII labels (https://www.icann.org/en/system/files/correspondence/al-rawahi-to-marby-13oct16-en.pdf) (12 October 2016)

Are there positive or negative community impacts? Are there fiscal impacts or ramifications on ICANN (Internet Corporation for Assigned Names and Numbers) (strategic plan, operating plan, budget); the community; and/or the public? Are there any security, stability or resiliency issues relating to the DNS (Domain Name System)?

The overall impact on the community is anticipated to be positive as new opportunities for diversification, competition and targeted content creation in the gTLD (generic Top Level Domain) namespace are created, while minimal risk of user confusion has been identified.

It is not expected that there will be any significant fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers).

In December 2006, the Registry Services Technical Evaluation Panel (RSTEP (Registry Services Technical Evaluation Panel)) issued a report (/en/system/files/files/rstep-gnr-proposal-review-team-report-04dec06-en.pdf) regarding the release of two-character labels and found that "taken in the context of our overall understanding, none of the observations point to the proposed release of two-character Second Level Domain having a material security or stability impact on the Internet." Additionally, these names are not reserved in many legacy TLDs, which have not caused apparent security, stability or resiliency issues in relation to the DNS (Domain Name System).

It is expected that the release of these names in new gTLDs will not cause security, stability or resiliency issues.

Is this either a defined policy process within ICANN (Internet Corporation for Assigned Names and Numbers)'s Supporting Organizations (Supporting Organizations) or ICANN (Internet Corporation for Assigned Names and Numbers)'s Organizational Administrative Function decision requiring public comment or not requiring public comment?

This is an Organizational Administrative Function for which public comments were received.

b. Consideration of the *Corn Lake, LLC v. ICANN (Internet Corporation for Assigned Names and Numbers)* Independent Review Process Final Declaration

John Jeffrey introduced the agenda item, and stated that the Board's consideration of the proposed resolutions is a step in the process requiring the Board to review the findings and recommendations arising from the Independent Review Process. He noted that the specific case before the Board is the Independent Review Panel's Final Declaration concerning *Corn Lake, LLC v. ICANN (Internet Corporation for Assigned Names and Numbers)*.

Chris Disspain, Chair of the Board Governance Committee, highlighted that the Board Governance Committee is reviewing several of the Final Declarations issued by Independent Review Panels, especially those that relate to the Community Priority Evaluation process that is part of the New gTLD (generic Top Level Domain) Program.

Steve Crocker moved and Chris Disspain seconded the proposed resolutions. The Board took the following action:

Whereas, on 19 October 2016, ICANN (Internet Corporation for Assigned Names and Numbers) received the Independent Review Process (IRP) Final Declaration in the IRP filed by Corn Lake, LLC (Corn Lake) against ICANN (Internet Corporation for Assigned Names and Numbers) (Final Declaration).

Whereas, the IRP Panel declared that: (i) Corn Lake's challenges to the determination rendered by an expert panelist sustaining the Independent Objector's (IO's) Community Objection against Corn Lake's application for .CHARITY (Expert Determination) and the Board Governance Committee's (BGC's) denial of Corn Lake's Reconsideration Request 14-3 challenging the Expert Determination were time-barred; (ii) "the Board acted without conflict [of interest]"; and (iii) "the Board members exercised independent judgment, believed to be in the best interests of the community." (See Final Declaration, ¶¶ 7.14, 8.70, 8.74, https://www.icann.org/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf (/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf).)

Whereas, the Panel further declared that "the [Board] action of omitting .CHARITY from the [the review mechanism to address perceived inconsistent or unreasonable string

confusion objection determinations (Final Review Procedure)] was inconsistent with the Articles of Incorporation and Bylaws." (Final Declaration at ¶ 11.1(b).)

Whereas, the Panel further declared that "Claimant, Corn Lake, is the prevailing party" and that "no costs shall be allocated to the prevailing party." (Final Declaration at ¶¶ 11.1(a), (e).)

Whereas, the Panel recommended that: (1) "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination"; and (2) "the Board continue to stay any action or decision in relation to [Spring Registry Limited's] .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel." (Final Declaration at ¶¶ 11.1(c)-(d).)

Whereas, in accordance with Article IV, section 3.21 of ICANN (Internet Corporation for Assigned Names and Numbers)'s Bylaws, the Board has considered the Final Declaration.

Resolved (2016.11.08.16), the Board accepts the following findings of the Final Declaration: (i) Corn Lake is the prevailing party in the Corn Lake, LLC v. ICANN (Internet Corporation for Assigned Names and Numbers) IRP; (ii) Corn Lake's challenges to the Expert Determination and the BGC's denial of Corn Lake's Reconsideration Request 14-3 were time-barred; (iii) the Board acted without conflict of interest; (iv) "the Board members exercised independent judgment, believed to be in the best interests of the community"; (v) "the [Board] action of omitting .CHARITY from the [Final Review Procedure] was inconsistent with the Articles of Incorporation and Bylaws"; and (vi) the parties shall each bear their own costs.

Resolved (2016.11.08.17), the Board directs the President and CEO, or his designee(s), to take all steps necessary to implement the Panel's recommendation that "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination."

Resolved (2016.11.08.18), the Board directs the President and CEO, or his designee(s), to refrain from taking any further action or decision in relation to Spring Registry Limited's .CHARITY application until after the results of the Final Review Procedure are known, and then to proceed pursuant to established processes with the processing of both Corn Lake's and Spring Registry Limited's applications in accordance with the results of Final Review Procedure.

All members of the Board present voted in favor of Resolutions 2016.11.08.16 – 2016.11.08.18. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolutions. The Resolutions carried.

Rationale for Resolutions 2016.11.08.16 – 2016.11.08.18

Corn Lake, LLC (Corn Lake) initiated Independent Review Process (IRP) proceedings challenging: (1) the determination rendered by an expert panelist sustaining the Independent Objector's (IO's) community objection against Corn Lake's application for .CHARITY (Expert Determination); (2) the Board Governance Committee's (BGC's) denial of Corn Lake's Reconsideration Request 14-3 challenging the Expert Determination; and (3) the Board's decision to not include the Expert Determination in the review mechanism to address perceived inconsistent or unreasonable string confusion objection determinations (Final Review Procedure).

Corn Lake applied to ICANN (Internet Corporation for Assigned Names and Numbers) for the opportunity to operate the .CHARITY new gTLD (generic Top Level Domain). Spring Registry Limited ("SRL") also submitted an application for .CHARITY, and Excellent First Limited (Excellent First) submitted an application for .慈善 (the Chinese translation of "charity"). ICANN (Internet Corporation for Assigned Names and Numbers)'s Independent Objector (IO) filed Community Objections against the two .CHARITY applications, as well as the application for .慈善, meaning charity. The IO was concerned that, among other

things, the lack of any policy restricting registrations in these gTLDs to charitable or not-for-profit organizations created a likelihood of detriment to the rights or legitimate interests of the charity community, to users, and to the general public. (See IO's Community Objection at Para. 46, pgs. 16-17, http://www.independent-objector-newgtlds.org/home/the-independent-objector-s-objections/charity-cty-corn-lake-llc/ (http://www.independent-objector-newgtlds.org/home/the-independent-objector-s-objections/charity-cty-corn-lake-llc/)).

The International Centre for Expertise of the International Chamber of Commerce (ICC (International Chamber of Commerce)) expert panel evaluating the IO's Community Objection to Corn Lake's application rendered a determination (Expert Determination) in favor of the IO, finding that, because Corn Lake's .CHARITY application did not include registration restrictions to charitable organizations, "there is a likelihood of material detriment to the charity sector community were the Application to proceed." The same ICC (International Chamber of Commerce) expert panel also evaluated the IO's Community Objections to SRL's application and Excellent First's application, rendering determinations in favor of SRL and Excellent First Limited. Specifically, the expert panel found that SRL's and Excellent First's commitments set out in their applications to restrict registrations in the applied-for string to charitable organizations was sufficient to negate any concern of material detriment to the targeted community.

On 24 January 2014, Corn Lake filed Reconsideration Request 14-3 (Request 14-3) seeking reversal of the Expert Determination. On 27 February 2014, the Board Governance Committee (BGC) denied Request 14-3, finding no evidence that the expert panel violated any process or policy in reaching its determination.

Separately, in April 2013, the Governmental Advisory Committee (Advisory Committee) (GAC (Governmental Advisory Committee)) recommended in the Beijing Communiqué that the Board adopt eligibility restrictions for "sensitive strings," including .CHARITY. (See Be jing Communiqué at https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf (/en/system/files/correspondence/gac-to-board-11apr13-en.pdf).) The New gTLD (generic Top Level Domain) Program Committee (NGPC) adopted the GAC (Governmental Advisory Committee)'s recommendation by a 5 February 2014 resolution (see https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-02-05-en (/resources/board-material/resolutions-new-gtld-2014-02-05-en)), which, according to the Panel, effectively required that whichever applicant ultimately operated the .CHARITY gTLD (generic Top Level Domain) would need to restrict registrations to charitable organizations. Also at that 5 February 2014 meeting, the NGPC adopted a resolution that authorized the ICANN (Internet Corporation for Assigned Names and Numbers) President and CEO to initiate a public comment period with respect to a proposed review mechanism to address perceived inconsistent string confusion objection determinations (Final Review Procedure). At its creation, the Final Review Procedure was limited to the review of certain string confusion expert determinations for .CAR/.CARS, .CAM/.COM, and .SHOP/.ONLINESHOPPING (in Japanese characters). In March 2014, via the public comment process, Corn Lake's parent company (Donuts, Inc.) asked the Board to extend the Final Review Procedure to perceived inconsistent determinations of community objection, such as that concerning .CHARITY. The Board did not do so when the procedure was implemented in a 12 October 2014 Board resolution ("12 October 2014 Resolution"). (See https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en (/resources/board-material/resolutions-new-gtld-2014-10-12-en).)

Corn Lake's IRP Request, submitted on 24 March 2015, sought a declaration that the ICANN (Internet Corporation for Assigned Names and Numbers) Board's decision not to include the .CHARITY determination in the 12 October 2014 Resolution violates ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles and Bylaws, and also asked the Panel to review the Expert Determination and the BGC's denial of Request 14-3.

On 17 October 2016, the three-member IRP Panel (Panel) issued its Final Declaration, which was circulated to the parties on 19 October 2016. After consideration and

discussion, pursuant to Article IV, Section 3.21 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws, the Board adopts the findings of the Panel, which are summarized below, and can be found in full at https://www.icann.org/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf (/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf).

The Panel held that the IRP request was denied in part and granted in part, and determined Corn Lake to be the prevailing party. (Final Declaration at ¶¶ 7.14, 8.96, 11.1(a).) As a threshold issue, the Panel declared that Corn Lake's challenges to the Expert Determination and the BGC's denial of Request 14-3 were "out of time" and therefore time-barred from consideration in this IRP. (Final Declaration at ¶¶ 7.14, 8.34.)

The Panel also declared that: (i) with respect to setting filing deadlines, "ICANN (Internet Corporation for Assigned Names and Numbers) is entitled and indeed required to establish reasonable procedural rules in its Bylaws, including in respect of filing deadline, in order to provide for orderly management of its review processes" (id. at ¶ 7.9); (ii) "it is now well established that: '…the IRP Panel is charged with 'objectively' determining whether or not the Board's actions are in fact consistent with the Articles, Bylaws and Guidebook, which the Panel understands as requiring that the Board's conduct be appraised independently, and without any presumption of correctness'" (id. at ¶ 8.18); (iii) "[t]here is no suggestion that the Board had a conflict of interest, and the IRP Panel finds that the Board acted without conflict." (id. at ¶ 8.70); and (iv) "[t]here is no indication that the Board members were acting in any way other than in good faith and exercising independent judgment, with the subjective belief that they were acting in the best interests of the community. The IRP Panel finds that the Board members exercised independent judgment, believed to be in the best interests of the community" (id. at ¶ 8.74). The Panel further stated: "[t]his IRP Panel does not suggest that ICANN (Internet Corporation for Assigned Names and Numbers) lacks discretion to make decisions regarding its review processes as set out in the Applicant Guidebook, which may well require it to draw nuanced distinctions between different applications or categories of applications. Its ability to do so must be preserved as being in the best interest of the Internet community as a whole." (Id. at ¶ 8.98).

The Panel stated that "[t]he sole issue before this Panel is whether the Board properly or improperly excluded the .Charity Expert Determinations from the [Final Review Procedure] in the first place." (Final Declaration at ¶ 8.97, fn. 246.) In considering this issue, the Panel noted that the Expert Determination was largely based on the fact that Corn Lake's application originally had not made clear that it would restrict registrations to charitable organizations. The Panel felt that the NGPC's acceptance of the Beijing Communiqué created a "leveling effect," effectively requiring that whichever .CHARITY applicant prevailed, it would be required to implement restricted registration policies. The Panel noted: "We make no finding that the Board's failure to consider the impact of its adoption of the Be jing Communiqué recommendations was malicious or intentional. We find simply that the leveling effect on the eligibility requirements in the pending applications of the new PIC requirement was a material fact that should have been considered, and apparently it was not." (Final Declaration at ¶ 8.73.) The Panel therefore declared that that "the action of omitting .CHARITY from the [Final Review Procedure] was inconsistent with the Articles of Incorporation and Bylaws." (Final Declaration at ¶ 11.1(b).) The Panel noted that its finding "is further supported by the ICANN (Internet Corporation for Assigned Names and Numbers) Board's [later] decision to include the .HOSPITAL Expert Determinations [in the Final Review Procedure], despite those Determinations appearing to have been less clearly within the criteria tha[n] the .CHARITY Determinations." (Final Declaration at ¶ 8.101.) The Panel further noted that "this is a unique situation and peculiar to its own unique and unprecedented facts[; and t]his unique set of circumstances created what was doubtless a difficult situation for ICANN (Internet Corporation for Assigned Names and Numbers) to consider in establishing the scope of the new review process[.]" (Final Declaration at ¶ 8.97.)

The Panel further declared that "these IRP proceedings involve extraordinary circumstances," and therefore "no costs shall be allocated to the Claimant as the

prevailing party," "each Party shall bear its own costs in respect of this IRP Panel proceeding." (Final Declaration at ¶¶ 9.3-9.5.)

In addition, the Panel recommended that: (1) "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination"; and (2) "the Board continue to stay any action or decision in relation to [Spring Registry's] .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel." (Final Declaration at ¶¶ 11.1(c)-(d).) Subsequent to the issuance of the Final Declaration, the Board received a letter on 28 October 2016 (dated 27 October) from Corn Lake's counsel "urg[ing] the Board to reinstate its .CHARITY application without" "[g]oing through the motions of such review[, which] will cost money to ICANN (Internet Corporation for Assigned Names and Numbers) and Corn Lake, and unnecessary time for all .CHARITY applicants." Corn Lake requests that the Board "reinstat[e] Corn Lake's .CHARITY application and allow[] it to compete for the domain without going through the additional time and expense [of the Final Review Procedure]." (See https://www.icann.org/en/system/files/correspondence/genga-to-icann-board-27oct16-en.pdf (/en/system/files/correspondence/genga-to-icann-board-27oct16-en.pdf).) The Board had the opportunity to review Corn Lake's correspondence and has taken it into consideration in reaching its Resolution regarding the Panel's recommendation.

As required, the Board has considered the Final Declaration. As this Board has previously indicated, the Board takes very seriously the results of one of ICANN (Internet Corporation for Assigned Names and Numbers)'s long-standing accountability mechanisms. Accordingly, and for the reasons set forth in this Resolution and Rationale, the Board has accepted the Panel's Final Declaration as indicated above.

Adopting the Panel's Final Declaration and implementing the Panel's recommendation will have a direct financial impact on the organization, but that impact will not impact the underlying budget for FY17. Adopting the Panel's Final Declaration will not have any direct impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative function that does not require public comment.

c. Thank You to the Global Multistakeholder Community

Steve Crocker introduced the agenda item to thank the community for the substantial amount of time and effort it spent while working on the transition of the stewardship of the IANA (Internet Assigned Numbers Authority) Functions to the global multistakeholder community.

Steve Crocker moved and Lito Ibarra seconded the proposed resolutions. The Board took the following action:

Whereas, on 14 March 2014, the National Telecommunications and Information Administration (NTIA (US National Telecommunications and Information Agency)) of the United States Department of Commerce announced its intention to transition the stewardship of the IANA (Internet Assigned Numbers Authority) Functions to the global multistakeholder community.

Whereas, NTIA (US National Telecommunications and Information Agency) asked ICANN (Internet Corporation for Assigned Names and Numbers) to convene global stakeholders to develop a proposal to transition the current role, played by NTIA (US National Telecommunications and Information Agency), in the coordination of the Internet's domain name system (DNS (Domain Name System)). NTIA (US National Telecommunications and Information Agency) required that the proposal for transition must have broad community support and uphold the following principles:

- Support and enhance the multistakeholder model;

- Maintain the security, stability, and resiliency of the Internet DNS (Domain Name System);

- Meet the needs and expectation of the global customers and partners of the IANA (Internet Assigned Numbers Authority) services; and,

- Maintain the openness of the Internet.

NTIA (US National Telecommunications and Information Agency) also stated it would not accept a proposal that replaces the NTIA (US National Telecommunications and Information Agency) role with a government-led or an inter-governmental organization solution.

Whereas, in the Board resolutions 2016.03.10.12-15 the ICANN (Internet Corporation for Assigned Names and Numbers) Board resolved to accept the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group's (ICG (IANA Stewardship Transition Coordination Group)) IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal, reflecting he proposals developed by CRISP, IANA (Internet Assigned Numbers Authority) Plan and the CWG-Stewardship, and approve the transmittal of the Proposal to NTIA (US National Telecommunications and Information Agency) of the United States Department of Commerce in response to NTIA (US National Telecommunications and Information Agency)'s 14 March 2014 announcement.

Whereas, the Board further resolved that the President and CEO, or his designee, was directed to plan for the implementation of the Proposal so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to implement in the event NTIA (US National Telecommunications and Information Agency) approves of the Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires.

Whereas, in its Board resolutions 2016.03.10.16-19, the ICANN (Internet Corporation for Assigned Names and Numbers) Board resolved to accept the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG-Accountability) Work Stream 1 Report ("Report"), and approve the transmittal of the Report to NTIA (US National Telecommunications and Information Agency) to accompany the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal developed by the ICG (IANA Stewardship Transition Coordination Group).

Whereas, the Board further resolved that the President and CEO, or his designee, is directed to plan for the implementation of the Report so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to implement in the event NTIA (US National Telecommunications and Information Agency) approves of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires.

Whereas, on 27 May, the Board adopted resolution *2016.05.27.01-04, resolving that the* New ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws (/en/system/files/files/adopted-bylaws-27may16-en.pdf) will be deemed effective upon the expiration the IANA (Internet Assigned Numbers Authority) Functions Contract between ICANN (Internet Corporation for Assigned Names and Numbers) and NTIA (US National Telecommunications and Information Agency), and directed the President and CEO, or his designee, to plan for the implementation of the Bylaws so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to   meet its obligations in the event NTIA (US National Telecommunications and Information Agency) approves of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires.

Whereas, on 9 June NTIA (US National Telecommunications and Information Agency) informed (/en/system/files/correspondence/strickling-to-crocker-09jun16-en.pdf) ICANN (Internet Corporation for Assigned Names and Numbers) that NTIA (US National Telecommunications and Information Agency) had completed its review of the IANA

(Internet Assigned Numbers Authority) Stewardship Proposal along with the other US agencies, and determined that the proposal meets the criteria set out by NTIA (US National Telecommunications and Information Agency) in March 2014 when it announced its intent to transition NTIA (US National Telecommunications and Information Agency)"s stewardship of key Internet domain name functions to the global multistakeholder community. NTIA (US National Telecommunications and Information Agency) noted and outlined in their report that there was still some work to be done before the IANA (Internet Assigned Numbers Authority) functions stewardship transition could occur, and requested that ICANN (Internet Corporation for Assigned Names and Numbers) provide NTIA (US National Telecommunications and Information Agency) with an implementation planning status report by August 12, 2016.

Whereas, on 12 August, ICANN (Internet Corporation for Assigned Names and Numbers) provided NTIA (US National Telecommunications and Information Agency) with the implementation planning status report (/en/system/files/correspondence/marby-to-strickling-12aug16-en.pdf) noting that: "ICANN (Internet Corporation for Assigned Names and Numbers), working with the multistakeholder community, confirms that all required IANA (Internet Assigned Numbers Authority) functions stewardship transition tasks specified in NTIA (US National Telecommunications and Information Agency)'s June 9, 2016 letter are complete, and all other tasks in support of the IANA (Internet Assigned Numbers Authority) stewardship transition are either in a final review stage or awaiting approval, which will be complete in advance of September 30, 2016 to allow the IANA (Internet Assigned Numbers Authority) functions contract to expire."

Whereas, on 1 October, the NTIA (US National Telecommunications and Information Agency) advised ICANN (Internet Corporation for Assigned Names and Numbers) (https://www.ntia.doc.gov/press-release/2016/statement-assistant-secretary-strickling-iana-functions-contract) and the global multistakeholder community that the IANA (Internet Assigned Numbers Authority) Functions contract had expired.

Resolved (2016.11.08.19), the Board expresses its deep appreciation for the tireless efforts of the global multistakeholder community, including the leadership of the various community-led groups contributing to the Proposals. The development of the coordinated Proposals across the global community, that met the criteria set out by NTIA (US National Telecommunications and Information Agency), and the work to achieve implementation to allow for the contract to lapse on 30 September 2016, is unprecedented and serves as an historical record of the success of the work of the community to achieve a longstanding goal.

Resolved (2016.11.08.20), the Board expresses its deep appreciation to the US Department of Commerce, for standing by the long-standing commitment to end the IANA (Internet Assigned Numbers Authority) Functions contract, and for its dedication, and tireless efforts as a partner with ICANN (Internet Corporation for Assigned Names and Numbers) and the community to achieving this historic goal.

All members of the Board present voted in favor of Resolutions 2016.11.08.19 – 2016.11.08.20. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolutions. The Resolutions carried.

d. Thank You to Bruno Lanvin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Steve Crocker introduced the agenda item, and highlighted aspects of Bruno Lanvin's service as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board. All of the comments in full are available at: http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf (http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf). [PDF, 159 KB]

Rinalia Abdul Rahim moved and Cherine Chalaby seconded the proposed resolutions. The Board took the following action:

> Whereas, Bruno Lanvin was appointed by the Nominating Committee to serve as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 21 November 2013.
>
> Whereas, Bruno Lanvin concluded his term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.
>
> Whereas, Bruno served as a member of the following Committees:
>
> - Audit Committee
>
> - Finance Committee
>
> - New gTLD (generic Top Level Domain) Program Committee
>
> - Organizational Effectiveness Committee [formerly the Structural Improvements Committee]
>
> Resolved (2016.11.08.21), Bruno Lanvin has earned the deep appreciation of the Board for his term of service, and the Board wishes him well in his future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.
>
> **All members of the Board present voted in favor of Resolution 2016.11.08.21. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolution. The Resolution carried.**

e. Thank You to Erika Mann for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Steve Crocker introduced the agenda item, and highlighted aspects of Erika Mann's service as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board. All of the comments in full are available at:
http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf
(http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf). [PDF, 159 KB]

Rinalia Abdul Rahim moved and Lousewies van der Laan seconded the proposed resolution. The Board took the following action:

> Whereas, Er ka Mann was appointed to serve by the Nominating Committee as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 10 December 2010.
>
> Whereas, Er ka concludes her term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.
>
> Whereas, Er ka has served as a member of the following Committees and Working Groups:
>
> - Audit Committee
>
> - Compensation Committee
>
> - Global Relationships Committee
>
> - Governance Committee
>
> - New gTLD (generic Top Level Domain) Program Committee

- Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group

- Board Working Group on Internet Governance (BWG-IG)

- Board Working Group on Registration Data Directory Services (BWG-RDS)

- ICANN (Internet Corporation for Assigned Names and Numbers) Board Liaison to the Charter Drafting Team for the Cross Community Working Group on New gTLD (generic Top Level Domain) Auction Proceeds

Resolved (2016.11.08.22), Erika Mann has earned the deep appreciation of the Board for her term of service, and the Board wishes her well in her future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

All members of the Board present voted in favor of Resolution 2016.11.08.22. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolution. The Resolution carried.

f. Thank You to Kuo-Wei Wu for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Steve Crocker introduced the agenda item and thanked Kuo-Wei Wu for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board. Kuo-Wei provided remarks to thank the Address Supporting Organization (Supporting Organization) for selecting him to fill a seat on the Board, and for all of the support shown to him over the years. He also thanked his colleagues and ICANN (Internet Corporation for Assigned Names and Numbers) staff for providing him with support. All of the comments in full are available at: http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf (http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf). [PDF, 159 KB]

Ron da Silva moved and Lito Ibarra seconded the proposed resolution. The Board took the following action:

Whereas, Kuo-Wei Wu was appointed by the Address Supporting Organization (Supporting Organization) (AS0) to serve as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 22 April 2010.

Whereas, Kuo-Wei concluded his term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Whereas, Kuo-Wei served as a member of the following ICANN (Internet Corporation for Assigned Names and Numbers) Board Committees and Working Groups:

- Global Relationships Committee

- IANA (Internet Assigned Numbers Authority) Committee

- New gTLD (generic Top Level Domain) Program Committee

- Organizational Effectiveness Committee [formerly the Structural Improvements Committee]

- Public Participation Committee

- Risk Committee

- IDN Variants Working Group

Resolved (2016.11.08.23), Kuo-Wei Wu has earned the deep appreciation of the Board for his term of service, and the Board wishes him well in his future endeavors within the

ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

All members of the Board present voted in favor of Resolution 2016.11.08.23. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolution. The Resolution carried.

g. Thank You to Suzanne Woolf for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Steve Crocker introduced the agenda item, and highlighted Suzanne Woolf's lengthy service on the ICANN (Internet Corporation for Assigned Names and Numbers) Board. He commented that the Bylaws do not include term limits for Board liaisons, and also took note of how liaisons operate on the Board. Suzanne Woolf provided remarks about her time on the Board, and expressed thanks for the experience she gained while serving on the Board. All of the comments in full are available at: http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf (http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf). [PDF, 159 KB]

Ram Mohan moved and George Sadowsky seconded the proposed resolution. The Board took the following action:

Whereas, Suzanne Woolf was appointed to serve by the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)) as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 5 December 2004.

Whereas, Suzanne concludes her term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Whereas, Suzanne has served as a member of the following Committees and Working Groups:

- Governance Committee

- Risk Committee

- IANA (Internet Assigned Numbers Authority) Committee

- IDN Variants Working Group

Resolved (2016.11.08.24), Suzanne Woolf has earned the deep appreciation of the Board for her term of service, and the Board wishes her well in her future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

All members of the Board present voted in favor of Resolution 2016.11.08.24. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolution. The Resolution carried.

h. Thank You to Bruce Tonkin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Steve Crocker introduced the agenda item, and provided highlights of Bruce Tonkin's service as a member of the Board, including as Vice Chair of the Board. Bruce Tonkin responded with remarks about his time on the Board, which included praise for the work of the community on the enhancements it developed to ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability processes. All of the comments in full are available at: http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf

(http://schd.ws/hosted_files/icann572016/46/I57%20HYD_Tue08Nov2016-Annual%20General%20Meeting-en.pdf). [PDF, 159 KB]

Asha Hemrajani moved and George Sadowsky seconded the proposed resolution. The Board took the following action:

> Whereas, Bruce Tonkin was appointed by the Generic Names Supporting Organization (Supporting Organization) (GNSO (Generic Names Supporting Organization)) to serve as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 29 June 2007.
>
> Whereas, Bruce Tonkin concluded his term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.
>
> Whereas, Bruce served as a member of the following Committees:
>
> - Governance Committee
>
> - Compensation Committee
>
> - Executive Committee
>
> - Risk Committee
>
> - Board Working Group on Registration Data Directory Services (BWG-RDS)
>
> - ICANN (Internet Corporation for Assigned Names and Numbers) Board Liaison to the Cross Community Working Group (CCWG) on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability
>
> Resolved (2016.11.08.25), Bruce Tonkin has earned the deep appreciation of the Board for his term of service, and the Board wishes him well in his future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.
>
> **All members of the Board present voted in favor of Resolution 2016.11.08.25. Bruno Lanvin and Erika Mann were unavailable to vote on the Resolution. The Resolution carried.**

The Chair called the meeting to a close.

Published on 14 December 2016

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[1] 12 June 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-06-12-en (/public-comments/two-char-new-gtld-2014-06-12-en)>; 8 July 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-07-08-en (/public-comments/two-char-new-gtld-2014-07-08-en)>; 23 July 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-07-23-en (/public-comments/two-char-new-gtld-2014-07-23-en)>; 19 August 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-08-19-en (/public-comments/two-char-new-gtld-2014-08-19-en)>; and 12 September 2014 < https://www.icann.org/public-comments/two-char-new-gtld-2014-09-12-en (/public-comments/two-char-new-gtld-2014-09-12-en)>

EXHIBIT C-153

C-153

Adopted Board Resolutions | Regular Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is avai ab e in
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08 Nov 2016

1. Consent Agenda:
    a. Approval of Board Meeting Minutes

    b. Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Appointments
        Rationale for Resolution 2016.11.08.02

    c. Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Reappointments
        Rationale for Resolution 2016.11.08.03

    d. Appointment of D-, E-, G-, and H-Root Server Operator Representatives to the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee))
        Rationale for Resolution 2016.11.08.04

    e. Investment of Auction Proceeds
        Rationale for Resolution 2016.11.08.05

    f. ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines
        Rationale for Resolution 2016.11.08.06

    g. Renewal of .TEL Registry Agreement
        Rationale for Resolution 2016.11.08.07

    h. Thank You to Community Members

    i. Thank You to Local Host of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

    j. Thank You to Sponsors of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

    k. Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

2. Main Agenda:
    a. Two-Character Domain Names in the New gTLD (generic Top Level Domain) Namespace
        Rationale for Resolution 2016.11.08.15

    b. Consideration of the *Corn Lake, LLC v. ICANN (Internet Corporation for Assigned Names and Numbers)* Independent Review Process Final Declaration
        Rationale for Resolutions 2016.11.08.16 – 2016.11.08.18

    c. Thank You to the Global Multistakeholder Community

d. Thank You to Bruno Lanvin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

e. Thank You to Erika Mann for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

f. Thank You to Kuo-Wei Wu for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

g. Thank You to Suzanne Woolf for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

h. Thank You to Bruce Tonkin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

1. Consent Agenda:

a. Approval of Board Meeting Minutes

Resolved (2016.11.08.01), the Board approves the minutes of the 9 August, 15 August, 17 September and 30 September 2016 meetings of the ICANN (Internet Corporation for Assigned Names and Numbers) Board.

b. Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Appointments

Whereas, the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) reviews its membership and makes adjustments from time-to-time.

Whereas, the SSAC (Security and Stability Advisory Committee) Membership Committee, on behalf of the SSAC (Security and Stability Advisory Committee), requests that the Board should appoint Jacques Latour and Tara Whalen to the SSAC (Security and Stability Advisory Committee) for three-year terms beginning immediately upon approval of the Board and ending on 31 December 2019.

Resolved (2016.11.08.02), that the Board appoints Jacques Latour and Tara Whalen to the SSAC (Security and Stability Advisory Committee) for three-year terms beginning immediately upon approval of the Board and ending on 31 December 2019.

Rationale for Resolution 2016.11.08.02

The SSAC (Security and Stability Advisory Committee) is a diverse group of individuals whose expertise in specific subject matters enables the SSAC (Security and Stability Advisory Committee) to fulfill its charter and execute its mission. Since its inception, the SSAC (Security and Stability Advisory Committee) has invited individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems.

The SSAC (Security and Stability Advisory Committee)'s continued operation as a competent body is dependent on the accrual of talented subject matter experts who have consented to volunteer their time and energies to the execution of the SSAC (Security and Stability Advisory Committee) mission. Jacques Latour is currently the CTO at CIRA, the Canadian Internet Registry Authority for .CA, a position he has held for the past 6 years. He also is an active member of the ccNSO (Country Code Names Supporting Organization) community and the IETF (Internet Engineering Task Force) DNS (Domain Name System) community. Jacques has extensive country code registry experience and all of the related technologies. He has been an

active member of the SSAC (Security and Stability Advisory Committee)'s DNSSEC (DNS Security Extensions) Workshop Program Committee for several years.

Tara Whalen has a PhD in Computer Science followed by a Masters in Law with a concentration in Law and Technology. She has over 20 years of experience in security and privacy, including working in the Office of the Privacy Commissioner of Canada, as a Privacy and Security (Security – Security, Stability and Resiliency (SSR)) Standards Engineer at Apple, and is currently a Staff Privacy Analyst at Google. She has been active in the IETF (Internet Engineering Task Force) (intrusion detection working group) and is currently active in the W3C (World Wide Web Consortium) (Privacy Interest Group). She is generally engaged in an operational role around the nexus of security and privacy.

The SSAC (Security and Stability Advisory Committee) believes Jacques Latour and Tara Whalen would be significant contributing members of the SSAC (Security and Stability Advisory Committee).

c. ## Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) Member Reappointments

Whereas, Article 12, Section 12.2(b) of the Bylaws governs the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)).

Whereas, the Board, at Resolution 2010.08.05.07 approved Bylaws revisions that created three-year terms for SSAC (Security and Stability Advisory Committee) members, required staggering of terms, and obligated the SSAC (Security and Stability Advisory Committee) Chair to recommend the reappointment of all current SSAC (Security and Stability Advisory Committee) members to full or partial terms to implement the Bylaws revisions.

Whereas, the Board, at Resolution 2010.08.05.08 appointed SSAC (Security and Stability Advisory Committee) members to terms of one, two, and three years beginning on 01 January 2011 and ending on 31 December 2011, 31 December 2012, and 31 December 2013.

Whereas, in January 2016 the SSAC (Security and Stability Advisory Committee) Membership Committee initiated an annual review of SSAC (Security and Stability Advisory Committee) members whose terms are ending 31 December 2016 and submitted to the SSAC (Security and Stability Advisory Committee) its recommendations for reappointments in September 2016.

Whereas, on 21 September 2016, the SSAC (Security and Stability Advisory Committee) members approved the reappointments.

Whereas, the SSAC (Security and Stability Advisory Committee) recommends that the Board reappoint the following SSAC (Security and Stability Advisory Committee) members to three-year terms: Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson.

Resolved (2016.11.08.03), the Board accepts the recommendation of the SSAC (Security and Stability Advisory Committee) and reappoints the following SSAC (Security and Stability Advisory Committee) members to three-year terms beginning 01 January 2017 and ending 31 December 2019: Jeff Bedser, Ben Butler, Merike Kaeo, Warren Kumari, Xiaodong Lee, Carlos Martinez, and Danny McPherson.

Rationale for Resolution 2016.11.08.03

The SSAC (Security and Stability Advisory Committee) is a diverse group of individuals whose expertise in specific subject matters enables the SSAC (Security and Stability Advisory Committee) to fulfill its charter and execute its mission. Since its inception, the SSAC (Security and Stability Advisory Committee) has invited individuals with deep knowledge and experience

in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems. The above-mentioned individuals provide the SSAC (Security and Stability Advisory Committee) with the expertise and experience required for the Committee to fulfill its charter and execute its mission.

d. Appointment of D-, E-, G-, and H-Root Server Operator Representatives to the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee))

Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for the establishment of a Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)) with the role to advise the ICANN (Internet Corporation for Assigned Names and Numbers) community and ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System.

Whereas, the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors to appoint one RSSAC (Root Server System Advisory Committee) member from each Root Server operator organization, based on recommendations from the RSSAC (Root Server System Advisory Committee) Co-Chairs.

Whereas, the RSSAC (Root Server System Advisory Committee) Co-Chairs have recommended for ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors consideration the appointment of representatives from the D-, E-, G, and H-root server operators to the RSSAC (Root Server System Advisory Committee).

Resolved (2016.11.08.04), the Board appoints to the RSSAC (Root Server System Advisory Committee) the following representatives from the D-, E-, G-, and H-root server operators: Tripti Sinha, Kevin Jones, Kevin Wright, and Howard Kash, respectively, through 31 December 2019.

Rationale for Resolution 2016.11.08.04

In May 2013, the root server operators (RSO) agreed to an initial membership of RSO representatives for RSSAC (Root Server System Advisory Committee), and each RSO nominated an individual. The ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors approved the initial membership of RSSAC (Root Server System Advisory Committee) in July 2013 with staggered terms.

The representatives from the D-, E-, G-, and H-root server operators were appointed to an initial three-year term, which expires on 31 December 2016. These appointments are for full, three-year terms.

The appointment of these RSSAC (Root Server System Advisory Committee) members is not anticipated to have any fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers), though there are budgeted resources necessary for ongoing support of the RSSAC (Root Server System Advisory Committee).

This resolution is an organizational administrative function for which no public comment is required. The appointment of RSSAC (Root Server System Advisory Committee) members contributes to ICANN (Internet Corporation for Assigned Names and Numbers)'s commitment to strengthening the security, stability, and resiliency of the DNS (Domain Name System).

e. Investment of Auction Proceeds

Whereas, to date ICANN (Internet Corporation for Assigned Names and Numbers) has collected US$233 million of auction proceeds.

Whereas, the Board Finance Committee has determined that auction proceeds need to be invested in a manner that preserves capital and keeps these funds readily available.

Whereas, the Board Finance Committee recommends that auction proceeds be distributed across three different investment managers, and invested in safe and liquid financial instruments.

Resolved (2016.11.08.05), the Board authorizes the President and CEO, or his designee(s), to take all actions necessary to distribute the auction proceeds across three different investment managers, which will be tasked with investing those proceeds in safe and liquid financial instruments.

Rationale for Resolution 2016.11.08.05

To date ICANN (Internet Corporation for Assigned Names and Numbers) has collected auction proceeds totaling US$233 million. ICANN (Internet Corporation for Assigned Names and Numbers) continuously mitigates the risk of custody by distributing investments across more than one investment management firm. Considering the amount of auction proceeds collected to date, the number of firms used to manage these funds need to be increased from the one firm currently used, to three firms. Through an RFP conducted in 2013 for the New gTLD (generic Top Level Domain) Program, ICANN (Internet Corporation for Assigned Names and Numbers) has already qualified three investment management firms. The auction funds will be distributed across these three firms, in separate and distinct accounts holding exclusively auction proceeds. In addition, considering the intended usage of these funds in the near future, as per the ongoing community process, the BFC has recommended that the managers hold these funds in safe and liquid financial instruments.

As a result, the organization recommends that the auction proceeds be invested at three different investment managers to reduce the risk of custody, and be invested in safe and liquid financial instruments.

This action is not expected to have any fiscal impact, or any impact on the security, stability and resiliency of the domain name system.

This is an Organizational Administrative Function that does not require public comment.

f. ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws Article 2 (/resources/pages/governance/bylaws-en/#article2) establishes that with certain exceptions, the powers of ICANN (Internet Corporation for Assigned Names and Numbers) shall be exercised by, and its property controlled and its business and affairs conducted by or under the direction of, the Board.

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws Article 15 (/resources/pages/governance/bylaws-en/#article15) establishes officers of ICANN (Internet Corporation for Assigned Names and Numbers), and designates the President to be the Chief Executive Officer (CEO) of ICANN (Internet Corporation for Assigned Names and Numbers) in charge of all of its activities and business. All other officers and staff shall report to the President or his or her delegate, unless stated otherwise in the Bylaws.

Whereas, the Board desires to set out a clear line of delegation of authority between the role of the Board and the roles of CEO and management.

Resolved (2016.11.08.06), the Board hereby adopts the "ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines (/en/system/files/files/delegation-of-authority-guidelines-08nov16-en.pdf)" to provide clear guidance and clarification of roles between the ICANN (Internet Corporation for Assigned

Names and Numbers) Board and the ICANN (Internet Corporation for Assigned Names and Numbers) CEO/Management ("Guidelines"). The Guidelines shall be reviewed regularly and amended from time to time by resolution of the Board.

Rationale for Resolution 2016.11.08.06

The Board is taking action at this time to adopt a set of guidelines to provide greater clarity of roles between the Board and CEO/Management. These guidelines, titled "ICANN (Internet Corporation for Assigned Names and Numbers) Delegation of Authority Guidelines," identify the respective key roles of the Board, key roles of CEO/Management, and the key interdependencies in those relationships. As outlined in the Guidelines, a primary source of the Board's powers come directly from the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws, as well as internal policies. Among others, these key powers include: (1) acting collectively by voting at meetings to authorize and direct management to take action on behalf of the ICANN (Internet Corporation for Assigned Names and Numbers) organization, (2) interacting with the ICANN (Internet Corporation for Assigned Names and Numbers) community to ensure that ICANN (Internet Corporation for Assigned Names and Numbers) is serving the global public interest within ICANN (Internet Corporation for Assigned Names and Numbers)'s mission, and (3) considering policy recommendations arising out of Supporting Organizations (Supporting Organizations), including participating in consultation processes if necessary.

The ICANN (Internet Corporation for Assigned Names and Numbers) CEO is authorized to act within the authority delegated by the Board. The CEO may designate key management to assist in carrying out these responsibilities. The CEO's responsibilities, include, but are not limited to: (1) interacting with the ICANN (Internet Corporation for Assigned Names and Numbers) community to ensure that ICANN (Internet Corporation for Assigned Names and Numbers) is serving the global public interest within ICANN (Internet Corporation for Assigned Names and Numbers)'s mission, (2) maintaining open lines of communication with the Board, (3) interacting with governments within the scope of ICANN (Internet Corporation for Assigned Names and Numbers)'s mission and Board's directives, and (4) leading and overseeing ICANN (Internet Corporation for Assigned Names and Numbers)'s day-to-day operations.

By adopting these Guidelines, the Board intends to ensure that the Board and CEO/Management continue to operate within the scope of its mission. The Board's approval of the Guidelines will have positive impact on the community as provides additional transparency and clarity about the roles and responsibilities of key members in the ICANN (Internet Corporation for Assigned Names and Numbers) organization. Additionally, it provides additional accountability to the community by clearly defining the roles and responsibilities.

There is no anticipated fiscal impact of the Board taking this action, and there are no expected security, stability, or resiliency issues related to the DNS (Domain Name System) associated with the Board's approval of the Guidelines.

This decision is an Organizational Administrative Function that does not require public comment.

g. Renewal of .TEL Registry Agreement

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) commenced a public comment period from 04 August 2016 to 13 September 2016 on a proposed Renewal Registry Agreement for the .TEL TLD (Top Level Domain).

Whereas, the proposed .TEL Renewal Registry Agreement includes modified provisions to bring the .TEL Registry Agreement into line with the form of the New gTLD (generic Top Level Domain) Registry Agreement.

Whereas, the public comment forum on the proposed Renewal Registry Agreement closed on 13 September 2016, with ICANN (Internet Corporation for Assigned Names and Numbers) receiving twenty-seven (27) comments, both by individuals and organizations/groups. A

summary and analysis of the comments were provided to the Board. ICANN (Internet Corporation for Assigned Names and Numbers) modified the proposed Renewal Registry Agreement to correct typographical errors and to incorporate additional clarifying language in response to the public comments related to the RPM (Rights Protection Mechanism) language proposed in Section 1 of Specification 7 regarding applicability and implementation of applicable rights protection mechanisms.

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) conducted a review of Telnic's recent performance under the current .TEL Registry Agreement and found that Telnic substantially met its contractual requirements.

Resolved (2016.11.08.07), the .TEL Renewal Registry Agreement, as revised, is approved and the President and CEO, or his designee(s), is authorized to take such actions as appropriate to finalize and execute the Agreement.

Rationale for Resolution 2016.11.08.07

Why the Board is addressing the issue now?

ICANN (Internet Corporation for Assigned Names and Numbers) and Telnic Limited (the "Registry Operator") entered into a Registry Agreement (/resources/unthemed-pages/tel-2012-02-25-en) on 30 May 2006 for operation of the .TEL top-level domain. The current .TEL Registry Agreement expires on 01 March 2017. The proposed Renewal Registry Agreement was posted for public comment between 04 August 2016 and 13 September 2016. At this time, the Board is approving the Renewal Registry Agreement for the continued operation of the .TEL TLD (Top Level Domain) by the Registry Operator.

What is the proposal being considered?

The revised Renewal Registry Agreement approved by the Board includes modified provisions to bring the Agreement into line with the form of the New gTLD (generic Top Level Domain) Registry Agreement. The modifications include: updating technical specifications; adding Public Interest Commitments including the obligation to only use registrars under the 2013 Registrar Accreditation Agreement; and requiring the implementation of additional Rights Protection Mechanisms, namely the Uniform Rapid Suspension and the Post-Delegation Dispute Resolution Procedure.

Specifically, all approved registry services in the current .TEL Registry Agreement carry over to the revised Renewal Registry Agreement. Such services include Bulk Transfer After Partial Portfolio Acquisition, Registry Controlled DNS (Domain Name System) Records Service, Domain data change notifications, Whois private contact information opt-out for Individuals, Special Access Service, Additional RDDS Data Fields and Internationalized Domain Names.

With regard to the Schedule of Reserved Names, the revised Renewal Registry Agreement includes existing provisions permitting the Registry Operator to allocate previously reserved one and two-character names through ICANN (Internet Corporation for Assigned Names and Numbers)-accredited registrars via a Phased Allocation Program. However, all single-character numerical labels continue to be reserved at the second level.

As part of the adaptation needed to carry over the Sponsored TLD (Top Level Domain) Charter of .TEL to the revised Renewal Registry Agreement, Specification 12 incorporates the language of the original Sponsorship Charter - Appendix S (/resources/unthemed-pages/appendix-s-2011-02-02-en) in the current .TEL TLD (Top Level Domain) Agreement, with modifications to remove the requirement that the Registry control the name servers of delegated domain names, and the restriction that registrants cannot define the contents of the zone for their domain names. As .TEL was originally approved under this premise, the change will transform the .TEL TLD (Top Level Domain) into a gTLD (generic Top Level Domain) with a limited set of community parameters. These parameters will become optional rather than required.

Which stakeholders or others were consulted?

ICANN (Internet Corporation for Assigned Names and Numbers) conducted a public comment period on the proposed .TEL Renewal Registry Agreement from 04 August 2016 through 13 September 2016, following which time the comments were summarized and analyzed. Additionally, ICANN (Internet Corporation for Assigned Names and Numbers) engaged in bilateral negotiations with the Registry Operator to agree to the package of terms to be included in the proposed Renewal Registry Agreement that was posted for public comment.

What concerns or issues were raised by the community?

The proposed Renewal Registry Agreement was posted for public comment. Commenters expressed their views in three key areas during the public comment period:

- Extension of .TEL Registry Agreement: Some of the commenters expressed support for the extension of .TEL Registry Agreement, while others suggested that improvements should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended.

- Proposed Renewal Registry Agreement for .TEL: Three key issue areas were raised on the specific text of the renewal:

- General Views – Some commenters positively noted there are technical and operational advantages to the New gTLD (generic Top Level Domain) Registry Agreement form that serve as a benefit to registrants and the Internet community over earlier versions of the legacy Agreement. Additionally, there was support for ICANN (Internet Corporation for Assigned Names and Numbers)'s efforts at bilateral negotiations with legacy TLD (Top Level Domain) registries in order to transition to the New gTLD (generic Top Level Domain) Registry Agreement and the procedural benefit of consistency that will come with ICANN (Internet Corporation for Assigned Names and Numbers)'s bilaterally negotiating for transition to provisions of the New gTLD (generic Top Level Domain) Registry Agreement not only with .TEL but with other legacy TLDs like .JOBS, .CAT, .PRO, and .TRAVEL.

- Rights Protection Mechanisms – One commenter sought clarity over the language proposed in Section 1 of Specification 7 regarding applicability and implementation of rights protection mechanisms.

  - Registration Data Directory Service (Whois) – Some commenters raised concerns with continuing the unique Registration Data Directory Service that ICANN (Internet Corporation for Assigned Names and Numbers)'s Board approved in 2007 for the .TEL TLD (Top Level Domain).

- The continued operation of .TEL by Telnic Limited: Concerns were expressed over Telnic Limited continuing to be the Registry Operator of .TEL, claiming, among other things that Telnic has violated ICANN (Internet Corporation for Assigned Names and Numbers)'s requirements several times and Telnic no longer has stable financials to continue the operation of .TEL.

What significant materials did the Board review?

As part of its deliberations, the Board reviewed various materials, including, but not limited to, the following materials and documents:

- .TEL form of the New gTLD (generic Top Level Domain) Registry Agreement: <https://www.icann.org/sites/default/files/tlds/tel/tel-proposed-renewal-04aug16-en.pdf (/sites/default/files/tlds/tel/tel-proposed-renewal-04aug16-en.pdf)>

- .TEL Addendum to form of the New gTLD (generic Top Level Domain) Registry Agreement: <https://www.icann.org/sites/default/files/tlds/tel/tel-proposed-renewal-addendum-04aug16-en.pdf (/sites/default/files/tlds/tel/tel-proposed-renewal-addendum-

04aug16-en.pdf)>. At this time, ICANN (Internet Corporation for Assigned Names and Numbers) is proposing to implement the incorporation of terms unique to a legacy TLD (Top Level Domain), such as .TEL, through an "Addendum" to the Registry Agreement. The Addendum will show the terms of the .TEL Registry Agreement that are unique from the New gTLD (generic Top Level Domain) Registry Agreement that are incorporated into the renewal.

- Public comments: <https://forum.icann.org/lists/comments-tel-renewal-04aug16/ (https://forum.icann.org/lists/comments-tel-renewal-04aug16/)>

- Summary and analysis of public comments: <https://www.icann.org/en/system/files/files/report-comments-tel-renewal-07oct16-en.pdf (/en/system/files/files/report-comments-tel-renewal-07oct16-en.pdf)>

- 27 September 2016 letter from Telnic CEO to ICANN (Internet Corporation for Assigned Names and Numbers) Board: https://www.icann.org/en/system/files/correspondence/mahdavi-to-icann-board-27sep16-en.pdf (/en/system/files/correspondence/mahdavi-to-icann-board-27sep16-en.pdf). Telnic's observations on past achievements and opportunities for .TEL.

- Current .TEL Registry Agreement and Appendices: <https://www.icann.org/resources/unthemed-pages/tel-2012-02-25-en (/resources/unthemed-pages/tel-2012-02-25-en)>

- New gTLD (generic Top Level Domain) Registry Agreement – Updated 09 January 2014 <http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf (http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf) >

- 18 December 2007 Board Resolution (/resources/board-material/minutes-2007-12-18-en) that approved changes to .TEL's Registration Data Directory Service (Whois) requirements

What factors has the Board found to be significant?

The Board carefully considered the public comments received for the Renewal Registry Agreement, along with the summary and analysis of those comments. The Board also considered the terms agreed to by the Registry Operator as part of the bilateral negotiations with ICANN (Internet Corporation for Assigned Names and Numbers). The Board acknowledges the concerns expressed by some community members regarding suggested improvements that should be implemented for .TEL domain names if the .TEL Registry Agreement is to be extended. However, the terms of the .TEL Registry Agreement set forth the contractual obligations that must be fulfilled by Telnic Limited in its operation of the .TEL registry but do not prescr be or proscribe the Registry Operators' business model. Additionally, the Staff Report of Public Comment Proceeding (/en/system/files/files/report-comments-tel-renewal-07oct16-en.pdf) encouraged those commenters that desire to see changes in the business model of the .TEL registry to contact Telnic Limited to discuss these matters.

The Board acknowledges the request for clarity over the RPM (Rights Protection Mechanism) language proposed in Section 1 of Specification 7 regarding applicability and implementation of applicable rights protection mechanisms. While the revisions to Specification 7 were consistent with prior legacies, a modification was made to the language of the Renewal Registry Agreement for .TEL to address the comment. The revision is now reflected in Section 1 of Specification 7 of the revised Renewal Registry Agreement to read "Registry Operator will include all RPMs required by this Specification and any additional RPMs developed and implemented by Registry Operator in the registry-registrar agreement entered into by ICANN (Internet Corporation for Assigned Names and Numbers)-accredited registrars authorized to register names in the TLD (Top Level Domain)."

The Board acknowledges the concerns raised with continuing the unique Registration Data Directory Service that the Board approved in 2007 for the .TEL TLD (Top Level Domain). The

Board notes the 18 December 2007 Board Resolution (/resources/board-material/minutes-2007-12-18-en) that approved changes to .TEL's Registration Data Directory Service (Whois) requirements was based on unique business and legal circumstances stating, "…the Board concludes that the requested modifications are justified by the unique business and legal circumstances of the .TEL top-level domain…" After conferring with Telnic Limited, ICANN (Internet Corporation for Assigned Names and Numbers) has confirmed that, to the knowledge of the Registry Operator, the legal circumstances related to Registration Data Directory Service (Whois) have not changed. Therefore, the Registration Data Directory Service (Whois) requirements which were ultimately replicated from the prior agreement between ICANN (Internet Corporation for Assigned Names and Numbers) and Telnic Limited will be retained in the Renewal Registry Agreement.

Additionally, the Board has considered comments regarding the continued operation of .TEL by Telnic Limited, including concerns that Telnic has violated ICANN (Internet Corporation for Assigned Names and Numbers)'s requirements several times and Telnic no longer has stable financials to continue the operation of .TEL. As part of the renewal process ICANN (Internet Corporation for Assigned Names and Numbers) conducts a review of contractual compliance under the .TEL Registry Agreement. Telnic Limited was found to be in substantial compliance with their contractual requirements. Also, during the past 10 years of operation, ICANN (Internet Corporation for Assigned Names and Numbers) has no knowledge of Telnic Limited experiencing financial or other operational impediments that have caused a failure of registry operations or security and stability concerns. If Telnic Limited were to experience financial problems that resulted in the Registry Operator failing to comply with its obligations under the Registry Agreement, ICANN (Internet Corporation for Assigned Names and Numbers) can take action to protect registrants and ensure continuity of registry operations.

Finally, the Board notes that existing Registry Agreement calls for presumptive renewal of the Agreement at its expiration so long as certain requirements are met. These provisions are intended to promote stability and security of the registry by encouraging long-term investment in TLD (Top Level Domain) operations, which benefits the community in the form of reliable operation of registry infrastructure. The Renewal Registry Agreement is subject to the negotiation of renewal terms reasonably acceptable to ICANN (Internet Corporation for Assigned Names and Numbers) and the Registry Operator. The renewal terms approved by the Board are the result of the bilateral negotiations called for in the current Registry Agreement.

Are there positive or negative community impacts?

The Board's approval of the Renewal Registry Agreement also offers positive technical and operational benefits. Pursuant to the Renewal Registry Agreement, in the event that any of the emergency thresholds for registry functions is reached, Registry Operator agrees that ICANN (Internet Corporation for Assigned Names and Numbers) may designate an emergency interim Registry Operator of the registry for the TLD (Top Level Domain), which would mitigate the risks to the stability and security of the Domain Name (Domain Name) System. Also, technical onboarding of the Registry Operator to comply with the provisions in the New gTLD (generic Top Level Domain) Agreement will allow the registry to use uniform and automated processes, which will facilitate operation of the TLD (Top Level Domain).

There will also be positive impacts on registrars and registrants. The transition to the New gTLD (generic Top Level Domain) Registry Agreement will provide consistency across all registries leading to a more predictable environment for end-users and also the fact that the proposed Renewal Registry Agreement requires that the Registry Operator uses ICANN (Internet Corporation for Assigned Names and Numbers) accredited registrars that are party to the 2013 Registrar Accreditation Agreement (RAA (Registrar Accreditation Agreement)) only will provide more benefits to registrars and registrants.

Are there fiscal impacts or ramifications on ICANN (Internet Corporation for Assigned Names and Numbers) (strategic plan, operating plan, budget); the community; and/or the public?

There is no significant fiscal impact expected if ICANN (Internet Corporation for Assigned Names and Numbers) approves the proposed .TEL Renewal Registry Agreement. It should be noted however that as a result of approval of the Renewal Registry Agreement, projected annual registry fees to ICANN (Internet Corporation for Assigned Names and Numbers) will result in a minimal negative fiscal impact. This change has been considered in ICANN (Internet Corporation for Assigned Names and Numbers)'s budget.

Are there any security, stability or resiliency issues relating to the DNS (Domain Name System)?

There are no expected security, stability, or resiliency issues related to the DNS (Domain Name System) if ICANN (Internet Corporation for Assigned Names and Numbers) approves the proposed .TEL Renewal Registry Agreement. The proposed Renewal Registry Agreement in fact includes terms intended to allow for swifter action in the event of certain threats to the security or stability of the DNS (Domain Name System). As part of ICANN (Internet Corporation for Assigned Names and Numbers)'s organizational administrative function, ICANN (Internet Corporation for Assigned Names and Numbers) posted the draft Renewal Registry Agreement for public comment on 04 August 2016.

h. Thank You to Community Members

Whereas, ICANN (Internet Corporation for Assigned Names and Numbers) wishes to acknowledge the considerable effort, skills, and time that members of the stakeholder community contribute to ICANN (Internet Corporation for Assigned Names and Numbers).

Whereas, in recognition of these contributions, ICANN (Internet Corporation for Assigned Names and Numbers) wishes to acknowledge and thank members of the community when their terms of service end on the Supporting Organizations (Supporting Organizations), Advisory Committees (Advisory Committees) and Nominating Committee.

Whereas, the following members of the Address Supporting Organization (Supporting Organization) are concluding their terms of service:

- Dmitry Kohmanyuk, Address Supporting Organization (Supporting Organization) Address Council Member

- John Sweeting, Address Supporting Organization (Supporting Organization) Address Council Member

Resolved (2016.11.08.08), Dmitry Kohmanyuk and John Sweeting have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the County Code Names Supporting Organization (Supporting Organization) are concluding their terms of service:

- Becky Burr, County Code Names Supporting Organization (Supporting Organization) Council Member

- Celia Lerman Friedman, County Code Names Supporting Organization (Supporting Organization) Council Member

- Vika Mpisane, County Code Names Supporting Organization (Supporting Organization) Council Member

- Ron Sherwood, County Code Names Supporting Organization (Supporting Organization) Liaison to the At-Large Advisory Committee (Advisory Committee)

Resolved (2016.11.08.09), Becky Burr, Celia Lerman Friedman, Vika Mpisane, and Ron Sherwood have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the Generic Names Supporting Organization (Supporting Organization) are concluding their terms of service:

- David Cake, Generic Names Supporting Organization (Supporting Organization) Councilor

- Mason Cole, Generic Names Supporting Organization (Supporting Organization) Liaison to the Governmental Advisory Committee (Advisory Committee)

- Jennifer Gore, Generic Names Supporting Organization (Supporting Organization) Councilor

- Volker Greimann, Generic Names Supporting Organization (Supporting Organization) Councilor

- Carlos Ra (Registrar)úl Gutiérrez, Councilor

- Michele Neylon, Registrar Stakeholder Group Chair

- Darcy Southwell, Registrar Stakeholder Group Vice Chair

- Rudi Vansnick, Not-for-Profit Operational Concerns Constituency Chair

Resolved (2016.11.08.10), David Cake, Mason Cole, Jennifer Gore, Volker Greimann, Carlos Ra (Registrar)úl Gutiérrez, Michele Neylon, Darcy Southwell, and Rudi Vansnick have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the At-Large community are concluding their terms of service:

- Satish Babu, Asian, Australasian and Pacific Islands Regional At-Large Organization Vice Chair

- Humberto Carrasco, Latin American and Caribbean Islands Regional At-Large Organization Secretariat

- Olivier Crépin-Leblond, At-Large Advisory Committee (Advisory Committee) Liaison to the Generic Names Supporting Organization (Supporting Organization)

- Timothy Denton, At-Large Advisory Committee (Advisory Committee) Member

- Sandra Hoferichter, At-Large Advisory Committee (Advisory Committee) Member

- Barrack Otieno, African Regional At-Large Organization Secretariat

- Vanda Scartezini, At-Large Advisory Committee (Advisory Committee) Member

- Jimmy Schulz, At-Large Advisory Committee (Advisory Committee) Member

- Alberto Soto, Latin American and Caribbean Islands Regional At-Large Organization Chair

- Siranush Vardanyan, Asian, Australasian and Pacific Islands Regional At-Large Organization Chair

Resolved (2016.11.08.11), Satish Babu, Humberto Carrasco, Olivier Crépin-Leblond, Timothy Denton, Sandra Hoferichter, Barrack Otieno, Vanda Scartezini, Jimmy Schulz, A berto Soto, and Siranush Vardanyan have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the Root Server System Advisory Committee (Advisory Committee) are concluding their terms of service:

- Jim Cassell, Member

- Ashley Heineman, National Telecommunications and Information Administration Liaison to the Root Server System Advisory Committee (Advisory Committee)

- Lars-Johan Liman, Co-Chair

- Jim Martin, Member

Resolved (2016.11.08.12), Jim Cassell, Ashley Heineman, Lars-Johan Liman, and Jim Martin have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following member of the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) is concluding his term of service:

- Shinta Sato, Member

Resolved (2016.11.08.13), Shinta Sato has earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for his terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes him well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

Whereas, the following members of the Nominating Committee are concluding their terms of service:

- Stephen Coates, Member

- Sylvia Herlein Leite, Member

- Hans Petter Holen, Chair-Elect

- Zahid Jamil, Member

- Wolfgang Kleinwächter, Associate Chair

- Yrjö Länsipuro, Member

- Stéphane Van Gelder, Chair

Resolved (2016.11.08.14), Stephen Coates, Sylvia Herlein Leite, Hans Petter Holen, Zahid Jamil, Wolfgang Kleinwächter, Yrjö Länsipuro, and Stéphane Van Gelder have earned the deep appreciation of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors for their terms of service, and the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors wishes them well in their future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

i. Thank You to Local Host of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

The Board wishes to extend its thanks to the local host organizer, Minister Ravi Shankar Prasad and the Government of India including Ministry of Electronics and Information Technology, Ministry of External Affairs, National Security (Security – Security, Stability and Resiliency (SSR)) Council Secretariat, Ministry of Home Affairs, Government of Telangana and National Internet Exchange of India (NIXI).

j. Thank You to Sponsors of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

The Board wishes to thank the following sponsors: CentralNic, Knipp Median und Communication GmbH, Afilias plc, Public Interest Registry, China Internet Network Information Center, Nominet, Web Werks India Pvt. Ltd., Radix FZC, Verisign, .blog, Directi Web Technology Private Limited, BNSL, Tata Tele Services, Atria Convergence Technologies Pvt. Ltd. (ACT) and GMR.

k. Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN (Internet Corporation for Assigned Names and Numbers) 57 Meeting

The Board expresses its deepest appreciation to the scribes, interpreters, audiovisual team, technical teams, and the entire ICANN (Internet Corporation for Assigned Names and Numbers) staff for their efforts in facilitating the smooth operation of the meeting.

The Board would also l ke to thank the management and staff of the Hyderabad International Convention Center for providing a wonderful facility to hold this event. Special thanks are extended to Vijay Ramnath Ugale, Event Manager; Varun Mehrotra, Director of Sales - Meetings & Events; Gorav Arora, Director of Sales and Marketing; Shyam Sunder, Director of Convention; Ravindra Reddy, Assistant Manager of Client Services; Johnet Pereira, Manager of Client Services; Rambabu Talluri, IT Manager; Anand Prakash Ravi, Operational Manager; Ramu Dasari, Asst. Manager of Client Services; Mr. Ranjan Alu, Asst. Manager F&B; Executive Chef Amanaraju; and Gilbert Yeo from Pryde Live.

2. Main Agenda:

a. Two-Character Domain Names in the New gTLD (generic Top Level Domain) Namespace

Whereas, Specification 5, Section 2 of the New gTLD (generic Top Level Domain) Registry Agreement requires registry operators to reserve two-character ASCII labels within the TLD (Top Level Domain) at the second level. The reserved two-character labels "may be released to the extent that Registry Operator reaches agreement with the related government and country-code manager of the string as specified in the ISO (International Organization for Standardization) 3166-1 alpha-2 standard. The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN (Internet Corporation for Assigned Names and Numbers)."

Whereas, the GAC (Governmental Advisory Committee) has issued advice to the Board in various communiqués on two-character domains. The Los Angeles Communiqué (/en/system/files/correspondence/gac-to-board-15oct14-en.pdf) (15 October 2014) stated, "The GAC (Governmental Advisory Committee) recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC (Governmental Advisory Committee) is not in a position to offer consensus advice on the use of two-character second level domains names in new gTLD (generic Top Level Domain) registry operations, including those combinations of letters that are also on the ISO (International Organization for Standardization) 3166-1 alpha 2 list." The GAC (Governmental Advisory Committee) also issued advice in the

Singapore Communiqué (/en/system/files/correspondence/gac-to-board-11feb15-en.pdf) (11 February 2015) and the Dublin Communiqué (/en/system/files/correspondence/gac-to-board-21oct15-en.pdf) (21 October 2015).

Whereas, on 16 October 2014, the Board directed ICANN (Internet Corporation for Assigned Names and Numbers) to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD (generic Top Level Domain) Registry Agreement, taking into account the GAC (Governmental Advisory Committee)'s advice in the Los Angeles Communiqué on the matter. ICANN (Internet Corporation for Assigned Names and Numbers) launched this procedure (the "Authorization Process") on 1 December 2014.

Whereas, as part of the Authorization Process, ICANN (Internet Corporation for Assigned Names and Numbers) launched a community consultation process to help develop a standard set of proposed measures to avoid confusion with country codes. The measures were intended to be mandatory for new gTLD (generic Top Level Domain) registries seeking to release reserved letter/letter two-character labels.

Whereas, in the GAC (Governmental Advisory Committee)'s Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf) (30 June 2016), the GAC (Governmental Advisory Committee) advised the Board to "urge the relevant Registry or the Registrar to engage with the relevant GAC (Governmental Advisory Committee) members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered." The advice was incorporated in the proposed measures to avoid confusion.

Whereas, on 8 July 2016, ICANN (Internet Corporation for Assigned Names and Numbers) published for public comment the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf), which listed measures registry operators could adopt to avoid confusion with corresponding country codes. The measures incorporated the GAC (Governmental Advisory Committee)'s advice issued in the Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf). Forty-three comments were submitted by individuals, governments and groups/organizations.

Whereas, the Board considered the public comments, the staff summary and analysis report of public comments, and GAC (Governmental Advisory Committee) advice. The proposed measures were updated to take into account the public comments and GAC (Governmental Advisory Committee) advice relating to the proposed measures and two-character labels.

Resolved (2016.11.08.15), the Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/revised-measures-ltr-ltr-two-char-ascii-labels-country-codes-08nov16-en.pdf) as revised are approved, and the President and CEO, or his designee(s), is authorized to take such actions as appropriate to authorize registry operators to release at the second level the reserved letter/letter two-character ASCII labels not otherwise reserved pursuant to Specification 5, Section 6 of the Registry Agreement, subject to these measures.

Rationale for Resolution 2016.11.08.15

Why the Board is addressing the issue?

On 16 October 2014, the Board adopted a resolution directing staff to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD (generic Top Level Domain) Registry Agreement, taking into account the GAC (Governmental Advisory Committee)'s advice in the Los Angeles Communiqué (/en/system/files/correspondence/gac-to-board-15oct14-en.pdf) on the matter.

For nearly two and a half years, ICANN (Internet Corporation for Assigned Names and Numbers) has been developing and implementing a procedure as directed by the Board. On 1 December 2014, ICANN (Internet Corporation for Assigned Names and Numbers) launched the first phase of the procedure, an Authorization Process for Release of Two-Character ASCII Labels (/resources/two-character-labels). The finalization of this procedure is the implementation of a framework containing standardized measures registry operators can implement to avoid confusion, in accordance with the Registry Agreement, and allow for the release of all letter/letter two-character ASCII labels corresponding with country codes not otherwise reserved pursuant to Specification 5, Section 6 of the Registry Agreement.

The GAC (Governmental Advisory Committee) has issued advice on this topic in various communiqués over the past two years including, most recently, the Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf). Per Article XI, Section 2.1 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws (http://www.icann.org/en/about/governance/bylaws#XI), the GAC (Governmental Advisory Committee) may "put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies." The ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws require the Board to take into account the GAC (Governmental Advisory Committee)'s advice on public policy matters in the formulation and adoption of the policies.

What is the proposal being considered?

The proposal is to address requests from registry operators to release reserved letter/letter two-character ASCII labels and the advice from the GAC (Governmental Advisory Committee) on reserved letter/letter labels. The Board is taking action to approve the Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, as revised. By approving the revised measures, the Board is authorizing ICANN (Internet Corporation for Assigned Names and Numbers) to issue a blanket authorization that allows new gTLD (generic Top Level Domain) registry operators who implement the required measures to release all reserved letter/letter two-character ASCII labels not otherwise reserved pursuant to Specification 5, Section 6 of the New gTLD (generic Top Level Domain) Registry Agreement. The current authorization process, whereby a registry operator submits an individual request subject to 60-day comment period and ICANN (Internet Corporation for Assigned Names and Numbers)'s review of comments, will be retired.

Which stakeholders or others were consulted?

ICANN (Internet Corporation for Assigned Names and Numbers) initiated multiple public comment periods and consulted with various stakeholders on this matter over a period of nearly two and a half years.

From June through September 2014, ICANN (Internet Corporation for Assigned Names and Numbers) staff initiated five public comment forums to obtain feedback from the community on the amendments that resulted from various RSEPs to implement the proposed new registry service of releasing from reservation two-character ASCII labels[1] for 203 TLDs. Various members of the community submitted comments, including the At-Large Advisory Committee (Advisory Committee) (ALAC (At-Large Advisory Committee)), gTLD (generic Top Level Domain) registry operators, the Brand Registry Group (BRG (Brand Registry Group)), INTA (International Trademark Association) Internet Committee (INTA (International Trademark Association)), the Business Constituency (BC (Business Constituency)), the Intellectual Property Constituency (IPC (Intellectual Property Constituency)) and a registrar.

Since 1 December 2014 at the launch of the Authorization Process for Release from Two-Character ASCII Labels (/resources/two-character-labels), all authorization requests for letter/letter two-character ACII labels were subject to a comment period. Over 646 requests have been received under this process.

Throughout the nearly two and a half years, ICANN (Internet Corporation for Assigned Names and Numbers) notified 1) the GAC (Governmental Advisory Committee) for amendments posted from June through September 2014 and 2) governments for requests under the Authorization Process since December 2014, when two-character requests from registry operators were posted for comment. The GAC (Governmental Advisory Committee) had not submitted comments under the Public Comment Periods for the amendments to release two-character labels. Under the Authorization Process, the GAC (Governmental Advisory Committee) had not submitted comments, but various individual governments submitted comments on requests.

On 6 October 2015, ICANN (Internet Corporation for Assigned Names and Numbers) corresponded with governments who previously submitted comments requesting that clarification of their comments be provided via a new comment form within 60 days; new comments were required to be submitted via the new comment form.

On 25 February 2016, ICANN (Internet Corporation for Assigned Names and Numbers) corresponded with registry operators requesting they provide proposed measures to avoid confusion with corresponding country codes in order to respond to governments' confusion concerns within 60 days.

On 8 July 2016, taking into consideration the inputs from governments and registry operators, ICANN (Internet Corporation for Assigned Names and Numbers) published for public comment the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf), which listed measures registry operators could adopt to avoid confusion with corresponding country codes and which incorporated the GAC (Governmental Advisory Committee)'s advice issued in its Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf). As part of the proposal, registry operators who adopt the measures would be authorized to release all letter/letter two-character ASCII labels not otherwise reserved in other sections of the Registry Agreement, and the current process would be retired. Forty-three comments were received, including comments from the RySG (Registries Stakeholder Group), the BRG (Brand Registry Group), the IPC (Intellectual Property Constituency), the NCSG (Non-Commercial Stakeholders Group), LACTLD (Latin American and Caribbean ccTLDs), various governments, ccTLD (Country Code Top Level Domain) registry operators and gTLD (generic Top Level Domain) registry operators.

What concerns or issues were raised by the community?

From the five public comment periods from 2014 on registry agreement amendments that resulted from RSEPs, the majority of the comments received were in favor of the release of two-character domain names.

The arguments made in favor of the release of the two-character domain names included:

- The introduction of two-character domain names would increase competition since the current restrictions hinder competition, in particular for the new gTLDs, which are competing with legacy TLDs that are allowed to offer such registrations. The current restrictions to the new gTLD (generic Top Level Domain) registry operators create a discriminatory situation, which is contrary to the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws Article II, Section 3 that provide for Non-Discriminatory Treatment of ICANN (Internet Corporation for Assigned Names and Numbers) stakeholders.

- The introduction of two-character domain names poses a limited risk of confusion, or no risk at all, as demonstrated by prior use of two-character domain names in existing TLDs.

- The release of two-character domain names would provide opportunities for companies and brands to have tailored segmented domain names to connect with the public as well as provide localized content, thus expanding consumer choice and driving economic growth, in particular in developing countries.

- There is uniform precedent regarding the release of two-character domain names in the history of relevant RSEP (Registry Services Evaluation Policy) requests.

- The release of country codes and names is allowed by the Applicant Guidebook.

The arguments made in opposition to the release of the two-character domain names expressed two general concerns: the first concern is related to the general recognition and associated use of the two character domain names leading to user confusion or abuse; the second concern is how to specifically protect ccTLDs when country and territory names are newly formed.

From the public comment forum for the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf), which established a standard set of registry operator requirements to avoid confusion, comments indicated support for the release of two-character labels reserved pursuant to Specification 5, Section 2 of the New gTLD (generic Top Level Domain) Registry Agreement overall, including comments of support from the NCSG (Non-Commercial Stakeholders Group), IPC (Intellectual Property Constituency) and RySG (Registries Stakeholder Group) among others. Comments noted that the Registry Agreement allows for two paths by which registry operators may release two-character labels: one path of agreement with the government and country-code manager, and a second path of ICANN (Internet Corporation for Assigned Names and Numbers) approval.

There was moderate support for the Proposed Measures to the extent the Proposed Measures allows for the release of two-character labels, including comments of support from the RySG (Registries Stakeholder Group) and BRG (Brand Registry Group) among others. Comments that seem to generally support the Proposed Measures made specific suggestions about how the framework could be improved, such as noting that two of the three proposed measures (registration policy and post-registration investigation) pertained to confusion and suggesting one measure (exclusive availability pre-registration period) be made voluntary.

Some commenters took the position that governments do not have special rights to two-character labels that correspond with country codes, and that the labels should be released as soon as possible. Conversely, some governments and ccTLD (Country Code Top Level Domain) operators commented with objections to the release of two-character labels that correspond with country codes and took the position that government and/or ccTLD (Country Code Top Level Domain) operator approval is required.

Over the past two years, the GAC (Governmental Advisory Committee) has issued advice through various communiqués and formal correspondence to ICANN (Internet Corporation for Assigned Names and Numbers). Members of the GAC (Governmental Advisory Committee) have varying views on the topic. In the Los Angeles Communiqué (/en/system/files/correspondence/gac-to-board-15oct14-en.pdf) (15 October 2014), the GAC (Governmental Advisory Committee) stated, "The GAC (Governmental Advisory Committee) recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC (Governmental Advisory Committee) is not in a position to offer consensus advice on the use of two-character second level domains names in new gTLD (generic Top Level Domain) registry operations, including those combinations of letters that are also on the ISO (International Organization for Standardization) 3166-1 alpha 2 list." In the Helsinki Communiqué (https://gacweb.icann.org/download/attachments/27132037/20160630_GAC%20ICANN%2056%20Communique_FINAL%20%5B1%5D.pd version=1&modificationDate=1469016353728&api=v2) (30 June 2016), the GAC (Governmental Advisory Committee) stated, "Some countries and territories have stated they require no notification for the release of their 2 letter codes for use at the second level. The GAC (Governmental Advisory Committee) considers that, in the event that no preference has been stated, a lack of response should not be considered consent. Some other countries and territories require that an applicant obtains explicit agreement of the country/territory whose 2-letter code is to be used at the second level."

The Singapore Communiqué (/en/system/files/correspondence/gac-to-board-11feb15-en.pdf)
(11 February 2015) and Dublin Communiqué (/en/system/files/correspondence/gac-to-board-
21oct15-en.pdf) (21 October 2015) advised improvements to the process such as extending the
comment period from 30 days to 60 days and working with the GAC (Governmental Advisory
Committee) Secretariat to address technical issues on the comment form. In both
communiqués, the GAC (Governmental Advisory Committee) advised that comments from
relevant governments should be fully considered. In its Helsinki Communiqué
(https://gacweb.icann.org/download/attachments/27132037/20160630_GAC%20ICANN%2056%20Communique_FINAL%20%5B1%5D.pd
version=1&modificationDate=1469016353728&api=v2), the GAC (Governmental Advisory
Committee) also advised the Board to "urge the relevant Registry or the Registrar to engage
with the relevant GAC (Governmental Advisory Committee) members when a risk is identified in
order to come to an agreement on how to manage it or to have a third-party assessment of the
situation if the name is already registered."

**What significant materials did the Board review? What factors did the Board find to be
significant?**

The Board reviewed several materials and also considered several significant factors during its
deliberations about whether or not to approve the request. The significant materials and factors
that the Board considered as part of its deliberations, included, but not limited to the following:

- Specification 5, Section 2 of the New gTLD (generic Top Level Domain) Registry
  Agreement (https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-
  09jan14-en.htm) (updated 9 January 2014)

- RSTEP (Registry Services Technical Evaluation Panel) Report on the Proposal for the
  Limited Release of Initially Reserved Two-Character Names (/en/system/files/files/rstep-
  gnr-proposal-review-team-report-04dec06-en.pdf) (4 December 2006)

- Correspondence from the Board to the GAC (Governmental Advisory Committee)
  regarding requests for release of two-character labels as second-level domains in New
  gTLDs (/en/system/files/correspondence/crocker-to-dryden-2-02sep14-en.pdf) (2
  September 2014)

- Correspondence from the GAC (Governmental Advisory Committee) to the Board
  regarding requests for release of two-character labels as second-level domains in New
  gTLDs (/en/system/files/correspondence/dryden-to-crocker-10sep14-en.pdf) (10
  September 2014)

- GAC (Governmental Advisory Committee) Los Angeles Communiqué
  (/en/system/files/correspondence/gac-to-board-15oct14-en.pdf) (15 October 2014)

- ICANN (Internet Corporation for Assigned Names and Numbers) Board Resolution
  2014.10.16.14: Introduction of Two-character Domain Names in the New gTLD (generic
  Top Level Domain) Namespace (/resources/board-material/resolutions-2014-10-16-
  en#2.b) (16 October 2014)

- Authorization Process for Release of Two-Character ASCII Labels (/resources/two-
  character-labels) (launched 1 December 2014, last updated 14 April 2016)

- GAC (Governmental Advisory Committee) Singapore Communiqué
  (/en/system/files/correspondence/gac-to-board-11feb15-en.pdf) (11 February 2015)

- ICANN (Internet Corporation for Assigned Names and Numbers) Board Resolution
  2015.02.12.2016: Release of Two-Letter Codes at the Second Level in gTLDs
  (/resources/board-material/resolutions-2015-02-12-en#2.a) (12 February 2015)

- Correspondence from RySG (Registries Stakeholder Group) to the President of the Global
  Domains Division regarding the treatment of government comments on requests to
  release two-character ASCII labels (/en/system/files/correspondence/rysg-to-atallah-
  13mar15-en.pdf) (13 March 2015)

- Response from the President of the Global Domains Division to the RySG (Registries Stakeholder Group) regarding the treatment of government comments on requests to release two-character ASCII labels (/en/system/files/correspondence/atallah-to-rysg-23mar15-en.pdf) (23 March 2015)

- Joint Correspondence from the BRG (Brand Registry Group), the BC (Business Constituency) and the IPC (Intellectual Property Constituency) to the Board regarding the release of 2-letter labels and country names for Specification 13 registries (/en/system/files/correspondence/sutton-cooper-shatan-to-crocker-14apr15-en.pdf) (14 April 2015)

- Response from the President of the Global Domains Division to the BRG (Brand Registry Group), the BC (Business Constituency) and the IPC (Intellectual Property Constituency) regarding the release of 2-letter labels and country names for Specification 13 registries (/en/system/files/correspondence/atallah-to-sutton-et-al-15jun15-en.pdf) (15 June 2015)

- Correspondence from GAC (Governmental Advisory Committee) to the President of the Global Domains Division regarding two-character codes as Second Level Domains (/en/system/files/correspondence/schneider-to-atallah-16jul15-en.pdf) (16 July 2015)

- Response from the President of the Global Domains Division to the GAC (Governmental Advisory Committee) regarding two-character codes as Second Level Domains (/en/system/files/correspondence/atallah-to-schneider-1-06aug15-en.pdf) (6 August 2015)

- Two-Character Letter/Letter Labels Comments Consideration Process (/resources/pages/two-character-comments-consideration-2015-10-06-en) (launched 8 October 2015, last updated 25 February 2016)

- GAC (Governmental Advisory Committee) Dublin Communiqué (/en/system/files/correspondence/gac-to-board-21oct15-en.pdf) (21 October 2015)

- Correspondence from RySG (Registries Stakeholder Group) to the Board regarding advice contained in the GAC (Governmental Advisory Committee)'s Dublin communiqué regarding the use of two-letter country codes (/en/system/files/correspondence/diaz-to-crocker-09nov15-en.pdf) (9 November 2015)

- Response from the Board to the RySG (Registries Stakeholder Group) regarding advice contained in the GAC (Governmental Advisory Committee)'s Dublin communiqué regarding the use of two-letter country codes (/en/system/files/correspondence/chalaby-to-diaz-30mar16-en.pdf) (30 March 2016)

- GAC (Governmental Advisory Committee) Helsinki Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf) (30 June 2016)

- Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes (/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf) (8 July 2016)

- Public Comment Summary and Analysis Report on Proposed Measures (/en/system/files/files/report-comments-proposed-measures-two-char-ascii-23sep16-en.pdf) (23 September 2016)

- Correspondence from the Secretariat General of the Cooperation Council for the Arab States of the Gulf to the ICANN (Internet Corporation for Assigned Names and Numbers) President and CEO regarding the proposed measures for letter/letter two-character ASCII labels (3 October 2016)

- Correspondence from the Communication and Information Technology Regulatory Authority of Kuwait to the ICANN (Internet Corporation for Assigned Names and Numbers) President and CEO regarding the proposed measures for letter/letter two-character ASCII labels (12 October 2016)

Are there positive or negative community impacts? Are there fiscal impacts or ramifications on ICANN (Internet Corporation for Assigned Names and Numbers) (strategic plan, operating plan, budget); the community; and/or the public? Are there any security, stability or resiliency issues relating to the DNS (Domain Name System)?

The overall impact on the community is anticipated to be positive as new opportunities for diversification, competition and targeted content creation in the gTLD (generic Top Level Domain) namespace are created, while minimal risk of user confusion has been identified.

It is not expected that there will be any significant fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers).

In December 2006, the Registry Services Technical Evaluation Panel (RSTEP (Registry Services Technical Evaluation Panel)) issued a report (/en/system/files/files/rstep-gnr-proposal-review-team-report-04dec06-en.pdf) regarding the release of two-character labels and found that "taken in the context of our overall understanding, none of the observations point to the proposed release of two-character Second Level Domain having a material security or stability impact on the Internet." Additionally, these names are not reserved in many legacy TLDs, which have not caused apparent security, stability or resiliency issues in relation to the DNS (Domain Name System).

It is expected that the release of these names in new gTLDs will not cause security, stability or resiliency issues.

Is this either a defined policy process within ICANN (Internet Corporation for Assigned Names and Numbers)'s Supporting Organizations (Supporting Organizations) or ICANN (Internet Corporation for Assigned Names and Numbers)'s Organizational Administrative Function decision requiring public comment or not requiring public comment?

This is an Organizational Administrative Function for which public comments were received.

b. Consideration of the *Corn Lake, LLC v. ICANN (Internet Corporation for Assigned Names and Numbers)* Independent Review Process Final Declaration

Whereas, on 19 October 2016, ICANN (Internet Corporation for Assigned Names and Numbers) received the Independent Review Process (IRP) Final Declaration in the IRP filed by Corn Lake, LLC (Corn Lake) against ICANN (Internet Corporation for Assigned Names and Numbers) (Final Declaration).

Whereas, the IRP Panel declared that: (i) Corn Lake's challenges to the determination rendered by an expert panelist sustaining the Independent Objector's (IO's) Community Objection against Corn Lake's application for .CHARITY (Expert Determination) and the Board Governance Committee's (BGC's) denial of Corn Lake's Reconsideration Request 14-3 challenging the Expert Determination were time-barred; (ii) "the Board acted without conflict [of interest]"; and (iii) "the Board members exercised independent judgment, believed to be in the best interests of the community." (See Final Declaration, ¶¶ 7.14, 8.70, 8.74, https://www.icann.org/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf (/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf).)

Whereas, the Panel further declared that "the [Board] action of omitting .CHARITY from the [the review mechanism to address perceived inconsistent or unreasonable string confusion objection determinations (Final Review Procedure)] was inconsistent with the Articles of Incorporation and Bylaws." (Final Declaration at ¶ 11.1(b).)

Whereas, the Panel further declared that "Claimant, Corn Lake, is the prevailing party" and that "no costs shall be allocated to the prevailing party." (Final Declaration at ¶¶ 11.1(a), (e).)

Whereas, the Panel recommended that: (1) "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination"; and (2) "the Board continue to stay any action or decision in relation to [Spring Registry Limited's] .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel." (Final Declaration at ¶¶ 11.1(c)-(d).)

Whereas, in accordance with Article IV, section 3.21 of ICANN (Internet Corporation for Assigned Names and Numbers)'s Bylaws, the Board has considered the Final Declaration.

Resolved (2016.11.08.16), the Board accepts the following findings of the Final Declaration: (i) Corn Lake is the prevailing party in the Corn Lake, LLC v. ICANN (Internet Corporation for Assigned Names and Numbers) IRP; (ii) Corn Lake's challenges to the Expert Determination and the BGC's denial of Corn Lake's Reconsideration Request 14-3 were time-barred; (iii) the Board acted without conflict of interest; (iv) "the Board members exercised independent judgment, believed to be in the best interests of the community"; (v) "the [Board] action of omitting .CHARITY from the [Final Review Procedure] was inconsistent with the Articles of Incorporation and Bylaws"; and (vi) the parties shall each bear their own costs.

Resolved (2016.11.08.17), the Board directs the President and CEO, or his designee(s), to take all steps necessary to implement the Panel's recommendation that "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination."

Resolved (2016.11.08.18), the Board directs the President and CEO, or his designee(s), to refrain from taking any further action or decision in relation to Spring Registry Limited's .CHARITY application until after the results of the Final Review Procedure are known, and then to proceed pursuant to established processes with the processing of both Corn Lake's and Spring Registry Limited's applications in accordance with the results of Final Review Procedure.

Rationale for Resolutions 2016.11.08.16 – 2016.11.08.18

Corn Lake, LLC (Corn Lake) initiated Independent Review Process (IRP) proceedings challenging: (1) the determination rendered by an expert panelist sustaining the Independent Objector's (IO's) community objection against Corn Lake's application for .CHARITY (Expert Determination); (2) the Board Governance Committee's (BGC's) denial of Corn Lake's Reconsideration Request 14-3 challenging the Expert Determination; and (3) the Board's decision to not include the Expert Determination in the review mechanism to address perceived inconsistent or unreasonable string confusion objection determinations (Final Review Procedure).

Corn Lake applied to ICANN (Internet Corporation for Assigned Names and Numbers) for the opportunity to operate the .CHARITY new gTLD (generic Top Level Domain). Spring Registry Limited ("SRL") also submitted an application for .CHARITY, and Excellent First Limited (Excellent First) submitted an application for .慈善 (the Chinese translation of "charity"). ICANN (Internet Corporation for Assigned Names and Numbers)'s Independent Objector (IO) filed Community Objections against the two .CHARITY applications, as well as the application for .慈善, meaning charity. The IO was concerned that, among other things, the lack of any policy restricting registrations in these gTLDs to charitable or not-for-profit organizations created a likelihood of detriment to the rights or legitimate interests of the charity community, to users, and to the general public. (See IO's Community Objection at Para. 46, pgs. 16-17, http://www.independent-objector-newgtlds.org/home/the-independent-objector-s-objections/charity-cty-corn-lake-llc/ (http://www.independent-objector-newgtlds.org/home/the-independent-objector-s-objections/charity-cty-corn-lake-llc/)).

The International Centre for Expertise of the International Chamber of Commerce (ICC (International Chamber of Commerce)) expert panel evaluating the IO's Community Objection to Corn Lake's application rendered a determination (Expert Determination) in favor of the IO, finding that, because Corn Lake's .CHARITY application did not include registration restrictions to charitable organizations, "there is a likelihood of material detriment to the charity sector community were the Application to proceed." The same ICC (International Chamber of

Commerce) expert panel also evaluated the IO's Community Objections to SRL's application and Excellent First's application, rendering determinations in favor of SRL and Excellent First Limited. Specifically, the expert panel found that SRL's and Excellent First's commitments set out in their applications to restrict registrations in the applied-for string to charitable organizations was sufficient to negate any concern of material detriment to the targeted community.

On 24 January 2014, Corn Lake filed Reconsideration Request 14-3 (Request 14-3) seeking reversal of the Expert Determination. On 27 February 2014, the Board Governance Committee (BGC) denied Request 14-3, finding no evidence that the expert panel violated any process or policy in reaching its determination.

Separately, in April 2013, the Governmental Advisory Committee (Advisory Committee) (GAC (Governmental Advisory Committee)) recommended in the Beijing Communiqué that the Board adopt elig bility restrictions for "sensitive strings," including .CHARITY. (See Beijing Communiqué at https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf (/en/system/files/correspondence/gac-to-board-11apr13-en.pdf).) The New gTLD (generic Top Level Domain) Program Committee (NGPC) adopted the GAC (Governmental Advisory Committee)'s recommendation by a 5 February 2014 resolution (see https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-02-05-en (/resources/board-material/resolutions-new-gtld-2014-02-05-en)), which, according to the Panel, effectively required that whichever applicant ultimately operated the .CHARITY gTLD (generic Top Level Domain) would need to restrict registrations to charitable organizations. Also at that 5 February 2014 meeting, the NGPC adopted a resolution that authorized the ICANN (Internet Corporation for Assigned Names and Numbers) President and CEO to initiate a public comment period with respect to a proposed review mechanism to address perceived inconsistent string confusion objection determinations (Final Review Procedure). At its creation, the Final Review Procedure was limited to the review of certain string confusion expert determinations for .CAR/.CARS, .CAM/.COM, and .SHOP/.ONLINESHOPPING (in Japanese characters). In March 2014, via the public comment process, Corn Lake's parent company (Donuts, Inc.) asked the Board to extend the Final Review Procedure to perceived inconsistent determinations of community objection, such as that concerning .CHARITY. The Board did not do so when the procedure was implemented in a 12 October 2014 Board resolution ("12 October 2014 Resolution"). (See https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en (/resources/board-material/resolutions-new-gtld-2014-10-12-en).)

Corn Lake's IRP Request, submitted on 24 March 2015, sought a declaration that the ICANN (Internet Corporation for Assigned Names and Numbers) Board's decision not to include the .CHARITY determination in the 12 October 2014 Resolution violates ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles and Bylaws, and also asked the Panel to review the Expert Determination and the BGC's denial of Request 14-3.

On 17 October 2016, the three-member IRP Panel (Panel) issued its Final Declaration, which was circulated to the parties on 19 October 2016. After consideration and discussion, pursuant to Article IV, Section 3.21 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws, the Board adopts the findings of the Panel, which are summarized below, and can be found in full at https://www.icann.org/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf (/en/system/files/files/irp-corn-lake-final-declaration-17oct16-en.pdf).

The Panel held that the IRP request was denied in part and granted in part, and determined Corn Lake to be the prevailing party. (Final Declaration at ¶¶ 7.14, 8.96, 11.1(a).) As a threshold issue, the Panel declared that Corn Lake's challenges to the Expert Determination and the BGC's denial of Request 14-3 were "out of time" and therefore time-barred from consideration in this IRP. (Final Declaration at ¶¶ 7.14, 8.34.)

The Panel also declared that: (i) with respect to setting filing deadlines, "ICANN (Internet Corporation for Assigned Names and Numbers) is entitled and indeed required to establish reasonable procedural rules in its Bylaws, including in respect of filing deadline, in order to provide for orderly management of its review processes" (id. at ¶ 7.9); (ii) "it is now well

established that: '…the IRP Panel is charged with 'objectively' determining whether or not the Board's actions are in fact consistent with the Articles, Bylaws and Guidebook, which the Panel understands as requiring that the Board's conduct be appraised independently, and without any presumption of correctness'" (id. at ¶ 8.18); (iii) "[t]here is no suggestion that the Board had a conflict of interest, and the IRP Panel finds that the Board acted without conflict." (id. at ¶ 8.70); and (iv) "[t]here is no indication that the Board members were acting in any way other than in good faith and exercising independent judgment, with the subjective belief that they were acting in the best interests of the community. The IRP Panel finds that the Board members exercised independent judgment, believed to be in the best interests of the community" (id. at ¶ 8.74). The Panel further stated: "[t]his IRP Panel does not suggest that ICANN (Internet Corporation for Assigned Names and Numbers) lacks discretion to make decisions regarding its review processes as set out in the Applicant Guidebook, which may well require it to draw nuanced distinctions between different applications or categories of applications. Its ability to do so must be preserved as being in the best interest of the Internet community as a whole." (Id. at ¶ 8.98).

The Panel stated that "[t]he sole issue before this Panel is whether the Board properly or improperly excluded the .Charity Expert Determinations from the [Final Review Procedure] in the first place." (Final Declaration at ¶ 8.97, fn. 246.) In considering this issue, the Panel noted that the Expert Determination was largely based on the fact that Corn Lake's application originally had not made clear that it would restrict registrations to charitable organizations. The Panel felt that the NGPC's acceptance of the Beijing Communiqué created a "leveling effect," effectively requiring that whichever .CHARITY applicant prevailed, it would be required to implement restricted registration policies. The Panel noted: "We make no finding that the Board's failure to consider the impact of its adoption of the Be jing Communiqué recommendations was malicious or intentional. We find simply that the leveling effect on the eligibility requirements in the pending applications of the new PIC requirement was a material fact that should have been considered, and apparently it was not." (Final Declaration at ¶ 8.73.) The Panel therefore declared that that "the action of omitting .CHARITY from the [Final Review Procedure] was inconsistent with the Articles of Incorporation and Bylaws." (Final Declaration at ¶ 11.1(b).) The Panel noted that its finding "is further supported by the ICANN (Internet Corporation for Assigned Names and Numbers) Board's [later] decision to include the .HOSPITAL Expert Determinations [in the Final Review Procedure], despite those Determinations appearing to have been less clearly within the criteria tha[n] the .CHARITY Determinations." (Final Declaration at ¶ 8.101.) The Panel further noted that "this is a unique situation and peculiar to its own unique and unprecedented facts[; and t]his unique set of circumstances created what was doubtless a difficult situation for ICANN (Internet Corporation for Assigned Names and Numbers) to consider in establishing the scope of the new review process[.]" (Final Declaration at ¶ 8.97.)

The Panel further declared that "these IRP proceedings involve extraordinary circumstances," and therefore "no costs shall be allocated to the Claimant as the prevailing party," "each Party shall bear its own costs in respect of this IRP Panel proceeding." (Final Declaration at ¶¶ 9.3-9.5.)

In addition, the Panel recommended that: (1) "the Board extend the [Final Review Procedure] to include review of Corn Lake's .CHARITY Expert Determination"; and (2) "the Board continue to stay any action or decision in relation to [Spring Registry's] .CHARITY application until such time as the Board reviews and acts upon the opinion of the IRP Panel." (Final Declaration at ¶¶ 11.1(c)-(d).) Subsequent to the issuance of the Final Declaration, the Board received a letter on 28 October 2016 (dated 27 October) from Corn Lake's counsel "urg[ing] the Board to reinstate its .CHARITY application without" "[g]oing through the motions of such review[, which] will cost money to ICANN (Internet Corporation for Assigned Names and Numbers) and Corn Lake, and unnecessary time for all .CHARITY applicants." Corn Lake requests that the Board "reinstat[e] Corn Lake's .CHARITY application and allow[] it to compete for the domain without going through the additional time and expense [of the Final Review Procedure]." (See https://www.icann.org/en/system/files/correspondence/genga-to-icann-board-27oct16-en.pdf (/en/system/files/correspondence/genga-to-icann-board-27oct16-en.pdf).) The Board had the opportunity to review Corn Lake's correspondence and has taken it into consideration in reaching its Resolution regarding the Panel's recommendation.

As required, the Board has considered the Final Declaration. As this Board has previously indicated, the Board takes very seriously the results of one of ICANN (Internet Corporation for Assigned Names and Numbers)'s long-standing accountability mechanisms. Accordingly, and for the reasons set forth in this Resolution and Rationale, the Board has accepted the Panel's Final Declaration as indicated above.

Adopting the Panel's Final Declaration and implementing the Panel's recommendation will have a direct financial impact on the organization, but that impact will not impact the underlying budget for FY17. Adopting the Panel's Final Declaration will not have any direct impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative function that does not require public comment.

c. Thank You to the Global Multistakeholder Community

Whereas, on 14 March 2014, the National Telecommunications and Information Administration (NTIA (US National Telecommunications and Information Agency)) of the United States Department of Commerce announced its intention to transition the stewardship of the IANA (Internet Assigned Numbers Authority) Functions to the global multistakeholder community.

Whereas, NTIA (US National Telecommunications and Information Agency) asked ICANN (Internet Corporation for Assigned Names and Numbers) to convene global stakeholders to develop a proposal to transition the current role, played by NTIA (US National Telecommunications and Information Agency), in the coordination of the Internet's domain name system (DNS (Domain Name System)). NTIA (US National Telecommunications and Information Agency) required that the proposal for transition must have broad community support and uphold the following principles:

- Support and enhance the multistakeholder model;

- Maintain the security, stability, and resiliency of the Internet DNS (Domain Name System);

- Meet the needs and expectation of the global customers and partners of the IANA (Internet Assigned Numbers Authority) services; and,

- Maintain the openness of the Internet.

NTIA (US National Telecommunications and Information Agency) also stated it would not accept a proposal that replaces the NTIA (US National Telecommunications and Information Agency) role with a government-led or an inter-governmental organization solution.

Whereas, in the Board resolutions 2016.03.10.12-15 the ICANN (Internet Corporation for Assigned Names and Numbers) Board resolved to accept the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group's (ICG (IANA Stewardship Transition Coordination Group)) IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal, reflecting he proposals developed by CRISP, IANA (Internet Assigned Numbers Authority) Plan and the CWG-Stewardship, and approve the transmittal of the Proposal to NTIA (US National Telecommunications and Information Agency) of the United States Department of Commerce in response to NTIA (US National Telecommunications and Information Agency)'s 14 March 2014 announcement.

Whereas, the Board further resolved that the President and CEO, or his designee, was directed to plan for the implementation of the Proposal so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to implement in the event NTIA (US National Telecommunications and Information Agency) approves of the Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires.

Whereas, in its Board resolutions 2016.03.10.16-19, the ICANN (Internet Corporation for Assigned Names and Numbers) Board resolved to accept the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability

(CCWG-Accountability) Work Stream 1 Report ("Report"), and approve the transmittal of the Report to NTIA (US National Telecommunications and Information Agency) to accompany the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal developed by the ICG (IANA Stewardship Transition Coordination Group).

Whereas, the Board further resolved that the President and CEO, or his designee, is directed to plan for the implementation of the Report so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to implement in the event NTIA (US National Telecommunications and Information Agency) approves of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires.

Whereas, on 27 May, the Board adopted resolution *2016.05.27.01-04, resolving that the* New ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws (/en/system/files/files/adopted-bylaws-27may16-en.pdf) will be deemed effective upon the expiration the IANA (Internet Assigned Numbers Authority) Functions Contract between ICANN (Internet Corporation for Assigned Names and Numbers) and NTIA (US National Telecommunications and Information Agency), and directed the President and CEO, or his designee, to plan for the implementation of the Bylaws so that ICANN (Internet Corporation for Assigned Names and Numbers) is operationally ready to   meet its obligations in the event NTIA (US National Telecommunications and Information Agency) approves of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal and the IANA (Internet Assigned Numbers Authority) Functions Contract expires.

Whereas, on 9 June NTIA (US National Telecommunications and Information Agency) informed (/en/system/files/correspondence/strickling-to-crocker-09jun16-en.pdf) ICANN (Internet Corporation for Assigned Names and Numbers) that NTIA (US National Telecommunications and Information Agency) had completed its review of the IANA (Internet Assigned Numbers Authority) Stewardship Proposal along with the other US agencies, and determined that the proposal meets the criteria set out by NTIA (US National Telecommunications and Information Agency) in March 2014 when it announced its intent to transition NTIA (US National Telecommunications and Information Agency)"s stewardship of key Internet domain name functions to the global multistakeholder community. NTIA (US National Telecommunications and Information Agency) noted and outlined in their report that there was still some work to be done before the IANA (Internet Assigned Numbers Authority) functions stewardship transition could occur, and requested that ICANN (Internet Corporation for Assigned Names and Numbers) provide NTIA (US National Telecommunications and Information Agency) with an implementation planning status report by August 12, 2016.

Whereas, on 12 August, ICANN (Internet Corporation for Assigned Names and Numbers) provided NTIA (US National Telecommunications and Information Agency) with the implementation planning status report (/en/system/files/correspondence/marby-to-strickling-12aug16-en.pdf) noting that: "ICANN (Internet Corporation for Assigned Names and Numbers), working   with the multistakeholder community, confirms that all required IANA (Internet Assigned Numbers Authority)   functions stewardship transition tasks specified in NTIA (US National Telecommunications and Information Agency)'s June 9, 2016 letter are complete, and all other tasks in support of the IANA (Internet Assigned Numbers Authority)   stewardship transition are either in a final review stage or awaiting   approval, which will be complete in advance of September 30, 2016 to allow the IANA (Internet Assigned Numbers Authority) functions contract to expire."

Whereas, on 1 October, the NTIA (US National Telecommunications and Information Agency) advised ICANN (Internet Corporation for Assigned Names and Numbers) (https://www.ntia.doc.gov/press-release/2016/statement-assistant-secretary-strickling-iana-functions-contract) and the global   multistakeholder community that the IANA (Internet Assigned Numbers Authority) Functions contract had   expired.

Resolved (2016.11.08.19), the Board expresses its deep appreciation for the tireless efforts of the global multistakeholder community, including the leadership of the various community-led

groups contributing to the Proposals. The development of the coordinated   Proposals across the global community, that met the criteria set out   by NTIA (US National Telecommunications and Information Agency), and the work to achieve implementation to allow for the   contract to lapse on 30 September 2016, is unprecedented and serves as an historical record of the success of the work of the community to achieve a longstanding goal.

Resolved (2016.11.08.20), the Board expresses its deep appreciation to the US Department of Commerce, for standing by the long-standing commitment to end the IANA (Internet Assigned Numbers Authority) Functions contract, and for its   dedication, and tireless efforts as a partner with ICANN (Internet Corporation for Assigned Names and Numbers) and the community to achieving this historic goal.

d. Thank You to Bruno Lanvin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Whereas, Bruno Lanvin was appointed by the Nominating Committee to serve as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 21 November 2013.

Whereas, Bruno Lanvin concluded his term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Whereas, Bruno served as a member of the following Committees:

- Audit Committee

- Finance Committee

- New gTLD (generic Top Level Domain) Program Committee

- Organizational Effectiveness Committee [formerly the Structural Improvements Committee]

Resolved (2016.11.08.21), Bruno Lanvin has earned the deep appreciation of the Board for his term of service, and the Board wishes him well in his future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

e. Thank You to Erika Mann for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Whereas, Erika Mann was appointed to serve by the Nominating Committee as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 10 December 2010.

Whereas, Erika concludes her term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Whereas, Erika has served as a member of the following Committees and Working Groups:

- Audit Committee

- Compensation Committee

- Global Relationships Committee

- Governance Committee

- New gTLD (generic Top Level Domain) Program Committee

- Board-GAC (Governmental Advisory Committee) Recommendation Implementation Working Group

- Board Working Group on Internet Governance (BWG-IG)

- Board Working Group on Registration Data Directory Services (BWG-RDS)

- ICANN (Internet Corporation for Assigned Names and Numbers) Board Liaison to the Charter Drafting Team for the Cross Community Working Group on New gTLD (generic Top Level Domain) Auction Proceeds

Resolved (2016.11.08.22), Erika Mann has earned the deep appreciation of the Board for her term of service, and the Board wishes her well in her future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

f. Thank You to Kuo-Wei Wu for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Whereas, Kuo-Wei Wu was appointed by the Address Supporting Organization (Supporting Organization) (AS0) to serve as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 22 April 2010.

Whereas, Kuo-Wei concluded his term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Whereas, Kuo-Wei served as a member of the following ICANN (Internet Corporation for Assigned Names and Numbers) Board Committees and Working Groups:

- Global Relationships Committee

- IANA (Internet Assigned Numbers Authority) Committee

- New gTLD (generic Top Level Domain) Program Committee

- Organizational Effectiveness Committee [formerly the Structural Improvements Committee]

- Public Participation Committee

- Risk Committee

- IDN Variants Working Group

Resolved (2016.11.08.23), Kuo-Wei Wu has earned the deep appreciation of the Board for his term of service, and the Board wishes him well in his future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

g. Thank You to Suzanne Woolf for her service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Whereas, Suzanne Woolf was appointed to serve by the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)) as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 5 December 2004.

Whereas, Suzanne concludes her term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Whereas, Suzanne has served as a member of the following Committees and Working Groups:

- Governance Committee

- Risk Committee

- IANA (Internet Assigned Numbers Authority) Committee

- IDN Variants Working Group

Resolved (2016.11.08.24), Suzanne Woolf has earned the deep appreciation of the Board for her term of service, and the Board wishes her well in her future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

h. Thank You to Bruce Tonkin for his service to the ICANN (Internet Corporation for Assigned Names and Numbers) Board

Whereas, Bruce Tonkin was appointed by the Generic Names Supporting Organization (Supporting Organization) (GNSO (Generic Names Supporting Organization)) to serve as a member of the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 29 June 2007.

Whereas, Bruce Tonkin concluded his term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Whereas, Bruce served as a member of the following Committees:

- Governance Committee

- Compensation Committee

- Executive Committee

- Risk Committee

- Board Working Group on Registration Data Directory Services (BWG-RDS)

- ICANN (Internet Corporation for Assigned Names and Numbers) Board Liaison to the Cross Community Working Group (CCWG) on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability

Resolved (2016.11.08.25), Bruce Tonkin has earned the deep appreciation of the Board for his term of service, and the Board wishes him well in his future endeavors within the ICANN (Internet Corporation for Assigned Names and Numbers) community and beyond.

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[1] 12 June 2014 <https://www.icann.org/public-comments/two-char-new-gtld-2014-06-12-en (/public-comments/two-char-new-gtld-2014-06-12-en)>; 8 July 2014 <https://www.icann.org/public-comments/two-char-new-gtld-2014-07-08-en (/public-comments/two-char-new-gtld-2014-07-08-en)>; 23 July 2014 <https://www.icann.org/public-comments/two-char-new-gtld-2014-07-23-en (/public-comments/two-char-new-gtld-2014-07-23-en)>; 19 August 2014 <https://www.icann.org/public-comments/two-char-new-gtld-2014-08-19-en (/public-comments/two-char-new-gtld-2014-08-19-en)>; and 12 September 2014 <https://www.icann.org/public-comments/two-char-new-gtld-2014-09-12-en (/public-comments/two-char-new-gtld-2014-09-12-en)>

Published on 8 November 2016

EXHIBIT C-154

Agenda | Board Governance Committee (BGC)

05 Dec 2016

1 **Update regarding creation of feedback report on Board members for Nominating Committee and SO (Supporting Organization)/ACs.**

2. **Updates regarding guidance to Nominating Committee and SOs/ACs re skill sets required on Board.**

3 **Consideration of Accountability Mechanisms Committee.**

4. **Update regarding 360 Degrees Board review.**

5. **Discussion regarding review of slating process.**

6. **Discussions regarding consideration of 2 Vice-Chairs of the Board.**

7. **Update on status of pending accountability mechanisms**

8. **Any Other Business**

Published on 2 December 2016

EXHIBIT C-155

Minutes | Board Governance Committee (BGC) Meeting

05 Dec 2016

BGC Attendees: Rinalia Abdul Rahim, Cherine Chalaby, Chris Disspain (Chair), Asha Hemrajani, Markus Kummer, Mike Silber, and Ram Mohan

Other Board Member Attendees: Maarten Botterman, Steve Crocker and George Sadowsky,

ICANN (Internet Corporation for Assigned Names and Numbers) Executive and Staff Attendees: Michelle Bright (Board Operations Content Manager), John Jeffrey (General Counsel and Secretary), Melissa King (VP, Board Operations), Vinciane Koenigsfeld (Board Operations Content Manager), Elizabeth Le (Senior Counsel), Wendy Profit (Board Operations Specialist)

The following is a summary of discussions, actions taken, and actions identified:

1. **Update regarding feedback report on Board members for Nominating Committee (NomCom) and SO (Supporting Organization)/ACs** – The Chair provided an updated on the process of the preparation of a feedback report by the consulting company TTG on Board members for the NomCom and SO (Supporting Organization)/ACs. It is anticipated that there will be draft for discussion by the end of December for BGC's consideration.

2. **Update regarding Guidance to the NomCom and SO (Supporting Organization)/ACs Board Members Skill Sets** – The Committee discussed the status of the skill sets guidance that the BGC provides annually to the NomCom and SO (Supporting Organization)/ACs for Board membership The BGC discussed the skill sets that should be included in the guidance to the NomCom for Board member selection, including skill sets/attributes outside the normal skill sets or whether there is a more appropriate method to convey additional feedback.
   - Actions

- Board Chair to review and determine whether to incorporate the skill sets/attributes outside the normal skill sets into the current draft guidelines to the NomCom and SO (Supporting Organization)/ACs.

- BGC Chair to reach out to NomCom chair about how else the BGC can provide additional feedback.

3. **Consideration of the Development of a Board Accountability Mechanisms Committee** – Over the past several years, the Committee's work relating to Reconsideration Requests have ncreased significantly, particularly with the New gTLD (generic Top Level Domain) Program. In addition, Article 4 of the newly amended Bylaws (/resources/pages/governance/bylaws-en/#article4) amended CANN (Internet Corporation for Assigned Names and Numbers)'s accountability mechanisms, which will result in a likely increase in olume and complexity of some of the operations and handling of accountability mechanisms filings. As part of the annual review of its Charter (/resources/pages/charter-06-2012-02-25-en), the BGC considered whether the Committee's current and potential future orkload for Reconsideration Requests limits the Committee's ability to accomplish its other board governance responsibilities. The BGC discussed whether in order for the Committee to devote sufficient time to its governance duties, it might be more appropriate if a different Board committee handled the Reconsideration responsibilities while the BGC retains its core governance duties. The BGC approved a recommendation to the Board to approve the initiation of a Fundamental Bylaws change to the segregate the BGC's governance responsibilities from its Reconsideration Request responsibilities by redesignating the Reconsideration responsibilities to a different Board committee.
   - Action:

     - CANN (Internet Corporation for Assigned Names and umbers) Organization to prepare paper for Board consideration.

4. **Update on Status of Pending Accountability Mechanisms** – The Committee received a status update of pending accountability mechanisms from the General Counsel. The BGC noted that many of the strings subject to pending accountability mechanisms are subject

to the currently undergoing review of the Community Priority valuation process

EXHIBIT C-156

ICANN BOARD OF DIRECTORS

SUBMISSION NO. 2016.12.13.1b

TITLE:	**RSSAC Co-Chair Appointment**
PROPOSED ACTION:	**For Board Consideration and Approval**

EXECUTIVE SUMMARY:

According to Article 12, Section 2, Subsection C (ii) of the ICANN Bylaws, the ICANN Board of Directors shall appoint the co-chairs and the members of the Root Server System Advisory Committee (RSSAC). On 1 December 2016, the RSSAC conducted an election for one co-chair position and re-elected Tripti Sinha (University of Maryland, D-Root Server Operator) to a two-year term as co-chair. Brad Verd (Verisign, A/J-Root Server Operator) will continue to serve as co-chair for the second year of a two-year term.

RSSAC RECOMMENDATION:

The RSSAC recommends the Board of Directors appoint Tripti Sinha as co-chair of RSSAC.

PROPOSED RESOLUTIONS:

Whereas, Article 12, Section 2, Subsection C of the Bylaws governs the Root Server System Advisory Committee (RSSAC).

Whereas, Article 12, Section 2, Subsection C (ii) of the Bylaws states that the RSSAC's chairs and members shall be appointed by the Board.

Whereas, on 1 December 2016, the RSSAC conducted an election for one co-chair position and re-elected Tripti Sinha (University of Maryland, D-Root Server Operator)

to a two-year term as co-chair. Brad Verd (Verisign, A/J-Root Server Operator) will continue to serve as co-chair for the second year of a two-year term.

Resolved (2016.12.13.xx) the Board of Directors accepts the recommendation of the RSSAC and appoints Tripti Sinha as co-chair of RSSAC and extends its best wishes to RSSAC Co-Chairs of their important roles.

PROPOSED RATIONALE:

The ICANN Bylaws call for the Board to appoint the RSSAC Co-Chairs as selected by the membership. The appointment of RSSAC co-chairs will allow the RSSAC to be properly composed to serve its function within ICANN's policy development work as an advisory committee.

The appointment of co-chairs is not anticipated to have any fiscal impact on ICANN that has not already been accounted for in the budgeted resources necessary for ongoing support of the RSSAC.

This is an Organizational Administrative Function for which no public comment is required.

Submitted by:	Steve Sheng
Position:	Director, SSAC & RSSAC Advisories Development Support
Date Noted:	1 December 2016
Email and Phone Number	steve.sheng@icann.org

Draft Resolution re. RZERC appointment
December 2016

Whereas, in line with the recommendations of the CWG-Stewardship post-IANA transition, ICANN established the Root Zone Evolution Review Committee (RZERC) to review issues relating to the architecture and operational systems for the DNS Root Zone as it evolves, and providing recommendations to the ICANN Board to ensure the security, stability, and resiliency of the root zone.

Whereas appointees to the RZERC must have a strong overall understanding of the Root Zone, and must be able to fully represent their appointing organization's particular interest in the root zone.

Whereas the RZERC is required to include 9 committee members from specific organizations, including one ICANN Board member.

Whereas the ICANN Board appointed Suzanne Woolf to the RZERC on an interim basis as the ICANN Board member for the Inaugural Composition of the RZERC finalized on 12 August 2016.

Whereas Suzanne Woolf concluded her term on the ICANN Board on 8 November 2016.

Resolved (2016.12.13.xx), the ICANN Board thanks Suzanne Woolf for her service on the RZERC.

Resolved (2016.12.13.xx), the ICANN Board appoints Kaveh Ranjbar to the ICANN Board position on the RZERC.

ICANN BOARD PAPER NO. 2016.12.13.1d

TITLE: **GAC Advice: Helsinki Communiqué (June 2016)**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Governmental Advisory Committee (GAC) delivered additional advice on the ICANN Board in its Helsinki Communiqué issued 30 June 2016. The advice concerns: (1) policies and procedures for future rounds of the New gTLD Program, (2) the recently adopted GNSO consensus policy recommendations on privacy and proxy accreditation, (3) permitting registry operators to allow registration of two-letter domain names at the second level that correspond to country/territory codes, (4) permitting three-letter codes in the ISO-3166 list as gTLDs in future rounds, and (5) protection of names and acronyms of Intergovernmental Organizations (IGOs) in all gTLDs.

At the Helsinki Meeting, the GAC met with the Board-GAC Recommendation Implementation Working Group (BGRI-WG) to consider the effectiveness of GAC advice, and agreed (as a pilot) to have a post-communiqué exchange with the Board to ensure common understanding of GAC advice provided in the Communiqué. The Helsinki Communiqué was the subject of such an exchange between the Board and the GAC on 20 July 2016. A transcript of the call is available here: https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee?preview= /27132037/43712863/20160720_GAC_Board_Call_EN.pdf.

The Board is being asked to approve an iteration of the GAC-Board Scorecard to address the GAC's advice in the Helsinki Communiqué. The draft Scorecard is attached to this briefing paper. The Scorecard includes: the text of the GAC advice; the Board's understanding of the GAC advice following the July 2016 dialogue with the GAC; the GNSO Council's review of the advice in the Helsinki Communiqué as presented in a 11 August 2016 letter to the Board; and, the Board's proposed response to the GAC advice.

STAFF RECOMMENDATION:

Staff recommends that the Board adopt the attached scorecard to address the GAC's advice in the June 2016 Helsinki Communiqué.

PROPOSED RESOLUTION:

Whereas, the Governmental Advisory Committee (GAC) met during the ICANN56 meeting in Helsinki, Finland and issued advice to the ICANN Board in a [Communiqué](#) on 30 June 2016 ("Helsinki Communiqué").

Whereas, the Helsinki Communiqué was the subject of an [exchange](#) between the Board and the GAC on 20 July 2016.

Whereas, on 11 August 2016, the GNSO Council provided [feedback](#) to the Board concerning advice in the Helsinki Communiqué relevant to generic top-level domains to inform the Board and the community of gTLD policy activities that may relate to advice provided by the GAC.

Whereas, the Board developed an iteration of the scorecard to respond to the GAC's advice in the Helsinki Communiqué, taking into account the exchange between the Board and the GAC and the information provided by the GNSO Council.

Resolved (2016.12.13.xx), the Board adopts the scorecard titled "GAC Advice – Helsinki Communiqué: Actions and Updates (xx December 2016)" **[INSERT LINK TO FINAL GAC ADVICE SCORECARD ADOPTED BY BOARD]** in response to items of GAC advice in the Helsinki Communiqué.

PROPOSED RATIONALE:

Article 12, Section 12.2(a)(ix) of the ICANN Bylaws permits the GAC to "put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies." In its Helsinki Communiqué (30 June 2016), the GAC issued advice to the Board on various matters including: (1) policies and procedures for future rounds of the New gTLD Program, (2) GNSO consensus policy recommendations on privacy and proxy accreditation, (3) permitting registry operators to allow registration of two-letter domain

names at the second level that correspond to country/territory codes, (4) permitting three-letter codes in the ISO-3166 list as gTLDs in future rounds, and (5) protection of names and acronyms of Intergovernmental Organizations (IGOs) in all gTLDs. The ICANN Bylaws require the Board to take into account the GAC's advice on public policy matters in the formulation and adoption of the polices. If the Board decides to take an action that is not consistent with the GAC advice, it must inform the GAC and state the reasons why it decided not to follow the advice. Any GAC advice approved by a full consensus of the GAC (as defined in the Bylaws) may only be rejected by a vote of no less than 60% of the Board, and the GAC and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

At this time, the Board is taking action to address the advice from the GAC in the Helsinki Communiqué. The Board's actions are described in scorecard dated xx December 2016 **[INSERT LINK TO FINAL GAC ADVICE SCORECARD ADOPTED BY THE BOARD]**.

In adopting its response to the GAC advice in the Helsinki Communiqué, the Board reviewed various materials, including, but not limited to, the following materials and documents:

- Helsinki Communiqué (30 June 2016): https://www.icann.org/en/system/files/correspondence/gac-to-board-30jun16-en.pdf

- The GNSO Council's review of the advice in the Helsinki Communiqué as presented in a 11 August 2016 letter to the Board (https://www.icann.org/en/system/files/correspondence/bladel-to-crocker-11aug16-en.pdf)

The adoption of the GAC advice as provided in the scorecard will have a positive impact on the community because it will assist with resolving the advice from the GAC concerning gTLDs and other matters. There are no foreseen fiscal impacts associated with the adoption of this resolution. Approval of the resolution will not impact security,

stability or resiliency issues relating to the DNS. This is an Organizational Administrative function that does not require public comment.

Signature Block:

Submitted by: Jamie Hedlund

Position: Vice President, Strategic Programs, Global Domains Division

Date Noted: 5 December 2016

Email: jamie.hedlund@icann.org

BOARD BRIEFING

TITLE: **Location of March 2018 North America ICANN Meeting**

PROPOSED ACTION: **For Board Review and Discussion**

EXECUTIVE SUMMARY:

During the March 2016 Board Meeting in Marrakech, the Board approved the financials for Montreal, Canada as the location of the March 2018 North America ICANN Meeting.

The Board also agreed at that time that the October 2016 North America ICANN Meeting in San Juan, Puerto Rico should be postponed due to the Zika virus outbreak there. The intent, pending venue availability, was to hold the March 2018 Meeting in San Juan rather than Montreal, assuming that the Zika virus would be contained by that time. The LAC community was advised of this. The venue is available.

Unfortunately, the Zika virus issue in Puerto Rico has worsened rather than improved. There are now over 30,000 confirmed cases, and since only 20 percent of those infected exhibit symptoms of the disease, the number of actual cases is thought to be considerably higher. On 17 October 2016, the US Centers for Disease Control and Prevention issued an "Alert - Level 2, Practice Enhanced Precautions" for travel to Puerto Rico, specifically recommending that pregnant women not travel there. While there is ongoing research on a vaccine, a date for widespread distribution has not been established. Conversely, the WHO on November 18 indicated that the Zika virus is no longer a Public Health Emergency of international concern. See attached.

With the March 2018 Meeting only 16 months away, Zika may still be a factor on the island at that time. If we enter into hotel and convention center contracts now, we will face considerable cancellation penalties, once again, should we decide to move to an alternate location. Depending on the timing of the decision, that alternate location may or may not be in North America.

Other issues to consider are:

- We risk alienating the LAC community if we do not hold the meeting in San Juan in March 2018.
- We could offer to hold the November 2019 meeting in San Juan, but whether or not that will placate the hotels or the community is uncertain.

Space is still on hold in Montreal for the March 2018 Meeting so that remains an option for us, but only for a short time. There is another client interested in the convention center and hotels so we will need to sign a contract very soon.

We have two choices for the March 2018 Meeting:

- Hold it in San Juan with the financial and health risks identified.
- Hold it in Montreal with the community reputational risks identified, signing a contract by 9 December.

For your consideration:

- A detailed risk assessment commissioned by the organization on the extent of Zika virus and dengue fever issues in Puerto Rico is attached. It suggests that the virus does not pose a significant risk to the average visitor, but pregnant visitors, as well as visitors of both sexes planning to have children, should be especially aware of risks and make an informed decision on whether to travel based on consultation with their doctor.

- An official statement from the convention and visitor's bureau in Puerto Rico on the Zika virus situation there, indicating that it is not a concern with proper precautions.

With direction from the board executive committee, the organization will consult with ICANN SO/AC leadership and ICANN LAC leadership for advice.

23 NOVEMBER 2016

EXECUTIVE SUMMARY

Using open-source research and consultation with a doctor at International SOS, we have assessed the risk posed by the Zika virus and dengue in Puerto Rico. Dengue cases have increased in Puerto Rico over the past 12 months but are not a major concern. While Zika has spread significantly on the island over the past 12 months, concern regarding significant numbers of Zika-related birth defects and fatalities has decreased. While travellers to Puerto Rico should remain vigilant regarding the health risks posed by Zika, the virus does not pose a significant risk to the average visitor. Pregnant visitors, as well as visitors of both sexes planning to have children, should be especially aware of these risks and make an informed decision on whether to travel based on consultation with their doctor.

OVERVIEW: THE ZIKA VIRUS

- The Zika virus is primarily transmittable by mosquitoes and sexual contact, causing Zika virus disease. Of those infected with Zika, only 20% of people exhibit symptoms; those who do typically return to normal health within a week, with or without medical care.
- Reliable statistics are not available, but the risk of Zika causing microcephaly for the unborn children of pregnant women is relatively low (1-13%), but the risk of non-microcephaly-related birth defects is unclear and may be higher than this.
- There is a link between the Zika virus and the potentially fatal (but usually treatable) Guillain-Barré syndrome (GBS); however, the probability of GBS resulting from Zika infection is very low.

GLOBAL OUTLOOK

The number of countries reporting ongoing cases of Zika transmission has increased from 18 to 61 countries since November 2015, and this includes almost all countries/territories in the Americas region (see map below). The scarcity of reliable statistics makes it unfeasible to determine trends regarding the number of Zika cases globally, or how Puerto Rico fares in relation to other countries/territories. For all of these affected 61 countries/territories the Centers for Disease Control (CDC) has issued Alert Level 2 (Practice Enhanced Precautions); this is second highest on the CDC's three-tier scale, below Warning Level 3.

The World Health Organisation (WHO) on 18 November downgraded Zika from its previous status as a "Public Health Emergency of International Concern", which was imposed in February 2016. However, the WHO maintains that the virus is still a significant concern and may prompt localised health emergencies in the future. While the situation has not improved in objective terms since the end of 2015, the medical community's understanding of the disease and the risks associated with it has, and estimates regarding the potential spread and impact of the virus have become more conservative.

ZIKA IN PUERTO RICO: WHAT HAS HAPPENED SINCE THE DECISION TO RELOCATE ICANN 57 FROM SAN JUAN?

Since Zika cases were first reported in Puerto Rico in December 2015, the virus has spread across the entire island, resulting in 31,409 known cases; in almost all of these, the patient has recovered fully. The International SOS medical risk rating for Zika in the 61 affected countries (and Puerto Rico by extension) has remained unchanged at *Medium* (second-lowest on a four-tier scale).

Out of the total number of cases, almost all involved local residents (99.6%), with just 115 visitor cases reported. 2,400 (7.6%) of cases affected pregnant women; however there has only been one confirmed case of Zika-linked microcephaly in a baby (October 2016). Of course, this number could suddenly increase in the coming months due to the nine-month duration of pregnancy.

One local man died from Zika-related GBS in August 2016. While it is not possible to accurately assess the risk of Zika infection for visitors to Puerto Rico in numeric terms, the aforementioned trends suggest that the probability of a given visitor contracting Zika is quite low, and the chances of an infection resulting in significant harm is very low.

OUTLOOK FOR 2018

Medical experts now understand Zika to be more of a controllable threat that is primarily of concern for pregnant women, as well as people (of both sexes) planning to have children. Ensuring that personnel/attendees are sufficiently informed of the health risks, as well as their freedom to decide not to travel to Puerto Rico based on health considerations (see *Mitigation* below), would further decrease the already relatively low risk posed by Zika to visitors to San Juan. However; it must me noted that the disease is still not fully understood, and it is very

difficult to know whether the situation will improve, deteriorate or remain the same by 2018. It is possible, but by no means certain, that a vaccine will be created for Zika in the near future.

MITIGATION STRATEGIES

- For people who are pregnant or planning to have a baby (male or female):
    - Consult your doctor to discuss health risks and make an informed decision on whether to travel based on medical advice;
    - Exercise abstinence or protected sex for 6 months following travel;
- All travellers
    - Avoid mosquito bites through repellent, clothing, bug spray and suitable accommodation (air conditioning, fly wire etc.).
    - Monitor health for two weeks after returning. Also, take precautions to avoid mosquito bites to reduce the risk of spreading the virus at home (you may be infected with Zika and not realise it).

DENGUE

There has been an uptick (but not an outbreak) in dengue cases reported in Puerto Rico this year compared to 2015. Dengue is a mosquito-borne disease that can cause a range of symptoms from mild to severe; there is a 2.5% fatality rate for people who contract the disease. Severe symptoms can generally be treated at adequate healthcare facilities. A dengue vaccine exists but is unreliable and not widely available; International SOS does not recommend its use, but instead suggests the same precautions relating to Zika regarding minimising the risk of mosquito bites. International SOS assesses the risk of dengue in Puerto Rico to be Medium.

World Health Organization

Media centre

Fifth meeting of the Emergency Committee under the International Health Regulations (2005) regarding microcephaly, other neurological disorders and Zika virus

WHO statement
18 November 2016

The fifth meeting of the Emergency Committee (EC) on Zika and microcephaly convened by the Director-General under the International Health Regulations (IHR 2005) regarding microcephaly, other neurological disorders and Zika virus was held by teleconference on 18 November 2016.

The Committee was briefed on the implementation of the Temporary Recommendations issued by the Director-General on advice from the four previous EC meetings. The Committee was updated on the latest developments on Zika virus geographic spread, natural history, epidemiology, microcephaly and other neonatal complications associated with Zika virus, Guillain-Barré syndrome (GBS) and current knowledge on sexual transmission of Zika virus.

The following States Parties provided information on microcephaly, GBS and other neurological disorders occurring in the presence of Zika virus transmission as well as control measures being implemented: Brazil, Thailand, and the United States of America.

The Public Health Emergency of International Concern (PHEIC) declared by the Director-General of WHO has led the world to an urgent and coordinated response, providing the understanding that Zika virus infection and associated consequences represent a highly significant long-term problem that must be managed by WHO, States Parties and other partners in a way that other infectious disease threats are managed.

The EC originally recommended a PHEIC in February 2016 on the basis of an extraordinary cluster of microcephaly and other neurological disorders reported in Brazil, following a similar cluster in French Polynesia and geographic and temporal association with Zika virus infection which required urgent and coordinated and research. Because research has now demonstrated the link between Zika virus infection and microcephaly, the EC felt that a robust longer-term technical mechanism was now required to manage the global response.

As a result, the EC felt that Zika virus and associated consequences remain a significant enduring public health challenge requiring intense action but no longer represent a PHEIC as defined under the IHR. Many aspects of this disease and associated consequences still remain to be understood, but this can best be done through sustained research. The EC recommended that this should be escalated into a sustained programme of work with dedicated resources to address the long-term nature of the disease and its associated consequences.

The Committee reviewed the recommendations made at its previous meetings and agreed that WHO and partners had systematically addressed their advice. Furthermore, the EC reviewed and agreed to the WHO Zika transition plan outlined to establish the longer-term response mechanism which delivers the strategic objectives already identified in the Zika Strategic Response Plan.

Based on this advice, the Director-General declared the end of the Public Health Emergency of International Concern (PHEIC). The Director-General reissued the Temporary Recommendations from the previous meetings of the Committee which will be incorporated into the longer-term response mechanism. The Director-General thanked the Committee Members and Advisors for their advice over the past year.

Zika and complications »

This page links all WHO information to its response on the Public Health Emergency of International Concern.

Zika Virus Research Agenda

The goal of the WHO Zika Virus Research Agenda is to support the generation of evidence needed to strengthen essential public health guidance and actions to prevent and limit the impact of Zika virus and its neurological complications.

Read the research agenda

11/23/2016   WHO | Fifth meeting of the Emergency Committee under the International Health Regulations (2005) regarding microcephaly, other neurologic...

3/3

ZIKA VIRUS RESEARCH AGENDA
OCTOBER 2016

Related links

Zika virus

Fact sheet: Zika virus

Q&A: Zika virus

More on Zika virus

Microcephaly

Fact sheet: Microcephaly

More on microcephaly

Guillain–Barré syndrome

Fact sheet: Guillain–Barré
syndrome

More on Guillain–Barré syndrome

MEET Puerto Rico

Escape the conventional.

Zika Virus
Statement

Since the arrival of the Zika virus to the island on December 2015 the impact on Puerto Rico's population has been minimal. Early in 2016 the CDC had predicted that by year-end from 20-25% of the population would have contracted Zika. However, thanks to the joint efforts of the Department of Health, the CDC and the tourism industry, less than 1% of the population has been diagnosed with the virus.

MPR has immediately responded to our client's concerns regarding the Zika with accuracy and transparency, through communication and education, creating real time video testimonials and infographics with a clear and easy to read message. By taking proper precautions, our group delegates can have a safe, fun and productive visit to Puerto Rico.

In fact, among many other groups, Puerto Rico recently hosted a major city-wide conference for the Jehovah's Witnesses. - the largest city-wide convention of the year, from August 22-31, hosting more than 34,500 attendees from the United States, Puerto Rico, Brazil, Colombia and Cuba who stayed throughout the island, from San Juan to Ponce for a total of 7,500 room nights. Equally important, from March 1st to September 30th 2016, Meet Puerto Rico will have hosted 132 group for a total of 84,990 room nights and 211,000 delegates. Next October 15 through 22nd, the Island will be hosting the World Boxing Organization in San Juan.

Our attendees have followed the instructions provided by the CDC and to our knowledge, none of the attendees has contracted Zika. Please refer to our website to view positive testimonials confirming the progressive nature of groups hosting their programs in Puerto Rico. Click on this link to view the testimonials.

Meet Puerto Rico's first concern is for the health and well-being of our partners and visitors. We recommend that all information be reviewed in order to make an educated decision.

For additional information refer to: **http://puertoriconow.seepuertorico.com**

Current population of Puerto Rico is of 3.5 million. – United States Census Bureau

October 14, 2016

About the CDC:

Congress approved $1.1 billion to fight the virus in late September in a government spending bill after a long fight over legislation. The Centers for Disease Control and Prevention (CDC) is using the funds to help destinations with active Zika infestations, including Puerto Rico, to fight the virus, provide Zika test kits and help with current vaccine trials. According to Nicole Lurie, assistant secretary for preparedness and response at Health and Human Services (HHS) …"One of the important things we'll be doing with the funds," said Lurie, "is picking up those candidates and moving them into advance development when they are ready. We want to make sure we have manufacturing facilities in place to scale up and deliver the vaccines." CNN

If testing goes well, a vaccine could be available as early as Fall of 2017.

Some 100 Centers for Disease Control and Prevention (CDC) staff continue to work in Puerto Rico, as part of 750 CDC workers assigned to work on the Zika virus. According to Dr. Thomas Frieden, head of the CDC, in addition to research, the CDC is also working with Puerto Rico to provide services to protect pregnant women from Zika, support pregnant women who have been infected with Zika, increase lab testing, improve mosquito control, and provide access to contraception for women who choose to delay or avoid pregnancy. This is in addition to its team providing education as well as assisting the Health Department of Puerto Rico in the monitoring of cases and communications to the public.

Background/Additional Information

The CDC and Puerto Rico have an integrated vector control program that includes weekly house inspections, weekly clean-up campaigns, surveillance to track the mosquito population and the use of chemical and biological larvicides and adulticides to kill young and adult mosquitos.

Puerto Rico's major tourism organizations - the Puerto Rico Tourism Company (PRTC), the Puerto Rico Hotel & Tourism Association (PRHTA) and Meet Puerto Rico (Puerto Rico Convention Bureau)   are taking every precaution possible to eliminate mosquito breeding grounds at hotels and resorts as well as educating visitors about preventing mosquito bites.

The Caribbean Public Health Agency, in collaboration with the Caribbean Tourism Organization and the Caribbean Hotel and Tourism Association (CHTA), has issued guidelines for hotels and guesthouses in the Caribbean to help prevent and prepare for the Zika virus. Hotels as well as many tourist services providers have attended the Zika Seminar for Tourism Industry organized by the CDC in conjunction with the Puerto Rico Tourism Company (PRTC), the Puerto Rico Hotel and Tourism Association (PRHTA) and Meet Puerto Rico (Puerto Rico Convention Bureau).

Please contact your individual hotel for the status of their preparation.

The CDC continues to recommend that travelers to any affected area protect themselves from mosquito bites.

CDC has specific precautions for pregnant women and women trying to get pregnant and state to consider postponing travel to any area where Zika virus transmission is ongoing, but if you must travel to one of these areas, talk to your doctor first and strictly follow steps to prevent mosquito bites during your trip.

Several high-level government and health officials have weighed in concerning the virus and Puerto Rico:

- Dr. Lyle Peterson from the CDC stated Puerto Rico is leading the nation in efforts to protect pregnant women from Zika.
- Dr. D.A. Henderson, Distinguished Scholar at the UPMC Center for Health Security in Baltimore, Maryland and an esteemed epidemiologist who helped lead the program that eradicated smallpox stated, "Unless you are pregnant or planning to conceive, there's no reason to avoid traveling to destinations where Zika may be present. If you use commonsense precautions to avoid mosquito bites, like applying insect repellent and wearing protective clothing, any threat of zika infection can be easily managed."
- Secretary of Health and Human Services Sylvia Mathews Burwell, announced earlier this year that her department has awarded $5 million to 20 health centers in Puerto Rico to help with family planning services, including contraception, outreach and education

***http://www.salud.gov.pr/Estadisticas-Registros-y-Publicaciones/Informes%20Arbovirales/Reporte%20ArboV%20semana%2038-2016.*

October 14, 2016

Zika Virus in Puerto Rico

Warning - Level 3, Avoid Nonessential Travel
Alert - Level 2, Practice Enhanced Precautions
Watch - Level 1, Practice Usual Precautions

Note: This travel notice was updated on October 17, 2016, to include updated guidance for people planning to conceive and guidance to prevent sexual transmission of Zika.

What is the current situation?

Public health officials have reported that mosquitoes in Puerto Rico are infected with Zika virus and are spreading it to people. Text PLAN to 855-255-5606 to receive Zika updates for your destination.

Because Zika virus is primarily spread by mosquitoes, CDC recommends that travelers to Puerto Rico protect themselves from mosquito bites.

Zika Virus in Pregnancy

A pregnant woman can pass Zika virus to her fetus. Infection during pregnancy can cause serious birth defects. CDC recommends special precautions for the following groups:

- Women who are pregnant:
  - Should not travel to Puerto Rico.
  - If you must travel, talk to your doctor first and strictly follow steps to prevent mosquito bites during your trip.
  - Because Zika can also be spread by sex, if you have a partner who lives in or has traveled to Puerto Rico, either use condoms (http://www.cdc.gov/zika/transmission/sexual-transmission.html#prevention-basics)or do not have sex (vaginal, anal, or oral (http://www.cdc.gov/zika/transmission/sexual-transmission.html)) or share sex toys during your pregnancy.
- Women who are trying to become pregnant:
  - Before you or your partner travel, talk to your doctor about your plans to become pregnant and the risk of Zika virus infection.
  - See CDC guidance (http://www.cdc.gov/zika/pregnancy/thinking-about-pregnancy.html) for how long you should wait to get pregnant after travel to Puerto Rico.
  - You and your partner should strictly follow steps to prevent mosquito bites.
- If you have traveled to Puerto Rico and have a pregnant partner, use condoms or don't have sex (vaginal, anal, or oral) or share sex toys during the pregnancy.

Sexual transmission of Zika virus is also possible, so you should use condoms (http://www.cdc.gov/zika/transmission/sexual-transmission.html#prevention-basics) or not have sex during your trip.

Many people infected with Zika virus do not get sick. Among those who do develop symptoms, sickness is usually mild, with symptoms that last for several days to a week. Guillain-Barré syndrome (GBS) is a rare disorder that can cause muscle weakness and paralysis for a few weeks to several months. CDC research suggests that GBS is strongly associated with Zika; however, only a small proportion of people with recent Zika virus infection get GBS. Most people fully recover from GBS, but some have permanent damage. For more information, see Zika and GBS (http://www.cdc.gov/zika/about/gbs-qa.html).

As more information becomes available, this travel notice will be updated. Please check back frequently for the most up-to-date recommendations.

What can travelers do to prevent Zika?

There is no vaccine or medicine for Zika. You can protect yourself by preventing mosquito bites:

- Cover exposed skin by wearing long-sleeved shirts and long pants.
- Use EPA-registered insect repellents containing DEET, picaridin, oil of lemon eucalyptus (OLE, also called para-menthane-diol [PMD]), IR3535, or 2-undecanone (methyl nonyl ketone). Always use as directed.
  - Pregnant and breastfeeding women can use all EPA-registered insect repellents, including DEET, according to the product label.
  - Most repellents, including DEET, can be used on children older than 2 months. (OLE should not be used on children younger than 3 years.)
- Stay in places with air conditioning and window and door screens to keep mosquitoes outside.
- Sleep under a mosquito bed net if air conditioned or screened rooms are not available or if sleeping outdoors.
- Mosquito netting can be used to cover babies younger than 2 months old in carriers, strollers, or cribs to protect them from mosquito bites.

Because Zika can be spread by sex, if you have sex (vaginal, anal, or oral (http://www.cdc.gov/zika/transmission/sexual-transmission.html)) while traveling, you should use condoms.

After travel:

Many people infected with Zika virus do not feel sick. If a mosquito bites an infected person while the virus is still in that person's blood, it can spread the virus by biting another person. **If you travel to Puerto Rico, you should take steps to prevent mosquito bites for 3 weeks after your trip, even if you don't feel sick, so that you don't spread Zika to uninfected mosquitoes that can spread the virus to other people.**

If you have visited Puerto Rico and have a pregnant partner, you should either use condoms or not have sex during the pregnancy.

If you are thinking about pregnancy, talk with your health care provider and wait to become pregnant (see "Women Trying to Become Pregnant (http://www.cdc.gov/zika/pregnancy/women-and-their-partners.html)" for how long to wait). You also should use condoms after travel to protect your sex partners from Zika even if you are not pregnant or trying to become pregnant.

For more information, see Zika and Sexual Transmission (http://www.cdc.gov/zika/transmission/sexual-transmission.html).

If you feel sick and think you may have Zika:

- Talk to your doctor if you develop a fever with a rash, joint pain, or red eyes. Tell him or her about your travel.
- Take acetaminophen (paracetamol) to relieve fever and pain. Do not take aspirin, products containing aspirin, or other nonsteroidal anti-inflammatory drugs, such as ibuprofen.
- Get lots of rest and drink plenty of liquids.

If you are pregnant:

Talk to a doctor or other health care provider after your trip, **even if you don't feel sick.** Pregnant travelers returning from Puerto Rico, or who have had possible sexual exposure, should be offered testing for Zika virus infection.

- If you develop a fever with a rash, joint pain, or red eyes, talk to your doctor immediately and tell him or her about your travel or possible sexual exposure.
- If you do not have symptoms, testing should be offered if you see a health care provider, up to 12 weeks after you return from travel or your last possible sexual exposure.

Clinician Information

All pregnant women should be assessed for Zika virus exposure at each prenatal care visit. Possible exposures to Zika virus that warrant testing include:

- Travel to or residence in an area with a current Zika outbreak.
- Sex (vaginal, anal, or oral (http://www.cdc.gov/zika/transmission/sexual-transmission.html)) with a partner who has traveled to or resides in an area with a current Zika outbreak.

The type of testing recommended varies according to when a woman's last possible exposure occurred or when her symptoms began. For more information, please visit the clinical guidance for healthcare providers caring for pregnant women (http://www.cdc.gov/zika/hc-providers/pregnant-woman.html).

Clinical Guidance for Healthcare Providers Caring for Infants & Children (http://www.cdc.gov/zika/hc-providers/infants-children.html) is also available.

Additional Resources

For Travelers:

- Zika Travel Information
- Avoid Bug Bites
- Insect Repellent Use and Safety (http://www.cdc.gov/westnile/faq/repellent.html)

For Clinicians:

- Zika: Information for Health Care Providers (http://www.cdc.gov/zika/hc-providers/index.html)
- Protection against Mosquitoes, Ticks, & Other Insects & Arthropods

Case Counts in the US

Cases in Pregnant Women

Pregnant women with any laboratory evidence of possible Zika virus infection in the United States and territories

Outcomes of pregnancies with laboratory evidence of possible Zika virus infection

Information for Blood and Tissue Collection Centers

As of November 16, 2016 (5 am EST)

- Zika virus disease and Zika virus congenital infection are nationally notifiable conditions.
- This update from the CDC Arboviral Disease Branch includes provisional data reported to ArboNET for January 01, 2015 – November 16, 2016.

US States

- Locally acquired mosquito-borne cases reported: 139
- Travel-associated cases reported: 4,115
- Laboratory acquired cases reported: 1
- Total: 4,255
  - Sexually transmitted: 35
  - Guillain-Barré syndrome: 13

US Territories

- Locally acquired cases reported: 31,951
- Travel-associated cases reported: 117
- Total: 32,068*
  - Guillain-Barré syndrome: 50

*Sexually transmitted cases are not reported for US territories because with local transmission of Zika virus it is not possible to determine whether infection occurred due to mosquito-borne or sexual transmission.

MAPS OF ZIKA IN THE US

More ›

Laboratory-confirmed Zika virus disease cases reported to ArboNET by state or territory — United States, 2015–2016 (as of November 16, 2016)§

States	Travel-associated cases* No. (% of cases in states) (N=4,116)	Locally acquired cases† No. (% of cases in states) (N=139)
Alabama	30 (1)	0 (0)
Arizona	47 (1)	0 (0)
Arkansas	13 (<1)	0 (0)
California	340 (8)	0 (0)
Colorado	48 (1)	0 (0)
Connecticut	58 (1)	0 (0)
Delaware	16 (<1)	0 (0)
District of Columbia	25 (1)	0 (0)
Florida	708 (17)	139 (100)
Georgia	101 (2)	0 (0)
Hawaii	14 (<1)	0 (0)
Idaho	4 (<1)	0 (0)
Illinois	82 (2)	0 (0)

States	Travel-associated cases* No. (% of cases in states) (N=4,116)	Locally acquired cases† No. (% of cases in states) (N=139)
Indiana	46 (1)	0 (0)
Iowa	17 (<1)	0 (0)
Kansas	17 (<1)	0 (0)
Kentucky	24 (1)	0 (0)
Louisiana	33 (1)	0 (0)
Maine	12 (<1)	0 (0)
Maryland	108 (3)	0 (0)
Massachusetts	101 (2)	0 (0)
Michigan	63 (2)	0 (0)
Minnesota	53 (1)	0 (0)
Mississippi	23 (1)	0 (0)
Missouri	35 (1)	0 (0)
Montana	7 (<1)	0 (0)
Nebraska	12 (<1)	0 (0)
Nevada	15 (<1)	0 (0)
New Hampshire	11 (<1)	0 (0)
New Jersey	157 (4)	0 (0)
New Mexico	9 (<1)	0 (0)
New York	905 (22)	0 (0)
North Carolina	78 (2)	0 (0)
North Dakota	2 (<1)	0 (0)
Ohio	71 (2)	0 (0)
Oklahoma	29 (1)	0 (0)
Oregon	35 (1)	0 (0)
Pennsylvania††	154 (4)	0 (0)
Rhode Island	34 (1)	0 (0)
South Carolina	53 (1)	0 (0)
South Dakota	2 (<1)	0 (0)
Tennessee	56 (1)	0 (0)
Texas	237 (6)	0 (0)
Utah	15** (<1)	0 (0)
Vermont	10 (<1)	0 (0)
Virginia	93 (2)	0 (0)
Washington	55 (1)	0 (0)
West Virginia	11 (<1)	0 (0)
Wisconsin	45 (1)	0 (0)
Wyoming	2 (<1)	0 (0)

States	Travel-associated cases* No. (% of cases in states) (N=4,116)	Locally acquired cases† No. (% of cases in states) (N=139)
Territories	Travel-associated cases* No. (% of cases in territories) (N=117)	Locally acquired cases† No. (% of cases in territories) (N=31,951)
American Samoa	0 (0)	54 (<1)
Puerto Rico	115 (98)	31,294*** (98)
US Virgin Islands	2 (2)	603 (2)

§Only includes cases meeting the probable or confirmed CSTE case definition and does not include asymptomatic infections unless the case is a pregnant woman with a complication of pregnancy

*Travelers returning from affected areas, their sexual contacts, or infants infected in utero

†Presumed local mosquito-borne transmission

††One additional case acquired through laboratory transmission

**Includes one case with unknown route of person-to-person transmission.

***The Puerto Rico Department of Health is retroactively reporting cases, resulting in larger than normal increases in cases in recent weeks.

BOARD INFO PAPER 2016.12.13.2a

TITLE: Community Consultation on San Juan, Puerto Rico as the
Location of the March 2018 North America ICANN Meeting

PROPOSED ACTION: For Board Review and Discussion

EXECUTIVE SUMMARY:

On 1 December, staff conducted a community consultation with SO/AC/SG and LAC leaders on
San Juan, Puerto Rico as the location of the March 2018 North America ICANN Meeting.

The following SO/AC/SG and LAC leaders participated in the call.

Attendees - ICANN61 Location Discussion		
1 December 2016		
Donna	Austin	GNSO
Farzaneh	Badii	GNSO
James	Bladel	GNSO
Graeme	Bunton	RrSG
Olivier	Crépin Leblond	ALAC
John	Curran	GNSO
Tom	Dale	GNSO
Rafik	Dammak	GNSO
Paul	Diaz	RySG
Alan	Greenberg	ALAC
Manal	Ismail	GAC
Glenn	McKnight	NARALO
Maritza	*Minano-Aguero*	*LACRALO*
Andres	*Piazza*	*LACTLD*
Alejandra	Reynoso	ccNSO
Leon	Sanchez	ALAC
Eduardo	*Santoyo*	*LACTLD*
Thomas	Schneider	GAC
Greg	Shatan	IPC
Tripti	Sinha	RSSAC
Cherie	Stubbs	RySG
Chris	Wilson	GNSO

Response to San Juan as the location of the Meeting was overwhelmingly positive, with no recommendations against it.

Comments Received:

Comment 1: A representative from LACTLD thanked staff for conducting the consultation. He strongly recommended that we hold the Meeting in San Juan, indicating that Zika concerns in his Latin American country are declining due to the measures taken by the government, health institutions and private organizations. He believes that by the time the Meeting is held in San Juan, the threat of Zika will be considerably less than it is now, there and worldwide. He suggested that the threat of Zika in Puerto Rico will be less harmful than the health issues we faced in Hyderabad.

Comment 2: A representative from the RySG recommended moving forward with San Juan. He stated that community members he spoke with in Hyderabad assumed that we are going to San Juan, and that there is definite support for the location. He did not hear anyone say that they would not want to go for any reason … including Zika. He suggested that we provide published Zika information to the community so that they can make informed decisions about their participation. He also asked that, while very good now, over time we enhance our remote participation capabilities to ensure that people who feel that the health risks are significant enough not to attend can participate effectively.

Comment 3: A representative from the GNSO noted that having just returned from Hyderabad where there were risks from mosquito-borne illnesses, people took it upon themselves to become informed of those risks, took the necessary precautions, and made the decision to attend for themselves. He felt that the challenge we faced with the 2016 Panama and San Juan Meetings was that Zika had come onto the scene so quickly that there was an absence of information, making it difficult for people to make an informed decision. He feels that is not the case now, nor will it be the case in March 2018, and that there will be a more coordinated response from health officials. He believes we should proceed with San Juan, and encouraged staff to share current information and any future updates with the community.

Comment 4: A representative from the GSNO asked if there is a quick and reliable test to determine if one has been infected with the Zika virus. The answer is that there are two tests, one blood and one urine, depending on the timing of the infection.

Comment 5: A representative from the IPC asked if there is an incident map of Zika in Puerto Rico indicating where known cases or infected areas are to share with the community. He suggested that it would be useful for the highly cautious to see how it maps out against where we're intending to spend our time. We are looking into this and will share it with the community, if available.

Comment 6: A representative from the ALAC suggested that one of the factors for people from the US and Western Europe in deciding on attending a Meeting is whether or not health insurance providers are reluctant to provide coverage. We have found no incident of insurance companies denying coverage, but we are continuing to research this.

Comment 7: In Adobe chat, a representative from the ccNSO indicated that he was in favor of going to San Juan, Puerto Rico.

TITLE: March 2018 ICANN Meeting Hotels Contracting

PROPOSED ACTION: For Board Consideration and Approval – *pending BFC approval*

EXECUTIVE SUMMARY:

The Board is being asked to authorize staff to take all steps necessary to complete contracting for the host hotel in San Juan, Puerto Rico for the March 2018 ICANN Public Meeting, as well as supporting hotels, which require Board approval as they will exceed US$500,000. The Reference Materials for this paper summarizes outlines the facilities' costs for the March 2018 Public Meeting.

STAFF RECOMMENDATION:

Staff recommends that the Board delegate to the President and CEO, or his designee(s), the authority to take all actions necessary to enter into contracts, and make expense disbursements pursuant to those contracts, for the host hotel in San Juan, Puerto Rico, as well as supporting hotels, where ICANN will hold the March 2018 Public Meeting.

BOARD FINANCE COMMITTEE (BFC) RECOMMENDATION (*Subject to BFC approval*):

The BFC recommends that the Board delegate to the President and CEO, or his designee(s), the authority to take all actions necessary to enter into contracts, and make expense disbursements pursuant to those contracts, for the host hotel in San Juan, Puerto Rico, as well as supporting hotels, where ICANN will hold its March 2018 Public Meeting.

PROPOSED RESOLUTION:

Whereas, ICANN intends to hold its first Public Meeting of 2018 in the North America region.

Whereas, the October 2016 Public Meeting in San Juan was postponed to March 2018 and staff has completed a thorough review of the venue in San Juan, Puerto Rico and finds it suitable.

Resolved 2016.12.13.xx, the Board authorizes the President and CEO, or his designee(s), to engage in and facilitate all necessary contracting and disbursements for the host and other hotels for the March 2018 ICANN Public Meeting in San Juan, Puerto Rico, in an amount not to exceed

Confidential Negotiation Information

Resolved 2016.12.13.xx, specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article III, section 5.2 of the ICANN Bylaws until the President and CEO determines that the confidential information may be released.

PROPOSED RATIONALE:

As part of ICANN's Public Meeting schedule, presently three times a year ICANN hosts a meeting in a different geographic region (as defined in the ICANN Bylaws). ICANN 61, scheduled for 10-15 March 2018, is to occur in the North America geographic region. Since the October 2016 Public Meeting scheduled for San Juan, Puerto Rico was moved to Hyderabad, ICANN determined to hold the March 2018 ICANN Public Meeting in San Juan, Puerto Rico.

The staff performed a thorough analysis of the meeting venue and supporting hotels to ensure that they met the Meeting Selection Criteria (see http://meetings.icann.org/location-selection-criteria).

The Board reviewed staff's briefing for hosting the meeting in San Juan, Puerto Rico and the determination that the proposal met the significant factors of the Meeting Selection Criteria, as well as the related costs for facilities selected, for the March 2018 ICANN Public Meeting.

There will be a financial impact on ICANN in hosting the meeting and providing travel support as necessary, as well as on the community in incurring costs to travel to the meeting. But such impact would be faced regardless of the location and venue of the meeting. This action will have no impact on the security or the stability of the DNS.

This is an Organizational Administrative function that does not require public comment.

Submitted by: Nick Tomasso
Position: VP, Meetings
Date Noted: 5 December 2016
Email: nick.tomasso@icann.org

Pages 30-34 Removed -- Item removed from Agenda

TITLE: President And CEO FY17 SR1 At-Risk Compensation

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

In accordance with its charter, the Compensation Committee undertook to evaluate and score the President and CEO's FY17 SR1 (23 May 2016 through 15 November 2016)[1] performance against the objectives for his at-risk compensation component that were established by the Committee. During its evaluation, the Compensation Committee reviewed the President and CEO's self-evaluation, and discussed the same with the President and CEO.

Confidential Employment Matter

Whereas, each Board member has confirmed that he/she does not have a conflict of interest with respect to establishing the amount of payment for the President and CEO's FY17 SR1 at-risk compensation payment.

Whereas, the Compensation Committee recommended that the Board approve payment to the President and CEO for his FY17 SR1 at-risk compensation component.

Resolved (2016.12.13.xx), the Board hereby approves a payment to the President and CEO for his FY17 SR1 at-risk compensation component.

PROPOSED RATIONALE:

When the President and CEO was hired, he was offered a base salary, plus an at-risk component of his compensation package. This same structure exists today. Consistent with all ICANN staff members, the President and CEO is to be evaluated against specific goals, which the President and CEO has set in coordination with the Compensation Committee.

Toward the end of FY17 SR1, which is a scoring period that normally runs from 16 May 2015 through 15 November 2015, but it began in this instance on 23 May 2016, the President and CEO provided to the Compensation Committee with his self-assessment of his achievements towards his goals for FY17 SR1 the measurement period. After seeking input from other Board members, the Compensation Committee reviewed with the President and CEO his FY17 SR1 goals and discussed his achievements against those goals. Following that discussion, the Compensation Committee recommended that the

Board approve the President and CEO's at-risk compensation for the FY17 SR1 and the Board agrees with that recommendation.

While this will have a fiscal impact on ICANN, it is an impact that was contemplated in the FY17 budget. This decision will not have an impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative Function that does not require public comment.

Submitted By: Amy A. Stathos, Deputy General Counsel
Date Noted: 4 November 2016
Email: amy.stathos@icann.org

TITLE: **Officer Compensation – SVP, Engineering & Chief Information Officer**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:
Confidential Employment Matter

COMPENSATION COMMITTEE RECOMMENDATION:

The Compensation Committee recommends that the Board approve the proposed Board resolutions set out below.

PROPOSED RESOLUTION:

Whereas, the attraction and retention of high calibre staff is essential to ICANN's operations and ICANN desires to ensure competitive compensation for staff.

Whereas, each Board member has confirmed that they are not conflicted with respect to compensation package for the CIO.

Resolved (2016.12.13.xx), the Board grants the President and CEO the discretion to adjust the CIO's compensation for FY17, effective 1 July 2016, by an amount up to an additional 3%, which is consistent with ICANN's remuneration practices as evidenced by the independent compensation expert information on comparable compensation, subject to a limitation that the CIO's FY17 base salary shall not increase by more than 3% of his current FY17 base salary.

PROPOSED RATIONALE:

Attracting and retaining high caliber staff by providing a competitive compensation package is crucial to the organization. An improving job market will make more opportunities available for high caliber performers outside of ICANN.

ICANN's President and CEO has requested that he be granted the discretion to increase the FY17 base salary, effective 1 July 2016, of the CIO by up to 3% of his current FY17 base salary. This amount is in alignment with the actions taken by the President and CEO with respect to the other members of ICANN's Executive Team who are not Officers (which does not require Board approval).

ICANN is in a critical phase that calls for continuity of certain skill and expertise, particularly with ongoing key projects including the New gTLD Program, the organizational and other reviews underway, the recently concluded IANA stewardship transition, expanding contractual compliance, and enhanced globalization efforts, among many others. Each of these projects requires knowledgeable and skilled executives to ensure ICANN's operational goals and objectives are met while ensuring that risk is mitigated to the greatest extent possible. Adhering to ICANN's employment philosophy, and providing competitive compensation, will help ensure these goals are achieved.

Continuity and retention of key personnel during key organization phases is beneficial to all aspects of the organization. Thus, salary adjustments provided under this resolution likely will have a positive impact on the organization and its effort to fulfill its mission, as well as on the transparency and accountability of the organization. There will be some fiscal impact to the organization, but that impact will not have an effect on the overall current fiscal year budget. This resolution will not have any direct impact on the security, stability and resiliency of the domain name system.

This is an Organizational Administrative function that does not require public comment.

Submitted by: Göran Marby
Position: President and CEO
Date Noted: 28 October 2016
Email: Goran.Marby@icann.org

AGENDA – 13 DECEMBER 2016 SPECIAL BOARD Meeting – 60 minutes

Time, etc.	Agenda Item	Shepherd
Assembly, Roll Call & Consent Agenda Vote	**1. Consent Agenda**	
10 min	1.a. Approval of Board Meeting Minutes from 5 November and 8 November 2016	John Jeffrey
	1.b. RSSAC Co-Chair Appointment	Kaveh Ranjbar
	1.c. RZERC Liaison Appointment	Steve Crocker
	1.d. GAC Advice: Helsinki Communiqué (June 2016)	Markus Kummer
Discussion & Decision 40 min	**2. Main Agenda**	
	2.a. Community Consultation on San Juan, Puerto Rico as the Location of the March 2018 North America ICANN Meeting	Göran Marby

AGENDA – 13 DECEMBER 2016 SPECIAL BOARD Meeting – 60 minutes

Time, etc.	Agenda Item	Shepherd
	2.b. March 2018 ICANN Meeting Hotels Contracting	Asha Hemrajani
	Item Removed From Agenda	Becky Burr
	2.d. AOB	
10 min	**3. Executive Session – Confidential**	
	3.a. President & CEO At Risk Compensation – FY17-SR1	George Sadowsky
	3.b. Officer Compensation	George Sadowsky
	3.c. AOB	

Directors and Liaisons,

Attached below please find Notice of date and time for a Special Meeting of the ICANN Board.

13 December 2016 – Special Meeting of the ICANN Board of Directors - at 20:00 UTC. This Board meeting is estimated to last approximately 60 minutes.

http://www.timeanddate.com/worldclock/fixedtime.html?msg=Special+Meeting+of+the+ICANN+Board&iso=20161213T20&p1=1440&ah=1

Some other time zones:

13 December 2016 – 12:00pm PST Los Angeles

13 December 2016 – 3:00pm EST Washington, D.C.

13 December 2016 – 9:00pm CET Brussels

14 December 2016 – 4:00am SGT Singapore

14 December 2016 – 5:00am JST Tokyo

SPECIAL MEETING OF THE ICANN BOARD

Consent Agenda
- Approval of Board Meeting Minutes from 5 November and 8 November 2016
- RSSAC Co-Chair Appointment
- Appointment of Kaveh Ranjbar to the RZERC Liaison role + Thank You to Suzanne Woolf for her service as RZERC Liaison
- GAC Advice: Helsinki Communiqué (June 2016)

Main Agenda
- Community Consultation on San Juan, Puerto Rico as the Location of the March 2018 North America ICANN Meeting – *for discussion, no resolution to be taken*

- (T) March 2018 ICANN Meeting Hotels Contracting – *pending BFC Approval*

Item Removed From Agenda

- AOB

Executive Session – Confidential
- President & CEO At Risk Compensation – FY17-SR1
- Officer Compensation
- AOB

MATERIALS – You can access the Board Meeting materials in Google Drive here:

Contact Information Redacted

If you have trouble with access, please let us know and we will work with you to assure that you get access to the documents.

If call information is required, it will be distributed separately.

If you have any questions, or we can be of assistance to you, please let us know.

John Jeffrey
General Counsel & Secretary, ICANN
John.Jeffrey@icann.org <John.Jeffrey@icann.org>
<mailto:John.Jeffrey@icann.org <mailto:John.Jeffrey@icann.org> >

Contact Information Redacted

EXHIBIT C-157

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
§1.a.I, Future gTLDs Policies & Procedures	**The GAC advises the ICANN Board that:** i. The starting point for development of policy on further releases of new gTLDs should first take into consideration the results of all relevant reviews of the new gTLD round and determine which aspects and elements need adjustment. In addition, the following should be addressed:	Board understands that it is not the GAC's intent to dictate a specific timeline for when the next round should occur; the idea is that ICANN should come up with a timeline that makes sense.	Both the PDP on Subsequent Procedures and the CCT-RT are reviewing the need for adjustments. The GNSO Council encourages GAC members to participate in the PDP examining issues related to subsequent rounds of new gTLDs, and/or submit its feedback during this group's as well as the CCT-RT requests for input and/or public comments. The GNSO Council intends to submit the GAC's Helsinki Communique to the leadership of this PDP, and highlight this particular section for their review.	Response: The Board accepts the advice and continues to monitor the work of the community regarding reviews of the current round of the New gTLD Program and the policy development work for subsequent rounds of the New gTLD Program. The Board notes that it does not control the timing of the work of the community.
§1.a.I.a, Future gTLDs Policies & Procedures	a. Requirements with regard to interoperability, security, stability and resiliency should be met.	GAC members indicated that the GAC's advice did not indicate that the Board should propose requirements but rather, emphasized the importance of interoperability, security, stability and resiliency. The GAC anticipates that there will be a report on what is being done to meet the requirements.	Security, stability and resiliency concerns are always given priority for TLD delegations, or in the development of any new policy proposals.	Response: The Board accepts this advice. The Board expects that requirements with regard to interoperability, security, stability and resiliency will be the subject of discussion building up to subsequent rounds of the New gTLD Program. The Board encourages the GAC to continue to participate in these discussions. While the Board will not propose the requirements as these must come from the community, the Board will share with the GAC the report on how these requirements will be met.
§1.a.I.b, Future gTLDs Policies & Procedures	b. An objective and independent analysis of costs and benefits should be conducted beforehand, drawing on experience with	Board understand GAC to advise ICANN to conduct an "objective and independent" cost-benefit analysis of a launch of another round,	The comment period on the gTLD Marketplace Health Index (Beta is open.) The CCT-RT is also underway and comprises the analysis of the Nielsen Surveys and the	Response: Board accepts the advice, noting that the Board is not in a position to manage the content and timeline of the ongoing community reviews. Board recognizes that the CCT Review Team is concluding its work and understands that

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
	and outcomes from the recent round.	taking into account the results of the current round. Members of the GAC indicated that the scope of reviews being undertaken by the CCT-Review Team is not clear. In particular, members of the GAC think it is important that the studies on the cost and benefits of new gTLDs not just focus on the impacts to the domain name industry, but also take into account the impacts to the general public. Also, members expressed that it seems that some of the discussions and conclusions from the 2010 Economic Study have not been fully considered by the current reviews.	Analysis Group Study, but a truly "independent analysis" would need to be requested by the PDP WG, and approved by the Council.	the Review Team is looking at the issues noted in the GAC's advice, and such recommendations from the Review Team could be incorporated into the policy development work on subsequent rounds of the New gTLD Program.
§1.a.I.c, Future gTLDs Policies & Procedures	c. There should be an agreed policy and administrative framework that is supported by all stakeholders.	GAC members indicated that this advice is meant to re-state what is already required by ICANN. It is intended to stress that all stakeholders' concerns should be taken into account and addressed in future rounds of the New	The GNSO Council agrees that '[t]here should be an agreed policy and administrative framework that is supported by all stakeholders.' This requires that the Bylaws-mandated Policy Development Processes are respected (participation by a	Response: The Board accepts this advice and will follow the process established in the ICANN Bylaws concerning the policy development process. As provided in Section 12.2 of the Bylaws, "The Board shall notify the Chair of the Governmental Advisory Committee in a timely manner of any proposal raising public policy issues on which it or any of the Supporting Organizations or Advisory Committees

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
		gTLD Program.	broad range of community members is vital to this process) and not circumvented at any stage by members of the community that did not participate in the process.	seeks public comment, and shall take duly into account any timely response to that notification prior to taking action."
§1.a.II, Future gTLDs Policies & Procedures	II. All measures available to the Board should be used to ensure that a comprehensive and measured approach to further releases of new gTLDs is taken in a logical, sequential and coordinated way rather than through parallel and overlapping efforts and/or timeframes that may not be agreed by all relevant interests.	It is not the GAC's intent to dictate a specific timeline for when the next round should occur; the idea is that ICANN should come up with a timeline that makes sense	The application, evaluation and delegation of future rounds of new gTLDs should be sequenced to address necessary dependencies and pre-requisites, but without creating artificial inefficiencies or delays.	Response: The Board accepts this advice while noting that the Board is not in position to manage the community timeline. The Board will of course share the GAC's advice with the community as appropriate. The Board is consulting with the GNSO regarding the work plan and timeline for the New gTLD Subsequent Procedures Policy Development Process (PDP) Working Group (WG), as the Board agrees it would be helpful to understand whether the GNSO believes that the entirety of the current New gTLD Subsequent Procedures PDP must be completed prior to advancing a new application process for new gTLDs. The GNSO responded to the Board's enquiry by letter on 16 August and 25 October, including a synthesis of responses gathered from various GNSO Stakeholder Groups and Constituencies, and the New gTLD Subsequent Procedures PDP Working Group.
§2.a.I & II, Privacy Proxy Services	**The GAC advises the ICANN Board that:** I. the recommendations set forth by the GNSO PDP Working Group on Privacy and Proxy	Board understands and agrees that the PPSAI raises important public policy issues and will continue its dialogue with the GAC.	Members of the GAC and the Public Safety Working Group (PSWG) are invited and encouraged to participate and contribute to the implementation of the recommendations	Response: The Board accepts this advice and will continue to encourage dialogue on constructive ways to address GAC concerns as the policy implementation continues.

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
	Services Accreditation Issues (PPSAI) raise important public policy issues highlighted by the GAC in its comments on the PPSAI's Initial Report. ii. the Board should ensure that the dialogue on constructive and effective ways to address GAC concerns is continued.		of the PPSAI PDP WG (if and when adopted), including through participation on the mandatory Implementation Review Team (IRT) to be formed to advise ICANN staff on implementation planning.	
§2.a.III & IV, Privacy Proxy Services	III. if the Board resolves to adopt the PPSAI recommendations, it should direct the Implementation Review Team (IRT) to ensure that the GAC concerns are effectively addressed in the implementation phase to the greatest extent possible IV. GAC input and feedback should be sought out as necessary in developing a proposed	This advice is not intended to be considered "new" advice. Instead, it attempts to summarize key messages discussed with the GNSO and Board regarding the Privacy/Proxy policy development process. Also, the GAC wants to highlight the importance of participation by members of the GAC, and in particular the Public Safety Working Group, in the implementation of the Privacy/Proxy policy recommendations. The GAC wants confirmation or acknowledgment from the Board that	Some concerns of the GAC may be addressed by the IRT, with the caveat that revisiting substantive policy discussions that have been completed are outside the scope of Implementation Review Teams. While the Board may provide general direction to an IRT (e.g. to take into account GNSO guidance and GAC advice in devising the implementation plan) it does not have the discretion to direct specific outcomes for the work of any IRT. The GAC and/or PSWG will have additional opportunity, along with the broader Community, to contribute its	Response: The Board accepts this advice. The Board notes that members of the Public Safety Working Group have joined the Implementation Review Team, and the Board encourages the Implementation Review Team to continue to work with the Public Safety Working Group to address the concerns expressed by the GAC regarding accreditation of privacy/proxy service providers.

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
	implementation plan, including through participation of the Public Safety Working Group on the Implementation Review Team	participation by the Public Safety Working Group is one key way to ensure that the GAC is fully engaged with the implementation work	views and comments on the final PPSAI implementation plan.	
§2.a.V, Privacy Proxy Services	V. If, in the course of the implementation discussions, policy issues emerge, they should be referred back to the GNSO for future deliberations in consultation with the GAC on potential enhancements to privacy and proxy service accreditation.	If the implementation does not meet or address the GAC's concerns, the GAC will issue formal advice to the Board. The GAC expects that the Board will either accept the advice, or reject the advice and go through the established processes for doing so.	In addition to existing mechanisms for addressing additional policy issues that may arise during the implementation phase, once an accreditation framework for privacy/proxy services has been adopted and implemented, future policy issues that emerge as a result can be examined, potentially leading to future policy development work in this area.	Response: The Board accepts this advice and will use the existing processes in the Bylaws and the Board-GAC Consultation Process to address any additional advice from the GAC regarding accreditation of privacy/proxy service providers. The Board notes that ICANN's existing Consensus Policy Implementation Framework allows for new policy issues that emerge during implementation to be referred back to the appropriate policy making body, in this case, the GNSO.
§3.a.i, Two-letter country/territory codes at the second level	**The GAC advises the ICANN Board to:** i. urge the relevant Registry or the Registrar to engage with the relevant GAC members when a risk [of confusion] is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name	Members of the GAC indicated that this advice is meant to convey the different viewpoints of governments. The "consensus" is that every country should have a say in this; the GAC is hesitant to go as far as to give advice to say that they want a veto right on the release of the two-character domain names that correspond to country codes because there is not enough	The GNSO notes that on 8 July, ICANN staff has recently published for public comment "Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes".	Response: The Board accepts this advice. In adopting its resolution in Hyderabad regarding two-letter codes at the second level, the Board explicitly accepted the GAC advice contained in its Singapore Communiqué dated 11 February 2015. Specifically, the Board directed ICANN to revise the process for the release of two-letter codes at the second level as follows: ▪ To implement improvements to the process to alert relevant governments when requests are initiated. Comments from relevant governments will be fully considered. ▪ For new requests, the comment

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
	is already registered.	support for the position that there is a legal right to these codes. The GAC had not discussed whether they were seeking contractual requirements to implement the advice, but requested that the Board send an email or letter asking the GAC if they had more information or specific advice on this point. Additionally, GAC members asked how the Board would reconcile the GAC advice with the ongoing public comment period about developing measures for registries to implement to avoid confusion with country codes when registry operators release the two-character labels from reservation.		period will be for 60 days. ▪ For requests with pending or completed comment periods, extend or re-open the comment period so that each request will undergo 60 days of comment period in total.
§4.a.i & ii Use of 3-letter codes in the ISO-3166 list as gTLDs in future rounds	**The GAC advises the ICANN Board to:** i. encourage the community to continue in depth analyses and discussions on all aspects related to a potential use of 3-letter codes in the		The GNSO continues to engage with the issue of the use of 3-letter ISO 3166-1 codes as gTLDs as a Chartering Organization of the Cross-Community Working Group (CWG) on the Use of Country and Territory Names as TLDs. The GNSO will consider this group's	Response: The Board takes note that there is a Cross-Community Working Group working on the use of 3-letter ISO codes at the top level: "Cross-Community Working Group on Use of Country/Territory Names as TLDs." The Working Group presented a status report and Interim Paper to the community at ICANN57 in Hyderabad. Based on feedback received, the Working Group will refine the paper and publish it

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
	ISO-3166 list as gTLDs in future rounds, in particular with regard to whether such a potential use is considered to be in the public interest or not. ii. keep current protections in place for 3-letter codes in the ISO-3166 list in place and not to lift these unless future in-depth discussions involving the GAC and the other ICANN constituencies would lead to a consensus that use of these 3-letter codes as TLDs would be in the public interest.		scope and work and how best to integrate these into the recently commenced Subsequent Procedures PDP. In light of the significant community interest expressed in relation to this topic in Helsinki, the GNSO Council urges all interested members of the community to participate in the CWG and PDP Working Group.	for public comment. For future rounds of the New gTLD Program, the Board acknowledges GAC member participation in the work of the Policy Development Process concerning Subsequent Procedures of the New gTLD Program. The Board notes that the matter of reserved top level domain names is within the scope of the policy development work.
§5, Protection of IGO Names and Acronyms	**a. The GAC advises the ICANN Board to:** i. pursue its engagement with both the GAC and the GNSO on the issue of IGO protections in an effort to reconcile differences between GNSO and GAC advice on this topic while remaining responsive to concerns laid out in	There is a strong feeling from the GAC that at this phase of the discussions of the "small group", the GNSO should also be at the table when discussing the proposals. Also, because there many new Board members and members on the GNSO Council, the GAC urges the parties to engage with the IGOs to get a full	The GNSO refers the Board to the previously adopted (20 November 2013 – see http://gnso.icann.org/en/council/resolutions# 20131120-2) recommendations of the PDP WG addressing this topic and our statements on this issue during our engagement session in Helsinki. The GNSO Council lacks any remit to negotiate or alter these	Response: The Board accepts the advice. The Board sent a letter to the GNSO Council regarding the next steps in reconciling GAC advice and GNSO policy recommendations with respect to the protection of IGO acronyms in the domain name system. Included in the letter was the proposal of the "small group" for dealing with the protection of IGO acronyms at the second level. As noted in the letter, the Board believes that the most appropriate approach for the Board in this matter is to help facilitate a procedural way forward for

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communique (11 August 2016)	Board Response
	GAC advice issued since the Toronto Communiqué; Taking into account the number of individuals who have joined both the Board and the GNSO since the GAC first brought this issue to the attention of the ICANN Community, **b. The GAC advises the ICANN Board to:** i. engage the IGOs in its discussions (both within the Board and with the GNSO) where appropriate, given that the IGOs are best-placed to comment upon the compatibility of any proposals with their unique status as non-commercial, publicly-funded creations of government under international law.	briefing on the background of the issue and its complexities	adopted recommendations to suit GAC advice.	the reconciliation of GAC advice and GNSO policy prior to the Board formally considering the substantive policy recommendations. Additionally, the Board stated that it hoped to continue discussion on this topic with the GAC and GNSO in Hyderabad. Following these discussions in Hyderabad, the Board proposed a facilitated dialogue between the GAC and the GNSO as a possible path forward.

Confidential Negotiation Information

Confidential Negotiation Information

REFERENCE MATERIALS TO BOARD SUBMISSION 2016.12.13.2b

TITLE: **March 2018 ICANN Meeting Hotels Contracting**

DETAILED ANALYSIS:

1. Background:

Since the October 2016 ICANN Public Meeting originally scheduled for San Juan, Puerto Rico was moved to Hyderabad, the Board made the decision to return to San Juan, Puerto Rico for the March 2018 ICANN Public Meeting. NIC.PR will host the meeting.

2. Site Visit:

- San Juan, Puerto Rico: A preliminary site visit was conducted in March 2015.

3. Discussion of Issues:

San Juan, Puerto Rico – The Puerto Rico Convention Center (PRCC)

- Meeting Rooms: The PRCC has excellent conference facilities for an ICANN Meeting.
- Host Hotel: The Sheraton Puerto Rico Hotel, adjacent to the convention center, will serve as the host hotel for the Meeting.
- Area Hotels: Nearby hotels offer a wide variety of guest room accommodations. A few are within walking distance of the PRCC. Others will require a 10-minute shuttle bus ride.
- Food & Beverage Outlets: The PRCC will provide food for sale for Meeting delegates. In addition, there are a number of other restaurants in close proximity to the PRCC.
- Air Travel: Air access to San Juan is good, with over 1700 flights arriving weekly at Luis Muñoz Marín International Airport. However, almost all international itineraries will require a stop.
- Ground Transportation: Luis Muñoz Marín International Airport is 11 kilometers/15 minutes from the meeting venue and area hotels. Taxi fare is approximately US$15.

- Safety & Security: A risk assessment by ICANN security has not identified any areas of concern for San Juan that would require other than standard security measures provided for an ICANN Meeting.
- Gala: To be determined.

Representatives from NIC.PR are capable and anxious to host.

Staff recommends that the board approve the expenditures for San Juan, Puerto Rico as the location of the March 2018 ICANN Meeting.

4. Confidential Negotiation Information **Room Costs – Board Approval Required:**

- The contract for the Confidential Negotiation Information will be:

Confidential Negotiation Information

5. Confidential Negotiation Information **Room Costs – Board Approval Required:**

- The contract for the Confidential Negotiation Information will be:

Confidential Negotiation Information

6. Contact Information Redacted, Confidential Negotiation Information **Room Costs – Board Approval Required:**

-   The contract for the Confidential Negotiation Information will be:

Confidential Negotiation Information

7. **Additional Hotel Costs – Board Approval Not Required**

-   The contract for the Confidential Negotiation Informatio will be:

Confidential Negotiation Information

-   The contract for the Confidential Negotiation Inform will be:

Confidential Negotiation Information

8. **Convention Center Costs – Board Approval Not Required**

-   The contract for the Puerto Rico Convention Center will include:

Confidential Negotiation Information

Note that hotel negotiations are in progress. Costs identified are estimates, which we do not believe will be exceeded.

9. Subvention

Confidential Negotiation Information

Staff recommends that the board approve the expenditure (including contracting and disbursements) for the contracts with the Confidential Negotiation Information , other hotels identified, and the Puerto Rico Convention Center.

*** Confidential Proposal Information Set Forth Below***

10. Other Hosting Proposals Received:

Confidential Negotiation Information

*** Confidential Proposal Information Set Forth Above***

Submitted by:	Nick Tomasso
Position:	VP, Meetings
Date Noted:	5 December 2016
Email:	nick.tomasso@icann.org

REFERENCE MATERIALS - BOARD SUBMISSION NO. 2016.12.13.C3b

TITLE: **Officer Compensation**

Confidential Employment Matter

Confidential Employment Matter

Submitted by:	Göran Marby
Position:	President and CEO
Date Noted:	28 October 2016
Email:	Goran.Marby@icann.org

REFERENCE MATERIALS - BOARD SUBMISSION NO. 2016.12.13.C3b

ATTACHMENT A

Confidential Employment Matter

EXHIBIT C-158

C-158

Agenda | Special Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

13 Dec 2016

Consent Agenda

- Approval of Board Meeting Minutes

- RSSAC (Root Server System Advisory Committee) Co-Chair Appointment

- RZERC Liaison Appointment

- GAC (Governmental Advisory Committee) Advice: Helsinki Communiqué (June 2016)

Main Agenda

- March 2018 North America ICANN (Internet Corporation for Assigned Names and Numbers) Meeting

- Input to Privacy and Proxy Service Provider Accreditation Program Implementation Review Team

- AOB

Executive Session – Confidential

Published on 06 December 2016

EXHIBIT C-159

C-159

Minutes | Special Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is available in:

English |
العربية (http://www.icann.org/resources/board-material/minutes-2016-12-13-ar)
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中文 (http://www.icann.org/resources/board-material/minutes-2016-12-13-zh)

13 Dec 2016

A Special Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors was held telephonically on 13 December 2016 at 22:00 UTC.

Steve Crocker, Chair, promptly called the meeting to order.

In addition to the Chair, the following Directors participated in all or part of the meeting: Rinalia Abdul Rahim, Maarten Botterman, Becky Burr, Cherine Chalaby (Vice Chair), Ron da Silva, Chris Disspain, Asha Hemrajani, Rafael Lito Ibarra, Khaled Koubaa, Markus Kummer, Akinori Maemura, Göran Marby (President and CEO), George Sadowsky, Mike Silber, and Lousewies van der Laan.

The following Board Liaisons participated in all or part of the meeting: Ram Mohan (SSAC (Security and Stability Advisory Committee) Liaison), Kaveh Ranjbar (RSSAC (Root Server System Advisory Committee) Liaison), and Jonne Soininen (IETF (Internet Engineering Task Force) Liaison).

The following Board Liaisons sent their apologies: Thomas Schneider (GAC (Governmental Advisory Committee) Liaison).

Secretary: John Jeffrey (General Counsel and Secretary).

The following ICANN (Internet Corporation for Assigned Names and Numbers) Executives and Staff participated in all or part of the meeting: Michelle Bright (Board Operations Content Manager), Xavier Calvez (Chief Financial Officer), Samantha Eisner (Deputy General Counsel), John Jeffrey (General Counsel and Secretary), Daniel Halloran (Deputy General Counsel), Melissa King (VP, Board Operations), Vinciane Koenigsfeld (Board Operations Content Manager), Elizabeth Le (Senior Counsel), Wendy Profit (Board Operations Specialist), Erika Randall (Senior Counsel) and Nick Tomasso (VP, Meetings).

1. **Consent Agenda:**
   a Approval of Minutes

   b RSSAC (Root Server System Advisory Committee) Co-Chair Appointment
      Rationale for Resolution 2016.12.13.02

   c. Root Zone (Root Zone) Evolution Review Committee (RZERC) Liaison Appointment

   d GAC (Governmental Advisory Committee) Advice: Helsinki Communiqué (June 2016)
      Rationale for Resolution 2016.12.13.05

2. **Main Agenda:**
   a Community Consultation on San Juan, Puerto Rico as the Location of the March 2018 North America ICANN (Internet Corporation for Assigned Names and Numbers) Meeting – for discussion – no resolution to be taken

   b March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Meeting Hotels Contracting
      Rationale for Resolutions 2016.12.13.06 – 2016.12.13.07

3. **Executive Session - Confidential:**
   a Officer Compensation
      Rationale for Resolution 2016.12.13.08

   b President and CEO At Risk Compensation – FY17-SR1
      Rationale for Resolution 2016.12.13.09

1. Consent Agenda:

Steve Crocker provided a brief overview of the items on the Consent Agenda. Steve then called for a vote, and the Board took the following action:

Resolved, the following resolutions in this Consent Agenda are approved:

a Approval of Minutes

Resolved (2016.12.13.01), the Board approves the minutes of the 5 November and 8 November 2016 Meetings of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

b RSSAC (Root Server System Advisory Committee) Co-Chair Appointment

Whereas, Article 12, Section 2, Subsection C of the Bylaws governs the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)).

Whereas, Article 12, Section 2, Subsection C (ii) of the Bylaws states that the RSSAC (Root Server System Advisory Committee)'s chairs and members shall be appointed by the Board.

Whereas, on 1 December 2016, the RSSAC (Root Server System Advisory Committee) conducted an election for one co-chair position and re-elected Tripti Sinha (University of Maryland, D-Root Server Operator) to a two-year term as co-chair. Brad Verd (Verisign, A/J-Root Server Operator) will continue to serve as co-chair for the second year of a two-year term.

Resolved (2016.12.13.02) the Board of Directors accepts the recommendation of the RSSAC (Root Server System Advisory Committee) and appoints Tripti Sinha as co-chair of RSSAC (Root Server System Advisory Committee) and extends its best

wishes to RSSAC (Root Server System Advisory Committee) Co-Chairs of their important roles.

Rationale for Resolution 2016.12.13.02

The ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for the Board to appoint the RSSAC (Root Server System Advisory Committee) Co-Chairs as selected by the membership. The appointment of RSSAC (Root Server System Advisory Committee) co-chairs will allow the RSSAC (Root Server System Advisory Committee) to be properly composed to serve its function within ICANN (Internet Corporation for Assigned Names and Numbers)'s policy development work as an advisory committee.

The appointment of co-chairs is not anticipated to have any fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers) that has not already been accounted for in the budgeted resources necessary for ongoing support of the RSSAC (Root Server System Advisory Committee).

This is an Organizational Administrative Function for which no public comment is required.

c. Root Zone (Root Zone) Evolution Review Committee (RZERC) Liaison Appointment

Whereas, in line with the recommendations of the CWG-Stewardship post-IANA (Internet Assigned Numbers Authority) transition, ICANN (Internet Corporation for Assigned Names and Numbers) established the Root Zone (Root Zone) Evolution Review Committee (RZERC) to review issues relating to the architecture and operational systems for the DNS (Domain Name System) Root Zone (Root Zone) as it evolves, and providing recommendations to the ICANN (Internet Corporation for Assigned Names and Numbers) Board to ensure the security, stability, and resiliency of the root zone.

Whereas appointees to the RZERC must have a strong overall understanding of the Root Zone (Root Zone), and must be able

to fully represent their appointing organization's particular interest in the root zone.

Whereas the RZERC is required to include 9 committee members from specific organizations, including one ICANN (Internet Corporation for Assigned Names and Numbers) Board member.

Whereas the ICANN (Internet Corporation for Assigned Names and Numbers) Board appointed Suzanne Woolf to the RZERC on an interim basis as the ICANN (Internet Corporation for Assigned Names and Numbers) Board member for the Inaugural Composition of the RZERC finalized on 12 August 2016.

Whereas Suzanne Woolf concluded her term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Resolved (2016.12.13.03), the ICANN (Internet Corporation for Assigned Names and Numbers) Board thanks Suzanne Woolf for her service on the RZERC.

Resolved (2016.12.13.04), the ICANN (Internet Corporation for Assigned Names and Numbers) Board appoints Kaveh Ranjbar to the ICANN (Internet Corporation for Assigned Names and Numbers) Board position on the RZERC.

d GAC (Governmental Advisory Committee) Advice: Helsinki Communiqué (June 2016)

Whereas, the Governmental Advisory Committee (Advisory Committee) (GAC (Governmental Advisory Committee)) met during the ICANN56 meeting in Helsinki, Finland and issued advice to the ICANN (Internet Corporation for Assigned Names and Numbers) Board in a Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf) [PDF, 328 KB] on 30 June 2016 ("Helsinki Communiqué").

Whereas, the Helsinki Communiqué was the subject of an exchange

(https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee?
preview=/27132037/43712863/20160720_GAC_Board_Call_EN.pdf)
[PDF, 301 KB] between the Board and the GAC (Governmental
Advisory Committee) on 20 July 2016.

Whereas, on 11 August 2016, the GNSO (Generic Names
Supporting Organization) Council provided feedback
(/en/system/files/correspondence/bladel-to-crocker-11aug16-
en.pdf) [PDF, 436 KB] to the Board concerning advice in the
Helsinki Communiqué relevant to generic top-level domains to
inform the Board and the community of gTLD (generic Top
Level Domain) policy activities that may relate to advice
provided by the GAC (Governmental Advisory Committee).
Whereas, the Board developed an iteration of the scorecard to
respond to the GAC (Governmental Advisory Committee)'s
advice in the Helsinki Communiqué, taking into account the
exchange between the Board and the GAC (Governmental
Advisory Committee) and the information provided by the
GNSO (Generic Names Supporting Organization) Council.

Resolved (2016.12.13.05), the Board adopts the scorecard
titled "GAC (Governmental Advisory Committee) Advice –
Helsinki Communiqué: Actions and Updates (13 December
2016) (/en/system/files/files/resolutions-helsinki56-gac-advice-
scorecard-13dec16-en.pdf)" [PDF, 298 KB] in response to items
of GAC (Governmental Advisory Committee) advice in the
Helsinki Communiqué.

Rationale for Resolution 2016.12.13.05

Article 12, Section 12.2(a)(ix) of the ICANN (Internet
Corporation for Assigned Names and Numbers) Bylaws permits
the GAC (Governmental Advisory Committee) to "put issues to
the Board directly, either by way of comment or prior advice, or
by way of specifically recommending action or new policy
development or revision to existing policies." In its Helsinki
Communiqué (30 June 2016), the GAC (Governmental
Advisory Committee) issued advice to the Board on various
matters including: (1) policies and procedures for future rounds
of the New gTLD (generic Top Level Domain) Program, (2)
GNSO (Generic Names Supporting Organization) consensus

policy recommendations on privacy and proxy accreditation, (3) permitting registry operators to allow registration of two letter domain names at the second level that correspond to country/territory codes, (4) permitting three letter codes in the ISO (International Organization for Standardization)-3166 list as gTLDs in future rounds, and (5) protection of names and acronyms of Intergovernmental Organizations (IGOs) in all gTLDs The ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws require the Board to take into account the GAC (Governmental Advisory Committee)'s advice on public policy matters in the formulation and adoption of the polices If the Board decides to take an action that is not consistent with the GAC (Governmental Advisory Committee) advice, it must inform the GAC (Governmental Advisory Committee) and state the reasons why it decided not to follow the advice Any GAC (Governmental Advisory Committee) advice approved by a full consensus of the GAC (Governmental Advisory Committee) (as defined in the Bylaws) may only be rejected by a vote of no less than 60% of the Board, and the GAC (Governmental Advisory Committee) and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution

At this time, the Board is taking action to address the advice from the GAC (Governmental Advisory Committee) in the Helsinki Communiqué. The Board's actions are described in scorecard dated 13 December 2016 (/en/system/files/files/resolutions-helsinki56-gac-advice-scorecard_13dec16_en.pdf) [PDF, 298 KB] In adopting its response to the GAC (Governmental Advisory Committee) advice in the Helsinki Communiqué, the Board reviewed various materials, including, but not limited to, the following materials and documents

- Helsinki Communiqué (30 June 2016):
  https //www icann org/en/system/files/correspondence/gac_to-board-30jun16-en.pdf (/en/system/files/correspondence/gac_to_board_30jun16_en.pdf) [PDF, 328 KB]

■ The GNSO (Generic Names Supporting Organization)
Council's review of the advice in the Helsinki
Communiqué as presented in a 11 August 2016 letter to
the Board
(https://www.icann.org/en/system/files/correspondence/bladel-
to_crocker_11aug16_en_pdf
(/en/system/files/correspondence/bladel-to-crocker-
11aug16_en_pdf) [PDF, 436 KB])

The adoption of the GAC (Governmental Advisory Committee)
advice as provided in the scorecard will have a positive impact
on the community because it will assist with resolving the
advice from the GAC (Governmental Advisory Committee)
concerning gTLDs and other matters. There are no foreseen
fiscal impacts associated with the adoption of this resolution
Approval of the resolution will not impact security, stability or
resiliency issues relating to the DNS (Domain Name System)

This is an Organizational Administrative function that does not
require public comment

**All members of the Board present voted in favor of Resolutions
2016.12.13.01, 2016.12.13.02, 2016.12.13.03, 2016.12.13.04, and
2016.12.13.05. The Resolutions carried.**

2. Main Agenda:

a Community Consultation on San Juan, Puerto
Rico as the Location of the March 2018 North
America ICANN (Internet Corporation for
Assigned Names and Numbers) Meeting – for
discussion – no resolution to be taken

The President and CEO introduced the agenda tem. The
Board engaged in a discussion regarding the s itability of
holding the ICANN (Internet Corporation for Assigned Names
and Numbers) March 2018 Public Meeting (ICANN (Internet
Corporation for Assigned Names and Numbers) 61) in San
Juan, Puerto Rico The Board noted that it previously approved
the October 2016 Public Meeting (ICANN (Internet Corporation
for Assigned Names and Numbers) 57) to take place in San

Juan, Puerto Rico, but due to concerns regarding the Zika virus outbreak in Puerto Rico, the Board postponed holding the meeting in San Juan to a later date and relocated ICANN (Internet Corporation for Assigned Names and Numbers) 57 to Hyderabad. Given that the ICANN (Internet Corporation for Assigned Names and Numbers) March 2018 Public Meeting (ICANN (Internet Corporation for Assigned Names and Numbers) 61) is scheduled to take place in the North America region, the ICANN (Internet Corporation for Assigned Names and Numbers) Organization performed a thorough evaluation of the suitability of San Juan as the venue for the March 2018 meeting Nick Tomasso, VP Meetings, reported that the due diligence conducted included an extensive analysis of the condition of the Zika virus in San Juan, and took into consideration, among other factors, the current assessments from the World Health Organization (WHO) and the U S Center for Disease Control (CDC) of the Zika virus, as well as consultation with the community Nick reported that the WHO has lowered the risk assessment level for the Zika virus and has recently declared that Zika to no longer be an international emergency. He further reported that the CDC has maintained its risk assessment at a "Level 2, Practice Enhanced Precautions", advising women who are pregnant or trying to become pregnant to really consider whether it is essential to travel to Puerto Rico. Nick further reported that they consulted with 22 members of SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) and LAC leadership teams, and that the feedback from the leadership teams supported holding the March 2018 Public Meeting in San Juan Nick advised that the Organization has much more information about the Zika condition San Juan than it did in 2016 For example, there is more information now than in 2016 on what reasonable precautions are available and ways to mitigate against the risk being bitten by mosquitoes, such as providing accommodations in mosquito free zones, wearing long sleeved shirts and long pants, using   PA registered insect repellents containing DEET.

Ram Mohan stated that the Board's decision should be based on ICANN (Internet Corporation for Assigned Names and Numbers)'s strategy of being global and present in multiple

parts of the world, and the importance of discerning between real risks and indiscernible risk or the perception of risks, particularly as an international organization that travels to different regions worldwide Khaled Koubaa agreed with Ram and noted that exceptions should be made based on clear and persistent risk, rather than general fear and doubt, particularly as there are threats everywhere. The Board concluded that San Juan seems to be a suitable venue for the March 2018 Meeting so long as the risks are reasonable, reasonable precautions are taken, and people are able to protect themselves.

b   March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Meeting Hotels Contracting

The Chair introduced the agenda item. Asha Hemrajani, Chair of the Board Finance Committee (BFC), advised the Board that the BFC recommended approval of the following resolution on the basis of financial due diligence, which includes an evaluation of whether the procurement process was followed and the reasonableness and affordability of the costs. Nick Tomasso noted that San Juan offers a very cost effective meeting venue.

> Whereas, ICANN (Internet Corporation for Ass gned Names and Numbers) intends to hold its first Public Meeting of 2018 in the North America region.
>
> Whereas, the October 2016 Public Meeting in San Juan was postponed to March 2018 and staff has completed a thorough review of the venue in San Juan, Puerto Rico and finds it suitable.
>
> Resolved (2016.12.13.06), the Board indicates that the March 2018 Public Meeting shall be held in San Juan, Puerto Rico and authorizes the President and CEO, or his designee(s), to engage in and facilitate all necessary contracting and disbursements for the host and other hotels for the March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Public Meeting in

San Juan, Puerto Rico, in an amount not to exceed *[REDACTED FOR NEGOTIATION PURPOSES]*

Resolved (2016.12.13.07), specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article III section 5.2 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws until the President and CEO determines that the confidential information may be released

All members of the Board present voted in favor of Resolutions 2016.12.13.06 and 2016.12.13.07. The Resolutions carried.

Rationale for Resolutions 2016.12.13.06 – 2016.12.13.07

As part of ICANN (Internet Corporation for Assigned Names and Numbers)'s Public Meeting schedule, presently three times a year ICANN (Internet Corporation for Assigned Names and Numbers) hosts a meeting in a different geographic region (as defined in the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws) ICANN (Internet Corporation for Assigned Names and Numbers) 61, scheduled for 10-15 March 2018, is to occur in the North America geographic region Since the October 2016 Public Meeting scheduled for San Juan, Puerto Rico was moved to Hyderabad, ICANN (Internet Corporation for Assigned Names and Numbers) determined to hold the March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Public Meeting in San Juan, Puerto Rico

The staff performed a thorough analysis of the meeting venue and supporting hotels to ensure that they met the Meeting Selection Criteria (see http //meetings icann org/location selection criteria (http://meetings.icann.org/location-selection-criteria)).

> The Board reviewed staff's briefing for hosting the meeting in San Juan, Puerto Rico and the determination that the proposal met the significant factors of the Meeting Selection Criteria, as well as the related costs for facilities selected, for the March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Public Meeting.
>
> There will be a financial impact on ICANN (Internet Corporation for Assigned Names and Numbers) in hosting the meeting and providing travel support as necessary, as well as on the community in incurring costs to travel to the meeting But such impact would be faced regardless of the location and venue of the meeting This action will have no impact on the security or the stability of the DNS (Domain Name System).
>
> This is an Organizational Administrative function that does not require public comment.

3. ## Executive Session - Confidential:

The Board entered a confidential session. The Board undertook the following actions during its confidential session:

a ## Officer Compensation

Whereas, the attraction and retention of high caliber staff is essential to ICANN (Internet Corporation for Assigned Names and Numbers)'s operations and ICANN (Internet Corporation for Assigned Names and Numbers) desires to ensure competitive compensation for staff

Whereas, each Board member has confirmed that they are not conflicted with respect to compensation package for the C O

Resolved (2016.12.13.08), the Board grants the President and CEO the discretion to adjust the CIO's compensation for FY17, effective 1 July 2016, by an amount up to an additional 3%, which is consistent with ICANN (Internet Corporation for Assigned Names and Numbers)'s remuneration practices as

evidenced by the independent compensation expert information on comparable compensation, subject to a limitation that the CIO's FY17 base salary shall not increase by more than 3% of his current FY17 base salary.

Rationale for Resolution 2016.12.13.08

Attracting and retaining high caliber staff by providing a competitive compensation package is crucial to the organization. An improving job market will make more opportunities available for high caliber performers outside of ICANN (Internet Corporation for Assigned Names and Numbers).

ICANN (Internet Corporation for Assigned Names and Numbers)'s President and CEO has requested that he be granted the discretion to increase the FY17 base salary, effective 1 July 2016, of the CIO by up to 3% of his current FY17 base salary. This amount is in alignment with the actions taken by the President and CEO with respect to the other members of ICANN (Internet Corporation for Assigned Names and Numbers)'s Executive Team who are not Officers (which does not require Board approval).

ICANN (Internet Corporation for Assigned Names and Numbers) is in a critical phase that calls for continuity of certain skill and expertise, particularly with ongoing key projects including the New gTLD (generic Top Level Domain) Program, the organizational and other reviews underway, the recently concluded IANA (Internet Assigned Numbers Authority) stewardship transition, expanding contractual compliance, and enhanced globalization efforts, among many others. Each of these projects requires knowledgeable and skilled executives to ensure ICANN (Internet Corporation for Assigned Names and Numbers)'s operational goals and objectives are met while ensuring that risk is mitigated to the greatest extent possible. Adhering to ICANN (Internet Corporation for Assigned Names and Numbers)'s employment philosophy, and providing competitive compensation, will help ensure these goals are achieved.

Continuity and retention of key personnel during key organization phases is beneficial to all aspects of the organization. Thus, salary adjustments provided under this resolution likely will have a positive impact on the organization and its effort to fulfill its mission, as well as on the transparency and accountability of the organization. There will be some fiscal impact to the organization, but that impact will not have an effect on the overall current fiscal year budget. This resolution will not have any direct impact on the security, stability and resiliency of the domain name system.

This is an Organizational Administrative function that does not require public comment.

b President and CEO At Risk Compensation – FY17-SR1

Whereas, each Board member has confirmed that he/she does not have a conflict of interest with respect to establishing the amount of payment for the President and CEO's FY17 SR1 at-risk compensation payment.

Whereas, the Compensation Committee recommended that the Board approve payment to the President and CEO for his FY17 SR1 at-risk compensation component.

Resolved (2016.12.13.09), the Board hereby approves a payment to the President and CEO for his FY17 SR1 at-risk compensation component.

Rationale for Resolution 2016.12.13.09

When the President and CEO was hired, he was offered a base salary, plus an at-risk component of his compensation package. This same structure exists today. Consistent with all ICANN (Internet Corporation for Assigned Names and Numbers) staff members, the President and CEO is to be evaluated against specific goals, which the President and CEO has set in coordination with the Compensation Committee.

Toward the end of FY17 SR1, which is a scoring period that normally runs from 16 May 2015 through 15 November 2015, but it began in this instance on 23 May 2016, the President and CEO provided to the Compensation Committee with his self-assessment of his achievements towards his goals for FY17 SR1 the measurement period. After seeking input from other Board members, the Compensation Committee reviewed with the President and CEO his FY17 SR1 goals and discussed his achievements against those goals. Following that discussion, the Compensation Committee recommended that the Board approve the President and CEO's at-risk compensation for the FY17 SR1 and the Board agrees with that recommendation.

While this will have a fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers), it is an impact that was contemplated in the FY17 budget. This decision will not have an impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative Function that does not require public comment.

The Chair called the meeting to a close.

Published on 6 February 2017

EXHIBIT C-160

Adopted Board Resolutions | Special Meeting of the ICANN (Internet Corporation for Assigned Names and Numbers) Board

This page is available in:
English |
العربية (http://www.icann.org/resources/board-material/resolutions-2016-12-13-ar) |
Español (http://www.icann.org/resources/board-material/resolutions-2016-12-13-es) |
Français (http://www.icann.org/resources/board-material/resolutions-2016-12-13-fr) |
Русский (http://www.icann.org/resources/board-material/resolutions-2016-12-13-ru) |
中文 (http://www.icann.org/resources/board_material/resolutions_2016_12_13_zh)

13 Dec 2016

1   **Consent Agenda:**

    a   Approval of Minutes

    b   RSSAC (Root Server System Advisory Committee) Co-Chair Appointment
        Rationale for Resolution 2016.12.13.02

    c.   Root Zone (Root Zone) Evolution Review Committee (RZERC) Liaison Appointment

    d   GAC (Governmental Advisory Committee) Advice Helsinki Communiqué (June 2016)
        Rationale for Resolution 2016 12 13 05

2.   **Main Agenda:**

    a   Community Consultation on San Juan, Puerto Rico as the Location of the March 2018 North America ICANN (Internet Corporation for Assigned Names and Numbers) Meeting   for discussion – no resolution to be taken

    b   March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Meeting Hotels Contracting

Rationale for Resolutions 2016.12.13.06 – 2016.12.13.07

3. **Executive Session - Confidential:**

   a Officer Compensation
      Rationale for Resolution 2016.12.13.08

   b President and CEO At Risk Compensation – FY17-SR1
      Rationale for Resolution 2016.12.13.09

1. Consent Agenda:

   a Approval of Minutes

   Resolved (2016.12.13.01), the Board approves the minutes of the 5 November and 8 November 2016 Meetings of the ICANN (Internet Corporation for Assigned Names and Numbers) Board.

   b RSSAC (Root Server System Advisory Committee) Co-Chair Appointment

   Whereas, Article 12, Section 2, Subsection C of the Bylaws governs the Root Server System Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)).

   Whereas, Article 12, Section 2, Subsection C (ii) of the Bylaws states that the RSSAC (Root Server System Advisory Committee)'s chairs and members shall be appointed by the Board.

   Whereas, on 1 December 2016, the RSSAC (Root Server System Advisory Committee) conducted an election for one co-chair position and re-elected Tripti Sinha (University of Maryland, D-Root Server Operator) to a two-year term as co-chair. Brad Verd (Verisign, A/J-Root Server Operator) will continue to serve as co-chair for the second year of a two-year term.

Resolved (2016.12.13.02) the Board of Directors accepts the recommendation of the RSSAC (Root Server System Advisory Committee) and appoints Tripti Sinha as co-chair of RSSAC (Root Server System Advisory Committee) and extends its best wishes to RSSAC (Root Server System Advisory Committee) Co Chairs of their important roles

Rationale for Resolution 2016.12.13.02

The ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws call for the Board to appoint the RSSAC (Root Server System Advisory Committee) Co Chairs as selected by the membership. The appointment of RSSAC (Root Server System Advisory Committee) co chairs will allow the RSSAC (Root Server System Advisory Committee) to be properly composed to serve its function within ICANN (Internet Corporation for Assigned Names and Numbers)'s policy development work as an advisory committee

The appointment of co-chairs is not anticipated to have any fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers) that has not already been accounted for in the budgeted resources necessary for ongoing support of the RSSAC (Root Server System Advisory Committee).

This is an Organizational Administrative Function for which no public comment is required.

c. ## Root Zone (Root Zone) Evolution Review Committee (RZERC) Liaison Appointment

Whereas, in line with the recommendations of the CWG-Stewardship post-IANA (Internet Assigned Numbers Authority) transition, ICANN (Internet Corporation for Assigned Names and Numbers) established the Root Zone (Root Zone) Evolution Review Committee (RZERC) to review issues relating to the architecture and operational systems for the DNS (Domain Name System) Root Zone (Root Zone) as it evolves, and providing recommendations to the ICANN (Internet Corporation for Assigned Names and Numbers) Board to ensure the security, stability, and resiliency of the root zone.

Whereas appointees to the RZERC must have a strong overall understanding of the Root Zone (Root Zone), and must be able to fully represent their appointing organization's particular interest in the root zone.

Whereas the RZERC is required to include 9 committee members from specific organizations, including one ICANN (Internet Corporation for Assigned Names and Numbers) Board member.

Whereas the ICANN (Internet Corporation for Assigned Names and Numbers) Board appointed Suzanne Woolf to the RZERC on an interim basis as the ICANN (Internet Corporation for Assigned Names and Numbers) Board member for the Inaugural Composition of the RZERC finalized on 12 August 2016.

Whereas Suzanne Woolf concluded her term on the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 8 November 2016.

Resolved (2016.12.13.03), the ICANN (Internet Corporation for Assigned Names and Numbers) Board thanks Suzanne Woolf for her service on the RZERC.

Resolved (2016.12.13.04), the ICANN (Internet Corporation for Assigned Names and Numbers) Board appoints Kaveh Ranjbar to the ICANN (Internet Corporation for Assigned Names and Numbers) Board position on the RZERC.

d GAC (Governmental Advisory Committee) Advice: Helsinki Communiqué (June 2016)

Whereas, the Governmental Advisory Committee (Advisory Committee) (GAC (Governmental Advisory Committee)) met during the ICANN56 meeting in Helsinki, Finland and issued advice to the ICANN (Internet Corporation for Assigned Names and Numbers) Board in a Communiqué (/en/system/files/correspondence/gac-to-board-30jun16-en.pdf) [PDF, 328 KB] on 30 June 2016 ("Helsinki Communiqué").

Whereas, the Helsinki Communiqué was the subject of an exchange (https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee?preview=/27132037/43712863/20160720_GAC_Board_Call_EN.pdf) [PDF, 301 KB] between the Board and the GAC (Governmental Advisory Committee) on 20 July 2016.

Whereas, on 11 August 2016, the GNSO (Generic Names Supporting Organization) Council provided feedback (/en/system/files/correspondence/bladel-to-crocker-11aug16-en.pdf) [PDF, 436 KB] to the Board concerning advice in the Helsinki Communiqué relevant to generic top-level domains to inform the Board and the community of gTLD (generic Top Level Domain) policy activities that may relate to advice provided by the GAC (Governmental Advisory Committee).

Whereas, the Board developed an iteration of the scorecard to respond to the GAC (Governmental Advisory Committee)'s advice in the Helsinki Communiqué, taking into account the exchange between the Board and the GAC (Governmental Advisory Committee) and the information provided by the GNSO (Generic Names Supporting Organization) Council.

Resolved (2016.12.13.05), the Board adopts the scorecard titled "GAC (Governmental Advisory Committee) Advice – Helsinki Communiqué: Actions and Updates (13 December 2016) (/en/system/files/files/resolutions-helsinki56-gac-advice-scorecard-13dec16-en.pdf)" [PDF, 298 KB] in response to items of GAC (Governmental Advisory Committee) advice in the Helsinki Communiqué.

Rationale for Resolution 2016.12.13.05

Article 12, Section 12.2(a)(ix) of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws permits the GAC (Governmental Advisory Committee) to "put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies." In its Helsinki Communiqué (30 June 2016), the GAC (Governmental Advisory Committee) issued advice to the Board on various

matters including: (1) policies and procedures for future rounds of the New gTLD (generic Top Level Domain) Program, (2) GNSO (Generic Names Supporting Organization) consensus policy recommendations on privacy and proxy accreditation, (3) permitting registry operators to allow registration of two-letter domain names at the second level that correspond to country/territory codes, (4) permitting three-letter codes in the ISO (International Organization for Standardization)-3166 list as gTLDs in future rounds, and (5) protection of names and acronyms of Intergovernmental Organizations (IGOs) in all gTLDs. The ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws require the Board to take into account the GAC (Governmental Advisory Committee)'s advice on public policy matters in the formulation and adoption of the polices. If the Board decides to take an action that is not consistent with the GAC (Governmental Advisory Committee) advice, it must inform the GAC (Governmental Advisory Committee) and state the reasons why it decided not to follow the advice. Any GAC (Governmental Advisory Committee) advice approved by a full consensus of the GAC (Governmental Advisory Committee) (as defined in the Bylaws) may only be rejected by a vote of no less than 60% of the Board, and the GAC (Governmental Advisory Committee) and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

At this time, the Board is taking action to address the advice from the GAC (Governmental Advisory Committee) in the Helsinki Communiqué. The Board's actions are described in scorecard dated 13 December 2016 (/en/system/files/files/resolutions-helsinki56-gac-advice-scorecard-13dec16-en.pdf) [PDF, 298 KB]. In adopting its response to the GAC (Governmental Advisory Committee) advice in the Helsinki Communiqué, the Board reviewed various materials, including, but not limited to, the following materials and documents:

- Helsinki Communiqué (30 June 2016): https://www.icann.org/en/system/files/correspondence/gac-to-board-30jun16-en.pdf

> > > (/en/system/files/correspondence/gac-to-board-30jun16-
> > > en pdf) [PDF, 328 KB]
>
> > - The GNSO (Generic Names Supporting Organization)
> >   Council's review of the advice in the Helsinki
> >   Communiqué as presented in a 11 August 2016 letter to
> >   the Board
> >   (https://www.icann.org/en/system/files/correspondence/bladel-
> >   to-crocker-11aug16-en.pdf
> >   (/en/system/files/correspondence/bladel-to-crocker-
> >   11aug16-en.pdf) [PDF, 436 KB])
>
> The adoption of the GAC (Governmental Advisory Committee)
> advice as provided in the scorecard will have a positive impact
> on the community because it will assist with resolving the
> advice from the GAC (Governmental Advisory Committee)
> concerning gTLDs and other matters. There are no foreseen
> fiscal impacts associated with the adoption of this resolution.
> Approval of the resolution will not impact security, stability or
> resiliency issues relating to the DNS (Domain Name System).
>
> This is an Organizational Administrative function that does not
> require public comment.

2. Main Agenda:

   a Community Consultation on San Juan, Puerto
      Rico as the Location of the March 2018 North
      America ICANN (Internet Corporation for
      Assigned Names and Numbers) Meeting   for
      discussion – no resolution to be taken

   b March 2018 ICANN (Internet Corporation for
      Assigned Names and Numbers) Meeting Hotels
      Contracting

      Whereas, ICANN (Internet Corporation for Assigned Names
      and Numbers) intends to hold its first Public Meeting of 2018 in
      the North America region.

Whereas, the October 2016 Public Meeting in San Juan was postponed to March 2018 and staff has completed a thorough review of the venue in San Juan, Puerto Rico and finds it suitable

Resolved (2016.12.13.06), the Board indicates that the March 2018 Public Meeting shall be held in San Juan, Puerto Rico and authorizes the President and CEO, or his designee(s), to engage in and facilitate all necessary contracting and disbursements for the host and other hotels for the March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Public Meeting in San Juan, Puerto Rico, in an amount not to exceed *[REDACTED FOR NEGOTIATION PURPOSES]*.

Resolved (2016 12 13 07), specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article III, section 5 2 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws until the President and CEO determines that the confidential information may be released.

Rationale for Resolutions 2016.12.13.06 – 2016.12.13.07

As part of ICANN (Internet Corporation for Assigned Names and Numbers)'s Public Meeting schedule, presently three times a year ICANN (Internet Corporation for Assigned Names and Numbers) hosts a meeting in a different geographic region (as defined in the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws). ICANN (Internet Corporation for Assigned Names and Numbers) 61, scheduled for 10 15 March 2018, is to occur in the North America geographic region Since the October 2016 Public Meeting scheduled for San Juan, Puerto Rico was moved to Hyderabad, ICANN (Internet Corporation for Assigned Names and Numbers) determined to hold the March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Public Meeting in San Juan, Puerto Rico.

The staff performed a thorough analysis of the meeting venue and supporting hotels to ensure that they met the Meeting Selection Criteria (see http://meetings.icann.org/location-selection criteria (http //meetings icann org/location selection criteria)).

The Board reviewed staff's briefing for hosting the meeting in San Juan, Puerto Rico and the determination that the proposal met the significant factors of the Meeting Selection Criteria, as well as the related costs for facilities selected, for the March 2018 ICANN (Internet Corporation for Assigned Names and Numbers) Public Meeting.

There will be a financial impact on ICANN (Internet Corporation for Assigned Names and Numbers) in hosting the meeting and providing travel support as necessary, as well as on the community in incurring costs to travel to the meeting. But such impact would be faced regardless of the location and venue of the meeting. This action will have no impact on the security or the stability of the DNS (Domain Name System)

This is an Organizational Administrative function that does not require public comment

3. Executive Session - Confidential:

a Officer Compensation

Whereas, the attraction and retention of high caliber staff is essential to ICANN (Internet Corporation for Assigned Names and Numbers)'s operations and ICANN (Internet Corporation for Assigned Names and Numbers) desires to ensure competitive compensation for staff

Whereas, each Board member has confirmed that they are not conflicted with respect to compensation package for the C O

Resolved (2016.12.13.08), the Board grants the President and CEO the discretion to adjust the CIO's compensation for FY17, effective 1 July 2016, by an amount up to an additional 3%, which is consistent with ICANN (Internet Corporation for

Assigned Names and Numbers)'s remuneration practices as evidenced by the independent compensation expert information on comparable compensation, subject to a limitation that the CIO's FY17 base salary shall not increase by more than 3% of his current FY17 base salary.

Rationale for Resolution 2016.12.13.08

Attracting and retaining high caliber staff by providing a competitive compensation package is crucial to the organization. An improving job market will make more opportunities available for high caliber performers outside of ICANN (Internet Corporation for Assigned Names and Numbers)

ICANN (Internet Corporation for Assigned Names and Numbers)'s President and CEO has requested that he be granted the discretion to increase the FY17 base salary, effective 1 July 2016, of the CIO by up to 3% of his current FY17 base salary. This amount is in alignment with the actions taken by the President and CEO with respect to the other members of ICANN (Internet Corporation for Assigned Names and Numbers)'s Executive Team who are not Officers (which does not require Board approval).

ICANN (Internet Corporation for Assigned Names and Numbers) is in a critical phase that calls for continuity of certain skill and expertise, particularly with ongoing key projects including the New gTLD (generic Top Level Domain) Program, the organizational and other reviews underway, the recently concluded IANA (Internet Assigned Numbers Authority) stewardship transition, expanding contractual compliance, and enhanced globalization efforts, among many others. Each of these projects requires knowledgeable and skilled executives to ensure ICANN (Internet Corporation for Assigned Names and Numbers)'s operational goals and objectives are met while ensuring that risk is mitigated to the greatest extent possible. Adhering to ICANN (Internet Corporation for Assigned Names and Numbers)'s employment philosophy, and providing competitive compensation, will help ensure these goals are achieved.

Continuity and retention of key personnel during key organization phases is beneficial to all aspects of the organization. Thus, salary adjustments provided under this resolution likely will have a positive impact on the organization and its effort to fulfill its mission, as well as on the transparency and accountability of the organization There will be some fiscal impact to the organization, but that impact will not have an effect on the overall current fiscal year budget This resolution will not have any direct impact on the security, stability and resiliency of the domain name system

This is an Organizational Administrative function that does not require public comment

b President and CEO At Risk Compensation – FY17-SR1

Whereas, each Board member has confirmed that he/she does not have a conflict of interest with respect to establishing the amount of payment for the President and CEO's FY17 SR1 at-risk compensation payment.

Whereas, the Compensation Committee recommended that the Board approve payment to the President and CEO for his FY17 SR1 at-risk compensation component.

Resolved (2016.12.13.09), the Board hereby approves a payment to the President and CEO for his FY17 SR1 at-risk compensation component.

Rationale for Resolution 2016.12.13.09

When the President and CEO was hired, he was offered a base salary, plus an at-risk component of his compensation package. This same structure exists today. Consistent with all ICANN (Internet Corporation for Assigned Names and Numbers) staff members, the President and CEO is to be evaluated against specific goals, which the President and CEO has set in coordination with the Compensation Committee.

Toward the end of FY17 SR1, which is a scoring period that normally runs from 16 May 2015 through 15 November 2015, but it began in this instance on 23 May 2016, the President and CEO provided to the Compensation Committee with his self assessment of his achievements towards his goals for FY17 SR1 the measurement period After seeking input from other Board members, the Compensation Committee reviewed with the President and CEO his FY17 SR1 goals and discussed his achievements against those goals. Following that discussion, the Compensation Committee recommended that the Board approve the President and CEO's at-risk compensation for the FY17 SR1 and the Board agrees with that recommendation

While this will have a fiscal impact on ICANN (Internet Corporation for Assigned Names and Numbers), it is an impact that was contemplated in the FY17 budget. This decision will not have an impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative Function that does not require public comment.

Published on 15 December 2016

EXHIBIT C-161

C-161

Agenda | Board Governance Committee (BGC)

16 Dec 2016

1. Oral presentation to BGC by Travel Reservations SRL, Spring McCook, LLC, Minds + Machines Group Limited, Famous Four Media imited, dot Hotel Limited, Radix FZC, dot Hotel Inc , and Fegistry, LLC re Reconsideration Request 16-11 (.HOTEL)

2. Any Other Business

Published on 14 December 2016

EXHIBIT C-162

Minutes | Board Governance Committee (BGC) Meeting

16 Dec 2016

BGC Attendees:, Cherine Chalaby, Chris Disspain (Chair), Asha Hemrajani, Markus Kummer

BGC Member Apologies: Rinalia Abdul Rahim, Ram Mohan and Mike Silber

ICANN (Internet Corporation for Assigned Names and Numbers) Executive and Staff Attendees: John Jeffrey (General Counsel and Secretary), Melissa King (VP, Board Operations), Elizabeth Le (Senior Counsel), Wendy Profit (Board Operations Specialist)

Invited Guests: Representatives of Travel Reservations SRL, Spring McCook, LLC, Minds + Machines Group Limited, Famous Four Media Limited, dot Hotel Limited, Radix FZC, dot Hotel Inc., Fegistry, LLC

The following is a summary of discussions, actions taken, and actions identified:

1. **Travel Reservations SRL, Spring McCook, LLC, Minds + Machines Group Limited, Famous Four Media Limited, dot Hotel Limited, Radix FZC, dot Hotel Inc., Fegistry, LLC's Oral Presentation to the BGC re Reconsideration Request 16-11** – The Requesters of Reconsideration Request 16-11 made a presentation to the BGC regarding Request 1611. Requesters' presentation materials have been published at https://www.icann.org/en/system/files/files/reconsideration-16-11-trs-et-al-crowell-moring-to-board-redacted-28dec16-en.pdf /en/system/files/files/reconsideration-16-11-trs-et-al-crowell-moring-to-board-redacted-28dec16-en.pdf) [PDF, 554 KB].

EXHIBIT C-163

Contact Information for Assignment - "Change of Control"

This form should be used by a Registry Operator to provide contact information.

Version 1
October 2017

ICANN

Section 1

Registry Contact Information

Provide any changes to the Registry's operational and emergency contact information. Unless specified as "optional," all fields must be completed. The information updated below will become effective only upon ICANN's final consent to the assignment.

For more information, please refer to the New gTLD Welcome Kit at the "Onboarding" section.

Registry Primary Contact	
First Name	
Last Name	
Position/Title	(optional)
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	
Email	
Street Address	
City	
State/Province/District	
Postal Code	
Two-Letter Country Code	

Registry Secondary Contact	
First Name	
Last Name	
Position/Title	(optional)
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	(optional)
Fax	(optional)
Email	
Street Address	

City	
State/Province/District	*(optional)*
Postal Code	
Two-Letter Country Code	

Registry Service Provider Primary Contact	
First Name	
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	
Email	
Street Address	
City	
State/Province/District	*(optional)*
Postal Code	
Two-Letter Country Code	

Registry Service Provider Secondary Contact	
First Name	*(optional)*
Last Name	*(optional)*
Position/Title	*(optional)*
Telephone (+##.###-###-###)	*(optional)*
Mobile (+##.###-###-###)	*(optional)*
Fax	*(optional)*
Email	*(optional)*
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

Data Escrow Agent Primary Contact	
First Name	
Last Name	
Position/Title	(optional)
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	(optional)
Fax	(optional)
Email	
Street Address	
City	
State/Province/District	(optional)
Postal Code	
Two-Letter Country Code	

Data Escrow Agent Secondary Contact	
First Name	(optional)
Last Name	(optional)
Position/Title	(optional)
Telephone (+##.###-###-###)	(optional)
Mobile (+##.###-###-###)	(optional)
Fax	(optional)
Email	(optional)
Street Address	(optional)
City	(optional)
State/Province/District	(optional)
Postal Code	(optional)
Two-Letter Country Code	(optional)

Technical Contact	
First Name	
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	*(optional)*
Email	
Street Address	
City	
State/Province/District	*(optional)*
Postal Code	
Two-Letter Country Code	

Legal (Notice) Contact	
First Name	
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	*(optional)*
Fax	
Email	
Street Address	
City	
State/Province/District	
Postal Code	
Two-Letter Country Code	

Media / Communications Contact	
First Name	(optional)
Last Name	(optional)
Position/Title	(optional)
Telephone (+##.###-###-###)	(optional)
Mobile (+##.###-###-###)	(optional)
Fax	(optional)
Email	(optional)
Street Address	(optional)
City	(optional)
State/Province/District	(optional)
Postal Code	(optional)
Two-Letter Country Code	(optional)

Billing/Financial Primary Contact	
First Name	
Last Name	
Position/Title	(optional)
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	(optional)
Fax	
Email	
Street Address	
City	
State/Province/District	
Postal Code	
Two-Letter Country Code	

Billing/Financial Secondary Contact	
First Name	*(optional)*
Last Name	*(optional)*
Position/Title	*(optional)*
Telephone (+##.###-###-###)	*(optional)*
Mobile (+##.###-###-###)	*(optional)*
Fax	*(optional)*
Email	*(optional)*
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

24x7 Emergency Contact - Escalation 1	
First Name	*(Actual Person's first name/last name)*
Last Name	*(Actual Person's first name/last name)*
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	
Email	
Street Address	
City	
State/Province/District	*(optional)*
Postal Code	
Two-Letter Country Code	

24x7 Emergency Contact - Escalation 2	
First Name	*(Different from 24x7 Emergency Contact-Escalation 1)*
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	*(optional)*
Email	
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

24x7 Emergency Contact - Escalation 3	
First Name	*(Different from 24x7 Emergency Contact-Escalation 1 & 2)*
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	*(optional)*
Email	
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

CZDS Primary Contact	
First Name	
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	*(optional)*
Fax	*(optional)*
Email	
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

CZDS Secondary Contact	
First Name	*(optional)*
Last Name	*(optional)*
Position/Title	*(optional)*
Telephone (+##.###-###-###)	*(optional)*
Mobile (+##.###-###-###)	*(optional)*
Fax	*(optional)*
Email	*(optional)*
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

TMDB Contact	
First Name	
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	*(optional)*
Mobile (+##.###-###-###)	
Fax	*(optional)*
Email	
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

Abuse Contact	
First Name	
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	
Email	
Street Address	
City	
State/Province/District	*(optional)*
Postal Code	
Two-Letter Country Code	

Compliance Contact	
First Name	*(Actual Person's first name/last name)*
Last Name	*(Actual Person's first name/last name)*
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	
Email	
Street Address	
City	
State/Province/District	*(optional)*
Postal Code	
Two-Letter Country Code	

URS - Registry Operator	
First Name	
Last Name	
Position/Title	*(optional)*
Telephone (+##.###-###-###)	
Mobile (+##.###-###-###)	
Fax	
Email	
Street Address	
City	
State/Province/District	
Postal Code	
Two-Letter Country Code	

URS - Backend Technical Service Provider	
First Name	*(optional)*
Last Name	*(optional)*
Position/Title	*(optional)*
Telephone (+##.###-###-###)	*(optional)*
Mobile (+##.###-###-###)	*(optional)*
Fax	*(optional)*
Email	*(optional)*
Street Address	*(optional)*
City	*(optional)*
State/Province/District	*(optional)*
Postal Code	*(optional)*
Two-Letter Country Code	*(optional)*

☐

Section 2

Public Registry Contact Information

Provide any changes to the Public Registry Contact information. Unless specified as "optional," all fields must be completed.

This information will be updated on the Registry Listing Page on icann.org upon ICANN's final consent to the Assignment.

Public Registry Contact Information	
Registry Operator Display Name	
Street Address	
City	
State/Province/District	*(optional)*
Postal Code	
Two-Letter Country Code	
Telephone (+##.###-###-###)	
FAX (+##.###-###-###)	*(optional)*
General Email Address	
Registry Web Site URL	
WHOIS Directory Service URL	

ICANN.ORG

EXHIBIT C-164

Change of Control Guide

How to Submit a Request for a Change of Control Assignment

Version 2.0
13 December 2017

ICANN

TABLE OF CONTENTS

Introduction

This how-to guide provides guidance for Registry Operators (RO) on how to notify the ICANN org (all subsequent uses of "ICANN" refer to the ICANN org) of an assignment, what documentation is required and how such notifications will be processed.

The definition of an Assignment is provided below:

A direct or indirect change of control of Registry Operator or any subcontracting arrangement that relates to any Critical Function (as identified in section 6 of Specification 10) for the TLD (a "Material Subcontracting Arrangement") shall be deemed as an Assignment.

There are two primary types of Assignment:

1. Change of Control of Registry Operator.

2. Any change to a Material Subcontracting Arrangement.

This how-to guide is specific to a Change of Control of Registry Operator.

Control is defined in Section 2.9(c)(ii) of the Registry Agreement and is provided below:

"[C]ontrol" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

A high-level graphical representation of the process for Direct Change of Control is provided in Appendix A of this document.

To initiate the process, a new Assignment – Change of Control case must be submitted via the Naming Services portal. Once submitted, ICANN will perform a review of the request to confirm it meets the requirements and is approved to move forward.

Instructions

Step 1 – Preparation

Due to the complexity of the assignment process, we highly recommend an Assignment – Change of Control consultation call. To schedule a consultation call, contact your engagement manager or open a General Inquiry case in the Naming Services portal.

Your engagement manager will schedule a call with the appropriate ICANN team members to walk you through the process. Completing this step will help ensure you provide all the required information for ICANN's review of the submitted materials.

Step 2 – Determine the Assignment Type

There are four types of Assignment – Change of Control. You will need to select which type of Assignment- Change of Control you need when creating a case in the Naming Services portal.

⊙ Assignment – Change of Control to Affiliate.

- **O** Assignor and Assignee have an affiliate relationship under which one controls the other, or both entities are under common control.

⊙ **Assignment – Change of Control to another RO.**

- **O** Assignee is an existing Registry Operator (RO) contracted with ICANN and is not an affiliate of current RO.

⊙ **Assignment – Change of Control to new RO.**

- **O** Assignee is not an existing Registry Operator contracted with ICANN and is not an affiliate of current RO.

⊙ **Assignment – Indirect Change of Control.**

- **O** Registry Operator has not changed, but the person or entity controlling the Registry Operator has changed.

Step 3 – Request Submission

Request Submission is the first phase of the Assignment - Change of control request process and will provide ICANN with the information needed for review. The submission must be completed in accordance with Section 7.9 of the Registry Agreement.

Please follow the steps below to submit a specific case type for requesting an Assignment-Change of Control.

⊙ Submit via Naming Services portal Case

    ◯ Log in to the Naming Services portal, and select **New Case.**

    ◯ Select **Registry Services** from the catalog menu.

    ◯ Choose which type of Assignment - Change of Control you need.

    ◯ Complete all questions for Assignment - Change of Control .

    ◯ Print the completed and submitted form and cover letter and deliver in person, by postal mail or via courier service with confirmation of receipt.

⊙ You will be able to track the progress of your Assignment - Change of Control request within the Naming Services portal once your request is submitted.

Step 4 – ICANN Review

During the review process, ICANN reviews the responses and supporting documents.

For Change of Control to Affiliate, the Assignee should provide:

(See Appendix B for specifics on documentation requirements)

    ◯ Proof of relationship between Registry Operator and Assignee and an explanation of how the document demonstrates the relationship, including how it demonstrates common 'control" of Assignor and Assignee.

    ◯ Proof of legal establishment (if the entity is less than a year old).

    ◯ Assignment and Assumption Agreement (AAA) between the current Registry Operator and Assignee.

    ◯ Sufficient Continued Operations Instrument (COI).

        ◯ The Continued Operations Instrument (COI) for the assignee may be sent to ICANN's advising bank for review.

    ◯ Data Escrow Service Provider Agreement with the Assignee stated as the contracting party or a novation of the Data Escrow Agreement.

    ◯ Contact information for the proposed registry operator, including public contact information.

For Change of Control to another RO, the Assignee should provide:

(See Appendix C for specifics on documentation requirements)

- Proof of legal establishment (if the entity is less than a year old).

- Assignment and Assumption Agreement (AAA) between the current Registry Operator and Assignee.

- Sufficient Continued Operations Instrument (COI).

    - The Continued Operations Instrument (COI) for the assignee may be sent to ICANN's advising bank for review.

- Data Escrow Service Provider Agreement with the Assignee stated as the contracting party or a novation of the Data Escrow Agreement.

- Confirmation of current registry operator contacts.

For Change of Control to new RO, the Assignee should provide:

(See Appendix C for specificis on documentation requirements)

- Proof of the establishment of a new Registry Operator.

- Assignment and Assumption Agreement (AAA) between the current Registry Operator and Assignee.

- Sufficient Continued Operations Instrument (COI).

    - The Continued Operations Instrument (COI) for the assignee may be sent to ICANN's advising bank for review.

- Data Escrow Service Provider Agreement with the Assignee stated as the contracting party or a novation of the Data Escrow Agreement.

- Contact information for the proposed registry operator, including public contact information.

- Responses to the financial questions; these responses will be subject to evaluation by an external financial evaluation panel.

For Indirect Change of Control, the Assignor should provide:

(See Appendix D for specifics documentation requirements)

- ○ Proof of legal establishment (if the entity is less than a year old).

- ○ Documentation showing the change that occurred such as company's board resolution, corporate secretary/general counsel certification, regulatory documents or other filings.

- ○ The updated list of directors, officers or key stakeholders; members of this list may be subject to background screenings.

NOTE: The Assignee is responsible for fees incurred for evaluations, checks or testing conducted by an independent panel or testing provider.

Step 5 – Outcome

Once the appropriate evaluations have been completed, ICANN will post the outcome of your Assignment – Change of Control request via the Naming Services portal.

If the formal Change of Control request does not meet all of ICANN's evaluation requirements, ICANN may issue a Conditional Consent to the Assignment.

ICANN issues a Conditional Consent to provide the registry operator notice regarding the outstanding evaluation requirements and to give them an opportunity to resolve these issues while simultaneously negotiating the remainder of their requested assignment.

The registry operator must satisfy all outstanding conditions in order to receive final consent.

NOTE: Conditional consents are only applicable to Direct Changes of Control to New or Existing RO and are not applicable to Affiliate (In-Family) or Indirect assignments.

Step 6 – Onboarding for Direct Change of Control

After final consent has been provided, ICANN will work with the relevant parties to onboard the Assignee, as needed.

- ◉ For Direct Change of Control, except Affiliates, there is an assignee case that requests the RO provide contact updates via the existing assignee case unless the RO submits a separate case.

Appendix A

High-Level Workflow

This diagram provides a high-level workflow of the Direct Change of Control process.

DIRECT CHANGE OF CONTROL

Affiliated Assignee
[Subject to RA Section 7.5(f)(iii)]

Documentation Required:
1) Proof of Affiliated Assignee relationship
2) Assignment and Assumption Agreement
3) Proof of establishment of Assignee if established less than a year

Existing Registry Operator
[Subject to RA Section 7.5(f)(iv)]

New Registry Operator

New Registry Operator may be subject to background checks and financial review among other reviews.

If Registry Operator provides satisfactory proof of Affiliated Assignee relationship, ICANN provides acknowledgement of assignment.

Registry Operator should have an updated Continued Operations Instrument and Data Escrow Agent agreement in accordance with the Registry Agreement.

Registry Operator provides documentation required for ICANN to process the assignment request, including the following:
1) Sufficient Continued Operations Instrument (COI), of form and substance agreeable to ICANN
2) Data Escrow Agent agreement (required at the time of and after delegation)
3) Assignment and Assumption Agreement, of form and substance agreeable to ICANN

Documents provided pass evaluations.

ICANN provides consent.

Documents provided do not pass evaluations.

ICANN withholds consent or objects to assignment.

In certain circumstances, ICANN may provide conditional consent.

Registry Operator may work with ICANN to update documentation, if Registry Operator chooses to continue to pursue its request for an assignment.

In the case that ICANN withholds consent, the Registry Operator may submit a new assignment request.

Version 1.1 – August 2017

Appendix B

Required Documents for Direct Change of Control to Affiliated Assignee

The purpose of this Appendix is to provide guidance to assist Registry Operators in providing sufficient information so ICANN may process the Affiliated Assignee Change of Control request.

⦿ Completed questions in the Naming Services portal case. You can also find additional information at: https://www.icann.org/resources/change-of-control.

⦿ Proof of the relationship between Registry Operator and Assignee and an explanation of how the document demonstrates the relationship, including how it demonstrates the common "control" of the Assignor and Assignee.

   ● Documents that a registry may supply include the following:

      ○ Stock ledger-type documents that show ownership and total outstanding shares.

      ○ Regulatory filings that certify ownership.

      ○ Financial statements.

   ● As each company's documents may vary in appearance, the Registry Operator should mark and label the components in the document that show the relationship.

      ○ For example, to show an Affiliated-Assignee relationship of a TLD that is being assigned from the current RO to its controlling parent, the RO can provide a stock ledger. The RO would mark and label:

         ○ Where on the document its name appears as the owner of the stock ledger.

         ○ The number of stock issued to the parent entity.

         ○ The total number of stock issued.

         ○ The calculation of percentage of stock the parent entity owns, and

         ○ If the percentage of stocks the parent entity owns is not reflective of its control, please explain why.

⦿ Proof of the Establishment of Assignee (if the Assignee has been established for less than a year).

⦿ Assignment and Assumption Agreement (AAA) between the current Registry Operator and Assignee, of form and substance agreeable to ICANN.

⊙ Sufficient Continued Operations Instrument (COI) of form and substance agreeable to ICANN.

⊙ Data Escrow Service Provider Agreement with the Assignee stated as the contracting party or a novation of the Data Escrow Agreement.

⊙ Confirmation of current registry operator contacts, and if changes are necessary, provide the first name, last name, position/title, address, phone number, mobile number, fax number, and email address for each of the updated contacts, including the public contact Information for the registry.

Appendix C

Required Documents for Direct Change of Control to New or Existing RO

The purpose of this Appendix is to provide guidance to assist Registry Operators in providing sufficient information so ICANN may process the Change of Control request to a new or existing Registry Operator.

⊙ Completed questions in the Naming Services portal case. You can also find additional information at: https://www.icann.org/resources/change-of-control.

⊙ Proof of the Establishment for a New Registry Operator.

⊙ Assignment and Assumption Agreement (AAA) between the current Registry Operator and Assignee, of form and substance agreeable to ICANN.

⊙ Sufficient Continued Operations Instrument (COI) of form and substance agreeable to ICANN.

⊙ Data Escrow Service Provider Agreement with the Assignee stated as the contracting party or a novation of the Data Escrow Agreement.

⊙ Contact information for the proposed Registry Operator: provide the first name, last name, position/title, address, phone number, mobile number, fax number and email address for each contact, including the Public Contact information for the Registry.

⊙ If this is a new Registry Operator, please provide responses to the financial questions.

Appendix D

Required Documents for Indirect Change of Control

The purpose of this Appendix is to provide guidance to assist Registry Operators in providing sufficient information so ICANN may process the Change of Control request to a new or existing Registry Operator.

⊙ Completed questions in the Naming Services portal case. You can also find additional information at: https://www.icann.org/resources/change-of-control.

⊙ Proof of the Establishment of any entity that is assuming ownership (only if the entity is less than 1 year old).

⊙ Documentation showing the change that occurred such as the company's board resolution, corporate secretary/general counsel certification, regulatory documents or other filings.

For more information: icann.org/resources/change-of-control

EXHIBIT C-165

EXHIBIT C-166

EXHIBIT C-167

EXHIBIT C-168

EXHIBIT C-169

EXHIBIT C-170

EXHIBIT C-171

EXHIBIT C-172

C-172

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Donuts loses to ICANN in $135 million .web auction appeal

Kevin Murphy, October 16, 2018, 10:23:18 (UTC), Domain Registries

Donuts has lost a legal appeal against ICANN in its fight to prevent Verisign running the .web gTLD.

A California court ruled yesterday that a lower court was correct when it ruled almost two years ago that Donuts had signed away its right to sue ICANN, like all gTLD applicants.

The judges ruled that the lower District Court had "properly dismissed" Donuts' complaint, and that the covenant not to sue in the Applicant Guidebook is not "unconscionable".

Key in their thinking was the fact that ICANN has an Independent Review Process in place that Donuts could use to continue its fight against the .web outcome.

The lawsuit was filed by Donuts subsidiary Ruby Glen in July 2016, shortly before .web was due to go to an ICANN-managed last-resort auction.

Donuts and many others believed at the time that one applicant, Nu Dot Co, was being secretly bankrolled by a player with much deeper pockets, and it wanted the auction postponed and ICANN to reveal the identity of this backer.

Donuts lost its request for a restraining order.

The auction went ahead, and NDC won with a bid of $135 million, which subsequently was confirmed to have been covertly funded by Verisign.

Donuts then quickly amended its complaint to include claims of negligence, breach of contract and other violations, as it sought $22.5 million from ICANN.

That's roughly how much it would have received as a losing bidder had the .web contention set been settled privately and NDC still submitted a $135 million bid.

As it stands, ICANN has the $135 million.

That complaint was also rejected, with the District Court disagreeing with earlier precedent in the .africa case and saying that the covenant not to sue is enforceable.

The Appeals Court has now agreed, so unless Donuts has other legal appeals open to it, the .web fight will be settled using ICANN mechanisms.

The ruling does not mean ICANN can go ahead and delegate .web to Verisign.

The .web contention set is currently "on-hold" because Afilias, the second-place bidder in the auction, has since June been in a so-called Cooperative Engagement Process with ICANN.

CEP is a semi-formal negotiation-phase precursor to a full-blown IRP filing, which now seems much more likely to go ahead following the court's ruling.

The appeals court ruling has not yet been published by ICANN, but it can be viewed here (pdf).

The court heard arguments from Donuts and ICANN lawyers on October 9, the same day that DI revealed that ICANN Global Domains Division president Akram Atallah had been hired by Donuts as its new CEO.

A recording of the 32-minute hearing can be viewed on YouTube here or embedded below.

16-56890 Ruby Glen, LLC v. ICANN

▶
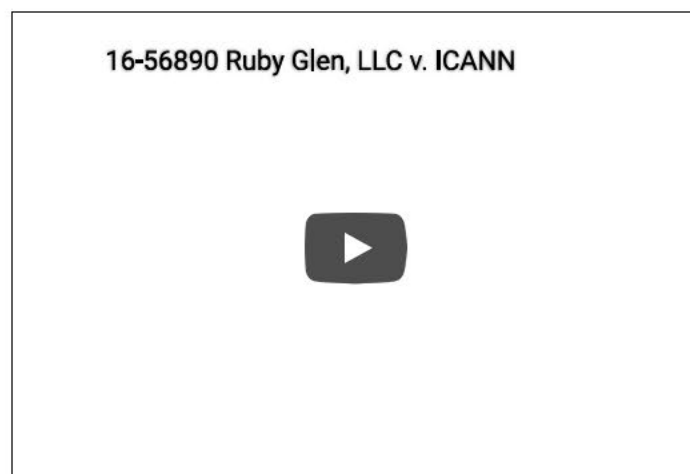
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Donuts Loses Another Court Appeal Against ICANN Decision on .WEB

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By David Goldstein | October 17, 2018 | Governance, New TLDs, Registry | No Comments

Donuts, through its Ruby Glen subsidiary that was used to apply for the .web new gTLD string, has lost an appeal to the US Court of Appeal [pdf] against ICANN in the ongoing .web dispute over who gets to run it.

Donuts originally sued ICANN for a minimum of $22.5 million over its failed bid for .web. In their claim in the US District Court, Central District of California, Donuts claimed ICANN "willfully and intentionally committed wrongful acts" over Verisign's financing of Nu Dot Co's successful $135 million bid at auction for the new generic Top Level Domain. The figure came from the approximate amount each of the six losing applicants would have received if the contention set had been resolved at a private auction, had it gone for the same amount.

Donuts had claimed that ICANN" "intentionally failed to abide by its contractual obligations to conduct a full and open investigation into Nu Dot Co's admission because it was in ICANN's interest that the .web contention set be resolved by way of ICANN auction." Further, they claimed "ICANN deprived Donuts and the other applicants for the .web gTLD of the right to compete for .web in accordance with established ICANN policy. Court intervention is necessary to ensure ICANN's compliance with its own accountability and transparency mechanisms."

However the Court of Appeal didn't bring any joy to Donuts with the appeal court siding with the District Court dismissing Donut's claims. The Court of Appeal agreed that "the covenant not to sue is not void under California Civil Code section 1668. Ruby Glen is not without recourse—it can challenge ICANN's actions through the Independent Review Process, which Ruby Glen concedes 'is effectively an arbitration, operated by the International Centre for Dispute Resolution of the American Arbitration Association, comprised of an independent panel of arbitrators.' Thus, the covenant not to sue does not exempt ICANN from liability, but instead is akin to an alternative dispute resolution agreement falling outside the scope of section 1668."

unconscionable." The appeals court also stated that "because Ruby Glen may pursue its claims through the Independent Review Process, the covenant not to sue is not "so one-sided as to shock the conscience."

"Finally, the district court did not abuse its discretion in denying Ruby Glen leave to amend because any amendment would have been futile."

So where to now? As Domain Incite notes, ICANN can't yet go ahead and delegate .web. "The .web contention set is currently "on-hold" because Afilias, the second-place bidder in the auction, has since June been in a so-called Cooperative Engagement Process with ICANN."

"CEP is a semi-formal negotiation-phase precursor to a full-blown IRP filing, which now seems much more likely to go ahead following the court's ruling."

Tags:　　Donuts　　Generic Top Level Domains　　ICANN　　New GTLDs　　Top Level Domains　　Verisign

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ABOUT DOMAIN PULSE

Established in 2001 DomainPulse is a news service about the Domain Name Industry. Updated Daily, DomainPulse brings the latest news and views from all corners of the globe. Our range of content are either original or we refer to external news sites with reference and hyperlinks to the original source. DomainPulse is the beat of the domain name industry.

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EXHIBIT C-174

C-174

Neustar's Nicolai Bezsonoff Discusses The "Vote of Confidence" In Being Awarded 10 More Years of .US

By David Goldstein | 21/07/2019 | Registry | No Comments
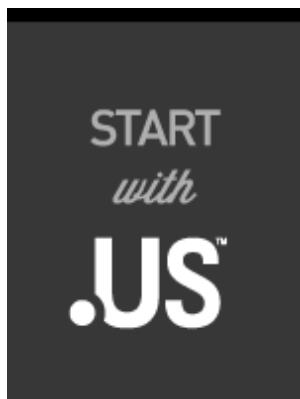
Last week Neustar was awarded a contract to continue operating the .us registry until 2029, which Neustar views as a "vote of confidence" in their "work thus far with .US, as well as the expertise and capabilities of our team and our infrastructure." Domain Pulse spoke to Nicolai Bezsonoff, Vice President and General Manager of Registry Solutions at Neustar about what the announcement means to Neustar, the importance of security not just with .us but with all their TLDs, combatting abuse, reaching target audiences and how to combat .com in the US.

Domain Pulse: This contract will take Neustar's operation as the .us registry past 20 years and in many ways it's been a silent success. What are Neustar's plans to continue .us' growth during the next many years?

Nicolai Bezsonoff: We're really proud of the long-standing relationship and productive partnership we have built with the NTIA, and we're thrilled to have received this vote of confidence in our work thus far with .US, as well as the expertise and capabilities of our team and our infrastructure. That said, we're certainly not resting on our laurels. As we have done for many years, the next phase of .US will involve a continual cycle of innovating and investment to expand our markets, refine our messaging, implement creative marketing campaigns, engage more deeply with our community, stay abreast of the latest opportunities in marketing and digital, and form meaningful, productive partnerships with organizations that can help us spread awareness and inspire use of the .US domain.

More broadly, over the last few years Neustar Registry has been investing heavily in its DNS and DDoS mitigation capabilities as well as policies and procedures to tackle domain abuse and other cybersecurity concerns, in collaboration with experts and authorities around the world. Our emphasis on security is in turn helping us build a more resilient, robust and trustworthy Registry offering for all our TLDs, .US included, and I suspect is a big part of the reason why other ccTLDs such as .IN and .CO also trust Neustar to protect their critical infrastructure.

This innovation in how we operate and market .US, as well as continually securing and improving performance of our Registry and our TLDs, will ensure the continued value of .US domains for our Registrants – ultimately encouraging loyalty and driving new registrations.

DP: .us has had to compete for awareness against generic top-level domains, particularly .com but also net and many of the new gTLDs – how have you made .us stand out and be noticed when .com in particular is all many Americans think of?

NB: That's a really fair question – and to be honest, it's something that all Registries face in some way or another. Particularly with the increased competition created by new TLDs but even outside this; when there is a choice for consumers to make, then you have to offer something the others don't. And in truth, that is one of the biggest challenges for our industry.

Firstly, to address .com – it is the dominant industry player for many reasons – most obviously that it had a massive first mover advantage. The .com domain had already been successfully deployed in the United States for many years before the .US country code TLD ever launched. What we've always aimed to do with .US, and will continue to be a key focus moving forward, is to give American consumers an alternative that

ticks a few additional boxes. The same logic applies to new TLDs – one of the main goals of the new TLD program was to provide greater consumer choice, and that simply means we need to build a strategy that makes .US a strong and convincing choice for our target market. Choice is ultimately a good thing for our industry, benefiting our customers and keeping us as Registry Operators accountable while also driving creativity and innovation.

Getting a certain domain at a certain price is only one part of the picture, and while some customers will only want to look at this, for those wanting to explore their options then we're proud to offer a namespace that is stable and authoritative. We've worked hard (and will continue to do so) to make sure .US is one of the safest, most secure and trusted domains in the world. This includes everything from our leading and continually-evolving DNS and DDoS capabilities, to our proactive work regarding domain name and DNS abuse. We believe this kind of development and innovation provides additional layers of service to .US domain registrants that perhaps you won't get from other namespaces that charge a dollar a domain.

Beyond this, while it's not a "new" TLD, .US still has drastically fewer domains registered than .com which means greater availability of meaningful names. And even though .com is fairly synonymous with U.S. websites, .US has the branding advantage of actually having "US" in the domain itself, which is a primary selling point for many of our Registrants.

The last point I'll make, but a very important one, is that we also have a fantastic marketing team that works very hard to spread awareness, growth and use of the .US domain, and we're continually developing new, creative campaigns to broaden our market and reach new customers.

DP: Many ccTLDs around the world are struggling for growth – maintaining registrations but finding the market somewhat saturated. How has Neustar found the market for .us?

NB: Finding a target market for a ccTLD like .US is both a blessing and a curse – technically the entire United States is our potential audience, but realistically we need to be strategic about who we're speaking to and what message they want to hear.

Over many years we've developed a 'micro-targeting' approach, focusing on specific, targetable audience groups and crafting dedicated messaging for each, then reaching them through really pinpointed channels and platforms.

The '.US market' contains everything from small business (really our bread-and-butter), to political candidates and activists, to community organizations and causes.

That said, we have to remain innovative and nimble to keep up. One approach we developed to grow new markets was to lean into using .US in reference to the word "us" rather than just an acronym for the United States. From this, we've found a new and engaged audience in both families registering domains for family websites or email addresses, and engaged couples finding a creative address for their wedding website.

My colleague, Lori Anne Wardi, recently wrote an article in Domain Name Wire that shares more of the specifics about .US marketing [which is available here].

Building a strong product that is differentiated from our competitors is one thing, but ensuring we're deliberate and targeted in the way we promote .US is another key part of the equation if we want to ensure the continued success of .US.

DP: Over the last 18 years Neustar has managed .us, what have been some of the highlights?

NB: When it comes to the internet, 18 is a lot of years! I think of internet years a lot like dog years, every 1 year is really equal to more like 7 years of change and evolution. Some of my favorite highlights during this (very long) time have been:

- Being given the honor 18 years ago to work side by side with the U.S. Government to run this unique public resource and critical piece of internet infrastructure representing the United States of America;

- Hitting the 1 million – then the 2 million — domain names under management milestones – and knowing that we were able to achieve these numbers by safely and responsibly growing the namespace;
- Despite operating in a far more competitive and complex market since the launch of the new gTLD program, continuing to grow the number of .us domain names under management by tapping into new and creative markets;
- The effective launch of the .US Stakeholder Council in 2014, and today, effectively operating the .US domain as a multi-stakeholder endeavor, with the support and engagement of both internal and external stakeholders (including domain name organizations, consumer groups, industry organizations, registrars, the U.S. Government, law enforcement agencies and global internet users, etc.);
- Very recently, partnering with the U.S. Food and Drug Administration and the DOC to build proactive measures to address the sale of illegal opioids in the .US namespace, and in other TLDs too;
- Our many creative marketing campaigns we've run for the .US domain – I've loved so many of them, but last year we launched my absolute favorite, The Story of .US video campaign. You can watch it on the about.us website here: www.about.us/whos-on-us;
- And of course, I must confess that a highlight of our time managing the .US domain was getting the great news that our contract would be renewed!

DP: Looking ahead, what changes and initiatives are you planning for .us?

NB: Fundamentally, the success of .US so far has taught us some valuable lessons in what works, and what doesn't, and we're lucky to have an established reputation, strong industry partnerships and an engaged customer base – so we're certainly not in favor of 'change for the sake of change'.

That said, as I've mentioned, we are always open to innovation and experimentation to remain secure, fresh and relevant. Specifically for the .US domain, we have a number of upcoming campaigns for new 'micro-target' audiences (can't give away too many details just yet!). As part of this we're implementing a really broad range of marketing activities – everything from podcasts to eBooks to video to event sponsorships to make sure we're reaching our audiences on the platforms and channels they actually use.

Ultimately, our overarching goals are to drive meaningful increases in consumer awareness of the .US Top-Level Domain, to generate new registrations, and to inspire development and usage through our end-to-end marketing campaign strategies.

We're excited to continue driving .US brand affinity and awareness for everyone with a dream, idea or business made for the USA.

EXHIBIT C-175

Seeking Alpha^α

VeriSign: An Overvalued Company With A Strong Moat

Sep. 23, 2019 10:42 AM ET
by: Dilantha De Silva

Summary

- VeriSign has a strong moat that can be expected to last many years.

- New developments suggests that the company will be in a better position in the future to hike prices and earn higher revenue.

- Not every company with a strong moat turns out to be a good investment and VeriSign falls into this category.

Investment thesis

Every company with an economic moat does not turn out to be a good investment. As much as the fundamentals of a company matter, the share price also matters. VeriSign (VRSN) is a company that has a strong economic moat but doesn't turn out to be a good investment. The significant appreciation of share price over the last 5 years has pushed the stock into overvalued territory. Investors should wait for a better discount to invest in VeriSign.
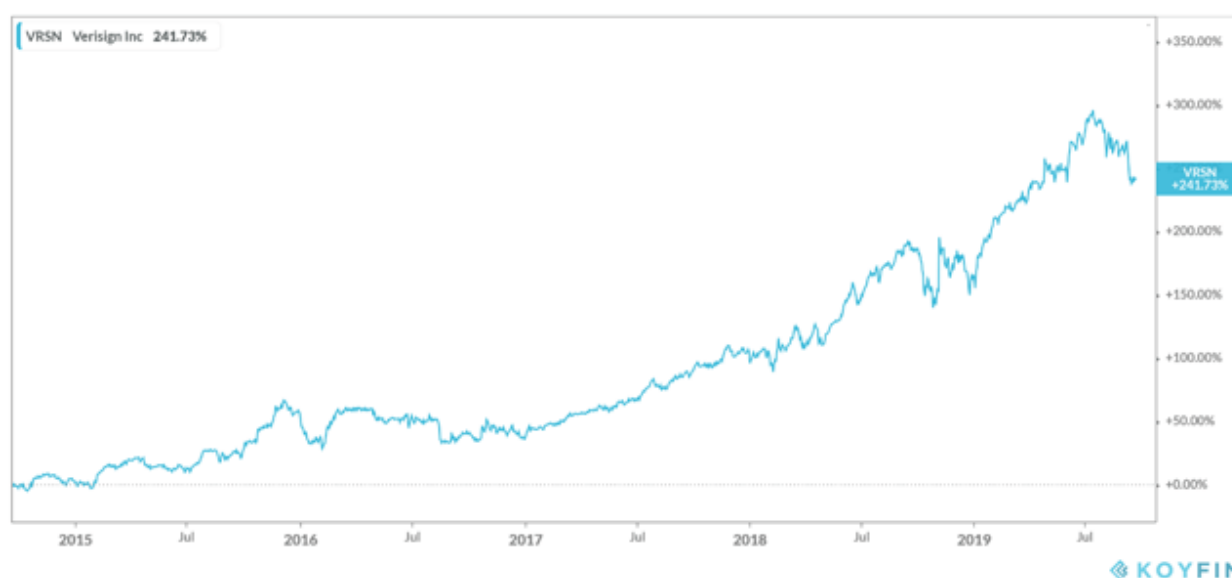
(Source – Koyfin)

Company Profile

VeriSign is a leading provider of domain name registry services and internet infrastructure, facilitating navigation in some of the world's most recognized domain names. In addition to offering registration services for .com, .net and other top-level domains (TLDs), the company also operates two of the 13 global root servers, which form the backbone of the internet. The firm's stock price has increased by over 30% in 2019.

VeriSign is a dominant almost monopolistic player in the domain name services (DNS) industry. The company has exclusive rights to manage the .com and .net registries, the first and fifth most popular top level domains (TLDs), respectively It is also the exclusive operator of .cc and .tv open domains. Therefore, its profits are protected from competition. This characteristic might be one of the reasons for Warren Buffet's investment in the firm As of June 30, 2019, there were 354.7 million domain name registrations, including industry specific and country level domains The com and net domains account for about 40% and 4% of the total domains, correspondingly. The .cc and .tv domains, on the other hand, form around 0 5% of the total domains VeriSign currently manages around 158 million domains.

Industry analysis

In 2018, domain name registrations grew by 16 3 million, or 4 9% year over year to 348 7 million. The .com and .net registrations increased by 6.6 million over the period compared to 9 2 million for country code domain (ccTLDs) registrations The first half of 2019, on the other hand, witnessed 6 million new domain registrations. Growth in ccTLDs will likely outpace the generic top level domain (gTLDs) growth, including com and net The main driver of the growth in ccTLDs is increasing local content. In contrast, growth in the other TLDs largely reflects increasing global internet usage The number of internet users grew by 7% in 2018, and 9% year-over-year in the first half ended June 30, 2019.

In 2009, ICANN, the U.S. domain names regulator, allowed the introduction of new generic domain names (gTLDs) to compete with .com and provide greater choice to internet users. Accordingly, various gTLDs have been introduced since then, including .online, .ltd, and, .web, but the new domain names have recorded low registrations and renewals because of the high brand awareness, network effect, and first move advantage associated with the .com domain name. However, .web is expected to pose significant competition to .com and .net domain systems in the future. As a result, VeriSign was keen to secure the management of this domain name when it was put to auction by ICANN. The company funded the bid of an affiliate and eventual winner, Nu Dot Co, to the tune of $135 million, which was 7 times the average auction price and 3 times the amount paid for any other domain name, including .com and .net. In 2018, one of the bidders, Afilias, challenged this award. A resolution of the matter that does not favor VeriSign could lower the firm's revenues materially over the long term.

ICANN and the National Telecommunications and Information Administration (NTIA) have been the regulators of VeriSign operations over the years. However, this changed in 2016 when NTIA transferred its oversight role to ICANN In the past, ICANN decisions have tended to favor VeriSign. For example, the organization had allowed VeriSign to increase domain registration fees by 7% annually in 4 out of 6 years for the period between 2012 and 2018, but the Department of Justice (DoJ) intervened and capped the fees at $7.85 per domain The transfer of NTIA oversight roles to ICANN prevents such intervention by DoJ.

Growth Prospects

In the second quarter earnings conference call, VeriSign confirmed that ICANN had uncapped .org price increases due to the rapid expansion of the domain system. The regulator had previously capped rate increases for the domain name at 10% annually Since VeriSign does not operate the .org domain system, the cap removal has no direct

benefits to the company However, the company believes that the regulator may now be more flexible in future rate negotiations with the company. A 2018 amendment to the Cooperative Agreement, which governs com domain name pricing, permitted the company to negotiate with ICANN for up to 7% annual rate increases for the period between 2018 and 2024 The amendment replaced the $7 85 rate cap imposed by the DoJ in 2012. Therefore, the company has an opportunity to earn more revenues by rate increases in the future

Further, the firm obtained a patent in 2018 allowing it to extend its domain registration service to the Internet of Things (IoT) devices. The growth of connected devices is expected to create the need for registration of domains dedicated to specific devices. The patent allows VeriSign exclusive rights to extend the .com and .net domain systems to registrations of such domains. According to ICANN, the growth of IoT concept is expected to connect between 20-30 billion devices over the next decade, including toys, kitchen appliances, streetlights, environmental sensors, and self-managed networks of drones and robots. Other analysts predict 75-100 billion connected devices by 2025. Thus, IoT represents a huge market opportunity for the DNS industry.

As a sign of confidence in the company's prospects, the management has engaged in aggressive share repurchases in recent years For example, the company bought $638 2 million worth of shares in 2018 against a net income of $528 million. Moody's also expects the firm to use debt to fund more share repurchases Typically, companies engage in share repurchases when the management believes that the firm's stock is underpriced relative to growth prospects Companies also use debt financing when they expect future cash flows to be higher. Therefore, the current share repurchases by the company and the expected use of debt to fund more repurchases are positive signals for the company's growth and for investors as well.

Share Repurchases by Financial Year
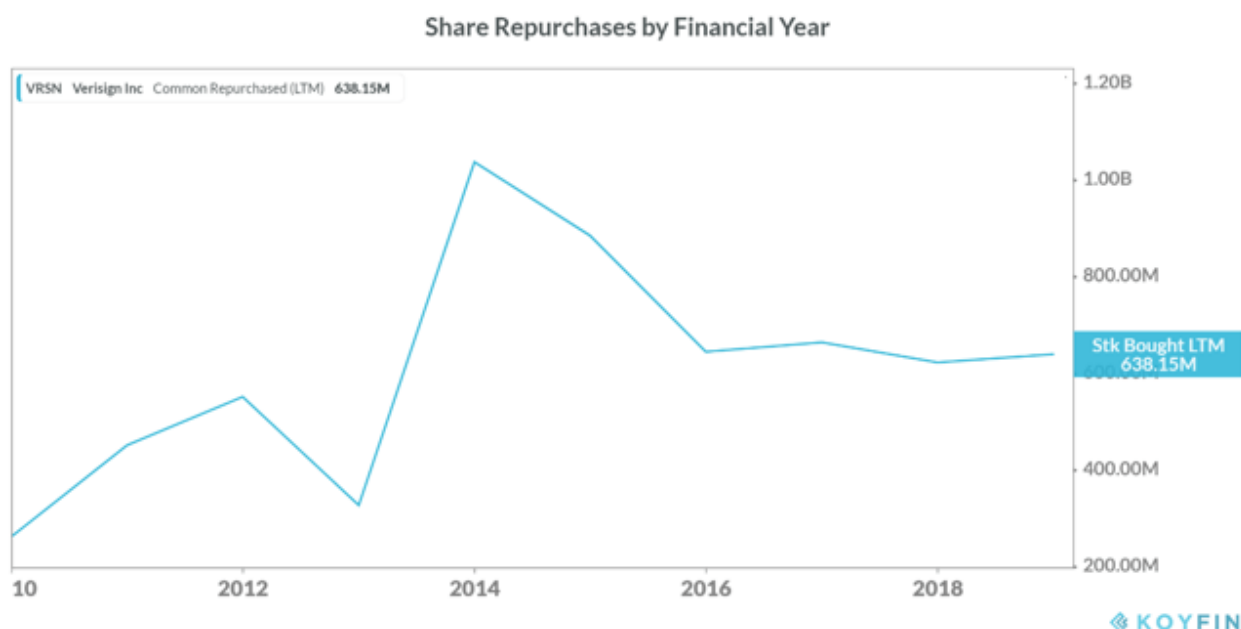
(Source – Koyfin)

Financial Performance and Valuation

VeriSign's expected revenue for 2019 is $1.238 billion, up from $1.215 billion in 2018. Recent rates of revenue growth have, however, been significantly lower than historical growth rates. For example, the firm's revenue growth was 4.29% in 2018 and 2% in 2017 relative to 13.2% in 2012 and 10.41% in 2013. The slow growth rates mainly reflect the

effect of the 2012 cap on price increases by the Department of Justice. Hence, the firm's revenues are likely to start growing rapidly when the 2018 Amendment to the Cooperative Agreement becomes operational.

Revenue
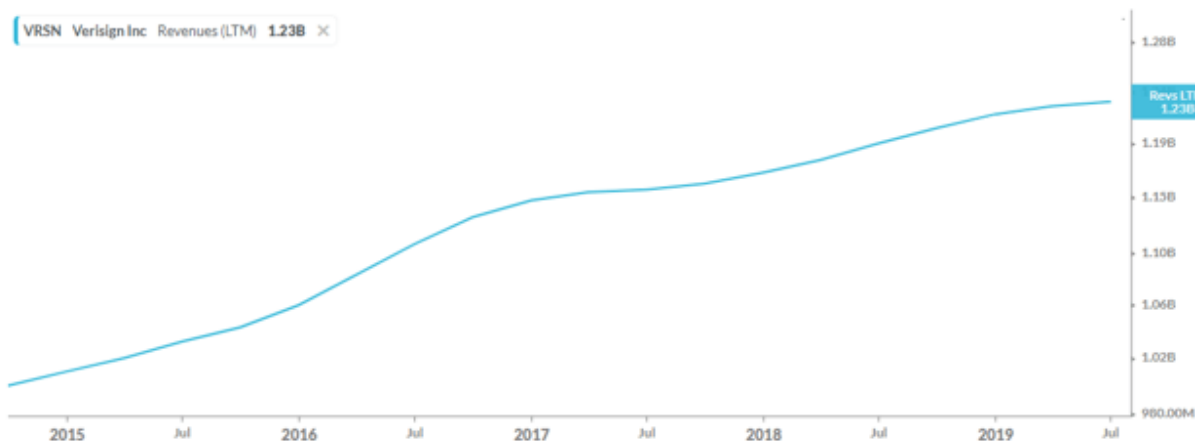
(Source – Koyfin)

Due to the virtual monopoly over the .com and .net domain systems, the company has very high gross margins For example, the firm's gross margin was 83 4% in 2018, and 84.8% in the second quarter of 2019. The company has high operating margins as well. For instance, its non GAAP operating margin for 2019 is expected to range between 67.5% and 68.5%. Although the pricing is controlled, it is still above what free-market rates would be Industry reports indicate that competitors could offer the firm's domain services at between $1 and $2 per domain.

Gross margin
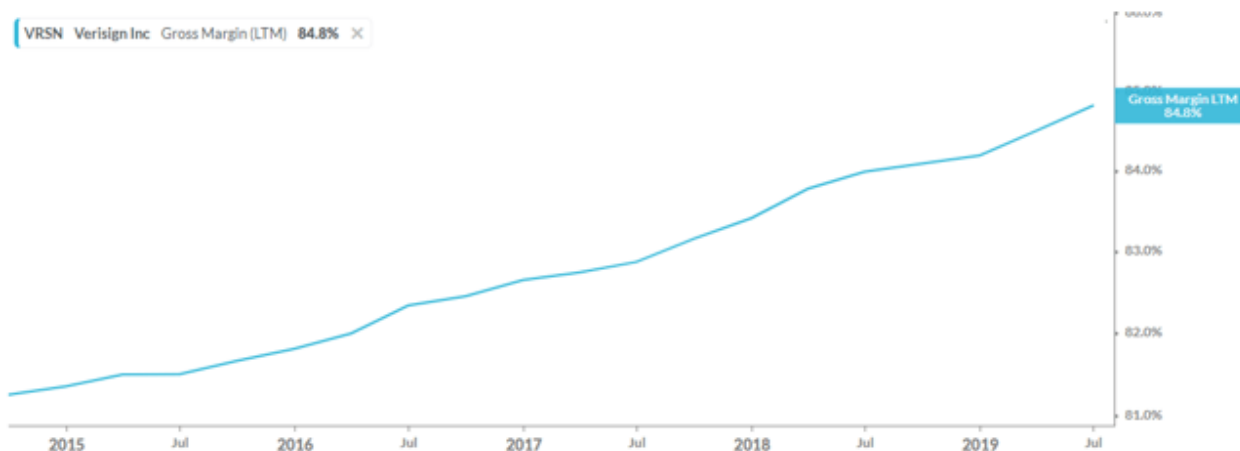
(Source – Koyfin)

VeriSign had a forward P/E ratio of 35.2 as of September 13, 2019, in comparison to 28.3 at the beginning of the year and a peak of 42 in July In contrast, the sector average forward P/E is 23.34. The company's forward EPS is $5.2, which leads to a value per share of $121 37 based on the P/E ratio Currently, the firm has a share price of $191 09 The share price looks overvalued by $69.72, or 36.49%, under the P/E multiple.

(Source – Koyfin)

The stock is also overvalued based on the EV/EBITDA ratio. At present, the firm's EV/EBITDA is 27 7 compared to an industry average of 15 63 The company is expected to report an EBITDA of $837.96 million for 2019. Further, the firm had net debt of $561 million as of June 30, 2019 Therefore, its forecast enterprise value and equity value are $13.097 billion and $12.536 billion, respectively. Moreover, the company had 119.31 million shares outstanding on June 30, 2019 As a result, its value per share according to the EV/EBITDA multiple is $105.

EBITDA
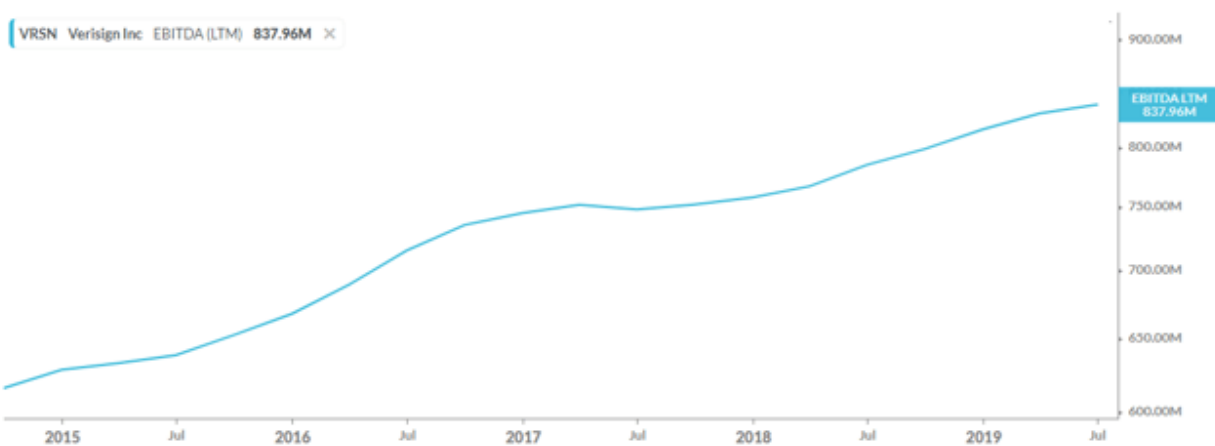
Risks

A major risk facing the company is ICANN failing to renew its domain name contracts If the firm fails to get the right to manage the .com extension, for example, it would lose over 90% of its revenues However, this risk is currently low The company has operated the .com and .net domain names for the past 20 years without any hitch. Thus, from the perspective of the U S government, the cost of failing to renew the contract for the firm is higher than the likely reward. Consequently, the company is expected to continue operating the com and net domains in the foreseeable future

Conclusion

VeriSign has an economic moat because of its agreements with ICANN for the management of com and net domain names and its record of operating the domains with no outage over the last 20 years. However, the company's stock is currently overvalued from an earnings multiples perspective and EV/EBITDA perspective

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EXHIBIT C-176

Seeking Alpha^α

Long Ideas | **Tech**

VeriSign Is Immune From Coronavirus

Mar. 16, 2020 11:00 AM ET

by: Ash Anderson

Summary

- VeriSign's business has very little exposure to the Coronavirus.

- VeriSign has the ability to raise prices on .com domain names 7% per year over the next four years.

- ICANN is unlikely to give VeriSign the boot as VeriSign has done a flawless job with .com and .net over the past two decades.

During these turbulent times in the market, I have found myself searching for companies with secure cash flow that are on the receiving end of big dips. These companies, in my opinion, present the best buying opportunities as the markets shed excess weight.

VeriSign (VRSN) was one of the companies that popped up on my list of cash flow stable firms. This business requires little cash to operate and is unlikely to be on the receiving end of a massive drop in revenues. Significant declines present a buying opportunity for long-term investors.

The Cash Cow

To convey what VeriSign does in the fewest words, imagine a toll road. If you're on it, you're paying. Well, VeriSign is that, but for the internet. For every .com domain name registered, the company collects $7.85 per year for every .net registered, a little bit north of $9. With no competition around, they are the internet's toll road.

Per VeriSign's Q4 release, there are now 362.3 million domain names registered, through them, across all top-level domains. The .com and .net TLDs, where the company sees the vast majority of their revenue coming from, sat at 158.8M registered. That's 158.8M pieces of recurring income.

VeriSign Net Income
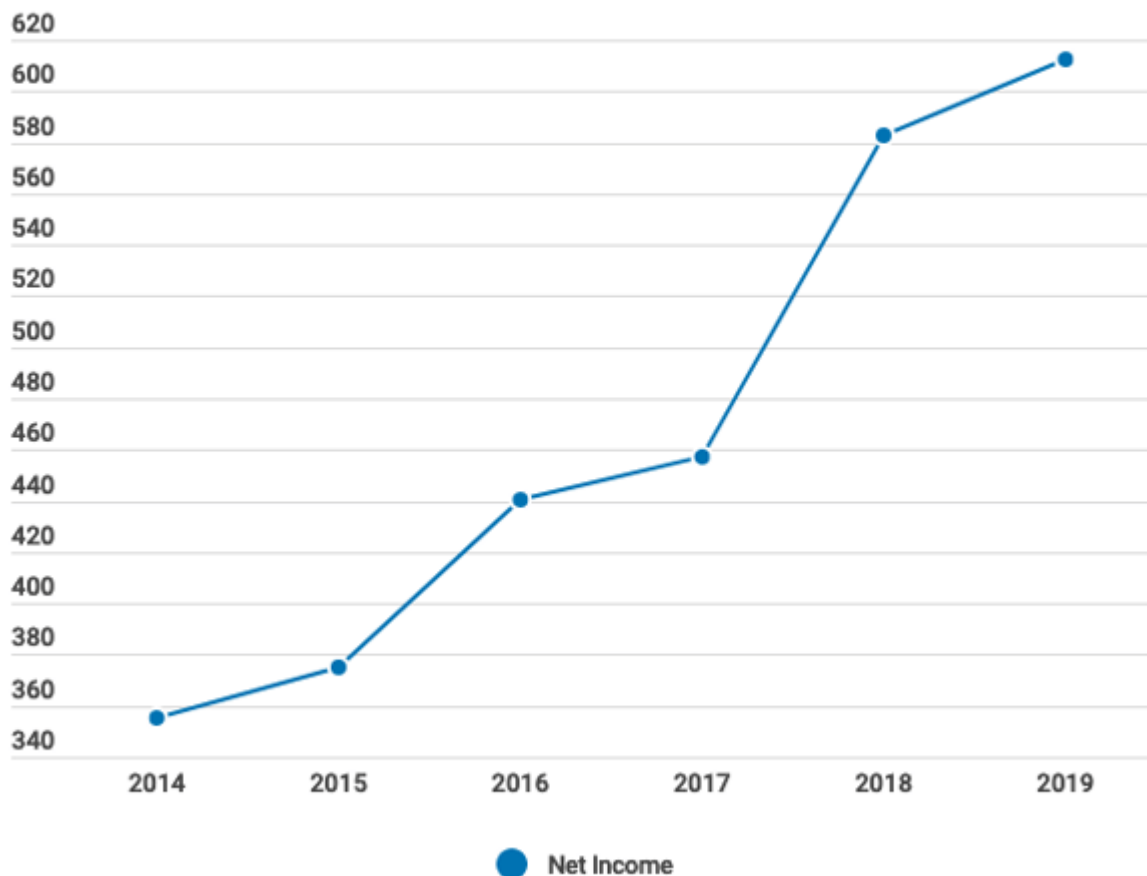
Image: Net Income per Seeking Alpha Quote Page

This recurring revenue comes with an outstanding net margin of 49% in the most recent year, and 47% in the year prior The business itself requires very little cash to run, and with divestitures of non-core businesses over the last several years, VeriSign is a lean, mean, cash making machine
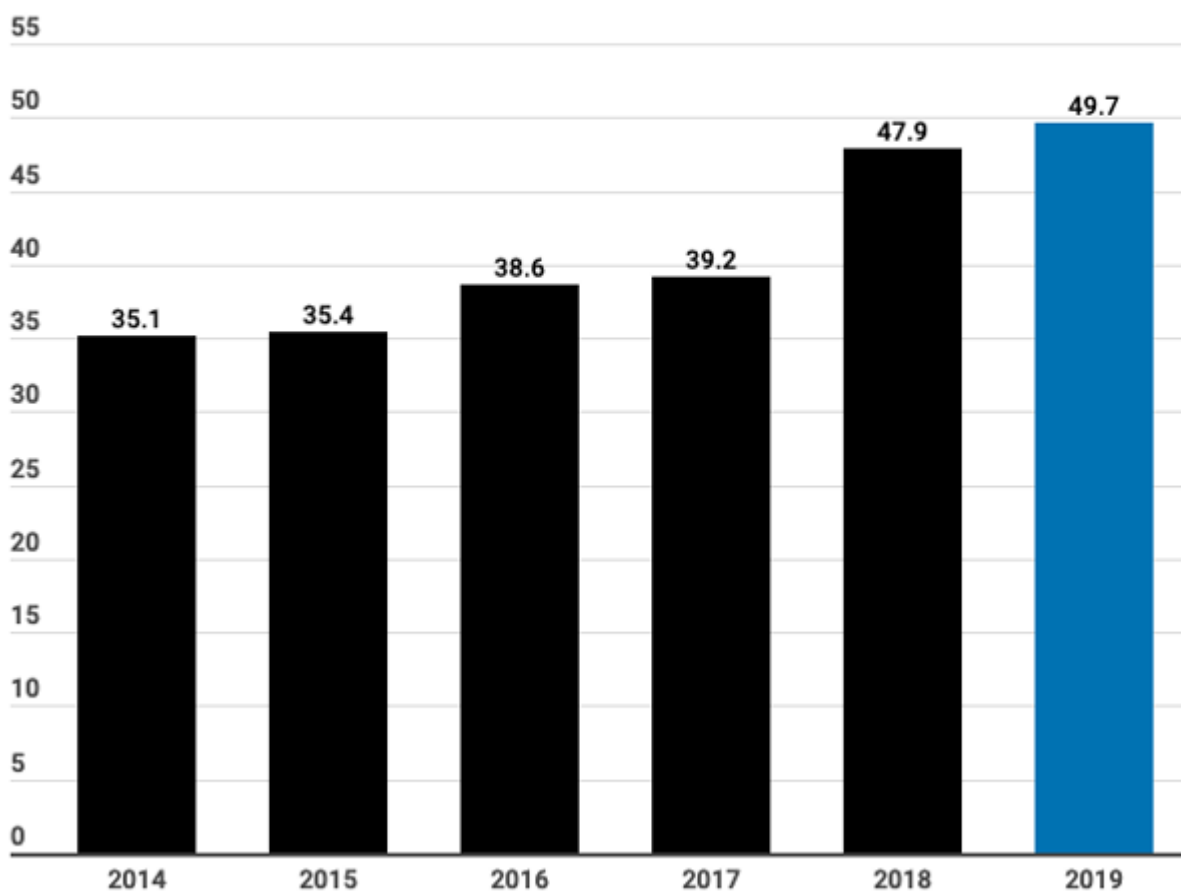
VeriSign Net Margin (%)

Image Net Margins calculated from data on Seeking Alpha Quote Page

Can The Monopoly Be Eroded?

Yes, but it's highly unlikely. VeriSign has had control of the .com registry for more than two decades without any significant issues during that time While a competitor could always swoop in and try to claim the contract that VeriSign has with ICANN, a move of that magnitude would require a significant bid

The existing contract that VeriSign has today will last them through 2024. As long as there are no significant infractions or disagreements during that time, the contract will be extended. VeriSign's function is critical in the running of the internet, so ICANN will not make those significant changes without good reason.

Catalysts to Growth

With prices locked at $7.85 per year by the Department of Justice, it seemed unlikely that VeriSign would see significant growth outside of domain ownership numbers growing. Well, that has now changed. ICANN and the U.S. government have agreed to a proposal from VeriSign that will allow them to increase the price of a .com by 7% per year through the end of their 2024 contract. Prices can go from $7.85 to $10.26. As .com domain registrations rarely fall, VeriSign could lock in 7-9% revenue growth over the next four years with no significant cost changes.
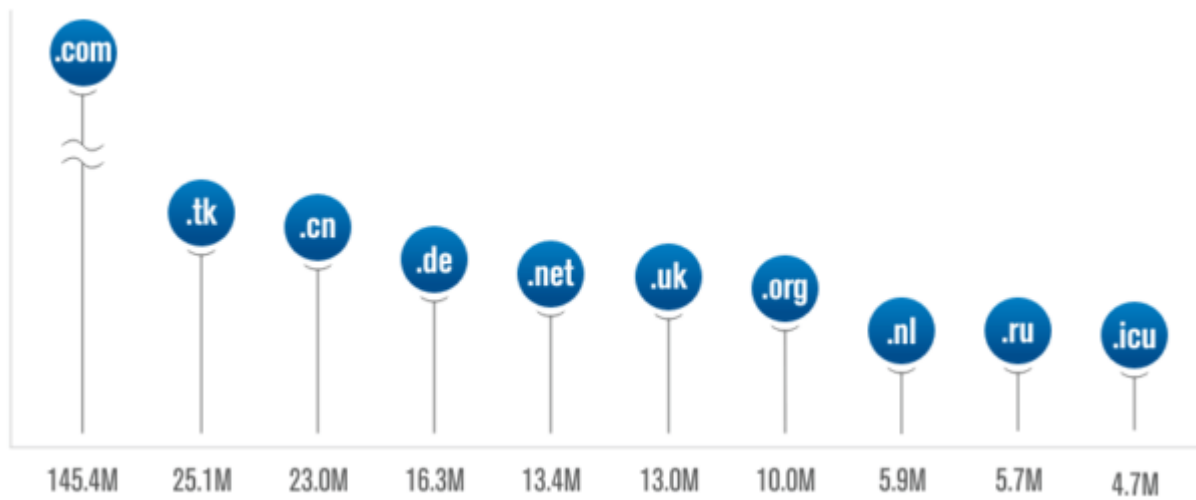
Image: Domain registrations per TLD - Verisign.com/DNIB

Another catalyst to growth is the web TLD The TLD has a long and troubled history and has found itself in and out of court ever since it was revealed that VeriSign funded the acquirer of the TLD, Nu Dot Co LLC VeriSign has been reluctant to detail plans for web due to ongoing arbitration about ownership.

While .web will not reach .com levels of revenue for the company, if managed correctly, it could become another great source of consistent and stable recurring revenues. The "managed correctly" part of that, for me, would be if the company adequately managed control of the domain and had requirements for purchasers (much like .app or .dev, which are run by Alphabet (GOOGL)(GOOG)). Keeping strict requirements would allow .web to fall into a sort of "trusted" category amongst browsers of the internet, while TLDs like .net and .info carry a somewhat negative connotation.

Should web fall in with the likes of net, it would still account for an additional $100M per year, at a minimum, in revenues. With correct positioning, marketing, and rollout, it could become a $500M recurring business over the next decade

Price Elasticity of .com's

Price elasticity is the most significant near-term risk facing VeriSign. What happens when they raise the price of a com by 7% in 2020 while business is deteriorating around them? It's not something we have data for, but I'd suspect the answer is "minimal."

The .com domain is considered the "holy grail." Even if a TLD is more appropriate, many professionals would recommend you also get the .com if it is available.

When the price next increases, we will have a lot more insight into how elastic these prices are I can say that, anecdotally, I would not cancel any of the (small amount) 14 .coms I own over a price change.

Valuing VeriSign

Shares Outstanding	116.4M
2019 Net Profit	$612.3M
2019 Debt	$578 7M
2019 Cash & STI	$1,218.1M
2019 Cash Flow	$560.2M

At the time of writing this piece, VeriSign is trading at 27.5x its 2019 free cash flow. Although, thanks to market volatility, this is likely to be wildly different by the time you're reading.

27.5x FCF is a little on the high side given our current climate, but I suspect that over the coming weeks, we might be able to buy into this stock at better levels than today I should throw out there; I do like this stock at 27.5x thanks to the prospects over the next few years

My assumption is that we see a 5% increase in revenues this year. That increase will be driven by a slight rise in prices as well as a small bump in total registrations. While VeriSign could go ahead and bump the price the whole 7%, the economy may leave them cautious.

With a 5% increase in revenues and a 50% net margin, the company should have a 2020 net profit of roughly $647M.

VeriSign will also be buying back shares, likely at an increased rate as costs come down. Last year, the company took 3.3M shares out of the market, and has authorization to buy back a billion dollars worth of stock per their most recent earnings call:

> Effective today, the Board of Directors increased the amount of VeriSign common stock authorized for share repurchase by approximately 743 million to a total of 1 billion authorized and available under the share repurchase program, which has no expiration

For ~$500M at today's prices, the company could buyback ~3M shares. I think that a buyback of that magnitude is reasonable, especially as the cashflows continue to come in so VeriSign will be left with 113M shares on the books by the end of the year, conservatively.

With 113M shares outstanding, 2020 EPS should bump to $5.73. If VeriSign, with the stability in cash flows it offers drops to a 25x forward PE, I am a large buyer, no doubt about it. Today, it sits a hair shy of 29x.

In Summary

In summary, VeriSign is an excellent but boring business You're likely never going to see double-digit revenue growth, and you're unlikely to see 100% returns year-over-year. Instead, what you have is a company that has a core focus, and is sticking to it You have a highly profitable company that generates tremendous free cash flow, and you have a well capitalized company should things continue to get worse

My buy-in target is 25-30x 2020 earnings, so $145-171/share. If VeriSign remains available in that range, I will start averaging in. Nevertheless, I am long-term bullish on this stock. It's an unexciting rent taker that you can buy and ignore while it appreciates for years to come.

Comments (0)

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EXHIBIT C-177

Testimony of John W. Elias
U.S. House Committee on the Judiciary
June 24, 2020

Chairman Nadler, Ranking Member Jordan, and Members of the Committee, thank you for the opportunity to testify today.

I am a career employee at the Department of Justice. Based on what I have seen, and what my colleagues saw and described to me, I was concerned enough to report certain antitrust investigations launched under Attorney General Barr to the Department of Justice Inspector General. I asked him to investigate whether these matters constituted an abuse of authority, a gross waste of funds, and gross mismanagement. I am appearing here today under subpoena to describe these matters to the Committee. Although I am a current DOJ attorney, my testimony is personal and does not represent the views of the Department.

Introduction

I joined the Department in 2006, and over the past 14 years I have served under six Attorneys General and three Presidents. I held leadership positions both in the Trump Administration, where I acted as Chief of Staff in the Antitrust Division from January 2017 to October 2018, and in the Obama Administration, where I served as a Deputy Associate Attorney General and Chief of Staff in the Office of the Associate Attorney General. Currently, as an Antitrust Division prosecutor, my casework includes prosecuting price-fixing conspiracies in the pharmaceutical industry.

Today, I will describe two forms of investigations undertaken over the objections of the career staff. First, at the direction of Attorney General Barr, the Antitrust Division launched ten full-scale reviews of merger activity taking place in the marijuana, or cannabis, industry. These mergers involve companies with low market shares in a fragmented industry; they do not meet established criteria for antitrust investigations. Second, I will detail an investigation – initiated the day after tweets by President Trump – of an arrangement between the State of California and four automakers on fuel emissions.

I have undertaken whistleblower activity, and am here today, because I recognize the imperative for law enforcers to operate even-handedly and in good faith. During my career at DOJ, I have been taught to do the right thing, for the right reasons, in the right way.

Cannabis Merger Investigations

Since March 2019, the Antitrust Division has conducted ten investigations of mergers in the cannabis industry. While these were nominally antitrust investigations, and used antitrust investigative authorities, they were not bona fide antitrust investigations. Nonetheless, they accounted for 29 percent of the Antitrust Division's full-review merger investigations in Fiscal Year 2019.

Regardless of whether these companies are complying with the Controlled Substances Act, the investigations I will describe are not investigations of potential violations of federal drug law. An appropriations rider restricts the Justice Department from prosecuting medical marijuana usage in states that have legalized it.

The Standard Merger Review Process

The mission of the Justice Department's Antitrust Division is to protect competitive marketplaces across our entire economy. The Division reviews for potential harm to competition every large-dollar merger taking place in the United States. The Division enforces the Clayton Act, which bars mergers that may substantially lessen competition or tend to create a monopoly.

After companies report their proposed mergers,[1] staff undertakes an individualized examination to identify those most likely to violate the antitrust laws. Staff assesses whether to perform no investigation, a brief investigation, or a full investigation. The Antitrust Division's Manual identifies as the first factor for staff to consider in determining whether to open an investigation "whether there is reason to believe that an antitrust violation may have been committed." Our Horizontal Merger Guidelines treat market shares as a key indicator of whether to give routine clearance or to perform the full and most searching examination of the merger by issuing what is called a "Second Request" subpoena. It usually takes high market shares – typically double-digit market shares – to trigger the extended review process. "Unconcentrated markets" require the least review.

Across the entire American economy, the Antitrust Division performs the full Second Request investigation on around 1-2% of the thousands of mergers filed each year – ordinarily, only the most concerning deals. The Division conducted 19 Second Request investigations in Fiscal Year 2018 and 31 in Fiscal Year 2019 from over 2000 transactions filed in each of those years.

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[1] Under the Hart-Scott-Rodino Antitrust Improvements Act (HSR), mergers are reported to both the Antitrust Division and the Federal Trade Commission, which shares the Division's mandate to enforce the antitrust laws and which engages in similar merger reviews. The criteria for when a merger must be reported under HSR are described on the FTC website.

These figures illustrate the number of Second Request reviews as a share of total pre-merger notifications:
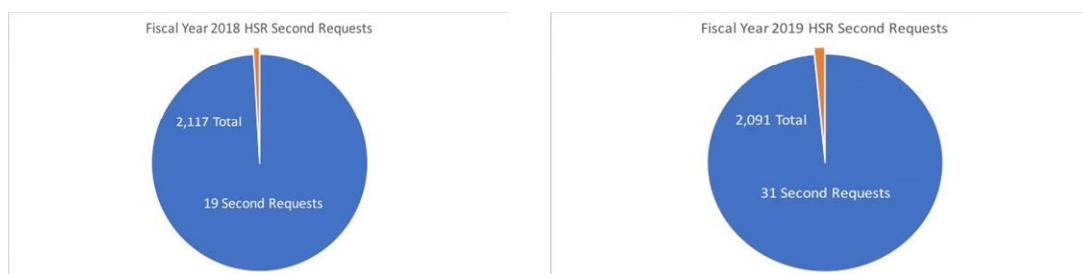
Second Request investigations are infrequent because they require companies to respond to burdensome administrative subpoenas – often 15 pages or longer – and produce hundreds of thousands or millions of documents. Pursuant to the Antitrust Division's Manual, "Since a second request may have substantial consequences for the parties to the transaction, staff should carefully assess both the need for and the scope of the request; if a second request is necessary, staff should tailor it to the transaction and its possible anticompetitive consequences." Merging companies have essentially no recourse to challenge a Second Request subpoena, and they cannot complete their proposed mergers until they have complied. Second Request investigations also consume DOJ staff resources.

The First Cannabis Investigation: The Merger of MedMen and PharmaCann

Last year, the Antitrust Division reviewed the proposed combination of MedMen and PharmaCann, two companies that supply cannabis. When career staff examined the transaction, they determined that the cannabis industry appeared to be fragmented with many market participants in the states that had legalized the product. As a result, they viewed the transaction as unlikely to raise any significant competitive concerns.

However, on March 5, 2019, Attorney General Barr called the Antitrust Division leadership to his office for a meeting entitled "Marijuana Industry Merger Review." As a Microsoft Outlook delegate of one of the attendees, I was copied on the calendar appointment but did not attend the meeting. The Antitrust Division political leadership asked staff to prepare a short briefing memo for Attorney General Barr before the meeting. In that memo, staff emphasized in underlined text that in its preliminary view, the transaction was unlikely to raise any significant competitive concerns that would justify issuance of Second Requests.

Rejecting the analysis of career staff, Attorney General Barr ordered the Antitrust Division to issue Second Request subpoenas. The rationale for doing so centered not on an antitrust analysis, but because he did not like the nature of their underlying business.

After the meeting, Division political leadership turned to the career staff to implement Attorney General Barr's directive. In assembling the paperwork to issue the Second Request, which is normally styled as the career staff's "recommendation," career staff declined to recommend either opening an investigation or issuing the Second Request subpoenas. Instead, the staff reiterated its view that the transaction was "unlikely to raise any significant competitive concerns" and that the industry appeared to be fragmented, with many participants. The staff went on to say that, nonetheless, "[t]he Division has decided to open an investigation and issue Second Requests," for the purported reason that it had "not closely evaluated this industry before." This rationale – standing alone, without reference to a competition problem – is not described in the Merger Guidelines as a basis for investigating a transaction.

The Division's Front Office negotiated subpoena compliance with the companies, obtaining 1.3 million documents from the files of 40 employees. The investigation confirmed that the markets at issue were "unconcentrated" and closed in September 2019 without any enforcement action. The merger collapsed nonetheless, with MedMen citing unexpected delays in obtaining regulatory approval. During the course of the Division's investigation, MedMen's stock price declined by about one-third.

Nine More Cannabis Investigations and 29% of All Second Requests

The Division went on to conduct similar antitrust investigations of nine other mergers in the cannabis industry.[2] Staff continued to document at the outset of the investigations that the transaction appeared unlikely to raise significant competitive concerns but that the Division (meaning the political leadership) nonetheless had decided to proceed, purportedly because it had not closely evaluated this industry before. This remained the rationale through the tenth investigation.

However, in order to draw less attention to the investigations, the career staff was not permitted to take customary fact-finding steps. For example, staff was instructed not to conduct interviews of customers or competitors – a necessary step in any bona fide antitrust investigation both to assess marketplace conditions and to identify potential witnesses in any enforcement action.[3]

In many of these investigations, staff calculated market shares far smaller than the double-digit shares that ordinarily trigger a full antitrust review. Instead, it calculated, for example, a combined post-merger market share of 0.35 percent.

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[2] In total, nine of the Division's ten cannabis investigations were conducted via Hart-Scott-Rodino Second Request authority. The tenth used only Civil Investigative Demand authority.

[3] Recognizing the need for information from third-parties, the Division Manual instructs that "when preliminary investigation authority is obtained, staff should outline its provisional theory of anticompetitive harm and should begin contacting customers, trade associations, competitors, and other relevant parties to determine whether there are likely competitive concerns in any relevant markets."

In two instances, staff determined at the outset that the merging companies operated in different geographies and *did not compete at all*. In one of these, the parties reevaluated their transaction after the Second Requests subpoenas had issued and determined that their deal's value fell below the HSR threshold. In other words, they were able to close their deal without complying with the Second Request subpoena. In closing the investigation, staff noted that they evaluated whether to proceed with the investigation anyway, using the more customary civil investigative demand (CID) subpoena power, "but recommend[ed] against that action because of the likelihood that the parties would successfully challenge the CIDs on the basis that there is no current or future geographic overlap, and thus no threat to actual or potential competition."

In several instances, staff sought to make the investigation less burdensome on the parties by narrowing the subpoenas. Political leadership refused such requests, resulting in the document productions described below.[4]

DOJ Investigation Control Number	Documents Produced (Approximate)
60-453998-0003	1,300,000
60-453998-0004	900,000
60-453998-0009	959,000
60-453998-0010	759,000
60-453998-0011	1,100,000
60-453998-0012	947,000

Few of these documents were viewed by Division staff. In one case, Division records show that the investigation closing process began before the documents had been uploaded and made available for viewing by Division staff.

Across all sectors of the American economy, the cannabis industry accounted for a full 29 percent of the Division's Second Request investigations in Fiscal Year 2019:

Fiscal Year 2019 Cannabis Industry Second Requests

9 Cannabis

22 Other Second Requests

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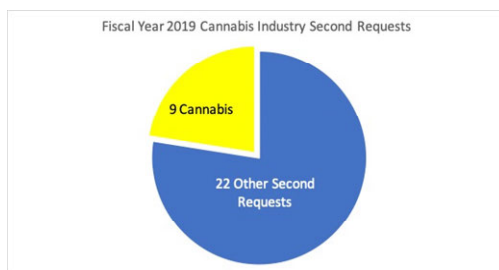
[4] This table displays six of the ten investigations. The remaining four investigations either did not yield documents due to HSR withdrawal or I do not have the data.
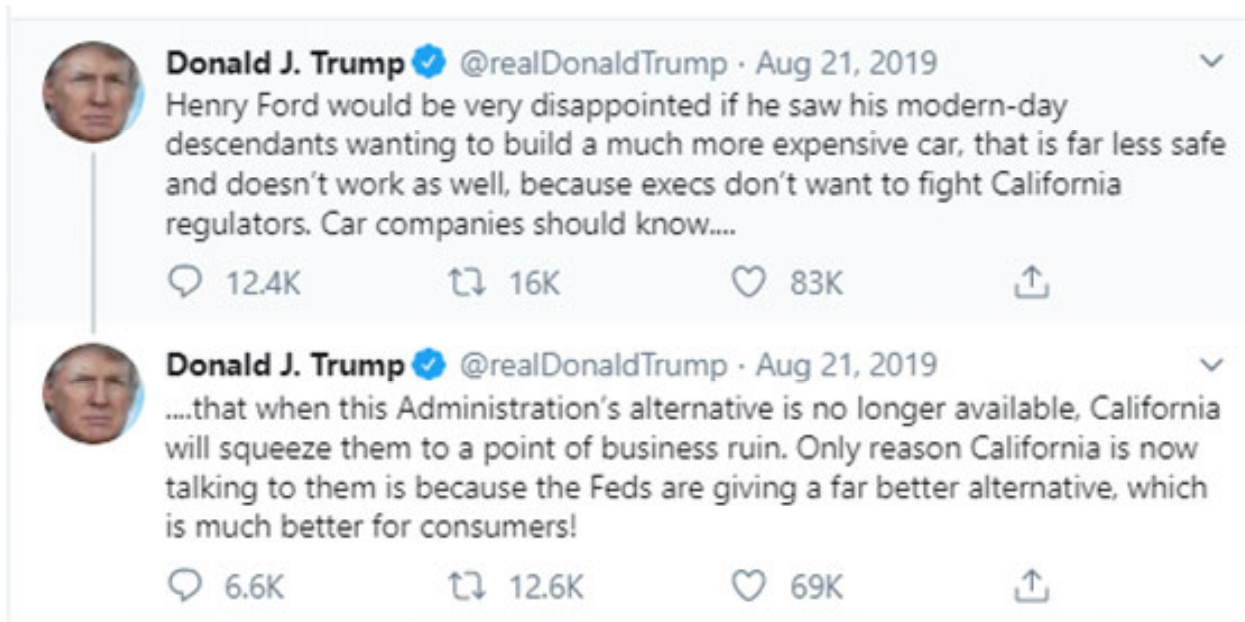
At one point, cannabis investigations accounted for five of the eight active merger investigations in the office that is responsible for the transportation, energy, and agriculture sectors of the American economy. The investigations were so numerous that staff from other offices were pulled in to assist, including from the telecommunications, technology, and media offices.

The head of the Antitrust Division, Assistant Attorney General Delrahim, responded to internal concerns about these investigations at an all-staff meeting on September 17, 2019. There, he acknowledged that the investigations were motivated by the fact that the cannabis industry is unpopular "on the fifth floor," a reference to Attorney General Barr's offices in the DOJ headquarters building. Personal dislike of the industry is not a proper basis upon which to ground an antitrust investigation.

Automobile Emissions Standards Investigation

In July 2019, California, together with four major automakers, announced an arrangement on air quality emissions standards that would be stricter than the rules the EPA was preparing to adopt. Under well-established antitrust precedent, states have wide latitude to regulate. In addition, under a doctrine called *Noerr-Pennington*, which is grounded in the First Amendment, companies are free to collectively lobby the government for regulation.

On August 20, 2019, the New York Times reported that President Trump was "enraged" by the deal and wanted to retaliate. The next day, August 21, the President tweeted about it. As reprinted below, he said, "Henry Ford would be very disappointed … because [Ford] execs don't want to fight California regulators."

Donald J. Trump ✔ @realDonaldTrump · Aug 21, 2019
Henry Ford would be very disappointed if he saw his modern-day descendants wanting to build a much more expensive car, that is far less safe and doesn't work as well, because execs don't want to fight California regulators. Car companies should know....

💬 12.4K   ↻ 16K   ♡ 83K

Donald J. Trump ✔ @realDonaldTrump · Aug 21, 2019
....that when this Administration's alternative is no longer available, California will squeeze them to a point of business ruin. Only reason California is now talking to them is because the Feds are giving a far better alternative, which is much better for consumers!

💬 6.6K   ↻ 12.6K   ♡ 69K

The day after the tweets, Antitrust Division political leadership instructed staff to initiate an investigation that day. Accordingly, the investigation opening memorandum is dated August 22, and the August 22 opening date is reflected in internal tracking records.

The investigation's initiating paperwork, like the cannabis opening memorandums, does not include a staff "recommendation" but instead states that "[t]he Antitrust Division would like to open an investigation." It was generated by the Division's policy staff, which does not conduct enforcement investigations of this type.[5] Later, in an all-staff email of September 11, AAG Delrahim explained that he had had the policy staff convert an earlier analytical piece into an investigation opening memorandum "due to our current resource constraints."

Ordinarily, decisions of import – here, an investigation of a $630 billion automobile market – take time and care to evaluate, especially when the action would face defenses. Here, in its opening memorandum, staff acknowledged that it had not fully examined the public record. For example, it made some assessment of the strength of a potential "state action" defense (immunity conferred by the active involvement of California) but left for a future step to research more about California law to determine whether state law authorized the agreement. Although consulting with state officials is a permissible pre-investigation step, and the Division could have contacted California to obtain information, it had not done so.

Once opened, the matter was transferred from the policy staff to an enforcement section. Upon receiving the matter, the enforcement staff expressed concerns about the legal and factual basis for the investigation. The enforcement staff asked for time to perform their own analysis and requested a delay in going overt with the investigation. The investigation proceeded anyway, with AAG Delrahim personally writing the automakers to inform them that the Division had decided to examine the arrangement with California.

When news of the investigation became public and spread within the Antitrust Division, many of my colleagues, who are familiar with the "state action" defense as well as the *Noerr-Pennington* doctrine, questioned why the Division was investigating conduct that appeared to be prompted by a state regulator. In response to criticism of the investigation, on September 11, AAG Delrahim circulated an all-Division email in which he stated that he "strongly believe[s] that the Division has a basis to investigate and that the standards for opening a preliminary investigation were more than satisfied based on the available facts." AAG Delrahim simultaneously announced an all-staff town hall meeting for September 17. There, he stated that staff was not rushed into initiating the investigation. That representation conflicted with the recollection of a staff member who had assisted with the opening memorandum.

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[5] In addition, the investigation concerned a commodity (automobile manufacturing) that would normally be handled by the Federal Trade Commission rather than the Antitrust Division. The FTC is an independent agency, and its Commissioners cannot be removed by the President over mere political differences. Here, because the FTC did not clear the matter to DOJ until August 27, the Division did not conduct investigative steps before that date.

In October, the four automakers indicated that each company had independently entered into an agreement with California; there was no group agreement. The Division issued a subpoena to each automaker and on November 8 obtained a sworn affirmation of the earlier oral statements. The potential antitrust violation under investigation was premised on a group (competitor-to-competitor) agreement. With that undercut, the Division no longer needed to reach questions of state action immunity. At that point, a colleague with a key role in the investigation expressed optimism to me that the investigation would close by Thanksgiving.

Instead, the political leadership instructed staff to examine an announcement by California that it would purchase state vehicles only from automakers that comply with the stricter fuel efficiency standards. When operating as a market participant, states have wide latitude to determine their own purchases. Moreover, California's annual purchase of fewer than 2,700 vehicles in a state of nearly 40 million people did not confer it with the market power that could lead to antitrust liability. Accordingly, in February of this year, the Division notified the automakers that its investigation was closed.

* * *

Members of the Committee, thank you again, and I will be happy to answer your questions.

EXHIBIT C-178

Department of State Division of Corporations

Entity Details

		Incorporation Date / Formation Date:	3/19/2012 (mm/dd/yyyy)
File Number:	5126898		
Entity Name:	NU DOTCO, LLC		
Entity Kind:	Limited Liability Company	Entity Type:	General
Residency:	Domestic	State:	State:
Status:	Good Standing	Status Date:	6/8/2020

TAX INFORMATION

Last Annual Report Filed:	0	Tax Due:	$ 0
Annual Tax Assessment:	$ 300	Total Authorized Shares:	

REGISTERED AGENT INFORMATION

Name:	**CORPORATION SERVICE COMPANY**
Address:	**251 LITTLE FALLS DRIVE**
City:	**WILMINGTON**
State:	**DE**
Phone:	**302-636-5401**

County:	**New Castle**
Postal Code:	**19808**

FILING HISTORY (Last 5 Filings)

Seq	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
1	LLC	1	3/19/2012	5:01 PM	3/19/2012

Back to Entity Search   Email Status

For help on a particular field click on the Field Tag to take you to the help area.

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EXHIBIT C-179

C-179

LexisNexis· | Accurint® for Legal Professionals

Your DPPA Permissible Use: Use in the Normal Course of Business
Your GLBA Permissible Use: Use by Persons Holding a Legal or Beneficial Interest Relating to the Consumer
Your DMF Permissible Use: No Permissible Purpose

Comprehensive Business Report

Date: 07/13/20
Reference Code: 395635-148568

Company Name: **NU DOTCO LLC**
Address: **2711 CENTERVILLE RD, WILMINGTON, DE 19808-1645**

Name Variations:
　Company Name: **NU DOTCO LLC**

TIN Variations:
　[None Found]

Parent Company:
　[None Found]
Comprehensive Business Report Summary:
　Industry Information:
　　None Found
　Bankruptcies:
　　None Found
　Liens and Judgments:
　　None Found
　Corporation Filings:
　　None Found
　Registered Agents:
　　None Found
　Business Registration:
　　1 Found
　UCC Filings for Business:
　　None Found
　Associated Businesses:
　　None Found
　Connected Businesses:
　　None Found
　Business Contacts:
　　None Found
　Executives:
　　None Found
　Properties:
　　None Found
　Dun & Bradstreet:
　　0 Found

Business Filings:
　Industry Information:

[None Found]

Bankruptcies:
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Liens & Judgments:
[None Found]

Corporation Filings:
[None Found]

Registered Agents:
[None Found]

Business Registration:
Name: **NU DOTCO LLC**
Address: **2711 CENTERVILLE RD STE 400, WILMINGTON, DE 19808-1645**
Filing Number: **5126898**
Status: **New**
Corporation Code: **Secretary of State**
Filing Date: **03/19/2012**

UCC Filings for Business:
[None Found]

Associated Businesses:
[None Found]

Connected Businesses:
[None Found]

Associated People:
Business Contacts:
Current Individuals:
[None Found]

Prior Individuals:
[None Found]

Executives:
Current Executives:
[None Found]

Prior Executives:
[None Found]

Assets:
Properties:
[None Found]

**Business Information from Dun & Bradstreet:**
[None Found]

EXHIBIT C-180

Assignments: Change of Control of Registry Operator or Material Subcontracting Arrangement

In the Registry Agreement (/resources/pages/registries/registries-agreements-en), an assignment is defined as either a direct or indirect change of control of the Registry Operator ("Change of Control") or any subcontracting arrangement that relates to any Critical Function (as identified in Section 6 of Specification 10) for the TLD (Top Level Domain) (a "Material Subcontracting Arrangement").

The approval process for each type of Assignment, either the Change of Control or the Material Subcontracting Arrangement will follow related but distinct paths. These paths may also vary depending on the specific set of circumstances surrounding whichever type of assignment is to occur. For a high-level overview of the various types of assignments, please see Assignments by Type chart below.

If a Registry Operator is unsure which category applies, we encourage early engagement with ICANN (Internet Corporation for Assigned Names and Numbers) to assist with the determination of the appropriate assignment type.

- **View more information regarding the Material Subcontracting Arrangement process** (/resources/material-subcontracting-arrangement)

- **View more information regarding the Change of Control process** (/resources/change-of-control)
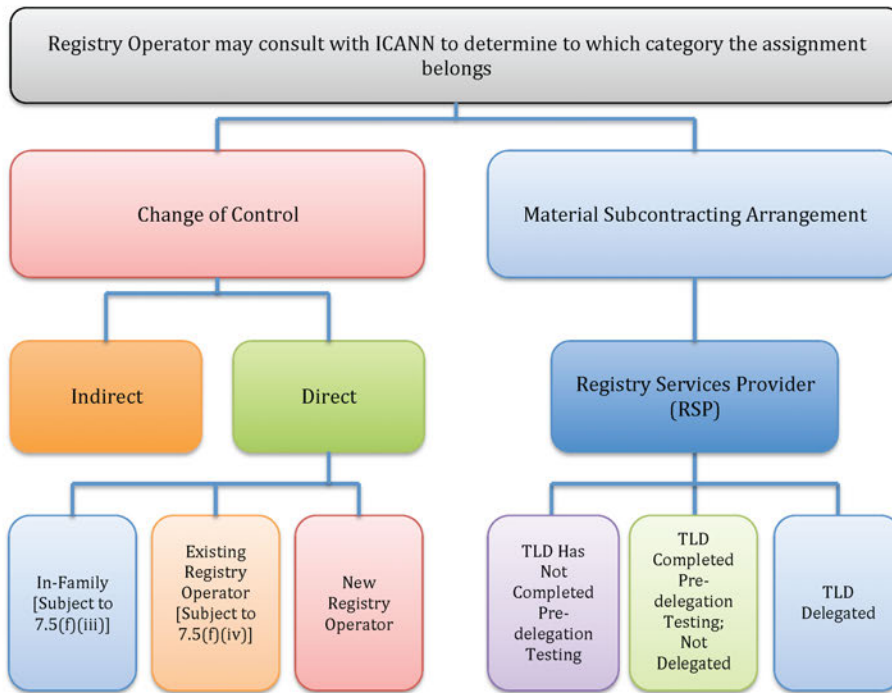
[(/sites/default/files/assets/assignment-types-coc-msa-2550x3300-08oct15-en.png)](/sites/default/files/assets/assignment-types-coc-msa-2550x3300-08oct15-en.png)

EXHIBIT C-181

C-181

1.1 What is the new gTLD Program?

The new gTLD program is an initiative that will enable the introduction of new gTLDs (including both ASCII and IDN) into the domain name space.

1.2 Why are new gTLDs being introduced?

One of ICANN's key commitments is to promote competition in the domain name market while ensuring Internet security and stability. New generic Top-Level Domains (gTLDs) help achieve that commitment by paving the way for increased consumer choice by facilitating competition among registry service providers. Soon entrepreneurs, businesses, governments and communities around the world will be able to apply to operate a Top-Level Domain registry of their own choosing.

1.3 Will the introduction of new gTLDs change how the Internet operates?

The increase in number of gTLDs into the root is not expected to affect the way the Internet operates, but it will, for example, potentially change the way people find information on the Internet or how businesses plan and structure their online presence.

1.4 How many new gTLDs are expected?

There is no way of knowing the exact number of applications ICANN will receive nor how many of these applications will qualify and become gTLD registries. Market speculations have varied widely. The process to evaluate applications is being constructed to economically accommodate a wide range.

1.5 Is applying for a new gTLD the same as buying a domain name?

No. Nowadays, organizations and individuals around the world can register second-level and, in some cases, third-level domain names. (In a URL such as maps.google.com, "google" is a second-level name and "maps" is a third-level domain.) They simply need to find an accredited registrar, comply with the registrant terms and conditions and pay registration and renewal fees. The application for a new gTLD is a much more complex process. An applicant for a new gTLD is, in fact, applying to create and operate a registry business supporting the Internet's domain name system. This involves a number of significant responsibilities, as the operator of a new gTLD is running a piece of visible Internet infrastructure.

1.6 How and when can I see which gTLD strings are being applied for and who is behind the application?

Approximately 2 weeks after the application submission period closes, ICANN will post the public portions of all applications received, including applied-for strings, applicant names, application type, mission/purpose of proposed gTLD, and other public application data.

1.7 Is ICANN initiating the New gTLD Program to make money?

ICANN is a not-for-profit organization and this is a not-for-profit initiative. The program is designed to be self-funding. It is possible ICANN will over-collect or even under-collect for this first round of applications. If the fee collection exceeds ICANN's expenses, the community will be consulted as to how that excess should be used. For detailed information on the New gTLD Program budget, please refer to the New gTLD Budget Explanatory Memorandum (http://www.icann.org/en/topics/new-gtlds/explanatory-memo-new-gtld-program-budget-22oct10-en.pdf).

1.8 I have an idea for a new gTLD. Can I register my idea with ICANN in advance of the next application period?

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Yes. Registry operators must use only ICANN accredited registrars in registering domain names. If a registry operator wishes to issue domain names, it must become an ICANN accredited registrar in order to do so.

9.3 If I want to register a gTLD solely for my own use, for example, solely for use by my company, partners, consultants, shareholders, auditors, etc., can I limit the issuance of second level domains to those individuals? Can I refuse to accept applications for second level domains from members of the public in general?

Yes. The applicant is responsible for setting the business model and policy for how they will use their gTLD, so long as the registry is in compliance with the terms of the registry agreement.

9.4 If I want to register a gTLD solely to promote my own brand and undertake my own marketing plans, can I refuse applications for second level domains from my competitors? Can I also refuse applications for second level domains from individuals who appear to be cybersquatters or scammers?

Yes. The applicant is responsible for setting the business model and policy for how they will use their gTLD, so long as the registry is in compliance with the terms of the registry agreement.

9.5 After delegation, if the applicant's business plan for the new gTLD were to change from the mission/purpose originally stated on question #18, would the now-gTLD operator be penalized?

One of the reasons ICANN is opening the top-level space is to allow for competition and innovation in the marketplace. ICANN recognizes that business models may evolve as the market matures. ICANN will only hold TLD operators responsible for complying with the terms of the registry agreement.

9.6 Will applications be categorized as "sponsored" or "unsponsored" in this New gTLD application round?

No, applications will not be categorized as "sponsored" or "unsponsored" in this new gTLD application round. ICANN carried out 2 previous new gTLD application rounds. Sponsored and unsponsored TLDs were part of these 2 previous programs. These distinctions are not relevant to the New gTLD program. Under the New gTLD program, a community-based designation can be made on any application. Please refer to section 1.2.3 of the Applicant Guidebook for more information on community-based designation.

The information presented here about the application and evaluation process is the most up-to-date available. However, it is a high-level summary and is subject to change. For exact details about the program please review the actual text of the *Applicant Guidebook. (/applicants/agb)*

EXHIBIT C-182