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COMMENTS ON SUPPLEMENTAL REPORT ON THE NEW gTLD SUBSEQUENT PROCEDURES POLICY DEVELOPMENT PROCESS (WORK TRACK 5 ON GEOGRAPHIC NAMES AT THE TOP LEVEL)

These comments are submitted in a personal capacity and draw on my experience as manager of policy and secretariat support to ICANN's Governmental Advisory Committee (2013-2018), consultant to ICANN (2009-2010) and Australian Government representative on the GAC (2002-2003).

General Comments

The report uses the 2007 GNSO policy recommendations as a starting point. This is appropriate for procedural and context purposes, but the 2007 recommendations should not be over-emphasised in the final report. What was seen as relevant by one part of the community some twelve years ago is of limited help in framing future policy when so many developments have since happened, including a cross-community process (albeit an untidy and largely ad hoc one) to develop the 2012 Applicant Guidebook, the experience of the recent new gTLD round and the still emerging real-world outcomes from that round.

There is a simple threshold issue which the report, like those published for comment in 2018 by the Subsequent Procedures PDP Work Tracks 1-4, does not really articulate: What are new gTLDs *for*? And is there anything about geographic names that suggests more specific policy objectives?

The first question has not yet been addressed. The ICANN CCT Review found some modest increase in competition and consumer choice from the 2012 round but made clear that there is insufficient data to say that it has been "a success".

With regard to the second question, the Work Track 5 report takes an essentially negative perspective: Further expansion of the gTLD space is a given, so there must be "protection" for geographic names and most of the report is about the appropriate extent of and machinery for such "protection". Possible policy objectives such as innovation (from the end users perspective, not the supply side) and online engagement at the community level are noted but do not seem to be regarded as the main issue.

Geographic names at the top level can be seen as qualitatively different from other domain names for several reasons:

- Geographic names provide a sense of identity for communities and often describe places that are the source of local or national pride. These may be intangible factors, but if people think they are real then they are real.
- Use of geographic names as domain names projects a place (and everything that goes with it, including its people) globally and uniquely. This is the nature of the DNS and the Internet, and it makes it all the more important to “get it right” to the satisfaction of all stakeholders, not just the domain name industry.
- Consultation with an affected community means that dealing with the community’s elected or appointed representatives is inevitable. This means “government” at some level, often local in accordance with the subsidiarity principle but also regional and national in some cases. This certainly requires more effort than many new gTLD proposals, but if applicants seek to avoid this then it suggests they do not appreciate the nature of what they are about.

Against this background, a general approach of retaining the 2012 AGB framework for geographic names (with some adjustments) is justified on the basis of simple practicality, and minimal change until fundamental policy objectives are more clearly articulated on the basis of better data.

Specific Comments

PRELIMINARY RECOMMENDATIONS 1-10	Supported
PRELIMINARY RECOMMENDATION 11	Not supported. The “intended use” provision is inconsistent with the unique nature of geo TLDs and is open to gaming.
PRELIMINARY RECOMMENDATIONS 12-13	Supported
QUESTION e1	This focuses on applicants, registries and registrars, and those involved in ICANN processes. Some input from end users, including those who have never heard of ICANN or the GNSO (ie nearly everyone), would be helpful.
QUESTIONS e3-e5	This depends on what the policy objectives are for the new gTLD program in general and geo names in particular. Is it to enable some GNSO members to make more money than they otherwise would, and for ICANN to benefit from that? Is it to encourage innovation with associated consumer, technical, commercial and other benefits? Is it to encourage decision-making under the subsidiarity principle?