Dear \_\_\_\_\_\_\_\_\_\_,

The GNSO Council appreciates the work that has gone into the GAC’s “Proposal to the GNSO RE: Protecting the International Committee and Red Cross/Red Crescent Names in New gTLDs” (“Proposal”).   The GNSO Council has taken, and will continue to take, the proposal seriously.  At this point in time, we do not have a consensus position of the Council on this topic. We believe the way forward is to work collaboratively with the GAC to find a solution on which consensus can be reached. If we are successful, we will have created a process for the future, too.

As a first step, to ensure that we have a common understanding of the proposal. Our understanding is that the Proposal at the top-level is (a) to place the exact strings contained in Schedule A of the Proposal on the official reserved names list as opposed to the “Strings Ineligible for Registration” list in the Applicant Guidebook, and (b) that the  reservation be permanent, not just for the initial new gTLD round. This implies that the names may not be used as gTLDs, even at the request of the designated trade-mark owners.

At the second-level, the Proposal asks that the strings contained in Schedule A be “reserved”.  Does this reservation apply just to exact matches of those marks or does it also apply to strings containing those marks?  Finally, we understand that the proposal will not impact current domain name registrations in existing top level domains?

In addition, the GNSO Council noted that there are several types of Reserved Names contained within the proposed new gTLD ICANN Registry Agreement.  The first type which consists solely of the string “EXAMPLE” is a reserved name which may under no circumstances be delegated at the second level.

The second type of Reserved Names are those that are initially reserved, but may be used by the Registry Operator (eg, www, nic and whois).

A third type of reserved names is those that are initially reserved, but may be delegated under certain limited circumstances.  For example, two character strings are initially reserved, however, the Registry Operator may propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes.  Further, country and territory names are initially reserved, but may be released to the extent that the Registry Operator reaches agreement with the applicable government(s) and ccTLD operator, or subject to review by ICANN’s Governmental Advisory Committee and approval by ICANN.

Finally, the GNSO understands that with respect to both the IOC and Red Cross marks, there may be certain circumstances in which the IOC, Red Cross and/or their affiliated entities may themselves want to use the domain names at the second-level.  In addition, notwithstanding the international protection afforded to these marks, there may be certain circumstances where third parties do have a recognised, legitimate right to use and register these marks either due to grandfathering rules, geographic considerations, and the like. (eg., Olympic Airlines and Olympic paint).  Therefore, the GNSO believes that there should be a mechanism to release these names to those entities and that such a mechanism still needs to be developed.

The GNSO Council would like to thank the GAC for the well-thought out and detailed proposal and would like to again request that the GNSO and the GAC work collaboratively together to address these questions We believe a good way forward would be solicit volunteers from both the GAC and GNSO to form a committee or task force to work through these issues with the goal of sending those recommendations back to their respective organizations for approval.  We know time to resolve these matters is limited and remain committed to do so as quickly as possible.

Respectfully submitted,