



# CC2 Discussion: Global Public Interest

WT2 | 19 October 2017

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# Introduction

- ⊙ Goal: To move towards deliberations and proposals for steps forward for the initial report.
- ⊙ Schedule:
  - ⊙ 28 October 2017 F2F meeting at ICANN60 on Global Public Interest.

# Discussion Recap: Where are we at now?

Our last discussion on the Global Public Interest was right before ICANN59. We have spent minimal time on this topic. We analyzed that while the Public Interest is addressed in ICANN's Bylaws and Core Values, the 2007 Policy only discussed the Public Policy in the sense of the composition of the string. We went over the fact that from concerns addressed by the GAC and community, Public Interest Commitments were tied into the final Registry Agreement in the form of Specification 11 as Mandatory PICs and Volunteer PICs.

# Specification 11: Mandatory PICs

- Mandatory PICs
  - Registry Operator will use only ICANN accredited registrars that are party to the Registrar Accreditation Agreement approved by the ICANN Board of Directors on 27 June 2013 in registering domain names. A list of such registrars shall be maintained by ICANN on ICANN's website.
  - Registry Operator agrees to perform the following specific public interest commitments, which commitments shall be enforceable by ICANN and through the PICDRP.
    1. Include in its Registry-Registrar Agreement that requires Registrars to include in their Registration Agreements a provision prohibiting Registered Name Holders from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name.

# Specification 11: Mandatory PICs (continued)

2. Registry Operator will periodically conduct a technical analysis to assess whether domains in the TLD are being used to perpetrate security threats, such as pharming, phishing, malware, and botnets. Registry Operator will maintain statistical reports on the number of security threats identified and the actions taken as a result of the periodic security checks. Registry Operator will maintain these reports ... and will provide them to ICANN upon request.
3. Registry Operator will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies.
4. Registry Operator of a “Generic String” TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person’s or entity’s “Affiliates” (as defined in Section 2.9(c) of the Registry Agreement). “Generic String” means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others.

# Specification 11: Voluntary PICs

- Section 4 of Specification 11
- Were “voluntary” in nature
- No guidance given on what should or shouldn’t be in PICs
- Many filed PICs if there were early warnings issued by the GAC in November 2012 hoping that PICs would address any concerns.
- Types of PICs
  - Anti – Abuse
  - Additional RPMs
  - Geographic Protections
  - Many reserved the right at sole discretion to modify or even eliminate PICs

**2.9.1 - The Final Issue Report suggested that in considering the public interest the WG think about concerns raised in GAC Advice on safeguards, the integration of Public Interest Commitments (PICs), and other questions around contractual commitments. Have PICs served their intended purpose? If not, what other mechanisms should be employed to serve the public interest? Please explain and provide supporting documentation to the extent possible.**



# CC2 Questions: 2.9.1 Comments

GAC pointed to previous Advice on this topic as well as comments on the CCT-RT Draft Report.

“Please see GAC submission to Public Comments on CCT-RT Draft Report.

The following GAC advice is still current:

**Category 1 Safeguards** (Beijing Communique 2013)

**PIC Dispute Resolution** – Modify the dispute resolution process to ensure that non-compliance for PIC strings is effectively and promptly addressed (Los Angeles Communique 2014)

**Reconsider the [Board’s] determination not to require the verification and validation of credentials of registrants for the Category 1 new gTLDs or to conduct periodic post-registration checks to ensure that Registrants continue to possess valid credentials.** (Los Angeles Communique 2014)

**Amend the PIC specification requirement for Category 2 new gTLDs to include a non-discriminatory requirement to provide registrants an avenue to seek redress.** (Los Angeles Communique 2014)

**NGPC to publicly recognise the commitments of some Registries and applicants to voluntarily adopt GAC advice** regarding the verification and validation of credentials as best practice. (Singapore Communique 2015)

**Reconsider the PICDRP and develop a ‘fast track’ process for regulatory authorities, government agencies and law enforcement to work with ICANN contract compliance to effectively respond to issues involving serious risks of harm to the public.** (Singapore Communique 2015)” – GAC

# CC2 Questions: 2.9.1 Comments

vTLD Consortium and NABP recommended circumstances under which a registry should be required to operate as a verified TLD.

“The Consortium believes that subsequent procedures for new gTLDs should **require the registry to operate as a vTLD** if it: 1. is linked to **regulated or professional sectors**; 2. is likely to **invoke a level of implied trust from consumers**; or 3. has **implications for consumer safety and wellbeing**. Verified TLDs contribute to improved consumer protection through registrant verification prior to domain name use and through ongoing monitoring of the domain space for compliance with registry standards.” – vTLD Consortium, NABP

“ . . . It is crucial that registries within the **health and medical marketplace have mandatory policies in place to screen online drug sellers and other health practitioner websites for proper credentials.**” – NABP

## CC2 Questions: 2.9.1 Comments

ALAC reiterated concerns about PICs and stated that trust can be increased through restrictions on who can become a registrant and on how the new name is used.

“The CCT-RT Draft Report which is supported by the ALAC makes it clear that a **significant amount of further information is necessary before it is possible to say that the introduction of new gTLD has increased either consumer trust or consumer choice.** The ALAC, therefore, reinforces the CCT-RT Report’s pre-requisite recommendation for more and better data before it is possible to state that the objectives of the program have achieved. At this point, therefore, **the ALAC does not support any new round of new gTLDs.** Reputation and familiarity, as proxies for trust, have facilitated greater public trust in the legacy gTLDs than new gTLDs. However, one factor that could contribute to trust was that **certain restrictions be placed on who can become a registrant and on how the new name is used.** ALAC statement: AL-ALAC-ST-1114-02-00-EN produced on 19 November 2014, provided an expansive ALAC comment on the Public Interest Commitment. **“Greatest amongst those concerns are the lack of public oversight, the temporary and arbitrary nature of the ‘optional’ PICs, and an unsure and adversarial enforcement process that created significant obstacles for reporting of breaches.”** -- ALAC

# CC2 Questions: 2.9.1 Comments

John Poole recommended additional mechanisms.

**“Additional mechanisms are needed, and due consideration of concerns raised in GAC advice and elsewhere need to be addressed and incorporated as appropriate in the registry agreements, terms and conditions, and elsewhere as appropriate.”** – John Poole

# CC2 Questions: 2.9.1 Comments

RySG, BRG, and Afiliis stated that PICs have served their purpose and recommended no other additional mechanisms.

“The PICs have served their intended purpose and no other mechanisms are required.” – Afiliis

“**PICs have well served their purpose**, though the process by which voluntary PICs were solicited and submitted was **clumsy, mistimed and rushed**. While PICs have satisfactorily addressed public interest concerns and may have been a reasonable vehicle for registries to individually address matters of concern raised by the community, in future rounds, it would be far more advisable to **draw a bright line of finality once those matters are considered and concluded by the full community (including the GAC), thereby reducing the risk that an individual application (or group of applications) will be held in limbo for an extended period**. This will improve predictability, avoid delays and otherwise maintain an orderly process.

At present, the RySG **recommends no further mechanisms vs. PICs (except to allow proposed PICs by registries in the application, followed by an ability to add further PICs following the GAC Early Warning round)**. . . The RySG . . . advises that the learnings from the current round will very well inform the formation of the next and those learnings, along with better definitions of community roles and processes, should be expected to provide finality and predictability prior to the opening of a new round.” – RySG, BRG

# CC2 Questions: 2.9.1 Comments

Jannik Skou stated that there should be no mandatory safeguards.

Excerpt:

“. . .There should be **no set of mandatory safeguards** (regardless whether a “regulated sector” TLD or not – which sectors are not regulated). Instead ICANN should **invest in consumer education on how to detect and avoid fraud.**) Bank fraud and other types of fraud can be just as serious under .com or a ccTLDs as under .bank or .finance for instance. If GAC/ICANN decides to keep **safeguards**, these **should NOT be allowed to be added AFTER the announcement of the opening of the application window – and the requirement to enter into agreements with sector industries should be deleted** (this is hard to find /define in all cases – and gTLDs can be international).” – Jannik Skou