

## **gTLD REGISTRIES STAKEHOLDER GROUP**

### **COMMENTS ON ICANN'S ROLE IN THE INTERNET GOVERNANCE ECOSYSTEM RECOMMENDATIONS DRAFT REPORT**

**Issue: ICANN Strategy Panels: "ICANN'S Role in the Internet Governance Ecosystem Recommendations" Draft Report**

**Date: 30 April 2014**

Public Comment URL: <http://www.icann.org/en/news/announcements/announcement-2-25feb14-en.htm>

These comments on the draft report titled "ICANN's Role in the Internet Governance Ecosystem Recommendations" (Report) are submitted on behalf of the gTLD Registries Stakeholder Group (RySG). The statement that follows represents a consensus position of the RySG.

#### **Introduction**

The RySG wants to first of all thank and compliment the Strategy Panel charged with examining "ICANN's Role in the Internet Governance Ecosystem" for their extensive and thorough efforts they expended in performing the review. It is clear from the process leading up to the Report as well as from the quality and completeness of the Report that the Strategy Panel spent a large amount of time examining this important issue and fulfilling the Panel's mission.

The comments below provide a high-level overview of the RySG's views on the overarching points presented in the Report. Obviously, should ICANN decide to implement some or all of the recommendations contained within the Report, the RySG would, of course, reserve the right to provide more detailed comments on such implementation to mitigate any potential impacts on registries specifically, and the Internet governance ecosystem more broadly.

#### **Specific Comments**

We note that we are largely supportive of the Strategy Panel's Report. However, below please find some specific comments relating to various recommendations contained within the Report.

##### *Supporting the Multistakeholder Model*

We support the Panel's conclusion that ICANN must find a way to accommodate participation of all stakeholders in a way that reflects the global reach of the Internet. As members of the RySG, we take our role within the multi-stakeholder process seriously and as contracted parties we are directly impacted by decisions that come about through the multi-stakeholder process. As such, we strive to be inclusive both within our own stakeholder group as well as in our outreach to

other groups and organizations to ensure we are all working together to achieve common goals. Further, the RySG has participated in and supported multiple efforts within ICANN to improve the multi-stakeholder model. Specifically, we have submitted numerous public comments on both of the Accountability and Transparency Review Teams (ATRT) reports.

We feel that the ATRT work is critical to ensuring the continued evolution of ICANN and ensuring it remains accountable and transparent to its stakeholders. However, we note that many of the recommendations from this effort have yet to be implemented. While we support the work of the Strategy Panels, it is important to note that many efforts alluded to in the Report are already being undertaken by the community and it is critical for ICANN to ensure that the various efforts currently being undertaken are better coordinated and that recommendations from all reviews of this nature be implemented in an effective and timely manner.

While we support the continued evolution of ICANN we feel strongly that any evolution must have the following characteristics:

- ICANN must retain its bottom-up multi-stakeholder character.
- The Internet's security, stability, and resiliency should be preserved.
- ICANN should increase its efforts to improve its accountability and transparency.
- ICANN's governance structure should support an open Internet in which the free flow of information is supported.

We believe that the multi-stakeholder approach to Internet governance and technical management has been, and will continue to be, the best way to address the technical and policy issues facing the Internet globally. We recognize that ICANN is not the only organization that plays a role within the Internet governance ecosystem. Rather, ICANN is only one of many, but it plays an important role as a steward for the model and it is the friction created by the open discussion of policies and processes that encourages the continued evolution both of the Internet governance ecosystem and the Internet itself.

#### *“Globalize” But Do Not “Internationalize”*

The RySG supports the principle that ICANN's multi-stakeholder model should continuously strive to be global in nature and encourage participation from diverse individuals and groups from every region of the world. However, this concept should not mean allowing governments around the world to develop or dictate Internet policy to suit their own national interests. It is critical to distinguish between calls for “globalization”, which promotes the inclusiveness of ideas from “internationalization”, which is a call for governments to wrestle control of policy development from other stakeholders. ICANN must continue to resist allowing governments to dominate discussions and decisions affecting the implementation and operation of the Internet's core addressing functions. The RySG agrees with the Strategy Panel that keeping the Internet's critical technical functions in the hands of the private sector is crucial for the continued safety, security, and stability of the Internet and promotion of consumer choice, competition, and freedom of expression.

### *Web of AOCs May Become Too Restrictive*

The Strategy Panel recommends that ICANN enter into additional bilateral “Affirmations of Commitments” (AOCs) with other Internet ecosystem partners to create a “flexible, resilient, and defensible [governance] structure that can evolve over time.” Although the AOC with the United States Government has been a largely positive document, the creation of a “web” of AOCs could result in a “tangled web” that results in paralysis, not flexibility. Further to that point, ICANN already has “agreements” of one type or another with many different organizations. It has organizational MOUs with the IETF and ITU, Registry Agreements with Registry Operators, and MOUs with ccTLD operators. It is completely unclear how a broader web of AOCs could impact these existing agreements.

ICANN’s accountability is critical to the preservation and success of the multi-stakeholder model but entangling ICANN in a web of various agreements with multiple organizations on top of existing agreements, all having varied and differing foci and approaches, could result in ICANN becoming too constrained to act; fearful of violating any tenant in any given AOC. Rather than create more agreements, the RySG would support ICANN being more accountable to members and representatives who participate in the multi-stakeholder, bottom-up policy development process because at the end of the day accountability is the critical piece here and as a community we should be able to improve processes and procedures without the added layer of agreements.

### *Support Accountability Panel*

Although the RySG is skeptical about a “web of AOCs,” we do support the Strategy Panel’s recommendation that an “Accountability Panel” be created, perhaps pursuant to an AOC. We would add that this panel should function independently of ICANN similar in the way the Ombudsman does. This Panel would be responsible for reviewing ICANN’s stewardship of the multi-stakeholder model and its policy making process in order to ensure ICANN is performing its functions in the public interest. The Panel could be empowered with resolving concerns about ICANN’s decisions and making sure it meets its mission of preserving the security and stability of the Internet as well as promoting consumer choice and competition.

In addition, other models proposed by the community should be duly considered. For example, we note that InternetNZ has proposed a number of structural separation options (see <https://internetnz.net.nz/content/the-dns-transition>), which may improve accountability and provide important safeguards. We urge ICANN to examine the full range of options presented before engaging in a web of AOCs, a solution we feel sacrifices the overall flexibility and accountability of the current system.

### **Conclusion**

The RySG appreciates and agrees that everyone has a common interest in a well-functioning Internet infrastructure. Preserving this infrastructure is ICANN’s core mission and to fulfill this

mission ICANN must continue to evolve as the Internet itself evolves. This evolution must embrace the “5 Rs” as described by the Strategy Panel: reciprocity, respect, robustness, reasonableness, and reality. Evolving “Internet Governance” should not lead to an Internet “government” dominated by nations vying for control over the Internet’s infrastructure nor one constrained by a new “web” of AOCs. It should instead fully embrace the multi-stakeholder model and evolve operational efficiencies that will allow it to be more nimble. As the Strategy Panel correctly points out, “checks and balances” are important in making sure ICANN stays true to its stewardship role. However, overcomplicating the process may result in operational paralysis and restrict the ability for ICANN to implement important policy and adapt to the changing demands of users around the world.

### **RySG Level of Support**

#### 1. Level of Support of Active Members:

- |                                    |    |
|------------------------------------|----|
| 1.1 # of Members in Favor:         | 17 |
| 1.2 # of Members Opposed:          | 0  |
| 1.3 # of Members that Abstained:   | 1  |
| 1.4 # of Members that did not vote | 11 |

#### 2. **Minority Position(s):**     **None**

##### 1. Level of Support – Active Members: (Majority or Supermajority)

- Total # of eligible Voting RySG Members<sup>1</sup>: 30
- Total # of Voting and Non-voting RySG Members: 34
- Total # of Active Voting RySG Members<sup>2</sup>: 29
- Minimum requirement for supermajority of Active Voting Members: 20
- Minimum requirement for majority of Active Voting Members: 16
- Names of Members that participated in this process:

1. Afilias, Ltd.

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<sup>1</sup> All top-level domain sponsors or registry operators that have agreements with ICANN to provide Registry Services in support of one or more gTLDs are eligible for membership upon the “effective date” set forth in the operator’s or sponsor’s agreement (Article III, Membership, ¶ 1). The RySG Articles of Operations can be found at [http://gtldregistries.org/sites/gtldregistries.org/files/Charter\\_of\\_the\\_gTLD\\_Registries\\_Stakeholder\\_Group.pdf](http://gtldregistries.org/sites/gtldregistries.org/files/Charter_of_the_gTLD_Registries_Stakeholder_Group.pdf)

<sup>2</sup> Per the RySG Articles of Operations, Article III, Membership, ¶ 4: Members shall be classified as “Active” or “Inactive”. A member shall be classified as “Active” unless it is classified as “Inactive” pursuant to the provisions of this paragraph. Members become Inactive by failing to participate in a Constituency meeting or voting process for a total of three consecutive meetings or voting processes or both, or by failing to participate in meetings or voting processes, or both, for six weeks, whichever is shorter. An Inactive member shall have all rights and duties of membership other than being counted as present or absent in the determination of a quorum. An Inactive member may resume Active status at any time by participating in a Constituency meeting or by voting.

2. Charleston Road Registry (non-voting member)
  3. .CLUB Domains LLC
  4. CORE (non-voting member)
  5. Donuts Inc.
  6. DotAsia Organisation
  7. dotBERLIN GmbH & Co. KG
  8. dotCooperation
  9. Dot Kiwi Ltd.
  10. Dot Latin, LLC
  11. DotShabaka Registry
  12. dotStrategy Co.
  13. Employ Media LLC
  14. Famous Four Media
  15. Fundació puntCAT (inactive)
  16. GMO Registry, Inc. (non-voting member)
  17. ICM Registry LLC
  18. Minds + Machines
  19. Museum Domain Management Association – MuseDoma (inactive)
  20. Neustar, Inc.
  21. Plan Bee LLC
  22. Public Interest Registry - PIR
  23. Punkt.wien GmbH
  24. Punto 2012 S.A. de C.V.
  25. Societe Internationale de Telecommunication Aeronautiques – SITA
  26. Starting Dot Limited
  27. Telnic Limited
  28. The Foundation for Network Initiatives “The Smart Internet”
  29. Top Level Design LLC
  30. Tralliance Registry Management Company (TRMC)
  31. Uniregistry Corp. (non-voting member)
  32. United TLD Holdco Ltd. (non-voting member)
  33. Universal Postal Union (UPU)
  34. VeriSign
  35. XYZ.COM LLC
  36. Zodiac
- Names & email addresses for points of contact
    - Chair: Keith Drazek, [kdrazek@verisign.com](mailto:kdrazek@verisign.com)
    - Alternate Chair: Paul Diaz, [pdiaz@pir.org](mailto:pdiaz@pir.org)
    - Secretariat: Cherie Stubbs, [Cherstubbs@aol.com](mailto:Cherstubbs@aol.com)
    - RySG representative for this statement: Sarah Falvey, [sarahfalvey@google.com](mailto:sarahfalvey@google.com)