

Work Track 5 meeting



21 August 2018

Agenda

1. Welcome/Agenda Review/SOI Updates
2. Closure of Discussion on Additional Categories of Terms Not Included in the 2012 Applicant Guidebook
3. Closure of Discussion on Changes to String Contention Resolution
4. Closure of Discussion on Non-Capital City Names
5. Final review of public comments - Proposals on Change to Scope of Protections/Restrictions
 - Covered in the public comment summary document beginning on page 32: [https://docs.google.com/document/d/1rsyxCEBd6ax3Rb_w1kms_E9n29XL1_lw3Yp9XQ4TeCY/edit?ts=5ce64d6d# \[docs.google.com\]](https://docs.google.com/document/d/1rsyxCEBd6ax3Rb_w1kms_E9n29XL1_lw3Yp9XQ4TeCY/edit?ts=5ce64d6d# [docs.google.com]).
 - For reference, full text of comments is available at: [https://docs.google.com/spreadsheets/d/1WKSC_pPBviCnbHxW171ZIp4CzuhQXRcv1NR2ruagrxs/edit#gid=543808477 \[docs.google.com\]](https://docs.google.com/spreadsheets/d/1WKSC_pPBviCnbHxW171ZIp4CzuhQXRcv1NR2ruagrxs/edit#gid=543808477 [docs.google.com])
6. AOB

Welcome/Review Agenda/SOI Updates

Agenda Item #1

Closure of Discussion on Additional Categories of Terms Not Included in the 2012 Applicant Guidebook

Agenda Item #2

Status

- ⦿ The Work Track has extensively discussed whether there should be provisions in the Applicant Guidebook to protect/restrict additional categories of terms not included in the 2012 AGB.
- ⦿ Based on WT discussions, it did not appear to the co-leaders that there is agreement on any specific proposal on this topic.
- ⦿ The Work Track co-leaders put out a request on the mailing list for any final proposals that members feel could be agreed upon.
- ⦿ A Work Track member replied on-list that the following should be considered as a compromise proposal: Terms beyond the 2012 AGB with geographic meaning (e.g. adjective forms of countries, such as “Swiss”) which are identified as such with a modicum of diligence by the prospective applicant should be subject to a contact obligation with the relevant authorities, in order to put them on notice.
- ⦿ Other WT5 members suggest that this would only apply if the gTLD or string was being used in connection with the geographic meaning.
- ⦿ Are there additional points that the Work Track would like to discuss with respect to these proposals?

New Proposal 1

- ⦿ That this should apply to adjectival forms of country names (country names to be identified from the ISO 3166-1 list); This would capture terms like .swiss, .american, .british, etc.
- ⦿ Since this relates only to these terms, which have a close association with the country name, there is no intended use requirement;
- ⦿ Countries who desire to be notified of applications which match such terms should identify that this is the case before the application window opens so that applicants have certainty. The practical and fair way to do this would be for countries who have this requirement to confirm this and provide relevant contact details before the AGB is finalised so that these details can be included in, or linked-from, the AGB;
- ⦿ Applicants for such a term will then be under an obligation to notify. That notification must happen, at the latest, in the period between applications closing and reveal day, but an applicant may choose to notify earlier than this.

New Proposal Variation **with Amendment**

- ⦿ Terms beyond the 2012 AGB rules with geographic meaning shall be subject to a contact obligation with the relevant public authorities, in order to put them on notice.
- ⦿ For the application of the abovementioned rule **only** the following terms will be considered as being “terms with geographic meaning”:
 - Adjectival forms of country names (country names to be identified from the ISO 3166-1 list) and/or other terms with geographic meaning, as notified by GAC Members states or other UN Member states to the ICANN Organization within a deadline of 12 months following the adoption of this proposal. **In such notifications the interested countries must provide the source in national law or public policy for considering the relevant term as especially protected;**
 - Interested countries would provide relevant contact details with said notification;
- ⦿ Applicants for such a term will then be under an obligation to contact the relevant country. That contact notification must happen, at the latest, in the period between applications closing and reveal day, but an applicant may choose to notify earlier than this. **There is no further obligation whatsoever arising from this provision and it may not be construed as requiring a letter of non-objection from the relevant public authority.**

Topic Closure

- ⦿ At this stage:
 - Is there agreement on a path forward?
 - If not, are there any new points that need to be raised or items that have not yet been discussed that might lead to agreement?

- ⦿ If there is not agreement on any proposed changes, the 2012 Applicant Guidebook provisions will remain in place.

Closure of Discussion on Changes to String Contention Resolution

Agenda Item #3

Background

- In the 2012 round, the method of last resort for resolving contention between two or more applications was an auction. The full Working Group is addressing auctions of last resort between two or more strings that are not geographic names. Work Track 5 could consider if the 2012 rules are still appropriate for contention sets that include one or more geographic names as defined in section 2.2.1.4.2 of the Applicant Guidebook:
 - If there is more than one application for a string representing a certain geographic name, and the applications have requisite government approvals, the applications will be suspended pending resolution by the applicants.
 - If a contention set is composed of multiple applications with documentation of support from the same government or public authority, the set will proceed to auction when requested by the government or public authority providing the documentation.
 - If an application for a string representing a geographic name is in a contention set with applications for similar strings that have not been identified as geographical names, the set will proceed to auction.

Status

- ⦿ There was some discussion in the Work Track that members may want to revisit the rules in the 2012 Applicant Guidebook.
- ⦿ The co-leaders put forward a final call for proposals on the mailing list.
- ⦿ One proposal was received (see next slide)
- ⦿ To discuss: Is there any input on this proposal? What are the pros and cons?

Proposal (slide 1/2)

- ⦿ **Update Applicant Guidebook, Chapter 2.2.1.4.4 with:**

If an application for a string representing a geographic name is in a contention set with applications for identical strings that have not been identified as geographical names, the string contention will be resolved using the string contention procedures described in Module 4.

Proposal (slide 1/2)

⦿ Update Applicant Guidebook, Module 4. with:

A// In case there is contention for a string where one application intends to use the string as a non-capital city name or designated the TLD to targeting it to a geographic meaning, preference should be given to the applicant who will use the TLD for geographic purposes if the applicant for the geoTLD is based in a country where national law gives precedent to city and/or regional names.

RATIONALE: This would reflect national law e.g. in countries like Switzerland and Germany, where e.g. city names have more rights than holders of the same name.

B// If there is more than one applicant for an identical string representing a geographic name, and the applications have requisite government approvals, the applicant with the larger no of inhabitants will prevail over the smaller one. As the criteria “size” has been used in the CPE criteria, it is apparently a well-accepted criteria.

RATIONALE: This would reflect the current rule of the Applicant Guidebook capital city has priority over smaller city.

Topic Closure

- ⦿ At this stage:
 - Is there agreement on a path forward?
 - If not, are there any new points that need to be raised or items that have not yet been discussed that might lead to agreement?

- ⦿ If there is not agreement on any proposed changes, the 2012 Applicant Guidebook provisions will remain in place.

Closure of Discussion on Non-Capital City Names

Agenda Item #4

Proposal

Amend the text in AGB 2.2.1.4.2 part 2 on non-capital city names by adding the blue text.

“It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name. **For the avoidance of doubt, where the applicant states in their application that they intend to use the TLD as a .Brand (intend to have Specification 13 in their Registry Agreement) it will be taken that the TLD will not be used primarily for purposes associated with the city name.**”

Rationale:

The current AGB text states that “city names present challenges because city names may also be generic terms or brand names, and in many cases city names are not unique”. This language does not aim to change the position from the AGB 2012, but merely aims to provide greater clarity and certainty for potential applicants. At the same time, it ensures that the relevant authorities are consulted when an applicant intends to use a TLD for purposes associated with a city. If a government or local authority is concerned with an application, they are not precluded from filing an objection (as they could in 2012) or filing their own application. The current rules on resolving contention sets in AGB 2.2.1.4.4 or module 4 will not be impacted by the text.

Topic Closure

- ⦿ At this stage:
 - Is there agreement on a path forward?
 - If not, are there any new points that need to be raised or items that have not yet been discussed that might lead to agreement?

- ⦿ If there is not agreement on any proposed changes, the 2012 Applicant Guidebook provisions will remain in place.

1. Final review of public comments - Proposals 6, 7, 8, 9, 10, and 37

Agenda Item #5

Public Comments on Proposals to Change Scope of Protections

- In deliberations of the Work Track, members put forward proposals to either increase or decrease the scope of protections in the Applicant Guidebook.
- These were included in the Initial Report when it went out for public comment along with a number of other proposals on other topics.
 - A summary of public comments on these proposals begins on page 32 of the [public comment summary document](#)
- Elements of these proposals have been discussed in the context of revisiting the draft recommendations as well as broader discussions in the Work Track.
- Public comments reflect that there is a mix of perspectives in the community on the different proposals – some in favor and some opposed to each, similar to what the co-leaders have observed in WT discussions.
- At this stage, the co-leaders do not anticipate that re-reviewing the proposals will lead to agreement in the Work Track on specific changes. Members should raise if there are any points that they think need to be considered further in order for the Work Track to reach agreement on recommendations.

Any Other Business

Agenda Item #6