New generic Top Level Domain Subsequent Procedures PDP

At-Large Interventions

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ALAC-GAC Leadership Call
17 June 2020

Agenda

- ⊙ At-Large Scorecard on SubPro, v14

- ⊙ Applicant Support

- ⊙ Community Applications & Community Priority Evaluation

- ⊙ SubPro PDP WG Proposal on GAC Category 1 Safeguards

- ⊙ Treatment of ISO 4217 alpha-3 currency codes

- ⊙ Prerequisites to next round of New gTLDs

At-Large Scorecard on SubPro, v14

Contains:

1. Applicant Support Program, v7 settled 5 May 2020
2. Application Change Request, v1 settled 7 May 2020
3. Role of Application Comment, v1 settled 7 May 2020
4. String Similarity, v2 settled 7 May 2020
5. Universal Acceptance, v4 settled 27 May 2020
6. Internationalized Domain Names, v4 settled 28 May 2020
7. Security and Stability, v2 settled 28 May 2020
8. Name Collision, v2 settled 28 May 2020
9. Reserved Names, v2 draft, 8 Jun 2020
10. Community Applications, v4 draft, 10 Jun 2020

Item 10 refers to:

(a) At-Large Interventions on Community-based Applications & Community Priority Evaluation, 11 Jun 2020; and

(b) Revised CPE Guidelines - A Proposal by At-Large, 11 Jun 2020

Applicant Support

CCT-On CCT-RT Recommendations

1. RT Rec 32 not met satisfactorily:
   - Actual **metrics to measure success of ASP per CCT-RT Rec 29 or success of outreach and awareness to Global South per CCT-RT Rec 30** are not addressed by way of policy but instead 'delegated' to implementation
   - Recommendation #2 re: CCT-RT Rec 31, **ICANN must actively coordinate the pro-bono assistance program**.

On SubPro Recommendations

1. Need for **financial support to include operational costs**, consistent with the ICANN Board's decision made in Nairobi in initiating the ASP which is for ICANN Community to find a way to support applicants that are in need of means to make the application and to operate.
2. Need to **advocate for inclusion of business model education** (eg. several business case studies) to increase the utility of the ASP
3. Need more concrete steps to secure funding for ASP - advocate for ICANN Org to actively inform, encourage and liaise with National banks and aid agencies worldwide to participate in sponsoring applicants or ASP funding.
4. In advocating for greater participation in New gTLD Program – to meet need for diversity, competition, choice etc – an **applicant who qualifies for ASP should be given priority in any string contention set**, and not be subjected to any further string contention resolution process, especially an auction which such an application would be inherently disadvantaged given their need to obtain Application Support in the first place.
   - A denial of outright priority demands inclusion of provisions to help level the playing field for successful ASP applicants to effectively compete in an auction of last resort against applicants that are better resourced – eg allowing **benefit of multiplier in auction bids for successful ASP applicants**.
5. If expecting uptake in applications for ASP then need an established approach for selection if the number of applicants who qualify exceeds funds allocated.
6. At-Large to monitor during implementation:
   (i) Expanding SARP's evaluation methodology to include determination of wilful gaming
   (ii) Development of broad agreement on penalty to be applied to applicants found to be wilful gamers.

Community Applications & Community Priority Eval.

CCT-On CCT-RT Recommendations

1. WG says has extensively discussed CCT-RT Rec 34 in this in putting forward recommendations to address concerns raised about CPE in the 2012 round, and so believes that its work is in line with CCT Rec 34.

2. **At-Large feels that the SubPro recommendations do not include a comfortable level of specificity**.

On SubPro Recommendations

1. ALAC continues to support use of **CPE** to resolve string contention sets involving Community-based applications - an option for Community-based applicants which **must be made available at a reasonable and predictable cost**.

2. The SubPro recommendations are in principle not objectionable to At-Large, although there is **broad agreement for a number of improvements** to be implemented before the next round of applications begins. The improvements proposed by At-Large deal with the following areas:
   - ❑ (1) A need for greater community participation in ICANN's engagement of a CPE service provider/panellists
   - ❑ (2) Changes to the CPE Process
   - ❑ (3) Changes to the CPE Criteria and Guidelines (see: "Revised Community Priority Evaluation Guidelines – A Proposal by At-Large")
   - ❑ (4) Greater awareness in the availability and use of Dispute Resolution Procedures

3. Details of the above can be found in 2 documents:
   - (i) "At-Large Interventions on Community Applications & Community Priority Evaluation (CPE)"; and
   - (ii) "Revised Community Priority Evaluation Guidelines – A Proposal by At-Large" which is our proposed revision of the CPE Guidelines of 27 Sep 2013.

Community Applications & Community Priority Eval.

Source: At-Large Scorecard, v14, at pages 72-73

(1) A need for **greater community participation in ICANN's engagement of a CPE service provider/panellists**, namely in 4 aspects	(2) **Changes to the CPE Process** including access to recourse, namely in 3 aspects:	(3) **Changes to the CPE Criteria and Guidelines**, key of which include:	(4) Greater awareness in the availability and use of Dispute Resolution Procedures
(i) the development of **criteria** by which ICANN Org is **to evaluate and select candidates**; (ii) the shortlisting of identified candidates; (iii) the final selection process; and (iv) the **terms for inclusion into the contract between ICANN Org and the selected candidate**;	(i) introducing a **mechanism for handling conflict of interest of the part of panellist(s)**; (ii) **elimination of a supplementary call for documented support or opposition** by the CPE service provider/panellist; and (iii) introducing a **limited challenge/appeal mechanism** to challenge the evaluation determination by the panel/panellist;	(i) **allowing a broader, more flexible interpretation of "community"** so as to not disadvantage Minority communities, marginalized groups, linguistic, cultural, ethnic groupings, "traditional knowledge" and "Indigenous Communities" (eg. First Nation, Native American tribal communities, Roma community), even loosely organized but reasonably well-known groups or segments of society and civil-society advocacy groups (Community Human Rights based - CHR), as well as **consultation with relevant International Organizations specialized in the specific/relevant fields or a relevant subject matter or community expert with regional or international standing** especially if a panel does not have community expertise; (ii) adjusting Criteria, Sub-criteria and scoring guidelines such that scoring for every Criterion as well as Sub-criterion will be wholly independent of each other to **eliminate carrying over of any bias across Criteria and Sub-criteria**; (iii) **greater flexibility and clarity in applying Criteria and Sub-criteria**; (iv) **preventing imbalance in considering opposition versus support**; and (v) **lowering the threshold to prevail in CPE**.	

SubPro Proposal on GAC Category 1 Safeguards

Source: SubPro deliberations

Background

- ICANN46 GAC Beijing Communique – Advice on > 140 strings that it considered as sensitive, highly sensitive or assoc. with regulated industries.
- In response, the NGPC adopted a framework to apply additional safeguards to certain new gTLD strings that were deemed applicable to highly sensitive or regulated industries.
- Such strings required adoption of relevant Category 1 Safeguards as contractually binding requirements in Spec 11 of the RA (i.e., as PICs)

SubPro Proposal

1. Support the framework established by the NGPC, which includes:
   - The four groups described in the NGPC's scorecard;
   - The four groups' varying levels of required Category 1 Safeguards; and,
   - Integration of relevant Category 1 Safeguards into RA, by way of PICs.
2. Framework does NOT seek to create definitive criteria to identify which strings belong to which group (i.e., this is not an evaluation element of the program).
3. Framework DOES **serve as guidance to potential applicants that their applied-for string may fall into one of the four groups and warrant additional contractual requirements**. Info about the framework in AGB along with ramifications of their string being found to inhabit one of the four groups.
4. All applicants should consider framework and may self-identify which group their applied-for string belongs to, and voluntarily commit to integrating relevant Category 1 Safeguards into their RA.
5. **QUESTION: Who makes the ultimate determination of whether it is one of the 4 categories? The GAC? A Panel? ICANN BOARD?**
6. Upon contracting stage, if self-identified / identified via process set forth in #5 above, the relevant Category 1 Safeguards will be integrated into RA.

GAC Category 1 Safeguards
(Mandatory – Customization of Base RA)

Per ICANN NGPC Resolution No. 2014.02.05.NG01
- Implementation framework – **3 levels, 4 groups, covering 10 Safeguards**
  - ❖ **Regulated Sectors/Open Entry Requirements in Multiple Jurisdiction** (Safeguards 1-3)
  - ❖ **Highly-regulated Sectors/Closed Entry Requirements** in Multiple Jurisdictions (Safeguards 1-8) *("Verified TLDs", not to be confused with "Closed Generics")*
  - ❖ Special Safeguards (Safeguards 9-10)
    - ○ **Potential for Cyber Bullying/Harassment** (Safeguards 1-9)
    - ○ **Inherently Governmental Functions** (Safeguards 1-10)
- Where:
  - ❑ 8 of 10 safeguards, where applicable, included as PICs, customization to Base RA
  - ❑ 7 of 10 safeguards, where applicable, included in Registry-Registrar Agreement

Customization of Base RA
All PICs == Specification 11 2

Treatment of ISO 4217 alpha-3 currency codes

Source: At-Large Scorecard, v14, at pages 32-34

SubPro New Issue

1. Proposed position: "*Reserve until such time that there is clear agreement with the International Central Banks (eg through IMF or BIS) as to whether these codes could be delegated and to which entities, not excluding themselves.*"

Status of At-Large Deliberations

1. **No consensus as yet on the treatment of ISO 4217 Currency Codes**.

2. There remain differing opinions on the need for their reservation as unavailable, or availability for application be limited to trusted parties, or curative protections in the form of objections:
   - ❑ Concerns of risk of confusion for end-users, thus requiring them to be protected and possibly unavailable for application
   - ❑ Given the possibility of name/string association/recognition by end-user, consumer trust goal requires that their availability for application be limited to trusted parties eg. one endorsed by the relevant government
   - ❑ No risk of confusion for end-users, if risks were perceived as unacceptable, then GAC/a GAC member could issue Advice/Early Warning or file an LPI Objection to either prevent the application from proceeding or allowing it to proceed but with some recommended safeguards in place.
   - ❑ Since GAC has not yet issued Advice on the availability of these codes as TLD, then why should At-Large be concerned at all.

3. **At-Large would like to know what GAC's position on this issue is, if any.**

Prerequisites to Next Round of New gTLDs

What implementations should be included?

1. Prerequisite and high priority recommendations from the CCT-RT Final Report of 2018, *as qualified by ICANN Board's approach to the same*

    ❑   *Whether all or some may be adequately provided for by SubPro recommendations*

2. Community approach to DNS Abuse mitigation

3. Metrics – for Program, ASP, etc

4. Recommendations out of SSAC's Name Collision Analysis Project

5. What else?