

# Internationalized Domain Names Expedited Policy Development Process

D2, D3



IDN-EPDP Team Meeting #36 | 19 May 2022

# Agenda

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1. Roll Call & SOI Updates (2 mins)
2. Welcome & Chair Updates (5 mins)
3. Continue discussion of charter question D2 (40 mins)
4. Introduction to charter question D3 (30 mins)
5. Feedback from Chinese, Japanese, and Korean Generation Panels - A7 Part 2 (10 mins)
6. AOB (3 mins)

## D2 - Continued Discussion

# Charter Question D2

**D2:** In order to ensure that the **same entity principle** is maintained for a **gTLD and its allocated variant TLD labels**, what are the operational and legal impacts to the:

- Registry Transition Process or Change of Control in the Registry Agreement;
- Emergency Back-End Registry Operator (EBERO) provisions; and
- Reassignment of the TLD as a result of the Trademark Post-Delegation Dispute Resolution Procedure (TM-PDDRP)?

***Implicit Dependency with D1a:*** “Should each TLD label be the subject of a separate Registry Agreement with ICANN? If not, should each TLD label along with its variant labels be subject to one Registry Agreement with the same entity?”

# Registry Transition Process - Overview

**Definition:** A change in the contracting party of a gTLD Registry Agreement with ICANN

**Purpose:** ICANN has defined such a process to transition a gTLD in a secure, stable, and reliable manner; while minimizing the impact on registrants and gTLD users, and providing transparency to the parties involved

## Types:

### 1. Registry Transition Process with proposed successor (*aka. Change of Control*):

- When a registry requests that ICANN assign its Registry Agreement to a prospective successor; e.g., the registry is being acquired, there is a name change in the organization, a transition to the registry services continuity provider
- GeoTLD: Government or Public authority withdraws its support and proposes a successor registry

### 2. Registry Transition Process with Request for Proposals (RFP)

- When a gTLD registry is in breach of its Registry Agreement (leading to termination) and does not identify a successor registry
- GeoTLD: Government or Public Authority withdraws its support and does not provide a proposed successor registry

### 3. Emergency Back-End Registry Operator Temporary Transition Process

- When (1) the registry is in breach of its Registry Agreement AND (2) a Critical Function is being performed below the Emergency Thresholds
- A temporary measure to protect registrants and gTLD users; the temporary transition of Critical Functions will remain in effect until the underlying issues are resolved, or the gTLD is transitioned to another operator using Type 1 or Type 2 process

# What to Expect - Type 1 & Type 2

*Upon receipt of the transition request, some key actions by ICANN include:*

- **Conduct assessment of the situation** by focusing on:
  - Would there be a change in an entity providing any of the Back-End Registry functions?
  - Does the TLD have a relevant community that must be consulted?
  - Is this a geoTLD? (Or, was government support required at the time of the application?)
  - Are there any restrictions in the Registry Agreement that might affect a transition?
- **Perform risk assessment** of the gTLD, current registry, and Back-End Registry Operator (if there is a change)
- **Launch a Request for Proposal** subprocess (if applicable)
- **Check** whether the proposed successor registry has the **required support** (if applicable)
- **Evaluate the applicant** using the processes defined in the AGB; scope of evaluation varies:
  - Full: similar in scope to the review of a new gTLD applicant
  - Limited: more narrow scope
  - Minimal: a very narrow scope of review performed internally by ICANN
- **Perform pre-delegation testing** if there is a change in Back-End Registry Operator services

# Emergency Back-End Registry Operator (EBERO)

**What:** organizations that have entered into five-year contracts with ICANN to operate the five critical registry functions in the event of a gTLD registry operator failure, which are:

- DNS resolution for registered domain names
- Operation of Shared Registration System
- Operation of Registration Data Directory Services
- Registry data escrow deposits
- Maintenance of a properly signed zone in accordance with DNSSEC requirements

**Why:** to preserve the operational security and stability of the Internet, EBERO program is designed to be temporarily activated should a gTLD registry operator require assistance to sustain critical registry functions for a period of time

**Who:** the current EBERO service providers are:

- Canadian Internet Registration Authority (CIRA)
- China Internet Network Information Center (CNNIC)
- Nominet

**When:** ICANN is responsible for declaring an event requiring EBERO emergency services and coordinating all emergency response activities. The goal is to have the emergency event resolved ASAP, preferably within 12 months

# Emergency Back-End Registry Operator (EBERO) (Cont.)

**How:** ICANN selects EBERO providers through a RFP:

- Align registry operator requirements to EBERO provider requirements
- Require at least three years of experience operating DNS and one year of experience operating RDSS and EPP services
- Include a goal to increase geographic diversity
- Evaluate using similar processes for new gTLDs, including pre-delegation testing on the infrastructure to be used in an emergency

**What Not:** EBERO providers are limited in the services they can provide

- Will not provide any additional services that a gTLD operator may have offered its customers (e.g., web hosting, network analytics)
- Will not accept new domains, domain renewals, domain transfers, or domain name deletions from registrars, except for under exceptional cases (e.g., UDRP, Expedited Registry Security Request, de-accreditation of registrar, etc.)
- Will not expire registrations or auto-renew them
- EBERO does not apply to some Legacy gTLDs

**Caveats:** there may be cases in which the current Back-End Registry Operator may serve as the EBERO, if:

- Registry operator requested to ICANN the emergency transition to the Back-End Registry Operator as the EBERO
- Current Back-End Registry Operator is operating the Critical Functions within the terms of the Service Levels defined in the RA
- Back-End Registry Operator company is not related to or affiliated with the registry operator
- Back-End Registry Operator accepts to operate the gTLD under better or equal terms than those agreed by the EBERO



# TM-PDDRP Outcome

## Definition:

Trademark Post-Delegation Dispute Resolution Procedures (TM-PDDRP) is a dispute resolution mechanism for someone that believes that a Registry Operator is intentionally and systematically infringing trademarks in its top-level domain (TLD), either by itself or by aiding third parties.

## Remedies:

- A variety of "graduated enforcement tools" against the registry operator, including remedial measures against allowing future infringing registrations or suspension of accepting new domain name registrations for a set period of time.
- **In extraordinary circumstances, the remedy may provide for the termination of the registry agreement.**
- A recommended remedy cannot include deleting, transferring or suspending domain name registrations unless the domain name registrants are persons or entities under control of the registry operator.

# Discussion

## SubPro Context

- To the extent that the TLD were to change hands at any point after delegation, **the variant TLDs must remain linked contractually**, which should be considered a persistent requirement (e.g., **this would impact gTLD registry transition procedures, including EBERO**).

## Staff Paper Context

- Each of the registry agreements must contain provisions requiring **all variant labels in the IDL set to follow the same process** in the event of any registry transition via a Registry Transition Process or Change of Control.
- In no event, should the composition of the allocated and delegated set of variant TLDs be allowed to change at the same time as the change of the Registry Operator.
- Emergency transition of a TLD to an EBERO **must trigger an emergency transition of all variant TLDs to the EBERO**.
- In the case where a **Registry Agreement is terminated as a result of a TM-PDDRP** determination, the same entity rule would continue to apply so that the allocated and delegated variant TLD labels in the set would be **assigned to the same entity together**.

## Questions for Discussion

- How to maintain the “same entity” principle in the event of a registry transition process, with respect to each of the three types?
  - *Consider implicit dependency with D1a - EPDP preliminary rec: “For both existing and future gTLDs, each gTLD and its variant labels (if any) are to be subject to one Registry Agreement with the same registry operator.”*
  - *The EBERO process has NOT been triggered in the case of an intentional/planned removal/retirement of a gTLD*
    - *Most removed/retired gTLDs are brand TLDs or TLDs exclusively used by their registry operators or affiliates*
    - *There may be a scenario where a to-be-retired TLD has third-party registrations not affiliated with the RO; a cross-functional team would develop a specific retirement plan, including timeline and relevant steps (e.g., sunset period, non-delegation period, any temporary arrangements, potential support from EBERO, etc.). Such scenario has not happened*
- Are there any additional consideration related to the registry transition process involving variant gTLD labels?

# D3 - Introduction

# Charter Question D3

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**D3:** In order to ensure that the same entity principle is maintained, what are the operational and legal impacts to the **data escrow policies**, if any.

## **Background**

**What:** An act of storing data with a neutral third party in case of registry or registrar failure, accreditation termination, or accreditation relapse without renewal, to be accessed and released only under pre-defined and controlled conditions

**Why:** Enhance the stability of domain name registrations in gTLDs, ensures that the data associated with registered domain names is never at risk of being lost or inaccessible

**How:** ICANN requires all gTLD registries and registrars to contract with a data escrow provider. Registries and registrars follow the same system: a weekly full deposit of data on Sundays, and a partial deposit on all other days containing all new data since the last full deposit

- Registry Agreement Specification 2: Data Escrow Requirements
- Registrar Accreditation Agreement Section 3.6: Data Escrow

## **Staff Paper**

Data escrow requirements are automatically satisfied because each variant of the IDL set is just another registration, data escrow policies for TLDs apply individually to each

## Question for Discussion

- **Registry Data Escrow:** *The EPDP recommends that each gTLD and its variant labels (if any) are to be subject to one Registry Agreement with the same registry operator. Given this preliminary recommendation, do the technical specifications and legal requirements of the data escrow policy for gTLDs need to be adjusted in order to account for the possibility of having more than one label under one registry agreement?*

# Feedback from Chinese, Japanese, Korean Generation Panels

Charter Question A7 - Part 2



# Charter Question A7 Recap

**A7:** What mechanism or criteria should be used to identify the scripts/languages appropriate for single-character TLDs? Once those scripts/languages are identified, what mechanism or criteria should be used to identify a specific list of allowable characters which can be used as a single-character TLD within such scripts/languages? Should any specific implementation guidance be provided? Furthermore, should the relevant GP tag these code points in the RZ-LGR for a consistent analysis and to ease their identification and algorithmic calculation?

## **Part 1: Scripts/languages appropriate for single character TLDs**

**Preliminary Recommendation 1.11:** Single character gTLDs may only be allowed for limited script/language combinations where a character is an ideograph. At the time of the EPDP Team's deliberation, this combination would be limited to the Han script used in the Chinese, Japanese, and Korean languages.

## **Part 2: Mechanism or criteria to identify a specific list of allowable characters for single-character TLDs & implementation guidance, e.g., GP tag these code points in the RZ-LGR**

# GP Outreach: Question 1

1. What is the definition of ideograph or ideogram?
  - 1a. Based on this definition, are all Han characters considered ideograph or ideogram?
  - 1b. If not, does the definition clearly provide a way to identify which Han characters are ideograph or ideogram?



**Chinese (Chair response):** All Han characters are ideographs



**Japanese (GP response):** Except for “々” (U+3005), all Han (Kanji) characters are ideographs



**Korean (GP response):** All Han (Hanja) characters are ideographs

# GP Outreach: Questions 2 & 3

2. Is it possible for the three GPs to coordinate and develop criteria by which to identify a subset of the Han script allowed for single-character gTLDs that present no risk of user confusion? Alternatively, is it possible to develop criteria by which to identify a list of Han characters that may introduce confusion risks that rise above commonplace similarities and should NOT be allowed for single-character gTLDs?

3. Is it possible for the three GPs to coordinate and develop criteria for the evaluation of future single-character gTLD applications in Han script, particularly in the context of string confusion, to ensure they are introduced to the root-zone in a conservative manner?



## Chinese (Chair response):

- Difficult for three GPs to coordinate but may not be necessary as applications need to follow language rules not script rules
- Chinese-GP variant rules have eliminated the possibility of confusion risk to the maximum extent
- **Family name characters** and **geo-location name characters** are most likely to be applied as single character TLD
- Not all Han characters are suitable to be applied as a single character TLD. E.g., 丿 (U+4E3F), 丶 (U+4E40), ㇇ (U+4E41) are used as **basic radicals rather than full characters with semantic meaning**



## Japanese (GP response):

- It may be safer to **disallow Han characters that are defined as visually identical to Kana characters** in Japanese RZ-LGR (see [Section 7](#)), but it is up to Integration Panel and ICANN to decide



## Korean (GP response):

- Several Hanja characters have the **same pronunciation**, and there may be risk to cause confusion
- Korean GP is willing to participate in further discussion about these criteria

# GP Outreach: Question 4

4. Is it feasible for the three GPs to reconvene to conduct the above mentioned work, and if so, what is the estimated level of effort and time required.



**Chinese (Chair response):** A six-month period may be needed to generate a limited allowable list from the most conservative perspective



**Japanese (GP response):** No answer



**Korean (GP response):** Not sure how long it will take