

I C A N N

COMMUNITY FORUM

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COPENHAGEN

11-16 March 2017





GAC-GNSO Facilitated Discussion on Red Cross/IGOs

Open Community Session
10 March 2017

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ICANN Context to help guide the discussion

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GNSO recommendations

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Facilitated dialogue to resolve the conflict

ICANN Mission as it relates to this issue

- Ensure the stable and secure operation of the Internet's unique identifier systems
 - coordinates the development and implementation of policies concerning the registrations of second level domain names in gTLDs
 - For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS

ICANN Commitments as it relates to this issue

- In performing its Mission, ICANN must operate in a manner consistent with these Bylaws for the **benefit of the Internet community as a whole**, carrying out its activities in conformity with **relevant principles of international law and international conventions and applicable local law**
 - Employ open, transparent and **bottom-up, multistakeholder policy development** processes that are led by the private sector (including business stakeholders, civil society, the technical community, academia, and end users), **while duly taking into account the public policy advice of governments and public authorities**. These processes shall:
 - A. seek input from the public, for whose benefit ICANN in all events shall act,
 - B. promote well-informed decisions based on expert advice, and
 - C. **ensure that those entities most affected can assist in the policy development process;**

ICANN Core Values as they relate to this issue

- Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making to **ensure that the bottom-up, multistakeholder policy development process is used to ascertain the global public interest** and that those processes are accountable and transparent;
- Operating with efficiency and excellence, in a fiscally responsible and accountable manner and, where practicable and not inconsistent with ICANN's other obligations under these Bylaws, **at a speed that is responsive to the needs of the global Internet community**;
- While remaining rooted in the private sector (including business stakeholders, civil society, the technical community, academia, and end users), **recognizing that governments and public authorities are responsible for public policy and duly taking into account the public policy advice of governments and public authorities**;

ICANN Consensus Policies - scope

- Apply to gTLD registrars and gTLD Registries through the terms of their agreements with ICANN
- Consensus policies limited to narrow scope – “picket fence”
- Consensus Policies and the procedures by which they are developed shall be designed to produce, to the extent possible, **a consensus of Internet stakeholders**, including registrars. Consensus Policies shall relate to one or more of the following:
 - **issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability** of the Internet, Registrar Services, Registry Services, or the Domain Name System ("DNS");
 - **resolution of disputes regarding the registration of domain names** (as opposed to the use of such domain names, but including where such policies take into account use of the domain names)

Problem statement

- The allocation, management and operation of gTLDs must take into account the need to ensure that neither the registration of a domain name at the second level, nor the manner in which it is used, infringes the legal protections accorded to the Red Cross and Red Crescent names and acronyms, under relevant principles of international law and international conventions, and applicable local law laws in force in multiple jurisdictions.
- The GAC **public policy advice** to the ICANN Board and GNSO **policy recommendations** to the ICANN Board in relation to the protection of the **names and acronyms** of the **International Red Cross and Red Crescent Movement** at the second level of all generic Top Level Domains (gTLDs) **are in conflict.**

Process steps

- 1) The form and extent of protections considered appropriate in this instance by the GNSO;
- 2) The form and extent of protections considered appropriate in this instance by the GAC as reflected in GAC public policy advice;
- 3) A discussion of the areas of difference between the GAC and the GNSO, with a particular focus on how the original GNSO Policy Development Process (PDP) may have needed to duly take into account additional legal or public policy considerations; and
- 4) A discussion as to how to provide protections in the context of the applicable legal rights framework, mindful not only of ICANN's narrow mission but also of ICANN's commitment to carry out its mission in conformity with relevant principles of international law and international conventions and applicable local law, as encapsulated in ICANN's Bylaws.

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