

Base Registry Agreement (4.3.2)

Deliberations Overview

The direction of travel for the base registry agreement is highly dependent upon the work in a number of different areas still under discussion. WT has conducted preliminary discussions on different approaches to the base Registry Agreement including various pros and cons exercise.

Summary of Single vs. Multiple Base Registry Agreement(s) Deliberation:

- The high-level arguments for a single base Registry Agreement focused on predictability, fairness, efficiency, and a lack of clear and definitive boundaries around potential categories that would warrant separate agreements.
- The high-level arguments for different agreements focused on the need for ICANN to recognize and more fully support different business models for operating TLDs and the fact that exemptions were difficult to obtain in the 2012 round, indicating that it may be cleaner to have different versions from the outset.
- WT considered CC2 comments on this topic and will likely continue to revisit the issue as other discussions, for example deliberations on categories, move forward.
- WT appears to be converging on the concept of single base registry agreement with flexibility for different business models.
- One WT member suggested that 1) There should be no presumption that every TLD operates using an open model. 2) ICANN staff and Board should be open to listening about other models and incorporating other specifications.
- WT members suggested brainstorming types of business models and corresponding provisions and options in the base registry agreement for these models

High Level Agreement:

Maintaining a single base Registry Agreement with specific sections for different TLD Types.

From WT deliberations until now, there seems to be general agreement that there are core provisions of the base Registry Agreement that apply to all, while there appears to be key concerns around the difficulties in obtaining exemptions. Outcome may be along the lines of the compromise solutions raised, with a single base Agreement and a clear system of exemptions or variations to be used based on categories or other factors.

As a collective whole, the following paths forward are proposed for the WT to further consider in the proposal to the full WG.

1. It would be beneficial for the WT to recommend a scaled back core agreement with additional specifications per category, with the goal of a single agreement with a more clear, structured, and efficient method for obtaining exemptions.

| Category | Origin | Deliberation Question: |
|---|----------------------|--|
| Open registries (Standard) | 2012 Round | |
| Geographic | 2012 Round | There were no additional requirements for geographic names in the 2012 agreement. Should there be in the future? May be a question more appropriate for WT5? |
| Brand (Specification 13) | 2012 Round | How can Spec 13, related to .Brand registries, be clarified, or otherwise improved? |
| Intergovernmental organizations | 2012 Round | |
| Community registry | 2012 Round | Community obligations captured in Spec 12 in 2012. Are any changes needed? |
| Validated registry -- Restricted Registries with qualification criteria that must be verified | Brainstorm | |
| Not-for-profit or non-profit gTLDs, NGOs | Brainstorm | |
| Highly regulated / Sensitive TLDs | Brainstorm | Should there be additional contractual obligations for highly regulated TLDs? |
| Exclusive Use Registries? (Keyword Registry limited to one registrant & affiliates) | Added by Jeff Neuman | |
| Closed Generics | Added by Steve Chan | Deliberations likely need to conclude in Closed Generics first, but contractual provisions may be needed if closed generics are allowed. |
| Open TLD with minor domain charter registration challenges - eg: .name and .biz | From Soumya Iyer | |

2. From the deliberations, it is difficult to address the questions whether we should maintain the current restrictions however pursue additional restrictions pertaining to sunrise period, landrush or other registry activities. Questions and suggestions raised by the group need to be discussed further, for example:
 - How holders of TMCH recorded marks might be given first refusal where the name is released from reservation
 - Predatory pricing can be dealt with more explicit fraud provisions in PICs

3. From the deliberations, there appears to be no consensus built around the additional questions needs to be addressed from the issue report:

- Should the base agreement be available in different languages?
- Should rules, definitions, and requirements be established around the selling and maintenance of premium names?
- Should there be rules and restrictions around registry pricing, particularly around premium names?