

At-Large Proposed Amendments to Base New gTLD Registry Agreement Workspace

Comment Close Date	Statement Name	Status	Assignee (s)	Call for Comments Open	Call for Comments Close	Vote Open	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
2016/07/20	Proposed Amendments to Base New gTLD Registry Agreement Follow Updates	ADOPTED 10Y, 0N, 0A	Alan Greenberg	2016/07/11	2016/07/20	2016/07/20	2016/07/25	2016/07/20	Krista Papac krista.papac@icann.org	AL-ALAC-ST-0716-01-01-EN

For information about this Public Comment, please click [here](#) >>

- [Comments Forum](#)

Brief Overview

Purpose: ICANN is posting today for public comment proposed amendments to the base [New gTLD Registry Agreement](#). Section 7.7(a) of the Registry Agreement provides a mechanism enabling ICANN or the Registries Stakeholder Group (RySG) to periodically initiate negotiations to discuss revisions to the Registry Agreement.

Current Status: As required by Section 7.7(b) of the Registry Agreement, ICANN engaged in a "Discussion Period" with the Working Group established by the RySG on the form and substance of mutually acceptable proposed contract amendments. The amendments, posted for comment today, are the result of several months of negotiations between the parties.

Next Steps: Following the conclusion of the public comment period, ICANN and the Working Group will consider the public comments, and submit the proposed final version of the amendments for Registry Operator approval (according to the process defined in Section 7.6) and approval by the ICANN Board of Directors. If these approvals are obtained, the amendment will become effective upon 60 days notice from ICANN to the Registry Operators.

Section I: Description, Explanation, and Purpose

ICANN is posting today for public comment proposed amendments to the base [New gTLD Registry Agreement](#). Section 7.7(a) of the Registry Agreement provides a mechanism enabling ICANN or the Registries Stakeholder Group (RySG) to periodically initiate negotiations to discuss revisions to the Registry Agreement. These negotiations may be initiated not more than once per year, and the first notice to initiate negotiations could not be submitted by either party prior to 1 July 2014.

On 16 July 2014, the RySG notified ICANN that it wished to negotiate proposed changes to the Registry Agreement.

As required by Section 7.7(b) of the Registry Agreement, ICANN engaged in a "Discussion Period" with the Working Group established by the RySG on the form and substance of proposed contract amendments that were submitted by the Working Group. The amendments, posted for comment today, are the result of several months of negotiations between the parties on mutually agreeable text of the proposed amendments.

Please refer to the [global amendment](#) [PDF, 238 KB], [redline document](#) [PDF, 563 KB] and the [summary of changes](#) [PDF, 242 KB] showing how the proposed amendments will revise the Registry Agreement. Note the final amendment will only contain the amendment provisions and will not restate the entire Registry Agreement. The attached redline is being provided for reference purposes only.

The Registry Agreement requires ICANN to publish the changes for comment for no less than 30 days and provide notice of the proposed revisions to all Applicable Registry Operators. In connection with initiating this public comment period, ICANN is also providing the required notice to all Registry Operators in satisfaction of such obligations. Following the conclusion of the public comment period, ICANN and the Working Group will consider the public comments, and submit the proposed final version of the amendments for Registry Operator approval (according to the process defined in Section 7.6) and approval by the ICANN Board of Directors. If these approvals are obtained, the amendment will become effective upon 60 days notice from ICANN to the Registry Operators.

Section II: Background

The base New gTLD Registry Agreement, which was originally approved and published on 2 July 2013, was updated to its latest version on 9 January 2014.

Section 7.7(a) of the Registry Agreement provides a mechanism enabling ICANN or the Registries Stakeholder Group (RySG) to periodically initiate negotiations to discuss revisions to the Registry Agreement. These negotiations may be initiated not more than once per year, and the first notice to initiate negotiations could not be submitted by either party prior to 1 July 2014.

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Section III: Relevant Resources

- [Approved base New gTLD Registry Agreement](#) (as updated on 9 January 2014)
- [Global Amendment to base New gTLD Registry Agreement](#) [PDF, 238 KB]
- [Cumulative redlines to base New gTLD Registry Agreement](#) [PDF, 563 KB]
- [Clean version of amended base New gTLD Registry Agreement](#) [PDF, 605 KB]
- [Summary of changes to base New gTLD Registry Agreement](#) [PDF, 242 KB]

Section IV: Additional Information

Section V: Reports

Staff Contact

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FINAL VERSION TO BE SUBMITTED IF RATIFIED



AL-ALAC-ST-071...6-01-01-EN.pdf

FINAL DRAFT VERSION TO BE VOTED UPON BY THE ALAC

The ALAC welcomes the opportunity to comment on the proposed amendments to the Base New gTLD Registry Agreement. While the ALAC is in agreement with the majority of the changes, there are strong concerns with several of the changes, and an equally strong concern regarding the overall process followed.

Fee Reduction Waiver at ICANN's Sole Discretion

Fee reductions may well be warranted in some situations, but they could significantly impact ICANN's revenue and have other significant effects as well. Such reductions must be subject to an ICANN Public Comment consultation and the non-contracted party comments addressing the public interest taken into account when making any decisions on such reductions.

ICANN Notification of Registration Fee Changes

ICANN must not remove the requirement to have registries report registration fee changes to ICANN and ICANN must track and publish such changes. Low registration fees have been linked to a variety of abuses including spam and phishing. With such fees tracked and published ICANN or others can potentially correlate them to reported abuses allowing ICANN to fulfill its essential role of ensuring the public interest associated with stewardship of the generic TLD namespace.

Dotless Domains

The reference to the prohibition on "dotless domains" immediately followed by the reference to the RSEP being used to gain permission to alter what a registry may do could be taken as implying that the use of dotless domains might be sanctioned through an RSEP. Any such implication must be removed.

Registry Agreement Modification Process

The ALAC understands that the process to amend the Registry Base Agreement is contractually an ICANN-Registry issue. However, the concept of this amendment process being initiated and carried out in secret for two years is counter to the ICANN principle of transparency. The original New gTLD Registry Agreement was crafted through a public process, and any amendment should be carried out in a similar fashion. The overall ICANN community should have been aware of the process from the start and been given periodic updates on the issues being presented by both sides. This is comparable to how the last RAA amendment was carried out, even if that process too was too "in camera". While the ALAC disputes the opinion of some parties that not all stakeholders should be present at the negotiating table, not even making the existence of discussions or the list of issues to be addressed public is not acceptable.

FIRST DRAFT SUBMITTED

The first draft submitted will be placed here before the call for comments begins.