

21 June 2015 NGPC Agenda

Consent Agenda

- 1. Approval of Minutes**

Main Agenda

- 1. Category 2 Exclusive Access**
- 2. .DOCTOR**
- 3. Phasing out of NGPC**
- 4. Briefing on 2-letter and country/territory names at the second level**
- 5. Update on Salesforce issue**
- 6. AOB**

PROPOSED RESOLUTION (*Option A – No Exclusive generics this round; GNSO to consider policy work for the next round*):

Resolution Text Superseded by NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a>

Resolution Text Superseded by NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a>

PROPOSED RATIONALE (*Option A – No Exclusive generics this round; GNSO to consider policy work for the next round*):

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02:
<https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

PROPOSED RESOLUTION (*Option B – Exclusive generics might be permitted in this round, pending community process to develop mechanism to evaluate public interest goals*):

Resolution Text Superseded by NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a>

Resolution Text Superseded by NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a>

PROPOSED RESOLUTION (*Option B – Exclusive generics might be permitted in this round, pending community process to develop mechanism to evaluate public interest goals*):

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02:
<https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

Rationale Text Superseded by Rationale to NGPC Resolution 2015.06.21.NG02:
<https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a.rationale>

ICANN NGPC PAPER NO. 2015.06.21.NG2c

TITLE: Phasing Out New gTLD Program Committee

PROPOSED ACTION: For Discussion

EXECUTIVE SUMMARY:

The purpose of the NGPC is to make strategic and financial decisions relating to ICANN's New generic Top-Level Domain Program (the "New gTLD Program") for the current round of the Program and as related to the Applicant Guidebook. This briefing provides a summary of the remaining New gTLD Program matters that may require action by the NGPC as it considers plans to phase out as a Board Committee. The attached chart summarizes the current status of the following: (1) New gTLD Program matters that are currently being considered by the NGPC, (2) potential New gTLD Program matters that may require action by the NGPC in the near future, and (3) New gTLD matters that are the subject of accountability mechanisms. The chart also provides a target timeline for resolving the identified matters. It is anticipated that by ICANN 54, the only remaining open issues will be the matters that are the subject of accountability mechanisms, and possibly the protections afforded to IGOs and the Red Cross/Red Crescent.

Additional Background

On 10 April 2012, the Board established the NGPC, comprised of all voting members of the Board that are not conflicted with respect to the New gTLD Program. The Committee was granted all of the powers of the Board (subject to the limitations set forth by law, the Articles of Incorporation, Bylaws or ICANN's Conflicts of Interest Policy) to exercise Board-level authority for any and all issues that may arise relating to the New gTLD Program. The full scope of the Committee's authority is set forth in its charter at <http://www.icann.org/en/groups/board/new-gTLD>.

STAFF RECOMMENDATION:

This paper is provided for discussion. As part of its discussion, staff recommends that the NGPC consider phasing out the NGPC during ICANN 54, and referring any remaining open matters to the Board for further resolution.

Signature Block:

Submitted by: Jamie Hedlund

Position: Vice President, Strategic Programs, Global Domains Division

Date Noted: 18 June 2015

Email: jamie.hedlund@icann.org

Pages 15/37 – 24/37 removed.
Privileged and Confidential.

ICANN NGPC PAPER NO. 2015.06.05.NG2a

TITLE: **Implementation of GAC Advice Regarding
.DOCTOR**

PROPOSED ACTION: **For Discussion**

EXECUTIVE SUMMARY:

At its 6 May 2015 meeting, the Board Governance Committee (BGC) recommend that “the NGPC again review the proposed implementation of a public interest commitment for the .DOCTOR TLD, and to re-evaluate the NGPC’s 12 February 2015 determination.” The BGC’s recommendation was in response to [Reconsideration Request 15-3](#) filed by Brice Trail, LLC (an entity related to Donuts Inc.) – one of the contending applicants for the .DOCTOR TLD. Brice Trail’s Reconsideration Request challenges staff and NGPC actions relating to the implementation of the GAC’s Buenos Aires advice about .DOCTOR. In the [Buenos Aires Communiqué](#) (20 November 2013), the GAC [advised](#) the Board to “re-categorize the string .doctor as falling within Category 1 safeguard advice addressing highly regulated sectors, therefore ascribing these domains exclusively to legitimate medical practitioners. The GAC notes the strong implications for consumer protection and consumer trust, and the need for proper medical ethical standards, demanded by the medical field online to be fully respected.”

On 5 February 2014, the NGPC addressed the GAC’s advice in an iteration of the [Scorecard](#) stating: “With respect to the additional advice in the Buenos Aires Communiqué on the Category 1 Safeguards, the NGPC accepts the advice to re-categorize the string .doctor as falling within Category 1 safeguard advice addressing highly regulated sectors and ensure that the domains in the .doctor TLD are ascribed exclusively to legitimate medical practitioners.”

To implement the NGPC’s 5 February 2014 action in the Scorecard, staff informed the three applicants for the .DOCTOR TLD that in addition to the eight PICs for “highly regulated” TLDs, an additional PIC would be required for the .DOCTOR Registry Agreement to ensure that domains in the TLD are ascribed exclusively to legitimate

medical practitioners. (The [Reference Materials](#) provide additional background on the GAC’s advice regarding .DOCTOR and the NGPC and staff actions to implement the advice.)

Brice Trail asserts that the implementation of the GAC’s advice will unfairly limit registrations in the TLD to “legitimate medical practitioners” at the exclusion of other potential registrants of .DOCTOR domains – such as professors, doctors of law and other credentialed parties, those who perform repairs or have “doctor” in their business name (e.g., “Rug Doctor,” “Computer Doctor”) and directories, review sites, commentators and services that provide information about medical and other types of doctors. Brice Trail contends that implementation of the GAC’s advice singles out the .DOCTOR TLD for treatment widely disparate from that given all other similarly situated TLDs, and severely limits expressive activity in the TLD, which has no historical precedent or basis. Moreover, Brice Trail argues that the staff and NGPC actions violate ICANN policy and GAC advice against discrimination.

This briefing provides some potential options for the NGPC to consider as it takes up the BGC recommendation to again review the proposed implementation of a public interest commitment for the .DOCTOR TLD, and to re-evaluate its 12 February 2015 determination.

- Option 1: The NGPC may wish to address the BGC’s recommendation by requiring that the Registry Agreement for the .DOCTOR TLD exclude the proposed PIC drafted to ensure that domains in the TLD are ascribed exclusively to legitimate medical practitioners. If this option is selected, the .DOCTOR Registry Agreement would include the eight Category 1 PICs required for strings associated with highly regulated industries or industries having closed entry requirements in multiple jurisdictions. (The [Reference Materials](#) include the eight Category 1 PICs that would be included in the .DOCTOR Registry Agreement if this option is selected.) This option would be consistent with the NGPC’s treatment of other strings designated as “highly regulated”, such as .ATTORNEY, .BANK, and .PHARMACY. One disadvantage of this option is that it may be

viewed as inconsistent with or disregarding the portion of the GAC’s Buenos Aires advice about “ascribing [the .DOCTOR] domains *exclusively* to legitimate medical practitioners.” (Emphasis added.)

- Option 2: The NGPC may wish to consider the suggestion made by Brice Trail in its Reconsideration Request about how to implement the GAC’s advice. Brice Trail asks the NGPC to consider a “compromise solution, namely to require a registrant to demonstrate ‘legitimate medical practitioner’ status only if the registrant holds itself out as a medical practitioner. An obstetrician applying for OBSTRETICS.DOCTOR, for example, would have to demonstrate his or her qualification to practice medicine.” Brice Trail notes that the benefit of this solution is that it “would help protect against abuse of medical uses of the domain by non-practitioners (the very conduct the GAC seeks to prevent), and at the same time avoid potential discrimination against other legitimate, nonmedical uses of the domain (conduct also opposed by the GAC).”

The downside to this proposed solution is that it may be seen to merely reiterate what is already required by one of the eight Category 1 PICs: *Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring a representation that the registrant possesses any necessary authorizations, charters, licenses and/or other related credentials for participation in the sector associated with the TLD.*

- Option 3: The NGPC may wish to direct staff to continue with the current approach of requiring the addition of a PIC in the .DOCTOR Registry Agreement restricting the TLD to legitimate medical practitioners.

STAFF RECOMMENDATION:

There is no staff recommendation at this time.

Signature Block:

Submitted by: Akram Atallah

Position: President, Global Domains Division

Date Noted: 27 May 2015

Email: akram.atallah@icann.org

REFERENCE MATERIALS EXH A – NGPC PAPER NO. 2015.06.05.NG2a

TITLE: Implementation of GAC Advice Regarding .DOCTOR

This document provides an overview of the background facts regarding the GAC’s advice concerning .DOCTOR and the NGPC’s response to the advice.

1. .DOCTOR was included as one of the [Category 1 strings](#) requiring additional safeguards in the GAC’s [Beijing Communiqué](#) (11 April 2013).
2. ICANN initiated a public comment period (23 April 2013) to solicit input on how the NGPC should address the GAC’s safeguard advice in the Beijing Communiqué.
3. On 29 October 2013, the NGPC sent a [letter](#) to the GAC about its proposed implementation of the Category 1 Safeguard advice in the Beijing Communiqué.
 - a. The NGPC proposed to modify the text of the Category 1 Safeguards as appropriate to meet the spirit and intent of the advice in a manner that allowed the requirements to be implemented as Public Interest Commitments (PICs) in Specification 11 of the New gTLD Registry Agreement.
 - b. The NGPC also proposed to distinguish the list of strings between those that the NGPC considered to be associated with market sectors or industries that have highly-regulated entry requirements in multiple jurisdictions, and those that do not. The Category 1 Safeguards in the PIC would apply to the TLDs based on how the TLD string was categorized (i.e. the highly-regulated TLDs would have 8 additional PICs, and the others would have 3 additional PICs). A copy of the PICs is included in the Reference Materials.

- c. In the October 2013 proposal, .DOCTOR was not proposed to be classified as “highly-regulated,” and thus it would be required to have 3 additional PICs in its Registry Agreement.
4. In the GAC’s [Buenos Aires Communiqué](#) (20 November 2013), the GAC [advised](#) the Board “to re-categorize the string .doctor as falling within Category 1 safeguard advice addressing highly regulated sectors, *therefore ascribing these domains exclusively to legitimate medical practitioners*. The GAC notes the strong implications for consumer protection and consumer trust, and the need for proper medical ethical standards, demanded by the medical field online to be fully respected.” (Emphasis added.)
5. The NGPC considered the GAC’s Buenos Aires advice, and in the iteration of the [Scorecard from 5 February 2014](#), the NGPC:
 - a. adopted the proposed [implementation](#) of Category 1 Safeguards that was sent to the GAC in October 2013; and
 - b. accepted the GAC’s Buenos Aires advice to reclassify .DOCTOR to highly-regulated so that it would be required to have the 8 additional PICs, and to “**ensure that domains in the TLD are restricted to legitimate medical practitioners.**” (Emphasis added.)
6. In January 2015, staff contacted the three contending .DOCTOR applicants in advance of the “private auction,” which was scheduled for late January 2015. To implement the NGPC’s action regarding .DOCTOR, staff informed the applicants that in addition to the standard eight PICs for Category 1 strings in the highly-regulated category, an additional PIC would be required to ensure that domains would be restricted to legitimate medical practitioners. The additional PIC would read as follows: “Registry Operator will ensure that the domains in the TLD are ascribed exclusively to legitimate medical practitioners.”
7. On 21 January 2015, Donuts sent an email to the CEO and some members of the NGPC raising concerns that the PIC developed by staff for .DOCTOR goes

beyond what the NGPC action called for in its 5 February 2014 Scorecard/resolution. The email stated that .DOCTOR is being singled out for disparate treatment far beyond that of any other highly sensitive TLD. The NGPC discussed the email from Donuts at its [12 February 2015 meeting](#), and after discussion, the sense of the NGPC was for staff to continue to move forward with implementation of the NGPC's 5 February 2014 resolution on the matter.

8. On 12 March 2015, Brice Trail filed Reconsideration Request 15-3.

REFERENCE MATERIALS EXH B - NGPCPAPER NO. 2015.06.05.NG2a

**TITLE: Implementation of GAC Advice Regarding
.DOCTOR**

This document provides the additional eight Public Interest Commitments (PICs) that are required to be included in Registry Agreements for [identified strings](#) associated with highly regulated industries or industries having closed entry requirements in multiple jurisdictions.

1. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.
4. Registry Operators will proactively create a clear pathway for the creation of a working relationship with the relevant regulatory or industry self-regulatory bodies by publicizing a point of contact and inviting such bodies to establish a channel of communication, including for the purpose of facilitating the development of a strategy to mitigate the risks of fraudulent and other illegal activities.
5. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a

- provision requiring registrants to provide administrative contact information, which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.
6. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring a representation that the registrant possesses any necessary authorizations, charters, licenses and/or other related credentials for participation in the sector associated with the TLD.
 7. If a Registry Operator receives a complaint expressing doubt with regard to the authenticity of licenses or credentials, Registry Operators should consult with relevant national supervisory authorities, or their equivalents regarding the authenticity.
 8. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring registrants to report any material changes to the validity of the registrants' authorizations, charters, licenses and/or other related credentials for participation in the sector associated with the TLD in order to ensure they continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.



Proposed New gTLD Program Committee Resolutions
21 June 2015
Meeting of the New gTLD Program Committee

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1. Consent Agenda:

a. Approval of Minutes

Resolved (2015.06.21.NGxx), the Board New gTLD Program Committee (NGPC) approves the minutes of its 1 April 2015 and 25 April 2015 meetings.

New gTLD Program Committee Members,

Attached below please find Notice of the following New gTLD Program Committee Meeting:

21 June 2015 – NGPC Meeting at 13:15 UTC (10:15am-12:00pm in Buenos Aires). This Committee meeting is estimated to last 1 hour 45 minutes.

Some other helpful time zones:

5 June 2015 – 6:15 a.m. PDT Los Angeles

5 June 2015 – 9:15 a.m. EDT Washington, D.C.

5 June 2015 – 3:15 p.m. CEST Brussels

5 June 2015 – 9:15 p.m. CST Taipei

5 June 2015 – 11:15 p.m. AEST Sydney

Consent Agenda

- 1. Approval of Minutes**

Main Agenda

- 1. Category 2 Exclusive Access**
- 2. .DOCTOR**
- 3. Phasing out of NGPC**
- 4. Briefing on 2-letter and country/territory names at the second level – committee update, to be followed by full board briefing likely on 21 June during the AOB portion of ICANN Board Meeting**
- 5. Update on Salesforce issue**
- 6. AOB**

Materials can be found [HERE on BoardVantage](#).

If you have trouble with access, please let us know and we will work with you to assure that you can use the BoardVantage Portal for this meeting.

If call information is required, it will be distributed separately.

If you have any questions, or we can be of assistance to you, please let us know.

John Jeffrey
General Counsel & Secretary, ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, California 90094-2536