22 OCTOBER 2015 BOARD MEETING
Board Papers

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AGENDA – 22 OCTOBER 2015 REGULAR BOARD Meeting – 60 minutes

Last Updated 12 October

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20 min	1.a. Approval of Minutes from 28 September 2015	Steve Crocker
	1.b. Delegation of IDN ccTLD ελ representing Greece in Greek script	Kuo-Wei Wu
	1.c. Delegation of IDN ccTLD عراق representing Iraq in Arabic script	Kuo-Wei Wu
	1.d. GNSO gTLD Registries Stakeholder Group Charter Amendments (2015)	Rinalia Abdul Rahim
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AGENDA – 22 OCTOBER 2015 REGULAR BOARD Meeting – 60 minutes

Last Updated 12 October

Time, etc.	Agenda Item	Shepherd
	1.f. Thank You to Community Members *(to be formally recognized and called to stage prior to start of public forum – no need to re-read all of the names during public board meeting)*	Steve Crocker
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AGENDA – 22 OCTOBER 2015 REGULAR BOARD Meeting – 60 minutes

Last Updated 12 October

Time, etc.	Agenda Item	Shepherd
Discussion & Decision (cont'd)	2.c. Thank You to Wolfgang Kleinwächter for his service to the ICANN Board	Steve Crocker
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ICANN BOARD PAPER NO. 2015.10.22.1b

TITLE:	Delegation of the ελ ("el") top-level domain representing Greece in Greek script to ICS-FORTH GR
PROPOSED ACTION:	For Board Approval
IANA REFERENCE:	827727

EXECUTIVE SUMMARY:

As part of ICANN's responsibilities under the IANA Functions Contract, ICANN has prepared a recommendation to authorize the delegation of the country-code top-level domain ελ ("el"), comprised of the IDN ccTLD Fast Track approved string representing Greece, to ICS-FORTH GR .

Sensitive Delegation Information

PROPOSED RESOLUTION:

Resolved (2015.10.22.xx), as part of the exercise of its responsibilities under the IANA Functions Contract, ICANN has reviewed and evaluated the request to delegate the ελ country-code top-level domain to ICS-FORTH GR. The documentation demonstrates that the proper procedures were followed in evaluating the request.

Resolved (2015.10.22.xx), the Board directs that pursuant to Article III, Section 5.2 of the ICANN Bylaws, that certain portions of the rationale not appropriate for public distribution within the resolutions, preliminary report or minutes at this time due to contractual obligations, shall be withheld until public release is allowed pursuant to those contractual obligations.

PROPOSED RATIONALE:

Why the Board is addressing the issue now?

In accordance with the IANA Functions Contract, the ICANN staff has evaluated a request for ccTLD delegation and is presenting its report to the Board for review. This review by the Board is intended to ensure that ICANN staff has followed the proper procedures.
By way of background, the ελ ("el") string was able to proceed to the IANA delegation step following its completion of the IDN ccTLD Fast Track Process. The string was initially rejected by the IDN ccTLD Fast Track DNS Stability Panel based on possible string similarity concerns between the candidate string and entries on the ISO 3166-1 list. However, in October 2014, a second review panel called the Extended Process Similarity Review Panel (EPSRP) found that "the candidate string is not confusingly similar to any ISO 3166-1 entries". The EPRSP report is available at: https://www.icann.org/en/system/files/files/epsrp-greece-30sep14-en.pdf. The EPSRP findings allowed the string to successfully complete the IDN ccTLD Fast Track string evaluation process and proceed to the IANA delegation process.

What is the proposal being considered?

The proposal is to approve a request to IANA to create the country-code top-level domain and assign the role of sponsoring organization (also known as the manager or trustee) to ICS-FORTH GR.

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant and other interested parties. As part of the application process, the applicant needs to describe consultations that were performed within the country concerning the ccTLD, and their applicability to their local Internet community.

What concerns or issues were raised by the community?

Staff are not aware of any significant issues or concerns raised by the community in relation to this request.

What significant materials did the Board review?

The Board reviewed the following IANA staff evaluations:

- The domain is eligible for delegation, as it is a string that has been approved by the IDN ccTLD Fast Track process, and represents a country that is listed in the ISO 3166-1 standard;
- The relevant government has been consulted and does not object;
- The proposed sponsoring organization and its contacts agree to their responsibilities for managing this domain;
- The proposal has demonstrated appropriate local Internet community consultation and support;
- The proposal does not contravene any known laws or regulations;
- The proposal ensures the domain is managed locally in the country, and is bound under local law;
- The proposed sponsoring organisation has confirmed they will manage the domain in a fair and equitable manner;
- The proposed sponsoring organisation has demonstrated appropriate operational and technical skills and plans to operate the domain;
- The proposed technical configuration meets IANA's various technical conformance requirements;
- No specific risks or concerns relating to Internet stability have been identified; and
- Staff have provided a recommendation that this request be implemented based on the factors considered.

These evaluations are responsive to the appropriate criteria and policy frameworks, such as

"Domain Name System Structure and Delegation" (RFC 1591) and "GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains". As part of the process established by the IANA Functions Contract, the "Delegation and Redelegation Report" will be published at http://www.iana.org/reports.

What factors the Board found to be significant?

The Board did not identify any specific factors of concern with this request.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, the local communities to which country- code top-level domains are designated to serve, and responsive to ICANN's obligations under the IANA Functions Contract.

Are there financial impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the financial impact of the internal operations of country-code top-level domains within a country.

Are there any security, stability or resiliency issues relating to the DNS?

ICANN does not believe this request poses any notable risks to security, stability or resiliency. This is an Organizational Administrative Function not requiring public comment.

SIGNATURE BLOCK:

Submitted by:	Naela Sarras
Position:	IANA Services Manager
Date Noted:	12 October 2015
Email:	naela.sarras@icann.org

EXHIBIT A TO ICANN BOARD SUBMISSION NO. 2015.10.22.1b

Report on the Delegation of the ελ ("el") domain representing Greece in Greek script to ICS-FORTH GR

5 October 2015

This report is being provided under the contract for performance of the Internet Assigned Numbers Authority (IANA) function between the United States Government and the Internet Corporation for Assigned Names and Numbers (ICANN). Under that contract, ICANN performs the "IANA functions", which include receiving delegation and redelegation requests concerning TLDs, investigating the circumstances pertinent to those requests, making its recommendations, and reporting actions undertaken in connection with processing such requests.

FACTUAL INFORMATION

Country

The "GR" ISO 3166-1 code from which the application's eligibility derives, is designated for use to represent Greece.

String

The domain under consideration for delegation at the DNS root level is "ελ". This is represented in ASCII-compatible encoding according to the IDNA specification as "xn--qxam". The individual Unicode code points that comprise this string are U+03B5 U+03BB.

In Greek, the string has a transliteration equivalent to "el" in English. The string is expressed using the Greek script.

Chronology of events

In 1987, The Institute of Computer Science (ICS-FORTH GR) was established by Presidential Decree 432 as a non-profit organization. It is one of the six institutes of the Foundation for Research and Technology - Hellas (FORTH) and is supervised by the Hellenic Ministry of Culture, Education and Religious Affairs.

ICS-FORTH GR has operated the .GR ccTLD since 1989.

In June 2005, the Greek government organized an event for the Greek Internet community, namely registrars; service provides and end users to discuss the proposed implementation of Greek domain names. This event was also used to survey participants about their preference for the Greek ccTLD IDN label.

Several events took place in the following years involving the Greek government, the Regulator (Hellenic Telecommunications and Post Commission - EETT) and the .GR registry operator to facilitate the process for Greek IDN ccTLD fast track application.

In 2010, an application was made to the "IDN Fast Track" process to have the string "ελ" recognized as representing Greece.

The string was initially rejected by the IDN ccTLD Fast Track DNS Stability Panel. However, in October 2014, a second review panel called the Extended Process Similarity Review Panel (EPSRP) found that "the candidate string is not confusingly similar to any ISO 3166-1 entries".

On 4 May 2015, ICANN announced that the proposed IDN ccTLD string for Greece successfully passed the string evaluation.

On 9 June 2015, ICS-FORTH GR commenced a request to ICANN for delegation of "ελ" as a top-level domain.

Proposed Sponsoring Organisation and Contacts

The proposed sponsoring organisation is ICS-FORTH GR, an entity established in 1987 by Presidential Decree 432 as a non-profit research organization.

The proposed administrative and technical contact is Vaggelis Segredakis, Administrator of the .GR Top Level Domain at ICS-FORTH GR. He is understood to be based in Greece.

EVALUATION OF THE REQUEST

String Eligibility

The top-level domain is eligible for delegation under ICANN policy, as the string has been deemed an appropriate representation of Greece through the ICANN Fast Track String Selection process, and Greece is presently listed in the ISO 3166-1 standard.

Public Interest

Explicit government support for the application was provided in a letter signed by George Anastasopoulos, Secretary General for Communications, Ministry of Transport & Communications of Greece.

Under Greek law, the telecommunications sector Regulator (the Hellenic Telecommunications and Post Commission - EETT) is "the responsible authority for the regulation of issues of the domain names under .gr and under any other domain or subdomain is assigned to Greece." The Regulatory (EETT) assigns the operator of the registry through a public tender process every five years. ICS-FORTH-GR was the winner of the last public tender. As such ICS-FORTH-GR continues to be the

registry operator and technical coordinator of ".gr" and will have the same role for ".ελ".

As several years passed since the start of the “DN Fast Track” process to have the string “ελ” recognized as representing Greece, the Greek representative to the ICANN Governmental Advisory Committee (GAC) confirmed that all the Government and all community support for the Greek IDN ccTLD are still valid.

The application is consistent with known applicable local laws in Greece. The proposed sponsoring organisation undertakes to operate the domain in a fair and equitable manner.

Based in country

The proposed sponsoring organisation is constituted in Greece. The proposed administrative contact is understood to be resident in Greece. The registry is to be operated in the country.

Stability

The application does not involve a transfer of domain operations from an existing domain registry, and therefore stability aspects relating to registry transfer have not been evaluated.

The application is not known to be contested.

Competency

The application has provided information on the technical and operational infrastructure and expertise that will be used to operate the proposed new domain. The proposed operator is the current manager of .GR country-code top-level domain for Greece.

The proposed operator is selected through a public tender process. The operator has to meet the legal and technical requirements according to the specifications of the tender. The Regulator (EETT) issues the "Regulation on Management and Assignment of .GR domain names", which describes the procedures, tasks and responsibilities of the operator.

Proposed policies for management of the domain have also been tendered.

EVALUATION PROCEDURE

ICANN is tasked with coordinating the Domain Name System root zone as part of a set of functions governed by a contract with the U.S. Government. This includes accepting and evaluating requests for delegation and redelegation of top-level domains.

A subset of top-level domains are designated for the local Internet communities in countries to operate in a way that best suits their local needs. These are known as country-code top-level domains (ccTLDs), and are assigned by ICANN to responsible

trustees (known as “Sponsoring Organisations”) that meet a number of public-interest criteria for eligibility. These criteria largely relate to the level of support the trustee has from its local Internet community, its capacity to ensure stable operation of the domain, and its applicability under any relevant local laws.

Through ICANN’s IANA department, requests are received for delegating new ccTLDs, and redelegating or revoking existing ccTLDs. An investigation is performed on the circumstances pertinent to those requests, and, when appropriate, the requests are implemented and a recommendation for delegation or redelegation is made to the U.S. National Telecommunications and Information Administration (NTIA).

Purpose of evaluations

The evaluation of eligibility for ccTLDs, and of evaluating responsible trustees charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet’s unique identifier systems.

In considering requests to delegate or redelegate ccTLDs, input is sought regarding the proposed new Sponsoring Organisation, as well as from persons and organisations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated.

The assessment is focused on the capacity for the proposed sponsoring organisation to meet the following criteria:

- The domain should be operated within the country, including having its sponsoring organisation and administrative contact based in the country.

- The domain should be operated in a way that is fair and equitable to all groups in the local Internet community.

- Significantly interested parties in the domain should agree that the prospective trustee is the appropriate party to be responsible for the domain, with the desires of the national government taken very seriously.

- The domain must be operated competently, both technically and operationally. Management of the domain should adhere to relevant technical standards and community best practices.

- Risks to the stability of the Internet addressing system must be adequately considered and addressed, particularly with regard to how existing identifiers will continue to function.

Method of evaluation

To assess these criteria, information is requested from the applicant regarding the proposed sponsoring organisation and method of operation. In summary, a request

template is sought specifying the exact details of the delegation being sought in the root zone. In addition, various documentation is sought describing: the views of the local internet community on the application; the competencies and skills of the trustee to operate the domain; the legal authenticity, status and character of the proposed trustee; and the nature of government support fort he proposal. The view of any current trustee is obtained, and in the event of a redelegation, the transfer plan from the previous sponsoring organisation to the new sponsoring organisation is also assessed with a view to ensuring ongoing stable operation of the domain.

After receiving this documentation and input, it is analysed in relation to existing root zone management procedures, seeking input from parties both related to as well as independent of the proposed sponsoring organisation should the information provided in the original application be deficient. The applicant is given the opportunity to cure any deficiencies before a final assessment is made.

Once all the documentation has been received, various technical checks are performed on the proposed sponsoring organisation's DNS infrastructure to ensure name servers are properly configured and are able to respond to queries correctly. Should any anomalies be detected, ICANN staff will work with the applicant to address the issues.

Assuming all issues are resolved, an assessment is compiled providing all relevant details regarding the proposed sponsoring organisation and its suitability to operate the relevant top-level domain.

ICANN BOARD PAPER NO. 2015.10.22.1c

TITLE:	Delegation of عراق (“Iraq”) top-level domain representing Iraq in Arabic script to Communications and Media Commission (CMC)
PROPOSED ACTION:	For Board Consideration on Consent Agenda
IANA REFERENCE:	839263

EXECUTIVE SUMMARY:

As part of ICANN’s responsibilities under the IANA Functions Contract, ICANN has prepared a recommendation to authorize the delegation of the country-code top-level domain عراق (“Iraq”), comprised of the IDN ccTLD Fast Track approved string representing Iraq, to Communications and Media Commission (CMC).

Sensitive Delegation Information

PROPOSED RESOLUTION:

Resolved (2015.10.22.xx), as part of the exercise of its responsibilities under the IANA Functions Contract, ICANN has reviewed and evaluated the request to delegate the عراق country-code top-level domain to Communications and Media Commission (CMC). The documentation demonstrates that the proper procedures were followed in evaluating the request.

Resolved (2015.10.22.xx), the Board directs that pursuant to Article III, Section 5.2 of the ICANN Bylaws, that certain portions of the rationale not appropriate for public distribution within the resolutions, preliminary report or minutes at this time due to contractual obligations, shall be withheld until public release is allowed pursuant to those contractual obligations.

PROPOSED RATIONALE:

Why the Board is addressing the issue now?

In accordance with the IANA Functions Contract, the ICANN staff has evaluated a request for ccTLD delegation and is presenting its report to the Board for review. This review by the Board is intended to ensure that ICANN staff has followed the proper procedures.

What is the proposal being considered?

The proposal is to approve a request to IANA to create the country-code top-level domain and assign the role of sponsoring organization (also known as the manager or trustee) to Communications and Media Commission (CMC).

Which stakeholders or others were consulted?

In the course of evaluating a delegation application, ICANN staff consults with the applicant and other interested parties. As part of the application process, the applicant needs to describe consultations that were performed within the country concerning the ccTLD, and their applicability to their local Internet community.

What concerns or issues were raised by the community?

Staff are not aware of any significant issues or concerns raised by the community in relation to this request.

What significant materials did the Board review?

The Board reviewed the following IANA staff evaluations:

- The domain is eligible for delegation, as it is a string that has been approved by the IDN ccTLD Fast Track process, and represents a country that is listed in the ISO 3166-1 standard;
- The relevant government has been consulted and does not object; • The proposed sponsoring organization and its contacts agree to their responsibilities for managing this domain;
- The proposal has demonstrated appropriate local Internet community consultation and support;
- The proposal does not contravene any known laws or regulations;
- The proposal ensures the domain is managed locally in the country, and is bound under local law;
- The proposed sponsoring organisation has confirmed they will manage the domain in a fair and equitable manner;
- The proposed sponsoring organisation has demonstrated appropriate operational and technical skills and plans to operate the domain;
- The proposed technical configuration meets IANA's various technical conformance requirements;
- No specific risks or concerns relating to Internet stability have been identified; and
- Staff have provided a recommendation that this request be implemented based on the factors considered.

These evaluations are responsive to the appropriate criteria and policy frameworks, such as "Domain Name System Structure and Delegation" (RFC 1591) and "GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains".

As part of the process established by the IANA Functions Contract, the "Delegation and Redelegation Report" will be published at http://www.iana.org/reports.

What factors the Board found to be significant?

The Board did not identify any specific factors of concern with this request.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, the local communities to which country- code top-level domains are designated to serve, and responsive to ICANN's obligations under the IANA Functions Contract.

Are there financial impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the financial impact of the internal operations of country-code top-level domains within a country.

Are there any security, stability or resiliency issues relating to the DNS?

ICANN does not believe this request poses any notable risks to security, stability or resiliency. This is an Organizational Administrative Function not requiring public comment.

SIGNATURE BLOCK:

Submitted by:	Naela Sarras
Position:	IANA Services Manager
Date Noted:	5 October 2015
Email:	naela.sarras@icann.org

EXHIBIT A TO ICANN BOARD SUBMISSION NO. 2015.10.22.1c

Report on the Delegation of the عراق ("Iraq") domain representing Iraq in Arabic script to Communications and Media Commission (CMC)

5 October 2015

This report is being provided under the contract for performance of the Internet Assigned Numbers Authority (IANA) function between the United States Government and the Internet Corporation for Assigned Names and Numbers (ICANN). Under that contract, ICANN performs the "functions", which include receiving delegation and redelegation requests concerning TLDs, investigating the circumstances pertinent to those requests, making its recommendations, and reporting actions undertaken in connection with processing such requests.

FACTUAL INFORMATION

Country

The "IQ" ISO 3166-1 code from which the application's eligibility derives, is designated for use to represent Iraq.

String

The domain under consideration for delegation at the DNS root level is "عراق". This is represented in ASCII-compatible encoding according to the IDNA specification as "xn--mgbtx2b". The individual Unicode code points that comprise this string are U+0639 U+0631 U+0627 U+0642.

In Arabic, the string has a transliteration equivalent to "Iraq" in English. The string is expressed using the Arabic script.

Chronology of events

On March 20, 2004, the National Communications and Media Commission (NCMC) was established by Coalition Provisional Authority Order No. 65, and later confirmed by the fully-sovereign Iraqi Interim and Transitional Governments, as the regulatory authority for all communications services, information services, and media services in Iraq.

On 29 July 2005, the .IQ country code top-level domain was redelegated from InfoCom Corp. to National Communications and Media Commission (NCMC).

In 2009, the .IQ record in the IANA WHOIS database was updated to reflect NCMC's name change to "Communications and Media Commission (CMC)". This change was in accordance with article 103 of the Iraqi Constitution.

On 27 November 2013 an application was made to the "IDN Fast Track" process to have the string "عراق" recognized as representing Iraq.

On 13 May 2014, a review by the IDN Fast Track DNS Stability Panel found that "the applied-for string ... presents none of the threats to the stability or security of the DNS identified in Module 4 of the Fast Track implementation plan, and presents an acceptably low risk of user confusion". The request for the string to represent Iraq was subsequently approved.

On 23 September 2014, ICANN announced that the proposed IDN ccTLD string for the Republic of Iraq successfully passed the string evaluation.

On 23 November 2014, Communications and Media Commission (CMC) commenced a request to ICANN for delegation of "عراق" as a top-level domain.

Proposed Sponsoring Organisation and Contacts

The proposed sponsoring organization is Communications and Media Commission (CMC), an entity established in 2004 as the regulatory authority for all communications services, information services, and media services in Iraq.

The proposed administrative and technical contact is Dr. Safaa al-Ddin Rabee, CEO of Communications and Media Commission (CMC). He is understood to be based in Iraq.

EVALUATION OF THE REQUEST

String Eligibility

The top-level domain is eligible for delegation under ICANN policy, as the string has been deemed an appropriate representation of Iraq through the ICANN Fast Track String Selection process, and Iraq is presently listed in the ISO 3166-1 standard.

Public Interest

Explicit government support for the application was provided in a letter signed by Dr. Torhan Mudher Al-Mufti, Minister of Communications, Republic of Iraq.

Additional support was provided by the following:

- Aljareed Electronic & I.T., a local provider of software and consulting solutions;
- Alkafeel Institute for Information Technology & Developing Skills;
- Asiacell, a local provider of mobile telecommunications services;

- EarthLink Telecommunications, a local Internet Service Provider (ISP);
- ScopeSky Communications, a local ISP;
- Zain Iraq, a local mobile and data services operator.

The application is consistent with known applicable local laws in Iraq. The proposed sponsoring organization undertakes to operate the domain in a fair and equitable manner.

Based in country

The proposed sponsoring organization is constituted in Iraq. The proposed administrative contact is understood to be resident in Iraq. The registry is to be operated in the country.

Stability

The application does not involve a transfer of domain operations from an existing domain registry, and therefore stability aspects relating to registry transfer have not been evaluated.

The application is not known to be contested.

Competency

The application has provided information on the technical and operational infrastructure and expertise that will be used to operate the proposed new domain. The proposed operator is the current manager of .IQ country-code top-level domain for Iraq.

Proposed policies for management of the domain have also been tendered.

EVALUATION PROCEDURE

ICANN is tasked with coordinating the Domain Name System root zone as part of a set of functions governed by a contract with the U.S. Government. This includes accepting and evaluating requests for delegation and redelegation of top-level domains.

A subset of top-level domains are designated for the local Internet communities in countries to operate in a way that best suits their local needs. These are known as country-code top-level domains (ccTLDs), and are assigned by ICANN to responsible trustees (known as “Sponsoring Organizations”) that meet a number of public-interest criteria for eligibility. These criteria largely relate to the level of support the trustee has from its local Internet community, its capacity to ensure stable operation of the domain, and its applicability under any relevant local laws.

Through ICANN’s IANA department, requests are received for delegating new ccTLDs, and redelegating or revoking existing ccTLDs. An investigation is performed on the circumstances pertinent to those requests, and, when appropriate, the requests are implemented and a recommendation for delegation or redelegation is made to the U.S.

National Telecommunications and Information Administration (NTIA).

Purpose of evaluations

The evaluation of eligibility for ccTLDs, and of evaluating responsible trustees charged with operating them, is guided by a number of principles. The objective of the assessment is that the action enhances the secure and stable operation of the Internet's unique identifier systems.

In considering requests to delegate or redelegate ccTLDs, input is sought regarding the proposed new Sponsoring Organization, as well as from persons and organizations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated.

The assessment is focused on the capacity for the proposed sponsoring organization to meet the following criteria:

- The domain should be operated within the country, including having its sponsoring organization and administrative contact based in the country.

- The domain should be operated in a way that is fair and equitable to all groups in the local Internet community.

- Significantly interested parties in the domain should agree that the prospective trustee is the appropriate party to be responsible for the domain, with the desires of the national government taken very seriously.

- The domain must be operated competently, both technically and operationally. Management of the domain should adhere to relevant technical standards and community best practices.

- Risks to the stability of the Internet addressing system must be adequately considered and addressed, particularly with regard to how existing identifiers will continue to function.

Method of evaluation

To assess these criteria, information is requested from the applicant regarding the proposed sponsoring organization and method of operation. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, various documentation is sought describing: the views of the local internet community on the application; the competencies and skills of the trustee to operate the domain; the legal authenticity, status and character of the proposed trustee; and the nature of government support fort he proposal. The view of any current trustee is obtained, and in the event of a redelegation, the transfer plan from the previous sponsoring organization to the new sponsoring organization is also assessed with a view to ensuring ongoing stable operation of the domain.

After receiving this documentation and input, it is analyzed in relation to existing root zone management procedures, seeking input from parties both related to as well as independent of the proposed sponsoring organization should the information provided in the original application be deficient. The applicant is given the opportunity to cure any deficiencies before a final assessment is made.

Once all the documentation has been received, various technical checks are performed on the proposed sponsoring organization's DNS infrastructure to ensure name servers are properly configured and are able to respond to queries correctly. Should any anomalies be detected, ICANN staff will work with the applicant to address the issues.

Assuming all issues are resolved, an assessment is compiled providing all relevant details regarding the proposed sponsoring organization and its suitability to operate the relevant top-level domain.

ICANN BOARD PAPER NO. 2015.10.22.1d

TITLE: **GNSO gTLD Registries Stakeholder Group Charter Amendments (2015)**

PROPOSED ACTION: **Adopt Resolution to Approve the Proposed gTLD Registries Stakeholder Group Charter Amendments**

EXECUTIVE SUMMARY:

The ICANN Bylaws (Article X, Section 5.3) state, "Each Stakeholder Group shall maintain recognition with the ICANN Board." To provide a methodology for compliance with that requirement, the ICANN Board approved (Sep 2013) a *Process For Amending GNSO Stakeholder Group and Constituency Charters (hereinafter "Process"),* which establishes four phases to be executed prior to formal adoption of changes to an organizational charter (see Reference Material).

Earlier this year, the gTLD Registries Stakeholder Group (RySG) of the GNSO approved amendments to its governing documents and availed itself of the *Process.* The Stakeholder Group has amended its existing Charter document to adjust to an evolving composition of membership and to enable it to more effectively undertake its policy development responsibilities. Among a number of amendments, the most substantial charter changes are in the following areas:

- Changes to the classifications of "active" and "inactive" RySG members;
- Adding the concept of "staggered" terms for RySG officers;
- Creation of a "Vice Chair of Policy" officer position;
- Creation of a "Vice Chair of Administration" officer position;
- Adjustments to the formula for calculating an RySG meeting quorum;
- Adding a new election nomination procedure; and
- Other minor format and non-substantive editorial changes.

A red-line formatted document of the proposed charter amendments and a copy of the Staff Summary Report summarizing community comments about the amendments accompany this paper.

COMMITTEE RECOMMENDATION:

The Organizational Effectiveness Committee (OEC)(formerly the Structural Improvements Committee) has (1) reviewed the charter amendments and evaluated their consistency with ICANN principles as well as potential fiscal concerns; (2) confirmed that all necessary steps

of the *Process* have been satisfied - including a Public Comment solicitation in which qualified community support for the amendments was expressed; and (3) adopted a formal OEC resolution recommending Board approval.

In addition to simply approving the amendments themselves, the OEC recommends additional language to be shared by the Board with the RySG as suggested by community commenters - encouraging the RySG to take a more holistic view of its governance document and examine additional issues raised by the commenters.

PROPOSED RESOLUTION:

Resolution Text Superseded

PROPOSED RATIONALE:

Why is the Board addressing this issue now?

ICANN Bylaws (Article X, Section 5.3) state, "Each Stakeholder Group shall maintain recognition with the ICANN Board." The Board has interpreted this language to require that the ICANN Board formally approve any amendments to the governing documents of

Stakeholder Groups (SG) and/or Constituencies in the Generic Names Supporting Organization (GNSO).

In September 2013, the Board established a *Process For Amending GNSO Stakeholder Group and Constituency Charters* (*Process*) to provide a streamlined methodology for compliance with the Bylaws requirement.

Earlier this year, the gTLD Registries Stakeholder Group (RySG) of the GNSO approved amendments to its governing documents and availed itself of the *Process.*

What are the proposals being considered?

The Stakeholder Group has amended its existing Charter document to adjust to an evolving composition of membership and to enable it to more effectively undertake its policy development responsibilities. Among a number of amendments, the most substantial charter changes are in the following areas:

- Changes to the classifications of ”active” and “inactive” RySG members;
- Adding the concept of “staggered” terms for RySG officers;
- Creation of a "Vice Chair of Policy” officer position;
- Creation of a “Vice Chair of Administration” officer position;
- Adjustments to the formula for calculating an RySG meeting quorum;
- Adding a new election nomination procedure; and
- Other minor format and non-substantive editorial changes.

What stakeholders or others were consulted?

The proposed amendments were subjected to a 40-day Public Comment period (8 May - 16 June 2015). When the period was completed staff produced a Summary Report for community review on 15 July 2015.

What significant materials did the Board review?

The Board reviewed a red-line formatted document of the proposed charter amendments and a copy of the Staff Summary Report summarizing community comments.

What factors did the Board find to be significant?

The GNSO Registries Stakeholder Group (RySG), ICANN Staff, and the Organizational Effectiveness Committee completed all steps identified in the *Process* including a

determination that the proposed charter amendments will not raise any fiscal or liability concerns for the ICANN organization and publication of the amendments for community review and comment.

Are there Positive or Negative Community Impacts?

The Stakeholder Group has amended its existing Charter document to adjust to an evolving composition of membership and to enable it to more effectively undertake its policy development responsibilities.

Are there fiscal impacts/ramifications on ICANN (Strategic Plan, Operating Plan, Budget); the community; and/or the public?

No.

Are there any Security, Stability or Resiliency issues relating to the DNS?

There is no anticipated impact from this decision on the security, stability and resiliency of the domain name system as a result of this decision.

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?

The proposed amendments were subjected to a 40-day Public Comment period (8 May - 16 June 2015).

SIGNATURE BLOCK:

Submitted by:	David Olive; Robert Hoggarth
Position:	Vice-President; Senior Director – Policy and Community Engagement
Date Noted:	7 October 2015
Email:	policy-staff@icann.org Contact Information Redacted

ICANN BOARD PAPER No. 2015.10.22.1e

TITLE: **Approval for Contracting and Disbursement for CRM Platform Enhancement**

PROPOSED ACTION: **For Board Approval**

EXECUTIVE SUMMARY:

ICANN has an established need to improve and enhance the customer relationship management (CRM) platform that was originally architected to support applicants in the New gTLD Program. The objective is to extend the current platform's capabilities to include a solid foundation that will support end-to-end interactions with registries, registrars, contractual compliance and all associated reporting and community-facing dashboards. Since the obligations under the vendor contract(s) will exceed US$500,000, this action requires Board approval (see https://www.icann.org/resources/pages/contracting-disbursement-policy-2015-08-25-en). Reference Materials to this paper summarize the steps taken to identify and select the recommended solution.

STAFF AND BOARD FINANCE COMMITTEE RECOMMENDATION *(subject to BFC recommendation*):

Both the staff and the Board Finance Committee recommend that the Board authorize the President and CEO, or his designee(s), to take all necessary actions to execute the contracts for improving and enhancing the CRM platform, as reflected in the Reference Materials to this Paper, and make all necessary disbursements pursuant to the contracts.

PROPOSED RESOLUTION:

Whereas, ICANN has been using a CRM platform that was architected in 2013 to specifically support applicant tracking and applications management for the New gTLD Program, on top of which an online portal to support registries was built.

Whereas, ICANN has identified the need to comprehensively support end-to-end interactions with contracted parties, from applicant tracking through all interactions with

registries and registrars, to contractual compliance and all associated reporting and community-facing dashboards.

Whereas, ICANN has determined to engage technical consultants from a vendor having the unique expertise, experience and knowledge, allowing ICANN to successfully improve and enhance its CRM platform.

Whereas, the Board Finance Committee (BFC) reviewed the financial implications of the project totalling Confidential Negotiation Information, of which Confidential Negotiation Information in FY16, described in the reference materials and has recommended approval by the Board.

Whereas, certain members of the Board Risk Committee have reviewed the suggested project solution and have provided guidance to staff on risks and useful mitigation actions.

Whereas, both the staff and the BFC have recommended that the Board authorize the President and CEO, or his designee(s), to take all actions necessary to execute the contract(s) needed to improve and enhance ICANN'S CRM platform as reflected in the Reference Materials to this Paper, and make all necessary disbursements pursuant to those contract(s).

Resolved (2015.10.22.xx), the Board authorizes the President and CEO, or his designee(s), the take all necessary actions to execute the contract(s) for the CRM platform project, as reflected in the Reference Materials to this Paper, and make all necessary disbursements pursuant to those contract(s).

Resolved (2015.10.22.xx), specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article III, section 5.2 of the ICANN Bylaws until the President and CEO determines that the confidential information may be released.

PROPOSED RATIONALE:

In 2013, ICANN developed the initial version of its Salesforce.com platform, or pilot CRM solution, to support the needs of the business operations of the New gTLD Program. In March of 2014, ICANN extended the functionality by building an online portal to support registries. It is expected that this solution will continue to achieve its goal and will continue to support processing all remaining new gTLD applications through 2017.

ICANN is planning to add significant value for its constituencies and is envisioning extending this platform to include capabilities for end-to-end interactions with contracted parties, from applicant tracking through all interactions with registries and registrars, to contractual compliance and all associated reporting and community-facing dashboards.

In support of extending the capabilities, the staff performed a thorough analysis of the current platform, including engaging a third party to independently assess the extensibility of the current design, and have concluded that a reformed design affords the opportunity to leverage lessons learned, out-of-the-box functionality (without significant programming and testing), and efficient, stable and mature business processes. Most importantly, it provides an opportunity to create a rock-solid foundation that is architected to be secure, scalable, extensible and aligned with the future goals and objectives of the business.

Building the improved and enhanced CRM platform foundation can be achieved with outside resources, inside resources, or a strategic combination of the two. Both business operations and IT believe that ICANN does not currently have the proper skill set in house to take on this project without assistance. Therefore, ICANN plans to engage expert technical consultants from a vendor for a period of nine to 12 months who have unique architecture skills and deep platform knowledge. The cost of the project is expected to be approximately Confidential Negotiation Information, inclusive of travel expenses, of which approximately Confidential Negotiation Information during FY16. Concurrently to the engagement with the expert consultants, ICANN plans to on-board an incremental four highly skilled technical staff members who will transition both the development efforts and on-going maintenance from the vendor to ICANN, in order to sustainably maintain and continuously enhance the platform. Working together

with the vendor's recommendation, the four roles are currently envisioned to include a Solution Architect, Senior Business Analyst, Senior Technical Developer and a Senior igurator. This will result in an incremental expense of approximately in FY17 and thereafter. This action does not have any direct impact on the security, stability or resiliency of the domain name system.

Confidential Negotiation Information

The obligation under the intended vendor contract will exceed US$500,000 and as such, entering into this engagement requires Board approval.

This is an Organizational Administrative function that does not require public comment.

Submitted by:	Ashwin Rangan
Position:	Chief Innovation and Information Officer
Date Noted:	12 October 2015
Email:	Ashwin.Rangan@icann.org

ICANN BOARD SUBMISSION NO. 2015.10.22.2a

(Subject to Board Governance Committee approval)

TO:	**ICANN Board**
TITLE:	**Decommissioning New gTLD Program Committee**
PROPOSED ACTION:	**For Resolution**

EXECUTIVE SUMMARY:

In order to have efficient meetings and take appropriate actions with respect to the New gTLD Program, on 10 April 2012, the Board took action to create the New gTLD Program Committee ("NGPC") in accordance with Article XII of the Bylaws. The Board delegated decision-making authority to the NGPC as it relates to the New gTLD Program for the current round of the Program, which commenced in January 2012, and for the related Applicant Guidebook that applies to this current round.

As part of its annual review of the Board's Standing Committees, the Board Governance Committee ("BGC") considered the necessity of maintaining the New gTLD Program Committee at its ___ October 2015 meeting and concluded that the reasons that led to the formation of the NGPC no longer exist as they did at formation. As established by the NGPC Charter, the NGPC is comprised of all of the voting Board directors who are not conflicted with respect to new gTLDs who the Board approves as Committee members. Additionally, all of the Board liaisons who are not conflicted with respect to new gTLDs may be approved by the Board to serve as liaisons to the NGPC. At this time, only two voting members of the Board are conflicted with respect to new gTLDs and as a result do not serve on the NGPC. Three of the four Board non-voting liaisons are conflicted and do not serve on the NGPC. Also, staff is at the tail end of implementing the current round of the New gTLD Program. All New gTLD Program processes have been exercised[1], and a majority of unique gTLD strings have been delegated or are near delegation.

[1] As of 31 July 2015, two of the seven major Program processes defined in the Applicant Guidebook are complete (i.e. Application Window and Application Evaluation), and two are

Accordingly, the BGC recommends to the Board that the New gTLD Program Committee be decommissioned.

BOARD GOVERNANCE COMMITTEE (BGC) RECOMMENDATION (Subject to BGC approval):

The BGC recommends that the Board decommission the New gTLD Program Committee.

PROPOSED RESOLUTION:

Whereas, in order to have efficient meetings and take appropriate actions with respect to the New gTLD Program, on 10 April 2012, the Board took action to create the New gTLD Program Committee ("NGPC") in accordance with Article XII of the Bylaws.

Whereas, the Board delegated decision-making authority to the NGPC as it relates to the New gTLD Program for the current round of the Program and for the related Applicant Guidebook that applies to this current round.

Whereas, the reasons that led to the formation of the ICANN Board New gTLD Program Committee ("NGPC") no longer exist as they did at formation.

Whereas, the Board Governance Committee ("BGC") has considered the necessity of maintaining the NGPC as a standing committee of the Board, and recommended that the Board decommission the NGPC.

Resolved (2015.10.22.xx), the ICANN Board New gTLD Program Committee is hereby decommissioned.

Resolved (2015.10.22.xx), the Board wishes to acknowledge and thank the NGPC Chair and all of its members for the considerable energy, time, and skills that members of the NGPC brought to the oversight of the 2012 round of the New gTLD Program.

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approximately 90% complete (i.e. Dispute Resolution and Contention Resolution). Contracting and Pre-Delegation Testing are well over halfway complete, while Delegation is approximately 52% complete.

PROPOSED RATIONALE:

Section 1, Article XII of the ICANN Bylaws provide that the Board may establish or eliminate Board committees, as the Board deems appropriate. (Bylaws, Art. XII, § 1.) The Board has delegated to the BGC the responsibility for periodically reviewing and recommending any charter adjustments to the charters of Board committees deemed advisable. (*See* BGC Charter at http://www.icann.org/en/committees/board-governance/charter.htm.)

In an effort to streamline operations and maximize efficiency, the BGC reviewed the necessity and appropriateness of moving forward with the current slate of standing Board committees. At the time of formation, the Board determined that establishing the New gTLD Program Committee ("NGPC") as a new committee without conflicted Board members, and delegating to it decision making authority, would provide some distinct advantages. First, it would eliminate any uncertainty for actual, potential or perceived conflicted Board members with respect to attendance at Board meetings and workshops since the New gTLD Program topics could be dealt with at the Committee level. Second, it would allow for actions to be taken without a meeting by the Committee. As the Board is aware, actions without a meeting cannot be taken unless done via electronic submission by unanimous consent; such unanimous consent cannot be achieved if just one Board member is conflicted. Third, it would provide the community with a transparent view into the Board's commitment to dealing with actual, potential or perceived conflicts.

After review, the BGC determined that reasons that lead to the formation of the NGPC no longer exist as they did at formation. At this time, only two voting members of the Board are conflicted with respect to new gTLDs and as a result do not serve on the NGPC. Three of the four Board non-voting liaisons are conflicted and do not serve on the NGPC. Additionally, staff is at the tail end of implementing the current round of the New gTLD Program. All New gTLD Program processes have been exercised[2], and a majority of unique gTLD strings have

[2] As of 31 July 2015, two of the seven major Program processes defined in the Applicant Guidebook are complete (i.e. Application Window and Application Evaluation), and two are approximately 90% complete (i.e. Dispute Resolution and Contention Resolution).

been delegated or are near delegation. Specifically, as of 30 September 2015, over 750 new gTLDs have been delegated. Numerous review and community activities are currently underway that will likely inform when the next round will take place and how it will be carried out.

In making its recommendation to the Board, the BGC noted, and the Board agrees, that decommissioning the NGPC does not mean that the topics addressed by the NGPC no longer exist, or are of any less import. The Board shall continue maintaining general oversight and governance over the New gTLD Program, and continue to provide strategic and substantive guidance on New gTLD-related topics as the current round of the Program comes to a conclusion. For example, there are active matters being considered by the NGPC, such as GAC advice concerning the protection for Intergovernmental Organizations, and matters that are subject to ICANN's accountability mechanisms (e.g. Requests for Reconsideration and Independent Review Processes). As a result of this resolution, the full Board will take up these matters at future meetings and address any conflict issues as appropriate.

In taking this action, the Board also reinforces its commitment to the 8 December 2011 Resolution of the Board (Resolution 2011.12.08.19) regarding Board member conflicts, and specifying in part: "Any and all Board members who approve any new gTLD application shall not take a contracted or employment position with any company sponsoring or in any way involved with that new gTLD for 12 months after the Board made the decision on the application."

It is not anticipated that there will be direct fiscal impacts on ICANN associated with the adoption of this resolution, and approval of this resolution will not impact security, stability or resiliency issues relating to the domain name system.

This decision is an Organizational Administrative Function that does not require public comment.

Contracting and Pre-Delegation Testing are well over halfway complete, while Delegation is approximately 52% complete.

Submitted By: Amy A. Stathos
Position: Deputy General Counsel
Date Noted: 8 October 2015
Email: amy.stathos@icann.org

ICANN BOARD SUBMISSION NO. 2015.10.22.2b

TITLE:	**Consideration of Independent Review Panel's Final Declaration in *Vistaprint v. ICANN***
PROPOSED ACTION:	**For Board Approval**

EXECUTIVE SUMMARY:

On 9 October 2015, the Independent Review Process (IRP) Panel (Panel) issued its Final Declaration in the IRP filed by Vistaprint Limited (Vistaprint). In the IRP, Vistaprint claimed that ICANN's Board violated the ICANN Articles of Incorporation (Articles) and Bylaws by "accepting" the Expert Determination that found Vistaprint's applications for .WEBS to be confusingly similar to Web.com's application for .WEB (Expert Determination). In doing so, among other things Vistaprint challenged procedures, implementation of procedures, and ICANN's purported failure to correct the allegedly improperly issued Expert Determination.

In a unanimous decision, the Panel determined that the Board's actions did not violate the Articles, Bylaws, or Applicant Guidebook (Guidebook). (*See* Final Declaration at ¶¶ 156-157, Attachment A to Reference Materials). Having so determined, the Panel denied Vistaprint's IRP request, and declared ICANN to be the prevailing party. (*Id.* at ¶ 196.) More specifically, among other things, the Panel found that: (i) the Board has no affirmative duty to individually consider each and every new gTLD application (*id.* at ¶ 156); (ii) the Board's adoption and implementation of the elements of the New gTLD Program and Guidebook, including the string confusion objection (SCO) process, does not violate ICANN's Articles or Bylaws (*id.* at ¶¶ 171 – 172); (iii) the time for challenging the standard for evaluating SCOs has passed (*id.* at ¶ 172); and (iv) the lack of an appeal mechanism to contest the merits of the Expert Determination is not a violation of ICANN's Articles or Bylaws (*id.* at ¶ 174).

It should be noted, however, that while ruling in ICANN's favor and denying Vistaprint's IRP, the Panel did state that "ICANN's Board—and not this Panel—should exercise its

independent judgment" on the issue of Vistaprint's contention of disparate treatment. (*Id.* at ¶ 191.) The Panel noted that it did not think the Board has yet had the chance to exercise that independent judgment in this particular case. Accordingly, the Panel recommended that

> the Board exercise its judgment on the questions of whether an additional review mechanism is appropriate to re-evaluate the [expert] determination in the *Vistaprint SCO*, in view of ICANN's Bylaws concerning core values and non-discriminatory treatment, and based on the particular circumstances and developments noted in this Declaration, including (i) the *Vistaprint SCO* determination involving Vistaprint's .WEBS applications; (ii) the Board's (and NGPC's) resolutions on singular and plural gTLDs, and (iii) the Board's decisions to delegate numerous other singular/plural versions of the same gTLD strings.

(*Id.* at ¶ 196.)

Article IV, section 3.21 of the ICANN Bylaws provides that the Board shall consider the IRP Panel's Final Declaration at the Board's next meeting. (*See* https://www.icann.org/resources/pages/governance/bylaws-en/#IV.) In accordance with Article IV, section 3.21, the Board is being asked to consider and adopt relevant portions of the Panel's Final Declaration in the Vistaprint IRP.

PROPOSED RESOLUTION:

Whereas, on 9 October 2015, an Independent Review Process (IRP) Panel (Panel) issued its Final Declaration in the IRP filed by Vistaprint Limited (Vistaprint) against ICANN (Final Declaration).

Whereas, Vistaprint specifically challenged the String Confusion Objection (SCO) Expert Determination (Expert Determination) finding Vistaprint's applications for .WEBS to be confusingly similar to Web.com's application for .WEB.

Whereas, the Panel denied Vistaprint's IRP request because the Panel determined that the Board's actions did not violate the Articles of Incorporation (Articles), Bylaws, or Applicant Guidebook (Guidebook). (*See* Final Declaration, ¶¶ 156-157,

https://www.icann.org/en/system/files/files/vistaprint-v-icann-final-declaration-09oct15-en.pdf.)

Whereas, while Panel found that ICANN did not discriminate against Vistaprint in not directing a re-evaluation of the Expert Determination, the Panel recommended that the Board exercise its judgment on the question of whether an additional review is appropriate to re-evaluate the Expert Determination. (*See id.* at ¶ 196, https://www.icann.org/en/system/files/files/vistaprint-v-icann-final-declaration-09oct15-en.pdf.)

Whereas, in accordance with Article IV, section 3.21 of ICAN's Bylaws, the Board has considered the Panel's Final Declaration.

Resolved (2015.10.22.xx), the Board accepts the following findings of the Panel's Final Declaration that: (1) ICANN is the prevailing party in the *Vistaprint Limited v. ICANN* IRP; (2) the Board (including the Board Governance Committee) did not violate the Articles, Bylaws, or Guidebook; (3) the relevant polices, such as the standard for evaluating String Confusion Objections, do not violate any of ICANN's Articles or Bylaws reflecting principles such as good faith, fairness, transparency and accountability; (4) the time for challenging the Guidebook's standard for evaluating String Confusion Objections – which was developed in an open process and with extensive input – has passed; (5) the lack of an appeal mechanism to contest the merits of the Vistaprint SCO Expert Determination is not, in itself, a violation of ICANN's Articles or Bylaws; (6) in the absence of a party's recourse to an accountability mechanism, the ICANN Board has no affirmative duty to review the result in any particular SCO case; and (7) the IRP costs should be divided between the parties in a 60% (Vistaprint) / 40% (ICANN) proportion.

Resolved (2015.10.22.xx), the Board accepts the Panel's recommendation that "ICANN's Board exercise its judgment on the question of whether an additional review mechanism is appropriate to re-evaluate the Third Expert's determination in the *Vistaprint SCO,* in view of ICANN' s Bylaws concerning core values and non-discriminatory treatment, and based on the particular circumstances and developments noted in this Declaration,

including (i) the *Vistaprint SCO* determination involving Vistaprint's .WEBS applications, (ii) the Board's (and NGPC's) resolutions on singular and plural gTLDs, and (iii) the Board's decisions to delegate numerous other singular/plural versions of the same gTLD strings." (Final Declaration, Pg. 70, https://www.icann.org/en/system/files/files/vistaprint-v-icann-final-declaration-09oct15-en.pdf.) The Board will consider this recommendation at its next scheduled meeting, to the extent it is feasible.

Resolved (2015.10.22.xx), the Board directs the President and CEO, or his designee(s), to ensure that the ongoing reviews of the New gTLD Program take into consideration the issues raised by the Panel as it relates to SCOs.

PROPOSED RATIONALE:

Vistaprint filed a request for an Independent Review Process (IRP) challenging ICANN's acceptance of the String Confusion Objection (SCO) Expert Determination that found Vistaprint's applications for .WEBS to be confusingly similar to Web.com's application for .WEB (Expert Determination). In doing so, among other things Vistaprint challenged procedures, implementation of procedures, and ICANN's purported failure to correct the allegedly improperly issued Expert Determination.

On 9 October 2015, the three-member IRP Panel (Panel) issued its Final Declaration. After consideration and discussion, pursuant to Article IV, Section 3.21 of the ICANN Bylaws, the Board adopts the findings of the Panel, which are summarized below, and can be found in full at https://www.icann.org/en/system/files/files/vistaprint-v-icann-final-declaration-09oct15-en.pdf.

The Panel found that it was charged with "objectively" determining, whether the Board's actions are inconsistent with the Articles of Incorporation (Articles), Bylaws, and new gTLD Applicant Guidebook (Guidebook), thereby requiring that the Board's conduct be appraised independently, and without any presumption of correctness. The Panel agreed with ICANN that in determining the consistency of the Board action with the Articles,

Bylaws, and Guidebook, the Panel is neither asked to, nor allowed to, substitute its judgment for that of the Board. (Final Declaration at ¶¶ 125, 125, 127.)

Using the applicable standard of review, the Panel found that: (1) ICANN is the prevailing party in this *Vistaprint Limited v. ICANN* IRP; and (2) the Board (including the Board Governance Committee ("BGC")) did not violate the Articles, Bylaws, or Guidebook. (*See* Final Declaration, ¶¶ 156, 157, 196.)

More specifically, the Panel found that while the Guidebook permits the Board to individually consider new gTLD applications, the Board has no affirmative duty to do so in each and every case, *sua sponte*. (*See id.* at ¶ 156.) The Panel further found that the Board's adoption and implementation of the specific elements of the New gTLD Program and Guidebook, including the string confusion objection (SCO) process, does not violate ICANN's Articles or Bylaws. (*See id.* at ¶¶ 171, 172.) The Panel also found that the time for challenging the Guidebook's standard for evaluating SCOs has passed. (*See id.* at ¶ 172.) The Panel also concluded that the lack of an appeal mechanism to contest the merits of Vistaprint's SCO Expert Determination is not a violation of ICANN's Articles or Bylaws. (*See id.* at ¶ 174.)

Vistaprint's also claimed that ICANN discriminated against Vistaprint through the Board's (and the BGC's) acceptance of the Vistaprint Expert Determination while: (i) allegedly allowing other gTLD applications with equally serious string similarity concerns to proceed to delegation; or (ii) permitting other applications that were subject to an adverse SCO determination to go through an additional review process. In response to this disparate treatment claim, the Panel found that

> due to the timing and scope of Vistaprint's Reconsideration Request (and this IRP proceeding), and the time of ICANN's consultation process and subsequent NGPC resolution authorizing an additional review mechanism for certain gTLD applications that were the subject of adverse SCO decisions, the ICANN Board had not had the opportunity to exercise its judgment on the question of whether, in view of ICANN's Bylaw concerning non-discriminatory treatment and based on the particular circumstances and developments noted [in the Final Declaration], such an additional review mechanism is appropriate following the SCO expert determination involving Vistaprint's .WEBS applications. Accordingly, it

> follows that in response to Vistaprint's contentions of disparate treatment in this IRP, ICANN's Board –and not this Panel—should exercise its independent judgment of this issue, in the of the foregoing considerations [set forth in the Final Declaration].

(*Id.* at ¶ 191.) It should be noted, however, that while declaring that it did not have the authority to require ICANN to reject the Expert Determination and to allow Vistaprint's applications to proceed on their merits, or in the alternative, to require a three-member re-evaluation of the Vistaprint SCO objections, the Panel recommended that

> the Board exercise its judgment on the questions of whether an additional review mechanism is appropriate to re-evaluate the [expert] determination in the *Vistaprint SCO*, in view of ICANN's Bylaws concerning core values and non-discriminatory treatment, and based on the particular circumstances and developments noted in this Declaration, including (i) the *Vistaprint SCO* determination involving Vistaprint's .WEBS applications; (ii) the Board's (and NGPC's) resolutions on singular and plural gTLDs, and (iii) the Board's decisions to delegate numerous other singular/plural versions of the same gTLD strings.

(*Id.* at ¶ 196.)

The Board acknowledges and accepts the foregoing recommendation by the IRP Panel. The Board will consider this recommendation at its next meeting, to the extent feasible. Further, ICANN will take the lessons learned from this IRP and apply it towards its ongoing assessments of the New gTLD Program, particularly as it relates to SCO proceedings, as applicable.

This action will have no financial impact on the organization and no direct impact on the security, stability or resiliency of the domain name system.

This is an Organizational Administrative function that does not require public comment.

Submitted By:	Amy A. Stathos, Deputy General Counsel
Date Noted:	13 October 2015
Email:	amy.stathos@icann.org

Pages 44 - 73 removed - Resolution and Rationale Text Superseded

Directors and Liaisons,

Attached below please find Notice of date and time for our Annual General Meeting, consisting of a Regular Meeting of the ICANN Board of Directors, followed by an Organizational Meeting of the ICANN Board of Directors:

22 October 2015 – Annual General Meeting of the ICANN Board of Directors - at 17:30 UTC (5:30pm – 6:30pm in Dublin). This Board meeting is estimated to last approximately 60 minutes following the conclusion of the ICANN Public Forum.

http://www.timeanddate.com/worldclock/fixedtime.html?msg=Public+Board+Meeting&iso=20151022T1730&p1=78&ah=1

Some other time zones:

22 October 2015 – 9:30am PDT Los Angeles

22 October 2015 – 12:30pm EDT Washington, D.C.

22 October 2015 – 6:30pm CEST Brussels

23 October 2015 – 12:30 a.m. CST Taipei

23 October 2015 – 3:30 a.m. AEDT Sydney

REGULAR MEETING OF THE ICANN BOARD

Consent Agenda:

- Approval of Minutes from 28 September 2015
- Delegation of IDN ccTLD ελ representing Greece in Greek script
- Delegation of IDN ccTLD عراق representing Iraq in Arabic script
- GNSO gTLD Registries Stakeholder Group Charter Amendments (2015)
- Approval for Contracting and Disbursement for CRM Platform Enhancement – pending BFC approval
- Thank You to Departing Community Members
- Thank You to Local Host of ICANN 54 Meeting

- Thank You to Sponsors of ICANN 54 Meeting
- Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN 54 Meeting

Main Agenda

- Change to Board Standing Committee
- Consideration of Independent Review Panel's Final Declaration in *Vistaprint v. ICANN*
- Thank You to Wolfgang Kleinwächter for his service to the ICANN Board
- Thank You to Gonzalo Navarro for his service to the ICANN Board
- Thank You to Raymond Plzak for his service to the ICANN Board
- AOB

ORGANIZATIONAL MEETING OF THE ICANN BOARD

Main Agenda

- Election of ICANN Board Chair
- Election of ICANN Vice Chair
- Appointment of Membership of Board Committees
- Confirmation of Officers of ICANN
- AOB

Contact Information Redacted

MATERIALS –

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.

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