GNSO Scope and Consensus Policy Discussion

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Background

- Presentation prepared to provide guidance to the GNSO and its working groups
- Information is presented in summary form and is not exhaustive
  - Need to refer to contracts for specific limitations
  - Need to refer to Bylaws for overall scope issues
- Information obtained from Registrar Accreditation Agreement (RAA) and from the .org Agreement
  - Each registry contract varies and may have different limitations
- Presentation does not constitute legal advice or a waiver or modification of any ICANN agreement
ICANN GNSO SCOPE

OVERALL INQUIRY ON ICANN’s MISSION

• Is it within ICANN’s Mission as specified in the ICANN Bylaws?

“The mission of ICANN is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems.”

• In particular, ICANN coordinates:
  - Allocation and assignment of the three unique identifiers for the Internet
    Domain names
    IP addresses and autonomous system numbers
    Protocol port and parameter numbers
  - Operation and evolution of the DNS root name server system
  - Policy development reasonably and appropriately related to these technical functions
ICANN GNSO SCOPE

• Is the topic consistent with ICANN’s Core Values as described in the Bylaws?
  - Among ICANN’s core values:
    • Preserving and enhancing the operational stability, reliability, security, and interoperability of the Internet
    • Introducing and promoting competition in domain name registrations
    • Where feasible and appropriate, depending on the market to promote and sustain competition
    • Limiting ICANN’s activities to those activities requiring or significantly benefiting from global coordination

• GNSO-Specific Inquiry
  - The GNSO is responsible for developing and recommending to the Board substantive policies relating to gTLDs
Is the topic on the list of subjects for “Consensus Policies” under the Registry Agreement?

Yes
Policy Enforceable against Registry

No
Non-Binding Guidelines or Registry Approval required

Is the topic on the list of subjects for “Consensus Policies” under the Registrar Agreement?

Yes
Policy enforceable against Registrars

No
Non-Binding Guidelines or Registrar Approval Required

Is the topic enforceable on registries or registrars through other contract terms?

No
Policy Enforceable on Registrars or Registries

Yes
Policy Enforceable on Registrars or Registries

Is it a topic expected to produce a policy recommendation to guide ICANN’s activities?

Yes
Policy Adopted by ICANN with Board Approval

No
Is the topic identified under RAA § 4.2 as a Consensus Policy?

- Uniform or coordinated resolution reasonably necessary to facilitate interoperability, technical reliability, or operational stability of Registrars, Registries, the DNS, or the Internet (4.2.1)
- Implementation of ICANN policies or specifications relating to a DNS registry or to Registry Services (4.2.2)
- Resolution of disputes re: the registration of domains (as opposed to use of domains), including where policies take into account use of the domain (4.2.3)
- Principles for allocation of Registered Names (4.2.4)
Is the topic any of the Following:

Accurate and up-to-date domain contact and nameserver information (4.2.4)

Prohibitions on domain name warehousing or speculation by registrars or registries (4.2.5)

Reservation of domain names (4.2.7)

Procedures to avoid disruptions of registrations due to suspension or termination of a registry/registrar (4.2.8)

Transfers of registration data upon a change in registrars (4.2.9)
Section 4.2.3- Resolution of Disputes

- Domain registration dispute resolution policies that take into account use may be appropriate for GNSO policy
  - Example- UDRP combines bad faith registration and bad faith use
  - Examples of Registration Abuse-
    - False WHOIS
    - Stolen Credit Cards used to Purchase domains
- Dispute resolution policies involving registration abuse alone without taking into account “use” may be appropriate for GNSO policy
Other Registrar Contract Terms

Central WHOIS 3.3.4

Registrar Code of Conduct 3.7.1

Registrar Verification of WHOIS 3.7.8

Temporary Security or Stability Specs or Policies 4.3.4

GNSO Consensus

Consensus of Registrars

GNSO Consensus

Domain Name Dispute Resolution 3.8

Prohibitions on domain warehousing and speculation 3.7.9

2/3 Board Vote

Others

GNSO Consensus

As Adopted By ICANN
Registrar Contact - Limitations on GNSO Policies

- Policies that prescribe or limit the price of Registrar Services (3.7.9)
- Policies that would unreasonably restrain competition (2.3.2)
- Policies that single out a registrar for disparate treatment unless justified by substantial and reasonable cause (2.3.3)

The following topics excluded:

Others
Is it a subject specified as a Consensus Policy under the Registry Agreement?

Is the topic any of the Following:

- Uniform or coordinated resolution reasonably necessary to facilitate interoperability
- Security Stability of the Internet or DNS
- Functional and performance specifications for Registry Services
- Security and Stability of the registry database
- Registry policies to implement Consensus Policies relating to registry operations or registrars
- Resolution of disputes re: registration of domains (as opposed to use of domain name)

- Principles for allocation of Registered Names
- Prohibitions on domain name warehousing or speculation by registries or registrars
- Procedures to avoid disruptions due to suspension or termination of a registry/registrar
- Reserved names due to confusion, intellectual property, or technical management of the DNS or Internet
- Resolution of disputes re: parties that may register or maintain registrations

Accurate and up to date domain name information
The following topics excluded:

- Price of Registry Services
- Standards for considering proposed Registry Services
- Terms for renewing or terminating the Registry Agreement
- Modify ICANN’s obligations to Registry
- Modify contract limits on Consensus Policies or Technical Specs or Policies
- Others
Other Registry Contract Terms

Temporary Security Stability Specs

Others

2/3 Board Action
Possible Outcomes of Policy Work

- Binding Policies on Contracted Parties
- Non-Binding Policies on Contracted Parties
- Best Practices/ Codes of Conduct
- Advice to ICANN
  - Recommend Contract Changes
- Technical Specifications
Thank You