

Dot net subcommittee draft report version 3

Membership

Chairman: Philip Sheppard

Members:

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| Commercial and Business Users Constituency: | Philip Sheppard |
| Non-commercial Users Constituency: | Marc Schneiders |
| Registrars Constituency: | Ross Rader |
| gTLD Registries Constituency: | Gary Karp |
| Intellectual Property Interests Constituency: | Lucy Nichols |
| ISPCP Constituency | Tony Holmes. |
| ALAC Liaison to GNSO Council | Thomas Roessler |

Members of ICANN Staff on the mailing list:

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| The Staff Manager: | Barbara Roseman |
| ICANN Vice President, Business Operations: | Kurt Pritz |
| Vice President, Policy Development Support: | Paul Verhoef |
| General Counsel: | John Jeffrey |
| Deputy General Counsel: | Dan Halloran |
| Chief Registry Liaison | Tina Dam |

Context

At its meeting in Rome, Italy, on 6 March 2004, ICANN' s Board of Directors adopted resolution 04.18 on the dot net Registry Agreement Expiration Date and Initial Procedure for Designating Successor Registry Operator.

“Whereas, Section 5.1 of the .net Registry Agreement entered into between ICANN and Verisign on 25 May 2001 provides that the agreement will expire no later than 30 June 2005 www.icann.org/tlds/agreements/verisign/registry-agmt-net-25may01.htm

Whereas, Section 5.2 of the .net Registry Agreement obligates ICANN to adopt an open, transparent procedure for designating a successor Registry Operator by no later than one year prior to the end of the agreement, which would be 30 June 2004;

Resolved, [04.18] that in order to prepare for the designation of a transparent procedure by 30 June 2004, the Board authorizes the President to take steps to initiate the process as specified in Section 5.2 of the .net Registry Agreement for designating a successor operator for the .net registry, including referrals and requests for advice to the GNSO and other relevant committees and organizations as appropriate”.

The GNSO Council is requested to issue a consensus statement defining criteria and conditions to be applied in the selection of a successor registry operator. In developing the scope of its recommendations, the GNSO should be guided by the example criteria listed in paragraph 5.2.4 (see annex). The GNSO Council established a .net sub-committee at its 1 April 2004 meeting.

Mission of the sub-committee

DRAFT report from the .net sub-committee in preparation for submission to the GNSO Council

To draft a set of criteria and conditions for .net consistent with the ICANN mission and core values for consideration by the Council, taking account of any elements from the dot org re-assignment where relevant.

Timescale

Council to make recommendations to Board by June 2004. The subcommittee worked by e-mail and held conference calls on April 15, May 4, May 18 and provided an oral progress report to Council May 6.

Criteria to be considered

1. Criteria related to the targeting of the domain

- § Dot net should remain un-sponsored.
- § Dot net should remain un-chartered.

2. Criteria relating to stability: technical and financial competence

- § The .net registry operator should meet the specifications of the current .net registry contained in the following sections of the current .net registry agreement: appendix C.4 name server functional specifications; appendix D performance specifications.
- § The entity chosen to operate the .net registry must:
 - ensure that the .net registry functions efficiently and reliably,
 - show its commitment to a high quality of service for all .net users worldwide,
 - make registration, assistance and other registry services available to ICANN accredited registrars in different time zones and different languages.
- § There should be a baseline for the functional capabilities and performance specifications to handle potential migration issues, where appropriate, such as:
 - registry registrar protocol (RRP) to extensible provisioning protocol (EPP),
 - distributed WHOIS to a centralized WHOIS.
- § Name service resolution time should not exceed the current time for existing .net name service resolution. Preference should be given to proposals offering shorter times.
- § Consideration should be given to technical stability based on diversification in order to reduce the impact of any one supplier failure.
- § Minimum financial stability should be required to ensure the operator has the means to meet its ambitions and the likelihood of continuity.

3. Criteria related to promotion of competition

- § Maximization of consumer choice. Once an applicant has qualified by meeting baseline stability, technical and financial criteria, positive consideration should be given to ICANN's mission to improve consumer choice and competition.
- § Pricing. Once an applicant has qualified by meeting baseline stability, technical and financial criteria, preference should be given to proposals offering lower pricing of the domain name.
- § Innovation and new services. Consideration could be given to proposals offering new services.

4. Criteria related to existing registry services

- Dot net currently offers registry services such as the pending Verisign wait list service, the redemption grace period and the migration of the test-bed internationalised domain names. Applicants should be asked "Does the applicant wish to maintain all existing registry services?"
- If yes, please provide specifics and demonstrate the technical and legal ability of the registry to maintain existing services.
 - If no, please expand on any issues relating to the withdrawal of such services.

5. Continuity

§ Grand fathering

There are a number of organisations and individuals that have made an investment in the .net domain name by choosing to register .net domain names. The cost of migrating to a new domain name is potentially significant. Existing registrants should not be penalised by changes in policy as a result of this process. Existing registrants in .net should be entitled to maintain their registrations on terms materially consistent with their existing contracts under current policy, including the right to transfer a .net domain to another party.

6. Policy compliance

§ Consensus policies

In the operation of the .net domain name, the registry operator must comply with all consensus policies of ICANN, both existing (UDRP, WHOIS, Deletes, Transfers etc), and any which are developed via the ICANN process in the future.

§ Policy development

Policy development for .net should continue to take place in an open bottom-up process, which enables input from the full Internet community via ICANN's processes.

§ Registrars

All ICANN-accredited registrars must be allowed to qualify to register names in .net. All registrars that have qualified to operate as .net registrars, must be treated equitably by the registry operator.

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Annex 1

§ 5.2 of the current .net Registry Agreement

5.2.1 Not later than one year prior to the end of the term of this Agreement, ICANN shall, in accordance with Section 2.1, adopt an open, transparent procedure for designating a successor Registry Operator. The requirement that this procedure be opened one year prior to the end of the Agreement shall be waived in the event that the Agreement is terminated prior to its expiration.

5.2.2 Registry Operator or its assignee shall be eligible to serve as the successor Registry Operator and neither the procedure established in accordance with subsection 5.2.1 nor the fact that Registry Operator is the incumbent shall disadvantage Registry Operator in comparison to other entities seeking to serve as the successor Registry.

5.2.3 If Registry Operator or its assignee is not designated as the successor Registry Operator, Registry Operator or its assignee shall cooperate with ICANN and with the successor Registry Operator in order to facilitate the smooth transition of operation of the registry to successor Registry Operator. Such cooperation shall include the timely transfer to the successor Registry Operator of an electronic copy of the Registry Database and of a full specification of the format of the data.

5.2.4 ICANN shall select as the successor Registry Operator the eligible party that it reasonably determines is best qualified to perform the registry function under terms and conditions developed pursuant to Subsection 4.3 of this Agreement, taking into account all factors relevant to the stability of the Internet, promotion of competition, and maximization of consumer choice, including without limitation: functional capabilities and performance specifications proposed by the eligible party for its operation of the registry, the price at which registry services are proposed to be provided by the party, the relevant experience of the party, and the demonstrated ability of the party to manage domain name or similar databases at the required scale.

5.2.5 In the event that a party other than Registry Operator or its assignee is designated as the successor Registry Operator, Registry Operator shall have the right to challenge the reasonableness of ICANN's failure to designate Registry Operator or its assignee as the successor Registry Operator pursuant to Section 5.9 below. Any such challenge must be filed within 10 business days following any such designation, and shall be decided on a schedule that will produce a final decision no later than 60 days following any such challenge.