

TABLE OF CONTENTS – BOARD PAPERS

Agenda Table.....p. 2-3

Consent Agenda

Proposed Process for GNSO Stakeholder Group and Constituency Charter
Amendments.....p. 4-7

Delegation of a ccTLD for Iran in Arabic Script.....p. 8-17

GNSO Locking of a Domain Name Subject to UDRP Proceedings PDP
Recommendations.....p. 18-27

Clarification Regarding the Competition, Consumer Trust and Choice Metrics for the
New gTLD Program per AoC Review.....p. 28-31

Country Code Names Supporting Organization (ccNSO) Review
Implementation.....p. 32-34

Main Agenda

Appointment of 2014 Nominating Committee Chair and Chair-Elect.....p. 35-36

Treatment of New gTLD Historical Costs (awaiting materials from BFC)

AGENDA – 28 SEPTEMBER 2013 BOARD Meeting – 60 minutes

Time, etc.	Agenda Item	Shepherd	Expected Action	Potential Conflict of Interest
Assembly, Roll Call & Consent Agenda Vote	1. Consent Agenda			
	1.a. Approval of Minutes	John Jeffrey	Approval	
20 min	1.b. Proposed Process for GNSO Stakeholder Group and Constituency Charter Amendments	Ray Plzak	Approval	
	1.c. Delegation of a ccTLD for Iran in Arabic script	Kuo-Wei Wu	Approval	
	1.d. GNSO Locking of a Domain Name Subject to UDRP Proceedings PDP Recommendations	Bruce Tonkin Bill Graham	Approval	
	1.e. Clarification Regarding the Competition, Consumer Trust and Choice Metrics for the New gTLD Program per the AoC Review	Bruce Tonkin	Approval	

AGENDA – 28 SEPTEMBER 2013 BOARD Meeting – 60 minutes

Time, etc.	Agenda Item	Shepherd	Expected Action	Potential Conflict of Interest
	1.f. ccNSO Review Implementation (pending SIC approval)	Ray Plzak	Approval	
Discussion & Decision	2. Main Agenda			
40 min	2.a. Appointment of 2014 Nominating Committee Chair and Chair-Elect	Bruce Tonkin	Approval	
	2.b. Treatment of New gTLD Historical Costs (pending BFC recommendation)	Cherine Chalaby	Approval	
	2.c. AOB			

ICANN BOARD SUBMISSION NO. 2013.09.28.1b

TO: ICANN Board

TITLE: Proposed Process For GNSO Stakeholder Group and Constituency Charter Amendments

PROPOSED ACTIONS: Board Approval of Proposed Process

EXECUTIVE SUMMARY:

The ICANN Bylaws (Article X, Section 5.3) state, "Each [GNSO] Stakeholder Group ... and each of its associated Constituencies shall maintain recognition with the ICANN Board." During this time of significant organizational changes within ICANN and its GNSO community, it is important that GNSO Stakeholder Groups and Constituencies have the flexibility to update, modify and evolve their organizational charters to reflect community changes. There is, however, currently no formal procedure for a GNSO Stakeholder Group or Constituency to request approval by the ICANN Board of Directors for an amendment of its chartering document. To address that circumstance, the Board's Structural Improvements Committee (SIC) has formulated a process that is intended to balance the need to enable community flexibility with the need for formal validation by the Board.

RECOMMENDATION:

The SIC recommends that the Board approve the proposed process as set forth below. The process has been subject to community review and comments and has been modified in response to community feedback.

PROPOSED GNSO CHARTER AMENDMENT PROCESS:

Phase I: Amendment Preparation

GNSO Stakeholder Groups (SGs) and Constituencies should formulate charter amendments through their own internal processes and notify ICANN Staff as early as practicable (at policy-staff@icann.org) upon initiation of such efforts. *[Note: If the SG Charter requires it, proposed amendment(s) to Constituency Charters must first be submitted to the applicable SG for review and evaluation before being forwarded to Staff and Board.]* Subsequently, after formal community action approving any proposed amendments, the Staff should be formally notified of that action as early as practicable (at policy-staff@icann.org).

Phase II: Staff Review

Upon formal receipt of the proposed amendment(s) approved by the community group, ICANN Staff will analyze the proposal and, within 10 business days, submit the community proposal with a report to the appropriate Board committee identifying any fiscal or liability concerns.

Phase III: Public Comments

After Board committee review of the Staff report and the proposed charter amendments, the Board committee will direct the opening of a Public Comment Forum. Upon completion of the Forum, within 30 calendar days, Staff will provide a report to the Board committee summarizing the community feedback.

Phase IV: Board Review

At the next available opportunity after the delivery and publication of the Staff report, the appropriate Board committee shall review the proposed charter amendments, the Staff report and any community feedback and make a recommendation to the Board.

After receiving a recommendation from the committee, the Board shall either:

- a) Recognize the proposed charter amendment by a simple majority vote; or
- b) Reject the proposed amendment by a supermajority (2/3) vote and provide a specific rationale for its concerns.
- c) If neither above condition is met, the Board will ask for further explanation of the proposed amendments by the community.

In its review of the proposed amendments, the ICANN Board may ask questions and otherwise consult with the affected SG or Constituency. If it is not feasible for the Board to take action on the proposed amendments after two meetings, the Board shall report to the affected SG or Constituency the circumstance(s) that prevented it from making a final action and its best estimate of the time required to reach an action. That report is deemed an “action” under this process. If it is not feasible for the Board to take action on the proposed amendments after four meetings (or after a total of six scheduled meetings), the proposed community amendments will be deemed effective.

PROPOSED RESOLUTION:

Whereas, The ICANN Bylaws (Article X, Section 5.3) state, "Each [GNSO] Stakeholder Group ... and each of its associated Constituencies shall maintain recognition with the ICANN Board."

Whereas, it is important that GNSO Stakeholder Groups and Constituencies have the flexibility to update, modify and evolve their organizational charters to reflect community changes while balancing the need for validation by the Board.

Whereas, There is currently no procedure for a GNSO Stakeholder Group or Constituency to obtain approval by the ICANN Board of Directors for an amendment of its charter.

Whereas, the Structural Improvements Committee of the ICANN Board has formulated and recommended a process by which GNSO Stakeholder Groups and Constituencies can amend their charters with the Board maintaining its appropriate validation responsibilities for recognition of those GNSO groups.

Whereas, the community has had the opportunity to review and comment on the proposed process and changes have been made to the proposed process to address community suggestions.

Resolved (2013.09.28.xx) the Board approves the process formulated and recommended by the Structural Improvements Committee and directs ICANN Staff to notify the leadership of the various GNSO Stakeholder Groups and Constituencies of the process and post a copy of the approved process on the GNSO web site within 7 calendar days.

PROPOSED RATIONALE:

In July 2009, as part of the comprehensive GNSO Improvements program, the ICANN Board approved the formal Charters of four new GNSO Stakeholder Groups (see [ICANN Board Resolution 2009.30.07.09](#)).

The ICANN Bylaws (Article X, Section 5.3) state, "Each Stakeholder Group ... and each of its associated Constituencies shall maintain recognition with the ICANN Board." Because the original GNSO organizational charters approved in 2009 were subject to exhaustive and rigorous negotiations and discussions between the community and Board members, it is appropriate that the Board have an opportunity to review and approve subsequent charter amendments. Further, the Board believes that review of GNSO charter amendments maintained by GNSO Stakeholder Groups and the Constituencies that populate those groups is an important obligation in maintaining recognition of formally approved GNSO Structures consistent with ICANN Bylaw principles.

The Board's Structural Improvements Committee (SIC) developed this process and the proposal was shared with the community for review and comment. The final version approved by the Board reflects adjustments to the original SIC proposal after consideration of helpful community feedback regarding the timing of staff notifications and the timeline and process for Board review of community charter amendments.

This action will have no immediate or substantial impact on ICANN's resources. At certain times, it will demand additional community work, staff support work and Board review time, but those efforts should be of limited duration and they will improve the transparency and ultimate efficiency of ICANN's structural and management processes.

This action is not expected to have any impact on the security, stability or resiliency of the DNS.

DOCUMENT/BACKGROUND LINKS:

- Link to Community [Public Comment Forum](#)

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Position:	VP-Policy Development; Senior Policy Director
Date Noted:	September 17, 2013
Email and Phone Number	Policy-Staff@icann.org <small>† Contact Information Redacted†</small>

ICANN BOARD PAPER NO. 2013-09-28-1c

TITLE: Report on the Delegation of the ایران¹ (“Iran”) domain representing the Islamic Republic of Iran

PROPOSED ACTION: For Board Consideration on Consent Agenda

IANA REFERENCE: 695044

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 ایران, comprised of the IDN ccTLD Fast Track approved string representing the Islamic Republic of Iran, to the Institute for Research in Fundamental Sciences.

The proposed sponsoring organisation was established in 1989 initially “with the aim of supporting research in the fields of mathematics and theoretical physics.” These responsibilities were later expanded to include communication and connectivity, as well as the management of the .IR ccTLD for the Islamic Republic of Iran.

Support for the delegation has been provided from the Ministry of Information & Communication Technology and the Iranian ICT Guild Organization.

PROPOSED RESOLUTION:

Resolved (2013.09.28.xx), as part of the exercise of its responsibilities under the IANA Functions Contract, ICANN has reviewed and evaluated the request to delegate the ایران (“Iran”) country-code top-level domain to the Institute for Research in Fundamental Sciences. The documentation demonstrates that the proper procedures were followed in evaluating the request.

Resolved (2013.09.28.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

¹ Due to software incompatibility issues with right-to-left scripts, the string is not faithfully reproduced in this report. This will be corrected for final publication of the delegation/redelegation report and resolution language on the IANA and ICANN websites respectively.

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 organisation (also known as the manager or trustee) to the Institute for Research in Fundamental Sciences.

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.

Sensitive Delegation Information

Sensitive Delegation Information

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: Kim Davies
Position: IANA Function Liaison for Root Zone Management
Date Noted: 13 September 2013
Email: kim.davies@icann.org

Sensitive Delegation Information

Sensitive Delegation Information

Sensitive Delegation Information

Sensitive Delegation Information

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Sensitive Delegation Information

ICANN BOARD SUBMISSION NO. 2013.09.28.1d

TITLE: **GNSO Locking of a Domain Name Subject to UDRP Proceedings PDP Recommendations**

PROPOSED ACTION: **Board Approval**

EXECUTIVE SUMMARY:

The Generic Names Supporting Organization (GNSO) unanimously approved at its meeting on 1 August 2013 the recommendations on the Locking of a Domain Name subject to UDRP Proceedings Policy Development Process (PDP). The recommendations are expected to clarify and standardize the process for locking of a domain name subject to UDRP Proceedings, including:

- Definition of ‘locking’
- Requiring registrar to apply lock within 2 business days following request for verification
- Removing obligation for complainant to notify the respondent at the time of filing, but add automatic extension of 4 days to response time upon request
- Step by step clarification of requirements of different parties involved
- Development of educational and informational materials to assist in informing affected parties of new requirements and recommended best practices

For the full details of all sixteen recommendations, please see section a of the GNSO Council Recommendations Report to the ICANN Board (Annex A).

Under the ICANN Bylaws, the Council’s unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

The policy recommendations above, if approved by the Board, will impose new obligations on certain contracted parties. The GNSO Council’s unanimous vote in favor of these items exceeds the voting threshold required at Article X, Section 3.9.f of the ICANN Bylaws regarding the formation of consensus policies.

The Annex to this submission provides the background and further details with regard to these recommendations.

STAFF RECOMMENDATION:

Staff recommends that the Board adopts the Locking of a Domain Name subject to UDRP Proceedings Recommendations. The recommendations, if implemented, would usefully clarify and standardize the process for the locking of a domain name subject to UDRP Proceedings, to the advantage of all parties concerned.

PROPOSED RESOLUTION:

Whereas, on 15 December 2011, the GNSO Council launched a Policy Development Process (PDP) on the Locking of a Domain Name subject to UDRP Proceedings addressing five charter questions, set forth at <https://community.icann.org/x/ma-bAQ>;

Whereas the PDP followed the prescribed PDP steps as stated in the Bylaws resulting in a Final Report delivered on 5 July 2013;

Whereas the Locking of a Domain Name subject to UDRP Proceedings Working Group (WG) reached full consensus on the recommendations in relation to the issues outlined in the Charter;

Whereas the GNSO Council reviewed, and discussed the recommendations of the Locking of a Domain Name subject to UDRP Proceedings WG, and adopted the Recommendations on 1 August 2013 by a Supermajority and unanimous vote (see <http://gns0.icann.org/en/council/resolutions#201308>);

Whereas the GNSO Council vote met and exceeded the required voting threshold to impose new obligations on ICANN contracted parties;

Whereas after the GNSO Council vote, a public comment period was held on the approved recommendations, and the comment received has been summarized and considered (<http://www.icann.org/en/news/public-comment/locking-domain-name-recommendations-02aug13-en.htm>).

Resolved (2013.09.28.xx), the Board adopts the GNSO Council Policy Recommendations on the Locking of a Domain Name subject to UDRP Proceedings as set forth in the Final Report (see <http://gnso.icann.org/en/issues/locking/domain-name-final-05jul13-en.pdf>).

Resolved (2013.09.28.xx.), the CEO is to develop and complete an implementation plan for these Recommendations and continue communication with the community on such work.

PROPOSED RATIONALE:

Why is the Board addressing this issue now?

Currently there is no requirement to lock names in period between filing complaint and commencement of proceedings and no definition of 'status quo', which has resulted in different interpretations and confusion of the policy. To address this issue, the GNSO Council decided to initiate a Policy Development Process on 15 December 2011. As part of its deliberations, the WG was required to consider the following questions:

1. Whether the creation of an outline of a proposed procedure, which a complainant must follow in order for a registrar to place a domain name on registrar lock, would be desirable.
2. Whether the creation of an outline of the steps of the process that a registrar can reasonably expect to take place during a UDRP dispute would be desirable.
3. Whether the time frame by which a registrar must lock a domain after a UDRP has been filed should be standardized.
- 4a. Whether what constitutes a "locked" domain name should be defined.
- 4b. Whether, once a domain name is 'locked' pursuant to a UDRP proceeding, the registrant information for that domain name may be changed or modified.
5. Whether additional safeguards should be created for the protection of registrants in cases where the domain name is locked subject to a UDRP proceeding.

The Working Group published its Initial Report for public comment on 15 March 2013, followed by its Final Report on 5 July 2013 which received the unanimous consensus support from the PDP WG as well as the GNSO Council. Following the closing of the public comment period, the next step as outlined in Annex A of the ICANN Bylaws is consideration by the ICANN Board of the recommendations.

What is the proposal being considered?

The following recommendations are being considered:

- **Recommendation #1:** In this context, the term “lock” means preventing any changes of registrar and registrant. This “lock” should not impair the resolution of the domain name solely on the basis of the fact that a complaint under the UDRP has been filed or solely on the basis of the fact that that a UDRP proceeding is ongoing.¹
- **Recommendation #2:** Modify the provision from the UDRP rules that specifies that upon submission of the complaint to the UDRP provider the complainant should also ‘state that a copy of the complaint [...] has been sent or transmitted to the respondent’ (section 3, b – xii) and recommend that, as a best practice, complainants need not inform respondents that a complaint has been filed to avoid cyberflight. The UDRP Provider will be responsible for informing the respondent once the proceedings have officially commenced.
- **Recommendation #3:** Following receipt of the complaint, the UDRP Provider will, after performing a preliminary deficiency check², send a verification request to the Registrar, including the request to prevent any changes of registrar and registrant for the domain name registration (“lock”). The registrar is not allowed to notify the registrant of the pending proceeding until such moment that any changes of registrar and registrant have been prevented, but may do so once any changes of registrar and registrant have been prevented. In the case of accredited privacy / proxy providers³ or a privacy / proxy provider affiliated with the registrar, the registrar may contact the accredited / affiliated privacy / proxy provider to allow for the reveal of the proxy customer data. However, such contact may only be established after an initial lock has been applied preventing any changes of registrar and registrant.
- **Recommendation #4:** Within 2 business days⁴ at the latest following receipt of the verification request from the UDRP Provider, the Registrar will modify the status of the registration to prevent any changes of registrar and registrant (“lock”). The Registrar must continue to prevent changes through the remaining pendency of the UDRP Proceeding, except in case of the suspension of a UDRP proceeding (see recommendation #10). Pendency is defined as from the moment a UDRP complaint, or relevant document

¹ It should be noted that such a lock should not prevent the renewal of a domain name subject to UDRP proceedings, as per the Expired Domain Deletion Policy (EDDP).

² This is an initial check the UDRP Provider performs to ensure it does not concern a bogus complaint. This check should not be confused with the administrative compliance check as described in the UDRP which is performed as per step 4 of this proposal.

³ To apply to accredited privacy / proxy providers following finalization of the privacy / proxy accreditation program by ICANN.

⁴ Business days are defined as business days in the jurisdiction of the entity required to undertake the action, in this case the registrar.

initiating a court proceeding or arbitration, regarding a domain name, has been submitted by the Complainant to the UDRP Provider, as the case may be. Any updates⁵ as a result of a request by the accredited / affiliated privacy / proxy provider to reveal the underlying proxy customer data must be made before the 2 business day timeframe ends or before the registrar verifies the information requested and confirms the lock to the UDRP Provider, whichever occurs first.

A registrar may not permit transfer to another registrant⁶ or registrar after a request for verification is received by the Registrar from the UDRP Provider, except in limited situations involving an arbitration not conducted under the Policy or involving litigation as provided by the UDRP Policy Paragraphs 8(a) or 8(b). For the purposes of the UDRP, the Registrant listed in the Whois record at the time of the lock will be recorded as the Respondent(s). Any changes to Whois information during the pendency of the administrative proceeding under the Policy may be permitted or prohibited based on the Registrar's applicable policies and contracts, however, it is the responsibility of the Registrant (UDRP Rule 2(e) and UDRP Rule 5(b)(ii)) to inform the Provider of any relevant updates that may affect Provider notices and obligations to Respondent under the UDRP.

Depending on the terms of service of the Proxy / Privacy service, a Registrar may opt to reveal underlying data as a result of privacy/proxy services to the Provider or in Whois, or both, if it is aware of such. This will not count as a "transfer" in violation of the above, if it occurs in accordance with draft recommendation #2. If a privacy/proxy service is revealed or proxy customer information released after the Lock is applied and the Provider is notified, the Provider is under no obligation to require the Complainant to amend its complaint accordingly, but may do so in its discretion. It is the responsibility of the Registrant (UDRP Rule 2(e) and UDRP Rule 5(b)(ii)) to inform the Provider of any relevant updates that may affect Provider notices and obligations to Respondent under the UDRP and the Provider shall, in accordance with the UDRP, provide Respondent with case information at the details it prefers once the Provider is aware of the update (UDRP 5(b)(iii) requires Provider to send communications to the preferred email address of Respondent, for instance).

⁵ The revealed data may only include data held on record by the accredited / affiliated privacy / proxy provider.

⁶ For clarity, this includes any transfer to a privacy or proxy service other than reveals of the proxy customer data as provided for in the following paragraph.

- **Recommendation #5:** As a best practice, registrars and UDRP Providers are encouraged to provide a means that allows third parties to identify what their respective opening hours / days are, during which UDRP related tasks can be expected to be carried out.
- **Recommendation #6:** The registrar must confirm to the UDRP Provider within 2 business days following receipt of the verification⁷ request from the UDRP Provider that any changes of registrar and registrant have been prevented and will be prevented during the pendency of the proceeding, and the Registrar must verify⁸ the information requested by the UDRP Provider.
- **Recommendation #7:** If deemed compliant, the UDRP Provider shall forward the complaint to the Registrar and Respondent and notify them of the commencement of the administrative proceeding no later than 3 business days⁹ following receipt of the fees paid by the complainant.
- **Recommendation #8¹⁰:** Participating UDRP Respondents be granted an express option to request a four day extension should they so choose, with any such received four day extension request to be automatically granted, and the corresponding deadline extended by the UDRP Provider, at no cost to the Respondent. The availability of such automatic four-day extension option on request should also be flagged by the UDRP Provider for the Respondent's information on commencement of the proceedings and does not preclude any additional extensions that may be granted by the UDRP Provider as per article 5d of the UDRP Rules.
- **Recommendation #9:** If the complaint should remain non-compliant, or fees unpaid, after the period for the administrative deficiency check per UDRP Para 4 has passed, or if the complainant should voluntarily withdraw during that period, the UDRP Provider informs the Registrar that the proceeding is withdrawn. The Registrar shall, within one business day of the transmission of the notice of withdrawal, release the "lock".

⁷ The UDRP Provider will send a request to the registrar to verify amongst others that the named Respondent is the actual registrant of the domain name(s) in issue, language of the registration agreement as well as checking the Respondent's contact details.

⁸ This verification request relates to the requirement for the Registrar to provide the Provider with a verification of the items requested.

⁹ This change to the UDRP Rules (currently it says 'calendar' days) is recommended to ensure that this is in line with the 2 business day requirement to lock as otherwise there may be a situation whereby 2 business days are longer than 3 calendar days, not allowing the UDRP Provider to perform the administrative checks within the allocated timeframe.

¹⁰ The rationale for adding this recommendation is to address the concerns expressed during the public comment forum concerning the loss of informal response time as a result of the proposed change to no longer require the Complainant to notify the Respondent at the time of filing and would give those participating Respondents that actually need the extra four days the comfort of cost-neutral certainty where requested, without impacting the UDRP timelines overall.

- **Recommendation #10:** As part of its notification to the Registrant (Notification of Complaint’ – see section 4 of the UDRP Rules), the UDRP Provider informs the Registrant that any corrections to the Registrant’s contact information during the remaining pendency of the proceedings are also required to be communicated to the UDRP Provider as per UDRP rule 5(ii) and (iii).
- **Recommendation #11:** This notification would also include information that any changes as a result of lifting of proxy / privacy services, following the ‘locking’, would need to be discussed / addressed by the UDRP Panel directly. The WG recommends that this issue is further reviewed as part of the privacy / proxy accreditation program development work.
- **Recommendation #12:** Upon receipt and communication of a decision from the Provider, the Registrar must within 3 business days communicate to each Party, the Provider, and ICANN the date for the implementation of the decision in accordance with the Policy (UDRP Rule 16 and UDRP Paragraphs 4(k) and Paragraph 8(a). If the Complainant has prevailed, the Registrar shall implement the Panel order immediately after 10 business days have elapsed (UDRP Paragraph 4(k)). The Complainant or its authorized representative is required to provide the Registrar with the required information to support the implementation of the Panel decision; this should include the information that should be in the Whois. If the Respondent has prevailed, the Registrar shall prohibit transfer of the domain name to another registrar or registrant for 15 business days from the date the decision is transmitted from the Provider (UDRP Paragraph 8).
- **Recommendation #13:** In the case of suspension of a proceeding (when the parties are trying to reach a settlement), the UDRP Provider informs the Registrar of the Suspension, including the expected duration of the suspension. Should both parties come to a settlement, which would involve a transfer, cancellation or agreement that the registration will remain with the Respondent, the registrar must remove any lock preventing a transfer or cancellation within 2 Business days of confirmation of the settlement by the UDRP Provider, unless the disputed domain name registration is otherwise the subject of a court proceeding that has been commenced concerning that disputed domain name.
- **Recommendation #14:** The settlement process must follow these steps: (1) parties ask for suspension from the UDRP Provider, (2) parties settle, (3) parties submit a standardized “settlement form” to UDRP provider, (4) UDRP provider confirms to the registrar, copying both the Complainant and the Respondent, whether the terms of the settlement indicate Respondent agreement to the transfer or cancellation of the disputed

domain name(s) to the complaint, or Complainant agreement that domain name(s) remain with the Respondent (5) settlement agreement is implemented by registrar (6) Complainant confirms the implementation to the UDRP Provider and (7) UDRP Provider dismisses the case.

- **Recommendation #15:** ICANN, in collaboration with UDRP Providers, Registrars and other interested parties, will develop educational and informational materials that will assist in informing affected parties of these new requirements and recommended best practices following the adoption by the ICANN Board of these recommendations.

Which stakeholders or others were consulted?

As required by its [charter](#), the PDP WG was required as ‘as a first step, [to] request public input on this issue in order to have a clear understanding of the exact nature and scope of issues encountered with the locking of a domain name subject to UDRP Proceedings’. As a result, the WG conducted a survey amongst registrar as well as UDRP Providers as outlined in section 5.1. of the Final Report. In addition to specific questions concerning the practices and experiences of registrars and UDRP Providers, respondents were also asked to provide input on the charter questions. Furthermore, the WG opened [a public comment forum](#) to obtain community input on 25 July 2012.

In addition to regular updates to the GNSO Council, workshops were organized to inform and solicit the input from the ICANN Community at ICANN meetings (see for example <http://beijing46.icann.org/node/37193>, <http://toronto45.icann.org/node/34245> and <http://prague44.icann.org/node/31807>).

Constituency / Stakeholder Group Statements were requested as well as input from other ICANN Supporting Organizations and Advisory Committees at an early stage of the process. No input was received in response to those requests. The Chair of the PDP Working Group did meet with the ccNSO at the ICANN meeting in Prague for an exchange of views on this topic (see <http://ccnso.icann.org/meetings/toronto/summary.htm#neylon-greenberg> for further details).

The WG also opened a [public comment forum](#) on the Initial Report on 15 March 2013.

All comments received have been reviewed and considered by the Locking of a Domain Name subject to UDRP Proceedings PDP WG (see section 6 of the Final Report).

What concerns or issues were raised by the community?

No Community concerns have been raised in relation to the Final Report and its recommendations. All other comments received were reviewed and addressed by the PDP WG as outlined in section 6 of the Final Report.

What significant materials did the Board review?

The Board reviewed the GNSO Council Recommendations Report to the Board, as well as the summary of public comments.

What factors the Board found to be significant?

The recommendations were developed following the GNSO Policy Development Process as outlined in Annex A of the ICANN Bylaws and have received the unanimous support from the GNSO Council. As outlined in the ICANN Bylaws, the Council's unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

Are there positive or negative community impacts?

Adoption of the recommendations is expected to clarify and standardize the process for the locking of a domain name subject to UDRP Proceedings for all parties involved including complainants, respondents, registrars as well as UDRP Providers. Implementation of the recommendations will require certain changes in some registrar processes as currently no standardized process is in place to deal with the locking of a domain name subject to UDRP proceedings, as well as certain modifications to the practices of UDRP Providers. For complainants, the main change is that at the time of filing, the complainant is no longer required to notify the respondent which is expected to reduce the instances of cyberflight (notification of the respondent is carried out by the UDRP Provider at the time of the official commencement of the proceedings). As a result of the change to no longer require notification of the respondent by the complainant at the time of filing, the respondent may see a reduction of informal response time. However, in order to compensate for this potential loss of informal response time, the recommendations foresee that participating UDRP Respondents be granted an express option to request a four day extension should they so

choose, with any such received four day extension request to be automatically granted, and the corresponding deadline extended by the UDRP Provider, at no cost to the Respondent.

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

In addition to those changes required in process for registrars and UDRP Providers as outlined above, there will likely be fiscal impacts related to implementation of the policy, but these costs are anticipated to be within the current budget.

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

There are no security, stability, or resiliency issues related to the DNS if the Board approves the proposed recommendations.

Signature Block:

Submitted by: Marika Konings

Position: Senior Policy Director

Date Noted:

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ICANN BOARD SUBMISSION NO. 2013.09.28.1e

TITLE: **Clarification Regarding the Competition, Consumer Trust and Choice Metrics for the New gTLD Program per the AoC Review**

PROPOSED ACTION: **Board Approval**

EXECUTIVE SUMMARY:

The Board is being asked to provide a clarification of its Durban resolution that directed the CEO to commence the process under the Affirmation of Commitments (AoC) for convening the Competition, Consumer Trust and Choice (CCT) Review Team to provide advice on metrics to support the future review. The review called for under the AoC is to occur if and when new gTLDs have been in operation for one year and involves examining the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust, and consumer choice. Because the actual review is not yet ripe to commence, the clarification requested of the Board separates the initial phase of work – the evaluation of, and advice on, the proposed metrics developed by the Community – from the assessment work of the future review team under the AoC. The implementation work to be commenced immediately will be a stand-alone project that is intended to facilitate the work of the AoC review at the appropriate time. This will help reinforce ICANN’s commitment to conduct the actual CCT review in the future, as specified in the AoC, and will enable individuals to volunteer for a limited time commitment in this fiscal year.

BACKGROUND

Under the AoC, if and when new gTLDs have been in operation for one year, a review¹ will occur that examines the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust, and consumer choice.

¹ 9.3 Promoting competition, consumer trust, and consumer choice: ICANN will ensure that as it contemplates expanding the top-level domain space, the various issues that are involved (including competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection) will be adequately addressed prior to implementation. If and when new gTLDs (whether in ASCII or other language character sets) have been in operation for one year, ICANN will organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of (a) the application and evaluation process, and (b) safeguards put in place to mitigate issues involved in the introduction or expansion. ICANN will organize a further review of its execution of the above commitments two years after the first review, and then no less frequently than every four years. The reviews will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the GAC, the CEO of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, and

In December, 2010, the Board [requested advice](#) from the ALAC, GAC, GNSO, and ccNSO on establishing the definition, measures, and three year targets for competition, consumer trust, and consumer choice in the context of the domain name system. This advice was requested to support ICANN's obligations under the AoC. The Board received an [Advice Letter](#) from the GNSO Council (11 January 2013), and an [Advice Letter](#) from the ALAC (13 April 13), each advising ICANN to adopt specific metrics.

Extensive work is required to analyze the feasibility, utility, and cost effectiveness of the GNSO's and ALAC's recommended metrics. As a result, the Board's resolution in Durban (Resolutions 2013.07.18.06 and 2013.07.18.07) called for the commencement of the Competition, Consumer Trust and Consumer Choice (CCT) Review Team for the purpose of conducting preliminary work on the feasibility, utility and cost-effectiveness of adopting the recommendations of the GNSO Council and the ALAC, as well as analyzing other potential metrics to be made available for the future CCT review under the AoC. Because that review is not yet ripe to commence, the clarification requested of the Board separates the initial phase of work – the evaluation of the proposed metrics developed by the Community – from the work of the future review team under the AoC.

The clarification calls for the CEO to convene a volunteer group (the Implementation Advisory Group for Competition, Consumer Trust and Consumer Choice) in advance of a future AoC CCT Review Team for the purpose of: (i) evaluating and reporting to the Board on the feasibility, utility and cost-effectiveness of adopting the recommendations of the GNSO Council and the ALAC; (ii) evaluating other inputs, including historical data regarding metrics used to evaluate earlier rounds of New gTLDs (2000, 2004); (iii) engaging with the GNSO, ALAC and staff in an effort to reach agreement on the metrics; and (iv) proposing a set of metrics to be compiled by ICANN to be made available to a future AoC Review Team examining the New gTLD Program.

This implementation work will become a stand-alone project that is intended to facilitate the work of the AoC review at the appropriate time. This has the added benefit of giving potential volunteers for the Advisory Group a limited time commitment (rather than asking that they also commit to serve on a future review that has not yet been scheduled).

PROPOSED RESOLUTION:

Whereas, on 18 July 2013, the ICANN Board directed the CEO to commence the process for convening the Competition, Consumer Trust and Consumer Choice (CCT) Review Team to facilitate preliminary work on the feasibility, utility and cost-effectiveness of

independent experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.

adopting the recommendations of the GNSO Council and the ALAC, as well as analyzing other potential metrics to be made available for the CCT review.

Whereas, the Board wishes to clarify its Resolutions 2013.07.18.06 and 2013.07.18.07 to identify that the actual CCT review is not being commenced at this time, rather that an Implementation Advisory Group for Competition, Consumer Trust and Consumer Choice is approved for empanelment. The work of this Advisory Group is intended to be an input to the CCT review at the point in the future when the CCT review is commenced according to the schedule set forth in the Affirmation of Commitments (AoC).

Resolved (2013.09.28.xx), the Board directs the CEO to convene a volunteer group (the Implementation Advisory Group for Competition, Consumer Trust and Consumer Choice) in advance of a future AoC Competition, Consumer Trust and Consumer Choice Review Team, for the purpose of: (i) evaluating and reporting to the Board on the feasibility, utility and cost-effectiveness of adopting the recommendations of the GNSO Council and the ALAC; (ii) evaluating other inputs, including historical data regarding metrics used to evaluate earlier rounds of New gTLDs (2000, 2004); (iii) engaging with the GNSO, ALAC and staff in an effort to reach agreement on the metrics; and (iv) proposing a set of metrics to be compiled by ICANN to be made available to a future AoC Review Team examining the New GTLD Program.

Resolved (2013.09.28.xx), the portions of Resolutions 2013.07.18.06 and 2013.07.18.07 suggesting that the CCT review was being commenced prior to the time called for within the AoC are retracted.

PROPOSED RATIONALE:

The Board's resolution clarifies its prior resolution relating to evaluation of the metrics proposed by the Community for use in a future review under the Affirmation of Commitments (AoC) of the impact of new GTLDs in the areas of competition, consumer trust, and consumer choice.

The Board's resolution calls for the President and CEO to convene a group of volunteers to provide implementation advice in advance of the convening of a future Competition, Consumer Trust and Consumer Choice Review Team to: evaluate and report on the feasibility, utility and cost-effectiveness of implementing the various consumer metrics recommended by the Community; evaluating other inputs, including historical data regarding metrics used to evaluate earlier rounds of new gTLDs (2000, 2004); engage with the GNSO and ALAC to identify agreement on metrics; and ultimately to propose a series of metrics for the Board to approve, to be collected and made available for use by the future review to be conducted under the AoC in its discretion. If, after discussing this with the GNSO and ALAC, the Implementation Advisory Group for Competition, Consumer Trust and Consumer Choice ultimately recommends against using a metric proposed by the GNSO Council and/or ALAC, the Advisory Group is expected to provide an explanation.

This work is to commence immediately, and involves engaging the Community, as well as ICANN, evaluating and reporting on metrics proposed by the GNSO Council and ALAC, and recommending the metrics to be collected by ICANN in preparation for a future review of the New gTLD Program.

The review called for under the AoC is to occur if and when new gTLDs have been in operation for one year and involves examining the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust, and consumer choice. This review is not yet ripe to commence. Today, the Board is calling for implementation work to proceed that is intended to facilitate the work of the AoC review at the appropriate time.

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

Submitted by: Denise Michel, Margie Milam
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ICANN BOARD SUBMISSION NO. 2013-09-28-1f

TO: ICANN Board

TITLE: Board Review of Country Code Names Supporting Organization (ccNSO) Review Implementation

PROPOSED ACTIONS: Board Ratification of ccNSO Final Improvements Implementation Project Plan & Commencement of ccNSO Review Assessment Phase

EXECUTIVE SUMMARY:

On 24 June 2011, the Board requested that ICANN CEO direct staff to proceed with the implementation of the [Final Report of the ccNSO Review Board Working Group](#) in accordance with the implementation plan document [ccNSO Improvements Implementation Project Plan](#), dated 9 June 2011.

The ccNSO has completed the implementation of the remaining recommendations, thus completing the project plan and bring this work to conclusion.

In September 2013, the ccNSO Chair sent a letter to the Structural Improvements Committee (SIC) to notify the SIC of the completion of its work, and circulated a [final ccNSO Improvements Implementation Project Plan](#) to illustrate the completion.

At its [27] September 2013 meeting, the SIC recommended that the Board receive the final ccNSO Improvements Implementation Project Plan, as submitted by the ccNSO, note the implementation phase of the ccNSO review as complete, and commence the assessment phase inherent in the review cycle.

RECOMMENDATION:

In light of the actions undertaken by the ccNSO to complete the implementation of the recommendations arising out of the ccNSO review, the SIC recommends that the Board receive the [final ccNSO Improvements Implementation Project Plan submitted by the ccNSO, note the implementation phase of the ccNSO review as complete, and commence the assessment phase inherent in the review cycle.](#)

PROPOSED RESOLUTION:

Whereas, on 21 April 2011, the Board resolved to direct ICANN Staff, in coordination with the Structural Improvements Committee, to develop a proposed implementation plan and timeline for the recommendations in the [Final Report of the ccNSO Review Board Working](#)

[Group](#) and to submit these to the Structural Improvements Committee for review and Board approval. (Resolution 2011.04.21.06).

Whereas, at its 18 June 2011 meeting, the SIC acknowledged receipt from staff of an implementation plan, titled "ccNSO Improvements Implementation Project Plan", dated 9 June 2011, and resolved to recommend it to the ICANN Board for approval.

Whereas, at its 24 June 2011 meeting, the Board resolved to request that ICANN CEO direct staff to proceed with the implementation in accordance with the implementation plan document [ccNSO Improvements Implementation Project Plan](#) dated 9 June 2011 (Resolution 2011.06.24.03).

Whereas, on [27] September 2013, the SIC acknowledged receipt of a letter from the ccNSO Chair announcing completion of the ccNSO review implementation in complement of a final ccNSO implementation Project Plan update, dated September 2013.

Whereas, on [27] September 2013, the SIC agreed to recommend that the ICANN Board receive the [final ccNSO implementation Project Plan update](#), dated September 2013, note the implementation phase of the ccNSO review as complete, and commence the assessment phase inherent in the review cycle.

RESOLVED (2013.09.28.xx), the Board receives the final ccNSO implementation Project Plan update, dated September 2013, and notes the completion of the implementation of the ccNSO review recommendations.

RESOLVED (2013.09.28.xx), the Board directs the ICANN President and CEO to assess the improvements arising out of the ccNSO review in accordance with the assessment phase of the organizational review cycle.

Resolved (2013.09.28.xx), the Board thanks the ccNSO for its implementation work.

PROPOSED RATIONALE:

In compliance with ICANN Bylaws, a periodic review of ICANN SO/ACs is required to assess the performance and operational effectiveness of the entity under review. The purpose of the review is to determine *(i) whether that organization has a continuing purpose in the ICANN structure, and (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness.*

This action is in direct response to a request from the Board to implement the recommendations arising out of the ccNSO review effort and serves to enable the assessment of the ccNSO review improvements in a timely manner.

This action does not involve any complex structural changes or budgetary consequences. No impact on the security, stability and resiliency of the domain name system is foreseen as a result of this action.

This is an Organizational Administrative Function not requiring public comment.

DOCUMENT/BACKGROUND LINKS:

[Final Report of the ccNSO Review Board Working Group](#)

[ccNSO Improvements Implementation Project Plan \(June 2011\)](#)

Submitted by:	Alice Jansen	
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ICANN BOARD SUBMISSION NO. 2013.09.28.2a

TITLE: **Appointment of 2014 Nominating Committee Chair and Chair-Elect**

PROPOSED ACTION: **Board Approval**

EXECUTIVE SUMMARY:

On 5 June 2013, ICANN posted a call for expressions of interest (EOI) for the Nominating Committee (“NomCom”) Chair and Chair-Elect (<http://www.icann.org/en/news/announcements/announcement-05jun13-en.htm>). On 14 July 2013, the Board Governance Committee (BGC), in accordance with its charter ([see http://www.icann.org/en/committees/board-governance/charter.htm](http://www.icann.org/en/committees/board-governance/charter.htm)), reviewed and discussed the received EOIs, and determined to interview the candidates. The BGC also oversaw the completion of a 360 degree review of the 2013 NomCom leadership as input into the selection of 2014 the NomCom Chair. After the interviews were completed and the results of the 360 degree review were considered, the BGC communicated about the potential slate for the 2014 NomCom leadership and agreed on a slate for NomCom leadership, with one member abstaining from opining on the slate.

BOARD GOVERNANCE COMMITTEE RECOMMENDATION:

The BGC recommends that the Board appoint Cheryl Langdon-Orr as the 2014 NomCom Chair and Stéphane Van Gelder as the 2014 NomCom Chair-Elect.

PROPOSED RESOLUTION:

Whereas, the BGC reviewed the Expressions of Interest from candidates for the 2014 Nominating Committee (“NomCom”) Chair and Chair-Elect, interviewed those candidates and considered the results of a 360 degree evaluation of the 2013 NomCom leadership.

Whereas, the BGC has recommended that Cheryl Langdon-Orr be appointed as the 2014 NomCom Chair and Stéphane Van Gelder be appointed as the 2014 NomCom Chair-Elect.

Resolved (2013.10.xx.xx), the Board hereby appoints Cheryl Langdon-Orr as the 2014 Nominating Committee Chair and Stéphane Van Gelder as the 2014 Nominating Committee Chair-Elect.

PROPOSED RATIONALE:

ICANN's Bylaws require the Board to appoint the Nominating Committee (NomCom) Chair and NomCom Chair-Elect. *See* Article VII, sections 2.1 and 2.2 at <http://www.icann.org/en/general/bylaws.htm#VII>. The Board has delegated the responsibility for recommending the NomCom Chair and Chair-Elect for Board approval to the Board Governance Committee. *See* BGC Charter at <http://www.icann.org/en/committees/board-governance/charter.htm>. The BGC posted a call for expressions of interest (EOI), received and reviewed the received EOIs, conducted interviews with the candidates and oversaw a 360 degree evaluation of the 2013 NomCom leadership before making a recommendation. The Board has considered and agrees with the BGC's recommendation. The Board also would like to thank all who expressed interest in becoming part of the NomCom leadership.

Appointing a NomCom Chair and Chair-Elect identified through a public EOI process positively affects the transparency and accountability of ICANN. Adopting the BGC's recommendation has no financial impact on ICANN that was not otherwise anticipated, and will not negatively impact the security, stability and resiliency of the domain name system.

Submitted by:	Amy A. Stathos
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