Staff Report of Public Comment Proceeding

Proposed Implementation of GNSO Consensus Policy Recommendations for the Protection of IGO&INGO Identifiers in All gTLDs

Publication Date:	27 July 2017
Prepared By:	Dennis Chang

Public Comment Proceeding	
Open Date:	17 May 2017
Close Date:	10 July 2017
Staff Report Due Date:	01 August 2017

Important Information Links
Announcement
Public Comment Proceeding
View Comments Submitted

Staff Contact:	Dennis Chang	**Email:**	dennis.chang@icann.org

Section I: General Overview and Next Steps

General Overview

On 10 May 2017, ICANN posted the Proposed Implementation of GNSO Consensus Policy Recommendations for the Protection of IGO & INGO Identifiers in All gTLDs for public comment. The deadline to receive public comments was 10 July 2017.

This public comment forum was intended to gather community feedback on the proposed implementation of consensus policy recommendations governing the protection of identifiers for International Governmental Organizations (IGOs) and International Non-Governmental Organizations (INGOs) in all generic Top Level Domains. Specifically, this proposed implementation is limited only to those Consensus Policy recommendations adopted by the ICANN Board on 30 April 2014, which were not inconsistent with the Governmental Advisory Committee (GAC) advice received on the topic. These recommendations relate to protection at the top and second-level only for certain specific names of the Red Cross/Red Crescent Movement (RCRC), the International Olympic Committee (IOC), certain IGOs and INGOs. This implementation does not address Red Cross or IGO acronyms, which are under discussion by the ICANN Board, the GAC and the Generic Names Supporting Organization (GNSO).

At the time this report was drafted, four comments were submitted to the forum.

Next steps

ICANN will review the comments received in collaboration with the Implementation Review Team (IRT) to determine whether any changes need to be made to the proposed implementation as a result of the input received.

Section II: Contributors

At the time this report was prepared, a total of four (4) community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Registry Stakeholder Group	Stephane Van Gelder	RySG
Business Constituency	Steve Del Bianco	BC
Intellectual Property Constituency	Gregory S. Shatan	IPC

Individuals:

Name	Affiliation (if provided)	Initials
George Kirikos	Leap of Faith Financial Services Inc.	GK

Section III: Summary of Comments

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

ICANN has received four (4) comments from the community on the Proposed Implementation of GNSO Consensus Policy Recommendations for the Protection of IGO & INGO Identifiers in All gTLDs (the "Policy").

For ease of reference, each commenter's comments will be organized, in order, by its reference to draft Policy sections.

Comments from the Registry Stakeholder Group (RySG):

- With respect to **Section 2** of the draft Policy, which proposes a policy effective date of 1 February 2018, the RySG requests the policy effective date be no earlier than 12 months from the approval of the INGO Claims System specifications.
- With respect to **Section 4.1**, the RySG recommends that the Policy make explicit which registrar account ID the Registry Operator can use to allocate domain names under the Policy, and suggests it should be the Registry Operator Non-Billable account, or GURID 9999. Additionally, the RySG asks for clarification on what "unless otherwise specified" means in the context of 4.1, and suggests if it refers to the exception in Section 4.2, this should be explicit.
- With respect to **Section 4.2**, the RySG recommends inserting the text "subject to applicable Registry Operator's policies and restrictions" after "the Registry Operator MUST permit renewal or transfer of the domain name[.]"
- With respect to **Section 4.3**, which requires Registry Operators to "provide a method for registration of the reserved names by the Red Cross, IOC and IGO organizations," the RySG notes the registration should be subject to both availability and applicable Registry

policies/restrictions, e.g., community-based eligibility requirements, Public Interest Commitments, and IDN Tables. Additionally, the RySG notes the Policy should make explicit that Registry Operators do not have the obligation to validate the eligibility of the potential registrant. Lastly, the RySG notes the potential registrant must use an ICANN-accredited Registrar, and either the Registrar or a third party should be responsible for validating the eligibility of a potential registrant.

- With respect to **Section 4.4**, which provides that ICANN will notify Registry Operators of any changes to the Red Cross, IOC and IGO Identifier List, the RySG recommends that ICANN make the list available in a machine-readable file that Registry Operators can process. The RySG further notes ten (10) calendar days may not be adequate time for Registry Operators to process list changes or updates. With respect to changes to the list, the RySG recommends the notification of changes be broken down into two parts, or that the data fields specifically denote (i) DNS labels added to the list; and (ii) DNS labels removed from the list. Additionally, the RySG recommends the DNS labels for IDNs should be in ASCII Compatible Encoding form. Finally, the RySG notes the list of names contained in the notification MUST be in machine-readable format, exact matches only. The RySG notes that the above comments also apply to **Section 5.3**, which provides that ICANN will notify Registry Operators regarding changes to the INGO Identifier List.

- With respect to **Appendix A,** the RySG notes the INGO Claims Notice is different from the TMCH Claims Notice, and the RySG is seeking clarification as to whether the INGO Claims System will leverage the already existing TMCH Claims System. The RySG notes using the existing TMCH system would be more efficient than integrating a new system.

- With respect to the **DNS Label Conversion Rules** provided in the Implementation Notes, the RySG notes that a valid U-Label or A-Label will be subject to the Registry Operator's IDN Table rules, which may make the DNS label ineligible for registration in that specific TLD. Additionally, the RySG notes for IDN variants, each IDN variant should be listed as a single entry in each of the Identifier lists and that the DNS labels should be in machine-readable format.

- Lastly, the RySG would like clarification on how the new requirements of this Policy dovetail with the New gTLD Registry Agreement Section 2.6, Spec 5, and the RPMs for new gTLDs (e.g., are the reserved labels under this Policy subject to Sunrise and/or Claims Services upon release per section 2.4.3 of the RPMs)?

Comments from the Business Constituency (BC):

- With respect to **Section 4.4** of the draft Policy, the BC supports using the IGO names list provided by the GAC, which currently contains one language and allows for the addition of a second language when available, to create the initial list of the DNS Labels as required by the policy recommendation. Additionally, the BC supports permitting names to be added to or deleted from the Red Cross, IOC and IGO Identifier List upon ten (10) calendar days' notice from ICANN to the Registry Operator. However, the BC believes that ICANN should consult with both the GNSO and the GAC in relation to any proposed changes to the names on the Red Cross, IOC and IGO Identifier List so that the GNSO has the ability to assure that such name changes are consistent with the underlying policy.

- With respect to **Section 5**, which provides details on the INGO Claims Service, the BC supports the proposed language that will be sent to a potential registrant if the potential registrant attempts to register a domain name that is an exact match of the DNS Label on the INGO Identifier List.

- With respect to the **DNS Label Conversion Rules**, the BC supports the draft DNS Label Conversion Rules.

Comments from the Intellectual Property Constituency (IPC):

- With respect to **Section 3.1** of the draft Policy, the IPC notes a missing link after "found here".
- With respect to **Sections 3.2 – 3.5**, the IPC notes Sections 3.2 – 3.4 only generally refer to the "INGO Identifier List", while Section 3.5 "seems to be tasked with identifying" the list. The IPC notes Section 3.5 should provide greater clarity on: who is responsible for creating and updating the list, what requirements are made for an organization to be identified on the list, where the list is located and who will review and approve submissions to the list and what the underlying requirements are for submission.
- With respect to **Section 4.2,** the IPC notes there may be examples of good faith registrations of domain names that are an exact match and notes the handling in Section 4.2 of existing registrations. The IPC argues that it would be more fair if good faith, non-infringing registrations by those with legitimate rights should be allowed at any time as a matter of course, possibly with review and non-objection by the Red Cross, IOC or IGO entity.
- With respect to **Section 5**, the IPC would like to note that it may be necessary to review the proposed INGO Claims Service period if the Claims Period related to the Trademark Clearinghouse (TMCH) is changed, a topic that is rightly dealt with by the separate Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group.
- With respect to **Appendix A and B**, the IPC supports the proposed "INGO Claims Notification displayed to Potential Domain Name Registrant", and "INGO Notice of Registered Name sent to Protected Organization", as they are clear and identify the topic, risks and possibilities for both parties.

Comments from George Kirikos (GK):

- With respect to **Section 4.2** of the draft Policy, GK proposed changing the text, "…MUST permit renewal or transfer of the domain name," to: …"MUST permit renewals of the domain name and MUST permit transfers of the domain name." GK proposes this text to clarify that both transfers and renewals are permitted, and multiple transfers and multiple renewals are also permitted.
- With respect to **Section 4.4**, GK notes the current wording allows potential gaming as the currently protected organizations may, at some point in the future, attempt to rename themselves, thereby gaining protections that were not explicitly obtained via the GNSO Consensus Policy. Accordingly, GK believes Section 4.4 should be amended such that any additions to the list go through a more rigorous and public consultation, including a public comment period (in conjunction with the GNSO, too), not just consultation with the GAC. The public comment period could then ensure that shorter domain names that have multiple competing uses (e.g., generic dictionary words, acronyms, etc.) are not added to the list.
- With respect to **Section 5.1**, GK notes the list of organizations within the INGO Identifier List includes generic terms such as "Rare" and "Mosaic" that can be used by many organizations or individuals. Additionally, GK notes these INGOs may not have matching registered trademarks in many cases, which list the specific goods and/or services and geographic regions to which the trademarks would apply. Thus, GK is concerned the INGO Claims Service will have a chilling effect on potential registrants because the prospective registrant is not being provided sufficient details with which to make an informed decision as to whether their prospective use of the domain name would cause a real conflict with the INGO. Accordingly, GK proposes the INGO Claims Notice System either be scrapped entirely, or alternatively, the list of organizations in the INGO Identifier List be supplemented with additional columns to (a) identify the countries where those INGOs purport to operate and (b) identify what those INGOs actually do, i.e., the goods/services that might cause a conflict. GK also notes the text of **Appendix A** doesn't the aforementioned details, either. GK believes more work is required on

the Claims Notices, and it is not currently ready for implementation.

- With respect to **Section 5.3**, GK notes, similar to the comment about Section 4.4, that the current text allows potential gaming. GK proposes that ICANN consult with the GNSO and the public before adding additional names to the list, to ensure that shorter domain names that have multiple competing uses (e.g., generic dictionary words, acronyms, etc.) are not added to the list.

Section IV: Analysis of Comments

General Disclaimer: This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.

ICANN appreciates all the comments and suggestions added to the public forum for the proposed Implementation of GNSO Consensus Policy Recommendations for the Protection of IGO & INGO Identifiers in All gTLDs. ICANN reviewed all comments submitted in conjunction with the Implementation Review Team.

The below analysis, similar to the summary, is organized by the specific section of the draft Policy.

Section 2 of draft Policy

In response to the RySG's comment that the policy effective date be no earlier than 12 months from the approval of the INGO Claims System specifications, ICANN organization will further consult RySG regarding its specific recommendation before announcing a final Policy effective date.

Section 3 of draft Policy

Section 3.1: In response to the IPC's comment about the missing link in Section 3.1, the Implementation Review Team appreciates the careful and thorough review of the Policy language and will ensure that the link is operational for the final policy publication.

Section 3.4: In response to RySG's comment about the clarification of the INGO Claims System and the TMCH Claims System and the suggestion to leverage the already existing TMCH Claims System, the Implementation Review Team notes, consistent with the RySG's recommendation, that the current plan is to leverage the existing TMCH Claims System to the extent possible.

Section 3.5: In response to IPC's comment about greater clarity to the INGO Identifier List, the definition of which is provided in Section 3.5, the Implementation Review Team notes Section 5, which provides more information about the INGO Identifier List. Specifically, Section 3.5 identifies the organization responsible for the INGO Identifier List as the United Nations Department of Economic and Social Affairs (UNDESA). UNDESA is responsible for the creation and updates of the ECOSOC list following their own process. Footnote 9 provides the link to the organization: "UNDESA is the United Nations Department of Economic and Social Affairs that manages the ECOSOC list (https://www.un.org/ecosoc/en/home) of INGOs (https://www.un.org/development/desa/en/)" for anyone seeking further information.

Section 4 of the draft Policy

Section 4.1: In response to RySG's comment regarding which registrar account ID the Registry Operator can use to allocate domain names under the Policy, the Implementation Review Team notes

RySG's suggestion to use the Registry Operator Non-Billable account, or GURID 9999, and agrees to this suggestion.

In response to the RySG's question about the meaning of the text "unless otherwise specified" within Section 4.1, the Implementation Review Team notes that the text "unless otherwise specified" was added, in consultation with the Implementation Review Team, as an exception for Registry Operators, if any ICANN Agreement or Policy prohibits Registry Operators from complying with Section 4.1.

Section 4.2:

In response to GK's comment that the text in 4.2 be changed from "…MUST permit renewal or transfer of the domain name," to: …"MUST permit renewals of the domain name and MUST permit transfers of the domain name[,]" the Implementation Review Team agrees with this suggestions and will update the Policy language accordingly.

In response to RySG's comment that the text "subject to applicable Registry Operator's policies and restrictions" be added to Section 4.2, the Implementation Review Team notes that existing registrations are already subject to the Registry Operator's policies and restrictions and therefore deems this addition unnecessary.

Section 4.3:

In response to RySG's comment that a potential registrant must use an ICANN-accredited Registrar, the Implementation Review Team agrees.

In response to RySG's comment regarding the requirement that Registry Operators "provide a method for registration of the reserved names by Red Cross, IOC and IGO organizations," and the potential inability for Registry Operators to comply with this Section due to availability and applicable registry policies (including community-based eligibility requirements, Public Interest Commitments, etc.), the Implementation Review Team will add the proposed language to Footnote 2.

In response to RySG's comment regarding registrant eligibility validation and the suggestion to make it explicit that Registry Operators do not have the obligation to validate the eligibility of the potential registrant or any related liability and that this liability falls to the registrar or a third party, the Implementation Review Team notes that Registry Operators and ICANN-accredited Registrars have the flexibility to determine registrant eligibility validation. This will be noted in the Implementation Notes of the Policy.

In response to IPC's comments about good faith registrations, the Implementation Review Team notes that, per the GNSO Council's resolution of November 2013, registration is limited only to the legitimate Red Cross, IOC and IGO entities with names listed on the Identifier Lists. Accordingly, making this change would be inconsistent with the Policy recommendations, which require the names to be reserved and only released to the protected entities. For more information, please refer to GNSO Council Motions 20 November 2013 and the Board's adoption thereof:
https://community.icann.org/display/gnsocouncilmeetings/Motions+20+November+2013
https://www.icann.org/resources/board-material/resolutions-2014-04-30-en#2.a.

Section 4.4:

In response to GK's comment regarding potential gaming of future additions to the IGO and INGO Identifier Lists, the Implementation Review Team notes the policy recommendation included the Red

Cross, IOC and IGO lists that were provided by the GAC. ICANN org will refer to its policies and procedures regarding changes to policy implementation. For further information, please refer to: https://www.icann.org/en/system/files/files/gdd-consensus-policy-implementation-framework-31may15-en.pdf
https://gnso.icann.org/en/issues/policy-implementation/pi-wg-final-recommendations-01jun15-en.pdf
In response to the RySG's comment regarding ten (10) calendar days not being enough time to process changes and updates to the Red Cross, IOC and IGO Identifier List, the Implementation Review Team notes the ten calendar days notice is already a contractual requirement in the Registry Agreement for the reserved name change. This policy does not seek to make a change to the notification lead time but, instead, is consistent with the existing requirement.

In response to RySG's comment regarding Identifier List Changes being both machine-readable and include data fields that denote (i) DNS labels added to the list and (ii) DNS labels removed from the list, the Implementation Review Team notes the Red Cross, IOC, and IGO lists will be provided by ICANN in machine-readable format, as requested. Additionally, the change notice will include the identification of add and deletes, as requested. The INGO list, however, is provided directly to the INGO Claims System and therefore is not needed for Registry Operators to interface with.

Section 5

Section 5.1:

In response to GK's comment about the inclusion of generic terms and the lack of details regarding products/services/jurisdiction of the INGO in the INGO Identifier List and the potential resultant chilling effect to potential registrants, the Implementation Review Team notes that the INGO list will be received by ICANN from UNDESA and submitted to the INGO Claims System for operation. Neither ICANN nor the Claims System provider are involved with the identification or function of the INGOs. The ECOSOC list and the information about the INGOs are available on the UNDESA website as noted on the footnote number 9: "UNDESA is the United Nations Department of Economic and Social Affairs that manages the ECOSOC list (https://www.un.org/ecosoc/en/home) of INGOs (https://www.un.org/development/desa/en/). "

Section 5.2:

In response to IPC's comment noting the similarities between the INGO Claims Service and the TMCH and the potential necessary review of the INGO Claims Service period if the Claims Period is changed for TMCH, the Implementation Review Team acknowledges these ongoing activities surrounding the Claims and will take appropriate action upon occurrence of relevant changes, provided the action is within the scope of this policy implementation.

Section 5.3:

In response to GK's comment about Section 5.3 being open to potential gaming (similar to the potential gaming noted with respect to Section 4.4), the Implementation Review Team notes that the GNSO policy recommendations require the use of the ECOSOC list from UNDESA. Any deviation from the use of the ECOSOC list would be in contravention of the GNSO's policy recommendations. Accordingly, the Implementation Review Team notes its plan to accept the updates from UNDESA as the only source of the list, per the approved policy recommendation.

Appendices A & B

The Implementation Review Team notes the support of BC and IPC with respect to the proposed Claims Notification text.

In response to BC's comment in support of using the IGO names list provided by the GAC, which currently contains one language and allows for adding a second language when available, the Implementation Review team agrees to update the protected identifier list with the second language upon its availability from the GAC.

DNS Label Conversion Rules

The Implementation Review Team notes BC's support of the DNS Label Conversion Rules.

In response to RySG's comment regarding the valid U-Label or A-Label being subject to the Registry Operator's IDN Table rules thereby making a particular domain name ineligible for registration, the Implementation Review Team agrees with this feedback and will update the Implementation Notes to the Policy.

In response to RySG's comment that DNS Labels for IDNs be ASCII Compatible Encoding form, the Implementation Review Team notes that IDNs will be presented in ASCII Compatible Encoding form.

In response to the RySG's comment that each IDN variant be treated as a single entry in each one of the Identifier Lists, the Implementation Review Team notes the Identifier Lists do not distinguish any variants and will be treated as a single entry and a unique identifier.

General Comments

In response to RySG's question about how this Policy dovetails with the New gTLD Registry Agreement Section 2.6, Spec 5, and the RPMs for new gTLDs (e.g., are the reserved labels under this policy subject to Sunrise and/or Claims Services upon release, a la Section 2.4.3 of the RPMs), additional context will be included in the Implementation Notes to the Policy.