The ICANN GNSO "Business Constituency"

Comment on Proposed Renewal of .NET Registry Agreement

Business Constituency Submission

GNSO//CSG//BC

Background

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter:

> The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:
> 1. promotes end-user confidence because it is a safe place to conduct business
> 2. is competitive in the supply of registry and registrar and related services
> 3. is technically stable, secure and reliable.

Comment

This document is the BC's response to the "Proposed Renewal of .NET Registry Agreement"[1], where ICANN and Verisign negotiated provisions to be maintained or modified, with a portion of the New gTLD Registry Agreement being incorporated into the contract.

Generally, the BC supports the proposed renewal of the .NET Registry Agreement (RA).

Specifically, the BC offers the following comments on proposed terms of this renewal:

Compliance

> The BC appreciates that ICANN performed a review of Verisign's contractual compliance and that "*Verisign was found to be in substantial compliance with their contractual requirements for .NET*".   That said, the BC requests ICANN to share the data on the compliance review that was performed.

Use of ICANN Fee Revenue

> The BC notes that Verisign will continue to pay a $0.75 per domain registration fee, which is 3 times higher than the New gTLD standard fee of $0.25 per domain. The extra $0.50 fee is supposed to be dedicated to developing world engagement and to maintaining security/stability of the DNS.

> However, these funds are not segregated, or separately accounted for or earmarked in ICANN's budget. The BC requests an annual accounting disclosure by ICANN to demonstrate that this extra fee revenue is spent on the intended activities.

Domain prices

> Under the proposed renewal, Verisign remains subject to pricing caps. That is, Verisign may not increase .NET wholesale domain prices by more than 10% each year.

> While the BC does not believe that ICANN should have the role of price regulator in a competitive market, we are comfortable with extending these price controls into the next term of the .NET contract.

---

[1] https://www.icann.org/public-comments/net-renewal-2017-04-20-en

Rights Protection Mechanisms

The BC notes with approval that the .NET renewal RA includes some technical and conforming provisions of new gTLD Registry Agreement and the .ORG Registry Agreement. But unlike some previous renewals of legacy gTLDs, Uniform Rapid Suspension (URS) is <u>not</u> proposed as part of the renewed .NET registry agreement.

URS has the potential to give businesses a cost-effective way to stop clear and convincing incidents of trademark infringement by domain registrants, because it is faster and less expensive than the Uniform Domain Name Dispute Resolution Policy (UDRP). Since .NET is the fifth most popular TLD on the Internet[2] and the second most used gTLD, the benefits of URS availability could be significant for small businesses and those in developing economies.

However, the BC has previously – and consistently – said that renewing legacy gTLD operators should not be compelled to accept URS within the context of RA renewal negotiations until URS becomes GNSO consensus policy.[3]

We hope that URS will become GNSO consensus policy as an outcome of the ongoing *Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group[4]*. This Working Group (WG) will be reviewing the efficacy and administration of the URS later this year and is charged by its Charter with recommending whether the URS and other relevant new gTLD RPMs should become ICANN Consensus Policy and thereby applicable to legacy gTLDs.

If URS becomes consensus policy, all legacy and new gTLDs are compelled to comply immediately upon implementation of the WG's Final Report and Recommendations . That is the ideal path for the implementation of URS, since it works for all gTLDs, instead of depending on a per-contract basis. And it preserves the preferred bottom-up policy development process for consensus policies.

--

This comment was drafted by Mark Datysgeld and Nivaldo Cleto, with edits by Phil Corwin and Steve DelBianco.

It was approved in accord with the BC charter.

---

[2] https://www.verisign.com/assets/domain-name-report-Q42016.pdf

[3] See BC comment on .MOBI renewal, Feb-2017, at http://www.bizconst.org/assets/docs/positions-statements/2017/2017_02February_01%20BC%20Comment%20on%20MOBI%20RyA%20.pdf, and

also see BC comment on .XXX renewal, Nov-2016, at http://www.bizconst.org/assets/docs/positions-statements/2016/2016_11november%2024%20bc%20comment%20on%20proposed%20xxx%20registry%20agreement.pdf

Also, the BC filed a Reconsideration Request in 2016 objecting to ICANN imposing URS on .TRAVEL, .CAT, and .PRO. renewals, where we stated:
> ("GNSO") has not yet issued a consensus policy regarding the application of new gTLD RPMs to legacy TLDs and suggest that the Renewed Registry Agreements represent an attempt by ICANN staff to preempt that policy development process.

[4] https://community.icann.org/display/RARPMRIAGPWG/Work+Plan