



**Comment on Interim Paper
of CCWG on Use of Names
of Countries and Territories
as Top Level Domains**

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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

The ICANN Business Constituency (BC) welcomes this opportunity to comment on the Cross-Community Working Group on Use of Names of Countries and Territories as Top Level Domains (CWG-UCTN) Interim Paper.

The Interim Paper outlines the following conclusions:

1. Two-letter codes should continue to be reserved for ccTLDs at the top level;
2. No consensus could be reached on whether three-letter codes should continue to be reserved at the Top Level, or should be allocated to corresponding ccTLD registry operators, or whether they should be opened for use as new gTLDs; and
3. Due to the lack of consensus, the CWG-UCTN agreed that it must close and give way to an alternative structure for further exploring and developing policy recommendations regarding the use of two-letter and three-letter country codes and full country and territory names as TLDs.

Two-Letter Names

The BC does not object to continuing to reserve existing two-letter country-codes for use as ccTLDs where the code is currently assigned to a specific country or territory for use as its ccTLD. However, the BC sees no principled reason to categorically maintain the *status quo* moratorium on generally using two-letter strings as gTLDs. The BC would thus support further consideration of this issue by the community.

As an initial matter, two-letter domain names can be combined into 676 (26^2) configurations, of which only around 250 correspond to codes currently assigned to a specific country or territory for use as its ccTLD. To the extent certain jurisdictions have an assigned country code but have yet to utilize the corresponding ccTLD (e.g., .bl for Saint Barthélemy, .bq for Bonaire, Sint Eustatius and Saba, .bv for Bouvet Island, .mf for Saint Martin, and .sj for Svalbard and Jan Mayen), the BC would support the

reservation of such domain names. However, that still leaves several hundred remaining combinations of two letter domain names which are not currently associated with a particular country or territory.

The designation of two-letter TLDs as ccTLDs is not based on any particular technical or legal principle. Rather, it is a mere historical artifact from early development of the Domain Name System (DNS).¹ On the other hand, there are countervailing principles supporting the opening of certain unassigned two-letter strings for use as gTLDs, including principles of free expression and applicable national trademark laws. For example, the two-letter string “VW” is currently not assigned as a two-letter country-code. We see no reason why Volkswagen, which owns trademark registrations around the globe for the well-known VW mark,² should not be able to apply to operate .VW as a .Brand gTLD.

Moreover, many existing ccTLDs are already used as *de facto* “generic” TLDs, and not as a means of identifying their assigned country or territory. For example, .CO is marketed and used generically to refer to corporations (although .CO is the ccTLD for Colombia), and .TV is marketed and used generically to refer to television (although .TV is the ccTLD for Tuvalu).

For these reasons, we believe the possibility of lifting the existing complete moratorium on using non-assigned/delegated two-letter strings as gTLDs should be further explored in any future policy development process examining the use of two-letter strings at the Top Level.

Three-Letter Names

The BC understands that the CWG-UCTN could not reach consensus on a recommendation regarding the treatment of three-letter strings that correspond to three-letter country-codes on the ISO 3166-1 alpha-3 list. The BC supports the use of three-letter strings as new gTLDs, and objects to either (1) maintaining the existing moratorium on using three-letter strings as gTLDs or (2) designating any unassigned three-letter strings exclusively for use as three-letter ccTLDs.

Again, there is no principled reason for reserving three-letter strings for use as three-letter ccTLDs. Although the International Standardization Organization (ISO) maintains a list of three-letter country-codes to complement its list of two-letter country-codes, these three-letter strings have never been used as ccTLDs. On the contrary, many three-letter strings have been used as gTLDs (e.g., .COM, .NET, .ORG, .EDU (legacy gTLDs) and .TOP, .RED, .REN, .APP (new gTLDs)). The most ubiquitous of these examples, the .COM TLD, overlaps with the ISO three-letter code assigned to Comoros.

On the other hand, principles of free expression and national trademark law militate in favor of opening three-letter strings for use as new gTLDs, even where they may correspond to a three-letter country-code on the ISO list. Existing rules and requirements restricting what can be allocated as a gTLD, such as rules against confusingly similar strings, should still apply. However, there is no internationally-accepted

¹ See, e.g., Network Working Group, [Request for Comments: 1591 “Domain Name System Structure and Delegation”](#) (Mar. 1994).

² See, e.g., VW (U.S. Reg. No. 0653695) (Registered Oct. 29, 1957); see also VW (CTN 000352237) (Filed July 17, 1996).

legal basis for giving blanket priority over the use of three-letter strings to governments or ccTLD managers.

Accordingly, we believe the possibility of lifting the existing moratorium on using three-letter strings that correspond to three-letter country-codes on the ISO list as gTLDs should be further explored in any future policy development process examining the use of two-letter strings at the Top Level.

Full Country and Territory Names

The BC understands that the CWG-UCTN did not reach substantive discussion regarding the use of full country and territory names at the Top Level. The BC supports the use of full country and territory names as new gTLDs, including removing any moratorium on the ability to apply for such names generally and not requiring any form of governmental pre-approval or non-objection.

The BC has previously voiced strong objection to any proposal to restrict use of such names as TLDs, such as the “Argentina Proposal” that remains in development within the Governmental Advisory Committee Geographic Names Working Group.³ Again, such a proposal is not consistent with accepted principles of international and national law. There is no generally accepted legal principle granting governmental priority over country and territory names in the context of the DNS.

That being said, the BC respects the perspectives of GAC members in the Geographic Names Working Group, and looks forward to further engagement on this issue in the context of a policy development process examining the use of full country and territory names at the Top Level. In particular, where certain geographic regions are under collective administration by multiple state actors, it may be useful for the process to incorporate an early means for such entities to voice their concerns regarding TLDs corresponding to such regions. While applicants should not be prohibited from using such strings, this would allow them to be aware of the relevant concerns and to engage with the state actors at an earlier stage in the application process.

Procedural Next Steps

The BC supports closing the CWG-UCTN in favor of a broader, all-inclusive policy development process, to address all issues related to the use of country and territory names (and potentially “geographic names” as that term is understood more broadly) as TLDs.

The BC would prefer to proceed through a GNSO PDP, as this process is well defined in the ICANN Bylaws, and we reiterate that although this process is managed by the GNSO, it is completely open to participation by any stakeholders regardless of affiliation (including members of the ccTLD community (i.e. the ccNSO) and the GAC). The BC specifically supports this conversation continuing in the New gTLD Subsequent Procedures Working Group, as this policy development process has the mandate to address the issues of geographic names at the top level.

³ See Business Constituency, [BC Comment on GAC Proposal for Protection of Geographic Names in New gTLDs](#) (Nov. 8, 2014).

The BC appreciates the consideration of these comments, and looks forward to engaging in the policy development process that is convened to address these and other geographic names issues.

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This comment was drafted by Andy Abrams, Andrew Harris, Barbara Wanner, and Nivaldo Cleto
It was approved in accordance with the BC charter.