



Comment on Proposed Renewal of Registry Agreement for .ASIA

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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

This document is the BC's response to the Proposed Renewal of Registry Agreement for .ASIA, a legacy gTLD, which was published for public comment on 27-Mar-2019.¹

In general, the BC supports the proposed renewal agreement negotiated between ICANN and the operator of .ASIA because it incorporates important Base Registry Agreement provisions that are valuable to BC members, including rights protection mechanisms, dispute resolution processes, the Registry Code of Conduct, and Public Interest Commitments.

Below, the BC offers specific comments on selected terms of the proposed renewal agreements.

ICANN should seek community input *before* negotiating registry agreement renewals

These proposed agreements were already negotiated and agreed by ICANN and DotAsia Organisation Limited. At this point, ICANN seeks public comment not to renegotiate these agreements, but only to make a report of public comments "available for the ICANN Board in its consideration of the proposed renewal agreement."

However, as the BC noted in our 2016 comments on the proposed Base Registry Agreement, we are not content to merely comment after ICANN has already negotiated and approved the changes:

Further discussions with the broader community should be conducted regarding changes to these proposed amendments before they are finalized and sent to the ICANN Board for consideration.²

The BC again asks ICANN to solicit community input before it enters negotiations with contract parties, so that ICANN understands the priority concerns of business users and registrants when it negotiates on our behalf.

¹ See ICANN public comment page for .ASIA at <https://www.icann.org/public-comments/asia-renewal-2019-03-27-en>.

² See Jul-2016 BC Comment on Proposed Amendments to Base New gTLD Registry Agreement, at https://www.bizconst.org/assets/docs/positions-statements/2016/2016_07july_20%20bc%20comment%20on%20proposed%20gTLD%20base%20registry%20agreement%20final.pdf

Contractual Compliance Review

The BC appreciates that ICANN performed a review of contractual compliance by dotAsia and notes that ICANN concluded that the registry was “found to be in compliance with its contractual requirements for the operation” of the TLD.

That said, transparency with respect to contract compliance is a priority for the BC, and we ask ICANN to share its data on the compliance review that was performed.

Rights Protection Mechanisms

The BC notes that the .ASIA renewal agreement proposes Uniform Rapid Suspension (URS) as part of the renewed 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). The benefits of URS could be significant for small businesses and individuals, especially those in developing economies.

In our comments on the proposed renewals for .MOBI and .NET back in 2017, the BC said that renewing legacy gTLD operators should not be compelled to accept URS within the context of RA renewal negotiations hoping that URS would become 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*. 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.

The BC continues to believe that the Policy Development Process (PDP) is the best path for the implementation of URS, since it works across all gTLDs, instead of depending on individual contract negotiations. However, the RPM Review WG has not yet made recommendations with respect to URS as a Consensus Policy. This lack of consensus may derive from deeply-held differences among GNSO constituencies, which the BC has noted in the EPDP underway at this time.

Despite our reservations about second-guessing a PDP, the BC supports importing registrant protections from the new gTLD base agreement—including Specification 7, Specification 11, and URS -- in any contractual negotiation opportunity that arises for legacy gTLDs.

This is consistent with our long-held support for RPMs and registry accountability, and reflects our growing frustration with the GNSO Policy Development Process to advance these protections for business registrants. We welcome future implementation of consensus policy on RPMs. ICANN should not miss any opportunity to extend existing new gTLD registrant protections to legacy gTLDs, particularly to help small and medium enterprises protect their domain names and their customers.

³ See BC comment on .NET renewal, May-2017, at https://www.bizconst.org/assets/docs/positions-statements/2017/2017_05May_30%20BC%20Comment%20on%20.NET%20RyA%20renewal.pdf

Also 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

Last month, the BC approved this new position regarding the priority of obtaining RPMs and registrant protections in our comments supporting the proposed registry agreements for .ORG and .INFO⁴.

Community Registration Policies

The .ASIA registry agreement includes **Specification 12** to describe its **Community Registration Policies**:

The TLD will serve the Pan-Asia and Asia Pacific community (the “Sponsored Community”). Registry Operator will adopt the boundaries defined by ICANN for the Asia / Australia / Pacific (AP) region as a basis for its scope of eligibility. This provides for a clear definition of eligibility based on the geographic locations represented within the region.

The vision of Registry Operator is to create a globally visible domain that embodies the successful, cooperative atmosphere established within the Sponsored Community to accelerate the overall growth of the region.

The mission of Registry Operator is:

- To sponsor, establish and operate a regional Internet namespace with global recognition and regional significance, dedicated to the needs of the Sponsored Community.
- To reinvest surpluses in socio-technological advancement initiatives relevant to the Sponsored Community; and
- To operate a viable not-for-profit initiative that is a technically advanced, world- class TLD registry for the Sponsored Community.

Registry Operator views "Asia" as a term that appropriately embodies the diverse and vibrant Sponsored Community, and a TLD namestring that is representative, short, recognisable and conceptually viable. Registry Operator believes that "Asia" as a term used for a TLD has broad significance, clear and lasting value, and creates a new and differentiated space that enhances the diversity of the Internet namespace.

The BC supports the above statement of its community-oriented mission, to serve the “Asia / Australia / Pacific region as the basis for its scope of eligibility”.

Inclusion of IDNs (Internationalized Domain Names) at the second level in .ASIA

As one of its **Approved Services** in the proposed registry agreement, .ASIA “may offer registration of IDNs at the second and lower levels.” Given the registry’s community service policies described above, we wish to draw special attention to the need for IDN capabilities in all of the scripts used in the Asia / Australia / Pacific region.

The BC has always championed increasing the accessibility of internet domain names and email addresses and has supported ICANN’s effort to make domains available in multiple languages and scripts. .ASIA represents the sponsored community of a part of the world where most people do not use the Latin script as their primary written script. Thus, the availability of IDNs at the second level will go a long way to enable and welcome people with varied languages on the internet.

⁴ Apr-2019 BC Comment on Proposed Renewal of Registry Agreements for .INFO and .ORG, at https://www.bizconst.org/assets/docs/positions-statements/2019/2019_04April_29%20BC%20Comment%20on%20.INFO%20and%20.ORG%20Registry%20Agreements.pdf

In our Dec-2017 comment on IDN Implementation Guidelines⁵, the BC stated that increased use of IDNs will facilitate the creation of customized and relevant localized content for consumers in various countries and regions across the world, especially in developing nations with predominantly non-English-speaking populations. This practice will benefit businesses and consumers alike by fueling economic development in regions which currently have limited choice with respect to linguistically and culturally tailored domain names and content.

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This comment was drafted by Vivek Goyal and Steve DelBianco.

It was approved in accord with the BC charter.

⁵ Dec-2017 BC Comment on Internationalized Domain Name (IDN) Implementation Guidelines, at https://www.bizconst.org/assets/docs/positions-statements/2017/2017_12December_12BC%20Comment%20on%20IDN%20Implementation%20Guidelines.pdf