

Procedures for the review of sensitive strings

String Evaluation and Objections Procedure

Amend the following procedures related to the Initial Evaluation called for in Module 2 to include review by governments, via the GAC.

At the beginning of the Initial Evaluation Period, ICANN will provide the GAC with a detailed summary of all new gTLD applications. Any GAC member may raise an objection to a proposed string for any reason. The GAC will consider any objection raised by a GAC member or members, and agree on advice to forward to the ICANN Board.

(1b) A procedure for GAC review will be incorporated into the new gTLD process. The GAC may review the posted applications and provide advice to the ICANN Board. As discussed with the GAC, such advice would be provided within the 45-day period after posting of applications, with documentation according to accountability and transparency principles including whether the advice from the GAC is supported by a consensus of GAC members (which should include identification of the governments raising/supporting the objection).

Procedures for the review of sensitive strings

GAC advice could also suggest measures to mitigate GAC concerns. For example, the GAC could advise that additional scrutiny and conditions should apply to strings that could impact on public trust (e.g. '.bank').

(2) If the GAC were to provide suggested changes to mitigate concerns, we are concerned that the advice would lead to ad hoc changes to the evaluation process based on subjective assessments.

Expand Categories of Community-based Strings

“Community-based strings” include those that purport to represent or that embody a particular group of people or interests based on historical, cultural or social components of identity, such as nationality, race or ethnicity, religion, belief, culture or particular social origin or group, political opinion, membership of a national minority, disability, age, and/or a language or linguistic group (non exhaustive). In addition, those strings that refer to particular sectors, such as those subject to national regulation (such as .bank, .pharmacy) or those that describe or are targeted to a population or industry that is vulnerable to online fraud or abuse, should also be considered “community-based” strings.

(2) Any community is eligible to designate its application as community-based. Bona fide community applicants are eligible for preference in the event of contention for a string.

Also, ICANN has provided a community objection process in the event that there is "substantial opposition to it from a significant portion of the community." (A community objection may be lodged against any application, whether or not it is designated as community-based.)

The GAC's list of groups and sectors appears to be an example of the kinds of communities that may be able to achieve standing to raise a community objection.

Expand Categories of Community-based Strings

Applicants seeking such strings should be required to affirmatively identify them as “community-based strings” and must demonstrate their affiliation with the affected community, the specific purpose of the proposed TLD, and –when opportune evidence of support or non-objection from the relevant authority/ies that the applicant is the appropriate or agreed entity for purposes of managing the TLD.

(2) The GAC’s suggestion would require applicants to designate themselves as a community, even if they might not be.

Strings may have many meanings, not all of which might implicate a community.

Reducing the context for how strings may be used is contrary to an important goal of the new gTLD program, which is to help encourage competition, innovation and consumer choice.

Expand Categories of Community-based Strings

In the event the proposed string is either too broad to effectively identify a single entity as the relevant authority or appropriate manager, or is sufficiently contentious that an appropriate manager cannot be identified and/or agreed, the application should be rejected.

(2) The community objection process is intended to deal with applications where "there is substantial opposition" to the application "from a significant portion of the community."

This GAC advice seems to suggest that unless everyone can agree on an appropriate applicant for a given string then the string should not be approved. Again, this seems contrary to the goal of increasing competition and providing additional choice to all consumers.

Further, the phrase "sufficiently contentious" is vague and it is unclear who the GAC is suggesting would need to agree on an "appropriate manager." Thus, this suggestion does not seem to be workable in light of the goals of the new gTLD program.

Market and Economic Impacts

Amend the final Draft Applicant Guidebook to incorporate the following:

Criteria to facilitate the weighing of the potential costs and benefits to the public in the evaluation and award of new gTLDs.

(2) It is not planned that information gathered as part of the application will be used to predict the net benefit of the prospective TLD – that would be too speculative to be of real value. However, during the discussions between the GAC and the Board in Brussels, the GAC indicated that the weighing of costs and benefits should instead take place as part of the new gTLD program review as specified in section 9.3 of the Affirmation of Commitments.

Registry – Registrar Separation

Amend the proposed new registry agreement to restrict cross-ownership between registries and registrars, in those cases where it can be determined that the registry does have, or is likely to obtain, market power.

(2) ICANN sought to implement a marketplace model that would enhance competition, opportunities for innovation and increase choice for consumers while preventing abuses in cases where the registry could wield market power. While lifting restrictions on cross-ownership, ICANN reserves the right to refer issues to appropriate competition authorities if there are apparent abuses of market power. As previously resolved by the Board, registry agreements will include requirements and restrictions on any inappropriate or abusive conduct arising out of registry-registrar cross ownership, including without limitations provisions protecting against misuse of data or violations of a registry code of conduct.

Protection of Rights Owners and consumer protection issues

Rights Protection: Trademark Clearing House (TC)

Sunrise services and IP claims should both be mandatory for registry operators because they serve different functions with IP claims serving a useful notice function beyond the introductory phase.

(2) The IRT and STI suggested an either/or approach. Please advise reasons for advocating both.

Protection of Rights Owners and consumer protection issues

Rights Protection: Trademark Clearing House (TC)

IP claims services and sunrise services should go beyond exact matches to include exact match plus key terms associated with goods or services identified by the mark) e.g. “Kodakonlineshop”) and typographical variations identified by the rights holder.

(2) ICANN recognizes that trademark holders have an interest in receiving notification in the event that strings are registered that include their mark and a key term associated with goods or services identified by the mark. This remains an area of discussion.

Protection of Rights Owners and consumer protection issues

Rights Protection: Trademark Clearing House (TC)

The TC should continue after the initial launch of each gTLD.

(2) The Trademark Clearinghouse will be an ongoing operation. The Sunrise and TM Claims service will operate only at launch (in accordance with the recommendations of the IRT and the STI). Trademark holders will continue to be able to subscribe to "watch" services that will be able to utilize the Centralized Zone File Access system to be able to efficiently monitor registrations across multiple gTLDs.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension (URS):

The standard of proof (para 8.2) should be lowered from “clear and convincing evidence” to a preponderance of evidence”.

(2) The principle of the URS is that it should only apply to clear-cut cases of abuse.

"Clear and convincing" is the burden of proof that was recommended by the IRT and endorsed by the STI.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension (URS):

The “bad faith” requirement in paras 1.2f), 1.2g) and 8.1c) is not acceptable. Complainants will in only rare cases prevail in URS proceedings if the standards to be fulfilled by registrants are lax.

Correspondingly, the factors listed in paras 5.7a) (“bona fide”) and b) “been commonly known by the domain name”) can hardly allow a domain name owner to prevail over the holders of colliding trademarks.

(2) The standard applied for the URS is based on the UDRP standard. Both require a finding of bad faith.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension (URS):
A 'loser pays' mechanism should be added.

(2) A loser pays mechanism was investigated, but ultimately was not adopted. The UDRP does not have a loser-pays mechanism. It is unlikely that complainants would ever be able to effectively collect based on clear-cut cases of abuse, since the names in question will already have been suspended. Notwithstanding, ICANN will monitor URS procedures once launched to see whether a loser pays mechanism or some other methodology to reimburse mark holders is feasible.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension (URS):

Registrants who have lost five or more URS proceedings should be deemed to have waived the opportunity to respond to future URS complaints (this amendment corresponds to the “two strikes” provision which applies to rights holders).

(2) Due process principles require that every registrant should always have the opportunity to present a defense.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension (URS):

However, there should be a clear rationale for appeal by the complainant.

(2) The Board has asked the GAC to clarify if it intended to refer to "complainant" (as opposed to respondent) in this statement. Every appeal will be decided de novo, and therefore the appeal process does not require a separate evaluation of the rationale for filing the appeal.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension (URS):

The time for filing an appeal in default cases must be reduced from 2 years to not more than 6 months.

(2) The IRT originally suggested a URS without any appeal process. The STI suggested the inclusion of an appeal process (without any mention of a limitation on the ability to seek relief from a default). In response to comments, the Applicant Guidebook was revised to include a two-year limitation period on the opportunity to seek relief from a default.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension (URS):

The URS should go beyond 'exact' matches and should at least include exact + goods/other generic words e.g. "Kodakonlineshop".

(2) As recommended by the IRT, the URS only applies to registrations that are identical or confusingly similar to protected marks as described in the Guidebook. As noted above, the URS is only intended to apply to clear-cut cases of abuse.

Protection of Rights Owners and consumer protection issues

Rights Protection: Post-delegation Dispute Resolution Procedure (PDDRP)

The standard of proof be changed from “clear and convincing evidence” to a “preponderance of evidence”.

(2) This was the standard developed by the IRT.

Protection of Rights Owners and consumer protection issues

Rights Protection: Post-delegation Dispute Resolution Procedure (PDDRP)

The second level registrations that form the underlying basis of a successful PDDRP complaint should be deleted.

(2) The registrants are not parties to the proceedings, thus keeping a registrant from using the domain name or stripping the name from the registrant should be effected through an alternative proceeding, such as URS or UDRP. Note that to the extent registrants have been shown to be officers, directors, agents, employees, or entities under common control with a registry operator, then deletion of registrations may be a recommended remedy.

Protection of Rights Owners and consumer protection issues

Rights Protection: Post-delegation Dispute Resolution Procedure (PDDRP)

A new para 6.1 a) be added: “being identical to the complainant’s mark in relation to goods and services which are identical to those for which the complainant’s mark is registered. This would not apply if the registrant has a better right to the mark. In particular the registrant will in normal circumstances have a better right if the mark has been registered prior to the registration of the complainant’s mark.”

(2) (Clarification from the GAC requested.)

Protection of Rights Owners and consumer protection issues

Rights Protection: Post-delegation Dispute Resolution Procedure (PDDRP)
Regarding the second level (para 6.2), the registrant operator should be liable if he/she acts in bad faith or is grossly negligent in relation to the circumstances listed in para 6.a)-d).

(2) Changing the standard from requiring "affirmative conduct" to "gross negligence" would effectively create a new policy imposing liability on registries based on actions of registrants.

Protection of Rights Owners and consumer protection issues

Rights Protection: Post-delegation Dispute Resolution Procedure (PDDRP)

The requirement in para 7.2.3 lit.d) that the complainant has to notify the registry operator at least 30 days prior to filing a complaint is burdensome and should be reduced to 10 days if not deleted entirely.

(2) The current requirement is in place to provide the registry with a reasonable amount of time to investigate and take appropriate action if a trademark holder notifies the registry that there may be infringing names in the registry.

Protection of Rights Owners and consumer protection issues

Vetting of certain strings

gTLD strings which relate to any generally regulated industry (e.g. .bank, .dentist, .law) should be subject to more intensive vetting than other non-geographical gTLDs.

(2) ICANN has requested clarification from the GAC of the intended meaning of "generally regulated industries", but generally believes that *a priori* categorization of strings is inherently problematic.

Post-Delegation Disputes

Definition of geographic names

and to define names that are to be considered geographic names.

(2) The process relies on pre-existing lists of geographic names for determining which strings require the support or non-objection of a government. Governments and other representatives of communities will continue to be able to utilize the community objection process to address attempted misappropriation of community labels. ICANN will continue to explore the possibility of pre-identifying using additional authoritative lists of geographic identifiers that are published by recognized global organizations.

Post-Delegation Disputes

Definition of geographic names

Review the proposal in the DAG in order to ensure that this potential [city name applicants avoiding government support requirement by stating that use is for non-community purposes] does not arise.

Provide further explanations on statements that applicants are required to provide a description/purpose for the TLD, and to adhere to the terms and condition of submitting an application including confirming that all statements and representations contained in the application are true and accurate.

(2) There are post-delegation mechanisms to address this situation. In addition, the "early warning" opportunity will offer an additional means to indicate community objections.

Providing opportunities for all stakeholders including those from developing countries

Set technical and other requirements, including cost considerations, at a reasonable and proportionate level in order not to exclude stakeholders from developing countries from participating in the new gTLD process.

(tbd) ICANN's Board recognized the importance of an inclusive New gTLD Program and issued a Resolution forming a Joint Working Group (JAS WG) which is underway. ICANN would like to receive the report of the JAS WG as soon as possible. JAS WG is requested to provide a possible deadline for his work during the ICANN meeting in SFO allowing the Board to act.

It is noted that one of the challenges in developing support mechanisms for applicants is to ensure that such support is actually received by those applicants with the most need, rather than being used advantageously by other participants. This issue has also been taken into account in the work of the JAS WG.

The minimum technical requirements for operating a registry are expected to be consistent across applications.

Providing opportunities for all stakeholders including those from developing countries

5. Joint AC/SO Working Group on support for new gTLD applicants. GAC urged ICANN to adopt recommendations of the Joint AC/SO Working Group.

(tbd) This item from the GAC Scorecard appears to reflect the interim report of the JAS WG. ICANN is awaiting their final report. (ICANN would like to receive the report of the JAS WG as soon as possible.)

The objection procedures including the requirements for governments to pay fees

Delete the procedures related to “Limited Public Interest Objections” in Module 3.

(1b) The GAC indicated in Brussels that its concern relates to requiring governments to use this objection process. The Board and GAC therefore agreed that it would be consistent with GAC advice to leave the provision for Limited Public Interest Objections in the Guidebook for general purposes, but the GAC (as a whole) would not be obligated to use the objection process in order to give advice.

Procedures for the review of sensitive strings

String Evaluation and Objections Procedure

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(1b) A procedure for GAC review will be incorporated into the new gTLD process. The GAC may review the posted applications and provide advice to the ICANN Board. As discussed with the GAC, such advice would be provided within the 45-day period after posting of applications, with documentation according to accountability and transparency principles including whether the advice from the GAC is supported by a consensus of GAC members (which should include identification of the governments raising/supporting the objection).

Procedures for the review of sensitive strings

Expand Categories of Community-based Strings

The requirement that objectors must demonstrate “material detriment to the broader Internet community” should be amended to reflect simply “material detriment”, as the former represents an extremely vague standard that may prove impossible to satisfy.

(1b) Staff will return with revised wording to address this concern.

Procedures for the review of sensitive strings

Expand Categories of Community-based Strings

Individual governments that choose to file objections to any proposed “community-based” string should not be required to pay fees.

(1b) ICANN will investigate a mechanism for the forthcoming round under which GAC members could be exempted from paying fees for objections in some circumstances (subject to constraints imposed by budget and other considerations).

Market and Economic Impacts

A requirement that new gTLD applicants provide information on the expected benefits of the proposed gTLD, as well as information and proposed operating terms to eliminate or minimize costs to registrants and consumers.

(1b) As clarified through the discussions with the GAC in Brussels, ICANN will continue to explore with the GAC during the ICANN Public meeting in March 2011 what data might be included in the application to provide useful input to later economic studies and community analysis.

Protection of Rights Owners and consumer protection issues

Rights Protection: Trademark Clearing House (TC)

The TC should be permitted to accept all types of intellectual property rights that are recognized under the national law of the country or countries under which the registry is organized or has its principal place of business.

(1b) ICANN will update the Applicant Guidebook to permit the Trademark Clearinghouse to include intellectual property rights for marks in addition to registered trademarks and those protected by treaty or statute. Of those marks, registry operators will be required to recognize national, supranational and marks protected by treaty and statute as eligible for their sunrise and Trademark claims services (subject to proof of use as described below relating to sunrise services).

The Clearinghouse must clearly note when entering the marks into the database, which marks are registered trademarks.

The proposed date cut-off will not be utilized as discussed with the GAC.

Protection of Rights Owners and consumer protection issues

Rights Protection: Trademark Clearing House (TC)

All trademark registrations of national and supranational effect, regardless of whether examined on substantive or relative grounds, must be eligible to participate in the pre-launch sunrise mechanisms.

(1b) All trademark registrations of national and supranational effect, regardless of whether examined on substantive or relative grounds, will be eligible for inclusion in the Trademark Clearinghouse and for the Sunrise/TM Claims service subject to the following.

Registries that utilize a sunrise process must require submission of evidence of use of the mark by holders of all trademark registrations, regardless of the jurisdiction of registration.

Use of the trademark may be demonstrated by providing a declaration from the trademark holder along with one specimen of current use. Further discussion should take place relating to proof of use.

Protection of Rights Owners and consumer protection issues

Rights Protection: Trademark Clearing House (TC)

Rights holders, registries and registrars should all contribute to the cost of the TC because they all benefit from it.

(1b) Rights holders will pay the Trademark Clearinghouse when the rights holders register their marks, and the registry will pay when administering its sunrise/trademark claims service.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension

Where the complaint is based upon a valid registration, the requirement that the jurisdiction of registration incorporate substantive examination (paras 1.2f (i) and 8.1a) should be removed.

(1b) There is no requirement that any registration of a trademark must include substantive evaluation.

Each trademark registration must be supported by evidence of use in order to be the basis of a URS complaint.

Use of the trademark may be demonstrated by providing a declaration from the trademark holder along with one specimen of current use. Further discussion should take place relating to proof of use.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension

If, as is expected in the majority of cases, there is no response from the registrant, the default should be in favour of the complainant and the website locked. The examination of possible defences in default cases according to para 8.4(2) would otherwise give an unjustified privilege to the non-cooperating defendant.

(1b) An examiner will review the merits of each complaint to ensure that the standard is met, even in the event of a default. The examiner will not be required to imagine possible defenses – this provision will be removed from the Guidebook.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension

The URS filing fee should be US\$200-US\$300 and minor administrative deficiencies should not result in dismissal of the URS complaint.

(1b) ICANN will negotiate with URS service providers for the best prices and services. The fee range mentioned will be a target.

Protection of Rights Owners and consumer protection issues

Rights Protection: Uniform Rapid Suspension

The requirement of “substantive examination” in para 9.2.1(i) should be deleted.

(1b) There is no requirement that any registration of a trademark must include substantive evaluation.

Each trademark registration must be supported by evidence of use in order to be the basis of a PDDRP complaint.

Use of the trademark may be demonstrated by providing a declaration from the trademark holder along with one specimen of current use. Further discussion should take place relating to proof of use.

Protection of Rights Owners and consumer protection issues

Consumer Protection

Amend the "Maintain an abuse point of contact" paragraph in the DAG to include government agencies which address consumer protection:

A registry operator must assist law enforcement, government agencies and agencies endorsed by governments with their enquiries about abuse complaints concerning all names registered in the TLD, including taking timely action, as required, to resolve abuse issues.

(1b) ICANN agrees that the registry operator must assist appropriately in law enforcement investigations. There might be a difference between local and International law enforcement agencies. There is a question about whether this requirement would be stronger than what is already required by law. Changes to the Guidebook will be made after consideration of those issues.

Post-Delegation Disputes

Change the wording in the sample letter of Government support in AG back to the wording in DAGv4 and keeping the new paragraph 7.13 of the new gTLD registry agreement with the changed wording from “may implement” to “will comply”. E.g change the wording from “may implement” back to “will comply” with a legally binding decision in the relevant jurisdiction.

(1b) ICANN will modify the suggested wording of the letter of support or non-objection, and make clear its commitments to governments in additional text of the Applicant Guidebook. However, the registry agreement will continue to indicate that ICANN "may implement" instead of "will comply" with such decisions for legal reasons. As discussed previously with the GAC, ICANN's commitment to comply with legally binding decisions is made to governments, not to registries, Therefore, it is not necessarily in the interests of ICANN, or of governments, to place that obligation in registry agreements, giving registry operators the ability, and perhaps duty, to force ICANN to implement decisions in every case. (ICANN has a mechanism to enforce its contracts with registry operators.)

Post-Delegation Disputes

In addition describe in the AG that ICANN will comply with a legally binding decision in the relevant jurisdiction where there has been a dispute between the relevant government or public authority and registry operator.

(1b) The suggestion to change "court decision" to "legally binding decision" requires further discussion as it may in some cases amount to a redelegation request. Also, there could be multiple jurisdictions that have given their support to one application (e.g., multiple "Springfield"s), thus, it may not be appropriate to implement a particular action based on one such decision.

Use of geographic names:

Implement a free of charge objection mechanism would allow governments to protect their interest.

(1b) ICANN will investigate a mechanism for the forthcoming round under which GAC members could be exempted from paying fees for objections in some circumstances (subject to constraints imposed by budget and other considerations).

Use of geographic names:

This implies that ICANN will exclude an applied for string from entering the new gTLD process when the government formally states that this string is considered to be a name for which this country is commonly known as.

(1b) ICANN will continue to rely on pre-existing lists of geographic names for determining which strings require the support or non-objection of a government. This is in the interest of providing a transparent and predictable process for all parties. (See related note above.)

Use of geographic names:

Governments should not be required to pay a fee for raising objections to new gTLD applications. Implement a free objection mechanism would allow governments to protect their interest.

(1b) ICANN will investigate a mechanism for the forthcoming round under which GAC members could be exempted from paying fees for objections in some circumstances (subject to constraints imposed by budget and other considerations).

Use of geographic names:

Further requirements regarding geographic names

According to the current DAG applications will be suspended (pending resolution by the applicants), if there is more than one application for a string representing a certain geographic name, and the applications have requisite government approvals. The GAC understands such a position for applications that have support of different administrations or governmental entities. In such circumstances it is not considered appropriate for ICANN to determine the most relevant governmental entity; the same applies, if one string represents different geographic regions or cities. Some governments, however, may prefer not to select amongst applicants and support every application that fulfils certain requirements. Such a policy may facilitate decisions in some administrations and avoid time-consuming calls for tenders. GAC encourages ICANN to process those applications as other competing applications that apply for the same string.

(1b) ICANN will continue to suspend processing of applications with inconsistent/conflicting support, but will allow multiple applicants all endorsed by the same authority to go forward, when requested by the government.

This area needs further discussion on the potential situations that could lead to redelegation requests.

Providing opportunities for all stakeholders including those from developing countries

Technical and logistics support

(1b) ICANN has agreed to provide certain mechanisms for technical and logistical support, such as assisting with matching needs to providers. ICANN is also considering setting up regional help desks to provide more responsive and relevant technical support to new gTLD applicants in developing countries.

Providing opportunities for all stakeholders including those from developing countries

Other Developing world Community comments

Rolling out new gTLD and IDNs was done in a hurry and without basis on a careful feasibility study on the impact that this rollout will have on developing countries. For some representatives, this is a massive roll out of gTLDs and IDNs that will find many developing countries unprepared and unable to absorb it. There is the fear that there might be serious consequence in terms of economic impact to developing countries.

(1b) ICANN is investigating and intends to provide mechanisms for assisting with matching needs to providers, and will continue to investigate mechanisms for providing additional forms of support (such as providing documents in additional languages beyond the official U.N. languages).

Law enforcement due diligence recommendations [to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué]

Include other criminal convictions as criteria for disqualification, such as Internet-related crimes (felony or misdemeanor) or drugs.

(1b) ICANN accepts the principle that screening should be as effective as possible. ICANN is willing to meet with law enforcement and other experts to ensure that all available expertise is focused on this issue. (ICANN notes however that there is no consistent definition of criminal behavior across multiple jurisdictions, and the existing proposed Applicant Guidebook consciously targets "crimes of trust".)

Law enforcement due diligence recommendations [to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué]

Assign higher weight to applicants offering the highest levels of security to minimize the potential for malicious activity, particularly for those strings that present a higher risk of serving as venues for criminal, fraudulent or illegal conduct (e.g. such as those related to children, health-care, financial services, etc.)

(1b) ICANN could consider providing extra points in some aspects of the qualification evaluation scoring process. (ICANN notes however that a priori categorization of strings is inherently problematic.)

Law enforcement due diligence recommendations [to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué]

Add domestic screening services, local to the applicant, to the international screening services.

(1b) ICANN accepts the principle that screening should be as effective as possible. ICANN is willing to meet with law enforcement and other experts to ensure that all available expertise is focused on this issue. (ICANN is mindful that this particular recommendation could lead applicants to locate in certain regions in order to game the depth of domestic screening. International screening is likely to include the reports of local agencies and could therefore be duplicative.)

Law enforcement due diligence recommendations [to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué]

Add criminal background checks to the Initial Evaluation

(1b) ICANN accepts the principle that screening should be as effective as possible. ICANN is willing to meet with law enforcement and other experts to ensure that all available expertise is focused on this issue. (ICANN notes that there is no consistent definition of criminal behavior across multiple jurisdictions, and the existing proposed Applicant Guidebook already addresses serious crimes of trust.)

Law enforcement due diligence recommendations [to amend the Registrar Accreditation Agreement as noted in the Brussels Communiqué]

Amend the statement that the results of due diligence efforts will not be posted to a positive commitment to make such results publicly available.

(1b) ICANN will explore possible ways to make results public, but is concerned that posting such information poses concerns about privacy that should be explored further.

The need for an early warning to applicants whether a proposed string would be considered controversial or to raise sensitivities (including geographical names)

Reconsider its objection to an “early warning” opportunity for governments to review potential new gTLD strings and to advise applicants whether their proposed strings would be considered controversial or to raise national sensitivities.

(1b) The principle of an early warning is already included in the Guidebook. The exact process needs to be discussed further – please see the Board’s notes above with respect to the GAC’s advice on “Procedures for the review of sensitive strings.”