

BRG comments on the “Review of the Generic Names Supporting Organisation draft report May 2015”

Date: 16 July 2015

Executive Summary

The GNSO review has failed to meet the ICANN Board direction of September 2013 in that it has avoided issues of GNSO structure. ICANN Board action is needed to correct this failure.

Background

The Generic Names Supporting Organization (GNSO) describes itself as the body within ICANN which “*fashions (and over time, recommends changes to) policies for generic top-level domains.*” It is ICANN’s policy development body whose past and future work will have a direct impact on Registries via contracts and other pathways. Its Council comprises 23 members: 18 are elected by four *Stakeholder Groups*, 3 are appointed and 2 are observers. Two of the Stakeholder Groups are sub-divided into *Constituencies*. For more see [here](#).

The Board Structural Improvements Committee launched in April 2014 a review of the GNSO. A previous GNSO review, which led to the current GNSO structure, began in 2008. Its recommendations were finally implemented by 2012. That review led to fundamental structural change in the GNSO. With the advent of 1000s of new top-level domain names, 400 of which are .brand-type, there is a need for a second wave of fundamental reform in the ICANN policy-development process to reflect ICANN’s new stakeholders.

BRG’s Objective

The Brand Registry Group (BRG) is keen to be a part of ICANN’s future policy-development framework with voting powers commensurate with its representative capacity. We seek to contribute manpower and thought-leadership on behalf of .brand registries to the ICANN policy-development process. This contribution includes the ability to participate in the GNSO.

ICANN Board’s objective

In its [resolution](#) of 28 September 2013 the ICANN Board stated:

“The expansion of the TLD space has increased the number and variety of stakeholders participating in GNSO policy making and a review needs to take place on schedule to examine whether the current model meets the needs of a new generation of stakeholders.”

GNSO Structure is unlikely to accommodate the anticipated new stream of stakeholders resulting from the expansion of the TLD space. The GNSO Review will be an important vehicle for considering and addressing this issue. The unbalance that is already occurring needs to be addressed by the GNSO Review.”

BRG Comments

The BRG submitted an extensive input to the review in its position paper: "*BRG principles for GNSO reform August 2014.*" In that paper the BRG expressed the concern that the review may turn out to be "*overly inward-looking.*"

The BRG set this concern in the context of new top-level domain names:

"The new domain name programme is the start of a fundamental shift in the structure of the Internet. It will bring into ICANN thousands of new stakeholders previously unengaged – not the least of these are some of the world's top businesses who will now have a web presence in their own brand name."

And the BRG called on the review to consider three key questions:

1. *"How do we most effectively involve all stakeholders in policy development?"*
2. *How do we incorporate new diversity?"*
3. *How do we adjust for the new reality of overlapping multiple interests?"*

The BRG comments now are based on how successfully the review by consultant Westlake answered these three questions.

1. How do we most effectively involve all stakeholders in policy development?

Assessment: Failure

The review has proved to be "*overly inward-looking.*" Ideas for structural change to better involve new stakeholders in policy development, such as .brand registries, .geo registries and community registries, are absent.

2. How do we incorporate new diversity?

Assessment: Failure

The review has proved to be "*overly inward-looking.*" While the review has ideas for better cultural diversity of users, ideas for incorporating the new diversity of registries are absent.

3. How do we adjust for the new reality of overlapping multiple interests?

Assessment: Failure

The review has proposed no adjustments for the new reality of overlapping multiple interests.

The current GNSO is based on a number of old assumptions that attempted to divide the interests of users and suppliers of the DNS. There was an assumption of "separable interests." While different interests continue, it is no longer true that the separable interests are accurately reflected by the six separable entities (registries, registrars, business interests, intellectual property interests, internet service providers, non-commercial interests). There are two reasons for this.

- **Conflicting relationships.** There is a complex web of relationships that overlap and conflict within the six groups. A typical .brand registry may be simultaneously: a Registry, a Business Constituency member, an Intellectual Property Constituency member, and have a contractual relationship with other generic registries for back-end services.

- What is commercial? The old division within the users House between commercial and non-commercial is no longer relevant. Just within the 400 .brand registry applicants, some 15 are not-for-profit organisations representing some \$69 billion in annual turnover. Three of these are BRG members.

Conclusion

The Brand Registry Group calls on the ICANN Board:

To recognise the following:

The GNSO review 2014 - 2015 has failed to meet the direction of the ICANN Board [resolution](#) of 28 September 2013 (see above);

And therefore:

To instruct the ICANN CEO to initiate an immediate Structural Review of the GNSO to fill this void and implement the Board's earlier direction: "*GNSO Structure is unlikely to accommodate the anticipated new stream of stakeholders resulting from the expansion of the TLD space. The GNSO Review will be an important vehicle for considering and addressing this issue. The unbalance that is already occurring needs to be addressed by the GNSO Review.*"

About Us

The Brand Registry Group (BRG) is an independent membership organisation of owners of a top-level domain name that matches their existing brand. The turnover of the respective groups behind these domain names is some \$1290 billion. The BRG is registered by Royal Decree as an international not-for-profit under Belgian law. The group represents the common interests of members and offers selected services paid for from fees.