

Comments on

“The Protection of Geographic Names in the new gTLDs Process”

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These comments are in response to the draft document, “The protection of geographic names in the new gTLDs process,” prepared by the Government Advisory Committee (GAC) Sub-group on Geographic Names. The GAC proposes that “Geographic names should not be allowed to be registered as gTLDs, unless requested by the relevant communities where they belong or after a specific authorization given by the government or community to the applicant.” Moreover, “ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities.” And, “New gTLDs should respect national sensitivities regarding terms with national, cultural, geographic and religious significance.”

Implementing the GAC’s proposal would impose substantial additional administrative and logistical burdens and costs on applicants, governments and ICANN. The potential domain names that might be affected, as well as the relevant communities or authorities from which applicants would have to receive approval, are ill-defined. This leaves open the possibility that ICANN or others may decide an applicant did not correctly identify a domain name as needing approval or identify the relevant authority. Governments would have to assign an agency the task of determining the validity of new gTLD applicants and establishing criteria to be used for approval or denial. ICANN itself would have the added burden of determining whether a gTLD does indeed refer to a geographic area, “regional language or people descriptions,” and whether the correct approval was procured.

More concerning than the administrative issues listed above are the important principles involving the overall role of governments and ICANN in the domain name system. The GAC proposes that the “Internet naming system is a public resource and it must be administered in the public and common interest.” This is a vague and undefined standard that would invite politicized decision making in the allocation of gTLDs. This principle is also inconsistent with ICANN’s traditional limited technical role in the operation of the domain name system. ICANN should not be in the position of making value judgments, or giving public authorities or communities the ability of making such judgments, with respect to gTLDs.

The GAC proposal is inconsistent with the way new gTLDs should be allocated in order to maximize the net benefits of the new gTLD program. New gTLDs are valuable economic assets. ICANN should adopt a market-oriented approach that assures that these assets are allocated to their most highly valued uses. ICANN’s decision to use an auction when there are multiple applicants for the same gTLD will further that goal. The bidder with the highest-valued anticipated use will win the auction and the right to operate the gTLD. When there is only a single applicant, that applicant presumably represents the highest valued use of the gTLD. This process should not be altered if the gTLD refers to a geographic area or culture.

In this process, governments or other communities should be considered the same as anyone else. Governments can apply for a gTLD or, if there are multiple applicants, participate in an auction. If a gTLD has already been assigned, governments should be able to purchase that gTLD in the secondary market. Granting governments, communities, or other “relevant authorities” a preferred status or a veto over the purchase of gTLDs by other parties would be inconsistent with the goal of allocating gTLDs to their highest-valued uses.

In sum, the process proposed by the GAC would insert governments into the operation of ICANN in an unprecedented way. The proposals would politicize the gTLD process and hinder the prospects for innovation on the Internet. They should not be adopted.