Dot net subcommittee draft report version 6

Membership

Chairman: Philip Sheppard
Members:

Commercial and Business Users Constituency:	Philip Sheppard
Non-commercial Users Constituency:	Marc Schneiders
Registrars Constituency:	Ross Rader
gTLD Registries Constituency:	Cary Karp
Intellectual Property Interests Constituency:	Lucy Nichols
ISPCP Constituency	Tony Holmes.
ALAC Liaison to GNSO Council	Thomas Roessler

Members of ICANN Staff on the mailing list:

The Staff Manager:	Barbara Roseman
ICANN Vice President, Business Operations:	Kurt Pritz
Vice President, Policy Development Support:	Paul Verhoef
General Counsel:	John Jeffrey
Deputy General Counsel:	Dan Halloran
Chief Registry Liaison	Tina Dam

Context

At its meeting in Rome, Italy, on 6 March 2004, ICANN's Board of Directors adopted resolution 04.18 on the dot net Registry Agreement Expiration Date and Initial Procedure for Designating Successor Registry Operator.

"Whereas, Section 5.1 of the .net Registry Agreement entered into between ICANN and Verisign on 25 May 2001 provides that the agreement will expire no later than 30 June 2005 www.icann.org/tlds/agreements/verisign/registry-agmt-net-25may01.htm

Whereas, Section 5.2 of the .net Registry Agreement obligates ICANN to adopt an open, transparent procedure for designating a successor Registry Operator by no later than one year prior to the end of the agreement, which would be 30 June 2004;

Resolved, [04.18] that in order to prepare for the designation of a transparent procedure by 30 June 2004, the Board authorizes the President to take steps to initiate the process as specified in Section 5.2 of the .net Registry Agreement for designating a successor operator for the .net registry, including referrals and requests for advice to the GNSO and other relevant committees and organizations as appropriate".

ICANN VP Policy Development subsequently, 31 March 2004, sent a "request for guidance" to the GNSO council chair. In this comprehensive communication the GNSO Council is requested to issue a "consensus statement defining criteria and conditions to be applied in the selection of a successor registry operator". In developing the scope of its recommendations, the GNSO should be guided by the example criteria listed in paragraph 5.2.4 (see annex 1). The GNSO Council established a .net subcommittee at its 1 April 2004 meeting. The subcommittee is charged with expediting a recommendation to GNSO Council within the designated timeframe.

Mission of the subcommittee

To draft a set of criteria and conditions for .net consistent with the ICANN mission and core values for consideration by the Council, taking account of any elements from the dot org re-assignment where relevant.

Timescale and outreach
Council to make recommendations to Board by June 2004. The subcommittee worked by e-mail and held conference calls on April 15, May 4, May 25, June 1 and provided an oral progress report to Council May 6. For full details see annex 2. Annex 3 provides a record of input received from parties outside of the subcommittee.

Criteria to be considered
Criteria are divided into absolute and relative criteria. Absolute criteria are thresholds which an applicant is expected to meet. Failure to do so should imply disqualification. Relative criteria become relevant once absolute criteria are met and are proposed as a basis for comparison and evaluation of competing applications. Absolute criteria are listed in no particular order. Relative criteria are listed with weighting with the highest weight at the top of the list.

Absolute criteria

Absolute criteria related to the Targeting
- Dot net should remain un-sponsored.

- Dot net should remain un-chartered.

Absolute criteria related to Continuity
- **Grand fathering**
  There are a number of organisations and individuals that have made an investment in .net domain names. The cost of migrating to a new domain name is potentially significant. Existing registrants should not be penalised by changes in policy as a result of this process. Existing registrants in .net should be entitled to maintain their registrations on terms materially consistent with their existing contracts under current policy, including the right to transfer a .net domain to another party.

Absolute criteria related to Policy Compliance
- **Consensus policies**
  In the operation of the .net domain name, the registry operator must comply with all consensus policies of ICANN, both existing (UDRP, WHOIS, Deletes, Transfers etc), and any which are developed via the ICANN process in the future.

- **Policy development**
  Any future .net registry agreement must specify that policy development for .net will take place in an open bottom-up process, which enables input from the full Internet community via ICANN's processes.

- **Registrars**
  All ICANN-accredited registrars must be allowed to qualify to register names in .net. All registrars that have qualified to operate as .net registrars, must be treated equitably by the registry operator.

Absolute criteria related to stability, security, technical and financial competence
- The .net registry operator should meet or exceed the specifications of the current .net registry contained in the following sections of the current .net registry agreement:
  - appendix C.4, “Nameserver functional specifications”;

- appendix C.5, “Patch, update and upgrade policy”;
- appendix D, ”Performance specifications”;
- appendix E, “Service-Level Agreement”;
- appendix O, “Whois Specification – Public Whois”;
- appendix P, “Whois Data Specification – Independent Whois Provider”;
- appendix Q, “Whois Data Specification – ICANN”;
- appendix R, “Data Escrow Specification”.

- In addition annex 3 contains a reference to documents submitted to the sub-committee including ”Evaluation and responsibility criteria for the .net TLD.”

- The entity chosen to operate the .net registry must:
  - be able to demonstrate that they possess the capability to maintain.net registry functions in an efficient and reliable manner,
  - show its commitment to a high quality of service for all .net users worldwide,
  - make registration, assistance and other registry services available to ICANN accredited registrars in different time zones and different languages.

- If applicable, applicants should document their plan for migrating .net from the current registry operator with specific attention paid to maintaining existing functional capabilities, performance specifications and protocol interfaces (i.e. registry registrar protocol RRP to extensible registry protocol EPP migration)

- Minimum financial stability should be required to ensure the operator has the means to meet its ambitions and the likelihood of continuity.

Relative criteria

1. Relative Criteria related to promotion of competition

- Maximization of consumer choice. Once an applicant has qualified by meeting baseline stability, technical and financial criteria, positive consideration should be given to ICANN’s mission to improve consumer choice and competition.

- Pricing. Price is here defined as the registry price (currently $6.00). Once an applicant has qualified by meeting the absolute criteria, preference should be given to proposals offering lower pricing of the domain name.

- Innovation and value. It is possible that applications will offer innovation or new services and hence effect the value proposition. An assessment based on price should be balanced with the value proposition offered. Any proposed innovation or new services should be described together with an assessment of the value of them by the effected stakeholders (typically registrants or registrars).

2. Relative criteria relating to stability, security, technical and financial competence

- Consideration should be given to stability based on a plural supply base of network and hardware providers in order to reduce the impact of any one provider failure.

- Mean time to resolution for additions or changes to the .net zone file should not exceed the current time with the existing registry operator. Preference should be given to proposals offering enhanced or faster resolution.

3. Relative criteria related to existing registry services

Dot net currently offers registry services such as the pending Wait List Service (WLS), the Redemption Grace Period and the support of internationalized domain names in accordance with the IDN Guidelines www.icann.org/general/idn-guidelines-20jun03.htm. Applicants should be asked "Does the applicant wish to maintain all existing registry services?"

- If yes, please provide specifics and demonstrate the technical and legal ability of the registry to maintain existing services.
- If no, please expand on any issues relating to the withdrawal of such services.

Annex 1 § 5.2 of the current .net Registry Agreement

5.2.1 Not later than one year prior to the end of the term of this Agreement, ICANN shall, in accordance with Section 2.1, adopt an open, transparent procedure for designating a successor Registry Operator. The requirement that this procedure be opened one year prior to the end of the Agreement shall be waived in the event that the Agreement is terminated prior to its expiration.

5.2.2 Registry Operator or its assignee shall be eligible to serve as the successor Registry Operator and neither the procedure established in accordance with subsection 5.2.1 nor the fact that Registry Operator is the incumbent shall disadvantage Registry Operator in comparison to other entities seeking to serve as the successor Registry.

5.2.3 If Registry Operator or its assignee is not designated as the successor Registry Operator, Registry Operator or its assignee shall cooperate with ICANN and with the successor Registry Operator in order to facilitate the smooth transition of operation of the registry to successor Registry Operator. Such cooperation shall include the timely transfer to the successor Registry Operator of an electronic copy of the Registry Database and of a full specification of the format of the data.

5.2.4 ICANN shall select as the successor Registry Operator the eligible party that it reasonably determines is best qualified to perform the registry function under terms and conditions developed pursuant to Subsection 4.3 of this Agreement, taking into account all factors relevant to the stability of the Internet, promotion of competition, and maximization of consumer choice, including without limitation: functional capabilities and performance specifications proposed by the eligible party for its operation of the registry, the price at which registry services are proposed to be provided by the party, the relevant experience of the party, and the demonstrated ability of the party to manage domain name or similar databases at the required scale.

5.2.5 In the event that a party other than Registry Operator or its assignee is designated as the successor Registry Operator, Registry Operator shall have the right to challenge the reasonableness of ICANN's failure to designate Registry Operator or its assignee as the successor Registry Operator pursuant to Section 5.9 below. Any such challenge must be filed within 10 business days following any such designation, and shall be decided on a schedule that will produce a final decision no later than 60 days following any such challenge.

Annex 2 Timetable and outreach

6 March 2004	ICANN's Board of Directors adopted resolution 04.18
31 March 2004	ICANN VP Policy Development sends request to GNSO council chair
1 April 2004	GNSO Council established a .net subcommittee at its meeting
15 April 2004	Subcommittee conference call
4 May 2004	Subcommittee conference call
6 May 2004	Oral progress report to GNSO Council
25 May 2004	Subcommittee conference call
1 June 2004	Subcommittee conference call Public comment period on draft subcommittee report Final report agreed on by subcommittee Final report submitted to the GNSO council

Annex 3 Outreach and documents submitted to the subcommittee

Subcommittee members from each constituency and the At-Large typically consulted with their constituencies or executive committees during the course of the subcommittee's work as the basis for their contributions. One constituency submitted a formal position paper.

A record of input received is maintained by ICANN on the net-com mail list and archive. This input was typically from subcommittee or mail list members.

Specific documents submitted by parties outside the subcommittee and made available to the mail list were:

1. Evaluation and responsibility criteria for the .net TLD – submitted by Chuck Gomes, VeriSign
http://gnso.icann.org/mailing-lists/archives/net-com/doc00004.doc

2. Comments submitted by Jeff Neuman, Neulevel
http://gnso.icann.org/mailing-lists/archives/net-com/msg00011.html

3. Position of the GNSO Business Constituency
http://gnso.icann.org/mailing-lists/archives/net-com/msg00032.html