
HELSINKI – Country Codes and Names as Second Level Domains (SLDs)

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OLOF NORDLING: Bang, bang, bang. That's the improvised clock.

CHAIRMAN SCHNEIDER: Okay. Yeah. We know that this coffee break has been very short but please, we will continue any moment, so please take your seats. Thank you.

OLOF NORDLING: Ladies and gentlemen, would you please take your seats. We'll start this session in a couple of seconds.

CHAIRMAN SCHNEIDER: So please take your seats. Dear colleagues, we will start very soon. Right now, actually.

Okay. Thank you for taking your seats.

We have next on our agenda an issue that is not a new one. It's something that we've been discussing for quite some time. And Gema from Spain is one of the persons that has been concentrating quite a lot of time and energy on this, so she will

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be the lead for this issue, so let me give the floor to Gema to talk about country codes and names as second-level domain names.

This is Session Number 3. These numbers of the sessions also equal to the briefings that you have in your documentation, so this is linked to documentation with the number 3. Thank you. Gema, the floor is yours.

GEMA CAMPILLOS:

Thank you, Chair, and good morning to everyone.

We have a brief presentation. The session we have now was going to run for 45 minutes. Now it is less than 45, so we need to make the best of our available time.

We are going to discuss two issues in this session. One is country codes as second-level domains, and the second one is country names as second-level domains.

If we can go to the next slide, please. Yeah.

The first thing that I want to do is to make you see the difference between the issues in this session and the issue on country name -- or country codes as top-level domains. That is a session that we will have tomorrow.

We are going to start now to discuss two-letter codes as second-level domains. You can see the format on the right-hand side of

the slide. It would be country code dot new gTLD, while tomorrow we will see whatever domain name dot three-letter code. But this is going to be tomorrow.

Next slide, please.

Okay. So going into the substance of two-letter codes as second-level domain names, the policy now in place comes from the registry agreement for new gTLDs that establishes a reservation of two-letter names as second-level domains. That reservation can be lifted if the registry reaches an agreement with the government or if it follows a procedure for their release approved by ICANN.

The registry agreement establishes a condition for that release by ICANN. That is, that measures to avoid confusion with the country code are taken.

So ICANN decided to set up a procedure to release country codes as second-level domains, and that procedure consisted of requesting governments or anyone else to submit comments on concerns that two-letter codes could cause as second-level domains.

Then ICANN put up a Web form to submit comments. Governments have 60 days from the publication of the request to submit their comments.

At one point in the moment -- at one point in time ICANN set that only comments pertaining to confusion between two-letter codes and country names were going to be considered. That was in keeping with the Specification 5 of the registry agreement that, as I said, conditioned approval of ICANN of this release to the adoption of measures about confusion.

Then ICANN asked registries to propose mitigation plans to avoid that confusion between second-level domains made of two-letter codes with country codes.

Those mitigation plans have been submitted. The deadline ended on April.

Now ICANN is studying those mitigation plans, as well as comments made by governments.

We are right now in this moment -- that's why I wrote it in blue because ICANN has not yet published the criteria that they will use to assess the mitigation plans and concerns made by governments.

So we have the opportunity now to weigh in in that thinking -- that ICANN thinking of the criteria, and try to have an impact on the criteria ICANN can use.

We can go to the next slide, please.

Now we are going to see the different mitigation plans that the registries have submitted because they are published.

Brand TLDs -- that is, the ones made of trademarks -- said that as they have to follow very strict criteria for registration, basically they have to use their TLD just to promote the image of the company, there is no need to adopt any other mitigation measure because the very use they will put the TLD to would avoid confusion.

And there are other registries which are not brand TLDs but who pledged to adopt restricted policies for registration that say that because of their restrictive policy registrations, there is no need to take additional mitigation measures.

This is the case, for instance, with geographic names because, for instance, they say that they would only accept registrations for individuals or companies having a linkage with the city or the region or with some Category 1 TLDs because they say that they could only accept registrations that have demonstrated relationship with their string.

If you see the pie here, brand TLDs are 30% of the requesters, and the ones with restricted registration policies are 4%.

The large chunk of the pie are open registries who promise to investigate complaints about the confusion the use of the two-

letter name can cause with the country code and then address the concerns raised and take measures that can be, at the very last resort, their suspension or cancellation of the domain name. This is 55%.

Some TLDs, even open registries, have offered the possibility of conducting phased allocation programs -- this is something similar to sunrise period -- in which they could give priority to ccTLDs to register the objected country code.

They say that this measure was used in the past with some legacy TLDs and some pre-2012 new gTLDs like info, Bates, travel, and so on. And I don't see the -- yeah. I see it's 7% in the pie. 7% of the requesters offered this measure.

And then some registrars -- registries say that they could ban third-party registrations, to avoid confusion between the ccTLD and the two-letter code.

For instance, in my -- .ES, which is the country code for Spain, and .ES.XYZ, which is one of the new gTLDs, if ES.XYZ accepted third-party registrations, users could be misled into thinking that that has something to do with the ES top-level domain.

This is not here in the pie, but we have to note that some registries have proposed several measures. Phased allocation combined with investigation of abuse reports. Prohibiting resale

mixed with investigation. Maybe that's the reason why it is not in the pie.

Then next slide, please.

Why should the GAC seize the opportunity to issue advice at this stage?

Precisely because ICANN has not released the criteria they will use to examine mitigation plans and governments' concerns concerned. So we have the opportunity to influence that decision-making process.

I have distributed some days ago draft advice for this purpose.

And the goal of the language that I put is to provide the distinctive character of two-letter codes as country identifiers in the DNS and to prevent confusion, which is the ultimate rationale of the registry agreement.

I'm going to do an assessment of the measures that have been presented by registries for -- to feed the discussion.

The much popular -- or the measure that has been proposed by both registries is to investigate abuse reports and address those concerns. And I put a line: Do you like this? Maybe that's a minimum. It's the minimum they should do. But I have some doubts about what would happen if the registry is free to

determine whether there is confusion or not. I mean, if there is no standard criteria to determine what causes confusion or what does not cause confusion, there is not going to be consistent measures throughout the registries.

Maybe one standard criteria that was used in the past in .IRO was to force registrant -- registrants to clearly state on their websites that they don't have any relationship with the constitutional authorities of a country if they don't have that relationship.

Another thought for you to think on, category 12 -- category 1 TLDs. Do you think that these measures should by all means taken by registries have category 1 TLDs? Category 1 are the strings that relate to highly regulated sectors; that they have entry requirements into the market, like the ones in financial sector, health sector, et cetera.

The second measure concerns brand TLDs. I think this is a good measure. I don't think there is risk of confusion with brand TLDs. I'm going to put Google as an example, just as an example.

Imagine Google has a website for Spain which is called GOOGLE.ES. What they plan to -- or what they could do, if ICANN allows them to use .ES, would be to say .ES.GOOGLE. Everyone would know that .ES.GOOGLE is for the Spanish website of

Google. So I don't think it's going to cause confusion among users.

The next measure is those registries with restrictive registration policies, like the ones in the financial sector who have adopted public interest commitments, if they have requirements like verification of credentials, being an entity that is working in that sector, and that is going to be checked prior to registration. And the name is going to match the name of the company, (indiscernible) a company called .ES or ES, the risk of confusion goes down. So that would be a possible measure, too.

But not all registries with restrictive registration policies check the requirements before registering. They do it afterwards. But that can be effective, too, if they finally adopt measures to eradicate that confusion, to cancel the name or suspend the name.

I have added other criteria that have not been mentioned by registries, and that is there are very sensible names, like .ARMY, .NAVY, .AIRFORCE. They have very clear linkage with strictly governmental functions, and maybe the visual impact of a country code and those names triggers an association with the country immediately. And we may want to avoid that visual confusion.

Other additional measure that I propose is that those registries that have proposed to reserve two-letter names, to accept registrations based on the plans for future use of those names or who have pledged to check the relationship with the government or something like that. These are very demanding measures. They should be allowed to carry them out. Even if ICANN adopts a standard measure, they are not as demanding as these ones.

Next slide, please.

One of the measures that I have mentioned that the registries have proposed is to conduct phased allocation periods. And I like this measure. Obviously it would not be necessary for brand TLDs, because I said that I think that the risk of confusion is none.

Maybe TLDs with restricted registration policies shouldn't need it either, because their registration policies already prevent that confusion from happening, but I could add some qualifications for those phased allocation periods.

The registries that have proposed to use phased allocation periods say that the ccTLDs could be entitled to register names in the first place, but what happens if a government doesn't have good relationship with the ccTLD? Or it has good relationship with it, but the ccTLD is not interested in registering

a hundred names. There are countries who have objected to 600 names. Maybe that is not business for ccTLD.

That's why I think that governments should be allowed to participate in this phased allocation period.

Of course GAC members should help the registry to identify the right authority within the country to register the name.

I think this is a good measure because countries could use this name for purposes related to the country so there won't be any confusion, and they may decide not to use that name once that it's registry. That would put the name off the market, and that is also effective to avoid confusion because you won't have that name on the DNS.

If this measure is taken, of course governments and ccTLDs shouldn't pay prohibitive prices for these names. They should pay the ordinary price for these names during phased allocation periods.

And what I propose is that after the period for governments and ccTLDs, trademark owners have the opportunity to register the names. Imagine there is a trademark named ES. If they register the name, I guess that they will use the name to promote the image of the company. So the use of the name could not cause

confusion to Spanish users or whoever about the relationship with the country.

But I have two questions for these phased allocation periods to be good measures for the global domain (indiscernible). Maybe after the presentation you can address them.

Someone told me that there are rules forcing registrants who register names in phased allocation periods to effectively use the name afterwards. That could mean that they could not simply decide not to use the name.

If that's the case, that it's important for GAC members to know and to make up their minds.

Another question is if registries charge renewal fees for these kind of premium names -- premium because they have a very high value in the market; you can see them on domain name-selling platforms -- if they charge renewal fees that are above the ordinary price for any other domain name, because, okay, a government can register a name for, say, \$8 during phased allocation periods, but if the year after he has to pay \$20,000, maybe you have to think twice. And we all need to know this data before going forward.

And the last measure that some raisers have proposed is to prohibit third-party registration on the second-level domain for the reason that I said before. So I like, also, this measure.

Next slide, please.

Now we go on briefly to the issue of country names as second-level domains. You see now the example. The situation here is that the registry agreement reserves those names, so they cannot be used unless the registry operator reaches an agreement with relevant country, the relevant government, or with ICANN.

ICANN should, in that case, set up a procedure subject to the review by the GAC. This is what the specification 5 says.

Up to now, only 12 requests have been made by the registries. Very few, then, but ICANN has not granted any of them yet. Why not? Because it has not developed any process yet for the release of country names.

But the GAC, back in the year 2015, thought that ICANN was immediately going to set up that process, and we thought that ICANN could follow the same procedure that it adopted for two-letter names; that is, notification of requests to governments, governments have the opportunity to comment, and so on.

So we decided -- we took the decision to create a database where countries could say whether they would accept those requests or not.

In the end, we ended up with a database in which countries simply stated whether they wanted to be notified of requests or not. It turned out that 80-something countries said that they wanted to be notified, and only nine countries said they didn't want to be notified.

So what we -- I propose now is to get ahead of ICANN in the sense of trying to be proactive, trying to guide them, give them some ideas as to how to develop that process. Why? Because we were not completely satisfied with the process for the release of two-letter names so there is an opportunity to improve the way we have done things and because country names, I think, are more sensitive than two-letter names. So we have to be more careful in this case. Next slide, please.

So what we said before in the past about country names, it's just underlining the importance on sensitivity countries attached to those country names. The need for actual consent. For instance, in the database it is stated that if a country has not filled in the database ICANN cannot take for granted that the country agrees to the release of the country name. So silence doesn't mean approval. And we all -- we have said as well that

we ask ICANN to consider the process very thoughtfully and that we involve ICANN at the early stage. So next slide, please.

In the draft advice that I've distributed I included some elements. Basically that it could be good for this process to conduct an analysis of past experiences. What were the rules in the past for the use of country names, for instance on the .INFO, .BIZ, and pre-2000 -- and other pre-2012 new gTLDs because there were rules about the use of country names. It would be good to go through that experience to know how many of those country names were registered. Of those country names that were registered, what is the use of country names? What are the cases of misuse of country names, whether they're having conflicts with them? And it would be good also to ask at least (indiscernible) Registries and registrars holding category one TLDs, what's their plans for the release of country names are, what measures they plan to take, whether they think of phased allocation periods or auctions or whatever. And there are maybe some other elements that I did not include in the draft advice but I included them now. And it could be good for ICANN to know what are the particular concerns GAC members have about country names? Why are they so important for them? Because of political reasons? Any related reasons? Jurisdictional reasons? Or other? It will also be important to note again that most countries have capacity limitations to deal

with complex processes like the one implemented for two-letter names that maybe countries could need to conduct entire consultations among the different ministries and that can take time. Although the GAC has already more than 160 countries there are yet countries that are not GAC members and how to protect their country names. It's an important consideration. And we can also ask ourselves and ICANN what the review by the GAC means. That it's a condition that ICANN has to respect to release country names. And it could be good also to think if there should be different measures depending on the kind of TLD, brand TLDs. Do they need to have restrictive policies as regards to the use of country names? Category one names -- or you know that the countries are reserved in six different languages. Is it equally relevant to reserve all names in all these languages under whichever TLD? And this is the kind of things that I put forward to you to think about it. Next slide, please.

It's more or less this is what I've told you already. Next slide. It's finish. Do you want to issue advice on this? What do you think about the GAC advice? Do you think that different TLDs merit different measures? And I think I've used up all the time. I'm sorry. We have very little time left. Maybe we can start discussion. You can also use the email list to express your views, and throughout the week we will try to get to something. Thank you. I'm sorry about running out of time.

[Applause]

Yes, very briefly, if ICANN GDD can answer the questions I bet.
Thank you.

KRISTA PAPAC:

Thank you, Gema. And thank you for having me here. My name is Krista Papac, and I'm with ICANN staff. I'm a member of the global domain divisions team. So I think your first question, Gema, was about whether a registry -- whether they're required to use the domain names if they're registered. So if a two-character label becomes registered, is there a requirement that the registrant uses -- actually uses the domain name, is that -- that was the first question, correct? So there are no requirements under the contract for them to use or not use them. Registry operators have registration policies. They're required to publish them in a place that is easy to find and that anyone can go look at them and review them. And their registration policies are at the -- they are the choice of the registry operator, as long as they don't conflict with any other terms of their contract. So the ICANN contract doesn't require them -- does not require registered names to be used or not used but a registry could have its own registration policy that they set that would be published and that you could see what their requirements are.

Second question.

UNKNOWN SPEAKER: (Off microphone).

UNKNOWN SPEAKER: Yes. So I think your question is, basically can they -- can a registry or a registrar charge a higher price for one of these two character labels. So pricing is set by the registries and then the registrar follows after that with their own pricing. ICANN -- we don't regulate pricing or oversee pricing whatsoever so it's not -- it's not within the contract what the price can or cannot be. The contract does offer -- or does have -- the Registry Agreement has a requirement that if pricing is going to be changed at any time there's a -- or renewal pricing will be affected, that there's a notice period to registrars about the changes in the pricing that's coming up. But there's -- other than that, there's not any specific requirement around what a price can or can't be at any given time.

And then I just want to -- something to point out is, registrations can be for anywhere from one to ten years. So if you're purchasing one of these domain names you could register it for one year or any number of years up to ten.

SPAIN: I don't know if we have time to discuss, otherwise I encourage people to express their views on the mailing list.

CHAIR SCHNEIDER: I think we can run a few minutes over, so you can ask for some questions or comments.

SPAIN: I don't know who was first. I see Iran, Denmark, and the Netherlands. Maybe Iran, Denmark, and then Netherlands.

IRAN: Anyone that you wish, if you have the time to express. It's up to you. Can I proceed?

SPAIN: Sorry, Kavouss. I wasn't paying attention. Can you repeat?

IRAN: Okay. Let's make it short. First of all, thank you very much for your very, very comprehensive presentation which requires a lot of work that you have done. We are very grateful to you. It is highly appreciated.

You raise one question that's very important inside your presentation. Do we have an advice to make. In our view, we

should consider a general advice to ICANN. Don't go ahead until we totally finish this study. It is very, very sensitive issues. I'll give you one example. There was a thread of TLD which GAC does not agree to be delegated. I don't want to say what was that. But it was given. And suppose that that uses the second level name of the country? Was the TLD of the country. So what was the situation? So we have not studied it yet. There are many questions. Sale is something. Resale is something. Sensitive is something. There are so many questions not yet answered. And you have raised many of them. So I think perhaps we consider the appropriateness to give a general advice that please don't delegate or don't proceed with a request until we finish the study. Thank you.

SPAIN: Denmark.

UNKNOWN SPEAKER: Netherlands.

SPAIN: Finn and then you, Thomas.

DENMARK:

Thank you, and thank you for your presentation which was very good and down in the details. From our point of view we have .DK and we have allowed for all those years country and two-letter codes to be registered before .DK, and to my knowledge, we have had no problem, no user confusion, any problems. So that's also why we have no problem with making DK or Denmark on the second level.

So my observation is that I have -- we have difficulties to see the problem. We know that certain countries can foresee there might be a problem but our experience is that there haven't been any problems. Looking at the advice, I must admit that it is very, very detailed. And even though I think I was listening carefully, I don't know whether I fully understand the detailed steps here trying to regulate prices, trying to do face things. If we're going in those kind of details, we ought to consult with others, other stakeholders before and have their view so we can have a good ground to discuss this.

So we will be reluctant to have those kind of advice. And if there is going to be an advice it will also be important that this is advice from some countries or many countries but not all the GAC. Thank you.

SPAIN:

Thank you, Finn.

[Applause]

Next, Thomas de Haan from Netherlands.

NETHERLANDS:

Thank you, Gema. I think it's very comprehensive. I think you really narrowed down the problem and gave some options to solve. The only thing is that we -- we have a couple of concerns with your proposal. Basically three, I think. First, we also requested the confusability issue. We have not seen any problems. As Denmark said, we have already a legacy with NL being used in many, many TLDs. We have not noticed any problem. And then, of course, we have to reckon that a ccTLD is in the first level very representative. On a second level, it may not have a significance in other strings like car or wash or whatever. It has a significance as a top-level domain. We have in Netherlands a lot of examples in which second level domains, short ones, have perfectly lived together. We have, for example, DE.NL which is a coffee company, Douwe Egberts. It's the country code of Germany under the country code of Netherlands. So I mean, this is -- this could potentially be, in your theory, very confusing, but it's not really.

Second, we have to, let's say, give the good significance to what is confusability, not as -- let's say a general line, avoid any

country code on the second level. I think this is not proportionate.

The second point is that we -- in the proposal, you propose to have a kind of phasing: First, government ccTLDs and then trademark owners. Again, as I said in force, we have trademarks with two digits, DE. But, I mean, we have BT, Volkswagen, VA; Hewlett-Packard, HP. So I question what -- why should governments and ccTLDs have priority over trademark owners. That's the second concern.

The third concern is that we are -- with this methodology, we are introducing a new concept, is that governments and ccTLDs have to be there in a certain time frame to register name. It means that they should be -- it gives administrative burden also for governments who don't want to have this, let's say, burden. And it means that you have to react as a government on a certain time frame, very short. I don't know if all governments are aware of it. But it would be a tremendous -- it could be a tremendous administrative burden.

Secondly, there are no -- we are not all countries in the world. I mean, if the GAC representatives are being notified, others will not. So they will miss the opportunity, basically. I don't think this would be fair.

I think I'll stop with this. But as Denmark said, there are a lot of things if you go in detail in advice, you bring in a lot of complexity which we cannot overview on this moment. Thank you.

SPAIN: Thank you, Thomas. Next I have India.

INDIA: So thank you for a very informative presentation. Very briefly, while we appreciate that the mitigation strategy could be a way forward, but what happens if -- while doing the mitigation, it is possible that we could find a solution. But what happens if no solution is found? How does one proceed forward if conflicting viewpoints are not, you know, amicably resolved? So we do feel that the governments should have the final word on this.

And to illustrate, I would just mention that for India, we have -- the top-level domain is .IN. And we have domain .In, which is small letter L which is deceptively similar to .IN. So we have been raising this issue, and we have not been able to get a satisfactory resolution to this. So we feel that the governments should have the last word on this.

SPAIN: I can only take two more interventions. So you have to decide which of you. Australia, United Kingdom, and I think no more. Thank you.

AUSTRALIA: Thank you. I think it's important to remember that there are other uses for the letters that make up our country codes. You know, they could be acronyms or trademarks. I think the GAC should perhaps focus its attention on principles of co-existence, how we can -- instead of a blanket ban on them or governments getting first rights, how we can, you know, work together to use them. Thanks.

SPAIN: Thank you for the brevity.
United Kingdom.

UNITED KINGDOM: Thank you, Gema. I will be very brief as well.

I have a lot of sympathy with the concerns expressed by Denmark and the Netherlands in particular. This is a very major step forward for the GAC, for individual governments to undertake if such a regime of preference and so on were to be instituted.

I'm also mindful of some doubt about the starting premise here. I think Denmark hit the note in this regard in terms of experience. But just following on, my experience is that I'm not aware of any representations being made to the U.K. government in this regard about confusability and so on.

And perhaps the approach that Australia has taken is one that is resource efficient and having a look at what problems have arisen for certain administrations and see whether there are any deficiencies in resolving those problems within the existing framework of remedies and resolution process. Maybe that's the approach to take forward.

Thank you very much for your work, though, in this regard. It's -- and I appreciated very much your presentation. Thank you.

CHAIR SCHNEIDER:

Thank you very much, Gema, and all who contributed. Those who have not had the chance to express yourself, you can also use, of course, our emails, mailing list. And we have a session that is related, as Gema has outlined. There is another session that is dealing with a similar issue, so there may be a chance. It is also just 30 minutes, but there may a chance for you to step in there. Thank you very much.

And we have some draft proposed advice text that we will somehow have to agree on until Thursday. So also feel free to discuss this electronically, the concrete text, in the meantime. That may help us to be as efficient as we can to cope with this issue by Thursday.

[END OF TRANSCRIPTION]