



Governmental Advisory Committee

14 September 2011.

Stéphane Van Gelder
Chairman of the GNSO Council

RE: GAC Statement of advice on a possible UDRP PDP.

Dear Mr. Van Gelder,

Due to the potential GNSO Council's approval for the initiation of a Policy Development Process to review the Uniform Domain Name Dispute Resolution Policy, the GAC wishes to express its concern that the time is not right for a review.

Hereby, I submit the enclosed GAC Statement of advice for the GNSO Council's consideration and look forward to receiving your response.

Thank you for your consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Heather Dryden", is written over a light blue horizontal line.

Heather Dryden
Chair, Governmental Advisory Committee
Senior Advisor to the Government of Canada

Attachment: GAC Statement on a possible UDRP PDP.

GAC Statement on a possible Policy Development Process for reviewing the Uniform Domain Name Dispute Resolution Policy.

The GAC is aware that the GNSO is considering initiating a Policy Development Process (PDP) for the purpose of reviewing the Uniform Domain Name Dispute Resolution Policy (UDRP). The GAC wishes to convey to the GNSO its view that a decision in favour of such a PDP at the time of launching the new gTLD program would have public policy implications of great concern to the GAC.

The new gTLD program will see the introduction of several new rights protection mechanisms (RPMs). The inevitable uncertainty associated with the introduction of these untested RPMs would be compounded if simultaneously the future of the primary, pre-existing, and proven RPM - the UDRP - were also subject to uncertainty as a result of a long-running PDP.

The GAC recalls that the ICANN Board, in responding to specific proposals in the GAC Scorecard with regard to RPMs, cited the continuing availability of “the existing, long-standing and tested [UDRP]” (see the ICANN Board Rationales for the Approval of the Launch of the New gTLD Program at 107, accessible from <http://www.icann.org/en/minutes/resolutions-20jun11-en.htm>). The ICANN Board further referenced the continued application of the UDRP to all new gTLDs as a key step taken by ICANN to “protect the rights of others in new gTLDs.” (Id. at 119). The GAC considers that the possibility of changes to the UDRP as a result of a PDP at this critical time for the DNS runs counter to these reassurances by the Board.

Further, the GAC notes that almost 50% of the country code top level domain (ccTLD) operators have either adopted the UDRP itself or a variant of it, such that any potential changes to the UDRP that could result from a PDP would potentially have broad implications beyond the remit of the GNSO.

For the reasons outlined above, the GAC considers that any review of the UDRP should be conducted in light of community experience with the new gTLD RPMs, and should take full account of ccTLDs’ use of the UDRP. While the GAC is not opposed in principle to a review of the UDRP at an appropriate time, the GAC considers that a review at this time would not be appropriate.