

Two Character Country Codes at the Second Level in New gTLDs

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Setting the Scene

Framework of the GAC Discussion 1

- Specification 5, Section 2 of the Draft new gTLD Registry Agreement (part of the New gTLD Applicant Guidebook developed by ICANN Community and adopted by the Board) specified two different ways to release the 2-character country codes: “The reservation of a two-character label string may be released to the extent that Registry Operator reaches agreement with the government and country-code manager, or, The Registry Operator may also propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes”
- The objective of this Registry Agreement provision is to **avoid confusion with the corresponding country codes**
- confusion is registrants misrepresenting an affiliation with a government or ccTLD, which would likely be about use/content rather than existence.
- This provision is part of the adopted New gTLD Registry Agreement

Framework of the GAC Discussion 2

- ⊙ It is crucial to understand from the very outset that:
 - The Registry Agreement is about two parties (the Registry and ICANN Org) and ICANN Org is the sole actor in charge of the enforcement of the provisions related to Registry obligations
 - The provision related to the 2 character code registrations aim to **avoid any confusion** with the the corresponding country codes. That's the **sole objective of this provision**
 - From a legal perspective **ICANN Org is not able to grant any “authorization process” to the GAC without any pre-existent legal background** (International Treaty, ICANN's Policy)

Conclusion

- ⦿ The 2 Character code provisions of the Registry Agreement aim to **avoid any user confusion with the country codes or affiliated government.**
- ⦿ **These provisions can not be perceived as granting any global authorization role for governments** because ICANN is not able to create such legal norm (no pre-existent legal framework International Treaty or ICANN PDP)
- ⦿ The implementation of measures to avoid confusion is the responsibility of ICANN Org

ICANN's Measures to Avoid confusion

ICANN Org's support for governments

- ⊙ **Identification** of potential confusions: 2Character Codes Search Tool
 - This Search Tool allows governments to access online information related to the registrations at the second level of two-character codes that ISO assigned to their country/territories
- ⊙ **Reporting of potential confusion**
 - Governments play an active role here by reporting any potential confusion

Measures to avoid confusion

Measures adopted by ICANN Board during ICANN57 meeting in Hyderabad

- ⦿ **Exclusive Availability Pre-Registration Period** (voluntary): Registry Operators may implement an exclusive availability pre-registration for governments or ccTLD operators to register domain names corresponding to their country codes, before the names are generally available
- ⦿ **Registration Policy**: Registry Operators must include a provision in the registry's registration policy requiring registrants to avoid misrepresenting affiliation with a government or ccTLD
- ⦿ **Post-Registration Complaint Investigation**: Registry Operators must investigate and respond to reports of confusion from governments or ccTLD operators
- ⦿ ICANN org is responsible for the enforcement of these measures

2-Character Code Search Tool Survey Results

ICANN64 Kobe GAC Advice

- ⦿ “The GAC acknowledges the ICANN Board’s response to GAC advice in the recent score card document. A number of GAC members have raised questions about how the Board decision of 8 November 2016 withdrawing the "Authorization Process" for the release of 2-character country codes under new gTLDs was in line with GAC advice on this issue. GAC members will look at the response and get back to the Board for further discussion. The GAC appreciates the development of the two-character tool, which may address the concerns of some GAC members related to the risk of confusion created by the use of country-codes at the second level under new gTLDs.
- ⦿ **GAC members will try using the tool over the coming period and have agreed to have the Montreal meeting as a checkpoint.”**

Feedback from ICANN Side

- ⦿ ICANN Org has developed a 2-character search tool to help governments monitor the registrations of their 2 letter codes at the second level and identify any potential case of confusion
- ⦿ 96,237 records in the tool across 676 2-character labels
- ⦿ **47** *credential requests*
- ⦿ No case of confusion reported to ICANN org so far
- ⦿ 0 complaints

Main Feedback Received from the GAC

- ⦿ The deadline for the survey is November 2nd 23:59
- ⦿ A few (6) GAC members answered to the survey. So the survey report is not usable in its initial state
- ⦿ So GAC members reported about technical issues or potential improvements



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