

CC2 - Work Track 2

2.2 Reserved Names

2.2.1 - Do you believe any changes are needed to the String Requirements at the top level as defined in section 2.2.1.3.2 of the Applicant Guidebook? Please explain.

Valideus, INTA, RySG, NORID, BRG, and Jannik Skou point to suggested changes to String Requirements.

Sample excerpts:

“ICANN’s 2009 policy recommendations on reserved appears to anticipate that letter/number combinations, including single letter-single number combinations, would be permitted as TLDs, however the final version of the Applicant Guidebook requires that ASCII label TLDs must consist entirely of letters. A number of brands consist of combinations of numbers and letters. We would support permitting letter/number combinations as gTLDs unless there is a technical reason to prevent this.” -- Valideus, INTA

Yes, the requirements should be reviewed. If the applied for string is not a security or stability risk, it should be permitted. For example, a single IDN character, a single letter, or a mix of letters and numbers are not allowed now. Preventing the allocation of mixed letters and numbers stifles innovation. . .”-- RySG

“Section 2.2.1.3.2, Part III, paragraph 3.1, first sentence: “Applied-for gTLD strings in ASCII must be composed of three or more visually distinct characters.”

- This definition should have been much more stringent. There is no attempt to describe what “generic” really means. It is only used as a contrast to country code – everything that is not 2-letter ASCII is defined as generic. Both semantically and legally this is not correct.
- There is been an attempt in the Registry Agreement Specification 11.3.d to define a “generic string” as a string consisting of a word or term that denominates or describes a general class of goods, services, organizations or things, as opposed to a specific brand of goods, services, groups organizations or things from those of others.
- This is a definition that makes sense. However, it has not been followed up in practice. Brands are definitively not “generic terms”. Neither are geographical names in most cases; at least not names of countries. Among the words that have been accepted as gTLDs there are many that are specific, given names that legally would not have been characterized as generic.
- This should be looked into in the next round. As there has been suggestions on establishing categories in the next round, this might solve the discrepancy by making the rules somewhat different for the different categories.

It is important that the protection for 2-letter ASCII codes remains also in new rounds, ref. 2.2.1.3.2, Part III, paragraph 3.1, second sentence: “Two- character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.”

- Neither practically nor politically it would be a good idea to change this rule. The reliance of this policy is consistent with RFC 1591, on a standard established and maintained independently of and external to ICANN and widely adopted in contexts outside of the DNS.” -- NORID

“Yes, the requirements should be reviewed generally. More specifically, dotBrand applicants that coincide with geographic terms but are not representing themselves as the geographic place will be unnecessarily impacted with the current restrictions to geographic terms, including those associated with 3 character names or abbreviations. . . The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law.” – BRG (staff note: see full comment for detailed information about rationale.)

“Possibly based on “collisions” and Universal Acceptance issues in order to protect Registrants from Domain Names that ICANN knows or has reason to believe will fail to work as expected on the internet.” – John Poole

Jannik Skou, Nominet, Afiliat, ALAC did not believe any changes are needed.

The GAC pointed to comments it made regarding CC2 section 3.4 on String Similarity.

Excerpt:

“With regard to string similarity, the GAC Chair wrote to the ccNSO Chair on 28 September 2016 stating that: The GAC thanks the EPSRP Working Group for their assessment and considerations on the overall ICANN policy for the selection of IDN ccTLD strings. The GAC fully supports some of the key points expressed by the working group, in particular:

- ccTLD policy is a matter for the local internet communities to determine.
- An IDN ccTLD application represents the free choice of a specific linguistic community that has full right to use its language and script in the DNS space.
- Where a finding of potential confusability has been made, rather than rejecting the application, the process should allow the applicant to propose mitigation measures and to assess fully the possibility versus probability of any such confusion
- Where there is a split recommendation (between upper case and lower case), the finding relating to the lower case shall prevail and the application shall go forward where probability of confusion is low
- ICANN must ensure consistency in the evaluation of the IDN strings throughout the TLD space and remedy the current, different approaches that are present in the gTLD and ccTLD space.

The GAC has advised the Board to apply these views, and has also advised that: Facilitation of IDN ccTLDs, through the relevant local Internet community, has always been supported by the GAC as a way of making the domain name system more inclusive and accessible. Issues of potential confusability can and should be addressed on a practical and workable basis. (Hyderabad Communique, 2016).” -- GAC

2.2.2 - Do you believe any changes are needed to the list of Reserved Names at the top level as defined in section 2.2.1.2.1 of the Applicant Guidebook? Please explain.

NORID, BRG, RySG, and John Poole propose amendments to the list.

Sample excerpts (emphasis added):

“Regional organizations such as Centr (<https://www.centri.org/>) should be protected at the same level as GNSO and CCNSO. Otherwise, the list is fine.” – NORID

“Yes, the Reserved Names list should be reviewed. Names should only be reserved where stability or security risks exist.” – BRG

“Yes, the list should be reviewed. Labels should be reserved only where there are stability or security risks. Several of those reserved labels could be delegated and put to productive use. For example, .ICANN could be put to use by ICANN, thereby raising the visibility of the new gTLD program. ICANN should make technical/linguistic check of all Reserved Names lists (the current list of Reserved names contains at least 4 errors, known to ICANN (related to local Red Cross bodies, 1 is cross script, and is a technical error, and another 3 related to the incorrectly inserted line break, as result of this, Cyrillic equivalent for ‘society’ is reserved in situation where Red Cross has no rights for it).” -- RySG

“Yes, changes are needed. Trademark blocks, etc.” – John Poole

INTA and BC provided positions on the issue of geographic names, in particular.

Sample excerpts:

“... For the avoidance of doubt, INTA refers to its position as expressed during the 25 April webinars [on geographic names] and summarized on the slides submitted in support.” -- INTA

“There should be further definition of restricted names. As the BC comments on the CCWG-Country and Territory Names Interim Report stated, “the BC supports the use of full country and territory names as new gTLDs, including removing any moratorium on the ability to apply for such names generally and not requiring any form of governmental pre-approval or non-objection.” “ – BC

INTA, Nominet, and ALAC do not propose additional specific amendments to the list.

Afilias expressed support for the recommendations in SAC090 “SSAC Advisory on the Stability of the Domain Namespace”.

2.2.3 - Do you think Special Use Domain Names should be added to the Applicant Guidebook section on reserved names at the top level to prevent applicants applying for such labels?

SSAC referenced guidance provided in SAC045: Invalid Top Level Domain Queries at the Root Level of the Domain Name System, See SAC062: SSAC Advisory Concerning the Mitigation of Name Collision Risk, and SAC090: SSAC Advisory on the Stability of the Domain Namespace. Afiliis expressed support for recommendations SAC090.

NORID, Nominet, John Poole, BRG, RySG, and ALAC support adding Special Use Domains to the AGB section on reserved names at the top level.

Sample excerpts:

“That seems like a good idea. Otherwise it is not clear to prospective applicants which strings are blocked for technical policy reasons (LOCAL, TEST etc).” – Nominet

“Yes, for the purpose of predictability these strings should be added to the guidebook, however, the IETF should rarely assign Special Use Domain Names and, when it does, avoid assigning SUDNs that also correspond to brands.” – BRG

“Yes. If ICANN knows a label won't be delegated, it should not be possible to apply for that label. Similarly, if a name is not reserved, it shouldn't be added to the list after ICANN receives and processes applications absent a material change in circumstances.

We further believe that ICANN could better prevent applicants from applying for reserved names by upgrading the application system such that it would automatically kick back applications for any names prohibited under specific provisions of the Applicant Guidebook. During the 2012 Round Applicants encountered inconsistencies in ICANN's handling of reserved names. While some reserved names (e.g. strings that were identical to an existing TLD or an IANA reserved name) would be automatically rejected by the application systems, other applications that were altogether banned per 2.2.1.4.1 of the Applicant Guidebook were accepted by the application systems; further, no comprehensive list of these terms was provided requiring duplicative parallel review by applicants.” – RySG

“Yes. This is to prevent applicants from applying for reserved names.” -- ALAC

2.2.4 - Do you believe that any changes are needed to a Registry Operator's right to reserve domain names? If yes, what changes are needed and why? If not, why not?

Jannik Skou, INTA, John Poole, RySG propose changes or additional analysis (emphasis added).

“100 domains for promotional needs are sufficient. There should be a **cap of 5000 Domains (including IDNs) for reserved names**, to avoid that registry operators de facto can decide who gets each domain name at what price by operating an unlimited reserved/premium name list. . .” – Jannik Skou

“As drafted, the RPMs Provisions provide that if reserved names are released while the Sunrise is ongoing, they will be subject to the Sunrise; whereas if reserved names are released after the Sunrise has finished the names will be subject to a period of Trademark

Claims, but not to a Sunrise. It is possible, therefore, for the reservation of unlimited numbers of domain names to be used as a means of circumventing the Sunrise, without such a registry being considered to have acted in breach of their RPM obligations. INTA considers that **all names should be subject to Sunrise, and where names are released after the end of the initial Sunrise period there should be a means to give brand owners with matching marks recorded in the TMCH an opportunity to register the name first**, by means of a second Sunrise or other comparable process such as a right of first refusal.” -- INTA

“Registry operators have abused these provisions—**NO reservations should be allowed except 100 names. . .**” – John Poole

“For most applicants the 100 names allocated appeared to work effectively in allowing registries to establish initial operations and marketing. Issues appeared to be primarily confined to Geographic TLDs, many of which were required to or chose to reserve/allocate large numbers of registrations to the associated government. The working group may choose to **consider the specific experience of geographic TLDs and how it interacts with the 100-name limit as well as other provisions of the QLP.**” – RySG

“Whilst a number of factors have impacted the cost to brand owners, feedback from Com Laude’s clients, and supported by the INTA Impact Study, has highlighted certain pricing practices of some new gTLD registries as being a particular concern, namely the issues of Sunrise pricing and the treatment of Premium and Reserved names. Many trademark holders have reported being offered names during the Sunrise at prices significantly higher than those for general availability, often prohibitively so. This is exacerbated where terms corresponding to the trademark, including examples where the trademark is a coined word, have been designated by some registries as Premium names, attracting even higher prices. We recognize that the matter of pricing raises difficult issues, and that all registries should not be constrained by overstrict rules to follow the same business and pricing models. Nevertheless, there is a point at which pricing ceases to be a legitimate business model in a competitive market and undermines the RPMs. This is particularly so, given the finding from the INTA Impact Study, that there is no substitutability of names in practice for brand owners because of their defensive nature. Another area of concern raised by Com Laude’s brand clients is the scope that registry operators appear to have under the RPMS requirements to reserve an unlimited number of names, including names which may be recorded in the TMCH, until after the sunrise has finished. On later release from reservation these names are subject to a trademark claims process but not to the sunrise. This again has the capacity to undermine the intentions of the RPMs. We would **welcome consideration by the working group of how holders of TMCH-recorded marks might be given first refusal where the name is released from reservation.**

All of these issues have scope for overlap with the work of the RPMs PDP, and thus communication and liaison between the two PDPs is required.” – Valideus (staff note: the Valideus response to 2.2.4 pointed to the Valideus response to 2.1.2, which is quoted here)

Nominet, BRG, Afiliis, ALAC do not propose any changes.

Sample excerpts:

“For open TLDs it seems reasonable to allow the Registry Operator to reserve up to 100 names at the second level, but that limit seems artificial and meaningless in the context of a closed .BRAND new gTLD. We would agree that Registry Operators should be able to reserve domains without limit depending on the nature and use of the new gTLD.” – Nominet

“We do not expect Spec 5 to change as it seems to be sufficient as is.” -- ALAC