

# ICANN'S PICKET FENCE

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What is it?

Is it relevant in a post-transition world?

# Background

- 7 October 1998
  - Transition from Verisign as sole registry and registrar for .com, .net, .org (and more)
  - October 1998, Amendment 11 to DOC/Verisign Cooperative Agreement required Verisign to build SRS
- 21 April 1999 –
  - 5 competing registrars named: AOL, CORE, France Telecom, Melbourne IT, register.com
- 10 November 1999
  - Registry Agreement and Registrar Accreditation Agreement signed 10 Nov 1999

# The Picket Fence – 1999 RA

NSI shall comply, in its operation of the registry, with all Consensus Policies insofar as they:

- (a) are adopted by ICANN in compliance with [old PDP],
- (b) relate to one or more of the following:

- (1) issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, technical reliability and/or stable operation of the Internet or domain-name system,
- (2) registry policies reasonably necessary to implement Consensus Policies relating to registrars, or
- (3) resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names), and
- (4) do not unreasonably restrain competition.

# Illustrations – What’s “inside”

C) ...the measures permissible ...shall include, without limitation:

- (i) principles for allocation of SLD names (e.g., first-come/first-served, timely renewal, holding period after expiration);
- (ii) prohibitions on warehousing of or speculation in domain names by registries or registrars;
- (iii) reservation of SLD names that may not be registered initially or that may not be renewed due to reasons reasonably related to (a) avoidance of confusion among or misleading of users, (b) intellectual property, or (c) the technical management of the DNS or the Internet (e.g., "example.com" and single-letter/digit names);
- (iv) the allocation among continuing registrars of the SLD names sponsored in the registry by a registrar losing accreditation; and
- (v) dispute resolution policies that take into account the use of a domain name.

# Picket Fence Incorporated into Post Transition Bylaws

The mission of the Internet Corporation for Assigned Names and Numbers (“ICANN”) is to ensure the stable and secure operation of the Internet’s unique identifier systems ... (the “Mission”). Specifically, ICANN:

- Coordinates the allocation and assignment of names in the root zone of the Domain Name System (“DNS”) and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains (“gTLDs”). In this role, ICANN’s scope is to coordinate the development and implementation of policies:
- For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS including, with respect to gTLD registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and
- That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet’s unique names systems.

# Annex G-2

The topics, issues, policies, procedures and principles referenced in Section 1.1(a)(i) with respect to gTLD registries are:

- Issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet or DNS;
- functional and performance specifications for the provision of registry services;
- security and stability of the registry database for a TLD;
- registry policies reasonably necessary to implement Consensus Policies relating to registry operations or registrars;
- resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names); or
- restrictions on cross-ownership of registry operators and registrars or registrar resellers and regulations and restrictions with respect to registry operations and the use of registry and registrar data in the event that a registry operator and a registrar or registrar reseller are affiliated.

# Annex G-2 Examples

Examples of the above include, without limitation:

- principles for allocation of registered names in a TLD (e.g., first-come/first served, timely renewal, holding period after expiration);
- prohibitions on warehousing of or speculation in domain names by registries or registrars;
- reservation of registered names in the TLD that may not be registered initially or that may not be renewed due to reasons reasonably related to (i) avoidance of confusion among or misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or the Internet (e.g., establishment of reservations of names from registration);
- maintenance of and access to accurate and up-to-date information concerning domain name registrations; and
- procedures to avoid disruptions of domain name registrations due to suspension or termination of operations by a registry operator or a registrar, including procedures for allocation of responsibility for serving registered domain names in a TLD affected by such a suspension or termination