

## Resolution Adoption Final Report ccNSO WG EPSRP

### Background

#### *Process to date*

The Extended Process Similarity Review was introduced in June 2013 at the request of the ccNSO, following the conclusion of the ccNSO IDN ccTLD PDP, the first and second review of the Fast Track Process and taking into account GAC advice. The review process became effective in December 2013, with the publication of the updated Fast Track Implementation Plan (November 2013), and the publication of the Guidelines for the Extended Process Similarity Panel (EPSRP) for IDN ccTLD Fast Track Process ( see: <https://www.icann.org/en/system/files/files/epsrp-guidelines-04dec13-en.pdf>).

Since the introduction of the second review procedure, the EPSRP was requested to review the findings of the DNS Stability panel with respect to 3 strings, (one in Cyrillic and two in Greek script) and published its findings in September 2014 (see: <https://www.icann.org/resources/pages/epsrp-reports-2014-10-14-en>). Accordingly, and based on the method used, the EPSRP recommended that one of the applied Greek strings in upper case should be considered confusingly similar with two two-letter codes and in lower case should not be considered confusingly similar.

Taking into account the results of the third review of the Fast Track Process, the findings of the EPSRP in particular with the cases the EPSRP reviewed, the ICANN Board of Directors requested the ccNSO, in consultation with other stakeholders, including GAC and SSAC, to provide further guidance on and refinement of the methodology of second string similarity review process, in particular on the interpretation of its split recommendations ( See: <https://www.icann.org/resources/board-material/resolutions-2015-06-25-en#2.a>).

In response to the Board resolution, the ccNSO Council established a working group that was limited in its scope, in accordance with the Board request, therefore with a focus on the split recommendation i.e on findings for upper- and lowercase by the EPSRP (see: EPSRP decisions September 2014).

The WG has developed two documents, one with observations to record the general discussions of the WG, and one to provide further guidance and refinement of the methodology of the EPSRP as requested, which were subject to public consultation.

ALAC, GAC and Verisign submitted comments which were supportive of the recommended guidance. work done by the Working Group, and useful points were incorporated in the Working Group's final version of the revised guidelines and recommendation paper.

The fourth comment, (SAC084), was received from SSAC, which rejected the proposed guidance. SSAC recommends the Board not to accept proposed guidelines. The Board should request a review of the EPSRP to determine why its proposed guidelines do not respect the following 3 principles from RFC 6912, and as restated by SSAC, also apply to decisions concerning the inclusion of IDN labels in the root zone:

- Conservatism Principle
- Inclusion Principle

- Stability Principle

Adherence to these principles is critical for continued interoperability and stability of the DNS root zone and deviation would increase the risk of root zone instability.

Following feedback from the ccNSO, and a face-to-face meeting in Hyderabad (ICANN 57), SSAC agreed to and produced a clarifying document: SAC088 and an additional letter (SSAC 089). In this response SSAC asks that the principles set out in its previous comment SAC084 be entrenched in the EPSRP – despite those principles not being supported by current or previous decisions made by the ICANN community.

Per request of the ccNSO Council, the WG agreed to review and update its report, to take into account SSAC 088. It has now included a reference to and clarified that its guidance should be interpreted in a way that is consistent with the RFCs, particularly RFC 6912, paragraph 6.

### ***Procedural Considerations***

In response to the comments provided and discussion with the WG and members of the ccNSO Council in Hyderabad, SSAC has provided two documents: SSAC 088 and SSAC 089. The WG focused on SSAC 088. To understand the feed-back received to date (including SSAC 084), SSAC distinguishes 3 types of documents:

- **Advisories**- These address a security or stability matter in a timely manner, with sufficient background information to appraise the community of the issue or threat.
- **Comments** - Comments are responses to public calls for comments by ICANN, the ICANN Board of Directors, ICANN committees, and committee task forces.
- **Reports** - Reports provide in-depth analyses of a topic and may recommend specific actions and policy recommendations for ICANN's consideration.

SSAC 084 has been designated a Comment, commenting on the Proposed Guidelines for the EPSRP as part of the IDN ccTLD Fast Track Process. SSAC 088 and 089 have been designated a Response (status not defined). Accordingly, SSAC 084 is first and foremost a document for consideration under the public comment process and should be considered part of that public comment process. As clarified in SSAC 08 and 089, it was not intended to circumvent a process. Hence it should be taken very seriously and interpreted as part of the public comment, in a similar manner as other public comments.

### ***Substantive considerations***

The WG agreed that the Conservatism principle is important and should be supported: a reference to it is now explicitly included in the updated version of the report.

Secondly, in its response, the SSAC notes that a major concern from their perspective is around Spoofing and Phishing. SSAC further notes that the *“Conservatism Principle reflects an “err on the side of caution” ethic that is very different from “give TLD applicants what they want unless it is clearly unsafe to do so.”*

In addition, SSAC noted in SSAC 084: *“the SSAC has initiated work to review both the harmonization of IDN related processes in ICANN and the relationship between confusability and security.”*

The WG agreed that a cautious approach should be taken. However, this cautionary approach should always be proportionate and a function of a risk assessment. This approach is also advocated by expert groups in the area of IDN's. In Unicode Technical Report (UTR) #36 (up to version 9, 2010) the risk of spoofing and phishing based on visual confusion was explicitly mentioned and considered a major concern. Since 2010 (version 9): *It is also important to recognize that the use of visually confusable characters in spoofing is often overstated. Moreover, confusable characters account for a small proportion of phishing problems: most are cases like "secure-wellsfargo.com". For more information, see the [Unicode Security FAQ](#).*

Thirdly, the WG made the following observations: The ICANN Board has asked (policy) guidance for a very limited set of cases where there was a split finding by the EPSRP. It is not intended as a general overhaul of the procedures.

Finally, as the WG stated, the manner the current rules under the Fast Track process are applied is disproportionate and, in addition, potentially discriminatory compared to new gTLD process.

- Disproportionate as a requested string is denied just on the basis of a small chance of use of visually confusable characters only at the top level (not considering a combination of TLD and other levels), whilst other less invasive mitigation measures are available. Some of these measures are listed in UTR #36 since 2010 (for the latest see # 15 section 2.11.4) and an analysis of and promotion of the merits of these measures may well assist TLD operators and the broader community.
- The WG agrees that spoofing and phishing is a major concern and should be addressed in the interest of all. However, with respect to ccTLDs this is first and foremost a local and sovereign matter. ccTLDs are very aware of the issues involved and many deal with the issue locally (2<sup>nd</sup> level and lower).
- Although the standard for visual confusion is the same under the IDN ccTLD Fast Track Process and new gTLD process, but applied differently. In this respect there is no difference between the view of WG and SSAC (according to SSAC: *The fact that SSAC has not commented specifically on the acceptance of singular and plural forms in the new gTLD program should not be interpreted as implicit approval of the proposition that those forms are not confusingly similar in the context of the Conservatism Principle. The SSAC believes that a clear and consistent set of rules for 'confusing similarity' should be developed and the resulting rules should be applied to both ccTLDs and gTLDs.*). This being said, from a policy perspective, the difference in rules should not be one-sided and be interpreted at the detriment of IDN ccTLDs.

#### **Draft Decisions**

- 1. The ccNSO Council adopts the Final report of the ccNSO Extended Process Similarity Review Panel Working Group and the recommendations contained in that report.**
- 2. The chair of the ccNSO is requested to inform the chair of the ICANN Board of Directors accordingly, and further note that by submission of the requested guidance and refinement it has completed its work and considers the 3<sup>rd</sup> review of the Fast Track Process completed. Thirdly the Board should be requested to discuss and decide on the overall IDN ccTLD policy recommendations as submitted to the**

**Board in September 2013, as foreseen in Annex B section 15 of the ICAN Bylaws to replace the Fast Track Process.**

- 3. The Members, observers and other participants of the WG EPSRP are thanked wholeheartedly for their hard work, and the working group is closed. The secretariat is requested to inform the WG accordingly and publish this resolution as soon as possible.**