



September 15, 2017

Via Email

Hon. Michael Conway, Member of Congress
Hon. Ruben Kihuen, Member of Congress
Hon. Steve King, Member of Congress
Hon. Steve Pearce, Member of Congress

Dear Representatives Conway, Kihuen, King, and Pearce:

Thank you for your letter of August 7, 2017. We note your comments regarding consumer safeguards as they relate to the generic top-level domain (gTLD) .CPA, and we have posted your letter on ICANN's correspondence page at: <https://www.icann.org/en/system/files/correspondence/pearce-et-al-to-marby-07aug17-en.pdf>.

You note in your letter that "ICANN's Governmental Advisory Committee (GAC) identified several gTLDs that are linked to regulated or professional sectors," such as .CPA. You also note that the ICANN Governmental Advisory Committee (GAC), in its Beijing Communiqué of April 11, 2013,¹ recommended to the ICANN Board five safeguards that should apply to strings in these sectors.

In regard to these safeguards, you stated: "Unfortunately, to date, ICANN has not fully implemented this recommendation. While it has taken steps in the right direction, gTLDs, such as .CPA, are still not regulated in a way to prevent fraud and abuse."

ICANN is committed to accountability and transparency and takes its responsibility with regard to safeguards very seriously. As the .CPA top-level domain has not yet been contracted nor made operational by delegation, the recommended GAC safeguards cannot yet be applied. However, once .CPA is contracted, all of the relevant safeguards for regulated strings will be incorporated into the Registry Agreement as described below.

In response to the GAC's safeguard advice, the multistakeholder community participated in robust and transparent processes leading to the implementation of the GAC's advice in the form of contractual obligations imposed by the ICANN organization on relevant registries. Following the issuance of the GAC Beijing Communiqué, ICANN conducted a public comment period to collect input on the implementation of the GAC Advice. ICANN and the New gTLD Program Committee (NPGC) of the ICANN Board took into consideration the public comments submitted during that period, as well as feedback from the community through other channels, such as input at ICANN meetings. ICANN's proposed implementation of GAC Category 1 and Category 2 Safeguard Advice was posted publicly in the form of a letter from the Chair of ICANN's Board to the Chair of the GAC on October 29, 2013. (<http://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en.pdf>).

Then, on February 5, 2014, the NGPC adopted the implementation framework for addressing GAC Category 1 Safeguard Advice.² The implementation framework classifies Category 1 strings as requiring one of three levels of safeguards:

¹ See: <https://www.icann.org/en/system/files/correspondence/gac-to-board-18apr13-en.pdf>

² See: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-02-05-en#1.a>

- ⦿ Regulated Sectors/Open Entry Requirements in Multiple Jurisdictions;
- ⦿ Highly Regulated Sectors/Closed Entry Requirements in Multiple Jurisdictions;
- ⦿ Special Safeguards Required;

Per the framework, .CPA is classified as "Highly Regulated Sector/Closed Entry Requirement in Multiple Jurisdictions." As such, a set of eight Category 1 safeguards must be added as Public Interest Commitments to Specification 11 of the Registry Agreement of the future registry operator of .CPA.³ For your reference, we have listed the eight additional safeguards in an annex to this letter.

As part of the Registry Agreement, these Public Interest Commitments are contractual obligations of the registry operator and are commitments enforceable by ICANN Contractual Compliance.⁴ Complaints that a registry operator may not be complying with its Public Interest Commitments might also be subject to the Public Interest Commitments Dispute Resolution Procedure (PICDRP).⁵

Additionally, two of the applicants for .CPA have applied as community applicants: American Institute of Certified Public Accountants (AICPA) and CPA Australia Ltd.⁶ Should either of these applicants become the registry operator of .CPA, in addition to the above requirements, the registry operator will also be subject to the Registrations Restrictions Dispute Resolution Procedure (RRDRP), which is intended to address circumstances in which a community-based New gTLD Registry Operator deviates from the registration restrictions outlined in its Registry Agreement.⁷

Finally, upon receiving your letter, we researched the generic top-level domain space (ICANN does not have visibility into country code top-level domains such as .US, .UK, .AU, etc.) looking for any existing abuse relating to "CPA". We estimate there are currently approximately 63,000 domains that start with "cpa-", end with "cpa", or have "-cpa-" in them. As of this writing, we are unaware of reports of pervasive fraud or abuse of those domains.

I hope this information is helpful. Please let me know if you have additional questions or concerns. We thank you again for your letter, and we appreciate your interest in ICANN's multistakeholder process.

Sincerely,



Göran Marby
President & CEO, ICANN

³ See: <https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-05feb14-en.pdf>

⁴ See the full Registry Agreement here: <https://www.icann.org/resources/pages/registries/registries-agreements-en>. For more information on ICANN Contractual Compliance, see here: <https://www.icann.org/resources/pages/compliance-2012-02-25-en>

⁵ For more about the PICDRP see <https://www.icann.org/resources/pages/picdrp-2014-01-09-en>

⁶ See here for more information on all applicants for .CPA: <https://gtldresult.icann.org/applicationstatus/viewstatus>

⁷ See: <https://www.icann.org/resources/pages/rrdrp-2014-01-09-en>.

Annex 1 – GAC Category 1 Safeguards as Public Interest Commitments in Specification 11 of the New gTLD Registry Agreement

1. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Registry operators will include a provision in their Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.
4. Registry operators will proactively create a clear pathway for the creation of a working relationship with the relevant regulatory or industry self-regulatory bodies by publicizing a point of contact and inviting such bodies to establish a channel of communication, including for the purpose of facilitating the development of a strategy to mitigate the risks of fraudulent and other illegal activities.
5. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring Registrants to provide administrative contact information, which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.
6. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring a representation that the Registrant possesses any necessary authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string.
7. If a Registry Operator receives a complaint expressing doubt with regard to the authenticity of licenses or credentials, Registry Operators should consult with relevant national supervisory authorities, or their equivalents regarding the authenticity.
8. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring Registrants to report any material changes to the validity of the Registrants' authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string in order to ensure they continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.