

gTLD Registry Constituency Comments regarding

Terms of reference for new gTLDs

30 January 2006

The following input is provided by the ICANN GNSO gTLD Registry Constituency as a consensus position in response to the ICANN Public Comment Forum for the Terms of Reference for New gTLDs as posted on ICANN's website on 6 December 2005.

The input is presented in the following order:

- I. General Information about the Constituency
- II. Background Information about the Development of the Comments
- III. Comments in response to the GNSO Terms of Reference for New gTLDs.

I. General Information about the Constituency

Name of organization: GNSO gTLD Registries Constituency

Contact Person: Marie Zitkova, Chair

Contact email address: Marie.Zitkova@SITA.AERO

Number of official members of the organization: 13

Estimated number of potential eligible members of the organization: 13

Number of members that participated in developing this input: 11

II. Background Information about the Development of the Comments

The Registry Constituency comments included in this document were developed and adopted by constituency members via participation in the constituency's online mailing list and teleconference calls. All members and potential members of the constituency were encouraged to participate.

Draft statements to the Terms of Reference were distributed via the constituency email list, which is open to all members and potential members. Participants were then asked to propose possible edits to each statement and to communicate whether or not they agree with the statement or edited statement. In the end, only statements for which there was consensus support were included in this document.

Registry Constituency GNSO Council representatives are prepared to answer questions and/or discuss the comments provided in this document. Also, questions can be sent to Marie Zitkova, Chair of the Constituency.

III. Comments in response to the GNSO Terms of Reference for New gTLDs

Registry Constituency comments are provided in *italic font* after the restatement of each element of the terms of reference.

1. Should new generic top level domain names be introduced?

- a. Given the information provided here and any other relevant information available to the GNSO, the GNSO should assess whether there is sufficient support within the Internet community to enable the introduction of new top level domains. If this is the case the following additional terms of reference are applicable.

The gTLD registries continue to support the introduction of new gTLDs just as we have in previous efforts to consider whether new gTLDs should be introduced. It is our belief that adding new TLDs is a good way to facilitate competition at the registry level while at the same time encouraging creativity and differentiation. It is also our belief that introducing TLDs with different purposes increases the public benefit.

Adding new TLDs provides the following benefits:

- *Added choices for Internet users, not only in terms of the ability to obtain a domain name registration in a given new TLD, but also in terms of security options, trust features, use policies, and other innovative factors that vary by registry operator or sponsor*
- *Expansion of Internet usage through the market development efforts of new and existing providers of registry services*
- *Opportunity to test user demand for specific TLDs*

- *Particularly in case of TLDs with a focused and defined community, opportunity to develop a resource that best serves the needs of that community while providing intrinsic value to all internet users.*

The Registry Constituency believes that the two ICANN application rounds to date have adequately validated that there is ample demand to operate a TLD. In those two limited rounds, millions of dollars have been invested by qualified members of the private and public sector to operate a TLD. The range and depth of members of the gTLD Registry constituency validates that there is market demand from qualified members of the private sector. This fact alone provides sound reason for introducing additional new gTLDs.

2. Selection Criteria for New Top Level Domains

- a. Taking into account the existing selection criteria from previous top level domain application processes and relevant criteria in registry services re-allocations, develop modified or new criteria which specifically address ICANN's goals of expanding the use and usability of the Internet. In particular, examine ways in which the allocation of new top level domains can meet demands for broader use of the Internet in developing countries.

The gTLD Registry Constituency recommends that each selection criterion including those from previous top level domain application processes be evaluated to determine whether the criterion effectively accomplishes the following objectives:

- *Is the criterion consistent with ICANN's limited technical coordination mission?*
- *Does the selection criterion provide objectivity that will encourage members of the private sector to participate in a new application round?*
- *Does the criterion encourage TLD operators/sponsors to differentiate the TLD from other TLDs by offering users differentiated options beyond the obvious choice of TLD (e.g., customer service levels, registry policies, etc.)? [Note: 1) some users may want a TLD with restrictive registration criteria while others may want one that is more open and flexible; 2) as more variability in TLD registration terms is allowed, users will be given more real opportunity to meet their individual needs.]*
- *Is the criterion necessary to ensure the technical security and stability of the Internet?*
- *Does the criterion encourage differentiation?*

- *Does the criterion allow market forces to work freely in contrast to predetermining Internet user demands?*
- *Does the criterion allow for policy decisions to be made in the best interest of and with participation of relevant user communities in contrast to centrally predetermining all applicable policies for all TLDs by a single structure?*

If the answer to any of these questions is ‘no’, then the criterion should be eliminated.

With regard to the goal of encouraging broader use of the Internet in developing countries, the gTLD registries recommend the following:

- *For applications that propose the use of IDNs, TLD application criteria should require compliance with current IDN standards and ICANN IDN guidelines and cooperation in ongoing IDN development work should be encouraged.*
- *Applicants that seek to launch a TLD with the primary purpose being to serve needs within a defined geographical territory (or territories) should be asked to identify the specific market of users applicable to the proposed TLD.*
- *In cases where the TLD applicant seeks to define a geographical territory (or territories) for the purpose of meeting user needs of this territory, and where such territory is proposed to be that of a developing country, the applicant should describe specific measures of its operational plan that will encourage use of the Internet by those within the geographical territory, such as:*
 - *How they plan to support registrars in providing customer service in local languages, etc.*
 - *Location of regional top level domain name servers designed to best provide local Internet access*
 - *Marketing programs for the identified geographical territory, including how they plan to localize registrar accreditation processes and reduce barriers to entry*
 - *What is required from ICANN in order to facilitate sign-up of registrars with specific skills or regional focus.*
- *No applicant should be allowed to propose a TLD that is either a transliteration of an existing TLD or a lexical or semantic equivalent of an existing TLD. For example, an applicant for a TLD in Korean characters should not be allowed to propose a TLD that is a transliteration of “.museum” or its lexical or semantic equivalent in the Korean language.*

- b. Examine whether preferential selection criteria (e.g. sponsored) could be developed which would encourage new and innovative ways of addressing the needs of Internet users.

The gTLD registries are not convinced that providing preferences to sponsored gTLDs over unsponsored would necessarily encourage new and innovative ways of addressing the needs of Internet users. It seems quite possible that creative ideas of addressing the needs of Internet users could come from any of type of gTLD.

To the extent that an applicant makes a claim, they should be encouraged to describe market or community research that supports their claim including the research methodology applied. (Any such market research may need to be treated confidentially.) Research may be especially applicable if two applicants for the same TLD or semantic equivalent apply.

With regard to providing selection preferences for innovative ideas for meeting user needs, evaluation of what is considered innovative becomes very subjective. The best approach would seem to be to accept new ideas that seek to achieve differentiation insofar as they are consistent with market research data provided by an applicant and then, assuming minimal application criteria are satisfied, allow the applicant the opportunity to offer their ideas to users. (As previously stated, market research may need to be treated confidentially.)

The potential risk of business failure should be assumed in the criterion to the extent that measures by the applicant to ensure Internet security and stability – such as a contingency and succession plan - are in place. We believe that there needs to be a fail safe process that is outlined to handle failing registries such that registrars and registrants are assured that their registrations and investments won't just dry up.

- c. Examine whether additional criteria need to be developed which address ICANN's goals of ensuring the security and stability of the Internet.

Security and stability should be the primary objective of any selection criteria with particular emphasis upon ICANN's limited role as a technical coordinator and not that of a regulatory agency. At the same time, it should be recognized that different Internet users and user communities may have different needs with regard to security and stability of their domain name registrations. Assuming minimal criteria for security and stability are met, the process should provide applicants with sufficient incentives and

flexibility to develop TLDs in a manner that best suits the needs of their target community or target market.

3. Allocation Methods for New Top Level Domains

- a. Using the experience gained in previous rounds, develop allocation methods for selecting new top level domain names.

The gTLD registries believe that allocation methods for selecting new top level domains should meet the following requirements:

- *The allocation process should be timely. Previous experience has demonstrated that long allocation processes have required applicants to invest unnecessary and wasteful amounts just to get to the point where they can start their business operations. A much better place to invest funds would be in meeting user needs.*
- *The allocation process must be objective. Allocation criteria must be spelled out in measurable terms and evaluations should minimize if not totally eliminate the use of subjective opinions.*
- *The allocation process must be predictable. Requirements and processes should be explicitly defined in advance of the selection process and they should not be changed once that process is initiated. Timelines should be followed rigorously.*
- *Within reasonable support constraints, the allocation process should facilitate the regular, ongoing introduction of new TLDs.*

- b. Examine the full range of allocation methods including auctions, ballots, first-come first-served and comparative evaluation to determine the methods of allocation that best enhance user choice while not compromising predictability and stability.

If the goal is truly to enhance user choice, then comparative evaluation of applications should be minimized and only in cases where applicants propose duplicate or confusingly similar TLDs should special allocation methods come into play. If an application meets the predefined objective criteria for introducing a TLD, and the TLD is not for the specific purpose of serving a near identically defined objective or user community, then the process for implementation should begin. In cases where more than one applicant meets the criteria for the same TLD or semantic equivalent, the procedures to be followed to resolve what if any applicant would be awarded registration rights should be clearly explained in advance of the application process.

Regarding implementation of TLDs for successful applicants, ICANN should communicate the following in advance of the application process:

- *How many TLDs can be expected to be entered into the root over a 12 month calendar year (subject to periodic review) along with the basis for this expectation*
- *How much time will be required by ICANN before entering a TLD in the root*
- *Detailed steps of the ICANN process leading up to entry into the root, with timeframes for each step.*

In cases where there are more approved applications than can be implemented at the same time, a first-come, first served approach should be used, i.e., applicants should be chosen to enter the implementation process in the same order that their evaluations have been completed. Once approved, the progress of negotiations and implementation of any new TLD should not be delayed due to ICANN's dealings with another party involved in the same process. For business reasons, new TLD applicants must have confidence that they will receive equitable treatment and attention from ICANN, that there will be a predictable path for implementation, and that deadlines will be met. Once the implementation timeline is finalized and before applications are submitted, ICANN must commit all necessary resources to meet these obligations.”

- c. Examine how allocation methods could be used to achieve ICANN's goals of fostering competition in domain name registration services and encouraging a diverse range of registry services providers.

As stated in response to item 1, “It is our belief that adding new TLDs is a good way to facilitate competition at the registry level.” We believe that following the recommendations provided earlier in this document will go a long way to fostering competition in domain name registration services and in encouraging a diverse range of registry services.

As stated in response to item 3.a, “Within reasonable support constraints, the allocation process should facilitate the regular, ongoing introduction of new TLDs.” If this happens in a timely manner, then the gTLD registries believe that this is a good way to foster competition.

4. Policy to Guide Contractual Conditions for New Top Level Domains

- a. Using the experience of previous rounds of top level domain name application processes and the recent amendments to registry services agreements, develop policies to guide the contractual criteria which are publicly available prior to any application rounds.

The gTLD Registry Constituency strongly believes that applicants should be provided the base contract in advance. The only change we would make is that the base contract (even if there are no changes) should be provided at the same time a request for proposals is issued, not later as happened in the most recent round.

Presumptive right of renewal encourages private sector participation, investment with greater certainty, providing optimal opportunity for registry innovation and competition for users. Policies to guide contractual criteria should not interfere or otherwise compromise these goals for the introduction of New Top Level Domains.

Considerations used to guide the contractual criteria, other than as this pertains to consensus policy, places ICANN in the position of regulator rather than technical coordinator. Limiting guidance of the contractual criteria to consensus policy matters as they apply to the TLD in question allows ICANN to stay within its role of technical coordinator.

- b. Determine what policies are necessary to provide security and stability of registry services.

It is our opinion that the terms of the latest version of the ICANN-Registry/Sponsor agreements that invoke the GNSO consensus policy recommendation of the process for the approval of registry services fill the void of previous ambiguities with regard to security and stability of registry services. There is minimal, if any, need to develop additional policies to guide the contractual criteria of registry services.

- c. Determine appropriate policies to guide a contractual compliance programme for registry services.

The registry constituency does not believe that contractual compliance programs for registry services have policy implications.