

Responses to Questions/Comments from Public Forum Session

Beijing, April 11, 2013

As regards New gTLD evaluation panels, are we going to have information about what these dispute resolution providers were saying, and more importantly - what is ICANN doing to guide these people? When is it doing it? What are they saying? And, are they following the guidebook?

Each evaluation panel firm has provided ICANN with its evaluation process. ICANN is reviewing this information with evaluation firms to ensure that we do not disclose any confidential information that would violate any clause of the contractual agreement that the firms have with ICANN. ICANN is also closely examining the timing of the release of the information so as to not jeopardize fairness to all applicants.

Each Dispute Resolution Service Provider (DRSP) must adhere to the Dispute Resolution Procedures. This can be found as an Attachment to Module 3 of the Applicant Guidebook (AGB). Specific DRSP guidelines can be found on each of the respective DRSP websites. Please visit the Objections & Dispute Resolution Microsite page for more information: <http://newgtlds.icann.org/en/program-status/odr>.

Can you provide a timeline for all the different moving parts portrayed to the community with regard to New gTLD program?

The gTLD timeline can be found at:
<http://newgtlds.icann.org/en/announcements-and-media/update-23apr13-en.pdf>

How has the Trademark Clearing House (TMCH) moved from being a mandatory minimum requirement to be the exclusive way of guaranteeing intellectual property rights?

The Trademark Clearinghouse supports the mandatory minimum rights protection mechanisms required of all New gTLD registries. Because the Trademark Clearinghouse reviews marks from all jurisdictions according to the same requirements, use of the Clearinghouse provides a consistent basis for accepting sunrise registrations. Note that New gTLD registries also have the ability to establish additional registration restrictions, and can offer additional limited registration periods to establish additional protections.

Is the board aware that there have been objections that have been filed that came in after the deadline and did not have proper attachments? Also, Is the board aware of that process and is the board aware that these rules were set forth in the guidebook?

The Dispute Resolution Service Providers (DRSPs) notified ICANN that they did receive objections filed after the published deadline of 23:59:59 UTC on 13 March. To clarify, this deadline was defined with the Proposal for the Prioritization draw, and was not defined explicitly in the Applicant Guidebook (AGB).

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The DRSPs then asked ICANN how it would like them to handle this situation.

ICANN informed the DRSPs that it wanted them to resolve this amongst themselves.

The DRSPs came back and told ICANN that they decided to allow a 5-minute grace period.

ICANN acknowledged this decision and published this information for the community.

Finally, Article 9(c) of Attachment to Module 3 of the Applicant Guidebook (AGB) states:

(c) If the DRSP finds that the Objection does not comply with Articles 5-8 of this Procedure and the applicable DRSP Rules, the DRSP shall have the discretion to request that any administrative deficiencies in the Objection be corrected within five (5) days. If the deficiencies in the Objection are cured within the specified period but after the lapse of the time limit for submitting an Objection stipulated by Article 7(a) of this Procedure, the Objection shall be deemed to be within this time limit.

ICANN is confident that the Dispute Resolution Service Providers are complying with the guidelines in the AGB.

Can you please afford clarification on what ICANN plans to do with regard to string similarity issues and contention sets, and asked for more transparency than what currently exists. Also, did the panel follow GNSO's policy advice on string confusion?

The Applicant Guidebook (AGB) defines the String Similarity review during IE as a visual similarity check.

The String Similarity panel is comprised of experts in the area of linguistics who have independently applied their judgment of visual similarity based on the criteria in the AGB.

The string confusion objection process provides all applicants with the option to file objection for all types of similarity, including visual, aural, or similarity of meaning. As of the end of the objection period on 13 March 2013, a total of 67 string confusion objections were filed (see <http://newgtlds.icann.org/en/program-status/odr/filings>).

Three questions relating to the SAC 45 report on error strings at the root:

- ***What is the process by which ICANN decided to transfer that kind of risk to end-users?***
- ***Are there ethical considerations to that / responsibilities to the community that we ought to address?***

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- ***What is the process to get a recommendation like that actually implemented?***

There has been no decision to transfer potential risks regarding the Issues related to the use of non-delegated TLDs.

ICANN is commissioning a study, through a third party, on the number of queries to the root zone for non-delegated TLDs and potential impacts to the applied-for new gTLD strings. In addition, the study would provide ICANN with recommendations on which strings represent high risks and steps ICANN should take moving forward to address these issues.

The recommendations are going to be presented to the Board for consideration (Please see <http://www.icann.org/en/news/correspondence/moss-to-falstrom-30apr13-en.pdf>).

ICANN is also engaging Operating System, browser, and software vendors, and Certificate Authorities to explain the issues and seek their cooperation in deploying solutions for issues that they are in a better position to solve.

Pursuing a solution to these issues should likely be a shared responsibility between ICANN and the main beneficiaries of new gTLDs (i.e., the future new gTLD registry operators).

Please address protection concerns involving singular names versus plural names in New gTLD applied-for strings before any TLDs are delegate any TLDs into the root.

This issue was mentioned in the Beijing Governmental Advisory Committee (GAC) Communiqué and the ICANN Board will provide a formal response to the GAC on this issue.

Four questions on singular/plural gTLD strings:

- ***Will the board be revisiting the decision or find a way to revisit the decision to hold plural strings not in contention with singular strings?***
- ***Would you be thinking of prohibiting such contention with singular strings?***
- ***Would you be thinking of prohibiting such contention in the next round?***
- ***If the answer to the two previous questions is no, then should future applicants view this as a signal that, in applying for plurals, possibly dot coms, dot orgs and dot nets, their applications would not be rejected on the basis of being plurals of existing gTLDs?***

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As mentioned in response to the previous question, this issue was mentioned in the Beijing GAC Communiqué. The ICANN Board will provide a formal response to the GAC on this issue.

Regarding the question about string similarity review for the next round of New gTLD, ICANN has committed to performing a post-launch review of the New gTLD program. This, along with many other aspects of the program will undergo this review prior to the launch of the next round of New gTLDs.

What is being done to protect the rights of 300,000 registrants who have an existing Internationalized Domain Names (IDNs) like dot com, dot org domain where, unless treated properly, the New gTLD transliteration that is coming will lead to widespread confusion and fraud?

There is some confusion surrounding this particular question, but if the person who asked it wishes to afford some clarity and/or elaboration, then he is invited to contact Cyrus Namazi (cyrus.namazi@icann.org), ICANN's Vice President, DNS Industry Engagement.

Four questions regarding New gTLDs:

- ***Why hasn't ICANN treated community-based applicants in the same manner as IDNs (prioritizing IDNs)?***
- ***How is this objection process fair, appropriate, and cost effective for communities?***
- ***How will ICANN prevent possible subjective bias?***
- ***If offensive globally recognized communities fail to pass, will ICANN take accountability to explain to our respective communities, the general public and media that they are not recognized as communities by ICANN?***

During the Public Comment period on prioritization draw, there were numerous comments submitted recommending the prioritization of classes of applications such as IDNs, Geographic names, String Contention Sets, or applications from developing countries or from countries that are not as equally represented in the DNS.

ICANN staff recommended prioritizing IDNs as it is the only category of applications that can be objectively identified and will serve the public interest (<http://www.icann.org/en/groups/board/documents/briefing-materials-1-26nov12-en.pdf>). As community priority evaluations are not performed prior to the prioritization draw, it is not feasible to prioritize them.

By applying for a New gTLD, an applicant accepts the applicability of the New gTLD Dispute Resolution procedure and the applicable Dispute Resolution Service Provider's (DRSP) Rules. Hence, all applications with admissible objection filings must go through the dispute resolution process, unless the parties decide to participate in negotiations and/or mediation aimed to settling their dispute amicably.

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Please keep in mind the objection and dispute resolution process was designed to protect interests and rights across four (4) grounds: String Confusion, Legal Rights, Limited Public Interests, and Community. ICANN has engaged independent, third party service providers to manage the dispute resolution process.

ICANN will stand by the Community Priority Evaluation (CPE) Criteria set-forth in the AGB and defer to the CPE panel to quantify each criterion consistently against each application that requires CPE. The criteria for community evaluations are clearly identified in the AGB by the community. Evaluations are performed by independent, third party evaluators against these criteria.

An application that fails community priority evaluations simply means that it does not meet the developed criteria of a defined community under the New gTLD program. It does not necessarily nullify the existence of that particular community.

Is ICANN aware of the problems of wine geographical indications protection in the New gTLD program? Are they going to be protected at the source, and not only with the TMCH?

There are no specific provisions in the Applicant Guidebook for wine-related applications. However, New gTLD registry operators have ability to establish registration policies, as well as policies on reservation of names from registration, in line with the purpose of the TLD. Regarding the Trademark Clearinghouse: nationally or regionally registered word marks from all jurisdictions, word marks that have been validated through a court of law or other judicial proceeding, and word marks protected by a statute or treaty are all eligible for inclusion.

Can ICANN announce the identity of Support Application Review Panel (SARP) members?

ICANN will publish the names of the members of the SARP Panel.

Will you please provide further clarification regarding the board resolution on the International Olympic Committee/Red Cross that was issued on 13 September 2012? And specifically, can you say, that in the absence of GNSO advice regarding public interest or security and stability by the imposed deadline of 31 January 2013 that the protections that were the subject of this resolution are indeed now permanent?

Can you also please provide clarification on specification 5.7 of the registry agreement, which relates to the International Olympic Committee and Red Cross?

The latest version of the Proposed Final New gTLD Registry Agreement, which now has been posted for public comment (see <http://www.icann.org/en/news/public->

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[comment/base-agreement-29apr13-en.htm](#)) states in relation to the IOC/RCRC names that “the following names shall be withheld from registration or allocated to Registry Operator” instead of “shall be initially reserved” as noted in the previous version. Similar changes have been made to specification 5.7.

As regards Uniform Rapid Suspension (URS) providers, will there be a contract developed that goes beyond the non-enforceable memorandum of understanding? Will there be other URS providers?

Yes, a contract is being developed and additional URS providers will be added.

Is there a market analysis - with regard to categories of classifying Top-Level domains?

The goal of the New gTLD program is to open up the top level of the Internet's namespace to foster diversity, encourage competition, and enhance the utility of the DNS. The economic studies performed in 2010 supported the goal of the New gTLD Program (<http://www.icann.org/en/topics/new-gtlds/economic-analysis-of-new-gtlds-16jun10-en.pdf> and <http://www.icann.org/en/topics/new-gtlds/phase-two-economic-considerations-03dec10-en.pdf>).

In the spirit of the goal of the program, the market determines needs and opportunities. ICANN's role is to ensure that only those applicants that have the technical and financial wherewithal to operate a TLD are afforded the opportunity to do so.

Do you believe that the current infrastructure of ICANN is sufficient, is ready and capable of handling the exponential change with regard to the global multilingual Internet?

Yes, ICANN has added scalability to its infrastructure with the ability to adjust to the changing needs of the Internet and our Community.

Is there some way to get more resources and attention aimed at the bottom of the bottom-up process?

Community efforts such as Working Groups are considered core to ICANN's bottom-up process. As a result, significant resources are made available to support such efforts in the form of staff support and tools to facilitate participation and collaboration. In addition, additional requests for support or resources are always taken seriously into account, and in many cases granted. Further work is currently ongoing to explore mechanisms to provide additional tools for training and coaching of community volunteers.

Can ICANN post an immediate public comment period for the entire Internet community to respond to the GAC advice before the board acts on what some believe in many cases is nothing more than content regulation?

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ICANN opened a public comment forum seeking community input on how the NGPC should address the GAC Beijing safeguard advice. See <http://www.icann.org/en/news/announcements/announcement-23apr13-en.htm>.

How does ICANN justify the New gTLD program as being in the broader public interest? How, for the average Internet user, is the New gTLD program going to have any other outcome other than making him or her completely reliant on search engines?

The objective of the New gTLD program was to open the top level of the Internet's namespace to foster diversity, encourage competition, and enhance the utility of the DNS. ICANN cannot predict the outcome of the users and how this may impact their behavior on the Internet, but we are excited to see how this broadens the current use and scope of the Internet.

Please explain the exceptions process for New gTLDs?

There is an ICANN Reconsideration process, and that information can be found at: <http://www.icann.org/en/news/in-focus/accountability/reconsideration-review>.

Will the Board please hold a webinar that will involve board participation, particularly from the NGPC that will advise the community on how the board intends to act on the GAC advice that has been received? In particular the fact that the GAC has advised that safeguard advice should apply to non-exhaustive lists of strings in certain categories, which on its face suggests further examination of all strings to identify those that fall within those categories would appear to be in order.

ICANN opened a public comment forum seeking community input on how the NGPC should address the GAC Beijing safeguard advice. See <http://www.icann.org/en/news/announcements/announcement-23apr13-en.htm>.

As the Board and NGPC consider the GAC Beijing Advice, ICANN will continue to keep the community informed in a transparent manner. Interested community members can follow Board and NGPC consideration of the GAC Beijing Advice on <http://www.icann.org/en/groups/board/meetings> and <http://www.icann.org/en/groups/board/new-gtld>.

In addition, the GAC Advice Register will be updated to reflect progress and actions taken on the GAC Beijing Advice. See <https://gacweb.icann.org/display/GACADV/GAC+Register+of+Advice>.

Finally, ICANN will continue to communicate with the community on all matters concerning the New gTLD Program through various means, including Public

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Announcements, blogs and webinars, all of which will be posted on the main ICANN website and the New gTLD microsite.

Can ICANN provide metrics in the context of the New gTLD program under the auspices of the Affirmation of Commitments (AoC), which the Board can then take into consideration?

As mandated by the Affirmation of Commitments, "ICANN will organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice."

In preparation for this review, In December 2010 the ICANN Board requested advice from the ALAC, GAC, GNSO and ccNSO on establishing the definition, measures, and three year targets for those measures, for competition, consumer trust and consumer choice in the context of the domain name system.

The GNSO and the ALAC (Consumer Trust, Consumer Choice & Competition Working Group Final Advice Letter - <http://gns0.icann.org/en/issues/cctc/cctc-final-advice-letter-05dec12-en.pdf> and ALAC Statement on the At-Large New gTLD Metrics Task Force Report - <http://www.atlarge.icann.org/correspondence/statement-new-gtld-metrics-11apr13-en.pdf>) have now both submitted input to the Board, advising that ICANN use different approaches to these metrics. Staff work is underway to evaluate this advice and methods of moving forward with the AoC review, and expects to provide additional information to the Board by the Durban Meeting.

Would ICANN give consideration to adopting a high-level charter among similar lines to the European Union (EU) charter or the Canadian charter of fundamental rights, which could inform the work of all Supporting Organizations, staff, and volunteers?

ICANN's core values are currently outlined in Article I, Section 2 of the ICANN Bylaws, which are expected to serve as a guide for decisions and actions of ICANN. It is also noted that 'Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values'.

At a more granular level, ICANN has also recently published a proposed Registrant Rights and Responsibilities Specification, which is to be part of the new RAA, for public comment (see <http://www.icann.org/en/resources/registrars/raa/proposed-registrant-rights-responsibilities-22apr13-en.pdf>). If the ICANN Community believes that certain core values are missing or in need of updating either as part of the Bylaws or the Registrant Rights and Responsibilities Specification, further discussion and concrete proposals would certainly be welcomed.