NEW gTLD IMPLEMENTATION

GNSO, Cairo
1-2 November 2008

Agenda

- Guidebook overview
- Module by module review of the Applicant Guidebook
- Questions after each module
What was published

- The Applicant Guidebook (RFP)
- Supporting memoranda intended to annotate the Guidebook and describe the reasoning and Guidebook development process
- Other supporting information
- Comment for a organised by module
- Background material

The Applicant Guidebook:

- is an initial draft only. Many aspects of this documents have been discussed in various ICANN fora, this is the first version of the entire package.
- is provided expressly for discussion, consultation and revision. Revision is expected.
- should not be relied upon as definitive. Revised versions may vary from what is presented here.
Program Themes

- New gTLDs will promote competition and choice, IDNs at the top level of the domain name system will offer many potential new opportunities and benefits
- Principles of conservatism: technical and fiscal
- Emphasis on registrant protection
- The decision to launch new gTLD rounds followed a detailed and lengthy consultation process with all constituencies of the global Internet community.
- A public comment period for revision of the RFP will allow for detailed review and input to be made by the Internet community.

Aspects of the Process: Uncomplicated & Robust

- Uncomplicated process in most cases:
  - 6-step inquiry
  - Objective criteria
- Robust process when it needs to be:
  - Provide a path for addressing objections on specific limited grounds to proposed TLDs
  - Resolve situations where there are multiple applications for the same (or very similar) TLDs
New gTLD Evaluation Process

Application Period
Module 1

Initial Evaluation
Module 2

Extended Evaluation
Module 2

Transition to Delegation
Module 5

Objections and Dispute Resolution
Module 3

String Contention
Module 4

Applicant Guidebook Organisation

- Module 1 – Overview
- Module 2 – Evaluation procedures
- Module 3 – Dispute resolution procedures
- Module 4 – String contention procedures
- Module 5 – Delegation processes (including base registry agreement)
- Module 6 – Terms & conditions
Explanatory Memoranda

- Protecting Rights of Others in New gTLDs
- Cost Considerations
- Geographical Names Process
- Update on DNS Stability Criteria
- Resolving String Contention
- Morality and Public Order Objection Considerations in New gTLDs
- Summary of Changes to Base Agreement

Related Resources and Materials

- Cross Reference: Applicant Guidebook to GNSO Policy Recommendations
- CRAI Report on gTLD Registries and Registrars
- ICANN Similarity Assessment pre-production algorithm: http://icann.sword-group.com/icann-algorithm/
Guidebook Documentation Structure

- From the front page, link to the comments section:

- or link to the New gTLD Program Page:

- Where there is a link to an interactive process flow:
Module 1 – Introduction and Overview

- Application life cycle – summary of processing stages
- Description of application types:
  - Open
  - Community-based
- Documents required from all applicants
- Requirements specific to IDN applicants
- Processing fee information

Module 1 – Introduction and Overview

- Application life cycle – summary of processing stages
- Description of application types:
  - Open
  - Community-based
- Documents required from all applicants
- Requirements specific to IDN applicants
- Fee and payment information
Module 1 – Introduction and Overview

- Process attempts to reflect principles of fairness, transparency, non-discrimination

- Clear, pre-published application process using objective and measurable criteria
  - Goal to ensure that complete requirements and process information are available to applicants at the start
  - There is a balancing between purely objective criteria and the flexibility to accommodate different models

Module 1 – Introduction and Overview

- Applications initially assessed in rounds
  - Guidebook pertains to initial round
  - Information included on follow-up rounds

- Adherence to IDN guidelines

- Fees calculated on a cost recovery basis
  - Processing fee: US$185,000 is estimated sum of evaluation, development and risk costs
  - Additional fees paid directly to outside panels and providers if necessary
Module 2 – Evaluation Procedures

- String reviews
  - DNS stability
  - String confusion
  - Geographic names

- Applicant reviews
  - Technical capability
  - Financial capability
  - Registry services offered
Module 2 – Specific Criteria / Procedures

- Avoidance of strings causing technical instability
- Avoidance of confusingly similar TLD strings
- Institution of reserved names list
- Applicant demonstration of technical capabilities
- Applicant demonstration of financial capabilities
- Registry services evaluation

DNS Stability

- Requirements provided for all gTLD strings
- Requirements provided for IDN gTLD strings
  - Discussion of IDN protocol revision issue
- Provision of a process to allow additional investigation on an applied-for gTLD string that may cause technical instability
String Confusion

- All applied-for strings are examined for:
  - Visual similarity to existing TLDs
  - Visual similarity to other applied-for gTLDs
- Algorithm provides one objective measurement as part of the examination
  - Pre-production version at http://icann.sword-group.com/icann-algorithm/
- Objection path to assert string confusion that has not been identified in the examination

Geographical Names

- Applications must be accompanied by documents of support or non-objection from the relevant government or public authority
- Review examines whether:
  - String is a geographic name requiring approval
  - Documentation is included & valid
- Applications may also be subject of objections on community grounds
Demonstration of technical / operational capability

- 20 questions, each scored and covering an area of technical competence
- Must maintain security and stability of the DNS
- Requires some protection of rights mechanism
- Provides an objective evaluation framework, but allows for adaptation for differing models
- Certain aspects of applicants’ technical information will be tested by ICANN prior to delegation (see Module 5)

Demonstration of financial capability

- 11 questions, 7 scored criteria
- Strikes balance between business competence of applicant and avoiding venture-capitalist judgments
- Principles include: conservatism; flexible criteria; ensuring stability; registrant protection
- Emphasizes registrant protection
  - Questions address contingency and failure scenarios
  - Continuity requirements must be met prior to delegation
Registry services review

- Necessary to ensure that proposed registry services do not adversely affect the security or stability of the DNS
- For the few cases requiring extensive review, there will be a process similar to that required of existing registries for introduction of new services
- There will be an additional fee in the cases where that extensive review is required

Module 3 – Dispute Resolution Procedures

- Enumerated grounds for objection
- Standing requirements for the various objection grounds
- Processes for filing objections and responses
- Description of adjudication proceedings leading to issuance of decisions
- Dispute resolution principles (standards) for the various objection grounds
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Module 3 – Dispute Resolution Procedures

- Process includes objection and dispute resolution filing and adjudication processes
- Objection grounds are:
  - A likelihood that user confusion would result
  - Infringing the legal rights of others that are recognized under international principles of law.
  - String is contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.
  - Substantial opposition from a significant portion of the community to which the string may be targeted.
### Module 3 – Dispute Resolution Procedures

- Three providers have agreed in principle to administer disputes brought via formal objection
- General rules for filing of objections and responses
- Process allows for consolidation of disputes where appropriate
- Process allows for mediation at the option of the parties

### Dispute Resolution Procedures

- Dispute resolution procedures are published, there will be more specific rules published by each provider
- Dispute resolution standards are published in the Guidebook (suggested standards for morality and public order objections are published in associated memoranda)
- Dispute resolution standing requirements are published in the Guidebook
Dispute Resolution Fees

- Fee ranges are published in the Guidebook
- It is anticipated the Infringement of Rights and String Confusion Objections will pay a flat fee; and Community-based and Morality & Public Order Objections will pay a hourly fee
- Each side will pay a non-refundable filing fee
- Each side will deposit a fee to fund the dispute resolution process, prevailing party receives the deposit back

Community based objection standard

Meeting the standing requirement is a defence to objections

Standard is a 4-part test:

- The community invoked by the objector is a defined community
- Community opposition to the application is substantial
- There is a strong association between the community invoked and the applied-for gTLD string
- There is a likelihood of detriment to the community named by the objector if the gTLD application is approved
Module 4 – String Contention

- Methodology and procedures for identification of contention sets
- Conditions under which comparative evaluation occurs
- Criteria for comparative evaluation
- Discussion of alternative mechanism for efficient resolution of contention – for cases where comparative evaluation does not apply
Module 4 – String Contention

- Contention sets formed based on principle that string confusion among TLDs should be avoided
- Applicants may reach own resolution of a contention situation (IG F)
- Applicants making a community claim given priority (IG F&G)
  - Comparative evaluation designed for validation and substantiation of community claims
  - Test: this is THE label for that community

Module 4 – String Contention

- Efficient (last resort) mechanism for contention resolution
  - Required when contention has not been resolved through comparative evaluation or agreement by parties
  - Agreement by parties is expected as an economical alternative to other means
- The String Contention lifecycle memorandum includes alternative solutions for last resort mechanisms and describes the issues with each
Module 5 – Transition to Delegation

- Registry Agreement
  - Base agreement
  - Seven associated specifications
- Pre-delegation
  - Technical tests
  - Continuity requirements for protection of registrants
- Leads to delegation by IANA
Module 5 – Transition to Delegation

- Base contract available to applicants at the start

- Term length is commercially reasonable
  - Agreement has 10-year term

- Agreement features renewal expectancy
  - Agreement will renew unless a material breach remains uncured

Module 5 – Transition to Delegation

- Agreement requires compliance with consensus policies
  - Includes existing and future consensus policies and temporary policies

- Agreement features compliance and sanctions process
  - Provisions for compliance auditing, arbitration, and award of damages in the event of repeated material breaches by the registry operator.
Module 5 – Transition to Delegation

- Agreement requires compliance with IDN Guidelines
  - Includes updates to the Guidelines
  - Compliance with relevant RFCs also required

- Use of ICANN-accredited registrars
  - CRAI report on gTLD Registries and Registrars recommends incremental lifting of registry-registrar separation requirements
  - Models for lifting separation requirements should be settled through constituency discussion before the publication of the final version of the Guidebook

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Anticipated Timeline
New Generic Top-Level Domains

- Policy Approved
- Draft RFP Issued
- Final RFP Issued
- Application Launch Period

- Global Communication Campaign

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<td>32nd ICANN Meeting (Paris)</td>
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<td>33rd ICANN Meeting (Cairo)</td>
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Updated: October 2008
THANK YOU