GAC: New gTLD Program Update

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7 March 2010

Agenda

1. EOI status update
2. Resolving outstanding issues
3. Completing the Applicant Guidebook

Expression of Interest & Pre-Registration Process (EOI)

EOI / pre-registration process

- To serve the public interest by facilitating the launch of the New gTLD Program in a secure, stable, well-organised and efficient manner

- Benefits
  - Ascertaining number of first round applications
  - Identifying instances of possible string contention
  - Identifying areas of potential objection
  - Informing the economic benefits / risks discussion
  - Identifying unanticipated issues, providing flexibility
  - Hastening launch of the new gTLD program by answering or raising issues before the decision to launch is made

EOI Model

- Draft model posted for comment in December after public comment period
- Full analysis of all public comment received has been posted
- Explanatory memorandum posted to inform discussion at this meeting:
  - Objectives of the EOI
  - Proposed EOI model
  - Outline of costs
  - Prerequisites and timeline

Key elements of the proposed model

- Mandatory for eligibility in the first gTLD application round
  - Voluntary EOI: substantial cost / no value
- A deposit of US $55,000 required.
  - Discourage speculation / tied to gTLD fee structure
- Deposit non-refundable, unless round not launched
  - Bright line rule / settle issues before launching
- Participant and string information will be made public
  - Transparency / inform operational readiness & objections
- A fully executed communications campaign, to promote global awareness
  - Will not work to disadvantage various groups
- No evaluations will occur

Pre-requisites to EOI

- Publish draft version 4 of Guidebook
- Resolution required for:
  - Trademark RPMs
  - Three-character issue
  - Vertical integration
- Full communications campaign executed
- Operationally ready to conduct process

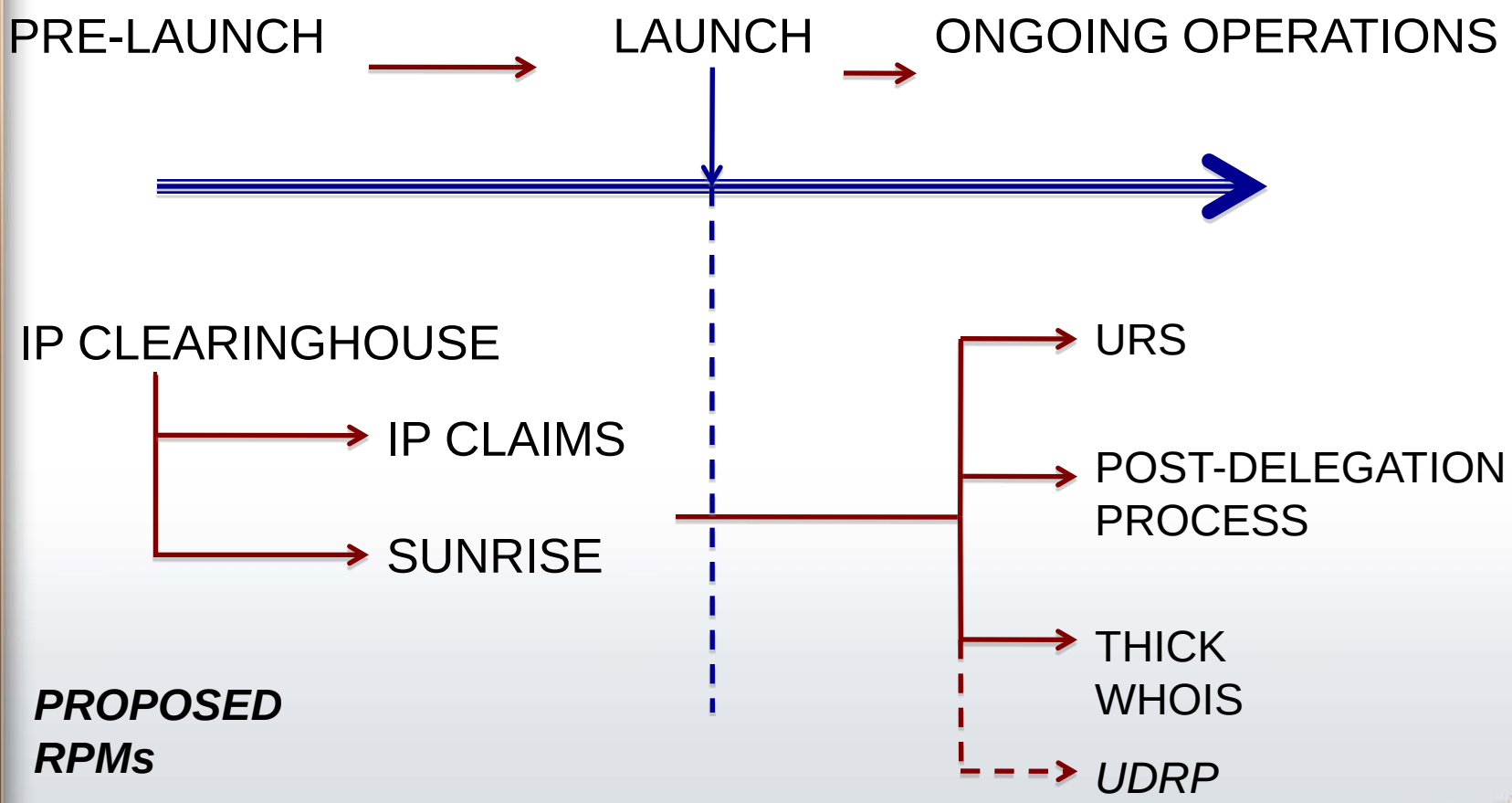
Resolving Outstanding Issues

Trademark Protection

- Solutions for this set of issues are virtually complete:
  - GNSO completed its deliverable to consider Trademark Clearinghouse and URS mechanisms
  - STI reached unanimous consensus in most areas, rough consensus in others
  - New versions of Trademark Clearinghouse and URS are posted based on STI work
  - New version of Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) posted based on public comment and discussion

Proposed RPMs

REGISTRY LIFECYCLE



PROPOSED RPMs

Trademark (IP) Clearinghouse

- A single database of authenticated registered trademarks and authenticated unregistered marks
- Two functions:
  - validate trademarks
  - provide data for pre-launch IP claims or sunrise services
- Replaces need for:
  - Trademark holders to register in many databases as TLDs are launched
  - Registries to develop IP Claims and Sunrise processes
- Operated by third-party license or agreement with ICANN

Trademark Clearinghouse: STI Recommendation

- Mandatory: Sunrise or TM Claims Services
- What marks are in Clearinghouse: Court-validated, and nationally & multi-nationally registered text marks
- What marks must registries honor: Registered marks with substantive review and court validated marks
- Provider contracted with ICANN
- Clearinghouse may offer ancillary services
- One database - regional authentication
- Costs borne by parties using services

Differences between Posted & STI Model (based on Public Comment)

- GNSO-STI: Registry has discretion to honor marks registered in jurisdictions without substantive review

  Proposal: Registry must honor marks these marks if validated by Clearinghouse or Courts

- GNSO-STI: Clearinghouse may provide ancillary services without TM holder permission

  Proposal: TM holder has discretion to allow license for ancillary services

Uniform Rapid Suspension (URS)

- Rapid relief to trademark holders for the most clear-cut cases of infringement
- Cheaper, faster and higher burden of proof than UDRP
- Filing fee set by URS provider
- Expected fee in range of $300
- Results only in suspension, not transfer of name

URS: STI Recommendations

- Mandatory
- Contains examples of and defenses to bad faith
- De novo review (appeal) available at any time
- Examiners trained and certified
- Examiners rotated within provider
- URS disallowed if contestable genuine issue
- One-year ban after two abusive complaints

URS: Differences between posted - STI Model

- Legal term of art:

  GNSO-STI: Bad Faith “Safe Harbors”
  Proposal: Bad Faith “Defenses”

- GNSO-STI: De Novo review at any time

  Proposal: De Novo review two years from determination

Post-Delegation Dispute Resolution Procedure

- PDDRP provides a forum to address allegations of infringement after a new gTLD is delegated
- Revisions are based on public discussions and comment
  - Quick look process to screen out frivolous cases
  - Complaint may be based on top-level or second-level activity – either requires affirmative conduct by registry operator
  - All cases proceed to determination on the merits
  - Complainant pays up front, registry operator pays if loses case
  - Panel recommends from among graduated enforcement measures

Malicious Conduct

- Set of modifications completed for draft version 3 of Applicant Guidebook

- Remaining areas being completed by two advisory groups:
  - Zone File Access Advisory Group
  - High Security Top Level Domain Advisory Group

Zone File Access

- Working group proposed solutions to enhance access to zone file information in an environment with many gTLDs

- Paper released including:
  - discussion of issues
  - consideration of 4 possible models
  - cost model

Zone File Access: 4 Models

- Enhanced bi-lateral model: standardizes essential elements of relationships between registries and consumers
- Repository model: third party collects zone files from registries and distributes them to zone file consumers
- Proxy model: third party acts as an intermediary for standardized authorization; data is delivered via secure proxy connections to the registry
- Clearinghouse model: credentials and authorization maintained by intermediary; data delivered over secure connections between consumer and registry.

High Security Zone TLD Initiative

- Concept paper published with Applicant Guidebook draft v3
- High Security Zone TLD Advisory Group continuing development
- Outlines a voluntary, structured approach to improve overall security of domain names registered in participating TLDs
- Introduces self-certification “Report card” concept

Economic Study

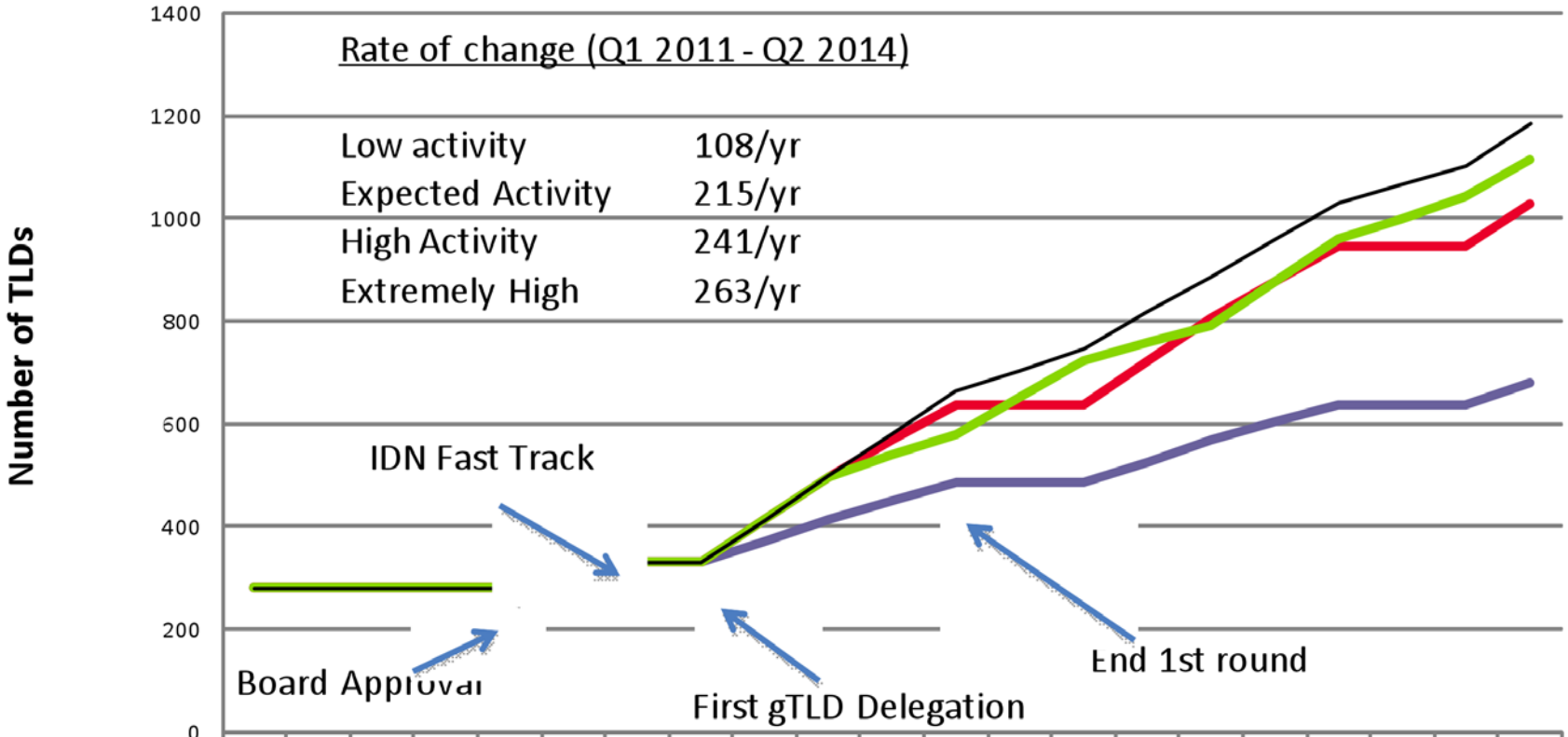
- Greg Rosston (Stanford) and Michael Katz (Berkeley) retained
- Three phase study – second phase (after Nairobi) will:
  - perform empirical analysis to estimate cost of defensive registrations,
  - develop metric to assess overall expected benefits / costs
  - develop a process to assess whether net economic consumer harm might result from individual applications.
- Third phase might be to develop mechanisms to enhance benefits of new gTLDs

Root Zone Scaling

- Root zone scaling study completed; reports anticipated from SSAC and RSSAC

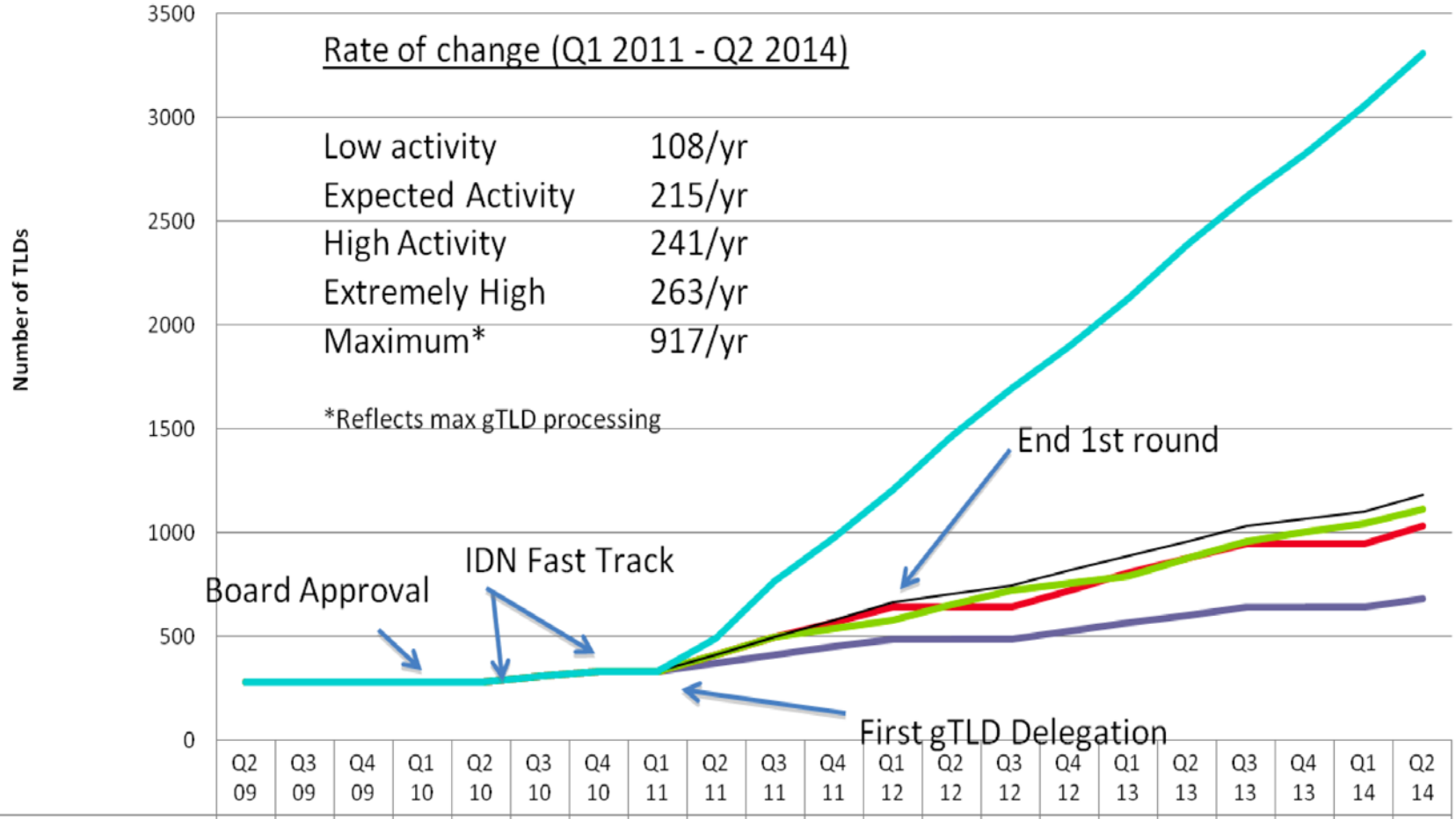
- Models created and published for different delegation rate scenarios for application volumes:
  - below expected
  - expected
  - above expected
  - significantly above expected

Delegation projections



	Q2 09	Q3 09	Q4 09	Q1 10	Q2 10	Q3 10	Q4 10	Q1 11	Q2 11	Q3 11	Q4 11	Q1 12	Q2 12	Q3 12	Q4 12	Q1 13	Q2 13	Q3 13	Q4 13	Q1 14	Q2 14
200 Appsper round	280	280	280	280	280	305	330	330	372	413	449	484	484	484	526	567	603	638	638	638	680
400 Appsper round	280	280	280	280	280	305	330	330	413	496	567	638	638	638	721	804	875	946	946	946	1029
600 Appsper round (batch)	280	280	280	280	280	305	330	330	413	496	538	579	650	721	757	792	875	958	1000	1041	1112
1,000 Appsper round (batch)	280	280	280	280	280	305	330	330	413	496	579	663	704	746	817	887	958	1029	1065	1100	1183

Maximum Delegation Rate



	Q2 09	Q3 09	Q4 09	Q1 10	Q2 10	Q3 10	Q4 10	Q1 11	Q2 11	Q3 11	Q4 11	Q1 12	Q2 12	Q3 12	Q4 12	Q1 13	Q2 13	Q3 13	Q4 13	Q1 14	Q2 14
200 Apps per round	280	280	280	280	280	305	330	330	372	413	449	484	484	484	526	567	603	638	638	638	680
400 Apps per round	280	280	280	280	280	305	330	330	413	496	567	638	638	638	721	804	875	946	946	946	1029
600 Apps per round (batch)	280	280	280	280	280	305	330	330	413	496	538	579	650	721	757	792	875	958	1000	1041	1112
1,000 Apps per round (batch)	280	280	280	280	280	305	330	330	413	496	579	663	704	746	817	887	958	1029	1065	1100	1183
10,000 applications	280	280	280	280	280	305	330	330	493	765	976	1205	1461	1694	1900	2129	2386	2619	2824	3053	3310

Completing the Applicant Guidebook

Registry Restrictions Dispute Resolution Procedure

- RRDRP: Provides a forum to address allegations that a community-based gTLD registry operator is not enforcing restrictions stated in the terms of the gTLD registry agreement
- Revised based on public comment
  - All cases proceed to determination on the merits
  - Panel recommends from among graduated enforcement measures

IDN 3-Character Requirement

- New guidebook text published based on IDN Implementation WG's recommendations
- Relaxes the 3-character rule for gTLD strings in some cases
- Minimum string length for certain IDN gTLD strings is established to be two characters:
  - subject to restrictions on two-character strings that would be likely to cause visual confusion in certain areas
  - no allowance for one-character TLD strings in any script, pending consideration by the GNSO and ccNSO

IDN Variants

- New guidebook text published based on Implementation WG's recommendations
- Allows for future delegation of variant TLDs pending development and testing of a mechanism
  - Testing to occur of DNAME, BNAME, others
- Conditions to be fulfilled prior to delegation of variant TLDs
  - Evaluation, fees, contract terms to be determined
- Proposed approach:
  - Collect IDN tables from applicants
  - Collect list of variants from applicants
  - No variant TLDs delegated until mechanism is tested and adopted

Benchmarking of Registry Operations

- Survey of industry data on registry operations undertaken to assist implementation of new gTLD evaluation criteria and procedures
- Study performed by KPMG on ICANN's behalf, including:
  - analysis of public industry information
  - collection of data through a survey of existing registry operators
- Objective to identify benchmarks based on registry financial and operational data, as a reference point for the review of new gTLD applications.

Registry Agreement: Vertical Integration

- New model to be proposed based on:
  - Debates in Seoul
  - Consultation held in January 2010
  - Ongoing study
- Additionally, the Board and community members will be discussing the issue in Nairobi
- GNSO PDP on vertical integration is proceeding in parallel

Registry Agreement: Amendment Process

- Process for future amendments to new gTLD registry agreements still under discussion
- Explanatory memo outlines several possible models, including a model recently proposed by the GNSO's Registry Stakeholder Group
  - RySG model based on periodic good faith discussions, with amendments binding only if each registry operator individually agrees.
- Comment sought on RySG proposal and other possible models

Thank You