New gTLD Policy Development & Implementation

GNSO Public Forum

25 June 2007

ICANN

San Juan, Puerto Rico

Draft Implementation Plan Development

In order to provide advice to the policy development discussion and to draft preliminary plans for implementation, ICANN staff relied upon:

- GNSO committee work to date
- Draft final report
- Experience from the 2000 & 2003 TLD rounds
- Experience of .NET and .ORG bidding processes
- Draft GAC principles
- ICANN staff discussion points presented and discussed with the GNSO Council

GNSO Committee Meeting – 23 Jun 07

Staff reviewed a list of discussion points with GNSO Committee on New gTLDs in order to:

- describe issues regarding the proposed implementation of the policy recommendations as they stand now,

- ensure that staff's implementation plans have captured the intent of the policy recommendations,

- request additional guidance on certain recommendations.

Discussion with GNSO Committee on New gTLDs

- Jointly worked through details of a proposed objection-based evaluation process
  - Grounds on which a formal objection to a proposed gTLD may be filed
  - Standing required for eligibility to file a formal objection to a proposed gTLD
- Committee agreed to seek to modify some recommendations for clarity
- Committee requested more information from staff on proposed implementation

Advisory

- This is draft work intended for discussion and certainly not a final model. It is meant to:
  - Test the feasibility of policy drafts of the GNSO and feedback potential implementation issues for consideration
  - Accomplish some advance planning in parallel with the remainder of the policy development process so that implementation takes place in a timely manner
  - Solicit input in fora such as these so that the policy and its implementation can be improved

New gTLD Evaluation Process

- Application review
- <u>Initial evaluation</u> stage the application will be approved if:
  - Application meets objective technical and business criteria;
  - String itself does not lead to technical instability or unwanted / unexpected results in the DNS
  - String is not a reserved name;
  - String is not confusingly similar to an existing or proposed string (string contention)
  - No formal objection is raised
- Issues raised in the initial evaluation may be resolved in an <u>extended evaluation</u> procedure characterised by a set of <u>dispute resolution processes</u>
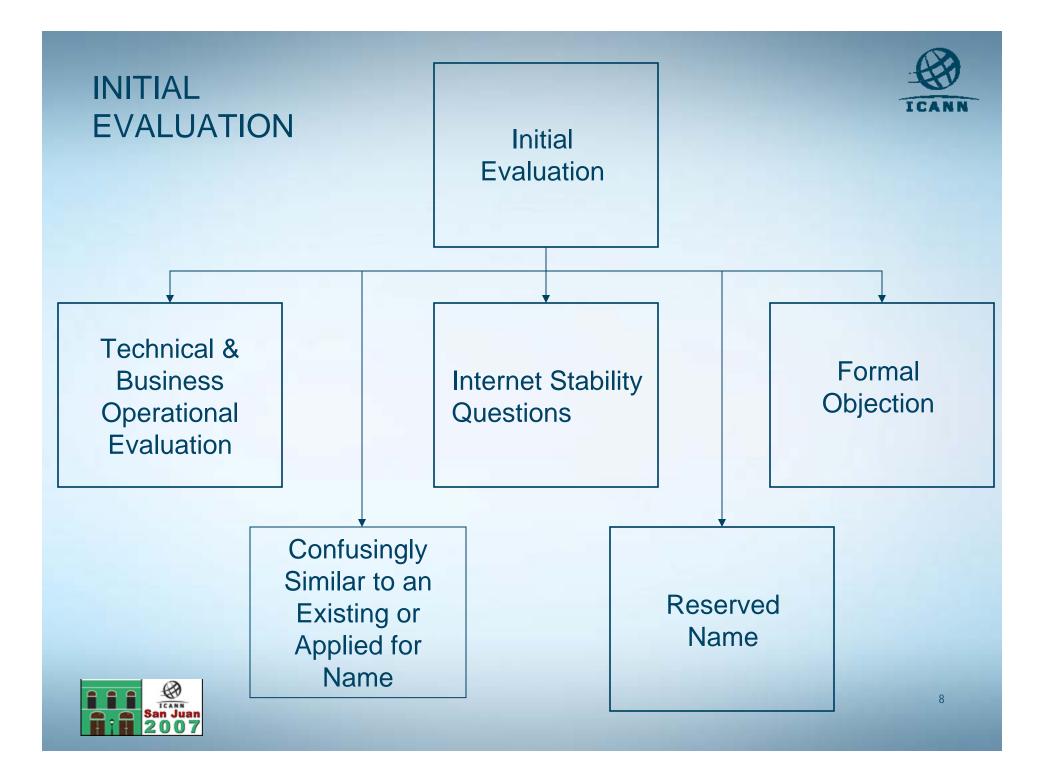
Objection Based Evaluation Process

- Intended to have disputes take place outside of ICANN
  - Individual or an entity files objection to a string
  - The dispute is resolved outside ICANN
- Draws a bright line for launching additional scrutiny by separating public comment and formal objection
- Provides four specific reasons for objection
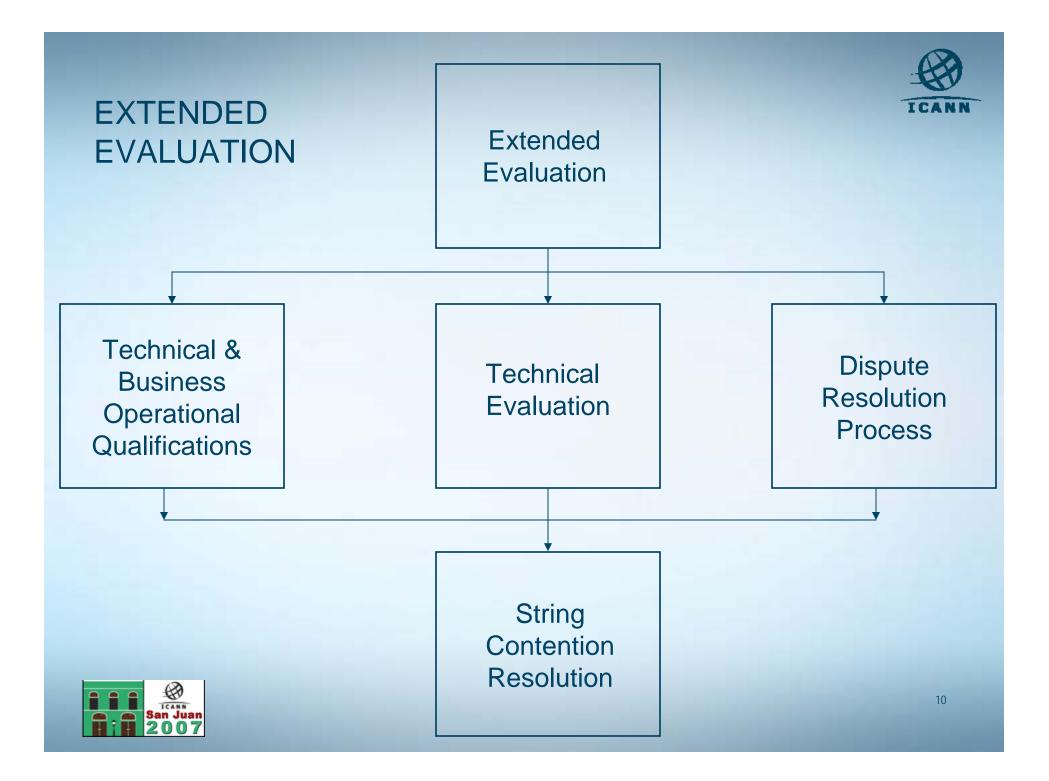- Who has standing to object is determined by the reason for the objection

INITIAL EVALUATION

Grounds for Objections -

The Proposed String:

- is confusingly similar to an existing top-level domain or another application in the round,
- infringes the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law,
- is contrary to generally accepted legal norms relating to morality or public order that are enforceable under generally accepted and internationally recognized principles of names,
- results in an objection supported by substantial opposition from significant established institutions of the economic sector, cultural or language community that the TLD is intended to support.

EXTENDED EVALUATION

Extended Evaluation

Technical & Business Operational Qualifications

Technical Evaluation

Dispute Resolution Process

String Contention Resolution

String Contention

- Parties will be afforded opportunity to settle the contention issue during the evaluation process
- At the conclusion of the evaluation process, contention may be settled in one of three ways:
  - The parties may elect to enter into arbitration
  - In cases where one string represents a community or established institution, an independent, comparative evaluation will award the string
  - Absent these other methods available, an auction will be conducted

Implementation Tasks Being Undertaken while Policy Development Concludes

- Complete legal research to inform dispute resolution processes regarding objections for:
  - Confusing similarity
  - Morality and public order
  - Infringement of legal rights
  - Substantial opposition from a community
- Write a draft dispute resolution process
  - Incorporating legal research
  - Including further detail on defenses and criteria for decisions
  - Including further detail on rules and procedures
- Create a set of objectives on the role of public comments
  - Defining how public comment will be used to inform the process

Thank You