ABU DHABI – GAC Discussion on Community Based Application and Applicant Support
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UNKNOWN SPEAKER: It appears to me that this is kind of high bar, and I understood that some concessions were granted that brought down the feet on the order $40,000 or something like that. But even that, when one considered the ongoing requirements, made it difficult to make the business case for many of the people who might have had thoughts of putting in a bid. So, I think, certainly... and this to my mind is one of the main reasons why you saw so few applications from what is called the underserved areas, is because the ideas or the markets that are being targeted were not large enough to be viable when the entry level was so high. I guess we're still grappling with it to come up with, OK, what might be an appropriate mechanism to allow more applications from these underserved areas and I guess we're working through it in the working group but certainly, I guess we're still open to ideas and creative means to solving this particular problem. Thank you.

UNKNOWN SPEAKER: Thank you, I have Pakistan and Argen...

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UNKNOWN SPEAKER: Thank you [inaudible], I always recommend the [inaudible] application in the last 3-4 making that in underserved regions there is a dire need to create awareness about the ICANN programs, particularly the new gTLDs, because in developed countries and the areas where the gTLD program are already working and they have a lot of [inaudible]. There is no issue, but in the underserved area the people are aware about the ICANN new gTLD programs, and if they know about the program then there are some queries that, or what is the gTLD process, how we apply, what are the pro's and con's, what is a business case. So, I again, put out request that in underserved countries the focus on the awareness sessions through ICANN, we're ready to support the ICANN to create awareness in underserved countries. Thank you.

UNKNOWN SPEAKER: Thank you. Argentina.

UNKNOWN SPEAKER: Thank you chair. This is [inaudible] from Argentina. I would like to share the experience we have at the national level. We hosted with ICANN an outreach event in the ministry of foreign affairs, please consider that most of the economy of my country and

many of the Latin American countries is driven by small and medium enterprises. The questions came of the relevance, why would small and medium enterprises would need a TLD, first. Second, the same comments that Nigel from CTU was saying, is it viable business plan, can I invest money and would I have it back. Then, the language and complex process barrier, although there were versions of the applicant guidebook in Spanish. I think they didn't even get to understand they had to read it, because they didn't understand the relevance of it before. Then, it was in spite of the fact that the price was lower, I don't know if it was lower for small and medium enterprises, we never get to that point, I think it was not. But, anyway, think about community of small and medium enterprises could be applying for. It was seen as extremely complex process, they needed help from lawyers from abroad, and of course, the issue of relevance, if you consider the few applications that were from Latin America, they were most focus on companies that are working abroad, like tourism companies and some big banks. Thank you.

UNKNOWN SPEAKER: Thank you. You want to respond?

JEFF NEWMAN: Thanks, sorry this is Jeff Newman. Thank you for those comments, I think they're very helpful and I think one of the

things that we've discussed or tried to discuss with ICANN Organization, is creating awareness of the existence of top level domains, what it means to have one, how it can be used. We initially got some pushback from the organization because they believed that doing that would in some way be marketing top level domains and making it look like ICANN were seeking commercial gain, because they got paid for applications. I think one thing that would help, is support from the GAC and others, that foreign awareness program, that explains the value of top level domains, not any particular top level domain, we're not talking about promoting one particular name, but just promoting the existence and what they're used for and used cases, just to show that one of the things I wanted to do at this meeting but came about a little too late, I will probably try to do it for the next meetings is, putting up a stand or booth that shows how the new TLDs today are being used.

Most people, even in this community are not aware that there are hundreds of brands that are delegated that are actively using their top level domains for a lot of different purposes. All we see in this community are a lot of the negatives about some of the abuse of some of the unrestricted top level domains, we don't see the positives and I think getting ICANN to start a program showing the awareness and how those top level domains are being used, I think could go a long way, but also

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you are the experts in your countries, we would love concrete recommendations of different organizations that ICANN could go to, to present, [inaudible] was great, you hosted in Argentina, having additional places where we could recommend ICANN go to have this promoted would be fantastic.

UNKNOWN SPEAKER: Thank you. UK.

MARK CARVELL: Thank you very much, Mark Carvell for the record. That's a very important objective Jeff, you've just set out for us as participants in this community, in terms of promoting awareness. We in governments consult with stakeholders, we can identify entities of the kind you've just described, who could be channels of communication and provide opportunities to do presentations for ICANN and government representative jointly to mitigate that risk that this is being seen as purely a marketing opportunity by ICANN, and I'm also mindful that since the round started really, the proliferation of national and regional internet governance, where you have direct access to internet communities, with governments participating in annual events and through websites and so on of these national and regional ITFs to provide channels for promoting awareness and the links to be able to respond to questions and so on.

Then finally my point, you are right about the brands, I mean we have in this community now, the brand registry group and information is starting to come through now about how brands are using top level domains, not for defensive reasons. Solely, for many they are actually using it to innovate and develop their outreach to global markets and opportunities, and I am always mindful of farming communities in developing countries and small island developing states who will benefit from potentially a top level domain to develop their outreach in the global economy, through a top level domain, with the help of a top level domain. These are very valid point about enhancing awareness and refining the support program to enable many more potential applicants, as long as the fees come down. I thought there was along understood expectation that fees would could down in a further round, but the whole fee structure could be looked at in terms of assisting those potential applicants who have got limited access to financial resources to participate fully and realise the benefits of having top level domains. Thanks.

UNKNOWN SPEAKER: Thank you Mark. If you allow me to share some personal experience, as we have also, my government has filed an application for a community TLD which is not formally, but also related to geographical or political entity. It is not necessarily

the entry fee that is the biggest barrier, it is the complexity of the process, the contracting part for instance. You need to pay lawyers that are familiar with US law, and they don't operate at the salaries that, for instance, people sitting in this room operate. This is a different level of costs that you have and if applicant support is primarily focused on facilitating the development of an application, and the development of the business model if that is needed, and development of assessing and engaging with future market. I think that's probably the biggest focus, because somehow you may find the money to file the application fee, and then to actually develop it and to develop a company over the first 2 or 3 years in terms of finding your space in this market, is something that is probably of high essence.

The second I'd like to share with you, for us, the group of geonames, has been fundamentally valuable, because there you have applicants from all over the world. Including regions like Africa and others, and that experience is maybe helpful for applicant support, not only, and it is actually where these two elements can be linked, or conclusions can be drawn. For instance, what we seem to see if we look at the economic analysis and the CCTV review, and if you look at the numbers out there, many of the TLDs that are maybe not making millions of Euros or Dollars or what have you, or what have a more of less

stable numbers, are geographic TLDs, or other TLDs that are linked to some form of identity that makes people want to be part of a group and then they are willing to also pay a, maybe higher price for a particular TLD than for another one. Whenever there is an identity issue linked to a TLD, it has a higher chance to not have to compete with others, but surviving in the sense, and be less dependent on economic development as well. ccTLDs or other TLDs, or communities, linguistic and others that are linked to identity, and it is similar with brands. There it is an identity with a company, or the company use it to promote its identities, but also there is a meaning behind the word to some people which is not just a generic name like a fruit or vegetable, or what have you, but is something that is important to some people for a particular reason. Some of them are dispersing in several countries and if you draw on their experience, what were their biggest problems that may help, for instance, to start thinking about promoting such TLDs at the beginning of the next round in all of the countries. What about gTLDs, ccTLDs, regional TLDs in promoting these in other countries.

That may then help to raise the awareness of the people, if they know there is a new TLD for the place that I am living in, that may then insight other ideas about what could be done with a TLD. In my experience, this is one of the lowest entry door, for your geographical community TLDs that are linked to identity,

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because this is what people understand, what the TLD is for, and that may help you to develop awareness and insight other innovative models. Thank you.

JEFF NEWMAN: Thanks, this is Jeff Newman. I want to come back to a comment that Mark had made on an expectation of lower fees for applications for the next round. I think many of us intuitively have thought that, but that hasn't really been expressed. If it is an expectation, that is feedback we love to hear. There are a number of parties that have expressed views that the fees should remain high, in order to not sacrifice service levels and to not sacrifice security and stability, and others have said, like you Mark, there is an expectation for lower pricing now that we know what it actually costs and yet there is a third, that says we can't do completely cost recovery because we don't want it so inexpensive that we encourage what is called speculation, or those to purchase top level domains that don't really have an intent to use it. All of this, I don't mean to engage in any long discussion here on it, but just to say that it is interesting that you said there is an expectation of lower fees, it would be great if that's feedback we could get from different groups, if that is the expectation.

UNKNOWN SPEAKER: Thank you Jeff. We have a little bit of time left so maybe we can also ask members who have experience with community applications in their countries, because i know at least some of you have been in touch with applicants that have filed community applications from their countries and whatever experience that you may share with us here, with regard to communities. Whatever worked, whatever did not work, for whatever reason what you think is benefit to communities, what should be the objective of the notion of communities that would receive some sort of privilege compared to other applications. Please, if you have experience to share that would be very useful, I guess.

UNKNOWN SPEAKER: [inaudible], Nigeria. Thank you very much. I think everything that everyone has said speaks to the matter at hand, however, the last comment by the chair, not to say that reducing the cost will basically remove the value of the gTLDs, there are also other requirements, which looks into the technical competence of the applicants and so on and so forth. I think that element will still ensure that you avoid speculators, who just want to buy it for speculation purpose, I think the [inaudible] about reducing or giving a rebate, if you will on the application fees, and most specifically what [inaudible] spoke about, the support and the process of the applications. A good example is the Africa, I don't

want to go into all the issues around this, but the point is, someone spoke about people not speaking to the values, the advantages, and so on, and only looking at the bad things. That was one, but at least in the African region it is a detail that I have shown people what it's about, it never took off for years, and actually emphasised that there is a lot of costs, I mean total costs of ownership towards it, because if you look at all the processes, lawyers and whatever that went into that over and above the actual application fee, it hasn't been a good role model, if you want to use that phrase.

So, I think we should still go along with the rebate and the fees but more importantly look at the mechanism for providing support in the process of the applications and I'm sure that we'll be able to get people who ICANN can still qualify as being technically capable, to register and hopefully manage still detail this. I know there is already a process where ICANN registrars, I don't know the name you call them, which you've already vetted such people. So, if the application comes through such people, then you can be sure it is not just for speculative purposes and this are people who are actually operating within this developing regions. Thank you.

UNKNOWN SPEAKER: Thank you Nigeria. I think this is a very important point, that whatever is done to support applicants should not support speculation, but it should support the applicants that are actually trying to create a value added. Your case confirms the notions of cost in the development of the application, but then also in the follow up, once the application is in proof, and it may be a key issue. Any further comments or questions?

MARK CARVELL: Thank you, Mark Carvell. On community based applications, the experience of some applications is that the scoring was very challenging in terms of experience of inconsistency and read across between different, some of them were sectural ones, an example was, dot hotel, they were able to demonstrate that they had widespread support amongst their community of that sector and they scored highly. In contrast, I think it was dot music, they were grilled by the evaluator, saying that they are not demonstrating they had widespread support. There was really examples, like dot gay, I think was another major problem. The problem there was, the evaluator was saying you aren't a global organization, the community that was advancing the application for dot gay, was not able to say, we are an organization representing gay, lesbian, gender community, LGBT community, so they were penalized, their score went down. Of course, the scoring had a very high bar, so every point

counted. That kind of experience just brought the whole process into disrepute, and caused enormous amounts of problems and frustration, and lack of appeal to be able to question the evaluation score and go back to challenge the scoring. There are a lot of problems like that, which we were all made well aware of and many of us talk to the applicants who were leading those applications, the people involved and they were, I think, completely disorientated by the lack of consistency and the process really working against their interests. Thanks.

UNKNOWN SPEAKER: Thank you Mark, Again, what you say is the scoring has been difficult because the concept of what a community is and what are the criteria to define whether you really represent or have backup from the community as a consequence of this was not clear, and again, the examples that you cite is good. There is a difference between dot hotel and even dot music, and then even dot gay, there are different types of communities, different possible communities. There are several meanings of gay, with music there is a music market, there's a music industry, but music is also just what people do on the streets when they have instruments in their hands. With hotel, it is possibly slightly easier because either you are a hotel and you're selling rooms or you don't, but the more generic a term is, and I think this is showing the importance of a clear concept, either one size fits

all, or several, or maybe two concepts of types of communities that will then allow you to develop criteria of support and inclusiveness of that community in a way that they actually make sense. Then to try and go for a coherent approach of applying or evaluating these criteria, as you say, of course, different people are looking at different applications, it's difficult to align. Maybe if another person had looked at the same application, or another group of persons they would have come to different results. Also to train the people who are tasked with doing these evaluations, that they understand the concept and again that the clearer the concept is, the easier it is for these people to understand how they should evaluate and score an application in such a case. I'll stop here and give the floor to further comments if somebody wants, seems that everything is said for the time being. On a Sunday morning people are able to come up with. Yes, Jeff.

JEFF NEWMAN: Sorry, Jeff Newman. I guess to try and get conversation going, it's one of the other items we're looking into Mark, you had mentioned it too. Is appeals, the whole notion of having the ability to appeal a decision of an evaluator, or of ICANN. That is something that was not around in the first round in 2012. Every kind of dispute automatically went to the ICANN accountability mechanisms which were a request for reconsideration, or it

went to the ombudsman, or ultimately, you went to an independent review. So, one of the topics that we are talking about and leaning towards is having an appeals process, so just throw that out there, is that sound like, in an appeals process you wouldn't go to the ICANN board or a board committee, or an ICANN staff person necessarily, you would go to an independent third party that could hear the appeal, not to have the complete evaluation done all over again, it is not meant for that. If you could show some, in the United States, I think lawyers call it clearly erroneous, or something that is a clear mistake, it would be for those types of cases. Is that something, a concept that could get supported? That's a question to throw out.

UNKNOWN SPEAKER: Thank you Jeff, I think this is a very important question and to gather the appeal part, was another challenge of course in the first trial, so please express your views on what kind of appeal process you would see. Of course, this isn't something we've discussed so far in the guide, but this is an opportunity to exchange views, particular with those who may have some experience, or know of experience of others with appeals processes from the first round.

MARK CARVELL: Mark Carvell, if I just come in. I sort of mentioned it almost in passing, which doesn't do justice to the importance of this, which you've just underlined Thomas. So, we want to construct something that is not going to be an elaborate process in terms of appealing a decision on evaluation, or consistency of application of criteria, if one applicant finds itself treated, apparently, in a different way. We want some, ideally, some efficient ready process, of quicker appeal, but undertaken by an independent party that is knowledgeable about the whole process, knowledge about ICANN, knowledgeable about the whole ambition of the ICANN community in prioritizing community based applications. I suggest that we as the GAC do look at that and allocate some time to draw on our experience at the national and regional level with regard to the appeals processes and see if we can articulate some mechanism or framework for appeals to be heard in a quick, efficient, and not resource intensive manner. Thanks.

UNKNOWN SPEAKER: Thank you, and just to support what Mark has said. I think in particular in the case of obvious shortcomings or whatever you call it, there should be an easy appeal process by a structure that is actually able to decide and look into these things and understand these things, and the experience has also shown that at the same time that is reducing and minimizing the risk by

competitors to just block an application through taking it all possible instances to delay it, to cause further costs and so on and so forth. This is also something, of course, that there's a risk that people use this. So, something should be done about what is the ideal structure for such a process, how should this be set up or which existing ones can be used, which ones are maybe less ideal, how many levels of appeals processes do you want to give, who bears the cost, and so on and so forth. Based on the experience with some cases that we've had in the past, in order to come up with a possible remedy for obvious shortcomings, but at the same time trying to not offer unnecessary scope for those who just want to delay other peoples applications, to find that middle ground, of course, is not easy but I think we are at a better stage than before where we had nothing to build our deliberations on, now we have a few years of experience and I think that should help us. With this I think we can end the session, this was a very useful discussion I think and I hope that you also consider this useful, and I think we all agree these are important issues from a public interest, public policy perspective, and I hope that the GAC will take some resources to look into this and to continue to give input into the working group through whatever channels that we have, because it is now that the input is timely and instead of coming in later, of course. So, we really should look at these things now and then

be vocal about the things that we think are of public interest. Iran, did you want to say something?

UNKNOWN SPEAKER: Yes, I want to say something. A number of questions you raised, and some others, is that Jeff means to cheaper, four time, ten times the number of the [inaudible] to discuss all of these issues. Thank you.

UNKNOWN SPEAKER: Thank you Iran. With this let me thank you for this exchange and hope we'll have some future exchanges with individual GAC members, individual members from your side, but also as a whole. Thank you very much.

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