



Mr. Peter Dengate Thrush  
Chairman of the Board of Directors and  
Dr. Paul Twomey  
President and CEO  
ICANN  
4676 Admiralty Way, Suite 330  
Marina del Ray, California 90292

**Re: Request for Public Comment on Revised  
New gTLD Draft Applicant Guidebook**

Dear Mr. Dengate Thrush and Dr. Twomey:

The Coalition Against Domain Name Abuse (CADNA) is pleased to have the opportunity to offer its comments on ICANN's Draft Applicant Guidebook. As a coalition of brand owners, CADNA is particularly concerned with the decision to expand the domain name space and the proposed process for releasing the TLDs.

CADNA appreciates that ICANN has made some effort to explain how public comments were incorporated into its latest draft of the Applicant Guidebook. However, as ICANN itself acknowledged, public concerns about trademark protection, security and stability of the Internet, and malicious conduct online have not been addressed in this draft. CADNA is gravely concerned that the delay in addressing these important issues caused by combined with ICANN's self-imposed rush to launch new TLDs, will leave insufficient time to review and if necessary, adjust, the measures proposed to address the most critical concerns of the community.

**We ask, therefore, that ICANN confirm its commitment to defer the launch of new TLDs until such time as the pressing concerns of trademark protection, security and stability, and malicious conduct are fully and effectively resolved.**

Since trademark protection, security and stability, and malicious conduct are the most pressing concerns associated with the potential launch of new TLDs, **CADNA believes that it is still premature to proceed with the new TLD launch at this time. This launch should not move forward without a more detailed and well thought out plan in place that will ensure the safety of Internet users and protect the rights of all parties.**

CADNA refers ICANN to the coalition's prior set of public comments on the Applicant Guidebook, as much of what was expressed in those comments has yet to be addressed. We urge ICANN to take these concerns of business owners and consumers seriously. In the interest of being a bottom-up governing body that represents the diverse interests of



its constituencies, ICANN must demonstrate leadership in balancing the needs of the wider Internet community.

Being a coalition of brand owners, CADNA is of course particularly concerned with trademark issues that may arise in the new TLD space. As mentioned in its last set of comments, CADNA believes that trademarks that are able to meet a predetermined set of criteria should be added to the Reserved Name list. This list should not only work to preclude the registration of these trademarks as extensions, but also prevent the abusive registrations of these trademarks in domains within any new TLD. This provision will allow those who believe there is market value in becoming a registry to do so without either accidentally or purposefully supporting infringing behavior. Trademark owners will likewise benefit from such a provision, since it would allow them to register domains according to market strategy rather than as a defensive maneuver.

The coalition is not suggesting that the Reserved Name list constitute a famous marks list; rather, the Reserved Name list should be open to any trademark owner who can meet the predetermined set of objective criteria. These criteria could include the following:

- The trademark owner must prove ownership of a national trademark registration in at least the majority of the five ICANN geographic regions.
- The trademark owner must demonstrate that their mark has been the subject of widespread cybersquatting. Acceptable documentation to prove this would include successful UDRP proceedings or other proceedings brought in national courts of competent jurisdiction.

Any prospective applicant who wishes to register an extension or domain found on the Reserved Name list can approach the owner of that Reserved Name to negotiate and reach an agreement. If no agreement can be reached, a proceeding could be administered by the arbitration and mediation center of the World Intellectual Property Organization, which has already been identified by ICANN as a potential dispute resolution service provider (DSRP) and has established expertise in resolving trademark and domain name disputes.

For those applications that are submitted to ICANN, a thorough investigation should be conducted to ensure that the applicants have not engaged in any unlawful criminal or civil activities and that the requested TLD has a justifiable purpose. This will help prevent certain bad actors from becoming a part of the newly expanded space and will help prevent against the possible introduction of frivolous TLDs.

ICANN should also develop efficient, reasonably priced and standardized mechanisms for dispute resolution that contending parties can turn to before resorting to auctions;



however, no dispute resolution mechanism should preclude legal processes that are provided under applicable law.

CADNA does acknowledge that ICANN has attempted to address several of the issues that the Coalition brought up in its last round of comments. For example, CADNA appreciates ICANN's clarification regarding the timelines of the Application process and extended evaluation requests; its addition of the possibility to object as an "Independent Objector"; and its attempts to adjust criteria of a comparative evaluation contention. However, more information is needed regarding the definition, role and treatment of an "Independent Objector," and the comparative evaluation contention set still requires an applicant to score 14 out of a possible 16 points, or 88% to have a clear win (whereas previously, the applicant was required to score 92% to have a clear win). In other words, while it is commendable that ICANN is attempting to react to public comments, the accommodations should reflect real changes in process rather than just minor cosmetic alterations.

Furthermore, CADNA would like to express its concern that the new Applicant Guidebook may be solidifying procedures that will have a detrimental effect on the launch of new TLDs. For example, as it expressed in the last round of comments, CADNA believes that the application fee itself, if nonrefundable, can deter attempts to register frivolous TLDs; the new version of the Guidebook, however, sets up a graduated refund structure for unsuccessful applications.

To conclude, CADNA looks forward to reviewing the next draft of the Guidebook, which should set forth clear mechanisms for preventing malicious conduct and address the issues most relevant to the Internet community including security, stability and trademark protection. Once such a draft is released, CADNA will gladly provide additional feedback on the Applicant Guidebook. CADNA looks forward to the opportunity to review and comment on the Guidebook's proposed measures to address these key concerns.

Regards,

The Members of CADNA