



Tuesday, 20 July 2010

Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
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USA

Re: Big Room Inc. Comments to the 4th ICANN Draft Applicant Guidebook for New Generic Top-Level Domains (gTLDs)

To Whom It May Concern:

Further to ICANN's call for comment on their 4th Draft Application Guidebook (DAGv4) for New Generic Top-Level Domains, Big Room Inc. has the following comment:

With regard to community priority evaluation, we welcome:

- *ICANN's updates and clarifications to Module 4 – String Contention Procedures.* In particular, notable clarity has been provided throughout the community-priority evaluation section. We have no further comments on this Module.
- *ICANN's reference to the Obligations of the Registry Operator to a TLD Community in Section 2.14 of Module 5 – Transition to Delegation.* In particular, that "the Registry Operator shall operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD." This point provides a critical, long-term safeguard for any Community that chooses to delegate authority to a particular TLD operator.
- *ICANN's reference to a 'relevant community that must be consulted' on pg. 4 of the gTLD Registry Transition Process Model.* This reference also provides assurance that a TLD operator will not change without input from the community under which the current and/or prospective TLD operator would derive authority.

With regard to rights protection:

- *Big Room Inc. supports a robust approach to rights protection.* In particular, we note that most comments to date from the intellectual property community are of a 'baseline' nature, while registries themselves can choose to go over-and-above these requirements. We therefore invite feedback from intellectual property and trademark experts as to what a 'best-in-class' sunrise and ongoing rights protection mechanism(s) would entail.



With regard to objections:

- *Morality and Public Order Objection:* Big Room recommends that ICANN remove the morality and public order objection from the DAGv4 absent a proposed solution being presented to the Board from the ICANN Government Advisory Committee. This would be consistent with ICANN's community-driven, bottom-up approach and is in line with the Board's approach to other challenging issues, notably registry/registrant separation¹.
- *Community Objection:* The community priority evaluation section of the DAG requests that an "Applicant is, or has documented support from, the recognized community institution(s)/ member organization(s) or has otherwise documented authority to represent the community." (See pgs. 4-16 and 4-17). We believe that this requirement to support and/or endorse a particular application may create the potential for conflict of interest, whereby a supporter of one community-priority application could file a community objection against a competing community-priority application to assist the application that they support, rather than for legitimate reasons. As it would be difficult to exclude this possibility, however remote, we therefore recommend that any community institution/ member organisation that supports a particular community-priority application NOT be given standing to file a community-priority objection against any other community-priority application for the same TLD.

We welcome feedback and clarifications from ICANN and from the Internet Community on the above comments and look forward to the publication of a final DAG.

End of comment

¹ <http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#5>