

Mr. Peter Dengate-Thrush
Chairman of the Board of Directors
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Ray, CA 90292
USA

Copenhagen, 12 January 2011

Dear Peter Dengate-Thrush,

The Danish Internet Forum (DIFO) wishes to thank ICANN for the opportunity to comment on gTLD Applicant Guidebook Proposed Final Version (hereinafter Applicant Guidebook). DIFO is responsible for the Danish top-level Internet domain, .dk. Its core business is the registration of domain names and the administration and technical operation of the national domain name registry in Denmark.

DIFO acknowledges the great amount of work, which has been done in creating the Applicant Guidebook. DIFO has the following comments:

General comments

DIFO finds that there are still important issues that need to be investigated before new TLDs should be introduced. Some of these issues are clarified below but there is one important outstanding issue, namely the IP rights protection. DIFO is not going to comment this in addition to what has already been stated by of number of major Danish companies¹. DIFO is of the opinion that all issues concerning IP rights protection should be clarified before implementing new TLDs.

Jurisdiction

DIFO is also concerned about jurisdiction of geographical TLDs. The Danish ccTLD .dk is operated under Danish jurisdiction and DIFO finds it obvious that a TLD that relates to a geographical name e.g. ".denmark" or ".jylland" (being the continental part of Denmark) should be governed by Danish law and not other jurisdictions.

The Applicant Guidebook's text in the Sample Letter reads: "(Government/public authority) further understands that the Registry Agreement provides that in the event of a dispute between (government/public authority) and the applicant, ICANN may implement [our underlining] the order of any court sitting in such jurisdiction in favor of such governmental entity related to the TLD."

¹ LEGO, Vestas and Arla

These words seem to imply that ICANN cannot promise to respect national state court decision. In consequence, the TLD is not governed by the jurisdiction of the country whose government gave its acceptance to an application in the first place.

DIFO finds this consequence to be most disturbing for various reasons: Without a promise to respect state court decisions in relation to a given geographical TLD, it will become difficult to enforce consumer's rights in the country in question. It is the opinion of DIFO that TLDs related to a geographical area should be governed by that area's jurisdiction.

Economic Considerations in the Expansion of Generic Top-Level Domain Names Phase II Report: Case Studies

DIFO finds that the Phase II report presents an ambiguous picture of the benefits of new gTLDs. On the one hand, it states that p. 75, "...the magnitudes of both incremental benefits and incremental costs will very likely be uncertain and will vary by application." However, on the other hand it also states on p. 74, "By definition, a new gTLD will benefit the community if the incremental benefits generated by introduction of the gTLD outweigh the incremental costs that it triggers." Since the costs and benefits are uncertain we still do not have a report that is able to support ICANN's expectations of the indisputable benefits of new TLDs.

DIFO refers to our previous comment to the strategic plan given the 21. January 2010 (enclosed):

"To DIFO there seems to be no necessity to introduce new gTLDs. No reports have shown a commercial need or the consumers' need for more TLDs that can justify an expansion that can only imply a more complex TLD-structure on the Internet. However, if new gTLDs are introduced, geographical TLDs should be registered as ccTLDs, not as gTLDs."

With the report and our previous comments in mind DIFO urges ICANN to implement fewer new gTLDs than planned². Furthermore DIFO advises ICANN to divide the applications into groups e.g. a *brand-name* group, a *geo-name* group, and a *generic* group. Both the lesser number of names implemented and the grouping will make it possible to continuously analyze the benefits and cost to the community. By continuously analyzing small test groups of new TLDs, ICANN can adjust the introduction according to what cost and benefits are experienced with the different groups of TLDs. By this ICANN can introduce new TLDs in a controlled way to the benefit of the global internet society.

On behalf of the Board of Danish Internet Forum, I remain

Yours sincerely,



Lise Fuhr

CEO

Danish Internet Forum

² ICANN writes that the annual delegation rate will not exceed 1000 per year, Applicant Guidebook p. 1-5.