

AusRegistry International appreciates the opportunity to provide comments on the sixth version of the Applicant Guidebook (AGBv6) for New gTLDs. Further, we thank the ICANN Staff and Board, the GAC and the wider Community for the countless hours spent working on what we consider to be a thorough, well written document which provides an appropriate vehicle for promoting competition, innovation and consumer choice in the digital world.

In its current form, the AGBv6 provides a balanced, sensible and largely workable solution for implementing New gTLDs. The majority of GAC Advice has been incorporated into the AGBv6. In the handful of cases where the Board has been unable to take GAC Advice, the Board has provided sound, documented policy rationale for doing so.

AGBv6 also significantly strengthens trademark protections and in some cases, goes well beyond the recommendations of the STI and IRT (e.g., requiring both a Sunrise and Trademark Claims services). Based on AGBv6, trademark protections in New gTLDs will far exceed what is currently available in existing gTLDs and ccTLDs. It's important to note that while rights protection mechanisms mandated by AGBv6 will indeed provide additional necessary protections for trademark holders, these same rights protection mechanisms also create additional costs that are shared by all registrants of domain names.

AusRegistry International submits for consideration the following comments on the below sections of AGBv6 to provide additional clarity in the Final Applicant Guidebook to be posted on 30 May, 2011.

AGBv6 Section	Comment
Evaluation Criteria Question 18 (c) iii	Evaluation Criteria Question 18(c)iii references Applicants obtaining “permanent” contracts for domain name registrations, however Sections 2.10(a) and (c) of the Registry Agreement state domain name registrations can be obtained for periods “no greater than ten years”. The ten year limitation is reflected in other areas of the Registry Agreement as well. AusRegistry International requests ICANN to clear up the ambiguity and is supportive of allowing permanent Registrations, particularly in the case of Single Registrant, Single User TLDs.
Evaluation Criteria Question 22	Evaluation Criteria Question 22 implies a Registry Operator can formulate a plan to release geographic names, however Specification 5, Section 2 of the Registry Agreement states that a Registry Operator can release two-character country codes but not geographic names. AusRegistry International request that Specification 5 is modified to match language in Question 22 and therefore allow the registration of geographic names under the TLD.
Evaluation Criteria Question 23	Evaluation Criteria Question 23, specifically, and many other areas of the Applicant Guidebook utilize the terms “Registry Services”, “Registry Functions” and “Registry Operations” interchangeably. AusRegistry International suggests that each of these terms be defined and a consistency check and appropriate update be performed to ensure clarity.
Evaluation Criteria Questions 24, 26	Evaluation Criteria Application Questions 24 and 26 ask the Applicant to describe the technical implementation of SRS and Whois systems respectively. These questions are marked as public. AusRegistry International requests this be changed as publicizing specific implementation details, such as network designs, can assist an ‘attacker’ in planning system attacks.

Registry Agreement Specification 4	Specification 4, Section 3 of the Registry Agreement discusses Bulk Registration Data Access to ICANN which requires the Registry Operator to periodically submit a subset of its escrowed Registration Data to ICANN to ensure operational stability of Registry Services, and facilitate compliance checks on accredited registrars. However, the information required under the Bulk Registration Data Access provision does not match the minimum information required in the Data Escrow Specification 2 of the Registry Agreement and is, in fact, a subset of said data. It would be helpful to understand how providing Bulk Registration Data Access to ICANN ensures operational stability of Registry Services, or facilitates compliance checks on accredited registrars as requiring a subset of the Data Escrow data requires the Registry Operator to develop and support what is seemingly an additional unnecessary process.
Evaluation Criteria Question 39	Evaluation Criteria Question 39, third paragraph, second bullet point, references “vital business functions”. It is unclear what “vital business functions” are, therefore AusRegistry International suggests rewording the statement as follows: <i>"Identification and definitions of vital business functions, defined as those business functions critical in supporting the delivery of Registry Services as defined in Specification 6 of the New gTLD agreement, as well as any other Services defined in the applicants response to Evaluation Criteria Question 23."</i>
Evaluation Criteria Question 43	Evaluation Criteria Question 43, under the Scoring column, 1 – Meets Requirements (2), appears to have an error. The second half of the sentence states that registries will offer provisioning capabilities to accept public keys from registrants, and implies registries will also provide key exchange, generation and storage. This does not match AusRegistry International’s understanding of the intent this Criteria and requests that “(generation, exchange and storage)” as stated at the end of the bullet point be removed.

AusRegistry International has three additional comments on specific Sections of the Applicant Guidebook. The three points are not made in the table above as they can be addressed once the Applicant Guidebook is approved by the ICANN Board at its 20 June, 2011 meeting. Policy development is not static. It is expected that the ICANN policy process and implementation planning will continue after the Applicant Guidebook is approved and these three additional comments are made with this sentiment in mind.

AusRegistry International’s additional comments on specific Sections of the Applicant Guidebook, post approval on 20 June, 2011 are:

#### TAS

In order to allow Applicants to efficiently prepare and submit their Application it would be useful to have more information about the TAS and how it will work. Further, it is requested that a demo version or Operational Testing Environment (OTE) of the TAS be made available as soon as possible.

#### Whois

- Section 1.4, 1.5 and 1.6 of Specification 4 of the Registry Agreement require the Registry Operator to provide specific elements of output for its Registration Data Directory Services. However, in some countries publication of some elements listed in these Sections violates national privacy laws. AusRegistry International suggests a provision be added which requires

Registry Operators to provide Whois as stated in Specification 4, unless the Registry Operator's national privacy laws prohibit some elements from being displayed. If the Registry Operator's national laws prohibit some elements from being displayed, they must document this in the Application to ICANN and describe what elements of Whois can be provided under national privacy laws. For elements which will remain undisclosed as part of the Registry Operator's legal obligations, key/value pairs must still be present and the value of the undisclosed field must still comply with the format requirements detailed in section 1.7 of Specification 4.

- The defined Whois output described in Specification 4 of the Registry Agreement does not account for the purpose of the TLD or its business model. AusRegistry International suggests ICANN consider giving Applicants the ability to propose relevant Whois output.
- Searchable Whois, which is described in Evaluation Criteria Question 26 and in Specification 4 of the Registry Agreement, requires further technical definition. The way Searchable Whois is currently described will create multiple, potentially incompatible implementations which will give end users inconsistent results and leave them confused. AusRegistry International believes Searchable Whois should be standardized prior to opening the Application Period. If Searchable Whois is not standardized prior to the Application Period opening then the "exceed requirements" for Evaluation Criteria Question 26 should be removed.

#### Trademark Clearinghouse and Uniform Rapid Suspension

AusRegistry International notes the process definition of both the Trademark Clearinghouse and Uniform Rapid Suspension services are broad and require further operational definition to ensure end users enjoy a consistent, predictable, reliable experience when interacting with the Domain Name System. AusRegistry International expects and appreciates that ICANN are further clarifying these two services in its implementation plans for New gTLDs.

In closing, the introduction of New gTLDs into the root will occur over a 10 to 24 month period. This provides an adequate amount of time for all affected parties to adapt to New gTLDs. In the same way the introduction of the Internet into human lives created positive change – AusRegistry International is confident this round of New gTLDs will do the same by providing consumers greater choice, value and diverse services. The mobile phone, camera, and personal computer have evolved over the past 15 years – it's now time for the Domain Name System!