

# Google Registry

February 4, 2014

Via Electronic Mail

comments-new-gtld-auction-rules-16dec13@icann.org

## **Re: Reply Comment to ICANN's Public Comment on new gTLD Auction Rules**

Rather than providing comment on the topic of ICANN's proposed gTLD Auction Rules, several public comments suggest that ICANN should fundamentally change the Applicant Guidebook's auction mechanism. These suggestions are transparent attempts by participants in the gTLD application process to replace the process agreed upon by the community with an approach that favors their specific business interests. As Donuts noted in its comment, such suggestions are "inappropriate" and should not be considered.

**The Applicant Guidebook offers a clear process for resolving contention sets.** The guidelines outlined in the Guidebook are clear and would result in a fair and efficient means to resolve string contention sets that currently remain unresolved. In Section 4.3.1, the Guidebook describes the auction process in detail, and specifically notes that the:

*process continues, with the auctioneer increasing the price range for each given TLD string in each auction round, until there is one remaining bidder at the end-of-round price. After an auction round in which this condition is satisfied, the auction concludes and the auctioneer determines the clearing price. The last remaining application is deemed the successful application, and the associated bidder is obligated to pay the clearing price.*

In its comment arguing for a change to the clear language of the Guidebook, Artemis/NCC argues that "the Guidebook was finalized before the identity of applicants or their strategy were known." But the fact that the Guidebook was finalized prior to the application window opening is essential to the fairness of the process, and a requirement of the GNSO policy on new gTLDs, which states, "[a]ll applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process."

Moreover, any process developed after both applicants' identities and business plans are known

is subject to gaming for the benefit of certain applicants and the detriment of others, an outcome that many commenters make it quite clear they desire by naming specific applicants that they seek to design the rules to work against.<sup>1</sup>

**The auction mechanism in the Guidebook is consistent with the goals of the gTLD program and ICANN's core values.** Commenters in favor of Guidebook changes assume that portfolio applicants are somehow less likely to meet the goals of the gTLD program than the commenters would be. There is no reason to believe that this is the case. The assumption that certain applicants are inherently not worthy or rather less worthy to manage a TLD is simply untrue. As previously stated in our [public letter to ICANN](#), Google is committed to innovation and competition, and we feel strongly that our applications promote the main tenets of the new gTLD program, which states that, "the new gTLD program will open up the top level of the Internet's namespace to foster diversity, encourage competition, and enhance the utility of the DNS."

In addition, there is no inconsistency between ICANN's non-profit status and the use of auctions to resolve contention sets. Like all non-profits, ICANN has both revenue and expenses. Although the gTLD Auctions may result in a one-time surge in revenue, ICANN has already made clear that it will use the money consistent with its non-profit status and mission and core values.

Although there are several applicants for a large number of TLDs, the new gTLD program will certainly increase diversity and competition in the new gTLD space. There are dozens of new TLD operators who have already had new names added to the root, with hundreds more still to be added regardless of the outcome of the auction process.

Sincerely,



Sarah Falvey  
Policy Manager and Primary Contact

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<sup>1</sup> Not coincidentally, each of the applicants seeking these changes are in contention sets with one or more of these companies.