Comments: Preliminary Issue Report on New gTLD Subsequent Procedures

As a community based applicant in the current round of new gTLDs, we would like to lend our comment to the following sections of the "Preliminary Issue Report on New gTLD Subsequent Procedures."

4.4.4 Accountability Mechanisms

We echo concerns about the need for modifications to the existing Accountability Mechanisms to ensure fairness, facilitate appeals and counter abuse. This is especially important for those engaged in ICANN processes that represent known vulnerable groups with documented accounts of misunderstanding, mischaracterization, discrimination and/or abuse.

There can no longer be double standards on transparency in any ICANN processes, like those currently being applied in the CPE.

For some vulnerable groups opaqueness is a breeding ground for discrimination. Without reformed accountability mechanisms and the introduction of appeals processes, ICANN will continue to exist blindly in a world of people it claims to serve who are living unique realities ICANN does not fully understand. Vulnerable groups must not be left more vulnerable because of the new gTLD program and ICANN must provide opportunity for challenging decisions that appear biased, unfair or repeat repressive ideologies in society.

Any modification must consider the absolute need for ICANN to balance its responsibility to serve the public interest and uphold its responsibility to be transparent.

4.4.5 Community Applications

In general we agree the Community Application portion of the new gTLD program should be subject to a review. The review must include a reach back to the meaning, spirit and intent of GNSO policy recommendations and not just focus on ICANN implementation issues and concerns. This article (https://multistakeholderism.wordpress.com/2015/09/18/the-myth-of-the-new-gtld-bottom-up-multistakeholder-process/) provides some important touch points.

It was at the hands of ICANN during the implementation phase that community applications became an impossible destination for some communities, not because GNSO policy recommendations suggested it be so.

ICANN has said it would PROTECT communities by allowing them to either object to applications or apply on their own – and while the first has been denied while pointing to the latter, the second

mechanism doesn't lead to success either. It is clear that the bar has been set too high for communities to have real protection in the new gTLD program.

ICANN must acknowledge the reality that communities do not operate like corporations and that communities furthest away from corporate characteristics have diminishing chance of success under ICANN's current implementation of GNSO policy recommendations. This includes the way communities are being evaluated, the financial expectations placed on them and the stamina required to weather attacks and delays from competitive, non-community efforts.

Predictability for community-based applicants is another important area that must be examined closely in a variety of areas in the new gTLD program:

- There must be clearly established, non-evolving process for CPE in place; which is not further stated or clarified after the application window opens.
- There must be a contracted evaluation provider(s) for CPEs in place before ICANN opens the application window.
- There must be firmly established pricing (or price ranges) in place for all DRSPs before the application window opens and which ICANN is willing to honor.
- There must be elevated mindfulness in managing fees and auxiliary costs so that applicants are not exploited.
    - o DRSPs refusing to consolidate objections that were identical in nature & wording
    - o DRSPs not highlighting potential VAT costs when proposing panelist(s)
- There must be firmly established balance in the length of time that all applicants in a contention set involving a community application are exposed to action from the community.
    - o Currently, communities have limited time to develop community objection to standard applications due to ridged ICANN deadlines.
    - o Standard applicants have ample time to formulate strategies to target CPE points and derail community applicants because of the lack of deadlines on CPE.
    - o If ICANN is truly committed to protecting communities in the new gTLD program, then all community concerns and objections against all applicants in the contention set should be considered equally and without limits on standard applicants.
- There must be a mechanism that allows community applicants to address or respond to any last minute submissions into CPE that may be deemed gaming, spurious or anti-competitive in nature and intended to impact CPE scoring.
- There must be clearly articulated definitions of "spurious activity" and described processes by which community applicants can report and receive relief against such activity.
- If there are funding support opportunities specifically available to community applicants in future rounds they must be clearly identified and promoted by ICANN, with ample request and response times for communities to effectively take advantage and still meet application deadlines.

In addition, ICANN must make it accessible for communities to participate at every intersection of the new gTLD program, especially if they are not financially privileged but could be directly affected by ICANN contracting. The Internet does, and will continue to impact the global population and not all communities will have the capacity to engage or be heard throughout the entire new gTLD process because of the high price tag ICANN has placed on participation.

It seems counter intuitive to the philosophical approach of the GNSO policy recommendations regarding Community Applications for ICANN to be perpetuating an environment where money trumps and threatens public interest. This includes having rules that favor the affluent, who have proven they will stop at no lengths to deter competition by out spending communities, challenging public interest efforts and delaying market entrance.

We appreciate this opportunity to provide feedback and comment.

Best regards

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