

Google Registry

October 30, 2015

Via Electronic Mail

<https://www.icann.org/public-comments/new-gtld-subsequent-prelim-2015-08-31-en>

Re: Preliminary Issue Report on New gTLD Subsequent Procedures

The 2007 GNSO Final Report on the Introduction of New Generic Top Level Domains (“GNSO Final Report”) was intended to apply to generally to future application procedures and not to a single application round.¹ Although Charleston Road Registry d/b/a Google Registry (“Google Registry”) agrees that it is important for the community to consider many of these issues, including whether or not additional gTLDs should be allocated, we believe that ICANN should rely upon the existing GNSO recommendations and Applicant Guidebook procedures as the basis for future rounds if there is no community consensus on new or modified policies and frameworks. Within this overall context, we offer the following recommendations and guiding principles for any future Policy Development Process (PDP) on New gTLD Subsequent Procedures.

Abandon the concept of application rounds in favor of a continuous process.

In the event that subsequent application processes are opened, we urge ICANN and the community to consider moving away from the concept of discrete application rounds, and toward a continuous process for the introduction of new gTLDs. In a continuous process, the right to operate gTLD strings would be allocated on a first-come, first-served basis upon an applicant demonstrating its ability to meet all technical and financial requirements. It is likely that one additional round would be necessary to process any existing gTLD contentions, after which ICANN could transition to a fully continuous process. A continuous process has substantial benefits for all parties involved in the application process, as compared to a rounds-based approach:

- Use of a continuous allocation method would streamline the application process itself by eliminating or lessening the burdens associated with a number of application processes such as batching/queueing, string contention, and objections. Of the issues identified in the matrix on page 5 of the Issue Report, the complexities and problems associated with predictability, application queuing, the application submission period, and TLD rollout

¹ See [ICANN Generic Names Supporting Organisation Final Report Introduction of New Generic Top-Level Domains 8 August 2007 Part A: Final Report Introduction of New Generic Top-Level Domains](#), “This policy development process has been designed to produce a systemised and ongoing mechanism for applicants to propose new top-level domains. The Request for Proposals (RFP) for the first round will include scheduling information for the subsequent rounds to occur within one year.”

would be fully addressed by adopting a continuous process. While a continuous process would minimize the need for de-contention procedures, we believe transition toward a continuous process should be accompanied with implementation of a more robust and consistent framework for handling string similarity and objections related to string confusion.²

- A continuous process would make more efficient use of ICANN's resources by allowing ICANN to establish a standing capacity rather than ramping up and down large-scale efforts coordinated around chunks of applications in individual rounds.
- As recognized by the Preliminary Issue Report, the reliance on rounds-based process during the 2012 Application Process contributed to rush, inefficiency, and missed deadlines across applicants, service providers, ICANN, and other entities engaged in the application process.
- From a business perspective, a continuous application process is preferable to one based upon rounds for several reasons. First, a continuous process provides businesses additional predictability. When deciding whether to participate in the 2012 round, members of the community were not certain of when future application processes would open. This uncertainty forced some prospective applicants to gamble on whether or not a TLD would be useful to them in the future, or risk the possibility of being indefinitely locked out of the market to operate a TLD. Second, businesses can develop more robust applications in a continuous process because they will have the flexibility to apply to operate a TLD once use cases and initial plans had been fully developed, rather than being rushed to submit applications within a set timeframe. Third, sunk costs would be avoided and the number of withdrawals decreased as applicants would not have to gamble on their intentions to use a particular string. Fourth, current delays associated with execution of the ICANN Registry Agreement, delegation, and commercial rollout would be minimized as applicants could submit their applications at the point that they were confident of their own timelines for launching a TLD.

Moreover, the reasons cited in the GNSO Final Report for a rounds-based approach no longer apply. The concept of rounds was originally recommended in order to assess the scale of demand for new gTLDs. With 1,930 applications received for over 1,300 unique strings, the 2012 New gTLD Program exceeded ICANN's expectations of demand for new gTLDs.

² In the 2012 round, InterConnect, the string similarity provider, set an extremely high threshold for what gTLD strings would create user confusion, determining that of the over 1,300 unique strings applied for only two sets of non-identical strings should be placed in contention. Some members of the community, including Google Registry, believe that this standard was not sufficient to shield against all potential instances of user confusion. Under existing procedures, applicants were left to handle this in an ad hoc fashion by filing String Confusion Objections for other instances of potential confusion. This ad hoc process, as well as inconsistencies in the string confusion objection determinations, yielded significant frustration for applicants and required that some determinations be overturned and processes be revisited ex post facto (for examples see [NGPC resolution 2014.10.12.NG02 – 2014.10.12.NG03](#) which determined that several string confusion determinations were not in the best interest of the New gTLD Program and the ICANN Community). These issues should be addressed through development of a comprehensive framework for gTLD String Confusion.

Preserve the openness of the 2012 New gTLD Program.

The focus on self-selection and relative lack of restrictions placed on applicant or application types contributed to the 2012 New gTLD Program's potential to foster innovation and enhanced utility of the DNS. Registry operators diversified the Internet landscape through a range of registry and business models. It is impossible to predict today the full range of potential applications for new gTLDs or the business plans for implementing them. As such, we believe that the existing policy reflects the correct approach to maximize the benefits from any future gTLD rounds. We do not believe that future policy work to restrict what types of applicants could participate in a subsequent round or what strings could be applied for would be a worthwhile endeavor for the community; on the contrary, it could limit or compromise the potential for innovation and enhanced utility brought by subsequent application procedures.

Focus policy development on ad hoc issues identified as part of the 2012 New gTLD Program including Specification 13, Name Collision, and restrictions around "closed generics."

The work of a PDP Working Group on New gTLD Subsequent Procedures should focus on the issue areas identified in the Preliminary Issue Report as requiring further policy development. Within this list, particular attention should be paid to issues that represent elements of the 2012 New gTLD Program that conflict with or are not reflected in the recommendations in the 2007 Final Report or the Applicant Guidebook. These issues include the added requirement to implement the Name Collision Occurrence Mitigation Framework, the introduction of Specification 13 for .brand applicants, and the restrictions placed on "closed-generic" applications. Each of these were put in place following the closure of the application window. To the extent that any of these ad hoc features of 2012 New gTLD Program become regular principles for the introduction of new gTLDs, it should result from community-developed recommendations and policies.

To further minimize the community workload and streamline the PDP, required improvements related to program implementation, applicant redress procedures, application fees and support programs, and application systems, among others, could be led by ICANN staff with consultation and direct engagement by task forces comprised of applicants that interacted with those processes and systems directly.

Streamline policy development for future rounds by using a simultaneous strategy.

The Preliminary Issue Report raises the procedural question of whether a PDP on New gTLD Subsequent Procedures should proceed simultaneously, with work broken out into sub-groups proceeding in parallel, or sequentially, with work carried out in a single stream. Given the potentially large scope of the PDP, we strongly urge that the Working Group adopt a simultaneous approach. This would allow the Working Group to address directly related issues in a more efficient manner. A simultaneous approach would also invite a broader range of voices to participate, as community members with experience and interests in particular issue areas could opt for focused engagement and participation, without having to commit to

participate across the full duration and scope of a sequential PDP. We believe that issues around interdependencies and coordination could be sufficiently managed through the creation of a steering committee or through regular meetings of the full PDP Working Group, as suggested in the Preliminary Issue Report.

Conclusion

We appreciate the work performed by ICANN and the community to date in preparing for a future process for the introduction of new gTLDs and for taking these principles and recommendations under advisement. We look forward to working with ICANN and community as it considers the launch of subsequent new gTLD application procedures.

Sincerely,

A handwritten signature in black ink that reads "S. Duchesneau". The signature is written in a cursive, flowing style.

Stephanie Duchesneau
Domains Policy and Compliance