



Comment On the Specification 13

The New TLD Applicant Group (NTAG) supports the proposed .BRAND Specification 13 to the standard Registry Agreement and encourages the ICANN Board to approve the language of the Specification as part of the standard Registry Agreement for eligible .BRAND applicants. We would also like to propose one change to further address the unique needs of .BRAND applicants.

The mission of the New gTLD Program is to foster innovation, competition, and diversity in the Domain Name System (DNS); these goals will enhance the utility of the DNS to Internet users. In this respect, .BRAND TLDs, which accounted for nearly a third of applications, present a unique model, with the potential to yield significant benefits in terms of consumer trust and the overall experience of Internet users.

The language proposed in Specification 13 takes into account many of the unique needs of .BRAND registries. Moreover, it signifies ICANN's recognition of and support for the diverse array of applications ushered in by the New gTLD Program.

Building on the excellent work of the Brand Registry Group, in collaboration with ICANN staff, we propose one change to Specification 13 that would both allow registry operators to make use of their new TLDs sooner and improve the protections available to trademark holders through the Sunrise Period for .BRAND TLDs.

Rather than imposing an unnecessary delay in allowing .BRAND registries to roll out their new TLDs by requiring a Sunrise at the launch of a .BRAND TLD, a more reasonable approach may be to defer the Sunrise requirement to such time as when a .BRAND applicant may decide to open up its TLD to offer domains to unaffiliated third parties—at which point the terms of Specification 13 would no longer apply. In the meantime, the Claims Period would still provide trademark owners with protection during the period when the TLD is exclusively used by the .BRAND registrant by providing notice to trademark owners if the registrant registers domains in the Trademark Clearinghouse.

Under the current rules, .BRAND registries must hold a Sunrise Period in which the operator of the .BRAND registry and its affiliated parties will be the sole registrants and will only be able to register trademarked domains in its respective gTLDs. Presently there is no Sunrise requirement if the .BRAND TLD is later opened to unaffiliated third party registrations, however, our recommendation provides a remedy for this. By making a small adjustment to the implementation of the Sunrise requirement for .BRAND TLDs, ICANN will maximize the protection of third party rights holders by offering a Sunrise when it is actually meaningful, while simultaneously eliminating unnecessary procedural delay in the launch of new TLDs.



As is, the RPM Requirements obligate all registry operators to offer a Sunrise Period in which domain registrations are restricted to holders of eligible marks registered in the TMCH. However, the RPM Requirements also permit registry operators to establish policies that dictate who can register domains during the Sunrise Period (RPM Requirements, Section 2.3) .BRAND TLDs, by definition, have policies that restrict registration to the Brand itself, that is, the Registry Operator, its Affiliates, and Trademark Licensees (Specification 13, Section 5.1 (ii)).

The NTAG thanks ICANN's staff and legal team for their tireless efforts in the development of Specification 13 language and for their continued engagement with .BRAND applicants and the broader community throughout. Given the progress to date, we urge ICANN to finalize Specification 13 as quickly as possible in order to allow .BRAND applicants to move through the contracting process and onto delegation.