

November 27, 2009

Rod Beckstrom - CEO ICANN
Peter Dengate Thrush - Chairman of the Board, ICANN
Doug Brent - COO, ICANN
Kurt Pritz - Senior Vice President, Services, ICANN

Dear Sirs:

MarkMonitor disagrees with the establishment of an Expression of Interest (EOI) initiative in connection with the introduction of new gTLDs. We understand that this call for interest is designed to "provide ICANN and potential applicants important information about the level of interest in the program, which could assist in the resolution of the remaining issues and the planning for the coming new gTLD round." Yet, we believe that this EOI initiative is unlikely to adequately resolve any of the overarching issues, specifically: a) the actual demand for new gTLDs, b) root scaling issues; c) our joint goal of mitigating potential harm enabled by new gTLDs, c) trademark protection issues, or d) the actual economic and other benefits of new gTLDs that exceed the potential escalated costs and detriment to ICANN, the community, businesses and individuals.

The Internet community has spent many months commenting and analyzing the numerous DAG (Draft Applicant Guidebook) and IRT (Implementation Recommendation Team) recommendations. Although perhaps well intentioned, we believe that this EOI initiative serves only as a distraction from the significant work still at hand which is required to move the new gTLD process forward. MarkMonitor believes that the current new gTLD process should continue to be conducted in a sure and methodical manner; neither speed to market nor special interests should compromise the health and safety of consumers or the rights of third parties.

With respect to the specific questions delineated in the posted solicitation for comments, MarkMonitor will only respond to questions 1 and 8:

1. How do we ensure that participation in the EOI accurately represents the level of interest?

As inferred by the questions included in this call for comments, an EOI of this nature would only capture a small segment of interest. Many applicants would likely remain stealth in order to avoid encouraging otherwise uninterested competition for a string. Moreover this EOI would add a further layer of complexity to the already difficult application rules and guidelines set out in the numerous DAGs. For example, allowing applicants to now "reserve a front row seat to the new gTLD dance" by registering under an EOI program would need to be carefully analyzed and considered within the already established process set forth in the DAG.

In addition, it is too premature to put together an initial program of this nature. Brand holders are looking to the satisfactory resolution of trademark protection mechanisms and economic studies validating the actual demand for new gTLDs before they begin the process of seeking internal funds and resources to apply

for a new gTLD. This program, if established without first seeking a satisfactory resolution to the overarching issues and outside the already established DAG procedures, could undermine the credibility of the ongoing new gTLD process.

8. What are the potential risks associated with the EOI?

MarkMonitor is concerned that the Expression of Interest Working Group as proposed could usurp the ICANN bottom-up process and may incur a critical and skeptical response from the community as did formation and reception of results from the IRT. MarkMonitor therefore suggests that the GNSO create a working group to address this proposal in a manner that honors ICANN principles and process and considers historical and successful expressions of interest at ICANN and includes the Internet community in the process.

Again, developing an EOI initiative at this time would serve only as a major distraction to the established new gTLD process. Given the significant amount of cost, time and effort that has been spent by the Internet community responding to the DAG and IRT Draft Report, we are concerned that any significant deviation from our already established process could have serious deleterious consequences.

Best regards,

Frederick Felman – Chief Marketing Officer, MarkMonitor