

We participated and contributed in the new TLD process from the very beginning in 2005 and many of our ideas and previous comments were incorporated in the Draft Applicant Guidebook. For the current draft RFP we have again some comments and change requests.

With our comments we are aiming to get a fair treatment for Berliners on their way to acquire our own identity on the Internet.

Evaluation Fee and Annual Fees

Our concerns regarding the fees are based on the fact that many of the potential cityTLD applications are based on relatively communities of a only few million people or sometimes even less, and that the expected number of second-level domain registrations within many cityTLDs might not even reach a few 10,000 domains.

In comparison the upcoming IDN ccTLDs and existing ccTLDs even for small country populations or uninhabited territories do not have to pay any application, evaluation or delegation fees and often pay only a few thousand US-Dollars a year to ICANN on a voluntary basis. It has been shown that even small ccTLDs with a few thousand domain registrations are operated stable and secure.

Furthermore ccTLDs as well as most of the future Geo-TLDs for cities, regions and other official territories will serve the public and public interest by creating second-level domains and connected services that add value for governments, authorities, and the peoples making up the community.

ICANN, as a California-based company, must not squeeze unjustified fees out of thousands of city, regional, country, cultural and linguistic communities globally.

Additionally, the US\$ 185,000 evaluation fees and the US\$ 75,000 minimum annual fees will distort the business models and will generate high economic pressure on cityTLDs, for the application as well as for their operation. From the point of view of German and European competition laws, both fees are more than questionable since these fees have to be paid to a US-based company which is dominated by incumbent market players which also decide on the success of the application.

Moreover, for community-based cityTLDs which are supported by relevant government/s and/or public authority/ies, a smooth application processing is expected.

- **Comment: community-based cityTLDs should pay application fees not more than US\$ 50,000 and not more than US\$ 10,000 minimum annual fees.**

Subsequent Application Rounds

The comments and arguments on the sluggish introduction of new top-level domain since ICANN's founding and what happens if there is no timely next round in 2010 have been circulated sufficiently by us and others over the last years and within the process creating the current application round.

- **Comment: ICANN should finally commit to introducing new top-level domains in a timely and reliable manner, a clearly defined date for the next round is a must.**

Timeline

The communication on the upcoming TLD round already started in Paris with a global spread of information via news agencies and large articles in global opinion making media such as the International Herald Tribune, the Wall Street Journal and the New York Times. Even the smallest local media followed up on this media bang. At the latest with the publication of Draft Applicant Guidebook ICANN should finally commit to a timeline for the new TLDs.

- **Comment: ICANN should stick to the timeline published in the Draft Applicant Guidebook**

Geo-Community Applications in general

The legal framework to operate a TLD or to use a geo name as TLD varies from country to country. It can range from no legal framework at all, a framework that delegates TLDs solely to the private sector or oppositely solely to the national government. The point is that based on the national framework government/s or public authority/ies might be not allowed or cannot be obligated to issue documents in connection with a TLD application. ICANN may consider the specific legal framework concerned when it comes to a decision on the TLD application.

- **Therefore we suggest extending the sentence on page 2 of the Geo Names Explanatory Memorandum to: *"Applicants for a Geo-TLD need to represent on which legal framework their application is based and that the use of the proposed string is not in violation of the legal framework in the country in which the applicant is incorporated. The applicant also needs to represent if and how the relevant government/s and/or public authority/ies have to respond to requests of ICANN on support or non-objection."***

Author is Dirk Krischenowski, Founder and CEO of the .berlin top-level domain initiative, Berlin, Dec 2, 2008