December 12, 2008

Mr. Paul Twomey  
President and CEO  
ICANN  
6 Rond Point Schuman, Bt. 5  
B-1040 Brussels  
Belgium  

Re: Comments of the City of New York on gTLD Draft Applicant Guidebook  

Dear Mr. Twomey:

The City of New York (the “City” or “NYC”) has reviewed the publication “New gTLD Program: Draft Applicant Guidebook” (the “Guidebook”) released by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on October 23, 2008.

NYC commends ICANN’s desire to increase innovation in the Internet’s addressing system and the detailed analysis behind issuance of the draft Guidebook. NYC also appreciates that ICANN’s constituency involves the global Internet community as a whole and that ICANN has attempted to meet the disparate needs of that community in its formulation of the Guidebook.

NYC respectfully submits that the Guidebook overlooks certain essential needs of local governments in order for localities such as NYC to be comfortable participating in the gTLD process and, ultimately, sanctioning particular applicants to operate gTLDs that rely on the names and goodwill of localities. While the support and/or non-objection concept provided for in the Guidebook may have been intended to reassure governmental entities that their concerns will be addressed in the gTLD process, the lack of clarity in the Guidelines may have the effect of inducing governments not to support applications at all rather than risk being subject to procedures and panels that are not clearly defined or that lack clear standards to address their concerns.

The Guidebook does not establish a process to authenticate, or for a panel to consider challenges to, governmental statements of support or non-objection that may be presented by applicants.
during the application process. The Guidebook contains no reference as to the composition of
the panel reviewing applications or indications that the panel will accurately represent the varied
interests of different types of governmental entities; no statement that a governmental entity will
have status as a rights holder or a defined community for purposes of a community-based
objection; and no standards for objection on morality or public order grounds. Accordingly,
localities such as NYC will be put to considerable time and expense in objecting to a particular
application and/or challenging the credentials of an applicant in an unfamiliar and expensive
forum to which local governments may not readily have access.

ICANN should take particular note of the dire fiscal problems faced by governmental entities
such as NYC (and other states and localities throughout the United States) at this time. NYC
currently expects tax revenues for fiscal year 2009 to be down $2.6 billion from tax revenues in
fiscal 2008. Tax revenues for fiscal 2008 have declined to date by $285 million. Further, NYC
is currently forecasting a gap of $1.3 billion for the 2010 fiscal year. Employment numbers for
national and city economies in the United States have deteriorated and a recession has been
officially recognized.

The costs of multiple dispute resolution processes and arbitral panels (as estimated in the
Guidebook) are well beyond the means of smaller governments and, in a time of budget deficits
and recessionary concerns, are not likely to be a priority for local governments who have primary
responsibility for police protection, education and other critical services for their citizens.
Failure of governmental entities to take advantage of an ICANN dispute resolution or arbitral
process may adversely affect the credibility of a particular gTLD if the government associated
with the location name represented by the gTLD is opposed to the gTLD or considers it to be
unsanctioned or improperly sanctioned.

More specifically, the Guidebook adopts an ISO 3166-2 standard (which is not freely available
for public review) for country and territory names, which in the United States is not
comprehensive and fails to include several commonly used longer forms of address for localities.
The City recommends that the Guidebook adopt an additional standard, specifically the United

The City appreciates the opportunity to weigh in on the Guidebook and its detailed comments
with respect to specific Modules of the Guidebook follow as an enclosure and are being
submitted to the relevant addresses. Should further information about the City’s comments be
required, ICANN is encouraged to contact the undersigned.

Sincerely,

[Signature]
Katherine Winningham
Senior Counsel

Enclosure
Module 4 - String Contention Procedures
(email gtld-string@icann.org)

No comment