**Draft Final Report**

**JAS WG - Joint SO/AC New gTLD Applicant Support Working Group**

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**STATUS OF THIS DOCUMENT**

This is the Final Report from the Joint SO/AC New gTLD Applicant Support Working Group, submitted for consideration by the ICANN Board of Directors and the wider community.

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## 1. Summary

## 1.1 Background

During the International ICANN Meeting in Nairobi, ICANN’s Board recognized the importance of an inclusive New gTLD Program and issued a Resolution (#20) requesting stakeholders "*to develop a sustainable approach to providing support to applicants requiring assistance in applying for and operating new gTLDs."* See resolution here: [http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#20](http://www.icann.org/en/minutes/resolutions-12mar10-en.htm%2320).

In direct response to this Board Resolution, the GNSO Council proposed a Joint SO/AC Working Group, composed by members of ICANN's Supporting Organizations (SOs) and Advisory Committees (ACs), to look into applicant support for new gTLDs.

The Working Group, also known as the **JAS WG or WG**, was formed in late April 2010.

After a snapshot of the initial recommendations was released for community review, the proposals were reworked in the light on comments received. A second snapshot was released to the ICANN board of directors and the chartering organizations before the report was finalized.

This Final Report incorporates the feedback received from the public ad other consultations. In summary, the recommendations encompass the following:

* Cost reduction (evaluation and registry fee modifications);
* Sponsorship and fundraising (ICANN-sourced and external financial assistance);
* Non-cost considerations (technical or logistical support).

The specific recommendations are detailed in section 3 of this document.

## 2. Objectives and Process

## 2.1 Objectives

The objectives for this work were derived from the Nairobi ICANN Board Resolution #20, as further detailed by the GNSO Council resolution to launch a joint SO/AC Working Group (referred hereafter as **WG**), and by the WG itself in a proposed Charter, subsequently addressed in Resolutions by the GNSO Council and the ALAC.

The basic objective was

## 2.2 Process Background

Initially worked in two parallel Working Teams:

* + Working Team 1 (**WT1**) focusing on application fee aspects;
	+ Working Team 2 (**WT2**) addressing issues regarding which applicants would be entitled to special support and of what nature the support could be.

The WG consulted the Community and general public as follows:

* On June 14, posted a blog entitled *“Call for Input: Support for New gTLD Applicants*” (http://blog.icann.org/2010/06/call-for-input-support-for-new-gtld-applicants/)
* On June 16, posted its preliminary findings for Public Comment – *“Joint SO/AC Working Group on New gTLD Applicant Support Snapshot”* (<http://www.icann.org/en/public-comment/#wg-snapshot>). The document was available in 6 languages. The public forum closed on 23 August, 2010.
* On June 23, during the ICANN Brussels meeting held a public workshop *“Reducing Barriers to New gTLD Creation in Developing Regions”* (<http://brussels38.icann.org/node/12503>).
* Submitted a second snapshot of the recommendations to the ICANN board of Directors and the two chartering organizations, ALAC and GNSO on 18 September, 2010.

There are also recommendations on possible need-based criteria and limitations on aid as well recommendations for follow on activities.

More background information regarding this WG, including Charter, relevant resolutions and public comment summary/analysis, can be found in Annexes A to C.

## 2.3 Standard of agreement in the Working Group

The WG worked under the guidelines defined in: You will find those at: <http://gnso.icann.org/en/improvements/proposed-working-group-guidelines-05feb09-en.pdf>. Under those guidelines, the following levels of support are identified.

* Unanimous or full consensus, when no one in the group speaks against the recommendation in its last readings
* Rough or near consensus - a position where only a small minority disagrees but most agree. This is sometime just referred to as consensus.
* Strong support but significant opposition
* No consensus, also referred to as divergence

## 2.4 Records and Archives

The email archives can be found at <http://forum.icann.org/lists/gnso-irtp-b-jun09/>

The Wiki can be found at <https://st.icann.org/so-ac-new-gtld-wg/index.cgi>

3. The Recommendations

Unless otherwise indicated, the WG reached consensus on the recommendations outlined below.

### 3.1 Cost Reductions

The WG recommends that the following fee reductions be made available to all applicants who are determined as meeting the need criteria established for support:

1. Waive the cost of Program Development (US$26,000) for selected entities qualifying for financial assistance. The current proposed program budget indicates an expected Net profit of US$184,600 for the new gTLD program. This profit could fully or partially offset the loss of waiving the US$26,000 program development costs for several applicants. We expect relatively few applicants (relative to the total number applying) to meet the criteria for assistance, so the financial burden of waiving these fees should be reasonable.

2. Staggered Fees. Instead of paying the entire fee upon acceptance of the applications, applicants meeting the criteria established for support could pay the fees incrementally (perhaps following the refund schedule in reverse). Allowing an applicant to have a staggered fee payment schedule gives the applicant more time to raise money, and investors will be more likely to back an application that passes the initial evaluation. Staggered fees enable an applicant to compete for strings that might otherwise have gone to the first and/or only group with enough money to apply. If the applicant does not proceed through the entire process, they are not "costing" ICANN the full projected amount, therefore cost recovery remains intact.

3. Auction Proceeds. Qualified applicants receive a partial refund from any auction proceeds—for which they can repay any loans or invest into their registry, or the auction proceeds could be used to refill the disadvantaged applicant’s foundation fund for subsequent rounds.

4. Lower the Registry fixed fees due to ICANN. In lieu of the Registry-Level fixed fee of US$25,000 per calendar year, instead only charge the Registry-Level Transaction Fee per initial or renewal domain name registration to a fee comparable to a minimum used for other gTLDs. An annual fee of US$25,000 to ICANN is a barrier to sustainability for an applicant representing a small community. If a minimum is absolutely required, then lower this fee to 30% for qualified applicants.

5. Reconsider the Risk/Contingency cost per applicant (US$60,000). The WT1 questions if ICANN really expects a total of US$30,000,000 (US$60,000 x 500 applications) in unknown costs to surface. This fee should be eliminated for applicants that meet the criteria established by the WG. If elimination is not possible, then it should be drastically reduced.

6. The Fixed/Variable cost of US$100,000 is based on a total cost of a previous round of applications and might not be relevant to the new gtld applicants and these costs should be reduced for applicants that meet the criteria established by the WG.

### 3.2 Sponsorship/ Fundraising

The WG discussed extensively the possibility of financial assistance for applicants. This was seen as coming from two types of sources:

* Funds distributed by an ICANN originated fund
* Funds distributed by external funding agencies

### Distributed by an ICANN originated fund

It was uncertain what sort of funding might be arranged through ICANN, especially for this first round, though there was consensus in the group recommending that a fundraising effort be established. For any funding provided through ICANN by a benefactor that does not wish to administer that funding itself, these funds would be allocated by a specially dedicated committee, only to those who meet the need conditions established for the program. Additionally, if there was not enough funding to distribute to all applicants for financial support, that funding would be distributed [without regard to geographic location] but with a priority given to linguistic community applicants applying for IDN strings. There was consensus for creating a development fund directed at new gTLD applicants who are determined as meeting the need criteria established for support.

* There was consensus that ICANN employ a *Program Development Director* with an initial goal of securing commitments for US$10,000,000 for an ICANN based development fund. There was no consensus on the form such a role should take, but there was strong consensus on the fact that any monies raised for a development fund would need to be maintained in accounts that were separate from and ICANN general funds.
* There was some no consensus for a proposal recommending that ICANN puts in place the means for existing registrants to make voluntary contributions to the development program through registrar-to-registry contribution pass-through, and enable non-registrant small donors to contribute to the development program, and concurrent with the execution of the development message to the donor communities, that the development message also be delivered to the registrant, and non-registrant user communities through earned and paid media.

### From distributed by external funding agencies

External funding agencies would make grants according to their own requirements and goals. ICANN would only provide applicant information to external funding agencies that met need conditions established by the program.

* Initiate discussions and work with well know development funding agencies to set up funding programs for new gTLD for less developed region applicants who meet the needs based criteria.

## 3.3. Other Types of Aid

The WG recommends that a program be initiated to enable the following types of aid to be provided to all applicants, especially those meeting the need conditions:

* Logistical support in the application process
* Technical support for applicants in operating or qualifying to operate a gTLD
* There was no consensus for a recommendation that if the Vertical Integration working group recommends wavers of the rules against Vertical Integration for some types of new gTLD, that those applicants who qualify for the need based assistance also qualify for the Vertical Integration exemption.

## 3.4 Applicants Entitled To Receive Support

*Note:* The definition of financial need and the method for determining the needs of an application has not been established by the WG and is proposed as a work item in the next steps section of this document.

Key to making a support program work is the choice of initial support recipients. With this in mind it is agreed that the initial focus should be on finding a relatively limited identifiable set of potential applicants that would be not controversial to support.

The main criterion for eligibility should be need. An applicant would not be selected for support unless the need criterion is met.

Based on these criteria, and per review of the comments, the WG recommends the following:

a. Community based applications such as cultural, linguistic and ethnic. These potential applicants have the benefits of being relatively well defined as groups. Facilitating community on the web is one of ICANN’s core values;

b. Non-governmental Organizations (NGOs), civil society and not-for-profit organizations;

c. Applicants geographically located in emerging markets/developing countries; [[least developed, developing] [nations, regions]]

d. Applications in languages whose presence on the web is limited;

e. Entrepreneurs in those too tight markets for a reasonable profit making industry.

## 3.5 Applicants NOT Entitled To Receive Support

Not recommended for support, even if they can demonstrate financial need, are the following types of application:

* Brands/groups that should be self-supporting companies [(except those from countries where markets are not wide enough for a reasonable profit making industry)];
* Geographic names;
* Purely Government/para-state applicants (though applicants with some Government support might be eligible);
* Applicants whose business model does not demonstrate sustainability.

## 3.6 Kinds of Support That Might be Offered

The WG recommends a number of different kinds of support that could be valuable for potential applicants, support which falls relatively neatly into three categories:

1. **Logistical, outreach and fee support in the application process**
* Translation of relevant documents – a major concern noted by non-English speaking group members, who noted the extra time and effort needed to work in English;
* Logistical and technical help with the application process – including legal

 and filing support that are expensive and in short supply in most emerging

 markets nations;

* Awareness/outreach efforts – to make more people in underserved markets are aware of the gTLD process and what they can do to participate in the gTLD process;
* Fee reduction/subsidization and/or some sort of phased-in payment for deserving applicants – this discussion builds off of the work of WT1, and includes two key ideas:
	+ That deserving applicants might receive some reduced pricing in general;
	+ That some sort of phasing for payment might be appropriate, enabling selected applicants to effectively “pay as they go” for the application process rather than having all funds assembled up front.
1. **Technical support for applicants in operating or qualifying to operate a gTLD**
* Infrastructure – providing IPv6 compatible hardware and networks as needed;
* Education/consulting – to help with DNSSEC implementation;
* Possible technical waivers or “step ups” – allowing applicants to build their capabilities rather than needing to demonstrate full capacity before applying (as appropriate);
* Lower cost and/or shared back end registry services.
1. **Support for build-out in underserved languages and IDNs for new gTLDs**
* Price discounts to incentivize build-out in scripts with a limited presence on the web;
* Bundled pricing to promote build out in multiple scripts – incentivizing an expansion of IDN content as new gTLDs are launched by encouraging applicants to build out in numerous scripts at once;
* Clear tests to prevent gaming and ensure that support reaches its targets.

## 3.7 Proposed Constrains on Aid

The WG also agreed on a series of “principles” that are recommend to guide the community as the support process is finalized, namely:

a. Self-Financing responsibility: The WG reached consensus on the need for self-financing responsibly on the part of any successful applicant for financial assistance. No more that 50% of the reduced fee may be provided by an ICANN organized development program. This is not meant to limit the manner in which fund raising for the other 50% is done by the applicant.

b. Sunset period – Support should have an agreed cut-off/sunset point, perhaps 5 years, after which no further support would be offered. This was recommended as another measure to promote sustainability and as a way to help limited resources reach more applicants.

c. Transparency – Support requests and levels should be made public to encourage transparency.

e. Limited Government support – The receipt of some support from government(s) should not disqualify a [community] applicant from receiving gTLD support. However, the process is not designed to subsidize government-led initiatives.

f. Repayment in success cases – In cases where supported gTLDs make revenue significantly above and beyond [the level support received through this process, costs], recipients would agree to re-pay/rebate application subsidies into a revolving fund to support future applications.

## 3.8 Relationship to New gTLD Applicant Guidebook

The WG believes that these recommendations should not affect the content of the New gTLD Applicant Guidebook, currently in its 4th version. Rather it is a separate program that needs to be established in parallel with the completion of the Application Guide Book.

# 4. Next Steps

Several work items are proposed as part of the set of recommendations made. Due to the time constrains, and the interest in getting GNSO Council, ALAC and Board’s feedback, the following work items are proposed for further discussion by the current Join SO/AC new gTLD Applicant Support WG or another group. Most of these items require both policy and implementation input and it is recommended that a join team of Staff and SOAC members be created

* Definition of mechanisms, e.g. a review committee operating under a set of guidelines, for determining whether an application for special consideration is to be granted such and what sort of help should be offered;
* Establishing relationship with any donor(s) who may be able to help in first round with funding;
* Establishing framework for managing any auction proceeds for future rounds and ongoing assistance;
* Methods for coordinating the assistance, and discussion on the extent of such coordination, to be given by Backend Registry Service Providers; e.g. brokering the relationships, reviewing the operational quality of the relationship.
* Establish the criteria for financial need and a method of demonstrating that need.
* Discuss and establish methods for coordinating any assistance volunteered by providers (consultants, translators, technicians, etc. ); match services to qualified applicants; broker these relationships and review the operational quality of the relationship.
* Establish methods for coordinating cooperation among qualified applicants, and assistance volunteered by third parties.
* Begin the work of fund raising and establishing links to possible donor agencies
* Review the basis of the US$100,000 application base fee to determine its full origin and to determine what percentage of that fee should be waved for applicant.

# Annex A – JAS WG Charter

**Chartered objectives for the Working Group** (as adopted by the GNSO Council and ALAC)

**Preamble:** The Joint SO/AC Working Group on New gTLD Applicant Support shall evaluate and propose recommendations regarding specific support to new gTLD applicants in justified cases. The working group expects to identify suitable criteria for provision of such support, to identify suitable support forms and to identify potential providers of such support. However, there is no presumption that the outcome will imply any particular governing structure. Accordingly, if the recommendations indicate that the preferred solutions are of a voluntary nature, the criteria and other provisions arrived at in line with the objectives below will solely serve as advice to the parties concerned. The objectives are not listed in any priority order. An overall consideration is that the outcomes of the WG should not lead to delays of the New gTLD process.

**Objective 1**: To identify suitable criteria that new gTLD applicants must fulfill to qualify for dedicated support. The criteria may be different for different types of support identified in line with Objective 2 and 3 below.

**Objective 2**: To identify how the application fee can be reduced and/or subsidized to accommodate applicants that fulfill appropriate criteria to qualify for this benefit, in keeping with the principle of full cost recovery of the application process costs.

**Objective 3**: To identify what kinds of support (e.g. technical assistance, organizational assistance, financial assistance, fee reduction) and support timelines (e.g. support for the application period only, continuous support) are appropriate for new gTLD applicants fulfilling identified criteria.

**Objective 4**: To identify potential providers of the identified kinds of support as well as appropriate mechanisms to enable support provisioning.

**Objective 5**: To identify conditions and mechanisms required to minimize the risk of inappropriate access to support. Agreed within WG, pending GNSO Council and ALAC adoption.

**Operating procedures for the Working Group**

The Working Group will operate according to the interim working group guidelines set out in the [Draft Working guidelines of 5 Feb 2010](http://gnso.icann.org/en/improvements/proposed-working-group-guidelines-05feb09-en.pdf).

**Milestones**

|  |  |
| --- | --- |
| **Dates** | **Tasks/Goals** |
| **29 April** | First conference call. Preparations for Chairs election, Charter drafting, work planning  |
| **10 May** | Adoption of WG Charter by participating SOs and ACs  |
| **5 May - 9 June** | Weekly conference calls. Drafting of Recommendation by WT1 and WT2.  |
| **16 June – 21 June**  | Posting of "snapshot" on WG's plans & progress for public comment in English |
| **23 June – 23 August** | Posting of "snapshot" on WG's plans & progress for public comment in Spanish, French, Chinese, Arabic and Russian |
| **21-25 June** | Community discussions during ICANN Brussels Meeting – Session *“Reducing Barriers to New gTLD Creation in Developing Regions”*  [*http://brussels38.icann.org/node/12503*](http://brussels38.icann.org/node/12503) |
| **10 July - \_\_\_September** | Weekly conference calls resumed, development of final recommendation based on public comments received  |
| **\_\_ September** | Final recommendation posted for Board and Community consideration |

# Annex B – Relevant Resolutions

**1. ICANN Board Resolution #20 – Nairobi ICANN Meeting**

See: [http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#20](http://www.icann.org/en/minutes/resolutions-12mar10-en.htm%2320)

20. Support for Applicants Requesting New gTLD Applicants

Whereas, the launch of the New gTLD Program will bring fundamental change to the marketplace, including competition and innovation;

Whereas, the evolution of relationships and restrictions on relationships between registries and registrars have been a center of discussion and analysis;

Whereas, the introduction of new gTLDs will bring change and opportunity for innovation, new services and benefits for users and registrants;

Whereas, ICANN aims to ensure that the New gTLD Program is inclusive, along the lines of the organization's strategic objectives;

Whereas, ICANN has a requirement to recover the costs of new gTLD applications and on-going services to new gTLDs; and

Whereas numerous stakeholders have, on various occasions, expressed concern about the cost of applying for new gTLDs, and suggested that these costs might hinder applicants requiring assistance, especially those from developing countries.

Resolved (2010.03.12.46), the Board recognizes the importance of an inclusive New gTLD Program.

Resolved (2010.03.12.47), the Board requests stakeholders to work through their SOs and ACs, and form a Working Group to develop a sustainable approach to providing support to applicants requiring assistance in applying for and operating new gTLDs.

**2. GNSO Resolution to launch a Joint SO/AC WG**

See: [http://gnso.icann.org/resolutions/#201004](http://gnso.icann.org/resolutions/%23201004)

20100401-1 Motion to create a Joint SO/AC Working Group on New gTLD Applicant Support

Whereas, ICANN aims to ensure that the New gTLD Program is inclusive, along the lines of the organization’s strategic objectives;

Whereas, numerous stakeholders have, on various occasions, expressed concern about the cost of applying and about the material requirements for new gTLDs, and suggested that these costs and material conditions might hinder applicants requiring assistance, especially those from developing regions, from cultural/linguistic groups and from non-profit groups such as philanthropies,

Whereas, on 13 March 2010, the ICANN Board adopted Resolution 20 (http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#20) requesting that stakeholders work with their respective ACs and SOs to form a working group to provide a sustainable approach to providing support to applicants requiring assistance in applying for and operating new gTLDS;

Whereas, the GNSO Council desires to form a joint working group with other interested Supporting Organizations (SO’s) and Advisory Committee (AC’s) to fulfill this Board request, and to develop a sustainable approach to providing support to such new GTLD applicants, keeping in mind the GNSO Implementation guideline to recover the cost of new gTLD applications and on-going services to new gTLDs.

NOW THEREFORE, BE IT:

Resolved, that the GNSO Council supports the formation of a joint SO/AC working group to respond to the Board’s request by developing a sustainable approach to providing support to new gTLD applicants requiring assistance in applying for and operating new gTLDS, keeping in mind the GNSO Implementation guideline to recover the cost of new gTLD applications and on-going services to new gTLDs, and the goal of not creating further delays to the new gTLD process;

Resolved further, that Rafik Dammak shall serve as the GNSO Council Liaison for this joint SO/AC working group;

Resolved further, that the GNSO Council Chair shall within 48 hours of this motion inform the Chairs of other SO’s and the AC’s of this action and encourage their participation;

Resolved further, that ICANN Staff shall within seven calendar days of this motion identify and assign applicable Staff support for this working group and arrange for support tools such as a mailing list, website and other tools as needed;

Resolved further, that the staff support assigned to this working group shall within 48 hours after the support tools are arranged distribute an invitation for working group participants as widely as possible within the SO/AC community;

Resolved further, that the New gTLD Applicant Support WG shall initiate its activities within 28 days after the approval of this motion. Until such time as the WG can select a chair and that chair can be confirmed by the participating SO’s and AC’s, the GNSO Council Liaison shall act as interim co-chair with the liaison(s) from other SO’s and AC’s;

Resolved further, that the New gTLD Applicant Support WG shall as its first action items: i) elect a chair or co-chairs; ii) establish meeting times as needed; and iii) develop and propose a charter describing its tasks and schedule of deliverables for approval by the participating SO’s and AC’s.

Resolved further, that the New gTLD Applicant Support WG shall deliver its initial recommendation for community comment in time for discussion at the Brussels ICANN meeting.

# Annex C - List of Addenda in Companion Document

1. Working Group Members, Affiliations, Statements of Interest (SOI) and Attendance
2. Text of first snapshot released on 16 June 2010
3. Transcript - Brussels Meeting Workshop Session
4. Public Comment *Summary and Analysis*
5. Cover letter and text of second snapshot taken on 18 September 2010
6. Record on discussion on bundling - removed from final report.
7. Response to any comments received on second snapshot