GNSO Registries Stakeholder Group Comments

Issue: Final Report of the Joint SO/AC New gTLD Applicant Support Working Group (JAS WG)

Date: September 17, 2011

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The Registries Stakeholder Group (RySG) respectfully submits the following comments and questions concerning the Final Report of the Joint SO/AC new gTLD Applicant Support Working Group (JAS WG). We congratulate the JAS WG on the quality of its work and wish to express our full support for the goal and charter of the WG -- to develop a sustainable approach to provide support to applicants requiring assistance in applying for and operating new gTLDs. The following comments and questions are intended to ensure that the resulting program and processes are clear and effective in addressing that need.

- **Process and Next Steps**

  o The RySG notes that many important implementation details are not addressed by the Final Report.
    - When will those details be explained, and by whom?
    - What are the next steps and timeline for completion?
  o The RySG requests that ICANN staff develop and post for public comment a detailed implementation plan. We have highlighted specific examples of several key concerns below.

- **Timing of Support**

  o The RySG supports the goal that applicant support be available for the first round of new gTLDs, and for future rounds.

  o The RySG requests clarification around the proposed timing and timelines of the Developing Economies Support Program (DESP).

    - Specifically, there does not seem a logical reason why the DESP evaluation process and determination could not continue to occur after the opening of the 90-day application window.   Those seeking support would need to know the outcome of their request before the window closes, but not necessarily before it opens. Is it the intent of the JAS WG that DESP work is completed prior to the application window opening, or can this work, as suggested, continue after the application window opens?

- Further, when considering the Support Evaluation Process (SEP), if an applicant for support is rejected and then works to improve its application and re-applies, what is the process and timeline for doing so? Is there a cut-off date for re-submitting?
- The RySG requests further clarification of these timelines in the implementation plan, to ensure that the process does not disrupt the overall process and that it fits within the 90-day application period.

- **Financial Support**

The RySG requests further explanation of the following points concerning financial support:

- Staggering of Application Fees
  - What happens if an applicant misses an installment payment?

- Repayment of Financial Support for Program Sustainability
  - What is the rationale for not requiring repayment of the fee reductions?

- Deferring the Up-Front Costs of a Continuity Fund
  - Would the recommendation on "relaxing or deferring the upfront costs of a continuity fund" be necessary if an adequate registry Continued Operations Instrument fund were in place?
  - The RySG has repeatedly suggested an alternative Continuing Operations Instrument model that would eliminate the need for a registry operator to have 3 years of operating funds set aside in escrow, but would still ensure registrant protection in the event of a registry failure. We refer to the following proposal, as outlined in the RySG comments on the Applicant Guidebook – April 2011 Discussion Draft. (http://forum.icann.org/lists/6gtld-guide/msg00034.html)
  - If such a continuity fund were established, would applicants receiving support be required to contribute at the same level as other applicants?

- **Non-Financial Support**

- Non-Financial Support may not be a direct financial benefit to applicants, but each of the items listed will require ICANN staff resources to implement and/or manage.

- The RySG requests a more detailed explanation in the implementation plan concerning the budget and expenses associated with providing non-financial support.

  - Assistance with the preparation of gTLD applications;
  - Facilitation of IPv6 compliance;
  - Consulting and education regarding DNSSEC implementation;
  - Outreach and education efforts regarding the New gTLD Program;
  - Logistical, translation and technical support; and
  - Establishment of Registry Service Providers in regions where none or few exist.

o   We appreciate the JAS WG recommendation that ICANN should serve as facilitator, but there will still be expenses associated with providing such non-financial support.
- How are these expenses budgeted?
- Would the resources come from ICANN or from the DESP fund?
- Does ICANN have adequate resources to fulfill the role of facilitator? If not, is it anticipated that funding of those resources would come from the applicant support fund?

o   *"Establishment of Registry Services Providers in regions where few or none exists."*
- The RySG requests further explanation of this item by the JAS WG and in the ICANN staff's implementation plan. The language in the Final Report is unclear as to why and how ICANN might establish new registry services providers. Without further detail, the RySG has serious concerns about the feasibility of this recommendation.

- **Support Candidate Eligibility Requirements**

o   Candidate eligibility for the Developing Economies Support Program (DESP) is broadly defined as "Service in the Public Interest" requiring the candidate to meet "one or more of the following characteristics." (Paragraphs 66 – 68 of the Final Report).

- Is it the intention for candidates receiving support to be required to meet a higher level of service to the public interest than the guidebook requirement to all applicants to serve the public interest?

- Is eligibility restricted to only candidates from developing country economies? For example, is an indigenous group seeking a generic term applicable to them located in a distressed region of a country with a developed economy, such as the United States or Canada, eligible to apply for support?

- **Support Evaluation Process (SEP)**

The RySG supports the concept of the Support Evaluation Process as outlined in the Final Report, but we request further explanation and detail be provided in the ICANN staff implementation plan. (NOTE: Italicized text below is language from the Final Report)

o   *The SEP should take place before the standard gTLD application review.*
- In its implementation plan, ICANN staff should map the timeline for the SEP to the overall new gTLD timeline.

o   *Each support application should be evaluated by a Support Application Review Panel (SARP). The SARP should be composed of volunteers from the ICANN community and outside experts, all with knowledge of the existing new gTLD processes, potential gaming patterns and the general needs and capabilities of Support Candidates from developing economies.*

- Where is the funding coming from to operate and manage the SEP reviews? Even with volunteers there will be significant expenses associated with managing this process.
- Is it expected that this funding will come from the applicant support fund?

- *When the SARP rejects a Support Candidate, the SARP should explain its reasons. The Support Candidate may then work to improve its application and reapply for support or may apply for a gTLD without support.*
  - As stated above, the RySG requests clarification about timelines and deadlines associated with application and re-application following a rejection.
  - Is it correct to assume that reapplications would not cause any delays in the overall new gTLD evaluation process?

- The RySG believes that the Support Applicant Review Panel (SARP) must be equipped with the expertise and capability to evaluate IDN applications, and any applications for IDN gTLD strings should be coordinated with the ongoing work on IDN variants.
  - Further, ICANN Staff should take into consideration the ongoing IDN issues in the JIG and IDN-VIP groups. The applicant support program will have to conform to any IDN related policy, guideline, language tables, and technical standard approved or adopted by ICANN.

- Previously ICANN staff worked with the community to develop Expression of Interest (EoI) / Pre-Registration Model in 2009 (http://www.icann.org/en/announcements/announcement-2-18dec09-en.htm) and the Board has decided to focus on the New gTLD Application Program (http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#4). To some extent, the proposed Support Evaluation Process (SEP) creates an EoI-like program. Therefore, the RySG would like to make sure that the ICANN Board and Staff have sufficient time and resources to design the implementation plan and to execute it without shifting its focus away from launching the new gTLD program as determined.

- **Scaling the Developing Economies Support Program (DESP)**

  - The RySG has a general concern about ICANN's ability to scale the Support Program based on the projections and assumptions used by the JAS WG in Paragraphs 39-41 of the Final Report (pages 6-7).
    - If we use the oft-cited number of 500 estimated new gTLD applications, 18% of 500 is 90 possible eligible applications.
    - If DESP supported applicants pay only $47,000 each as application fees, that means that $138,000 is required to subsidize each of 90 applications; to do this for all 90 applications, $12,420,000 will be required to fund just the application fee reduction, over six times what is currently set aside as seed funds by ICANN. Moreover, this does not include all the other support areas recommended by the WG.

- We believe the number of total application is very likely to be significantly higher than 500. Therefore, by using the same assumptions, the current fund of $2.0 million is far from sufficient to cover the possible expense of the program.
- We appreciate that these assumptions and projections are estimates only, but the RySG is concerned that the ability to scale the program is largely dependent on (a) securing contributions from donors and (b) ensuring the re-capitalization of the fund by successful supported applicants.

- **Miscellaneous Comments and Questions**

  o The Final Report discusses panels with volunteers and experts. Where does the funding come from for paying for experts?

  o There needs to be a process and procedures to prevent gaming. We appreciate the fact the WG raised concerns about gaming, and look forward to the development of a process to manage this risk.

  o Could an applicant get support for more than one application, specifically in the case of IDN variants?

Summary

The Registries Stakeholder Group supports the work of the JAS WG and we are available to further discuss any of these questions and comments. We are fully supportive of the goals outlined in the JAS WG Final Report, and hope this feedback will help to identify areas where the ICANN staff implementation plan can build on the good work in the Final Report by providing further explanation and detail and make the program a success.

RySG Level of Support

1. **Level of Support of Active Members**: [Majority]

   1.1. # of Members in Favor: 9

   1.2. # of Members Opposed: 0

   1.3. # of Members that Abstained: 0

   1.4. # of Members that did not vote: 5

2. **Minority Position**(s): N/A

General RySG Information

- Total # of eligible RySG Members[1]: 15

- Total # of RySG Members: 14

- Total # of Active RySG Members[2]: 14

- Minimum requirement for supermajority of Active Members: 10

- Minimum requirement for majority of Active Members: 8

- # of Members that participated in this process: 9

- Names of Members that participated in this process: 9

   1. Afilias (.info & .mobi)
   2. DotAsia Organisation (.asia)
   3. DotCooperation (.coop)
   4. Employ Media (.jobs)
   5. Museum Domain Management Association – MuseDoma (.museum)
   6. NeuStar (.biz)
   7. Public Interest Registry - PIR (.org)
   8. Telnic (.tel)
   9. VeriSign (.com, .name, & .net)

- Names & email addresses for points of contact
   o Chair: David Maher, dmaher@pir.org
   o Vice Chair: Keith Drazek, kdrazek@verisign.com
   o Secretariat: Cherie Stubbs, Cherstubbs@aol.com
   o RySG representative for this statement: Keith Drazek, kdrazek@verisign.com

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[1] All top-level domain sponsors or registry operators that have agreements with ICANN to provide Registry Services in support of one or more gTLDs are eligible for membership upon the "effective date" set forth in the operator's or sponsor's agreement (RySG Articles of Operation, Article III, Membership, ¶ 1). The RySG Articles of Operation can be found at <http://gnso.icann.org/files/gnso/en/improvements/registries-sg-proposed-charter-30jul09-en.pdf>.

[2] Per the RySG Articles of Operation, Article III, Membership, ¶ 6: Members shall be classified as "Active" or "Inactive". A member shall be classified as "Active" unless it is classified as "Inactive" pursuant to the provisions of this paragraph. Members become Inactive by failing to participate in a RySG meeting or voting process for a total of three consecutive meetings or voting processes or both. An Inactive member shall have all rights and duties of membership other than being counted as present or absent in the determination of a quorum. An Inactive member may resume Active status at any time by participating in a RySG meeting or by voting.