



20 Nov 2009

Draft Applicant Guidebook, Version 3

Please accept the following comments in response to the publication of version 3 of the New gTLD Draft Applicant Guidebook.¹ Go Daddy reserves the right to future comments on this issue, and our positions include, but are not necessarily limited to those noted herein.

Overview

GoDaddy.com sincerely appreciates the efforts of ICANN Staff and those within the community to improve the Guidebook, and to continue moving this process forward. For the most part, we have no strong positions on many of the changes since the publication of Version 2. There are, however, a few specific areas which raise additional questions, or present new concerns. These are outlined below.

Question: Resolving the Separation Issue

While Go Daddy has not taken any public position, the topic of Registry / Registrar Vertical Separation has generated significant interest and discussion within the community, including a novel debate-format event at the general meeting in Seoul. While we commend both ICANN staff and the passionate members of the community who have weighed in on this issue, we recognize that the progress of New gTLDs is dependent upon an ultimate decision from ICANN Board and Staff.

What is the anticipated procedure to (a) collect further data and/or conduct additional economic studies on this topic, and (b) synthesize community input and concerns in to an implementable policy? Is there consensus desire on the part of the community for a final decision on this matter, recognizing that at least some stakeholder groups will be unsatisfied regardless of the outcome? And, if the will to do this is lacking within the community, must the New gTLD expansion timeline continue to remain dependent upon the resolution of this issue? We look forward to future guidance from ICANN on how it intends to proceed in this area.

Concern: Restrictions on strings that are also ISO 3166-alpha-3 Codes

We note that Module 2, Section 2.1.1.4.1(1i) continues to include strings that collide with ISO 3166-alpha-3 codes as "country or territory names," and as such require a statement of support or non-objection from the appropriate public authorities. As mentioned in our comments to the Draft Applicant Guidebook v2: Analysis and Excerpts², we find this restriction to be problematic. We reiterate our earlier comments below:

GoDaddy.com opposes the inclusion of ISO 3166-1 alpha-3 codes in the definition of geographical names for two primary reasons. First, the alpha-3 codes are not as widely used or recognized as country or territorial abbreviations, as compared to the related alpha-2 codes. Most international users, and even many residents of a given country or territory, often do not associate the alpha-3 code with that country.

Furthermore, reserving alpha-3 codes as geographic names will potentially collide with many well-known (and often unrelated) companies, organizations, and entities that use the identical string as an acronym, abbreviation, or ticker symbol, and may wish to use them as gTLDs. Examples of this type of collision include:

<u>String</u>	<u>Country / Territory</u>	<u>Company / Organization</u>
MAC	Macao	Apple, Inc.
SUN	Former USSR	Sun Microsystems, Inc.
MDA	Republic of Moldova	Muscular Dystrophy Assoc. (and other registered marks)

And other strings contained in the alpha-3 list would be significantly more recognizable as potential top-level domains than the countries they represent, for example:

<u>String</u>	<u>Country / Territory</u>	<u>Company / Organization</u>
GEO	Georgia	Geographic Name
IND	India	Independent
LBR	Liberia	Library or Library Sciences

Concern: Call for ICANN to revise the “Unilateral Amendment Provision”

Module 5 of the Draft Applicant Guidebook v3 contains a proposed Registry Agreement for New gTLD registries³. In this document, Article 7 (“Amendments”) has garnered attention among contracted parties within the GNSO as the “Unilateral Amendment Provision.”

Go Daddy, along with other registrars and gTLD registries, strongly opposes the inclusion of such unbalanced language in the Draft New gTLD Registry Agreement. The adoption of this provision, as it is currently written, would establish a disturbing precedent, granting ICANN expansive powers to unilaterally modify agreements. The uncertainty presented by this scenario will have a negative impact the organizations applying for and operating New gTLDs, their investors and diversity of business models, and on the domain name community as a whole. And while Go Daddy and other registrars are not currently bound by this document, we are understandably concerned that this provision (or equivalent language) will be proposed inclusions in future versions of the Registrar Accreditation Agreement (RAA), and other contracts.

We call on ICANN Staff to work with existing gTLD Registries and Registrars to modify this provision in a manner that is acceptable to all contracted parties, existing and expectant.

Observation: Commend Staff on the Modifications to Module 4 (Community Priority)

Finally, Go Daddy would like to specifically commend the ICANN Staff for their modifications and refinement of the Community Priority scoring process. We acknowledge that this module addresses a potential boundary condition between true community-based applications and potential applicants seeking to game the priority system. Further, we are pleased to see an explanation of the intentions of this module so prominently described within the Draft Applicant Guidebook v3, in Module 4, Section 4.2.3:⁴

The scoring process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). This calls for a holistic approach, taking multiple criteria into account, as reflected in the process.

It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application, as embodied in the criteria below.

Conclusions

Aside from these questions and concerns, we are pleased with the progress represented by this version of the Draft Applicant Guidebook, and look forward to our continued participation in the New gTLD process.

Sincerely,
GoDaddy.com, Inc.

A handwritten signature in black ink, appearing to read "Tim Ruiz".

Tim Ruiz
Vice President
Corporate Development and Policy
GoDaddy.com, Inc.

References:

1. <http://www.icann.org/en/topics/new-gtlds/comments-3-en.htm>
2. <http://forum.icann.org/lists/e-gtld-evaluation/msg00012.html>
3. <http://www.icann.org/en/topics/new-gtlds/draft-agreement-specs-clean-04oct09-en.pdf>
4. <http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-04oct09-en.pdf>