

Business & Commercial Users' Constituency (BC)

Position/Comments on New gTLD Draft Applicant Guidebook v.4

Market Differentiation / Translations – IDNs / Community-based Evaluation Scoring

Note (26-July-2010): In accordance with our Charter, the Business Constituency (BC) conducted a poll of its members on this position statement. 18 BC members voted to support this comment, 4 members voted "Do not Support," and there was 1 abstention.

While this position was approved by a clear majority of those voting, the number of voters was 2 short of the required quorum of 26. Because this BC poll did not reach the required quorum, the BC Executive Committee followed its Charter in determining to submit this position statement as a minority position.

The Commercial and Business Users Constituency (BC) welcomes the opportunity to comment on version 4 of the Draft Applicant Guidebook, and commends ICANN Staff and the broader community for the progress being made towards an orderly introduction of new gTLDs. However, the BC is also disappointed that many of the business community's prior concerns have not been addressed in Draft Applicant Guidebook v4. For this reason we have attached our DAG v3 comments to these BC DAGv4 comments, as an addendum.

The BC has historically has been concerned that ICANN is embarking on a process of rolling out new gTLDs without adequate consideration for managing the process in a systematic manner. The BC has said that the name space expansion should create added-value; added-value encourages user demand. In this way, expansion will enhance choice, competition and be in the public interest. In a global market economy added-value means differentiation and a practical way to achieve this is if all new names meet five principles:

1	Differentiation	a gTLD must be clearly differentiated from other gTLDs
2	Certainty	a gTLD must give the user confidence that it stands for what it purports to stand for
3	Good faith	a gTLD must avoid increasing opportunities for bad faith entities who wish to defraud users
4	Competition	a gTLD must create added-value competition
5	Diversity	a gTLD must serve commercial or non-commercial users

1. Market Differentiation Between New gTLDs

Background

The BC wishes to see an orderly rollout of new gTLDs in-keeping with the requested implementation of the GNSO Final Report on the Introduction of New gTLDs, i.e. with market differentiation.

General Comment

ICANN's fundamental responsibilities include the coordination of unique indicators, with recognition that a single authoritative root is a 'shared space'. The Internet is a unique, collective resource for global use and must be managed according to its special nature.

Sharper criteria will allow ICANN to approve those TLDs that valuably expand the name space and strengthen diversity. To that end, we note the revision of Question 18 (DAGv3) from, "*Is the application for a community-based TLD?*" to (DAGv4) "*Mission/purpose of the TLD*".

The BC recommends that Question 18 be further honed:

Recommendation 1: The BC recommends the inclusion of two further questions:

(1) Which users/registrants/organization/group/community do you intend to serve?

(2) How does your TLD differentiate itself from others in the DNS?

While there are only 24 gTLDs today, over the course of ICANN's second decade of existence, and perhaps hundreds of TLDs added to the A root – without the protections the BC is recommending – new applicant registry operators will have no impediment to undermine successful gTLDs by selecting names that could overlap or undercut incumbent gTLDs. Should ICANN allow that to happen, it will be the antithesis of an orderly introduction of new TLDs into the DNS.

The BC seeks reduced user confusion and reduced duplicative, defensive registrations forced upon registrants. Therefore, the BC recommends that ICANN initiate the rollout of new gTLDs with safeguards for an orderly approach to market differentiation and, if or when necessary, make adjustments in future Applicant Guidebooks.

2. Translations of Strings from ASCII to Other Scripts or Languages

The Business Constituency continues to draw ICANN's attention to an omission of language regarding an appropriate way to address translations of strings from ASCII to other scripts or languages for community-based applications, along with a reduction in cost for such applications.

Background

The BC supports community-based gTLDs and IDNs as the optimal way to expand the name space. The Business Constituency has consistently stated this for 10-years. Allowing new gTLD community-based applicants the ability to serve their markets with whichever script a registrant would like to register its (community) domain name, adds value to the DNS. The *Economic Framework* notes that “*a potentially important source of differentiation is in the allowable characters in a gTLD...New gTLDs, however, will be able to use Internationalized Domain Names (IDNs) with characters from other alphabets. IDNs can already be used in some second-level domain names (depending on the rules of the registry), but extending the character set used in the top level domains should reduce confusion and difficulty in using the Internet*”. (Para. 30)

General Comment

A community-based application is inherently one community and a single community must have one TLD operator to manage its space. The final Applicant Guidebook should facilitate the ability for community-based gTLDs to offer their respective communities the option of registering the same string name in any language or script that the registrant may choose.

Once an applicant has met the technical, financial and operational criteria as detailed in the final Applicant Guidebook, and has been approved to have its string delegated, asking a community-based applicant to pay an additional \$185,000 for each translation of the approved string has no justification. Anyway one looks at it; it cannot be justified as cost recovery.

ICANN should encourage new community-based registry operators to run IDN gTLD strings, as that is one of the primary purposes for expansion of the gTLD space.

Recommendation 2

Each community-based applicant should be allowed to increase their utility within their specific community by having the option to apply for their respective IDN-equivalent TLDs for a nominal additional fee (per IDN or translated equivalent).

3. Revised Community Priority Evaluation Scoring

Background

ICANN's *Expressions of Interest* documentation to recruit evaluators clearly states that the comparative evaluation section will require a high degree of subjectivity, however

ICANN's current scoring of 14 of 16 points does not allow for subjectivity failure on the part of the reviewer.

While ICANN had heard the community's wishes in the many public comments in DAGv1 and DAGv2, and had adjusted the scoring down to 13 of 16 points, staff has subsequently returned the scoring to 14 of 16.

General Comment

The BC believes that ICANN must lower the threshold for community-based applicants in order to truly give priority benefit to community-based applicants. The narrow parameters currently in place will undoubtedly lead to a significant number of unfair and unnecessary auctions. While ICANN has stated that auctions are the solution of last resort, in making the window to prove a reasonable demonstration of nexus to community so narrow, ICANN makes it exceedingly difficult for true community-based applications to succeed.

While the BC has encouraged ICANN to publish its testing methods and results for community review, no information in this regard has been forthcoming. When questioned again about the process staff had used for testing the community priority evaluation process at the Brussels ICANN meeting (during the GNSO New gTLD Briefing) Kurt Pritz explained that their research was in fact *"a few of us in a conference room sitting around the table running tests in a collegial manner, so we cannot reproduce the research"*. On the face of this admission, the BC must insist that the scoring be reset to a more fair and reasonable level, i.e., 13 of 16 points.

Unless and until all subjectivity has been removed from the process, ICANN has a duty to provide a fair and equitable process. Should the first round of applications prove otherwise, 13 of 16 points meets that mandate.

Recommendation 3

The BC recommends that community priority evaluation scoring be set at 13 of 16 points to allow one point for evaluator (subjective/human) error.

Closing Remarks

The BC fully supports the concluding statement in the *Economic Framework*, namely, *"We recommend that ICANN consider the potential for consumer confusion in deciding how quickly to proceed with the introduction of gTLDs, possibly incorporating some methodology to measure consumer confusion as new gTLDs are rolled out over time"*.

Until we have achieved a rollout of a substantial number of domains there will be no evidence to study regarding competition in the domain space. Therefore the BC

recommends that ICANN continue its practice of introducing new gTLDs and IDNs in discrete, limited rounds.