
Preliminary comments on ICANN's plan to take expressions of interest for new TLDs

Overview

Minds + Machines is strongly in favor of ICANN's proposed "Expressions of Interest" (EOI) plan for new generic top-level domains (gTLDs). We believe that broad strokes of the plan are well thought through and will provide a fair platform for acquiring new data on the number and type of top level domain applications. The proposed submission fee, \$55,000, is a fair compromise between making the EOIs affordable and preventing "slot reservation" gaming by deep-pocketed applicants. The public disclosure of information submitted with EOIs is also the correct choice. Finally, a comprehensive communication outreach must be taken to make sure the EOI process is broadly known.

Benefits of the Plan

Minds + Machines would like to call attention to the many benefits of the EOI process, which are being overlooked by opponents of top-level domains, or those in favor but who have identified concerns about the EOI process.

The first, overwhelming benefit of the EOIs is that they will provide concrete data on the number and type of new TLD applications, which is not obtainable by other means. The mandatory, fee-based nature of the plan put forth by ICANN staff is essential for getting reliable information. If the EOIs are not mandatory, many parties will choose not to express their interest, in order to gain advantage over those who do. Similarly, the system will be gamed if the EOIs are free, or cost a nominal amount: ICANN could expect tens of thousands of EOIs, with false or misleading information.

Knowing, with confidence, the upper bound of the number of gTLD applications will provide clear, direct benefit with regard to the risk of root scaling. Depending on the results, ICANN may decide, for instance, to direct additional budget to improving the scalability of the root servers. Root scalability has been flagged by some as an issue of paramount importance for security and stability: this alone justifies the quick introduction of mandatory EOIs with significant fees.

Publication of the data received from EOIs has further benefits, including providing advanced warning of malicious behavior by bad actors. Certain top-level domains, such as “.bank” would pose significant risk if controlled by inappropriate parties. Bad actors hoping to infringe on intellectual property could also be identified prior to application. Although ICANN staff wisely notes that EOI process does not itself contain a contention mechanism, publication of all strings, and the identity of the applying parties, will alert people to potential harm and give them time to prepare a response.

Finally, EOIs provide a major benefit to potential gTLD applicants, who have waited now for 18 months since the new TLD round was announced, and have built business models that rely on ICANN’s previously announced timetables. The delays in the gTLD process are a significant drain on some of these participants, to the point where ICANN risks losing the very applicants that it seeks to encourage. A well defined EOI timeline will put the process back on track.

Communication Period

Minds + Machines strongly agrees with the report’s recommendation that a significant communication effort needs to be undertaken to inform all possible participants on the new EOI process. While we doubt that many people potentially interested in new TLDs have not heard of ICANN at this point, it is important that this be not perceived as an “insider’s game.” We therefore support moving the communications period forward. Once the EOIs have been widely announced, no further mass outreach will be necessary, as all potential applicants in the first round will be, by design, EOI applicants as well. Starting the communications period sooner rather than later will also allow ICANN to extend the communications period without introducing further significant delay to the new gTLD process.

We also agree that prior to accepting EOI funds, the two key issues of 2-character IDNs and vertical separation between registries and registrars should be resolved. However, this does NOT mean that the communications process should not be started if and when the board approves the EOI plan.

Specifically, registrars who are uncertain as to whether they can or should apply for EOIs (due to the vertical separation issue) are in fact “ICANN Insiders” and require no “communicating.” As long as the vertical separation issue is

decided before the EOI window is closed, these parties will have ample time to decide.

With regard to real outsiders, the general parameters of the EOI process are much simpler and easier to communicate than the full scope of the application process, as originally defined by ICANN. If four months was originally allocated to that process, this should be more than enough to communicate the comparatively simple idea of an EOI.

Fees

The \$55,000 submission fee is a good compromise choice. While a higher fee might be argued, in order to avoid frivolous EOIs, in our view the fee cannot be much lower without inviting speculative EOI “slot reservations” and thereby weakening confidence in the data collected. Because the \$55,000 fee represents the non-refundable amount that would have been paid with the application, it represents no significant change from the previous fee structure.

We also strongly agree with the report’s dismissal of attempts to distinguish between different types of fees for different strings. Classifications of TLDs are complex and will require full procedures as defined in the Draft Applicant Guidebook.

We are discouraged to note that certain opponents of new gTLDs are attacking the fee as being too high for emerging markets or certain disadvantaged communities. As they know, but do not acknowledge, the true costs for applying for a TLD are on the order of \$500,000, once registry services are taken into account, and the EOI submission fee is one of the lesser costs that a prospective registry will have to bear. Those who really do have disadvantaged community interests at heart should be appealing to ICANN for some sort of rebate or fee forgiveness on a case-by-case basis. Certainly the \$55,000 fee will not discourage the vast majority of bona fide applications.

Publication of EOI Information

Minds + Machines agrees that the data should be made public. This transparency is part of ICANN’s charter, and is the best way to stimulate debate and expose problems with the process, or with certain participants.

We also agree that the information collected should be minimal. Additional information, while perhaps of interest, will provide no empirical data to ICANN to deal with the issues of scaling and resources that are the main benefit to ICANN of the EOI process.

Preliminary Conclusions

Minds + Machines will comment further in this forum, but at this time we would like to applaud ICANN for moving quickly with the EOI initiative and for being open to a community-sponsored idea to improve the new gTLD process. We look forward to providing further comment and analysis over the coming weeks.

Sincerely,

A handwritten signature in black ink that reads "Antony Van Couvering". The signature is written in a cursive style with a large, prominent 'V' and 'C'.

Antony Van Couvering
CEO, Minds + Machines