



January 27, 2010

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Sent via electronic mail ([draft-eoi-model@icann.org](mailto:draft-eoi-model@icann.org))

Dear ICANN:

Thank you for the opportunity to provide comments to the Internet Corporation for Assigned Names and Numbers ("ICANN") on the *New gTLD Program: Aspects of an Expressions of Interest ("EOI") Pre-Registration Model* proposal. I am the Chief Legal Officer of the Association of American Medical Colleges (AAMC), a non-profit organization.

The AAMC represents all 131 accredited U.S. and 17 accredited Canadian medical schools; approximately 400 major teaching hospitals and health systems, including 68 Department of Veterans Affairs medical centers; and nearly 90 academic and scientific societies. Through these institutions and organizations, the AAMC represents 125,000 faculty members, 75,000 medical students, and 106,000 resident physicians. Through its many programs and services, the AAMC strengthens the world's most advanced medical care by supporting the entire spectrum of education, research, and patient care activities conducted by our member institutions. The AAMC and our members are dedicated to the communities we serve and steadfast in our desire to earn and keep the public's trust for the role we play in improving the nation's health.

The AAMC owns and maintains 30 registered word marks representing our programs and services. Our member organizations represent many hundreds of additional registered word marks. We, and our members, actively protect these marks as they convey our good names and reputations. The proposed EOI pre-registration model would significantly inhibit our ability to effectively protect our brands, and most importantly our reputations.

The proposed pre-registration model negatively impacts the AAMC and its member organizations in two ways that would not necessarily impact a for-profit entity. Firstly, the non-refundable EOI fee of \$55,000.00. Using the 30 AAMC brands as an example, the cost of participating in the pre-registration would be a staggering \$1,650,000.00. Secondly, ICANN has yet to reach a decision as to whether or not organizations would be granted a gTLD for internal organizational purposes. As a non-profit organization our motivation behind securing a gTLD would be to further our mission, not to maximize profit and therefore it is unlikely that we would commercialize a gTLD. If ICANN decides that the new gTLDs cannot be used for internal organizational purposes the AAMC's gTLD applications would be automatically denied and our deposit of \$1,650,000.00 would be forfeited.

The proposed pre-registration process is slated to launch prior to the finalization of the Applicant Guidebook. Most importantly, it means that it would launch prior to final decisions regarding the dispute process. This leaves the AAMC and its members in the unenviable position of deciding whether or not to pre-register our important names and brands for defensive purposes only. The AAMC and its members have invested hundreds of years and millions of dollars in developing the stature and goodwill our names and brands convey today to the public. We do not want to see these names tarnished due to the

New gTLD Process nor do we wish to expend millions of additional dollars in a stop-gap measure that the EOI process represents.

The proposed pre-registration model also raises the issue, for the AAMC and our members, of pre-registering new gTLDs for defensive purposes only. Currently, the proposed EOI process is slated to launch prior to the finalization of the Applicant Guidebook and before the final decisions are reached regarding the dispute process. This means the best method of defense for us and our members against cybersquatters would be to pre-register our important names and brands through the EOI process.

For these reasons, the AAMC strongly recommends ICANN to reject the EOI pre-registration proposal as it is currently structured. In addition to the above, the AAMC provides the following comments to the seven points identified in the executive summary of the proposed EOI pre-registration model:

- Responses to the request for EOI are mandatory for eligibility to submit a gTLD application in the first round. Subsequent application rounds are open to any eligible applicant.

The AAMC understands ICANN's desire to obtain reliable data for use in connection with issues such as root scaling and operational readiness. The idea of a mandatory EOI for eligibility in the first round application, however is not the only method such data could be collected. We suggest that a robust survey taken after the communications campaign would achieve a similar result without committing ICANN and potential applicants to unreasonable timelines and expense.

- A deposit of US\$55,000 is required for the EOI, as a credit against the evaluation fee.

The analysis provided in the proposal with respect the EOI deposit fee demonstrates that the fee is well-intentioned. The AAMC believes that a robust survey taken after the communications campaign would greatly reduce ICANN's need for an EOI and negate the need for a fee. The first round application cycle could then proceed then as planned in the current Draft Application Guidebook.

In the event ICANN decides to proceed with the EOI process, we encourage ICANN to waive the deposit fee for proven non-profit applications. Fees for proven non-profit applications would then become due at time of the official application submission.

- The deposit is refundable if the New gTLD Program does not launch within a specific time period.

The AAMC strongly cautions ICANN against setting hard deadlines as to when the New gTLD Program will launch. ICANN has a number of issues to resolve prior to a launch and it could prove detrimental to the overall success of the launch (as well as this unprecedented expansion of the Internet) if it does not have the time necessary for a thoughtful resolution to those issues.

After the meeting in Seoul, South Korea at the end of October 2009, ICANN made the following statement: "ICANN staff revised the deadline to the opening application date for new gTLDs. Instead of giving a date, or quarter, the launch date will be dependent on community efforts to find solutions to the overarching issues."

This EOI pre-registration model and its associated time period appears to negate ICANN's commitment to finding successful solutions to the overarching issues of the New gTLD Program. Resolving the overarching issues associated with the New gTLD Program should be ICANN's primary concern. Providing sufficient time to address such issues may also increase the confidence of perspective applicants which may result in more first round applications than currently anticipated EOI application levels.

- Participants are notified that there will be subsequent changes to the Applicant Guidebook, and that there are limited terms for refund based on such changes. It is the intention to conclude many outstanding issues (for example, discussions of issues concerning vertical integration and the IDN-3 character issues) prior to initiation of the EOI process, through the publication of draft version 4 of the guidebook.

In the event ICANN elects to move forward with the EOI process, the AAMC strongly encourages that the EOI process not begin until after the final Applicant Guidebook is published. This would offer the greatest certainty to participants as well as eliminate the potential litigation risk for ICANN resulting from applicants demanding a refund due to changes in the Applicant Guidebook.

The AAMC and its members are most concerned that the launch of the EOI process, as proposed, would put our important names and brands at risk. The dispute process section of the Applicant Guidebook must be resolved prior to us being able to make an informed decision regarding the application of a new gTLD.

- A fully executed communications campaign, intended to intensify global awareness of the program, will precede the opening of the EOI process.

A significant communications campaign regarding the launch of the New gTLD Program would be of great benefit to the global awareness of this expansion of the Internet.

- A specific set of information concerning the participating entity and the intended string is collected from EOI participants.

In the event ICANN proceeds with the EOI process, we encourage that participants be asked to answer questions 1-14 in the Applicant Guidebook: Evaluation Questions and Criteria.

- The participant and string information will be made public.

The AAMC strongly recommends that the participant and string information be made public for any and all new gTLD applications as soon as the application is formally received by ICANN.

Additionally, AAMC encourages ICANN to postpone any and all new gTLD applications until after the successful launch of several new internationalized domain names. This would allow ICANN to incorporate the lessons learned from that endeavour into the New gTLD Program for a smoother launch and continued operation.

The AAMC respects ICANN's continued commitment to keeping the Internet secure, stable and interoperable as well as its continuing evolution. However, the AAMC believes that the proposed EOI process is counterproductive to that commitment and that it should be rejected by ICANN. ICANN should focus its resources on resolving the contentious points in the Applicant Guidebook and the overarching issues associated with the New gTLD Program and not proceed with an *EOI pre-registration*.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph A. Keyes". The signature is fluid and cursive, with the first name "Joseph" being more prominent than the last name "Keyes".

Joseph A. Keyes  
Chief Legal Officer