



January 27, 2010

To: ICANN (draft-eoi-model@icann.org)
From: National Cable & Telecommunications Association
Re: Expression of Interest/Pre-Registration of New gTLDs Proposal

Dear Mr. Beckstrom, Mr. Dengate-Thrush and the ICANN Board of Directors:

The National Cable & Telecommunications Association (“NCTA”) appreciates the opportunity to submit the following comments to ICANN on its [draft model for soliciting Expressions of Interest \(“EOIs”\) for new generic top-level domain names](#).

I Introductory Statement

NCTA is the principal trade association representing the cable television industry in the United States. Its members include cable operators serving more than 90% of the nation’s cable television subscribers, more than 200 cable programming networks, and suppliers of equipment and providers of services to the cable industry.

NCTA’s program network members have invested literally billions of dollars to establish and promote some of the best-known and most trusted brands nationally and internationally in cable programming and broadband content. Moreover, the cable operator members of NCTA are the nation’s largest providers of high-speed Internet access. From 1996 to 2008, the cable industry invested over \$146 billion (and almost \$15 billion in 2008 alone) to build out a two-way interactive network with fiber optic technology. This investment in broadband networks by the cable industry has, in turn, enabled members of NCTA to provide state-of-the-art digital telephone service (Voice over Internet Protocol or “VoIP”) to millions of American consumers.

II. Summary of EOI/Pre-Registration Proposals

ICANN has asked for comments on a draft model for Expressions of Interest in applying for a new gTLD. The model requires those who wish to express their interest in a new gTLD to provide certain basic data, including the string in which they have an interest. The Board has stated that such a program could give both ICANN and potential applicants important information about the level of interest in the program and likely strings for which applications

will be submitted. ICANN has indicated that it needs this information to ensure, among other things, that it can support the actual demand for new gTLDs without risking the stability of the DNS.

Under the proposed EOI model, an Expression of Interest must be accompanied by a deposit of \$55,000 (US) as a credit against the evaluation fee (currently \$185,000 (US)). This deposit is nonrefundable unless the gTLD program does not launch within a certain time period (eighteen months). Thus, the EOI program would also operate as a pre-registration program. Significantly, under the proposed EOI/pre-registration model, potential applicants for new gTLDs who wish to be in the first round of applicants must submit an Expression of Interest. Those who do not submit the EOI and required deposit will only be able to apply for a new gTLD after the first round is completed.

III. It Is Premature to Require Pre-Registration as a Condition for Being among the First Group of Applicants

Particularly coupled with the extremely limited circumstances under which the not insubstantial required fee can be refunded, the pairing of making an expression of interest with a pre-registration application seems manifestly unreasonable. All the goals of an EIO could be accomplished without pre-registration and certainly without pre-registration that precludes an opportunity to apply for a new gTLD in the first round of applications. Indeed, there are alternatives to the EOI model entirely.

Many details about the proposed gTLD program remain open. The effect of the requirement for a non-refundable deposit on an application is that the participants in this model will be making a commitment to and investment in a major undertaking without knowing its details. Moreover, any potential applicants that wish to know the details of the new gTLD program before making a commitment will have to suffer the consequence of being precluded from the first round of applicants. There can be no reasonable basis for compelling potential *bona fide* applicants to make such a choice now.

In addition, EOIs may be due as much as eighteen months before the first round of gTLD applications is accepted. Accordingly, businesses and organizations that do not exist today will find themselves barred from any opportunity whatsoever to participate in the first round of applications.

These considerations militate against the current proposal to allow EOIs coupled with a requirement for payment of a non-refundable deposit as a condition to being among the first permitted to submit an application.

IV. Conclusion

NCTA and its members appreciate the opportunity to provide their comments to ICANN on the proposal for soliciting Expressions of Interest. We request that our concerns, as expressed above, be taken in consideration in determining whether to proceed with the Expression of

Interest / Pre-Registration proposal at all and, if so, when and how it will be implemented.

Respectfully submitted,

/s/ Jill Lockett

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