



Comments of Com Laude on the EOI

Com Laude is an ICANN accredited registrar that works solely with intellectual property owners.

1. How do we ensure that participation in the EOI accurately represents the level of interest?

Abandon the term “Expression of Interest” and call it “Stage One of the Application Process”: this conveys the appropriate sense of urgency to those still considering an application. Clear communication is vital at this stage of the process.

Consider once again the value of streaming applications – for example Private Brand Applicants, City applicants, Geographical Region applicants, Generic applicants etc. This will promote interest and encourage participation.

Please do not allow anyone to say that submissions under the EOI demonstrates the economic case for new gTLDs.

2. Should only those who participate in the EOI be eligible to participate in the first round when the program officially launches?

Yes – as long as the EOI is called Stage One and if it is not launched until the outstanding issues around such crucial policy matters as rights protection, the objection process etc have been resolved.

3. Should a deposit be required for participation in the EOI?

Yes a deposit should be required: we suggest this should be lower than \$55,000 for some streams of applicants – for example trade mark owners applying for an exact match of a brand in which they have a trade mark that is at least three years old - and higher for others such as entrepreneurs applying for a generic/dictionary term.

If the EOI is launched at short notice, it is possible that many trade mark owners will miss the deadline because of difficulties in finding a capital sum as high as \$55,000.

4. If there is a fee, under what circumstances should there be refund?

Any EOI applicant should be allowed to withdraw their application without financial penalty less an administration fee of \$5,000 should they decide it is in their best interests to discontinue an application before Opening of Applications. In addition, the entire fee should

be refundable if the Opening of Applications (Stage Two) does not take place within six months of the EOI/Stage One.

5. What information should be collected from EOI participants?

- (1) The character string applied for
- (2) The name of the applicant organisation, any key funders and the key staff who will be running the registry
- (3) Contact information including where the registry will be based
- (4) Type of application (IDN, community-based, Private Brand registry.)
- (5) A declaration that to the best of the applicant's knowledge, the character string applied for and the way it is intended to be used will not infringe any existing IPR
- (6) Community based applications should supply the name of the government authority that is endorsing them/provide the Letter of Support

6. Must the responder commit to go live within a certain time of delegation?

It is important that the new gTLD programme has a forward momentum. Round Two applicants could draw encouragement from examples of good practice in Round One that move from application to Go-Live within a reasonable time frame. Equally it is important that back-end registry system operators do not over-extend themselves, commit to working with too many applicants and then fail to get them up and running. Therefore asking the responder to commit to going live within 12 - 18 months of delegation seems reasonable.

7. What are the implications for potential changes to the Applicant Guidebook after the EOI participation period closes?

We would like the EOI to open only after all significant remaining issues have been resolved including publication of DAG4 and the Final Version of the Registry Operators Agreement. If ICANN is to maximise participation in the EOI from all stakeholders rather than "the family of ICANN" it must provide certainty that the only changes to the process subsequent to the EOI will be minor/procedural rather than substantive/material. The possibility of material changes being introduced between the EOI closing and application opening will impact negatively on the number of applications from brand owners. Ideally ICANN will limit the time gap between the EOI and the opening of full applications to four months, which should allow ICANN and its evaluators sufficient time to ramp up.

8. What are the potential risks associated with the EOI?

The greatest risks are:

- The EOI is mis-understood by organisations that are not close to ICANN: as proposed, we believe the EOI is Stage One of the application process. Therefore calling it Stage One will maximise interest and the number of applications.
- The EOI is opened too soon before all remaining substantive issues are settled: this will result in a lower take-up from brand owners and ICANN outsiders. If the only First Round applicants are entrepreneurs and ICANN-insiders, the process cannot be called a success.

We thank ICANN for the opportunity to submit these comments.

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