

On behalf of Donuts Inc. (Donuts), we offer the following comments in response to ICANN's proposed Use of a Drawing for Prioritizing New gTLD Applications. We organize our comments in the order as in the ICANN proposal.

1. The Draw

We support the goals of the ICANN proposal, which achieves a fair, simple, and efficient way to order the applications. Under the terms of the Applicant Guidebook (AGB), it is clear that ICANN should treat all applications equally and equitably. We commend ICANN for reevaluating its earlier position and proposing a randomization system.

After months of waiting for a fair system that is simple to implement, we support moving forward with the ICANN draw proposal "as is" with no changes. Though we don't think the proposal is perfect for a number of reasons, we don't think any proposal exists that every applicant would think is fair. As such, the current proposal is a reasonable compromise and should be adopted without tinkering.

While we would prefer a 100% randomization process, we understand and can appreciate ICANN's desire to provide Internationalized Domain Names (IDNs) with priority in ordering based on other challenges that IDNs must overcome during the process. We would prefer to reduce the impact of such prioritization through a "round robin" draw and to treat all those in a contention set as a single draw number, but think opening the draw proposal to additional tweaks might cause further unwelcome delays. The benefits of such improvements may not be worth the delay. Moreover, we understand ICANN must balance preferences of all applicants, some of whom have been advocating for various "me first" systems that are neither fair nor justified under the AGB.

After weighing all of these issues, we support the ICANN proposal as a relatively fair compromise and recommend that it be implemented forthwith, before we all incur additional delays and the costs associated with those delays.

2. Initial Evaluation Results/Background Screenings

We continue to hold that Initial Evaluation (IE) results should be released as soon as possible and on a rolling basis. ICANN's proposal would release final IE results during a three-month period between late March and late June in accordance with an application's draw number.

We encourage ICANN to release IE results as soon as they are available. If applications with completed IEs pick an unfavorable number at the draw (e.g. 1900), ICANN should still release such IE results in the first wave.

There is no reason for ICANN to hold completed IE results until evaluation of other strings are completed, regardless of where they fall in the draw. (This is no different than ICANN not withholding completed IE results pending extended evaluations of strings with a better draw number.)

Additionally, as described in Section 2.1 of the AGB and demonstrated in the AGB Module 2 Flowchart, background screenings are to be completed prior to the full Initial Evaluation process. As such, those results should not be withheld pending the rest of the evaluations. Background screening results should be issued as soon as they are completed and well before March 2013.

These screenings are a discrete review and separate from other IE processes, and the community would benefit from sooner results. ICANN has possessed, since March 2012, all information necessary to conduct screenings—it need not take this long to produce their results.

3. Objection Period

ICANN proposes to extend the close of the Objection Period from January 12, 2013 to March 13, 2013. We understand this was an attempt for compromise, so long as the change does not result in a delay of the ultimate timeline.

We do request that the deadline to respond to objections not fall during the ICANN meeting in Beijing. Applicants will be traveling to and from and attending the meeting, making reply difficult. A better timeline would be an objection deadline before March 1, with all responses due prior to applicants travelling to Beijing.

Finally, as noted above, all background screening results must be published at least thirty days prior to the closing of the Objection Period. This would give potential objectors transparency into whether an application would be rejected based on such screenings and save the potential objectors the time and cost of preparing an objection. The same is not true for IE results, however, as if an applicant fails IE, the application will go to extended evaluation, and thus the objector does not have any more clarity than it would before IE results are announced.

4. Standard Agreements and Contract Signing

ICANN should work with applicants to “pre-negotiate” standard provisions that may be available to certain applicants and consider those as part of the standard agreements. For example, IDN strings may require certain provisions that do not currently appear in the form

agreement. The more ICANN can do to prepare these contracts in advance, the better.

As for contract signing, we object to an artificial contract execution rate limitation of 20 per week. Such a limitation would be highly inefficient and is absolutely unnecessary. Once the agreements are negotiated and finalized, they should be signed efficiently. Even if there is a delegation rate issue, there is no reason to add roadblocks earlier in the process when such roadblocks need not exist.

5. Pre-Delegation Testing and Delegation

There is absolutely no reason to limit pre-delegation testing slots to 20 per week. This is by far the most inefficient part of the ICANN timeline proposal. Testing should be done on an automated basis and as soon as possible. Considering the vast majority of applications are being supported by the same ten or so technical providers, it should not take over one year to test such infrastructure. It could be done in a matter of weeks.

The 1,000 per year string delegation limit should not impact the rate and method of pre-delegation testing. Pre-delegation testing can proceed faster than 20 strings per week since testing for multiple applications that have engaged one back end provider can be tested together in a “lumpy” manner. Thus applications with a Neustar back end can be tested together, applications with an Afiliast back end can be tested together and so on.

With regard to delegation, current activity to automate and streamline root entry systems suggests entry rates by NTIA/Verisign will exceed 20 per week (1,000 TLDs per year divided by approx. 50 weeks). Indeed, as ICANN announced, root zone management partners can accommodate at least 100 new gTLD delegations per week. ICANN, then, should plan to increase its processing rate for negotiation and testing in anticipation of the likelihood that NTIA/Verisign root entry will be substantially faster than 20 per week.