

New gTLD Draft Applicant Guidebook: Analysis of Public Comment

This document inventorises all comments entered on the first draft version of the Draft Applicant Guidebook. I have extracted the summary of key points on each part of the Guidebook. This looks to me a very appropriate basic document for our working group session. It is even bullet pointed, something we were considering.

Below the list of all extracted summary of key points.

II. GENERAL COMMUNICATIONS AND TIMELINE

Summary of Key Points

- There was strong commentary from a variety of sources concerned that the timeline for the launch is too aggressive considering there are overarching questions remaining.
- A third draft version of the Applicant Guidebook will be necessary to provide sufficient time to address a set of overarching concerns raised in the public commentary.
- Other program elements are being pursued so that when the remaining questions are resolved, a robust, effective, timely process will be in place ready to launch.
- A comprehensive communication plan is being implemented presently.

III. APPLICATION PROCESS

A. APPLICATION PROCESS: GENERAL REQUIREMENTS

Summary of Key Points

- The Guidebook will be updated to clearly indicate which parts of the application submissions will be held confidential. Essentially, answers to all financial questions and a portion of the security plan will not be published.
- The “stated purpose” of the TLD in the application will not be used directly in the evaluation but that information might be useful in resolving formal objections to applied-for strings.
- The documentation requirement for “good standing” will be made more flexible if possible to accommodate different cultures, regions, and business models.
- A limitation on communications between applicants and evaluators is intended to balance the need for the evaluators receiving complete information against the need for a finite, timely process.

B. APPLICATION PROCESS: LIMITED APPLICATION PERIOD

Summary of Key Points

- Limiting the application round is an effective way to reduce the risk of over-burdening the evaluation process but leads to issues of fairness and potential gaming.
- Therefore, it is not planned to limit applications in the first round.
- Application windows designed to reduce risk of over-burdening the evaluation process raise the same issues but evaluation windows could be used in the event that many times the anticipated number of applications are received.

IV. FINANCIAL CONSIDERATIONS

Summary of Key Points

- Significant, thoughtful comment was received regarding the Applicant Guidebook and accompanying explanatory memorandum on Financial Considerations: including proposals of alternative models.
- Annual registry fees are reduced to a \$25,000 base in the revised version of the Applicant Guidebook. The calculation of the variable fee component was simplified to 25 cents a

- registration.
- Recalculation of processing costs resulted in no change to the \$185,000 processing fee. However, a refund mechanism is clearly defined for applicants that voluntarily exit the process.
- Handling surplus funds, if they occur, is discussed.

V. DNS SECURITY AND STABILITY

Summary of Key Points

- Consideration of issues where the introduction of new TLDs might affect DNS stability and security should continue to be studied.
- This is especially true given the near coincident introduction of new gTLDs, IDNs, DNSSEC and IPv6.
- Strongly associated with these issues to be studied are security-oriented concerns that the introduction of new TLDs will lead to increased instances of malicious behavior.

VI. STRING REQUIREMENTS

A. STRING REQUIREMENTS: IDN AND TECHNICAL

Summary of Key Points

- The three-character requirement will be the subject of additional community discussion and consultation to determine if a consistent exception can be made for ideographic or other script sets.
- The new IDN specification is not sufficiently mature to adopt the suggestion made by the Unicode Technical Committee (UTC) but progress on the protocol will be monitored with an eye toward updating string requirements in the near term
- The Guidebook asks that applicants take reasonable steps to identify string compatibility issues, not guarantee that all applications are compatible with the applied-for string.

B. STRING REQUIREMENTS: RESERVED NAMES

Summary of Key Points

- For the next version of the Applicant Guidebook, no changes will be made to the Reserved Names list, but this position might change after additional consultation.
- Requests by certain rights holders that the reserved names list be augmented to include famous trademarks will also be discussed in additional consultations.

VII. GEOGRAPHICAL NAMES

Summary of Key Points

- The implementation model seeks to achieve the objective of the GNSO to protect against abuse of community labels, and anticipate criticism of governments and possible objections to geographic names,
- The applicant guidebook is amended to:
 - make it easier to identify the different elements of geographic names,
 - reflect that a country or territory name in any language, will require evidence of support,
 - augment the requirements of the letter of support.
- No additional protections for city and abbreviated names were added to the revised Guidebook as those terms are many in number and often have generic connotations.

VIII. APPLICANT EVALUATION

Summary of Key Points

- Several specific questions are answered on various aspects of the evaluation.
- The role of public comment in the process is discussed and there is updated information in the revised Guidebook describing this.

- ICANN continues independent evaluations of the scoring methodology. There are updates in the revised Guidebook to improve objectivity and repeatability; there will be more changes.

IX. TRADEMARK PROTECTION

Summary of Key Points

- Comments state that the introduction of new TLDs will increase burdens on rights holders by multiplying opportunities for malicious behavior at top and second levels of the DNS.
- ICANN will continue consultations over the next few months to promote a universal understanding of issues across the rights-holder community and derive potential solutions to possible deleterious effects of the introduction of new TLDs.

X. OBJECTION & DISPUTE RESOLUTION PROCESSES

Summary of Key Points

- Several specific questions regarding dispute resolution procedures are answered; new detailed procedures are introduced in the Draft Applicant Guidebook, version 2.
- Specific questions regarding aspects of community-based, legal rights and morality and public order objections are answered. Standards to be employed by morality and public order dispute resolution panels are introduced in the Draft Applicant Guidebook, version 2. There are other Guidebook clarifications.
- Dispute resolution fees models are discussed; the “loser pays” model remains as the preferred model.
- Whether there should be appeals and other post-decision activities are balanced. The current model of no appeals remains but post-delegation objections can be raised in certain areas, with mechanisms under construction, and the model of an Independent Objector is introduced.

XI. STRING CONTENTION

A. STRING CONTENTION: STRING SIMILARITY

Summary of Key Points

- The objection-based dispute resolution process tests for all types of string similarity that might result in user confusion, including visual, aural and meaning similarity. The revised version of the Applicant Guidebook will highlight this.
- The string similarity check in the Initial Evaluation will be done based on visual similarity in order to identify most cases of contention or user confusion early in the process.
- The role of the algorithm is primarily for filtering; it is intended to provide informational data to the panel of examiners and expedite their review.

B. STRING CONTENTION: COMMUNITY

Summary of Key Points

- Advance postings of proposed strings in order to identify possible string contention is a good idea but may lead to abuses.
- The distinction between open and community-based applications is intended to provide a preference for bona fide community-based applicants in cases of contention between identical (or very similar) TLD strings.
- Brand owners may apply as community-based applicants. Whether they are extended the preference depends on whether that application meets the comparative evaluation criteria.

C. STRING CONTENTION: COMPARATIVE EVALUATION

Summary of Key Points

- The comparative evaluation criteria are altered to provide increased granularity in the scoring and an altered threshold for meeting the criteria in the revised version of the Applicant Guidebook.
- The only preference extended to community-based applicants is in cases of string

contention. If the comparative evaluation criteria are not met, there is no other preference.

D. STRING CONTENTION: COMMUNITY RESOLUTION ASPECTS

Summary of Key Points

- In cases where multiple community-based applications meet comparative evaluation criteria, the other, non-community based applications that are in direct contention with the former will no longer be considered.
- In cases where multiple community-based applications address the same community and meet comparative evaluation criteria, if one applications demonstrates considerably more community support, it will prevail.
- In cases where multiple community-based applications meet comparative evaluation criteria, but neither has demonstrated significantly more support than the other or they represent different communities, and they cannot settle the contention amongst them, an auction will be held between these applications.

E. STRING CONTENTION: LAST RESORT CONTENTION RESOLUTION--AUCTIONS

Summary of Key Points

- The revised Guidebook proposes that if comparative evaluation, agreement between parties or other methods do not resolve contention among applicants, that auctions will be used as a last resort contention resolution method.
- Several other methods of contention resolution were considered. Auction is an objective, legal, timely way to resolve contention, while other candidates proved not to be.
- Bona fide community-based applicants meeting the criteria will not face non-community based applicants in auction. In certain cases, if after other additional methods fail, community-based applicants might face each other in auction.
- Proceeds from auctions will be returned to the community via a foundation that has a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community. One use of funds would be to sustain registry operations for a temporary period in the case of registry failure.

XII. REGISTRY AGREEMENT

Summary of Key Points

- ICANN received dozens of thoughtful and constructive comments on the draft proposed Registry Agreement.
- There have been significant revisions to the proposed Registry Agreement in response to public commentary and discussions:
 - ICANN has modified the proposed process and included limitations on implementing global amendments to the form of the Registry Agreement.
 - ICANN has included covenants requiring equitable treatment among registry operators and open and transparent actions by ICANN.
 - The recurring registry fees to ICANN have been reduced to US\$25,000 per year, plus a flat \$0.25 per transaction for registries with over 50,000 names.

XIII. REGISTRY/REGISTRAR SEPARATION

Summary of Key Points

- An independent report was commissioned to study registry-registrar separation requirements after considerable community inquiry about the issue.
- The report (by Charles River Associates) weighed the benefits and risks to lifting the restrictions, taking into account the current and proposed gTLD environment.
- The report proposed a limited lifting of the restrictions in a way that reduced risk so that the effects could be studied.
- Based on the report and a set of public consultations, a model for lifting the current restrictions in a limited way, is introduced in the revised Applicant Guidebook for discussion.