

4.2.15 Different TLD Types

- 4.2.15.1 Explanation of Subject

The 2012 round of the New gTLD Program was operationalized with the general intent to treat all applications equally, with the same process expected to govern the evaluation for all applicants. Consistent with this approach, only two application categories were identified in the AGB, described in detail in section 1.2.3.1 below:

*For purposes of this Applicant Guidebook, a **community-based gTLD** is a gTLD that is operated for the benefit of a clearly delineated community. Designation or non-designation of an application as community-based is entirely at the discretion of the applicant. Any applicant may designate its application as community-based; however, each applicant making this designation is asked to substantiate its status as representative of the community it names in the application by submission of written endorsements in support of the application. Additional information may be requested in the event of a community priority evaluation (refer to section 4.2 of Module 4). An applicant for a community-based gTLD is expected to:*

- 1. Demonstrate an ongoing relationship with a clearly delineated community.*
- 2. Have applied for a gTLD string strongly and specifically related to the community named in the application.*
- 3. Have proposed dedicated registration and use policies for registrants in its proposed gTLD, including appropriate security verification procedures, commensurate with the community-based purpose it has named.*
- 4. Have its application endorsed in writing by one or more established institutions representing the community it has named.*

*For purposes of differentiation, an application that has not been designated as community-based will be referred to hereinafter in this document as a **standard application**. A standard gTLD can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. A standard applicant may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions. Standard simply means here that the applicant has not designed the application as community-based.*

The 2007 Final Report provided guidance around community-based applications, but not in regards to any other categories of TLD types. During the deliberations of the GNSO and the wider community in creating the 2007 Final Report, the topic of TLD types was considered, but it was thought to be extremely difficult to predict appropriate categories and to design the corresponding requirements.

As noted above, the catch-all category of “standard application” was not intended to be restrictive and is simply an application that is not “community-based.”

The implementation of minimal application types carried over to other aspects of the program, where each application had essentially the same application submission process and evaluation paths (with the exception of Community Priority Evaluation for community-based applications in string contention sets). It should be noted that in March of 2014, after consulting with the GNSO Council, the NGPC approved Specification 13 to the Registry Agreement, which effectively approved the .Brand category of applications¹.

- *4.2.15.2 Questions and Concerns Related to Subject*

The New gTLD Program, utilized a mostly one size fits all application process, as there were originally only two categories of applications. There were concerns raised by DG Members that this one size fits all methodology hampered innovation and was inefficient, which was discussed above in sections 4.2.8 on Accreditation Programs and 4.2.9 on Systems. As noted above, a .Brand category was created in March of 2014, long after the New gTLD Program launched, providing some level of evidence that one size fits all may require some exceptions. However, the creation of Specification 13 required extensive community input, indicating as well that creating customized requirements for certain application types may remain difficult.

The topic of Application Types received comment from the DG, GDD Staff (via staff input to the DG²), and the ICANN Board (via a Board Resolution and Annex A related to a resolution on Planning for Future gTLD Application Rounds³). Some examples of categories that were proposed to be considered include closed generics, further refinements around .Brand, sensitive strings, and strings related to regulated markets. The input received from the ICANN Board was described as “special case considerations” but was essentially concerning the subject of application types being discussed in this section:

Existing policy advice is broadly applicable e.g., policy advice specified requirements to be applied to all applied-for strings. Other than the community considerations noted above, policy advice does not provide a basis for differing requirements for certain types of applications, TLD uses, or business models. Following the publication of the applications received during the application period, issues were raised to the NGPC concerning development of rules for special cases. Examples include:

¹ ICANN Board Resolution regarding Specification 13: <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-03-26-en>

² Ibid

³ Ibid

- a) *the discussion of “closed generic” applications. The NGPC requested guidance⁴ from the GNSO on this topic on 2 Feb 13, if it wished to provide such guidance; the GNSO provided a response⁵ 7 Mar 13.*
- b) *consideration of a “.brand” category and applicable requirements. The NGPC passed a resolution⁶ on 26 March 14 on this issue, also providing the GNSO Council an opportunity to advise on whether the proposed amendment was inconsistent with the letter and intent of GNSO Policy. The GNSO provided its response⁷ on 9 May 14.*
- c) *GAC advice⁸ also included recommendations relating to “categories” of strings (e.g., sensitive strings or strings relating to regulated markets) and requirements that should be applied to these strings.*

Additional policy work on identifying particular cases of strings, applications, or TLD registration models, and whether any such should be recognized as requiring particular treatment, could be undertaken.

The creation of categories of applications can have far-reaching impacts on the program, so differences in the application submission process, evaluation requirements, contractual requirements, fees, and other aspects of the program should be thoroughly considered. By introducing additional variability into the program, it could create fairness issues and incentive unintended behaviors, such as applicants picking the most advantageous path to approval. Subsequently, thought would need to be given in how restrictive these categories will be enforced after signing a Registry Agreement.

In relation to the possible topics of sensitive strings or strings related to regulated markets, which stem largely from the GAC’s Beijing Communiqué on Safeguards on New gTLDs, it may be particularly challenging for ICANN (and providers) to attempt to validate, for example, applicants’ compliance with a wide breadth of industry standards or professional licensing or requirements. Thought would need to be given to how strings related to certain highly regulated industries or markets could be validated and governed within the New gTLD Program.

There is experience from the 2012 round that will better inform the identification of categories of application types, though it may still be challenging to ensure the right application types are identified and defined. It should therefore be considered what recourse should be available

⁴ NGPC Correspondence to GNSO regarding closed generics: <https://features.icann.org/closed-generic-top-level-domains>

⁵ GNSO correspondence to NGPC regarding closed generics: <http://gns0.icann.org/en/correspondence/robinson-to-crocker-chalaby-07mar13-en.pdf>

⁶ ICANN Board resolution regarding Specification 13: <https://features.icann.org/approval-registry-agreement-specification-13-brand-category-applicants>

⁷ GNSO correspondence to NGPC regarding Specification 13” <http://gns0.icann.org/en/correspondence/robinson-to-chalaby-09may14-en.pdf>

⁸ GAC Beijing Communiqué: https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2

should a certain category be critically left absent when the next round (or other mechanism) of the New gTLD Program launches.

- *4.2.15.3 Relevant Guidance*

- GAC Beijing Communiqué - https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2
- GAC Advice: Category 1 Safeguards - <http://newgtlds.icann.org/en/applicants/gac-advice/cat1-safeguards>
- GAC Advice: Category 2 Safeguards - <https://newgtlds.icann.org/en/applicants/gac-advice/cat2-safeguards>
- GDD Input to the DG - <https://community.icann.org/download/attachments/49356545/Staff-input-to-DG-23jan15.pdf?version=1&modificationDate=1425335232000&api=v2>
- Annex A related to a resolution on Planning for Future gTLD Application Rounds - <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

- *4.2.15.4 Rationale for Policy Development*

Defining application categories was deemed to be challenging during the development of the 2007 Final Report and it will likely remain challenging if a potential PDP-WG on New gTLD Subsequent Procedures decides to undertake the task. Beyond simply identifying categories, the PDP-WG would need to consider the development of distinct and enforceable definitions, development of separate requirements and processes, validation and enforcement measures, and a process to switch categories post-delegation, among many other areas of work.

Given the likely complexity of establishing application categories, policy development is expected if this subject is undertaken by the PDP-WG.