Variable Fees

1.5.1 - Should the New gTLD application fee vary depending on the type of application? For instance, open versus closed registries, multiple identical applications or other factors? The 2012 round had "one fee fits all," and there seems to be support within the WG for continuing that approach provided that the variance between the different types of applications is not significantly different - do you agree? If not, how much of a variance would be required in order to change your support for a one fee for any type of application approach?

<u>John Poole, CIRA, Nominet, BC, Aflias, RySG generally support a model with a single fee.</u>

Sample excerpts:

"**We do not believe there need be variation in the "application" fee** since the costs associated with the application review should be the same regardless of application type. Variation in costing should occur at a performance level (i.e. quarterly transaction fees, both fixed and variable) and be modelled specifically based on domains under management." – CIRA

"No. **The application fee should not vary by type of application.** While ICANN should consider an applicant support program, it should not be determined based on type of application, but rather on the merits of the applicant seeking support." – RySG

" **"One fee fits all" is a reasonable standard**, else applicants will work to game the system to achieve best advantage. There may be cause to reduce the fees for eligible community applications, and the Applicant Support program addresses those potentially unable to pay for identifiable reasons." -- ALAC

<u>BRG, Nominet, and Valideus pointed out that there may be circumstances in which variable fees are appropriate to consider.</u>

Excerpts:

"The application fee should be the same for all applicants unless **there is a significant variance of cost to process different types of applicants**. This can only be determined if ICANN provides analysis of the costs per applicant (or average per type), including any fees set aside for potential legal fees. A variance of up to 10% ($18.5k) between costs of different types of applicant is tolerable but anything higher should trigger further discussion to explore tiered fees tied to applicant type. . ." -- BRG

"In general we would urge simplicity where possible, and a continuation of the flat fee approach used in round 1 does make sense. **In the event that closed .BRAND new gTLDs have a streamlined application route and simpler/ lower ongoing compliance requirements and obligations** it may be fair however that their fee is set at a lower value based on reasonable estimates of the actual costs to ICANN." – Nominet

"We support a primary approach of setting the application fee to "break even". And we do not view this approach as being in conflict with the application fee reflecting any material variance in the costs of different types of applications. We would support further analysis into this area, looking at, e.g., **does a Specification 13 TLD, intended for the use of a single registrant, carry the same risk and therefore require the same scope of application and corresponding evaluation as an open TLD**?" -- Valideus

<u>GAC and Demys supported a model with variable fees.</u>

". . .the following advice from the GAC Nairobi Communique remains relevant:

Finally, the GAC reiterates the importance of fully exploring the potential benefits of further categories (or track differentiation) that could simplify rather than add complexity to the management of the new TLD program and in that way help to accelerate the new gTLD program. In particular, the GAC believes that: *. . .iii. Instead of the currently proposed singlefee requirement****, a cost-based structure of fees appropriate to each category of TLD would a) prevent cross subsidisation and b) better reflect the project scale, logistical requirements and financial position of local community and developing country****"* -- GAC

"Yes, the **fee should depend on the expected workload to process that application**. Community evaluations or contention set resolutions require more resource from ICANN than a non-contested dot brand application. If our other suggestions in 2.3.1, 1.1.1, 4.3.2.4 are also considered, then a dot brand application would amount to a small fraction of work required to validate a comparable generic application. . ."-- Demys

1.5.2 - The WG believes costing information on the different types of applications should be attained and evaluated once the different types of applications are defined. What are the implications of having different costs by type of application and how could they impact future budgeting efforts? How could they impact competition and choice?

<u>Nominet, Afilias, RySG, ALAC do not generally support different costs for different types of applications (some exceptions noted in the excerpts).</u>

Sample excerpts:

"We do not agree that this is a fair characterization of the WG's belief. We **do not support different application fees** based on type of application regardless of how such types of applications are defined." -- RySG

"Other than the basic difference between new gTLDs which are closed and for the exclusive use of the applicant (e.g. the **.BRAND** scenario) and new gTLDs which are to be marketed on a retail basis and will therefore need a higher level of scrutiny and failsafe mechanisms such as escrow and EBERO, **we don't see any reason for differential costing**." -- Nominet

“. . . **We do not believe that there should be differential pricing**, except perhaps for **community applications** for which evaluation criteria already exists (and maybe worthy of revisiting).” -- ALAC

<u>Demys identified possible benefits of cost differentiation, while CIRA identified possible negative impacts.</u>

Excerpts:

“Formalizing this categorization would provide the much needed **clarity** that plagued the previous round. Additionally, beneficial effects would be gained, namely **reduced evaluation complexity, costs and time**.” – Demys

“Offering a varied costing model will **promote gaming** among applicants seeking to minimize initial costs. If a varied costing model were to be employed, ICANN would need to then **implement a compliance adherence process** that would ensure a registry maintained the operating model of their original application. This will incur **ongoing additional costs** at ICANN that could not possibly be recovered as part of an applicant fee.” -- CIRA

<u>BRG suggested that additional research should be conducted, particularly with respect to costing for dotBrands.</u>

Excerpt:

As per response to 1.5.1, **analysis of the costs is needed before developing any proposals for fee differentiation**. The fact that a substantial number of applicants are defined as **dotBrands under Specification 13**, it should be possible to extract the costing information for this model, rather than wait for other types to be defined. Fee differentiation would be a **fair approach where substantial variations between types is identified** but could encourage some applicants to apply for a type of registry that attracts the lowest fee only to change that model at a future date. However, as stated in 1.5.1, such changes should then incur fees to cover the difference and additional administrative fees to cover ICANN costs.” -- BRG

1.5.3 - Should the application fee be variable based on the volume of applications received from a single applicant? If so, how should the fee be adjusted and what are the potential impacts from doing so?

<u>CIRA, Nominet, BC, BRG, John Poole, Afilias, RySG, and ALAC opposed variable fees based on volume of applications from a single applicant.</u>

Sample excerpts:

“No, each application should stand alone both in the context of evaluation as well as costing. Otherwise, it could **encourage the use of single entities to ‘front’ for the individual applicants**. ICANN cannot prevent any change in ownership of gTLDs after the application has been approved.” – CIRA

“On balance, we would not favour discounts based on volume applications. **Each applied for string will still need to undergo the same initial evaluation procedures** and to the extent that there was a lot of duplication in the technical evaluation in round 1 for applicants with identical technical solutions, we would hope that a solution around pre-approval/ accreditation of RSPs would address this.” – Nominet

“We do not support a fee variable based on the volume of applications, as this would **disadvantage smaller businesses** seeking to compete with larger business applicants.” -- BC

“No. **Each application will need to be assessed on an individual basis** and whilst some efficiencies in the process could be realised in such a situation, there are other risks that this may introduce on an aggregate basis, particularly for the financial assessment, that ICANN will need to assess.” – BRG

“No, the application fee must be consistent across TLDs, not across applicants.” – Aflias

“No -- there should not be volume discounts. To do so would **hinder competition** by adversely affecting single (or small) portfolio applicants.” – RySG

“No. The fee should not be changed based on the volume. There should be a **level playing field for all**. There should especially be no consideration for applicants for whom projections are not matched by market realities.” -- ALAC

<u>Jannik Skou supported a model of volume discounts.</u>

Excerpt:

“**Volume discount (10-20%) should be offered to applicants with multiple applications** (easier to evaluate Q23-Q44). Finance Q45-50 – should be evaluated on the basis that all applications pass. This can be complicated, so no discount offered here. . .” – Jannik Skou (excerpt from response to question 1.5.1)