Track 1

Sara Bockey & Christa Taylor | June 13, 2017

Agenda 1 Slide

1 Welcome & Agenda Overview

2 SOIs

3 Topic Reviews: Systems Communications Application Fees

4 CC2 Application Fees

5 AOB

6 Next Meeting

Topic Review – Systems

How can the systems used to support the New gTLD Program, such as TAS, Centralized Zone Data Service, Portal, etc. be made more robust, user friendly, and better integrated?
Summary to date:

a) One system with a centralized login
b) Increased usability with ability to use non-ascii characters
c) Copy/paste ability
d) Attachments
e) Increased Security to ensure confidential information is secured
f) Better user experience

Feedback – Other thoughts?

Topic Review – Communication

Examine access to and content within knowledge base as well as communication methods between ICANN and the community.

Summary to date:

a) Increased search capabilities
b) Subscription opt-in for communications
c) Adequate and timely outreach to developing countries

Feedback– Any additions? Thoughts? Considerations?

Topic Review – Application Fees

Evaluate accuracy of cost estimates and/or review the methodology to develop the cost model, while still adhering to the principle of cost recovery. Examine how payment processing can be improved.

Summary to date:

a) Systems should be capable of sending automated invoices to organization who require an invoice to pay any application and related fees
b) Based on cost recovery but with a minimum floor amount on fees
c) Use of excess funds not yet determined; return of excess funds
d) Holistic costing - need to hash out ideas/details
e) System development costs

Feedback – Any additions? Thoughts? Items to consider?

The application fee of $185,000 USD for the 2012 round of the New gTLD Program was established on the principle of breaking even whereby the program's total revenues are equal to all related expenses. In addition, the fee should ensure the program is fully funded and not subsidized by any other sources of revenue. <u>Should another mechanism be considered?</u> For example, cost plus reasonable return, fixed plus variable, volume discounts, or other?

Items from CC2 feedback:

- Need for a legal contingency set-aside we believe has been and should be greatly reduced
- ICANN still needs to be held responsible to a budget performance target. The $185K was clearly was an over estimate of the costs resulting in a significant surplus.
- Each applicant must post a deposit of $1,000,000 in order to qualify to bid to operate a new gTLD — bidding for each new gTLD per the recommendations of the U.S. Department of Justice Antitrust Division. [For example, cost plus reasonable return, fixed plus variable, volume discounts, or other?

Items from CC2 feedback:

- Let the WG make recommendations for allocation of surplus of 2012 round decide <u>how surplus of the next round would be allocated</u>.

- COI is not needed. Instead a <u>fraction of the application fees can pay for the EBERO program.</u>

- <u>A brand TLD had far too much overhead</u> with the application that did not apply to a brand, all of which, if removed, would substantially reduce the cost of a brand application. Using a pre-approved RSP the checks and tests required further justifying the reduction of application fees.

- The original $185,000 USD <u>fee was too high. It was a barrier to entry</u> to many smaller applicants

- Forecasts need not be as conservative second time round given the buffer from round 1. Application fee should be in the region of $50,000 to $80,000.

- ICANN anticipated litigation expenses since we have <u>not seen any litigation</u> there is an argument for refunding some of the original application fee to the registry

Incorporate Feedback 1.4.1

How to incorporate feedback

- Each applicant must post a deposit of $1,000,000 in order to qualify to bid to operate a new gTLD — bidding for each new gTLD?
- Recommendations for allocation of surplus of 2012 round?
- How surplus of the next round would be allocated?
- COI is not needed. Instead a fraction of the application fees can pay for the EBERO program?
- Litigation funds not used. Refunding some of the original application fee to the registry?

Although the 2012 round is not complete, there is currently a surplus of fees collected relative to costs incurred. As such, <u>do you believe that the principle of breaking even was implemented effectively</u>? <u>Do you believe $185,000 was a reasonable fee? Is it still a reasonable fee?</u> Should the basic structure of the application fee (e.g., approximately one third of the fee was allocated for (i) the cost recovery of historical development costs, (ii) operations and (iii) legal and other contingencies) be reassessed or restructured? Is it too early to make this assessment? With the experience gained from the 2012 round, <u>do you think that a break-even model can be more accurately implemented for future applications?</u> Do you have <u>suggestions on how to minimize any surpluses or shortfalls?</u>

Items from CC2 feedback:

- In the future, the treatment of any <u>excess application fees should be clearly articulated</u> in the terms and conditions of any subsequent procedures.
- Other factors that may be considered in determining a fee including <u>concepts of fairness and competition</u>

Items from CC2 feedback:

- Easy to justify an <u>application fee well under the $100k USD</u> on the following basis:
    - Certified RSP model - Estimated fee reduction: $20-30K
    - Anticipation legal fees which simply did not. Fee reduction: $20-30K.
    - Most recently quarterly update, ICANN had a surplus of $128M in new gTLD funds reflecting $65,979 per original application. Fee reduction: $40-50K
  - These three areas would allow for a total fee reduction of $80-110K suggesting a <u>realistic fee could (and should) be below $100K.</u>
- There must be a <u>substantive minimum fee</u> to take an applicant seriously and for the applicant to understand the perpetual commitment to this TLD.
- The fee can as a consequence be considerably lower - perhaps by 50% <u>while still maintaining a bar sufficient to ensure that all applications received are coherent and worth dedicating resources</u> for evaluation and processing.

How to incorporate feedback

- Excess application fees should be clearly articulated?
- Concepts of fairness and competition?
- Realistic fee could (and should) be below $100K?
- Substantive minimum fee; fee can as a consequence be considerably lower - perhaps by 50% while still maintaining a bar sufficient to ensure that all applications received are coherent and worth dedicating resources ?

Should the <u>concept of break-even be strictly adhered to</u> or should other aspects be considered? Some WG members have noted concerns about the responsibility required to run a registry which could be negatively impacted by a fee that is "too low." Others have noted that the fee is potentially too high and could create barriers to entry in some underserved regions. As such, should there be a cost floor (minimum) or cost ceiling (maximum) threshold that the application fee should not go below/above despite costs estimates? If so, do you have suggestions in how the cost floor and ceiling amounts should be set?

Items from CC2 feedback:
- Not at the expense of <u>small applicants that would be deterred</u> by a higher fee
- Need to be sensitive to spending public funds, the financial model currently in place is definitely a barrier to entry
- Fee in the region of $50-80,000 is <u>still be a significant investment</u>
- Provide ICANN funding to successfully manage and <u>promote the Program</u> through the future
- Other factors that may be considered include <u>concepts of fairness</u>, competition, and security and stability
- Based on cost recovery. Any other philosophical approach indicates needless <u>bias towards either established players or would be entrants</u>

Incorporate Feedback - 1.4.3

How to incorporate feedback

- Small applicants & public funding is deterred by a higher fee?
- Fee in the region of $50-$80k is still be a significant investment?
- ICANN funding to successfully manage and promote the Program?
- Concepts of fairness, competition and security and stability?

If there is a price floor, <u>how should the excess funds resulting from floor costs less the actual costs be justified?</u> Conversely, <u>how would shortages be recovered if the ceiling costs are below actual costs?</u>

- Applicants require certainty for the purposes of business planning and should <u>not be held accountable if somehow ICANN has budgeted poorly</u>
- ICANN should transparently propose a financial model and all of its components based on <u>actual data</u>.
- <u>Excesses must be returned</u> to the community in some fashion
- Create an environment for applicants that <u>reduces the barrier to entry as much as possible</u> and achieves transparency and <u>trust in the programs costing model</u>.
- Very hard to justify deliberately setting the application fee at a level which would result in excess funds
- Excess fees should be used to <u>support general outreach</u>
- A floor may be appropriate, as long as any <u>excess amounts are clearly articulated</u> in the terms and conditions of any subsequent procedures.
- Excess funds could be used to support the program; used to <u>credit ongoing ICANN fees</u> for applicable registries in phases; or <u>returned to applicants</u> in phases. ICANN should <u>not wait to the end</u> of the entire program to use the excess fees.

Incorporate Feedback - 1.4.4

How to incorporate feedback

- Excesses must be returned to the community?
- support general outreach?
- A floor with any excess amounts being clearly articulated in the terms and conditions of any subsequent procedures?
- Used to credit ongoing ICANN fees for applicable registries in phases?
- Returned to applicants in phases?
- ICANN should not wait to the end of the entire program to use the excess fees?

Topic Review – Application Fees – 1.4.5

Should the WG seek to establish more clarity in how the <u>excess or deficiency of funds are utilized/recovered</u>? If so, do you have any suggestions for establishing that clarity?

- Excess/ shortfall should be <u>absorbed into ICANN's general operating budgets</u>
- ICANN should provide to the applicants the details of the excess amount collected from the application fees and a <u>proposal for reimbursement or utilisation of those funds</u>
- Excess funds should be <u>used by ICANN</u> to ensure all other fees and costs do not increase.
- The <u>use of any excess amounts should be clearly articulated in the terms and conditions of any subsequent procedures</u>

Incorporate Feedback - 1.4.5

How to incorporate feedback

- Absorbed into ICANN's general operating budgets?
- Reimbursement or utilisation of those funds?
- Excess funds to be used by ICANN to ensure all other fees and costs do not increase?
- The use of any excess amounts should be clearly articulated in the terms and conditions of any subsequent procedures?

Reminder

CC2 Responses:
https://docs.google.com/spreadsheets/d/1427pgTCkguOj2NZZzMnz_H_IPe54dtvUErSJd9uhkZw/edit#gid=1442059046

RSP Draft Requirements & Principles

Thanks to all who have contributed to the Google Doc
https://docs.google.com/document/d/1nWljRzRgDQgmSlSxyf7G6f2Dv7XDoD01D30KfWhoHNw/edit?pli=1#

Next Meeting

Thank-you for your Time and Thoughts!

Next Meeting:

Tuesday, July 10, 2017 at 15:00 UTC