

Expressions of Interest in New gTLDs
Comments of the Registries Stakeholder Group
11 December 2009

The Registries Stakeholder Group of the GNSO (RySG) is pleased to provide these comments on Expressions of Interest (EOI) in New gTLDs. The comments that follow represent a consensus position of the RySG as further detailed at the end of the document.

1. A properly conducted EOI could aid ICANN in making fact-based decisions in resolving several of the outstanding overarching issues. But if done improperly, the EOI could erode public confidence in ICANN and negatively impact ICANN's evaluation in the upcoming Affirmation of Commitment reviews. ICANN needs to be mindful of competition and equity concerns that could arise from a poorly conducted EOI and must at all costs take steps to eliminate gaming of the process by third parties. The path forward for ICANN is a road that it has previously traveled—and one which has served it well. There is little benefit to deviating from these established precedents to benefit the narrow interests of a small number of TLD applicants whose business plans have been jeopardized because of ICANN's decision to listen to the global community by slowing down and getting things right. The ICANN Board need look no further than Paragraph 4 of the Affirmation of Commitments to remind it that “its decisions are in the public interest, and not just the interests of a particular set of stakeholders.”

2. The objectives of the EOI should be made clear at the outset. However, it is evident that a properly implemented EOI could provide ICANN and the broader Internet community with a number of important metrics to assist in successfully implementing new gTLDs. Specific insight would be particularly useful in the follow areas:
 - Estimated number of actual applicants in the first round;
 - Estimated ratio of ASCII versus IDN new gTLDs;
 - Potential size of the zones (*i.e.*, how many domain names) in these new gTLDs;
 - Type of gTLD applications (*i.e.*, brand, cultural, regional/geographic, etc.);
 - Insight into the potential geographic/regional distribution of new registry operators;
 - Analysis of prospective applicants from developed versus developing countries;
 - Whether currently proposed fees and timelines represent a barrier to entry for certain prospective applicants; and
 - Meaningful data necessary to produce the “fact-based” economic analysis required by ICANN's Affirmation of Commitments.

3. There may be some merit in imposing a nominal fee sufficient to discourage “ballot box stuffing.” If such a fee was to be considered by the community, it should not be so large as to disadvantage less well funded applicants. Any such fee should be applied toward future application fees.
4. ICANN has always made the EOI and RFI processes voluntary because, until a final policy or implementation plan is in place, it is subject to change, and this change can have a material impact on a third party’s decision to go forward, or upon the ability of “intra-preneurs” within existing organizations to make an internal business case for proceeding. No credible reason has yet been put forward to justify deviating from ICANN’s established precedent regarding the voluntary and non-binding nature of EOIs and RFIs.
5. The prospective TLD applicants need to know the identity of the strings they might apply for so they can raise money, market their TLD, take expressions of interests from prospective registrants (aka pre-reservations)—all *before* ICANN and the global Internet community has been able to comment on and approve the final Applicant Guidebook. ICANN’s credibility in the global Internet community would be impacted if third parties began taking pre-reservations and holding auctions for second level domain names in a TLD that has not yet been entered into the Root based solely on the fact that there was only one EOI for that string filed by a third party—before ICANN and the global Internet community had even finalized the DAG.
6. Making participation in the EOI a prerequisite for applying for a new gTLD is a bad idea. It would discriminate against those who are not presently ICANN insiders. Depending on timing, it could require applicants to respond to questions before several key new gTLD issues are resolved. If it is decided to make the actual round of applications exclusive to those who submitted an EOI, then ICANN should conduct the global outreach before the EOI process begins. If ICANN is going to commit to the global outreach, then the DAG should be in a much more finalized form before the outreach program begins.
7. Should the ICANN Board decide to move forward with an Expression of Interest process, it should follow the path it has created by precedents established in similar situations. Specifically, in connection with proposed trademark safeguard proposals originally indentified by the Implementation Recommendation Team (IRT), the ICANN CEO and Chairman of the Board both wrote to the GNSO Council to request expedited feedback in connection with a limited number of issues. Following this precedent, the ICANN CEO and Chairman of the Board should send a request to the GNSO Council, along with any relevant ICANN staff generated background documents, and ask the Council for a timely response regarding the use of an EOI in the new gTLD process. The data collected from the EOI should be kept confidential on an

individual basis, including the strings, and only aggregated results should be reported. Finally, any EOI process must be widely publicized in advance to allow for broad participation, and

GNSO gTLD Registry Stakeholder Group Statement of Support with regard to These Comments

A majority of 8 RySG members supported this statement:

- Total # of eligible RySG Members¹: 14
- Total # of RySG Members: 14
- Total # of Active RySG Members²: 14
- Minimum requirement for supermajority of Active Members: 10
- Minimum requirement for majority of Active Members: 8
- # of Members that participated in this process: 14
- Names of Members that participated in this process:
 1. Afiliás (.info)
 2. DotAsia Organisation (.asia)
 3. Dot Cooperation LLC (.coop)
 4. Employ Media (.jobs)
 5. Fundació puntCAT (.cat)
 6. mTLD Top Level Domain (.mobi)
 7. Museum Domain Management Association – MuseDoma (.museum)
 8. NeuStar (.biz)
 9. Public Interest Registry - PIR (.org)
 10. RegistryPro (.pro)
 11. Société Internationale de Télécommunication Aéronautiques – SITA (.aero)
 12. Telnic, Limited (.tel)
 13. Tralliance Corporation (.travel)
 14. VeriSign (.com, .net & .name)
- Names & email addresses for points of contact:
 - a. Chair: David Maher, dmaher@pir.org

¹ All top-level domain sponsors or registry operators that have agreements with ICANN to provide Registry Services in support of one or more gTLDs are eligible for membership upon the “effective date” set forth in the operator’s or sponsor’s agreement (Article III, Membership, ¶ 1). The RySG Articles of Operations can be found at http://www.gtldregistries.org/about_us/articles .

² Per the RySG Articles of Operations, Article III, Membership, ¶ 4: Members shall be classified as “Active” or “Inactive”. A member shall be classified as “Active” unless it is classified as “Inactive” pursuant to the provisions of this paragraph. Members become Inactive by failing to participate in a Constituency meeting or voting process for a total of three consecutive meetings or voting processes or both, or by failing to participate in meetings or voting processes, or both, for six weeks, whichever is shorter. An Inactive member shall have all rights and duties of membership other than being counted as present or absent in the determination of a quorum. An Inactive member may resume Active status at any time by participating in a Constituency meeting or by voting.

- b. Alternate Chair: Jeff Neuman, Jeff.Neuman@Neustar.us
- c. Secretariat: Cherie Stubbs, Cherstubbs@aol.com

Regarding the issue noted above, the level of support in the RySG for the Constituency statement is summarized below.

1. **Level of Support of Active Members:** Majority
 - 1.1. # of Members in Favor: 8
 - 1.2. # of Members Opposed: 1
 - 1.3. # of Members that Abstained: 0
 - 1.4. # of Members that did not vote: 5
2. **Minority Position(s):** NeuStar has separately filed its position on this issue.