

GNSO gTLD Registry Stakeholder Group Statement

Issue: Proposed Final New gTLD Applicant Guidebook

Date: 19 November 2010

EXECUTIVE SUMMARY

The Registry Stakeholders Group (RySG) continues to analyze the proposed final new gTLD Applicant Guidebook (AG) as it submits these comments for consideration. First, and foremost, we support the introduction of new gTLDs and believe the time has come to introduce further competition into the marketplace. The following are comments from the RySG based on the new additions to the AG added by ICANN staff since the publication of DAG v. 4 and reflect what we, as registry operators, believe to be issues that are critical to operational stability and that represent significant business impacts for new gTLD registry operators. We believe that these issues, which are highlighted in the Executive Summary, must be addressed and we hope that ICANN provides the latitude to allow further amendment to the AG even beyond the ICANN Cartagena meeting, if necessary. The RySG stands ready to engage with Staff to ensure resolution of these items with no impact on the projected timetable for the new gTLD round. We believe use of the “TDG” legal group may be the appropriate forum to resolve these issues in a timely fashion.

1. Consideration of Public Comments by Independent Evaluators.
 - The AG provides no methodology for the Independent Evaluators to weigh public comments in their evaluation of an application. The manner in which Independent Evaluators factor in public comment could materially affect the outcome for an applicant.
 - The AG provides no explicit opportunity for applicant to provide rebuttal comments in response to comments that are critical of its application.

Recommended revision:

The AG should allow an explicit rebuttal comment opportunity, allowing an applicant to review comments filed “against” its application, for a short period of no more than 5 days. The shortness of the reply comment period is to allow the application in question to remain “on schedule” in the review process.

The AG should define the clear methodology that Independent Evaluators will use to weigh public comments in the evaluation of an application.

2. Pricing for Registry Services
 - The AG contains notice requirements for price increases (30 days notice for initial registrations; 180 days notice for renewals)
 - These rules would create a disparity between new TLD and existing TLD pricing policy and practices
 - In any event, ICANN has established that there will be no price caps for new TLD contracts and has decided to allow full vertical integration of registries and registrars, absent market power and a determination by a competition

authority in instances where market power may be a factor. As such, ICANN's framework provides no basis for ICANN to dictate registry pricing policies and practices.

Recommended revision:

Remove pricing provisions.

3. Registry Code of Conduct

- The Registry Code of Conduct scope of application is unclear. As written, it would possibly apply beyond the operation of the new gTLD string in question.

Recommended revision:

The Registry Code of Conduct should be revised to explicitly apply only to the new gTLD string, not other (existing) TLDs.

4. Termination of Registry Services Agreement

- A. The new gTLD Registry Agreement may be terminated by ICANN conviction of an officer or Board member for financial activities with no clear opportunity to cure.

Recommended revision:

The new gTLD Registry Agreement should provide an explicit opportunity to cure this basis for termination.

- B. Failure to meet DNS DNSSEC SLAs based on new measurement methodologies

Recommended revision:

Revise language to state: "propagation will be initiated within 60 minutes" not "completed within 60 minutes".

5. Continued Registry Operations Instrument

- The AG calls for 3 years operating expenses in either an irrevocable letter of credit or an irrevocable cash escrow deposit
- This requirement could tie up significant amount of funds and could hamper all new gTLD registries

Proposed revision:

Allow ICANN Staff to work with RySG to identify workable alternatives that don't unduly burden new entrants but that also provide adequate resources for continuity purposes.