ICANN Board-GAC Consultation: Providing Opportunities For All Stakeholders, Including Those From Developing Countries

EXPLANATION OF ISSUE/HISTORY

The GAC has raised the issue of providing opportunities for all stakeholders, particularly developing countries, which would otherwise be constrained by their limited financial and technical resources. The new gTLD process should meet the global public interest in promoting a fully inclusive and diverse Internet community and infrastructure, consistent with the Affirmation of Commitments. The GAC advice on the issue can be summarized as follows:

- Differentiated application requirements ICANN should set technical and other
 requirements, including cost considerations, at a reasonable and proportionate level in
 order not to exclude stakeholders from developing countries from participating in the new
 gTLD program. ICANN should actively consider a more category-based approach to the
 introduction of new gTLDs. This could allow for different procedures and fees based on the
 different categories.
- Communication key documents should be available in all UN languages and within a
 reasonable period in advance of the launch of the new gTLD round. The outreach strategy
 for the new gTLD round should be developed with inclusiveness as a key priority.

In response to the GAC requests, there has been regular communication in the form of meetings, communiqués and correspondence between the GAC, staff, and the Board on the issue of a differentiated approach to new gTLD applicants and global communications. Furthermore, there have been several explanatory memoranda and summary analyses produced by staff and published to the overall community to address and explain the issues.

During the International ICANN Meeting in Nairobi, ICANN's Board, in a formal recognition of the importance of an inclusive New gTLD Program, issued a Resolution (#20) requesting ICANN stakeholders "...to develop a sustainable approach to providing support to applicants requiring assistance in applying for and operating new gTLDs."

In direct response to this Board Resolution, the Generic Names Supporting Organization (GNSO) Council proposed a Joint Working Group composed of members of ICANN's Supporting Organizations (SOs) and Advisory Committees (ACs), to look into ways to develop support for new gTLDs applicants. The Working Group, also known as the Joint Applicant Support Working Group (JAS WG) was formed in late April 2010.

The most current work of JAS WG is the Milestone Report http://www.icann.org/en/topics/new-gtlds/jas-milestone-report-11nov10-en.pdf, which incorporates the feedback received from the general public and other consultations. In summary, the current recommendations encompass the following:

Cost reduction (evaluation fee and Registry fee modifications);

- Sponsorship and fundraising (ICANN-sourced and external financial assistance);
- Non-cost considerations (technical or logistical support).

The JAS WG has requested an extension of its Charter (December 2010) and continues evaluating options to provide support for a defined set of applicants.

REMAINING AREAS OF DIFFERENCE:

It seems that the remaining areas of difference are:

- A. **Method of Implementation**: The GAC recommends that equal opportunity and accessibility can be addressed by having a differentiated set of application requirements, *particularly fees*, which could be reduced possibly based on: (a) differentiated TLD categories and evaluation procedures, or (b) the use of the (potential) surpluses generated after the first-round.
- B. **Timing**: The GAC recommends that the first round should present an opportunity equally available and accessible to all applicants, particularly from developing countries.

The current Guidebook and documentation state that financial aid in the form of fee reductions can be made available in the second round (when much of the process uncertainty is removed), or at least until the JAS finishes its work (which will define procedures for developing sources and disbursements of funds).

A. Methods of Implementation

(a) Regarding fee reductions that might be based on where the applying organization is located (e.g., a developing country), its organization type (not-for profit, charities, small cities, a brand holder) or a presumed level of effort required to review an application (IDN variants, or multiple strings from the same organization), ICANN has explained through meetings and publication of memoranda the rationale for not reducing fees or standard requirements for a particular set of applicants.

The evaluation fee of \$185,000 may be considered burdensome for certain organizations that are considering applying for a new gTLD. The evaluation fee was developed based upon an adopted policy of revenue-cost neutrality, on principles of fairness and conservatism, and on a detailed cost estimation exercise. The impact of the adopted policy on a specific applicant or a class of applicant was not a factor in the determination of the evaluation fee. While it is acknowledged that some applications may have lower processing costs than others, and the costs associated with evaluating applications may vary, it is utterly difficult, if not impossible in the first round, to determine, *ab initio*, which applications will require more or less resources to process. The application fee is based upon the estimated average cost of all applications. The processing steps and associated costs to perform each application evaluation are based

on an average number of steps to complete each application and do not change based on the TLD type or organization applying. In addition, applications for translated versions of the same string would undergo the complete evaluation process as each application is expected to stand alone, in line with the adopted policy. Consequently, the current application fee is not expected to change for the initial application round.

- (b) It is important to note that, in the event that there is a surplus from the new gTLD application round, the excess funds will not be used for ICANN's general operations. They will be allocated in a manner consistent with the community's feedback and the policy recommendations. ICANN's multi-stakeholder model will be employed to ensure that all decisions regarding the underlying guiding principles, amounts, recipients, timing and manner of allocation of surplus funds, if any, will be handled in accordance with the community's wishes.
- (c) In an attempt to provide non-financial support to applicants, Board resolved that two lists should be published to match applicants with sources of funds: one list of applicants in need of support, and another of organizations offering support services.

B. Timing

The implementation of the JAS WG recommendations in time for the first round will depend on the scope and timing in which the recommendations (and the Guidebook) are finalized. A basic information webpage will be available in the upcoming months.

It is more likely that the second round will have a more comprehensive approach to assisting applicants from developing regions/countries. Also, it is anticipated that subsequent application rounds will enable adjustments to the fee structure based on empirical data, such as the historical costs from previous rounds, the effectiveness and efficiency of the application evaluation process and the removal of many of the contingencies and uncertainties at this time.

RELEVANT GUIDEBOOK SECTIONS AND OTHER PAPERS

Fee exceptions or special categorization of TLDs beyond what has been proposed (community, geographic, and standard) is not being introduced at this time. Per the current guidebook, all criteria, requirements, processes and fees are equally applied to all applicants. All applicants are asked to answer a series of pre-published questions, provide general information and documentation, demonstrate financial capability, and demonstrate technical and operational capability. The only exceptions to the standard requirements and process apply to applicants that, at the time of application, designate the TLDs as being community-based or geographic. In these particular cases, additional requirements and specific processes apply.

A variety of support resources are available to gTLD applicants. More information will be available on ICANN's website.

OTHER RELEVANT INFORMATION

JAS WG - key activities and publications:

- On June 14 posted a blog entitled "Call for Input: Support for New gTLD Applicants"5;
- On June 16 posted preliminary findings for public comment in six languages "Joint SO/AC Working Group on New gTLD Applicant Support Snapshot" 6 This public forum closed on 23 August, 2010;
- On June 23 during the ICANN Brussels Meeting, held a public workshop "Reducing Barriers to New gTLD Creation in Developing Regions";
- On September 18 submitted a second snapshot of the recommendations to the ICANN Board and the two chartering organizations, ALAC and GNSO;
- On November 11 posted Milestone Report for public comment;
- During Cartagena Meeting December 5 to 10 JAS WG held several public sessions, notably "Assisting applicants from developing countries".
- On-going weekly or by-weekly meetings.

Communcations:

ICANN has already undertaken significant effort to achieve some of the objectives of the four-month global communications requirement recommended by the GNSO. ICANN's staff remains deeply committed to the primary goal of ensuring that all those who wish to participate in, and benefit from, the new gTLD Program have opportunity to do so. Here is a short summary of actions taken to date:

- Key documents have been published in the six United Nations languages (English,
 French, Spanish, Russian, Arabic and Chinese) since 2008 when the first version of the
 Applicant Guidebook was made available to the general public. Key documents are:
 Applicant guidebooks, explanatory memos, studies, summary analysis of public
 comments; factsheets. Materials are available here:
 http://www.icann.org/en/topics/new-gtld-program.htm.
- ICANN published an initial draft of the communications plan in October 2009. The draft is available online: http://www.icann.org/en/topics/new-gtlds/draft-communications-plan-oct09-en.pdf.
- ICANN staff, Board and other community members have actively, organized, pursued and attended events around the world to educate and increase awareness about the new gTLD program. Most of these events are listed here:
 http://www.icann.org/en/topics/new-gtlds/past-events-en.htm. Staff continues to work with the global regional managers and community members to identify and participate in outreach opportunities.

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REFERENCE DOCUMENTS: APPLICANT SUPPORT

- SUMMARY OF ACTIONS TAKEN RESPONDING TO GAC AND PUBLIC COMMENTS
- CHRONOLOGICAL LISTING OF GAC ADVICE AND COMMENTS ON NEW GTLDS AND RESPONSES PROVIDED BY ICANN AND KEY DOCUMENTS PUBLISHED ON THE TOPICS

SUMMARY OF ACTIONS TAKEN RESPONDING TO GAC AND PUBLIC COMMENTS

Providing opportunities for all stakeholders including those from developing countries

- The program deployment budget includes allotted funds for outreach and education activities in developing countries.
- The application process is designed to facilitate the participation of new entrants and to support diverse types of applications.
- It is expected that applications will come from all regions of the world, and thus application materials are being translated, and documentation requirements are flexible to accommodate practices in multiple regions.
- The Board resolved that resources for potential applicants be posted as part of the new gTLD launch.
- ICANN formed the Joint Supporting Organization/Advisory Committee Applicant Support (JAS) Working Group to develop models for types of aid (financial and otherwise) for applicants.

THIS TABLE PROVIDES A CHRONOLOGICAL LISTING OF GAC ADVICE AND COMMENTS ON NEW GTLDS AND RESPONSES PROVIDED BY ICANN AND KEY DOCUMENTS PUBLISHED ON THE TOPICS

Providing Opportunities For All Stakeholders

GAC Advice and Comments	ICANN responses and key documents
10 March 2009: Comments on V1 of Applicant Guidebook	24 October 2008: Applicant Guidebook Version 1
	http://www.icann.org/en/topics/new-gtlds/draft-rfp-24oct08-en.pdf
	18 February 2009, version 1 Public Comments Analysis Report http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf
24 June 2009: Communiqué Sydney	
The GAC discussed the Draft Applicant Guidebook version 2 and feels that it does not yet respond to all the concerns that governments have. The GAC notes that considerable work is underway seeking to address several critical yet outstanding issues but the GAC remains concerned about a number of important issues: - The one TLD category and single fee structure;	
	18 February 2009: Applicant Guidebook Version 2
	http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-18feb09-en.pdf
	31 May 2009, Summary and analysis of public comments on version 2 http://www.icann.org/en/topics/new-gtlds/agv2-analysis-public-comments- 31may09-en.pdf
18 August 2009: Comments on V2 of Applicant Guidebook	22 September 2009: Reply from ICANN Chairman
The GAC proposes that ICANN should actively consider a more category-based approach to the introduction of new gTLDs. This could allow for different	http://www.icann.org/en/correspondence/dengate-thrush-to-karklins-22sep09- en.pdf
procedures for different types of TLDs, including non-commercial cultural, linguistic and regional gTLDs which would strengthen cultural diversity on the Internet, creation of local content, and freedom of expression. It would also potentially lessen consumer confusion and provide a structure for a more measured rollout of	Significant consideration has been given to the issue of the introducing category-based TLDs in the new gTLD process. The policy recommendations of the GNSO and the GAC principles have resulted in the creation of three gTLD categories or types:
new gTLDs.	Community-based TLDs
Furthermore the GAC believes that the structure of the gTLD application fee regime should reflect these different categories and the limited financial resources	 Geographic Name TLDs Everything else (called Open TLDs)
available to applicants for some of them. The GAC also feels that it would be logical and reasonable to apply existing policy principles and processes for ccTLDs (such as	Similarly to the GAC, community comment suggests the creation of several TLD categories: for example, single-owner, country, intergovernmental organization,

those policy provisions outlined in the GAC's ccTLD principles) to any top level domains intended to service a specific community within a specific national jurisdiction.

socio-cultural, community and open. Depending on the category, various accommodations are suggested; for example, no requirements for an ICANN contract, or to use accredited registrars, or to follow consensus policy, or policy provisions outlined in the GAC's ccTLD principles. Some might be restricted to not-for-profit status, be eligible for reduced fees, require registration restrictions, and have names reserved in anticipation of registration by certain parties.

The following table indicates some of the categories of TLDs and the accommodations proposed in some of the public comments¹:

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TLD CATEGORIES PROPOSED

ТҮРЕ	Contract	Use of Registrars	Consensus Policy	May Be For- Profit	Fees	Restrictions	Name Blocked
Single-owner	Yes	No	Yes	Yes	Volume discounts	Restricted	Sometimes
Geographic	No	No	No	Yes	Voluntary	Open	Yes
1/0	Yes	Certain Cases	No	Yes	Normal	Open	Yes
Cultural	No	No	No	No	None	Restricted	No
Community	Yes	No	Yes	Yes	Normal	Restricted	No
Open	Yes	Yes	Yes	Yes	Normal	Open	No

The introduction of a number of new gTLD categories with a number of different accommodations will lead to a complex and difficult application, administration and evaluation process, in addition to a very complicated contractual compliance environment. Additionally, there will be considerable debate and discussion in the community as to whether certain accommodations should be made. Should certain gTLDs not be required to have an agreement with ICANN or not be required to follow consensus policy? Should certain TLDs be required to maintain not-for-process status? These discussions and debates will take considerable time and resources and may ultimately not result in consensus.

Parsing fees among TLD categories is problematic at this time due to the uncertain number of applications and thus the current lack of clarity about the extent to which economies of scale can be realized in supporting new gTLDs operationally. It will be difficult to create different fee structures (application or annual fees) in this uncertain environment. Reductions in some application fees will result in increases to others. This is also true in the area of annual registry fees. The annual fee reduction made between the first and second version of the Draft Applicant Guidebook lowered fees to the extent possible given the unknown number of TLDs that will be delegated into the root zone. ICANN has always stated that the idea of fee categories and lower fees will be investigated after the first round and following removal of many of the contingencies and uncertainties.

Finally, the structure of TLD categories, if granted different accommodations with differing contractual obligations, would result in significantly higher compliance costs and therefore, annual fees. If a self-declaration program is instituted and contractual accommodations are eliminated or minimized, fees can remain constant.

It may well be that as definitive categories of applicants emerge in practice, and as ICANN and the respective communities gain further experience of possible benefits of additional gTLD categorization over time, organizational structures might be developed with ICANN to reflect these categories. That will be a consequence of bottom-up policy developments by affected participants, according to the ICANN model. Nothing in the current implementation procedures foreclose those future developments.

28 October 2009: Communiqué Seoul

Following discussions in Seoul however, both between GAC members and with other stakeholders, the GAC feels that many of its concerns remain outstanding,

related in particular to:				
- the need to assist developing countries which would otherwise be constrained by their limited access to financial and technical resources.				
	4 October 2009: Applicant Guidebook Version 3			
	http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-04oct09-en.pdf			
	15 February 2010, Summary and analysis comments version 3			
	http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf			
10 March 2010 Comments on V3 of Applicant Guidebook	5 August 2010: Reply from ICANN Chairman			
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 single-fee 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 stakeholders who should not be disenfranchised from the new TLD round.	http://www.icann.org/en/correspondence/dengate-thrush-to-dryden-05aug10-en.pdf			
	ICANN is a strong proponent of innovative uses of new TLDs. This is especially so in cases where TLDs can be delegated to address the needs of specific communities such as intergovernmental organizations, socio-cultural groups and registered brands. Rather than having ICANN limit this type of innovation and identification with certain TLD models, more creativity might be spawned by allowing different groups to self-identify the type of TLD they purport to be and promote that model among their community. If a self-declaration program is instituted and contractual accommodations are eliminated or minimized, fees can remain constant. Socio-economic groups, brand owners and other groups all can be accommodated under the existing structure and self-identify as a particular type of TLD. Over time, the market and community interests will sort TLD types — a model preferable to having ICANN make that determination a priori. To reiterate, it is not for ICANN to develop these distinctions a priori.			
	It may well be that as definitive categories of applicants emerge in practice, and as ICANN and the respective communities gain further experience of possible benefits of additional gTLD categorization over time, organizational structures might be developed with ICANN to reflect these categories. That will be a consequence of bottom-up policy developments by affected participants, according to the ICANN model. Nothing in the current implementation procedures forecloses those future developments.			
	Significant consideration has been given to the issue of the introducing category-based TLDs in the new gTLD process. The policy recommendations of the GNSO and the GAC principles have resulted in the creation of three gTLD categories or types:			

Community-based TLDs Geographic Name TLDs Everything else (called standard or open TLDs) Community comment suggests the creation of several TLD categories: for example, single-owner, country, intergovernmental organization, socio-cultural, community and open. Depending on the category, various accommodations are suggested: for example, no requirements for an ICANN contract, or to use accredited registrars, or to follow consensus policy, or policy provisions outlined in the GAC's ccTLD principles. Some might be restricted to not-for-profit status, be eligible for reduced fees, require registration restrictions, and have names reserved in anticipation of registration by certain parties. Beyond the accommodations sought, many or all of the suggested categories seem to be variations of community-based TLDs. The preference for community-based TLDs in the evaluation/contention process is based on policy advice from the GNSO and is intended to ensure that community-based applicants receive the TLD string to which their community is strongly related. Perhaps the most important aspect of the suggested categories is that an applicant within these categories does, in fact, receive the string associated with its community, and that is what the existing process is designed to do. The introduction of a number of new gTLD categories with a number of different accommodations will lead to a complex and difficult application, administration and evaluation process, in addition to a very complicated contractual compliance environment. Additionally, there will be considerable debate and discussion in the community as to whether certain accommodations should be made. Should certain gTLDs not be required to have an agreement with ICANN or not be required to follow consensus policy? Should certain TLDs be required to maintain not-for-process status? These discussions and debates will take considerable time and resources and may ultimately not result in consensus. The structure of TLD categories, if granted different accommodations with differing contractual obligations, would result in significantly higher compliance costs and therefore, annual fees. 23 June 2010: Communiqué Brussels The GAC believes that the new gTLD process should meet the global public interest consistent with the Affirmation of Commitments. It therefore urges ICANN to set

technical and other requirements, including cost considerations, at a reasonable and proportionate level in order not to exclude developing country stakeholders from participating in the new gTLD-process. Key documents should be available in all UN languages. The GAC urges that the communications and outreach strategy for the new gTLD round be developed with this issue of inclusiveness as a key priority. 28 May 2010: Applicant Guidebook Version 4 http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-28may10-en.pdf 12 November 2010: Summary and analysis of comments version 4 http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv4-12nov10-en.pdf 23 November 2010: Reply from ICANN Chairman 23 September 2010: Comments on V4 of Applicant Guidebook http://www.icann.org/en/correspondence/dengate-thrush-to-dryden-23nov10-The GAC notes the concerns expressed at the Internet Governance Forum in Vilnius on 16 September that the new gTLD round as currently framed carries the risk of en.pdf excluding the participation of developing countries in the gTLD round and thereby The Board notes that through the IDN ccTLD Fast Track process much has been ensuring cultural and linguistic diversity. done to meet the global public interest in promoting a fully inclusive and diverse The GAC reiterates its strong belief that the new gTLD process should meet the Internet community and infrastructure, at very minimal cost to applicants. The new global public interest in promoting a fully inclusive and diverse Internet community gTLD process has been developed on a cost-recovery model, and owing to a level of and infrastructure, consistent with the Affirmation of Commitments. The GAC uncertainty associated with the launch of new gTLDs, the fee levels currently in the therefore urges ICANN to set technical and other requirements, including cost Applicant Guidebook will be maintained for all applicants. considerations, at a reasonable and proportionate level in order not to exclude As stated in correspondence to the GAC of 22 September 2010, '... the experience stakeholders from developing countries from participating in the new gTLD process. gained from the initial round of applications will inform decisions on fee levels, and Key documents produced by ICANN must be available in all UN languages within a the scope for discounts and subsidies in subsequent rounds. ICANN has always reasonable period in advance of the launch of the gTLD round. The GAC strongly stated that the idea of fee categories and lower fees will be investigated after the recommends that the communications strategy for the new gTLD round be first round and following removal of many of the contingencies and uncertainties." developed with this issue of inclusiveness as a key priority. The Board supports the publication of a list of organizations that request assistance and organizations that state an interest in assisting with additional program development, for example pro-bono consulting advice, in kind support, or financial assistance so that those needing assistance and those willing to provide assistance can identify each other and work together. The new gTLD Deployment Budget, available at http://www.icann.org/en/announcements/announcement-22oct10en.htm contains US\$200,000 to help identify, educate, and promote the organizations willing to provide such assistance and an additional US\$100,000 has been added to the Application Processing Budget to increase Customer Support processes for all applicants. 25 September 2010: Board meeting in Trondheim http://www.icann.org/en/minutes/resolutions-25sep10-en.htm

Board Briefing Materials:

One [PDF, 3.23 MB]

Two [PDF, 2.03 MB]

<u>Three</u> [PDF, 816 KB]

Four [PDF, 240 KB]

Five [PDF, 546 KB]

New gTLD Applicant Support

Support to applicants will generally include outreach and education to encourage participation across all regions, but any direct financial support for applicant fees must come from sources outside of ICANN.

Staff will publish a list of organizations that request assistance and organizations that state an interest in assisting with additional program development, for example pro-bono consulting advice, pro-bono in-kind support, or financial assistance so that those needing assistance and those willing to provide assistance can identify each other and work together.

Owing to the level of uncertainty associated with the launch of new gTLDs, the fee levels currently in the Applicant Guidebook will be maintained for all applicants.

12 November 2010: Proposed Final Applicant Guidebook

http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-12nov10-en.pdf

9 December 2010: Communiqué Cartagena

That the GAC will provide the Board at the earliest opportunity with a list or "scorecard" of the issues which the GAC feels are still outstanding and require additional discussion between the Board and the GAC. These include:

 Providing opportunities for all stakeholders including those from developing countries;

10 December 2010, Board meeting

New gTLD Remaining Issues

http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#2

Resolved (2010.12.10.21), the Board:

- Appreciates the GAC's acceptance of the Board's invitation for an intersessional meeting to address the GAC's outstanding concerns with the new gTLD process. The Board anticipates this meeting occurring in February 2011, and looks forward to planning for this meeting in consultation and cooperation with the GAC, and to hearing the GAC's specific views on each remaining issue.
- 2. Directs staff to make revisions to the guidebook as appropriate based on the comments received during the public comment period on the Proposed Final Applicant Guidebook and comments on the New gTLD Economic

Study Phase II Report.
3. Invites the Recommendation 6 Community Working Group to provide final
written proposals on the issues identified above by 7 January 2011, and
directs staff to provide briefing materials to enable the Board to make a
decision in relation to the working group's recommendations.
4. Notes the continuing work being done by the Joint Applicant Support
Working Group, and reiterates the Board's 28 October 2010 resolutions of
thanks and encouragement.
5. Directs staff to synthesize the results of these consultations and
comments, and to prepare revisions to the guidebook to enable the Board
to make a decision on the launch of the new gTLD program as soon as
possible.
6. Commits to provide a thorough and reasoned explanation of ICANN
decisions, the rationale thereof and the sources of data and information on
which ICANN relied, including providing a rationale regarding the Board's
decisions in relation to economic analysis.
7. Thanks the ICANN community for the tremendous patience, dedication,
and commitment to resolving these difficult and complex issues.
and communent to resolving these difficult and complex issues.