

Expressions of Interest Working Group

Background

ICANN and its various stakeholder groups have been working for many years on establishing an orderly and predictable method of introducing new generic top-level domains (gTLDs). That work has progressed through a rigorous policy development process, numerous associated working groups and fact-finding exercises.

As the call for new top-level domains grows louder and more impatient, several important areas of concern remain unresolved around the implementation of the agreed policies. In addition, ICANN is having to plan and allocate resources for a number of applications that has been estimated at "as few as 10, and as many as 10,000." As long as the concerns and the numbers remain theoretical, they are difficult to solve. When reduced to a practical level, however, the problems may not be intractable at all. The proposed Expressions of Interest Process (EOIP) is a simple mechanism that will make immediately apparent the implementation parameters of the new gTLD process. The EOIP will provide ICANN, new TLD applicants, and concerned members of the ICANN community a rich set of data that will answer many of the questions that have been holding back the process.

The de-coupling of the "introduction" of gTLDs from their "delegation" is a concept that derives in part from the *GAC Principles for the Introduction of New gTLDs*, promulgated by ICANN's Government Advisory Committee in March 2007. Specifically, sections 2.1 – 2.4 are addressed to "introduction," while 2.5 – 2.9 are addressed to "delegation."

ICANN Process

During the Seoul, Korea meeting several members of different parts of the ICANN community met to put forward a plan for Expressions of Interest as a mechanism to find a way forward to kick-start the new gTLD application process. This group, known as the EOI Working Group (the "WG"), represents different parts of the ICANN stakeholder community. The composition of a broader slate of points of contact for potential applicants, registrars, registries, intellectual property interests, the ALAC, the NCUC, the business constituency, the ISP constituency, the ccNSO and others is deliberate. An effort was made to include most functional interest groups and to recognize the different skills residing within ICANN. An effort was also made to find areas of common ground that enables progress and minimizes delay.

The WG proposes to draft the plan for Expressions of Interest and to serve as "points of contact" to their communities in order to bring ideas and concerns to the WG for presentation to the Board for its December 2009 meeting. The full resolution is found below and will drive the formation of the group, its working methods and its expected outputs.

Resolved (2009.10.30__), the ICANN Board directs staff to study the potential impact of a call for formal "expressions of interest," and provide a plan for Board consideration at ICANN's next Board meeting, in December 2009. The plan should include possible options and a risk analysis relating to the proposed action.

Timeline

In order for the Board to properly consider a plan at their December [9] 2009 meeting, Board members will need to be provided with the plan at least ten days prior, or [November 27]. The WG will therefore need to present its plan to staff no later than [November 14] in order to give staff time to prepare it for Board consideration.

If in fact the Board adopts the plan, a comment period of [30 days] should follow to give the ICANN community the opportunity to make improvements to the proposals. The WG would then revise its draft accordingly and resubmit to staff for review.

Key dates

1. Kick off conference call on [9 November 2009] with first draft of EOI circulated
2. Second conference call [13 November 2009] to finalize draft of paper for submission to staff
3. Submission of the draft paper [17 November 2009] to ICANN staff
4. Staff submits proposal for public comment as appropriate
5. Approval from Board on [9 December 2009] for the development of a formal plan with a start date of 12 March 2009 (beginning of ICANN Nairobi meeting).

Expression of Interest Procedure

Those who wish to apply for a new TLD in the first round will, during a [month-long] window, send to ICANN the following for each TLD to be applied for:

1. Name of applying entity
2. Contact information
3. Name (string) of the TLD to be applied for
4. [\$100,000] USD (the "Fee"), to be held in escrow, refundable at ICANN's option. The Fee would be applied to the entity's eventual application fee to ICANN, if ICANN proceeds with the new gTLD round.
5. A statement releasing ICANN from liability in regard to the Expression of Interest or any eventual application for a new TLD.

Only those who follow this process will be allowed to complete the application, and they will only be allowed to apply for the string named in their communication. The quantum of the fee will severely limit any attempts to game the system and will also provide ICANN resources to complete its full cost-recovery evaluation process.

Once received, ICANN should publish information about the Expressions of Interest. There are several alternatives:

- ✓ Publish the name of the applying entity and the string to be applied for, for each application. Parties to contact one another to work out potential grounds for dispute prior to formal application, or to make potential objections known to potential applicants.
- ✓ Publish only the names of the strings and the number of Expressions of Interest for each string. This will preserve any commercial advantage to be gained from keeping the identity of the potential applicant secret prior to actual application.
- ✓ Publish the strings and the number of Expressions of Interest, but allow brands to be published as “.brand” to preserve the anonymity of potential brand applicants, who would be known by their proposed string.
- ✓ A combination of the above

Benefits to ICANN Staff

Once the Expressions of Interest window is closed ICANN staff will know:

- ✓ The number of new strings will tell ICANN the extent (if any) of root-scaling issues
- ✓ The number of new strings will tell ICANN how many evaluators it needs
- ✓ The number of strings in contention will inform ICANN as to the upper limit of the resources required to handle contention
- ✓ A look at the list of strings will give ICANN an idea of what (if any) morality and public order issues it will face
- ✓ The publication of the strings will be very effective in generating interest – and alerting possible objectors – and serve as a valuable ancillary to other communications plans

Benefits to New TLD Applicants

Once the Expressions of Interest window is closed, prospective applicants will gain the following benefits:

- ✓ If the prospective applicant learns that it is the only entity applying for the string, it may reasonably presume, subject to passing all the tests in the application, and overcoming any objections, that it has an excellent chance of being awarded the TLD. It may decide therefore to undertake, among other things, any of the following activities:
 - Raising money
 - Marketing
 - Taking expressions of interest from prospective registrants
- ✓ If the prospective applicant learns that it is one of several entities applying for the string, it may opt to work out an arrangement with other contenders, or to drop out.
- ✓ All prospective applicants will informally benefit from “early warning” from potential objectors, who will be likely to contact them if EOI information is made public.

Benefits to Other Parties

Other benefits accrue as well:

- ✓ Trademark holders will easily be able to decide which strings might infringe on their brands, and plan accordingly
- ✓ Governments and the GAC will be able to see which names infringe on the rights of governments, and plan accordingly
- ✓ The GAC will be able to see which strings might be a threat to public order or morality, and act accordingly

EOI Working Group Participants

Given the short time frame for the work to be completed, a core group of points of contact will be responsible for the work. The slate of participants is indicative of the WG's interest in providing advice to the ICANN staff and Board that has received input from a wide cross-section of the ICANN community. In establishing the points of contact slate, the Working Group looked for well-respected members of a wide range of constituencies from diverse geographical regions.

ICANN affiliation noted for informational purposes only.

Name	Company/Association	ICANN Affiliation	WG Position
Alexander Schwertner	EPAG	Registrars	Member
Antony Van Couvering	Minds + Machines	(new gTLD applicant)	WG Co-ordinator/Member
Bertrand de la Chapelle	Gov't of France	GAC	Observer
Bolei Zhan	Zodiac Corp.		IDN Expert
Bret Fausett	Adorno Yoss	NCUC	Member
<i>Awaiting confirmation</i>		Registry	Member
Johannes Lenz-Hawliczek	Dot Hotel	(new gTLD applicant)	Member
Jothan Frakes	Minds + Machines	(new gTLD applicant)	WG Logistics/Member
Liz Williams	Core	(new gTLD applicant)	Member
<i>Awaiting confirmation</i>			WG Chair
Nick Wood	Com Laude	IPC	Member
Oscar Robles Garay	NIC Mexico	ccNSO	Member
Patrick Van de Walle		At Large	Member
Paul McGrady	Greenberg-Traurig	IPC	Member
<i>Awaiting confirmation</i>		ALAC	Member
Stephane van Gelder	Indom	GNSO	GNSO Observer
Susan Kawaguchi	Facebook	Business	Member
Tony Harris	LACNIC	ISP	Member

Outputs

The output of the Working Group will be a consensus implementation report which address each of the points in the Board Resolution with a timeframe and risk analysis.