



**REGISTRY OPERATOR'S PROPOSAL  
BUSINESS PLAN**



**Commercial Connect, LLC**

October 2, 2000

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**1.0 MISSION STATEMENT**

To create a new domain name avenue for e-commerce which is immediately clear to Internet shoppers, customer service oriented to registrars, and an aid in Internet structural integrity and stability.

**2.0 STATEMENT OF PURPOSE**

Commercial Connect, LLC. was formed as a startup top level domain name registry formed by a partnership of Computer Analytical Systems, Inc. and Simon Property Group with the intent of establishing and supporting new top level domains (TLDs) .mall, .shop, and .svc. Commercial Connect, LLC. seeks ICANN authorization for these new extensions to be worldwide generic top level domains for the purpose of electronic commerce on the Internet.

With the breakup of a government approved monopoly, Computer Analytical Systems, Inc. dba CASDNS under CORE became one of nine (9) companies in the United States initially taking registrations for top level domain names. Of these nine companies, Network Solutions, Inc. (the previous monopoly) was the only company actively marketing generic top level domain name services with the established extensions .com, .net and .org.

With the phenomenal and ever increasing growth of the Internet, it has become clear that the three existing generic global top level domain names will not be sufficient in and of themselves to efficiently support the naming needs of the rapidly expanding electronic commerce of the World Wide Web. Commercial Connect, LLC. supports a hierarchy of generic TLDs to logically classify domain names according to their purpose and function, and specifically was formed with the intention of serving as the registry for the top level domain names of commerce on the web.

While many companies are struggling to get equipment and software in order to propose a new registry, Commercial Connect, LLC. is ideally positioned by virtue of the resources brought by the partnership of Computer Analytical Systems, Inc. and Simon Property Group, L.P. to implement, support, maintain and market a registry and obtain a large market share in excess of the 12,000 domain names registered daily. Equipment and staff are already in place to provide these services.

This venture, very similar to the breakup of AT&T with long distance, where companies such as MCI and Sprint who were quick to jump into the large long distance market, thrived in today's market. Similar experience has been enjoyed by the introduction of registrar competition into the .com, .net and .org registry. Now it is the domain name extensions themselves that have become the monopoly.

Commercial Connect, LLC. intends to capture part of the geometric growth curve of the Internet by offering its customers easy access, diligent support, quick response and competitive pricing, which can be achieved by minimizing costs, effective use of technology and experience in customer support.

Commercial Connect, LLC. will have a unique position in that it is a partnership of two companies that together combine all the elements necessary to establish and maintain through the long term, a registry for the top level domain names proposed. Computer Analytical Systems, Inc., a corporation that is already successfully established in the field as a domain name registrar as well as an ISP, owns the infrastructure and Internet connectivity required for a registry. Simon Property Group, L.P. is a corporation with global geographic presence in business and in commerce with unlimited technical and financial resources, and vast experience in electronic commerce and aggressive business management. Both companies bring a firm commitment to the promotion and facilitation of electronic commerce on the web.

Sales projections for Commercial Connect, LLC. are shown in the accounting appendix to follow. All sales projections are based on very conservative estimates drawn from a return based on advertising. The return is based on the number of domain registrations to each publication, and then multiplied it by a factor considered reachable with the market. These estimates are neither binding nor guaranteed accurate.

The goals of Commercial Connect, LLC. are quite simple. Commercial Connect, LLC. is preparing to become one of the largest providers of domain name registrations in the world. With no physical boundaries, Commercial Connect, LLC. can market to the entire world. Commercial Connect, LLC. will be targeting the broader segment of the market desiring establishment of a long term relationship with multiple outstanding registrars. Innovative marketing plans and pricing contracts have been designed to retain customers and reward them for additional referrals. Commercial Connect, LLC. hopes to gain the reputation of a service oriented registry and capture a large share of the Internet domain name registrations registered for the purpose of commerce. In addition, Commercial Connect, LLC. wants to be an asset to the Internet, shareholders, its community and its employees.

## 3.0 EXECUTIVE SUMMARY

### 3.1 Concept

Formation of a top level domain name registry to seek authorization from ICANN to establish and support new top level domains (TLDs) of .mall, .shop, and .svc.

### 3.2 Market

A report by *The Standard* has suggested that while stock markets have been unsteady, all Internet economy indicators continue with remarkable growth. Specifically, the total number of domain names ending in .com has been increasing at a rate of over 100% per year. In 1999, on average, over three million web pages were created daily, and 5.6 million new domain names were registered. Of these 5.6 million new domain names, 35% were .coms. Although much of the focus on this market has been with companies such as NSI, Register.com, and CASDNS that register .com, .net, and .org domain names, Commercial Connect, LLC. is uniquely positioned to clearly differentiate itself and is positioned to be the first registry in this arena.

### 3.3 Successes

The launch of Shared Registry System has been a huge success. Since offering the competitive registration of .com, .net and .org in July 1998, the Internet community has embraced the new registry system. All major media in the United States have tended to treat the issue with the highest regard, and regularly run stories on the issues.

### 3.4 Management and Leadership Origins

The managers and leaders who run existing companies that will come together to lead and manage Commercial Connect, LLC. are listed below. The current management team of Commercial Connect, LLC. combines top quality consulting, Internet and technology experience as well as the business and commerce expertise of a large corporate entity.

#### Computer Analytical Systems, Inc.

##### Jeffrey S. Smith

President, CEO and Founder, Computer Analytical Systems, Inc. dba BestRegistrar.com, CAS-Com Internet Services, Inc. and CASDNS, Inc.

As President and Founder of Computer Analytical Systems, Inc. dba BestRegistrar.com, Cas-Com Internet Services, Inc. and CASDNS, Inc., Jeffrey Smith brings to Commercial Connect, LLC. extensive education and experience. He has previously worked as an Internet entrepreneur, managing systems integration, IT consulting specializing in e-commerce, ERP (Enterprise Resource Planning) implementation as well as EDI (Electronic Data Interchange) and CRMT(Customer Relationship Management Technologies) with multiple companies.

Mr. Smith founded Computer Analytical Systems, Inc. over twelve years ago. With his leadership and initiative, CAS-Com Internet Services, Inc. an Internet Service Provider, and CASDNS, Inc., an accredited ICANN top level domain name Registrar, were started. Mr. Smith has over nineteen years experience in the information systems and business management fields. In addition he has consulted for various telecommunications and high-level technology companies on Internet related issues for the past eight years.

#### Simon Property Group, L.P.

##### Melvin Simon

Co-Chairman of the Board, Simon Property Group, Inc.

A native of Brooklyn, New York, Melvin Simon is Co-Chairman of Simon Property Group, Inc. Simon Property Group, Inc. is the largest publicly traded retail real estate company in North America.

Mr. Simon also serves as Co-Chairman of the Board of Melvin Simon & Associates, Inc., which until the 1993 formation of Simon Property Group was the nation's second-largest developer and manager of shopping centers.

Mr. Simon attended the Bronx High School of Science and the City College of New York, where he earned a B.S. degree in accounting and an M.B.A. with an emphasis on real estate. He came to Indiana while serving in the United States Army, when a transfer brought him to Fort Benjamin Harrison in Indianapolis.

Following his discharge from the Army, and prior to creating Melvin Simon & Associates in 1960 with brothers Herbert and Fred, Mr. Simon worked as a leasing representative with the Albert Frankel Company, an Indianapolis developer of strip shopping centers.

Mr. Simon's diversified business interests include co-ownership with brother Herbert of the National Basketball Association's Indiana Pacers.

Mr. Simon is a Trustee of both the Urban Land Institute (ULI) and the International Council of Shopping Centers (ICSC). He holds board memberships with numerous community and civic organizations, and has received many awards and honors for his involvement.

### **Herbert Simon**

Co-Chairman of the Board, Simon Property Group, Inc.

Born in Brooklyn, New York, Herbert Simon is Co-Chairman of Simon Property Group, Inc., the largest publicly traded retail real estate company in North America. Simon Property Group, Inc. owns and/or manages some of the nation's foremost retail properties, including: Mall of America (Minneapolis/St. Paul area), The Forum Shops at Caesars (Las Vegas), Fashion Centre at Pentagon City (Washington, D.C. area), and Circle Centre (Indianapolis).

Mr. Simon also serves as Co-Chairman of Melvin Simon & Associates, Inc. of Indianapolis, which before the 1993 formation of Simon Property Group was the second-largest developer and manager of shopping centers in the United States.

Prior to creating Melvin Simon & Associates in 1960 with his brothers Melvin and Fred, Mr. Simon attended the City College of New York where he earned a B.S. degree in business.

Mr. Simon's diversified business interests beyond real estate include co-ownership with brother Melvin of the National Basketball Association's Indiana Pacers.

A firm supporter of professional, environmental and community groups, Mr. Simon serves on the boards of directors of numerous community and civic organizations.

### **David Simon**

Chief Executive Officer, Simon Property Group, Inc.  
Chairman of the Board, Commercial Connect, LLC.

David Simon is Chief Executive Officer of Simon Property Group, Inc., North America's largest publicly owned retail real estate development and management company. Currently he also serves as Chief Financial Officer and Chief Operating Officer of Melvin Simon & Associates, Inc.

Prior to joining Simon in June, 1990, Mr. Simon was a Vice President of Wasserstein Perella & Co., a Wall Street firm specializing in mergers, acquisitions and leveraged buyouts. He was formerly an associate at First Boston Corporation, also based in New York.

Mr. Simon holds a B.S. degree from Indiana University and an MBA from the Columbia University Graduate School of Business. A native of Indianapolis, he is the eldest son of Simon Property Group, Inc. Co-Chairman Melvin Simon.

### **Richard S. Sokolov**

President and Chief Operating Officer, Simon Property Group, Inc.

Richard S. Sokolov is President and Chief Operating Officer of Simon Property Group, Inc., the largest publicly owned retail real estate company in North America.

In addition to his corporate responsibilities, Mr. Sokolov serves as Trustee and as a Member of the Executive Committee of the International Council of Shopping Centers. Prior to joining Simon in 1996, Mr. Sokolov was President and Chief Executive Officer of DeBartolo Realty Corporation. He was formerly a Partner and Executive Committee Member at a major Baltimore law firm, where he specialized in real estate transactions.

Mr. Sokolov earned his Juris Doctorate degree from Georgetown University Law Center in 1974. He received his Bachelor of Arts degree in 1971 from Pennsylvania State University.

### **David Schacht**

Senior Vice President and Chief Information Officer, Simon Property Group, Inc.

David has been with Simon for approximately three years. He was hired as Director of Application Development and now serves as Senior Vice President and Chief Information Officer.

During his tenure with Simon, he has been instrumental in the implementation of a new Leasing System, Payroll System, Customer Affinity System, Revenue Budgeting System, ShopSimon Portal and has played a key roll in the development and execution of Simon's digital strategy.

Eighteen months prior to joining Simon, Mr. Schacht was engaged by Subaru Izusu of America and Conesco as a systems consultant. David began his career with Resort Condominiums International in 1984. During his twelve year tenure with RCI, David's accomplishments included automation of 20 plus international offices, implementation of a B2B resort access system, a marketing data warehouse and authoring RCI's exchange/match algorithm.

### **Gerald St. Amand**

Information Technology/Research Specialist/Operations Manager, Simon Property Group, L.P.

As Information Technology/Research Specialist/Operations Manager of Simon Property Group, Inc., Dr. Gerald St. Amand has diverse expertise in the analysis,



delivery, and management of software methodologies, operational programs and services as well as innovative, administrative management designed to meet challenging business demands and a solid understanding of strategic planning used in integrating highly sophisticated technology into Management Information Systems (MIS), Competitive Intelligence (CI) and Technology Transfer Applications. Dr. St. Amand has a verifiable background of success in providing leadership in private and educational sectors.

Dr. St. Amand holds a Ph.D. in Administration in the Higher Education Program at Indiana University. After taking graduate courses in Business Administration at Michigan State University, he earned an M.A./Economics with a minor in Finance from the University of Detroit (Now University of Detroit - Mercy). He holds a B.S. in Finance from the University of Detroit, where he was a Fitzgerald Award winner.

Dr. St. Amand is the published author of *A Management Game with Financial Emphasis for Time-Sharing* and a book reviewer for *The Accounting Review*.

***Board of Directors, Simon Property Group, Inc.***

**Melvin Simon, 73**

Co-Chairman of the Board  
*Executive Committee Member*

**Herbert Simon, 65**

Co-Chairman of the Board  
*Executive Committee Member*  
*Compensation Committee Member*  
*Nominating Committee Member*

**David Simon, 38**

Chief Executive Officer  
*Executive Committee Member*  
*Nominating Committee Member*

**Richard S. Sokolov, 50**

President and Chief Operating Officer  
*Executive Committee Member*

**Hans C. Mautner, 62**

Vice Chairman of the Board  
*Executive Committee Member*

**M. Denise DeBartolo York, 49**

Chairman and Chief Executive Officer,  
The Edward J. DeBartolo Corporation  
*Nominating Committee Member*

**Robert E. Angelica, 53**

Chairman and Chief Executive Officer,  
AT&T Investment Management Corporation  
*Compensation Committee Member*

**Birch Bayh, 72**

Senior Partner,  
Oppenheimer, Wolff, Donnelly & Bayh, LLP  
*Compensation Committee Member*  
*Nominating Committee Member*

**G. William Miller, 75**

Chairman and Chief Executive Officer,  
G. William Miller & Co., Inc. and  
Chairman, Home Place of America, Inc.  
*Nominating Committee Member*  
*Audit Committee Member*

**Fredrick W. Petri, 53**

Partner,  
Petroni, Petri & Company  
*Audit Committee Member*  
*Compensation Committee Member*

**J. Albert Smith, Jr., 59**

Managing Director,  
Bank One Corporation  
*Audit Committee Member*

**Pieter S. van den Berg, 54**

Adviser to the Board of Managing Directors of PGGM

**Philip J. Ward, 51**

Senior Managing Director,  
CIGNA Investments, Inc.  
*Compensation Committee Member*

## 4.0 PRODUCT / SERVICE

### 4.1 Product



Commercial Connect, LLC. proposes the introduction of three new top level domain names, .mall, .shop, and .svc. for the exclusive use of Internet domains involved in the

use of electronic commerce. The existing top level domain .com, originally intended for this purpose has become too broad in its scope and so generic that it no longer exclusively denotes its original intention. In fact, the .com extension has suffered from its popularity more than any top level domain currently in use world-wide. With over 18 million names registered in the .com domain alone, it has become nearly impossible to find or improvise an available short descriptive and desirable name. This difficulty is becoming more acute daily, and as already implied by the continued geometric growth of the Internet, will become exponentially more difficult in the future. Twenty and thirty character domain names have now become common, and quite a disadvantage to their owners. Soon, descriptive names of fifty to sixty or more characters may be the only option under the present system, putting domains who are required to use them at a serious disadvantage as users must correctly type what amounts to a small paragraph into the address bar of a browser to reach these sites.

In addition, there are no distinctions between these 18 million companies .com web addresses; there is no logical structure behind the intention of the millions of web pages. By offering a set of alternative commercial extensions, the mechanics of global commerce via the Internet will be greatly enhanced.

The proposed individual domain names are:

#### **.shop**

Both a noun and a verb, this extension is understood in many languages. We propose that this name be used for electronic commerce sites that actually provide on-line shopping and ordering, whether the site is associated with a physical store or not.

#### **.svc**

Intended for e-commerce sites offering a service. A company who has diversified interests in many services and products would find it beneficial to register a .shop or .svc extension for the purpose of selling their products, thus giving the consumer an easy path to purchase.

#### **.mall**

The most restrictive domain of the three, .mall is intended as an umbrella domain under which multiple .shop and .svc sites may be assembled. It may also be used for the web site of an actual, physical mall or shopping center. By virtue of limited usefulness in any other context, this extension could be considered self-regulating.

## **4.2 Service**

Please refer to the Registry Operator's Proposal Technical Plan for a detailed discussion of Registry Services.

## **5.0 MARKET ANALYSIS**

Commercial Connect, LLC. will begin to aggressively market its services and obtain the staff necessary to effectively provide quality customer support the moment ICANN gives its approval for our proposed new top level domain names.

Commercial Connect, LLC. is in a unique position due to the fact that its high-end registry infrastructure equipment and connections are already in place. Commercial Connect, LLC. is located in the same office building as principal owned CAS-Com Internet Services, Inc., Computer Analytical Systems, Inc. dba Bestregistrar.com and CASDNS, Inc. Each company provides Commercial Connect, LLC. with Internet services and equipment respectively. Low rent, plentiful space for expansion, along with readily available Internet service and abundant equipment create a synergy between these three companies. Commercial Connect, LLC. will obtain additional equipment for its sole use should this proposal be accepted.

By all estimates, the market for Internet domain names is growing geometrically along with Internet users. According to *Business Week*, the "Internet craze" is going to provide big opportunities to entrepreneurs who manage to provide services to a clamoring clientele. *PC Magazine*, a highly regarded bi-weekly periodical with a circulation in excess of one million, has stated that Internet users are growing at a rate of 160,000 per month. MIT reports that the number of Internet subscribers is doubling every six (6) months.

The stability of the Internet is based on the number of highly funded, research oriented government institutions that have provided the backbone of the Internet. The Internet started in the mid 1960's as a Defense Department project called the ARPAnet. Used primarily to support research on packet switched networks, the Internet has grown through the addition of host computers and local area networks that provide connectivity to millions of people. As the ARPAnet grew as a gateway, the common denominator used to interpret the different layers was called the "Internet Protocol." The overall collection of all the networks and host computers is now simply called the Internet.

With the growth of the hosts on the Internet, there is an abundant need to group these hosts. This is where domain names are used. Domain names are synonyms for a numerical address or group of addresses on the Internet. We see them daily when referring to a web site. The domain name is the name of the computer network or virtual network on the Internet. An example of this is IBM.com. In order to obtain this domain name, the company has had to request it from a Top Level Domain Registrar. The registrar verifies that the name is not in use by others, then registers the name and charges a prepaid fee per year for a subscription. This means that the customer can use this domain name for the number of years reserved, and when someone refers to the domain name they will be directed to their network.

After its subscription expires the customer is charged an additional fee per year to keep the rights to the domain name. If the fee is not paid, the name goes into the available status and can be registered by another party.

Network Solutions, Inc., the former registry monopoly, reported in 1997 that there is an average of 12,000 domain names registered daily.

The total registry business brings in \$150 million in renewal years alone for the registry and possibly an additional \$150 million for registrars.

For the most part a commercial organization will presently use the .com extension to register its company. In a report by NUI.ie, it was stated that 98% of all of the words in the Webster American English Dictionary have previously been registered. Since there are only so many combinations of words and over 25 million have been registered, there has been a large outcry from the Internet Community requesting additional extensions. This could bring the yearly revenues to \$3.2 billion in the year 2001. While this is an extreme estimate, it is a very attainable goal.

## **6.0 MARKETING**

### **6.1 Executive Summary**

The purpose of Commercial Connect, LLC. is to become the premier e-commerce domain registry in the world. Its target market is all e-commerce companies currently doing business on the web, and all other retail product and service providers looking to enter the Internet sales market. With its combined years experience in commercial real estate, catering to the retail market and domain registration and ISP, Commercial Connect, LLC. is undoubtedly qualified to provide the latest TLD to the e-commerce market.

The company's major competitive advantage is its immediate ability to leverage retailers in 25% of the top regional malls in North America, owned by Simon Property Group, and the over 30,000 domain names currently registered through BestRegistrar.com, to register with the new TLD. These actual future registrants, in addition to the enormous network of retail and e-commerce companies already established, put Commercial Connect, LLC. in a position to make the new TLD as successful as possible, and more so than any other company in the world.

## 6.2 Situation Analysis

As Internet use increases, so does e-commerce and different web-based ideas for marketing products and services. Conventional e-companies are increasing their ability to serve the public, while the original "brick and mortar" companies all seem to be increasing their Internet presence and expanding the goods and services they offer on the web. With such marked increases in Internet use, e-commerce and conventional business, there is an ever-increasing need for new domain names. In addition to an increased need for names, there is also a need to better categorize sites on the web.

As e-commerce increases, so does the need to not only add new domain names, but to help organize web sites, and help differentiate between e-commerce and other Internet sites and offerings.

With these factors in mind, Commercial Connect, LLC. has come up with e-commerce-specific TLD's in order to become a facilitator for Internet commerce. The TLD's are .shop, .svc, and .mall. Such TLD's will send a clear message to the user community as to the kind of site they are visiting or searching for, and will offer purveyors of e-commerce a new and specific outlet and naming opportunity for their web sites. The joint forces of the Simon Property Group and BestRegistrar.com are in the ideal strategic positions to best manage these TLD's and to market them to companies both Internet and brick and mortar based, who wish to sell goods and services on the Internet.

## 6.3 Marketing Goals

Commercial Connect, LLC.'s major goals are:

1. Receive the license to be the registry for .shop, .svc, and/or .mall.
2. Market and advertise to all current and potential e-commerce companies.
3. Increase the number of e-commerce sites on the Internet.

## 6.4 Marketing Plan

The Year One Marketing Goal for Commercial Connect Inc. is to rapidly accelerate .shop, .svc and .mall into the preferred and accepted vehicles for e-commerce.

It is vital to catapult these new TLD's into this leadership in e-commerce in a manner that rapidly creates and defines the accepted standard for on-line transactions. Initial momentum is required to prevent other potential TLD's (ex - .buy) from siphoning off both buyers and sellers as well as becoming a viable transactional alternative to .com

Generating a continuing stream of consumers and individuals sampling, accepting, and embracing the new TLD's is likely to be the most difficult and vital element of the Marketing Plan. The Internet landscape is littered with excellent, high-concept sites, which failed due to a lack of consumer/individual traffic. The challenge, to get potential buyers to change their established behavior and use the new suffix, .shop, .svc or .mall, is undoubtedly broader reaching and much more difficult than driving traffic to a new site. To be successful the TLD's must enhance the business model of the participating seller partner sites with sustainable buyer utilization. It is acknowledged that purchase behavior and habits are difficult to change. The transition from telecommunications toll-free 800 numbers (i.e. .com) to toll-free 888 numbers (i.e. .shop) was more difficult and took longer than anticipated. The .shop, .svc, .mall proposition must overcome any such transactional resistance.

Once a critical acceptance point of marketing mass is achieved, the new TLD shifts from being a wanted to a must have Internet address. This is a classic marketing opportunity or dilemma of which comes first the buyers or the sellers? A balanced and calibrated marketing approach is required to ensure that sufficient numbers of buyers and sellers are engaged together in the initial phase of acceptance development. The number of buyers generates the number of sellers utilizing the TLD. Greater numbers of sellers generates buyers who are sampling .shop, .svc and .mall as a preferred and more convenient alternative.

Simon Property Group, a COMMERCIAL CONNECT, LLC. partner, provides an unsurpassed reputation and contacts among the world's largest retailers. This will enable the key initial surge of the new TLD sites so critical to becoming the transactional suffix of choice. Retailers in a current contractual relationship with the Simon Property Group account for \$38 billion in sales.

## Target Audience

COMMERCIAL CONNECT, LLC. evaluates the .shop, .svc, .mall concept to have substantial and real benefits for both consumer and business-to-business e-commerce applications. Buyers can and should include both consumers and companies. Sellers can and should include both retailers and business-to-business organizations.

The breadth of opportunity and potential for the new TLD requires a multiplicity of constituents and target audiences including but not limited to

### Sellers

- Current transactional consumer and business to business sites
- Small business companies
- Bricks and Mortar retailers
- Entrepreneurial and start-up companies

### Buyers

- Consumers of the entire gamut of consumer goods and services
- Corporate government and institutional purchasers

## Existing Registrars

**Benefit Profile**  
 COMMERCIAL CONNECT, LLC. will provide tangible, unique and advertiseable benefits to each of the Target Audiences and constituencies of the new TLD.

<u>Target Audience</u>	<u>Benefits</u>
◆ Buyers ( consumer and corporate)	Convenience of a dedicated and specific set address for a transactional domain.  Simplicity of net address for transactions.  Dedicated transactional domain name to reduce and simplify existing .com site.
◆ Sellers	Pre-characterization of the person (◆hit◆) as a ◆shopper◆◆ to be handled differently than as ◆ information seeker◆  Specialized site aggressively promoted in advance to potential customers as a shopping/buying site.  Total new revenue/profit stream  Rejuvenated interest in registration of site names
Registrars	Aggressive promotion of a new product they can distribute in partnership with COMMERCIAL CONNECT, LLC..

### Research

Upon approval and the contracting of this proposal, COMMERCIAL CONNECT, LLC. will embark on a comprehensive research program and investment merited by the tremendous potential of the new TLD concept .◆ This research will assist in creating a proven and documented approach to ensure its ultimate success.

This research program will include:

- on-line and off-line
- quantitative and qualitative elements
- multi-continent, multi-national research
- all three Target Audience groups(Buyers, Sellers, Registrars)
- strategic and tactical issues
- pricing elasticity (the .shop address may be sold at a price higher than a .com address)

This research will form the basis of the ultimate Product and Marketing Strategy as well as Creative Development.◆ The research will also be utilized to sell and promote the .shop, .svc and/or .mall address to key retailers and business-to business units.

### Marketing Budget

COMMERCIAL CONNECT, LLC. anticipates a preliminary business model in our year one with a marketing budget between \$10 and \$15 million for the U.S. market.◆ This will ultimately be governed by the research results and the final business model.

Successful marketing of this TDL is absolutely essential.◆ The e-commerce category is crowded and aggressively marketed.◆ Substantial and smart marketing investment will be required, particularly until a critical mass and the acceptance of the new TLD as the transactional standard is achieved.

### Communications

Advertising, Public Relations, and Sales Promotion will be utilized aggressively to seat the new TLD as the pre-eminent TLD and standard in e-commerce.◆ All of these communication activities will be executed with Publicis, our marketing partner.◆

The actual budget allocation between the three Target Audiences (Buyers, Sellers, and Registrars) will be determined by the number, size and profile of the participating ◆seller◆ sites at critical points in time.◆ For example, a profile rich in business-to business sites will necessitate a different allocation than a set of predominantly retail consumer sites.◆◆ The millions of .com sites ◆happened◆ in a tidal unguided ground swell.◆ In contrast, COMMERCIAL CONNECT, LLC. will actively brand .shop, .svc and/or .mall.

The communication objectives are two fold◆ : 1) To increase the awareness and preference of the business community for the .shop site for their e-commerce requirements◆ 2) To drive traffic from both consumer and business to the .shop sites.

These objectives will be achieved through a fully integrated and coordinated communication Plan of public relations, advertising, and sales promotion.◆ The multi million dollar budget in Year One will adequately fund these key components.◆ Different messaging will be directed to the three key Target Audiences but unified under a common communication◆ umbrella.

### Public Relations (On-line and Off-line)

Public relations will be an important component of the COMMERCIAL CONNECT, LLC. communication Plan for the new TLD.◆ Innovative Public Relations programs will be executed on-line and off-line to our key constituencies.◆ This Public Relations program will first be addressed to our potential ◆Sellers◆ and the potential purchasers of these new sites.◆ Once a critical mass of sites is achieved, the Public Relations activities will shift toward a cycle of building consumer and business-to-business traffic.

### Advertising

The Advertising programs will focus on the two largest Target Audiences, the ◆Sellers◆ and the ◆Buyers◆.◆ As in the program of Public Relations, the emphasis will be shifted as we achieve the critical mass of active .Shop, .svc and .mall sites.

A multiplicity of advertising media will be necessary to achieve rapid awareness, actual ◆trial◆, and preference for the new TLD sites.◆ However, each element will be unified with the same positioning and messaging.◆ A strong call-to-action will be utilized to gain initial trial.



Advertising Medium	Registrar	Sellers
Direct Mail/Collateral	✓	
Internet		
Print		
TV		
Radio		
*Simon Malls	✓	

\*The 200+ Simon Mall network provides a unique and powerful advertising medium available only to COMMERCIAL CONNECT, LLC. and these TLDs. Over 100,000,000 consumers shop the Simon Mall network each year. This active retail shopping environment will be harnessed to promote and advertise the TLDs in a unique manner.

**Merchandising**

The entire Communication Plan to drive traffic to these new sites will be aggressively merchandised to potential Sellers as a major reason they should utilize and contract for a .shop, .svc, and/or .mall site.

**6.5 Marketing, Advertising and Public Relations Firm**

In order to enact and develop this plan, COMMERCIAL CONNECT, LLC. has selected and retained the Publicis Groupe SA as its marketing/communications professional partner. Publicis is uniquely qualified to assist COMMERCIAL CONNECT, LLC. in bulding .shop, .svc, and/or .mall to its full global potential. Publicis brings all the required communications expertise under one corporate roof.

Publicis Groupe SA is listed on the Paris Bourse as well as on the New York Stock Exchange in the form of ADRs. Publicis Groupe is the 5<sup>th</sup> largest global communications agency. This worldwide network spans 5 continents, 100 countries, and offices in 165 cities. The experience base in fully integrated communications includes such business-to-business and consumer global accounts as Coca-Cola, Hewlett Packard, Ericsson, Whirlpool, UBS Warburg, L'Oreal, Pfizer, Siemens, Fujifilm, Syngenta, Nestle, and Renault.

Publicis U.S.

In the U.S. Publicis has billings of \$1.2 billion in three geographic centers of excellence. Simon has worked very successfully with Publicis for over 6 years.

Publicis brings a highly relevant combination of expertise in brand-building and in-depth experience in retail with such clients as Zales, Champs, TGIF Fridays, BMW, GNC, Rite Aid, and PETSMART.

Seamless, fully integrated communications for clients are developed through interlocking specialty Publicis groups in general advertising, business-to-business, public relations, sales promotion, and e-commerce. In this manner, the Publicis agency speaks with one voice across all communications disciplines for its clients.

For example, each of the major Publicis offices includes fully integrated communications capabilities and resources.

Business-to-business clients of Publicis U.S. are Hewlett Packard, Ericsson, UBS, Siemens, United Healthcare, Fujifilm, TXU, etc. This is matched by consumer goods clients like Citizen Watches, PETSMART, Del Webb, BMW, Cellular One, and L'Oreal.

Public Relations

Publicis Dialog, the Public Relations division of the agency will be an integral part of the .shop communications effort. They will work in tandem with the Publicis team to ensure a seamless communications and marketing program for .shop. Their broad range of expertise includes media relations, service/product placement, business-to-business communications, reputation/issues management, investor relations and special events, all of which will be essential in the effort to successfully launch .shop.

Publicis Dialog specializes in leading the revolution from one-way message delivery to a two-way dialog mode. This relationship enables all communication vehicles to become more effective and accountable. Enveloping and engaging the target with an overall approach creates a stronger, more lasting brand impression.

They have a national presence with offices in Seattle, San Francisco, Salt Lake, Chicago, Indianapolis, New York and Dallas. Their client base includes Whirlpool, PETSMART, Voice Stream Wireless, Pitney Bowes, American Express, Samsung, Agilent Technologies, Nestle and the 2002 Salt Lake City Olympics.

**6.7 E-Commerce Expertise**

In addition to standard e-commerce advertising by all offices, Publicis has a specialized Publicis Technology Division with 50+ dedicated professionals to support on-line marketing and advertising for .shop.

This Division has a full complement of interactive staff, including HTML developers, programmers, graphic designers, information architects, producers, and web strategists delivering everything interactive from online advertising strategies to web solutions. Typical online products include: online advertising, banners, eCommercials, microsites, jump pages, corporate web sites, intra and extranets, CD ROM authoring, interactive kiosks, eRelationship marketing programs, online loyalty clubs and online lead management.

Publicis Technology is a team of skilled e-thinkers and experts at building brands with a significant technology dimension. This is focused on the point where technology and humanity intersect. The passion is for translating the power that technology brings to our world into the benefits it brings to customer lives. A high level of integration of on and offline skills within one organization are achieved. The seamless transition from the offline brand promise into the online brand experience are highly focused on driving customers through the buying decision cycle irrespective of transition across the medium. All the technologies needed to create tomorrow's interactive environments; everything from simple HTML through database middleware and to e-commerce architecture solutions. A broad range of clients have become category leaders in e-commerce, such as Zales, Cellular one, Hoover's Online Garden Ridge, BMW, PETSMART, Lancome, and L'Oreal Kids working with Publicis Technology.

**7.0 GENERAL BUSINESS OPERATION GUIDELINES**

Commercial Connect, LLC. will have an operation manual detailing complete company policy and standards for many possible situations that may arise. It will be a fluid document, for as new protocols and standards arise, the manual will be amended. The goal of the operation manual will be to standardize as many parts of the business as possible, in an effort to control cost and aid growth.

Commercial Connect, LLC. will operate registry services 365 days a year, 24 hours a day. The Internet never closes, so access to it must be available for all users independent of time, place or other conditions that might limit business hours for any other operation.

Technical support for users will be available in four different ways. First will be a manned support desk, from 9:00 a.m. to 5:00 p.m. EST. The second part of technical support will be the addition of voice mail to insure that if the support desk is held up answering a customer's questions, the person on the other end of the line will be able to leave a message including a return phone number for help regarding a particular problem. The third part of the equation will be the ability of customers to leave an e-mail message addressed to the technical support staff with guaranteed twenty-four (24) hour or less response. The fourth and final part will be that questions may be faxed to the support desk for a guaranteed response within twenty-four (24) hours. The response may state that the technical support staff is researching the problem, but at least communicating with the customer will offer them the security that their problems are being addressed in a professional and courteous manner. Additionally, voice mail will provide a conduit to reach a technician twenty-four hours per day, seven days per week, should a problem arise.

Registrar customers will make payments to Commercial Connect, LLC. primarily by wire transfers or company checks.

Registrars, once established, will have a customized web page on Commercial Connect, LLC.'s host server. They will need to answer several questions as to their billing and contract preferences. During the initial sign up screens, they will be queried for specific billing information, and will be allowed to choose a password that will be stored by the system. They will also be presented with all of the particulars of the system including technical support hours, payment plans, etc. The billing system will also provide statistics to insure the most efficient use of technical resources.

**8.0 MANAGEMENT AND ORGANIZATION**

**8.1. Management**

Jeffrey Smith, Daniel Kalef, Warren Brown and Nancy Angermeier are Commercial Connect, LLC.'s four officers.

Jeffrey Smith is CEO of Commercial Connect, LLC.. He is also President and founder of Computer Analytical Systems, Inc. He has a background that combines application development, public relations and IT consulting. He extensive educational background includes health care administration programs at University of Kentucky, West Texas State University now Texas A&M and Business related program at the University of Louisville. For the twelve years, he has owned and operated Computer Analytical Systems, Inc. which started CAS-Com Internet Services, Inc. an Internet Service Provider and CASDNS, Inc. an accredited ICANN top level domain name Registrar. Mr. Smith has over nineteen years experience in the information systems and business management fields. In addition he has consulted for various telecommunications and high level technology companies on internet related issues for the past eight years.

Daniel Kalef is Chief Revenue Officer of CommercialConnect. Daniel was most recently the Vice President of Business Development for onGiving.com, an ASP that channels Internet advertising dollars to charitable causes and organizations. Daniel has spent eight years raising money and consulting on management and organizational structure for a number of national and local non-profit organizations, including the Galef Institute in Los Angeles, CA and the Olmsted Parks Conservancy. Most recently he started Icarus International, an international import/export company in the business of exporting consumer goods to former Eastern Block countries, and importing wine from these same countries to the U.S. Prior to his non-profit management work and the start up of Icarus International, Daniel was a practicing attorney in Chicago, Illinois, specializing in corporate and intellectual property litigation. Daniel is a graduate of joint programs between Yeshiva University and New York University in New York City, as well as the Benjamin N. Cardozo and NYU Schools of Law. Daniel brings an extensive knowledge of, and skill in, relationship building, negotiation, sales, marketing and overall business development.

Warren Brown is Chief Information Officer. He has spent the last twenty years in the database and software development communities. He started Business Electronics Network in the early eighties which provided medical billing software to various ambulance companies worldwide. In 1988 his company merged with Metro Ambulance Service and he continued developing ambulance billing software. In 1996 he accepted a position with Computer Analytical Systems, Inc. where he was Director of Programming Management. In this position he oversaw the programming team on the development of a Shared Registry Systems to interact with CORE, then later a turnkey system to Interface with Network Solutions Registry.

Nancy Angermeier is the Director of Accounting for Commercial Connect, LLC.. She has fifteen years accounting experience with eight years of certified public accounting firm experience. In 1990 she started Systems Management Group, Inc. Systems Management Group, Inc. was a consulting firm for the healthcare and legal industry specializing in billing systems and office automation. In 1994 she came to work for Computer Analytical Systems, Inc. as a specialized consultant and strategic partner. This alliance merged her company's expertise with the medical expertise of Computer Analytical Systems, Inc. She has made an invaluable team member and has accepted the position in September, 2000.

Commercial Connect, LLC. recognizes that additional staff is required to properly support the company functionality. Our intention is to begin with the following and modify when needed:



- 1. Chief Executive Officer
- 2. Chief Financial Officer
- 3. Chief Information Officer
- 4. Chief Operations Officer
- 5. Chief Revenue Officer
- 6. Director of Accounting
- 7. Network Administrator
- 8. Programmer-Senior
- 9. Programmer-Junior
- 10. Customer Service/Technical Support
- 11. Accounting Clerk
- 12. Administrative Assistant
- 13. Secretary
- 14. Receptionist/Telephone Operator
- 15. Satellite Office Staff

**8.2 Advisors**

The Commercial Connect, LLC. Board of Directors plays an active role in assisting the company in various facets of its operations.

David E. Simon is currently the only board member of Commercial Connect, LLC. He is the Chief Executive Officer of the Indianapolis based real estate development and management company, Simon Property Group, Inc., the world's largest publicly traded retail real estate company. Before joining Simon in June, 1990, Mr. Simon was a vice-president of Wasserstein Perella & Co., a Wall Street firm specializing in mergers and acquisitions and leveraged buyouts. He was formerly an associate at First Boston Corporation, also based in New York.

The balance of the seats are being filled by prominent members who are contacts of the company's principals or company principals.

## 9.0 OPERATIONS

### 9.1 Headquarters

Commercial Connect, LLC.'s corporate headquarters will be located in Louisville, Kentucky. The office will be 6,000 square feet and will consist of offices and cubicles with enough room for 20 people. There is a secured server room and constant high speed Internet access. Web and database servers are currently hosted by CAS-COM Internet Service. There is a technologically advanced phone system to enable us to handle the volume of calls made from this location.

### 9.2 Expansion

After the first year of operation, Commercial Connect, LLC. will expand its offices if necessary by obtaining additional space at or adjacent to its corporate headquarters in Louisville, Kentucky. Currently there is an additional 9,000 square feet available to be committed to them. In addition, from Simon Properties assets of over 184 million square feet of gross leasable area, we have designated satellite offices in London, U.K.; Atlanta, Georgia; San Francisco, California; Indianapolis, Indiana and Chicago, Illinois.

### 9.3 Legal Counsel

Commercial Connect, LLC. has retained the services of Jones, Day, Reavis & Pogue for intellectual property and international legal issues.

In addition, the general counsel and legal department of the Simon Property Group, L.P. and its entities will contribute their legal services. The department holds significant expertise in the area of Internet law and has a significant base of operation in many areas of the Internet.

### 9.4 Accounting, Back Office and Financial Services

Arthur Andersen, LLP has been retained to handle many aspects of the company's financial, tax, and some back office concerns. Some core services being provided by Arthur Andersen, LLP include:

- High-level strategic consulting
- Financial and tax consulting

### 9.5 Job Descriptions

#### Chief Executive Officer - CEO

Development and implementation of primary goals, operating plans, policies, and short and long range objectives for the organization. Directs and coordinates activities to achieve maximum profit and return on capital. Establishes organizational structure and delegates authority to subordinates. Leads the organization towards objectives. Determines action plans to meet needs of shareholders. Represents organization to financial community, major customers, government agencies, shareholders, and the public.

#### Chief Financial Officer - CFO

Directs the overall financial plans and accounting practices of an organization. Oversees treasury, accounting, budget, tax and audit activities of the organization. Oversees financial and accounting system controls and standards and ensures timely financial and statistical reports for management and/or Board use. This is the top finance and accounting position for the organization. Plans and directs analysis of financial data. Provides assessment of existing and proposed financial plans and policies.

#### Chief Information Officer - CIO

Directs IS operations including computer operations, technical support, systems analysis and programming. Manages the acquisition, installation, and maintenance of the organization's local area networks and wide area networks. Directs database management, telecommunications, IS training and microcomputer technology. Manages LAN/WAN performance and security. Establishes and implements policies and procedures for LAN/WAN usage, technical priorities, standards, and procedures. Ensures sufficient systems capacity for organizational needs. Contributes to general business planning regarding technology and systems required to maintain company operations and competitiveness. Analyzes and recognizes new developments in information systems technology, and anticipates organizational modifications. Establishes long-term needs for information systems, and plans strategy for developing systems and acquiring hardware to meet application needs. Ensures confidentiality and reliability of corporate data, proprietary information, and intellectual property.

#### Chief Operations Officer - COO

Implements programs to ensure attainment of business plan for growth and profit. Provides direction and structure for operating units. Manages, directs and coordinates activities by directing and coordinating activities consistent with established goals, objectives and policies. Follows direction set by Chief Executive Officer and Board of Directors. May report to a Director or COO, assists with development of organization related to policies, practices, and attainment of operating goals. Reviews and analyzes reports, records, and directives, and obtains data required for planning activities, such as new commitments, status of work in progress, and problems encountered. Assigns or delegates responsibility for specified work or functional activities and disseminates policy to employees. Gives work directions, resolves problems, prepares schedules, and sets deadlines to ensure timely completion of work. Coordinates activities of department with related activities of other departments to ensure efficiency and economy. Monitors and analyzes costs, prepares budget, and prepares reports and records on department activities for management, using computer. Evaluates current procedures and practices for accomplishing department objectives to develop and implement improved procedures and practices. May initiate or authorize employee hire, promotion, discharge, or transfer.

#### Chief Revenue Officer

Manages development programs and activities to facilitate introduction of new products or processes or recommend improvements to existing products or processes. Oversees research and development of new products and services as well as related marketing and sales strategies for these products. Integrates research, development, sales and marketing strategies to successfully install new products and services or to revise existing product lines.

#### Director of Accounting





the business, utilizing generally accepted accounting procedures (GAAP) as allowed by the software. The Chief Financial Officer and other accounting personnel will track, forecast and budget the company's finances to best utilize the information vital to our success and growth.

Capital assets are to be scheduled and managed through the use of the Peachtree Fixed Assets module, with appropriate tracking taking place as well within the general ledger. This provides the necessary documentation and treatment for financial statement preparation as well as for federal and state tax basis reporting requirements.

Revenue will come into the business primarily through wire transfers and possibly later by corporate check, thereby eliminating the need for a great deal of security in handling large sums of cash. The bank or depository institution will then transmit a daily transaction report of funds received and deposited. The registry information will be turned over expediently to the appropriate department for further processing. The revenue information will be recorded as a cash receipt for the appropriate day as well as simultaneously being reported to the appropriate revenue account. Totals reported as received by the financial institution will be balanced against the totals of detail transaction entry, and any fees or costs charged by the financial institution will then be posted as expenses. Reports from the registration section shall be compared with the financial reports in order to maintain the integrity of the procedure. Any discrepancies are to be reconciled immediately so that all daily reports are synchronous with each other. Utilization of daily concomitant controls prevents excessive and repetitive auditing of detail records at later times.

Expenditures for costs of revenue and general operations shall be made promptly and according to procedure as determined by the Chief Financial Officer and other financial personnel. Purchase Orders are to be issued by appropriate personnel upon receipt of documents of approval to purchase necessary items and services for operations. When merchandise or services are received, a signatory document confirming receipt of the merchandise or service shall be submitted as proof that the merchandise or service has been performed or received. Upon receipt of the invoice for the merchandise or service, the purchase order, the signatory document of receipt and the invoice are put together and submitted for payment.

Accounts payable are to be reviewed and payments of vendor invoices are to be determined as necessary by appropriate accounting personnel. All payments are to be made timely so that further costs are not incurred. Payments are to be made in such a manner as to maximize profitable utilization of cash reserves and other resources of the company while maintaining standard area business practices and vendor relations. Utilization of computerized checks will keep processing within the standardized system, thereby eliminating manual intervention and reducing the margin for error. Upon determination of signatory requirements for checks, appropriate accounting personnel shall sign checks as required and submit them for further processing and receipt by vendors.

Proper handling of the bank statement upon its delivery to or on behalf of the business is done as recommended by GAAP and accepted auditing standards. The bank statement is to be reconciled within twenty-four hours of its receipt by accounting personnel. Utilization of the account reconciliation feature of the software will facilitate completion of this task in accordance with procedures. Upon completion, the bank statement documents are to be safely and accessibly stored should further access be needed. Additional debit or credit adjustments to be posted to the general ledger are to be approved by the appropriate personnel and promptly entered into the system, also by the appropriate personnel.

Monthly transactions, general ledger and financial statement detail are to be reviewed for accuracy and completeness prior to issuance each month. Interim reports and financial statements are to be provided to Chief Officers and management personnel as they may require.

All financial information is to be held in strict confidence by all employees of the corporation.

## 11.0 RISKS

There are substantial risk factors associated with Commercial Connect, LLC.. The company has a limited operating history and is introducing a new product to the market.

There is little reputation or history on which to rely for assumptions made in this business plan.

- The company will be highly dependent on key personnel. Any change in personnel could be detrimental.
- Forward-looking statements in this plan may be inaccurate.
- The company will be dependent on the continued growth and acceptance of the Internet and domain names.
- The company will be dependent on its perception on the Internet
- Legal issues faced by other registries will be of great concern
- There may be problems with computer systems that will disrupt operations.
- There may be security problems with computer systems.
- There may be future government regulations on Internet companies that adversely affect revenue.

## 12.0 TECHNOLOGY

See Registry Operator's Proposal Technical Plan.

**Annex 1d**

# REGISTRY OPERATOR'S PROPOSAL TECHNICAL CAPABILITIES AND PLAN

## Commercial Connect , LLC.

September 30, 2000

1418 South Third Street  
Louisville, KY 40208-2117  
(502) 635-7979 (502) 636-9157  
<http://www.bestregistrar.com/>

Jeffrey S. Smith, President

TECHNICAL PLAN NUMBER: 00-1017A

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# 1.0 Introduction

## D15.1 Detailed description of the registry operator's capabilities.

Commercial Connect, LLC. has the full resources of an Internet Service, an accredited ICANN Registrar, and a full service computer consulting firm located at the same location and all are co-owned by one of the principals of Commercial Connect, LLC.. In addition, Commercial Connect, LLC. can pull resources from the other principal's resources, Simon Properties with their full time staff of thirty five permanent IS employees and an additional sixty contract IS employees.

Currently Commercial Connect, LLC. is connected to a redundant ATM network through a Sprint backbone, then to the MerchantWired extranet utilizing its DS3 connections to Intermedia. With Simon Property Group's extensive real estate all over the world, we will also be co-locating equipment strategically placed around the globe to ensure reliability and efficient accessibility.

MerchantWired, a majority owned entity of Simon Property Group is in the process of wiring every mall property of Simon Property Group for Internet and e-commerce. Commercial Connect, LLC. has commitments from MerchantWired and from Simon Properties to establish co-locations around the world.

Press Release Indianapolis, IN May 9, 2000

*FOR IMMEDIATE RELEASE*

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*MerchantWired goes live with first Coast-to-Coast retail infrastructure network*

*Consortium of the Nation's Largest mall Owners Creates Retail Extranet Standard*

*MerchantWired Partners with Cisco Systems, IBM and Intermedia Communications to Establish the Infrastructure Standard*

*MerchantWired ([www.MerchantWired.com](http://www.MerchantWired.com)), a full-service infrastructure that connects the physical and virtual worlds in the retail industry, announced the launch of its nationwide service. Leading a consortium of property owners and infrastructure partners, MerchantWired will change the retailers communicate with each other and their customers. Dedicated to establishing the standard for retail networks, MerchantWired provides retailers in any property across the country with the infrastructure to meet their specific needs. Through strategic partnerships with Cisco Systems, Inc., IBM and Intermedia Communications, MerchantWired works with leading property owners including the Macerich Company (NYSE: MAC), The Rose Company (NYSE: RSE), Simon Property Group (NYSE: SPG), Taubman Centers, Inc. (NYSE: TCO), Urban Shopping Centers, Inc. (NYSE: URB) and Westfield America, Inc. (NYSE: WEA) to wire over 380 retail properties nationwide.*

At present there are ten employees employed by Computer Analytical Systems, Inc. dba BestRegistrar.com hereinafter referred to as BestRegistrar.com. These employees possess the technical capabilities to create and provide consultation services to companies starting an Internet Service Provider, an Internet Registrar service and/or e-commerce solutions. This experience includes Information Systems Planning, Management/Cost Analysis Consulting, Systems Analysis, Procedural Analysis, Systems Implementation and Operations Management as well as Database Engineering and Design. In addition to the above abilities, they possess the technical expertise of planning world-wide networking including Virtual Private Networking and integrating telecommunications and data using technologies such as Voice over IP.

The above combined with Simon Property Group's, hereinafter referred to as Simon, information systems department of over eighty employees is a solid foundation to build a new joint company which

will take key personnel from the companies as its employees.

BestRegistrar.com through a newly formed corporation in 1996, incorporated in 1997, (CASDNS, Inc.) was the second entity to begin registering .com .net and .org in competition with Network Solutions during the initial testbed period through CORE. This makes us one of the oldest functioning registrars in business with the exception of Network Solutions. We were included in the initial approval process of CORE and later one of the first accredited by ICANN.

The President and CEO of BestRegistrar.com and CASDNS, Inc., has been involved in these same group of companies for the past twelve (12) years. During that time he has been involved in consulting for major organizations including AT&T, National Medical Enterprises, Humana, Various State Transportation Cabinets, Bahamas Telco, CORE, Catholic Health Initiatives and University of Kentucky. Consulting services include data/telecommunications integration, Database design and strategies, Wide-Area Networking, E-Commerce implementations and strategies, and Internet Service Provider Startups.

## **D15.2 Technical plan for the proposed registry operations.**

### **D15.2.1 General Description of proposed facilities and systems**

Commercial Connect, LLC. will use eleven scalable IBM Servers located in Louisville, KY, Atlanta, GA, Chicago, IL, Indianapolis, IN, Dallas, TX, and London, UK. The primary site will be 1418 South Third Street, Louisville, Kentucky where a redundant ATM fiber Sprint link is located. The primary registry database server in Louisville will be an IBM RS/6000 F80 450mhz with 4gb RAM and 36.4gb hard disk storage. The additional servers will be IBM Netfinity 7600 Xeon/700 with 2gb RAM and 18.2gb storage. Of these, two each will be located in Louisville, Atlanta and Chicago to function as replica database servers and name servers respectively, and one each in Indianapolis, Dallas and London to function as name servers. They will be configured to automatically transfer and keep current vital information and serve geographical locations based on backbone configurations.

The primary site at 1418 South Third Street has a redundant ATM Fiber sprint backbones with controlled facilities including complete customizable climate control, video surveillance, controlled access with active heat and smoke sensing alarm system. It is manned twenty-four hour a day with multiple technicians living within the same block of the company.

The server computers will utilize a Compaq 15 Tape DLT Array Backup System.

The database will be an Oracle based custom programmed system to be discussed later in this document.

### **D15.2.2 Registry-Registrar model and protocol**

The Registry-Registrar model will abide by the protocol requirements outlined in the IETF Internet specification for gRRP and will follow Section 10 of RFC2026.

It is essential that in order to maintain an orderly reliable Internet standards must be in place to provide basic services. We fully intend to adhere to these standards. We will provide a similar functioning Registry-Registrar Model that will respond identical to the requests that are in place at Network Solutions/Verisign Registry Services. We will diverge slightly as we are proposing a heavier registry model with additional information in order to aid in the stability of the internet. Our model will keep aside from the current information, additional vital information needed to provide for any lapse in business activity of registrars. There will be a need to enhance the RRP for additional commands and information. All needs will be addressed through IETF and an enhance form of the RRP.



Full observation and participation in IETF processes are essential. Commercial Connect, LLC. will have staff dedicated to keep up with all RFCs, proposals and standards to ensure that we are consistent to the operation and fast changing need of a stable Internet. In addition security will be of highest priority. All transactions will take place on secured servers transmitting secured transmissions, virtual private networking and secured DNS to ensure a secure Internet system.

## 1.1 Positioning for the Future

A strategic vision that recognizes a need to adapt the information architecture to meet the challenges and goals of the future is essential. The direction of today's Internet environment is rapidly changing to incorporate new ideas and relationships among the registries, registrars, Internet service providers and finally the end user. One of the keys to the ability of Commercial Connect, LLC. to take advantage of this environment is to develop and implement a strategic information plan that is capable of supporting both the current and long term business goals of the internet.

In today's information world, the enterprise network is the infrastructure over which all applications and platforms operate. Because of its importance, the planning and implementation of the network must be approached with a broad perspective. This requires that all aspects of the use and requirements of the network be carefully considered before actually installing hardware and software.

Today's information environment offers many challenges. One of the major challenges lies in the determination of the types of applications that may be selected for use in the institution in the future. As various applications offer their own unique requirements, the information system must anticipate, and have some provisions for, multiple applications that may be used on the system. The varying demands of these applications dictate that the strategic plan be based on open systems, standards based architectures, capable of supporting not only these applications, but of evolving to new technologies to meet the demands of tomorrow's applications.

Another issue impacting the information environment is the increased complexity of systems (hardware, software, and communications). Unfortunately, as system complexity increases, IS staffing is not keeping pace. In order to offset this difference, newer, more efficient methods of maintaining and managing the systems must be incorporated into the plan. In addition to the basic management requirements of the system, the training of the current IS staff is paramount in enhancing their ability to evolve into the newer networked environment.

Faced with the possibility of new government regulations, increased competition, and the need to maintain a healthy bottom line, administrators are looking at many new and different ways to meet these challenges. One method of leveraging the influence is to enter into new group relationships with other members of the internet and computer systems community. The strategic plan must incorporate the ability to extend beyond the traditional corporate campus to reach these remotely connected entities.

Other complex issues also must be addressed in the strategic plan, such as system security, user interfaces, the incorporation of existing systems, and long term growth.

While all of these changes are occurring at a rapid rate, the changes in communications technology are happening at a rate that may be even faster. In order to meet the needs and challenges, the strategic plan must also anticipate the changes in communications technology. By understanding and incorporating the most current technology into the plan, Commercial Connect, LLC. will be able to take advantage of the benefits that newer technologies offer.

By having entities such as Computer Analytical Systems, Inc., BestRegistrar.com (CASDNS, Inc.), Simon Property Group, CAS-Com Internet Services, Inc. and MerchantWired as partners in developing and implementing the network solutions necessary to achieve the long range vision, Commercial Connect, LLC. will be well prepared to deal with the revolutionary changes facing information systems today.

Commercial Connect, LLC. will create an environment that addresses the full scope of networking requirements in today's environment.

The following must be performed:

- ◆ Define and install a campus network infrastructure that meets both the immediate and long term needs.
- ◆ Provide and install network hardware that is capable of supporting both current and future technologies.
- ◆ Plan network software and workstation configuration to support multiple environments that are currently implemented or may be implemented in the future.
- ◆ Develop a migration path so that "fork lift" changes are not necessary in the future ...do only what's cost effective now with a plan to incorporate the remainder later.
- ◆ Develop and implement a network management plan that aids the staff in identifying and correcting problems.
- ◆ Develop a wide area networking plan that is capable of supporting various user types (i.e. Registrars, Resellers, ISP◆s, and end users, etc.).

Upon completion of the network, users attached anywhere in the system will have access to any resource in an open, shared but secured environment. This powerful feature is the primary basis for open systems architecture used in networking today.

## 1.2 Design Overview

The design is composed of three major parts:

- Functional Area solutions,
- Detailed Design information, and
- Project Costs

The network design provides the infrastructure necessary to install and implement an enterprise network. The design includes solutions for a number of functional areas:

- ◆ Network Architecture
- ◆ Network Cabling Infrastructure
- ◆ Network Hardware
- ◆ Wide Area Network Connectivity
- ◆ Network Management

◆ Host and Server Integration

◆ Enterprise Applications

The solution for each of these functional areas is discussed in corporate-wide terms in the section of the same name. Following the solutions discussion, the Detailed Design portion of this document provides the specific infrastructure design details necessary to implement the project. The Project Costs section includes a detailed Bill of Materials and costs for implementing the network. The following paragraphs provide an overview of the functional area solutions.

The Network Architecture section provides a foundation for the follow-on sections. It defines the three network infrastructure components (fiber optic backbone, local distribution, and wide area connectivity) discussed in this design and provides a graphical illustration of how these three components combine to form the Enterprise Network. It also describes the logical connectivity of the network hardware as a preface to the discussion in the Network Hardware section.

The next section of the design is the Network Cabling Infrastructure. The proposed solution is based on a hierarchical star wiring topology which is capable of supporting existing and future networking technologies. The solution proposed is compliant with the EIA/TIA 568 standards for structured building wiring. This guarantees that the network infrastructure will fully meet the current and long term information needs. The baseline design provides for the following:

- ◆ Engineering design to ensure that the infrastructure fully meets the EIA/TIA 568 structured building wiring requirements.
- ◆ Labor and materials to install enhanced Category 5 outlets in locations throughout the facility.
- ◆ Labor and materials to install a fiber optic backbone to serve all locations in the buildings.
- ◆ Equipment racks, patch panels, device jumper cables, and other components necessary to fully implement the cabling infrastructure.
- ◆ CADD drafted maps indicating fiber optic cable routing, network concentrator locations, device locations, and wire numbers.
- ◆ Complete testing of each system component to ensure operability within the designed standards.

The Network Hardware portion of the design offers a solution from 3Com as the recommended network concentrator manufacturer. We have based our selection on several factors which are explained in detail later in this design. The network design provides for the following:

- ◆ Concentrator chassis and modules that are capable of supporting Ethernet, Token Ring, or FDDI.
- ◆ Ethernet 100BaseT connectivity for PC workstations and network attached printers.
- ◆ Network management modules for configuration and control of all network host modules.
- ◆ Network integration support to install, configure, and test the hardware and software components proposed.

- ◆ Component testing to guarantee complete operation of all system ports, power supplies, and fault tolerant features offered.

The Wide Area Network section describes the solution for connectivity and remote connectivity to the Shared Registry System (SRS) server. The WAN connectivity discussion is divided into three functional areas:

- ◆ The Corporate Backbone WAN section describes network connections between the major sites and to the SRS. A union of redundant T-1 circuits and the MerchantWired DS3 network product provides a flexible approach to intersite data and voice connectivity. This design specifies Cisco Systems routers as a backbone network hardware solution. Through the use of Coastcom T-1 channel banks, the design provides a capability to support voice as well as data connections between the major sites.
- ◆ The Remote Branch Office section implements redundant T-1 circuits between the branch office and the corporate backbone site.
- ◆ The Remote Access capability described in the final section of the WAN discussion provides both remote control and remote node access to those administrators who require periodic access to all network functionality.

This design provides all of the network hardware, software, and network integration effort to implement Wide Area Network connectivity. Leased circuit fees and facility cable access costs are addressed in the accompanying Financial Plan.

In the Network Management section, we propose two levels of network management functionality: Enterprise-wide and Facility Management.

- ◆ The Enterprise Network Management solution provides a platform and application software functionality with the power to configure, monitor, and troubleshoot any network concentrator or router throughout the network. This solution is designed to facilitate centralized day-to-day management and monitoring of the network.
- ◆ The Facility Management capability provides a scaled-down capability for local network configuration and complete desktop management functionality within the facility. The facility management package permits the local network administrator to perform complete configuration of network concentrators (such as port assignments) and management of user applications, workstation configuration, and applications metering on network servers.

The Network Host and Server Integration section provides solutions for each of the network hosts and servers defined in the near-term IS applications plan.

- ◆ SRS applications will be accessed either through a secured Https connection or through RRP.
- ◆ The majority of the SRS application will be consolidated onto one at the Louisville, Kentucky host location then replicated on two additional servers across the country.

The Enterprise Applications section of the design outlines a solution utilizing Microsoft's Exchange Server for Electronic Mail, Scheduling, and Task Management. Each workstation user on the network will have access to these applications. The design specifies active server directory architecture for effectively implementing these applications corporate wide.

## 2.0 Network Architecture

This paragraph begins our discussion of a networking platform designed to support complete integration of applications and data communications requirements. Our goal - to build a networking environment that provides users access to distributed computing resources from a single desktop platform, while at the same time making network complexities transparent to them.

The enterprise network infrastructure can be viewed as having three components:

- ◆ A local distribution network providing connectivity from the user to the network,
- ◆ A backbone network interconnecting segments of the local distribution networks throughout a facility, and
- ◆ Wide Area Network (WAN) connectivity between the main sites and to remote locations.

Layering the network in this manner permits more effective use of technology designed to support communications at each level. It also provides a structured approach for simplified network management.

The use of standard protocols and interfaces permits seamless integration of the components. Ethernet (IEEE 802.3 standard) was selected as the primary media access protocol throughout the network. Although the network will be implemented using Ethernet, the structured technique can also support FDDI, Token Ring, and ATM protocols.

The following paragraphs provide the details of each of these components. The Logical Network Design figure illustrates how these components are brought together to form the network.

The function of the local distribution network is to connect users on a floor or within a department to network concentrators, or hubs. The hubs provide communications between users and local servers as well as access to the backbone network in the facility. The local distribution network is a physical star topology using unshielded twisted pair (UTP) cabling. The combination of these two approaches yields cost effective connection to the desktop while maintaining flexibility and simplified troubleshooting.

The fiber optic backbone network interconnects departmental concentrators with each other and the network computing resources within a facility. It also provides access between buildings on the campus. The fiber optic backbone design is a star topology, originating from a Main Distribution Facility (MDF) in each of the three main sites. From the MDF, fiber optic cables radiate out to Intermediate Distribution Facilities (IDFs) which serve as the hubs of segments of the local distribution network. The Structured Wiring Diagram depicts the tiered architecture implemented in this design.

The wide area network (WAN) provides connectivity between enterprise/facility networks over extended distances using commercial carrier provided services. In the initial implementation of the enterprise network, the inter-site links will consist of full period digital links between the three main sites; the network hardware specified in this design will support voice and video as well as data traffic between the sites. (In some cases additional modules are required).

The logical architecture of the network components implements an approach known as the "Collapsed Backbone" on each campus. In this approach, the physical star arrangement of the fiber optic backbone connects intelligent wiring hubs located throughout the facility to a central intelligent hub. The backplane of the central hub serves as the network's physical focal point, interconnecting network segments to the switches and routers that segment and distribute the network traffic. The collapsed backbone design offers several advantages:

- ◆ Improved performance over other backbone designs. Implementation of today's high-speed router and switch technology in conjunction with the central hub will eliminate network bottlenecks that plague other architectures.

- ◆ Simplified network management. From the central hub, protocol analyzers can diagnose problems throughout the enterprise network without the need for access to each of the hub communications closets.
- ◆ Easy access to WAN links through the central router. This architecture minimizes the complexity of integrating WAN links into the enterprise network.

The use of a switch or router for network segmentation on each campus network will vary depending on the size of the campus internetworking requirements. At a site with a large number of departmental concentrators and users, an ethernet switch is used for cost effective network segmentation. At a site such as this, a backbone router provides WAN access and network layer protocol segmentation.

For sites with a smaller number of segments and hosts, sufficient ports are available on the backbone router for complete network connectivity.

The Collapsed Backbone Architecture figure portrays this concept.

### **3.0 Network Cabling Infrastructure**

This section describes the network cabling infrastructure design and installation as it is implemented across the enterprise network. The specifics of the cable infrastructure at each campus are described in the Network Design Details section.

This section provides information on the fiber optic backbone and the Enhanced Category 5 distribution system proposed which entails the following:

- ◆ A local distribution network extending from each IDF to user device locations. The local distribution network will support a large variety of devices, including any combination of user PC workstations, terminals, and printers. The design utilizes Enhanced Category 5 Unshielded Twisted Pair (UTP) cabling, providing high-quality, reliable data communications for today's networking technologies. In addition, use of this type of system positions the company for a smooth transition to the technologies of tomorrow.
- ◆ A fiber optic backbone cable plant extending from Main Distribution Facilities (MDFs) to Intermediate Distribution Facilities (IDFs) located throughout the building. This cable plant is designed in accordance with the EIA/TIA 568 and 569 standards for structured building wiring. In addition, the fiber optic infrastructure design is completely compliant with IEEE 802.3 Ethernet, IEEE 802.5 Token Ring, and ANSI X3T9.5 FDDI specifications.

Upon completion of the project proposed CommerConnect will be able to utilize the network for communications between all data devices throughout each campus and the host processors or servers. The network infrastructure designed and constructed will be capable of supporting any current or projected technology such as Ethernet, Token Ring, FDDI, ATM, Fast Ethernet, or Fiber Channel, to name a few.

Our engineering, installation, and technical staffs have extensive experience in mixed media networking, and an intimate knowledge of the unique requirements of large Internet and corporate institutions.

### **3.1 Local Distribution Design and Installation**

## **LOCAL DISTRIBUTION SYSTEM DESIGN**

The IDFs are the hubs of each segment of the local distribution network. Each local distribution cable terminates on an Enhanced Category 5 modular patch panel mounted in the equipment cabinets or racks. This design provides a flexible, easily managed capability for patching data network circuits from the hubs and terminal servers using modular patch cords.

Telecommunications closets are intermediate distribution points for the local distribution network. In the event that a number of UTP cables are required on a building floor not supported by an IDF, telecommunications closets are established to serve as cross connect points between the vertical UTP cabling (risers) and the horizontal distribution cabling on the floor.

This architecture provides flexibility for future adds, moves, and changes, eliminating the need to re-run distribution cabling the entire path from the user location to the IDF, which may be several floors above or below. Only the horizontal portion of the cabling will be rerun and cross-connected to the existing vertical cable run. The cross connect hardware will be AT&T 110 style cross connect blocks, mounted on a plywood backboard.

This proposal specifies 4 pair, 24 AWG, Plenum Grade cable, permitting overhead cable runs to user locations to be concealed in the plenum ceilings without additional conduit. All distribution termination hardware is rated at Enhanced Category 5 in accordance with EIA TSB-40. Terminations will utilize the EIA/TIA 568B pin-out standard to ensure compliance with IEEE 10BaseT, IEEE Token Ring, and ANSI X3T9.5 TP/PMD standards.

The installation specification paragraph below specifies the installation methods and requirements to maintain the structural integrity of the system. This will include the cable management hardware for supporting the cable in the ceilings, installation, and termination methods and requirements for properly installing a Enhanced Category 5 system. This data can be used for future moves, additions, or changes that will be encountered in the future.

Jumper cables from the wall plate to the user device are specified to be 4 pair, stranded, UTP, terminated with male RJ-45 connectors at both ends. The terminations will follow the EIA/TIA 568B pin-out standard. The standard length for these device cables for purposes of this proposal is ten feet, although customized lengths can be substituted with minimal incremental cost.

## **LOCAL DISTRIBUTION SYSTEM MATERIALS SPECIFICATION**

This section covers the material specifications for horizontal distribution cabling to be run from the IDF wiring closet locations to the user outlet locations as shown on the associated plans and drawings.

All horizontal distribution cabling and hardware shall be verified UL Level V (EIA/TIA Enhanced Category 5) compliant materials, produced by a manufacturer that has had the Level V product tested by Underwriter's Laboratories.

### **Horizontal Distribution Data Cable:**

- ◆ All horizontal distribution cables shall be Enhanced Category 5, plenum rated, 4 pair, unshielded twisted pair. This cable is rated at over 100 Mb/s operation in conformance with ANSI X3T9.5 FDDI TP/PMD specifications. Additionally, the ATM Forum has stated that Enhanced Category 5 compliant cables will be specified for 155 Mb/s ATM operation. The following electrical specifications are provided as a reference for the horizontal UTP cabling.
- ◆ All UTP cabling must conform to the specifications detailed in the EIA/TIA 568 and EIA/TIA TSB36 standards documents for structured wiring systems.



- Characteristic Impedance 100 ohms +/- 15%
- Structural Return Loss . > 14 dB
- Maximum Attenuation (1000' at 100 MHz) . < 67 dB
- Near End Crosstalk (1000' at 100 MHz) . < 32 dB worst pair
- Mutual capacitance 14 pF/ft

### **Outlet Termination Hardware:**

All outlet termination hardware is compliant with EIA/TIA TSB40 specifications for Enhanced Category 5 hardware. All outlet jacks are Hubbell modular data jacks.

- ◆ The modular jack meets or exceeds all requirements set forth in the EIA/TIA 568 Telecommunications Outlet Connector Specification.
- ◆ The modular jack meets or exceeds all requirements set forth in the EIA/TIA TSB40 Telecommunications Systems Bulletin - Additional Specifications for Unshielded Twisted Pair Connection Hardware.
- ◆ The modular jacks have an insulation resistance of 500 Mohms maximum.
- ◆ All Near End Crosstalk (NEXT) and Attenuation exceed the EIA/TIA requirements set forth in the TSB40 specifications.
- ◆ The modular jacks employ an insulation displacement termination method which accepts 22 or 24 gauge AWG solid conductor wire.
- ◆ The modular jacks use 50 micro-inches of lubricated gold plating over 100 micro-inches nickel plating for superior connectivity on the jack pins.
- ◆ The modular jacks are wired to meet EIA 568B specifications.

### **Outlet Face Plates:**

Single and Duplex outlet face plates specified for use are manufactured to support the modular jacks specified above.

### **Patch Panels:**

Patch panels specified for use are Hubbell Enhanced Category 5 110 Patch Panels which are fully compliant with EIA/TIA 568 and TSB40 specifications.

- ◆ All jacks panels are 19" rack mountable for use in the IDF locations.
- ◆ The 24 port jack panel is the Hubbell MCC58031 10A19, which is 1.75" High.
- ◆ The 48 port jack panel is the Hubbell MCC58061 10A19, which is 3.50" High.
- ◆ The 96 port jack panel is the Hubbell MCC58121 10A19, which is 7.00" High.

## **Patch Cables:**

In order to maintain 100 Mb/s operation, the patch cords specified for use for workstation connectivity will be tested per TIA SP2840 draft standards.

The user patch cords will provide RJ45 - RJ 45 style connectivity to interface the outlet jacks to the workstation NIC's and adapters.

## **LOCAL DISTRIBUTION SYSTEM INSTALLATION**

This section covers the installation specifications for horizontal distribution cabling to be run from the IDF wiring closet locations to the user outlet locations as shown on the associated plans and drawings.

### **Cable Installation:**

All station cabling will be installed in a neat and workman like manner and in accordance with manufacturer's specifications with respect to maximum pulling tension and bending radius.

The project manager will determine the cable path for each distribution cable based on a thorough survey of the facility. All station cabling shall be run in a star fashion from the 1DF / Telecommunications closet location to the user outlet location. Cable runs will be routed in the most direct manner possible so as not to exceed the total cable distance limitations of 90 meters maximum.

All installed UTP cables will be supported in the ceilings using steel cable management rings placed at regular intervals to maintain the cabling in a neat and organized manner.

When installing high speed LAN cabling, care will be taken to avoid high energy electrical sources that may interfere with data transmission. Some sources to avoid are as follows:

- ❖ Fluorescent Light Fixtures (no closer than 6")
- ❖ Motor Generators (no closer than 36")
- ❖ Electrical Transformers (no closer than 24")
- ❖ MRI Equipment (no closer than 12')

The following table provides minimum separation distances between cable runs and power wiring of 480 volts or less.

### **Separation of Telecommunications Pathways from 480V Power Lines**

#### **Minimum Separation Distance**

**Condition** <2 WA 2-5 WA >5 WA

Unshielded power lines or electrical equipment in proximity to open nonmetal pathways. ❖ - 127 mm 305 mm 610 mm  
❖ - (5 in) (12 in) (24 in)

Unshielded power lines or electrical equipment in proximity to a grounded metal conduit pathway. - 64 mm 152 mm 305 mm  
- (2.5 in) (6 in) (12 in)

Power lines enclosed in a grounded - 76 mm 152 mm metal conduit (or equivalent - (3 in) (6 in) shielding) in proximity to a grounded metal conduit pathway.

(Table 10.4-1 from EIA/TIA Standard 569)

Other sources may exist along the wire path that are not included here. In most cases, general telecommunications practice will provide adequate electrical isolation.

### **Vertical and Horizontal Penetrations:**

Commercial Connect, LLC. will perform all horizontal penetrations less than 1.5" diameter necessary for installation of the horizontal distribution system. These penetrations will typically consist of a sleeve through a firewall or side wall of a hallway into an office area. Following completion of cable installation, all penetrations will be sealed in accordance with NEC and NFPA requirements, using an approved fire sealant.

Commercial Connect, LLC. will perform all vertical penetrations greater than 1.5" diameter necessary for installation of the horizontal distribution system. These penetrations will typically consist of a sleeve through the floor area in a riser area. The recommended sleeve size is 4" diameter with at least 50mm of the sleeve protruding above and below the floor. Following completion of cable installation, we will seal all penetrations used for local distribution cabling in accordance with NEC and NFPA requirements, using an approved fire sealant.

### **Cable Termination:**

All cables will be terminated using the EIA/TIA 5688 pin-out specifications.

All cables will be labeled on either end with a unique wire number for identification. Additionally, each device outlet will be labeled with its unique logical number.

All station cabling shall be fully tested for length, attenuation, and near end crosstalk at 100 Mb/s. Test results will be submitted with the final system documentation. See the certification section of this document for test details.

Finally, a database created for review and verification indicating wire number, termination location, CARD map grid location, and IDF patch panel location.

## **3.2 Fiber Optic Backbone Design and Installation**

### **FIBER OPTIC BACKBONE DESIGN**

The fiber optic design proposed is based on a physical star topology that connects various areas of the campus to a central network location. The use of a star topology provides unlimited flexibility in implementing multiple architectures such as:

- ◆ Point-to-Point Systems,
- ◆ Physical Star Systems such as Ethernet IOBaseFL and IOBaseFB,
- ◆ Ring Systems such as Token Ring and FDDI, and
- ◆ Switched Architectures such as ATM.

The hub of the fiber optic star backbone in each building is the Main Distribution Facility (11DF). The MDFs will utilize AT&T 72-port rackmount Distribution Shelves (LDS). Each MDF will have one or more of the 72-port shelves, providing sufficient capacity to terminate the current fiber optic cable installation as well as provide growth for anticipated terminations.

From these MDFs, fiber optic cables radiate out to Intermediate Distribution Frames (IDFs) which serve as the hubs of segments of the local distribution network (the Enhanced Category 5 UTP system). Each IDF supports all devices in a section of the building. This is the next level in the hierarchical star. Each IDF will have the capacity for 24 fiber terminations in its fiber patch termination housing, either in a rackmount Lightguide Shelf Combination (LSC) or in a wall mount Lightguide Interconnection Unit (LIU).

All IDFs in the main building are connected to the MDF using a primary and redundant 12-strand, 62.5/125 micron, multimode fiber optic cable. This fiber optic cable will support the highest networking speeds anticipated over the next several years for the physical distances encountered.

The initial installation requires two fiber strands for each hub-to-hub link. Additional fiber strands in the cable are available for growth in the event that additional network segmentation is required in any of the IDFs or for point-to-point fiber applications (i.e. high speed diagnostic imaging systems).

The redundant, twelve-strand fiber optic cable offered is included in the design for several reasons. The first and most important is 'system fault tolerance.

Redundant fiber-optic paths, when combined with the fault tolerance that the proposed 3Com equipment provides, prevent potential system failures due to mechanical or electrical problems. A secondary reason is that it is more cost effective to install cabling which meets the long term anticipated needs during the initial installation phase, than to install additional cables to meet network growth requirements later in the life of the network. The primary and redundant provide a total of 24 fiber strands to each IDF.

A backbone cable in protective EMT conduit will be installed in ceilings and risers within the building. The conduit containing the fiber optic cable will be clearly labeled at appropriate intervals (approximately 15 feet) with "Warning Fiber Optic Cable" labels for easy identification.

We feel strongly about protecting the backbone system to the greatest extent possible. This view is primarily based on the frequency and extent of physical renovation and construction that is a principle part of the day-to-day operation in a business. Without this protection, the fiber optic backbone could be damaged or completely cut accidentally by construction workers performing activity around the fiber cable. This situation could result in unnecessary downtime while the damaged cable is being repaired.

## **FIBER OPTIC BACKBONE MATERIALS SPECIFICATION**

This section covers the materials specifications for the fiber optic cabling to be used to connect the various IDF equipment hub locations.

### **Fiber Optic Cable:**

The fiber optic will be 12 strand, 62.5/125 micron, multimode fiber rated for use in riser applications. Optical Cable Ultra Fox tight-buffered cable, (part number DX12-065D-W35B/14C-9U0-OFNR) has been specified for use in this application. This cable is specially constructed for use in both indoor and outdoor applications and provides improved strength and flexibility over other fiber optic cable types available.

Individual fibers will be color coded using a PVC buffer for ease of identification. The following color code will be adhered to for 12 strand fiber:

1. Blue
2. Orange
3. Green
4. Brown
5. Slate
6. White
7. Red
8. Black
9. Yellow
10. Violet
11. Rose
12. Aqua

The fiber optic cable will have the following properties, ensuring that it meets and exceeds industry standards such as FDDI and EIA/TIA 568:

- ❖ Operating wavelength of the fiber will be at 850 and 1300 nanometers. Maximum attenuation at 860 nm is 3.75 dB/km. Maximum attenuation at 1300 nm is 1.0 dB/km.
- ❖ Minimum bandwidth at 850 nm is 160 Mhz-km. Minimum bandwidth at 1300 run is 500 Mhz-km.
- ❖ Fiber optic cable will be rated OFNR per 1993 National Electrical Code specifications.

#### **Fiber Connectors:**

All fiber connectors are specified to be AT&T Multimode ST II. All fiber connectors are ceramic tipped, ST style connectors. The connector is properly sized for 125 micron fiber. All connectors will employ an epoxy termination method.

#### **Fiber Couplings:**

ST fiber couplings will be used to support the installed ST connectors in the termination housings. The ST couplings specified are AT&T Bayonet/Threaded style.

#### **Fiber Termination Housings:**

In accordance with EIA/TIA Standard 568, the optical fiber cross-connect hardware shall be designed to provide:

- ❖ Means to cross-connect cabling runs with patch cords;
- ❖ Means to interconnect premises equipment to the optical fiber network;
- ❖ Means to identify circuits for administration in accordance with ANSI/TIA/EIA-606;
- ❖ Means to use standard colors to functionally identify termination groups per ANSI/TIA/EIA-606;
- ❖ Means of handling optical fiber cable and patch cords and to permit orderly patch cord management;

- ◆ Means of access to monitor or test optical fiber cabling and premises equipment;
- ◆ An insulating barrier, such as a cover or a door, for protecting connectors and adapters on the cabling side from accidental contact with foreign objects that may disturb optical continuity.

To meet these requirements, AT&T fiber termination housings will be used at all specified equipment MDF and IDF hub locations for the protection and termination of the fiber optic cable. The termination housings will be rack mounted or wall mounted as indicated on the associated plans and diagrams.

AT&T Lightguide Distribution Shelf (LDS) LSTIU-072/7 will be used to terminate the fiber optic cables in MDFs, providing a 72 port capacity. The LDS units will be populated with 12, AT&T 1000ST coupling panels to support the ST couplings.

AT&T Lightguide Shelf Combination (LSC) LSC2U-024/5 will be used to terminate the fiber optic cables in IDFs with racks or cabinets, providing a 24 port capacity. The LSC units will be populated with 4, AT&T 1000ST coupling panels to support the ST couplings.

AT&T Lightguide Interconnect Unit (LIU) IOOA2 LILT, a wallmount fiber termination shelf, will be used to terminate the fiber optic cables in IDFs without racks or cabinets, providing a 24 port capacity. The LIU units will be populated with 4, AT&T wall mount ST coupling panels to support the ST couplings.

In those few cases where only a 12-port capacity is required, the 200A LILT will be used.

## **FIBER OPTIC BACKBONE INSTALLATION SPECIFICATIONS**

This section covers the installation procedure specifications for the fiber optic backbone network.

### **Fiber Optic Cable Installation:**

The fiber optic cabling will be installed in accordance with manufacturer's specifications and recommended guidelines. Attention will be paid to maximum loading, minimum bending radius, and anchoring on all vertical runs.

- ◆ Minimum bending radius for the 12 strand fiber during installation (under tension) is 20 times the cable diameter or 5.2 inches.
- ◆ Minimum bending radius for the 12 strand fiber after installation is 10 times the cable diameter or 2.6 inches.
- ◆ Minimum bending radius for the buffered fiber strands is .75 inches.

Each fiber will be terminated using the ceramic ST type connectors specified. The terminated connector will be attached to the proper ST coupling and labeled.

### **Fiber Optic Cable Testing:**

Pre-installation testing of the fiber while it is still on the reel will be required to insure that it was not damaged during shipment. Tests will be accomplished by using an Optical Time Domain Reflectometer

(OTDR) and the records will be retained as part of the final system documentation. All OTDR tests will show that no micro bends or other abnormal defects are present in the fiber prior to installation.

OTDR post termination testing of each fiber will be required. The tests results will be submitted as part of the final system "asbuilt" documentation. All OTDR tests will show that no micro bends or other abnormal defects are present in the fiber.

Post termination testing of each fiber will be required for maximum attenuation at both 850 and 1300 nm wavelengths. All fiber strands will be tested after installation and termination using fiber optic power meters. Maximum allowable attenuation for any fiber link will be 4 dB. All tests will be documented and submitted as part of the final system "as-built" documentation.

### **Conduit Installation:**

The fiber optic cabling will be installed in EMT conduit that connects the equipment hub locations throughout the facility as shown on the associated plans and diagrams. All EMT conduit will be installed in accordance with all national, state, and local requirements. Installers will pay particular attention to minimum bend radius and conduit fill ratios during the installation.

Minimum requirements for installed conduit, such as support, end protection, and continuity, are found in appropriate electrical codes. All fire wall penetrations will be sealed in accordance with NEC and NFPA requirements, using an approved fire sealant.

In accordance with EIA/TIA Specification 569, the following guidelines will be followed:

- ◆ No section of conduit shall be longer than 30 m (100 ft) or contain more than two 90° bends between pull points or pull boxes.
- ◆ The inside radius of a bend in conduit shall be at least 6 times the internal diameter. When the conduit size is greater than 50 mm (2 in), the inside radius shall be at least 10 times the internal diameter of the conduit. For fiber optic cable, the inside radius of a bend shall always be at least 10 times the internal diameter of the conduit.
- ◆ A fish tape or pullcord shall be placed in installed conduit.
- ◆ Any single conduit run extending from a telecommunications closet shall not serve more than three outlets. Conduit shall be sized per the following table and be incrementally increased in size from the furthest outlet toward the telecommunications closet.
- ◆ Conduit shall be reamed to eliminate sharp edges and terminated with an insulated bushing. Conduit protruding through the floor shall be terminated 25-50 mm (1-2 in) above the floor surface.
- ◆ Pull boxes shall be used for the following purposes:
  - Fishing the conduit run.
  - Pulling the cable to the box and then looping the cable to be pulled into the next length of conduit. This is usually done only with the smaller cables and not with cables of 64 mm (2.5 in) diameter or greater.
- ◆ Pull boxes shall not be used for splicing cable.
- ◆ Pull or splice boxes shall be placed in an exposed manner and location, and readily accessible. Pull or splice boxes shall not be placed in a fixed false ceiling space unless immediately above a



suitably marked, hinged panel.

❖ A pull or splice box shall be placed in a conduit run where:

- The length is over 30,000 mm (100 ft);
- There are more than two 90° bends; or,
- If there is a reverse bend in the run.

❖ Boxes shall be placed in a straight section of conduit and not used in lieu of a bend. The corresponding conduit ends should be aligned with each other. Conduit fittings shall not be used in place of pull boxes.

### **Vertical and Horizontal Penetrations:**

All penetrations necessary for installation of the fiber optic backbone will be performed by in-house staff. These penetrations will typically consist of a sleeve through a firewall or riser floor. Following completion of cable installation, all penetrations will be sealed in accordance with NEC and NFPA requirements, using an approved fire sealant.

### **Fiber Termination Housings:**

Fiber termination housings will be installed in the equipment racks in the IDF locations as indicated on the associated plans and diagrams.

## **3.3 Other Network Cabling Infrastructure Specifications**

### **POWER REQUIREMENTS**

All communications equipment closets (MDFs and IDFs) will be fed with dedicated 110/120 volt power feeds, provided by Commercial Connect, LLC.. Outlets should be quad receptacles and located immediately behind or beside the communications racks / cabinets in a position so as not to cause the equipment power cables to traverse free space.

The power requirements for each communications closet are provided in the Network Design Details.

In closets where the network electronics are provided with redundant power supplies, two dedicated feeds will be provided.

### **HVAC REQUIREMENTS**

The majority of the network electronics installation will not generate sufficient heat to warrant changes to the existing communications closet HVAC environment. The MDFs, where equipment density is the greatest, are the most likely locations to require changes. The Network Design Details section provides a worst case heat generation load for each closet.

### **COMMUNICATIONS RACK SPECIFICATIONS**

This section covers the specifications and installation requirements for the communications racks to be placed at the IDF closet locations as indicated on the associated plans and drawings. Communications racks are specified in all areas where security and esthetic considerations do not dictate the use of

cabinets.

All 19" communications racks specified are manufactured by Chatsworth. Three types of communications racks are specified in this design:

- Free standing 19" x T Equipment Rack
- Free standing 19" x 3' Equipment Rack
- Wall Mount 19" x 38" Equipment **Rack**

### **Rack Installation:**

All free standing racks will be anchored to the floor using the specified anchoring kit using manufacturer's recommended guidelines for installation. The standard distance from the face of the rack to the wall is 30".

All free standing racks shall be supported at the top to the back wall using 12" wire raceway. The cable runway will be supported to the back wall using the wall angle support kit. The cable runway will be attached to the top of the rack using the J-Bolt assemblies.

Wall mounted racks will be mounted to a 3/4" plywood backboard, 3/8" lag screws should be used to secure the rack to the backboard.

All equipment racks must be properly grounded to the building structure in accordance with 1993 National Electrical Code specifications.

### **CABINET SPECIFICATIONS**

This design specifies Rittal Series VR Cabinets in areas that require security of network electronics and cabling or concealing the network components for esthetic reasons, such as in an open computer room.

Cabinets will have front and rear locking doors and have a ventilated top for heat dissipation. The cabinets that have extensive heat generating electronics will have a 2-fan blower unit mounted just below the top of the cabinet.

Two models of the cabinets are specified:

- ◆ Model VR 3825 - 79" H x 24" W x 34" D
- ◆ Model VR3810-40"Hx24"Wx26"D

All cabinets will be properly grounded to the building structure in accordance with 1993 National Electrical Code specifications.

## **4.0 Network Hardware**

In this design, Commercial Connect, LLC. will employ the 3Com line of intelligent network switches/concentrators.◆ The 3Com solution provides a unique set of offerings that make it the best choice for networking hardware in our opinion.◆ In addition, Cisco Routers and IBM Server/Workstations will be used in our design.

This section describes the reasoning and the benefits offered in the equipment line proposed, as well as some of the features and functions that make this selection the best solution for the network infrastructure.

## 4.1 Network Switch/Concentrator Selection Criteria

The system hardware proposed is primarily intended to provide a communications infrastructure for multiple IS platforms operating with several different network protocols. Towards this end, we feel that using Ethernet for connectivity is the best option. This is due to several reasons:

- The cost of implementing Ethernet is significantly less than comparable technologies such as Token Ring, FDDI, and ATM.
- The primary interface for many IS systems to their terminals and printers is through an Ethernet network.
- In-house network traffic requirements do not dictate the need for high bandwidth solutions such as FDDI or ATM.

These factors drive the initial decision to implement Ethernet; however, the equipment chosen for use must be capable of supporting other technologies as well. This flexibility will enable us to select any application and platform in the fixture with the assurance that the network infrastructure has means to support the selection. This is critical in that some application vendors will not support their systems on anything but their chosen, "native mode" environment (such as Ethernet or Token Ring).

In order to achieve the desired flexibility, it becomes necessary to look at the intelligent hub market for solutions. The intelligent hub offers several other features that work well in the registry environment:

- High density of user ports in a small area.
- ❖ Multiple network protocols can operate within the intelligent hub environment (i.e. Ethernet workstations, Token Ring workstations, high speed workstations using FDDI, or asynchronous serial devices such as terminals and line printers).
- Network management is greatly simplified through the use of common management backplanes in the intelligent chassis.
- Virtual Networking, the ability to move users between network segments through software commands only, becomes possible.
- Fault tolerant power supplies are common features of intelligent hubs to offer enhanced system reliability.

The combined effect of having the architectural flexibility to select any applications in the future, and the numerous registry specific benefits outlined above, make the choice of an intelligent hub as the network hardware platform a natural one. In examining the intelligent hub market, there are numerous vendors who provide the basic features common in most intelligent hubs.

The selected vendor must demonstrate a migration path to the future of networking technology. In order to ensure that a particular manufacturer can do this, it is necessary to look at three major factors:

- ❖ The long range plan of the manufacturer to migrate its intelligent hub line to the future technologies,
- ❖ The viability of the manufacturer to survive in the highly competitive market of networking hub vendors, and

◆ The track record of the manufacturer to provide successful, high level technological products.

If these factors can be met, then it becomes a matter of selecting which vendor offers the features and functions that provide a superior solution for the near and long term needs.

In today's intelligent hub market, several vendors can meet the criteria outlined above. Some of the major players in this market are,

- Nortel/Bay Networks,
- Cabletron/Enterasys Networks,
- 3Com, Inc.,

This list is not intended to be complete, however, it does represent the majority of manufacturers actively involved in networking today. It should be noted that the manufacturer's listed above all meet the basic criteria necessary for an intelligent hub selection. It should also be noted that each manufacturer has particular strengths and weaknesses when evaluated against the three decision factors listed above.

## **VENDOR LONG RANGE PLANS**

The first factor, the long-range plan of the manufacturer to migrate to future technologies, is addressed in several different ways by all of the vendors.

The method used by several vendors is to produce a separate product line that addresses the future technology needs of the networking environment. This method ensures that the hub architecture can take advantage of the latest in technology, and not be restricted by having to carry forward any of the older architectures used in the current product line.

With some vendors, it is necessary to completely upgrade all components when migrating to the new technologies (replacing all Ethernet modules, management modules, etc.). This can be an expensive proposition when the investment is already made to connect the current environment.

3Com however, has a different approach. The new generation intelligent hub from 3Com supports the modules from the current generation hub. This means that we could upgrade the hub chassis to the next generation technology, without losing the investment in connectivity hardware (the Ethernet 100BaseT modules and management modules for example).

## **VENDOR LONG TERM VIABILITY**

The second factor, the long term viability of the vendor, is more difficult to gauge. There are no crystal balls that will enable anyone to clearly determine the long term viability of a particular vendor. It is therefore necessary to look at the current market status, company history, and other factors to make a best guess call with respect to viability.

3Com represents the third largest intelligent hub manufacturer in the world today. With a long history dating back to the early eighties, the current financial stability and growth (3Com is the fastest growing hub vendor in the market today), and a large Fortune 1000 client base, 3Com should also be assured of an excellent long term future.

## **VENDOR TRACK RECORD**

The third factor, the past track record of the vendor to provide successful, technological solutions to the industry, is important when assessing the value of the future technological solutions provided by each

vendor. In this industry, the manufacturers generally approach the issue of technological solutions in one of two manners; either through acquisition of another vendors product, or, through internal research and development.

3Com remains committed to a strong research and development effort to improve and enhance their product line.

3Com is also acquiring technologies from other high-technology companies to round-out their networking infrastructure product line. 3Com's strategic partnerships with Cisco Systems and IBM make the 3Com product line one of the most diverse and comprehensive available today, all the while maintaining 3Com's commitment to quality and complete fault tolerance.

Based on the three factors, we feel that 3Com offers the most robust solutions for enterprise networking in the networking environment. This reasoning is based on several factors offered by 3Com that are unavailable through other vendors:

- 3Com offers the only fault tolerant, Ethernet fiber optic system on the market today (in fact, 3Com/Chipcom developed the IEEE 10BaseFB standard ... the standard that enables automatic switching between fiber segments in case of failure of the primary segment).
- 3Com pioneered the port switching technology that enables "virtual networking", the capability of the network manager to move users from one network segment to another through software commands only (an excellent method of bandwidth traffic control and an invaluable tool that enables segmentation of the network for applications development and testing).
- 3Com offers the highest port density of any intelligent hub on the market.
- 3Com offers redundant power supplies and controllers - down to a redundant power cable. This prevents failure due to simple accidents such as unplugging the hub by workers in the area.

Based on the criteria detailed above, we are proposing the 3Com networking product line for use. Following is a more in-depth look at the 3Com products specified for use.

## **4.2 3Com SuperStack II 3300 Concentrators/Switches**

In order to address the current network connectivity needs and plan for the integration of future high speed technologies into the system, it is necessary to select a network hardware platform that offers the flexibility and architecture to achieve both goals. Towards this end, we have selected the 3Com SuperStack system to use as the central network hardware component in each MDF. In using the SuperStackII hub at the center of the network, we are assured of a migration path from the initial multi-segmented Ethernet environment, to switched architectures, such as ATM, that we may require in the future.

The SuperStack hub is a 24-slot platform which offers over gigabit Ethernet connectivity capacity in a fully passive backplane design. This platform is capable of integrating with shared network technologies such as Ethernet, Token Ring, and FDDI, as well as switched technologies such as switched Ethernet and ATM.

### **Features and Specifications:**

- ◆ Cost effective. The 3Com◆ SuperStack◆ II Switch 3300, with one of the optional Gigabit

Ethernet modules, reduces the cost of migrating to Gigabit Ethernet, so any size business can enjoy high-speed technology

- ❖ Investment protection. This switch works with your existing SuperStack II Switch 1100 and SuperStack II Switch 3300 switches, so you can mix and match any SuperStack II Switch 3300 in one stack
- ❖ The ability to stack any two switches together through an integrated matrix port; up to four switches can be stacked together using a SuperStack II switch with the optional matrix module, or by using the new SuperStack II Switch 3300 MM with its integrated Matrix Module
- ❖ Lifetime warranty. Register online for a lifetime warranty on all hardware, including fans and power supplies
- ❖ Easy management. 3Com❖ Transcend❖ Network Supervisor is included with every unit. This powerful application lets you discover, map, and monitor your network with ease.
- ❖ Policy enforcement with FastIP, IGMP snooping, IEEE 802.1D (incorporating 802.1p prioritization), and IEEE 802.1Q standards-based VLANs
- ❖ Dual queues to help prioritize multimedia traffic
- ❖ Multicast filtering using IGMP snooping/GMRP for more efficient bandwidth utilization for handling video traffic.
- ❖ Elastic port buffering for on-the-fly port buffer memory allocation, enabling automatic performance optimization based on network traffic
- ❖ Flow control to maximize performance and minimize packet loss under heavy network loading
- ❖ Trunking support to aggregate links into a single high-speed connection to other switches or backbone networks
- ❖ Automatic detection of full- or half-duplex operation on all ports to maximize performance without manual configuration
- ❖ Available with 12 or 24 autosensing 10/100 ports.
- ❖ Expansion slot allows you to add optional modules for Layer 3 switching, Gigabit Ethernet connectivity, and matrix connections to other SuperStack II Switch 1100 and Switch 3300 switches
- ❖ Embedded web-based monitoring and control system. Remote Monitoring (RMON) and Transcend Network Supervisor software enables authorized administrators to troubleshoot and configure a switching stack from any location
- ❖ Support for resilient links and spanning tree, as well as optional redundant power supplies

### Physical Dimensions

Height: 7 cm (2 3/4 in) x width: 44cm (17 1/4 in) x depth: 30cm (12 in)

Weight: 4.4kg (9 2/3lbs)

### Environmental Requirements

Operating temperature: 0❖ to 50❖C (32❖ to 122❖F)

Storage temperature: -10❖ to +70❖C (14❖ to 158❖F)

Operating humidity: 10% to 95% relative humidity, noncondensing

Standards: EN60068 (IEC68)❖ various parts

### Safety

Agency Certifications: UL 1950, EN60950, CSA 22.2 No. 950, IEC 60950

### EMC

Emissions: EN55022 Class A, FCC Part 15 subpart B Class A, ICES-003 Class A, VCCI Class A, AS/NZS 3548 Class A, CNS 13438 Class A

Immunity: EN50082-1

### Heat Dissipation

75 watts maximum

## **Power Supply**

AC line frequency: 50/60 Hz

Input voltage options: 90 to 240 VAC

Current rating: 3 amps maximum

## **Standards Supported**

SNMP:

SNMP protocol (RFC 1157)

MIB-II (RFC 1213)

Bridge MIB (RFC 1493)

Repeater MIB (RFC 1516)

VLAN MIB (RFC 1573)

RMON MIB (RFC 1271)

BOOTP (RFC 951)

Terminal emulation:

Telnet (RFC 854)

Protocols used for administration:

UDP (RFC 768)

IP (RFC 791)

ICMP (RFC 792)

TCP (RFC 793)

ARP (RFC 826)

TFTP (RFC 783)

## **Facility Locations of Concentrators**

### **Model 3C16980**

Commercial Connect, LLC., LLC MDF Louisville 2 24-slot  
Computer Room

Simon Properties Group MDF2 Indianapolis 1 24-slot  
Computer Room

Simon Properties Group MDF3 Chicago 1 24-slot  
Computer Room

Simon Properties Group MDF4 Atlanta 1 24-slot  
Computer Room

Simon Properties Group MDF5 Dallas 1 24-slot  
Computer Room

Simon Properties Group MDF6 London 1 24-slot  
Computer Room

## **4.3 Cisco 3600 Routers**

The Cisco 3600 Series is a family of modular, multiservice access. With over 70 modular interface

options, the Cisco 3600 family provides solutions for data, voice video, hybrid dial access, virtual private networks (VPNs), and multiprotocol data routing. The high-performance, modular architecture protects customers' investment in network technology and integrates the functions of several devices into a single, manageable solution.

Cisco extended the successful Cisco 3600 Series with the Cisco 3660 multiservice access platform. The Cisco 3660 provides higher densities, greater performance, and more expansion capabilities. The additional power and performance of the Cisco 3660 platform enables new applications, such as packetized voice aggregation and branch office ATM access ranging from T1/E1 IMA to OC-3.

The Cisco 2600 and 3600 series of multiservice platforms has been greatly enhanced with many voice capabilities: added support for Voice over Frame relay (VoFR) and Voice over ATM (VoATM-AALS) on the digital voice interfaces (T1 and E1). QSIG is also now supported on all digital interfaces, including T1/E1 and BRI. Other enhancements include Off Premise Extension (OPX), VoIP over Frame Relay, and enhanced queueing functionality. In addition, a feature that works with an upcoming version of Call Manager softwares makes these products perfect gateways for the PBX and PSTN for IP telephony, enabling applications like call transfers, holds, and conferencing.

This design specifies the Cisco 3600 Router as the key components of the Wide Area Network. Each of the main campuses will utilize a Cisco 3600 router for WAN access; two of the campuses (Louisville, KY and Simon Indianapolis, IN) will also rely on the router for network segmentation.

The Cisco 3600 series of multiprotocol routers combine Cisco Systems' proven software technology with exceptional reliability, availability, serviceability, and performance features to meet the requirements of today's most mission - critical internetworks. The Cisco 3600 series provides information system professionals with the flexibility they need to meet the constantly changing requirements at the core and distribution points of the internetwork, and provides a clear migration path to tomorrow's technologies.

The Cisco 3600 is Cisco's premier high-end platform, supporting more network interfaces and media types than any other Cisco platform and including support for dual power supplies.

Network interfaces reside on modular interface processors, which provide a direct connection between the high-speed Cisco Extended Bus (CxBus) and the external network. Distributed processing is accomplished by the Route Processor (RP) and Switch Processor (SP).

The Cisco 3600 runs the Internetworking Operating System (IOS), Cisco's industry leading networking software. IOS assures robust, reliable internetworks by supporting both LAN and WAN protocols, optimizing WAN services, and controlling internetwork access. In addition, IOS allows centralized, integrated, and automated installation and management of internetworks.

The Cisco 3600 provides multiple slots for interface processors. Following are the interface processor types:

- ◆ Ethernet interface processor (EIP)
- ◆ Token Ring interface processor (TRIP)
- ◆ FDDI interface processor (FIP)
- ◆ HSSI interface processor (HIP)
- ◆ Fast serial interface processor (FSIP)
- ◆ Asynchronous Transfer Mode (ATM) interface processor (AIP)



## ◆ Multichannel interface processor (MIP)

The reliability, availability, and serviceability features of the Cisco 3600 series include the following:

- ◆ Online software reconfiguration: Enables software configuration changes to occur without rebooting or interrupting network applications and services.
- ◆ Online insertion and removal: Allows seamless upgrades to higher density and new interface processors without rebooting or taking the system offline. Reduces operator intervention, because like interface processors are automatically reconfigured.
- ◆ Fast boot: Enables the system to come online quickly (35 seconds is typical) after software upgrades, minimizing impact on the network.
- ◆ Environmental monitoring: Alerts the operator to fluctuations before critical conditions occur, allowing proactive resolution while the system stays online.
- ◆ Self-diagnostics and tools: Ensures that modules are operational before going online, eliminating potential network problems.
- ◆ Optional dual power supply systems (Cisco 3600 only): Extends individual power supply life through load sharing. Allows users to implement dual sources of prime power. Each supply has its own power cord, eliminating the risks associated with failure of uninterruptable power supply systems (UPS) or building power.
- ◆ Flash erasable programmable read-only memory (EPROM): Enables fast, reliable software and microcode upgrades. Allows single centralized point of administration, obviating the need to visit each routes site when upgrading software or microcode.

## **CISCO 3600 MODULES USED IN THE NETWORK DESIGN**

The network design specifies three of the Cisco 3600 interface modules: the Ethernet Interface Processor (EIP), the Fast Serial Interface Processor (FSIP), and the Multichannel Multiplexes Interface Processor (MIP).

- ◆ EIP: The EIP provides two, four, or six high-speed (10-Mbps) Ethernet ports. Each port requires an 802.3 transceiver. In the Commercial Connect, LLC. design, the EIP provides connectivity for ethernet user network segments and hosts to the wide area network.
- ◆ FSIP: The FSIP provides four or eight high-speed serial ports (up to 8 Mbps). The FSIP provides the interface between the carrier provided circuit and the routes.

MIP: The MIP provides a multichannel multiplexer that allows aggregate multiple channels at Nx64 and/or Nx56 on the same 1.5-Mbps T1 or 2-Mbps E1 line. Two models, CX-MIP-ICT1 and CX-MIP-2CT1 provide one or two ports. In the Commercial Connect, LLC. design, the MIP provides the ISDN primary rate interface.

## **4.4 IBM Servers**

### **4.4.1 RS/6000 Model F80**

The IBM RS/6000 F80 was selected as the primary server for the Registry Database. It is a powerful enterprise server with excellent performance and expandability. The Model F80 is a compact, desk-side UNIX server with the performance, reliability, availability and serviceability demanded by today's e-business applications.

The Model F80 features significant reliability and availability innovations designed to allow the system to identify problems often before they interfere with operations. These features help the system remain operational while components such as disk storage or communications adapters are added or replaced. New to the F80 are hot-plug PCI slots, a hot-plug redundant power option, and hot-plug redundant cooling fans.

At the heart of the F80 is a service processor that is designed to constantly monitor the system's vital signs. It can determine and recommend actions often before a problem arises. If desired, a service call may be automatically placed.

The F80 also has an IBM-unique feature, Dynamic CPU Deallocation, that monitors the processors. In the event a processor displays indications of an impending failure, this feature working with AIX 4.3.3 gracefully takes the faulty processor offline. Work from the failing processor is automatically reassigned to other processors and replacement of the failing processor can be scheduled for a convenient time.

The hot-plug PCI slots make it possible to keep applications running while I/O adapters are added or replaced. Individual adapters can be enabled or disabled as needed, while operations not dependent on that adapter continue to run. There is usually no need to power-down and restart the system. Hot-swappable disk drives may be added or removed to meet unexpected demands without interrupting operations.

For near continuous operations, industry-leading High Availability Cluster Multiprocessing (HACMP) disaster recovery software packaged with dual F80s is available. This cluster solution, HA-F80, when combined with applications that meet IBM's ClusterProven standards, provides a superior base for high availability.

An unlimited user license of IBM's industry leading version of UNIX, AIX 4.3.3, is included. Providing real value in reliability, availability and security, AIX is tuned for performance and is widely recognized as state-of-the-art in systems and network management.

AIX 4.3.3 delivers Java technology, Web performance and scalability enhancements, and is an excellent choice for managing complex installations. It offers Web-based remote management tools to control the system and monitor key resources such as adapter and network availability, file system status and processor workload.

## Specifications and Configuration

- **Microprocessor:** 1-way 450 MHz RS64 III SMP
- **Level 1 (L1) Cache:** 128KB data/128KB instruction
- **Level 2 (L2) Cache:** 2MB
- **RAM (memory):** 4 GB
- **System bus:** Two busses, each 128 bits wide
- **Storage:** 36.4 GB primary Hard Drive
- **Storage options:** 12 disk bays
- **I/O expansion:** 10 hot-plug PCI slots
- **I/O bus width:** 10 64-bit
- **I/O bus speed:** 6@66 MHz(3.3v)/4@33 MHz(5v)

## Standard features

- **Integrated ports:** Keyboard, mouse, four serial, one parallel
- **Integrated bays:** Diskette drive, CD-ROM, one additional bay

- **Integrated controllers:** SCSI-2 F/W (internal), Ultra2 SCSI (external), 10/100 Mbps Ethernet

## System expansion

- **Processor:** 2- or 4-way (450 MHz), or 6-way (500 MHz)
- **Level 2 (L2) Cache:** 4MB/processor
- **RAM:** Up to 16GB
- **Storage:** 12 1" hot-swappable disk bays; 9.1GB or 18.2GB drives; SCSI or SSA backplanes; 2 optional boot bays

## RAS features

- Hot-plug for PCI slots, power supplies and fans
- Dynamic CPU Deallocation
- Hot-swappable disk
- Redundant cooling fans (optional)
- Service processor
- Redundant power supply (optional)

## Operating system

- AIX 4.3.3 (unlimited user license)

## 4.4.2 IBM Netfinity 7600

For the replication servers of the registry database in Chicago and Atlanta, as well as the name servers for all locations, we have chosen the IBM Netfinity 7600. Besides these eight servers, the headquarters offices in Louisville will secure additional units to serve as web server, backup server and test server.

Netfinity employs X-architecture, a design blueprint that leverages existing IBM technologies to build some of the most powerful, scalable and reliable Intel processor-based servers available, capable of supporting tens of thousands of users.

## Configuration and Specifications

### Architecture

**Form factor** Rack

**Orientations allowed** Horizontal

**Bus type/architecture** PCI

**Slots x bays total (free)** 6(5) x 14(12)

**Expansion bus type** PCI

### Processor

**Processor (CPU)** Pentium III Xeon

**Processor internal clock speed** 700 MHz (Pentium III Xeon)

**Planar clock speed** 100 MHz

**SMP processors std** 1

**SMP processors max** 4

**Processor manufacturer** Intel

**Math co-processor** Built-in

**L1 internal CPU cache** 32 KB

**Processor upgrade options** Faster Pentium III Xeon

**SMP capable (multiple processors)** Yes

**L2 cache std** 2048KB

**L2 cache max** 2048KB

**L2 external CPU cache type** Full speed ECC

**BIOS type** Flash

## **Memory**

**Memory (RAM)** 2 GB

**Memory (RAM) max** 16384 MB

**RAM speed** 100MHz

**RAM type** ECC Chipkill

**RAM slots total** 16 RDIMM

**RAM slots available** 12 RDIMM

## **Hard disk**

**Hard disk size** 18.2 GB

**Hot swappable drive bays** 10/10

**Hard disk controller** Integrated Dual Channel Ultra2 SCSI LVD

**Hard disk type** Open bay

**Max Hard Drive Capacity** 364 GB

## **Graphics subsystem**

**Graphics type** SVGA

**Graphics chipset** S3 Trio3D

**Graphics data width** 16

**Video RAM type** SGRAM

**Video RAM std** 4 MB

**Video RAM max** 4 MB

**Max resolution (with std video RAM)** 1600x1200 65536 colors

**Max resolution (with max video RAM)** 1600x1200 65536 colors

**Max colors (with max video RAM)** 16777216

**Max colors (with std video RAM)** 16777216

**Graphics bus interface** PCI

## **Multimedia**

**CD-ROM speed** 40Xmax-17Xmin

**CD-ROM interface type** EIDE

**CD-ROM data transfer rate** 2550, 6000 KBps

**CD-ROM average access time** 90 ms

**CD-ROM transport type** Front tray loading

## **Communications**

**Communications features** Dial-in for control/monitoring/remote management, Dial-out for alert notifications, MoST Connect, Remote POST Control, Temperature and voltage monitoring

## **Power management**

**Power supply** 750(3x250)

**Power supply type** 100-127VAC (50/60Hz), AC 200-240V (50/60Hz)

**Cooling system** 4 fans

**Power management features** Auto restart

## **Security**

**Security features** Boot sequence control, Mechanical locks, Power on password, Privileged access password, Unattended startup

**VPD support** CPU Board, Hot swap disk backplane identifier, Processor card identifier, Power backplane identifier, Power supply identifier

## **4.5 Hardware Configuration Summary**

## 5.0 Wide Area Network Connectivity

This section describes the Wide Area Network design solution for the Commercial Connect, LLC. network. The design was developed in concert with MerchantWired.

❖ The design of the Wide Area Network has three objectives:

- ❖ Provide users throughout the enterprise with seamless, timely access to the IS hosts and servers,
- ❖ Provide a scalable architecture supporting future growth and implementation of high-bandwidth technologies emerging on the near horizon, and
- ❖ Provide a platform for multi-media communications (voice, video, and data) within the corporation and to off-net users.

In order to address the connectivity needs of the modern internet marketplace, information and communications access must be extended throughout the entire system. The WAN design must take into account users located at the main facilities, those at smaller facilities that nonetheless require continuous access to the network, and remote users with periodic requirements to exchange information with users and databases on the corporate network.

The WAN must also support promising technological developments on the registry frontier. One of the fastest emerging technologies, and one that will receive more and more attention in the marketplace, is video. We are just now in the beginnings of a video age that could revolutionize the way in which business is practiced. Maintenance operations could be monitored by other administrators located in different states or countries, or administrators could connect via teleconferencing links as needs dictate. This technology is just beginning to make it's way into the operational framework of the organization.

In order to provide the connectivity that is required to enable the technologies and applications mentioned above to work, a communications highway must be built that ties all component sites of the network together. Like any highway, the WAN highway must be capable of supporting the traffic, voice, video, and data, that would eventually be required to travel over it. This is the object of the design, to create a system that can fully support the needs and requirements of the company both now and into the future.

### 5.1 User Site Models

In order to develop a usable plan for extending the network beyond the traditional boundaries (the main campus), it is necessary to address multiple methods of access for each different type of site that will be a part of the final system. This is because the method used to connect a single office to the network will be substantially different than that used to connect a large corporation to the system. Therefore, the WAN design focuses on defining several basic methods of connecting potential sites to the network, each corresponding to a specific user site model.

The user site models used in the WAN design describe the general connectivity requirements of a particular size or type of remote data communications requirement. For example, an administrator requiring access to network applications and services from his or her home, will require quite a different class of connectivity than will an large corporation with fifty to one hundred employee encounters per day. Recognizing this, the design starts by classifying three types of user site classes that will be used to describe the WAN system design.

Without using the model concept, each potential site would need a requirements analysis and a separate design for that specific site. As the network grows, the administrative task of keeping up with the connectivity requests could rapidly become unmanageable. By having models to choose from, when a request is made, the connectivity solution is simply selected from a range of solutions that would meet the needs of the site. This method also reduces the number of different types of equipment and connections required to provide WAN connectivity, thus improving the manageability of the overall system.

Below is a listing of the classes of user sites used in the design and the descriptive criteria for each.

## **CORPORATE BACKBONE WAN**

The first class can be described as a large corporate site. A typical site of this class would be a corporate headquarters. In order to qualify as a Backbone WAN site, the following requirements are defined:

- 1) The site must have one or more local area networks,
- 2) The site could have either a substantial number of users requiring access to the enterprise network or high-speed connection requirements.
- 3) The Backbone WAN connected site requires full time connection to the enterprise network on a 24 hour a day basis.

## **REMOTE OFFICES**

The second class of WAN access is generally suited to a smaller site than that defined above. Typical sites of this class are the satellite offices and redundancy locations across the country. The criteria for this class site would be the following:

- 1) A limited number of user devices requiring access to the system from a local networked environment,
- 2) Over 99% required connectivity time to corporate site is essential.
- 3) A user in this class would be transferring limited amounts of data information for redundancy.❖

## **REMOTE DIAL-UP ACCESS**

The third class of WAN access would be representative of a single user accessing the system from a remote location such as his or her home or office. A typical example of a user in this class is the network Programmers and Administrators at the corporate office who must access the network from their home after hours or temporary work area. The criteria for this class user consists of the following:

- 1) Single user PC requiring access to the system resources,
- 2) Limited use access time requirements.

The following sections address the solution for each of these classes of WAN access.

## **5.2 Corporate Backbone WAN**

Commercial Connect, LLC. has several major sites with a broad mixture of user applications requiring high bandwidth and Wide Area Network interconnectivity solutions. In developing a WAN solution, we considered a number of WAN alternatives in seeking to obtain the following objectives:

- ❖ Communications channels for voice and data applications. Although video is of a lower priority,

channels should nevertheless be in place.

- ◆ Cost effective and efficient utilization of alternative solution elements,
- ◆ Extremely high reliability of service to users with proven solutions and centralized network services management,
- ◆ Flexibility to expand with anticipated growth of bandwidth and application requirements,
- ◆ State-of-the-art solutions, where available,
- ◆ Compatibility with future developments of services and equipment,
- ◆ Currently available services for a relatively near term implementation time frame.

The WAN Backbone is focused on providing wide area connectivity to the six major sites:

- Commercial Connect, LLC., Louisville, Kentucky
- Simon Property Group, Indianapolis, Indiana
- Satellite Office in Chicago, Illinois
- Satellite Office in Atlanta, Georgia
- Satellite Office in Dallas, Texas
- Satellite Office in London, United Kingdom

## **WAN CONSIDERATIONS AND ANALYSIS**

A number of alternative WAN technologies could potentially meet the requirements. In selecting a solution, the following alternatives and considerations must be addressed:

- ◆ Geography - Inter-LATA or Intra-LATA locations,
- ◆ Services - Dedicated fixed bandwidth leased lines and/or value added public network switched services,
- ◆ Access - Integrated access circuits and/or separate access circuits to each site,
- ◆ Topology - Integrated and/or separate trunk circuits between sites; Mesh, star, etc. interconnection,
- ◆ PBX trunking requirements for intra-corporate voice communications, offnet intra-LATA voice communications, and long distance communications.
- ◆ Video Teleconferencing requirements within and outside of the major corporate sites.

Commercial Connect, LLC., in conjunction with MerchantWired identified three alternatives for backbone WAN connectivity.

## **NATIVE MODE LAN**

Native Mode LAN (NMI) is a service available within the LATA which provides Ethernet, Token Ring, or FDDI connectivity within the metropolitan area. Redundant 100MB FDDI rings throughout the Louisville area carry this service. The customer is provided an ethernet interface to the earner network.

Native Mode LAN has two primary disadvantages: first, it is not designed to support integrated video and voice, and second, since it relies on a fiber ring topology.

## **T-1 SERVICE**

T-1 typically service provides dedicated digital service between two locations. The digital circuit can be broken down on the customer premises into 24 discrete channels (DSO channels), each of which can be allocated to voice or data traffic.

MerchantConnect provides a capability to route multiple T-1 circuits through the digital cross-connect switch and dynamically reconfigure the individual DSO channel connection assignments. This permits a very flexible method of allocating bandwidth for multiple types of traffic between corporate sites. This is particularly beneficial in the early stages of the network implementation when the network will have to be fine tuned for the appropriate mix of voice and data bandwidth across the wide area network.

The switch also has access to local carrier central offices, long distance carrier central offices, and to a recently connected video conferencing switch.

## **FRAME RELAY**

As a final alternative, Frame Relay, implemented over the T-1/Flexserve architecture described above, was considered for the data networking requirements. Frame Relay is a packet transmission technology based on permanent virtual circuits (PVCs) between customer locations, routed through a carrier's Frame Relay packet switching network. Multiple PVCs can share a single carrier access circuit, often reducing carrier access costs. Frame Relay is ideally suited for access between multiple sites where the nature of the traffic is bursty.

With the current requirement limited to interconnecting six major sites, and the additional service cost and administrative overhead incurred with Frame Relay, there is not sufficient justification for implementing Frame Relay today. Frame Relay does, however, offer an excellent migration path to ATM as the Commercial Connect, LLC. network grows to encompass additional sites or as requirements for data communications to agencies outside of the corporation surface.

## **CORPORATE BACKBONE WAN SOLUTION**

From the feasible alternatives, the following carrier-provided services were selected for implementing the Wide Area Network. The Wide Area Network Connectivity diagram depicts how these services are employed. (See Attached Graphs)

T-1 Service: This is the primary communications channel for inter-corporate voice, data, and video traffic. Specifically, the applications recommended for consideration are:

- ◆ PBX to PBX voice trunks
- ◆ LAN to LAN, LAN to host, or host to host 56 KBPS data circuits.
- ◆ Intra-corporate video teleconferencing, using an inverse mux for rates higher than 112 KBPS.
- ◆ Long distance video teleconferencing to non-corporate sites and shared IXC MCU services.
- ◆ Long distance voice calls to the IXC C.O.



The network manager can establish a logical network between the major corporate locations, as depicted in the WAN Connectivity Diagram for data traffic. This logical network will consist of router to router LAN connections, PBX to PBX voice connections, and CODEC to CODEC video conferencing links.

This approach is scaleable; additional T-1 circuits can be added as the demand increases. Channel assignments and digital cross connects can be made at the DSO level. The level of access for the initial configuration must be determined after a detailed requirements analysis.

The T-1 circuit termination device will be a Coastcom DI/MUX III T-1 channel bank with integrated CSU. Connections between the router and the Coastcom channel bank will be a V.35 interface. In addition to the router, the Coastcom channel bank will attach to the PBX through digital DSX channels to permit intra-corporate trunking and access to the Interexchange Carrier (IXC) central office.

## **SHARED REGISTRY SYSTEMS ACCESS**

The network design provides sufficient circuit termination equipment for two redundant circuits to the Internet. Based on anticipated usage, Commercial Connect, LLC. will specify the circuit capacity. These circuits will be terminated on routers in-house.

## **CORPORATE WAN REDUNDANCY**

Redundancy has been built into this WAN design in several ways:

**Diverse Cable Routing:** The hardware included in this design will support diverse cable routing into each main corporate site. Circuit outages due to cable damage from construction or disaster are a significant source of WAN downtime. By specifying diverse routing of multiple T-1 s into each site, Commercial Connect, LLC. can reduce the probability of a catastrophic loss of data communications to any of the six major sites.

**Redundant Backbone Connectivity:** The triangular form of the backbone connections provides an alternate route between any two sites if one of the backbone links should fail. The Cisco routers specified in this design will sense the circuit outage and intelligently route traffic around the failed link.

**Redundant WAN Termination Hardware:** Coastcom channel banks are provided for each site, each terminating one of the diverse routed T-1 circuits. Each Coastcom channel bank can accept a second T-1 circuit as well.

**Redundant Internet for SRS Host Connections:** As specified below in more detail, two circuits to the SRS/Internet provide a backup or overflow capability in the event that one fails. Once again, the Cisco routers will dynamically route the traffic around the failed link.

## **5.3 Remote Offices**

Employees have at least ISDN Connection in their homes to the services offered by the corporate office. In the case of an emergency, employees are directly connected to the corporate offices and can manage the network from their homes. Certain key employees are on call twenty-four hours a day, seven days a week for such emergencies. This is in addition to our 24 hour staffed offices.

## **5.4 Remote Communication Server**

Commercial Connect, LLC. will connect to its remote locations via redundant T-1s through the MerchantWired extranet. MerchantWired uses a combination of services through Intermedia and UUNet.

The design includes the following functionality at each remote site:

- Cisco 2600 series Branch Office Router with ISDN and ethernet ports,
- 3Com 24-port stackable hub,
- APC SmartUPS 400,

Data drops and associated hardware for the number of users specified in the network access requirements listing.

## **5.5 Individual/Home Remote Access**

Commercial Connect, LLC. has designed a solution utilizing Integrated Services Digital Network (ISDN) connections to provide network connectivity to employee homes. ISDN provides an end-to-end digital connection between two customer sites through a dial-up switched digital network. The connection can be used to transmit a variety of services, including data, voice, and video.

Individual/Home sites will be provided with a Basic Rate Interface (BRI) ISDN connection, supporting up to 2 "B" data channels at 64 KBPS and one "D" signaling channel.

A total data rate of 128 KBPS can be achieved on this connection, sufficient for single user access to the backbone network.

Four ISDN Primary Rate Interface (PRI) connections will provide access into the corporate backbone network. Multichannel PRI modules in the 3Com Total Control system will terminate the circuits and provide bridging between the ISDN network and the backbone WAN.

Each bridge is capable of providing up to 23 64 KBPS ISDN B channels. The interface with the local carrier will be a PRI circuit with ISDN network access. The bridges function as any remote bridge, providing remote users direct access to all functionality of the enterprise network. Remote users with ISDN Basic Rate Interfaces (BRI) can call the bridge on demand and establish a direct network connection. If the bandwidth of one 64 KBPS channel is insufficient, an additional channel can be added to the connection for a total of 128 KBPS channel bandwidth. Up to 23 separate connections can be established with each bridge.

The bridges will also support connections with other primary rate interfaces, permitting scalable access of up to 23 64 KBPS channels.

## **6.0 Network Management**

### **6.1 Distributed Network Management**

The complexity and wide area nature of the enterprise network dictate a network management approach which is both flexible enough to deal with the myriad of issues and changes that a network manager faces on a daily basis and powerful enough to manage a network spanning our six major facilities and numerous minor ones as the need arises. Our approach to network management for this network is a distributed architecture, with network management workstations located at each site for local changes and monitoring and a powerful, UNIX based platform, for enterprise wide monitoring and control.

Critical to the implementation of a distributed management architecture is definition of the roles and

responsibilities of each manager in the system. Commercial Connect, LLC. will appoint an enterprise network manager, responsible for overall network oversight and day-to-day monitoring of the system. Responsibilities of the enterprise network manager are listed below:

## **ENTERPRISE NETWORK MANAGER RESPONSIBILITIES**

- ❖ Manage the wide area network connections: monitor the circuit and traffic status, perform system troubleshooting in the event of circuit failure or traffic overload.
- ❖ Manage the facilities backbone network within each location: make user/concentrator assignments to the network segments and manage host / server connections to the network.
- ❖ Manage network servers that support the enterprise.
- ❖ Monitor the status of traffic on the facilities network and alert the facilities manager of users workstations that might be causing network troubles.
- ❖ Manage the user connections to the network: install and configure network interface cards and configure the concentrator ports for user access.
- ❖ Manage user accounts on local servers.
- ❖ Manage user application software and desktop configurations.

## **NETWORK MANAGEMENT APPLICATIONS**

Today's networking equipment has powerful management functionality built into the hardware in a standards based environment. The management standard that is utilized by the majority of networking equipment is the Simple Network Management Protocol (SNMP) which offers a rich suite of services and control functions that will enhance the job of managing the network.

While the equipment proposed includes network management built into the hardware, the ability to access and control the equipment requires the use of separate management applications. These applications offer the ability to view, control, and analyze the data collected by the equipment hardware, from a single, localized workstation.

In order to fully enhance the network offering, we are proposing two levels of network management capability. The first system is a feature rich UNIX based system that represents the state of the art in network management systems for managing the wide area network. The second system is a Windows 2000 server based package that meets the needs of the facility network manager.

## **6.2 Enterprise Applications Management System**

In order to achieve the processing power necessary for managing a network of the magnitude of the enterprise network, we are recommending a UNIX based system for the enterprise network manager.

The platform for the enterprise management system will be an IBM RS/6000 with the following specifications:

IBM RS/6000 Power PC Model F80:

- PowerDisplay 17" Color Monitor
- 4 GB RAM
- 36.4 GB SCSI12 HDD
- 2 Half Height drive bays



- 8 mm tape backup
- Ethernet adapter and transceiver
- V.Fast modem for remote access

The server will be configured with IBM AIX. This platform will provide a comprehensive system that will be capable of supporting the future growth of the management system.

The primary applications initially running on the enterprise management system will be:

- ◆ Cisco System's Ciscoworks for Netview for AIX.
- ◆ Oracle Database application server

CiscoWorks Router Management Software provides both a series of applications that simplify day-to-day router monitoring and administration and a series of management applications for offline analysis of network traffic patterns and trends. It is an advanced internetwork node management application that enables Cisco routers to be controlled over the network from local an/or remote locations. Ciscoworks provides a comprehensive set of router management capabilities accessible through a point-and click, windows based, user interface. It performs:

- ◆ Centralized configuration management to ease network set-up and expansion
- ◆ Real-time performance and error analysis to enhance network tuning
- ◆ Real-time event and fault monitoring to simplify problem identification and isolation.

The management system proposed will provide a comprehensive management tool for use in controlling and maintaining the entire enterprise network. we will install, configure, and provide on-site training in the use and understanding of the operation of the management system.

## 6.3 Facility Network Management System

The package that is proposed for use at the facility level is based on a Windows Platform. It includes Intel's LANDesk Manager for desktop management.

The platform for the facility management system will be the IBM Netfinity 7600 with the following specifications:

IBM Netfinity 7600:

- Pentium III Xeon 700
- 2 GB RAM
- 18.2 GB HDD
- 17 in SVGA Monitor
- Ethernet Adapter

- APC SmartUPS
- V.Fast modem for remote access

We have included Intel's LANdesk Management Suite for management of user workstations. LANdesk manager provides a central view of the network and the capability to manage everything from desktop systems, to servers. LANdesk Manager puts a completely integrated suite of solutions at the network manager's command, permitting seamless movement from one application to another.

LANdesk manager simplifies network administration by permitting the network administrator to manage down to the desktop platform level from the management workstation. The administrator can take control of a user's workstation, obtain an inventory of the hardware and software resources on the LAN, and forward alerts to electronic mail and even pagers.

LANdesk manager monitors network health indicators such as packet rates, utilization, and error levels. Its graphic, real time summaries provide application related traffic information and provide extensive printer management capabilities.

Applications included with LANdesk Manager include:

- Desktop Access
- Traffic Monitor
- Inventory Manager
- Application Monitor
- Virus Scan
- Server Monitor
- Remote Connection Monitor
- Network Print Monitor
- Queue Monitor
- Alert Log
- Software Probe
- File Transfer
- Server Status

The network management station will include:

- ◆ Workstation, modem, and UPS installation
- ◆ Network map development
- ◆ Intel LANdesk Management Suite

## 6.4 Network Server Management

The facility management workstation at the corporate offices will also provide enterprise server management functionality. This platform will host the remote console, and Exchange management applications.

The following table depicts the applications provided for the facility management workstation at each campus:

### NETWORK MANAGEMENT APPLICATIONS

#### Application

LANDesk Management Suite

## 7.0 Network Host and Server Integration

This section of the network design describes the solution for host and server integration throughout the Commercial Connect, LLC. corporate network. The principle objective is to define the methods for users throughout the network to access computing resources regardless of their location in the enterprise. The solution can be divided into three host classes:

- ◆ Access to the Shared Registry Systems (SRS) Windows 2000 Server
- ◆ Access to Netware based applications
- ◆ Access to the UNIX based applications and other hosts

## 7.1 Microsoft Windows 2000 Advanced Server and Oracle Database Application Integration

### Windows 2000 Advanced Server

Microsoft's Windows 2000 Advanced Server promises the best of all worlds for dot.com companies and Internet Service Providers. Since it is a relatively new product, we can not depend on its promised abilities to run the SRS database. Therefore, we will purchase this server environment and included applications but rely on Oracle's proven ability for reliable and efficient database manipulation. Should Windows 2000 DataCenter Server proves its worth, a combination of both systems will allow for the best of all worlds.

### Reasons for Windows 2000 are as follows:

- ◆ **Reliability.** An essential requirement for business users is a personal computer they can count on. That's why Windows 2000 includes fundamental improvements such as modifications to the operating system core to prevent crashes and the ability for the operating system to repair itself that make it most reliable desktop operating system Microsoft has ever produced. On comparative [reliability tests](#) conducted by ZD Labs, the average system uptime of Windows 2000 Professional was over 50 times that of Windows 98 and 17 times that of Windows NT Workstation 4.0.

- ◆ **Mobility.** Mobile computing is simpler and more efficient with Windows 2000. This means you can work anywhere, anytime while also saving time and increasing productivity. As described in these articles, [◆Finally, a Notebook OS◆](#) and [◆Mobile Users In Love with Win2K◆](#), Windows 2000 offers mobile users key features such as improved power management, the ability to hibernate and restart the system without a reboot, and the ability to take files/folders offline.
- ◆ **Manageability.** Windows 2000 is easier to deploy, manage, and support. Centralized management utilities, troubleshooting tools, and support for self-healing applications all make it simpler for administrators and users to deploy and manage desktop and laptop computers. These improvements pay off in reduced costs, as shown by the [Giga TCO/ROI study](#).
- ◆ **Performance.** The advancements made throughout Windows 2000 are accentuated by the operating system's speed. As shown in [ZD Labs tests](#) running the most popular business applications, with 64 MB of RAM, Windows 2000 was 32 percent faster than Windows 95 and 27 percent faster than Windows 98. It is also significantly faster than Windows NT 4.0 on configurations with 32 MB.
- ◆ **Security.** Windows 2000 provides comprehensive security features to protect sensitive business data, both locally on the desktop computer and as it is transmitted over the local area network, phone lines, or the Internet. With its support for Internet-standard security features such as IP Security, Layer 2 Tunneling Protocol, and Virtual Private Networking, Windows 2000 is so secure that banks, such as [Credit Suisse First Boston](#), use it. For some organizations, such as the law firm [Dorsey & Whitney LLP](#), security is a key reason for moving to Windows 2000.
- ◆ **Internet.** Using the Internet and a local desktop is a single unified user experience with Windows 2000, as described by [PC Magazine](#). This common user interface, in addition to improved search capabilities, makes it much easier to find and use information locally and on the Web.
- ◆ **Data Access.** Windows 2000 Server takes advantage of IntelliMirror technologies. By allowing storage of important information and desktop settings on a central computer, IntelliMirror makes it possible to work on any computer attached to a network as if at one's own desk. The centralized management savings made possible by Windows 2000 IntelliMirror technologies are one of the reasons [WFofR, Inc.](#) is using Windows 2000.
- ◆ **Hardware.** Windows 2000 allows the user to take advantage of new hardware devices, such as those with universal serial bus (USB) and IEEE 1394 (Firewire) connections. In addition, support for existing hardware makes Windows 2000 ideal for companies, such as [Panasonic](#), that want to standardize on a single operating system across their organizations.

Some of the above information was obtained from Microsoft's Web Site located at <http://www.Microsoft.com>

## Database Component

Oracle 8i with Oracle JVM along with Oracle Internet Application server will be utilized for the database component to house the SRS Registry system.

Oracle8i is the only database specifically designed as an Internet development and deployment platform, extending Oracle's long-standing technology leadership in the areas of data management, transaction processing and data warehousing to the new medium of the Internet. Built directly inside the database, breakthrough Internet features help companies and developers build Internet-savvy applications that lower



costs, enhance customer and supplier interaction, and provide global information access across platforms and across the enterprise.

## **Oracle8i JVM**

Oracle8i JVM is a server side Java engine for the Oracle8i database. It includes a Java Virtual Machine with a native compiler, a CORBA 2.0 ORB, an EJB server, an embedded server side JDBC driver, and a SQLJ translator. The Oracle8i JVM constitutes the heart of Oracle8i's support for Java. Developed by Oracle, the VM is 100% JDK compliant and leverages Oracle8i's multithreaded and highly scalable parallel server architectures with excellent performance on SMP and MPP architectures. It enjoys an advanced memory model for exceptional scalability to thousands of simultaneous connections over the Internet for an entire enterprise.

Some information above was obtained from Oracle's Website located at <http://www.Oracle.com>

## **7.2 Netware Server Integration**

As Commercial Connect, LLC. moves into a full networking environment, most general applications will reside on network servers. In the current business market place, many third-party systems as well as office automation applications such as E-Mail, word processors, and spreadsheets, will be server based.

In situations with a limited number of application or users, high end PC's can be used as the server platform. This works well in small office environments where a limited number of users are connected to the system. In major facilities many such machines are often employed to handle the large number of users and applications.

In these large environments, it is quickly becoming apparent that the task of maintaining and servicing a large number of critical servers is inefficient, due to the need to maintain large volumes of data, track applications and network licensing, maintain numerous disk drives and system memory on each machine, and many other aspects.

Another critical problem not addressed with PC based servers was the issue of fault tolerance. With a PC system, if memory, disk drives, disk controllers, or any other system component failed, the system crashed ...disconnecting all users until a technician could correct the problem. While the use of techniques such as disk duplexing or mirroring alleviated some of the problem, the networks that used the PC based servers still remained vulnerable.

The concerns and needs of the larger network systems created a new class of network server ...the super server. These new machines possessed the power, fault tolerance, and management features found in the older mainframe computer environment. With these systems in place, network managers found themselves free of the headaches of managing and maintaining multiple PC systems. Additionally, system growth was handled through the greater data handling capacity and user support (1,000 users per server is common) of the super servers.

In summation, the scalable high performance PC based network super servers such as the RS/6000 and Netfinity 7600 should meet and exceed all requirements of Commercial Connect, LLC. both now and into the future. With the base capacity, and the ability to expand to support many additional users, applications and data, these servers are the best solution for the network server requirements in the dynamic environment envisioned by Commercial Connect, LLC..

## **8.0 Enterprise Applications: Corporate Electronic Mail and Scheduling**



With SNMP and the onset of e-commerce, email is a crucial element in today's Internet business. Event notifications, notices of sales, pending orders, requests for information and much more are all carried through this single application. The selection of a suitable productivity application must be based on careful considerations including ease of use, security, stability, reputation and capabilities. With these and other issues in mind, Commercial Connect, LLC. has chosen Microsoft Exchange 2000 for its email/productivity application

Microsoft Exchange 2000 Server, seamlessly integrated with the Microsoft Windows 2000 operating system, is designed to meet the messaging and collaboration needs for businesses of all sizes, from small organizations to large distributed enterprises. Exchange 2000 Server incorporates two years of customer feedback for its design. Customers outlined three broad requirements that they want to see in the next generation of their messaging and collaboration infrastructure:

- Increased reliability, scalability, and performance of the enterprise messaging and collaboration platform, and further utilization of the capabilities of the operating system to reduce the cost of system ownership.
- New forms of collaboration for knowledge workers, integration of Web and workflow application design, and a single infrastructure and user model for working with messages, documents, and applications to increase knowledge worker productivity.
- A communications infrastructure that provides access to information at any time and from anywhere through emerging technologies such as wireless communication, unified messaging, handheld devices, and teleconferencing.

The system proposed for enterprise wide messaging and scheduling system is Microsoft Exchange Server. This system provides the following features:

### **Worldwide Email Service, Group Calendaring and Scheduling**

The multi-user calendar feature will permit various scheduling departments to retrieve and view several calendars side by side on the same screen, while maintaining the confidentiality of each calendar. With the built-in security of the system the local system administrator or the enterprise administrator can specify who has access to view or modify personal calendars. They can schedule meetings by listing attendees and the length of the meeting. Exchange Server will retrieve information from each individual's calendar, allowing you to choose a block of unscheduled time and send out a meeting request.

### **Task Management**

Microsoft Exchange lets you schedule to-do items or tasks, indicate the tasks' priorities and when they should be completed. If a person accepts a to-do item, the task is added to that person's list with the priority you assigned. Users can postpone their responses, or accept, reject, or delegate a scheduling request. If a request is delegated, the request is forwarded to the next user, who has the same option. The original sender will know where a scheduled item was delegated, and when it was delivered, opened, and completed.

### **Workflow**

Ordered distribution lets a user send a message through a specific group of people one by one. This feature is particularly helpful when you need to have an electronic form signed or approved in a particular order.

### **Out Box**

The Out Box lets the sender view the status of messages they send. The sender will know when messages are delivered, opened and deleted, even if they are deleted without being opened. This feature is helpful when the sender needs to track scheduled tasks or routed forms using ordered distribution. If desired, the

sender can also retract unopened messages if they need to modify or delete a message.

## **Message Management**

The system can be personalized to the individual's own taste and work habits. If desired, the user can create any number of folders and subfolders to organize their messages, and store any combination of e-mail messages, scheduled items, appointments, to-do items and notes in any folder. A message can be stored in one folder and linked to other folders.

## **Rules**

The rules feature in Exchange Server automatically performs actions on messages depending on certain criteria. For example, the administrator or the individual user can apply a rule that files all messages from a certain person in a folder. Multiple actions can be performed on a single message.

## **System Administration**

Exchange Server 2000 offers a new, fully distributed, active service database architecture. The administrative program -- the front end to the directory services database -- simplifies the setup, configuration, and maintenance of your system regardless of size. Using a star architecture, the central point of administration will be at the data center (or central site for network administration) and local administration will be performed by the local administrators. While the central or (Hub) site will be able to implement changes globally, the local (satellite) site will be able to perform administrative tasks that will be transmitted to the hub where all of the databases will be updated at one time.

## **Remote Capabilities**

Using the Exchange Server via the Web included with the system, users can run the E-mail system from a remote location.

## **Gateway Support**

The following gateways are currently available: X.400, X.25, NGM/MHS, SMTP, Fax/Print, OfficeVisionfVM, Groupwise, cc:Mail, VMS Mail, Message Router, Async, and API. The Async and API gateways are included in the Message Server Pack. All other gateways are available separately. Additionally, these gateways will permit the Commercial Connect, LLC. user to access and send messages to foreign systems such as the Internet, CompuServe, MCI Mail, INS Customer Service, etc.

## **9.0 Project Implementation**

The main foundation of the proposed systems is in place.◆ A detailed list of completed components and project to be completed follows:

### **9.1 Project Management**

Project Management will be the responsibility of the Chief Information Officer.◆ Within a two week period he will provide a detailed timeline to complete the project indicating the key personnel needed.

## **KEY PERSONNEL**

The following individuals on the staff will have key roles in the management of this project:

**Chief Information Officer (CIO)** - Develops the Project Plan (in coordination with the project manager in the field) and allocates resources to ensure on-schedule completion of the project. Responsible for installation of cable plant, coordination with the Integration, Services, and Network Engineers. Ensures overall project quality assurance and completion of the project documentation.

**Senior Network Engineer** ♦ Acts as Project Manager. Oversees the installation and configuration of network servers, network operating systems, and user applications. Documents the system configuration as part of the project documentation and provides training to the network managers on network management as it relates to the network operating system. Coordinates for user application training.

## **PROJECT MANAGER RESPONSIBILITIES**

- ♦ Ensures that the project is completed on-schedule and in accordance with established standards.
- ♦ Maintains open communications with the CIO to ensure timely resolution of issues relating to any aspect of the project.
- ♦ Enforces on-site documentation standards for the project.
- ♦ Contributes to the development of the Project Plan which defines the tasks and responsibilities for performance of the Statement of Work.
- ♦ Measures and evaluates progress against the Project Plan and resolves deviations the plan.
- ♦ Prepares and submits Weekly Status Reports to the Director of Operations.
- ♦ Administers Project Change Control procedures in coordination with the CIO.
- ♦ Coordinates and manages the technical activities of project personnel.
- ♦ Ensures that the professional environment of the facility is maintained.

### **9.1.1 Certification Testing**

Certification is the testing of the completed network and is generally accomplished in two phases. The first is in conjunction with system activation, and prior to the commencement of LAN usage. This testing phase targets the physical infrastructure and network equipment. The second testing phase will be implemented after the network integration efforts are completed and are designed to ensure systems connectivity. The second testing phase calls for a close coordination between to clearly define the scope and duration of the tests. Occasionally there are circumstances in which the testing process dictates that the network not be in use, at which times the work will be scheduled after business hours if users are actively using the system.

The results of both testing phases will be clearly documented and for review and acceptance.

#### **Phase I**

##### **Fiber Optic Backbone Tests**

- ♦ Pre-installation testing of the fiber while it is still on the reel will be performed to insure that it was not damaged during shipment. Tests will be accomplished by using an Optical Time Domain Reflectometer (OTDR) and the records will be retained as part of the final system documentation. All OTDR tests will show that no micro bends or other abnormal defects are ♦ present in the fiber prior to installation.

- ❖ OTDR post termination testing of each fiber will be performed. The test results will be submitted as part of the final system "as-built" documentation. All OTDR tests will show that no micro bends or other abnormal defects are present in the fiber.
- ❖ **Fiber Cable Power Meter Test:** A power meter test will be performed on all fiber cable after termination. An AT&T power meter set will be used to perform the test. This test will be performed at 850 and 1300 run to ensure operation at FDDI specified frequencies in accordance with ANSI X3T9.5 requirements. All results will be documented and inserted into the final documentation package.

## UTP Installation Tests

INS will certify that the Enhanced Category 5 horizontal UTP meets or exceeds the proposed EIA/TIA SP-2840 draft specifications for link performance. In order to ensure this compliance, INS will perform the following tests:

- ❖ **Cable Length:** All installed horizontal UTP wiring will be tested for length using a Time Domain Reflectometer (TDR). All UTP wiring must be validated to be within the 90 meter length specified by the EIA/TIA 568 specifications.
- ❖ **Attenuation:** All installed UTP wiring will be tested for maximum attenuation at 100 MHz in accordance with the EIA SP-2840 draft specifications for Enhanced Category 5 attenuation link performance of 23.6 dB. For proper results, it is necessary to perform the attenuation tests in a one-way manner.
- ❖ **Near End Crosstalk(MXT):** All installed horizontal UTP wiring will be tested for NEXT from 0.772 MHz to 100 MHz in 200 ICHz increments in accordance with the Underwriters Laboratories LAN Cable Certification Program document. The test results will support that the horizontal UTP wiring does not exceed maximum NEXT in accordance with the specifications (using the formula [ NEXT (test frequency in Mhz) > NEXT (0.772) - 15 log10 (test frequency in Mhz / 0.772)]).
- ❖ **Electrical Noise:** All installed horizontal UTP wiring will be tested for electrical noise. The test results are designed to measure and record both ambient and impulse noise in the low, medium, and high frequency ranges on each UTP cable installed. This test insures that noise from such sources as AC lines, florescent lights, motors, radios, or other co-existing system will not adversely effect system performance.
- ❖ **Capacitance:** All installed horizontal UTP wiring will be tested for maximum capacitance on each cable pair in accordance with EIA/TIA Enhanced Category 5 specifications of 17pF per foot maximum. This test is performed to ensure that no unusual physical damage or anomalies exist in the horizontal UTP wiring.
- ❖ **Characteristic Impedance:** All installed horizontal UTP wiring will be tested for characteristic impedance for each cable pair in accordance with EIA/TIA Enhanced Category 5 specifications of 100 ohms +/- 15%. This test will ensure that all punch downs, terminations, and patch cables are in good working order.
- ❖ **DC Resistance:** All installed horizontal UTP wiring will be tested for DC resistance for each cable pair in accordance with EIA/TIA Enhanced Category 5 specifications. This test will ensure that the installed cable meets or exceeds the specifications detailed in EIA TSB 36.
- ❖ **Continuity and Polarity:** All installed horizontal UTP wiring will be tested for the continuity and polarity of each cable pair in accordance with EIA/TIA 5688 specifications. This test will ensure that all punch downs, terminations, and patch cables are properly terminated and pinned in the

correct sequence as defined by the EIA/TIA 568E specifications.

## Phase II - Connectivity Tests

Phase II tests will be designed to test systems connectivity between specified user locations and their respective hosts. We will test IOBase-T connectivity from selected network ports to the host computers.

The number and locations of the test sites will be determined by engineering staff personnel prior to the beginning of the testing phase.

### 9.1.2 Documentation

A final documentation package will be presented within thirty days following project completion. The final documentation package will consist of a short description of the test performed and the following documents:

1. Data Base identifying each data outlet and wire number.
2. Fiber meter test results.
3. Cable pin-out configuration.
4. UTP test results.
5. Performance Test Results.
6. Connectivity test results.
7. Network hardware configuration
8. Network server and application configuration

#### **D15.2.2 Registry-Registrar model and protocol.**

The Registry-Registrar model will abide by the protocol requirements outlined in the IETF Internet specification for gRRP and will follow Section 10 of RFC2026.

It is essential that in order to maintain an orderly reliable internet standards must be in place to provide basic services. We fully intend to adhere to these standards. We will provide a similar functioning Registry-Registrar Model that will respond identical to the requests that are in place at Network Solutions/Verisign Registry Services. We will diverge slightly as we are proposing a heavier registry model with additional information in order to aid in the stability of the internet. Our model will keep in additional to the current information, additional vital information needed should the registrar go out of business or business cease from unknown reasons. There will be a need to enhance the RRP for additional commands and information. All needs will be addressed through IETF and an enhance form of the RRP.

- Full observation and participation in IETF processes are essential. Commercial Connect, LLC. will have staff dedicated to keep up with all RFCs, proposals and standards to ensure that we are consistent to the operation and fast changing need of a stable internet. In addition security will be of highest priority. All transactions will take place on secured servers transmitting secured transmissions, virtual private networking and secured DNS to ensure a secure internet system.

#### **D15.2.3 Database Capabilities**

Commercial Connect, LLC. will run Oracle iFS utilizing Oracle8i relational database will serve as the



data application foundation for a customized Registry system. Oracle is the world's leading supplier of software for the Internet and business worlds. It is the second largest independent software company. The availability of supporting programs, Internet integration and technicians familiar with Oracle makes it the obvious choice to base a registry service on.

The scalable Oracle server will be allowed up to 30 Gig of storage space. It has the ability to notify on space restrictions, security issues and throughput. In addition, several security level enhancements have been made to allow for virtual private database which will allow for varied security on certain domain name components at the user level. In addition the database will keep certain chronological data and transactional data to be able to trace the history behind the transactions.

The database will consist of key component files including Registrar Database, Domain Name Database, Client Database, Name Server Database, invoicing, billing operations and reporting,

With over two years experience as an active ICANN accredited CORE Registrar, and with additional experience in the years-long extensive preparation for the role of Registrar, Computer Analytical Systems, Inc. is thoroughly familiar with the Basic Command Protocols, Payload Specifications, Registry rules and procedures and database requirements of the current Shared Registry System (SRS) for the existing .com, .net and org Top Level Domains. Commercial Connect, LLC. will adhere closely to the current CORE models in implementation of the new TLDs. The detailed command protocol (CORE-BCP-1) is included as Appendix B.

#### **D15.2.4 Zone File Generation**

The Registry will maintain the authoritative zone file for each TLD it sponsors. There will be separate zone files for each TLD supported. The Registrar will request a zone file update, it will be submitted to the Registry via RRP to Registrar. Registrar will record such change and at ascertained times not to be less than once every 12 hours will issue zone file updates.

RFCs 1034 and 1035 will be followed.



#### **D15.2.5 Zone File distribution and publication**

In order to provide maximum security and efficiency, Commercial Connect, LLC. will locate six name servers (additional can be apportioned should need arise) at diverse locations across the world. Louisville, KY, Chicago, IL, Atlanta, GA, Dallas, TX, Indianapolis, IN, and London, UK would be the initial preferred sites for the Name Servers.

Systems there will be utilizing the more efficient/stable BIND as well as technologies that are in place to provide for data corruption protection and dynamic updates. All efforts will be made to ensure that the information being published is consistent in content to the object it is updating.

#### **D15.2.6 Billing and collection systems**

Our billing will be based on an existing billing system utilized for the Registrar services. It will be incorporated into the Oracle database which will ensure its integrity and security.

In addition, a secured web presence will be made available to the Registrars to inquire on their account, their status and account history.

Registrars may only apply to resell the TLDs if they are ICANN accredited. A minor application process will be needed to get vital information on the registrar and verify their ICANN accreditation and financial abilities. Once accreditation is verified and financial arrangements have been made for payments, and the Registrar has signed all policy agreements, a Registrar will be allowed to register the TLDs. There will be a \$2000 USD application fee to apply for registering the TLDs in addition each registrar will be billed \$1000 per year to remain an active registrar.

We will provide several technical support staff to provide assistance to the new Registrar in getting started reselling the TLDs. For the most part secured web pages will provide a web based interactive tool to allow the registrar the ability to complete most all transactions. In addition, the RRP can be followed to accomplish the same tasks. There will be no software licensing fees associated with registering the new TLDs.

The accounting system will adhere to a standard double entry system in most of today's businesses. There will be security issued to employees based on their job function.

Deletions will not be allowed. If mistakes are made, then adjusting entries must be made to correct items with detailed information supplied on the mistake.

With the use of Oracle's relational database, several pricing structures can occur and at the same time several TLDs can be supported. The billing system will look at a company for pricing as well as what TLDs they may register and base price on a number of other items if deemed necessary such as quantity of domain names purchased, etc. At present all TLDs will cost the same to every Registrar. It is essential that procedures be built in should this change.

Commercial Connect, LLC. will charge \$6 per tld to be registered. This amount must be prepaid by the registrar. The prepayment will be kept in an escrow account and email notification will be sent once the amount has decreased to a certain amount as designated by that customer. Payment accepted will be by check or wire transfer. All banking fees for payment sent are the responsibility of the Registrar.

Registration, Renewals and transfers will act the same as through NSI Registry/Verisign Registry.

- New Domain Names - A Registrar can register a domain name for up to ten (10) years at a cost of \$6 per year.
- Renewal of Domain Name - Renewals can be setup to renew automatically for one year once the domain name expires if so designated by the Registrar, otherwise the date the name expires it will become available to the world with a note stating that it is the domain holders responsibility to ensure payment is received prior to the expiration date. Renewals can not exceed the ten (10) year limit.
- Registrar Transfer of Domain Name A Transfer of Registrar will result in a charge of \$6 to the new Registrar and the domain name being extended for one year, not to exceed the ten (10) year limit.
- Transfer of Ownership A Transfer of ownership will act the same as a transfer of Registrar for the purpose of charges and extension of one year.
- Domain Server Changes There will be no charge for Domain Name Server Changes on the system.

Renewal notices will be the responsibility of each Registrar. The Registrar may contract with Commercial Connect, LLC. for customized renewal options such as an automatic renewal of one year if the Registrar so desires.

Billing procedures are discussed further in the Business Plan.

#### **D15.2.7 Data Escrow and backup**

There will be no need for Data Escrow since the authoritative Whois will be kept at the registry. This will ensure for a centralized Whois and make updates more efficient and effective. Since there will be three database servers located worldwide and they will have load balancing and active clustering and automatic failover/failback the physical servers should prove quite reliable. In addition a daily

automatic DLT tape library system will be performed.

### **D15.2.8** Publicly accessible look up/Whois

Great consideration must be made in regards to the security, integrity and speed of the Whois system. Because of this, Commercial Connect, LLC. has decided to maintain a centralized Whois service. It is essential that this system be available at all times, it can not get incorrect information and must be monitored against abuse. In addition there are several concerns in regards to countries that protect information regarding ownership of domains.

Since the Whois database will be kept at the Registry level almost immediate, real-time updates can be achieved. This will be the best possible solution to the need for accurate information.

Consistency should also be preserved. The standardized Whois protocols and functionality will be maintained.

### **D15.2.9** System Security

The primary data center has a 24 hour 7 day manned support staff. In addition, there are video surveillance and active alarm system in place with controlled access.

Remote facilities will be controlled by secured remote operations. These facilities also will have limited access and controlled access.

The Computer Operating System and Network Operating System will have usernames and passwords assigned with careful consideration of functionality assigned to the user. The job function will dictate the level of security.

In addition the database application will have yet another set of username and security protocols to pass through again with rights assigned through job function.

In addition to the physical staff the systems will be protected by various types of firewall software and hardware that will intelligently record transactions and provide a high level of internet security. In addition Secured Socket Layer transactions will be processed over the internet. This allows for data encryption and verification of who a user actually is and only allow them to access database functions assigned to them.

### **D15.2.10** Peak Capacities

During the initial Sunrise period procedures will be put into place to test the capacitance of the system. Commercial Connect, LLC. will take requests and force a large upload to test system capacity and speed. This will be done one month prior to going live. We will then take that information and apply appropriate measures to ensure that the systems can handle a large influx of requests.

Additional employees can be provided by BestRegister.com or CAS-Com Internet Services, Inc. which are sister companies working in the same location during peak times.

### **D15.2.11** System Reliability

With system redundancy, Clustering, Load balancing and failover/failback services combined with real backups will result in a 99.98% up time.

### **D15.2.12** System outage prevention

Several methods will be employed to ensure that all backup and redundancy systems are in force.

There are set procedures for technicians to manually verify functionality in addition software such as Whats Up Gold will constantly monitor and page appropriate staff in cases of slow networks or



outages. Since BestRegistrar.com also sells and services equipment, it has replacement parts on site for fast repairs.

All Software and redundancy is currently operation and has provided up times over the 99.98% with the exception of purposeful testing for over one year.

### **D15.2.13 System Recovery procedures**

Since there will be three servers with clustering operating on them the network will automatically sense a downed server and automatically switch to another system, once that initial system is back on line it will discover the authoritative server is opted and switch back to it. Otherwise it will cluster and mirror existing and become redundant once more. In addition Computer Associates ArcServe will provide for imaging a drive back to it original backed up state the previous night.

All Backup systems and redundancies are currently being utilized and have proven quite effective.

### **D15.2.14 Technical and other support**

Support for Registrars will be provided via phone support, email and web based self-help. Internet Users and Registrants will also be allowed to phone support but in most situations they will be referred back to their Registrars unless they are having difficulties with their existing Registrars.

Our Technical Support will be available from 8:00 a.m. EST through 6:00 p.m. EST and we have automated receptionist after hours that will page a technician in case of an emergency for callback within 30 minutes. This service will be available 24/7. During regular support hours we can accept calls in English, Spanish, French, Japanese and German. Once we have established relationships with additional countries we will provide a means of communication and expand our support.

### **D15.3 Subcontractors**

Commercial Connect, LLC. will be doing all of the design, implementation and support of the registry service. We will be taking key personnel from various existing companies while forming this new joint venture. Key personnel such as CEO, Jeffrey Smith, CRO, Daniel Kalef and key programmers and technicians have already been placed on retainers and will be joining the LLC when the application is approved.

Signature

Name: Jeffrey S Smith

Title: President/CEO

## **Appendix A Hardware Configuration**

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### **CORPORATE BACKBONE WEB**

<b>FG</b>	<b>Model/Part No.</b>	<b>Description</b>	<b>Units</b>
		<b>Cisco Router</b>	
SCO	CISCO3600	Cisco 3600 Modular Router Base Unit	1

SCO	CX-FSIP8	8-port Serial Interface Processor	1
SCO	CX-EIP6	6-port Ethernet Interface Processor	1
SCO	CX-EIP2	2-port Ethernet Interface Processor	1
SCO		Redundant Power Supply	1
SCO	CAB-V35MT	Male DTE V.35 Cable 10 Foot	3
ALLIED	AT-MX20T	Allied Telesis AUI to RJ45 Transceiver	8
ICROCOM		DeskPorte V.Fast Modem	1
		Serial Cable	1
		Router Installation / Configuration	1
<b>Coastcom T-1 Channel Bank</b>			
Coastcom	355-81033	24-slot DI-MUX Chassis w/ 120v Pwr. Supply	1
Coastcom	30351-103	Synchronous Data Control Unit- 64xN with v.35 Interface	1
Coastcom	30319-101	Tandem T-1 Unit (TTU) -DSX Interface	1
Coastcom	0600-0244	DB15 to RJ48 cable for connection to incoming T-1 jack	1
Coastcom	0600-0073	DB25M Shelf Data Conn. To V.35 Centron Female Cable (5 Foot)	1
		Channel Bank Installation / Configuration	1
<b>Remote Communications Server</b>			
<b>3Com Total Control HiperDsp Chassis</b>			
		Remote Control Concurrent Users	92
		Remote Node Concurrent Users	92
		Fax Server Concurrent Users	4
		Total Chassis Segments	48

## Appendix A Hardware Configuration 2

### CORPORATE CONNECTIVITY INFRASTRUCTURE

<b>Communications Cabinet</b>			
TTAL		79" Cabinet with lock	2
TTAL	VR3825.510	79x24x34 enclosure, 19" rack, viewing door, vented roof and rear door	2
TTAL	SZ245.000	Ergoform Handle	4
TTAL	SZ2469.000	Pushbutton / Keylock insert	4
TTAL	VR3140.110	19" Blower, 110v, 2 fans	2
TTAL	DK7724.000	DK 8 socket 110/115v power strip	2
TTAL	EL2093.200	M6 Fixing Screws	2
TTAL	EL2094.200	M6 Captive Nuts	2
		Solderless Ground Lug	4
		Ground Clamp	4
		#6 Insulated Copper Ground Wire	50 ft
		3/8" Lug and Anchor	16
		System Switch Box	4
<b>Corporate Wiring and MDF Installation</b>			

ASI	SERCAB	Wiring and cabling Per Port	22
ASI	SERCAB	Communications Room Installation/Wiring	1
<b>Switches/Concentrators</b>			
COM	4112H-MTP	24-port Stackable 10 Base-T Managed Hub	2
LLIED	AT-MX20T	Allied Telesis AUI to RJ45 Transceiver	1

### Appendix A Hardware Configuration 3

<b>IBM RS / 6000</b>			
M	7025IBMF80	IBM RS / 6000 Power PC Model F80 (4GB RAM, floppy drive, 2 media bays) (4MC Slots, integrated SCSI12 Adapter) (36.4GB SCSI12 Disk, 12 HH Drive Bays)	1
M	810IBM7208	8mm Tape Backup(2.3GB)	1
M	270IBM3107	C10 Serial Port Converter Cable	1
M	910IBM2980	C10 HH Drive Mounting Kit	1
M	270IBM2980	Ethernet Adapter	1
M	910IBM4224	Ethernet 10BaseT Transceiver	1
M	700IBM3607	Power Display 17" color monitor	1
M	910IBM4214	Graphics Display Cable	1
M	270IBM2650	GXT150M 2D Graphics Adapter (all)	1
M	270IBM6010	101 Keyboard	1
M	270IBM6041	3 Button Mouse	1
M	610IBM3314	AIX Media (8mm)	1
M	610IBM3333	AIX Diagnostics Diskette	1
M	610IBM1500	AIX 3.2.x (1-2 user) D5 (2xx/C10/41x)	1
ICROCOM		DeskPorte V.Fast Modem	1

<b>Additional Servers</b>			
M	Netfinity7600	Netfinity 7600 - Web Server	1
M	Netfinity7600	Netfinity 7600 - Name Server	1
M	Netfinity7600	Netfinity 7600 - Backup Server	1
M	Netfinity7600	Netfinity 7600 - Test Server	1

<b>Workstations</b>			
M	IntelliMP2D	Intellistation Mpro 2D	20

<b>Network Management Applications</b>			
SCO	CW-2.1.2-NV	Ciscoverks 2.1 for Netview for AIX	1
SCO	CON-SNT-N	Ciscoverks Smartnet (1 year extended)	1

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### Network Management

M	197450-404	IBM Intellistation MPro 933 MH 15GB HDD, SVGA 256MB RAM	1
M	143800-503	17"SVGA Monitor, .288mm	1
PC	PCLA8200	APC Smart UPS 600	1
ICROCOM	AP600	Desk Porte V.Fast Modem	1
ASI	SERINS	Network Management System Installation	1

### Network Management Applications

ICROSOFT	25113	Windows	
TEL	IN745	LANDesk Openview V1.51	1
YMANTEC	SYPCA90	Remote Access Software	1

### Databse Environment

RACLE	8IV	Oracle 8iv	1
RACLE	8IVAS	Oracle Applications Server	1

### Windows 2000 Advanced Server

ICROSOFT	25152	Windows 2000 Advanced Server	1
ICROSOFT	26633	Client Licenses	25

ASI	SERINS	Installation / Configuration Includes: *Workstation, modem, UPS installation *Intel LANDesk manager on server and Network Management Station *Netware remote console configuration *Network archive software configuration	
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## Appendix A Hardware Configuration 5

### Remote Offices

M	Netfinity7600	Netfinity 7600 - Name Server	5
M	Netfinity7600	Netfinity 7600 - Redundant DB Server	2
PC	PCLA8200	APC Smart UPS 600	5
SCO	Cisco3623	Cisco 2632	5
astcom	355-81033	24-slot DI-MUX Chassis w/ 120v Pwr. Supply	5
astcom	30351-103	Synchronous Data Control Unit- 64xN with v.35 Interface	
astcom	30319-101	Tandem T-1 Unit (TTU) -DSX Interface	

astcom	0600-0244	DB15 to RJ48 cable for connection to incoming T-1 jack	
astcom	0600-0073	DB25M Shelf Data Conn. To V.35 Centron Female Cable (5 Foot) Channel Bank Installation / Configuration	
COM		SuperStack II 3300	5
M		Intellistation Mpro 2D	5

## Appendix B CORE BCP-1

1

**Rick H. Wesson**

October 19, 1999 Version 0.2

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**This BCP is designed to give a general overview of the current state of the art in CORE Registration Practices. This document describes the processes necessary to complete successful registrations of Contact, Host, and Domain objects in the CORE Shared Registry System. This is a work in progress it is not complete.**

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## 1. Overview

This Document describes 3 main objects used in CORE's SRS. The Contact, NameServer and Domain objects are described at length with example SRS request to process Create, Modify, Delete and Inquiry requests.

### 1.1 Definitions

**CM**

(see Registrar)

**DOT**

The separator of SLDs from TLDs, commonly known as a period.

**FQDN**

Fully Qualified Domain Name

**Handle**

A unique identifier in the CORE SRS. Each handle is prefixed by 'CORE-' handles are created for Contacts, and NameServers, Domains uniquely reference themselves by their TLD and SLD combination.

**IP-Address**

an IPv4 address in the form of xxx.xxx.xxx.xxx where xxx is a number between 0 and 255 inclusive.

**NSI**

Network Solutions

**RP**

Responsible Person

**Registrar**

CORE Member Company

## SLD

Second Level Domain, the part following the TLD up until the next DOT '.'

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## TLD

Top Level Domain (eg. .com .net .org)

## Zone

A fully qualified DNS domain that contains DNS information (this is not a good definition look at BUG)

# 1.2 Error Codes

Errors greater than (>) 8000 are errors from the NSI SRS, errors less than 8000 are from the CORE SRS.

# 2. Contact Objects

Contacts are objects in CORE's SRS and requests to create/modify/delete them are not forwarded to NSI. Contacts are used to represent the Responsible Person (RP) or group that is responsible in some way for a domain and/or NameServer.

Contact objects are owned by the registrar that the contact is created by. Contacts can not be transferred to other registrars. A contact can only be updated by the registrar that owns it, however contacts can be referenced by any registrar, see Contact Permissions.

## 2.1 Attributes

- The following are the attributes unique to the Contact object.

**request-type:**

create contact

**fname:**

A printable string (may include whitespace). The first name of the contact. This field is not mandatory. [ a-z0-9.\_- ]+

**lname:**

A printable string (may include whitespace). The last name of the contact. This field is mandatory. [ a-z0-9.\_- ]+

**organization:**

A printable string (may include whitespace). The organization to which the contact belongs. This field is optional. (In particular, it is clearly inapplicable to the nominative domain.) [ &,+a-z0-9.\_- ]+

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**title:**

A printable string (may include whitespace). The contacts title. This field is optional. [ a-z0-9.\_- ]+

**address-1:**

**address-2:**

**city:**

**state:**

**postal-code:**

**country:**

All of these fields are printable strings (may include whitespace). These contain the contacts postal address information. No checking is performed to ensure correctness or completeness of the address; specification of an accurate address is strongly encouraged, for obvious reasons. In particular, unspecified country fields may not be assumed to be the United States. All of these fields are optional.

**email:**

A printable string. The contacts email address. This field is mandatory.

**fax:**

A printable string (may include whitespace). The contact's international fax number. No checking will be performed to ensure its validity. Specification of a complete telephone number, including country code, is strongly encouraged; telephone numbers may not be assumed to be in the United States. This field is optional.

**phone:**

A printable string (may include whitespace). The contact's international telephone number. No checking will be performed to ensure its validity. Specification of a complete telephone number, including country code, is strongly encouraged; telephone numbers may not be assumed to be in the United States. This field is optional.

**individual:**

[ YN]

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### Types of Contacts

- The following are types of contacts contained within Domain and NameServer objects.

**owner\_c**

The owner contact is a special contact within a domain object. the owner\_c "owns" the domain. If this contact is updated, all domains which point to this owner are changed.

**admin\_c**

The admin\_c is the administrative contact for the domain.

**tech\_c**

The tech\_c is the technical contact for a domain

**zone\_c**

The Zone contact is the contact responsible for the NameServer object.

Contact creation is important because all other objects contained in the CORE SRS reference contact objects via their unique Handle. The registrar should record the contact's handle for subsequent use.

### Permissions

**owner:**  
create,read,update,delete

**other:**  
read

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## **2.2 Example Contact Requests**

**Create Contact**

*registrar-id: CORE-100*

*payload-version: 1.0*

*transaction-id: registrars-internal-transaction-id*

*request-type: create contact*

*address-1: Sample Street 12345*

*address-2: Rathausufer 16*

*city: Kaarst*

*country: Germany*

*email: dummyuser@dummydomain.net*

*fax: +49 211 8676710*

*individual: I*

*lname: Dummy Lastname*

*organization: Dummy Organization*

*phone: +49 211 123456788*

*postal-code: 4021324*

*state: Bayern*

*title: Programmer*



**Delete Contact**

There is no 'Delete Contact'

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## Modify Contact

To Modify a contact, include a 'handle: <contact handle>' attribute and the contents of the contact will be replaced. this operation is only available to the registrar that 'owns' the contact.

*registrar-id: CORE-100*

*payload-version: 1.0*

*transaction-id: registrars-internal-transaction-id*

*request-type: modify contact*

*address-1: Sample Street 12345*

*address-2: Rathausufer 16*

*city: Kaarst*

*country: Germany*

*email: dummyuser@dummydomain.net*

*fax: +49 211 8676710*

*fname: Firstname\_dummy*

*handle: COCO-100*

*individual: I*

*lname: Dummy Lastname*

*organization: Dummy Organization*

*phone: +49 211 123456788*

*postal-code: 4021324*

*state: Bayern*

*title: Programer*



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## Inquire Contact

*registrar-id: CORE-100*

*payload-version: 1.0*

*transaction-id: registrars-internal-transaction-id*

*request-type: inquire contact*

*handle: COCO-100*



---

Currently the 'Inquire Contact' command only supports looking up contacts via a handle. Use WHOIS to

find a contact by name or e-mail address.

## 3. Name Server (Hosts) Objects

Name Servers are computers that run a process to service DNS queries. The primary function of NameServer is to resolve requests of a name to an IP Address. All Hosts in the CORE SRS have an associated Zone Contact. The Zone contact is the technical administrator responsible for managing the machine(s) responsible for servicing DNS queries for a specific Zone.

### 3.1 Attributes

- The following are the attributes unique to the NameServer object.

**request-type:**

create ns

**ns-domain-name:**

A FQDN, this attribute is required.

**ns-ip-address:**

An IPv4 Address (dotted quad) in the form of xxx.xxx.xxx.xxx, this attribute is required

**ns-contact-handle:**

The handle of the Responsible Person to associate with this NameServer, this attribute is required. This contact is know as the 'zone contact'

**local-only:**

this creates the NameServer only in CORE's database, not in NSI. this attribute is useful for working around several bugs in the RRP protocol version 1.0.4

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### 3.2 Creating NameServer Objects

When a CORE Registrar attempts to register a new NameServer the Registrar must first check to ensure the following are true, or the create request will fail.

1. The Server is not already registered by another registrar. this is performed by issuing a 'inquire ns' request.
2. That the NameServer is not already registered within the registrars own database.
3. The registrar has a correct, and valid Contact Handle for the new NameServer.
4. The NameServer's FQDN and IP-Address are not already in DNS.
5. The NameServer's IP address is not listed in the output of the following command

---

*whois -h whois.arin.net IANA*



6. Note: there are no more implicit contact creates, the registrar must first lookup to see if there is an appropriate contact already registered within CORE's system and that contact is owned by the registrar.

A potential times aver is to look the name and or the IP address of the new NameServer up in DNS, if the server is not already in the registrars own database. if the name and ip address can not be resolved it is

more likely that the SRS will successfully register the NameServer.

### Checking availability.

Please check to see that the name server is available before attempting to use it by issuing a status command with the FQDN of the name server in the handle field of the request. An authorization denied error will be raised when a name server is available in NSI's database but is not currently allocated in CORE's. This problem will be rectified in a future release for the RRP protocol.

### NameServers in ccTLD name spaces.

To make delegations to Name Servers that are not in gTLD (.com, .net, .org) and the NameServer does not already exist in CORE's databases, create the name server with out an IP address. Creating NameServers with out IP Addresses is allowed if the NameServer exists in a ccTLD, please note that no checks are made to establish the validity of the ccTLD or that the NameServer actually exists in the ccTLD's name space.

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### Illegal IPv4 Addresses

There is a list of Illegal IPv4 addresses for NameServers maintained by IANA. Registrars should check to make sure that the NameServer they wish to create or modify is not attempting to use any of these addresses. The list of illegal addresses can be obtained by issuing the following command to the whois server located at 'whois.arin.net'

*whois -h whois.arin.net IANA*



### NameServers ending in .COM, .NET, or .ORG

To verify that a NameServer is not already in the database first see if a forward and reverse are in DNS. Query [a-j].root-servers.net, if the IP-Address and/or FQDN are resolved then the NameServer is already in NSI's database.

### NameServers ending in ccTLD's

If you need to reference a NameServer that is in a CCTLD domain (.de, .uk, .au) Create a NameServer with no IP-Address, this will create the appropriate dedications in NSI's database.

### Special Circumstances

If a NameServer is already created by another register in NSI's database, a 'inquire ns' request will fail due to an 'Access Denied' error generated when the CORE SRS issues the request to NSI. This is a bug in NSI's software, a fix has been requested. To work around this problem create the name server setting the 'local-only' attribute to one (1.) This will create the NameServer object in CORE's Database and allow anyone to link to it using the newly created handle.

If you need to create a NameServer that is under a new domain, a domain that does not currently exist, the following is the procedure:

1. Create the Domain with out any NameServers.
2. Create the NameServers
3. Modify the Domain, adding the new NameServers.

### Permissions

#### owner

create,read,update,delete

## 3.3 Example NS Requests

### Create NS

---

*registrar-id: CORE-100*  
*payload-version: 1.0*  
*transaction-id: registrars-internal-transaction-id*  
*request-type: create ns*  
*local-only: 0*  
*ns-domain-name: ns1.dummy-domain.com*  
*ns-ip-address: 194.111.43.1*



### Inquire NS

*registrar-id: CORE-100*  
*payload-version: 1.0*  
*transaction-id: registrars-internal-transaction-id*  
*request-type: inquire ns*  
*ns-handle: ns1.netcom.com*



The 'ns-handle' attribute can contain any of the following to query.

- a valid NameServer handle,
- IPv4 address
- Fully Qualified Domain Name

### Delete NS

Currently there is no method to delete a NameServer.



*registrar-id: CORE-100*

*payload-version: 1.0*

*transaction-id: registrars-internal-transaction-id*

*request-type: modify ns*

*ns-handle: CORE-10034-NS*

*ns-ip-address: 194.111.43.1*



## 4. Domain Objects

Domains are the heart of the CORE SRS. The domain Object contains three contacts, an administrative contact, a technical contact and an owner contact. The Domain Object also contains at least 2 NameServers, a primary and a secondary. Domains can be created in several ways to work around using the SRS to manage domains in NSI's SRS. There are several flavors of Domain Creation due to the way NameServers interact with Domains.

### 4.1 Attributes

#### **request-type**

create domain

#### **tld**

This field specifies the top-level domain in which the domain should be created. All values of this field will be stored and treated as lower case. This field must match one of the top-level domains being managed by this SRS; otherwise, the operation fails. This field is mandatory.

#### **sld**

A valid second-level domain name, as defined in RFC-1034 et seq. This field is not case-sensitive, and will be mapped to lower case for storage in the database. If both the TLD and SLD fields match those attributes of a pre-existing domain record, the operation will fail. This field is mandatory.

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#### **status:**

Status can be one of the following, this field is mandatory.

- reserved
- production
- expired
- hold

#### **organization**

The name of the Entity or Organization registering the domain. This field is mandatory.

#### **owner-contact-handle:**

The handle of the contact that will 'own' the Domain. This field is mandatory.

**admin-contact-handle:**

The handle of the Administrative contact for the domain. This attribute is mandatory.

**tech-contact-handle:**

The handle of the Technical Contact for the Domain. This attribute is mandatory.

**zone-contact-handle:**

The handle of the Zone Contact for the Domain.

Each domain has no fewer than two and no more than twelve host records associated with it. These hosts are expected to act as the domain's NameServers. This protocol supports both the use of pre-existing hosts by handle and the implicit creation of hosts by the specification of host creation information in a domain creation operation. The NameServer for a domain are numbered sequentially, starting from 1. Each of the NameServer for the domain may be a pre-existing host, referenced by handle

**ns1-handle**

The handle of the Primary NameServer for the domain.

**ns2-handle**

The handle of the Secondary NameServer for the domain.

**ns[3-12]-handle**

Additional Secondary NameServers

## 4.2 Creating Domains with New NameServers

When Creating new Domains first check to see if the Domain is not already allocated in NSI's database by issuing a 'inquire domain' with the "check" attribute set to one (1.)

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## 4.3 Sample Requests

Create Domain with NameServers

Create Domain w/o Name Servers

---

*registrar-id: CORE-100*

*payload-version: 1.0*

*transaction-id: registrars-internal-transaction-id*

*request-type: create domain*

*admin-contact-handle: COCO-100*

*ns1-handle:*

*ns2-handle:*

*organization: Dummy Organization*

*owner-contact-handle: COCO-100*

*tld: com*

*sld: example*

*status: production*

*tech-contact-handle:COCO-100*

*zone-contact-handle:*



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### **Inquire Domain**

#### **Inquire for Availability**

Before creating new domains it is wise to check with the SRS at NSI to see if the domain is available. The 'inquire domain' request has been extended to support such a check, by adding the attribute 'check: 1' to the request. This request will inspect the current database at NSI to see if the domain is allocated within the SRS at NSI.

*registrar-id:CORE-100*

*payload-version:1.0*

*transaction-id:registrars-internal-transaction-id*

*request-type:inquire domain*

*check: 1*

*sld:example*

*tld:com*



### **Modify Domain**

*registrar-id:CORE-100*

*payload-version:1.0*

*transaction-id:registrars-internal-transaction-id*

*request-type:modify domain*

*admin-contact-handle:COCO-100*

*ns1-handle:COHO-100*

*ns2-handle:COHO-100*

*organization:Dummy Organization*

*owner-contact-handle:COCO-100*

*status:production*

*tech-contact-handle:COCO-100*

*tld:com*

*sld:example*

*zone-contact-handle:*





## Delete Domain

registrar-id:CORE-100 payload-version:1.0 transaction-id:registrars-internal-transaction-id  
request-type:delete domain sld:example tld:com

## **5. CORE Registrar Transfer Policy for com/net/org domains**

This section describes procedures and rules related to transferring a domain between registrars without changing the name or address of the registrant. Separate documents describe the rules governing changes to the registrant name or address and transfers between CORE members.

### **5.1 CORE is the Gaining Registrar**

#### **Written Instructions from Registrant**

The CORE member obtains written instructions on paper for the domain to be transferred to CORE by the respective CORE member. An authorization message on e-mail is not sufficient. The authorization must be on the registrants company letterhead if it can reasonably be expected that the company normally uses letterhead and must be signed by an authorized person on behalf of the registrant. The admin contact as per the whois is automatically considered to be an authorized signatory. The signatory's name must be also be printed next to the signature. The name of the company on the letterhead must match the name of the company in the whois. A template for a valid registrar transfer instruction attached in Appendix A. A single transfer instruction can be used for several domains, however, all domains must be listed in the document or unequivocally referred to.

#### **Obligation to keep the registrant document on file.**

The CORE member must keep the transfer request on file at least until the next renewal.

#### **Initiate SRS Transfer Request**

After making sure it is in possession of proper documentation, the CORE member initiates a registrar transfer-request on the CORE SRS. The transaction will cause a two-year registration fee to be deducted from the CORE member's RCU account. The CORE SRS automatically forwards that request to the com/net/org registry. The CORE SRS can be configured to inhibit the transfer request command for a given member. The CORE SRS support team or the CORE Secretariat can set the transfer request to forbidden for

any given member in case of danger or urgency that could affect CORE or its reputation, or upon instruction by the Executive Committee.

#### **Random checks by CORE Secretariat**

The CORE Secretariat performs random checks to ensure that proper documentation has been provided and kept by the registrant. If a member receives a request from the Secretariat to provide the documents

while the transfer request is pending, these must be sent by fax within two working days. The Secretariat may also request the documents after the transfer request has been completed, in which case the member must fax the document within 5 working days.

### **Information on Pending Transfers**

1. As soon as the transfer request has been initiated, NSIRegistry sends a message to the gaining and the losing registrar. When CORE as the gaining registrar receives a notice with respect to a transfer request, this message is forwarded to the appropriate CM (email address recorded as reg-admin-c in the CORE SRS).
2. In order to complete the request, or in order to find out if the transfer request has been acknowledged (ACK) by losing registrar, the CORE member sends a transfer-complete-request (positive) to CORE-SRS. If that request is refused, the transfer has not yet been allowed by the losing registrar who has 5 days to respond. Please do not send repetitive transfer-complete-requests in short intervals as once per day should be enough.
3. If CORE receives a confirmation from NSI-RegistryTransfer or from the losing registrar, this message is forwarded to the respective CORE member (same address as in 5.1.5.1).

### **Rejection of Transfer Request by Losing Registrar**

If the transfer request is rejected, CORE will get an email from the losing registrar explaining why. That email will be forwarded to the CORE member (same address as in 5.1.5.1). The CORE member then has to send a transfer-complete-request (negative) to CORE-SRS so that the RCU charged upon initiating the transfer request can be credited back.

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### **Completion of Transfer**

1. As soon as a transfer-complete-request (positive) is issued by the CORE member after the transfer has been approved by the losing registrar, the CORE SRS will copy the domain-data from NSI-RegistrY and add a new domain at CORE-SRS. If the CORE member fails to complete the transfer with a transfer-complete-request (positive), the RegistrY may show the partial old data while CORE would not recognize the domain in whois queries. It is the responsibility of the CORE member to make sure that no transfer requests remain incomplete.
2. The CORE member has to update the name server entries as appropriate using the modify-domain command.

### **Undocumented Authorization for Transfer Request or other Inappropriate Use**

1. Duty to Inform and take Immediate Action to Limit Damage If a CORE member discovers that it has issued a transfer request has been issued without proper documentation (e.g. because of an error), it has to inform the CORE secretariat immediately by email. It also has the responsibility to take whatever immediate action necessary to avoid prejudice for the domain name holder or CORE, e.g. to reverse the transfer request if it is still pending and to inform affected parties of the issue.
2. Reporting and Penalties Cases of unauthorized or undocumented use of the transfer request will be reported to the Executive Committee. If, within the specified deadlines, a member fails to produce copies of valid customer instructions upon request by the secretariat, it is deemed to have used the transfer request without proper documentation. In such a case, a penalty fee of USD 200 per case is levied addition to legal regress that CORE may take against the member. If three or more cases arise within six months for a given member, the member's ability to initiate the transfer requests is suspended two months or until such time, as the Executive Committee is satisfied that the member has put appropriate internal procedures in place.

## 5.2 CORE is the Loosing Registrar

### Message from NSIregistry

CORE is informed of the transfer request initiated by another registrar through and email message from NSIregistry. This email message received by an email robot at the CORE SRS which will identify the appropriate CORE member and forward the message to the reg-admin-c address.

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### Message from CORE to Domain Holder

At the same time as it forward the NSIregistry message to the CORE member, CORE generates an email to the to owner-c of the domain as registered in the CORE whois database.

### **Acceptance ACE/NAK**

The CORE member must either accept (ACK) or reject (NACK) the transfer request using the CORE-SRS message. If no response is provided within five calendar days, the NSIregistry system automatically assumes that the losing registrar (CORE in this case) transfer has been accepted by CORE, and CORE automatically assumes that the CORE member has approved the transfer. CORE can require a CORE member to reject a transfer request, or reject it directly, if the domain is subject to litigation or if the CORE dispute policy has been invoked.

### **Rejection by CORE Member**

If the CORE member rejects that transfer, it has to send a message to the CORE secretariat explaining the reasons. This message will be forwarded to the gaining registrar. The CORE member must also initiate the transfer-request-NAK on the CORE SRS, which then automatically sends the NACK to the NSIregistry system. A transfer should be rejected if any of the following conditions apply: bankruptcy of registrant; existence of a dispute concerning the domain name; litigation involving the domain name; refusal by domain holder or contradictory instructions from various contacts associated with the domain.

### **Acceptance by CORE member**

If the CORE accepts the transfer (for which purpose it should consult the domain holder), it must also initiate the transfer-request-ACK on the CORE SRS, which then automatically sends the ACK to the NSIregistry system.

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## 5.3 Transfer Requests

### New Attributes for Transfers

There are several new attributes for managing transfers.

#### **action:**

[req-nsi|req-core]

- req-nsi make the transfer request move the domain from NSI to CORE

- req-core makes the transfer from CORE to NSI or CORE member to CORE member

**approved-owner-change:**

[0|1]

- 0: keep the owner of this domain when transferred.
- 1: change the owner, not currently supported. Awaiting Policy decisions for implementation.

**Initiate a Transfer**

*registrar-id: CORE-100*

*payload-version: 1.0*

*transaction-id: registrars-internal-transaction-id*

*request-type: transfer domain*

*action: req-nsi*

*sld: dummy-sld*

*tld: com*



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**Complete a Transfer**

*registrar-id: CORE-100*

*payload-version: 1.0*

*transaction-id: registrars-internal-transaction-id*

*request-type: complete transfer*

*action: req-nsi*

*admin-contact-handle: COCO-100*

*approved-owner-change: 0*

*ns1-handle: COHO-100*

*ns2-handle: COHO-100*

*organization: Dummy Organization*

*owner-contact-handle: COCO-100*

*sld: dummy-sld*

*status: production*

*tech-contact-handle:COCO-100*

*tld:com*

*zone-contact-handle:COCO-500*



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# **6. Appendix - A Error Codes**

- 0** request was successful
- 1** it-id not found in request
- 2** command is not implemented yet
- all** errors between -3 and -99 are internal errors which should not occur.
- 100** empty request
- 101** transaction id not found
- 102** registrar id not found or invalid
- 103** request-type not found or invalid
- 104** no permission to manage this request
- 105** field payload version not found or invalid
- 106** not enough credits for this request
- 107** Duplicate Field identifier in request
- 108** No registrar-contact record found for registrar-id and PGP keyid
- 109** No registrar-handle record found or registrar-handle is invalid
- 110** value not found or invalid
- 111** mandatory field not found
- 112** field value exceeds maximum field length
- 113** mandatory field can not be empty on in modification request.

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- 114 invalid toplevel domain name for this srs
- 115 missing field for ns creation
- 116 order for nameservers must be ascending
- 117 field value is not a valid Timestamp Format:YYYYMMDD [hh:mm:ss]
- 118 ns-handles must be unique for each domain
- 119 ns-domain-name is already registered.
- 120 ns-ip-address is already registered.
- 121 you must be the owner of the contact to create a reference to it.
- 122 you must be the owner of the ns to create a reference to it.
- 130 ns cant be deleted because of references to existing domains.
- 131 contact cant be deleted because of references to existing objects.
- 132 domain [\$dn] cant be deleted cause of existing NS for that domain.
- 135 NS already registered at NSI, use local-only flag to create link in SRS.
- 136 ns-ip-address missing in create ns Request for com/net/org TLD.
- 150 registrar not owner of this contact
- 151 illegal flag
- 160 domain name is already registered.
- 180 not owner of this domain
- 181 not owner of this domain, permission denied
- 182 this domain may not be modified, denied

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- 183 time to cancel domain registration has expired, too late now ... :-(
- 200 auth\_key could not be added, maybe wrong format or invalid
- 201

PGP-KeyID is already in use for that registrar

**-250**  
illegal status value for modify registrar request

**-251**  
reg-admin fields not completely described (contact,auth-type,auth-key)

**-252**  
order of agent-contacts must be ascending

**-253**  
fields not completely described (contact,auth-type,auth-key)

**-270**  
No request found until now ...

**-280**  
illegal query request, none of submitted-since, submitted-before, completed-since, completed-before found

**-281**  
illegal query request, field request-state:[pending in-process succeeded failed] not found

**-282**  
illegal query request, Value for submitted-since, submitted-before, completed-since, completed-before is illegal date or time

**-310**  
ns-handle not found or invalid

**-311**  
not owner of this handle, permission denied

**-312**  
NS neither found at NSI nor at SRS.

**-313**  
NS found at NSI BUT NOT at SRS, use create ns request with local-only flag for using.

**-350**  
Domain not found in SRS

**-351**  
Domain is not scheduled for transfer

**-352**  
not owner of this transfer, permission denied

**-353**  
Domain is already in the CORE SRS

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**-354**  
Transfer for that domain is already in progress

**-355**  
Transfer is unimplemented yet, domain is still owned by NSI

**-356**  
Could not perform transfer from nsi cause domain is not owned by NSI

**-357**  
Domain is already at cores database use req-core to transfer

**-360**  
Domain is not ready for transfer to core cause loosing registrar did not ACKs this transfer

**-361**  
illegal action only [req-nsi] is allowed

**-365**  
Could not perform transfer from CORE cause domain is not owned by CORE

**-366**



Owner of the domain has sent NACK to your request

**-370**

You need an registrar-admin-contact with a valid responsible email address to do this request

**-500**

Ownership of Domain could not be changed until policy rules for this are clear

## **7. Document History**

**06-02-99**

Original

**10-15-99**

Added Transfer section on com/net/org transfers.

**10-18-99**

Added Appendix A-Error Codes

**Annex 1e**

**REGISTRY OPERATOR'S PROPOSAL  
TOP LEVEL DOMAIN POLICIES  
DESCRIPTION OF TLD POLICIES**



**Commercial Connect, LLC**

September 30, 2000

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Jeffrey S. Smith, President

*THIS BUSINESS PLAN IS CONFIDENTIAL AND THE PROPRIETARY INFORMATION OF COMMERCIAL CONNECT, LLC., AND MAY NOT BE DUPLICATED OR RELEASED TO OTHERS WITHOUT THE EXPRESSED WRITTEN CONSENT OF COMMERCIAL CONNECT, LLC..*

**COMMERCIAL CONNECT, LLC**

**TOP LEVEL DOMAIN POLICIES  
DESCRIPTION OF TLD POLICIES**

**I. GENERAL TLD POLICIES.**

E1. In General. Please provide a full and detailed description of all policies to be followed in the TLD (other than those covered in response to items [E11-E21](#)). If the TLD's policy on a particular topic is proposed to be identical to that reflected by a particular version of any of the following documents, it is sufficient for your response to identify the topic, to give a brief summary of the policy, and for the details to reference the document and section:

- ◆ [ICANN Registrar Accreditation Agreement](#)
- ◆ [NSI Registrar License and Agreement](#)
- ◆ [ICANN-NSI Registry Agreement](#)
- ◆ [Uniform Dispute Resolution Policy](#)

Your response should comprehensively describe policies on all topics to be followed in connection with the proposed TLD. The following items ([E2-E10](#)) are examples only and should not limit your description

**E1. COMMERCIAL CONNECT, LLC.**, hereafter referred to as CCL, will adopt and follow identically the policies, rules and requirements set forth in the current version of the 1) ICANN Registrar Accreditation Agreement, the recitation of requirement of each registrar to have an agreement with NSI and to be in compliance with this ICANN Agreement as well. Operating instructions and other rules of conduct are contained in this Agreement. See Exhibit E1, filed herewith; and 2) the NSI Registrar License and Agreement, is the document that confirms each registrar's license and agreement to register domain names, and sets out the rules for competitive registrars to operate. See Exhibit E2, filed herewith; and 3) the ICANN-NSI Registry Agreement, which contains the essential elements of the Agreement between ICANN and Network Solutions, Inc., which nominates NSI to be the TLD for the extensions, .com, .net, and .org., which among other items, grants all ICANN registrars access to the registry. See Exhibit E3, filed herewith; and 4) the Uniform Domain Name Dispute Resolution Policy. This is the document setting forth the mandatory nature of this Policy, that this is to be the exclusive platform for remedy of any domain name disputes, and outlines the procedures to follow in any such case. See Exhibit E4, filed herewith.

**E2. TLD String.** Please identify the TLD string(s) you are proposing. For format requirements for TLD strings, see the answer to [FAQ #5](#).

**E2. TLD String.** CCL proposes to continue reliance on the ASCII basic version format. See ISO 646. We accept the current limitation of 63 characters, digits, hyphens and periods as are now in use. CCL proposes to add extensions, .shop; .svc; and .mall. CCL envisions .dot shop being reserved for fixed location establishments that sell goods or products to customers; .dot svc would be reserved for businesses that are either fixed or mobile, that render services such as plumbers, home appliances repairmen, and professional service providers such as CPA or attorneys; and .dot mall would be reserved for those owners or operators of shopping malls, that is, a collection of stores or shops offering goods to customers at a central location.

**E3. Naming conventions.** Describe the naming conventions and structure within the TLD. E.g., will registrants have names registered at the second level (directly under the TLD, as in registered-name.com), or will the TLD be organized with sub-domains so that registered domain names are created at a lower level (as in registered-name.travel.com)?

**E3. Naming Conventions.** Names will be created at the second level directly under the TLD, as in registered-name.shop or my.shop.

**E4. Registrars.** Describe in detail the policies for selection of, and competition among, registrars. Will domain-name holders deal through registrars, directly with the registry operator, or some combination of the two? What are the respective roles, functions, and responsibilities for the registry operator and registrars? If registrars are to be employed, how and by whom will they be selected or accredited? If the number of registrars will be restricted, what number of registrars will be selected? Have the qualifying registrars already been selected? On what basis will selections among those seeking to be registrars be made, and who will make them? If registrars are to be used, what mechanisms will be used to ensure that TLD policies are implemented?

**E4. Registrars.**

**E4.1** CCL envisages using existing ICANN accredited registrars to service the public's utilization of this domain-name extension. CCL proposes to start operation with a sixty (60) day sunrise period. During this period, CCL will accept only accredited copyright or trademark owners for registration. After this initial period, CCL will delay further activity for an additional thirty (30) days, to allow for changes or improvements in CCL's software or systems. CCL proposes to offer approval to all existing ICANN registrars, upon making application, which shall be charged at \$2,000.00 non-refundable fee to defray costs of review, evaluation, credit checks, and inclusion in our software. It is CCL's intention to approve all ICANN registrars who apply and which continue to meet ICANN standards. CCL proposes to charge an annual fee of \$1,000.00 to each approved registrar to help defray costs of upgrading equipment, software and systems.

**E4.2** CCL expects all new domain-name holders to deal exclusively through the registrar. At this time it is not expected that any issues will arise that requires the intervention of CCL. Should that occur, however, then generally accepted business practices and applicable ICANN policies will guide CCL's involvement.

**E4.3** CCL would, as registry operator, occupy an oversight capacity in relation to the registrars. The subordinate registrar will be an approved agent through whom the domain-name holder obtains the desired domain-name. Each registrar must assure the reliable and accurate obtaining of the customer's information and relaying it to CCL.

**E4.4** All currently accredited ICANN registrars as well as any newly appointed ICANN registrars in the future, will be eligible for approval to obtain domain-names with the dot shop extension. Each registrar must make application to CCL, and pay the stated fees, but when those steps have been completed, a registrar in good standing with ICANN can rest assured it will be added to the list of approved registrars for selling and promoting this new domain-name extension.

**E4.5** CCL does not seek to restrict the accreditation of registrars by ICANN and will extend to all registrars so accredited the same equal access to its facilities. This means there will be no preferences given to any registrars, even those that have ownership in common

with the registry. It is not only important to avoid favoritism, but it is equally important to avoid even the appearance of favoritism

**E4.6.** CCL has received expressions of interest from a few registrars concerning this application for a new domain-name extension. Comments have been quite favorable over CCL's choice of .dot shop as its TLD. We are encouraged there is a large and anxious market out there waiting for this extension.

**E4.7.** CCL, by accepting all ICANN accredited registrars as potential registrars of the domain-name, agrees to accord equal treatment to every one. In any case where it is necessary to select between two or more competing registrars, objective criteria, if it can be found to base any choice upon, so that even those who are not chosen can agree the process was fairly devised and fairly implemented.

**E4.8.** CCL may decline to renew a registrar's annual license should that registrar fail to conform to stated protocols, and after CCL contact with the registrar, the registrar still refuses to comply with the rules or protocol. However, even in such drastic cases, should the registrar later come into compliance, then its license would be renewed on the same terms as the other licensees, provided they continue in good standing with ICANN.

**E5. Intellectual Property Provisions.** Describe the policies for protection of intellectual property. Your response should address at least the following questions, as appropriate to the TLD:

**E5.** Intellectual Property Provisions.

**E5.1.** What measures will be taken to discourage registration of domain names that infringe intellectual property rights?

**E5.1.** CCL will recognize and honor all intellectual property rights. To accomplish this is not an easy task because there is no central whois for established copyrighted or trade marked names. It has always been the responsibility of the copyright holder or trademark holder to enforce those rights. This makes the start up sunrise period all the more important to get this registry off to a good and sound start. How we conduct ourselves will be closely scrutinized by the press and the public. We must in every case be both fair and dependable. In a disputed case where a domain-name has been registered but a later complaint is lodged claiming to be the rightful owner of that domain-name, CCL will invoke the dispute resolution policy of ICANN. CCL proposes payment of a \$500.00 challenge fee by the challenger and a like amount from the initial domain-name holder. CCL, as the registry operator, would then employ objective, commercially accepted business practices and principles to make the determination which claimant was entitled to the domain-name. The winning party would receive back his challenge fee and the registry would retain the losing party's fee.

**E5.2.** If you are proposing pre-screening for potentially infringing registrations, how will the pre-screening be performed?

**E5.2.** CCL does not propose a formal pre-screening process. Considering the new extension is available worldwide and there is no single place to look to verify the authenticity of the registrant's claim to the particular domain-name, it would be impractical from the cost standpoint to implement pre-screening. By its nature, this is a problem that must be self-policing. It has always been the legal obligation of the copyright holder or trademark holder to actively defend his rights. It must essentially remain that way.

**E5.3.** What registration practices will be employed to minimize abusive registrations?

**E5.3.** CCL believes that self-policing is the only practical way to resolve the issue of intellectual property rights. As pointed out above, CCL as registry operator must of necessity rely on the challenge method to resolve contested claims. It is CCL's intention to post on its website and to incorporate into its agreement with each registrar which undertakes to promote the .dot shop extension the challenge process which will be employed in cases of dispute, and that the loser will not receive a refund for any fees already paid.

**E5.4.** What measures do you propose to comply with applicable trademark and anti-cybersquatting legislation?

**E5.4.** CCL will adhere to the policy mentioned in the sunrise period discussion paper that initial domain-names will go to those registrants who certify they have done business under that copyright or trademark before October 2, 2000. After the sunrise period passes, CCL will require a certification that the registrant is planning to go into business in the very future or already is in business under that name.

**E5.5.** Are you proposing any special protections (other than during the start-up period) for famous trademarks?

**E5.5.** No

**E5.6.** How will complete, up-to-date, reliable, and conveniently provided Whois data be maintained, updated, and accessed concerning registrations in the TLD?

**E5.6.** CCL proposes to employ the thick-registry model; CCL will also maintain a centralized Whois. This eliminates the need for data escrow and allows for reliable almost instantaneous Whois data.

**E6. Dispute Resolution.** Describe the policies for domain name and other dispute resolution. If you are proposing variations to the policies followed in .com, .net, and .org, consider the following questions

**E6.** Dispute Resolution.

**E6.1.** To what extent are you proposing to implement the [Uniform Dispute Resolution Policy](#)?

**E6.1.** We propose to adopt and implement the ICANN Uniform Domain Name Dispute Resolution Policy now in effect completely and without reservation. Every new registrant will be required to certify they know about, have read, and accept the provisions of the UDNDRP as a condition precedent to the issuance of the domain-name. A copy of the current version of the UDNDRP is filed herewith as an exhibit and marked Exhibit E4.

**E6.2.** Please describe any additional, alternative, or supplemental dispute resolution procedures you are proposing.

**E6.2.** None. We have three years experience as a Registrar. During this period we have not had one occasion to either invoke that policy or to be involved with others in a dispute. CCL believes the very existence of the policy precludes many disputes. We support the continuation of that policy and we will abide by its provisions.

**E7. Data Privacy, Escrow, and Whois.** Describe the proposed policies on data privacy, escrow and Whois service.

**E7.** Data Privacy, Escrow and Whois. Describe the proposed policies on data, privacy, escrow and Whois service.

**E7.1.** Data privacy will be based on requirements from various countries. CCL has both intellectual property rights attorneys and international law experts reviewing the various countries policies in these areas. CCL's final policies will be guided by the reports from these experts.

**E7.2.** For comments regarding Escrow agreements, see our discussion in E5.6, above. Basically, CCL does not foresee any need for an escrow agent. CCL will be glad to forward all electronic data to ICANN on the schedule agreed to.

**E7.3.** Whois service. See our discussion of this at E5.6, above.

**E8. Billing and Collection.** Describe variations in or additions to the policies for billing and collection.

**E8.** Billing and Collection.

Billings to our registrars will be by the current method, deduction against a deposit maintained by the registrar in a non-interest bearing account in favor of the Registry. Of course, all payments from all sources to CCL will be in United States Dollars. Please see Business and Technical Plan for more detail billing operations descriptions.

**E9. Services and Pricing.** What registration services do you propose to establish charges for and, for each such service, how much do you propose to charge?

**E9.** Services and Pricing.

CCL proposes to charge its approved registrars for the creation, storage, maintenance and access of the individual domain-name file as requested by each domain-name holder as follows: Twelve (\$12.00) Dollars per each initial registration for two years, and Six (\$6.00) Dollars for each additional year at the customer's option up to a total of ten (10) years. The requirement that the domain-name holder initially buy a two-year registration will serve to reduce the number of speculators who buy but do not intend to use the domain-names. This two year original registration will be an assist to CCL to recoup capitalization and to have funds available for improving equipment and service.

A service charge of Six (\$6.00) Dollars will be assessed for any transfer of ownership of a domain-name. This will extend the subscription period one year, but not to exceed the 10 year limit.

**E10. Other.** Please describe any policies concerning topics not covered by the above questions

**E10.** Other Topics Not Covered Above. None.

## **II. REGISTRATION POLICIES DURING THE START-UP PERIOD.**



E11. In this section, you should thoroughly describe all policies (including implementation details) that you propose to follow during the start-up phase of registrations in the TLD, to the extent they differ from the General TLD Policies covered in items E1-E9. The following questions highlight some of the areas that should be considered for start-up policies:

**E11.** Describe all policies including implementation details that this TLD proposes to follow during the start-up phase of registration in the TLD to the extent they differ from the General TLD Policies covered in Items E1-E9. Reference is made to our proposed sunrise period in Item E4.1, above.

**E12.** How do you propose to address the potential rush for registration at the initial opening of the TLD? How many requested registrations do you project will be received by the registry operator within the first day, week, month, and quarter? What period do you believe should be considered the TLD's "start-up period," during which special procedures should apply?

**E12.1.** Potential Initial Rush of Registrations. CCL urges the adoption of the sunrise period as explained in the letter of the same title, to cushion the initial rush of registrants to an acceptable level. By limiting the first registrants to copyright and trademark holders of record on October 2, 2000, or before, only bona fide holders would be expected to apply. This 90 days delay from adoption of the domain-name extension would give time for CCL to receive, review, verify and issue approvals to the existing ICANN accredited registrars who wish to take on this new extension. CCL believes that all the accredited registrars will want to promote this new extension.

**E12.2.** CCL projects the following numbers of requested registrations in the time period indicated:

First Day	25,000
First Week	125,000
First Month	200,000
First Quarter	425,000

**E12.3.** CCL believes the first two months, that is, the first sixty (60) days of operation after award of the domain-name extension or extensions, should be considered the start-up period. CCL anticipates approving one-half the applications from registrars and would project to complete that process within another 30 days. At that time the full number of registrars who desire to be able to offer this new domain-name extension will be approved by CCL and up and running. CCL in the meantime will have to record the full number of registrants.

**E13.** Do you propose to place limits on the number of registrations per registrant? Per registrar? If so, how will these limits be implemented?

**E13.** CCL does not foresee placing limits on either private citizens or businessmen who wish to register multiple names. This question is primarily a question each individual registrar may want to address. CCL believes our service is most beneficial when it is most available to all who seek it and who will use it.

**E14.** Will pricing mechanisms be used to dampen a rush for registration at the initial opening of the TLD? If so, please describe these mechanisms in detail.

**E14.** Yes. CCL has imposed a modest limiting factor on the speculative registration of domain names by proposing the first registration of a domain name be for a period of two years, which effectively raises the price and should discourage speculation in large numbers of domain names. Further, the use of a sunrise period will further diminish the speculator's opportunity.

**E15.** Will you offer any "sunrise period" in which certain potential registrants are offered the opportunity to register before registration is open to the general public? If so, to whom will this opportunity be offered (those with famous marks, registered trademarks, second-level domains in other TLDs, pre-registrations of some sort, etc.)? How will you implement this?

**E15.** CCL advocates a sunrise period for selected potential registrants. The start up period will coincide with the sunrise period previously proposed elsewhere in this Application.

### III. REGISTRATION RESTRICTIONS. (Required for restricted TLDs only.)

**E16.** As noted in the [New TLD Application Process Overview](#), a restricted TLD is one with enforced restrictions on (1) who may apply for a registration within the domain, (2) what uses may be made of those registrations, or (3) both. In this section,



please describe in detail the restrictions you propose to apply to the TLD. Your description should define the criteria to be employed, the manner in which you propose they be enforced, and the consequences of violation of the restrictions. Examples of matters that should be addressed are:

**E16.** Even though CCL is an unsponsored applicant, CCL feels there should be some restrictions on the proposed TLDs in order to maintain a clear usage structure.

**E16.1.** In order to regulate the new TLDs, the following must be agreed to: the extension .shop must be used by a fixed site commercial enterprise engaged in the sale of goods; the extension .svc must be reserved for users who deliver services only, of all kinds, plumbing, consulting, or others, either fixed or mobile; and .mall must be reserved for those enterprises which are collections of shops, stores, or other outlets at which commerce is done, usually in large groups of diversified merchants.

**E17.** Describe in detail the criteria for registration in the TLD. Provide a full explanation of the reasoning behind the specific policies chosen.

**E17.** The applying registrant will be required to make a 2 step certification to the approved registrar as part of his application for domain-name, and to establish his right to the domain-name he seeks, one or more of the following to: 1) That he was in business on or before October 2, 2000, under the requested domain-name, or 2) That he has engaged in business after October 2, 2000, under the requested domain-name, and is still so engaged, or 3) That he is substantially ready to begin business and needs this email address for final preparations, such as ordering signs or stationary, committing to advertising, and the completion of necessary forms for permits to begin business. The second step will be the voluntary agreement of the applicant to restrict his use of the domain-name extension to those categories described in Item E16.1, above.

??

**E18.** Describe the application process for potential registrants in the TLD.

**E18.** Any potential registrant will contact an approved registrar, the list of which will be maintained on the CCL website, and will be required to furnish the same information that is presently required to obtaining a domain-name in the extensions, .com, .net, and .org. In addition, the potential registrant will be required to subscribe to the usage certification described above, and finally, to consent to the ICANN Uniform Dispute Resolution Policy as then in effect. Upon payment by the potential registrant, the registrar will forward electronically this information to CCL for final disposition.

**E19.** Describe the enforcement procedures and mechanisms for ensuring registrants meet the registration requirements.

**E19.** The usage of the domain-name as obtained by the registrant will be subject to challenge by any member of the public that believes they have a prior claim or superior claim to the domain-name. This will be a self-policing method.

**E20.** Describe any appeal process from denial of registration.

**E20.** Any appeals from CCL's decision would be under the aegis of and following the rules laid down by ICANN in the appropriate document.

**E21.** Describe any procedure that permits third parties to seek cancellation of a TLD registration for failure to comply with restrictions.

**E21.** CCL does not want to give third parties standing to challenge the issuance of a domain-name. It may not be possible to avoid third party claims or suits at law, but it is not considered at this time to be an area that is either pressing by number or urgency or likely to become so in the foreseeable future.

#### **IV. CONTEXT OF THE TLD WITHIN THE DNS**

**E22.** This section is intended to allow you to describe the benefits of the TLD and the reasons why it would benefit the global Internet community or some segment of that community. Issues you might consider addressing include:

**E22.** Comments not required.

**E23.** What will distinguish the TLD from existing or other proposed TLDs? How will this distinction be beneficial?

**E23.** CCL believes the requested TLD, .dot shop will offer additional and rational combinations of names of a business entity and associate it with the kind or class of business engaged in, i.e., .shop. The word .shop is used throughout the world to designate a place or point of commerce. It is and should be maintained as a clear designation to shoppers where to go to buy products or goods. Likewise, CCL believes that the extension .dot svc carries the same opportunity to assist would be consumers of services that those internet websites so designated are in fact providers of service and that can be expected from each registrant who is so designated.

Finally, CCL has the same basic understanding and belief in the clarity and usefulness of the extension, .dot mall. Again, malls are normally collections of stores, usually retail, that offer goods and services to shoppers. By keeping the use of .mall in the hands of mall operators or mall owners (both physical and virtual), this clarity of use can be preserved to the benefit of internet users everywhere.

E24. What community and/or market will be served or targeted by this TLD? To what extent is that community or market already served by the DNS?

E24. CCL is associated with a multi-billion dollar shopping center and shopping mall conglomerate, which is in the process of personalizing many of its merchants and storefronts. The theme is personalized service, such as is found in a traditional shop. It is for this reason CCL feels great confidence in the probable success of this domain-name extension. We have a ready-made customer base of twenty (20,000) thousand stores and commercial establishments around the world. CCL's customer has more than 154 million square feet under roof. Upwards of 2 billion customers frequent these shopping malls in a year.

E25. Please describe in detail how your proposal would enable the DNS to meet presently unmet needs.

E25. It is commonly agreed that many desirable names have been taken in the .com extension. E-commerce writers often comment this extension is used up. Dotcom.com further solidifies this belief by informing its readers approximately 98% of the words in Webster's English Dictionary have been registered. Although not nearly so many .net extensions are in use, it is also true that .net does not quickly convey a commercial establishment. .Net is intended to designate internet service providers. This same general criticism applies to .org as well, which is meant for non-profit organizations.

CCL is enthused that there is a market out there waiting for different extensions that will convey to the casual Internet user as well as the advertising reader, here is a place I want to go here is a place where I can go to get the things I want! By allotting .shop, .svc and .mall, this can be accomplished and internet buyers can be assured that their destination is a retail site by indicating a new TLD.

E26. How would the introduction of the TLD enhance the utility of the DNS for Internet users? For the community served by the TLD?

E26. The DNS is the holder of the passkeys to the Internet. However many millions of people have access to the Internet, the number will grow by leaps and bounds over the foreseeable future, certainly doubling over the next few years. As more and more forms of expression are allowed by the DNS, the using public is served better thereby. Every proposed extension has some merits. There is some community that could be better served by a particular extension, but it is our belief that a very large community is out there waiting for .dot shop, .dot svc and .dot mall. With the addition of new root servers which will divide usage accordingly and that will relieve much of the load now on the .dot com TLD.

E27. How would the proposed TLD enhance competition in domain-name registration services, including competition with existing TLD registries?

E27. The more the merrier! Although there is some natural hesitancy to welcome onboard your competitor, it was long agreed among American gasoline retailers that up to 3 service stations could profitably locate at the same intersection. Experience dictated that not four, but three could enhance each other's business. A fourth station would not generate more business but would instead divide the existing business. For this reason it was not uncommon before the advent of high volume self-serve stations to see three gasoline service stations on a busy corner. By the same token, the more people who are served, the more service they will require. Sure, there are theoretical limits to this kind of geometric growth, but there are no signs that limit has been approached. We are living at the beginning of a new era, not at the close of an old, exhausted one. Every day something new or better or cheaper is announced. This is the unbroken history of the electronic age since its inception with the invention of the transistor at Bell Labs some 50 years ago. Competition enhances the industry. It brings more service and goods to the consumer. This brings more consumers. The industry is able to live the doctrine of economy of scale. And we're back where we started. CCL cannot conceive how the addition of this requested domain name extension could do anything but add to the DNS ability to serve the public. The above-mentioned new products will make life easier: an arena always applauded by the buying public. If we convey a clear message as to the intent of the new TLDs which will be accomplished by an extensive marketing campaign worldwide, it will aid users in finding the items of service or goods they require and are seeking. This will at the same time add more to the monies already spent over the internet, making E-commerce all the more the wave of the future. We believe customer service is essential to success. CCL will strive to excel in this area. We want to be the registry of choice to the registrars of the world.

## V. VALUE OF PROPOSAL AS A PROOF OF CONCEPT.

E28. Recent experience in the introduction of new TLDs is limited in some respects. The current program of establishing new TLDs is intended to allow evaluation of possible additions and enhancements to the DNS and possible methods of implementing them. Stated differently, the current program is intended to serve as a "proof of concept" for ways in which the DNS might evolve in the longer term. This section of the application is designed to gather information regarding what specific concept(s) could be evaluated if the proposed TLD is introduced, how you propose the evaluation should be done, and what information would be learned that might be instructive in the long-term management of the DNS. Well-considered and

articulated responses to this section will be positively viewed in the selection process. Matters you should discuss in this section include:

E28. Comments not required.

E29. What concepts are likely to be proved/disproved by evaluation of the introduction of this TLD in the manner you propose?

E29. CCL expects to see the concept that underestimation is the bane of the industry. Recall if you will the current tv ad where a youthful employee is taken aback when his employer examines a laptop computer and says to him, "I'm glad I had you order another thousand of these." The young employee snaps back, "But sir, I thought you said . . . a million!" So, CCL says, so what? We can sell 'em. CCL thinks this extension already has a large market waiting to be served. We look forward to being the one to serve it.

E30. How do you propose that the results of the introduction should be evaluated? By what criteria should the success or lack of success of the TLD be evaluated?

E30. Historical comparison is valid. Look back to see how fast the .com, .net and .org extensions grew. Extrapolate those numbers into "adjusted" numbers by analogy with the number of pcs then and the number of pcs now. I believe this would give a fair indicator whether the new extensions were being well received. If therefore, the "adjusted" purchases of the new extensions was equal to the absolute number of .dot com sales in the same length of time, then it would be fair to say this was a wise and timely move. If it fails, then CCL stands to suffer a real and significant loss. But, again I say, CCL is planning for round two, even before we have had the privilege of going round one.

E30.1. One substantial proof of concept is the induction of new registries. If successful it will provide competition to the TLD standard.

E31. In what way would the results of the evaluation assist in the long-range management of the DNS?

E31. A valid conclusion can be drawn as to whether more extensions, offered on a short time table, would be useful, or, conversely, should the new TLDs not take off like we at CCL think will happen, then a slower introduction rate for new extensions and fewer extensions would be indicated. However, with the new registries competing for registry business it should drive the internet to have up scaled technology and more efficient yet more courteous companies serving the publics basic needs.

E32. Are there any reasons other than evaluation of the introduction process that this particular TLD should be included in the initial introduction?

E32. Yes. The public is ready for an expansion of merchandising sources. Here is an extension that will lead the public in the right direction. Here is the extension that is self-explanatory. As the unintended usage of the .dot com has blurred the original distinctions the DNS visualized so now this extensions .dot shop, .dot svc, and .dot mall can restore a certain level of purity to the internet.

By signing this application through its representative, the Applicant attests that the information contained in this Description of TLD Policies and all referenced supporting documents are true and accurate to the best of Applicant's knowledge.

\_\_\_\_\_  
Signature

**Jeffrey S. Smith**  
\_\_\_\_\_  
Name (please print)

**President/CEO**  
\_\_\_\_\_  
Title

**Commercial Connect, LLC**  
\_\_\_\_\_  
Name of Applicant Entry

**September 29, 2000**



## **Annex 2a**



## New Generic Top-Level Domains

### APPLICATION DETAILS

[View Application Update History \(/application-result/applicationstatus/applicationdetails:viewapplicationchangehistory/307?t:ac=307\)](#)

Please Note: The information on this page relating to the applicant, including contact information, reflects the information provided during the application phase of the New gTLD Program. Contact information is not maintained for withdrawn applications. Additionally, the information for TLDs that have contracted with ICANN may no longer be current as this information is not maintained on this page post delegation and does not necessarily reflect the current Registry information. For a current list of Registries and Registry contact information, please visit <https://www.icann.org/resources/pages/registries/registries-agreements-en> (<https://www.icann.org/resources/pages/registries/registries-agreements-en>) and <https://www.icann.org/resources/pages/listing-2012-02-25-en> (<https://www.icann.org/resources/pages/listing-2012-02-25-en>), respectively.

**Application ID:** 1-1830-1672

**String:** SHOP ([download public portion of application \(/application-result/applicationstatus/applicationdetails:downloadapplication/307?t:ac=307\)](#))

**Applicant:** Commercial Connect LLC

**Prioritization Number:** 649

**Address:** Contact Information Redacted

**Web Site:** <http://www.dotShop.com>

**Primary Contact:** Jeffrey Smith

**Phone Number:** Contact Information Redacted

**Email:** Contact Information Redacted

### Attachments (19):

*Caution: these files were prepared and submitted by a party other than ICANN, and ICANN is not responsible for the content. The files could contain scripts or embedded links that might execute or open automatically. You should make sure your operating system and applications (including antivirus definitions if applicable) are fully updated. Proceed at your own risk.*

- [20f \(A19\\_CC\\_Pics\\_of\\_Conventions.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/133033?t:ac=307\)](#)
- [20f \(A20\\_CC Letter of Support.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/114577?t:ac=307\)](#)
- [24 \(A24\\_CC\\_SRS\\_Network\\_Diagram\\_Infrastructure.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123495?t:ac=307\)](#)
- [25 \(A25a\\_CC\\_EPP\\_Flowchart.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123724?t:ac=307\)](#)

- [25 \(A25b CC EPP Create Domain Request.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123725?t:ac=307\)](#)
- [25 \(A25c CC EPP Create Domain Reply.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123726?t:ac=307\)](#)
- [25 \(A25d CC Registry Payload V12d.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/124089?t:ac=307\)](#)
- [26 \(A26a CC Privacy and WHOIS Policy.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123856?t:ac=307\)](#)
- [26 \(A26b CC Whois Flowchart.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123857?t:ac=307\)](#)
- [26 \(A26c CC Whois Network Interaction.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123859?t:ac=307\)](#)
- [27 \(A27a CC Pending Delete Status.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123871?t:ac=307\)](#)
- [27 \(A27b CC Renewal Registration Status.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123872?t:ac=307\)](#)
- [27 \(A27c CC Transfer Status.png\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123873?t:ac=307\)](#)
- [28 \(A28a CC Registrant Terms and Conditions.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123888?t:ac=307\)](#)
- [28 \(A28b CC Privacy and WHOIS Policy.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123889?t:ac=307\)](#)
- [28 \(A28c CC RRA Agreement.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123890?t:ac=307\)](#)
- [28 \(A28d CC RRA Exhibits.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123891?t:ac=307\)](#)
- [29 \(A29 CC TMCH URS PDDRP RRDRP Policies.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/123897?t:ac=307\)](#)
- [30a \(A30 Misc Security Policies.pdf\) \(/application-result/applicationstatus/applicationdetails:downloadattachment/133258?t:ac=307\)](#)

**Application Status:** Will Not Proceed

**Evaluation Result:** Pass Extended Evaluation ([IE Report \(http://newgtlds.icann.org/en/program-status/application-results/ie-1-1830-1672-en.pdf\)](#), [EE Report \(http://newgtlds.icann.org/en/program-status/application-results/ee-1-1830-1672-en.pdf\)](#))

**Contention Resolution Status:** [Resolved \(/application-result/applicationstatus/applicationdetails:viewcontentionsetimage?t:ac=307\)](#)

**Contention Resolution Result:** Did Not Prevail Contention ([CPE Report \(http://www.icann.org/sites/default/files/tlds/shop/shop-cpe-1-1830-1672-en.pdf\)](#), [Auction Report \(/application-result/applicationstatus/applicationdetails:downloadauctionreport/17?t:ac=307\)](#))

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## **Annex 2b**



## New gTLD Application Submitted to ICANN by: Commercial Connect LLC

**String: SHOP**

**Originally Posted: 13 June 2012**

**Application ID: 1-1830-1672**

### Applicant Information

#### 1. Full legal name

Commercial Connect LLC

#### 2. Address of the principal place of business

Contact Information Redacted

#### 3. Phone number

Contact Information Redacted

#### 4. Fax number

Contact Information Redacted

## 5. If applicable, website or URL

<http://www.dotShop.com>

## Primary Contact

### 6(a). Name

Mr. Jeffrey S Smith

### 6(b). Title

CEO

### 6(c). Address

### 6(d). Phone Number

Contact Information Redacted

### 6(e). Fax Number

Contact Information Redacted

### 6(f). Email Address

Contact Information Redacted

## Secondary Contact

## 7(a). Name

Ms. Dawn M Yankee1ov

## 7(b). Title

CMO

## 7(c). Address

## 7(d). Phone Number

Contact Information Redacted

## 7(e). Fax Number

Contact Information Redacted

## 7(f). Email Address

Contact Information Redacted

# Proof of Legal Establishment

## 8(a). Legal form of the Applicant

Delaware Corporation

## 8(b). State the specific national or other jurisdiction that defines the type of entity identified in 8(a).

Delaware USA

**8(c). Attach evidence of the applicant's establishment.**

Attachments are not displayed on this form.

**9(a). If applying company is publicly traded, provide the exchange and symbol.****9(b). If the applying entity is a subsidiary, provide the parent company.****9(c). If the applying entity is a joint venture, list all joint venture partners.****Applicant Background****11(a). Name(s) and position(s) of all directors**

Alan Pearcy	Boardmember
Jeffrey Smith	Boardmember
Kenneth Dicken	Boardmember
Kevin Wilson	Boardmember
Richard Last	Boardmember

**11(b). Name(s) and position(s) of all officers and partners**

Dawn Yankeelov	CMO
J. Bradley Guarino-Sanders	CLO
Jeffrey Smith	CEO
Kevin Wilson	CFO

**11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares**

Alan Pearcy	Boardmember
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Jeffrey Smith	CEO
---------------	-----

**11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility**

Commercial Connect LLC	Not Applicable
------------------------	----------------

## Applied-for gTLD string

**13. Provide the applied-for gTLD string. If an IDN, provide the U-label.**

SHOP

**14(a). If an IDN, provide the A-label (beginning with "xn--").**

**14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.**

**14(c). If an IDN, provide the language of the label (in English).**

**14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).**

**14(d). If an IDN, provide the script of the label (in English).**

**14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).**

**14(e). If an IDN, list all code points contained in the U-label according to Unicode form.**

**15(a). If an IDN, Attach IDN Tables for the proposed registry.**

Attachments are not displayed on this form.

**15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.**

**15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.**

**16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.**

.Shop is globally recognized and exists in excess of twenty different languages all with the same meaning: "a building or room stocked with merchandise for sale: a store." This is not the case for other closely related words, like store and buy, which are not applied for here. We believe there are no known operational or rendering problems concerning the applied-for gTLD string. We have contingency planning as a part of this application. Shareholders have indicated, in our audit phase, that they are sufficiently collateralized to provide additional resources in the event that contingency plans need implementation.

.Shop translates into many languages and has the same meaning. In addition, our anticipated use for .shop, a secured eCommerce site with extended verification of the owner, it also circumvents the issue with privacy as this will be used for commercial purposes and therefore will not have issue with individual privacy acts that are in effects in certain parts of the world.

There are also no apparent rendering issues as mentioned in article <http://stupid.domain.name/node/683>.

**17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (<http://www.langsci.ucl.ac.uk/ipa/>).**



## Mission/Purpose

### 18(a). Describe the mission/purpose of your proposed gTLD.

Commercial Connect, LLC. is committed to being an asset to its stakeholders and the e-commerce community, better defining and representing this community, helping to establish standards, providing enhanced security and verification, and making the internet more safe, secure, and intuitive while giving back to its community and the world.

Commercial Connect's .SHOP represents the world e-commerce family of brands, products and services dedicated to benchmarking the superior standard of excellence for the safest, fastest, and most secure shopping experience online today. Commercial Connect, LLC, based in Louisville Kentucky, will be the home of the world's only central registry for the .SHOP top-level domain (TLD) name for global e-commerce. We currently represent a significant portion of the world e-commerce industry through our letters of support and presentations in global forums in the last 12 years. Our goal is to ensure that online shopping is cheaper, faster, and safer for retailers and their customers. Commercial Connect is supported by tens of thousands of online retailers representing billions of dollars of retail transactions – all wanting online shopping to improve. In the last 12 years, letters of support on behalf of Commercial Connect LLC and its management team and valued partnerships, have been gathered from trade shows, presentations and expert speaking opportunities regarding the changing face of the Internet. This support indicates that retailers and other interested parties in the financial community, government, and technology sectors are interested in this community and the .SHOP domain.

### 18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

The goal of the proposed gTLD, .SHOP, is to provide worldwide excellence standards for best practices in the areas of consumer trust and privacy and security for registrants, internet users, and others. This will be addressed through the online shopping mechanisms included in the URL registration process through .SHOP. .SHOP will offer an exclusive extended verification process, and a new process patent is in the works to ensure accuracy in domain name ownership. Shoppers will know ownership of online retail stores in the .SHOP registry, and .SHOP will ensure e-commerce compliance with data security standards (e.g., PCI, ISO17799). A portion of every registration payment received will go to a charitable foundation, allowing for social entrepreneurship. Commercial Connect LLC has presented and made known the mission of .SHOP to key trade organizations that represent the global ecosystem of e-commerce. Our mission is to foster and encourage solid policy-making and open standards of excellence tied to e-commerce participants, including corporate, small business, and other supporting organizations. ICANN will be identified as a concerned stakeholder and solution provider for global e-commerce, as well as a player in the new foundation to be created to benefit world charities that make a difference in global economies of scale for the underprivileged through education, and fighting world hunger. We anticipate this could exceed in excess of \$1 million each year annually and invite ICANN to participate in giving back to the world with agreed upon charities and causes.

.SHOP adds significant intuitive organization to the existing internet we know today. It will provide a direct conduit to eCommerce users. In other words, anyone wishing to purchase something on the internet would use the .SHOP TLD and an intuitive choice to take them directly to products.

If our marketing efforts are realized (please see marketing plan attached to application) even the most casual users of the internet will recognize the .SHOP TLD and use it in everyday shopping online. In addition they will understand why using .SHOP is safer due to the verification process and required use of SSL connectivity.

#### Government Relations

A secure and stable Internet is our number one priority, so we engage policymakers on all levels regarding legislation that affects it.

#### .SHOP Domain Names Registration Policies

Commercial Connect manages the authoritative registry ("Registry") for all domain name registrations that end in ".SHOP". The below registry policies govern the registration of domain names. Commercial Connect reserves the right to modify or amend these policies and any other policies regarding .SHOP at any time. Registrars should review the policies from time to time and any modifications made thereto. Modifications to these policies are effective as of the date and time they are posted on the Commercial Connect site.

Since Commercial Connect represents the e-commerce community, its purpose is to have a top-level domain namespace that encourages and supports -commerce.

The primary audience for this namespace is "business-to-consumer ecommerce." The applicant information will be fully published as this is a business based TLD and not that of a private individual.

There are multiple reasons why a website operator (the "Business") would want to use a new .SHOP top-level domain name. The first reason is that it will become more intuitive to the end user (the "Consumer"). If they want to purchase products and/or services, then they should instinctively use the .SHOP extension. If a multitude of new gTLD strings emerge onto the market, .SHOP will especially become a more apparent choice. That, coupled with our extensive marketing efforts will help to convince the Consumer that .SHOP is the domain namespace to use for purchasing products and/or services online.

#### Process Patent Pending Verification for .SHOP

Because Commercial Connect will be performing process patent pending verification on .SHOP applicants, there will be a more reliable and trustworthy indication that the registrant (the "Business") is who they claim to be. While this will not prevent the registrant from engaging in negative business practices, it will help to ensure that their identity is known should legal action become necessary in the future. As a result, this identification will reduce fraud and make less favorable business practices exist only in namespaces other than ones that are stringently verified.

In order for an applicant to be considered "qualified" to purchase a .SHOP top-level domain name, they must go through a strict verification process where Commercial Connect researches the identity of that applicant and his business using semi-automated process patent pending processes. Once the registrant is "verified," they are assigned a contact ID which will, then, allow them to register a .SHOP domain name.

#### Availability

The registration of a domain name is available to businesses. A domain name that is available at the time a Registrar runs the CHECK command does not guarantee that the domain name will be available at the time of registration.

Requirements for the applicant initially will be an agreement that the website will be offering goods and/or services under a secured socket layer (SSL) trusted connection. This site must be functional within six months of registration or the registrant could

forfeit his rights to said domain name. There may be additional circumstances whereby it will not be required that the registrant of a .SHOP domain name have a functioning e-commerce site. These cases exist for trademark holders and users that forward their trade names to existing websites utilizing other TLDs. Generic .SHOP domain names should be e-commerce site-enabled and not forwarded to other sites.

#### Term

A domain name is registered in one-year increments, with a minimum registration term of one year and a maximum registration term of 10 years. Verified applicants will agree to the understanding that if they are operating a business and utilizing a .SHOP domain name that holds them accountable for all transactions performed on this website. This is essential so that one party or registrar does not register themselves in an attempt to thwart our verification process. In addition, a clause in the registrar agreement will require that registrants not attempt to hide, mask, or alter the identity of any .SHOP registrant.

#### Naming Restrictions

The minimum character length for a domain name is one character, excluding the .SHOP extension. The maximum character length for a domain name is 254 characters excluding the extension. A domain name must not begin with a dash "-" or dot "." and must also not begin with the following sequence: "alphanumeric\_alphanumeric\_dash ("-")\_dash ("-")".

Each character in the domain name, excluding the dots (".")s must be a letter or digit or dash ("-"). The last character must be a digit or a letter. It cannot be a dash ("-").

#### .SHOP Premium Domain Names

Certain .SHOP domain names that are generic or common words, and one- to three-character combinations have been designated as "Premium Names." Premium Names have the same business rules and grace periods as all domain names with the following exceptions:

- Premium Names may have higher pricing than standard domain names.
- Notwithstanding anything herein to the contrary, Registrar transfers for Premium Names are prohibited.
- Notwithstanding anything herein to the contrary, the Sync operation for Premium Names is prohibited.

#### Name Servers

A domain name cannot have more than 13 hosts at the registry level.

#### Registrar Transfer Rules

A created domain name must be 61 days old or older to be available for transfer between Registrars. A domain name can be transferred in one-year increments from one to 10 years. A one-year renewal is the default setting. If the difference between the current date and the new registration date is more than 10 years but less than 11 years, then the transfer will be clipped to 10 years. If the difference between the current date and the new registration date is greater than 11 years, the transfer will be rejected. The pending-transfer period is five (5) days. If the transfer request is neither approved nor rejected by the losing Registrar within the five-day pending-transfer period, Commercial Connect will automatically approve the request. As stated above, Registrar transfers of Premium Names are prohibited.

#### Bulk Transfers

Subject to Commercial Connect's discretion and approval, and any transfer fees or charges that may be assessed by Commercial Connect, Registrars may request bulk transfers of .SHOP domain names by submitting a bulk transfer request in writing accompanied by a complete list of the domain names to be transferred. The request must be signed by both the gaining and losing Registrars.

## 18(c). What operating rules will you adopt to eliminate or minimize social

## costs?

We will have a four part process for the registration of .SHOP domain names.

1. We will have a set of reserved "Premium" generic .SHOP domain names that will be reserved for an auction after the other stages are completed.
2. We will have the standard Trademark Clearinghouse process along with a trademark period of registration first.
3. We, then, will have a premium registration where applicants can pay a premium to purchase .SHOP domain names.
4. Open registration, first-come-first-served, round robin polling.

By conducting the registration this way, it lessens that load on the system and helps to ensure that the appropriate trademarks are considered. At step four, registration will become first-come-first-served.

Cost benefits such as advantageous pricing, introductory discounts and bulk registration discounts will not be offered on the wholesale side; registrars are encouraged to offer these as they see appropriate. Since this TLD will be a premium domain name, there is an opportunity for registrars to define their own mark-up thus increasing their profit per .SHOP domain name.

While domain name registration periods will be offered as required, there are processes that must be verified annually, such as owner verification and usage that may have an impact on the registration process. All processes, including price increases, will be written as required by the Registry Agreement. Any registrations that have been prepaid will not be impacted by the price increases.

We will protect vulnerabilities through SSL. We are dealing with businesses and this information will be made public. We do not accept credit card data. Registrars must wire money as in most Registrar-Registry operations.

Transparency in all transactions will be the norm. We will be verifying all owners.

Since our end-price is comparable to other verification process, there should be no negative impact on the end user. We will reserve specific premium names to be sold at auction in the second year of operations. (Antique.SHOP, Toy.SHOP etc.) We are planning on multi-stage application periods. First stage will be for trademark owners. The second stage will be for a premium open registration period. A higher fee will be charged for this round of open registrations. The final stage is open registration whereby domain names will be awarded on a first-come-first-served based using a round robin polling mechanism to allow each registrar equal access to the new .SHOP TLD. See above.

Due to the verification process costs of this domain name, we will not be offering discounts. The verification process will be the highest fee structure in the process, but equivalent to existing structures on the Internet today in costs. The actual domain name registration will be less expensive than the verification process.

\$1 per domain name is allocated to a worldwide foundation benefitting e-commerce, education, world health, and feeding the poor initiatives. This amount may be reduced if our projections are significant higher than actual registrations. In this case a proportionate amount pertaining to net profit will be allocated.

## Community-based Designation

## 19. Is the application for a community-based TLD?

Yes

### 20(a). Provide the name and full description of the community that the applicant is committing to serve.

The community for the .SHOP will be for eCommerce Operators - For the purpose of this application we are defining our community as eCommerce operators that directly sell to the general public on the internet.

This community is basically a B2C site that utilizes credit card processing requiring them to abide by PCI DSS (Payment Card Industry Data Security Standards) to operate.

We chose this community because fraud is a serious issue to both credit card processors as well as the community all the way down to the end customer. We all pay for fraud, and if our TLD can help minimize this fraud while at the same time be intuitive and instill more confidence in eCommerce, then everyone wins.

For nearly 12 years we have engaged with (and continue to represent) this community because we believe our gTLD string and its corresponding patent-pending verification process for transactions will significantly impact standards of excellence and offer real world solutions to reduce fraud online. We also believe that the gTLD string, .SHOP, offers a new "findability" factor for online shoppers. They will know and understand how to complete on their purchases with speed, security, and successful search resolution. Fraud remains one of the most serious issues to both credit card processors as well as the eCommerce community, affecting all levels of e-commerce, down to the shopper. All online shoppers pay for fraud and we believe that our TLD can minimize this fraud while, at the same time, instill more confidence in eCommerce practices.

This community is easily identified as websites that have shopping cart programs that utilize SSL (Secured Socket Layer) certificates (required under PCI DSS) to process their transactions. Studies have been performed to help identify these website operators and we have a 95% confidence that we have a clear and defined subset of the internet. We have received over 1,100 personal recommendations and support of Commercial Connect's application for .SHOP from these e-commerce operators, representing in excess of \$667 Trillion USD in annual sales last year alone.

As the multi-channel approach to retail and e-tailing evolves, we realize that the definition of eCommerce will continue to expand and involve more participants. Our main goal here is to define our core community, as well as provide proof that we educate, engage, and represent this community. We will continue to be transparent in our communications and exercise outreach on the value proposition of eCommerce to online businesses and brands today. We also guide best practices and policies leading to a better shopping experience and will directly give back, through our revenue generation, to institutions involved in social entrepreneurship and worldwide concerns in the areas of health, and feeding and educating the poor; we expect that our giving could exceed \$1 million annually. By association, ICANN will be identified as a concerned stakeholder and solution provider for global eCommerce.

While we can state with confidence that we represent eCommerce in general with a much broader number of members, our main goal here is to define a community, provide proof of involvement and representation, and clearly show how we will be of benefit to that community.

Over the past twelve (12) years we feel confident that we have been engaged and have

acquired the support required to represent this community. With an excess 1000+ physical contact affirmations and letters of support from companies that represent in excess of \$667 trillion USD in sales annually.

For Question

1A - Delineation - .SHOP has a clearly delineated organized and pre-existing community.

1B - Extension - .SHOP has a community of considerable size and longevity.

2A - Nexus - .SHOP matches the name of the community and is well known in many languages.

2B - Uniqueness - .SHOP has no other significant meaning than eCommerce.

3A - Eligability - .SHOP will be restricted to eCommerce Users.

3B - Name Selection - .SHOP's policies include name selection rules consistent with the articulated community-based purpose of eCommerce.

3C - Content and Use - .SHOP's policies include rules for content and use consistent with the articulated community-based purpose of eCommerce.

3D - Enforcement - .SHOP's policies include specific enforcement measures constituting a coherent set with appropriate appeal mechanisms.

4A - Support - .SHOP has documented support from the community and can provide additional upon request.

4B - Opposition - .SHOP has not received any formal opposition in the 12 years we have been working on this TLD application from any eCommerce entity.

Commercial Connect LLC has been present for the entire process of community definitions and while we have not influenced the selection and criteria, we do qualify with a strong score of 16 in these areas.

## **20(b). Explain the applicant's relationship to the community identified in 20(a).**

We are the original applicant for .SHOP from the 2000 round. While there were other applicants in the initial rounds, Commercial Connect was the only one that made it through the entire qualification process. When delegation of .SHOP was put off until the "next" round, CC has been working with the above community to establish its relationship and representation in that community.

Initially, since there was no clear community representation, we worked on establishing some form of a member trade association. The result was the creation of ECWR.net (eCommerce World Retailers). This was formed in March, 2004 and clearly predates the 2007 requirement in the Applicant Guidebook. We currently have in excess of 1,000 members representing a substantial amount of eCommerce (these members represent an equivalent in excess of \$866 trillion in annual sales). However, Commercial Connect's being a trade union is not our mission. We merely want to aid in the organization and education of our community. For the first time in history, KPMG and the US National Retail Federation reported in Feb. 2012 in their annual worldwide survey that retailers' websites or online channels eclipsed physical stores as the top channel for marketers (81% for brick-and-mortar vs. 86% online). As such, retail executives have spoken that they will invest in programs, like .SHOP, that directly resonate with today's shopper. We have for you more than 1,500 letters from CEOs, politicians, and trade organizations that support Commercial Connect's application for .SHOP, written over the last decade, as a step to a better online shopping experience that is safer, stable, and secure. According to the KPMG survey, 85 percent of all retail corporations worldwide will emphasize increasing online sales, up from 83 percent in 2011, and 38 percent will have a greater focus on increasing eCommerce sales over the next year, up from 29 percent in 2011.

Commercial Connect has communicated to key retail trade organizations across the world in the last decade through trade shows, private meetings, and email correspondence, its desire to operate the registry for eCommerce on the Internet and become a representative

entity for this community. Commercial Connect will continue to work as this representative entity by educating and assisting in the growth and development of eCommerce worldwide.

## **20(c). Provide a description of the community-based purpose of the applied-for gTLD.**

The community-based purpose is to aid in the the development of a safer, cheaper, and more secure platform for eCommerce, providing for a better online shopping experience. This mission adds to the Internet domains already available, so as to allow for URLs that can be defined as eCommerce from the first click. The addition of dotshop allows for increased options in domain selection and improved security. Commercial Connect, LLC has a process patent pending that will form the basis of a new security mechanism to verify registrants and publish this information for full transparency in the eCommerce shopping experience.

ICANN will be responsible for the enhancement of the Internet by providing a segmented eCommerce Top-Level Domain. Lastly, ICANN, through the social entrepreneurship of Commercial Connect's financial commitment to a give-back model, will also be responsible for creating a worldwide charity that will benefit eCommerce provider sub-communities in the areas of enabling eCommerce, health, feeding the poor, and general education.

## **20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).**

.SHOP and eCommerce retailers are integrated in their objectives, as retailers are increasingly looking for a way to differentiate their shopping experience for the end consumer, by tying together a muliti-channel philosophy. Issues of findability, quick search, and backend analysis of buying decisions become easier with the advent of .SHOP and its community of interest. All information resides in one place for both the shopper and the marketer for brands, and other retail establishments.

Fraud online is a large discussion in the world today and additional mechanisms that secure existing vulnerabilities will be determined and implemented through patents. According to the Internet Crime Complaint Center's 2010 Internet Crime Report, non-delivery of payments or merchandise totaling hundreds of millions of dollars accounted for 14.4 percent of the complaints, followed by scams involving people posing as U.S. FBI agents, at 13.2 percent.

Identity theft was the third most common crime (9.8 percent), followed by computer crimes (9.1 percent), miscellaneous fraud (8.6 percent), advance fee fraud (7.6 percent), spam (6.9 percent), auction fraud (5.9 percent), credit card fraud (5.3 percent) and overpayment fraud (5.3 percent).

Why a dotShop domain?

Easier – It will be easy to remember for end users looking to purchase goods.

Safer – It will validate registrants and publish owners of .SHOP domains.

Cheaper – It will cost less than current offerings.

Commercial Connect is committed to adequately addressing consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection for those that use .SHOP upon delegation.



## 20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.

The .SHOP domain name is intended for eCommerce purposes. This means that a website using .SHOP must have eCommerce-enabled ability to provide a direct conduit to making transaction on the web. In other words, it is expected that a .SHOP website will have items or services available for sale on that site and that there is an easy path to purchasing these items. These transaction must also use secure communications when processing said transactions.

In addition, we must ensure that trademark holders also are protected and allow these companies to own a .SHOP domain name without the enforcement of eCommerce as long as this is not the find resolution site for such domain name. In other words, if a trademark holder registers "trademark.shop" but it is not eCommerce-enabled (secured site with products immediately ready for purchase), then it must either be inactive or forwarded to a non-.shop website.

### Government Relations

A secure and stable Internet is our number one priority, so we engage policymakers on all levels regarding legislation that affects it.

### .SHOP Domain Names Registration Policies

Commercial Connect manages the authoritative registry ("Registry") for all domain name registrations that end in ".shop". The, below, registry policies govern the registration of domain names. Commercial Connect reserves the right to modify or amend these policies and any other policies regarding .SHOP at any time. Registrars should review the policies from time to time and any modifications made thereto. Modifications to these policies are effective as of the date and time they are posted on the Commercial Connect site.

Since Commercial Connect represents the eCommerce community, its purpose is to have a top-level domain namespace that encourages and supports eCommerce.

The primary audience for this namespace is "business-to-consumer eCommerce."

There are multiple reasons why a website operator (the "Business") would want to use a new .SHOP top-level domain name. The first reason is that it will become more intuitive to the end user (the "Consumer"). If they want to purchase products and/or services, then they should instinctively use the .SHOP extension. If a multitude of new gTLD strings emerges onto the market, .SHOP will especially become a more apparent choice. That, coupled with our extensive marketing efforts, will help to convince the Consumer that dotShop is the domain namespace to use.

### Process Patent Pending Verification for .SHOP

Because Commercial Connect will be performing process patent pending verification on .SHOP applicants, there will be a more reliable and trustworthy indication that the registrant (the "Business") is who they claim to be. While this will not prevent the registrant from engaging in negative business practices, it will help to ensure that their identity is known should legal action become necessary in the future. As a result, this identification will reduce fraud and make less favorable business practices exist in namespaces other than ones that are stringently verified.

In order for an applicant to be considered "qualified" to purchase a .SHOP top-level domain name, they must go through a strict verification process where Commercial Connect researches the identity of that applicant and his business using semi-automated process patent pending processes. Once the registrant is "verified," they are assigned a contact ID which will, then, allow them to register a .SHOP domain name.

### Availability

The registration of a domain name is available to businesses. A domain name that is

available at the time a Registrar runs the CHECK command does not guarantee that the domain name will be available at the time of registration.

Requirements for the applicant initially will be an agreement that the website will be offering goods and/or services under a secured socket layer (SSL) trusted connection. This site must be functional within six months of registration or the registrant could forfeit his rights to said domain name. There may be additional circumstances whereby it will not be required for the registrant of a .SHOP domain name have a functioning eCommerce site. These cases exist for trademark holders and users that forward their trade names to existing websites utilizing other TLDs. Generic .SHOP domain names should be eCommerce site-enabled and not forwarded to other sites.

#### Term

A domain name is registered in one-year increments, with a minimum registration term of one year and a maximum registration term of 10 years.

Verified applicants will agree to the understanding that if they are operating a business and utilizing a .SHOP domain name that holds them accountable for all transactions performed on this website. This is essential so that one party or registrar does not register themselves in an attempt to thwart our verification process. In addition, a clause in the registrar agreement will require that registrants not attempt to hide, mask, or alter the identity of any .SHOP registrant.

#### Naming Restrictions

The minimum character length for a domain name is one character, excluding the .SHOP extension. The maximum character length for a domain name is 63 characters excluding the extension. A domain name must not begin with a dash "-" or dot "." and must not begin with the following sequence: "alphanumeric\_alphanumeric\_dash ("-")\_dash ("-")".

Each character in the domain name, excluding the dots (".")s must be a letter, digit, or dash ("-"). The last character must be a digit or letter. It cannot be a dash ("-").

#### .SHOP Premium Domain Names

Certain .SHOP domain names that are generic or common words, and one- to three-character combinations have been designated as "Premium Names." Premium Names have the same business rules and grace periods as all domain names with the following exceptions:

- Premium Names may have higher pricing than standard domain names.
- Notwithstanding anything herein to the contrary, Registrar transfers for Premium Names are prohibited.
- Notwithstanding anything herein to the contrary, the "Sync" operation for Premium Names is prohibited.

#### Nameservers

A domain name cannot have more than 13 hosts at the registry level.

#### Registrar Transfer Rules

A created domain name must be 61 days old or older to be available for transfer between registrars. A domain name can be transferred in one-year increments from one to 10 years. A one-year renewal is the default setting. If the difference between the current date and the new registration date is more than 10 years but less than 11 years, then the transfer will be clipped to 10 years. If the difference between the current date and the new registration date is greater than 11 years, the transfer will be rejected. The pending-transfer period is five (5) days. If the transfer request is neither approved nor rejected by the losing Registrar within the five-day pending-transfer period, Commercial Connect will automatically approve the request. As stated above, Registrar transfers of Premium Names are prohibited.

#### Bulk Transfers

Subject to Commercial Connect's discretion and approval, and any transfer fees or charges that may be assessed by CCLLC, Registrars may request bulk transfers of .SHOP domain names by submitting a bulk transfer request in writing accompanied by a complete

list of the domain names to be transferred. The request must be signed by both the gaining and losing Registrars.  
(See the Registration policy in its entirety as an Attachment R in Technical Section).

**20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## Geographic Names

**21(a). Is the application for a geographic name?**

No

## Protection of Geographic Names

**22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.**

As part of our reserved and un-regisisterable names, we will include country names, geographic names, and any names as suggested and/or required by the trademark clearinghouse.

## Registry Services

**23. Provide name and full description of all the Registry Services to be provided.**

In our original application in 2000, we provided a full technical plan complete with systems, operating system specification, and software solutions. We now have a fully functional registry in-house ready to accept EPP requests for the new .SHOP gTLD.

Commercial Connect, LLC established its own internal registry in 2011. We designed our registry system to closely mimic other significant registries so that continuity provisions are designed to become seamless.

In addition, we continue to show our commitment to the e-commerce community by focusing on only one application.

Services offered include:

#### (1) Operation of the Shared Registration System

##### SRS Transactions - Registrar Connections - EPP

A registrar's access to the SRS can be impacted by two issues; the number of connections and the available bandwidth. Registrar transactions traffic behavior can be divided into two categories; normal transactions and add-storm transactions. Normal transactions can be defined as the transactions generated by normal daily behavior of registrants, e.g., registering new names, modifying existing names, renewing names, etc. Add-storm transactions are those that are generated by attempts by the registrars to register a name that is expiring at a specific date and time. CCLLC has decided that the best solution would be to provide each registrar the same number of connections and to provide a separate connection for dropped domain names as to not impact normal operations.

##### SRS Transactions - Demand

The Capacity Planning Team estimated peak SRS transactions per second (TPS) based on data collected on existing TLDs.

By extrapolating data from other TLDs, the transaction growth rate can be estimated. An average peak day for SRS transactions is 5% of the total month's transactions.

A peak 5 minutes is 5% of the peak day. The peak 5 minutes is such a large percent of the day because it includes add storm activity. The Capacity Planning Team has concluded that the overall CCLLC SRS must support the following capacities over the first 2 years.

It should be noted that these are very conservative estimates, and assumes that all TLDs will experience the same peak transaction levels experienced by larger, open TLDs. In fact, many of the TLDs, such as brand and community TLDs, will not experience the peak transactions that occur during add storms. However, following a philosophy of estimating conservatively, these plans are based on a high case scenario.

##### SRS Transactions - SRS Capacity

CCLLC uses this data to analyze the capacity of CCLLC's systems, including the EPP and application servers, and the database. In CCLLC's SRS architecture, the database is the most limiting item. The architecture of the SRS utilizes server clusters for the application servers (EPP and Business policy engines) and the database.

Increasing capacity to those servers is a matter of adding more servers to the cluster. Their current deployed architecture supports 17k TPS. If necessary, we can increase this to 30k TPS in 2013 to maintain 2 times peak demand.

##### SRS Transactions - Bandwidth Capacity

Using historical registry data, an average SRS transaction size has been determined to be 1.3kb. Since CCLLC staggers the drop times of domains the peak TPS demand is spread out over many hours and over separate connections. As a result of the staggering process only 10% of the overall peak TPS will occur at any given time and will not impact the primary registration connections. This means the registry will need to support 39mbps of bandwidth during an add storm ( $3,750 \times 10,400 \text{ bits} = 39\text{mbps}$ ).

The registry's primary and secondary SRS sites both have 200MBps of bandwidth. This is nearly 5 times the estimated demand.

## (2) A Unique .SHOP Registry Service—Process Patent—Pending Verification Process for Transactions

As part of a registration for .SHOP the inclusion of a patent-pending verification process for transactions will be performed. In this process we use bank information already collected on an applicant to match against the registration data. If we verify that the information submitted to us matches the registrants bank account information whereby they had to provide photo identifications locally to their bank along with appropriate corporation and/or business articles, then we can feel more confident that the applicant is who they claim to be. We will make no claims to guarantee the identity of anyone but will explain that this is a much more confident means of verification than previously existed.

We can provide more information on this technique and process at ICANN's request.

"Registry Services" are, for purposes of the Registry Agreement, defined as the following: (a) those services that are operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry DNS servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by this Agreement; (b) other products or services that the registry operator is required to provide because of the establishment of a Consensus Policy as defined in Specification 1; (c) any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator; and (d) material changes to any Registry Service within the scope of (a), (b) or (c) above.

## (3) Provision of WHOIS service

CCLLC operates two active WHOIS sites, each consisting of 3 servers behind a load balancer. CCLLC has tested this configuration in CCLLC's lab. Each WHOIS site will be able to support 2875 QPS. This is 5X the estimated 2013 capacity need.

## (4) DNS resolution for registered domain names

DNS for Commercial Connect includes 16 name server sites located throughout the world. Each site will contain at least two resolving servers. The domain name servers will support 50K queries per second.

Based on the peak queries per second the estimated bandwidth needed will be 105 Mbps. This is based off of .0014 Mbps X 75,000 queries per sec = 105Mbps for estimated bandwidth [bits per second X queries per second = total bandwidth needed (in bits per second)] .

Each name server will have a minimum of two 100 MBps connection, which is 2x the peak capacity load required.

## High Capacity Systems

As described above, each element of the registry has been designed for high capacity. The DNS has over 10 times the estimated query capacity required for all TLDs combined; the SRS over 3 times the estimated domain capacity, and WHOIS over five times the estimated query capacity.

## Registry Operator Code of Conduct

1. In connection with the operation of the registry for the TLD, Registry Operator will not, and will not allow any parent, subsidiary, Affiliate, subcontractor or other related entity, to the extent such party is engaged in the provision of Registry

Services with respect to the TLD (each, a "Registry Related Party"), to: a. directly or indirectly show any preference or provide any special consideration to any registrar with respect to operational access to registry systems and related registry services, unless comparable opportunities to qualify for such preferences or considerations are made available to all registrars on substantially similar terms and subject to substantially similar conditions; b. register domain names in its own right, except for names registered through an ICANN accredited registrar that are reasonably necessary for the management, operations and purpose of the TLD, provided, that Registry Operator may reserve names from registration pursuant to Section 2.6 of the Registry Agreement; c. register names in the TLD or sub-domains of the TLD based upon proprietary access to information about searches or resolution requests by consumers for domain names not yet registered (commonly known as, "front-running"); d. allow any Affiliated registrar to disclose user data to Registry Operator or any Registry Related Party, except as necessary for the management and operations of the TLD, unless all unrelated third parties (including other registry operators) are given equivalent access to such user data on substantially similar terms and subject to substantially similar conditions; or e. disclose confidential registry data or confidential information about its Registry Services or operations to any employee of any DNS services provider, except as necessary for the management and operations of the TLD, unless all unrelated third parties (including other registry operators) are given equivalent access to such confidential registry data or confidential information on substantially similar terms and subject to substantially similar conditions.

2. If Registry Operator or a Registry Related Party also operates as a provider of registrar or registrar-reseller services, Registry Operator will, or will cause such Registry Related Party to, ensure that such services are offered through a legal entity separate from Registry Operator, and maintain separate books of accounts with respect to its registrar or registrar-reseller operations.

3. Registry Operator will conduct internal reviews at least once per calendar year to ensure compliance with this Code of Conduct. Within twenty (20) calendar days following the end of each calendar year, Registry Operator will provide the results of the internal review, along with a certification executed by an executive officer of Registry Operator certifying as to Registry Operator's compliance with this Code of Conduct, via email to an address to be provided by ICANN. (ICANN may specify in the future the form and contents of such reports or that the reports be delivered by other reasonable means.) Registry Operator agrees that ICANN may publicly post such results and certification.

4. Nothing set forth herein shall: (i) limit ICANN from conducting investigations of claims of Registry Operator's non-compliance with this Code of Conduct; or (ii) provide grounds for Registry Operator to refuse to cooperate with ICANN investigations of claims of Registry Operator's non-compliance with this Code of Conduct.

5. Nothing set forth herein shall limit the ability of Registry Operator or any Registry Related Party, to enter into arms-length transactions in the ordinary course of business with a registrar or reseller with respect to products and services unrelated in all respects to the TLD.

6. Registry Operator may request an exemption to this Code of Conduct, and such exemption may be granted by ICANN in ICANN's reasonable discretion, if Registry Operator demonstrates to ICANN's reasonable satisfaction that (i) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator for its own exclusive use, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and (iii) application of this Code of Conduct to the TLD is not necessary to protect the public interest.

# Demonstration of Technical & Operational Capability

## 24. Shared Registration System (SRS) Performance

The plan for a robust Shared Registration System (SRS) performance has its foundation in the custom registry design. The Commercial Connect registry system is a live, custom registry design built off of the ISC open registry software version 1.0.2. The registry is capable of providing EPP requests, WHOIS lookups, and also offers a web interface for access. The registry was built to enable support for these various methods of access while still offering an advanced level of security on the system ensuring availability without the risk of unauthorized access.

Commercial Connect's registry system uses 14 servers for the services provided. Two servers are the EPP (Extensible Provisioning Protocol), which will provide EPP functionality for the registry. The third server is used as a web server to provide a web interface for the registry. Another server is used as the WHOIS server for the registry. A fifth and sixth server are utilized as two DNS servers. The seventh is used as the master database for the entire registry. The other seven servers are used as hot standby servers, or servers that have mirrored the exact data as the main servers and are ready to take over in case of a main server failure.

The servers will utilize the hot standby synchronization scheme, meaning that the live (main) server information will be mirrored to a backup (standby server) directly as soon as any information changes on the live server. This allows the standby server to take over almost instantaneously if a critical failure occurs on the live server and, therefore, no break occurs in the registry's service.

There will be two more identical systems put in place at remote locations.

The EPP server will process any request made by the user of the registry system. The registry set-up allows for the user to either connect directly with the EPP server or through a web portal on the internet. Both options will provide the necessary functions expected of the EPP server which will then translate and execute the request. It will, then, send a reply back to the user based on success or failure of the request. Both EPP servers will have a backup EPP server ready to go with data constantly updating, allowing transition between the two servers to be as seamless as possible. Upon going live, both EPP servers will be utilized to handle the initial traffic of registries for the .SHOP domain. After the initial registration period, one EPP server, including its backup server, will, then, be used for the registry's Drop Pool services.

The webserver will be responsible for the website that acts as a front-end to the EPP server and registry. This will be a user-friendly interface allowing for the user to register multiple requests at a time and to also allow the user the convenience of not having to write software to communicate with the registry. The webserver will use EPP protocol underneath and send the requests to the EPP server which will then execute the EPP commands and send a response back to the webserver on the success or failure of the command.

The WHOIS server will be responsible for providing contact information, domain expiration date, and the status for any domain name registered with the .SHOP gTLD. The information the WHOIS server shows will be pulled directly from the master database in the .SHOP registry. Interconnectivity with other registry systems will include the whitelisting of Registrars/Registries for querying, etc.

The DNS servers will perform SOA requests, resolve domain names into IP addresses as well as other DNS requests and are capable of supporting DNSSEC.



Commercial Connect's Registry system will be capable of meeting the requirements stated in Specification 10 (SLQ) based on the given projections in both answers 31 and 46.

To meet the DNS requirements of having 100% availability, 99% uptime, update time of 60 min or less, TCP RTT of 1500ms or less, and UDP RTT of 500ms or less Commercial Connects DNS infrastructure will allow for a maximum of up to 50,000qps. In the Supplemental Notes for Questions 31 it states that the average expected DNS queries per month is 2,901,801,215 billion queries which when broken down even further equals about 1,083 Queries per Second (QPS). This means we are only using 1-50 of our capabilities which also allow Commercial Connect to make sure that all DNS requirements are met now and for future expansion. Commercial Connect also plans on using DNSSEC for its DNS not only for security but also for reliability assuring that our DNS servers really are our DNS servers.

For WHOIS requirements it states that we must have 98% availability, a RTT of 2000ms or less, and an update time of 60 min or less. To meet and exceed these requirements Commercial Connect has been working on several different ways to access our Whois service to decrease the RTT and availability.

The first access type for our Whois server is to query our server directly on the Whois port. Our Whois server has been tested to receive a maximum of 2875 QPS. According to Question 31 Supplemental notes as well Commercial Connects expected monthly Whois queries will average 69,643,229 queries per month. That is about .9% of our maximum queries per month Commercial Connect is able to handle for the Whois system.

To further reduce the traffic load and increase availability for our Whois service Commercial Connect is working on using RESTful Whois. This service will be available via a webpage on one of Commercial Connects web servers. This will allow Whois information to be transmitted using XML or HTML and will also allow a decrease in bandwidth and queries on the Whois server furthering our Whois service uptime and availability.

The EPP requirements in Specification 10 for the EPP service is to have 98% uptime, EPP command RTT of 4000ms or less, EPP query-command RTT of 2000ms or less, and EPP transform-command RTT of 4000ms or less.

As discussed in more detail in Question 31 the current EPP max transactions per second is 17K per second. This already is an improvement of 15K transactions per second posted by other already functioning registries by the ICANN Benchmark in February 2010. With Commercial Connect designing its EPP systems to be able to allow more transactions per second it also assures that Commercial Connect is more than capable of handling the response times to be under the maximum response time as well as making sure the EPP service is available at least 98% of the time.

Commercial Connect agrees that the definitions agreed upon and adopted as part of the ICANN parameters and measures for SRS Performance will be observed.

## 25. Extensible Provisioning Protocol (EPP)

EPP (Extensible Provisioning Protocol) is an XML-based protocol created by VeriSign, with support from ICANN, which has been introduced as an industry standard protocol between registries and registrars.

Our registry works by having EPP software based on a Linux-based Ubuntu Server v.11.10. This allows us to maintain complete control over the system by only opening the needed ports for the EPP protocols. The EPP software on the server has been set up to run as a service so that the server is always listening for EPP requests from registrars; 24 hours a day and 7 days a week.

The EPP software was designed to specifically handle EPP requests, and then, based upon the request, allocate the necessary resources for the request according to the RFC 5730, RFC 5731, RFC 5732, RFC 5733, RFC 5734, and RFC 3735. At present, we have no intention to extend the EPP protocol in RFC 3735, and will remain compliant. The documents mentioned outline the EPP.

There will be two ways registrars are allowed to communicate with our registry. The first is through direct EPP communication with our servers. The second is using a website front-end to our EPP servers.

The first option is direct EPP communication with our servers. This will require the registrar to create a connection with our server using the EPP protocol. We will provide the registrar with the needed information to make such a connection. This includes providing IP addresses for our servers, the port on which our servers are listening for EPP requests and any account information needed to verify that the registrar is, in fact, the registrar connecting, and not another business or person. This option allows for the quickest and most direct way of making requests and commands on our registry with the downside that it requires the registrar to make changes to their software, so that the connection can be made.

The second option allows registrars to connect to our registry system through a website. For the registrar to have access to the site, Commercial Connect will ensure, through various validation processes, that the registrar is, in fact, the registrar it says it is, before giving an account to access the website. The website itself will have available all the commands that comply with the RFC's 5730, 5731, 5732, 5733, and 5734. The interface will auto generate a template based on the command selected, and then allow for the registrar to fill in the necessary fields for the domain name(s).

After the required fields have been filled, the webserver sends the commands in EPP protocol to our EPP servers, which then execute the commands accordingly. The webserver then receives the output in html form for the user based on the success/failure of the command sent. This option is available for the registrars who do not wish to directly connect with our EPP servers and allows for a more user-friendly method of registering domain names with our registry.

Key personnel at Commercial Connect involved in this EPP plan will report to the VP of Technology, and the VP of Operations. Staff directly involved will include the following: Network Administrator, Programmer-Senior, Programmer-Junior, Network Security Officers (2), Customer Service-Technical Support (2), Data Integrity Supervisor, and the Applicant Verification-Audit Staff of 2.

## 26. Whois

Since Commercial Connect (CC) represents the e-commerce community, it is our intention to make dotShop as open and transparent as possible. That being said, we will have a full thick-registry with all information about the applicant available online for all to review. This gives the shopper confidence in that they know who they are dealing with, where the entity is located, and, in essence, where their money is going.

The WHOIS servers will be hot-standby, with backup WHOIS servers that are constantly (real-time) being updated with identical information from the live WHOIS server. This provides a failsafe for the live WHOIS server system. In case of a critical failure to the live WHOIS server, the backup WHOIS server on standby will instantaneously take the place of the malfunctioning server, and become the new live WHOIS server.

Commercial Connect's WHOIS servers will work with other registries and registrars by whitelisting their DNS and WHOIS servers, as appropriate. This will provide smooth connectivity between the CCLLC registry and registrars. This will allow for registries

and registrars to access our WHOIS and DNS servers as necessary, without suspicion of data mining and abuse.

To do this, we will take the registries and registrars network addresses and allow them preferred access to these required services.

Key personnel involved in the WHOIS plan will include direct reporting to the VP of Technology, and the VP of Operations. Staff directly involved will include the following: Network Administrator, Programmer-Senior, Programmer-Junior, Network Security Officers (2), Customer Service-Technical Support (2), Data Integrity Supervisor, and the Applicant Verification-Audit Staff of 2.

#### RESTful WHOIS

We are currently working toward RESTful WHOIS compliance. We anticipate this to be completed by the end of the 3rd Quarter, 2012. The RESTful WHOIS will provide a searchable WHOIS service through key web technology (xml, html) that assists the WHOIS data exchange.

We have attached our WHOIS Policy below which will fit into this answer section but is much more readable as an attachment.

## 27. Registration Life Cycle

Commercial Connect, LLC. expects to reserve certain premium domain names to be made available for auction sometime in the second year of operations. In addition, there will be a sunrise period and trademark period. The trademark registration period will come first, then it will be followed by a premium domain name registration period where the cost for the .SHOP TLD will be significantly higher. This is done to reduce the impact of the open registration. After the premium registration and open period of registration will begin.

#### Add Contact

In order to register a .SHOP domain name, one must first be verified as a verified .SHOP domain name owner. In order to become a "verified owner," the owner's information must be supplied to Commercial Connect, LLC with a verification fee. Verified Owners must agree that they are not acting as agents to other entities as all .SHOP domain names must be owned by the person operating the e-commerce site. The verification process can take as long as two business days to complete. Once a contact is verified, a flag is placed on that contact, so that it will be allowed to be used as an owner for a .SHOP domain name.

#### Applied Status

During verification process, if a domain name is requested it is placed under and Applied for status until the owner can be verified. The Applied status can lock the domain for up to seven (7) days while the verification process is completed.

#### New Registration

Once an owner is "verified" they can continue the process of registering one or more .SHOP domain names.

#### Registrar Transfer Rules

A created domain name must be 61 days old or older to be available for transfer between registrars. A domain name can be transferred in one-year increments from one to 10 years. A one-year renewal is the default setting. If the difference between the current date and the new registration date is more than 10 years but less than 11 years, then the transfer will be clipped to 10 years. If the difference between the

current date and the new registration date is greater than 11 years, the transfer will be rejected. The pending-transfer period is five (5) days. If the transfer request is neither approved nor rejected by the losing registrar within the five-day pending-transfer period, Commercial Connect will automatically approve the request. As stated above, registrar transfers of premium names are prohibited.

#### Bulk Transfers

Subject to Commercial Connect's discretion and approval (and any transfer fees or charges that may be assessed by CCLLC), registrars may request bulk transfers of .SHOP domain names by submitting a bulk transfer request in writing accompanied by a complete list of the domain names to be transferred and signed by both the gaining and losing registrars.

#### Grace Periods

A grace period refers to a specified number of calendar days following a registry operation in which the domain name may be deleted and a credit may be issued to a registrar. Relevant registry operations in this context are:

- Registration of a new domain name ("add grace period")
- Explicit renewal of an existing domain name ("explicit renew grace period")
- Auto-renew of an existing domain name ("auto-renew grace period"), and;
- Registrar transfer of an existing domain name ("registrar transfer grace period")

#### Add Grace Period

The "add grace period" is a specified number of calendar days following the initial registration of a domain name. The value of the add grace period is five (5) calendar days. If a delete, explicit renew, or transfer operation occurs within the five calendar days, the following rules apply:

- **Delete:** If a domain name is deleted within the add grace period, the sponsoring registrar is credited for the amount of the registration. The domain name is deleted from the registry database and is immediately available for registration by any registrar. If a domain name is deleted after the five-day grace period expires, it will be placed in "redemption period" status for 30 calendar days.
- **Explicit Renew:** If a domain name is explicitly renewed within the add grace period, there is no credit for the add. In addition to the initial registration charge, the registrar's available credit will be debited for the number of years the registration is explicitly renewed. The expiration date of the domain name is extended by the number of years as specified by the registrar's requested explicit renew operation up to a maximum resulting registration period of not more than 10 years.
- **Registrar Transfer:** A domain name may not be transferred within the add grace period.

#### Explicit Renew Grace Period

The "explicit renew grace period" is a specified number of calendar days following the explicit renewal of a domain name registration period. The value of the explicit renew grace period is five (5) calendar days. If a delete, explicit renew, or transfer operation occurs within the five calendar days, the following rules apply:

- **Delete:** If a domain name is deleted within the explicit renew grace period, the sponsoring registrar receives a credit of the explicit renew fee and the domain name is placed on "redemption period" status.
- **Explicit Renew:** A domain name can be extended within the explicit renew grace period for up to a maximum of 10 years. The domain name renewal request will be rejected if the totals years requested are greater than 10 years. The registrar's available credit will be debited for each of the additional number of years the registration is explicitly renewed.
- **Registrar Transfer:** If a domain name is transferred within the explicit renew grace period, there is no explicit renew credit. The expiration date of the domain name is extended by one year for the transfer and the years added as a result of the explicit renew remain on the domain name up to a maximum of 10 years. The gaining registrar is charged for that additional year for the transfer, even in cases where a full year is not added because of the 10-year maximum limitation.

### Auto-Renew Grace Period

The "auto-renew grace period" is a specified number of calendar days following an auto-renewal. An auto-renewal occurs if a domain name registration is not explicitly renewed or deleted by the expiration date; in this circumstance the registration will be automatically renewed by the system the first day after the expiration date and the registrar's available credit will be debited. The value of the auto-renew grace period is 45 calendar days. If a delete, explicit renew, or transfer operation occurs within the auto-renew grace period, the following rules apply:

- **Delete:** If a domain name is deleted within the auto-renew grace period, the registrar receives a credit of the auto-renew fee at the time of the deletion. The domain name is then placed on Redemption Period status.
- **Explicit Renew:** A domain name can be explicitly renewed within the auto-renew grace period for up to a total of 10 years. The account of the sponsoring registrar at the time of the additional extension will be charged for the additional number of years the registration is explicitly renewed.
- **Registrar Transfer:** If a domain name is transferred within the auto-renew grace period, the losing registrar receives a credit of the auto-renew fee and the year added by the auto-renew operation is cancelled. The expiration date of the domain name is extended by one year up to a total maximum of 10 by virtue of the transfer and the gaining registrar is charged for that additional year, even in cases where a full year is not added because of the 10-year maximum limitation.

### Registrar Transfer Grace Period

The "registrar transfer grace period" is a specified number of calendar days following the completion of a domain name transfer. The value of the registrar transfer grace period is five calendar days. If a delete, explicit renew, or transfer operation occurs within the five (5) calendar days, the following rules apply:

- **Delete:** If a domain name is deleted within the registrar transfer grace period, the sponsoring Registrar receives a credit for the transfer fee and the domain name is placed in Redemption Period status.
- **Explicit Renew:** If a domain name is explicitly renewed within the transfer grace period, there is no credit for the transfer. In addition to the transfer fee, the registrar's available credit will be debited for the number of years the registration is explicitly renewed. The expiration date of the domain name is renewed by the number of years as specified by the registrar's requested explicit renew operation up to a maximum resulting registration period of not more than 10 years.
- **Registrar Transfer:** If a domain name is transferred within the registrar transfer grace period, there is no credit. The expiration date of the domain name is extended by one year up to a maximum term of 10 years.

### Redemption Period Status

When a domain name is deleted outside of the add grace period or within the registrar transfer, auto-renew, or explicit renew grace periods, it is placed on redemption period status for 30 days. The redemption period works as follows:

- Domain name deleted.
- Domain name is removed from the zone.
- Domain name placed on redemption period for 30 days.
- No modifications can be made to the domain name while in redemption period status.
- The redemption period status can only be removed by using the "restore" command.
- If the domain name is NOT restored during the 30 day window, the name is then placed on "pending delete" status for five days.
- While in "pending delete" status, the domain name cannot be restored.
- After the five day "pending delete" period expires, the domain name will be deleted.

### Restore Command

The "restore command" allows a registrar to remove the redemption period status from a domain name. The restore command is a billable transaction and debits the registrar's account each time it is issued. The restore command requires the registrar to complete two actions:

- Pass the restore command to CCLLC.

- Complete the restore report.
- Details regarding the restore command:
- The restore command will remove the redemption period status.
  - The restore command cannot be submitted for premium names.
  - The restore operation will not change the registration expiration date even if the domain name has already expired. When an expired domain name is restored and the restore report is successfully received for the domain name, the auto-renew batch process will extend the expiration date to be one year from the current expiration date.
  - NOTE: If a restore has been requested but the restore report has not been processed for that domain name, then it will not be included in the Auto-Renew Batch process.
  - A successful restore command will place the name on "pending restore" status for seven (7) days.
  - Domain names on "pending restore" status will be included in the zone files.

Details regarding the restore report:

The restore report is the second step in the restore command process. Once a registrar has successfully removed the redemption period status from a domain name using the restore command, they must submit an explanation to CCLLC. This is accomplished by completing the restore report.

- Once the registrar has successfully executed the restore command, the domain name will now be on "pending restore" status.
- The "pending restore" period is seven (7) calendar days.
- During this seven-day window, the registrar must submit a restore report to CCLLC.
- If CCLLC receives the restore report, the domain name will be placed in "active" status.
- If CCLLC does NOT receive the restore report within the seven-day window, then the domain name is returned to redemption period status.

As part of their restore report, a registrar will be required to submit the following details as part of their restore report:

A. A copy of registrar's WHOIS data for the deleted name as it appeared prior to the deletion. The WHOIS data must contain the following:

- Correct name of the registered domain name
- Non-blank nameserver name(s), or "none"
- Correctly formatted date in original creation date field
- Correctly formatted date in expiration date field
- Non-blank field for the name and address of the registrant
- Non-blank field for the name and address of the administrative contact
- Non-blank field for the email address of the administrative contact
- Non-blank field for the voice telephone number of the administrative contact
- Fax number of the administrative contact, if provided
- Non-blank field for the name and address of the technical contact
- Non-blank field for the email address of the technical contact
- Non-blank field for the voice telephone number of the technical contact
- Fax number of the technical contact if provided.

B. The date and time the registered domain name was deleted. (CCLLC requires properly formatted date and time.)

C. The date and time the restore operation was performed on this domain name. (CCLLC requires properly formatted date and time.)

D. A brief explanation of the reason why the domain name was restored.

CCLLC will process all restore report submissions in a one-time batch process. Once the restore report batch is processed, CCLLC will convert the domain names to "active" status.

#### SYNC Calculations

The SYNC operation can be used to move the expiration date of the domain name forward to a specific date (month and day) that is provided in the command.

- The year will not be provided in the command. This will reduce the amount of

invalid data and the attempts to SYNC and RENEW in one transaction. If the registrant wishes to SYNC the dates and RENEW for one to 10 years, this will be handled as two separate transactions.

- If the month and date is later than the current expiration month and date, then the expiration date will be extended within the same calendar year as the current expiration date.
- If the month and date is earlier than the current expiration month and date, then the expiration date will be extended to that month and date in the calendar year following the current expiration date.
- If the month and date in the command is equal to the current expiration month and date, then an error will be returned. (This eliminates the possibility of executing a repeated SYNC command.)
- Registrars are charged for the SYNC operation for each domain, based on the number of calendar months the expiration date is extended. The minimum charge is for one month.
- The maximum charge is for 11 months. If a registrar issues a SYNC command on a domain name setting the expiration date less than one month, CCLLC will charge the registrar for one month.
- If a Registrar issues a SYNC command on a domain name setting the expiration date to N months and X days, we charge the registrar for N months.
- If the expiration is extended within the same month (whether it is one day or 30 days), the SYNC period will be defined as one month. (e.g., January 1 to January 15 is counted as one month)

NOTE: If the current expiration is January 15 and the SYNC operation is changing it to January 1, then this will be counted as 11 months because the registration is being extended to January 1 of the following year. If the expiration is extended to a different month, then the SYNC period will be defined based on the number of calendar months. (e.g., March 5 to October 27 is counted as seven months, October 27 to March 5 is counted as five months, June 1 to July 31 is counted as one month).

#### SYNC Grace Period

There is no SYNC Grace Period. If the SYNC is successfully executed during an add, renew, auto-renew, or transfer grace period, the following rules apply:

- Add: A domain name can be synchronized within the add grace period. The SYNC command will not extend the domain name registration beyond the 10-year registration limit. If the domain name is deleted during the add grace period, the sponsoring registrar is credited for the amount of the registration only and not the SYNC.
- Renew and Auto-Renew: A domain name can be synchronized within the renew and auto-renew grace period. The SYNC command will not extend the domain name registration beyond the 10-year registration limit. If the domain name is deleted during the renew or auto-renew grace period, then the sponsoring registrar is credited for only the renewal or auto-renewal and not the SYNC.
- Transfer: A domain name can be synchronized within the transfer grace period. The SYNC command will not extend the domain name registration beyond the 10-year registration limit. If the domain name is deleted during the transfer grace period, the sponsoring registrar is credited for the amount of the transfer only and not the SYNC.

## 28. Abuse Prevention and Mitigation

Our policies require that controls are in place (and will remain in place) that are in compliance with the RRA, including multi-factor authentication (See Security Audit Report), as well as requiring multiple points of contact for update, transfer, and deletion requests and notification of multiple, unique points of contact when a domain has been modified (updated, transferred, deleted, etc.)

#### Abuse Prevention Policy

## Use of the Domain Name

For each domain name registered by Registrar (on behalf of itself or a registrant), Registrar shall:

- A. Ensure that the domain name is not registered, used, displayed, or exploited in contravention or violation of these policies or any other policies regarding .shop, in contravention of the laws of any jurisdiction where the domain name is accessible, or for any unlawful purpose, including, but not limited to, child pornography, child entrapment or abuse, advocacy of hatred, bigotry, or violence towards persons or groups on the basis of their religion, race, ethnicity, sexual orientation, or other immutable characteristics, theft of email service, or as a source of unsolicited bulk email or as an address to use for replying to unsolicited bulk email;
- B. Ensure that the registration, use, display, and exploit of any domain name is done in good faith, and in accordance with international, federal, and state laws and regulations;
- C. Not publicly offer, advertise, or otherwise make available the delegation of subdomains from the domain name;
- D. Recognize that the use of the domain name may be subject to applicable laws in all jurisdictions in which the domain name is used or accessible, including those concerning trademarks and other types of intellectual property.

### 1) Single Abuse Point of Contact

The single abuse point of contact will be the network security administrator. As the network security administrator it is his/her job to have intricate knowledge about the registry and the network at Commercial Connect. This includes the following:

- Knowledge of how systems interact with the Commercial Connect Registry
- Intricate knowledge of which application on the registry have access to outside the network (internet)
- Be able to provide knowledge of the firewalls in place on the registry system
- Provide reports of usage on the registry (reports and log files on traffic)
- Also have intricate knowledge of any possible security risks or threats to the network or registry and be able to provide appropriate solutions to when threats or risks are discovered.

The plan for reaching this person during a single abuse point of contact will be to call customer support who will then determine if the appropriate action is to notify the network security administrator. The network security or a network security analyst backup will be on-call 24/7 for emergency issues. The abuse can be replayed through telephone or website inquiry. The implementation plan will ensure that this link, along with UDRP and other key policies are located at the bottom of our website and can be distributed in our WHOIS replied. The Senior Network Security office will receive all emails and phone calls related to abuse. The Senior Network Security Office or a network security analyst backup will be on-call 24/7 for emergency issues.

### 2) Handling of Complaints of Abuse

The handling of complaints of abuse will be followed in the following fashion. The first person of contact will be customer support who will help with basic troubles like log in information and any other basic account or connectivity problems. From there it will go to a network engineer who will help if a network device or registry system seems to be the trouble. From the network engineer it will then go to the Network Security Officer if it is believed that any sensitive or private information was accidentally given out or if a major registry system/network system is failing. If the Network Security Officer is unable to resolve the issue, he will confer with network engineers, legal staff and/or administration and take the steps appropriate to resolve the situation or see that it has the proper attention.

### 3) Policy for glued orphans

The policy for glued orphans will be to change their name servers to show as invalid. This issue most not likely will occur until such a time that it is reported as abusive.



Whether casual observance or an abuse situation, the Data Integrity Supervisor will be responsible for verifying and/or changing that status of glued orphan records and notify, by email, the domain owner, admin, and tech about the orphaned domain.

The owner, admin, and tech will then be allowed to change to another domain name server through their sponsoring registrar.

#### WHOIS Accuracy

Our WHOIS accuracy is directly tied to our verification process. Applicants are required to be verified annually, and this stringent verification process is what is available in the WHOIS record. This virtually eliminates the possibility of inaccurate or false WHOIS data.

#### Number and description of personnel roles in Abuse Prevention and Mitigation

3 – Customer Support technical staff : These employees will be specifically trained on the proper way to handle support emails and phone calls as well as being trained to the level of N+ certification.

1 – Senior Customer Support Manager: Manages and helps out support staff that may have trouble with certain support calls or emails. Also is in charge of deciding if the situation is important enough to pass on to the Senior Network Engineer.

2 – Senior Network Engineer (one is Data Integrity Supervisor ): Is responsible for day to day tasks on the network including maintenance. Accepts support emails and support calls if the Senior Customer Support Manager deems the issue in question necessary for the Senior Network Engineer. If the Senior Network Engineer sees that the issue is important enough will pass the issue up to the Network Administrator.

1 – Network Security Officer: Is responsible for the overall health and security for the entire network and registry. It is the Network Security Administrators job to know the intricate workings of the entire network and registry operations. The network security administrator is also the single point of contact for abuse.

The following is extracted from our abuse prevention policy:

1.1 Commercial Connect LLC and the .shop domain name must only be used for lawful purposes. The creation, transmission, distribution, storage of, or linking to any material in violation of applicable law or regulation is prohibited. This may include, but is not limited to, the following:

(1) Communication, publication or distribution of material (including through links or framing) that infringes upon the intellectual and/or industrial property rights of another person. Intellectual and/or industrial property rights include, but are not limited to: copyrights (including future copyright), design rights, patents, patent applications, trademarks, rights of personality, and trade secret information.

(2) Use of a .shop domain name in circumstances in which:

(a) The .shop domain name is identical or confusingly similar to a personal name, company, business or other legal or trading name as registered with the United States government or other international rights and channels, or a trade or service mark in which a third party complainant has uncontested rights, including without limitation in circumstances in which:

(i) The use deceives or confuses others in relation to goods or services for which a trademark is registered in the United States or other similar international rights and channels, or in respect of similar goods or closely related services, against the wishes of the registered proprietor of the trademark; or

(ii) The use deceives or confuses others in relation to goods or services in respect of which an unregistered trademark or service mark has become distinctive of the goods or services of a third party complainant, and in which the third party complainant has established a sufficient reputation under United States government guidelines or other similar international rights and channels, against the wishes of the third party complainant; or

- (iii) The use trades on or passes-off a .shop domain name or a website or other content or services accessed through resolution of a .shop domain as being the same as or endorsed, authorized, associated or affiliated with the established business, name or reputation of another; or
- (iv) The use constitutes intentionally misleading or deceptive conduct in breach of US trademark recommendations, or the laws of the United States government or related international rights; or
- (b) The .shop domain name has been used in bad faith, including without limitation the following:
- (i) The User has used the .shop domain name primarily for the purpose of unlawfully disrupting the business or activities of another person; or
- (ii) By using the .shop domain name, the user has intentionally created a likelihood of confusion with respect to the third party complainant's intellectual or industrial property rights and the source, sponsorship, affiliation, or endorsement of website(s), email, or other online locations or services or of a product or service available on or through resolution of a .shop domain name;
- (iii) For the purpose of unlawfully selling, renting or otherwise transferring the domain name to an entity or to a commercial competitor of an entity, for valuable consideration in excess of a user's documented out-of-pocket costs directly associated with acquiring the domain name;
- (iv) As a blocking registration against a name or mark in which a third party has superior intellectual or industrial property rights.
- (3) A .shop domain name registration which is part of a pattern of registrations where the user has registered domain names which correspond to well-known names or trademarks in which the user has no apparent rights, and the .shop domain name is part of that pattern;
- (4) The .shop domain name was registered arising out of a relationship between two parties, and it was mutually agreed, as evidenced by writing, that the registrant would be an entity other than that currently in the register.
- (5) Unlawful communication, publication or distribution of registered and unregistered know-how, confidential information and trade secrets.
- (6) Communication, publication or distribution, either directly or by way of embedded links, of images or materials (including, but not limited to blatantly deviant, abusive and unlawful pornographic material and images or materials as defined under the US justice system) where such communication, publication or distribution is prohibited by or constitutes an offense under the laws of the United States government, whether incorporated directly into or linked from a web site, email, posting to a news group, internet forum, instant messaging notice which makes use of domain name resolution services in the .shop TLD.  
Material that is considered blatantly deviant, abusive and unlawfully pornographic, indecent, and/or obscene or which is otherwise prohibited includes, by way of example and without limitation, real or manipulated images depicting child pornography, bestiality, excessively violent or sexually violent material, and material containing detailed instructions regarding how to commit a crime, an act of violence, or how to prepare and/or use illegal drugs.
- (7) Communication, publication or distribution of defamatory material or material that constitutes racial vilification.
- (8) Communication, publication or distribution of material that constitutes an illegal threat or encourages conduct that may constitute a criminal offense.
- (9) Communication, publication or distribution of material that is in contempt of the orders of a court or another authoritative government branch, within the United States government.
- (10) Use, communication, publication or distribution of software, technical information or other data that violates export control laws.

(11) Use, communication, publication or distribution of confidential or personal information or data which violates any right of privacy including confidential or personal information about persons that is collected without their knowledge or consent.

## 2. ELECTRONIC MAIL

2.1 We have the option to suspend your domain name for the following Activities:

(1) Communicating, transmitting or sending unsolicited bulk email messages or other electronic communications ("junk mail" or "Spam") of any kind including, but not limited to, unsolicited commercial advertising, informational announcements, and political or religious tracts as outlined in the current provisions and requirements of the United States government.

(2) Communicating, transmitting or sending any material by email or otherwise that harasses, or has the effect of harassing, another person or that threatens or encourages bodily harm or destruction of property including, but not limited to, malicious email and flooding a user, site, or server with very large or numerous pieces of email or illegitimate service requests.

(3) Communicating, transmitting, sending, creating, or forwarding fraudulent offers to sell or buy products, messages about "make-money fast", "pyramid" or "Ponzi" type schemes or similar schemes, and "chain letters" whether or not the recipient wishes to receive such messages.

(4) Adding, removing, modifying or forging network header information with the effect of misleading or deceiving another person or attempting to impersonate another person by using forged headers or other identifying information ("Spoofing").

## 3. Disruption of Commercial Connect, LLC Network

3.1 No-one may use Commercial Connect, LLC or a .shop domain name for the purpose of:

(1) Restricting or inhibiting any person in their use or enjoyment of Commercial Connect, LLC or a .shop domain name or any service or product of Commercial Connect, LLC.

(2) Actually or purportedly reselling Commercial Connect, LLC services and products without the prior written consent of Commercial Connect LLC.

(3) Transmitting any communications or activity which may involve deceptive marketing practices such as the fraudulent offering of products, items, or services to any other party.

(4) Providing false or misleading information to Commercial Connect, LLC or to any other party through the Commercial Connect network.

(5) Facilitating or aiding the transmission of confidential information, private, or stolen data such as credit card information (without the owner's or cardholder's consent).

## 4. CONSUMER PROTECTION, FAIR TRADING

4.1 A user using a .shop domain to sell goods or services over the Internet must provide clear links with sufficient and accurate contact details on such website so that consumers have the ability to contact the seller of such goods or services, and so that customers and prospective customers are clearly advised of any territorial limitations on the offer, sale or provision of any goods or services offered, sold or provided, and of any applicable laws, jurisdiction or US government recommendations. In the event that it is credibly alleged that a .shop domain name registrant has not followed such laws,

Commercial Connect, LLC will furnish the contact details for the registrant in accordance with the Commercial Connect, LLC Privacy Policy.

## 5. NETWORK INTEGRITY AND SECURITY

5.1 Users are prohibited from circumventing or attempting to circumvent the security of any host, network or accounts ("cracking" or "hacking") on, related to, or accessed through the Commercial Connect, LLC network. This includes, but is not limited to:

- (1) Accessing data not intended for such user;
- (2) Logging into a server or account which such user is not expressly authorized to access;
- (3) Falsifying a username or password;
- (4) Probing the security of other networks;
- (5) Executing any form of network monitoring which will intercept data not intended for such user.

5.2 Users are prohibited from effecting any network security breach or disruption of any internet communications including, but not limited to:

- (1) Accessing data of which such user is not an intended recipient; or
- (2) Logging onto a server or account which such user is not expressly authorized to access.

For the purposes of this section 5.2, "disruption" includes, but is not limited to: Port scans, ping floods, packet spoofing; forged routing information; deliberate attempts to overload a service, and attempts to "crash" host; using Commercial Connect, LLC in connection with the use of any program, script, command, or sending of messages to interfere with another user's terminal session by any means, locally or by the Internet.

5.3 Users who compromise or disrupt the Commercial Connect network systems or security may incur criminal or civil liability. Commercial Connect will investigate any such incidents and will cooperate with law enforcement agencies if a crime is suspected to have taken place.

## NON-EXCLUSIVE, NON-EXHAUSTIVE

This Abuse Prevention Policy is intended to provide guidance as to what constitutes acceptable use of Commercial Connect, LLC and of the .shop domain name. However, this policy is neither exhaustive nor exclusive.

## COMPLAINTS

Persons who wish to notify Commercial Connect, LLC of abusive conduct in violation of this policy may report the same pursuant, which is instituted by submitting to Commercial Connect a completed Use Policy Violation Complaint Form.

## ENFORCEMENT

Commercial Connect, LLC may, in its sole discretion, suspend or terminate a user's service for violation of any of the requirements or provisions of the United States government on receipt of a complaint if Commercial Connect LLC believes suspension or termination is necessary to comply with the law, protect the public interest, prevent unlawful activity or protect the health, safety, or privacy of an individual.

If immediate action is not required, Commercial Connect, LLC will work with registrants

and a complainant to remedy violations.

#### LIMITATION OF LIABILITY

In no event shall Commercial Connect, LLC be liable to any user of the network, any customer, nor any third party for any direct, indirect, special or consequential damages for actions taken pursuant to this policy, including, but not limited to, any lost profits, business interruption, loss of programs or other data, or otherwise, even if Commercial Connect, LLC was advised of the possibility of such damages. Commercial Connect's liability for any breach of a condition or warranty implied by the registration Agreement or this policy shall be limited to the maximum extent possible to one of the following (as Commercial Connect may determine):

- (I) Supplying the services again; or
- (ii) Paying the cost of having the services supplied again.

#### REMOVAL OF CONTENT RESPONSIBILITY

At its sole discretion, Commercial Connect, LLC reserves the right to:

- (i) Remove or alter content, zone file data or other material from its servers provided by any person that violates the provisions or requirements of this policy; or
- (ii) Terminate access to Commercial Connect, LLC's domain name by any person that is determined to have violated the provisions or requirements of this policy.

In any regard, Commercial Connect, LLC is not responsible for the content or message of any newsgroup posting, email message, or web site regardless of whether access to such content or message was facilitated by the Commercial Connect network. Commercial Connect, LLC does not have any duty to take any action with respect to such content or message by creating this abuse prevention user's policy, and Users of Commercial Connect, LLC are obliged and required to ensure that their use of a .shop domain name or Commercial Connect, LLC is at all times in accordance with the requirements of this abuse prevention policy and any applicable laws and/or regulations.

#### Law Enforcement Response

Commercial Connect will respond to law enforcement requests within 24 hours in most cases, or whatever is applicable, dependent on the violation or request from the governmental agency.

This is extracted from our anticipated RRA Agreement:

#### Registry-Registrar Agreement

This Registry-Registrar Agreement (this "Agreement") is between Commercial Connect, LLC dba Commercial Connect, a Delaware corporation, with its principal place of business located in Louisville, KY, USA ("Registry Operator"), and [Registrar's name], a [jurisdiction and type of organization], with its principal place of business located at [Registrar's location] ("Registrar").

WHEREAS, Registry Operator has entered a Registry Agreement with the Internet Corporation for Assigned Names and Numbers to operate a shared registration system and related services, TLD nameservers, and other equipment for the .shop top-level domain and the .shop second-level domains (collectively the ".shop TLD");

WHEREAS, multiple registrars will provide Internet domain name registration services within the .shop TLD; and

WHEREAS, Registrar wishes to act as a registrar for domain names within the .shop TLD,

NOW, THEREFORE, for and in consideration of the mutual promises, benefits and covenants contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Registry Operator and Registrar, intending to be legally bound, hereby agree as follows:

1.17. The "Verification Toolkit" may be used to verify the right of an applicant for a Registered Name to register in the .shop TLD.

1.18. "TOU" means the Terms of Use Agreement between Registrar and Registered Name Holder.

Other terms used in this Agreement as defined terms shall have the meanings ascribed to them in the context in which they are defined.

## 2. OBLIGATIONS OF REGISTRY OPERATOR

2.1. Access to Registry System. Throughout the Term, Registry Operator shall provide Registrar with access as a registrar to the Registry System that Registry Operator operates according to its arrangements with ICANN. Nothing in this Agreement entitles Registrar to enforce any agreement between Registry Operator and ICANN.

2.2. Maintenance of Registrations Sponsored by Registrar. Subject to the provisions of this Agreement, the Registry Agreement, ICANN requirements, and Registry Operator requirements authorized by ICANN, Registry Operator shall maintain the registrations of Registered Names sponsored by Registrar in the Registry System during the term for which Registrar has paid the fees required.

### 2.3. Provision of Toolkit; License.

2.3.1. After the Effective Date and at least seven days prior to the date on which Registrar will begin operations in the .shop TLD, Registry Operator shall provide to Registrar a copy of the Registrar Toolkit, which shall provide sufficient technical specifications to allow Registrar to interface with the Registry System and employ the features of the Registry System that are available to Registrars for purposes of offering Registry Services. Subject to the terms and conditions of this Agreement, Registry Operator hereby grants Registrar and Registrar accepts a non-exclusive, non-transferable, worldwide limited license to use for the Term and purposes of this Agreement all components owned by or licensed to Registry Operator in and to the RRP, APIs, any reference client software and any other intellectual property included in the Registrar Toolkit, as well as updates and redesigns thereof, to provide domain name registration services in the .shop TLD only and for no other purpose.

2.3.2. After the Effective Date, Registry Operator may offer additional Toolkits described herein. Subject to the terms and conditions of this Agreement, Registry Operator hereby grants Registrar and Registrar accepts a non-exclusive, non-transferable worldwide limited license to use for the Term and purposes of this Agreement all components owned by or licensed to Registry Operator in and to the software and any other intellectual property included in such Toolkits, as well as updates and redesigns thereof, for the following purposes only and for no other purpose.

a. Verification Toolkit: for purposes of verifying domain name registration in the .shop TLD only and for no other purpose.

b. Additional Toolkits that Registry Operator may offer from time to time, to be provided on a basis and subject to licensing provisions of this Agreement. Registry Operator shall promptly notify Registrar regarding the Toolkit as such Toolkit becomes available.

2.4. Changes to System. Registry Operator may from time to time make modifications to the RRP, APIs, or other software licensed hereunder that will modify, revise or augment the features of the Registry System. Registry Operator will provide Registrar with at least ninety days' notice prior to the implementation of any material changes to the RRP, APIs or software licensed hereunder. This notice period shall not apply in the event Registry Operator's system is subject to the imminent threat of failure or a material security threat, or there is the discovery of a major security vulnerability or a Denial of Service (DoS) attack where the Registry Operator's systems are rendered inaccessible by being subject to (i) excessive levels of data traffic, (ii) unauthorized traffic, or (iii) data traffic not conforming to the protocols used by the Registry Operator's system.

2.5. Engineering and Customer Service Support. Registry Operator shall provide Registrar with engineering and customer service support.

2.6. Handling of Personal Data. Registry Operator shall notify Registrar of the purposes for which Personal Data submitted to Registry Operator by Registrar is collected, the

intended recipients (or categories of recipients) of such Personal Data, and the mechanism for access to and correction of such Personal Data. Registrar shall provide all such information to holders of Registered Names it sponsors in the .shop TLD promptly upon receipt from Registry Operator. Registry Operator shall take reasonable steps to protect Personal Data from loss, misuse, unauthorized disclosure, alteration or destruction. Registry Operator shall not use or authorize the use of Personal Data in a way that is incompatible with the notice provided to registrars.

2.7. Service Level Agreement. Registry Operator shall issue credits to Registrar as described in, and shall otherwise comply with its known obligations.

2.8. ICANN Requirements. Registry Operator's obligations hereunder are subject to modifications from time to time as the result of ICANN-mandated requirements and consensus policies. Notwithstanding anything in this Agreement to the contrary, Registrar shall comply with any such ICANN requirements and shall require any Registered Name Holder to comply with such requirements in accordance with implementation schedules and arrangements established by ICANN or the Registry Operator.

2.9. TOU. Registry Operator shall provide to Registrar a TOU. Registry Operator shall conduct random tests on samples of registered names to ensure compliance with the terms of The TOU.

### 3. OBLIGATIONS OF REGISTRAR

3.1. Accredited Registrar. During the Term of this Agreement, Registrar shall maintain in full force and effect its accreditation by ICANN as a registrar for the Registry TLD.

3.2. Registrar Responsibility for Customer Support. Registrar shall at a minimum provide (i) support to accept orders for Registered Names, including registrations, cancellations, deletions, and transfers, and (ii) customer service (including domain name record support) and billing and technical support to Registered Name Holders.

3.3. Registrar's Registration Agreement. At all times while it is sponsoring the registration of any Registered Name within the Registry System, Registrar shall have in effect an electronic or paper registration agreement with the Registered Name Holder. Registrar may from time to time amend those forms of registration agreement or add alternative forms of registration agreement, provided a copy of the amended or alternative registration agreement is furnished to the Registry Operator fourteen (14) calendar days in advance of the use of such amended registration agreement. Registrar shall include in its registration agreement with each Registered Name Holder those terms required by this Agreement and other terms that are consistent with Registrar's obligations to Registry Operator under this Agreement.

3.4. Indemnification Required of Registered Name Holders. In its registration agreement with each Registered Name Holder, Registrar shall require such Registered Name Holder to indemnify, defend and hold harmless Registry Operator, its subsidiaries, affiliates, divisions, shareholders, directors, officers, employees, accountants, attorneys, insurers, agents, predecessors, successors and assigns, from any and all claims, demands, losses, costs, expenses, causes of action or other liabilities of any kind, whether known or unknown, in any way arising out of, relating to, or otherwise in connection with the Registered Name Holder's domain name registration. The registration agreement shall further require that this indemnification obligation survive the termination or expiration of the registration agreement.

3.5. Data Submission Requirements. As part of its registration and sponsorship of Registered Names in the Registry TLD, Registrar shall submit complete data as required by technical and policy specifications of the Registry System that are made available to Registrar from time to time. Registrar shall be responsible for verifying the accuracy of the data submitted to the Registry Operator. Registrar hereby grants Registry Operator a non-exclusive, non-transferable, limited license to such data for propagation of and the provision of authorized access to the TLD zone files and as otherwise required in Registry Operator's operation of the Registry TLD. This Subsection 3.5 does not limit the Registry Operator's ability to directly receive data from Registered Name Holders.

3.6. Security. Registrar shall develop and employ in its domain name registration business all necessary technology and restrictions to ensure that its connection to the Registry System is secure and that all data exchanged between Registrar's system and the Registry System shall be protected to avoid unintended disclosure of information. Each RRP session shall be authenticated and encrypted using two-way secure socket layer protocol. Registrar agrees to authenticate every RRP client connection with the Registry

System using both an X.509 server certificate issued by a commercial Certificate Authority identified by Registry Operator and its Registrar password, which it shall disclose only to its employees and contractors with a need to know and an obligation not to disclose. Registrar agrees to notify Registry Operator within four hours of learning that its Registrar password has been compromised in any way or if its server certificate has been revoked by the issuing Certificate Authority or compromised in any way. Registrar shall employ the necessary measures to prevent its access to the Registry System granted hereunder from being used to (i) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than its own existing customers; or (ii) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator, any other registry operated under an agreement with ICANN, or any ICANN-accredited registrar, except as reasonably necessary to register domain names or modify existing registrations.

3.7. Resolution of Technical Problems. Registrar shall employ necessary employees, contractors, or agents with sufficient technical training and experience to respond to and fix all technical problems concerning the use of the RRP, the APIs and the systems of Registry Operator in conjunction with Registrar's systems. In the event of significant degradation of the Registry System or other emergency, Registry Operator may, in its sole discretion, temporarily suspend Registrar's access to the Registry System. Such temporary suspensions shall be applied in a non-arbitrary manner and shall apply fairly to any registrar similarly situated, including affiliates of Registry Operator.

3.8. Time. In the event of any dispute concerning the time of the entry of a domain name registration into the Registry database, the time shown in the Registry records shall control.

3.9. Change in Registrar Sponsoring Domain Name. Registrar may assume sponsorship of a Registered Name Holder's existing domain name registration from another registrar by following the policy. When transferring sponsorship of a Registered Name to or from another registrar, Registrar shall comply with the requirements.

3.10. Compliance with Terms and Conditions. Registrar shall comply with, and shall include in its registration agreement with each Registered Name Holder as appropriate, all of the following:

3.10.1. ICANN standards, policies, procedures, and practices for which Registry Operator has responsibility in accordance with the Registry Agreement or other arrangement with ICANN; and

3.10.2. operational standards, policies, procedures, and practices for the Registry TLD established from time to time by Registry Operator in a manner consistent with the Registry Agreement and its Appendices, and consistent with ICANN's standards, policies, procedures, and practices. Among Registry Operator's operational standards, policies, procedures, and practices, Additional or revised Registry Operator operational standards, policies, procedures, and practices for the Registry TLD shall be effective upon thirty days' notice by Registry Operator to Registrar; and

3.10.3. The TOU.

3.11. Restrictions on Registered Names. In addition to complying with ICANN and Registry Operator standards, policies, procedures, and practices limiting domain names that may be registered, Registrar agrees to comply with applicable statutes and regulations limiting the domain names that may be registered.

3.12. Service Level Agreement. Registrar shall comply with its obligations.

3.13. Compliance Monitoring and Enforcement. Registrar agrees to comply with and facilitate random tests on samples of registered names to ensure compliance with the TOU. In addition, Registrar agrees to enforce the terms of the TOU as they relate to the Registered Name Holder as directed by the Registry Operator. In the event of a dispute between the Registry Operator and the Registrar, Registrar agrees to defer to the opinion of the Registry Operator.

#### 4. FEES

4.1. Amount of Registry Operator Fees. Registrar agrees to pay Registry Operator the fees set for initial and renewal registrations and other Registry Services provided by Registry Operator to Registrar (collectively, "Fees"). Registry Operator reserves the right to revise the Fees prospectively upon thirty days' notice to Registrar, provided that such adjustments are consistent with Registry Operator's Registry Agreement with



ICANN. In addition, Registrar agrees to pay Registry Operator the applicable variable fees assessed to Registry Operator by ICANN, as permitted by Subsection 7.2(c) of the Registry Agreement by no later ten (10) days after the date of an invoice from Registry Operator for such fees.

4.2. Payment of Registry Operator Fees. In advance of incurring Fees, Registrar shall establish a letter of credit, deposit account, or other credit terms accepted by Registry Operator, which acceptance will not be unreasonably withheld. Registry Operator will invoice Registrar monthly in arrears for the Fees incurred by Registrar in the month. All Fees are due immediately upon receipt of Registry Operator's invoice pursuant to the letter of credit, deposit account, or other credit terms.

4.3. Non-Payment of Fees. Registrar's timely payment of Fees is a material condition of Registry Operator's obligations under this Agreement. In the event that Registrar fails to pay its Fees within five days of the date when due, Registry Operator may do any or all of the following: (i) stop accepting new initial or renewal registrations from Registrar; (ii) delete the domain names associated with invoices not paid in full from the Registry database; (iii) give written notice of termination of this Agreement and (iv) pursue any other remedy under this Agreement.

## 5. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

5.1. Use of Confidential Information. During the Term of this Agreement, each party (the "Disclosing Party") may disclose its Confidential Information to the other Party (the "Receiving Party"). Each party's use and disclosure of the Confidential Information of the other party shall be subject to the following terms and conditions:

5.1.1. The Receiving Party shall treat as strictly confidential, and use all reasonable efforts to preserve the secrecy and confidentiality of, all Confidential Information of the Disclosing Party, including implementing reasonable physical security measures and operating procedures.

5.1.2. The Receiving Party agrees that it will use any Confidential Information of the Disclosing Party solely for the purpose of exercising its right or performing its obligations under this Agreement and for no other purposes whatsoever.

5.1.3. The Receiving Party shall make no disclosures whatsoever of any Confidential Information of the Disclosing Party to others; provided, however, that if the Receiving Party is a corporation, partnership, or similar entity, disclosure is permitted to the Receiving Party's officers, employees, contractors (including sub-contractors) and agents who have a demonstrable need to know such Confidential Information, provided the Receiving Party shall advise such personnel of the confidential nature of the Confidential Information and of the procedures required to maintain the confidentiality thereof, and shall require them to acknowledge in writing that they have read, understand, and agree to be individually bound by the confidentiality terms of this Agreement.

5.1.4. The Receiving Party shall not modify or remove any confidentiality legends and/or copyright notices appearing on any Confidential Information of the Disclosing Party.

5.1.5. The Receiving Party agrees not to prepare any derivative works based on the Confidential Information.

5.1.6. Notwithstanding the foregoing, this imposes no obligation upon the parties with respect to information that (i) is or was disclosed in the absence of a confidentiality agreement and such disclosure is or was with the Disclosing Party's prior written approval; or (ii) is or has entered the public domain through no fault of the Receiving Party; or (iii) is known by the Receiving Party prior to the time of disclosure; or (iv) is independently developed by the Receiving Party without use of the Confidential Information; or (v) is made generally available by the Disclosing Party without restriction on disclosure; or (vi) is necessarily disclosed to verify compliance with the restrictions for registration within the .shop TLD or (vii) is required to be disclosed by order of a court of competent jurisdiction, to the extent required by the order.

5.1.7. The Receiving Party's duties under this shall expire two (2) years after the information is received or earlier, upon written agreement of the Parties.

5.1.8. EXCEPT AS MAY OTHERWISE BE SET FORTH IN A SIGNED, WRITTEN AGREEMENT BETWEEN THE PARTIES, THE PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE ACCURACY, COMPLETENESS, CONDITION, SUITABILITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY OF ANY CONFIDENTIAL INFORMATION, AND THE PARTIES SHALL HAVE NO LIABILITY WHATSOEVER TO ONE ANOTHER RESULTING FROM RECEIPT OR USE OF THE

**CONFIDENTIAL INFORMATION.****5.2. Intellectual Property.**

5.2.1. Each party will continue to independently own its intellectual property, including all patents, trademarks, trade names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property.

5.2.2. Without limiting the generality of the foregoing, no commercial use rights or any licenses under any patent, patent application, copyright, trademark, know-how, trade secret, or any other intellectual proprietary rights are granted by the Disclosing Party to the Receiving Party by this Agreement, or by any disclosure of any Confidential Information to the Receiving Party under this Agreement.

**6. INDEMNITIES AND LIMITATION OF LIABILITY**

6.1. Indemnification. Registrar, at its own expense and within thirty days after presentation of a demand by Registry Operator under this Section, will indemnify, defend and hold harmless Registry Operator and its subsidiaries, affiliates, divisions, shareholders, directors, officers, employees, accountants, attorneys, insurers, agents, predecessors, successors and assigns, from any and all claims, demands, losses, costs, expenses, causes of action or other liabilities of any kind, arising out of, relating to, or otherwise in connection with any claim, suit, action, or other proceeding brought against Registry Operator or any subsidiary, affiliate, division, shareholder, director, officer, employee, accountant, attorney, insurer, agent, predecessor, successor or assignee of Registry Operator: (i) relating to any product or service of Registrar; (ii) relating to any agreement, including Registrar's dispute policy, with any Registered Name Holder or Registrar; (iii) relating to Registrar's failure to comply with its obligations, or breach of representations and warranties under this Agreement; (iv) relating to Registrar's access or use of the Registry System in a manner that is inconsistent with the terms of this Agreement; or (v) relating to Registrar's domain name registration business, including, but not limited to, Registrar's advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service. Registry Operator shall provide Registrar with prompt notice of any such claim, and upon Registrar's written request, Registry Operator will provide to Registrar all available information and assistance reasonably necessary for Registrar to defend such claim, provided that Registrar reimburses Registry Operator for Registry Operator's actual and reasonable costs incurred in connection with providing such information and assistance. Registrar will not enter into any settlement or compromise of any such indemnifiable claim without Registry Operator's prior written consent, which consent shall not be unreasonably withheld. Registrar will pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees awarded against or otherwise incurred by Registry Operator in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

6.2. Representation and Warranty. Registrar represents and warrants that: (i) it is a corporation, limited liability company, partnership or other form of entity, as applicable, duly incorporated, organized or formed, and validly existing and in good standing under the laws of its jurisdiction of incorporation, organization or formation, (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement, (iii) the execution, performance and delivery of this Agreement has been duly authorized by Registrar, and (iv) no further approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by Registrar in order for it to enter into and perform its obligations under this Agreement.

6.3. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL A PARTY'S MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID TO REGISTRY OPERATOR UNDER THE TERMS OF THIS AGREEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH JURISDICTIONS, THE PARTIES' LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES IS LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

**6.4. Disclaimer of Warranties.**

6.4.1. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, REGISTRY OPERATOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS

AGREEMENT OR THE REGISTRAR TOOL KIT OR OTHER TOOL KITS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE NOT LEGALLY EXCLUDABLE. WITHOUT ANY LIMITATION TO THE FOREGOING, REGISTRY OPERATOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER THAT THE FUNCTIONS CONTAINED IN THE REGISTRAR TOOL KIT OR OTHER TOOL KITS WILL MEET REGISTRAR'S REQUIREMENTS, OR THAT THE OPERATION OF THE REGISTRAR TOOL KIT OR OTHER TOOL KITS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE REGISTRAR TOOL KIT OR OTHER TOOL KITS WILL BE CORRECTED. FURTHERMORE, REGISTRY OPERATOR DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE REGISTRAR TOOL KIT OR OTHER TOOL KITS OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. SHOULD THE REGISTRAR TOOL KIT, OTHER TOOL KITS, OR CERTIFICATE AND VERIFICATION SERVICES PROVE DEFECTIVE, REGISTRAR ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION OF REGISTRAR'S OWN SYSTEMS AND SOFTWARE.

6.4.2. Notwithstanding anything contained herein to the contrary, the Registrar Tool Kit and other toolkits are provided "as-is" and without any warranty of any kind.

## 7. INSURANCE

Registrar shall acquire, prior to the Effective Date, at least US\$2,000,000 in comprehensive general liability insurance from a reputable insurance provider with an A.M. best rating of "A" or better and shall maintain insurance meeting these requirements throughout the Term of this Agreement. If Registrar is providing verification and digital security services through means independent of the toolkits provided by the Registry Operator or a Competitive Toolkit Provider (see Appendix L), the amount of the insurance required shall increase to US\$5,000,000. Registrar shall name Registry Operator as an additional insured and shall maintain insurance meeting these requirements throughout the Term of this Agreement. Registrar shall on Registry Operator's written request provide a copy of the insurance policy to Registry Operator.

## 8. DISPUTE RESOLUTION

Disputes arising under or in connection with this Agreement, including requests for specific performance shall be resolved through binding arbitration conducted as provided in this Section pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce ("ICC"). The arbitration shall be conducted in the English language and shall occur in KY, USA. There shall be three arbitrators: each party shall choose one arbitrator and, if the two arbitrators are not able to agree on a third arbitrator, the third shall be chosen by the ICC. The parties shall bear the costs of the arbitration in equal shares, subject to the right of the arbitrators to reallocate the costs in their award as provided in the ICC rules. The parties shall bear their own attorneys' fees in connection with the arbitration, and the arbitrators may not reallocate the attorneys' fees in conjunction with their award. The arbitrators shall render their decision within ninety days of the initiation of arbitration. Any litigation brought to enforce an arbitration award shall be brought in a court located in Jefferson County, KY, USA; however, the parties shall also have the right to enforce a judgment of such a court in any court of competent jurisdiction. For the purpose of aiding the arbitration and/or preserving the rights of a Party during the pendency of arbitration, each Party shall have the right to seek temporary or preliminary injunctive relief from the arbitration panel or a court located in Jefferson County, KY, USA, which shall not be a waiver of this arbitration agreement.

## 9. TERM AND TERMINATION

9.1. Term of the Agreement; Revisions. The term of this Agreement shall commence on the Effective Date and, unless earlier terminated in accordance with the provisions of this Agreement, shall expire on the last day of the calendar month which is sixty months after the Effective Date (the "Term"). In the event that revisions to Registry Operator's approved form of Registry-Registrar Agreement are approved or adopted by ICANN, Registrar will either execute an amendment substituting the revised agreement in place of this Agreement or, at its option exercised within fifteen days after receiving notice of such amendment, terminate this Agreement immediately by giving written notice to Registry Operator. In the event that Registry Operator does not receive such executed amendment or notice of termination of this Agreement from Registrar within such fifteen-day period, Registrar shall be deemed to have accepted such amendment.

9.2. Termination. This Agreement may be terminated as follows:

9.2.1. Termination for Cause. In the event that either party materially breaches any of its obligations under this Agreement and such breach is not substantially cured within thirty calendar days after written notice thereof is given by the other party, then the non-breaching party may, by giving written notice thereof to the other party, terminate this Agreement as of the date specified in such notice of termination.

9.2.2. Termination at Option of Registrar. Registrar may terminate this Agreement at any time by giving Registry Operator thirty days' notice of termination.

9.2.3. Termination upon Loss of Registrar's Accreditation. This Agreement shall terminate in the event Registrar's accreditation by ICANN is terminated or expires without renewal. Notwithstanding the foregoing, Registrar may assign this Agreement.

9.2.4. Termination in the Event of Termination of Registry Agreement. This Agreement shall terminate in the event that Registry Operator's Registry Agreement with ICANN is terminated or expires without entry of a subsequent Registry Agreement with ICANN and this Agreement is not assigned.

9.2.5. Termination in the Event of Insolvency or Bankruptcy. Either Party may terminate this Agreement if the other Party is adjudged insolvent or bankrupt, or if proceedings are instituted by or against a Party seeking relief, reorganization or arrangement under the laws of such insolvent or bankrupt Party's jurisdiction relating to insolvency, or seeking any assignment for the benefit of creditors, or seeking the appointment of a receiver, liquidator or trustee of a Party's property or assets or the liquidation, dissolution or winding up of a Party's business.

9.3. Effect of Termination. Upon the expiration or termination of this Agreement for any reason:

9.3.1. Registry Operator will complete the registration of all domain names processed by Registrar prior to the effective date of such expiration or termination, provided that Registrar's payments to Registry Operator for Fees are current and timely.

9.3.2. Registrar shall immediately transfer its sponsorship of all Registered Names to another Authorized Registrar in compliance with any procedures established or approved by ICANN. The Authorized Registrar receiving sponsorship of the Registered Names shall be responsible for all unpaid fees, if any.

9.3.3. All Confidential Information of the Disclosing Party in the possession of the Receiving Party shall be immediately returned to the Disclosing Party.

9.3.4. All Fees owing to Registry Operator shall become immediately due and payable.

9.4. Survival. In the event of termination of this Agreement, the following shall survive: (i) Subsections 2.6, 3.5, 5.1, 5.2, 6.1, 6.3, 6.4, 8.1, 9.4, 10.2, 10.3, 10.4, 10.6, 10.7, 10.9 and 10.10, and (ii) the Registered Name Holder's indemnification obligation. Neither Party shall be liable to the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms.

## 10. MISCELLANEOUS

### 10.1. Assignments.

10.1.1. Assignment to Successor Registry Operator. In the event the Registry Operator's Registry Agreement is terminated or expires without entry by Registry Operator and ICANN of a subsequent registry agreement, Registry Operator's rights under this Agreement may be assigned to a company with a subsequent registry agreement covering the Registry TLD upon ICANN's giving Registrar written notice within sixty days of the termination or expiration, provided that the subsequent registry operator assumes the duties of Registry Operator under this Agreement.

10.1.2. Assignment in Connection with Assignment of Agreement with ICANN. In the event that Registry Operator's Registry Agreement with ICANN for the Registry TLD is validly assigned, Registry Operator's rights under this Agreement shall be automatically assigned to the assignee of the Registry Agreement, provided that the assignee assumes the duties of Registry Operator under this Agreement. In the event that Registrar's accreditation agreement with ICANN for the Registry TLD is validly assigned, Registry Operator's rights under this Agreement shall be automatically assigned to the assignee of the accreditation agreement, provided that the subsequent registry operator assumes the duties of Registry Operator under this Agreement.

10.1.3. Other Assignments. Except as otherwise expressly provided in this Agreement, the provisions of this Agreement shall inure to the benefit of and be binding upon, the successors and permitted assigns of the parties. Registrar shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of the

Registry Operator, which shall not be unreasonably withheld.

10.2. Notices. Any notice or other communication required or permitted to be delivered to any Party under this Agreement shall be in writing and shall be deemed properly delivered, given and received when delivered (by hand, by registered mail, by courier or express delivery service, by e-mail, or by telecopy during business hours) to the address or telecopy number set forth beneath the name of such Party below, unless party has given a notice of a change of address in writing:

With copy to:

If to Registry Operator:

Registry Services Corporation dba Commercial Connect LLC, a Delaware corporation  
1416 S. Third St.

Louisville, KY USA 40208-2117

Attention: CEO

Telephone: + 1 502 636-3091

Facsimile: + 1 502 634-1484

With a copy to:

Registry Services Corporation dba Commercial Connect, a Delaware corporation  
1416 S. Third St.

Louisville, KY USA 40208-2117

Attention: Policy Director

Telephone: + 1 502 636-3091

Facsimile: + 1 502 634-1484

10.3. Third-Party Beneficiaries. The Parties expressly agree that ICANN is an intended third-party beneficiary of this Agreement. Otherwise, this Agreement shall not be construed to create any obligation by either party to any non-party to this Agreement, including any holder of a Registered Name. Registrar expressly acknowledges that it is not a third party beneficiary of the Registry Agreement and does not by reason of this Agreement obtain any rights thereunder in any respect.

10.4. Relationship of the Parties. Nothing in this Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the parties.

10.5. Force Majeure. Neither party shall be liable to the other for any loss or damage resulting from any cause beyond its reasonable control (a "Force Majeure Event") including, but not limited to, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either party's employees), fire, lightning, explosion, flood subsidence, weather of exceptional severity, and acts or omissions of persons for whom neither party is responsible. Upon occurrence of a Force Majeure Event and to the extent such occurrence interferes with either party's performance of this Agreement, such party shall be excused from performance of its obligations (other than payment obligations) during the first six months of such interference, provided that such party uses best efforts to avoid or remove such causes of nonperformance as soon as possible.

10.6. Amendments. Except as otherwise expressly stated in this Agreement, no amendment, supplement, or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties.

10.7. Waivers. No failure on the part of either party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of either party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise or waiver of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. Neither party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

10.8. Further Assurances. Each party hereto shall execute and/or cause to be delivered to each other Party hereto such instruments and other documents, and shall take such

other actions, as such other Party may reasonably request for the purpose of carrying out or evidencing any of the transactions contemplated by this Agreement.

10.9. Entire Agreement. This Agreement (including its exhibits, which form a part of it) constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein.

10.10. Governing Law. This Agreement is governed by the laws of the State of Kentucky, USA.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth in the first paragraph hereof.

- Registry Services Corporation dba Commercial Connect, a Delaware corporation.

#### Exhibit A: Registrar Toolkit

The Registrar Toolkit (RTK) is a software development kit that will support the development of a registrar software system for registering domain names within the .shop registry using the registry-registrar protocol (RRP) used in the .shop TLD registry. The RTK will consist of software and documentation as described below.

The software will consist of a working Java sample that can be used to implement the EPP protocol that is used to communicate between the registry and Registrar. The samples will illustrate how XML requests (Registration Events) can be assembled and forwarded to the registry for processing. The software will provide the Registrar with the basis for a reference implementation that conforms to the RRP.

The documentation will provide the registrar with details of the RRP protocol specification. The documentation will also include a description of the API implemented within the RTK software.

The RTK will remain under continuous development and will provide support for additional features as they become available, as well as other platform and language support. Changes to the Registry System will be made in compliance with Subsection 2.4 of this Agreement.

Registry Toolkit shall be subject to the license set forth in Subsection 2.3 of this Agreement.

#### ADDITIONAL TOOLKITS

Verification Toolkit: Registry Operator may offer a toolkit service to Registrar, through which Registry Operator or a sub-contractor(s) will verify all the right of an applicant for a Registered Name to register in the .shop TLD.

Additional Toolkits: If Registry Operator offers additional Toolkits from time to time, they will be provided on a similar basis and subject to similar licensing provisions as Subsection 2.3.2 of this Agreement.

Additional Policies: The Registry Operator toolkits are provided in addition to, and separate from, Registry Operator's policies and specifications for manual verifications that may be conducted by Registrar or competitive toolkits that may be used by Registrar to verify the qualifications of a .shop applicant.

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#### Exhibit B: Engineering and Customer Service Support

Registry Operator will provide a wide range of customer service options to Registrars, including:

- Telephone and e-mail support for incidents requiring an interactive response from RegistryPro representatives.
- Web based tools allowing Registrars to obtain information about their accounts and diagnose problems they may be having with the Registry.
- Automatically generated reports.

These customer service options are intended to provide Registrars with responses to general inquiries relating to registry operations, technical support, account management, and billing and financial issues.

Each of these customer service options is described below.

**Telephone and E-mail Support:** Telephone and e-mail support will be provided to Registrars to allow them to inform the Registry of service-related issues and obtain information about the registry's operations or their accounts. Telephone and e-mail support services can be used to submit issues Registrars may have that cannot be addressed through other customer support avenues.

Registry Operator will provide telephone and e-mail support services for no less than eight hours per day, from 10:00 A.M. until 6:00 P.M. U.S. Eastern Time Monday through Friday, excluding holidays.

**Web Based Tools.** Registry Operator will provide a variety of web-based tools to provide Registrars information about their accounts and diagnose problems they may be having with the Registry.

Examples of the tools that will be provided include:

- Obtain information on account balances, payments received, and other billing-related information
- Generate reports in real-time, including:
  - History of transactions performed on an object within the registry
  - History of transactions performed within a specific date range
  - History of billing-related transactions performed within a specific date range
  - Identify all domain names sponsored by the requesting Registrar associated with a specified name server or contact

**Automatically Generated Reports:** Registry Operator will provide certain reports to all Registrars on a periodic basis. Examples of these reports include:

- All domains registered, renewed, or deleted within a specific time period by such Registrar
- All billable transactions performed within a specific time period by such Registrar
- All objects currently registered by such Registrar

**Security of Customer Support:** With the exception of certain simple questions that may be handled by telephone, all customer service requests will be authenticated prior to being acted upon. Each Registrar will designate certain individuals within its organization and specify the types of customer service operations it may authorize, according to Registry Operator's security policies. Requestors will be identified and authenticated through mechanisms that may include the use of passwords and call back numbers for telephone communications, the use of digital signatures for e-mail communications, or the use of digital certificates, passwords, and IP address filters for web-based communications.

#### Average Call Back Times:

When Registrar emails or faxes a service request to the Customer Support Center, Registry Operator will contact Registrar based on the initial incident priority.

Priority	Call Back Time
1	20 minutes
2	1-business hour
3	1-business day
4	2-business days

#### Average Resolution Time

Registry Operator's goal is to provide Registrars with a rapid response and resolution to inquiries; however the following guidelines may be useful:

Priority	Average Resolution Time
1	2-business hours
2	1-business day
3	3-business days
4	5-business days

#### Ticket Prioritization

All incoming tickets will receive prioritization based on the reported problem. Registry Operator reserves the right to adjust the severity of an issue.

Priority 1 A priority 1 ticket is the highest priority within the Support Center system. The Center will make every reasonable effort within its control to ensure that Registrar is operational as soon as possible. Registry Operator will be in regular contact with Registrar until the problem is resolved. Typical Priority 1 issues include:

- System inoperative

Priority 2 Typically a Priority 2 ticket is for a problem that prevents the Registrar from completing non-registration business but does not cause Registrar's use of the registry to become completely inoperable. Registry Operator will make every reasonable effort to resolve the reported problem as soon as possible. Typical Priority 2 issues include:

- Domain-name resolution impacted
- Registration activities impaired
- Registrar access to Registry Services is limited
- Serious installation or upgrade issues (installation and upgrade issues may be considered Priority 1 issues if they seriously impact progress towards completion and/or production dates)

Priority 3 A Priority 3 ticket is for a problem that causes a feature or system failure that can be avoided by the Registrar applying alternative methods. Typical Priority 3 issues include the following:

- Reports will not run
- Performance problems
- Functionality issues
- Receiving error messages in the reports
- Receiving console error messages
- Exporting/importing data files failing
- Upgrade or installation planning

Priority 4 A Priority 4 ticket is for a minor problem having only a minimal impact on the Registrar's business. Typical Priority 4 issues include:

- General product questions
- Product shipment questions

#### Escalation

The Customer Support Center is committed to resolving all Registrar issues in a timely and efficient manner. However, in the event that Registrar is not satisfied with the support that Registry Operator is providing, there is an escalation process that Registrar may exercise.

If Registrar has not received satisfactory service from the Customer Support Center, escalate concerns through the following resources

1. Account Manager
2. Customer Support Center Director
3. Vice-President of Customer Service

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#### Exhibit C: Registrar's Registration Agreement

[To be supplied by Registrar]

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#### Exhibit D: Policy on Transfer of Sponsorship of Registrations between Registrars

##### A. Holder-Authorized Transfers.

###### Registrar Requirements:

The registration agreement between Registrar and its Registered Name Holder shall include a provision explaining that a Registered Name Holder will be prohibited from changing its Registrar during the first 60 days after initial registration of the Registered Name with the Registrar, and in no event may such transfers occur until the Registry Live Start Date (as defined in Appendix J to the Registry Agreement). Beginning on the 61st day after the initial registration with Registrar, the procedures for change



in sponsoring registrar set forth in this policy shall apply. Enforcement shall be the responsibility of the registrar sponsoring the domain name registration.

A Registered Name Holder may only change its sponsoring registrar to a registrar accredited by ICANN for the .shop TLD that has entered into, and has currently in effect, the Registry-Registrar Agreement with Registry Operator ("Authorized Registrar"). For each instance where a Registered Name Holder wants to change its registrar for an existing Registered Name, the gaining Authorized Registrar shall:

1) Obtain express authorization from an individual who has the apparent authority to legally bind the Registered Name Holder (as reflected in the database of the losing Authorized Registrar).

a) The form of the authorization is at the discretion of each gaining Authorized Registrar.

b) The gaining Authorized Registrar shall retain a record of reliable evidence of the authorization.

2) In those instances when the Authorized Registrar of record is being changed simultaneously with a transfer of a Registered Name from one party to another, the gaining Authorized Registrar shall also obtain appropriate authorization for the transfer. Such authorization shall include, but not be limited to, one of the following:

a) A bilateral agreement between the parties.

b) The final determination of a binding dispute resolution body.

c) A court order.

Before a Registered Name is transferred from one Registered Name Holder to another, the potential new Registered Name Holder must qualify for registration of the Registered Name according to the Registry Agreement (including its Appendices).

3) Request, by the transmission of a "transfer" command as specified in the RRP, that the registry database be changed to reflect the new Authorized Registrar.

a) Transmission of a "transfer" command constitutes a representation on the part of the gaining Authorized Registrar that:

(1) The requisite authorization has been obtained from the Registered Name Holder listed in the database of the losing registrar,

(2) The losing registrar will be provided with a copy of the authorization if and when requested, and

(3) The gaining new Registered Name Holder has been issued a digital certificate or digital security products and verified as eligible to register in such PS-SLD.

In those instances when the Registrar of record denies the requested change of Registrar, the Registrar of record shall notify the prospective gaining Registrar that the request was denied and the reason for the denial.

Instances when the requested change of sponsoring Registrar may be denied include, but are not limited to:

1) Situations described in the Domain Name Dispute Resolution Policy

2) A pending bankruptcy of the Registered Name Holder

3) Dispute over the identity of the Registered Name Holder

4) Request to transfer sponsorship occurs within the first 60 days after the initial registration with the Registrar

In all cases, the losing Registrar shall respond to the e-mail notice regarding the "transfer" request within five (5) days. Failure to respond will result in a default "approval" of the "transfer."

Registry Requirements:

Upon receipt of the "transfer" command from the gaining Registrar, Registry Operator will transmit an e-mail notification to both registrars.

If the object does not have any of the CLIENT-NO-TRANSFER, LOCK, CLIENT-LOCK, HOLD, PENDING-VERIFICATION, or DELETE-PENDING status properties associated with it, Registry Operator shall complete the "transfer" if either:

1) The losing Registrar expressly "approves" the request, or

2) Registry Operator does not receive a response from the losing Registrar within five (5) days.

When the Registry's database has been updated to reflect the change to the gaining Registrar, Registry Operator will transmit an email notification to both Registrars.

**Records of Registration:**

Each Registered Name Holder shall maintain its own records appropriate to document and prove the initial domain name registration date, regardless of the number of registrars with which the Registered Name Holder enters into a contract for registration services.

**Effect on Term of Registration:**

The completion by Registry Operator of a holder-authorized transfer under this Part A shall result in a one-year extension of the existing registration, provided that in no event shall the total unexpired Term of a registration exceed ten (10) years.

**B. ICANN-Approved Transfers.**

Transfer of the sponsorship of all the registrations sponsored by one Registrar as the result of acquisition of that Registrar or its assets by another Registrar may be made according to the following procedure:

(a) The gaining Registrar must be accredited by ICANN for the Registry TLD and must have in effect the Agreement with Registry Operator for the Registry TLD.

(b) ICANN must certify in writing to Registry Operator that the transfer would promote the community interest, such as the interest in stability that may be threatened by the actual or imminent business failure of a Registrar.

Upon satisfaction of these two conditions, Registry Operator will make the necessary one-time changes in the registry database for no charge, for transfers involving 50,000 name registrations or fewer. If the transfer involves registrations of more than 50,000 names, Registry Operator will charge the gaining Registrar a one-time flat fee of US\$ 50,000.

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**Exhibit E: Registry Operator's Operational Standards, Policies, Procedures, and Practices**

Registry Operator's Operational Standards, Policies, Procedures, and Practices set forth in this Exhibit E are subject to those set forth in the relevant Appendices to the Registry Agreement.

I. Cancellation of Registered Names. Registry Operator may transfer, modify, or cancel any Registered Name (i) for violations of this Agreement and its Exhibits or (ii) to correct mistakes made by Registry Operator or any Registrar in connection with a domain name registration.

II. Registrar Compliance with .shop TLD Requirements. Registrar will comply with the restrictions, requirements, and policies in Appendices J, L, and M of the Registry Agreement.

III. Additional Requirements for Registration Agreement. In addition to requiring a registration agreement with the provisions described in Subsection 3.4 of this Agreement, before the Registry Operator will accept applications for registration from Registrar, Registrar's registration agreement (see Subsection 3.3 of this Agreement) with each Registered Name Holder must include, at a minimum, the following representations, warranties, agreements, and certifications by the Registered Name Holder:

a) Represent and Warrant that the data provided in the domain name registration application is true, correct, up to date, and complete; The registrant will at all times during the term of its registration keep the information provided above up to date;

b) Represent and warrant that the registration satisfies the applicable .shop restrictions at the time of registration;

c) Represent and warrant that the registration satisfies the digital security requirements stated in Appendix L of the Registry Agreement;

d) Agree to be subject to the Qualification Challenge Policy and the Uniform Domain Name Dispute Resolution Policy (the "UDRP");

e) Agree not to make any representation to any person or entity that expressly or impliedly convey that the registration of the Registered Name in any way signifies or indicates that the Registered Name Holder possesses any general or specific professional qualifications, including, but not limited to, professional qualifications in a particular field;

f) Certify that the Registered Name Holder has the authority to enter into the registration agreement;

g) For applications during the Sunrise Period, certify that the registration qualifies

for a Sunrise Registration, as set forth in Appendix J of the Registry Agreement.

h) Agree to the use, copying, distribution, publication, modification and other processing of Registered Name Holder's Personal Data by Registry Operator and its designees and agents in a manner consistent with the purposes specified pursuant to Subsection 2.6 of this Agreement.

i) Acknowledge that Registry Operator will have no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the Sunrise Period including, without limitation: (i) the ability or inability of any registrant to obtain a Registered Name during these periods, and (ii) the results of any dispute over a Sunrise Registration.

IV. Incorporation of .shop Restrictions and Challenge Processes.

In addition, Registrar agrees to incorporate the following text (or translation of such text into relevant language) into its registration agreement:

"The Registered Name Holder acknowledges having read and understood and agrees to be bound by the terms and conditions of the following documents, as they may be amended from time to time, which are hereby incorporated and made an integral part of this Agreement

(i) The Uniform Domain Name Dispute Resolution Policy, available at [http://www.icann.org/dndr/udrp\\_policy.htm](http://www.icann.org/dndr/udrp_policy.htm)

(ii) (For registration agreements relating to Sunrise Registrations only) The Sunrise Period Rules and Sunrise Dispute Resolution Policy.

Mechanisms will be in place for the notification and eventual suspension of domain registrants that either do not qualify to operate a .SHOP TLD or are operating it inconsistently with its intended use. Two Warning will be sent and an appeal process will be available before action is taken to suspend a .SHOP TLD.

## 29. Rights Protection Mechanisms

We will work with the new Trademark Protection Clearinghouse as deemed appropriate through ICANN. We will reserve, or not make available to register, any domain names indicated as "protected."

In addition, we will perform verification processes and require applicants to either be trademark holders or intended eCommerce operators.

We will have a trademark registration period that will register domain names for trademark holders and upon open registration will utilize the Universal Resolution Dispute Policy, as well as the Uniform Rapid Suspension system.

With the community requirements, we verify the applicant and have them obligated to use this domain names as an operating eCommerce site. Any deviation from this can be a cause for suspension.

Phishing and/or pharming can be minimized by use of certificate and secure socket layer (SSL) which also is a requirement of a new dotShop domain name. In this secure environment, one can easily note a website operator's certificate to ensure they are the entity they claim.

### Dispute Policy

CC does not—and cannot—screen, review, evaluate, or investigate a Domain Name registrant's legal right to register or use a Domain Name in any top level. To that end, CC has adopted the Uniform Dispute Resolution Policy (UDRP) ([www.icann.org/udrp](http://www.icann.org/udrp)) for all .shop Domain Name registrations. The registration of any Domain Name(s) shall be subject to suspension, cancellation, or transfer pursuant to any decision under the UDRP.

### Reservation of Rights

Commercial Connect expressly reserves the right to deny, cancel, or transfer any Domain

Name registration that it deems necessary in its discretion: (i) to protect the integrity and stability of the registry; (ii) to comply with any applicable laws, government rules or requirements, requests of law enforcement; (iii) in the event a Domain Name is used in violation of these policies and any other policies regarding .shop and; (iv) in compliance with any dispute resolution process, or to avoid any liability, civil or criminal, on the part of Commercial Connect and its affiliates, subsidiaries, officers, directors, and employees. Commercial Connect also reserves the right to lock a Domain Name during resolution of a dispute.

Abuse prevention policy extracts were included in Q28, as requested. See previous question.

Terms and Conditions of all Commercial Connect policies clarify takedown procedures, registrant pre-verification, or authentication procedures, and other covenants:

**TERMS AND CONDITIONS:**

1. By applying to register one or more .shop domain names (the ".shop Domain name(s)") with an accredited registrar in the .shop TLD (hereinafter referred to as an "Application") or by using one or more .shop Domain names, the Registrant acknowledges that it has read and agrees to be bound by all terms and conditions of this Agreement as well as the following documents, policies, and agreements which are incorporated into this Agreement by this reference and which shall hereinafter (together with this Agreement) be referred to as the "CC Policies":

The registration rules

The .shop TLD Policies

The Privacy Policy

The CC Acceptable Use Policy ("AUP")

The CC Complaint Resolution Service rules and policies

Other rules or policies that are now, or may in the future, be published.

The CC Policies apply to all domains and sub-level domains which end in the suffix .shop and explain the rights and obligations between CC and the Registrant. Those parts of the CC Policies which are not part of the text of this Agreement are incorporated into this Agreement by this reference. CC may accept the Application by facilitating registration and resolution of the .shop Domain name(s); such acceptance shall be deemed to have occurred at the CC's principal place of business in the US.

CC may modify the CC Policies from time to time. CC shall post (publish on or link to) the CC Policies on CC's web site. Revised CC Policies become effective thirty (30) calendar days after posting. CC may inform registrants of changes to CC Policies via email and Registrant agrees that such email shall not be considered spam; however, CC shall not be obligated to provide such notice via email. The Registrant's use of .shop Domain name(s) following the effective date constitutes the Registrant's acceptance of the revised CC Policies. In the event that the Registrant does not wish to be bound by the revised CC Policies, the Registrant's sole remedy is to cancel the registration of the .shop Domain name, following the appropriate CC Policies regarding such cancellation.

2. Registration Fee. The Registrant shall pay to an accredited registrar the appropriate registration fee ("Registration Fee") applicable at the time the Registrant submits its Application to such accredited registrar. Payment of Registration Fees shall be made in accordance with the requirements of the accredited registrars and CC Policies are effective at the time the Registrant submits such payment. All Registration Fees paid pursuant to this Agreement are non-refundable except as provided for herein. It shall be the responsibility of the accredited registrar to pay a separate registration fee owed to the CC by such registrar and no Application will be accepted until such separate registration fee is paid. It shall not be the duty of the CC to refund any Registration Fee or other fee to the Registrant in the event of non-performance by such registrar, since the disposition of such Registration Fee is being a matter of performance of a contract between the Registrant and such registrar.

3. Term and Renewal Term. The Registrant's exclusive registration of the .shop Domain name shall continue for the term specified in an accepted Application (the "Term"). Registrant may have the right to renew a registration in accordance with the CC Policies in effect at the end of the Registrant's then current Term.

4. Registrant Information. The Registrant shall ensure that: (i) the information submitted by or on behalf of the Registrant to the .shop TLD registry in connection with

registration of the .shop Domain name(s) or otherwise ("Registrant Information") will during the Term comply with the CC Policies and is and will remain true, current, complete, accurate, and reliable; and (ii) the Registrant shall maintain, update, and keep the Registrant Information true, current, complete, accurate, and reliable by notifying CC immediately of a change to any such information in accordance with the appropriate CC Policy relating to modifications to the Registrant Information. CC reserves and may exercise the right to terminate the Registrant's registration of the .shop Domain name if (i) information provided by the Registrant to CC is false, inaccurate, incomplete, unreliable, misleading or otherwise secretive; or (ii) the Registrant fails to maintain, update, and keep the Registrant Information true, current, complete, accurate, and reliable. The Registrant acknowledges that a breach of this Section 4 will constitute a material breach of this Agreement which will entitle CC to terminate this Agreement immediately upon such breach without any refund of the Registration Fee and without notice to Registrant.

(i) The Registrant acknowledges that all personal information about the Registrant which is supplied to CC or an accredited registrar is held for the benefit of the United States and global internet communities and may be required to be publicly disclosed to third parties and used to maintain a public "Whois" service, provided that such disclosure is consistent with the CC Policies.

(ii) Registrants must provide the following information to CC or its accredited registrar:

- Legally recognized first and last name (surname) of the contact person for the Registrant (this contact person may be the Registrant itself).
- If the Registrant is an organization, association, Limited Liability Company, Proprietary Limited Company, or other legally recognized entity, the contact person must be a person authorized under the applicable law in the applicable territory to legally bind the entity.
- Valid postal address of the Registrant.
- Functioning email address of the Registrant.
- Working telephone number for the Registrant, including country code, area code, and proper extension, if applicable.

Providing true, current, complete, and accurate contact information is an absolute condition of registration of a .shop Domain name within the .shop TLD. If any Registrant Information provided during registration or subsequent modification to that information is false, inaccurate or misleading, or conceals or omits pertinent information, CC may instruct the registry to terminate, suspend or place on hold the .shop Domain name(s) of any Registrant without notification and without refund to the Registrant; and

(iii) The Registrant is responsible for keeping the Registrant Information up to date and responding in a timely fashion to communications regarding the .shop Domain name or other .shop domains registered by them.

(iv) The Registrant may be requested to submit content, material, web page(s) or URL(s) accessed through the CC network to the manufactures of internet content filters, and such request shall be a binding obligation.

5. Agents. The Registrant understands, acknowledges and agrees that by using the .shop Domain name, the Registrant ratifies and is bound by this Agreement (including the CC Policies incorporated into this Agreement) even if an agent (such as an Internet Service Provider, Domain name retailer, or employee) entered into this Agreement on the Registrant's behalf, and even if the Registrant has not itself read this Agreement. Further, the Registrant is responsible for all information submitted by its agent. CC will not cancel this Agreement, or refund any fees, because of any errors or omissions by the agent in the registration process or thereafter (e.g. if such agent provides incorrect Registrant Information), as such apparent authority will suffice to bind the Registrant. By acting on the Registrant's behalf, such agent represents and warrants to the Registrant and CC that the agent is authorized to bind the Registrant hereto and that it has fully and thoroughly advised the Registrant of the terms and conditions of this Agreement (including the CC Policies incorporated into this Agreement).

6. Scope of Registration. On payment of the Registration Fee to the registrar and after payment by the registrar to the CC of the separate registration fee and after acceptance of the Application, the Registrant will be entitled to a license for the exclusive use of the domain name resolution services relating to the .shop Domain name for the Term. However, the Registrant shall not use, display, exploit, or register a .shop Domain name in any manner which may constitute illegal activity or be in contravention or violation

of CC Policies. The Registrant acknowledges that a breach of this Section 6 will constitute a material breach of this Agreement which will entitle CC to terminate this Agreement immediately upon such breach without any refund of the Registration Fee. The CC or an accredited registrar may, in such party's sole discretion, refuse registration of or discontinue to provide services with respect to the Registrant's desired .shop Domain name within thirty (30) calendar days from receipt of payment of the Registration Fee by the accredited registrar. In case of such refusal without cause ("cause" being defined as dishonoring any payment made to an accredited registrar and/or CC or any violation of the CC Policies), CC shall refund to the accredited registrar the separate registration fee received by the CC and the registrar shall refund to the Registrant the Registration Fee. Neither CC nor an accredited registrar shall be liable for any loss, damage, or other injury whatsoever resulting from CC or registrar's refusal to register or to discontinue services in relation to the Registrant's desired .shop Domain name.

7. Registrant Representations and Warranties. The Registrant represents, warrants, and guarantees that:

- (i) the Registrant understands that registration entitles the Registrant only to a license for the use of the domain name resolution services relating to the .shop Domain name for the Term and that use of such services is subject to this Agreement (including the CC Policies) and other pertinent rules and laws, including those concerning trademarks and other types of intellectual property, as these may now exist or be revised from time to time;
- (ii) to the best of the Registrant's knowledge and belief, neither the registration of the .shop Domain name nor the manner in which it is to be directly or indirectly used infringes the legal rights or intellectual property rights of a third party;
- (iii) the Registrant will use, display, or exploit the .shop Domain name in good faith, and in accordance with the laws of the US government, international law, and applicable state laws and regulations, and will not use the .shop Domain name in any way which may violate a subsisting right of CC or any third party;
- (iv) the information provided by the Registrant is true and accurate, and the Registrant will update said information immediately if it changes;
- (v) the Registrant is either (a) an identifiable human individual (over the age of 18 years); or (b) a legally recognized statutory entity (such as a Limited Liability Company, Partnership, Association, Society or Proprietary Limited Company);
- (vi) the Registrant will promptly notify CC of any actual or threatened proceedings brought in respect of the words used as or incorporated in the .shop Domain name whether by or against the Registrant;
- (vii) the Registrant will not, directly or indirectly, through registration or use of the .shop Domain name or otherwise:
  - (a) register a .shop Domain name for the purpose of diverting trade from another business or website;
  - (b) deliberately register as a .shop Domain name misspellings of another entity's personal, company or brand name in order to pass-off or trade on the business, goodwill or reputation of another;
  - (c) grant or purport to grant a security interest or other encumbrance on or over the .shop Domain name unless such security interest or other encumbrance does not exceed the limited rights of the Registrant in the .shop Domain name, does not impair the Registrant's ability to fulfill the Registrant's obligations under this Agreement, and does not impose obligations on the CC beyond the obligations owed by the CC to a registrant in the absence of such a security interest or encumbrance;
- (viii) the Registrant meets and will continue to meet for the whole of the Term any eligibility criteria prescribed in the CC Policies for registering and using the .shop Domain name;
- (ix) that the Registrant will maintain the Registrant Information provided pursuant to Section 4 according to the requirements of Section 4;
- (x) the Registrant has not previously submitted an application for registration of a domain name for the same character string with another registrar where:
  - (a) the Registrant is relying on the same eligibility criteria for both domain name applications; and
  - (b) the character string has previously been rejected by the other registrar;
- (xi) any content, material or web page contained on any Uniform Resource Locator ("URL"), web site or web page accessing, utilizing or accessed by means of the .shop Domain name complies with the CC Acceptable Use Policy and the US govt. recommendations

and does not constitute or contain any illegal or prohibited content, including, but not limited to indecent, obscene, or pornographic material (as described more fully in the CC Acceptable Use Policy), whether incorporated directly into or linked from a web site resolved via a .shop Domain name;

(xii) the use of the .shop Domain name and of any web page or URL accessed by or utilizing the .shop Domain name will comply with the requirements of the CC Acceptable Use Policy and Us govt. recommended policies including, without limitation, those policies relating to spam.

8. CC Representations and Warranties. CC represents, warrants, and guarantees that:

(i) CC manages the .shop top level domain name in trust for the United States Community;

(ii) CC has the full right, power, legal capacity, ability, and authority to enter into this Agreement, and to carry out the terms and conditions hereof notwithstanding the disclaimer below;

(iii) CC will process the Registrant's Application and consider whether to accept or reject it in accordance with the criteria laid down in this Agreement (including the CC Policies);

(iv) CC will, if the Application is successful, use its reasonable endeavors to ensure that the details supplied by the Registrant are entered into and maintained in the .shop zone file; and

CC's breach or misrepresentation of these warranties shall constitute a material breach of this Agreement. In the event of such material breach by CC, the Registrant's only recourse against CC shall be to terminate its Agreement with CC. CC EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE MAXIMUM EXTENT POSSIBLE, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND AGAINST INFRINGEMENT. CC DOES NOT GUARANTEE ANY INFORMATION PROVIDED TO THE REGISTRANT BY IT OR ITS AGENTS NOT INCORPORATED INTO THIS AGREEMENT AND, ACCORDINGLY, NO SUCH INFORMATION CREATES ANY EXPRESS OR IMPLIED WARRANTY. CC'S SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND THE REGISTRANT AGREES THAT CC WILL REGISTER DOMAIN NAMES ON A FIRST COME, FIRST SERVED BASIS. CC DOES NOT GUARANTEE THAT ANY DOMAIN APPLIED FOR BY THE REGISTRANT WILL BE AVAILABLE OR WILL BE SUCCESSFULLY REGISTERED, AND THE REGISTRANT AGREES THAT IT DOES NOT HAVE ANY RIGHT OF OWNERSHIP IN A REGISTERED DOMAIN.

9. Breach. Failure of a Registrant to abide by any provision of this Agreement (including the CC Policies) may be considered a material breach. In the event of such material breach, CC may provide a written (including email) notice to the Registrant describing the breach. The Registrant in such event then has thirty (30) days to rectify or cure such breach or to provide evidence reasonably satisfactory to CC that there is no breach of this Agreement or CC Policies. In the event of a breach that is not rectified, cured or refuted by the Registrant to CC's satisfaction, CC may cancel the Registrant's registration of and license to use the .shop Domain name without refund and without further notice, and pursue any and all legal remedies it may have against the Registrant. Any such breach by the Registrant shall not be deemed excused in the event that CC did not act earlier in response to the breach by Registrant. In the event of a breach which, in the opinion of the CC or an accredited registrar, causes immediate harm to the public interest or the CC Network or which violates any applicable law or regulation, then an accredited registrar and/or the CC may modify, suspend, or terminate services to the Registrant without written notice, the modification, suspension, or termination of services constituting notice to Registrant that such a breach has occurred. See Section 12, below for important limitations on the liability of CC and accredited registrars with regard to good faith acts by such parties under this Section.

10. Disputes Involving Registrants. The Registrant acknowledges that CC cannot, and does not, screen or otherwise review any Application to verify that the Registrant has legal rights to use a particular character string as or in a .shop Domain name. In the event that any party disputes the Registrant's legal right to use, display, exploit, or register the .shop Domain name in any fashion, including allegations that prohibited material (as defined in the CC Acceptable Use Policy) is displayed on or linked to from a website which is resolved via a .shop Domain name, CC and the Registrant shall act in accordance with and agree to be bound by CC's Complaint Resolution Policy and Service. The Registrant is strongly encouraged to, prior to applying for registration of the .shop Domain name, perform a trademark search with respect to the acronyms, words and/or phrases comprising the .shop Domain name. The Registrant will be solely liable in the event that the Registrant's use of a .shop Domain name constitutes an infringement or

other violation of a third party's rights.

11. Indemnity. The Registrant shall defend, indemnify, and hold harmless CC, the registry operator, accredited registrars and such parties' officers, directors, shareholders, owners, managers, employees, agents, contractors, affiliates, lawyers and attorneys ("CC Related Parties") from and against any and all claims of third parties or made by the Registrant, including, but not limited to all loss, liability, claims, demands, damages, cost or expense, causes of action, suits, proceedings, judgments, awards, executions and liens, including reasonable lawyers or attorneys' fees (which lawyers or attorneys shall be hired at the sole discretion of the indemnified party) and costs (including claims without legal merit or brought in bad faith), relating to or arising under this Agreement, the registration or use of the indemnified party's domain registration or other services, or to the .shop Domain name itself, including the Registrant's use, display, exploitation, or registration of the .shop Domain name, as well as for any infringing or otherwise damaging content displayed or otherwise made available on or by means of the .shop Domain name. If an indemnified party is threatened by claims or suit of a third party, the indemnified party may seek written assurances from the Registrant concerning the Registrant's indemnification obligations. Failure to provide such written assurances is a material breach of this Agreement. Failure of the Registrant to fully indemnify the indemnified party in a timely manner may result in termination, suspension, or modification of the domain name registration services and any such termination, suspension, or modification shall in no way prejudice or substitute for an indemnified party's right to seek indemnification by way of litigation or otherwise.

12. DISCLAIMER AND LIMITATION OF LIABILITY. The Registrant acknowledges and agrees that, to the maximum extent possible, CC AND THE CC RELATED PARTIES SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, RELATING TO THE USE, OR THE INABILITY TO USE, THE DOMAIN, OR IN ANY OTHER WAY RELATED TO THE DOMAIN, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE. ADDITIONALLY, CC AND CC RELATED PARTIES SHALL NOT BE LIABLE WHATSOEVER FOR ANY LOSSES OR DAMAGES THAT THE REGISTRANT MAY INCUR AS A RESULT OF UNAUTHORIZED USE OF THE DOMAIN ARISING FROM "HACKING", DENIAL OF SERVICE ATTACK, VIRUS, WORM OR OTHERWISE, OR FOR LACK OF FITNESS FOR A PARTICULAR PURPOSE OF THE DOMAIN OR SERVICES RELATED TO THE DOMAIN NAME.

IN THE EVENT THAT CC OR A CC RELATED PARTY TAKES ACTION WITH RESPECT TO A .shop DOMAIN NAME PURSUANT TO SECTION 9, WHICH ACTION IS REVERSED, MODIFIED, OR ACKNOWLEDGED TO HAVE BEEN INCORRECT BY CC, A CC RELATED PARTY, BY OR THROUGH THE CC COMPLAINT RESOLUTION SERVICE, OR BY A COURT, THEN REGISTRANT AGREES THAT, ABSENT BAD FAITH BY SUCH PARTY, THAT CC AND CC RELATED PARTIES SHALL NOT BE LIABLE WHATSOEVER FOR ANY DAMAGES THAT THE REGISTRANT MAY SUFFER THEREBY, EVEN IF CC OR CC RELATED PARTIES HAVE BEEN ADVISED OF THE POTENTIAL FOR SUCH DAMAGES, AND EVEN IF CC OR CC RELATED PARTIES MAY FORESEE SUCH POSSIBLE DAMAGES. THE REGISTRANT'S SOLE REMEDY UNDER SUCH CIRCUMSTANCES SHALL BE THE RESUPPLY OF THE SERVICES AGAIN, IF POSSIBLE, OR, IF NOT POSSIBLE, A REFUND OF THE REGISTRATION FEE OR RENEWAL FEE (IF THE CIRCUMSTANCE OCCURRED DURING A RENEWAL TERM), WHICH REMEDY THE REGISTRANT ACKNOWLEDGES CONSTITUTES THE ONLY POSSIBLE DIRECT DAMAGES FLOWING FROM THIS AGREEMENT.

IN ADDITION, CC AND CC RELATED PARTIES ARE NOT LIABLE WHATSOEVER FOR ANY DAMAGES THAT THE REGISTRANT MAY SUFFER BECAUSE OF SERVICE OR SYSTEM FAILURE, INCLUDING DOMAIN NAME SYSTEM FAILURE, ROOT SERVER FAILURE, INTERNET PROTOCOL ADDRESS FAILURE, ACCESS DELAYS OR INTERRUPTIONS, DATA NON-DELIVERY OR MIS-DELIVERY, ACTS OF GOD, UNAUTHORIZED USE OF PASSWORDS, ERRORS, OMISSIONS OR MIS-STATEMENTS IN ANY INFORMATION OR OTHER SERVICES PROVIDED UNDER THIS AGREEMENT, DELAYS OR INTERRUPTIONS IN DEVELOPMENT OF WEB SITES, RE-DELEGATION OF THE .shop TOP LEVEL DOMAIN NAME, OR BREACH OF SECURITY, EVEN IF CC OR CC RELATED PARTIES HAVE BEEN ADVISED OF THE POTENTIAL FOR SUCH DAMAGES, AND EVEN IF CC OR CC RELATED PARTIES MAY FORESEE SUCH POSSIBLE DAMAGES. THE REGISTRANT'S SOLE REMEDY FOR CC OR CC RELATED PARTIES' BREACH OF THIS AGREEMENT SHALL BE, AT THE SOLE DISCRETION OF CC OR CC RELATED PARTIES, THE RESUPPLY OF THE SERVICES AGAIN OR A REFUND OF THE REGISTRATION FEE OR RENEWAL FEE (IF THE BREACH OCCURS DURING A RENEWAL TERM), WHICH REMEDY THE REGISTRANT ACKNOWLEDGES CONSTITUTES THE ONLY POSSIBLE DIRECT DAMAGES FLOWING FROM THIS AGREEMENT. THE REGISTRANT'S SOLE REMEDY FOR AN ACTION NOT FLOWING FROM THIS AGREEMENT (IN TORT OR OTHERWISE) SHALL BE LIMITED TO THE AMOUNT OF MONEY PAID TO CC OR CC RELATED PARTIES BY THE REGISTRANT.

13. Notices. Notices to CC shall be delivered by registered or certified mail, postage



prepaid, or reputable commercial courier service (e.g., Express Mail or Federal Express) in the manner of quickest delivery (i.e., overnight delivery, if possible) to: Commercial Connect LLC. Notices mailed by registered or certified official mail of a country shall be deemed delivered on receipt.

Notices to Registrant shall be delivered by registered or certified mail, postage prepaid, or reputable commercial courier service (e.g., Express Mail or Federal Express) in the manner of quickest delivery (i.e., overnight delivery, if possible) or, in the sole discretion of the CC or a CC Related Party, by email or fax to the Registrant Information.

14. Governing Law - Forum Selection. For all disputes in which the CC may be or is a party to the dispute, this registration agreement shall be exclusively governed by the laws of the US government applicable to contracts made and performed in the US government, without regard to conflict of laws principles. The Registrant hereby consents to the exclusive personal jurisdiction of the courts of the US government, for any and all claims or disputes directed against the CC and which arise out of, purport to enforce, construe, or otherwise relate to the .shop Domain name, this Agreement, or CC Policies. The exclusive venue for such action shall be the Courts of the US government. The Registrant waives any right to object to venue or jurisdiction based on inconvenient forum or for any other reason, and the Registrant waives any statutory or other right pursuant to the laws of the jurisdiction in which Registrant resides to have a case relating to this Agreement adjudicated or resolved in that jurisdiction. By way of information and not as a term binding against the CC, disputes not involving the CC as a party may be governed by a governing law and/or forum selection clause contained in a separate agreement, if any, between the Registrant and such other disputant (for example, disputes between and accredited registrar and a Registrant may be governed by a separate agreement, if any, between the Registrant and the accredited registrar); provided, however, that no such separate agreement may modify or waive either CC's or Registrant's consent to exclusive choice of law, jurisdiction, and venue in the US government and the courts of the US government for disputes in which the CC is or may be a party, as described above.

15. OWNERSHIP OF INFORMATION AND DATA. Registrant agrees and acknowledges that CC and/or any CC delegee shall own all database, compilation, collective and similar rights, title and interests worldwide in any domain name database(s), and all information and derivative works generated from the domain name database(s) and that such domain name database may include, without limitation, (a) the original creation date of domain name registration(s), (b) the expiration date of domain name registration(s), (c) the name, postal address, email address, voice telephone number, and where available fax number of all contacts for domain name registration(s), (d) any remarks concerning registered domain name(s) that appear or should appear in the WHOIS or similar information repositories, and (e) any other information generated or obtained in connection with providing domain name registration services. CC and/or any CC delegee shall not have any ownership interest in a single Registrant's specific Registration Information outside of CC and/or any CC delegee's rights in one or more domain name database(s).

16. Severability. If any provision of this Agreement is held invalid, unenforceable, or void, the remainder of the Agreement shall not be affected thereby and shall continue in full force and effect as nearly as possible to reflect the original intention of CC and the Registrant in executing this Agreement.

17. No Waiver. The failure of either party at any time to enforce any right or remedy available to it under this Agreement with respect to any breach or failure by the other party shall not be a waiver of such right or remedy with respect to any other breach or failure by the other party.

18. Full Integration. This Agreement, together with the CC Policies expressly incorporated herein by reference, constitutes the entire agreement between the Registrant and CC relating to the .shop Domain name. No prior or contemporaneous written, oral, and electronic representation, negotiation, or agreement form a part of this Agreement, and this Agreement supersedes all prior written, oral, or electronic agreements between the Registrant and CC relating to the .shop Domain name. Additional agreements, if any, may be entered into between the Registrant and accredited registrars relating to domain name services in the .shop TLD provided by such accredited registrars, provided that no such additional agreement may waive, alter, or supersede any provision of this Agreement nor may such an additional agreement impose any obligation upon CC without CC's express written consent. If there is any conflict

between such additional agreements and this Agreement, this Agreement shall control.

19. Written Agreement. This Agreement constitutes a written agreement between Registrant and CC even though the Registrant's Application may be dispatched electronically, and even though CC may accept the Application electronically. A printed version of this Agreement, and of any notice given in electronic form related to this Agreement, shall be admissible in judicial or administrative proceedings to the same extent, and subject to the same restrictions, as other business contracts, documents, or records originally generated and maintained in printed form.

20. Assignment. The parties agree that CC is able to assign this Agreement to a third party without prior written notice to the Registrant.

### 30(a). Security Policy: Summary of the security policy for the proposed registry

With e-commerce comes compliance regarding PCI-DSS Security standards. We will be in compliance with those provided by the PCI Security Standards Council.

<http://www.nessus.org/solutions/compliance-solutions/regulatory-compliance-pci>

We will use standards by the Center for Internet Security (CIS) to perform a wide variety of Unix, Windows and application audits based on best practice consensus benchmarks developed by CIS. CIS policies apply for the following technologies:

- Applications
- Routers
- Desktop Operating Systems
- Server Operating Systems
- SQL Databases

We will use SANS Consensus Audit guidelines: (CAG) The SANS Consensus Audit Guidelines (CAG) is a compliance standard that specifies 20 "control points" that have been identified through a consensus of federal and private industry security professionals. (<http://www.nessus.org/expert-resources/whitepapers/real-time-auditing-for-sans-consensus-audit-guidelines>)

- Active scanning, patch auditing, passive network monitoring and process accounting help monitoring for authorized and unauthorized software and devices.
- Active, passive and credentialed vulnerability scanning provides continuous and accurate monitoring for new security issues.
- Configuration auditing and file integrity monitoring of applications, desktops, routers and operating systems can be performed against a wide variety of government and commercial standards.
- Network and intranet perimeters can be monitored and correlated by aggregating logs from NIDS, firewalls, DMZ servers and netflow.
- Custom web applications can be audited with web application tests and logs from the applications can be monitored for abuse. Custom applications can also undergo rigorous configuration audits of the OS, application and SQL database.
- All user accounts and user activity can be strictly audited and monitored for abuse and suspicious activity.
- All web browsing can be passively logged and searched which enables analysis of botnets, malware and user activity.
- Anti-virus software can be audited to ensure it is working correctly. Logs from desktop, email, NIDS, gateway devices and "blacklisted" sites can be correlated for a complete view of your malware exposure.
- Full log searches as well as complete configuration audits can be used to accelerate your incident response efforts.
- Unauthorized wireless access points as well as desktops with incorrect wireless SSIDs can be identified.

We are compliant with Domain Name System Security Extensions (DNSSEC) for the .shop

top-level domain. DNSSEC is designed to protect Internet servers from domain name system attacks, such as DNS cache poisoning by malicious users. It is a set of DNS extensions which provide 3 basic functions:

1. Data Origin Authentication - assures that data is received from the authorized DNS server; can protect from impersonation attacks
2. Data Integrity - assures that data received matches data on the origin DNS server, and is not modified during transit; protects from man-in-the-middle type pollution attacks.
3. Authenticated Denial of Existence - assures that a "Non-existent" response is valid.

Our Security Policy contains the following and commitments to registrants and our registrars:

- I. Provisions for Data: We may access, copy, preserve, disclose, remove, suspend or delete any Data in accordance with privacy and security.
- II. Provision for Intellectual Property Rights:
- III. Provisions for Confidentiality
- IV. Our Server Monitoring Policy
- V. Our Incident Response Policy
- VI. Constant Review of Network Risks
- VII. Personnel Background Checks of Security Personnel
- VIII. Network Security Policy
- IX. Vulnerability Scanning
- X. Vulnerability Management
- XI. Configuration Auditing
- XII. Log Management
- XIII. Acceptable Use Policy for Company Employees

These items are discussed further in Question 30b.

Continuous network monitoring has emerged as a critical best practice across governmental, commercial, and educational environments. It's essential in combatting rapidly evolving security threats, improving our ability to manage new technology risks, and maintain compliance with ever-increasing regulatory and audit requirements. We will be using toolkits for correlation and reporting, and analytical solutions that meet these requirements.

We will perform network scanning, patch auditing and configuration testing. We will offer real-time network and passive vulnerability scanning. Our solution monitors network traffic to discover new hosts and vulnerabilities continuously. Network traffic contains a tremendous amount of information that can be used to identify new web servers, SQL injection, missing patches, vulnerable web browsers, out of date SSL certificates and much more. Our combination of active and passive vulnerability and network monitoring allows for scalability.

**© Internet Corporation For Assigned Names and Numbers.**

## **Annex 3**



# New Generic Top-Level Domains

## NEW GTLD CURRENT APPLICATION STATUS

SHOP

[Download All P.C.s](#) (/application-result/applicationstatus/viewstatus/downloadpicpostingzip)  
[View All GAC Advice Responses](#) (http://newgtlds.icann.org/en/applicants/gac-advice-responses)  
[Contention Sets](#) (/application-result/applicationstatus/stringcontentionstatus)

### CURRENT APPLICATION STATUS

Type

Application Status

Updates

Objections

GAC EW

Contention Sets

P.C.s

Apply Filters

### APPLICATION PROCESSING

Show All Applications That Have:

[Passed IE](#) (/application-result/applicationstatus/viewstatus/getalliepassedapps)

[Passed EE](#) (/application-result/applicationstatus/viewstatus/getalliepassedapps)

[Executed Contract](#) (/application-result/applicationstatus/viewstatus/getallcontractexecutedapps)

[Completed PDT](#) (/application-result/applicationstatus/viewstatus/getallpdtcompletedapps)

[Delegated](#) (/application-result/applicationstatus/viewstatus/getalidelegatedapps)

Reset All

This page reflects the current application status. Application status will be updated from time to time to reflect the various New gTLD Program processes. Except for the application statuses "Withdrawn", "Delegated" and "RA terminated", application statuses are not final.

A change in application status is intended to inform the applicants and the community of an application's current status. A change or update is not a definite indication that an application may proceed to another phase of the program or more information including definitions of application statuses see the [applicant advisory](#) (http://newgtlds.icann.org/en/applicants/advisories/application-contention-set-14mar14-en).

Please Note: The information on this page relating to the applicant, including contact information, reflects the information provided during the application phase of the New gTLD Program. Contact information is not maintained for withdrawn applications. Additionally, the information for TLDs that have contracted with ICANN may no longer be current as this information is not maintained on this page post delegation and does not necessarily reflect the current Registry information or a current list of Registries and Registry contact information, please visit <https://www.icann.org/resources/pages/registries/registries-agreements-en> (https://www.icann.org/resources/pages/registries/registries-agreements-en) and <https://www.icann.org/resources/pages/listing-2012-02-25-en> (https://www.icann.org/resources/pages/listing-2012-02-25-en), respectively.

Prioritization	
Number (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)	String [1] (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 150	IDN (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 410	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 494	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 649	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 688	VISA (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 746	BUZZ (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 812	SHOPYOURWAY (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1191	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1284	FUN (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1306	SHOPPING (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1451	SHOPPING (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1556	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1593	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1633	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1639	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)
▶ 1837	SHOP (/application-result/applicationstatus/viewstatus/statusgrid.columns.sort/prioritizationNumberDisplayable)

Displaying 1 - 16 of 16

## Notes

1. **String [1]** ASCII or Unicode for IDN strings
2. **Location [2]** Indicated by applicant as principal place of business. Two-letter country code is based on ISO 3166-1 code lists. See [http://www.iso.org/iso/country\\_codes/iso\\_3166\\_code\\_lists/country\\_names\\_and\\_code\\_elements.htm](http://www.iso.org/iso/country_codes/iso_3166_code_lists/country_names_and_code_elements.htm)
3. **Community** Based on applicant's answer to question 19
4. **Geographic** Based on applicant's answer to question 21
5. **Applicant Support** Three applications have applied for applicant support. See application IDs 1-1309-46695 (KIDS), 1-1873-71868 (IDN) and 1-2104-81541 (UMMAH)
6. **Format** In some cases the display of the application data has been adjusted for format consistency
7. The Geographic Names Panel has determined that the string does not fall within the criteria for a geographic name contained in the Applicant Guidebook Section 2.2.1.4.
8. The Geographic Names Panel has determined that the string falls within the criteria for a geographic name contained in the Applicant Guidebook Section 2.2.1.4. The applicant was contacted to provide documentation of support/non-objection per Section 2.2.1.4.3 of the Applicant Guidebook.
9. The String Similarity Panel has determined that this string is visually similar to an existing TLD (.mil), creating a probability of user confusion.
10. Per the 4 June 2013 New gTLD Program Committee (NGPC) approved [resolution \(http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-04jun13-en.htm#1.a\)](http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-04jun13-en.htm#1.a) to adopt the "NGPC Scorecard of 1Aa Regarding Non-Safeguard Advice in the GAC Beijing Communiqué."
11. Per the 10 September 2013 New gTLD Program Committee (NGPC) approved [resolution \(http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-10sep13-en.htm#2.c\)](http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-10sep13-en.htm#2.c) to adopt the "ICANN Board New gTLD Program Committee Scorecard in response to GAC Durban Communiqué."

## **Annex 4**

Date:  
8 August 2007

**ICANN Generic Names Supporting Organisation**

**Final Report**

**Introduction of New Generic Top-Level Domains**

**8 August 2007**

**Part A: Final Report**

**Introduction of New Generic Top-Level Domains**

ABSTRACT

BACKGROUND

SUMMARY -- PRINCIPLES, RECOMMENDATIONS & IMPLEMENTATION GUIDELINES

TERM OF REFERENCE ONE -- WHETHER TO INTRODUCE NEW TOP-LEVEL DOMAINS

TERM OF REFERENCE -- SELECTION CRITERIA

TERM OF REFERENCE THREE -- ALLOCATION METHODS

TERM OF REFERENCE FOUR -- CONTRACTUAL CONDITIONS

NEXT STEPS

Annex A – NCUC Minority Statement: Recommendation 6

Annex B – Nominating Committee Appointee Avri Doria: Individual Comments

Annex C – NCUC Minority Statement: Recommendation 20 and Implementation Guidelines F, H & P

REFERENCE MATERIAL -- GLOSSARY

**FINAL REPORT: PART B**

**ABSTRACT**

This is the Generic Names Supporting Organization's Final Report on the Introduction of New Top-Level Domains. The Report is in two parts. Part A contains the substantive discussion of the Principles, Policy Recommendations and Implementation Guidelines and Part B contains a range of supplementary materials that have been used by the Committee during the course of the Policy Development Process.

The GNSO Committee on New Top-Level Domains consisted of all GNSO Council members. All meetings were open to a wide range of interested stakeholders and observers. A set of participation data is found in Part B.

Many of the terms found here have specific meaning within the context of ICANN and new top-level domains discussion. A full glossary of terms is available in the Reference Material section at the end of Part A.



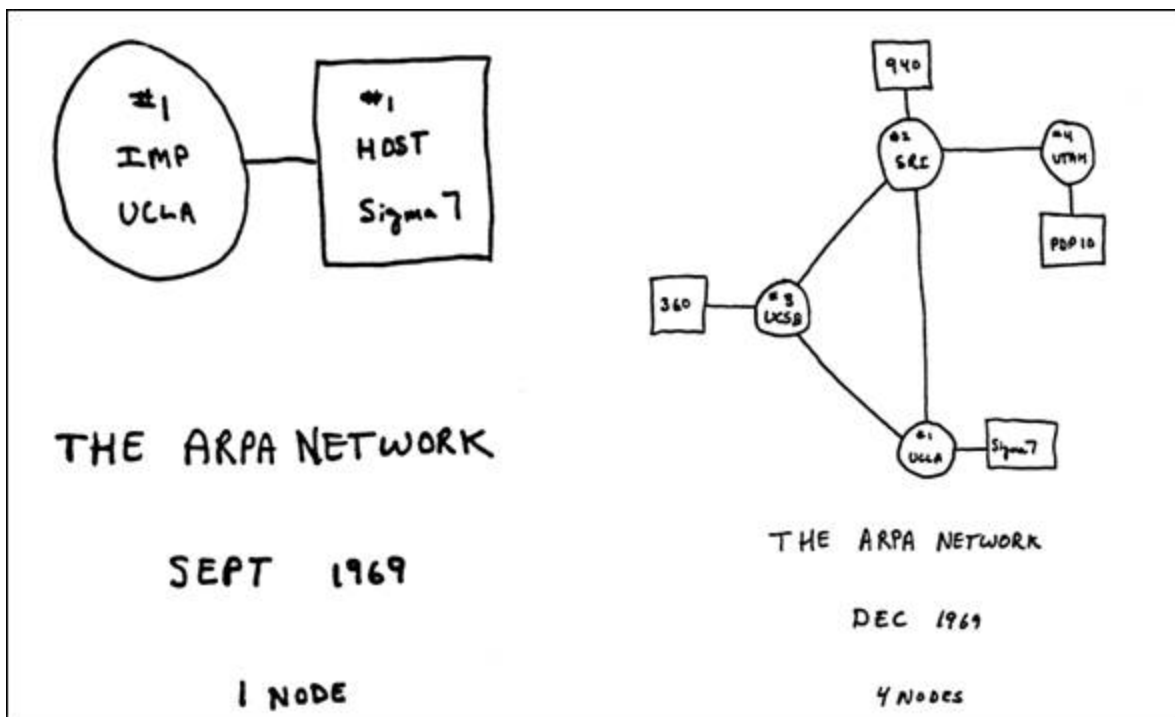
## BACKGROUND

1. The Internet Corporation for Assigned Names and Numbers (ICANN) is responsible for the overall coordination of "the global Internet's system of unique identifiers" and ensuring the "stable and secure operation of the Internet's unique identifier systems. In particular, ICANN coordinates the "allocation and assignment of the three sets of unique identifiers for the Internet". These are "domain names"(forming a system called the DNS); Internet protocol (IP) addresses and autonomous system (AS) numbers and Protocol port and parameter numbers". ICANN is also responsible for the "operation and evolution of the DNS root name server system and policy development reasonably and appropriately related to these technical functions". These elements are all contained in ICANN's Mission and Core Values[1] in addition to provisions which enable policy development work that, once approved by the ICANN Board, become binding on the organization. The results of the policy development process found here relate to the introduction of new generic top-level domains.

2. This document is the *Final Report* of the Generic Names Supporting Organisation's (GNSO) Policy Development Process (PDP) that has been conducted using ICANN's Bylaws and policy development guidelines that relate to the work of the GNSO. This *Report* reflects a comprehensive examination of four Terms of Reference designed to establish a stable and ongoing process that facilitates the introduction of new top-level domains. The policy development process (PDP) is part of the Generic Names Supporting Organisation's (GNSO) mandate within the ICANN structure. However, close consultation with other ICANN Supporting Organisations and Advisory Committees has been an integral part of the process. The consultations and negotiations have also included a wide range of interested stakeholders from within and outside the ICANN community[2].

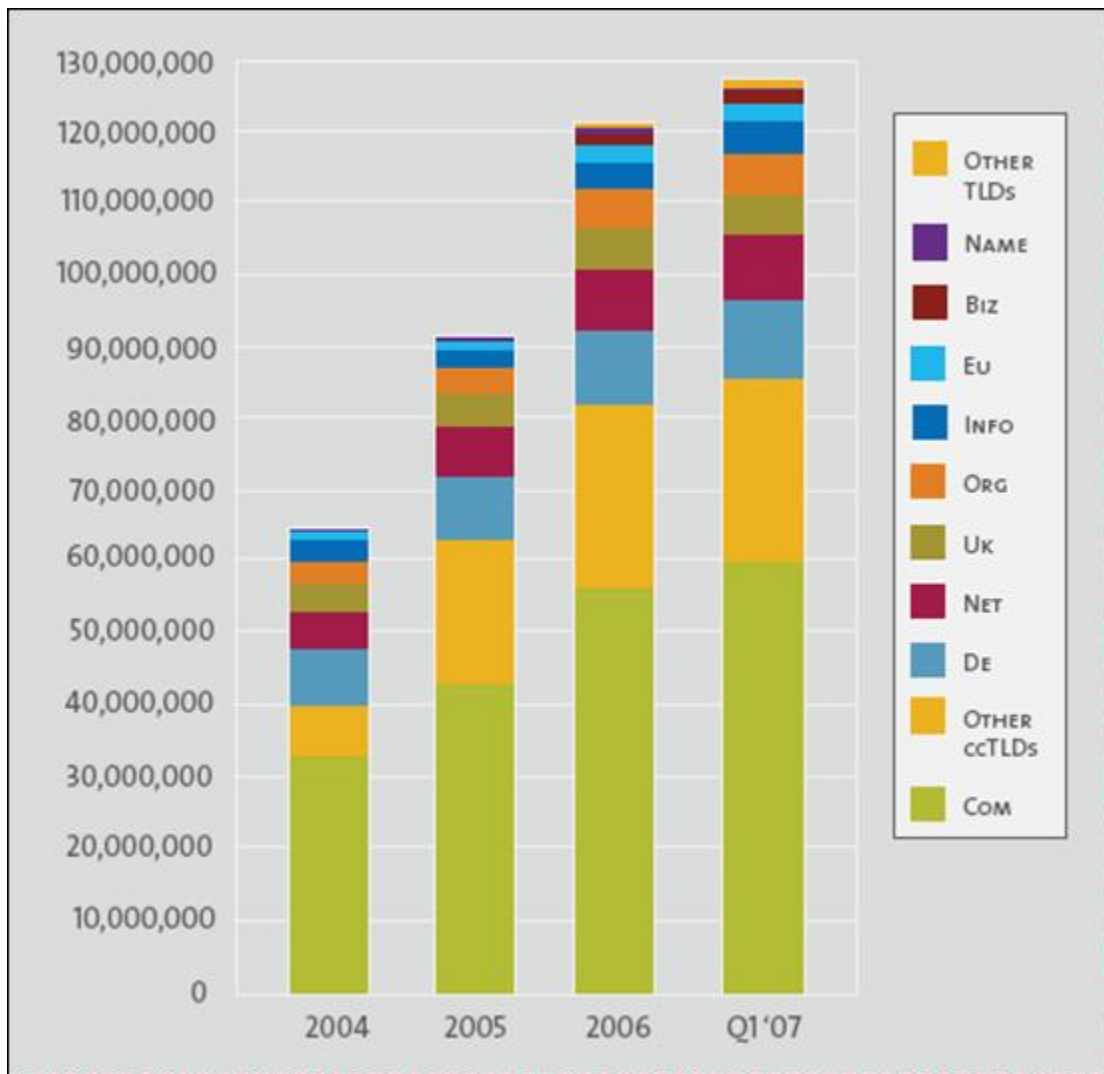
3. The *Final Report* is in two parts. This document is Part A and contains the full explanation of each of the Principles, Recommendations and Implementation Guidelines that the Committee has developed since December 2005[3]. Part B of the *Report* contains a wide range of supplementary materials which have been used in the policy development process including Constituency Impact Statements (CIS), a series of Working Group Reports on important sub-elements of the Committee's deliberations, a collection of external reference materials, and the procedural documentation of the policy development process[4].

4. The finalisation of the policy for the introduction of new top-level domains is part of a long series of events that have dramatically changed the nature of the Internet. The 1969 ARPANET diagram shows the initial design of a network that is now global in its reach and an integral part of many lives and businesses. The policy recommendations found here illustrate the complexity of the Internet of 2007 and, as a package, propose a system to add new top-level domains in an orderly and transparent way. The ICANN Staff Implementation Team, consisting of policy, operational and legal staff members, has worked closely with the Committee on all aspects of the policy development process[5]. The ICANN Board has received regular information and updates about the process and the substantive results of the Committee's work.



5. The majority of the early work on the introduction of new top-level domains is found in the IETF's Request for Comment series. RFC 1034[6] is a fundamental resource that explains key concepts of the naming system. Read in conjunction with RFC920[7], an historical picture emerges of how and why the domain name system hierarchy has been organised. Postel & Reynolds set out in their RFC920 introduction about the "General Purpose Domains" that ... "While the initial domain name "ARPA" arises from the history of the development of this system and environment, in the future most of the top level names will be very general categories like "government", "education", or "commercial". The motivation is to provide an organization name that is free of undesirable semantics."

6. In 2007, the Internet is multi-dimensional and its development is driven by widespread access to inexpensive communications technologies in many parts of the world. In addition, global travel is now relatively inexpensive, efficient and readily available to a diverse range of travellers. As a consequence, citizens no longer automatically associate themselves with countries but with international communities of linguistic, cultural or professional interests independent of physical location. Many people now exercise multiple citizenship rights, speak many different languages and quite often live far from where they were born or educated. The 2007 OECD *Factbook*[8] provides comprehensive statistics about the impact of migration on OECD member countries. In essence, many populations are fluid and changing due in part to easing labour movement restrictions but also because technology enables workers to live in one place and work in another relatively easily. As a result, companies and organizations are now global and operate across many geographic borders and jurisdictions. The following illustration[9] shows how rapidly the number of domain names under registration has increased and one could expect that trend to continue with the introduction of new top-level domains.



7. A key driver of change has been the introduction of competition in the registration of domain names through ICANN Accredited Registrars[10]. In June 2007, there were more than 800 accredited registrars who register names for end users with ongoing downward pressure on the prices end-users pay for domain name registration.

8. ICANN's work on the introduction of new top-level domains has been underway since 1999. By mid-1999, Working Group C[11] had quickly reached consensus on two issues, namely that "...ICANN should add new gTLDs to the root. The second is that ICANN should begin the deployment of new gTLDs with an initial rollout of six to ten new gTLDs, followed by an evaluation period". This work was undertaken throughout 2000 and saw the introduction of, for example, .coop, .aero and .biz.

9. After an evaluation period, a further round of sponsored TLDs was introduced during 2003 and 2004 which included, amongst others, .mobi and .travel[12].

10. The July 2007 zone file survey statistics from [www.registrarstats.com](http://www.registrarstats.com)[13] shows that there are slightly more than 96,000,000 top level domains registered across a selection of seven top-level domains including .com, .net and .info. Evidence from potential new applicants provides more impetus to implement a system that enables the ongoing introduction of new top level domains[14]. In addition, interest from Internet users who could use Internationalised Domain Names (IDNs) in a wide variety of scripts beyond ASCII is growing rapidly.

11. To arrive at the full set of policy recommendations which are found here, the Committee considered the responses to a Call for Expert Papers issued at the beginning of the policy development process[15], and which was augmented by a full set of GNSO Constituency Statements[16]. These are all found in Part B of the *Final Report* and should be read in conjunction with this document. In addition, the Committee received detailed responses from the Implementation Team about proposed policy recommendations and the implementation of the recommendations package as an on-line application process that could be used by a wide array of potential applicants.

12. The Committee reviewed and analysed a wide variety of materials including Working Group C's findings, the evaluation reports from the 2003 & 2004 round of sponsored top-level domains and a full range of other historic materials[17].

13. In the past, a number of different approaches to new top level domains have been considered including the formulation of a structured taxonomy[18] of names, for example, .auto, .books, .travel and .music. The Committee has opted to enable potential applicants to self-select strings that are either the most appropriate for their customers or potentially the most marketable. It is expected that applicants will apply for targeted community strings such as .travel for the travel industry and .cat for the Catalan community as well as some generic strings. The Committee identified five key drivers for the introduction of new top-level domains.

- (i) It is consistent with the reasons articulated in 1999 when the first proof-of-concept round was initiated
- (ii) There are no technical impediments to the introduction of new top-level domains as evidenced by the two previous rounds
- (iii) Expanding the domain name space to accommodate the introduction of both new ASCII and internationalised domain name (IDN) top-level domains will give end users more choice about the nature of their presence on the Internet. In addition, users will be able to use domain names in their language of choice.
- (iv) There is demand for additional top-level domains as a business opportunity. The GNSO Committee expects that this business opportunity will stimulate competition at the registry service level which is consistent with ICANN's Core Value 6.
- (v) No compelling reason has been articulated to not proceed with accepting applications for new top-level domains.

14. The remainder of this Report is structured around the four *Terms of Reference*. This includes an explanation of the Principles that have guided the work taking into account the Governmental Advisory Committee's March 2007 *Public Policy Principles for New gTLDs*[19]; a comprehensive set of Recommendations which has majority Committee support and a set of Implementation Guidelines which has been discussed in great detail with the ICANN Staff Implementation Team. The Implementation Team has released two *ICANN Staff Discussion Points* documents (in November 2006 and June 2007). Version 2 provides detailed analysis of the proposed recommendations from an implementation standpoint and provides suggestions about the way in which the implementation plan may come together. The ICANN Board will make the final decision about the actual structure of the application and evaluation process.

15. In each of the sections below the Committee's recommendations are discussed in more detail with an explanation of the rationale for the decisions. The recommendations have been the subject of numerous public comment periods and intensive discussion across a range of stakeholders including ICANN's GNSO Constituencies, ICANN Supporting Organisations and Advisory Committees and members of the broader Internet-using public that is interested in ICANN's work[20]. In particular, detailed work has been conducted

through the Internationalised Domain Names Working Group (IDN-WG)[21], the Reserved Names Working Group (RN-WG)[22] and the Protecting the Rights of Others Working Group (PRO-WG) [23]. The Working Group Reports are found in full in Part B of the *Final Report* along with the March 2007 GAC Public Policy Principles for New Top-Level Domains, Constituency Impact Statements. A minority statement from the NCUC about Recommendations 6 & 20 are found Annexes for this document along with individual comments from Nominating Committee appointee Ms Avri Doria.

## SUMMARY -- PRINCIPLES, RECOMMENDATIONS & IMPLEMENTATION GUIDELINES

1. This section sets out, in table form, the set of Principles, proposed Policy Recommendations and Guidelines that the Committee has derived through its work. The addition of new gTLDs will be done in accordance with ICANN's primary mission which is to ensure the security and stability of the DNS and, in particular, the Internet's root server system[24].
2. The Principles are a combination of GNSO Committee priorities, ICANN staff implementation principles developed in tandem with the Committee and the March 2007 GAC Public Policy Principles on New Top-Level Domains. The Principles are supported by all GNSO Constituencies.[25]
3. ICANN's Mission and Core Values were key reference points for the development of the Committee's Principles, Recommendations and Implementation Guidelines. These are referenced in the right-hand column of the tables below.
4. The Principles have support from all GNSO Constituencies.

	PRINCIPLES	MISSION & CORE VALUES
<b>A</b>	<b>New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.</b>	<b>M1 &amp; CV1 &amp; 2, 4-10</b>
<b>B</b>	Some new generic top-level domains should be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.	M1-3 & CV 1, 4 & 6
<b>C</b>	The reasons for introducing new top-level domains include that there is demand from potential applicants for new top-level domains in both ASCII and IDN formats. In addition the introduction of new top-level domain application process has the potential to promote competition in the provision of registry services, to add to consumer choice, market differentiation and geographical and service-provider diversity.	M3 & CV 4-10
<b>D</b>	A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.	M1-3 & CV 1
<b>E</b>	A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meets its obligations under the terms of ICANN's registry agreement.	M1-3 & CV 1
<b>F</b>	<b>A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.</b>	<b>M1-3 &amp; CV 1</b>
<b>G</b>	<b>The string evaluation process must not infringe the applicant's freedom of expression rights that are protected under internationally recognized principles of law.</b>	
	<b>RECOMMENDATIONS[26]</b>	<b>MISSION &amp; CORE VALUES</b>

1	<p>ICANN must implement a process that allows the introduction of new top-level domains.</p> <p>The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination.</p> <p>All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.</p>	M1-3 & CV1-11
2	Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.	M1-3 & C1-6-11
3	<p>Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.</p> <p>Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industry Property (in particular trademark rights), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) (in particular freedom of expression rights).</p>	CV3
4	Strings must not cause any technical instability.	M1-3 & CV 1
5	Strings must not be a Reserved Word[27].	M1-3 & CV 1 & 3
6*	<p><b>Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.</b></p> <p>Examples of such principles of law include, but are not limited to, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination, intellectual property treaties administered by the World Intellectual Property Organisation (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).</p>	<b>M3 &amp; CV 4</b>
7	<b>Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.</b>	<b>M1-3 &amp; CV1</b>
8	Applicants must be able to demonstrate their financial and organisational operational capability.	M1-3 & CV1
9	<b>There must be a clear and pre-published application process using objective and measurable criteria.</b>	<b>M3 &amp; CV6-9</b>
10	<b>There must be a base contract provided to applicants at the beginning of the application process.</b>	<b>CV7-9</b>
11	[Replaced with Recommendation 20 and Implementation Guideline P and inserted into Term of Reference 3 Allocation Methods section]	
12	<b>Dispute resolution and challenge processes must be established prior to the start of the process.</b>	<b>CV7-9</b>
13	Applications must initially be assessed in rounds until the scale of demand is clear.	<b>CV7-9</b>
14	The initial registry agreement term must be of a commercially reasonable length.	<b>CV5-9</b>
15	<b>There must be renewal expectancy.</b>	<b>CV5-9</b>
16	<b>Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved.</b>	<b>CV5-9</b>
17	<b>A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.</b>	<b>M1 &amp; CV1</b>

18	If an applicant offers an IDN service, then ICANN's IDN guidelines[28] must be followed.	M1 & CV1
19	Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars.	M1 & CV1
20*	An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.	

\* The NCUC submitted Minority Statements on Recommendations 6 and 20. The remainder of the Recommendations have support from all GNSO Constituencies.

	IMPLEMENTATION GUIDELINES	MISSION & CORE VALUES
IG A	The application process will provide a pre-defined roadmap for applicants that encourages the submission of applications for new top-level domains.	CV 2, 5, 6, 8 & 9
IG B	Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process.  Application fees may differ for applicants.	CV 5, 6, 8 & 9
IG C	ICANN will provide frequent communications with applicants and the public including comment forums.	CV 9 & 10
IG D	A first come first served processing schedule within the application round will be implemented and will continue for an ongoing process, if necessary.  Applications will be time and date stamped on receipt.	CV 8-10
IG E	The application submission date will be at least four months after the issue of the Request for Proposal and ICANN will promote the opening of the application round.	CV 9 & 10
IG F*	<b>If there is contention for strings, applicants may[29]:</b>  <b>i) resolve contention between them within a pre-established timeframe</b>  <b>ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;</b>  <b>iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.</b>	CV 7-10
IG H*	Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exceptions:  (i) the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application; and  (ii) a formal objection process is initiated.  Under these exceptions, Staff Evaluators will devise criteria and procedures to investigate the claim.  Under exception (ii), an expert panel will apply the process, guidelines, and definitions set forth in IG P.	CV 7 - 10
IG H	External dispute providers will give decisions on objections.	CV 10
IG I	An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process.	CV 10
IG J	The base contract should balance market certainty and flexibility for ICANN to accommodate a rapidly changing market place.	CV 4-10
IG K	ICANN should take a consistent approach to the establishment of registry fees.	CV 5



IG L	The use of personal data must be limited to the purpose for which it is collected.	CV 8
IG M	ICANN may establish a capacity building and support mechanism aiming at facilitating effective communication on important and technical Internet governance functions in a way that no longer requires all participants in the conversation to be able to read and write English[30].	CV 3 - 7
IG N	ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.	CV 3 - 7
IG O	ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations.	CV 8 -10
IG P*	<p>The following process, definitions and guidelines refer to Recommendation 20.</p> <p style="text-align: center;"><b>Process</b></p> <p style="text-align: center;">Opposition must be objection based.</p> <p>Determination will be made by a dispute resolution panel constituted for the purpose.</p> <p>The objector must provide verifiable evidence that it is an established institution of the community (perhaps like the RSTEP pool of panelists from which a small panel would be constituted for each objection).</p> <p style="text-align: center;"><b>Guidelines</b></p> <p>The task of the panel is the determination of substantial opposition.</p> <p>a) <b>substantial</b> – in determining substantial the panel will assess the following: signification portion, community, explicitly targeting, implicitly targeting, established institution, formal existence, detriment</p> <p>b) <b>significant portion</b> – in determining significant portion the panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.</p> <p>c) <b>community</b> – community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community. It may be a closely related community which believes it is impacted.</p> <p>d) <b>explicitly targeting</b> – explicitly targeting means there is a description of the intended use of the TLD in the application.</p> <p>e) <b>implicitly targeting</b> – implicitly targeting means that the objector makes an assumption of targeting or that the objector believes there may be confusion by users over its intended use.</p> <p>f) <b>established institution</b> – an institution that has been in formal existence for at least 5 years. In exceptional cases, standing may be granted to an institution that has been in existence for fewer than 5 years.</p>	

	<p>Exceptional circumstances include but are not limited to a re-organization, merger or an inherently younger community.</p> <p>The following ICANN organizations are defined as established institutions: GAC, ALAC, GNSO, ccNSO, ASO.</p> <p>g) <b>formal existence</b> – formal existence may be demonstrated by appropriate public registration, public historical evidence, validation by a government, intergovernmental organization, international treaty organization or similar.</p> <p>h) <b>detriment</b> – the objector must provide sufficient evidence to allow the panel to determine that there would be a likelihood of detriment to the rights or legitimate interests of the community or to users more widely.</p>	
IG Q	ICANN staff will provide an automatic reply to all those who submit public comments that will explain the objection procedure.	
IG R	Once formal objections or disputes are accepted for review there will be a cooling off period to allow parties to resolve the dispute or objection before review by the panel is initiated.	

\* The NCUC submitted Minority Statements on Implementation Guidelines F, H & P. The remainder of the Implementation Guidelines have support from all GNSO Constituencies.

1. This set of implementation guidelines is the result of detailed discussion, particularly with respect to the two *ICANN Staff Discussion Points*[31] documents that were prepared to facilitate consultation with the GNSO Committee about the implementation impacts of the proposed policy Recommendations. The Implementation Guidelines will be used to inform the final Implementation Plan which is approved by the ICANN Board

2. The *Discussion Points* documents contain draft flowcharts which have been developed by the Implementation Team and which will be updated, based on the final vote of the GNSO Council and the direction of the ICANN Board. The *Discussion Points* documents have been used in the ongoing internal implementation discussions that have focused on ensuring that draft recommendations proposed by the Committee are implementable in an efficient and transparent manner[32]. The flowchart setting out the proposed Contention Evaluation Process is a more detailed component within the Application Evaluation Process and will be amended to take into account the inputs from Recommendation 20 and its related Implementation Guidelines.

3. This policy development process has been designed to produce a systemised and ongoing mechanism for applicants to propose new top-level domains. The Request for Proposals (RFP) for the first round will include scheduling information for the subsequent rounds to occur within one year. After the first round of new applications, the application system will be evaluated by ICANN's TLDs Project Office to assess the effectiveness of the application system. Success metrics will be developed and any necessary adjustments made to the process for subsequent rounds.

4. The following sections set out in detail the explanation for the Committee's recommendations for each Term of Reference.

## **TERM OF REFERENCE ONE -- WHETHER TO INTRODUCE NEW TOP-LEVEL DOMAINS**

1. **Recommendation 1 Discussion – All GNSO Constituencies supported the introduction of new top-level domains.**

2. The GNSO Committee was asked to address the question of whether to introduce new top-level domains. The Committee recommends that ICANN should implement a process that allows the introduction of new top level domains and that work should proceed to develop policies that will enable the introduction of new generic top-level domains, taking into account the recommendations found in the latter sections of the *Report* concerning Selection Criteria (Term of Reference 2), Allocation Methods (Term of Reference 3) and Policies for Contractual Conditions (Term of Reference 4).



3. ICANN's work on the introduction of new top-level domains has been ongoing since 1999. The early work included the 2000 Working Group C Report[33] that also asked the question of "whether there should be new TLDs". By mid-1999, the Working Group had quickly reached consensus on two issues, namely that "...ICANN should add new gTLDs to the root. The second is that ICANN should begin the deployment of new gTLDs with an initial rollout of six to ten new gTLDs, followed by an evaluation period". This work was undertaken throughout 2000 and saw the introduction of, for example, .coop, .aero and .biz.
4. After an evaluation period, a further round of sponsored TLDs was introduced during 2003 and 2004 which included, amongst others, .mobi and .travel.
5. In addressing Term of Reference One, the Committee arrived at its recommendation by reviewing and analysing a wide variety of materials including Working Group C's findings; the evaluation reports from the 2003-2004 round of sponsored top-level domains and full range of other historic materials which are posted at <http://gns0.icann.org/issues/new-gtlds/>
6. In addition, the Committee considered the responses to a Call for Expert Papers issued at the beginning of the policy development process[34]. These papers augmented a full set of GNSO Constituency Statements[35] and a set of Constituency Impact Statements[36] that addressed specific elements of the Principles, Recommendations and Implementation Guidelines.
7. The Committee was asked, at its February 2007 Los Angeles meeting, to confirm its rationale for recommending that ICANN introduce new top-level domains. In summary, there are five threads which have emerged:
  - (i) It is consistent with the reasons articulated in 1999 when the first proof-of-concept round was initiated
  - (ii) There are no technical impediments to the introduction of new top-level domains as evidenced by the two previous rounds
  - (iii) It is hoped that expanding the domain name space to accommodate the introduction of both new ASCII and internationalised domain name (IDN) top-level domains will give end users more choice about the nature of their presence on the Internet. In addition, users will be able to use domain names in their language of choice.
  - (iv) In addition, the introduction of a new top-level domain application process has the potential to promote competition in the provision of registry services, and to add to consumer choice, market differentiation and geographic and service-provider diversity which is consistent with ICANN's Core Value 6.
  - (v) No compelling reason has been articulated to not proceed with accepting applications for new top-level domains.
8. Article X, Part 7, Section E of the GNSO's Policy Development Process requires the submission of "constituency impact statements" which reflect the potential implementation impact of policy recommendations. By 4 July 2007 all GNSO Constituencies had submitted Constituency Impact Statements (CIS) to the gTLD-council mailing list[37]. Each of those statements is referred to throughout the next sections[38] and are found in full in Part B of the *Report*. The NCUC submitted Minority Statements on Recommendations 6 & 20 and on Implementation Guidelines F, H & P. These statements are found in full here in Annex A & C, respectively, as they relate specifically to the finalised text of those two recommendations. GNSO Committee Chair and Nominating Committee appointee Ms Avri Doria also submitted individual comments on the recommendation package. Her comments are found in Annex B here.
9. All Constituencies support the introduction of new TLDs particularly if the application process is transparent and objective. For example, the ISPCP said that, "...the ISPCP is highly supportive of the principles defined in this section, especially with regards to the statement in [principle A] (A): New generic top-level domains must be introduced in an orderly, timely and predictable way. Network operators and ISPs must ensure their customers do not encounter problems in addressing their emails, and in their web searching and access activities, since this can cause customer dissatisfaction and overload help-desk complaints. Hence this principle is a vital component of any addition sequence to the gTLD namespace. The various criteria as defined in D, E and F, are also of great importance in contributing to minimise the risk of moving forward with any new gTLDs, and our constituency urges ICANN to ensure they are scrupulously observed during the applications evaluation process". The Business Constituency's (BC) CIS said that "...If the outcome is the best possible there will be a beneficial impact on business users from: a reduction in the competitive concentration in the Registry sector; increased choice of domain names; lower fees for registration and ownership; increased opportunities for innovative on-line business models." The Registrar Constituency (RC) agreed with this view stating that "...new gTLDs present an opportunity to Registrars in the form of additional products and associated services to offer to its customers. However, that opportunity comes with the costs if implementing the new gTLDs as well as the efforts required to do the appropriate business analysis to determine which of the new gTLDs are appropriate for its particular business model."

10. The Registry Constituency (RyC) said that "...Regarding increased competition, the RyC has consistently supported the introduction of new gTLDs because we believe that: there is a clear demand for new TLDs; competition creates more choices for potential registrants; introducing new TLDs with different purposes increases the public benefit; new gTLDs will result in creativity and differentiation in the domain name industry; the total market for all TLDs, new and old, will be expanded." In summary, the Committee recommended, "ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process". Given that this recommendation has support from all Constituencies, the following sections set out the other Terms of Reference recommendations.

## TERM OF REFERENCE -- SELECTION CRITERIA

### 1. Recommendation 2 Discussion -- Strings must not be confusingly similar to an existing top-level domain.

- i) This recommendation has support from all the GNSO Constituencies. Ms Doria accepted the recommendation with the concern expressed below[39].
- ii) The list of existing top-level domains is maintained by IANA and is listed in full on ICANN's website[40]. Naturally, as the application process enables the operation of new top-level domains this list will get much longer and the test more complex. The RyC, in its Impact Statement, said that "...This recommendation is especially important to the RyC. ... It is of prime concern for the RyC that the introduction of new gTLDs results in a ubiquitous experience for Internet users that minimizes user confusion. gTLD registries will be impacted operationally and financially if new gTLDs are introduced that create confusion with currently existing gTLD strings or with strings that are introduced in the future. There is a strong possibility of significant impact on gTLD registries if IDN versions of existing ASCII gTLDs are introduced by registries different than the ASCII gTLD registries. Not only could there be user confusion in both email and web applications, but dispute resolution processes could be greatly complicated." The ISPCP also stated that this recommendation was "especially important in the avoidance of any negative impact on network activities." The RC stated that "...Registrars would likely be hesitant to offer confusingly similar gTLDs due to customer demand and support concerns. On the other hand, applying the concept too broadly would inhibit gTLD applicants and ultimately limit choice to Registrars and their customers".
- iii) There are two other key concepts within this recommendation. The first is the issue of "confusingly similar" [41] and the second "likelihood of confusion". There is extensive experience within the Committee with respect to trademark law and the issues found below have been discussed at length, both within the Committee and amongst the Implementation Team.
- iv) The Committee used a wide variety of existing law[42], international treaty agreements and covenants to arrive at a common understanding that strings should not be confusingly similar either to existing top-level domains like .com and .net or to existing trademarks[43]. For example, the Committee considered the World Trade Organisation's TRIPS agreement, in particular Article 16 which discusses the rights which are conferred to a trademark owner.[44] In particular, the Committee agreed upon an expectation that strings must avoid increasing opportunities for entities or individuals, who operate in bad faith and who wish to defraud consumers. The Committee also considered the Universal Declaration of Human Rights[45] and the International Covenant on Civil and Political Rights which address the "freedom of expression" element of the Committee's deliberations.
- v) The Committee also benefited from the work of the Protecting the Rights of Others Working Group (PRO-WG). The PRO-WG presented its *Final Report*[46] to the Committee at the June 2007 San Juan meeting. The Committee agreed that the Working Group could develop some reference implementation guidelines on rights protection mechanisms that may inform potential new TLD applicants during the application process. A small ad-hoc group of interested volunteers are preparing those materials for consideration by the Council by mid-October 2007.
- vi) The Committee had access to a wide range of differing approaches to rights holder protection mechanisms including the United Kingdom, the USA, Jordan, Egypt and Australia[47].
- vii) In addition, the Committee referred to the 1883 *Paris Convention on the Protection of Industrial Property*[48]. It describes the notion of confusion and describes creating confusion as "to create confusion by any means whatever" {Article 10bis (3) (1)} and, further, being "liable to mislead the public" {Article 10bis (3) (3)}. The treatment of confusingly similar is also

contained in European Union law (currently covering twenty-seven countries) and is structured as follows. "...because of its identity with or similarity to...there exists a likelihood of confusion on the part of the public...; the likelihood of confusion includes the likelihood of association..." {Article 4 (1) (b) of the 1988 EU Trade Mark directive 89/104/EEC}. Article 8 (1) (b) of the 1993 European Union Trade Mark regulation 40/94 is also relevant.

- viii) In the United States, existing trade mark law requires applicants for trademark registration to state under penalty of perjury that "...to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive..." which is contained in Section 1051 (3) (d) of the US Trademark Act 2005 (found at <http://www.bitlaw.com/source/15usc/1051.html>).[49]
- ix) In Australia, the Australian Trade Marks Act 1995 Section 10 says that "...For the purposes of this Act, a trade mark is taken to be deceptively similar to another trade mark if it so nearly resembles that other trade mark that it is likely to deceive or cause confusion" (found at [http://www.ipaustralia.gov.au/resources/legislation\\_index.shtml](http://www.ipaustralia.gov.au/resources/legislation_index.shtml))
- x) A number of different trademark offices provide guidance on how to interpret confusion. For example, the European Union Trade Mark Office provides guidance on how to interpret confusion. *"...confusion may be visual, phonetic or conceptual. A mere aural similarity may create a likelihood of confusion. A mere visual similarity may create a likelihood of confusion. Confusion is based on the fact that the relevant public does not tend to analyse a word in detail but pays more attention to the distinctive and dominant components. Similarities are more significant than dissimilarities. The visual comparison is based on an analysis of the number and sequence of the letters, the number of words and the structure of the signs. Further particularities may be of relevance, such as the existence of special letters or accents that may be perceived as an indication of a specific language. For words, the visual comparison coincides with the phonetic comparison unless in the relevant language the word is not pronounced as it is written. It should be assumed that the relevant public is either unfamiliar with that foreign language, or even if it understands the meaning in that foreign language, will still tend to pronounce it in accordance with the phonetic rules of their native language. The length of a name may influence the effect of differences. The shorter a name, the more easily the public is able to perceive all its single elements. Thus, small differences may frequently lead in short words to a different overall impression. In contrast, the public is less aware of differences between long names. The overall phonetic impression is particularly influenced by the number and sequence of syllables."* (found at <http://oami.europa.eu/en/mark/marque/direc.htm>).
- xi) An extract from the United Kingdom's Trade Mark Office's Examiner's Guidance Manual is useful in explaining further the Committee's approach to developing its Recommendation. *"For likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average consumer. Likelihood of association is not an alternative to likelihood of confusion, "but serves to define its scope". Mere association, in the sense that the later mark brings the earlier mark to mind is insufficient to find a likelihood of confusion, unless the average consumer, in bringing the earlier mark to mind, is led to expect the goods or services of both marks to be under the control of one single trade source. "The risk that the public might believe that the goods/services in question come from the same undertaking or, as the case may be, from economically-linked undertakings, constitutes a likelihood of confusion..."*. (found at <http://www.patent.gov.uk/tm/t-decisionmaking/t-law/t-law-manual.htm>)
- xii) The Committee also looked in detail at the existing provisions of ICANN's Registrar Accreditation Agreement, particularly Section 3.7.7.9[50] which says that "...The Registered Name Holder shall represent that, to the best of the Registered Name Holder's knowledge and belief, neither the registration of the Registered Name nor the manner in which it is directly or indirectly used infringes the legal rights of any third party."
- xiii) The implications of the introduction of Internationalised Domain Names (IDNs) are, in the main, the same as for ASCII top-level domains. On 22 March 2007 the IDN-WG released its *Outcomes Report*[51] that the Working Group presented to the GNSO Committee. The Working Group's exploration of IDN-specific issues confirmed that the new TLD recommendations are valid for IDN TLDs. The full IDN WG Report is found in Part B of the *Report*.
- xiv) The technical testing for IDNs at the top-level is not yet completed although strong progress is being made. Given this and the other work that is taking place around the introduction of IDNs at the top-level, there are some critical factors that may impede the immediate acceptance of new IDN TLD applications. The conditions under which those applications would be assessed would remain the same as for ASCII TLDs.
- xv) Detailed work continues on the preparation of an Implementation Plan that reflects both the Principles and the Recommendations. The proposed Implementation Plan deals with a comprehensive range of potentially controversial (for

whatever reason) string applications which balances the need for reasonable protection of existing legal rights and the capacity to innovate with new uses for top level domains that may be attractive to a wide range of users[52].

xvi) The draft Implementation Plan (included in the *Discussion Points* document), illustrates the flow of the application and evaluation process and includes a detailed dispute resolution and extended evaluation tracks designed to resolve objections to applicants or applications.

xvii) There is tension between those on the Committee who are concerned about the protection of existing TLD strings and those concerned with the protection of trademark and other rights as compared to those who wish, as far as possible, to preserve freedom of expression and creativity. The *Implementation Plan* sets out a series of tests to apply the recommendation during the application evaluation process.

**2. Recommendation 3 Discussion -- Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law. Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industry Property (in particular trademark rights), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) (in particular freedom of expression rights).**

i. This recommendation has support from all GNSO Constituencies. Ms Doria supported the recommendation with concern expressed below[53].

ii. This recommendation was discussed in detail in the lead up to the Committee's 7 June 2007 conference call and it was agreed that further work would be beneficial. That work was conducted through a series of teleconferences and email exchanges. The Committee decided to leave the recommendation text as it had been drafted and insert a new Principle G that reads "...The string evaluation process must not infringe the applicant's freedom of expression rights that are protected under internationally recognized principles of law."

iii. Prior to this, the Committee engaged in comprehensive discussion about this recommendation and took advice from a number of experts within the group[54]. The original text of the recommendation has been modified to recognise that an applicant would be bound by the laws of the country where they are located and an applicant may be bound by another country that has jurisdiction over them. In addition, the original formulation that included "freedom of speech" was modified to read the more generally applicable "freedom of expression".

iv. Before reaching agreement on the final text, the IPC and the NCUC, in their respective Constituency Impact Statements (CIS), had differing views. The NCUC argued that "...there is no recognition that trade marks (and other legal rights have legal limits and defenses." The IPC says "agreed [to the recommendation], and, as stated before, appropriate mechanisms must be in place to address conflicts that may arise between any proposed new string and the IP rights of others."

**3. Recommendation 4 Discussion -- Strings must not cause any technical instability.**

i. This recommendation is supported by all GNSO Constituencies and Ms Doria.

ii. It was agreed by the Committee that the string should not cause any technical issues that threatened the stability and security of the Internet.

iii. In its CIS, the ISPCP stated that "...this is especially important in the avoidance of any negative impact on network activities...The ISPCP considers recommendations 7 and 8 to be fundamental. The technical, financial, organizational and operational capability of the applicant are the evaluators' instruments for preventing potential negative impact on a new string on the activities of our sector (and indeed of many other sectors)." The IPC also agreed that "technical and operational stability are imperative to any new gTLD introduction." The RC said "...This is important to Registrars in that unstable registry and/or zone operations would have a serious and costly impact on its operations and customer service and support."

iv. The Security and Stability Advisory Committee (SSAC) has been involved in general discussions about new top level domains and will be consulted formally to confirm that the implementation of the recommendations will not cause any technical instability.

v. A reserved word list, which includes strings which are reserved for technical reasons, has been recommended by the RN-WG. This table is found in the section below.

**4. Recommendation 5 Discussion -- Strings must not be a Reserved Word.[55]**

- i. This recommendation is supported by all GNSO Constituencies. Ms Doria supported the recommendation but expressed some concerns outlined in the footnote below.[56]
- ii. The RN WG developed a definition of "reserved word" in the context of new TLDs which said "...depending on the specific reserved name category as well as the type (ASCII or IDN), the reserved name requirements recommended may apply in any one or more of the following levels as indicated:
  - 1. At the top level regarding gTLD string restrictions
  - 2. At the second-level as contractual conditions
  - 3. At the third-level as contractual conditions for any new gTLDs that offer domain name registrations at the third-level.
- iii. The notion of "reserved words" has a specific meaning within the ICANN context. Each of the existing ICANN registry contracts has provisions within it that govern the use of reserved words. Some of these recommendations will become part of the contractual conditions for new registry operators.
- iv. The Reserved Names Working Group (RN-WG) developed a series of recommendations across a broad spectrum of reserved words. The Working Group's *Final Report*[57] was reviewed and the recommendations updated by the Committee at ICANN's Puerto Rico meeting and, with respect to the recommendations relating to IDNs, with IDN experts. The final recommendations are included in the following table.

	<b>Reserved Name Category</b>	<b>Domain Name Level(s)</b>	<b>Recommendation</b>
1	ICANN & IANA	All ASCII	The names listed as ICANN and IANA names will be reserved at all levels.
2	ICANN & IANA	Top level, IDN	Any names that appear in the IDN evaluation facility[58] which consist exclusively of translations of 'example' or 'test' that appear in the document at <a href="http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf">http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf</a> shall be reserved.
3	ICANN & IANA	2 <sup>nd</sup> & 3 <sup>rd</sup> levels, IDN	Any names that appear in the IDN evaluation facility which consist exclusively of translations of 'example' or 'test' that appear in the document at <a href="http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf">http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf</a> shall be reserved.
4	Symbols	All	We recommend that the current practice be maintained, so that no symbols other than the '-' [hyphen] be considered for use, with further allowance for any equivalent marks that may explicitly be made available in future revisions of the IDNA protocol.
5	Single and Two Character IDNs	IDNA-valid strings at all levels	Single and two-character U-labels on the top level and second level of a domain name should not be restricted in general. At the top level, requested strings should be analyzed on a case-by-case basis in the new gTLD process depending on the script and language used in order to determine whether the string should be granted for allocation in the DNS with particular caution applied to U-labels in Latin script (see Recommendation 10 below). Single and two character labels at the second level and the third level if applicable should be available for registration, provided they are consistent with the IDN Guidelines.
6	Single Letters	Top Level	We recommend reservation of single letters at the top level based on technical questions raised. If sufficient research at a later date demonstrates that the technical issues and concerns are addressed, the topic of releasing reservation status can be reconsidered.
7	Single Letters and Digits	2 <sup>nd</sup> Level	In future gTLDs we recommend that single letters and single digits be available at the second (and third level if applicable).
8	Single and Two Digits	Top Level	A top-level label must not be a plausible component of an IPv4 or IPv6 address. (e.g., .3, .99, .123, .1035, .0xAF, .1578234)
9	Single Letter,	Top Level	Applications may be considered for single letter, single digit combinations at the top level in



	Reserved Name Category	Domain Name Level(s)	Recommendation
	Single Digit Combinations		accordance with the terms set forth in the new gTLD process.  Examples include .3F, .A1, .u7.
10	Two Letters	Top Level	We recommend that the current practice of allowing two letter names at the top level, only for ccTLDs, remains at this time.[59]  Examples include .AU, .DE, .UK.
11	Any combination of Two Letters, Digits	2 <sup>nd</sup> Level	Registries may propose release provided that measures to avoid confusion with any corresponding country codes are implemented.[60] Examples include ba.aero, ub.cat, 53.com, 3M.com, e8.org.
12	Tagged Names	Top Level ASCII	In the absence of standardization activity and appropriate IANA registration, all labels with hyphens in both the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n") must be reserved at the top-level.[61]
13	N/A	Top Level IDN	For each IDN gTLD proposed, applicant must provide both the "ASCII compatible encoding" ("A-label") and the "Unicode display form" ("U-label")[62] For example: <ul style="list-style-type: none"> <li>• If the Chinese word for 'Beijing' is proposed as a new gTLD, the applicant would be required to provide the A-label (xn--1lq90i) and the U-label (北京).</li> <li>• If the Japanese word for 'Tokyo' is proposed as a new gTLD, the applicant would be required to provide the A-label (xn--1lqs71d) and the U-label (東京).</li> </ul>
14	Tagged Names	2 <sup>nd</sup> Level ASCII	The current reservation requirement be reworded to say, " <i>In the absence of standardization activity and appropriate IANA registration</i> , all labels with hyphens in both the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n") must be reserved in ASCII at the second (2 <sup>nd</sup> ) level.[63] – added words in <i>italics</i> . (Note that names starting with "xn--" may only be used if the current ICANN IDN Guidelines are followed by a gTLD registry.)
15	Tagged Names	3 <sup>rd</sup> Level ASCII	All labels with hyphens in both the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n") must be reserved in ASCII at the third (3 <sup>rd</sup> ) level for gTLD registries that register names at the third level.[64] – added words in <i>italics</i> . (Note that names starting with "xn--" may only be used if the current ICANN IDN Guidelines are followed by a gTLD registry.)
16	NIC, WHOIS, WWW	Top ASCII	The following names must be reserved: nic, whois, www.
17	NIC, WHOIS, WWW	Top IDN	Do not try to translate nic, whois and www into Unicode versions for various scripts or to reserve any ACE versions of such translations or transliterations if they exist.
18	NIC, WHOIS, WWW	Second and Third* ASCII	The following names must be reserved for use in connection with the operation of the registry for the Registry TLD: nic, whois, www Registry Operator may use them, but upon conclusion of Registry Operator's designation as operator of the registry for the Registry TLD, they shall be transferred as specified by ICANN. (*Third level only applies in cases where a registry offers registrations at the third level.)
19	NIC, WHOIS, WWW	Second and Third* IDN	Do not try to translate nic, whois and www into Unicode versions for various scripts or to reserve any ACE versions of such translations or transliterations if they exist, except on a case by case basis as proposed by given registries. (*Third level only applies in cases where a registry offers registrations at the third level.)
20	Geographic and geopolitical	Top Level ASCII and IDN	There should be no geographical reserved names (i.e., no exclusionary list, no presumptive right of registration, no separate administrative procedure, etc.). The proposed challenge mechanisms currently being proposed in the draft new gTLD process would allow national or local governments to initiate a challenge, therefore no additional protection mechanisms are needed. Potential applicants for a new TLD need to represent that the use of the proposed string is not in violation of the national laws in which the applicant is incorporated.  However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC Principles, and the advisory role vested to it under the ICANN Bylaws. Additionally, a summary overview of the obstacles encountered

	Reserved Name Category	Domain Name Level(s)	Recommendation
			<p>by previous applicants involving similar TLDs should be provided to allow an applicant to make an informed decision. Potential applicants should also be advised that the failure of the GAC, or an individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN Bylaws.</p> <p style="text-align: center;"><i>Note New gTLD Recommendation 20</i></p>
21	Geographic and geopolitical	All Levels ASCII and IDN	<p>The term 'geopolitical names' should be avoided until such time that a useful definition can be adopted. The basis for this recommendation is founded on the potential ambiguity regarding the definition of the term, and the lack of any specific definition of it in the WIPO Second Report on Domain Names or GAC recommendations.</p> <p style="text-align: center;"><i>Note New gTLD Recommendation 20</i></p>
22	Geographic and geopolitical	Second Level & Third Level if applicable, ASCII & IDN	<p>The consensus view of the working group is given the lack of any established international law on the subject, conflicting legal opinions, and conflicting recommendations emerging from various governmental fora, the current geographical reservation provision contained in the sTLD contracts during the 2004 Round should be removed, and harmonized with the more recently executed .COM, .NET, .ORG, .BIZ and .INFO registry contracts. The only exception to this consensus recommendation is those registries incorporated/organized under countries that require additional protection for geographical identifiers. In this instance, the registry would have to incorporate appropriate mechanisms to comply with their national/local laws.</p> <p>For those registries incorporated/organized under the laws of those countries that have expressly supported the guidelines of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications as adopted by the WIPO General Assembly, it is strongly recommended (but not mandated) that these registries take appropriate action to promptly implement protections that are in line with these WIPO guidelines and are in accordance with the relevant national laws of the applicable Member State.</p> <p style="text-align: center;"><i>Note New gTLD Recommendation 20</i></p>
23	gTLD Reserved Names	Second & Third Level ASCII and  IDN (when applicable)	<p>Absent justification for user confusion<sup>[65]</sup>, the recommendation is that gTLD strings should no longer be reserved from registration for new gTLDs at the second or when applicable at the third level. Applicants for new gTLDs should take into consideration possible abusive or confusing uses of existing gTLD strings at the second level of their corresponding gTLD, based on the nature of their gTLD, when developing the startup process for their gTLD.</p>
24	Controversial Names	All Levels, ASCII & IDN	<p>There should not be a new reserved names category for Controversial Names.</p>
25	Controversial Names	Top Level, ASCII & IDN	<p>There should be a list of disputed names created as a result of the dispute process to be created by the new gTLD process.</p> <p style="text-align: center;"><i>Note New gTLD Recommendation 6</i></p>
26	Controversial Names	Top Level, ASCII & IDN	<p>In the event of the initiation of a CN-DRP process, applications for that label will be placed in a HOLD status that would allow for the dispute to be further examined. If the dispute is dismissed or otherwise resolved favorably, the applications will reenter the processing queue. The period of time allowed for dispute should be finite and should be relegated to the CN-DRP process. The external dispute process should be defined to be objective, neutral, and transparent. The outcome of any dispute shall not result in the development of new categories of Reserved Names.<sup>[66]</sup></p> <p style="text-align: center;"><i>Note New gTLD Recommendation 6</i></p>
27	Controversial Names	Top Level, ASCII & IDN	<p>The new GTLD Controversial Names Dispute Resolution Panel should be established as a standing mechanism that is convened at the time a dispute is initiated. Preliminary elements of that process are provided in this report but further work is needed in this area.</p> <p style="text-align: center;"><i>Note New gTLD Recommendation 6</i></p>
28	Controversial	Top Level,	<p>Within the dispute process, disputes would be initiated by the ICANN Advisory Committees (e.g,</p>

	Reserved Name Category	Domain Name Level(s)	Recommendation
	Names	ASCII & IDN	<p>ALAC or GAC) or supporting organizations (e.g, GNSO or ccNSO). As these organizations do not currently have formal processes for receiving, and deciding on such activities, these processes would need to be defined:</p> <ul style="list-style-type: none"> <li>o The Advisory Groups and the Supporting Organizations, using their own processes and consistent with their organizational structure, will need to define procedures for deciding on any requests for dispute initiation.</li> <li>o Any consensus or other formally supported position from an ICANN Advisory Committee or ICANN Supporting Organization must document the position of each member within that committee or organization (i.e., support, opposition, abstention) in compliance with both the spirit and letter of the ICANN bylaws regarding openness and transparency.</li> </ul> <p style="text-align: center;"><i>Note New gTLD Recommendation 6</i></p>
29	Controversial Names	Top Level, ASCII & IDN	<p>Further work is needed to develop predictable and transparent criteria that can be used by the Controversial Resolution Panel. These criteria must take into account the need to:</p> <ul style="list-style-type: none"> <li>▪ 𐄀𐄁𐄂𐄃𐄄𐄅𐄆𐄇𐄈𐄉𐄊𐄋𐄌𐄍𐄎𐄏𐄐𐄑𐄒𐄓𐄔𐄕𐄖𐄗𐄘𐄙𐄚𐄛𐄜𐄝𐄞𐄟𐄠𐄡𐄢𐄣𐄤𐄥𐄦𐄧𐄨𐄩𐄪𐄫𐄬𐄭𐄮𐄯𐄰𐄱𐄲𐄳𐄴𐄵𐄶𐄷𐄸𐄹𐄺𐄻𐄼𐄽𐄾𐄿𐅀𐅁𐅂𐅃𐅄𐅅𐅆𐅇𐅈𐅉𐅊𐅋𐅌𐅍𐅎𐅏𐅐𐅑𐅒𐅓𐅔𐅕𐅖𐅗𐅘𐅙𐅚𐅛𐅜𐅝𐅞𐅟𐅠𐅡𐅢𐅣𐅤𐅥𐅦𐅧𐅨𐅩𐅪𐅫𐅬𐅭𐅮𐅯𐅰𐅱𐅲𐅳𐅴𐅵𐅶𐅷𐅸𐅹𐅺𐅻𐅼𐅽𐅾𐅿𐆀𐆁𐆂𐆃𐆄𐆅𐆆𐆇𐆈𐆉𐆊𐆋𐆌𐆍𐆎𐆏𐆐𐆑𐆒𐆓𐆔𐆕𐆖𐆗𐆘𐆙𐆚𐆛𐆜𐆝𐆞𐆟𐆠𐆡𐆢𐆣𐆤𐆥𐆦𐆧𐆨𐆩𐆪𐆫𐆬𐆭𐆮𐆯𐆰𐆱𐆲𐆳𐆴𐆵𐆶𐆷𐆸𐆹𐆺𐆻𐆼𐆽𐆾𐆿𐇀𐇁𐇂𐇃𐇄𐇅𐇆𐇇𐇈𐇉𐇊𐇋𐇌𐇍𐇎𐇏𐇐𐇑𐇒𐇓𐇔𐇕𐇖𐇗𐇘𐇙𐇚𐇛𐇜𐇝𐇞𐇟𐇠𐇡𐇢𐇣𐇤𐇥𐇦𐇧𐇨𐇩𐇪𐇫𐇬𐇭𐇮𐇯𐇰𐇱𐇲𐇳𐇴𐇵𐇶𐇷𐇸𐇹𐇺𐇻𐇼𐇽𐇾𐇿𐈀𐈁𐈂𐈃𐈄𐈅𐈆𐈇𐈈𐈉𐈊𐈋𐈌𐈍𐈎𐈏𐈐𐈑𐈒𐈓𐈔𐈕𐈖𐈗𐈘𐈙𐈚𐈛𐈜𐈝𐈞𐈟𐈠𐈡𐈢𐈣𐈤𐈥𐈦𐈧𐈨𐈩𐈪𐈫𐈬𐈭𐈮𐈯𐈰𐈱𐈲𐈳𐈴𐈵𐈶𐈷𐈸𐈹𐈺𐈻𐈼𐈽𐈾𐈿𐉀𐉁𐉂𐉃𐉄𐉅𐉆𐉇𐉈𐉉𐉊𐉋𐉌𐉍𐉎𐉏𐉐𐉑𐉒𐉓𐉔𐉕𐉖𐉗𐉘𐉙𐉚𐉛𐉜𐉝𐉞𐉟𐉠𐉡𐉢𐉣𐉤𐉥𐉦𐉧𐉨𐉩𐉪𐉫𐉬𐉭𐉮𐉯𐉰𐉱𐉲𐉳𐉴𐉵𐉶𐉷𐉸𐉹𐉺𐉻𐉼𐉽𐉾𐉿𐊀𐊁𐊂𐊃𐊄𐊅𐊆𐊇𐊈𐊉𐊊𐊋𐊌𐊍𐊎𐊏𐊐𐊑𐊒𐊓𐊔𐊕𐊖𐊗𐊘𐊙𐊚𐊛𐊜𐊝𐊞𐊟𐊠𐊡𐊢𐊣𐊤𐊥𐊦𐊧𐊨𐊩𐊪𐊫𐊬𐊭𐊮𐊯𐊰𐊱𐊲𐊳𐊴𐊵𐊶𐊷𐊸𐊹𐊺𐊻𐊼𐊽𐊾𐊿𐋀𐋁𐋂𐋃𐋄𐋅𐋆𐋇𐋈𐋉𐋊𐋋𐋌𐋍𐋎𐋏𐋐𐋑𐋒𐋓𐋔𐋕𐋖𐋗𐋘𐋙𐋚𐋛𐋜𐋝𐋞𐋟𐋠𐋡𐋢𐋣𐋤𐋥𐋦𐋧𐋨𐋩𐋪𐋫𐋬𐋭𐋮𐋯𐋰𐋱𐋲𐋳𐋴𐋵𐋶𐋷𐋸𐋹𐋺𐋻𐋼𐋽𐋾𐋿𐌀𐌁𐌂𐌃𐌄𐌅𐌆𐌇𐌈𐌉𐌊𐌋𐌌𐌍𐌎𐌏𐌐𐌑𐌒𐌓𐌔𐌕𐌖𐌗𐌘𐌙𐌚𐌛𐌜𐌝𐌞𐌟𐌠𐌡𐌢𐌣𐌤𐌥𐌦𐌧𐌨𐌩𐌪𐌫𐌬𐌭𐌮𐌯𐌰𐌱𐌲𐌳𐌴𐌵𐌶𐌷𐌸𐌹𐌺𐌻𐌼𐌽𐌾𐌿𐍀𐍁𐍂𐍃𐍄𐍅𐍆𐍇𐍈𐍉𐍊𐍋𐍌𐍍𐍎𐍏𐍐𐍑𐍒𐍓𐍔𐍕𐍖𐍗𐍘𐍙𐍚𐍛𐍜𐍝𐍞𐍟𐍠𐍡𐍢𐍣𐍤𐍥𐍦𐍧𐍨𐍩𐍪𐍫𐍬𐍭𐍮𐍯𐍰𐍱𐍲𐍳𐍴𐍵𐍶𐍷𐍸𐍹𐍺𐍻𐍼𐍽𐍾𐍿𐎀𐎁𐎂𐎃𐎄𐎅𐎆𐎇𐎈𐎉𐎊𐎋𐎌𐎍𐎎𐎏𐎐𐎑𐎒𐎓𐎔𐎕𐎖𐎗𐎘𐎙𐎚𐎛𐎜𐎝𐎞𐎟𐎠𐎡𐎢𐎣𐎤𐎥𐎦𐎧𐎨𐎩𐎪𐎫𐎬𐎭𐎮𐎯𐎰𐎱𐎲𐎳𐎴𐎵𐎶𐎷𐎸𐎹𐎺𐎻𐎼𐎽𐎾𐎿𐏀𐏁𐏂𐏃𐏄𐏅𐏆𐏇𐏈𐏉𐏊𐏋𐏌𐏍𐏎𐏏𐏐𐏑𐏒𐏓𐏔𐏕𐏖𐏗𐏘𐏙𐏚𐏛𐏜𐏝𐏞𐏟𐏠𐏡𐏢𐏣𐏤𐏥𐏦𐏧𐏨𐏩𐏪𐏫𐏬𐏭𐏮𐏯𐏰𐏱𐏲𐏳𐏴𐏵𐏶𐏷𐏸𐏹𐏺𐏻𐏼𐏽𐏾𐏿𐐀𐐁𐐂𐐃𐐄𐐅𐐆𐐇𐐈𐐉𐐊𐐋𐐌𐐍𐐎𐐏𐐐𐐑𐐒𐐓𐐔𐐕𐐖𐐗𐐘𐐙𐐚𐐛𐐜𐐝𐐞𐐟𐐠𐐡𐐢𐐣𐐤𐐥𐐦𐐧𐐨𐐩𐐪𐐫𐐬𐐭𐐮𐐯𐐰𐐱𐐲𐐳𐐴𐐵𐐶𐐷𐐸𐐹𐐺𐐻𐐼𐐽𐐾𐐿𐑀𐑁𐑂𐑃𐑄𐑅𐑆𐑇𐑈𐑉𐑊𐑋𐑌𐑍𐑎𐑏𐑐𐑑𐑒𐑓𐑔𐑕𐑖𐑗𐑘𐑙𐑚𐑛𐑜𐑝𐑞𐑟𐑠𐑡𐑢𐑣𐑤𐑥𐑦𐑧𐑨𐑩𐑪𐑫𐑬𐑭𐑮𐑯𐑰𐑱𐑲𐑳𐑴𐑵𐑶𐑷𐑸𐑹𐑺𐑻𐑼𐑽𐑾𐑿𐒀𐒁𐒂𐒃𐒄𐒅𐒆𐒇𐒈𐒉𐒊𐒋𐒌𐒍𐒎𐒏𐒐𐒑𐒒𐒓𐒔𐒕𐒖𐒗𐒘𐒙𐒚𐒛𐒜𐒝𐒞𐒟𐒠𐒡𐒢𐒣𐒤𐒥𐒦𐒧𐒨𐒩𐒪𐒫𐒬𐒭𐒮𐒯𐒰𐒱𐒲𐒳𐒴𐒵𐒶𐒷𐒸𐒹𐒺𐒻𐒼𐒽𐒾𐒿𐓀𐓁𐓂𐓃𐓄𐓅𐓆𐓇𐓈𐓉𐓊𐓋𐓌𐓍𐓎𐓏𐓐𐓑𐓒𐓓𐓔𐓕𐓖𐓗𐓘𐓙𐓚𐓛𐓜𐓝𐓞𐓟𐓠𐓡𐓢𐓣𐓤𐓥𐓦𐓧𐓨𐓩𐓪𐓫𐓬𐓭𐓮𐓯𐓰𐓱𐓲𐓳𐓴𐓵𐓶𐓷𐓸𐓹𐓺𐓻𐓼𐓽𐓾𐓿𐔀𐔁𐔂𐔃𐔄𐔅𐔆𐔇𐔈𐔉𐔊𐔋𐔌𐔍𐔎𐔏𐔐𐔑𐔒𐔓𐔔𐔕𐔖𐔗𐔘𐔙𐔚𐔛𐔜𐔝𐔞𐔟𐔠𐔡𐔢𐔣𐔤𐔥𐔦𐔧𐔨𐔩𐔪𐔫𐔬𐔭𐔮𐔯𐔰𐔱𐔲𐔳𐔴𐔵𐔶𐔷𐔸𐔹𐔺𐔻𐔼𐔽𐔾𐔿𐕀𐕁𐕂𐕃𐕄𐕅𐕆𐕇𐕈𐕉𐕊𐕋𐕌𐕍𐕎𐕏𐕐𐕑𐕒𐕓𐕔𐕕𐕖𐕗𐕘𐕙𐕚𐕛𐕜𐕝𐕞𐕟𐕠𐕡𐕢𐕣𐕤𐕥𐕦𐕧𐕨𐕩𐕪𐕫𐕬𐕭𐕮𐕯𐕰𐕱𐕲𐕳𐕴𐕵𐕶𐕷𐕸𐕹𐕺𐕻𐕼𐕽𐕾𐕿𐖀𐖁𐖂𐖃𐖄𐖅𐖆𐖇𐖈𐖉𐖊𐖋𐖌𐖍𐖎𐖏𐖐𐖑𐖒𐖓𐖔𐖕𐖖𐖗𐖘𐖙𐖚𐖛𐖜𐖝𐖞𐖟𐖠𐖡𐖢𐖣𐖤𐖥𐖦𐖧𐖨𐖩𐖪𐖫𐖬𐖭𐖮𐖯𐖰𐖱𐖲𐖳𐖴𐖵𐖶𐖷𐖸𐖹𐖺𐖻𐖼𐖽𐖾𐖿𐗀𐗁𐗂𐗃𐗄𐗅𐗆𐗇𐗈𐗉𐗊𐗋𐗌𐗍𐗎𐗏𐗐𐗑𐗒𐗓𐗔𐗕𐗖𐗗𐗘𐗙𐗚𐗛𐗜𐗝𐗞𐗟𐗠𐗡𐗢𐗣𐗤𐗥𐗦𐗧𐗨𐗩𐗪𐗫𐗬𐗭𐗮𐗯𐗰𐗱𐗲𐗳𐗴𐗵𐗶𐗷𐗸𐗹𐗺𐗻𐗼𐗽𐗾𐗿𐘀𐘁𐘂𐘃𐘄𐘅𐘆𐘇𐘈𐘉𐘊𐘋𐘌𐘍𐘎𐘏𐘐𐘑𐘒𐘓𐘔𐘕𐘖𐘗𐘘𐘙𐘚𐘛𐘜𐘝𐘞𐘟𐘠𐘡𐘢𐘣𐘤𐘥𐘦𐘧𐘨𐘩𐘪𐘫𐘬𐘭𐘮𐘯𐘰𐘱𐘲𐘳𐘴𐘵𐘶𐘷𐘸𐘹𐘺𐘻𐘼𐘽𐘾𐘿𐙀𐙁𐙂𐙃𐙄𐙅𐙆𐙇𐙈𐙉𐙊𐙋𐙌𐙍𐙎𐙏𐙐𐙑𐙒𐙓𐙔𐙕𐙖𐙗𐙘𐙙𐙚𐙛𐙜𐙝𐙞𐙟𐙠𐙡𐙢𐙣𐙤𐙥𐙦𐙧𐙨𐙩𐙪𐙫𐙬𐙭𐙮𐙯𐙰𐙱𐙲𐙳𐙴𐙵𐙶𐙷𐙸𐙹𐙺𐙻𐙼𐙽𐙾𐙿𐚀𐚁𐚂𐚃𐚄𐚅𐚆𐚇𐚈𐚉𐚊𐚋𐚌𐚍𐚎𐚏𐚐𐚑𐚒𐚓𐚔𐚕𐚖𐚗𐚘𐚙𐚚𐚛𐚜𐚝𐚞𐚟𐚠𐚡𐚢𐚣𐚤𐚥𐚦𐚧𐚨𐚩𐚪𐚫𐚬𐚭𐚮𐚯𐚰𐚱𐚲𐚳𐚴𐚵𐚶𐚷𐚸𐚹𐚺𐚻𐚼𐚽𐚾𐚿𐛀𐛁𐛂𐛃𐛄𐛅𐛆𐛇𐛈𐛉𐛊𐛋𐛌𐛍𐛎𐛏𐛐𐛑𐛒𐛓𐛔𐛕𐛖𐛗𐛘𐛙𐛚𐛛𐛜𐛝𐛞𐛟𐛠𐛡𐛢𐛣𐛤𐛥𐛦𐛧𐛨𐛩𐛪𐛫𐛬𐛭𐛮𐛯𐛰𐛱𐛲𐛳𐛴𐛵𐛶𐛷𐛸𐛹𐛺𐛻𐛼𐛽𐛾𐛿𐜀𐜁𐜂𐜃𐜄𐜅𐜆𐜇𐜈𐜉𐜊𐜋𐜌𐜍𐜎𐜏𐜐𐜑𐜒𐜓𐜔𐜕𐜖𐜗𐜘𐜙𐜚𐜛𐜜𐜝𐜞𐜟𐜠𐜡𐜢𐜣𐜤𐜥𐜦𐜧𐜨𐜩𐜪𐜫𐜬𐜭𐜮𐜯𐜰𐜱𐜲𐜳𐜴𐜵𐜶𐜷𐜸𐜹𐜺𐜻𐜼𐜽𐜾𐜿𐝀𐝁𐝂𐝃𐝄𐝅𐝆𐝇𐝈𐝉𐝊𐝋𐝌𐝍𐝎𐝏𐝐𐝑𐝒𐝓𐝔𐝕𐝖𐝗𐝘𐝙𐝚𐝛𐝜𐝝𐝞𐝟𐝠𐝡𐝢𐝣𐝤𐝥𐝦𐝧𐝨𐝩𐝪𐝫𐝬𐝭𐝮𐝯𐝰𐝱𐝲𐝳𐝴𐝵𐝶𐝷𐝸𐝹𐝺𐝻𐝼𐝽𐝾𐝿𐞀𐞁𐞂𐞃𐞄𐞅𐞆𐞇𐞈𐞉𐞊𐞋𐞌𐞍𐞎𐞏𐞐𐞑𐞒𐞓𐞔𐞕𐞖𐞗𐞘𐞙𐞚𐞛𐞜𐞝𐞞𐞟𐞠𐞡𐞢𐞣𐞤𐞥𐞦𐞧𐞨𐞩𐞪𐞫𐞬𐞭𐞮𐞯𐞰𐞱𐞲𐞳𐞴𐞵𐞶𐞷𐞸𐞹𐞺𐞻𐞼𐞽𐞾𐞿𐟀𐟁𐟂𐟃𐟄𐟅𐟆𐟇𐟈𐟉𐟊𐟋𐟌𐟍𐟎𐟏𐟐𐟑𐟒𐟓𐟔𐟕𐟖𐟗𐟘𐟙𐟚𐟛𐟜𐟝𐟞𐟟𐟠𐟡𐟢𐟣𐟤𐟥𐟦𐟧𐟨𐟩𐟪𐟫𐟬𐟭𐟮𐟯𐟰𐟱𐟲𐟳𐟴𐟵𐟶𐟷𐟸𐟹𐟺𐟻𐟼𐟽𐟾𐟿𐠀𐠁𐠂𐠃𐠄𐠅𐠆𐠇𐠈𐠉𐠊𐠋𐠌𐠍𐠎𐠏𐠐𐠑𐠒𐠓𐠔𐠕𐠖𐠗𐠘𐠙𐠚𐠛𐠜𐠝𐠞𐠟𐠠𐠡𐠢𐠣𐠤𐠥𐠦𐠧𐠨𐠩𐠪𐠫𐠬𐠭𐠮𐠯𐠰𐠱𐠲𐠳𐠴𐠵𐠶𐠷𐠸𐠹𐠺𐠻𐠼𐠽𐠾𐠿𐡀𐡁𐡂𐡃𐡄𐡅𐡆𐡇𐡈𐡉𐡊𐡋𐡌𐡍𐡎𐡏𐡐𐡑𐡒𐡓𐡔𐡕𐡖𐡗𐡘𐡙𐡚𐡛𐡜𐡝𐡞𐡟𐡠𐡡𐡢𐡣𐡤𐡥𐡦𐡧𐡨𐡩𐡪𐡫𐡬𐡭𐡮𐡯𐡰𐡱𐡲𐡳𐡴𐡵𐡶𐡷𐡸𐡹𐡺𐡻𐡼𐡽𐡾𐡿𐢀𐢁𐢂𐢃𐢄𐢅𐢆𐢇𐢈𐢉𐢊𐢋𐢌𐢍𐢎𐢏𐢐𐢑𐢒𐢓𐢔𐢕𐢖𐢗𐢘𐢙𐢚𐢛𐢜𐢝𐢞𐢟𐢠𐢡𐢢𐢣𐢤𐢥𐢦𐢧𐢨𐢩𐢪𐢫𐢬𐢭𐢮𐢯𐢰𐢱𐢲𐢳𐢴𐢵𐢶𐢷𐢸𐢹𐢺𐢻𐢼𐢽𐢾𐢿𐣀𐣁𐣂𐣃𐣄𐣅𐣆𐣇𐣈𐣉𐣊𐣋𐣌𐣍𐣎𐣏𐣐𐣑𐣒𐣓𐣔𐣕𐣖𐣗𐣘𐣙𐣚𐣛𐣜𐣝𐣞𐣟𐣠𐣡𐣢𐣣𐣤𐣥𐣦𐣧𐣨𐣩𐣪𐣫𐣬𐣭𐣮𐣯𐣰𐣱𐣲𐣳𐣴𐣵𐣶𐣷𐣸𐣹𐣺𐣻𐣼𐣽𐣾𐣿𐤀𐤁𐤂𐤃𐤄𐤅𐤆𐤇𐤈𐤉𐤊𐤋𐤌𐤍𐤎𐤏𐤐𐤑𐤒𐤓𐤔𐤕𐤖𐤗𐤘𐤙𐤚𐤛𐤜𐤝𐤞𐤟𐤠𐤡𐤢𐤣𐤤𐤥𐤦𐤧𐤨𐤩𐤪𐤫𐤬𐤭𐤮𐤯𐤰𐤱𐤲𐤳𐤴𐤵𐤶𐤷𐤸𐤹𐤺𐤻𐤼𐤽𐤾𐤿𐥀𐥁𐥂𐥃𐥄𐥅𐥆𐥇𐥈𐥉𐥊𐥋𐥌𐥍𐥎𐥏𐥐𐥑𐥒𐥓𐥔𐥕𐥖𐥗𐥘𐥙𐥚𐥛𐥜𐥝𐥞𐥟𐥠𐥡𐥢𐥣𐥤𐥥𐥦𐥧𐥨𐥩𐥪𐥫𐥬𐥭𐥮𐥯𐥰𐥱𐥲𐥳𐥴𐥵𐥶𐥷𐥸𐥹𐥺𐥻𐥼𐥽𐥾𐥿𐦀𐦁𐦂𐦃𐦄𐦅𐦆𐦇𐦈𐦉𐦊𐦋𐦌𐦍𐦎𐦏𐦐𐦑𐦒𐦓𐦔𐦕𐦖𐦗𐦘𐦙𐦚𐦛𐦜𐦝𐦞𐦟𐦠𐦡𐦢𐦣𐦤𐦥𐦦𐦧𐦨𐦩𐦪𐦫𐦬𐦭𐦮𐦯𐦰𐦱𐦲𐦳𐦴𐦵𐦶𐦷𐦸𐦹𐦺𐦻𐦼𐦽𐦾𐦿𐧀𐧁𐧂𐧃𐧄𐧅𐧆𐧇𐧈𐧉𐧊𐧋𐧌𐧍𐧎𐧏𐧐𐧑𐧒𐧓𐧔𐧕𐧖𐧗𐧘𐧙𐧚𐧛𐧜𐧝𐧞𐧟𐧠𐧡𐧢𐧣𐧤𐧥𐧦𐧧𐧨𐧩𐧪𐧫𐧬𐧭𐧮𐧯𐧰𐧱𐧲𐧳𐧴𐧵𐧶𐧷𐧸𐧹𐧺𐧻𐧼𐧽𐧾𐧿𐨀𐨁𐨂𐨃𐨄𐨅𐨆𐨇𐨈𐨉𐨊𐨋𐨌𐨍𐨎𐨏𐨐𐨑𐨒𐨓𐨔𐨕𐨖𐨗𐨘𐨙𐨚𐨛𐨜𐨝𐨞𐨟𐨠𐨡𐨢𐨣𐨤𐨥𐨦𐨧𐨨𐨩𐨪𐨫𐨬𐨭𐨮𐨯𐨰𐨱𐨲𐨳𐨴𐨵𐨶𐨷𐨹𐨺𐨸𐨻𐨼𐨽𐨾𐨿𐩀𐩁𐩂𐩃𐩄𐩅𐩆𐩇𐩈𐩉𐩊𐩋𐩌𐩍𐩎𐩏𐩐𐩑𐩒𐩓𐩔𐩕𐩖𐩗𐩘𐩙𐩚𐩛𐩜𐩝𐩞𐩟𐩠𐩡𐩢𐩣𐩤𐩥𐩦𐩧𐩨𐩩𐩪𐩫𐩬𐩭𐩮𐩯𐩰𐩱𐩲𐩳𐩴𐩵𐩶𐩷𐩸𐩹𐩺𐩻𐩼𐩽𐩾𐩿𐪀𐪁𐪂𐪃𐪄𐪅𐪆𐪇𐪈𐪉𐪊𐪋𐪌𐪍𐪎𐪏𐪐𐪑𐪒𐪓𐪔𐪕𐪖𐪗𐪘𐪙𐪚𐪛𐪜𐪝𐪞𐪟𐪠𐪡𐪢𐪣𐪤𐪥𐪦𐪧𐪨𐪩𐪪𐪫𐪬𐪭𐪮𐪯𐪰𐪱𐪲𐪳𐪴𐪵𐪶𐪷𐪸𐪹𐪺𐪻𐪼𐪽𐪾𐪿𐫀𐫁𐫂𐫃𐫄𐫅𐫆𐫇𐫈𐫉𐫊𐫋𐫌𐫍𐫎𐫏𐫐𐫑𐫒𐫓𐫔𐫕𐫖𐫗𐫘𐫙𐫚𐫛𐫜𐫝𐫞𐫟𐫠𐫡𐫢𐫣𐫤𐫦𐫥𐫧𐫨𐫩𐫪𐫫𐫬𐫭𐫮𐫯𐫰𐫱𐫲𐫳𐫴𐫵𐫶𐫷𐫸𐫹𐫺𐫻𐫼𐫽𐫾𐫿𐬀𐬁𐬂𐬃𐬄𐬅𐬆𐬇𐬈𐬉𐬊𐬋𐬌𐬍𐬎𐬏𐬐𐬑𐬒𐬓𐬔𐬕𐬖𐬗𐬘𐬙𐬚𐬛𐬜𐬝𐬞𐬟𐬠𐬡𐬢𐬣𐬤𐬥𐬦𐬧𐬨𐬩𐬪𐬫𐬬𐬭𐬮𐬯𐬰𐬱𐬲𐬳𐬴𐬵𐬶𐬷𐬸𐬹𐬺𐬻𐬼𐬽𐬾𐬿𐭀𐭁𐭂𐭃𐭄𐭅𐭆𐭇𐭈𐭉𐭊𐭋𐭌𐭍𐭎𐭏𐭐𐭑𐭒𐭓𐭔𐭕𐭖𐭗𐭘𐭙𐭚𐭛𐭜𐭝𐭞𐭟𐭠𐭡𐭢𐭣𐭤𐭥𐭦𐭧𐭨𐭩𐭪𐭫𐭬𐭭𐭮𐭯𐭰𐭱𐭲𐭳𐭴𐭵𐭶𐭷𐭸𐭹𐭺𐭻𐭼𐭽𐭾𐭿𐮀𐮁𐮂𐮃𐮄𐮅𐮆𐮇𐮈𐮉𐮊𐮋𐮌𐮍𐮎𐮏𐮐𐮑𐮒𐮓𐮔𐮕𐮖𐮗𐮘𐮙𐮚𐮛𐮜𐮝𐮞𐮟𐮠𐮡𐮢𐮣𐮤𐮥𐮦𐮧𐮨𐮩𐮪𐮫𐮬𐮭𐮮𐮯𐮰𐮱𐮲𐮳𐮴𐮵𐮶𐮷𐮸𐮹𐮺𐮻𐮼𐮽𐮾𐮿𐯀𐯁𐯂𐯃𐯄𐯅𐯆𐯇𐯈𐯉𐯊𐯋𐯌𐯍𐯎𐯏𐯐𐯑𐯒𐯓𐯔𐯕𐯖𐯗𐯘𐯙𐯚𐯛𐯜𐯝𐯞𐯟𐯠𐯡𐯢𐯣𐯤𐯥𐯦𐯧𐯨𐯩𐯪𐯫𐯬𐯭𐯮𐯯𐯰𐯱𐯲𐯳𐯴𐯵𐯶𐯷𐯸𐯹𐯺𐯻𐯼𐯽𐯾𐯿𐰀𐰁𐰂𐰃𐰄𐰅𐰆𐰇𐰈𐰉𐰊𐰋𐰌𐰍𐰎𐰏𐰐𐰑𐰒𐰓𐰔𐰕𐰖𐰗𐰘𐰙𐰚𐰛𐰜𐰝𐰞𐰟𐰠𐰡𐰢𐰣𐰤𐰥𐰦𐰧𐰨𐰩𐰪𐰫𐰬𐰭𐰮𐰯𐰰𐰱𐰲𐰳𐰴𐰵𐰶𐰷𐰸𐰹𐰺𐰻𐰼𐰽𐰾𐰿𐱀𐱁𐱂𐱃𐱄𐱅𐱆𐱇𐱈𐱉𐱊𐱋𐱌𐱍𐱎𐱏𐱐𐱑𐱒𐱓𐱔𐱕𐱖𐱗𐱘𐱙𐱚𐱛𐱜𐱝𐱞𐱟𐱠𐱡𐱢𐱣𐱤𐱥𐱦𐱧𐱨𐱩𐱪𐱫𐱬𐱭𐱮𐱯𐱰𐱱𐱲𐱳𐱴𐱵𐱶𐱷𐱸𐱹𐱺𐱻𐱼𐱽𐱾𐱿𐲀𐲁𐲂𐲃𐲄𐲅𐲆𐲇𐲈𐲉𐲊𐲋𐲌𐲍𐲎𐲏𐲐𐲑𐲒𐲓𐲔𐲕𐲖𐲗𐲘𐲙𐲚𐲛𐲜𐲝𐲞𐲟𐲠𐲡𐲢𐲣𐲤𐲥𐲦𐲧𐲨𐲩𐲪𐲫𐲬𐲭𐲮𐲯𐲰𐲱</li></ul>



- i. This Recommendation is supported by all GNSO Constituencies except the NCUC. The NCUC has submitted a Minority Statement which is found in full in Annex A. The NCUC's earlier Constituency Impact Statement is found, along with all the GNSO Constituency Impact Statements, in Part B of this report. Ms Doria has submitted individual comments<sup>[67]</sup>. The Committee has discussed this recommendation in great detail and has attempted to address the experiences of the 2003-2004 sTLD round and the complex issues surrounding the .xxx application. The Committee has also recognised the GAC's Public Policy Principles, most notably Principle 2.1 a) and b) which refer to both freedom of expression and terms with significance in a variety of contexts. In addition, the Committee recognises the tension respecting freedom of expression and being sensitive to the legitimate concerns others have about offensive terms. The NCUC's earlier CIS says "...we oppose any string criteria based on morality and public order".
- ii. Other Constituencies did not address this recommendation in their CISs. The Implementation Team has tried to balance these views by establishing an Implementation Plan that recognises the practical effect of opening a new top-level domain application system that will attract applications that some members of the community do not agree with. Whilst ICANN does have a technical co-ordination remit, it must also put in place a system of handling objections to strings or to applicants, using pre-published criteria, that is fair and predictable for applicants. It is also necessary to develop guidance for independent evaluators tasked with making decisions about objections.
- iii. In its consideration of public policy aspects of new top-level domains the Committee examined the approach taken in a wide variety of jurisdictions to issues of morality and public order. This was done not to make decisions about acceptable strings but to provide a series of potential tests for independent evaluators to use should an objection be raised to an application. The use of the phrase "morality and public order" within the recommendation was done to set some guidelines for potential applicants about areas that may raise objections. The phrasing was also intended to set parameters for potential objectors so that any objection to an application could be analysed within the framework of broadly accepted legal norms that independent evaluators could use across a broad spectrum of possible objections. The Committee also sought to ensure that the objections process would have parameters set for who could object. Those suggested parameters are found within the Implementation Guidelines.
- iv. In reaching its decision about the recommendation, the Committee sought to be consistent with, for example, Article 3 (1) (f) of the 1988 European Union Trade Mark Directive 89/104/EEC and within Article 7 (1) (f) of the 1993 European Union Trade Mark Regulation 40/94. In addition, the phrasing "contrary to morality or public order and in particular of such a nature as to deceive the public" comes from Article 6quinques (B)(3) of the 1883 *Paris Convention*. The reference to the *Paris Convention* remains relevant to domain names even though, when it was drafted, domain names were completely unheard of.
- v. The concept of "morality" is captured in Article 19 United Nations Convention on Human Rights (<http://www.unhcr.ch/udhr/lang/eng.htm>) says "...Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Article 29 continues by saying that "...In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society".
- vi. The EU Trade Mark Office's Examiner's guidelines provides assistance on how to interpret morality and deceit. "...Contrary to morality or public order. Words or images which are offensive, such as swear words or racially derogatory images, or which are blasphemous are not acceptable. There is a dividing line between this and words which might be considered in poor taste. The latter do not offend against this provision." The further element is deception of the public which is treated in the following way. "...Deceive the public. To deceive the public, is for instance as to the nature, quality or geographical origin. For example, a word may give rise to a real expectation of a particular locality which is untrue." For more information, see Sections 8.7 and 8.8 at <http://oami.europa.eu/en/mark/marque/direc.htm>
- vii. The UK Trade Mark office provides similar guidance in its Examiner's Guidance Manual. "Marks which offend fall broadly into three types: those with criminal connotations, those with religious connotations and explicit/taboo signs. Marks offending public policy are likely to offend accepted principles of morality, e.g. illegal drug terminology, although the question of public policy may not arise against marks offending accepted principles of morality, for example, taboo swear words. If a mark is merely distasteful, an objection is unlikely to be justified, whereas if it would cause outrage or would be likely significantly to undermine religious, family or social values, then an objection will be appropriate. Offence may be caused on matters of race, sex, religious belief or general matters of taste and decency. Care should be taken when words have a religious significance and which may provoke greater offence than mere distaste, or even outrage, if used to parody a religion or its

values. Where a sign has a very sacred status to members of a religion, mere use may be enough to cause outrage." For more information, see <http://www.patent.gov.uk/tm/t-decisionmaking/t-law/t-law-manual.htm>)

viii. This recommendation has been the subject of detailed Committee and small group work in an attempt to reach consensus about both the text of the recommendation and the examples included as guidance about generally accepted legal norms. The work has been informed by detailed discussion within the GAC and through interactions between the GNSO Committee and the GAC.

#### **6. Recommendation 7 Discussion -- Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.**

i. This recommendation is supported by all GNSO Constituencies and Ms Doria.

ii. The Committee agreed that the technical requirements for applicants would include compliance with a minimum set of technical standards and that this requirement would be part of the new registry operator's contractual conditions included in the proposed base contract. The more detailed discussion about technical requirements has been moved to the contractual conditions section.

iii. Reference was made to numerous Requests for Comment (RFCs) and other technical standards which apply to existing registry operators. For example, Appendix 7 of the June 2005 .net agreement[68] provides a comprehensive listing of technical requirements in addition to other technical specifications in other parts of the agreement. These requirements are consistent with that which is expected of all current registry operators. These standards would form the basis of any new top-level domain operator requirements.

iv. This recommendation is referred to in two CISs. "The ISPCP considers recommendations 7 and 8 to be fundamental. The technical, financial, organisational and operational capabilities of the applicant are the evaluators' instruments for preventing potential negative impact on a new string on the activities of our sector (and indeed of many other sectors)." The NCUC submitted "...we record that this must be limited to transparent, predictable and minimum technical requirements only. These must be published. They must then be adhered to neutrally, fairly and without discrimination."

v. The GAC supported this direction in its Public Policy Principles 2.6, 2.10 and 2.11.

#### **7. Recommendation 8 Discussion -- Applicants must be able to demonstrate their financial and organisational operational capability.**

i. This recommendation is supported by all GNSO Constituencies and accepted with concern by Ms Doria[69].

ii. The Committee discussed this requirement in detail and determined that it was reasonable to request this information from potential applicants. It was also consistent with past practices including the prior new TLD rounds in 2000 and 2003-2004; the .net and .org rebids and the conditions associated with ICANN registrar accreditation.

iii. This is also consistent with best practice procurement guidelines recommended by the World Bank ([www.worldbank.org](http://www.worldbank.org)), the OECD ([www.oecd.org](http://www.oecd.org)) and the Asian Development Bank ([www.adb.org](http://www.adb.org)) as well as a range of federal procurement agencies such as the UK telecommunications regulator, Ofcom; the US Federal Communications Commission and major public companies.

iv. The challenging aspect of this recommendation is to develop robust and objective criteria against which applicants can be measured, recognising a vast array of business conditions and models. This will be an important element of the ongoing development of the Implementation Plan.

v. The ISPCP discussed the importance of this recommendation in its CIS, as found in Recommendation 7 above.

vi. The NCUC's CIS addressed this recommendation by saying "...we support this recommendation to the extent that the criteria is truly limited to minimum financial and organizational operational capability...All criteria must be transparent, predictable and minimum. They must be published. They must then be adhered to neutrally, fairly and without discrimination."

vii. The GAC echoed these views in its Public Policy Principle 2.5 that said "...the evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process."

**8. Recommendation 9 Discussion -- There must be a clear and pre-published process using objective and measurable criteria.**

- i. This recommendation is supported by all GNSO Constituencies and by Ms Doria. It is consistent with ICANN's previous TLD rounds in 2000 and 2003-2004 and with its re-bid of both the .net and .org registry contracts.
- ii. It is also consistent with ICANN's Mission and Core Values especially 7, 8 and 9 which address openness in decision-making processes and the timeliness of those processes.
- iii. The Committee decided that the "process" criteria for introducing new top-level domains would follow a pre-published application system including the levying of an application fee to recover the costs of the application process. This is consistent with ICANN's approach to the introduction of new TLDs in the previous 2000 and 2004 round for new top-level domains.
- iv. The RyC reiterated its support for this recommendation in its CIS. It said that "...this Recommendation is of major importance to the RyC because the majority of constituency members incurred unnecessarily high costs in previous rounds of new gTLD introductions as a result of excessively long time periods from application submittal until they were able to start their business. We believe that a significant part of the delays were related to selection criteria and processes that were too subjective and not very measurable. It is critical in our opinion that the process for the introduction of new gTLDs be predictable in terms of evaluation requirements and timeframes so that new applicants can properly scope their costs and develop reliable implementation plans." The NCUC said that "...we strongly support this recommendation and again stress the need for all criteria to be limited to minimum operational, financial, and technical considerations. We all stress the need that all evaluation criteria be objective and measurable."

**9. Recommendation 10 Discussion -- There must be a base contract provided to applicants at the beginning of the process.**

- i. This recommendation is supported by all GNSO Constituencies and by Ms Doria.
- ii. The General Counsel's office has been involved in discussions about the provision of a base contract which would assist applicants both during the application process and in any subsequent contract negotiations.
- iii. A framework for the base contract was developed for discussion at the June 2007 ICANN meeting in Puerto Rico. The base contract will not be completed until the policy recommendations are in place. Completion of the policy recommendations will enable the completion of a draft base contract that would be available to applicants prior to the start of the new gTLD process, that is, prior to the beginning of the four-month window preceding the application submittal period.
- iv. The RyC, in its CIS, said, "...like the comments for Recommendation 9, we believe that this recommendation will facilitate a more cost-effective and timely application process and thereby minimize the negative impacts of a process that is less well-defined and objective. Having a clear understanding of base contractual requirements is essential for a new gTLD applicant in developing a complete business plan."

**10. Recommendation 11 Discussion** -- (This recommendation has been removed and is left intentionally blank. Note Recommendation 20 and its Implementation Guidelines).

**11. Recommendation 12 Discussion -- Dispute resolution and challenge processes must be established prior to the start of the process.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. The Committee has provided clear direction on its expectations that all the dispute resolution and challenge processes would be established prior to the opening of the application round. The full system will be published prior to an application round starting. However, the finalisation of this process is contingent upon a completed set of recommendations being agreed; a public comment period and the final agreement of the ICANN Board.

- iii. The draft Implementation Plan in the Implementation Team *Discussion Points* document sets out the way in which the ICANN Staff proposes that disputes between applicants and challenge processes may be handled. Expert legal and other professional advice from, for example, auctions experts is being sought to augment the Implementation Plan.

### **TERM OF REFERENCE THREE -- ALLOCATION METHODS**

#### **12. Recommendation 13 Discussion -- Applications must initially be assessed in rounds until the scale of demand is clear.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. This recommendation sets out the principal allocation methods for TLD applications. The narrative here should be read in conjunction with the draft flowcharts and the draft Request for Proposals.
- iii. An application round would be opened on Day 1 and closed on an agreed date in the future with an unspecified number of applications to be processed within that round.
- iv. This recommendation may be amended, after an evaluation period and report that may suggest modifications to this system. The development of objective "success metrics" is a necessary part of the evaluation process that could take place within the new TLDs Project Office.
- v. The ISPCP expressed its support for this recommendation. Its CIS said that "...this is an essential element in the deployment of new gTLDs, as it enables any technical difficulties to be quickly identified and sorted out, working with reduced numbers of new strings at a time, rather than many all at once. Recommendation 18 on the use of IDNs is also important in preventing any negative impact on network operators and ISPs."

#### **13. Recommendation 20 Discussion -- An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.**

- i. This recommendation is supported by the majority of GNSO Constituencies. Ms Doria supports the recommendation but has concerns about its implementation<sup>[70]</sup>. The NCUC has submitted a Minority Statement which is found in full in Annex C about the recommendation and its associated Implementation Guidelines F, H and P.
- ii. This recommendation was developed during the preparations for the Committee's 7 June 2007 conference call and during subsequent Committee deliberations. The intention was to factor into the process the very likely possibility of objections to applications from a wide variety of stakeholders.
- iii. The language used here is relatively broad and the implementation impact of the proposed recommendation is discussed in detail in the Implementation Team's *Discussion Points* document.
- iv. The NCUC's response to this recommendation in its earlier CIS says, in part, "...recommendation 20 swallows up any attempt to narrow the string criteria to technical, operational and financial evaluations. It asks for objections based on entirely subjective and unknowable criteria and for unlimited reasons and by unlimited parties." This view has, in part, been addressed in the Implementation Team's proposed plan but this requires further discussion and agreement by the Committee.

## **TERM OF REFERENCE FOUR -- CONTRACTUAL CONDITIONS**

### **14. Recommendation 14 Discussion -- The initial registry agreement term must be of a commercially reasonable length.**

- i. The remainder of the recommendations address Term of Reference Four on policies for contractual conditions and should be read in conjunction with Recommendation 10 on the provision of a base contract prior to the opening of an application round. The recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. This recommendation is consistent with the existing registry contract provisions found in, for example, the .com and .biz agreements.
- iii. These conditions would form the baseline conditions of term length for new TLD operators. It was determined that a term of ten years would reasonably balance the start up costs of registry operations with reasonable commercial terms.
- iv. The RyC commented on this recommendation in its CIS saying that "...the members of the RyC have learned first hand that operating a registry in a secure and stable manner is a capital intensive venture. Extensive infrastructure is needed both for redundant registration systems and global domain name constellations. Even the most successful registries have taken many years to recoup their initial investment costs. The RyC is convinced that these two recommendations [14 & 15] will make it easier for new applicants to raise the initial capital necessary and to continue to make investments needed to ensure the level of service expected by registrants and users of their TLDs. These two recommendations will have a very positive impact on new gTLD registries and in turn on the quality of the service they will be able to provide to the Internet community."

### **15. Recommendation 15 -- There must be renewal expectancy.**

- i. This recommendation is consistent with the existing registry contract provisions found in, for example, the .com and .biz agreements and is supported by all Constituencies. Ms Doria supported the recommendation and provided the comments found in the footnote below.[71]
- ii. These conditions would form the baseline conditions of term length for new TLD operators. It was determined that a term of ten years would reasonably balance the start up costs of registry operations with reasonable commercial terms.
- iii. See the CIS comments from the RyC in the previous section.

### **16. Recommendation 16 -- Registries must apply existing Consensus Policies[72] and adopt new Consensus Policies as they are approved.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. The full set of existing ICANN registry contracts can be found here <http://www.icann.org/registries/agreements.htm> and ICANN's seven current Consensus Policies are found at <http://www.icann.org/general/consensus-policies.htm>.
- iii. ICANN develops binding Consensus Policies through its policy development processes, in this case, through the GNSO[73].

### **17. Recommendation 17 -- A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. Referring to the recommendations on contractual conditions above, this section sets out the discussion of the policies for contractual conditions for new top-level domain registry operators. The recommendations are consistent with the existing provisions for registry operators which were the subject of detailed community input throughout 2006[74].
- iii. The Committee developed its recommendations during the Brussels and Amsterdam face-to-face consultations, with assistance from the ICANN General Counsel's office. The General Counsel's office has also provided a draft base contract which will be completed once the policy recommendations are agreed. Reference should also be made to Recommendation 5 on reserved words as some of the findings could be part of the base contract.

- iv. The Committee has focused on the key principles of consistency, openness and transparency. It was also determined that a scalable and predictable process is consistent with industry best practice standards for services procurement. The Committee referred in particular to standards within the broadcasting, telecommunications and Internet services industries to examine how regulatory agencies in those environments conducted, for example, spectrum auctions, broadcasting licence distribution and media ownership frameworks.
- v. Since then ICANN has developed and published a new approach to its compliance activities. These are found on ICANN's website at <http://www.icann.org/compliance/> and will be part of the development of base contract materials.
- vi. The Committee found a number of expert reports[75] beneficial. In particular, the World Bank report on mobile licensing conditions provides some guidance on best practice principles for considering broader market investment conditions. "...A major challenge facing regulators in developed and developing countries alike is the need to strike the right balance between ensuring certainty for market players and preserving flexibility of the regulatory process to accommodate the rapidly changing market, technological and policy conditions. As much as possible, policy makers and regulators should strive to promote investors' confidence and give incentives for long-term investment. They can do this by favouring the principle of 'renewal expectancy', but also by promoting regulatory certainty and predictability through a fair, transparent and participatory renewal process. For example, by providing details for license renewal or reissue, clearly establishing what is the discretion offered to the licensing body, or ensuring sufficient lead-times and transitional arrangements in the event of non-renewal or changes in licensing conditions. Public consultation procedures and guaranteeing the right to appeal regulatory decisions maximizes the prospects for a successful renewal process. As technological changes and convergence and technologically neutral approaches gain importance, regulators and policy makers need to be ready to adapt and evolve licensing procedures and practices to the new environment."
- vii. The Recommendations which the Committee has developed with respect to the introduction of new TLDs are consistent with the World Bank principles.

**18. Recommendation 18 Discussion -- If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria. The introduction of internationalised domain names at the root presents ICANN with a series of implementation challenges. This recommendation would apply to any new gTLD (IDN or ASCII TLD) offering IDN services. The initial technical testing[76] has been completed and a series of live root tests will take place during the remainder of 2007.
- ii. The Committee recognises that there is ongoing work in other parts of the ICANN organisation that needs to be factored into the application process that will apply to IDN applications. The work includes the President's Committee on IDNs and the GAC and ccNSO joint working group on IDNs.

**19. Recommendation 19 Discussion -- Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. There is a long history associated with the separation of registry and registrar operations for top-level domains. The structural separation of VeriSign's registry operations from Network Solutions registrar operations explains much of the ongoing policy to require the use of ICANN accredited registrars.
- iii. In order to facilitate the stable and secure operation of the DNS, the Committee agreed that it was prudent to continue the current requirement that registry operators be obliged to use ICANN accredited registrars.
- iv. ICANN's Registrar Accreditation Agreement has been in place since 2001[77]. Detailed information about the accreditation of registrars can be found on the ICANN website[78]. The accreditation process is under active discussion but the critical element of requiring the use of ICANN accredited registrars remains constant.
- v. In its CIS, the RyC noted that "...the RyC has no problem with this recommendation for larger gTLDs; the requirement to use accredited registrars has worked well for them. But it has not always worked as well for very small, specialized gTLDs. The possible impact on the latter is that they can be at the mercy of registrars for whom there is no good business reason to devote resources. In the New gTLD PDP, it was noted that this requirement would be less of a problem if the impacted registry would become a registrar for its own TLD, with appropriate controls in place. The RyC agrees with this line of



reasoning but current registry agreements forbid registries from doing this. Dialog with the Registrars Constituency on this topic was initiated and is ongoing, the goal being to mutually agree on terms that could be presented for consideration and might provide a workable solution."

## NEXT STEPS

1. Under the GNSO's Policy Development Process, the production of this *Final Report* completes Stage 9. The next steps are to conduct a twenty-day public comment period running from 10 August to 30 August 2007. The GNSO Council is due to meet on 6 September 2007 to vote on the package of principles, policy recommendations and implementation guidelines.
2. After the GNSO Council have voted the Council Report to the Board is prepared. The GNSO's PDP guidelines stipulate that "the Staff Manager will be present at the final meeting of the Council, and will have five (5) calendar days after the meeting to incorporate the views of the Council into a report to be submitted to the Board (the "Board Report"). The Board Report must contain at least the following:
  - a. A clear statement of any Supermajority Vote recommendation of the Council;
  - b. If a Supermajority Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) that held the position;
  - c. An analysis of how the issue would affect each constituency, including any financial impact on the constituency;
  - d. An analysis of the period of time that would likely be necessary to implement the policy;
  - e. The advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and relevant experience; and (ii) potential conflicts of interest;
  - f. The Final Report submitted to the Council; and
  - g. A copy of the minutes of the Council deliberation on the policy issue, including the all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.
3. It is expected that, according to the Bylaws, "...The Board will meet to discuss the GNSO Council recommendation as soon as feasible after receipt of the Board Report from the Staff Manager. In the event that the Council reached a Supermajority Vote, the Board shall adopt the policy according to the Council Supermajority Vote recommendation unless by a vote of more than sixty-six (66%) percent of the Board determines that such policy is not in the best interests of the ICANN community or ICANN. In the event that the Board determines not to act in accordance with the Council Supermajority Vote recommendation, the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council. The Council shall review the Board Statement for discussion with the Board within twenty (20) calendar days after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for its current recommendation. In the event that the Council is able to reach a Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than sixty-six (66%) percent of the Board determines that such policy is not in the interests of the ICANN community or ICANN. In any case in which the Council is not able to reach Supermajority, a majority vote of the Board will be sufficient to act. When a final decision on a GNSO Council Recommendation or Supplemental Recommendation is timely, the Board shall take a preliminary vote and, where practicable, will publish a tentative decision that allows for a ten (10) day period of public comment prior to a final decision by the Board."
4. The final stage in the PDP is the implementation of the policy which is also governed by the Bylaws as follows, "...Upon a final decision of the Board, the Board shall, as appropriate, give authorization or direction to the ICANN staff to take all necessary steps to implement the policy."

## Annex A – NCUC Minority Statement: Recommendation 6

### STATEMENT OF DISSENT ON RECOMMENDATION #6 OF

### GNSO'S NEW GTLD REPORT FROM

### the Non-Commercial Users Constituency (NCUC)

20 July 2007

NCUC supports most of the recommendations in the GNSO's Final Report, but Recommendation #6 is one we cannot support.[79]

We oppose Recommendation #6 for the following reasons:

- 1) It will completely undermine ICANN's efforts to make the gTLD application process predictable, and instead make the evaluation process arbitrary, subjective and political;
- 2) It will have the effect of suppressing free and diverse expression;
- 3) It exposes ICANN to litigation risks;
- 4) It takes ICANN too far away from its technical coordination mission and into areas of legislating morality and public order.

We also believe that the objective of Recommendation #6 is unclear, in that much of its desirable substance is already covered by Recommendation #3. At a minimum, we believe that the words "relating to morality and public order" must be struck from the recommendation.

#### 1) Predictability, Transparency and Objectivity

Recommendation #6 poses severe implementation problems. It makes it impossible to achieve the GNSO's goals of predictable and transparent evaluation criteria for new gTLDs.

Principle 1 of the New gTLD Report states that the evaluation process must be "predictable," and Recommendation #1 states that the evaluation criteria must be transparent, predictable, and fully available to applicants prior to their application.

NCUC strongly supports those guidelines. But no gTLD applicant can possibly know in advance what people or governments in a far away land will object to as "immoral" or contrary to "public order." When applications are challenged on these grounds, applicants cannot possibly know what decision an expert panel – which will be assembled on an ad hoc basis with no precedent to draw on – will make about it.

Decisions by expert panels on "morality and public order" *must* be subjective and arbitrary, because there is no settled and well-established international law regarding the relationship between TLD strings and morality and public order. There is no single "community standard" of morality that ICANN can apply to all applicants in every corner of the globe. What is considered "immoral" in Teheran may be easily accepted in Los Angeles or Stockholm; what is considered a threat to "public order" in China and Russia may not be in Brazil and Qatar.

#### 2) Suppression of expression of controversial views

gTLD applicants will respond to the uncertainty inherent in a vague "morality and public order" standard and lack of clear standards by suppressing and avoiding any ideas that might generate controversy. Applicants will have to invest sizable sums of money to develop a gTLD application and see it through the ICANN process. Most of them will avoid risking a challenge under Recommendation #6. In other words, the presence of Recommendation #6 will result in self-censorship by most applicants.

That policy would strip citizens everywhere of their rights to express controversial ideas because someone else finds them offensive. This policy recommendation ignores international and national laws, in particular freedom of expression guarantees that permit the expression of "immoral" or otherwise controversial speech on the Internet.



### 3) Risk of litigation

Some people in the ICANN community are under the mistaken impression that suppressing controversial gTLDs will protect it from litigation. Nothing could be further from the truth. By introducing subjective and culturally divisive standards into the evaluation process Recommendation #6 will increase the likelihood of litigation.

ICANN operates under authority from the US Commerce Department. It is undisputed that the US Commerce Department is prohibited from censoring the expression of US citizens in the manner proposed by Recommendation #6. The US Government cannot "contract away" the constitutional protections of its citizens to ICANN any more than it can engage in the censorship itself.

Adoption of Recommendation #6 invites litigation against ICANN to determine whether its censorship policy is compatible with the US First Amendment. An ICANN decision to suppress a gTLD string that would be permitted under US law could and probably would lead to legal challenges to the decision as a form of US Government action.

If ICANN left the adjudication of legal rights up to courts, it could avoid the legal risk and legal liability that this policy of censorship brings upon it.

### 4) ICANN's mission and core values

Recommendation #6 exceeds the scope of ICANN's technical mission. It asks ICANN to create rules and adjudicate disputes about what is permissible expression. It enables it to censor expression in domain names that would be lawful in some countries. It would require ICANN and "expert panels" to make decisions about permitting top-level domain names based on arbitrary "morality" judgments and other subjective criteria. Under Recommendation #6, ICANN will evaluate domain names based on ideas about "morality and public order" -- concepts for which there are varying interpretations, in both law and culture, in various parts of the world. Recommendation #6 risks turning ICANN into the arbiter of "morality" and "appropriate" public policy through global rules.

This new role for ICANN conflicts with its intended narrow technical mission, as embodied in its mission and core values. ICANN holds no legitimate authority to regulate in this entirely non-technical area and adjudicate the legal rights of others. This recommendation takes the adjudication of people's rights to use domain names out of the hands of democratically elected representatives and into the hands of "expert panels" or ICANN staff and board with no public accountability.

Besides exceeding the scope of ICANN's authority, Recommendation #6 seems unsure of its objective. It mandates "morality and public order" in domain names, but then lists, as examples of the type of rights to protect, the WTO TRIPS Agreement and all 24 World Intellectual Property (WIPO) Treaties, which deal with economic and trade rights, and have little to do with "morality and public order". Protection for intellectual property rights was fully covered in Recommendation #3, and no explanation has been provided as to why intellectual property rights would be listed again in a recommendation on "morality and public order", an entirely separate concept.

In conclusion Recommendation #6 exceeds ICANN's authority, ignores Internet users' free expression rights, and its adoption would impose an enormous burden on and liability for ICANN. It should not be adopted by the Board of Directors in the final policy decision for new gTlds.

### Annex B – Nominating Committee Appointee Avri Doria[80]: Individual Comments

Comments from Avri Doria

The "Personal level of support" indications fall into 3 categories:

I Support: these are principles, recommendations or guidelines that are compatible with my personal opinions

I Support with concerns: While these principles, recommendations and guidelines are not incompatible with my personal opinions, I have some concerns about them.

I Accept with concern: these recommendations and guidelines do not necessarily correspond to my personal opinions, but I am able to accept them in that they have the broad support of the committee. I do, however, have concerns with these recommendations and guideline.

I believe these comments are consistent with comments I have made throughout the process and do not constitute new input.

## Principles

#	Personal level of support	Explanation
A	Support	
B	Support with concerns	While I strongly support the introduction of IDN TLDS, I am concerned that the unresolved issues with IDN ccTLD equivalents may interfere with the introduction of IDN TLDs. I am also concerned that some of these issues could impede the introduction of some new ASCII TLDs dealing with geographically related identifiers.
C	Support	
D	Support with concerns	While I favor the establishment of a minimum set of necessary technical criteria, I am concerned that this set actually be the basic minimum set necessary to protect the stability, security and global interoperability.
E-G	Support	

## Recommendations

#	Level of support	Explanation
1	Support	
2	Accept with concern	<p>My concern involves using definitions that rely on legal terminology established for trademarks for what I believe should be a policy based on technical criteria.</p> <p>I In the first instance I believe that this is essentially a technical issue that should have been resolved with reference to typography, homologues, orthographic neighbourhood, transliteration and other technically defined attributes of a name that would make it unacceptable. There is a large body of scientific and technical knowledge and description in this field that we could have drawn on.</p> <p>I By using terms that rely on the legal language of trademark law, I believe we have created an implicit redundancy between recommendations 2 and 3. I.e., I believe both 2 and 3 can be used to protect trademarks and other intellectual property rights, and while 3 has specific limitations, 2 remains open to full and varied interpretation.</p> <p>I As we begin to consider IDNs, I am concerned that the interpretations of confusingly similar may be used to eliminate many potential TLDs based on translation. That is, when a translation may have the same or similar meaning to an existing TLD, that the new name may be eliminated because it is considered confusing to users who know both languages.</p>
3	Support with concerns	<p>My first concern relates to the protection of what can be called the linguistic commons. While it is true that much of trademark law and practice does protect general vocabulary and common usage from trademark protection, I am not sure that this is always the case in practice.</p> <p>I am also not convinced that trademark law and policy that applies to specific product type within a specific locale is entirely compatible with a general and global naming system.</p>
4	Support	
5	Support with concerns	Until such time as the technical work on IDNAbis is completed, I am concerned about establishing reserved name rules connected to IDNs. My primary concern involves policy decisions made in ICANN for reserved names becoming hard coded in the IDNAbis technical solution and thus

#	Level of support	Explanation
		becoming technical constraints that are no longer open to future policy reconsideration.
6	Accept with concern	<p>My primary concern focuses on the term 'morality'. While public order is frequently codified in national laws and occasionally in international law and conventions, the definition of what constitutes morality is not generally codified, and when it is, I believe it could be referenced as public order.</p> <p>This concern is related to the broad set of definitions used in the world to define morality. By including morality in the list of allowable exclusions we have made the possible exclusion list indefinitely large and have subjected the process to the consideration of all possible religious and ethical systems. ICANN or the panel of reviewers will also have to decide between different sets of moral principles, e.g, a morality that holds that people should be free to express themselves in all forms of media and those who believe that people should be free from exposure to any expression that is prohibited by their faith or moral principles. This recommendation will also subject the process to the fashion and occasional demagoguery of political correctness. I do not understand how ICANN or any expert panel will be able to judge that something should be excluded based on reasons of morality without defining, at least de-facto, an ICANN definition of morality? And while I am not a strict constructionist and sometimes allow for the broader interpretation of ICANN's mission, I do not believe it includes the definition of a system of morality.</p>
7	Support	
8	Accept with concern	<p>While I accept that a prospective registry must show adequate operational capability, creating a financial criteria is of concern. There may be many different ways of satisfying the requirement for operational capability and stability that may not be demonstrable in a financial statement or traditional business plan. E.g., in the case of an less developed community, the registry may rely on volunteer effort from knowledgeable technical experts.</p> <p>Another concern I have with financial requirements and high application fees is that they may act to discourage applications from developing nations or indigenous and minority peoples that have a different set of financial opportunities or capabilities than those recognized as acceptable within an expensive and highly developed region such as Los Angeles or Brussels.</p>
9,10, 12-14	Support	
15	Support with concerns	In general I support the idea that a registry that is doing a good job should have the expectancy of renewal. I do, however, believe that a registry, especially a registry with general market dominance, or specific or local market dominance, should be subject to comment from the relevant user public and to evaluation of that public comment before renewal. When performance is satisfactory, there should an expectation of renewal. When performance is not satisfactory, there should be some procedure for correcting the situation before renewal.
16-19	Support	
20	Support with concerns	In general I support the policy though I do have concerns about the implementation which I discuss below in relation to IG (P)

## Implementation Guidelines

#	Level of support	Explanation
A-E	Support	

#	Level of support	Explanation
F	Accept with concern	<p>In designing a New gTLD process, one of the original design goals had been to design a predictable and timely process that did not include the involvement of the Board of Directors except for very rare and exceptional cases and perhaps in the due diligence check of a final approval. My concern is that the use of Board in step (iii) may make them a regular part of many of the application procedure and may overload both the Board and the process. If every dispute can fall through to Board consideration in the process sieve, then the incentive to resolve the dispute earlier will be lessened.</p>
G-M	Support	
N	Support with concerns	<p>I strongly support the idea of financial assistance programs and fee reduction for less developed communities. I am concerned that not providing pricing that enables applications from less developed countries and communities may serve to increase the divide between the haves and the have nots in the Internet and may lead to a foreign 'land grab' of choice TLD names, especially IDN TLD names in a new form of resource colonialism because only those with well developed funding capability will be able to participate in the process as currently planned.</p>
O	Support	
P	Support with concerns	<p>While I essentially agree with the policy recommendation and its implementation guideline, its social justice and fairness depends heavily on the implementation issues. While the implementation details are not yet settled, I have serious concerns about the published draft plans of the ICANN staff in this regard. The current proposal involves using fees to prevent vexatious or unreasonable objections. In my personal opinion this would be a cause of social injustice in the application of the policy as it would prejudice the objection policy in favor of the rich. I also believe that an objection policy based on financial means would allow for well endowed entities to object to any term they found objectionable, hence enabling them to be as vexatious as they wish to be.</p> <p>In order for an objection system to work properly, it must be fair and it must allow for any applicant to understand the basis on which they might have to answer an objection. If the policy and implementation are clear about objections only being considered when they can be shown to cause irreparable harm to a community then it may be possible to build a just process. In addition to the necessity for there to be strict filters on which potential objections are actually processed for further review by an objections review process, it is essential that an external and impartial professional review panel have a clear basis for judging any objections.</p> <p>I do not believe that the ability to pay for a review will provide a reasonable criteria, nor do I believe that financial barriers are an adequate filter for stopping vexatious or unreasonable objections though they are a sufficient barrier for the poor.</p> <p>I believe that ICANN should investigate other methods for balancing the need to allow even the poorest to raise an issue of irreparable harm while filtering out unreasonable disputes. I believe, as recommend in the Reserved Names Working group report, that the ALAC and GAC may be an important part of the solution. IG (P) currently includes support for treating ALAC and GAC as established institutions in regard to raising objections to TLD concerns. I believe this is an important part of the policy recommendation and should be retained in the implementation. I believe that it should be possible for the ALAC or GAC, through some internal procedure that they define, to take up the cause of the individual complainant and to request a review by the external expert review panel. Some have argued that this is unacceptable because it operationalizes these Advisory Committees. I believe we do have precedence for such an operational role for volunteers within ICANN and that it is in keeping with their respective roles and responsibilities as representatives of the user community and of the international community of nations. I strongly recommend that such a solution be included in the Implementation of the New gTLD process.</p>
Q	Support	

## **Annex C – NCUC Minority Statement: Recommendation 20 and Implementation Guidelines F, H & P**

STATEMENT OF DISSENT ON RECOMMENDATION #20 &

IMPLEMENTATION GUIDELINES F, H, & P IN THE

GNSO NEW GTLD COMMITTEE'S FINAL REPORT

FROM THE

NON-COMMERCIAL USERS CONSTITUENCY (NCUC)

RE: DOMAIN NAME OBJECTION AND REJECTION PROCESS

25 July 2007

### **Text of Recommendation #20:**

"An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted."

### **Text of Implementation Guideline F:**

If there is contention for strings, applicants may:

- i) resolve contention between them within a pre-established timeframe
- ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;
- iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.

### **Text of Implementation Guideline H:**

External dispute providers will give decisions on complaints.

### **Text of Implementation Guideline P:**

The following process, definitions, and guidelines refer to Recommendation 20.

#### **Process**

Opposition must be objection based.

Determination will be made by a dispute resolution panel constituted for the purpose.

The objector must provide verifiable evidence that it is an established institution of the community (perhaps like the RSTEP pool of panelists from which a small panel would be constituted for each objection).

#### **Guidelines**

The task of the panel is the determination of substantial opposition.

a) substantial

In determining substantial the panel will assess the following: significant portion, community, explicitly targeting, implicitly targeting, established institution, formal existence, detriment.

b) significant portion:

In determining significant portion the panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.

c) community

Community should be interpreted broadly and will include for example an economic sector, a cultural community, or a linguistic community. It may also be a closely related community which believes it is impacted.

d) explicitly targeting

Explicitly targeting means there is a description of the intended use of the TLD in the application.

e) implicitly targeting

Implicitly targeting means that the objector makes an assumption of targeting or that the objector believes there may be confusion by users over its intended use.

f) established institution

An institution that has been in formal existence for at least 5 years. In exceptional cases, standing may be granted to an institution that has been in existence for fewer than 5 years. Exceptional circumstances include but are not limited to reorganisation, merger, or an inherently younger community. The following ICANN organizations are defined as established institutions: GAC, ALAC, GNSO, ccNSO, ASO.

g) formal existence

Formal existence may be demonstrated by: appropriate public registration, public historical evidence, validation by a government, intergovernmental organization, international treaty organisation or similar.

h) detriment

<< A >> Evidence of detriment to the community or to users more widely must be provided.

<< B >> [A likelihood of detriment to the community or to users more widely must be provided.]

**Recommendation #20**

The Non-Commercial Users Constituency (NCUC) Dissenting Statement on Recommendation #20 of the New GTLD Committee's Final Report[81] should be read in combination with Implementation Guidelines F, H & P, which detail the implementation of Recommendation #20. This statement should also be read in conjunction with its statement[82] of 13 June 2007 on the committee's draft report.

NCUC cannot support the committee's proposal for ICANN to establish a broad objection and rejection process for domain names that empowers ICANN and its "experts" to adjudicate the legal rights of domain name applicants (and objectors). The proposal would also empower ICANN and its "experts" to invent entirely new rights to domain names that do not exist in law and that will compete with existing legal rights to domains.

However "good-intentioned", the proposal would inevitably set up a system that decides legal rights based on subjective beliefs of "expert panels" and the amount of insider lobbying. The proposal would give "established institutions" veto power over applications for domain names to the detriment of innovators and start-ups. The proposal is further flawed because it makes no allowances for generic words to which no community claims exclusive "ownership" of. Instead, it wants to assign rights to use language based on subjective standards and will over-regulate to the detriment of competition, innovation, and free expression.

There is no limitation on the type of objections that can be raised to kill a domain name, no requirement that actual harm be shown to deny an application, and no recourse for the wrongful denial of legal rights by ICANN and its experts under this proposal. An applicant must be able to appeal decisions of ICANN and its experts to courts, who have more competence and authority to decide the applicant's legal rights. Legal due process requires maintaining a right to appeal these decisions to real courts.

The proposal is hopelessly flawed and will result in the improper rejection of many legitimate domain names. The reasons permitted to object to a domain are infinite in number. Anyone may make an objection; and an application will automatically be rejected upon a very low threshold of "detriment" or an even lower standard of "a likelihood of detriment" to anyone. Not a difficult bar to meet.

If ICANN attempted to put this policy proposal into practice it would intertwine itself in general policy debates, cultural clashes, business feuds, religious wars, and national politics, among a few of the disputes ICANN would have to rule on through this domain name policy.

The proposal operates under false assumptions of "communities" that can be defined, and that parties can be rightfully appointed representatives of "the community" by ICANN. The proposal gives preference to "established institutions" for domain names, and leaves applicants' without the backing of "established institutions" with little right to a top-level domain. The proposal operates to the detriment of small-scale start-ups and innovators who are clever enough to come up with an idea for a domain first, but lack the insider-connections and financial resources necessary to convince an ICANN panel of their worthiness.

It will be excessively expensive to apply for either a controversial or a popular domain name, so only well-financed "established institutions" will have both the standing and financial wherewithal to be awarded a top-level domain. The proposal privileges who is awarded a top-level domain, and thus discourages diversity of thought and the free flow of information by making it more difficult to obtain information on controversial ideas or from innovative new-comers.

#### Implementation Guideline F

NCUC does not agree with the part of Implementation Guideline F that empowers ICANN identified "communities" to support or oppose applications. Why should all "communities" agree before a domain name can be issued? How to decide who speaks for a "community"?

NCUC also notes that ICANN's Board of Directors would make the final decisions on applications and thus the legal rights of applicants under proposed IG-F. ICANN Board Members are not democratically elected, accountable to the public in any meaningful way, or trained in the adjudication of legal rights. Final decisions regarding legal rights should come from legitimate law-making processes, such as courts.

"Expert panels" or corporate officers are not obligated to respect an applicant's free expression rights and there is no recourse for a decision by the panel or ICANN for rights wrongfully denied. None of the "expert" panelists are democratically elected, nor accountable to the public for their decisions. Yet they will take decisions on the boundaries between free expression and trademark rights in domain names; and "experts" will decide what ideas are too controversial to be permitted in a domain name under this process.

#### Implementation Guideline H

Implementation Guideline H recommends a system to adjudicate legal rights that exists entirely outside of legitimate democratic law-making processes. The process sets up a system of unaccountable "private law" where "experts" are free to pick and choose favored laws, such as trademark rights, and ignore disfavored laws, such as free expression guarantees.



IG-H operates under the false premise that external dispute providers are authorized to adjudicate the legal rights of domain name applicants and objectors. It further presumes that such expert panels will be qualified to adjudicate the legal rights of applicants and others. But undertaking the creation of an entirely new international dispute resolution process for the adjudication of legal rights and the creation of new rights is not something that can be delegated to a team of experts. Existing international law that takes into account conflict of laws, choice of laws, jurisdiction, standing, and due process must be part of any legitimate process; and the applicant's legal rights including freedom of expression rights must be respected in the process.

#### Implementation Guideline P

"The devil is in the details" of Implementation Guideline P as it describes in greater detail the proposed adversarial dispute process to adjudicate legal rights to top-level domain names in Recommendation #20. IG-P mandates the rejection of an application if there is "substantial opposition" to it according to ICANN's expert panel. But "substantial" is defined in such a way so as to actually mean "insubstantial" and as a result many legitimate domain names would be rejected by such an extremely low standard for killing an application.

Under IG-P, opposition against and support for an application must be made by an "established institution" for it to count as "significant", again favoring major industry players and mainstream cultural institutions over cultural diversity, innovative individuals, small niche, and medium-sized Internet businesses.

IG-P states that "community" should be interpreted broadly, which will allow for the maximum number of objections to a domain name to count against an application. It includes examples of "the economic sector, cultural community or linguistic community" as those who have a right to complain about an application. It also includes any "related community which believes it is impacted." So anyone who claims to represent a community and believes to be impacted by a domain name can file a complaint and have standing to object to another's application.

There is no requirement that the objection be based on legal rights or the operational capacity of the applicant. There is no requirement that the objection be reasonable or the belief about impact to be reasonable. There is no requirement that the harm be actual or verifiable. The standard for "community" is entirely subjective and based on the personal beliefs of the objector.

The definition of "implicitly targeting" further confirms this subjective standard by inviting objections where "the objector makes the assumption of targeting" and also where "the objector believes there may be confusion by users". Such a subjective process will inevitably result in the rejection of many legitimate domain names.

Picking such a subjective standard conflicts with Principle A in the Final Report that states domain names must be introduced in a "predictable way", and also with Recommendation 1 that states "All applicants for a new gTLD registry should be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process." The subjectivity and unpredictability invited into the process by Recommendation #20 turn Principle A and Recommendation 1 from the same report upside down.

Besides the inherent subjectivity, the standard for killing applications is remarkably low. An application need not be intended to serve a particular community for "community-based" objections to kill the application under the proposal. Anyone who believed that he or she was part of the targeted community or who believes others face "detriment" have standing to object to a domain name, and the objection weighs in favor of "significant opposition". This standard is even lower than the "reasonable person" standard, which would at least require that the belief be "reasonable" for it to count against an applicant. The proposed standard for rejecting domains is so low it even permits unreasonable beliefs about a domain name to weigh against an applicant.

If a domain name does cause confusion, existing trademark law and unfair competition law have dealt with it for years and already balanced intellectual property rights against free expression rights in domain names. There is neither reason nor authority for ICANN processes to overtake the adjudication of legal rights and invite unreasonable and illegitimate objections to domain names.

IG-P falsely assumes that the number of years in operation is indicative of one's right to use language. It privileges entities over 5 years old with objection rights that will effectively veto innovative start-ups who cannot afford the dispute resolution process and will be forced to abandon their application to the incumbents.



IG-P sets the threshold for harm that must be shown to kill an application for a domain name remarkably low. Indeed harm need not be actual or verified for an application to be killed based on "substantial opposition" from a single objector.

Whether the committee selects the unbounded definition for "detriment" that includes a "likelihood of detriment" or the narrower definition of "evidence of detriment" as the standard for killing an application for a domain name is largely irrelevant. The difference is akin to re-arranging the deck chairs on the Titanic. ICANN will become bogged down with the approval of domain names either way, although it is worth noting that "likelihood of detriment" is a very long way from "substantial harm" and an easy standard to meet, so will result in many more domain names being rejected.

The definitions and guidelines detailed in IG-P invite a lobby-fest between competing businesses, instill the "heckler's veto" into domain name policy, privilege incumbents, price out of the market non-commercial applicants, and give third-parties who have no legal rights to domain names the power to block applications for those domains. A better standard for killing an application for non-technical reasons would be for a domain name to be shown to be illegal in the applicant's jurisdiction before it can be rejected.

In conclusion, the committee's recommendation for domain name objection and rejection processes are far too broad and unwieldy to be put into practice. They would stifle freedom of expression, innovation, cultural diversity, and market competition. Rather than follow existing law, the proposal would set up an illegitimate process that usurps jurisdiction to adjudicate peoples' legal rights (and create new rights) in a process designed to favor incumbents. The adoption of this "free-for-all" objection and rejection process will further call into question ICANN's legitimacy to govern and its ability to serve the global public interest that respects the rights of all citizens.

NCUC respectfully submits that ICANN will best serve the global public interest by resisting the temptation to stray from its technical mandate and meddle in international lawmaking as proposed by Rec. #20 and IG-F, IG-H, and IG-P of the New GTLD Committee Final Report.

**REFERENCE MATERIAL -- GLOSSARY[83]**

TERM	ACRONYM & EXPLANATION
A-label	The A-label is what is transmitted in the DNS protocol and this is the ASCII-compatible (ACE) form of an IDNA string; for example "xn--11b5bs1di".
ASCII Compatible Encoding	<p style="text-align: center;">ACE</p> <p>ACE is a system for encoding Unicode so each character can be transmitted using only the letters a-z, 0-9 and hyphens. Refer also to <a href="http://www.ietf.org/rfc/rfc3467.txt?number=3467">http://www.ietf.org/rfc/rfc3467.txt?number=3467</a></p>
American Standard Code for Information Exchange	<p style="text-align: center;">ASCII</p> <p>ASCII is a common numerical code for computers and other devices that work with text. Computers can only understand numbers, so an ASCII code is the numerical representation of a character such as 'a' or '@'. See above referenced RFC for more information.</p>
Advanced Research Projects Agency	<p style="text-align: center;">ARPA</p> <p style="text-align: center;"><a href="http://www.darpa.mil/body/arpa_darpa.html">http://www.darpa.mil/body/arpa_darpa.html</a></p>
Commercial & Business Users Constituency	<p style="text-align: center;">CBUC</p> <p style="text-align: center;"><a href="http://www.bizconst.org/">http://www.bizconst.org/</a></p>
Consensus Policy	<p>A defined term in all ICANN registry contracts usually found in Article 3 (Covenants).</p> <p>See, for example, <a href="http://www.icann.org/tlds/agreements/biz/registry-agmt-08dec06.htm">http://www.icann.org/tlds/agreements/biz/registry-agmt-08dec06.htm</a></p>

Country Code Names Supporting Organization	<p>ccNSO</p> <p><a href="http://ccnso.icann.org/">http://ccnso.icann.org/</a></p>
Country Code Top Level Domain	<p>ccTLD</p> <p>Two letter domains, such as .uk (United Kingdom), .de (Germany) and .jp (Japan) (for example), are called country code top level domains (ccTLDs) and correspond to a country, territory, or other geographic location. The rules and policies for registering domain names in the ccTLDs vary significantly and ccTLD registries limit use of the ccTLD to citizens of the corresponding country.</p> <p>Some ICANN-accredited registrars provide registration services in the ccTLDs in addition to registering names in .biz, .com, .info, .name, .net and .org, however, ICANN does not specifically accredit registrars to provide ccTLD registration services.</p> <p>For more information regarding registering names in ccTLDs, including a complete database of designated ccTLDs and managers, please refer to <a href="http://www.iana.org/cctld/cctld.htm">http://www.iana.org/cctld/cctld.htm</a>.</p>
Domain Names	<p>The term <b>domain name</b> has multiple related meanings: A name that identifies a computer or computers on the internet. These names appear as a component of a <b>Web site's URL</b>, e.g. <a href="http://www.wikipedia.org">www.wikipedia.org</a>. This type of domain name is also called a <b>hostname</b>.</p> <p>The product that <b>Domain name registrars</b> provide to their customers. These names are often called <b>registered domain names</b>.</p> <p>Names used for other purposes in the <b>Domain Name System (DNS)</b>, for example the special name which follows the @ sign in an <b>email address</b>, or the <b>Top-level domains</b> like .com, or the names used by the <b>Session Initiation Protocol (VoIP)</b>, or <b>DomainKeys</b>.</p> <p><a href="http://en.wikipedia.org/wiki/Domain_names">http://en.wikipedia.org/wiki/Domain_names</a></p>
Domain Name System	<p>The Domain Name System (DNS) helps users to find their way around the Internet. Every computer on the Internet has a unique address - just like a telephone number - which is a rather complicated string of numbers. It is called its "IP address" (IP stands for "Internet Protocol"). IP Addresses are hard to remember. The DNS makes using the Internet easier by allowing a familiar string of letters (the "domain name") to be used instead of the arcane IP address. So instead of typing 207.151.159.3, you can type <a href="http://www.internic.net">www.internic.net</a>. It is a "mnemonic" device that makes addresses easier to remember.</p>
Generic Top Level Domain	<p>gTLD</p> <p>Most TLDs with three or more characters are referred to as "generic" TLDs, or "gTLDs". They can be subdivided into two types, "sponsored" TLDs (sTLDs) and "unsponsored TLDs (uTLDs), as described in more detail below.</p> <p>In the 1980s, seven gTLDs (.com, .edu, .gov, .int, .mil, .net, and .org) were created. Domain names may be registered in three of these (.com, .net, and .org) without restriction; the other four have limited purposes.</p> <p>In 2001 &amp; 2002 four new unsponsored TLDs (.biz, .info, .name, and .pro) were introduced. The other three new TLDs (.aero, .coop, and .museum) were sponsored.</p> <p>Generally speaking, an unsponsored TLD operates under policies established by the global Internet community directly through the ICANN process, while a</p>

	<p>sponsored TLD is a specialized TLD that has a sponsor representing the narrower community that is most affected by the TLD. The sponsor thus carries out delegated policy-formulation responsibilities over many matters concerning the TLD.</p>
Governmental Advisory Committee	<p>GAC</p> <p><a href="http://gac.icann.org/web/index.shtml">http://gac.icann.org/web/index.shtml</a></p>
Intellectual Property Constituency	<p>IPC</p> <p><a href="http://www.ipconstituency.org/">http://www.ipconstituency.org/</a></p>
Internet Service & Connection Providers Constituency	ISPCP
Internationalized Domain Names	<p>IDNs</p> <p>IDNs are domain names represented by local language characters. These domain names may contain characters with diacritical marks (required by many European languages) or characters from non-Latin scripts like Arabic or Chinese.</p>
Internationalized Domain Names in Application	<p>IDNA</p> <p>IDNA is a protocol that makes it possible for applications to handle domain names with non-ASCII characters. IDNA converts domain names with non-ASCII characters to ASCII labels that the DNS can accurately understand. These standards are developed within the IETF (<a href="http://www.ietf.org">http://www.ietf.org</a>)</p>
Internationalized Domain Names – Labels	<p>IDN A Label</p> <p>The A-label is what is transmitted in the DNS protocol and this is the ASCII-compatible ACE) form of an IDN A string. For example "xn-1lq90i".</p> <p>IDN U Label</p> <p>The U-label is what should be displayed to the user and is the representation of the IDN in Unicode. For example "北京" ("Beijing" in Chinese).</p> <p>LDH Label</p> <p>The LDH-label strictly refers to an all-ASCII label that obeys the "hostname" (LDH) conventions and that is not an IDN; for example "icann" in the domain name "icann.org"</p>
Internationalized Domain Names Working Group	<p>IDN-WG</p> <p><a href="http://forum.icann.org/lists/gnso-idn-wg/">http://forum.icann.org/lists/gnso-idn-wg/</a></p>
Letter Digit Hyphen	<p>LDH</p> <p>The hostname convention used by domain names before internationalization. This meant that domain names could only practically contain the letters a-z, digits 0-9 and the hyphen "-". The term "LDH code points" refers to this subset. With the introduction of IDNs this rule is no longer relevant for all domain names.</p> <p>The LDH-label strictly refers to an all-ASCII label that obeys the "hostname" (LDH) conventions and that is not an IDN; for example "icann" in the domain name "icann.org".</p>
Nominating Committee	<p>NomCom</p> <p><a href="http://nomcom.icann.org/">http://nomcom.icann.org/</a></p>
Non-Commercial Users Constituency	NCUC

	<a href="http://www.ncdnhc.org/">http://www.ncdnhc.org/</a>
Policy Development Process	PDP See <a href="http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA">http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA</a>
Protecting the Rights of Others Working Group	PRO-WG See the mailing list archive at <a href="http://forum.icann.org/lists/gnso-pro-wg/">http://forum.icann.org/lists/gnso-pro-wg/</a>
Punycode	Punycode is the ASCII-compatible encoding algorithm described in Internet standard [RFC3492]. This is the method that will encode IDNs into sequences of ASCII characters in order for the Domain Name System (DNS) to understand and manage the names. The intention is that domain name registrants and users will never see this encoded form of a domain name. The sole purpose is for the DNS to be able to resolve for example a web-address containing local characters.
Registrar	Domain names ending with .aero, .biz, .com, .coop, .info, .museum, .name, .net, .org, and .pro can be registered through many different companies (known as "registrars") that compete with one another. A listing of these companies appears in the Accredited Registrar Directory.  The registrar asks registrants to provide various contact and technical information that makes up the domain name registration. The registrar keeps records of the contact information and submits the technical information to a central directory known as the "registry."
Registrar Constituency	RC  <a href="http://www.icann-registrars.org/">http://www.icann-registrars.org/</a>
Registry	A registry is the authoritative, master database of all domain names registered in each Top Level Domain. The registry operator keeps the master database and also generates the "zone file" which allows computers to route Internet traffic to and from top-level domains anywhere in the world. Internet users don't interact directly with the registry operator. Users can register names in TLDs including .biz, .com, .info, .net, .name, .org by using an ICANN-Accredited Registrar.
Registry Constituency	RyC  <a href="http://www.gtldregistries.org/">http://www.gtldregistries.org/</a>
Request for Comment	RFC  <a href="ftp://ftp.rfc-editor.org/in-notes/rfc1591.txt">ftp://ftp.rfc-editor.org/in-notes/rfc1591.txt</a>  <a href="ftp://ftp.rfc-editor.org/in-notes/rfc2119.txt">ftp://ftp.rfc-editor.org/in-notes/rfc2119.txt</a>  <a href="ftp://ftp.rfc-editor.org/in-notes/rfc2606.txt">ftp://ftp.rfc-editor.org/in-notes/rfc2606.txt</a>
A full list of all Requests for Comment <a href="http://www.rfc-editor.org/rfcxx00.html">http://www.rfc-editor.org/rfcxx00.html</a>	
Specific references used in this report are shown in the next column.	
This document uses language, for example, "should", "must" and "may", consistent with RFC2119.	
Reserved Names Working Group	RN-WG See the mailing list archive at <a href="http://forum.icann.org/lists/gnso-rn-wg/">http://forum.icann.org/lists/gnso-rn-wg/</a>
Root server	A <b>root nameserver</b> is a <b>DNS</b> server that answers requests for the root namespace domain, and redirects requests for a particular <b>top-level domain</b> to that TLD's nameservers. Although any local implementation of DNS can implement its own private root nameservers, the term "root nameserver" is generally used to describe the thirteen well-known root nameservers that implement the root namespace domain for the <b>Internet's</b> official global implementation of the Domain Name System.

	<p>All <b>domain names</b> on the <b>Internet</b> can be regarded as ending in a <b>full stop</b> character e.g. "en.wikipedia.org.". This final dot is generally implied rather than explicit, as modern DNS software does not actually require that the final dot be included when attempting to translate a domain name to an <b>IP</b> address. The empty <b>string</b> after the final dot is called the <b>root domain</b>, and all other domains (i.e. .com, .org, .net, etc.) are contained within the root domain.</p> <p><a href="http://en.wikipedia.org/wiki/Root_server">http://en.wikipedia.org/wiki/Root server</a></p>
Sponsored Top Level Domain	<p>sTLD</p> <p>A Sponsor is an organization to which some policy making is delegated from ICANN. The sponsored TLD has a Charter, which defines the purpose for which the sponsored TLD has been created and will be operated. The Sponsor is responsible for developing policies on the delegated topics so that the TLD is operated for the benefit of a defined group of stakeholders, known as the Sponsored TLD Community, that are most directly interested in the operation of the TLD. The Sponsor also is responsible for selecting the registry operator and to varying degrees for establishing the roles played by registrars and their relationship with the registry operator. The Sponsor must exercise its delegated authority according to fairness standards and in a manner that is representative of the Sponsored TLD Community.</p>
U-label	The U-label is what should be displayed to the user and is the representation of the Internationalized Domain Name (IDN) in Unicode.
Unicode Consortium	A not-for-profit organization found to develop, extend and promote use of the Unicode standard. See <a href="http://www.unicode.org">http://www.unicode.org</a>
Unicode	Unicode is a commonly used single encoding scheme that provides a unique number for each character across a wide variety of languages and scripts. The Unicode standard contains tables that list the code points for each local character identified. These tables continue to expand as more characters are digitalized.

**Continue to Final Report: Part B**

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**[1]** <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#I>

**[2]** The ICANN "community" is a complex matrix of intersecting organizations and which are represented graphically here. <http://www.icann.org/structure/>

**[3]** The *Final Report* is Step 9 in the GNSO's policy development process which is set out in full at <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA>.

**[4]** Found here <http://gns0.icann.org/issues/new-gtlds/>.

**[5]** The ICANN Staff *Discussion Points* documents can be found at <http://gns0.icann.org/drafts/GNSO-PDP-Dec05-StaffMemo-14Nov06.pdf> and <http://gns0.icann.org/drafts/PDP-Dec05-StaffMemo-19-jun-07.pdf>

**[6]** Authored in 1987 by Paul Mockapetris and found at <http://www.ietf.org/rfc/rfc1034>

**[7]** Authored in October 1984 by Jon Postel and J Reynolds and found at <http://www.ietf.org/rfc/rfc920>

**[8]** Found at <http://www.oecd.org/dataoecd/15/37/38336539.pdf>

**[9]** From Verisign's June 2007 *Domain Name Industry Brief*.

[10] The full list is available here <http://www.icann.org/registrars/accredited-list.html>

[11] Report found at <http://www.icann.org/dnso/wgc-report-21mar00.htm>

[12] Found at <http://www.icann.org/announcements/announcement-31aug04.htm>

[13] <http://www.registrarstats.com/Public/ZoneFileSurvey.aspx>

[14] Verisign produce a regular report on the domain name industry.  
[http://www.verisign.com/Resources/Naming\\_Services\\_Resources/Domain\\_Name\\_Industry\\_Brief/index.html](http://www.verisign.com/Resources/Naming_Services_Resources/Domain_Name_Industry_Brief/index.html)

[15] The announcement is here <http://icann.org/announcements/announcement-03jan06.htm> and the results are here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

[16] Found here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

[17] <http://gnso.icann.org/issues/new-gtlds/>

[18] For example, see the GA List discussion thread found at <http://gnso.icann.org/mailing-lists/archives/ga/msg03337.html> & earlier discussion on IANA lists <http://www.iana.org/comments/26sep1998-02oct1998/msg00016.html>. The 13 June 2002 paper regarding a taxonomy for non-ASCII TLDs is also illuminating <http://www.icann.org/committees/idn/registry-selection-paper-13jun02.htm>

[19] Found here [http://gac.icann.org/web/home/gTLD\\_principles.pdf](http://gac.icann.org/web/home/gTLD_principles.pdf)

[20] A list of the working materials of the new TLDs Committee can be found at <http://gnso.icann.org/issues/new-gtlds/>.

[21] The Outcomes Report for the IDN-WG is found <http://gnso.icann.org/drafts/idn-wg-fr-22mar07.htm>. A full set of resources which the WG is using is found at <http://gnso.icann.org/issues/idn-tlds/>.

[22] The Final Report of the RN-WG is found at <http://gnso.icann.org/drafts/rn-wg-fr19mar07.pdf>

[23] The Final Report of the PRO-WG is found at <http://gnso.icann.org/drafts/GNSO-PRO-WG-final-01Jun07.pdf>

[24] The root server system is explained here <http://en.wikipedia.org/wiki/Rootserver>

[25] Ms Doria supports all of the Principles but expressed concern about Principle B by saying "...While I strongly support the introduction of IDN TLDS, I am concerned that the unresolved issues with IDN ccTLD equivalents may interfere with the introduction of IDN TLDs. I am also concerned that some of these issues could impede the introduction of some new ASCII TLDs dealing with geographically related identifiers" and Principle D "...While I favor the establishment of a minimum set of necessary technical criteria, I am concerned that this set actually be the basic minimum set necessary to protect the stability, security and global interoperability."

[26] Note the updated recommendation text sent to the gTld-council list after the 7 June meeting.  
<http://forum.icann.org/lists/gtld-council/msg00520.html>

[27] Reserved word limitations will be included in the base contract that will be available to applicants prior to the start of the application round.

[28] <http://www.icann.org/general/idn-guidelines-22feb06.htm>

[29] The Implementation Team sought advice from a number of auction specialists and examined other industries in which auctions were used to make clear and binding decisions. Further expert advice will be used in developing the implementation of the application process to ensure the fairest and most appropriate method of resolving contention for strings.

[30] Detailed work is being undertaken, lead by the Corporate Affairs Department, on establishing a translation framework for ICANN documentation. This element of the Implementation Guidelines may be addressed separately.

[31] <http://gnso.icann.org/drafts/GNSO-PDP-Dec05-StaffMemo-14Nov06.pdf>

[32] Consistent with ICANN's commitments to accountability and transparency found at <http://www.icann.org/announcements/announcement-26jan07b.htm>

[33] Found at <http://www.icann.org/dns/wgc-report-21mar00.htm>

[34] The announcement is here <http://icann.org/announcements/announcement-03jan06.htm> and the results are here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

[35] Found here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

[36] Found here <http://forum.icann.org/lists/gtld-council/>

[37] Archived at <http://forum.icann.org/lists/gtld-council/>

[38] Business Constituency <http://forum.icann.org/lists/gtld-council/msg00501.html>, Intellectual Property Constituency <http://forum.icann.org/lists/gtld-council/msg00514.html>, Internet Service Providers <http://forum.icann.org/lists/gtld-council/msg00500.html>, NCUC <http://forum.icann.org/lists/gtld-council/msg00530.html>, Registry Constituency <http://forum.icann.org/lists/gtld-council/msg00494.html>

[39] "My concern involves using definitions that rely on legal terminology established for trademarks for what I believe should be a policy based on technical criteria.

In the first instance I believe that this is essentially a technical issue that should have been resolved with reference to typography, homologues, orthographic neighbourhood, transliteration and other technically defined attributes of a name that would make it unacceptable. There is a large body of scientific and technical knowledge and description in this field that we could have drawn on.

By using terms that rely on the legal language of trademark law, I believe we have created an implicit redundancy between recommendations 2 and 3. I.e., I believe both 2 and 3 can be used to protect trademarks and other intellectual property rights, and while 3 has specific limitations, 2 remains open to full and varied interpretation.

As we begin to consider IDNs, I am concerned that the interpretations of confusingly similar may be used to eliminate many potential TLDs based on translation. That is, when a translation may have the same or similar meaning to an existing TLD, that the new name may be eliminated because it is considered confusing to users who know both languages."

[40] <http://data.iana.org/TLD/tlds-alpha-by-domain.txt>

[41] See section 4A -- <http://www.icann.org/udrp/udrp-policy-24oct99.htm>.

[42] In addition to the expertise within the Committee, the NCUC provided, as part of its Constituency Impact Statement expert outside advice from Professor Christine Haight Farley which said, in part, "...A determination



about whether use of a mark by another is "confusingly similar" is simply a first step in the analysis of infringement. As the committee correctly notes, account will be taken of visual, phonetic and conceptual similarity. But this determination does not end the analysis. Delta Dental and Delta Airlines are confusingly similar, but are not like to cause confusion, and therefore do not infringe. ... In trademark law, where there is confusing similarity and the mark is used on similar goods or services, a likelihood of confusion will usually be found. European trademark law recognizes this point perhaps more readily than U.S. trademark law. As a result, sometimes "confusingly similar" is used as shorthand for "likelihood of confusion". However, these concepts must remain distinct in domain name policy where there is no opportunity to consider how the mark is being used."

[43] In addition, advice was sought from experts within WIPO who continue to provide guidance on this and other elements of dispute resolution procedures.

[44] Kristina Rosette provided the reference to the *Agreement on Trade-Related Aspects of Intellectual Property Rights* which is found online at [http://www.wto.org/english/tratop\\_e/trips\\_e/t\\_agm1\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/t_agm1_e.htm)

"...Article 16 *Rights Conferred* 1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use...."

[45] <http://www.ohchr.org/english/bodies/hrc/comments.htm>

[46] <http://gnso.icann.org/drafts/GNSO-PRO-WG-final-01Jun07.pdf>

[47] Charles Sha'ban provided a range of examples from Arabic speaking countries. For example, in Jordan, Article 7 Trademarks eligible for registration are 1- A trademark shall be registered if it is distinctive, as to words, letters, numbers, figures, colors, or other signs or any combination thereof and visually perceptible. 2- For the purposes of this Article, "distinctive" shall mean applied in a manner which secures distinguishing the goods of the proprietor of the trademark from those of other persons. Article 8 Marks which may not be registered as trademarks. The following may not be registered as trademarks: 10- A mark identical with one belonging to a different proprietor which is already entered in the register in respect of the same goods or class of goods for which the mark is intended to be registered, or so closely resembling such trademark to the extent that it may lead to deceiving third parties.

12- The trademark which is identical or similar to, or constitutes a translation of, a well-known trademark for use on similar or identical goods to those for which that one is well-known for and whose use would cause confusion with the well-known mark, or for use of different goods in such a way as to prejudice the interests of the owner of the well-known mark and leads to believing that there is a connection between its owner and those goods as well as the marks which are similar or identical to the honorary badges, flags, and other insignia as well as the names and abbreviations relating to international or regional organizations or those that offend our Arab and Islamic age-old values.

In Oman for example, Article 2 of the Sultan Decree No. 38/2000 states:

"The following shall not be considered as trademarks and shall not be registered as such: If the mark is identical, similar to a degree which causes confusion, or a translation of a trademark or a commercial name known in the Sultanate of Oman with respect to identical or similar goods or services belonging to another business, or if it is known and registered in the Sultanate of Oman on goods and service which are neither identical nor similar to those for which the mark is sought to be registered provided that the usage of the mark on those goods or services in this last case will suggest a connection between those goods or services and the owner of the known trademark and such use will cause damage to the interests of the owner of the known trademark."



Although the laws in Egypt do not have specific provisions regarding confusion they stress in great detail the importance of distinctiveness of a trade mark.

Article 63 in the IP Law of Egypt No.82 for the year 2002 states:

"A trademark is any sign distinguishing goods, whether products or services, and include is particular names represented in a distinctive manner, signatures, words, letters, numerals, design, symbols, signposts, stamps, seal, drawings, engravings, a combination of distinctly formed colors and any other combination of these elements if used, or meant to be used, to distinguish the precedents of a particular industry, agriculture, forest or mining venture or any goods, or to indicate the origin of products or goods or their quality, category, guarantee, preparation process, or to indicate the provision of any service. In all cases, a trademark shall be a sign that is recognizable by sight."

[48] Found at [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.ht](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.ht) with 171 contracting parties.

[49] Further information can be found at the US Patent and Trademark Office's website <http://www.uspto.gov/>

[50] Found at <http://www.icann.org/registrars/ra-agreement-17may01.htm#3>

[51] Found at <http://gnso.icann.org/drafts/idn-wg-fr-22mar07.htm>.

[52] The 2003 correspondence between ICANN's then General Counsel and the then GAC Chairman is also useful <http://www.icann.org/correspondence/touton-letter-to-tarmizi-10feb03.htm>.

[53] "My first concern relates to the protection of what can be called the linguistic commons. While it is true that much of trademark law and practice does protect general vocabulary and common usage from trademark protection, I am not sure that this is always the case in practice. I am also not convinced that trademark law and policy that applies to specific product type within a specific locale is entirely compatible with a general and global naming system."

[54] For example, David Maher, Jon Bing, Steve Metalitz, Philip Sheppard and Michael Palage.

[55] Reserved Word has a specific meaning in the ICANN context and includes, for example, the reserved word provisions in ICANN's existing registry contracts. See <http://www.icann.org/registries/agreements.htm>.

[56] "Until such time as the technical work on IDNabis is completed, I am concerned about establishing reserved name rules connected to IDNs. My primary concern involves policy decisions made in ICANN for reserved names becoming hard coded in the IDNabis technical solution and thus becoming technical constraints that are no longer open to future policy reconsideration."

[57] Found online at <http://gnso.icann.org/issues/new-gtlds/final-report-rn-wg-23may07.htm> and in full in Part B of the *Report*.

[58] The Committee are aware that the terminology used here for the purposes of policy recommendations requires further refinement and may be at odds with similar terminology developed in other context. The terminology may be imprecise in other contexts than the general discussion about reserved words found here.

[59] The subgroup was encouraged by the ccNSO not to consider removing the restriction on two-letter names at the top level. IANA has based its allocation of two-letter names at the top level on the ISO 3166 list. There is a risk of collisions between any interim allocations, and ISO 3166 assignments which may be desired in the future.

[60] The existing gTLD registry agreements provide for a method of potential release of two-character LDH names at the second level. In addition, two character LDH strings at the second level may be released through the process for new registry services, which process involves analysis of any technical or security concerns and provides opportunity for public input. Technical issues related to the release of two-letter and/or number strings

have been addressed by the RSTEP Report on GNR's proposed registry service. The GAC has previously noted the WIPO II Report statement that "If ISO 3166 alpha-2 country code elements are to be registered as domain names in the gTLDs, it is recommended that this be done in a manner that minimises the potential for confusion with the ccTLDs."

**[61]** Considering that the current requirement in all 16 registry agreement reserves "All labels with hyphens in the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n")", this requirement reserves any names having any of a combination of 1296 different prefixes (36x36).

**[62]** Internet Draft IDNAbis Issues: <http://www.ietf.org/internet-drafts/draft-klensin-idnabis-issues-01.txt> (J. Klensin), Section 3.1.1.1

**[63]** Considering that the current requirement in all 16 registry agreement reserves "All labels with hyphens in the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n")", this requirement reserves any names having any of a combination of 1296 different prefixes (36x36).

**[64]** Considering that the current requirement in all 16 registry agreement reserves "All labels with hyphens in the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n")", this requirement reserves any names having any of a combination of 1296 different prefixes (36x36).

**[65]** With its recommendation, the sub-group takes into consideration that justification for potential user confusion (i.e., the minority view) as a result of removing the contractual condition to reserve gTLD strings for new TLDs may surface during one or more public comment periods.

**[66]** Note that this recommendation is a continuation of the recommendation in the original RN-WG report, modified to synchronize with the additional work done in the 30-day extension period.

**[67]** Ms Doria said "...My primary concern focuses on the term 'morality'. While public order is frequently codified in national laws and occasionally in international law and conventions, the definition of what constitutes morality is not generally codified, and when it is, I believe it could be referenced as public order. This concern is related to the broad set of definitions used in the world to define morality. By including morality in the list of allowable exclusions we have made the possible exclusion list indefinitely large and have subjected the process to the consideration of all possible religious and ethical systems. ICANN or the panel of reviewers will also have to decide between different sets of moral principles, e.g, a morality that holds that people should be free to express themselves in all forms of media and those who believe that people should be free from exposure to any expression that is prohibited by their faith or moral principles. This recommendation will also subject the process to the fashion and occasional demagoguery of political correctness. I do not understand how ICANN or any expert panel will be able to judge that something should be excluded based on reasons of morality without defining, at least de-facto, an ICANN definition of morality? And while I am not a strict constructionist and sometimes allow for the broader interpretation of ICANN's mission, I do not believe it includes the definition of a system of morality."

**[68]** <http://www.icann.org/tlds/agreements/net/appendix7.html>

**[69]** 'While I accept that a prospective registry must show adequate operational capability, creating a financial criteria is of concern. There may be many different ways of satisfying the requirement for operational capability and stability that may not be demonstrable in a financial statement or traditional business plan. E.g., in the case of an less developed community, the registry may rely on volunteer effort from knowledgeable technical experts.

Another concern I have with financial requirements and high application fees is that they may act to discourage applications from developing nations or indigenous and minority peoples that have a different set of financial opportunities or capabilities than those recognized as acceptable within an expensive and highly developed region such as Los Angeles or Brussels."

**[70]** "In general I support the policy though I do have concerns about the implementation which I discuss below in relation to IG (P)".

**[71]** "In general I support the idea that a registry that is doing a good job should have the expectancy of renewal. I do, however, believe that a registry, especially a registry with general market dominance, or specific or local market dominance, should be subject to comment from the relevant user public and to evaluation of that public comment before renewal. When performance is satisfactory, there should be an expectation of renewal. When performance is not satisfactory, there should be some procedure for correcting the situation before renewal."

**[72]** Consensus Policies has a particular meaning within the ICANN environment. Refer to <http://www.icann.org/general/consensus-policies.htm> for the full list of ICANN's Consensus Policies.

**[73]** <http://www.icann.org/general/bylaws.htm#AnnexA>

**[74]** <http://www.icann.org/registries/agreements.htm>

**[75]** The full list of reports is found in the Reference section at the end of the document.

**[76]** <http://www.icann.org/announcements/announcement-4-07mar07.htm>

**[77]** Found at <http://www.icann.org/registrars/ra-agreement-17may01.htm>

**[78]** Found at <http://www.icann.org/registrars/accreditation.htm>.

**[79]** Text of Recommendation #6: "Strings must not be contrary to generally accepted legal norms relating to morality and public order that are enforceable under generally accepted and internationally recognized principles of law. Examples of such principles of law include, but are not limited to, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination, intellectual property treaties administered by the World Intellectual Property Organisation (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)."

**[80]** Ms Doria took over from former GNSO Council Chairman (and GNSO new TLDs Committee Chairman) Dr Bruce Tonkin on 7 June 2007. Ms Doria's term runs until 31 January 2008.

**[81]** Available at: <http://forum.icann.org/lists/gtld-council/pdfOQqgaRNrXf.pdf>

**[82]** Available at: <http://ipjustice.org/wp/2007/06/13/ncuc-newgtld-stmt-june2007/>

**[83]** This glossary has been developed over the course of the policy development process. Refer here to ICANN's glossary of terms <http://www.icann.org/general/glossary.htm> for further information.

## **Annex 5**

**RECOMMENDATION  
OF THE BOARD GOVERNANCE COMMITTEE (BGC)  
RECONSIDERATION REQUEST 15-13**

**24 AUGUST 2015**

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The Requester, Commercial Connect, LLC (“Requester”), seeks reconsideration of the Community Priority Evaluation (“CPE”) panel’s report, and ICANN’s acceptance of that report, finding that the Requester did not prevail in CPE for the .SHOP string (“CPE Report”). The Requester also challenges various procedures governing the New gTLD Program, as well as the String Similarity Review process and the adjudication of various string confusion objections, which ultimately resulted in the contention set for its Application.

**I. Brief Summary.**

The Requester submitted a community-based application for the .SHOP gTLD (“Application”). The Requester’s Application was placed into a contention set with eight other applications for .SHOP, two applications for .SHOPPING, and one application for .通販 (Japanese for “online shopping”) (“.SHOP/SHOPPING Contention Set”). Since the Requester’s Application is community-based, the Requester was invited to, and did, participate in CPE. The Application did not prevail in CPE. As a result, the Application was placed back into the contention set.

The Requester claims that the CPE panel considering its Application (“CPE Panel”): (i) violated established policy or procedure in its consideration of the expressions of support for and opposition to the Requester’s Application; and (ii) improperly applied the CPE criteria. The Requester also challenges various procedures governing the New gTLD Program including, among other things, the String Similarity Review process and the adjudication of various string

confusion objections, which ultimately resulted in the composition of the .SHOP/.SHOPPING Contention Set.

The Requester's claims are unsupported. First, all of the issues raised by the Requester are time-barred. Second, as to the Requester's challenge to the CPE Report, the Requester has not demonstrated that the CPE Panel acted in contravention of any established policy or procedure in rendering the CPE Report. The CPE Panel evaluated and applied the CPE criteria in accordance with all applicable policies and procedures, including but not limited to its consideration of the expressions of support for and opposition to the Requester's Application. The Requester presents only its substantive disagreement with the CPE Report, which is not a basis for reconsideration. Similarly, the Requester has not demonstrated a basis for reconsideration with respect to the other issues it raises regarding: (a) the procedures set forth in the Guidebook; (b) the outcome of the String Similarity Review; and (c) the outcome of its string confusion objections. The BGC therefore recommends that Request 15-13 be denied.

## **II. Facts.**

### **A. Background Facts.**

In 2000, the ICANN Board adopted a measured and responsible application process for the introduction of new gTLDs.<sup>1</sup> The Requester submitted an application for .SHOP during this "proof-of-concept" round, but the .SHOP string was not approved at that time.

In 2012,<sup>2</sup> as part of the New gTLD Program, the Requester submitted a community-based application for .SHOP. Section 1.5.1 of the Guidebook provides that because the Requester applied for .SHOP in the 2000 proof-of-concept round but was not awarded the string at that

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<sup>1</sup> ICANN TLD Application Process: Information for Applicants, *available at* <http://www.icann.org/en/tlds/tld-application-process.htm>

<sup>2</sup> The Requester states that it submitted its application in 2008. Request, § 9, Pg. 14. However, applications were not accepted in connection with the New gTLD Program until 2012. We assume this was a clerical error and that the Requester is referring to the .SHOP application it submitted in 2012.

time, it was eligible for a US\$86,000 credit towards its New gTLD Program application fee.<sup>3</sup> On 15 June 2012, the Requester received a US\$86,000 offset for its .SHOP Application. Per the Guidebook, acceptance of the US\$86,000 was subject to “confirmation that the [Requester] was not awarded any TLD string pursuant to the 2000 proof-of-concept application round and that the [Requester] has no legal claims arising from the 2000 proof-of-concept process.”<sup>4</sup>

As provided by the Guidebook, a String Similarity Review was conducted for all 1,930 new gTLD applications in order to determine whether any strings were so visually similar as to create a possibility of user confusion and to ensure that any such strings were placed into contention sets.<sup>5</sup> In February 2013, following String Similarity Review, the Requester’s Application was placed into a contention set with eight other applications for .SHOP.

The Requester then proceeded to file 21 separate string confusion objections against applicants for strings that the Requester asserted “so nearly resemble[d] [.SHOP] that [they were] likely to deceive or cause confusion” to the “average, reasonable Internet user.”<sup>6</sup> Among the applications against which the Requester filed objections were applications for .BUY, .ECOM, .SALE, .SHOPPING, .SHOPYOURWAY, and for strings representing words such as “web shop” in languages such as Chinese, Japanese, and Arabic.<sup>7</sup>

All but two of the Requester’s objections were overruled. The Requester’s string confusion objection to an application for .SHOPPING was sustained, as was its string confusion objection to an application for .通販 (Japanese for “online shopping”).<sup>8</sup> The latter determination

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<sup>3</sup> Guidebook, § 1.5.1.

<sup>4</sup> *Id.* at § 1.5.1.

<sup>5</sup> *Id.* at § 2.2.1.1.

<sup>6</sup> Guidebook, § 3.5.1.

<sup>7</sup> See <http://newgtlds.icann.org/en/program-status/odr/determination>.

<sup>8</sup> See Determination on ICDR Case No. 50 504 T 00267 13, *available at* <http://newgtlds.icann.org/sites/default/files/drsp/25oct13/determination-1-1-1631-16988-en.pdf>; Determination on ICDR Case No. 50 504 T 00261 13, *available at* <http://newgtlds.icann.org/sites/default/files/drsp/25sep13/determination-1-1-1318-15593-en.pdf>

was perceived as inconsistent with another expert determination overruling the Requester’s string confusion objection to an application for the .购物 gTLD (Chinese for “shop”).<sup>9</sup>

Following an extensive process that included the evaluation of two reconsideration requests,<sup>10</sup> a report by ICANN’s staff, and a public comment period, on 12 October 2014, the NGPC directed ICANN staff to establish a very limited review process, whereby the ICDR would appoint “a three-member panel to re-evaluate the materials presented, and ... render a Final Expert Determination [in .SHOP/.通販 and one other string confusion proceeding]” (“NGPC Resolution”).<sup>11</sup> On 18 August 2015, the three-member Final Review Panel issued its Final Expert Determination which states that “this Final Review Panel reverses the Expert Determination and finds that the Applicant has prevailed and the Objection is dismissed.”<sup>12</sup>

Currently, the relevant contention set consists of nine applications for .SHOP (including Requester’s Application), two applications for .SHOPPING, and one application for .通販 (Japanese for “online shopping”).

The Requester elected to participate in CPE, and on 21 May 2015, the CPE Panel issued the CPE Report, determining that the Requester’s Application did not prevail in CPE.

On 10 July 2015, the Requester filed Reconsideration Request 15-13 seeking

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<sup>9</sup> See NGPC Resolutions 2014.11.07.NG01-02, available at <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-11-07-en> (noting the perceived inconsistency).

<sup>10</sup> On 4 September 2013, Amazon E.U. S.a.r.l (“Amazon”), the applicant for 通販 (Japanese for “online shopping”), sought reconsideration of the expert determination sustaining The Requester’s objection to Amazon’s application (available at <https://www.icann.org/en/system/files/files/request-amazon-04sep13-en.pdf>). On 5 September 2013, The Requester sought reconsideration of the expert determination overruling its objection to the .购物 gTLD (Chinese for “shop”) (available at <https://www.icann.org/en/system/files/files/recommendation-commercial-connect-10oct13-en.pdf>). Both reconsideration requests were denied, but the BGC recommended (and the NGPC accepted the recommendation) that the ICANN staff prepare a report regarding how to address a small number of perceived inconsistent string confusion objection determinations. See NGPC Resolutions 2014.11.07.NG01-02, available at <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-11-07-en>.

<sup>11</sup> See Rationale for NGPC Resolutions 2014.10.12.NG02 – 2014.10.12.NG03, available at <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en#2.b>.

<sup>12</sup> <http://newgtlds.icann.org/sites/default/files/drsp/21aug15/determination-2-1-1318-15593-en.pdf>



reconsideration of the CPE Report, and challenging various procedures governing the New gTLD Program, as well as the String Similarity Review process and the adjudication of various string confusion objections, which ultimately resulted in the contention set for its Application.

## **B. Relief Requested.**

The Requester asks that ICANN:

1. Award .SHOP to the Requester because “it has claimed community standing and should have been trusted as a community applicant”;<sup>13</sup>
2. Award .SHOP to the Requester “based on [the Requester’s] original application [from 2000],” which the Requester asserts is “still active” and which “should have precedence over any other newer application” submitted as part of the New gTLD Program;<sup>14</sup>
3. “Review and fix issues with string similarity especially with any and all similar and confusing eCommerce strings;”<sup>15</sup>
4. “[S]et in place a formal objection and/or appeal mechanism for the CPE determinations;”<sup>16</sup> and
5. “Direct how a community applicant can proceed to delegation without passing CPE.”<sup>17</sup>

## **III. The Relevant Standards for Evaluating Reconsideration Requests and Community Priority Evaluation.**

### **A. Reconsideration Requests.**

ICANN’s Bylaws provide for reconsideration of a Board or staff action or inaction in accordance with specified criteria.<sup>18</sup> The Requester challenges both staff and Board action.

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<sup>13</sup> Request, § 9, Pg. 14.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Bylaws, Art. IV, § 2. Article IV, § 2.2 of ICANN’s Bylaws states in relevant part that any entity may submit a request for reconsideration or review of an ICANN action or inaction to the extent that it has been adversely affected by:

- (a) one or more staff actions or inactions that contradict established ICANN policy(ies); or
- (b) one or more actions or inactions of the ICANN Board that have been taken or refused to be taken without consideration of material information, except where the party submitting the request could have submitted, but did not submit, the information for the Board’s consideration at the time of action or refusal to act; or

Dismissal of a request for reconsideration of staff action or inaction is appropriate if the BGC concludes, and the Board or the NGPC<sup>19</sup> agrees to the extent that the BGC deems that further consideration by the Board or NGPC is necessary, that the requesting party does not have standing because the party failed to satisfy the reconsideration criteria set forth in the Bylaws. Denial of a request for reconsideration of Board action or inaction is appropriate if the BGC recommends, and in this case the NGPC agrees, that the requesting party has not satisfied the reconsideration criteria set forth in the Bylaws.<sup>20</sup>

ICANN has previously determined that the reconsideration process can properly be invoked for challenges to determinations rendered by panels formed by third party service providers, such as the Economist Intelligence Unit (“EIU”), where it can be stated that a panel failed to follow the established policies or procedures in reaching its determination, or that staff failed to follow its policies or procedures in accepting that determination.<sup>21</sup>

In the context of the New gTLD Program, the reconsideration process does not call for the BGC to perform a substantive review of CPE panel reports. Accordingly, the BGC is not evaluating the substantive conclusion that the Application did not prevail in CPE. Rather, the BGC’s review is limited to whether the CPE Panel violated any established policy or procedure.

### **B. Community Priority Evaluation.**

The standards governing CPE are set forth in Section 4.2 of the Guidebook. In addition, the EIU – a firm selected to perform CPE – has published supplementary guidelines (“CPE

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(c) one or more actions or inactions of the ICANN Board that are taken as a result of the Board’s reliance on false or inaccurate material information.

<sup>19</sup> New gTLD Program Committee.

<sup>20</sup> Bylaws, Art. IV, § 2.

<sup>21</sup> See <http://www.icann.org/en/groups/board/governance/reconsideration/recommendation-booking-01aug13-en.doc>, BGC Recommendation on Reconsideration Request 13-5.

Guidelines”) that provide more detailed scoring guidance, including scoring rubrics, definitions of key terms, and specific questions to be scored.<sup>22</sup>

CPE will occur only if a community-based applicant selects CPE and after all applications in the contention set have completed all previous stages of the gTLD evaluation process.<sup>23</sup> CPE is performed by an independent panel appointed by the EIU.<sup>24</sup> A CPE panel’s role is to determine whether the community-based applicant fulfills the four community priority criteria set forth in Section 4.2.3 of the Guidebook. The four criteria include: (i) community establishment; (ii) nexus between proposed string and community; (iii) registration policies; and (iv) community endorsement. To prevail in CPE, an applicant must receive a minimum of 14 points on the scoring of foregoing four criteria, each of which is worth a maximum of four points

#### **IV. Analysis and Rationale.**

The Requester challenges the “correctness” of the CPE Report, as well as various procedures governing the New gTLD Program, the String Similarity Review process and the adjudication of various string confusion objections, which ultimately resulted in the contention set for its Application. As explained below, all of the issues raised by the Requester are time-barred. Further, insofar as the Requester is challenging the CPE Report, the Requester has not demonstrated any misapplication of any policy or procedure by the CPE Panel in rendering the CPE Report. The Requester instead only presents its substantive disagreement with the scoring and analysis in the CPE Report, which is not a basis for reconsideration. Similarly, the Requester has not demonstrated a basis for reconsideration with respect to the other issues it raises regarding the procedures set forth in the Guidebook or the processing of its Application.

##### **A. Reconsideration Request 15-13 Is Time-Barred**

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<sup>22</sup> For CPE Guidelines see <http://newgtlds.icann.org/en/announcements-and-media/announcement-27sep13-en>.

<sup>23</sup> Guidebook, § 4.2.

<sup>24</sup> *Id.* at § 4.2.2.

Reconsideration requests must be filed within 15 days of “the date on which the party submitting the request became aware of, or reasonably should have become aware of, the challenged staff action.”<sup>25</sup> The Requester seeks reconsideration of the CPE Report finding that the Requester’s Application did not qualify for community priority. The CPE Report was published on 21 May 2015. Thus, any reconsideration request challenging the CPE Report must have been filed by 5 June 2015. The Requester, however, did not file Request 15-13 until 10 July 2015, over a month after the filing deadline.

Request 15-13 also challenges certain procedures set forth in the Guidebook, including the fact that CPE exists at all, and the absence of a substantive appeals process for CPE determinations. However, the current Guidebook was adopted in 2012, years before the Requester filed Request 15-13. Finally, although not quite clear, it seems that the Requester is challenging the outcome of the String Similarity Review and string confusion objections that resulted in the .SHOP/.SHOPPING Contention Set. However, the .SHOP/.SHOPPING Contention Set was constituted in its present form in 2014.<sup>26</sup> Insofar as Request 15-13 challenges Guidebook procedures, the String Similarity Review, or the adjudication of the Requester’s string confusion objections, those challenges are time-barred by years.

The Requester provides no explanation for its delay in filing this reconsideration request. Request 15-13 is untimely, and on that basis alone, the BGC recommends that Request 15-13 should be denied.

**B. No Reconsideration is Warranted with Respect to the CPE Report.**

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<sup>25</sup> Bylaws, Art. IV, § 2.5(b).

<sup>26</sup> The Requester filed a timely reconsideration request seeking reconsideration of the expert determination in one of its string confusion objections. The NGPC denied that reconsideration request on 7 November 2014. *See* <https://www.icann.org/resources/pages/13-10-2014-02-13-en>.

The Requester challenges the determination of the CPE Panel that its Application did not qualify for community priority. However, the Requester has demonstrated no violation of any established policy or procedure by the CPE Panel.

**1. The Requester's Claim that the CPE Panel Violated Applicable Policy or Procedure is Without Support.**

The Requester raises several issues related to the CPE Panel's consideration of the expressions of support for and opposition to its Application. Specifically, the Requester claims that the CPE Panel failed to consider documented support for the Application, sent validation letters containing errors to the Requester's supporters, and erred when it found that the Application had received opposition from a relevant entity. None of the Requester's claims are supported.

First, the Requester claims that the CPE Panel did not consider "third party verifiable proof of over 1000 separate in-person and face-to-face obtained support."<sup>27</sup> However, the fourth CPE criterion, "Community Endorsement," calls for CPE panels to assess a community's "documented" support for and opposition to a community-based application.<sup>28</sup> In assessing that support and opposition, the CPE panel considers "application comments on the application" as well as "correspondence (letters of support or objection related to the application)."<sup>29</sup> To be considered, the written documentation of support or opposition must "contain a description of the process and rationale used in arriving at the expression of [support or opposition]."<sup>30</sup>

Here, the Requester provided the CPE Panel only with a spreadsheet containing the names and contact information of alleged supporters. The Requester never submitted written documentation of support that included "a description of the process and rationale used in

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<sup>27</sup> Request, § 8, Pg. 13.

<sup>28</sup> Guidebook, § 4.2.3.

<sup>29</sup> CPE FAQs, Pg. 4, *available at* <http://newgtlds.icann.org/en/applicants/cpe>.

<sup>30</sup> CPE Guidelines, Pgs. 18, 20.

arriving at the expression of [support or opposition],”<sup>31</sup> even after receiving a clarifying question from the CPE Panel asking for such documentation.<sup>32</sup> Having failed to submit the required documentation, the Requester has not presented grounds for reconsideration with respect to this issue.<sup>33</sup>

Second, the Requester argues that the CPE Panel sent validation letters with “expired dates of when to reply” to the Requester’s supporters.<sup>34</sup> In fact, only one validation email sent by the CPE Panel had a typographical error in the form of an incorrect “reply-by” date. The typographical error was discovered and corrected in subsequent validation emails to other supporters. Importantly, the recipient of the single verification email with the typographical error did respond and verified its letter of support for the Requester, which the CPE Panel considered. Because the CPE Panel verified and considered the supporter’s letter, the typographical error (which was corrected) had no effect on the CPE scoring of the Application. As such, the Requester has not demonstrated that the CPE Panel violated any established policy or procedure in its validation and consideration of letters of support for the Application.

Third, the Requester disputes the CPE Panel’s determination that there was “relevant opposition” to the Application from a “multinational company” that is “within the community explicitly addressed by the application,” and that the opposition “relat[ed] to the [Requester’s] right to regulate a namespace in which the opponent has a place.”<sup>35</sup> The Requester argues that “[n]o qualified and formal entity that represented a substantial portion of our community filed

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<sup>31</sup> *Id.*

<sup>32</sup> CPE FAQs at 4-5 (CPE panels may submit clarifying questions to applicants, asking them, among other things, to clarify issues relating to community support or opposition).

<sup>33</sup> CPE Guidelines, Pgs 17-18.

<sup>34</sup> *Id.*, § 8, Pg. 14. CPE panels “will attempt to validate all letters” submitted in support of or in opposition to an application “to ensure that the individuals who have signed the documents are in fact the sender, have the authority to speak on behalf of their institution, and that the panel clearly understands the intentions of the letter.” See CPE FAQs, *available at* [newgtlds.icann.org/en/applicants/cpe/faqs-31oct13-en.pdf](http://newgtlds.icann.org/en/applicants/cpe/faqs-31oct13-en.pdf).

<sup>35</sup> CPE Report, Pgs. 8-9.

any formal objections.”

Contrary to what the Requester asserts, a multinational corporation did submit an application comment opposing the Application.<sup>36</sup> That opposition was verified by the CPE Panel in accordance with established procedure. Insofar as the Requester is claiming that the corporation’s opposition should not have been considered, its argument simply constitutes a substantive disagreement with the CPE Panel’s determination that the corporation’s objection comprised “relevant opposition,” and does not demonstrate a violation of established policy or procedure.

The Requester has not stated a basis for reconsideration with respect to the CPE Panel’s consideration of the expressions of support for and opposition to the Application.

## **2. The CPE Panel Applied the CPE Criteria in Accordance With Established Policies and Procedures.**

The Requester objects to the CPE Panel’s decision to award only five of the possible 16 points to the Application. As noted above, the reconsideration process does not call for the BGC to evaluate the CPE Panel’s substantive conclusion, but only whether the CPE Panel (or ICANN staff) violated any established policy or procedure. As discussed below, insofar as the Requester claims that the number of points awarded by the CPE Panel for various criteria was “wrong,” the Requester does not claim that the CPE Panel violated established policy or procedure, but instead challenges the substantive determinations of the CPE Panel. That is not a basis for reconsideration.<sup>37</sup>

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<sup>36</sup> See <https://gtldcomment.icann.org/comments-feedback/applicationcomment/commentdetails/8303>.

<sup>37</sup> In addition to its objections to the scoring of each CPE criterion, the Requester generally objects that the CPE Report was inconsistent with other CPE panel reports regarding entirely different applications. See Request, § 6, Pg. 5. However, the Requester provides no support for this argument, other than the conclusory statement that “[t]he CPE Panel established criteria early in the CPE determinations which later, in direct opposition to those standards (created with [the] .eco decision) scored other applicants such as .gay .music and .shop in the opposite manner.” *Id.* Again, in the absence of a demonstrated violation of policy or procedure, the Requester’s substantive disagreement with the CPE Report is not a basis for reconsideration.

**a. The CPE Panel Applied the First CPE Criterion in Accordance With Established Policies and Procedures.**

The Requester claims that the CPE Panel improperly awarded the Requester's Application zero out of four points on the first criterion, which evaluates "the community as explicitly identified and defined according to statements in the application" through the scoring of two elements—1-A, delineation (worth two points), and 1-B, extension (worth two points).<sup>38</sup>

**i. CPE Element 1-A ("Delineation").**

Pursuant to Section 4.2.3 of the Guidebook, to receive a maximum score for the delineation element, an application must identify a "clearly delineated, organized, and pre-existing community." The Guidebook defines community as "implying more [] cohesion than a mere commonality of interest," and requiring "an awareness and recognition of a community among its members."<sup>39</sup> Section 4.2.3 also sets forth further guidelines for determining delineation. In awarding zero out of two points for element 1-A (delineation), the CPE Panel accurately described and applied the Guidebook scoring guidelines and scored the mandatory questions listed in the CPE Guidelines.<sup>40</sup>

The CPE Panel found that while the Application identified a "clear and straightforward membership," it did not "have awareness and recognition of a community among its members" because the "proposed community encompasses a very large and growing field of diverse and geographically dispersed online retailers."<sup>41</sup> The CPE Panel also found that the community defined in the Application had neither "at least one entity mainly dedicated to the community" nor "documented evidence of community activities," noting that the Requester itself "acknowledge[d] that the proposed community was not organized, and that [the Requester] has

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<sup>38</sup> Guidebook, § 4.2.3; *see also* Request, § 8, Pgs. 11-12.

<sup>39</sup> Guidebook, § 4.2.3.

<sup>40</sup> CPE Report, Pg. 1-4.

<sup>41</sup> *Id.*, Pg. 2.



sought to organize the proposed community members. . . .”<sup>42</sup> Finally, the CPE Panel found that the community was “construed to obtain a sought-after generic word as a gTLD string,” which the CPE Panel viewed as supporting the conclusion that the relevant community had not been active prior to September 2007.<sup>43</sup>

The Requester does not identify any policy or procedure that the CPE Panel misapplied in scoring element 1-A. Instead, the Requester simply objects to the CPE Panel’s substantive conclusion, arguing that the community does have cohesion because it consists of online retailers who use Secured Socket Layer (“SSL”) certificates.<sup>44</sup> However, the CPE Panel specifically noted that “[w]hile the application’s reliance on SSL certificates delineates a subset of retailers, . . . [u]se of SSL [] is not sufficient to ensure that all entities using it are aware of one another as a community, and that the proposed community coheres as per the [Guidebook].”<sup>45</sup> While the Requester may disagree with the CPE Panel’s conclusion, such disagreement is not a basis for reconsideration.

The Requester further argues that its own efforts to organize a community of online retailers dates back to 2000, and that those efforts demonstrate both that there is an entity mainly dedicated to the community and that the community existed prior to September 2007.<sup>46</sup> However, the CPE Panel found that the Requester’s reliance on its own efforts to organize the community actually demonstrated that the community was not in fact pre-existing.<sup>47</sup> The Requester’s arguments reflect only substantive disagreement with the CPE Panel’s finding, and are not a proper basis for reconsideration.

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<sup>42</sup> *Id.*, Pg. 3.

<sup>43</sup> *Id.*, Pgs. 3-4.

<sup>44</sup> Request, § 8, Pg. 11.

<sup>45</sup> CPE Report, Pg. 2.

<sup>46</sup> Request, § 8, Pg. 11-12.

<sup>47</sup> CPE Report, Pg. 3.

**ii. CPE Element 1-B (“Extension”).**

The Requester also objects to the CPE Panel awarding its Application zero out of two points on element 1-B (extension). To receive a maximum score for the extension element, an application must identify a “community of considerable size and longevity.”<sup>48</sup> In order for a community to be of considerable size or to demonstrate longevity, it must in fact be a community (*i.e.*, demonstrate “awareness and recognition of a community among its members”).<sup>49</sup>

The Requester does not identify any policy or procedure that the CPE Panel violated in scoring element 1-B. In awarding zero out of two points for element 1-B (extension), the CPE Panel accurately described and applied the Guidebook scoring guidelines and scored the mandatory questions listed in the CPE Guidelines. In particular, the CPE Panel found that the defined community was of considerable size, but concluded that it did not meet the size requirement because it was not in fact a community (*i.e.*, did not demonstrate the requisite awareness and recognition of a community).<sup>50</sup> The Requester erroneously argues that the CPE Panel determined that the community as defined in the Application was not of considerable size.<sup>51</sup>

The CPE Panel also found that the relevant community as defined in the Application could not demonstrate longevity because the proposed community was “construed to obtain a sought-after generic word as a gTLD” and thus “d[id] not meet the [Guidebook’s] standards for a community.”<sup>52</sup> Here, the Requester points to its own efforts to organize the community, which purportedly commenced “11+” years ago, arguing that such efforts demonstrate longevity.<sup>53</sup>

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<sup>48</sup> Guidebook § 4.2.3.

<sup>49</sup> *Id.*

<sup>50</sup> CPE Report, Pg. 4.

<sup>51</sup> Request, § 8, Pg. 12.

<sup>52</sup> *Id.*

<sup>53</sup> Request, § 8, Pg. 12.

However, this simply demonstrates the Requester’s substantive dispute with the CPE Panel’s conclusion that the Requester’s proposed community could not demonstrate longevity because it was organized and “construed to obtain a sought-after generic word as a gTLD.”<sup>54</sup> The Requester’s substantive disagreements with the CPE Panel’s findings are not a proper basis for reconsideration.

**b. The CPE Panel Applied the Second CPE Criterion in Accordance With Established Policies and Procedures.**

The Requester claims that the CPE Panel improperly awarded the Application zero out of four points on the second criterion, which evaluates “the relevance of the string to the specific community that it claims to represent” through the scoring of two elements—2-A, nexus (worth three points), and 2-B, uniqueness (worth one point).<sup>55</sup> To receive a maximum score for element 2-A, the applied-for string must “match[ ] the name of the community or [be] a well-known short-form or abbreviation of the community name.”<sup>56</sup> To fulfill the requirements for element 2-B, a string must have “no other significant meaning beyond identifying the community described in the application.”<sup>57</sup>

In awarding zero out of four points for the second criterion, the CPE Panel accurately described and applied the Guidebook scoring guidelines, and scored the mandatory questions listed in the CPE Guidelines.<sup>58</sup> The Application defines the community as “eCommerce operators that directly sell to the general public on the internet.”<sup>59</sup> The CPE Panel reviewed that definition and found that, because the Application focused on the “e-commerce community,” the .SHOP string: (1) “does not *match* the name of the community as defined in the application”;

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<sup>54</sup> *Id.*, § 8, Pgs. 11-12; CPE Report, Pg. 4.

<sup>55</sup> Guidebook, § 4.2.3.

<sup>56</sup> *Id.*

<sup>57</sup> Guidebook, § 4.2.3.

<sup>58</sup> CPE Report, Pgs. 4-5.

<sup>59</sup> Requester’s Application, § 20(d), *available at* <https://gtldresult.icann.org/applicationstatus/applicationdetails/307>.

and (2) “over-reaches substantially beyond the [Requester’s] proposed community . . . because the string .SHOP identifies both online (*i.e.*, e-commerce) as well as brick-and-mortar entities that sell goods and services.”<sup>60</sup>

The Requester does not identify any policy or procedure that the CPE Panel misapplied in scoring the second criterion. Rather, the Requester argues that the scoring does not reflect the “amount of research spent on determining the best string for eCommerce” and that “[t]he use of the word .SHOP to represent a community of shoppers who will be operating online ‘Shops’ should be an acceptable use and correlation.”<sup>61</sup> Again, the Requester’s disagreement with the CPE Panel’s finding is not a proper basis for reconsideration.

**c. The CPE Panel Applied the Third CPE Criterion in Accordance With Established Policies and Procedures.**

The Requester claims that the CPE Panel improperly awarded the Application three out of four points on the third criterion, which evaluates an applicant’s registration policies through the scoring of four elements—3-A, eligibility (worth one point); 3-B, name selection (worth one point); 3-C, content and use (worth one point); and 3-D, enforcement (worth one point).<sup>62</sup>

The Requester challenges the CPE Panel’s evaluation of criterion 3-B, name selection. To receive a maximum score for the name selection element, an applicant’s policies must “include name selection rules consistent with the articulated community-based purpose of the applied-for gTLD.”<sup>63</sup> In awarding zero out of one point for element 3-B (name selection), the CPE Panel accurately described and applied the Guidebook scoring guidelines and scored the mandatory questions listed in the CPE Guidelines.<sup>64</sup>

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<sup>60</sup> CPE Report, Pg. 5.

<sup>61</sup> Request, § 8, Pg. 12.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> CPE Report, Pg. 6.

The CPE Panel found that the Application “d[id] not directly refer to [the Application’s] community-based purpose in discussion of name selection rules, nor [were] they implicitly based on the community-based purpose of the applied for TLD, which [was] to ‘aid in [] development of a safer, cheaper, and more secure platform for eCommerce . . . .”<sup>65</sup> The CPE Panel also noted that the Application’s name selection rules in fact contained only technical requirements that were “the same as the minimum requirements for any second level domain in a gTLD.”<sup>66</sup>

The Requester does not identify any policy or procedure that the CPE Panel misapplied in scoring element 3-B. Rather, the Requester mischaracterizes the CPE Panel’s conclusion, stating that the CPE Panel “fe[l]t that the [p]eople offering SHOPS on the Internet are not consistent with the strings meaning of SHOP.”<sup>67</sup> As discussed, the CPE Panel’s determination was based on its finding that the Application’s name selection rules contained only technical requirements and were not based on the community-based purpose of the Application.<sup>68</sup> As such, the Requester has not stated a basis for reconsideration with respect to the CPE Panel’s scoring of element 3-B.<sup>69</sup>

**C. The Requester Is Not Entitled to Priority Based Upon Its Earlier Application for .SHOP.**

The Requester submitted an application for .SHOP during ICANN’s proof-of-concept round in 2000. The Requester was not awarded a TLD at that time, and now argues that because it applied for .SHOP in 2000, it should be entitled to priority over all applications in the

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Request, § 8, Pg. 10.

<sup>68</sup> CPE Report, Pg. 6.

<sup>69</sup> The Requester addresses the fourth CPE criterion, “Community Endorsement,” only insofar as the Requester challenges the CPE Panel’s consideration of the expressions of support for and opposition to the Requester’s Application. As discussed above, The Requester does not state a basis for reconsideration with respect to that issue.

.SHOP/.SHOPPING Contention Set, which were all submitted as part of the New gTLD Program.<sup>70</sup>

The Requester points to no policy or procedure that would entitle it to priority over other applicants for .SHOP. To the contrary, on 15 June 2012, the Requester received a US\$86,000 offset to its New gTLD Program application fee as a result of its previous application for .SHOP in 2000. As provided in the Guidebook, acceptance of that credit was subject to “confirmation that the [Requester] was not awarded any TLD string pursuant to the 2000 proof-of-concept application round and that the [Requester] has no legal claims arising from the 2000 proof-of-concept process.”<sup>71</sup>

The Requester’s argument is not a basis for reconsideration.

**D. The Requester’s Other Challenges to the Guidebook’s CPE Procedures Do Not Warrant Reconsideration.**

The Requester raises several other issues regarding the application review procedures set forth in the Guidebook, arguing, among other things, that: (a) CPE should not be required at all; (b) the Guidebook improperly fails to provide an appeals mechanism for CPE panel determinations; and (c) the Guidebook does not conform to the recommendations of ICANN’s Generic Names Supporting Organization (“GNSO”).<sup>72</sup> As discussed above, any challenge to the procedures set forth in the Guidebook are time-barred. Furthermore, in challenging the approval of the Guidebook, the Requester seeks reconsideration of Board action but does not demonstrate, as it must, that the Board either failed to consider material information or relied on false or inaccurate material information before approving the New gTLD Program and the Guidebook.<sup>73</sup>

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<sup>70</sup> Request, § 9, Pg. 14.

<sup>71</sup> Guidebook, § 1.5.1.

<sup>72</sup> Request, § 3, Pgs. 2-3; *id.*, § 8, Pgs. 10.

<sup>73</sup> Bylaws, Art. IV, § 2.2.

As detailed in the Board’s Rationales for the Approval of the Launch of the New gTLD Program, the Guidebook procedures—including the absence of an appeals mechanism for CPE panel determinations and other determinations by third-party evaluators in the context of the New gTLD Program—were adopted by the ICANN Board only after years of rigorous policy development and implementation that included extensive review and analysis by ICANN, as well as input and comment from legal and arbitration experts, numerous ICANN constituents and Internet stakeholders, and community members from around the world.<sup>74</sup> The current version of the Guidebook was published on 4 June 2012 following an extensive review process, including public comment on multiple drafts.<sup>75</sup> If the Requester had concerns related to these issues, it should have pursued them at the time through the available accountability mechanisms, not years later, only after receiving the CPE Report with which it disagrees.<sup>76</sup>

The Requester also argues that CPE should not be required at all, because the GNSO’s recommendation was that an application’s assertion of community representation should be “taken on trust.”<sup>77</sup> Again, the Requester fails to show how the existence of CPE is a basis for reconsideration. Furthermore, the Requester misreads the language of the GNSO’s recommendation. Specifically, the GNSO’s recommendation was that:

Where an applicant lays any claim that the TLD is intended to support a particular community such as a *sponsored TLD*, or any other TLD intended for a specified community, that claim will be taken on trust with the following exceptions:

(i) the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application; and

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<sup>74</sup> ICANN Board Rationales for the Approval of the Launch of the New gTLD Program (“ICANN Board Rationales”) at Pgs. 66-67, *available at* .

<sup>75</sup> See Guidebook, Cl. Ex. RM-5, Preamble.

<sup>76</sup> Bylaws, Art. IV, § 2.5 (15-day limitation period for reconsideration requests); *see also Booking.com v. ICANN*, Final Declaration, ¶ 30 (“[T]he time has long since passed” for parties to seek review of the Guidebook procedures); *available at* <https://www.icann.org/en/system/files/files/final-declaration-03mar15-en.pdf>

<sup>77</sup> Request, § 6, Pgs. 7, 8-9.

(ii) a formal objection process is initiated.<sup>78</sup>

In accordance with this recommendation, the Guidebook provides that “[e]valuation of an applicant’s designation as community-based will occur only in the event of a contention situation that results in a community priority evaluation.”<sup>79</sup> The community-based applicant must elect to undergo CPE if it seeks priority over other competing applications for the same string.<sup>80</sup>

Reconsideration is not appropriate because the Requester has not demonstrated that the Board failed to consider material information or relied on false or inaccurate material information in approving the Guidebook, which provided for CPE and included no appeals mechanism for CPE results.

**D. The Requester Has Not Stated a Basis for Reconsideration with Respect to the String Similarity Review and the Determinations on String Confusion Objections that Resulted in the .SHOP/.SHOPPING Contention Set.**

The Requester asks that the Board “[r]eview and fix the issue with name similarity especially with any and all similar and confusing eCommerce strings.”<sup>81</sup> The Requester appears to claim that applications for various strings other than .SHOP should be included in the Requester’s contention set because, in the Requester’s view, “issuing multiple random and similar gTLDs will only yield very small registrations [on each gTLD] which in turn would make sustainability unfeasible.”<sup>82</sup> Although Request 15-13 is unclear, we understand the Requester to make two different challenges in this respect. First, the Requester appears to challenge the Board’s adoption of the String Similarity Review and string confusion objections

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<sup>78</sup> GNSO Final Report on the Introduction on New Generic Top Level Domains, Recommendation IG H *available at* <http://gnso.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07> htm.

<sup>79</sup> Guidebook § 1.2.3.2.

<sup>80</sup> *Id.*

<sup>81</sup> Request, § 9, Pg. 14.

<sup>82</sup> Request, § 6, Pg. 6. The Requester does not specify the other strings, but appears to be referring to strings against which it filed String Confusion Objections, such as SALE, .ECOM, .BUY, .SHOPYOURWAY, and for strings representing words such as “web shop” in languages such as Chinese, Japanese, and Arabic.



procedures. Second, the Requester appears to challenge the actions of third-party evaluators and the Board with respect to: (1) the String Similarity Review performed for the Requester’s .SHOP Application; and (2) the adjudication of the Requester’s string confusion objections. Neither challenge warrants reconsideration.

**1. The Requester’s Challenge to Procedures Governing String Similarity Review and String Confusion Objections Is Time-Barred and Does Not Warrant Reconsideration.**

The Requester appears to challenge the String Similarity Review and string confusion objection procedures set forth in the Guidebook, arguing that the procedures will result in the “issuing [of] multiple random and similar gTLDs.”<sup>83</sup> However, not only is any challenge to the Guidebook procedures long since time-barred, but the Requester has not demonstrated a basis for reconsideration with respect to those procedures.

The Guidebook provides two methods for ensuring that confusingly similar strings are placed in the same contention set. First, during Initial Evaluation, a String Similarity Review was conducted, during which a third-party expert evaluator—the String Similarity Review Panel—identified “visual string similarities that would create a probability of user confusion.”<sup>84</sup> New gTLD applications for strings determined to be so visually similar as to create a possibility of user confusion were placed into contention sets.<sup>85</sup>

Next, even if an application was not identified as being visually similar during the String Similarity Review, an existing TLD operator or another new gTLD applicant could file a string confusion objection. Unlike String Similarity Review, string confusion objections were “not limited to visual similarity. Rather, confusion based on any type of similarity (including visual,

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<sup>83</sup> *Id.*

<sup>84</sup> Guidebook, § 2.2.1.1 (emphasis added).

<sup>85</sup> *Id.*

aural, or similarity of meaning) [could] be claimed by an objector.”<sup>86</sup> The Guidebook provided for string confusion objections to be upheld only if the objected-to string “so nearly resemble[d] [the objector’s string] that [it was] likely to deceive or cause confusion” to the “average, reasonable Internet user.”<sup>87</sup> If a string confusion objection is sustained, then the objected-to application is placed in a contention set with the objector’s applied-for string.<sup>88</sup>

Again, these Guidebook procedures were put in place years ago, after an extensive process of public comment and input. Insofar as the Requester is challenging those processes, Request 15-13 is long since time-barred. Furthermore, the Requester’s assertions in this regard challenge Board action, and the Requester has not identified any material information the Board failed to consider, or any false or inaccurate material information that the Board relied upon, in adopting the procedures governing String Similarity Review or string confusion objections.

**2. The Requester’s Challenges to the String Similarity Review and to the Outcome of the Requester’s String Confusion Objections Are Time-Barred and Do Not Warrant Reconsideration.**

Insofar as the Requester is objecting to the String Similarity Review performed for the Requester’s .SHOP Application, no reconsideration is warranted. That String Similarity Review concluded in February 2013 and resulted in the Requester’s Application being placed into a contention set with eight other applications for .SHOP.<sup>89</sup> The Requester does not identify any policy or process violation in the String Similarity Review Panel’s determination that no other existing or applied-for gTLDs had a confusing visual similarity to .SHOP. The Requester argues that the panel “received incorrect instructions,” but provides no explanation as to what those incorrect instructions may have been, and does not identify any established procedure the panel

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<sup>86</sup> *Id.*

<sup>87</sup> Guidebook, § 3.5.1.

<sup>88</sup> *Id.*, § 3.2.2.1.

<sup>89</sup> See <http://newgtlds.icann.org/en/program-status/application-results/similarity-contention-26feb13-en.pdf>.

violated in conducting the String Similarity Review.<sup>90</sup> And again, any challenge to a process that was completed over two years ago is long since time-barred.

The Requester also filed 21 separate string confusion objections against applicants for strings the Requester asserted “so nearly resemble[d] [.SHOP] that [they were] likely to deceive or cause confusion” to the “average, reasonable Internet user.”<sup>91</sup> Insofar as the Requester is objecting to the outcomes of those objections, the Requester also has not stated a basis for reconsideration.

Among the applications against which the Requester filed objections were applications for .BUY, .ECOM, .SALE, .SHOPPING, .SHOPYOURWAY, and for strings representing words such as “web shop” in languages such as Chinese, Japanese, and Arabic.<sup>92</sup> All but two of the Requester’s objections were overruled. The Requester’s objection to an application for .SHOPPING was sustained, as was its objection to 通販 (Japanese for “online shopping”).<sup>93</sup> The latter determination was perceived as inconsistent with another expert determination overruling the Requester’s string confusion objection to 购物 (Chinese for “shop”).

Following an extensive process that included the evaluation of two reconsideration requests,<sup>94</sup> a report by ICANN’s staff, and a public comment period, on 12 October 2014, the NGPC approved Resolutions 2014.10.12.NG02 and 2014.10.12.NG03, which directed ICANN

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<sup>90</sup> Request, § 6, Pg. 5. The Requester also argues that it was “impossible to object” because the time to respond was shortened. *Id.* The results of the String Similarity Review were released on 26 February 2013. See <https://www.icann.org/news/announcement-2013-02-26-en>. This was well before the deadline to file string confusion objections, on 13 March 2013. See <https://newgtlds.icann.org/en/program-status/odr>. The Requester ultimately filed 21 such objections.

<sup>91</sup> Guidebook, § 3.5.1.

<sup>92</sup> See <http://newgtlds.icann.org/en/program-status/odr/determination>.

<sup>93</sup> See Determination on ICDR Case No. 50 504 T 00267 13, *available at* <http://newgtlds.icann.org/sites/default/files/drsp/25oct13/determination-1-1-1631-16988-en.pdf>; Determination on ICDR Case No. 50 504 T 00261 13, *available at* <http://newgtlds.icann.org/sites/default/files/drsp/25sep13/determination-1-1-1318-15593-en.pdf>

<sup>94</sup> Reconsideration Request 13-9, *available at* <https://www.icann.org/en/system/files/files/request-amazon-04sep13-en.pdf>; Reconsideration Request 13-10, *available at* <https://www.icann.org/en/system/files/files/recommendation-commercial-connect-10oct13-en.pdf>.

staff to establish a very limited review process, whereby the ICDR would appoint “a three-member panel to re-evaluate the materials presented, and ... render a Final Expert Determination [in .SHOP/.通販 (Japanese for “online shopping”) and one other string confusion proceeding]” (“NGPC Resolution”).<sup>95</sup> That review is currently ongoing.

The Requester has not identified any violation of established policy or procedure by the third-party experts who ruled on the Requester’s myriad string confusion objections. Nor has the Requester identified any material information that the NGPC failed to consider, or any false or inaccurate material information that the NGPC relied upon, in determining to have a three-member panel re-evaluate the Requester’s objection to .通販 (Japanese for “online shopping”). And, once again, any challenge to the outcomes of the Requester’s string confusion objections or to the NGPC Resolutions are plainly time-barred.

The Requester therefore has not demonstrated any basis for reconsideration with respect to either: (1) the procedures for String Similarity Review and string confusion objections; or (2) the outcome of those processes, which resulted in the Requester’s Application currently being in contention with nine applications for .SHOP (including Requester’s own), two applications for .SHOPPING, and the application for .通販 (Japanese for “online shopping”).

## **V. Recommendation.**

Based on the foregoing, the BGC concludes that the Requester has not stated proper grounds for reconsideration, and therefore recommends that Request 15-13 be denied.

In terms of the timing of the BGC’s recommendation, it notes that Section 2.16 of Article IV of the Bylaws provides that the BGC shall make a final determination or recommendation

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<sup>95</sup> See Rationale for NGPC Resolutions 2014.10.12.NG02 – 2014.10.12.NG03, *available at* <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en#2.b>.

with respect to a reconsideration request within thirty days, unless impractical.<sup>96</sup> To satisfy the thirty-day deadline, the BGC would have to have acted by 10 August 2015.<sup>97</sup> However, due to the timing of the BGC's meetings in July and August, the first practical opportunity for the BGC to consider Request 15-13 was 24 August 2015.

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<sup>96</sup> *Id.*, Art. IV, § 2.16.

<sup>97</sup> Thirty days from the date the Requester submitted its Request would have been 9 August 2015, a Sunday.

## **Annex 6**

[English \(/translations\)](#) [العربية \(/ar\)](#) [Español \(/es\)](#)

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## Approved Resolutions | Meeting of the New gTLD (generic Top Level Domain) Program Committee

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28 Sep 2015

**Consent Agenda:**

a. **Approval of Minutes**

2. **Main Agenda:**

a. **Reconsideration Request 15-13: Commercial Connect, LLC**  
*Rationale for Resolution 2015.09.28.NG02*

b. **Discussion of possible dissolution of the New gTLD (generic Top Level Domain) Program Committee.**

c. **Review GDD efforts on Trust Marks and Public Interest Commitments (PIC) Repository**

Od-2012-02-25-en)

- ▶ Registries  
(/resources/pages/registries-46-2012-02-25-en)

Operational Metrics  
(/resources/pages/metrics-gdd-2015-01-30-en)

- ▶ Identifier Systems Security, Stability (Security, Stability and Resiliency) and Resiliency (IS-SSR)  
(/resources/pages/is-ssr-2014-11-24-en)

- ▶ ccTLDs  
(/resources/pages/cctlds-21-2012-02-25-en)

- ▶ Internationalized Domain Names  
(/resources/pages/idn-2012-02-25-en)

- ▶ Universal Acceptance Initiative  
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(/resources/pages/technical-functions-2015-10-15-en)

- ▶ Contact  
(/resources/pages/contact-2012-02-06-en)

- ▶ Help  
(/resources/pages/help-2012-02-03-en)

## 1. Consent Agenda:

### a. Approval of Minutes

Resolved (2015.09.28.NG01), the Board New gTLD (generic Top Level Domain) Program Committee (NGPC) approves the minutes of its 21 August 2015 meeting.

## 2. Main Agenda:

### a. Reconsideration Request 15-13: Commercial Connect, LLC

Whereas, Commercial Connect, LLC ("Requester") filed Reconsideration Request 15-13 seeking reconsideration of the Community Priority Evaluation ("CPE") panel's report, and ICANN (Internet Corporation for Assigned Names and Numbers)'s acceptance of that report, finding that the Requester did not prevail in CPE for the .SHOP string ("CPE Report"), and also challenging various procedures governing the New gTLD (generic Top Level Domain) Program, as well as the String Similarity Review process and the adjudication of various string confusion objections, which ultimately resulted in the contention set for the Requester's application.

Whereas, the Board Governance Committee ("BGC") thoroughly considered the issues raised in Reconsideration Request 15-13 and all related materials.

Whereas, the BGC recommended that Reconsideration Request 15-13 be denied because the Requester has not stated proper grounds for reconsideration, and the New gTLD (generic Top Level Domain) Program Committee ("NGPC") agrees.

Resolved (2015.09.28.NG02), the NGPC adopts the BGC Recommendation on Reconsideration Request 15-13, which can be found at <https://www.icann.org/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf> (/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf) [PDF, 241 KB].

## *Rationale for Resolution 2015.09.28.NG02*

### I. Brief Summary

The Requester submitted a community-based application for the .SHOP gTLD (generic Top Level Domain) ("Application"). The Requester's Application was placed into a contention set with eight other applications for .SHOP, two applications for .SHOPPING, and one application for .通販 (Japanese for "online shopping") (.SHOP/SHOPPING Contention Set). Since the Requester's Application is community-based, the Requester was invited to, and did, participate in CPE. The Application did not prevail in CPE. As a result, the Application was placed back into the contention set.



The Requester claims that the CPE panel considering its Application ("CPE Panel"): (i) violated established policy or procedure in its consideration of the expressions of support for and opposition to the Requester's Application; and (ii) improperly applied the CPE criteria. The Requester also challenges various procedures governing the New gTLD (generic Top Level Domain) Program including, among other things, the String Similarity Review process and the adjudication of various string confusion objections, which ultimately resulted in the composition of the .SHOP/.SHOPPING Contention Set.

The Requester's claims are unsupported. First, all of the issues raised by the Requester are time-barred. Second, as to the Requester's challenge to the CPE Report, the Requester has not demonstrated that the CPE Panel acted in contravention of any established policy or procedure in rendering the CPE Report. The CPE Panel evaluated and applied the CPE criteria in accordance with all applicable policies and procedures, including but not limited to its consideration of the expressions of support for and opposition to the Requester's Application. The Requester presents only its substantive disagreement with the CPE Report, which is not a basis for reconsideration. Similarly, the Requester has not demonstrated a basis for reconsideration with respect to the other issues it raises regarding: (a) the procedures set forth in the Guidebook; (b) the outcome of the String Similarity Review; and (c) the outcome of its string confusion objections. The BGC therefore recommends that Request 15-13 be denied.

## II. Facts

The BGC Recommendation on Reconsideration Request 15-13, which sets forth in detail the facts relevant to this matter, is hereby incorporated by reference and shall be deemed a part of this Rationale. The BGC Recommendation on Reconsideration Request 15-13 is available at <https://www.icann.org/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf> (/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf) [PDF, 241 KB], and is attached as Exhibit B to the Reference Materials.

## III. Issues

In view of the claims set forth in Request 15-13, the issues for reconsideration seem to be: (1) whether the CPE Panel violated established policy or procedure by failing to properly apply the CPE criteria in evaluating the Requester's Application; (2) whether the Board failed to consider material information or relied on false or inaccurate material information before approving the New gTLD (generic Top Level Domain) Program and the Guidebook, specifically the application review procedures set forth in the Guidebook; and (3) whether the third-party experts that ruled on

the Requester's 21 string confusion objections violated any established policy or procedure in rendering their determinations.

#### IV. The Relevant Standards for Evaluating Reconsideration Requests

The BGC Recommendation on Reconsideration Request 15-13, which sets forth the relevant standards for evaluating reconsideration requests and CPE, is hereby incorporated by reference and shall be deemed a part of this Rationale. The BGC Recommendation on Reconsideration Request 15-13 is available at <https://www.icann.org/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf> ([/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf](https://www.icann.org/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf)) [PDF, 241 KB], and is attached as Exhibit B to the Reference Materials.

#### V. Analysis and Rationale

The Requester challenges the "correctness" of the CPE Report, as well as various procedures governing the New gTLD (generic Top Level Domain) Program, the String Similarity Review process and the adjudication of various string confusion objections, which ultimately resulted in the contention set for the Requester's Application. As the BGC explains in detail in its Recommendation, all of the issues raised by the Requester are time-barred. Further, insofar as the Requester is challenging the CPE Report, the Requester has not demonstrated any misapplication of any policy or procedure by the CPE Panel in rendering the CPE Report. The Requester instead only presents its substantive disagreement with the scoring and analysis in the CPE Report, which is not a basis for reconsideration.

Similarly, the Requester has not demonstrated a basis for reconsideration with respect to the other issues it raises regarding the procedures set forth in the Guidebook or the processing of its Application. The Requester argues, among other things, that: (a) CPE should not be required at all; (b) the Guidebook improperly fails to provide an appeals mechanism for CPE panel determinations; and (c) the Guidebook does not conform to the recommendations of ICANN (Internet Corporation for Assigned Names and Numbers)'s Generic Names Supporting Organization (Supporting Organization) ("GNSO (Generic Names Supporting Organization)"). As discussed above, any challenge to the procedures set forth in the Guidebook are time-barred. Furthermore, in challenging the approval of the Guidebook, the Requester seeks reconsideration of Board action but does not demonstrate, as it must, that the Board either failed to consider material information or relied on false or inaccurate material information before approving the New gTLD (generic Top Level Domain) Program and the Guidebook.

The Requester also asks that the Board "[r]eview and fix the issue

with name similarity especially with any and all similar and confusing eCommerce strings." The Requester appears to claim that applications for various strings other than .SHOP should be included in the Requester's contention set because, in the Requester's view, "issuing multiple random and similar gTLDs will only yield very small registrations [on each gTLD (generic Top Level Domain)] which in turn would make sustainability unfeasible." Although Request 15-13 is unclear, the Requester seems to make two different challenges in this respect. First, the Requester appears to challenge the Board's adoption of the String Similarity Review and string confusion objections procedures. Second, the Requester appears to challenge the actions of third-party evaluators and the Board with respect to: (1) the String Similarity Review performed for the Requester's .SHOP Application; and (2) the adjudication of the Requester's string confusion objections. Neither challenge warrants reconsideration. With respect to the Requester's first argument—not only is it long since time-barred, but the Requester has not identified any material information the Board failed to consider, or any false or inaccurate material information that the Board relied upon, in adopting the procedures governing String Similarity Review or string confusion objections. With respect to the Requester's second argument—not only is it also long since time-barred, but the Requester does not identify any policy or process violation in the String Similarity Review Panel's determination, nor has the Requester identified any violation of established policy or procedure by the third-party experts who ruled on the Requester's myriad string confusion objections.

The full BGC Recommendation on Reconsideration Request 15-13, which sets forth the analysis and rationale in detail and with which the NGPC agrees, is hereby incorporated by reference and shall be deemed a part of this Rationale. The BGC Recommendation on Reconsideration Request 15-13 is available at <https://www.icann.org/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf> (/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf) [PDF, 241 KB], and is attached as Exhibit B to the Reference Materials.

## VI. Decision

The NGPC had the opportunity to consider all of the materials submitted by or on behalf of the Requester or that otherwise relate to Reconsideration Request 15-13. Following consideration of all relevant information provided, the NGPC reviewed and has adopted the BGC's Recommendation on Reconsideration Request 15-13 (<https://www.icann.org/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf> (/en/system/files/files/determination-15-13-commercial-connect-24aug15-en.pdf) [PDF, 241 KB]), which shall be deemed a part of this Rationale and is attached as Exhibit B to the Reference

Materials to the NGPC Paper on this matter.

Adopting the BGC's recommendation has no direct financial impact on ICANN (Internet Corporation for Assigned Names and Numbers) and will not impact the security, stability and resiliency of the domain name system.

This decision is an Organizational Administrative Function that does not require public comment.

b. **Discussion of possible dissolution of the New gTLD (generic Top Level Domain) Program Committee**

No resolution taken.

c. **Review GDD efforts on Trust Marks and Public Interest Commitments (PIC) Repository**

No resolution taken.

Published on 30 September 2015



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# ARTICLES OF INCORPORATION OF INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

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- 中文 (<http://www.icann.org/resources/pages/articles-2015-04-29-zh>)

As Revised November 21, 1998

1. The name of this corporation is Internet Corporation for Assigned Names and Numbers (the "Corporation").

2. The name of the Corporation's initial agent for service of process in the State of California, United States of America is C T Corporation System.

3. This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California Nonprofit Public Benefit Corporation Law for charitable and public purposes. The Corporation is organized, and will be operated, exclusively for charitable, educational, and scientific purposes within the meaning of § 501 (c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), or the corresponding provision of any future United States tax code. Any reference in these Articles to the Code shall include the corresponding provisions of any further United States tax code. In furtherance of the foregoing purposes, and in recognition of the fact that the Internet is an international network of networks, owned by no single nation, individual or organization, the Corporation shall, except as limited by Article 5 hereof, pursue the charitable and public purposes of lessening the burdens of government and promoting the global public interest in the operational stability of the

2012-02-25-en)	Internet by (i) coordinating the assignment of Internet technical parameters as needed
Board Code of Conduct (/resources/pages/code-of-conduct-2012-05-15-en)	to maintain universal connectivity on the Internet; (ii) performing and overseeing functions related to the coordination of the Internet Protocol (Protocol) ("IP (Internet Protocol or Intellectual Property)") address space; (iii) performing and overseeing functions related to the coordination of the Internet domain name system ("DNS (Domain Name System)", including the development of policies for determining the circumstances under which new top-level domains are added to the DNS (Domain Name System) root system; (iv) overseeing operation of the authoritative Internet DNS (Domain Name System) root server system; and (v) engaging in any other related lawful activity in furtherance of items (i) through (iv).
Board Conflicts of Interest Policy (/resources/pages/conflicts-of-interest-2012-02-25-en)	4. The Corporation shall operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable competition and open entry in Internet-related markets. To this effect, the Corporation shall cooperate as appropriate with relevant international organizations.
Board Statements of Interest (/resources/pages/board-statements-of-interest-2012-02-25-en)	5. Notwithstanding any other provision (other than Article 8) of these Articles:
Lobbying Disclosures & Contribution Reports (/resources/pages/lobbying-disclosures-contributions-2015-11-18-en)	a. The Corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from United States income tax under § 501 (c)(3) of the Code or (ii) by a corporation, contributions to which are deductible under § 170 (c)(2) of the Code.
Summary of Conflicts of Interest and Ethics Practices Review (/resources/files/summary-ethics-review-2013-05-13-en)	b. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall be empowered to make the election under § 501 (h) of the Code.
▶ Agreements (/resources/pages/agreements-2012-02-25-en)	c. The Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.
Annual Reports (/resources/pages/annual-report-2012-02-25-en)	d. No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its members, directors, trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 3 hereof.
▶ Financials (/resources/pages/financials-2012-02-25-en)	e. In no event shall the Corporation be controlled directly or indirectly by one or more "disqualified persons" (as defined in § 4946 of the Code) other than foundation managers and other than one or more organizations described in paragraph (1) or (2) of § 509 (a) of the Code.
Presentations (/resources/pages/archive-a1-2012-02-25-en)	6. To the full extent permitted by the California Nonprofit Public Benefit Corporation Law or any other applicable laws presently or hereafter in effect, no director of the Corporation shall be personally liable to the Corporation or its members, should the Corporation elect to have members in the future, for or with respect to any acts or omissions in the performance of his or her duties as a director of the Corporation. Any repeal or modification of this Article 6 shall not adversely affect any right or protection of a director of the Corporation existing immediately prior to such repeal or modification.
RFPs (/resources/pages/rfps-2012-02-25-en)	7. Upon the dissolution of the Corporation, the Corporation's assets shall be distributed
Litigation (/resources/pages/litigation-2012-02-25-en)	
Newsletter (/resources/pages/newsletter-2012-02-25-en)	



<p>2014-03-18-en)</p> <p>▶ Correspondence (/resources/pages/correspondence-2012-09-24-en)</p> <p>Quarterly Reports (/resources/pages/quarterly-reports-2014-11-13-en)</p>	<p>for one or more of the exempt purposes set forth in Article 3 hereof and, if possible, to a § 501 (c)(3) organization organized and operated exclusively to lessen the burdens of government and promote the global public interest in the operational stability of the Internet, or shall be distributed to a governmental entity for such purposes, or for such other charitable and public purposes that lessen the burdens of government by providing for the operational stability of the Internet. Any assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as such court shall determine, that are organized and operated exclusively for such purposes, unless no such corporation exists, and in such case any assets not disposed of shall be distributed to a § 501(c)(3) corporation chosen by such court.</p>
<p>▶ Groups (/resources/pages/groups-2012-02-06-en)</p>	<p>8. Notwithstanding anything to the contrary in these Articles, if the Corporation determines that it will not be treated as a corporation exempt from federal income tax under § 501(c)(3) of the Code, all references herein to § 501(c)(3) of the Code shall be deemed to refer to § 501(c)(6) of the Code and Article 5(a)(ii), (b), (c) and (e) shall be deemed not to be a part of these Articles.</p>
<p>Business (/resources/pages/business-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ Contractual Compliance (/resources/pages/compliance-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ Registrars (/resources/pages/registrars-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ Registries (/resources/pages/registries-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>Operational Metrics (/resources/pages/metrics-gdd-2015-01-30-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ Identifier Systems Security, Stability (Security, Stability and Resiliency) and Resiliency (IS-SSR) (/resources/pages/is-ssr-2014-11-24-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ ccTLDs (/resources/pages/cctlds-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ Internationalized Domain Names (/resources/pages/idn-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ Universal Acceptance Initiative (/resources/pages/universal-acceptance-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>
<p>▶ Policy (/resources/pages/policy-01-2012-02-25-en)</p>	<p>9. These Articles may be amended by the affirmative vote of at least two-thirds of the directors of the Corporation. When the Corporation has members, any such amendment must be ratified by a two-thirds (2/3) majority of the members voting on any proposed amendment.</p>

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## **Annex 8**

# gTLD Applicant Guidebook

Version 2012-06-04



4 June 2012

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# Preamble

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## *New gTLD Program Background*

New gTLDs have been in the forefront of ICANN's agenda since its creation. The new gTLD program will open up the top level of the Internet's namespace to foster diversity, encourage competition, and enhance the utility of the DNS.

Currently the namespace consists of 22 gTLDs and over 250 ccTLDs operating on various models. Each of the gTLDs has a designated "registry operator" and, in most cases, a Registry Agreement between the operator (or sponsor) and ICANN. The registry operator is responsible for the technical operation of the TLD, including all of the names registered in that TLD. The gTLDs are served by over 900 registrars, who interact with registrants to perform domain name registration and other related services. The new gTLD program will create a means for prospective registry operators to apply for new gTLDs, and create new options for consumers in the market. When the program launches its first application round, ICANN expects a diverse set of applications for new gTLDs, including IDNs, creating significant potential for new uses and benefit to Internet users across the globe.

The program has its origins in carefully deliberated policy development work by the ICANN community. In October 2007, the Generic Names Supporting Organization (GNSO)—one of the groups that coordinate global Internet policy at ICANN—formally completed its policy development work on new gTLDs and approved a set of 19 policy recommendations. Representatives from a wide variety of stakeholder groups—governments, individuals, civil society, business and intellectual property constituencies, and the technology community—were engaged in discussions for more than 18 months on such questions as the demand, benefits and risks of new gTLDs, the selection criteria that should be applied, how gTLDs should be allocated, and the contractual conditions that should be required for new gTLD registries going forward. The culmination of this policy development process was a decision by the ICANN Board of Directors to adopt the community-developed policy in June 2008. A thorough brief to the policy process and outcomes can be found at <http://gnso.icann.org/issues/new-gtlds>.

ICANN's work next focused on implementation: creating an application and evaluation process for new gTLDs that is aligned with the policy recommendations and provides a clear roadmap for applicants to reach delegation, including Board approval. This implementation work is reflected in the drafts of the applicant guidebook that were released for public comment, and in the explanatory papers giving insight into rationale behind some of the conclusions reached on specific topics. Meaningful community input has led to revisions of the draft applicant guidebook. In parallel, ICANN has established the resources needed to successfully launch and operate the program. This process concluded with the decision by the ICANN Board of Directors in June 2011 to launch the New gTLD Program.

For current information, timelines and activities related to the New gTLD Program, please go to <http://www.icann.org/en/topics/new-gtld-program.htm>.



# gTLD Applicant Guidebook

(v. 2012-06-04)

Module 1

4 June 2012

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# Module 1

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## *Introduction to the gTLD Application Process*

This module gives applicants an overview of the process for applying for a new generic top-level domain, and includes instructions on how to complete and submit an application, the supporting documentation an applicant must submit with an application, the fees required, and when and how to submit them.

This module also describes the conditions associated with particular types of applications, and the stages of the application life cycle.

Prospective applicants are encouraged to read and become familiar with the contents of this entire module, as well as the others, before starting the application process to make sure they understand what is required of them and what they can expect at each stage of the application evaluation process.

For the complete set of the supporting documentation and more about the origins, history and details of the policy development background to the New gTLD Program, please see <http://gnso.icann.org/issues/new-gtlds/>.

This Applicant Guidebook is the implementation of Board-approved consensus policy concerning the introduction of new gTLDs, and has been revised extensively via public comment and consultation over a two-year period.

### *1.1 Application Life Cycle and Timelines*

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This section provides a description of the stages that an application passes through once it is submitted. Some stages will occur for all applications submitted; others will only occur in specific circumstances. Applicants should be aware of the stages and steps involved in processing applications received.

#### *1.1.1 Application Submission Dates*

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The user registration and application submission periods open at **00:01 UTC 12 January 2012**.

The user registration period closes at **23:59 UTC 29 March 2012**. New users to TAS will not be accepted beyond this



time. Users already registered will be able to complete the application submission process.

Applicants should be aware that, due to required processing steps (i.e., online user registration, application submission, fee submission, and fee reconciliation) and security measures built into the online application system, it might take substantial time to perform all of the necessary steps to submit a complete application. Accordingly, applicants are encouraged to submit their completed applications and fees as soon as practicable after the Application Submission Period opens. Waiting until the end of this period to begin the process may not provide sufficient time to submit a complete application before the period closes. Accordingly, new user registrations will not be accepted after the date indicated above.

The application submission period closes at **23:59 UTC 12 April 2012**.

To receive consideration, all applications must be submitted electronically through the online application system by the close of the application submission period.

An application will not be considered, in the absence of exceptional circumstances, if:

- It is received after the close of the application submission period.
- The application form is incomplete (either the questions have not been fully answered or required supporting documents are missing). Applicants will not ordinarily be permitted to supplement their applications after submission.
- The evaluation fee has not been paid by the deadline. Refer to Section 1.5 for fee information.

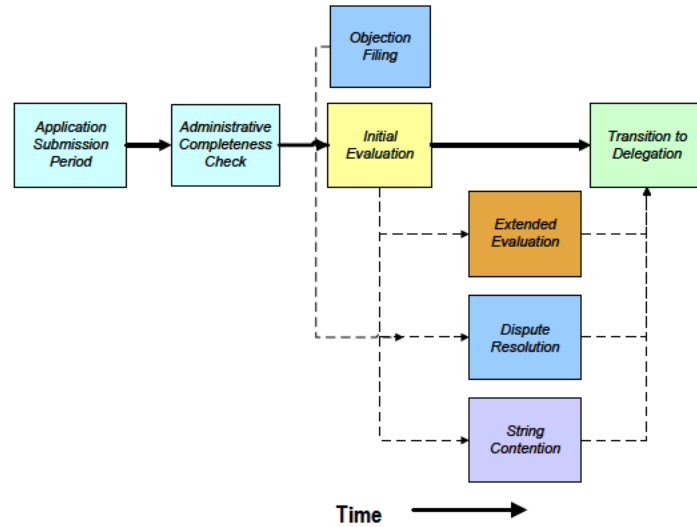
ICANN has gone to significant lengths to ensure that the online application system will be available for the duration of the application submission period. In the event that the system is not available, ICANN will provide alternative instructions for submitting applications on its website.

### ***1.1.2 Application Processing Stages***

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This subsection provides an overview of the stages involved in processing an application submitted to ICANN. Figure 1-1 provides a simplified depiction of the process. The shortest and most straightforward path is marked with bold lines, while certain stages that may or may not be

applicable in any given case are also shown. A brief description of each stage follows.



**Figure 1-1 – Once submitted to ICANN, applications will pass through multiple stages of processing.**

### 1.1.2.1 Application Submission Period

At the time the application submission period opens, those wishing to submit new gTLD applications can become registered users of the TLD Application System (TAS).

After completing the user registration, applicants will supply a deposit for each requested application slot (see section 1.4), after which they will receive access to the full application form. To complete the application, users will answer a series of questions to provide general information, demonstrate financial capability, and demonstrate technical and operational capability. The supporting documents listed in subsection 1.2.2 of this module must also be submitted through the online application system as instructed in the relevant questions.

Applicants must also submit their evaluation fees during this period. Refer to Section 1.5 of this module for additional information about fees and payments.

Each application slot is for one gTLD. An applicant may submit as many applications as desired; however, there is no means to apply for more than one gTLD in a single application.

Following the close of the application submission period, ICANN will provide applicants with periodic status updates on the progress of their applications.

### *1.1.2.2 Administrative Completeness Check*

Immediately following the close of the application submission period, ICANN will begin checking all applications for completeness. This check ensures that:

- All mandatory questions are answered;
- Required supporting documents are provided in the proper format(s); and
- The evaluation fees have been received.

ICANN will post the public portions of all applications considered complete and ready for evaluation within two weeks of the close of the application submission period. Certain questions relate to internal processes or information: applicant responses to these questions will not be posted. Each question is labeled in the application form as to whether the information will be posted. See posting designations for the full set of questions in the attachment to Module 2.

The administrative completeness check is expected to be completed for all applications in a period of approximately 8 weeks, subject to extension depending on volume. In the event that all applications cannot be processed within this period, ICANN will post updated process information and an estimated timeline.

### *1.1.2.3 Comment Period*

Public comment mechanisms are part of ICANN's policy development, implementation, and operational processes. As a private-public partnership, ICANN is dedicated to: preserving the operational security and stability of the Internet, promoting competition, achieving broad representation of global Internet communities, and developing policy appropriate to its mission through bottom-up, consensus-based processes. This necessarily involves the participation of many stakeholder groups in a public discussion.

ICANN will open a comment period (the Application Comment period) at the time applications are publicly posted on ICANN's website (refer to subsection 1.1.2.2). This period will allow time for the community to review and submit comments on posted application materials

(referred to as “application comments.”) The comment forum will require commenters to associate comments with specific applications and the relevant panel. Application comments received within a 60-day period from the posting of the application materials will be available to the evaluation panels performing the Initial Evaluation reviews. This period is subject to extension, should the volume of applications or other circumstances require. **To be considered by evaluators, comments must be received in the designated comment forum within the stated time period.**

Evaluators will perform due diligence on the application comments (i.e., determine their relevance to the evaluation, verify the accuracy of claims, analyze meaningfulness of references cited) and take the information provided in these comments into consideration. In cases where consideration of the comments has impacted the scoring of the application, the evaluators will seek clarification from the applicant. Statements concerning consideration of application comments that have impacted the evaluation decision will be reflected in the evaluators’ summary reports, which will be published at the end of Extended Evaluation.

Comments received after the 60-day period will be stored and available (along with comments received during the comment period) for other considerations, such as the dispute resolution process, as described below.

In the new gTLD application process, all applicants should be aware that that comment fora are a mechanism for the public to bring relevant information and issues to the attention of those charged with handling new gTLD applications. Anyone may submit a comment in a public comment forum.

**Comments and the Formal Objection Process:** A distinction should be made between application comments, which may be relevant to ICANN’s task of determining whether applications meet the established criteria, and formal objections that concern matters outside those evaluation criteria. The formal objection process was created to allow a full and fair consideration of objections based on certain limited grounds outside ICANN’s evaluation of applications on their merits (see subsection 3.2).

Public comments will not be considered as formal objections. Comments on matters associated with formal objections will not be considered by panels during Initial Evaluation. These comments will be available to and may

be subsequently considered by an expert panel during a dispute resolution proceeding (see subsection 1.1.2.9). However, in general, application comments have a very limited role in the dispute resolution process.

**String Contention:** Comments designated for the Community Priority Panel, as relevant to the criteria in Module 4, may be taken into account during a Community Priority Evaluation.

**Government Notifications:** Governments may provide a notification using the application comment forum to communicate concerns relating to national laws. However, a government's notification of concern will not in itself be deemed to be a formal objection. A notification by a government does not constitute grounds for rejection of a gTLD application. A government may elect to use this comment mechanism to provide such a notification, in addition to or as an alternative to the GAC Early Warning procedure described in subsection 1.1.2.4 below.

Governments may also communicate directly to applicants using the contact information posted in the application, e.g., to send a notification that an applied-for gTLD string might be contrary to a national law, and to try to address any concerns with the applicant.

**General Comments:** A general public comment forum will remain open through all stages of the evaluation process, to provide a means for the public to bring forward any other relevant information or issues.

#### **1.1.2.4 GAC Early Warning**

Concurrent with the 60-day comment period, ICANN's Governmental Advisory Committee (GAC) may issue a GAC Early Warning notice concerning an application. This provides the applicant with an indication that the application is seen as potentially sensitive or problematic by one or more governments.

The GAC Early Warning is a notice only. It is not a formal objection, nor does it directly lead to a process that can result in rejection of the application. However, a GAC Early Warning should be taken seriously as it raises the likelihood that the application could be the subject of GAC Advice on New gTLDs (see subsection 1.1.2.7) or of a formal objection (see subsection 1.1.2.6) at a later stage in the process.

A GAC Early Warning typically results from a notice to the GAC by one or more governments that an application might be problematic, e.g., potentially violate national law or raise sensitivities. A GAC Early Warning may be issued for any reason.<sup>1</sup> The GAC may then send that notice to the Board – constituting the GAC Early Warning. ICANN will notify applicants of GAC Early Warnings as soon as practicable after receipt from the GAC. The GAC Early Warning notice may include a nominated point of contact for further information.

GAC consensus is not required for a GAC Early Warning to be issued. Minimally, the GAC Early Warning must be provided in writing to the ICANN Board, and be clearly labeled as a GAC Early Warning. This may take the form of an email from the GAC Chair to the ICANN Board. For GAC Early Warnings to be most effective, they should include the reason for the warning and identify the objecting countries.

Upon receipt of a GAC Early Warning, the applicant may elect to withdraw the application for a partial refund (see subsection 1.5.1), or may elect to continue with the application (this may include meeting with representatives from the relevant government(s) to try to address the concern). To qualify for the refund described in subsection 1.5.1, the applicant must provide notification to ICANN of its election to withdraw the application within 21 calendar days of the date of GAC Early Warning delivery to the applicant.

To reduce the possibility of a GAC Early Warning, all applicants are encouraged to identify potential sensitivities in advance of application submission, and to work with the relevant parties (including governments) beforehand to mitigate concerns related to the application.

#### **1.1.2.5 Initial Evaluation**

Initial Evaluation will begin immediately after the administrative completeness check concludes. All complete applications will be reviewed during Initial Evaluation. At the beginning of this period, background screening on the applying entity and the individuals named in the application will be conducted. Applications

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<sup>1</sup> While definitive guidance has not been issued, the GAC has indicated that strings that could raise sensitivities include those that "purport to represent or that embody a particular group of people or interests based on historical, cultural, or social components of identity, such as nationality, race or ethnicity, religion, belief, culture or particular social origin or group, political opinion, membership of a national minority, disability, age, and/or a language or linguistic group (non-exhaustive)" and "those strings that refer to particular sectors, such as those subject to national regulation (such as .bank, .pharmacy) or those that describe or are targeted to a population or industry that is vulnerable to online fraud or abuse."

must pass this step in conjunction with the Initial Evaluation reviews.

There are two main elements of the Initial Evaluation:

1. String reviews (concerning the applied-for gTLD string). String reviews include a determination that the applied-for gTLD string is not likely to cause security or stability problems in the DNS, including problems caused by similarity to existing TLDs or reserved names.
2. Applicant reviews (concerning the entity applying for the gTLD and its proposed registry services). Applicant reviews include a determination of whether the applicant has the requisite technical, operational, and financial capabilities to operate a registry.

By the conclusion of the Initial Evaluation period, ICANN will post notice of all Initial Evaluation results. Depending on the volume of applications received, such notices may be posted in batches over the course of the Initial Evaluation period.

The Initial Evaluation is expected to be completed for all applications in a period of approximately 5 months. If the volume of applications received significantly exceeds 500, applications will be processed in batches and the 5-month timeline will not be met. The first batch will be limited to 500 applications and subsequent batches will be limited to 400 to account for capacity limitations due to managing extended evaluation, string contention, and other processes associated with each previous batch.

If batching is required, a secondary time-stamp process will be employed to establish the batches. (Batching priority will not be given to an application based on the time at which the application was submitted to ICANN, nor will batching priority be established based on a random selection method.)

The secondary time-stamp process will require applicants to obtain a time-stamp through a designated process which will occur after the close of the application submission period. The secondary time stamp process will occur, if required, according to the details to be published on ICANN's website. (Upon the Board's approval of a final designation of the operational details of the "secondary timestamp" batching process, the final plan will be added as a process within the Applicant Guidebook.)

If batching is required, the String Similarity review will be completed on all applications prior to the establishment of evaluation priority batches. For applications identified as part of a contention set, the entire contention set will be kept together in the same batch.

If batches are established, ICANN will post updated process information and an estimated timeline.

Note that the processing constraints will limit delegation rates to a steady state even in the event of an extremely high volume of applications. The annual delegation rate will not exceed 1,000 per year in any case, no matter how many applications are received.<sup>2</sup>

#### 1.1.2.6 *Objection Filing*

Formal objections to applications can be filed on any of four enumerated grounds, by parties with standing to object. The objection filing period will open after ICANN posts the list of complete applications as described in subsection 1.1.2.2, and will last for approximately 7 months.

Objectors must file such formal objections directly with dispute resolution service providers (DRSPs), not with ICANN. The objection filing period will close following the end of the Initial Evaluation period (refer to subsection 1.1.2.5), with a two-week window of time between the posting of the Initial Evaluation results and the close of the objection filing period. Objections that have been filed during the objection filing period will be addressed in the dispute resolution stage, which is outlined in subsection 1.1.2.9 and discussed in detail in Module 3.

All applicants should be aware that third parties have the opportunity to file objections to any application during the objection filing period. Applicants whose applications are the subject of a formal objection will have an opportunity to file a response according to the dispute resolution service provider's rules and procedures. An applicant wishing to file a formal objection to another application that has been submitted would do so within the objection filing period, following the objection filing procedures in Module 3.

Applicants are encouraged to identify possible regional, cultural, property interests, or other sensitivities regarding TLD strings and their uses before applying and, where

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<sup>2</sup> See "Delegation Rate Scenarios for New gTLDs" at <http://icann.org/en/topics/new-gtlds/delegation-rate-scenarios-new-gtlds-06oct10-en.pdf> for additional discussion.



possible, consult with interested parties to mitigate any concerns in advance.

#### *1.1.2.7 Receipt of GAC Advice on New gTLDs*

The GAC may provide public policy advice directly to the ICANN Board on any application. The procedure for GAC Advice on New gTLDs described in Module 3 indicates that, to be considered by the Board during the evaluation process, the GAC Advice on New gTLDs must be submitted by the close of the objection filing period. A GAC Early Warning is not a prerequisite to use of the GAC Advice process.

If the Board receives GAC Advice on New gTLDs stating that it is the consensus of the GAC that a particular application should not proceed, this will create a strong presumption for the ICANN Board that the application should not be approved. If the Board does not act in accordance with this type of advice, it must provide rationale for doing so.

See Module 3 for additional detail on the procedures concerning GAC Advice on New gTLDs.

#### *1.1.2.8 Extended Evaluation*

*Extended Evaluation is available only to certain applicants that do not pass Initial Evaluation.*

Applicants failing certain elements of the Initial Evaluation can request an Extended Evaluation. If the applicant does not pass Initial Evaluation and does not expressly request an Extended Evaluation, the application will proceed no further. The Extended Evaluation period allows for an additional exchange of information between the applicant and evaluators to clarify information contained in the application. The reviews performed in Extended Evaluation do not introduce additional evaluation criteria.

An application may be required to enter an Extended Evaluation if one or more proposed registry services raise technical issues that might adversely affect the security or stability of the DNS. The Extended Evaluation period provides a time frame for these issues to be investigated. Applicants will be informed if such a review is required by the end of the Initial Evaluation period.

Evaluators and any applicable experts consulted will communicate the conclusions resulting from the additional review by the end of the Extended Evaluation period.

At the conclusion of the Extended Evaluation period, ICANN will post summary reports, by panel, from the Initial and Extended Evaluation periods.

If an application passes the Extended Evaluation, it can then proceed to the next relevant stage. If the application does not pass the Extended Evaluation, it will proceed no further.

The Extended Evaluation is expected to be completed for all applications in a period of approximately 5 months, though this timeframe could be increased based on volume. In this event, ICANN will post updated process information and an estimated timeline.

#### **1.1.2.9 Dispute Resolution**

*Dispute resolution applies only to applicants whose applications are the subject of a formal objection.*

Where formal objections are filed and filing fees paid during the objection filing period, independent dispute resolution service providers (DRSPs) will initiate and conclude proceedings based on the objections received. The formal objection procedure exists to provide a path for those who wish to object to an application that has been submitted to ICANN. Dispute resolution service providers serve as the fora to adjudicate the proceedings based on the subject matter and the needed expertise. Consolidation of objections filed will occur where appropriate, at the discretion of the DRSP.

As a result of a dispute resolution proceeding, either the applicant will prevail (in which case the application can proceed to the next relevant stage), or the objector will prevail (in which case either the application will proceed no further or the application will be bound to a contention resolution procedure). In the event of multiple objections, an applicant must prevail in all dispute resolution proceedings concerning the application to proceed to the next relevant stage. Applicants will be notified by the DRSP(s) of the results of dispute resolution proceedings.

Dispute resolution proceedings, where applicable, are expected to be completed for all applications within approximately a 5-month time frame. In the event that volume is such that this timeframe cannot be accommodated, ICANN will work with the dispute resolution service providers to create processing procedures and post updated timeline information.

#### 1.1.2.10 String Contention

*String contention applies only when there is more than one qualified application for the same or similar gTLD strings.*

String contention refers to the scenario in which there is more than one qualified application for the identical gTLD string or for similar gTLD strings. In this Applicant Guidebook, “similar” means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.

Applicants are encouraged to resolve string contention cases among themselves prior to the string contention resolution stage. In the absence of resolution by the contending applicants, string contention cases are resolved either through a community priority evaluation (if a community-based applicant elects it) or through an auction.

In the event of contention between applied-for gTLD strings that represent geographic names, the parties may be required to follow a different process to resolve the contention. See subsection 2.2.1.4 of Module 2 for more information.

Groups of applied-for strings that are either identical or similar are called contention sets. All applicants should be aware that if an application is identified as being part of a contention set, string contention resolution procedures will not begin until all applications in the contention set have completed all aspects of evaluation, including dispute resolution, if applicable.

To illustrate, as shown in Figure 1-2, Applicants A, B, and C all apply for .EXAMPLE and are identified as a contention set. Applicants A and C pass Initial Evaluation, but Applicant B does not. Applicant B requests Extended Evaluation. A third party files an objection to Applicant C’s application, and Applicant C enters the dispute resolution process. Applicant A must wait to see whether Applicants B and C successfully complete the Extended Evaluation and dispute resolution phases, respectively, before it can proceed to the string contention resolution stage. In this example, Applicant B passes the Extended Evaluation, but Applicant C does not prevail in the dispute resolution proceeding. String contention resolution then proceeds between Applicants A and B.

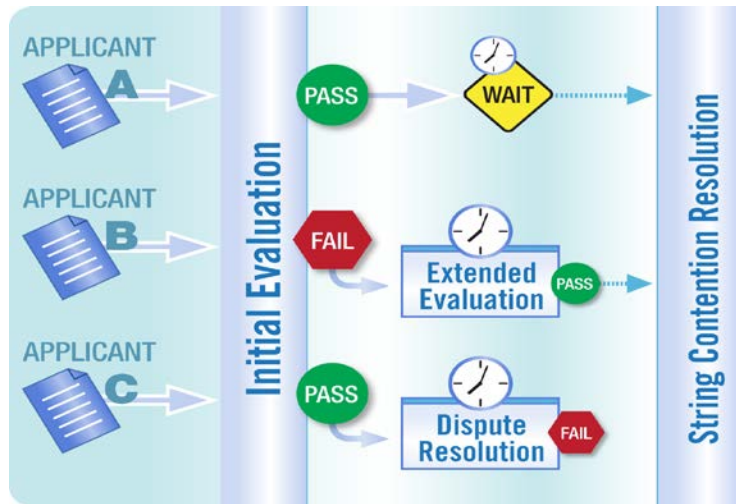


Figure 1-2 – All applications in a contention set must complete all previous evaluation and dispute resolution stages before string contention resolution can begin.

Applicants prevailing in a string contention resolution procedure will proceed toward delegation of the applied-for gTLDs.

String contention resolution for a contention set is estimated to take from 2.5 to 6 months to complete. The time required will vary per case because some contention cases may be resolved in either a community priority evaluation or an auction, while others may require both processes.

#### 1.1.2.11 Transition to Delegation

Applicants successfully completing all the relevant stages outlined in this subsection 1.1.2 are required to carry out a series of concluding steps before delegation of the applied-for gTLD into the root zone. These steps include execution of a registry agreement with ICANN and completion of a pre-delegation technical test to validate information provided in the application.

Following execution of a registry agreement, the prospective registry operator must complete technical set-up and show satisfactory performance on a set of technical tests before delegation of the gTLD into the root zone may be initiated. If the pre-delegation testing requirements are not satisfied so that the gTLD can be delegated into the root zone within the time frame specified in the registry agreement, ICANN may in its sole and absolute discretion elect to terminate the registry agreement.

Once all of these steps have been successfully completed, the applicant is eligible for delegation of its applied-for gTLD into the DNS root zone.

It is expected that the transition to delegation steps can be completed in approximately 2 months, though this could take more time depending on the applicant's level of preparedness for the pre-delegation testing and the volume of applications undergoing these steps concurrently.

### 1.1.3 Lifecycle Timelines

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Based on the estimates for each stage described in this section, the lifecycle for a straightforward application could be approximately 9 months, as follows:

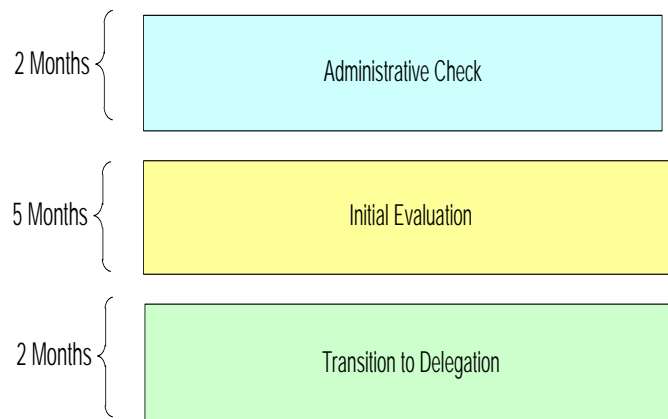


Figure 1-3 – A straightforward application could have an approximate 9-month lifecycle.

The lifecycle for a highly complex application could be much longer, such as 20 months in the example below:

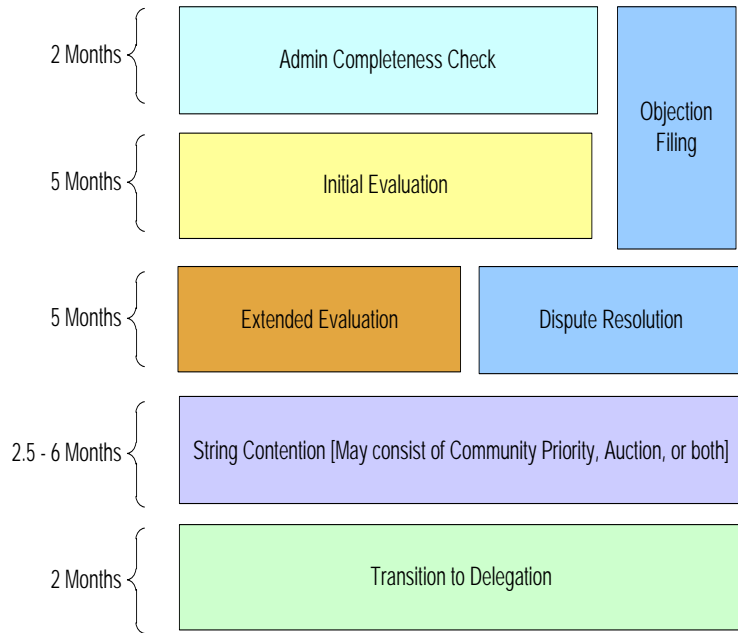


Figure 1-4 – A complex application could have an approximate 20-month lifecycle.

### 1.1.4 Posting Periods

The results of application reviews will be made available to the public at various stages in the process, as shown below.

Period	Posting Content
During Administrative Completeness Check	Public portions of all applications (posted within 2 weeks of the start of the Administrative Completeness Check).
End of Administrative Completeness Check	Results of Administrative Completeness Check.
GAC Early Warning Period	GAC Early Warnings received.
During Initial Evaluation	Status updates for applications withdrawn or ineligible for further review.  Contention sets resulting from String Similarity review.

Period	Posting Content
End of Initial Evaluation	Application status updates with all Initial Evaluation results.
GAC Advice on New gTLDs	GAC Advice received.
End of Extended Evaluation	Application status updates with all Extended Evaluation results.  Evaluation summary reports from the Initial and Extended Evaluation periods.
During Objection Filing/Dispute Resolution	Information on filed objections and status updates available via Dispute Resolution Service Provider websites.  Notice of all objections posted by ICANN after close of objection filing period.
During Contention Resolution (Community Priority Evaluation)	Results of each Community Priority Evaluation posted as completed.
During Contention Resolution (Auction)	Results from each auction posted as completed.
Transition to Delegation	Registry Agreements posted when executed.  Pre-delegation testing status updated.

### *1.1.5 Sample Application Scenarios*

The following scenarios briefly show a variety of ways in which an application may proceed through the evaluation process. The table that follows exemplifies various processes and outcomes. This is not intended to be an exhaustive list of possibilities. There are other possible combinations of paths an application could follow.

Estimated time frames for each scenario are also included, based on current knowledge. Actual time frames may vary depending on several factors, including the total number

of applications received by ICANN during the application submission period. It should be emphasized that most applications are expected to pass through the process in the shortest period of time, i.e., they will not go through extended evaluation, dispute resolution, or string contention resolution processes. Although most of the scenarios below are for processes extending beyond nine months, it is expected that most applications will complete the process within the nine-month timeframe.

Scenario Number	Initial Evaluation	Extended Evaluation	Objection(s) Filed	String Contention	Approved for Delegation Steps	Estimated Elapsed Time
1	Pass	N/A	None	No	Yes	9 months
2	Fail	Pass	None	No	Yes	14 months
3	Pass	N/A	None	Yes	Yes	11.5 – 15 months
4	Pass	N/A	Applicant prevails	No	Yes	14 months
5	Pass	N/A	Objector prevails	N/A	No	12 months
6	Fail	Quit	N/A	N/A	No	7 months
7	Fail	Fail	N/A	N/A	No	12 months
8	Fail	Pass	Applicant prevails	Yes	Yes	16.5 – 20 months
9	Fail	Pass	Applicant prevails	Yes	No	14.5 – 18 months

**Scenario 1 – Pass Initial Evaluation, No Objection, No Contention** – In the most straightforward case, the application passes Initial Evaluation and there is no need for an Extended Evaluation. No objections are filed during the objection period, so there is no dispute to resolve. As there is no contention for the applied-for gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD. Most applications are expected to complete the process within this timeframe.

**Scenario 2 – Extended Evaluation, No Objection, No Contention** – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. As with Scenario 1, no objections are filed



during the objection period, so there is no dispute to resolve. As there is no contention for the gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

**Scenario 3 – Pass Initial Evaluation, No Objection, Contention** – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. No objections are filed during the objection period, so there is no dispute to resolve. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the application prevails in the contention resolution, so the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

**Scenario 4 – Pass Initial Evaluation, Win Objection, No Contention** – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing (refer to Module 3, Objection Procedures). The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. The applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

**Scenario 5 – Pass Initial Evaluation, Lose Objection** – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection period, multiple objections are filed by one or more objectors with standing for one or more of the four enumerated objection grounds. Each objection is heard by a dispute resolution service provider panel. In this case, the panels find in favor of the applicant for most of the objections, but one finds in favor of the objector. As one of the objections has been upheld, the application does not proceed.

**Scenario 6 – Fail Initial Evaluation, Applicant Withdraws** – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant decides to withdraw the application rather than continuing with Extended Evaluation. The application does not proceed.

**Scenario 7 – Fail Initial Evaluation, Fail Extended Evaluation** -- In this case, the application fails one or more aspects of the Initial Evaluation. The applicant requests Extended Evaluation for the appropriate elements. However, the

application fails Extended Evaluation also. The application does not proceed.

**Scenario 8 – Extended Evaluation, Win Objection, Pass Contention** – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the applicant prevails over other applications in the contention resolution procedure, the applicant can enter into a registry agreement, and the application can proceed toward delegation of the applied-for gTLD.

**Scenario 9 – Extended Evaluation, Objection, Fail Contention** – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider that finds in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, another applicant prevails in the contention resolution procedure, and the application does not proceed.

**Transition to Delegation** – After an application has successfully completed Initial Evaluation, and other stages as applicable, the applicant is required to complete a set of steps leading to delegation of the gTLD, including execution of a registry agreement with ICANN, and completion of pre-delegation testing. Refer to Module 5 for a description of the steps required in this stage.

### **1.1.6 Subsequent Application Rounds**

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ICANN's goal is to launch subsequent gTLD application rounds as quickly as possible. The exact timing will be based on experiences gained and changes required after this round is completed. The goal is for the next application round to begin within one year of the close of the application submission period for the initial round.

ICANN has committed to reviewing the effects of the New gTLD Program on the operations of the root zone system after the first application round, and will defer the delegations in a second application round until it is determined that the delegations resulting from the first round did not jeopardize root zone system security or stability.

It is the policy of ICANN that there be subsequent application rounds, and that a systemized manner of applying for gTLDs be developed in the long term.

## ***1.2 Information for All Applicants***

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### ***1.2.1 Eligibility***

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Established corporations, organizations, or institutions in good standing may apply for a new gTLD. Applications from individuals or sole proprietorships will not be considered. Applications from or on behalf of yet-to-be-formed legal entities, or applications presupposing the future formation of a legal entity (for example, a pending Joint Venture) will not be considered.

ICANN has designed the New gTLD Program with multiple stakeholder protection mechanisms. Background screening, features of the gTLD Registry Agreement, data and financial escrow mechanisms are all intended to provide registrant and user protections.

The application form requires applicants to provide information on the legal establishment of the applying entity, as well as the identification of directors, officers, partners, and major shareholders of that entity. The names and positions of individuals included in the application will be published as part of the application; other information collected about the individuals will not be published.

Background screening at both the entity level and the individual level will be conducted for all applications to confirm eligibility. This inquiry is conducted on the basis of the information provided in questions 1-11 of the application form. ICANN may take into account information received from any source if it is relevant to the criteria in this section. If requested by ICANN, all applicants will be required to obtain and deliver to ICANN and ICANN's background screening vendor any consents or agreements of the entities and/or individuals named in questions 1-11 of the application form necessary to conduct background screening activities.

ICANN will perform background screening in only two areas: (1) General business diligence and criminal history; and (2) History of cybersquatting behavior. The criteria used for criminal history are aligned with the “crimes of trust” standard sometimes used in the banking and finance industry.

**In the absence of exceptional circumstances, applications from any entity with or including any individual with convictions or decisions of the types listed in (a) – (m) below will be automatically disqualified from the program.**

- a. within the past ten years, has been convicted of any crime related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that ICANN deems as the substantive equivalent of any of these;
- b. within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of the funds of others;
- c. within the past ten years has been convicted of any willful tax-related fraud or willful evasion of tax liabilities;
- d. within the past ten years has been convicted of perjury, forswearing, failing to cooperate with a law enforcement investigation, or making false statements to a law enforcement agency or representative;
- e. has ever been convicted of any crime involving the use of computers, telephony systems, telecommunications or the Internet to facilitate the commission of crimes;
- f. has ever been convicted of any crime involving the use of a weapon, force, or the threat of force;
- g. has ever been convicted of any violent or sexual offense victimizing children, the

elderly, or individuals with disabilities;

- h. has ever been convicted of the illegal sale, manufacture, or distribution of pharmaceutical drugs, or been convicted or successfully extradited for any offense described in Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>3</sup>;
- i. has ever been convicted or successfully extradited for any offense described in the United Nations Convention against Transnational Organized Crime (all Protocols)<sup>4 5</sup>;
- j. has been convicted, within the respective timeframes, of aiding, abetting, facilitating, enabling, conspiring to commit, or failing to report any of the listed crimes above (i.e., within the past 10 years for crimes listed in (a) - (d) above, or ever for the crimes listed in (e) - (i) above);
- k. has entered a guilty plea as part of a plea agreement or has a court case in any jurisdiction with a disposition of Adjudicated Guilty or Adjudication Withheld (or regional equivalents), within the respective timeframes listed above for any of the listed crimes (i.e., within the past 10 years for crimes listed in (a) - (d) above, or ever for the crimes listed in (e) - (i) above);
- l. is the subject of a disqualification imposed by ICANN and in effect at the time the application is considered;
- m. has been involved in a pattern of adverse, final decisions indicating that the applicant

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<sup>3</sup> <http://www.unodc.org/unodc/en/treaties/illicit-traffic.html>

<sup>4</sup> <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

<sup>5</sup> It is recognized that not all countries have signed on to the UN conventions referenced above. These conventions are being used solely for identification of a list of crimes for which background screening will be performed. It is not necessarily required that an applicant would have been convicted pursuant to the UN convention but merely convicted of a crime listed under these conventions, to trigger these criteria.

or individual named in the application was engaged in cybersquatting as defined in the Uniform Domain Name Dispute Resolution Policy (UDRP), the Anti-Cybersquatting Consumer Protection Act (ACPA), or other equivalent legislation, or was engaged in reverse domain name hijacking under the UDRP or bad faith or reckless disregard under the ACPA or other equivalent legislation. Three or more such decisions with one occurring in the last four years will generally be considered to constitute a pattern.

- n. fails to provide ICANN with the identifying information necessary to confirm identity at the time of application or to resolve questions of identity during the background screening process;
- o. fails to provide a good faith effort to disclose all relevant information relating to items (a) – (m).

Background screening is in place to protect the public interest in the allocation of critical Internet resources, and ICANN reserves the right to deny an otherwise qualified application based on any information identified during the background screening process. For example, a final and legally binding decision obtained by a national law enforcement or consumer protection authority finding that the applicant was engaged in fraudulent and deceptive commercial practices as defined in the Organization for Economic Co-operation and Development (OECD) Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders<sup>6</sup> may cause an application to be rejected. ICANN may also contact the applicant with additional questions based on information obtained in the background screening process.

All applicants are required to provide complete and detailed explanations regarding any of the above events as part of the application. Background screening information will not be made publicly available by ICANN.

**Registrar Cross-Ownership** -- ICANN-accredited registrars are eligible to apply for a gTLD. However, all gTLD registries

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<sup>6</sup> [http://www.oecd.org/document/56/0,3746,en\\_2649\\_34267\\_2515000\\_1\\_1\\_1\\_1.00.html](http://www.oecd.org/document/56/0,3746,en_2649_34267_2515000_1_1_1_1.00.html)

are required to abide by a Code of Conduct addressing, *inter alia*, non-discriminatory access for all authorized registrars. ICANN reserves the right to refer any application to the appropriate competition authority relative to any cross-ownership issues.

**Legal Compliance** -- ICANN must comply with all U.S. laws, rules, and regulations. One such set of regulations is the economic and trade sanctions program administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury. These sanctions have been imposed on certain countries, as well as individuals and entities that appear on OFAC's List of Specially Designated Nationals and Blocked Persons (the SDN List). ICANN is prohibited from providing most goods or services to residents of sanctioned countries or their governmental entities or to SDNs without an applicable U.S. government authorization or exemption. ICANN generally will not seek a license to provide goods or services to an individual or entity on the SDN List. In the past, when ICANN has been requested to provide services to individuals or entities that are not SDNs, but are residents of sanctioned countries, ICANN has sought and been granted licenses as required. In any given case, however, OFAC could decide not to issue a requested license.

### 1.2.2 Required Documents

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All applicants should be prepared to submit the following documents, which are required to accompany each application:

1. **Proof of legal establishment** – Documentation of the applicant's establishment as a specific type of entity in accordance with the applicable laws of its jurisdiction.
2. **Financial statements** – Applicants must provide audited or independently certified financial statements for the most recently completed fiscal year for the applicant. In some cases, unaudited financial statements may be provided.

As indicated in the relevant questions, supporting documentation should be submitted in the original language. English translations are not required.

All documents must be valid at the time of submission. Refer to the Evaluation Criteria, attached to Module 2, for additional details on the requirements for these documents.

Some types of supporting documentation are required only in certain cases:

1. **Community endorsement** – If an applicant has designated its application as community-based (see section 1.2.3), it will be asked to submit a written endorsement of its application by one or more established institutions representing the community it has named. An applicant may submit written endorsements from multiple institutions. If applicable, this will be submitted in the section of the application concerning the community-based designation.

At least one such endorsement is required for a complete application. The form and content of the endorsement are at the discretion of the party providing the endorsement; however, the letter must identify the applied-for gTLD string and the applying entity, include an express statement of support for the application, and supply the contact information of the entity providing the endorsement.

Written endorsements from individuals need not be submitted with the application, but may be submitted in the application comment forum.

2. **Government support or non-objection** – If an applicant has applied for a gTLD string that is a geographic name (as defined in this Guidebook), the applicant is required to submit documentation of support for or non-objection to its application from the relevant governments or public authorities. Refer to subsection 2.2.1.4 for more information on the requirements for geographic names. If applicable, this will be submitted in the geographic names section of the application.
3. **Documentation of third-party funding commitments** – If an applicant lists funding from third parties in its application, it must provide evidence of commitment by the party committing the funds. If applicable, this will be submitted in the financial section of the application.

### **1.2.3 Community-Based Designation**

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All applicants are required to designate whether their application is **community-based**.

#### **1.2.3.1 Definitions**

For purposes of this Applicant Guidebook, a **community-based gTLD** is a gTLD that is operated for the benefit of a clearly delineated community. Designation or non-



designation of an application as community-based is entirely at the discretion of the applicant. Any applicant may designate its application as community-based; however, each applicant making this designation is asked to substantiate its status as representative of the community it names in the application by submission of written endorsements in support of the application. Additional information may be requested in the event of a community priority evaluation (refer to section 4.2 of Module 4). An applicant for a community-based gTLD is expected to:

1. Demonstrate an ongoing relationship with a clearly delineated community.
2. Have applied for a gTLD string strongly and specifically related to the community named in the application.
3. Have proposed dedicated registration and use policies for registrants in its proposed gTLD, including appropriate security verification procedures, commensurate with the community-based purpose it has named.
4. Have its application endorsed in writing by one or more established institutions representing the community it has named.

For purposes of differentiation, an application that has not been designated as community-based will be referred to hereinafter in this document as a **standard application**. A standard gTLD can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. A standard applicant may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions. Standard simply means here that the applicant has not designated the application as community-based.

### *1.2.3.2 Implications of Application Designation*

Applicants should understand how their designation as community-based or standard will affect application processing at particular stages, and, if the application is successful, execution of the registry agreement and subsequent obligations as a gTLD registry operator, as described in the following paragraphs.

**Objection / Dispute Resolution** – All applicants should understand that a formal objection may be filed against any application on community grounds, even if the applicant has not designated itself as community-based or

declared the gTLD to be aimed at a particular community. Refer to Module 3, Objection Procedures.

**String Contention** – Resolution of string contention may include one or more components, depending on the composition of the contention set and the elections made by community-based applicants.

- A **settlement between the parties** can occur at any time after contention is identified. The parties will be encouraged to meet with an objective to settle the contention. Applicants in contention always have the opportunity to resolve the contention voluntarily, resulting in the withdrawal of one or more applications, before reaching the contention resolution stage.
- A **community priority evaluation** will take place only if a community-based applicant in a contention set elects this option. All community-based applicants in a contention set will be offered this option in the event that there is contention remaining after the applications have successfully completed all previous evaluation stages.
- An **auction** will result for cases of contention not resolved by community priority evaluation or agreement between the parties. Auction occurs as a contention resolution means of last resort. If a community priority evaluation occurs but does not produce a clear winner, an auction will take place to resolve the contention.

Refer to Module 4, String Contention Procedures, for detailed discussions of contention resolution procedures.

**Contract Execution and Post-Delegation** – A community-based applicant will be subject to certain post-delegation contractual obligations to operate the gTLD in a manner consistent with the restrictions associated with its community-based designation. Material changes to the contract, including changes to the community-based nature of the gTLD and any associated provisions, may only be made with ICANN's approval. The determination of whether to approve changes requested by the applicant will be at ICANN's discretion. Proposed criteria for approving such changes are the subject of policy discussions.

Community-based applications are intended to be a narrow category, for applications where there are

unambiguous associations among the applicant, the community served, and the applied-for gTLD string. Evaluation of an applicant's designation as community-based will occur only in the event of a contention situation that results in a community priority evaluation. However, any applicant designating its application as community-based will, if the application is approved, be bound by the registry agreement to implement the community-based restrictions it has specified in the application. This is true even if there are no contending applicants.

### *1.2.3.3 Changes to Application Designation*

An applicant may not change its designation as standard or community-based once it has submitted a gTLD application for processing.

### *1.2.4 Notice concerning Technical Acceptance Issues with New gTLDs*

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All applicants should be aware that approval of an application and entry into a registry agreement with ICANN do not guarantee that a new gTLD will immediately function throughout the Internet. Past experience indicates that network operators may not immediately fully support new top-level domains, even when these domains have been delegated in the DNS root zone, since third-party software modification may be required and may not happen immediately.

Similarly, software applications sometimes attempt to validate domain names and may not recognize new or unknown top-level domains. ICANN has no authority or ability to require that software accept new top-level domains, although it does prominently publicize which top-level domains are valid and has developed a basic tool to assist application providers in the use of current root-zone data.

ICANN encourages applicants to familiarize themselves with these issues and account for them in their startup and launch plans. Successful applicants may find themselves expending considerable efforts working with providers to achieve acceptance of their new top-level domains.

Applicants should review <http://www.icann.org/en/topics/TLD-acceptance/> for background. IDN applicants should also review the material concerning experiences with IDN test strings in the root zone (see <http://idn.icann.org/>).

### *1.2.5 Notice concerning TLD Delegations*

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ICANN is only able to create TLDs as delegations in the DNS root zone, expressed using NS records with any corresponding DS records and glue records. There is no policy enabling ICANN to place TLDs as other DNS record types (such as A, MX, or DNAME records) in the root zone.

### *1.2.6 Terms and Conditions*

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All applicants must agree to a standard set of Terms and Conditions for the application process. The Terms and Conditions are available in Module 6 of this guidebook.

### *1.2.7 Notice of Changes to Information*

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If at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN via submission of the appropriate forms. This includes applicant-specific information such as changes in financial position and changes in ownership or control of the applicant.

ICANN reserves the right to require a re-evaluation of the application in the event of a material change. This could involve additional fees or evaluation in a subsequent application round.

Failure to notify ICANN of any change in circumstances that would render any information provided in the application false or misleading may result in denial of the application.

### *1.2.8 Voluntary Designation for High Security Zones*

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An ICANN stakeholder group has considered development of a possible special designation for "High Security Zone Top Level Domains" ("HSTLDs"). The group's Final Report can be found at <http://www.icann.org/en/topics/new-gtlds/hstld-final-report-11mar11-en.pdf>.

The Final Report may be used to inform further work. ICANN will support independent efforts toward developing voluntary high-security TLD designations, which may be available to gTLD applicants wishing to pursue such designations.

### *1.2.9 Security and Stability*

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*Root Zone Stability:* There has been significant study, analysis, and consultation in preparation for launch of the

New gTLD Program, indicating that the addition of gTLDs to the root zone will not negatively impact the security or stability of the DNS.

It is estimated that 200-300 TLDs will be delegated annually, and determined that in no case will more than 1000 new gTLDs be added to the root zone in a year. The delegation rate analysis, consultations with the technical community, and anticipated normal operational upgrade cycles all lead to the conclusion that the new gTLD delegations will have no significant impact on the stability of the root system. Modeling and reporting will continue during, and after, the first application round so that root-scaling discussions can continue and the delegation rates can be managed as the program goes forward.

All applicants should be aware that delegation of any new gTLDs is conditional on the continued absence of significant negative impact on the security or stability of the DNS and the root zone system (including the process for delegating TLDs in the root zone). In the event that there is a reported impact in this regard and processing of applications is delayed, the applicants will be notified in an orderly and timely manner.

#### *1.2.10 Resources for Applicant Assistance*

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A variety of support resources are available to gTLD applicants. Financial assistance will be available to a limited number of eligible applicants. To request financial assistance, applicants must submit a separate financial assistance application in addition to the gTLD application form.

To be eligible for consideration, all financial assistance applications must be received by **23:59 UTC 12 April 2012**. Financial assistance applications will be evaluated and scored against pre-established criteria.

In addition, ICANN maintains a webpage as an informational resource for applicants seeking assistance, and organizations offering support.

See <http://newgtlds.icann.org/applicants/candidate-support> for details on these resources.

#### *1.2.11 Updates to the Applicant Guidebook*

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As approved by the ICANN Board of Directors, this Guidebook forms the basis of the New gTLD Program. ICANN reserves the right to make reasonable updates and

changes to the Applicant Guidebook at any time, including as the possible result of new technical standards, reference documents, or policies that might be adopted during the course of the application process. Any such updates or revisions will be posted on ICANN's website.

### 1.3 Information for Internationalized Domain Name Applicants

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Some applied-for gTLD strings are expected to be Internationalized Domain Names (IDNs). IDNs are domain names including characters used in the local representation of languages not written with the basic Latin alphabet (a - z), European-Arabic digits (0 - 9), and the hyphen (-). As described below, IDNs require the insertion of A-labels into the DNS root zone.

#### 1.3.1 IDN-Specific Requirements

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An applicant for an IDN string must provide information indicating compliance with the IDNA protocol and other technical requirements. The IDNA protocol and its documentation can be found at <http://icann.org/en/topics/idn/rfcs.htm>.

Applicants must provide applied-for gTLD strings in the form of both a **U-label** (the IDN TLD in local characters) and an **A-label**.

An A-label is the ASCII form of an IDN label. Every IDN A-label begins with the IDNA ACE prefix, "xn--", followed by a string that is a valid output of the Punycode algorithm, making a maximum of 63 total ASCII characters in length. The prefix and string together must conform to all requirements for a label that can be stored in the DNS including conformance to the LDH (host name) rule described in RFC 1034, RFC 1123, and elsewhere.

A U-label is the Unicode form of an IDN label, which a user expects to see displayed in applications.

For example, using the current IDN test string in Cyrillic script, the U-label is <испытание> and the A-label is <xn--80akhbyknj4f>. An A-label must be capable of being produced by conversion from a U-label and a U-label must be capable of being produced by conversion from an A-label.

Applicants for IDN gTLDs will also be required to provide the following at the time of the application:

1. Meaning or restatement of string in English. The applicant will provide a short description of what the string would mean or represent in English.
2. Language of label (ISO 639-1). The applicant will specify the language of the applied-for gTLD string, both according to the ISO codes for the representation of names of languages, and in English.
3. Script of label (ISO 15924). The applicant will specify the script of the applied-for gTLD string, both according to the ISO codes for the representation of names of scripts, and in English.
4. Unicode code points. The applicant will list all the code points contained in the U-label according to its Unicode form.
5. Applicants must further demonstrate that they have made reasonable efforts to ensure that the encoded IDN string does not cause any rendering or operational problems. For example, problems have been identified in strings with characters of mixed right-to-left and left-to-right directionality when numerals are adjacent to the path separator (i.e., the dot).<sup>7</sup>

If an applicant is applying for a string with known issues, it should document steps that will be taken to mitigate these issues in applications. While it is not possible to ensure that all rendering problems are avoided, it is important that as many as possible are identified early and that the potential registry operator is aware of these issues. Applicants can become familiar with these issues by understanding the IDNA protocol (see <http://www.icann.org/en/topics/idn/rfcs.htm>), and by active participation in the IDN wiki (see <http://idn.icann.org/>) where some rendering problems are demonstrated.

6. **[Optional]** - Representation of label in phonetic alphabet. The applicant may choose to provide its applied-for gTLD string notated according to the International Phonetic Alphabet (<http://www.langsci.ucl.ac.uk/ipa/>). Note that this information will not be evaluated or scored. The information, if provided, will be used as a guide to ICANN in responding to inquiries or speaking of the application in public presentations.

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<sup>7</sup> See examples at <http://stupid.domain.name/node/683>

### 1.3.2 IDN Tables

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An IDN table provides the list of characters eligible for registration in domain names according to the registry's policy. It identifies any multiple characters that are considered equivalent for domain name registration purposes ("variant characters"). Variant characters occur where two or more characters can be used interchangeably.

Examples of IDN tables can be found in the Internet Assigned Numbers Authority (IANA) IDN Repository at <http://www.iana.org/procedures/idn-repository.html>.

In the case of an application for an IDN gTLD, IDN tables must be submitted for the language or script for the applied-for gTLD string (the "top level tables"). IDN tables must also be submitted for each language or script in which the applicant intends to offer IDN registrations at the second or lower levels.

Each applicant is responsible for developing its IDN Tables, including specification of any variant characters. Tables must comply with ICANN's IDN Guidelines<sup>8</sup> and any updates thereto, including:

- Complying with IDN technical standards.
- Employing an inclusion-based approach (i.e., code points not explicitly permitted by the registry are prohibited).
- Defining variant characters.
- Excluding code points not permissible under the guidelines, e.g., line-drawing symbols, pictographic dingbats, structural punctuation marks.
- Developing tables and registration policies in collaboration with relevant stakeholders to address common issues.
- Depositing IDN tables with the IANA Repository for IDN Practices (once the TLD is delegated).

An applicant's IDN tables should help guard against user confusion in the deployment of IDN gTLDs. Applicants are strongly urged to consider specific linguistic and writing system issues that may cause problems when characters are used in domain names, as part of their work of defining variant characters.

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<sup>8</sup> See <http://www.icann.org/en/topics/idn/implementation-guidelines.htm>



To avoid user confusion due to differing practices across TLD registries, it is recommended that applicants cooperate with TLD operators that offer domain name registration with the same or visually similar characters.

As an example, languages or scripts are often shared across geographic boundaries. In some cases, this can cause confusion among the users of the corresponding language or script communities. Visual confusion can also exist in some instances between different scripts (for example, Greek, Cyrillic and Latin).

Applicants will be asked to describe the process used in developing the IDN tables submitted. ICANN may compare an applicant's IDN table with IDN tables for the same languages or scripts that already exist in the IANA repository or have been otherwise submitted to ICANN. If there are inconsistencies that have not been explained in the application, ICANN may ask the applicant to detail the rationale for differences. For applicants that wish to conduct and review such comparisons prior to submitting a table to ICANN, a table comparison tool will be available.

ICANN will accept the applicant's IDN tables based on the factors above.

Once the applied-for string has been delegated as a TLD in the root zone, the applicant is required to submit IDN tables for lodging in the IANA Repository of IDN Practices. For additional information, see existing tables at <http://iana.org/domains/idn-tables/>, and submission guidelines at <http://iana.org/procedures/idn-repository.html>.

### 1.3.3 IDN Variant TLDs

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A variant TLD string results from the substitution of one or more characters in the applied-for gTLD string with variant characters based on the applicant's top level tables.

Each application contains one applied-for gTLD string. The applicant may also declare any variant strings for the TLD in its application. However, no variant gTLD strings will be delegated through the New gTLD Program until variant management solutions are developed and implemented.<sup>9</sup> Declaring variant strings is informative only and will not imply any right or claim to the declared variant strings.

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<sup>9</sup> The ICANN Board directed that work be pursued on variant management in its resolution on 25 Sep 2010, <http://www.icann.org/en/minutes/resolutions-25sep10-en.htm#2.5>.

When a variant delegation process is established, applicants may be required to submit additional information such as implementation details for the variant TLD management mechanism, and may need to participate in a subsequent evaluation process, which could contain additional fees and review steps.

The following scenarios are possible during the gTLD evaluation process:

- a. Applicant declares variant strings to the applied-for gTLD string in its application. If the application is successful, the applied-for gTLD string will be delegated to the applicant. The declared variant strings are noted for future reference. These declared variant strings will not be delegated to the applicant along with the applied-for gTLD string, nor will the applicant have any right or claim to the declared variant strings.

Variant strings listed in successful gTLD applications will be tagged to the specific application and added to a "Declared Variants List" that will be available on ICANN's website. A list of pending (i.e., declared) variant strings from the IDN ccTLD Fast Track is available at <http://icann.org/en/topics/idn/fast-track/string-evaluation-completion-en.htm>.

ICANN may perform independent analysis on the declared variant strings, and will not necessarily include all strings listed by the applicant on the Declared Variants List.

- b. Multiple applicants apply for strings that are identified by ICANN as variants of one another. These applications will be placed in a contention set and will follow the contention resolution procedures in Module 4.
- c. Applicant submits an application for a gTLD string and does not indicate variants to the applied-for gTLD string. ICANN will not identify variant strings unless scenario (b) above occurs.

Each variant string declared in the application must also conform to the string requirements in section 2.2.1.3.2.

Variant strings declared in the application will be reviewed for consistency with the top-level tables submitted in the application. Should any declared variant strings not be

based on use of variant characters according to the submitted top-level tables, the applicant will be notified and the declared string will no longer be considered part of the application.

Declaration of variant strings in an application does not provide the applicant any right or reservation to a particular string. Variant strings on the Declared Variants List may be subject to subsequent additional review per a process and criteria to be defined.

It should be noted that while variants for second and lower-level registrations are defined freely by the local communities without any ICANN validation, there may be specific rules and validation criteria specified for variant strings to be allowed at the top level. It is expected that the variant information provided by applicants in the first application round will contribute to a better understanding of the issues and assist in determining appropriate review steps and fee levels going forward.

## ***1.4 Submitting an Application***

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Applicants may complete the application form and submit supporting documents using ICANN's TLD Application System (TAS). To access the system, each applicant must first register as a TAS user.

As TAS users, applicants will be able to provide responses in open text boxes and submit required supporting documents as attachments. Restrictions on the size of attachments as well as the file formats are included in the instructions on the TAS site.

Except where expressly provided within the question, all application materials must be submitted in English.

ICANN will not accept application forms or supporting materials submitted through other means than TAS (that is, hard copy, fax, email), unless such submission is in accordance with specific instructions from ICANN to applicants.

### ***1.4.1 Accessing the TLD Application System***

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The TAS site will be accessible from the New gTLD webpage (<http://www.icann.org/en/topics/new-gtld-program.htm>), and will be highlighted in communications regarding the opening of the application submission period. Users of TAS will be expected to agree to a standard set of terms of use

including user rights, obligations, and restrictions in relation to the use of the system.

#### 1.4.1.1 User Registration

TAS user registration (creating a TAS user profile) requires submission of preliminary information, which will be used to validate the identity of the parties involved in the application. An overview of the information collected in the user registration process is below:

No.	Questions
1	Full legal name of Applicant
2	Principal business address
3	Phone number of Applicant
4	Fax number of Applicant
5	Website or URL, if applicable
6	Primary Contact: Name, Title, Address, Phone, Fax, Email
7	Secondary Contact: Name, Title, Address, Phone, Fax, Email
8	Proof of legal establishment
9	Trading, subsidiary, or joint venture information
10	Business ID, Tax ID, VAT registration number, or equivalent of Applicant
11	Applicant background: previous convictions, cybersquatting activities
12	Deposit payment confirmation and payer information

A subset of identifying information will be collected from the entity performing the user registration, in addition to the applicant information listed above. The registered user could be, for example, an agent, representative, or

employee who would be completing the application on behalf of the applicant.

The registration process will require the user to request the desired number of application slots. For example, a user intending to submit five gTLD applications would complete five application slot requests, and the system would assign the user a unique ID number for each of the five applications.

Users will also be required to submit a deposit of USD 5,000 per application slot. This deposit amount will be credited against the evaluation fee for each application. The deposit requirement is in place to help reduce the risk of frivolous access to the online application system.

After completing the registration, TAS users will receive access enabling them to enter the rest of the application information into the system. Application slots will be populated with the registration information provided by the applicant, which may not ordinarily be changed once slots have been assigned.

No new user registrations will be accepted after **23:59 UTC 29 March 2012**.

ICANN will take commercially reasonable steps to protect all applicant data submitted from unauthorized access, but cannot warrant against the malicious acts of third parties who may, through system corruption or other means, gain unauthorized access to such data.

#### *1.4.1.2 Application Form*

Having obtained the requested application slots, the applicant will complete the remaining application questions. An overview of the areas and questions contained in the form is shown here:

No.	Application and String Information
12	Payment confirmation for remaining evaluation fee amount
13	Applied-for gTLD string
14	IDN string information, if applicable
15	IDN tables, if applicable

16	Mitigation of IDN operational or rendering problems, if applicable
17	Representation of string in International Phonetic Alphabet (Optional)
18	Mission/purpose of the TLD
19	Is the application for a community-based TLD?
20	If community based, describe elements of community and proposed policies
21	Is the application for a geographic name? If geographic, documents of support required
22	Measures for protection of geographic names at second level
23	Registry Services: name and full description of all registry services to be provided
	<b>Technical and Operational Questions (External)</b>
24	Shared registration system (SRS) performance
25	EPP
26	Whois
27	Registration life cycle
28	Abuse prevention & mitigation
29	Rights protection mechanisms
30(a)	Security
	<b>Technical and Operational Questions (Internal)</b>
30(b)	Security
31	Technical overview of proposed registry
32	Architecture

33	Database capabilities
34	Geographic diversity
35	DNS service compliance
36	IPv6 reachability
37	Data backup policies and procedures
38	Escrow
39	Registry continuity
40	Registry transition
41	Failover testing
42	Monitoring and fault escalation processes
43	DNSSEC
44	IDNs (Optional)
	<b>Financial Questions</b>
45	Financial statements
46	Projections template: costs and funding
47	Costs: setup and operating
48	Funding and revenue
49	Contingency planning: barriers, funds, volumes
50	Continuity: continued operations instrument

### *1.4.2 Customer Service during the Application Process*

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Assistance will be available to applicants throughout the application process via the Applicant Service Center (ASC). The ASC will be staffed with customer service agents

to answer questions relating to the New gTLD Program, the application process, and TAS.

### 1.4.3 Backup Application Process

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If the online application system is not available, ICANN will provide alternative instructions for submitting applications.

## 1.5 Fees and Payments

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This section describes the fees to be paid by the applicant. Payment instructions are also included here.

### 1.5.1 gTLD Evaluation Fee

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The gTLD evaluation fee is required from all applicants. This fee is in the amount of USD 185,000. The evaluation fee is payable in the form of a 5,000 deposit submitted at the time the user requests an application slot within TAS, and a payment of the remaining 180,000 submitted with the full application. ICANN will not begin its evaluation of an application unless it has received the full gTLD evaluation fee by **23:59 UTC 12 April 2012**.

The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that the program is fully funded and revenue neutral and is not subsidized by existing contributions from ICANN funding sources, including generic TLD registries and registrars, ccTLD contributions and RIR contributions.

The gTLD evaluation fee covers all required reviews in Initial Evaluation and, in most cases, any required reviews in Extended Evaluation. If an extended Registry Services review takes place, an additional fee will be incurred for this review (see section 1.5.2). There is no additional fee to the applicant for Extended Evaluation for geographic names, technical and operational, or financial reviews.

**Refunds** -- In certain cases, refunds of a portion of the evaluation fee may be available for applications that are withdrawn before the evaluation process is complete. An applicant may request a refund at any time until it has executed a registry agreement with ICANN. The amount of the refund will depend on the point in the process at which the withdrawal is requested, as follows:

Refund Available to Applicant	Percentage of Evaluation Fee	Amount of Refund
Within 21 calendar days of a GAC Early	80%	USD 148,000



Refund Available to Applicant	Percentage of Evaluation Fee	Amount of Refund
Warning		
After posting of applications until posting of Initial Evaluation results	70%	USD 130,000
After posting Initial Evaluation results	35%	USD 65,000
After the applicant has completed Dispute Resolution, Extended Evaluation, or String Contention Resolution(s)	20%	USD 37,000
After the applicant has entered into a registry agreement with ICANN		None

Thus, any applicant that has not been successful is eligible for at least a 20% refund of the evaluation fee if it withdraws its application.

An applicant that wishes to withdraw an application must initiate the process through TAS. Withdrawal of an application is final and irrevocable. Refunds will only be issued to the organization that submitted the original payment. All refunds are paid by wire transfer. Any bank transfer or transaction fees incurred by ICANN, or any unpaid evaluation fees, will be deducted from the amount paid. Any refund paid will be in full satisfaction of ICANN's obligations to the applicant. The applicant will have no entitlement to any additional amounts, including for interest or currency exchange rate changes.

**Note on 2000 proof-of-concept round applicants --** Participants in ICANN's proof-of-concept application process in 2000 may be eligible for a credit toward the evaluation fee. The credit is in the amount of USD 86,000 and is subject to:

- submission of documentary proof by the applicant that it is the same entity, a successor in interest to the same entity, or an affiliate of the same entity that applied previously;
- a confirmation that the applicant was not awarded any TLD string pursuant to the 2000 proof-of-concept application round and that the applicant has no legal claims arising from the 2000 proof-of-concept process; and
- submission of an application, which may be modified from the application originally submitted in 2000, for the same TLD string that such entity applied for in the 2000 proof-of-concept application round.

Each participant in the 2000 proof-of-concept application process is eligible for at most one credit. A maximum of one credit may be claimed for any new gTLD application submitted according to the process in this guidebook. Eligibility for this credit is determined by ICANN.

### 1.5.2 Fees Required in Some Cases

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Applicants may be required to pay additional fees in certain cases where specialized process steps are applicable. Those possible additional fees<sup>10</sup> include:

- **Registry Services Review Fee** – If applicable, this fee is payable for additional costs incurred in referring an application to the Registry Services Technical Evaluation Panel (RSTEP) for an extended review. Applicants will be notified if such a fee is due. The fee for a three-member RSTEP review team is anticipated to be USD 50,000. In some cases, five-member panels might be required, or there might be increased scrutiny at a greater cost. The amount of the fee will cover the cost of the RSTEP review. In the event that reviews of proposed registry services can be consolidated across multiple applications or applicants, ICANN will apportion the fees in an equitable manner. In every case, the applicant will be advised of the cost before initiation of the review. Refer to subsection 2.2.3 of Module 2 on Registry Services review.

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<sup>10</sup> The estimated fee amounts provided in this section 1.5.2 will be updated upon engagement of panel service providers and establishment of fees.

- **Dispute Resolution Filing Fee** – This amount must accompany any filing of a formal objection and any response that an applicant files to an objection. This fee is payable directly to the applicable dispute resolution service provider in accordance with the provider’s payment instructions. ICANN estimates that filing fees could range from approximately USD 1,000 to USD 5,000 (or more) per party per proceeding. Refer to the appropriate provider for the relevant amount. Refer to Module 3 for dispute resolution procedures.
- **Advance Payment of Costs** – In the event of a formal objection, this amount is payable directly to the applicable dispute resolution service provider in accordance with that provider’s procedures and schedule of costs. Ordinarily, both parties in the dispute resolution proceeding will be required to submit an advance payment of costs in an estimated amount to cover the entire cost of the proceeding. This may be either an hourly fee based on the estimated number of hours the panelists will spend on the case (including review of submissions, facilitation of a hearing, if allowed, and preparation of a decision), or a fixed amount. In cases where disputes are consolidated and there are more than two parties involved, the advance payment will occur according to the dispute resolution service provider’s rules.

The prevailing party in a dispute resolution proceeding will have its advance payment refunded, while the non-prevailing party will not receive a refund and thus will bear the cost of the proceeding. In cases where disputes are consolidated and there are more than two parties involved, the refund of fees will occur according to the dispute resolution service provider’s rules.

ICANN estimates that adjudication fees for a proceeding involving a fixed amount could range from USD 2,000 to USD 8,000 (or more) per proceeding. ICANN further estimates that an hourly rate based proceeding with a one-member panel could range from USD 32,000 to USD 56,000 (or more) and with a three-member panel it could range from USD 70,000 to USD 122,000 (or more). These estimates may be lower if the panel does not call for written submissions beyond the objection and response, and does not allow a hearing. Please

refer to the appropriate provider for the relevant amounts or fee structures.

- **Community Priority Evaluation Fee** – In the event that the applicant participates in a community priority evaluation, this fee is payable as a deposit in an amount to cover the cost of the panel's review of that application (currently estimated at USD 10,000). The deposit is payable to the provider appointed to handle community priority evaluations. Applicants will be notified if such a fee is due. Refer to Section 4.2 of Module 4 for circumstances in which a community priority evaluation may take place. An applicant who scores at or above the threshold for the community priority evaluation will have its deposit refunded.

ICANN will notify the applicants of due dates for payment in respect of additional fees (if applicable). This list does not include fees (annual registry fees) that will be payable to ICANN following execution of a registry agreement.

### *1.5.3 Payment Methods*

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Payments to ICANN should be submitted by **wire transfer**. Instructions for making a payment by wire transfer will be available in TAS.<sup>11</sup>

Payments to Dispute Resolution Service Providers should be submitted in accordance with the provider's instructions.

### *1.5.4 Requesting a Remittance Form*

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The TAS interface allows applicants to request issuance of a remittance form for any of the fees payable to ICANN. This service is for the convenience of applicants that require an invoice to process payments.

## *1.6 Questions about this Applicant Guidebook*

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For assistance and questions an applicant may have in the process of completing the application form, applicants should use the customer support resources available via the ASC. Applicants who are unsure of the information being sought in a question or the parameters for acceptable documentation are encouraged to communicate these questions through the appropriate

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<sup>11</sup> Wire transfer is the preferred method of payment as it offers a globally accessible and dependable means for international transfer of funds. This enables ICANN to receive the fee and begin processing applications as quickly as possible.

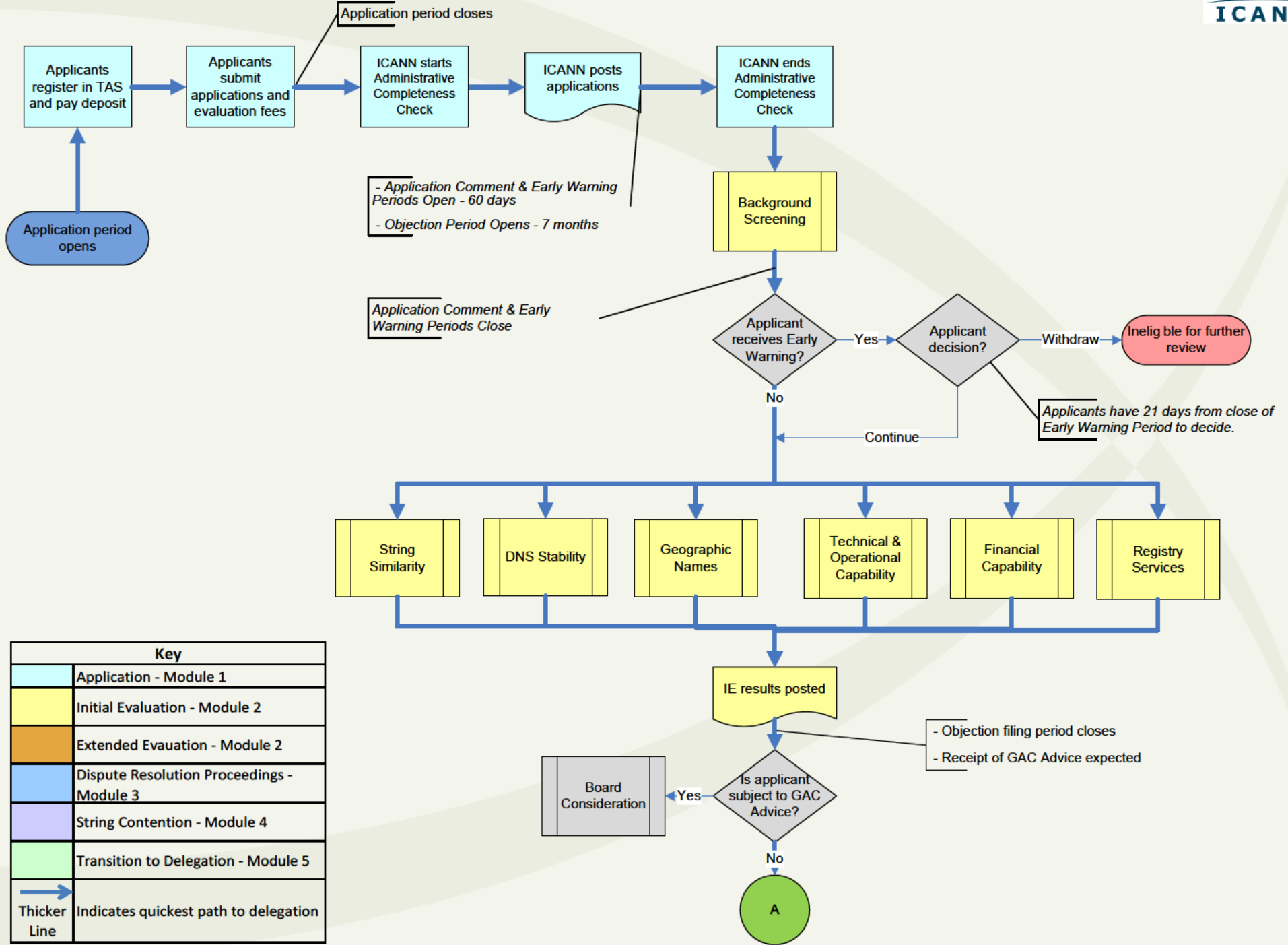
support channels before the application is submitted. This helps avoid the need for exchanges with evaluators to clarify information, which extends the timeframe associated with processing the application.

Currently, questions may be submitted via <newgtld@icann.org>. To provide all applicants equitable access to information, ICANN will make all questions and answers publicly available.

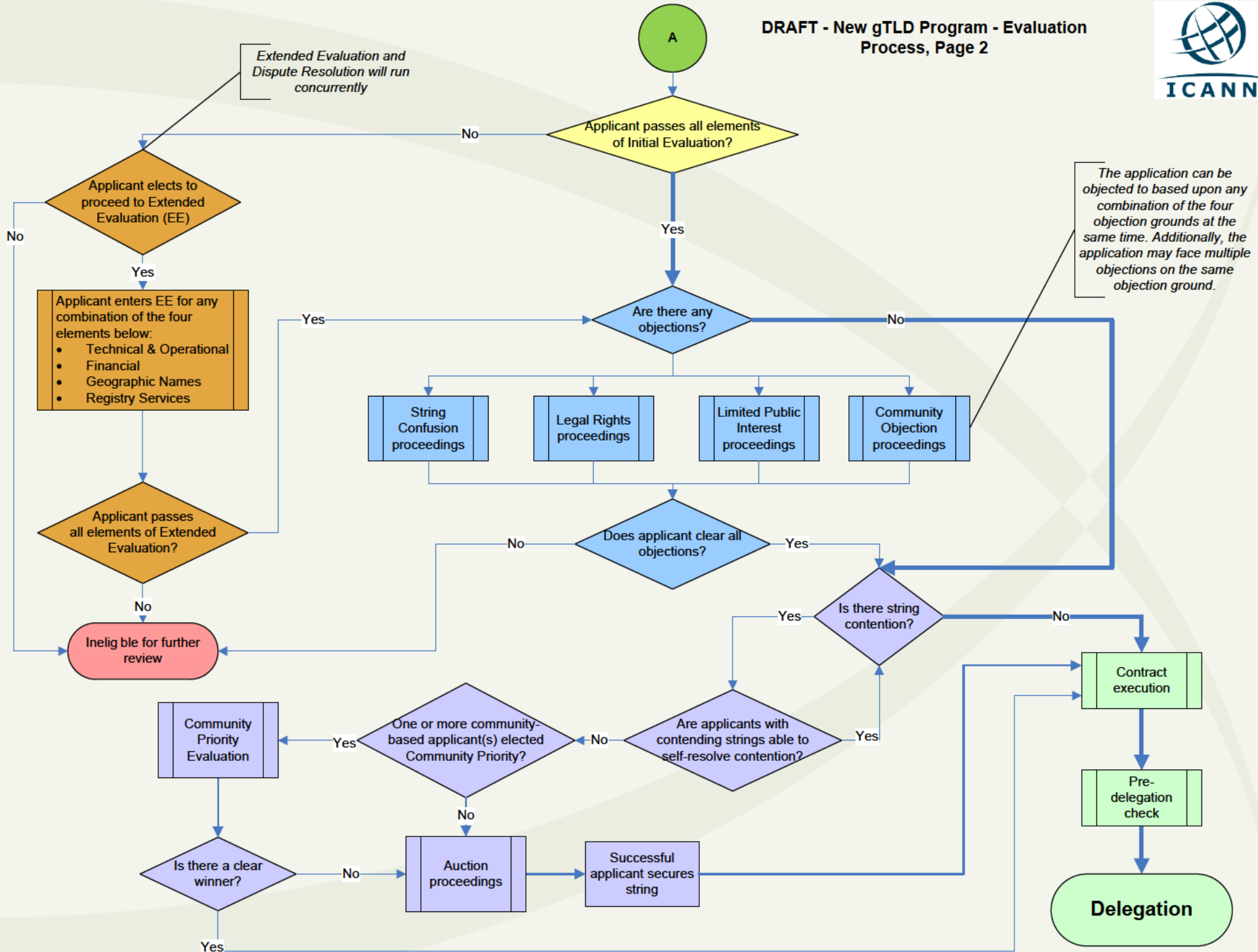
All requests to ICANN for information about the process or issues surrounding preparation of an application must be submitted to the ASC. ICANN will not grant requests from applicants for personal or telephone consultations regarding the preparation of an application. Applicants that contact ICANN for clarification about aspects of the application will be referred to the ASC.

Answers to inquiries will only provide clarification about the application forms and procedures. ICANN will not provide consulting, financial, or legal advice.

# DRAFT - New gTLD Program - Evaluation Process



Key	
	Application - Module 1
	Initial Evaluation - Module 2
	Extended Evaluation - Module 2
	Dispute Resolution Proceedings - Module 3
	String Contention - Module 4
	Transition to Delegation - Module 5
	Indicates quickest path to delegation





# gTLD Applicant Guidebook

(v. 2012-06-04)

Module 2

4 June 2012



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# Module 2

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## *Evaluation Procedures*

This module describes the evaluation procedures and criteria used to determine whether applied-for gTLDs are approved for delegation. All applicants will undergo an Initial Evaluation and those that do not pass all elements may request Extended Evaluation.

The first, required evaluation is the **Initial Evaluation**, during which ICANN assesses an applied-for gTLD string, an applicant's qualifications, and its proposed registry services.

The following assessments are performed in the **Initial Evaluation**:

- String Reviews
  - String similarity
  - Reserved names
  - DNS stability
  - Geographic names
- Applicant Reviews
  - Demonstration of technical and operational capability
  - Demonstration of financial capability
  - Registry services reviews for DNS stability issues

An application must pass all these reviews to pass the Initial Evaluation. Failure to pass any one of these reviews will result in a failure to pass the Initial Evaluation.

**Extended Evaluation** may be applicable in cases in which an applicant does not pass the Initial Evaluation. See Section 2.3 below.

### *2.1 Background Screening*

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Background screening will be conducted in two areas:

- (a) General business diligence and criminal history; and
- (b) History of cybersquatting behavior.

The application must pass both background screening areas to be eligible to proceed. Background screening results are evaluated according to the criteria described in section 1.2.1. Due to the potential sensitive nature of the material, applicant background screening reports will not be published.

The following sections describe the process ICANN will use to perform background screening.

### *2.1.1 General business diligence and criminal history*

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Applying entities that are publicly traded corporations listed and in good standing on any of the world's largest 25 stock exchanges (as listed by the World Federation of Exchanges) will be deemed to have passed the general business diligence and criminal history screening. The largest 25 will be based on the domestic market capitalization reported at the end of the most recent calendar year prior to launching each round.<sup>1</sup>

Before an entity is listed on an exchange, it must undergo significant due diligence including an investigation by the exchange, regulators, and investment banks. As a publicly listed corporation, an entity is subject to ongoing scrutiny from shareholders, analysts, regulators, and exchanges. All exchanges require monitoring and disclosure of material information about directors, officers, and other key personnel, including criminal behavior. In totality, these requirements meet or exceed the screening ICANN will perform.

For applicants not listed on one of these exchanges, ICANN will submit identifying information for the entity, officers, directors, and major shareholders to an international background screening service. The service provider(s) will use the criteria listed in section 1.2.1 and return results that match these criteria. Only publicly available information will be used in this inquiry.

ICANN is in discussions with INTERPOL to identify ways in which both organizations can collaborate in background screenings of individuals, entities and their identity documents consistent with both organizations' rules and regulations. Note that the applicant is expected to disclose potential problems in meeting the criteria in the application, and provide any clarification or explanation at the time of application submission. Results returned from

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<sup>1</sup> See <http://www.world-exchanges.org/statistics/annual/2010/equity-markets/domestic-market-capitalization>

the background screening process will be matched with the disclosures provided by the applicant and those cases will be followed up to resolve issues of discrepancies or potential false positives.

If no hits are returned, the application will generally pass this portion of the background screening.

### *2.1.2 History of cybersquatting*

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ICANN will screen applicants against UDRP cases and legal databases as financially feasible for data that may indicate a pattern of cybersquatting behavior pursuant to the criteria listed in section 1.2.1.

The applicant is required to make specific declarations regarding these activities in the application. Results returned during the screening process will be matched with the disclosures provided by the applicant and those instances will be followed up to resolve issues of discrepancies or potential false positives.

If no hits are returned, the application will generally pass this portion of the background screening.

## *2.2 Initial Evaluation*

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The Initial Evaluation consists of two types of review. Each type is composed of several elements.

String review: The first review focuses on the applied-for gTLD string to test:

- Whether the applied-for gTLD string is so similar to other strings that it would create a probability of user confusion;
- Whether the applied-for gTLD string might adversely affect DNS security or stability; and
- Whether evidence of requisite government approval is provided in the case of certain geographic names.

Applicant review: The second review focuses on the applicant to test:

- Whether the applicant has the requisite technical, operational, and financial capability to operate a registry; and
- Whether the registry services offered by the applicant might adversely affect DNS security or stability.

## 2.2.1 String Reviews

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In the Initial Evaluation, ICANN reviews every applied-for gTLD string. Those reviews are described in greater detail in the following subsections.

### 2.2.1.1 String Similarity Review

This review involves a preliminary comparison of each applied-for gTLD string against existing TLDs, Reserved Names (see subsection 2.2.1.2), and other applied-for strings. The objective of this review is to prevent user confusion and loss of confidence in the DNS resulting from delegation of many similar strings.

Note: In this Applicant Guidebook, “similar” means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.

The visual similarity check that occurs during Initial Evaluation is intended to augment the objection and dispute resolution process (see Module 3, Dispute Resolution Procedures) that addresses all types of similarity.

This similarity review will be conducted by an independent String Similarity Panel.

#### 2.2.1.1.1 Reviews Performed

The String Similarity Panel’s task is to identify visual string similarities that would create a probability of user confusion.

The panel performs this task of assessing similarities that would lead to user confusion in four sets of circumstances, when comparing:

- Applied-for gTLD strings against existing TLDs and reserved names;
- Applied-for gTLD strings against other applied-for gTLD strings;
- Applied-for gTLD strings against strings requested as IDN ccTLDs; and
- Applied-for 2-character IDN gTLD strings against:
  - Every other single character.
  - Any other 2-character ASCII string (to protect possible future ccTLD delegations).

**Similarity to Existing TLDs or Reserved Names** – This review involves cross-checking between each applied-for string and the lists of existing TLD strings and Reserved Names to determine whether two strings are so similar to one another that they create a probability of user confusion.

In the simple case in which an applied-for gTLD string is identical to an existing TLD or reserved name, the online application system will not allow the application to be submitted.

Testing for identical strings also takes into consideration the code point variants listed in any relevant IDN table. For example, protocols treat equivalent labels as alternative forms of the same label, just as “foo” and “Foo” are treated as alternative forms of the same label (RFC 3490).

All TLDs currently in the root zone can be found at <http://iana.org/domains/root/db/>.

IDN tables that have been submitted to ICANN are available at <http://www.iana.org/domains/idn-tables/>.

**Similarity to Other Applied-for gTLD Strings (String Contention Sets)** – All applied-for gTLD strings will be reviewed against one another to identify any similar strings. In performing this review, the String Similarity Panel will create contention sets that may be used in later stages of evaluation.

A contention set contains at least two applied-for strings identical or similar to one another. Refer to Module 4, String Contention Procedures, for more information on contention sets and contention resolution.

ICANN will notify applicants who are part of a contention set as soon as the String Similarity review is completed. (This provides a longer period for contending applicants to reach their own resolution before reaching the contention resolution stage.) These contention sets will also be published on ICANN’s website.

**Similarity to TLD strings requested as IDN ccTLDs** -- Applied-for gTLD strings will also be reviewed for similarity to TLD strings requested in the IDN ccTLD Fast Track process (see <http://www.icann.org/en/topics/idn/fast-track/>). Should a conflict with a prospective fast-track IDN ccTLD be identified, ICANN will take the following approach to resolving the conflict.

If one of the applications has completed its respective process before the other is lodged, that TLD will be delegated. A gTLD application that has successfully completed all relevant evaluation stages, including dispute resolution and string contention, if applicable, and is eligible for entry into a registry agreement will be considered complete, and therefore would not be disqualified by a newly-filed IDN ccTLD request. Similarly, an IDN ccTLD request that has completed evaluation (i.e., is validated) will be considered complete and therefore would not be disqualified by a newly-filed gTLD application.

In the case where neither application has completed its respective process, where the gTLD application does not have the required approval from the relevant government or public authority, a validated request for an IDN ccTLD will prevail and the gTLD application will not be approved. The term “validated” is defined in the IDN ccTLD Fast Track Process Implementation, which can be found at <http://www.icann.org/en/topics/idn>.

In the case where a gTLD applicant has obtained the support or non-objection of the relevant government or public authority, but is eliminated due to contention with a string requested in the IDN ccTLD Fast Track process, a full refund of the evaluation fee is available to the applicant if the gTLD application was submitted prior to the publication of the ccTLD request.

**Review of 2-character IDN strings** — In addition to the above reviews, an applied-for gTLD string that is a 2-character IDN string is reviewed by the String Similarity Panel for visual similarity to:

- a) Any one-character label (in any script), and
- b) Any possible two-character ASCII combination.

An applied-for gTLD string that is found to be too similar to a) or b) above will not pass this review.

#### **2.2.1.1.2 Review Methodology**

The String Similarity Panel is informed in part by an algorithmic score for the visual similarity between each applied-for string and each of other existing and applied-for TLDs and reserved names. The score will provide one objective measure for consideration by the panel, as part of the process of identifying strings likely to result in user confusion. In general, applicants should expect that a higher visual similarity score suggests a higher probability

that the application will not pass the String Similarity review. However, it should be noted that the score is only indicative and that the final determination of similarity is entirely up to the Panel's judgment.

The algorithm, user guidelines, and additional background information are available to applicants for testing and informational purposes.<sup>2</sup> Applicants will have the ability to test their strings and obtain algorithmic results through the application system prior to submission of an application.

The algorithm supports the common characters in Arabic, Chinese, Cyrillic, Devanagari, Greek, Japanese, Korean, and Latin scripts. It can also compare strings in different scripts to each other.

The panel will also take into account variant characters, as defined in any relevant language table, in its determinations. For example, strings that are not visually similar but are determined to be variant TLD strings based on an IDN table would be placed in a contention set. Variant TLD strings that are listed as part of the application will also be subject to the string similarity analysis.<sup>3</sup>

The panel will examine all the algorithm data and perform its own review of similarities between strings and whether they rise to the level of string confusion. In cases of strings in scripts not yet supported by the algorithm, the panel's assessment process is entirely manual.

The panel will use a common standard to test for whether string confusion exists, as follows:

**Standard for String Confusion** – String confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

#### *2.2.1.1.3 Outcomes of the String Similarity Review*

An application that fails the String Similarity review due to similarity to an existing TLD will not pass the Initial Evaluation,

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<sup>2</sup> See <http://icann.sword-group.com/algorithm/>

<sup>3</sup> In the case where an applicant has listed Declared Variants in its application (see subsection 1.3.3), the panel will perform an analysis of the listed strings to confirm that the strings are variants according to the applicant's IDN table. This analysis may include comparison of applicant IDN tables with other existing tables for the same language or script, and forwarding any questions to the applicant.

and no further reviews will be available. Where an application does not pass the String Similarity review, the applicant will be notified as soon as the review is completed.

An application for a string that is found too similar to another applied-for gTLD string will be placed in a contention set.

An application that passes the String Similarity review is still subject to objection by an existing TLD operator or by another gTLD applicant in the current application round. That process requires that a string confusion objection be filed by an objector having the standing to make such an objection. Such category of objection is not limited to visual similarity. Rather, confusion based on any type of similarity (including visual, aural, or similarity of meaning) may be claimed by an objector. Refer to Module 3, Dispute Resolution Procedures, for more information about the objection process.

An applicant may file a formal objection against another gTLD application on string confusion grounds. Such an objection may, if successful, change the configuration of the preliminary contention sets in that the two applied-for gTLD strings will be considered in direct contention with one another (see Module 4, String Contention Procedures). The objection process will not result in removal of an application from a contention set.

### *2.2.1.2 Reserved Names and Other Unavailable Strings*

Certain names are not available as gTLD strings, as detailed in this section.

#### *2.2.1.2.1 Reserved Names*

All applied-for gTLD strings are compared with the list of top-level Reserved Names to ensure that the applied-for gTLD string does not appear on that list.

**Top-Level Reserved Names List**

<i>AFRNIC</i>	<i>IANA-SERVERS</i>	<i>NRO</i>
<i>ALAC</i>	<i>ICANN</i>	<i>RFC-EDITOR</i>
<i>APNIC</i>	<i>IESG</i>	<i>RIPE</i>
<i>ARIN</i>	<i>IETF</i>	<i>ROOT-SERVERS</i>
<i>ASO</i>	<i>INTERNIC</i>	<i>RSSAC</i>
<i>CCNSO</i>	<i>INVALID</i>	<i>SSAC</i>
<i>EXAMPLE*</i>	<i>IRTF</i>	<i>TEST*</i>
<i>GAC</i>	<i>ISTF</i>	<i>TLD</i>



<i>GNSO</i>	<i>LACNIC</i>	<i>WHOIS</i>
<i>GTLD-SERVERS</i>	<i>LOCAL</i>	<i>WWW</i>
<i>IAB</i>	<i>LOCALHOST</i>	
<i>IANA</i>	<i>NIC</i>	
*Note that in addition to the above strings, ICANN will reserve translations of the terms "test" and "example" in multiple languages. The remainder of the strings are reserved only in the form included above.		

If an applicant enters a Reserved Name as its applied-for gTLD string, the application system will recognize the Reserved Name and will not allow the application to be submitted.

In addition, applied-for gTLD strings are reviewed during the String Similarity review to determine whether they are similar to a Reserved Name. An application for a gTLD string that is identified as too similar to a Reserved Name will not pass this review.

#### **2.2.1.2.2** *Declared Variants*

Names appearing on the Declared Variants List (see section 1.3.3) will be posted on ICANN's website and will be treated essentially the same as Reserved Names, until such time as variant management solutions are developed and variant TLDs are delegated. That is, an application for a gTLD string that is identical or similar to a string on the Declared Variants List will not pass this review.

#### **2.2.1.2.3** *Strings Ineligible for Delegation*

The following names are prohibited from delegation as gTLDs in the initial application round. Future application rounds may differ according to consideration of further policy advice.

These names are not being placed on the Top-Level Reserved Names List, and thus are not part of the string similarity review conducted for names on that list. Refer to subsection 2.2.1.1: where applied-for gTLD strings are reviewed for similarity to existing TLDs and reserved names, the strings listed in this section are not reserved names and accordingly are not incorporated into this review.

Applications for names appearing on the list included in this section will not be approved.

International Olympic Committee		
OLYMPIC	OLYMPIAD	OLYMPIQUE
OLYMPIADE	OLYMPISCH	OLÍMPICO
OLIMPÍADA	أولمبي	أولمبياد
奥林匹克	奥林匹亚	奥林匹克
奧林匹亞	Ολυμπιακοί	Ολυμπιάδα
올림픽	올림픽아드	Олимпийский
Олимпиада		
International Red Cross and Red Crescent Movement		
REDCROSS	REDCRESCENT	REDCRYSTAL
REDLIONANDSUN	MAGENDDAVIDADOM	REDSTAROFDAVID
CROIXROUGE	CROIX-ROUGE	CROISSANTROUGE
CROISSANT-ROUGE	CRISTALROUGE	CRISTAL-ROUGE
מגן דוד אדום	CRUZROJA	MEDIALUNAROJA
CRISTALROJO	Красный Крест	Красный Полумесяц
Красный Кристалл	رمح ألابي لصل	لاله ارمح ألابي
ءارمحل اقرولبل	الكريستلة الحمراء	紅十字
紅十字	紅新月	紅新月
紅水晶	紅水晶	

### 2.2.1.3 DNS Stability Review

This review determines whether an applied-for gTLD string might cause instability to the DNS. In all cases, this will involve a review for conformance with technical and other requirements for gTLD strings (labels). In some exceptional cases, an extended review may be necessary to investigate possible technical stability problems with the applied-for gTLD string.

Note: All applicants should recognize issues surrounding invalid TLD queries at the root level of the DNS.

Any new TLD registry operator may experience unanticipated queries, and some TLDs may experience a non-trivial load of unanticipated queries. For more information, see the Security and Stability Advisory Committee (SSAC)'s report on this topic at <http://www.icann.org/en/committees/security/sac045.pdf>. Some publicly available statistics are also available at <http://stats.l.root-servers.org/>.

ICANN will take steps to alert applicants of the issues raised in SAC045, and encourage the applicant to prepare to minimize the possibility of operational difficulties that would pose a stability or availability problem for its registrants and users. However, this notice is merely an advisory to applicants and is not part of the evaluation, unless the string raises significant security or stability issues as described in the following section.

#### ***2.2.1.3.1 DNS Stability: String Review Procedure***

New gTLD labels must not adversely affect the security or stability of the DNS. During the Initial Evaluation period, ICANN will conduct a preliminary review on the set of applied-for gTLD strings to:

- ensure that applied-for gTLD strings comply with the requirements provided in section 2.2.1.3.2, and
- determine whether any strings raise significant security or stability issues that may require further review.

There is a very low probability that extended analysis will be necessary for a string that fully complies with the string requirements in subsection 2.2.1.3.2 of this module. However, the string review process provides an additional safeguard if unanticipated security or stability issues arise concerning an applied-for gTLD string.

In such a case, the DNS Stability Panel will perform an extended review of the applied-for gTLD string during the Initial Evaluation period. The panel will determine whether the string fails to comply with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, and will report on its findings.

If the panel determines that the string complies with relevant standards and does not create the conditions

described above, the application will pass the DNS Stability review.

If the panel determines that the string does not comply with relevant technical standards, or that it creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, the application will not pass the Initial Evaluation, and no further reviews are available. In the case where a string is determined likely to cause security or stability problems in the DNS, the applicant will be notified as soon as the DNS Stability review is completed.

#### 2.2.1.3.2 *String Requirements*

ICANN will review each applied-for gTLD string to ensure that it complies with the requirements outlined in the following paragraphs.

If an applied-for gTLD string is found to violate any of these rules, the application will not pass the DNS Stability review. No further reviews are available.

**Part I -- Technical Requirements for all Labels (Strings)** – The technical requirements for top-level domain labels follow.

- 1.1 The ASCII label (i.e., the label as transmitted on the wire) must be valid as specified in technical standards *Domain Names: Implementation and Specification* (RFC 1035), and *Clarifications to the DNS Specification* (RFC 2181) and any updates thereto. This includes the following:
  - 1.1.1 The label must have no more than 63 characters.
  - 1.1.2 Upper and lower case characters are treated as identical.
- 1.2 The ASCII label must be a valid host name, as specified in the technical standards *DOD Internet Host Table Specification* (RFC 952), *Requirements for Internet Hosts — Application and Support* (RFC 1123), and *Application Techniques for Checking and Transformation of Names* (RFC 3696), *Internationalized Domain Names in Applications (IDNA)*(RFCs 5890-5894), and any updates thereto. This includes the following:
  - 1.2.1 The ASCII label must consist entirely of letters (alphabetic characters a-z), or

- 1.2.2 The label must be a valid IDNA A-label (further restricted as described in Part II below).

**Part II -- Requirements for Internationalized Domain Names**

– These requirements apply only to prospective top-level domains that contain non-ASCII characters. Applicants for these internationalized top-level domain labels are expected to be familiar with the Internet Engineering Task Force (IETF) IDNA standards, Unicode standards, and the terminology associated with Internationalized Domain Names.

- 2.1 The label must be an A-label as defined in IDNA, converted from (and convertible to) a U-label that is consistent with the definition in IDNA, and further restricted by the following, non-exhaustive, list of limitations:
  - 2.1.1 Must be a valid A-label according to IDNA.
  - 2.1.2 The derived property value of all codepoints used in the U-label, as defined by IDNA, must be PVALID or CONTEXT (accompanied by unambiguous contextual rules).<sup>4</sup>
  - 2.1.3 The general category of all codepoints, as defined by IDNA, must be one of (Li, Lo, Lm, Mn, Mc).
  - 2.1.4 The U-label must be fully compliant with Normalization Form C, as described in *Unicode Standard Annex #15: Unicode Normalization Forms*. See also examples in <http://unicode.org/faq/normalization.html>.
  - 2.1.5 The U-label must consist entirely of characters with the same directional property, or fulfill the requirements of the Bidi rule per RFC 5893.
- 2.2 The label must meet the relevant criteria of the ICANN *Guidelines for the Implementation of Internationalised Domain Names*. See <http://www.icann.org/en/topics/idn/implementation>

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<sup>4</sup> It is expected that conversion tools for IDNA will be available before the Application Submission period begins, and that labels will be checked for validity under IDNA. In this case, labels valid under the previous version of the protocol (IDNA2003) but not under IDNA will not meet this element of the requirements. Labels that are valid under both versions of the protocol will meet this element of the requirements. Labels valid under IDNA but not under IDNA2003 may meet the requirements; however, applicants are strongly advised to note that the duration of the transition period between the two protocols cannot presently be estimated nor guaranteed in any specific timeframe. The development of support for IDNA in the broader software applications environment will occur gradually. During that time, TLD labels that are valid under IDNA, but not under IDNA2003, will have limited functionality.

[n-guidelines.htm](#). This includes the following, non-exhaustive, list of limitations:

- 2.2.1 All code points in a single label must be taken from the same script as determined by the Unicode Standard Annex #24: Unicode Script Property (See <http://www.unicode.org/reports/tr24/>).
- 2.2.2 Exceptions to 2.2.1 are permissible for languages with established orthographies and conventions that require the commingled use of multiple scripts. However, even with this exception, visually confusable characters from different scripts will not be allowed to co-exist in a single set of permissible code points unless a corresponding policy and character table are clearly defined.

### **Part III - Policy Requirements for Generic Top-Level**

**Domains** – These requirements apply to all prospective top-level domain strings applied for as gTLDs.

- 3.1 Applied-for gTLD strings in ASCII must be composed of three or more visually distinct characters. Two-character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.
- 3.2 Applied-for gTLD strings in IDN scripts must be composed of two or more visually distinct characters in the script, as appropriate.<sup>5</sup> Note, however, that a two-character IDN string will not be approved if:
  - 3.2.1 It is visually similar to any one-character label (in any script); or
  - 3.2.2 It is visually similar to any possible two-character ASCII combination.

See the String Similarity review in subsection 2.2.1.1 for additional information on this requirement.

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<sup>5</sup> Note that the Joint ccNSO-GNSO IDN Working Group (JIG) has made recommendations that this section be revised to allow for single-character IDN gTLD labels. See the JIG Final Report at <http://gns0.icann.org/drafts/jig-final-report-30mar11-en.pdf>. Implementation models for these recommendations are being developed for community discussion.

#### 2.2.1.4 Geographic Names Review

Applications for gTLD strings must ensure that appropriate consideration is given to the interests of governments or public authorities in geographic names. The requirements and procedure ICANN will follow in the evaluation process are described in the following paragraphs. Applicants should review these requirements even if they do not believe their intended gTLD string is a geographic name. All applied-for gTLD strings will be reviewed according to the requirements in this section, regardless of whether the application indicates it is for a geographic name.

##### 2.2.1.4.1 Treatment of Country or Territory Names<sup>6</sup>

Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round. A string shall be considered to be a country or territory name if:

- i. it is an alpha-3 code listed in the ISO 3166-1 standard.
- ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language.
- iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language.
- iv. it is the short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency.
- v. it is a separable component of a country name designated on the “Separable Country Names List,” or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module.
- vi. it is a permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or

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<sup>6</sup> Country and territory names are excluded from the process based on advice from the Governmental Advisory Committee in recent communiqués providing interpretation of Principle 2.2 of the GAC Principles regarding New gTLDs to indicate that strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccPDP, and other geographic strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.

removal of grammatical articles like “the.” A transposition is considered a change in the sequence of the long or short-form name, for example, “RepublicCzech” or “IslandsCayman.”

- vii. it is a name by which a country is commonly known, as demonstrated by evidence that the country is recognized by that name by an intergovernmental or treaty organization.

#### 2.2.1.4.2 *Geographic Names Requiring Government Support*

The following types of applied-for strings are considered geographic names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

1. An application for any string that is a representation, in any language, of the capital city name of any country or territory listed in the ISO 3166-1 standard.
2. An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name.

City names present challenges because city names may also be generic terms or brand names, and in many cases city names are not unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired.

An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if:

- (a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and



- (b) The applied-for string is a city name as listed on official city documents.<sup>7</sup>
3. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard.
  4. An application for a string listed as a UNESCO region<sup>8</sup> or appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list.<sup>9</sup>

In the case of an application for a string appearing on either of the lists above, documentation of support will be required from at least 60% of the respective national governments in the region, and there may be no more than one written statement of objection to the application from relevant governments in the region and/or public authorities associated with the continent or the region.

Where the 60% rule is applied, and there are common regions on both lists, the regional composition contained in the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” takes precedence.

An applied-for gTLD string that falls into any of 1 through 4 listed above is considered to represent a geographic name. In the event of any doubt, it is in the applicant’s interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements.

Strings that include but do not match a geographic name (as defined in this section) will not be considered geographic names as defined by section 2.2.1.4.2, and therefore will not require documentation of government support in the evaluation process.

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<sup>7</sup> City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

<sup>8</sup> See <http://www.unesco.org/new/en/unesco/worldwide/>.

<sup>9</sup> See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>.

For each application, the Geographic Names Panel will determine which governments are relevant based on the inputs of the applicant, governments, and its own research and analysis. In the event that there is more than one relevant government or public authority for the applied-for gTLD string, the applicant must provide documentation of support or non-objection from all the relevant governments or public authorities. It is anticipated that this may apply to the case of a sub-national place name.

It is the applicant's responsibility to:

- identify whether its applied-for gTLD string falls into any of the above categories; and
- identify and consult with the relevant governments or public authorities; and
- identify which level of government support is required.

Note: the level of government and which administrative agency is responsible for the filing of letters of support or non-objection is a matter for each national administration to determine. Applicants should consult within the relevant jurisdiction to determine the appropriate level of support.

The requirement to include documentation of support for certain applications does not preclude or exempt applications from being the subject of objections on community grounds (refer to subsection 3.1.1 of Module 3), under which applications may be rejected based on objections showing substantial opposition from the targeted community.

#### **2.2.1.4.3 Documentation Requirements**

The documentation of support or non-objection should include a signed letter from the relevant government or public authority. Understanding that this will differ across the respective jurisdictions, the letter could be signed by the minister with the portfolio responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister or President of the relevant jurisdiction; or a senior representative of the agency or department responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister. To assist the applicant in determining who the relevant government or public authority may be for a potential geographic name, the applicant may wish to consult with the relevant

Governmental Advisory Committee (GAC) representative.<sup>10</sup>

The letter must clearly express the government's or public authority's support for or non-objection to the applicant's application and demonstrate the government's or public authority's understanding of the string being requested and its intended use.

The letter should also demonstrate the government's or public authority's understanding that the string is being sought through the gTLD application process and that the applicant is willing to accept the conditions under which the string will be available, i.e., entry into a registry agreement with ICANN requiring compliance with consensus policies and payment of fees. (See Module 5 for a discussion of the obligations of a gTLD registry operator.)

A sample letter of support is available as an attachment to this module.

Applicants and governments may conduct discussions concerning government support for an application at any time. Applicants are encouraged to begin such discussions at the earliest possible stage, and enable governments to follow the processes that may be necessary to consider, approve, and generate a letter of support or non-objection.

It is important to note that a government or public authority is under no obligation to provide documentation of support or non-objection in response to a request by an applicant.

It is also possible that a government may withdraw its support for an application at a later time, including after the new gTLD has been delegated, if the registry operator has deviated from the conditions of original support or non-objection. Applicants should be aware that ICANN has committed to governments that, in the event of a dispute between a government (or public authority) and a registry operator that submitted documentation of support from that government or public authority, **ICANN will comply with a legally binding order** from a court in the jurisdiction of the government or public authority that has given support to an application.

#### *2.2.1.4.4 Review Procedure for Geographic Names*

A Geographic Names Panel (GNP) will determine whether each applied-for gTLD string represents a geographic

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<sup>10</sup> See <https://gacweb.icann.org/display/gacweb/GAC+Members>

name, and verify the relevance and authenticity of the supporting documentation where necessary.

The GNP will review all applications received, not only those where the applicant has noted its applied-for gTLD string as a geographic name. For any application where the GNP determines that the applied-for gTLD string is a country or territory name (as defined in this module), the application will not pass the Geographic Names review and will be denied. No additional reviews will be available.

For any application where the GNP determines that the applied-for gTLD string is not a geographic name requiring government support (as described in this module), the application will pass the Geographic Names review with no additional steps required.

For any application where the GNP determines that the applied-for gTLD string is a geographic name requiring government support, the GNP will confirm that the applicant has provided the required documentation from the relevant governments or public authorities, and that the communication from the government or public authority is legitimate and contains the required content. ICANN may confirm the authenticity of the communication by consulting with the relevant diplomatic authorities or members of ICANN's Governmental Advisory Committee for the government or public authority concerned on the competent authority and appropriate point of contact within their administration for communications.

The GNP may communicate with the signing entity of the letter to confirm their intent and their understanding of the terms on which the support for an application is given.

In cases where an applicant has not provided the required documentation, the applicant will be contacted and notified of the requirement, and given a limited time frame to provide the documentation. If the applicant is able to provide the documentation before the close of the Initial Evaluation period, and the documentation is found to meet the requirements, the applicant will pass the Geographic Names review. If not, the applicant will have additional time to obtain the required documentation; however, if the applicant has not produced the required documentation by the required date (at least 90 calendar days from the date of notice), the application will be considered incomplete and will be ineligible for further review. The applicant may reapply in subsequent application rounds, if desired, subject to the fees and requirements of the specific application rounds.

If there is more than one application for a string representing a certain geographic name as described in this section, and the applications have requisite government approvals, the applications will be suspended pending resolution by the applicants. If the applicants have not reached a resolution by either the date of the end of the application round (as announced by ICANN), or the date on which ICANN opens a subsequent application round, whichever comes first, the applications will be rejected and applicable refunds will be available to applicants according to the conditions described in section 1.5.

However, in the event that a contention set is composed of multiple applications with documentation of support from the same government or public authority, the applications will proceed through the contention resolution procedures described in Module 4 when requested by the government or public authority providing the documentation.

If an application for a string representing a geographic name is in a contention set with applications for similar strings that have not been identified as geographical names, the string contention will be resolved using the string contention procedures described in Module 4.

## *2.2.2 Applicant Reviews*

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Concurrent with the applied-for gTLD string reviews described in subsection 2.2.1, ICANN will review the applicant's technical and operational capability, its financial capability, and its proposed registry services. Those reviews are described in greater detail in the following subsections.

### *2.2.2.1 Technical/Operational Review*

In its application, the applicant will respond to a set of questions (see questions 24 – 44 in the Application Form) intended to gather information about the applicant's technical capabilities and its plans for operation of the proposed gTLD.

Applicants are not required to have deployed an actual gTLD registry to pass the Technical/Operational review. It will be necessary, however, for an applicant to demonstrate a clear understanding and accomplishment of some groundwork toward the key technical and operational aspects of a gTLD registry operation. Subsequently, each applicant that passes the technical evaluation and all other steps will be required to complete

a pre-delegation technical test prior to delegation of the new gTLD. Refer to Module 5, Transition to Delegation, for additional information.

### *2.2.2.2 Financial Review*

In its application, the applicant will respond to a set of questions (see questions 45-50 in the Application Form) intended to gather information about the applicant's financial capabilities for operation of a gTLD registry and its financial planning in preparation for long-term stability of the new gTLD.

Because different registry types and purposes may justify different responses to individual questions, evaluators will pay particular attention to the consistency of an application across all criteria. For example, an applicant's scaling plans identifying system hardware to ensure its capacity to operate at a particular volume level should be consistent with its financial plans to secure the necessary equipment. That is, the evaluation criteria scale with the applicant plans to provide flexibility.

### *2.2.2.3 Evaluation Methodology*

Dedicated technical and financial evaluation panels will conduct the technical/operational and financial reviews, according to the established criteria and scoring mechanism included as an attachment to this module. These reviews are conducted on the basis of the information each applicant makes available to ICANN in its response to the questions in the Application Form.

The evaluators may request clarification or additional information during the Initial Evaluation period. For each application, clarifying questions will be consolidated and sent to the applicant from each of the panels. The applicant will thus have an opportunity to clarify or supplement the application in those areas where a request is made by the evaluators. These communications will occur via TAS. Unless otherwise noted, such communications will include a 2-week deadline for the applicant to respond. Any supplemental information provided by the applicant will become part of the application.

It is the applicant's responsibility to ensure that the questions have been fully answered and the required documentation is attached. Evaluators are entitled, but not obliged, to request further information or evidence from an applicant, and are not obliged to take into account any information or evidence that is not made

available in the application and submitted by the due date, unless explicitly requested by the evaluators.

### 2.2.3 Registry Services Review

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Concurrent with the other reviews that occur during the Initial Evaluation period, ICANN will review the applicant's proposed registry services for any possible adverse impact on security or stability. The applicant will be required to provide a list of proposed registry services in its application.

#### 2.2.3.1 Definitions

**Registry services** are defined as:

1. operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry zone servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by the registry agreement;
2. other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and
3. any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator.

Proposed registry services will be examined to determine if they might raise significant stability or security issues. Examples of services proposed by existing registries can be found at <http://www.icann.org/en/registries/rsep/>. In most cases, these proposed services successfully pass this inquiry.

Registry services currently provided by gTLD registries can be found in registry agreement appendices. See <http://www.icann.org/en/registries/agreements.htm>.

A full definition of registry services can be found at <http://www.icann.org/en/registries/rsep/rsep.html>.

For purposes of this review, security and stability are defined as follows:

**Security** – an effect on security by the proposed registry service means (1) the unauthorized disclosure, alteration, insertion or destruction of registry data, or (2) the unauthorized access to or disclosure of information or

resources on the Internet by systems operating in accordance with all applicable standards.

**Stability** – an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF, or (2) creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant standards-track or best current practice RFCs and relying on registry operator’s delegation information or provisioning services.

### 2.2.3.2 Customary Services

The following registry services are customary services offered by a registry operator:

- Receipt of data from registrars concerning registration of domain names and name servers
- Dissemination of TLD zone files
- Dissemination of contact or other information concerning domain name registrations (e.g., port-43 WHOIS, Web-based Whois, RESTful Whois)
- DNS Security Extensions

The applicant must describe whether any of these registry services are intended to be offered in a manner unique to the TLD.

Any additional registry services that are unique to the proposed gTLD registry should be described in detail. Directions for describing the registry services are provided at [http://www.icann.org/en/registries/rsep/rrs\\_sample.html](http://www.icann.org/en/registries/rsep/rrs_sample.html).

### 2.2.3.3 TLD Zone Contents

ICANN receives a number of inquiries about use of various record types in a registry zone, as entities contemplate different business and technical models. Permissible zone contents for a TLD zone are:

- Apex SOA record.
- Apex NS records and in-bailiwick glue for the TLD’s DNS servers.



- NS records and in-balliwick glue for DNS servers of registered names in the TLD.
- DS records for registered names in the TLD.
- Records associated with signing the TLD zone (i.e., RRSIG, DNSKEY, NSEC, and NSEC3).

An applicant wishing to place any other record types into its TLD zone should describe in detail its proposal in the registry services section of the application. This will be evaluated and could result in an extended evaluation to determine whether the service would create a risk of a meaningful adverse impact on security or stability of the DNS. Applicants should be aware that a service based on use of less-common DNS resource records in the TLD zone, even if approved in the registry services review, might not work as intended for all users due to lack of application support.

#### *2.2.3.4 Methodology*

Review of the applicant's proposed registry services will include a preliminary determination of whether any of the proposed registry services could raise significant security or stability issues and require additional consideration.

If the preliminary determination reveals that there may be significant security or stability issues (as defined in subsection 2.2.3.1) surrounding a proposed service, the application will be flagged for an extended review by the Registry Services Technical Evaluation Panel (RSTEP), see <http://www.icann.org/en/registries/rsep/rstep.html>. This review, if applicable, will occur during the Extended Evaluation period (refer to Section 2.3).

In the event that an application is flagged for extended review of one or more registry services, an additional fee to cover the cost of the extended review will be due from the applicant. Applicants will be advised of any additional fees due, which must be received before the additional review begins.

#### *2.2.4 Applicant's Withdrawal of an Application*

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An applicant who does not pass the Initial Evaluation may withdraw its application at this stage and request a partial refund (refer to subsection 1.5 of Module 1).

## 2.3 *Extended Evaluation*

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An applicant may request an Extended Evaluation if the application has failed to pass the Initial Evaluation elements concerning:

- Geographic names (refer to subsection 2.2.1.4). There is no additional fee for an extended evaluation in this instance.
- Demonstration of technical and operational capability (refer to subsection 2.2.2.1). There is no additional fee for an extended evaluation in this instance.
- Demonstration of financial capability (refer to subsection 2.2.2.2). There is no additional fee for an extended evaluation in this instance.
- Registry services (refer to subsection 2.2.3). Note that this investigation incurs an additional fee (the Registry Services Review Fee) if the applicant wishes to proceed. See Section 1.5 of Module 1 for fee and payment information.

An Extended Evaluation does not imply any change of the evaluation criteria. The same criteria used in the Initial Evaluation will be used to review the application in light of clarifications provided by the applicant.

From the time an applicant receives notice of failure to pass the Initial Evaluation, eligible applicants will have 15 calendar days to submit to ICANN the Notice of Request for Extended Evaluation. If the applicant does not explicitly request the Extended Evaluation (and pay an additional fee in the case of a Registry Services inquiry) the application will not proceed.

### 2.3.1 *Geographic Names Extended Evaluation*

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In the case of an application that has been identified as a geographic name requiring government support, but where the applicant has not provided sufficient evidence of support or non-objection from all relevant governments or public authorities by the end of the Initial Evaluation period, the applicant has additional time in the Extended Evaluation period to obtain and submit this documentation.

If the applicant submits the documentation to the Geographic Names Panel by the required date, the GNP will perform its review of the documentation as detailed in

section 2.2.1.4. If the applicant has not provided the documentation by the required date (at least 90 calendar days from the date of the notice), the application will not pass the Extended Evaluation, and no further reviews are available.

### ***2.3.2 Technical/Operational or Financial Extended Evaluation***

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The following applies to an Extended Evaluation of an applicant's technical and operational capability or financial capability, as described in subsection 2.2.2.

An applicant who has requested Extended Evaluation will again access the online application system (TAS) and clarify its answers to those questions or sections on which it received a non-passing score (or, in the case of an application where individual questions were passed but the total score was insufficient to pass Initial Evaluation, those questions or sections on which additional points are possible). The answers should be responsive to the evaluator report that indicates the reasons for failure, or provide any amplification that is not a material change to the application. Applicants may not use the Extended Evaluation period to substitute portions of new information for the information submitted in their original applications, i.e., to materially change the application.

An applicant participating in an Extended Evaluation on the Technical / Operational or Financial reviews will have the option to have its application reviewed by the same evaluation panelists who performed the review during the Initial Evaluation period, or to have a different set of panelists perform the review during Extended Evaluation.

The Extended Evaluation allows an additional exchange of information between the evaluators and the applicant to further clarify information contained in the application. This supplemental information will become part of the application record. Such communications will include a deadline for the applicant to respond.

ICANN will notify applicants at the end of the Extended Evaluation period as to whether they have passed. If an application passes Extended Evaluation, it continues to the next stage in the process. If an application does not pass Extended Evaluation, it will proceed no further. No further reviews are available.

### ***2.3.3 Registry Services Extended Evaluation***

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This section applies to Extended Evaluation of registry services, as described in subsection 2.2.3.

If a proposed registry service has been referred to the Registry Services Technical Evaluation Panel (RSTEP) for an extended review, the RSTEP will form a review team of members with the appropriate qualifications.

The review team will generally consist of three members, depending on the complexity of the registry service proposed. In a 3-member panel, the review could be conducted within 30 to 45 calendar days. In cases where a 5-member panel is needed, this will be identified before the extended evaluation starts. In a 5-member panel, the review could be conducted in 45 calendar days or fewer.

The cost of an RSTEP review will be covered by the applicant through payment of the Registry Services Review Fee. Refer to payment procedures in section 1.5 of Module 1. The RSTEP review will not commence until payment has been received.

If the RSTEP finds that one or more of the applicant's proposed registry services may be introduced without risk of a meaningful adverse effect on security or stability, these services will be included in the applicant's registry agreement with ICANN. If the RSTEP finds that the proposed service would create a risk of a meaningful adverse effect on security or stability, the applicant may elect to proceed with its application without the proposed service, or withdraw its application for the gTLD. In this instance, an applicant has 15 calendar days to notify ICANN of its intent to proceed with the application. If an applicant does not explicitly provide such notice within this time frame, the application will proceed no further.

## ***2.4 Parties Involved in Evaluation***

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A number of independent experts and groups play a part in performing the various reviews in the evaluation process. A brief description of the various panels, their evaluation roles, and the circumstances under which they work is included in this section.

### 2.4.1 Panels and Roles

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The **String Similarity Panel** will assess whether a proposed gTLD string creates a probability of user confusion due to similarity with any reserved name, any existing TLD, any requested IDN ccTLD, or any new gTLD string applied for in the current application round. This occurs during the String Similarity review in Initial Evaluation. The panel may also review IDN tables submitted by applicants as part of its work.

The **DNS Stability Panel** will determine whether a proposed string might adversely affect the security or stability of the DNS. This occurs during the DNS Stability String review in Initial Evaluation.

The **Geographic Names Panel** will review each application to determine whether the applied-for gTLD represents a geographic name, as defined in this guidebook. In the event that the string is a geographic name requiring government support, the panel will ensure that the required documentation is provided with the application and verify that the documentation is from the relevant governments or public authorities and is authentic.

The **Technical Evaluation Panel** will review the technical components of each application against the criteria in the Applicant Guidebook, along with proposed registry operations, in order to determine whether the applicant is technically and operationally capable of operating a gTLD registry as proposed in the application. This occurs during the Technical/Operational reviews in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Financial Evaluation Panel** will review each application against the relevant business, financial and organizational criteria contained in the Applicant Guidebook, to determine whether the applicant is financially capable of maintaining a gTLD registry as proposed in the application. This occurs during the Financial review in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Registry Services Technical Evaluation Panel (RSTEP)** will review proposed registry services in the application to determine if they pose a risk of a meaningful adverse impact on security or stability. This occurs, if applicable, during the Extended Evaluation period.

Members of all panels are required to abide by the established Code of Conduct and Conflict of Interest guidelines included in this module.

#### *2.4.2 Panel Selection Process*

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ICANN has selected qualified third-party providers to perform the various reviews, based on an extensive selection process.<sup>11</sup> In addition to the specific subject matter expertise required for each panel, specified qualifications are required, including:

- The provider must be able to convene – or have the capacity to convene - globally diverse panels and be able to evaluate applications from all regions of the world, including applications for IDN gTLDs.
- The provider should be familiar with the IETF IDNA standards, Unicode standards, relevant RFCs and the terminology associated with IDNs.
- The provider must be able to scale quickly to meet the demands of the evaluation of an unknown number of applications. At present it is not known how many applications will be received, how complex they will be, and whether they will be predominantly for ASCII or non-ASCII gTLDs.
- The provider must be able to evaluate the applications within the required timeframes of Initial and Extended Evaluation.

#### *2.4.3 Code of Conduct Guidelines for Panelists*

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The purpose of the New gTLD Program (“Program”) Code of Conduct (“Code”) is to prevent real and apparent conflicts of interest and unethical behavior by any Evaluation Panelist (“Panelist”).

Panelists shall conduct themselves as thoughtful, competent, well prepared, and impartial professionals throughout the application process. Panelists are expected to comply with equity and high ethical standards while assuring the Internet community, its constituents, and the public of objectivity, integrity, confidentiality, and credibility. Unethical actions, or even the appearance of compromise, are not acceptable. Panelists are expected

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<sup>11</sup> <http://newgtlds.icann.org/about/evaluation-panels-selection-process>

to be guided by the following principles in carrying out their respective responsibilities. This Code is intended to summarize the principles and nothing in this Code should be considered as limiting duties, obligations or legal requirements with which Panelists must comply.

**Bias** -- Panelists shall:

- not advance personal agendas or non-ICANN approved agendas in the evaluation of applications;
- examine facts as they exist and not be influenced by past reputation, media accounts, or unverified statements about the applications being evaluated;
- exclude themselves from participating in the evaluation of an application if, to their knowledge, there is some predisposing factor that could prejudice them with respect to such evaluation; and
- exclude themselves from evaluation activities if they are philosophically opposed to or are on record as having made generic criticism about a specific type of applicant or application.

**Compensation/Gifts** -- Panelists shall not request or accept any compensation whatsoever or any gifts of substance from the Applicant being reviewed or anyone affiliated with the Applicant. (Gifts of substance would include any gift greater than USD 25 in value).

If the giving of small tokens is important to the Applicant's culture, Panelists may accept these tokens; however, the total of such tokens must not exceed USD 25 in value. If in doubt, the Panelist should err on the side of caution by declining gifts of any kind.

**Conflicts of Interest** -- Panelists shall act in accordance with the "New gTLD Program Conflicts of Interest Guidelines" (see subsection 2.4.3.1).

**Confidentiality** -- Confidentiality is an integral part of the evaluation process. Panelists must have access to sensitive information in order to conduct evaluations. Panelists must maintain confidentiality of information entrusted to them by ICANN and the Applicant and any other confidential information provided to them from whatever source,

except when disclosure is legally mandated or has been authorized by ICANN. "Confidential information" includes all elements of the Program and information gathered as part of the process – which includes but is not limited to: documents, interviews, discussions, interpretations, and analyses – related to the review of any new gTLD application.

**Affirmation** -- All Panelists shall read this Code prior to commencing evaluation services and shall certify in writing that they have done so and understand the Code.

#### **2.4.3.1 Conflict of Interest Guidelines for Panelists**

It is recognized that third-party providers may have a large number of employees in several countries serving numerous clients. In fact, it is possible that a number of Panelists may be very well known within the registry / registrar community and have provided professional services to a number of potential applicants.

To safeguard against the potential for inappropriate influence and ensure applications are evaluated in an objective and independent manner, ICANN has established detailed Conflict of Interest guidelines and procedures that will be followed by the Evaluation Panelists. To help ensure that the guidelines are appropriately followed ICANN will:

- Require each Evaluation Panelist (provider and individual) to acknowledge and document understanding of the Conflict of Interest guidelines.
- Require each Evaluation Panelist to disclose all business relationships engaged in at any time during the past six months.
- Where possible, identify and secure primary and backup providers for evaluation panels.
- In conjunction with the Evaluation Panelists, develop and implement a process to identify conflicts and re-assign applications as appropriate to secondary or contingent third party providers to perform the reviews.

**Compliance Period** -- All Evaluation Panelists must comply with the Conflict of Interest guidelines beginning with the opening date of the Application Submission period and ending with the public announcement by ICANN of the



final outcomes of all the applications from the Applicant in question.

**Guidelines** -- The following guidelines are the minimum standards with which all Evaluation Panelists must comply. It is recognized that it is impossible to foresee and cover all circumstances in which a potential conflict of interest might arise. In these cases the Evaluation Panelist should evaluate whether the existing facts and circumstances would lead a reasonable person to conclude that there is an actual conflict of interest.

Evaluation Panelists and Immediate Family Members:

- Must not be under contract, have or be included in a current proposal to provide Professional Services for or on behalf of the Applicant during the Compliance Period.
- Must not currently hold or be committed to acquire any interest in a privately-held Applicant.
- Must not currently hold or be committed to acquire more than 1% of any publicly listed Applicant's outstanding equity securities or other ownership interests.
- Must not be involved or have an interest in a joint venture, partnership or other business arrangement with the Applicant.
- Must not have been named in a lawsuit with or against the Applicant.
- Must not be a:
  - Director, officer, or employee, or in any capacity equivalent to that of a member of management of the Applicant;
  - Promoter, underwriter, or voting trustee of the Applicant; or
  - Trustee for any pension or profit-sharing trust of the Applicant.

**Definitions--**

Evaluation Panelist: An Evaluation Panelist is any individual associated with the review of an application. This includes

any primary, secondary, and contingent third party Panelists engaged by ICANN to review new gTLD applications.

Immediate Family Member: Immediate Family Member is a spouse, spousal equivalent, or dependent (whether or not related) of an Evaluation Panelist.

Professional Services: include, but are not limited to legal services, financial audit, financial planning / investment, outsourced services, consulting services such as business / management / internal audit, tax, information technology, registry / registrar services.

#### ***2.4.3.2 Code of Conduct Violations***

Evaluation panelist breaches of the Code of Conduct, whether intentional or not, shall be reviewed by ICANN, which may make recommendations for corrective action, if deemed necessary. Serious breaches of the Code may be cause for dismissal of the person, persons or provider committing the infraction.

In a case where ICANN determines that a Panelist has failed to comply with the Code of Conduct, the results of that Panelist's review for all assigned applications will be discarded and the affected applications will undergo a review by new panelists.

Complaints about violations of the Code of Conduct by a Panelist may be brought to the attention of ICANN via the public comment and applicant support mechanisms, throughout the evaluation period. Concerns of applicants regarding panels should be communicated via the defined support channels (see subsection 1.4.2). Concerns of the general public (i.e., non-applicants) can be raised via the public comment forum, as described in Module 1.

#### ***2.4.4 Communication Channels***

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Defined channels for technical support or exchanges of information with ICANN and with evaluation panels are available to applicants during the Initial Evaluation and Extended Evaluation periods. Contacting individual ICANN staff members, Board members, or individuals engaged by ICANN to perform an evaluation role in order to lobby for a particular outcome or to obtain confidential information about applications under review is not appropriate. In the interests of fairness and equivalent treatment for all applicants, any such individual contacts will be referred to the appropriate communication channels.

# DRAFT - New gTLD Program – Initial Evaluation and Extended Evaluation



Application is confirmed as complete and ready for evaluation during Administrative Completeness Check

**Background Screening**  
Third-party provider reviews applicant's background.

**Initial Evaluation – String Review**

**Initial Evaluation – Applicant Review**

**String Similarity**  
String Similarity Panel reviews applied-for strings to ensure they are not too similar to existing TLDs or Reserved Names.

**DNS Stability**  
All strings reviewed and in extraordinary cases, DNS Stability Panel may perform extended review for possible technical stability issues.

**Geographic Names**  
Geographic Names Panel determines if applied-for string is geographic name requiring government support.

**Technical and Operational Capability**  
Technical and Operational panel reviews applicant's answers to questions and supporting documentation.

**Financial Capability**  
Financial panel reviews applicant's answers to questions and supporting documentation.

**Registry Services**  
Preliminary review of applicant's registry services and referral to RSTEP for further review during Extended Evaluation where necessary

Panel compares all applied-for strings and creates contention sets.

Panel confirms supporting documentation where required.

ICANN will seek to publish contention sets prior to publication of full IE results.

Does applicant pass all elements of Initial Evaluation?

Applicant elects to pursue **Extended Evaluation**?

Extended Evaluation process

Applicant continues to subsequent steps.

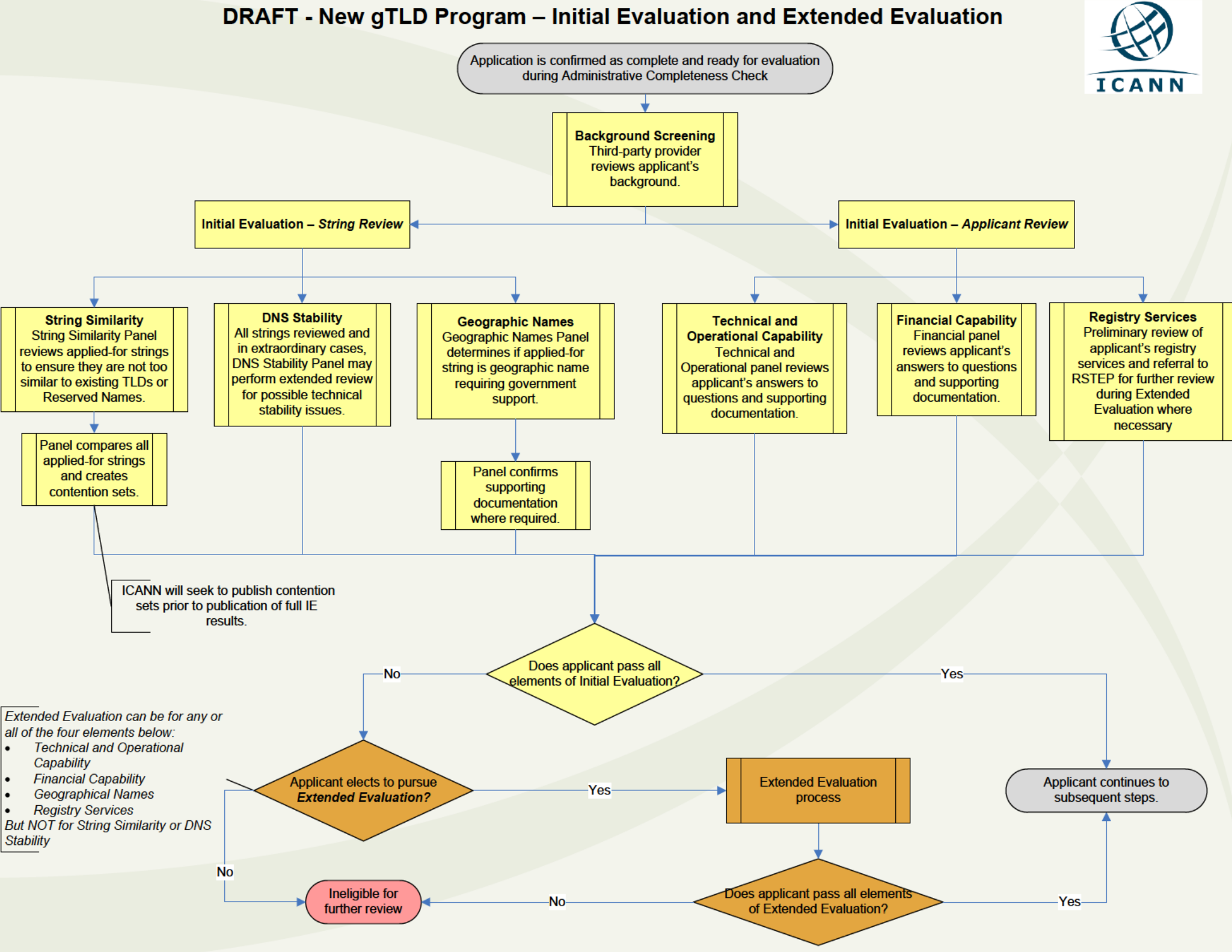
Ineligible for further review

Does applicant pass all elements of Extended Evaluation?

Extended Evaluation can be for any or all of the four elements below:

- Technical and Operational Capability
- Financial Capability
- Geographical Names
- Registry Services

But NOT for String Similarity or DNS Stability



## Annex: Separable Country Names List

gTLD application restrictions on country or territory names are tied to listing in property fields of the ISO 3166-1 standard. Notionally, the ISO 3166-1 standard has an “English short name” field which is the common name for a country and can be used for such protections; however, in some cases this does not represent the common name. This registry seeks to add additional protected elements which are derived from definitions in the ISO 3166-1 standard. An explanation of the various classes is included below.

Separable Country Names List

Code	English Short Name	Cl.	Separable Name
ax	Åland Islands	B1	Åland
as	American Samoa	C	Tutuila
		C	Swain's Island
ao	Angola	C	Cabinda
ag	Antigua and Barbuda	A	Antigua
		A	Barbuda
		C	Redonda Island
au	Australia	C	Lord Howe Island
		C	Macquarie Island
		C	Ashmore Island
		C	Cartier Island
		C	Coral Sea Islands
bo	Bolivia, Plurinational State of	B1	Bolivia
bq	Bonaire, Sint Eustatius and Saba	A	Bonaire
		A	Sint Eustatius
		A	Saba
ba	Bosnia and Herzegovina	A	Bosnia
		A	Herzegovina
br	Brazil	C	Fernando de Noronha Island
		C	Martim Vaz Islands
		C	Trinidad Island
io	British Indian Ocean Territory	C	Chagos Archipelago
		C	Diego Garcia
bn	Brunei Darussalam	B1	Brunei
		C	Negara Brunei Darussalam
cv	Cape Verde	C	São Tiago
		C	São Vicente
ky	Cayman Islands	C	Grand Cayman
cl	Chile	C	Easter Island
		C	Juan Fernández Islands
		C	Sala y Gómez Island
		C	San Ambrosio Island
		C	San Félix Island
cc	Cocos (Keeling) Islands	A	Cocos Islands
		A	Keeling Islands
co	Colombia	C	Malpelo Island
		C	San Andrés Island
		C	Providencia Island
km	Comoros	C	Anjouan
		C	Grande Comore
		C	Mohéli
ck	Cook Islands	C	Rarotonga
cr	Costa Rica	C	Coco Island
ec	Ecuador	C	Galápagos Islands
gq	Equatorial Guinea	C	Annobón Island
		C	Bioko Island

		C	Rio Muni
fk	Falkland Islands (Malvinas)	B1	Falkland Islands
		B1	Malvinas
fo	Faroe Islands	A	Faroe
fj	Fiji	C	Vanua Levu
		C	Viti Levu
		C	Rotuma Island
pf	French Polynesia	C	Austral Islands
		C	Gambier Islands
		C	Marquesas Islands
		C	Society Archipelago
		C	Tahiti
		C	Tuamotu Islands
		C	Clipperton Island
tf	French Southern Territories	C	Amsterdam Islands
		C	Crozet Archipelago
		C	Kerguelen Islands
		C	Saint Paul Island
gr	Greece	C	Mount Athos
		B1	**
gd	Grenada	C	Southern Grenadine Islands
		C	Carriacou
gp	Guadeloupe	C	la Désirade
		C	Marie-Galante
		C	les Saintes
hm	Heard Island and McDonald Islands	A	Heard Island
		A	McDonald Islands
va	Holy See (Vatican City State)	A	Holy See
		A	Vatican
hn	Honduras	C	Swan Islands
in	India	C	Amindivi Islands
		C	Andaman Islands
		C	Laccadive Islands
		C	Minicoy Island
		C	Nicobar Islands
ir	Iran, Islamic Republic of	B1	Iran
ki	Kiribati	C	Gilbert Islands
		C	Tarawa
		C	Banaba
		C	Line Islands
		C	Kiritimati
		C	Phoenix Islands
		C	Abariringa
		C	Enderbury Island
kp	Korea, Democratic People's Republic of	C	North Korea
kr	Korea, Republic of	C	South Korea
la	Lao People's Democratic Republic	B1	Laos
mk	Macedonia, the Former Yugoslav Republic of	B1	**
my	Malaysia	C	Sabah
		C	Sarawak
mh	Marshall Islands	C	Jaluit
			Kwajalein
			Majuro
mu	Mauritius	C	Agalega Islands
		C	Cargados Carajos Shoals
		C	Rodrigues Island
fm	Micronesia, Federated States of	B1	Micronesia

		C	Caroline Islands (see also pw)
		C	Chuuk
		C	Kosrae
		C	Pohnpei
		C	Yap
md	Moldova, Republic of	B1	Moldova
		C	Moldava
nc	New Caledonia	C	Loyalty Islands
mp	Northern Mariana Islands	C	Mariana Islands
		C	Saipan
om	Oman	C	Musandam Peninsula
pw	Palau	C	Caroline Islands (see also fm)
		C	Babelthuap
ps	Palestinian Territory, Occupied	B1	Palestine
pg	Papua New Guinea	C	Bismarck Archipelago
		C	Northern Solomon Islands
		C	Bougainville
pn	Pitcairn	C	Ducie Island
		C	Henderson Island
		C	Oeno Island
re	Réunion	C	Bassas da Índia
		C	Europa Island
		C	Glorioso Island
		C	Juan de Nova Island
		C	Tromelin Island
ru	Russian Federation	B1	Russia
		C	Kaliningrad Region
sh	Saint Helena, Ascension, and Tristan de Cunha	A	Saint Helena
		A	Ascension
		A	Tristan de Cunha
		C	Gough Island
		C	Tristan de Cunha Archipelago
kn	Saint Kitts and Nevis	A	Saint Kitts
		A	Nevis
pm	Saint Pierre and Miquelon	A	Saint Pierre
		A	Miquelon
vc	Saint Vincent and the Grenadines	A	Saint Vincent
		A	The Grenadines
		C	Northern Grenadine Islands
		C	Bequia
		C	Saint Vincent Island
ws	Samoa	C	Savai'i
		C	Upolu
st	Sao Tome and Principe	A	Sao Tome
		A	Principe
sc	Seychelles	C	Mahé
		C	Aldabra Islands
		C	Amirante Islands
		C	Cosmoledo Islands
		C	Farquhar Islands
sb	Solomon Islands	C	Santa Cruz Islands
		C	Southern Solomon Islands
		C	Guadalcanal
za	South Africa	C	Marion Island
		C	Prince Edward Island
gs	South Georgia and the South Sandwich Islands	A	South Georgia
		A	South Sandwich Islands

sj	Svalbard and Jan Mayen	A	Svalbard
		A	Jan Mayen
		C	Bear Island
sy	Syrian Arab Republic	B1	Syria
tw	Taiwan, Province of China	B1	Taiwan
		C	Penghu Islands
		C	Pescadores
tz	Tanzania, United Republic of	B1	Tanzania
tl	Timor-Leste	C	Oecussi
to	Tonga	C	Tongatapu
tt	Trinidad and Tobago	A	Trinidad
		A	Tobago
tc	Turks and Caicos Islands	A	Turks Islands
		A	Caicos Islands
tv	Tuvalu	C	Fanafuti
ae	United Arab Emirates	B1	Emirates
us	United States	B2	America
um	United States Minor Outlying Islands	C	Baker Island
		C	Howland Island
		C	Jarvis Island
		C	Johnston Atoll
		C	Kingman Reef
		C	Midway Islands
		C	Palmyra Atoll
		C	Wake Island
		C	Navassa Island
vu	Vanuatu	C	Efate
		C	Santo
ve	Venezuela, Bolivarian Republic of	B1	Venezuela
		C	Bird Island
vg	Virgin Islands, British	B1	Virgin Islands
		C	Anegada
		C	Jost Van Dyke
		C	Tortola
		C	Virgin Gorda
vi	Virgin Islands, US	B1	Virgin Islands
		C	Saint Croix
		C	Saint John
		C	Saint Thomas
wf	Wallis and Futuna	A	Wallis
		A	Futuna
		C	Hoorn Islands
		C	Wallis Islands
		C	Uvea
ye	Yemen	C	Socotra Island

## Maintenance

A Separable Country Names Registry will be maintained and published by ICANN Staff.

Each time the ISO 3166-1 standard is updated with a new entry, this registry will be reappraised to identify if the changes to the standard warrant changes to the entries in this registry. Appraisal will be based on the criteria listing in the "Eligibility" section of this document.

Codes reserved by the ISO 3166 Maintenance Agency do not have any implication on this registry, only entries derived from normally assigned codes appearing in ISO 3166-1 are eligible.

If an ISO code is struck off the ISO 3166-1 standard, any entries in this registry deriving from that code must be struck.

## Eligibility

Each record in this registry is derived from the following possible properties:

- Class A:** The ISO 3166-1 English Short Name is comprised of multiple, separable parts whereby the country is comprised of distinct sub-entities. Each of these separable parts is eligible in its own right for consideration as a country name. For example, "Antigua and Barbuda" is comprised of "Antigua" and "Barbuda."
- Class B:** The ISO 3166-1 English Short Name (1) or the ISO 3166-1 English Full Name (2) contains additional language as to the type of country the entity is, which is often not used in common usage when referencing the country. For example, one such short name is "The Bolivarian Republic of Venezuela" for a country in common usage referred to as "Venezuela."
- \*\* Macedonia is a separable name in the context of this list; however, due to the ongoing dispute listed in UN documents between the Hellenic Republic (Greece) and the Former Yugoslav Republic of Macedonia over the name, no country will be afforded attribution or rights to the name "Macedonia" until the dispute over the name has been resolved. See <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/240/37/IMG/N9324037.pdf>.
- Class C:** The ISO 3166-1 Remarks column containing synonyms of the country name, or sub-national entities, as denoted by "often referred to as," "includes", "comprises", "variant" or "principal islands".

In the first two cases, the registry listing must be directly derivative from the English Short Name by excising words and articles. These registry listings do not include vernacular or other non-official terms used to denote the country.

Eligibility is calculated in class order. For example, if a term can be derived both from Class A and Class C, it is only listed as Class A.



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# *Attachment to Module 2*

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## *Sample Letter of Government Support*

**[This letter should be provided on official letterhead]**

ICANN  
Suite 330, 4676 Admiralty Way  
Marina del Rey, CA 90292

Attention: New gTLD Evaluation Process

Subject: Letter for support for [TLD requested]

This letter is to confirm that [government entity] fully supports the application for [TLD] submitted to ICANN by [applicant] in the New gTLD Program. As the [Minister/Secretary/position] I confirm that I have the authority of the [x government/public authority] to be writing to you on this matter. [Explanation of government entity, relevant department, division, office, or agency, and what its functions and responsibilities are]

The gTLD will be used to [explain your understanding of how the name will be used by the applicant. This could include policies developed regarding who can register a name, pricing regime and management structures.] [Government/public authority/department] has worked closely with the applicant in the development of this proposal.

The [x government/public authority] supports this application, and in doing so, understands that in the event that the application is successful, [applicant] will be required to enter into a Registry Agreement with ICANN. In doing so, they will be required to pay fees to ICANN and comply with consensus policies developed through the ICANN multi-stakeholder policy processes.

[Government / public authority] further understands that, in the event of a dispute between [government/public authority] and the applicant, ICANN will comply with a legally binding order from a court in the jurisdiction of [government/public authority].

**[Optional]** This application is being submitted as a community-based application, and as such it is understood that the Registry Agreement will reflect the community restrictions proposed in the application. In the event that we believe the registry is not complying with these restrictions, possible avenues of recourse include the Registry Restrictions Dispute Resolution Procedure.

**[Optional]** I can advise that in the event that this application is successful [government/public authority] will enter into a separate agreement with the applicant. This agreement will outline the conditions under which we support them in the operation of the TLD, and circumstances under which we would withdraw that support. ICANN will not be a party to this agreement, and enforcement of this agreement lies fully with [government/public authority].

[Government / public authority] understands that the Geographic Names Panel engaged by ICANN will, among other things, conduct due diligence on the authenticity of this documentation. I would request that if additional information is required during this process, that [name and contact details] be contacted in the first instance.

Thank you for the opportunity to support this application.

Yours sincerely

Signature from relevant government/public authority

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# *Attachment to Module 2*

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## *Evaluation Questions and Criteria*

Since ICANN was founded in 1998 as a not-for-profit, multi-stakeholder organization, one of its key mandates has been to promote competition in the domain name market. ICANN's mission specifically calls for the corporation to maintain and build on processes that will ensure competition and consumer interests – without compromising Internet security and stability. This includes the consideration and implementation of new gTLDs. It is ICANN's goal to make the criteria and evaluation as objective as possible.

While new gTLDs are viewed by ICANN as important to fostering choice, innovation and competition in domain registration services, the decision to launch these coming new gTLD application rounds followed a detailed and lengthy consultation process with all constituencies of the global Internet community.

Any public or private sector organization can apply to create and operate a new gTLD. However the process is not like simply registering or buying a second-level domain name. Instead, the application process is to evaluate and select candidates capable of running a registry, a business that manages top level domains such as, for example, .COM or .INFO. Any successful applicant will need to meet published operational and technical criteria in order to preserve Internet stability and interoperability.

### *I. Principles of the Technical and Financial New gTLD Evaluation Criteria*

- Principles of conservatism. This is the first round of what is to be an ongoing process for the introduction of new TLDs, including Internationalized Domain Names. Therefore, the criteria in this round require applicants to provide a thorough and thoughtful analysis of the technical requirements to operate a registry and the proposed business model.
- The criteria and evaluation should be as objective as possible.
  - With that goal in mind, an important objective of the new TLD process is to diversify the namespace, with different registry business models and target audiences. In some cases, criteria that are objective, but that ignore the differences in business models and target audiences of new registries, will tend to make the process exclusionary. For example, the business model for a registry targeted to a small community need not possess the same robustness in funding and technical infrastructure as a registry intending to compete with large gTLDs. Therefore purely objective criteria such as a requirement for a certain amount of cash on hand will not provide for the flexibility to consider different business models. The process must provide for an objective evaluation framework, but allow for adaptation according to the differing models applicants will present. Within that framework, applicant responses will be evaluated against the criteria in light of the proposed model.
  - Therefore the criteria should be flexible: able to scale with the overall business approach, providing that the planned approach is consistent and coherent, and can withstand highs and lows.

- Criteria can be objective in areas of registrant protection, for example:
  - Providing for funds to continue operations in the event of a registry failure.
  - Adherence to data escrow, registry failover, and continuity planning requirements.
- The evaluation must strike the correct balance between establishing the business and technical competence of the applicant to operate a registry (to serve the interests of registrants), while not asking for the detailed sort of information or making the judgment that a venture capitalist would. ICANN is not seeking to certify business success but instead seeks to encourage innovation while providing certain safeguards for registrants.
- New registries must be added in a way that maintains DNS stability and security. Therefore, ICANN asks several questions so that the applicant can demonstrate an understanding of the technical requirements to operate a registry. ICANN will ask the applicant to demonstrate actual operational technical compliance prior to delegation. This is in line with current prerequisites for the delegation of a TLD.
- Registrant protection is emphasized in both the criteria and the scoring. Examples of this include asking the applicant to:
  - Plan for the occurrence of contingencies and registry failure by putting in place financial resources to fund the ongoing resolution of names while a replacement operator is found or extended notice can be given to registrants,
  - Demonstrate a capability to understand and plan for business contingencies to afford some protections through the marketplace,
  - Adhere to DNS stability and security requirements as described in the technical section, and
  - Provide access to the widest variety of services.

## *II. Aspects of the Questions Asked in the Application and Evaluation Criteria*

The technical and financial questions are intended to inform and guide the applicant in aspects of registry start-up and operation. The established registry operator should find the questions straightforward while inexperienced applicants should find them a natural part of planning.

Evaluation and scoring (detailed below) will emphasize:

- How thorough are the answers? Are they well thought through and do they provide a sufficient basis for evaluation?
- Demonstration of the ability to operate and fund the registry on an ongoing basis:
  - Funding sources to support technical operations in a manner that ensures stability and security and supports planned expenses,
  - Resilience and sustainability in the face of ups and downs, anticipation of contingencies,
  - Funding to carry on operations in the event of failure.

- Demonstration that the technical plan will likely deliver on best practices for a registry and identification of aspects that might raise DNS stability and security issues.
- Ensures plan integration, consistency and compatibility (responses to questions are not evaluated individually but in comparison to others):
  - Funding adequately covers technical requirements,
  - Funding covers costs,
  - Risks are identified and addressed, in comparison to other aspects of the plan.

### *III. Scoring*

#### Evaluation

- The questions, criteria, scoring and evaluation methodology are to be conducted in accordance with the principles described earlier in section I. With that in mind, globally diverse evaluation panelists will staff evaluation panels. The diversity of evaluators and access to experts in all regions of the world will ensure application evaluations take into account cultural, technical and business norms in the regions from which applications originate.
- Evaluation teams will consist of two independent panels. One will evaluate the applications against the financial criteria. The other will evaluate the applications against the technical & operational criteria. Given the requirement that technical and financial planning be well integrated, the panels will work together and coordinate information transfer where necessary. Other relevant experts (e.g., technical, audit, legal, insurance, finance) in pertinent regions will provide advice as required.
- Precautions will be taken to ensure that no member of the Evaluation Teams will have any interest or association that may be viewed as a real or potential conflict of interest with an applicant or application. All members must adhere to the Code of Conduct and Conflict of Interest guidelines that are found in Module 2.
- Communications between the evaluation teams and the applicants will be through an online interface. During the evaluation, evaluators may pose a set of clarifying questions to an applicant, to which the applicant may respond through the interface.

Confidentiality: ICANN will post applications after the close of the application submission period. The application form notes which parts of the application will be posted.

#### Scoring

- Responses will be evaluated against each criterion. A score will be assigned according to the scoring schedule linked to each question or set of questions. In several questions, 1 point is the maximum score that may be awarded. In several other questions, 2 points are awarded for a response that exceeds requirements, 1 point is awarded for a response that meets requirements and 0 points are awarded for a response that fails to meet requirements. Each question must receive at least a score of "1," making each a "pass/fail" question.
- In the Continuity question in the financial section(see Question #50), up to 3 points are awarded if an applicant provides, at the application stage, a financial instrument that will guarantee ongoing registry operations in the event of a business failure. This extra

point can serve to guarantee passing the financial criteria for applicants who score the minimum passing score for each of the individual criteria. The purpose of this weighting is to reward applicants who make early arrangements for the protection of registrants and to accept relatively riskier business plans where registrants are protected.

- There are 21 Technical & Operational questions. Each question has a criterion and scoring associated with it. The scoring for each is 0, 1, or 2 points as described above. One of the questions (IDN implementation) is optional. Other than the optional questions, all Technical & Operational criteria must be scored a 1 or more or the application will fail the evaluation.
- The total technical score must be equal to or greater than 22 for the application to pass. That means the applicant can pass by:
  - Receiving a 1 on all questions, including the optional question, and a 2 on at least one mandatory question; or
  - Receiving a 1 on all questions, excluding the optional question and a 2 on at least two mandatory questions.

This scoring methodology requires a minimum passing score for each question and a slightly higher average score than the per question minimum to pass.

- There are six Financial questions and six sets of criteria that are scored by rating the answers to one or more of the questions. For example, the question concerning registry operation costs requires consistency between the technical plans (described in the answers to the Technical & Operational questions) and the costs (described in the answers to the costs question).
- The scoring for each of the Financial criteria is 0, 1 or 2 points as described above with the exception of the Continuity question, for which up to 3 points are possible. All questions must receive at least a 1 or the application will fail the evaluation.
- The total financial score on the six criteria must be 8 or greater for the application to pass. That means the applicant can pass by:
  - Scoring a 3 on the continuity criteria, or
  - Scoring a 2 on any two financial criteria.
- Applications that do not pass Initial Evaluation can enter into an extended evaluation process as described in Module 2. The scoring is the same.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
<b>Applicant Information</b>	1	Full legal name of the Applicant (the established entity that would enter into a Registry Agreement with ICANN)	Y	Responses to Questions 1 - 12 are required for a complete application. Responses are not scored.			
	2	Address of the principal place of business of the Applicant. This address will be used for contractual purposes. No Post Office boxes are allowed.	Y				
	3	Phone number for the Applicant's principal place of business.	Y				
	4	Fax number for the Applicant's principal place of business.	Y				
	5	Website or URL, if applicable.	Y				
<b>Primary Contact for this Application</b>	6	Name	Y	The primary contact is the individual designated with the primary responsibility for management of the application, including responding to tasks in the TLD Application System (TAS) during the various application phases. Both contacts listed should also be prepared to receive inquiries from the public.			
		Title	Y				
		Date of birth	N				
		Country of birth	N				
		Address	N				
		Phone number	Y				
		Fax number	Y				
		Email address	Y				
<b>Secondary Contact for this Application</b>	7	Name	Y	The secondary contact is listed in the event the primary contact is unavailable to continue with the application process.			
		Title	Y				
		Date of birth	N				
		Country of birth	N				
		Address	N				
		Phone number	Y				
		Fax number	Y				

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		Email address	Y				
<b>Proof of Legal Establishment</b>	8	(a) Legal form of the Applicant. (e.g., partnership, corporation, non-profit institution).	Y				
		(b) State the specific national or other jurisdiction that defines the type of entity identified in 8(a).	Y	In the event of questions regarding proof of establishment, the applicant may be asked for additional details, such as the specific national or other law applying to this type of entity			
		(c) Attach evidence of the applicant's establishment as the type of entity identified in Question 8(a) above, in accordance with the applicable laws identified in Question 8(b).	Y	Applications without valid proof of legal establishment will not be evaluated further. Supporting documentation for proof of legal establishment should be submitted in the original language.			
	9	(a) If the applying entity is publicly traded, provide the exchange and symbol.	Y				
		(b) If the applying entity is a subsidiary, provide the parent company.	Y				
		(c) If the applying entity is a joint venture, list all joint venture partners.	Y				
	10	Business ID, Tax ID, VAT registration number, or equivalent of the Applicant.	N				
<b>Applicant Background</b>	11	(a) Enter the full name, date and country of birth, contact information (permanent residence), and position of all directors (i.e., members of the applicant's Board of Directors, if applicable).	Partial	<p>Applicants should be aware that the names and positions of the individuals listed in response to this question will be published as part of the application. The contact information listed for individuals is for identification purposes only and will not be published as part of the application.</p> <p>Background checks may be conducted on individuals named in the applicant's response to question 11. Any material misstatement or misrepresentation (or omission of material information) may cause the application to be rejected.</p> <p>The applicant certifies that it has obtained permission for the posting of the names and positions of individuals included in this application.</p>			



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		(b) Enter the full name, date and country of birth, contact information (permanent residence), and position of all officers and partners. Officers are high-level management officials of a corporation or business, for example, a CEO, vice president, secretary, chief financial officer. Partners would be listed in the context of a partnership or other such form of legal entity.	Partial				
		(c) Enter the full name and contact information of all shareholders holding at least 15% of shares, and percentage held by each. For a shareholder entity, enter the principal place of business. For a shareholder individual, enter the date and country of birth and contact information (permanent residence).	Partial				
		(d) For an applying entity that does not have directors, officers, partners, or shareholders, enter the full name, date and country of birth, contact information (permanent residence), and position of all individuals having overall legal or executive responsibility for the applying entity.	Partial				
		(e) Indicate whether the applicant or any of the individuals named above: <ul style="list-style-type: none"> <li>i. within the past ten years, has been convicted of any crime related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that is the substantive equivalent of any of these;</li> <li>ii. within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of funds of others;</li> <li>iii. within the past ten years has been convicted of any willful tax-related fraud or willful evasion of tax liabilities;</li> <li>iv. within the past ten years has been convicted of perjury, forswearing, failing to cooperate with a law enforcement investigation, or making false statements to a law enforcement agency or representative;</li> </ul>	N	ICANN may deny an otherwise qualified application based on the background screening process. See section 1.2.1 of the guidebook.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>v. has ever been convicted of any crime involving the use of computers, telephony systems, telecommunications or the Internet to facilitate the commission of crimes;</p> <p>vi. has ever been convicted of any crime involving the use of a weapon, force, or the threat of force;</p> <p>vii. has ever been convicted of any violent or sexual offense victimizing children, the elderly, or individuals with disabilities;</p> <p>viii. has ever been convicted of the illegal sale, manufacture, or distribution of pharmaceutical drugs, or been convicted or successfully extradited for any offense described in Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;</p> <p>ix. has ever been convicted or successfully extradited for any offense described in the United Nations Convention against Transnational Organized Crime (all Protocols);</p> <p>x. has been convicted, within the respective timeframes, of aiding, abetting, facilitating, enabling, conspiring to commit, or failing to report any of the listed crimes (i.e., within the past 10 years for crimes listed in (i) - (iv) above, or ever for the crimes listed in (v) - (ix) above);</p> <p>xi. has entered a guilty plea as part of a plea agreement or has a court case in any jurisdiction with a disposition of Adjudicated Guilty or Adjudication Withheld (or regional equivalents) within the respective timeframes listed above for any of the listed crimes (i.e., within the past 10 years for crimes listed in (i) - (iv) above, or ever for the crimes listed in (v) - (ix) above);</p> <p>xii. is the subject of a disqualification imposed by ICANN and in effect at the time of this application.</p> <p>If any of the above events have occurred, please provide details.</p>					

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		(f) Indicate whether the applicant or any of the individuals named above have been involved in any decisions indicating that the applicant or individual named in the application was engaged in cybersquatting, as defined in the Uniform Domain Name Dispute Resolution Policy (UDRP), Anti-cybersquatting Consumer Protection Act (ACPA), or other equivalent legislation, or was engaged in reverse domain name hijacking under the UDRP or bad faith or reckless disregard under the ACPA or equivalent legislation.	N	ICANN may deny an otherwise qualified application based on the background screening process. See section 1.2.1 of the guidebook for details.			
		(g) Disclose whether the applicant or any of the individuals named above has been involved in any administrative or other legal proceeding in which allegations of intellectual property infringement relating to registration or use of a domain name have been made. Provide an explanation related to each such instance.	N	ICANN may deny an otherwise qualified application based on the background screening process. See section 1.2.1 of the guidebook for details.			
		(h) Provide an explanation for any additional background information that may be found concerning the applicant or any individual named in the application, which may affect eligibility, including any criminal convictions not identified above.	N				
<b>Evaluation Fee</b>	12	(a) Enter the confirmation information for payment of the evaluation fee (e.g., wire transfer confirmation number).	N	<p>The evaluation fee is paid in the form of a deposit at the time of user registration, and submission of the remaining amount at the time the full application is submitted. The information in question 12 is required for each payment.</p> <p>The full amount in USD must be received by ICANN. Applicant is responsible for all transaction fees and exchange rate fluctuation.</p> <p>Fedwire is the preferred wire mechanism; SWIFT is also acceptable. ACH is not recommended as these funds will take longer to clear and could affect timing of the application processing.</p>			
		(b) Payer name	N				
		(c) Payer address	N				

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		(d) Wiring bank	N				
		(e) Bank address	N				
		(f) Wire date	N				
Applied-for gTLD string	13	Provide the applied-for gTLD string. If applying for an IDN, provide the U-label.	Y	Responses to Questions 13-17 are not scored, but are used for database and validation purposes.  The U-label is an IDNA-valid string of Unicode characters, including at least one non-ASCII character.			
	14	(a) If applying for an IDN, provide the A-label (beginning with "xn--").	Y				
		(b) If an IDN, provide the meaning, or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.	Y				
		(c) If an IDN, provide the language of the label (both in English and as referenced by ISO-639-1).	Y				
		(d) If an IDN, provide the script of the label (both in English and as referenced by ISO 15924).	Y				
		(e) If an IDN, list all code points contained in the U-label according to Unicode form.	Y	For example, the string "HELLO" would be listed as U+0048 U+0065 U+006C U+006C U+0066.			
	15	(a) If an IDN, upload IDN tables for the proposed registry. An IDN table must include: <ol style="list-style-type: none"> <li>1. the applied-for gTLD string relevant to the tables,</li> <li>2. the script or language designator (as defined in BCP 47),</li> <li>3. table version number,</li> <li>4. effective date (DD Month YYYY), and</li> <li>5. contact name, email address, and phone number.</li> </ol> <p>Submission of IDN tables in a standards-based format is encouraged.</p>	Y	In the case of an application for an IDN gTLD, IDN tables must be submitted for the language or script for the applied-for gTLD string. IDN tables must also be submitted for each language or script in which the applicant intends to offer IDN registrations at the second level (see question 44).  IDN tables should be submitted in a machine-readable format. The model format described in Section 5 of RFC 4290 would be ideal. The format used by RFC 3743 is an acceptable alternative. Variant generation algorithms that are more complex (such as those with contextual			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				rules) and cannot be expressed using these table formats should be specified in a manner that could be re-implemented programmatically by ICANN. Ideally, for any complex table formats, a reference code implementation should be provided in conjunction with a description of the generation rules.			
		(b) Describe the process used for development of the IDN tables submitted, including consultations and sources used.	Y				
		(c) List any variants to the applied-for gTLD string according to the relevant IDN tables.	Y	Variant TLD strings will not be delegated as a result of this application. Variant strings will be checked for consistency and, if the application is approved, will be entered on a Declared IDN Variants List to allow for future allocation once a variant management mechanism is established for the top level. Inclusion of variant TLD strings in this application is for information only and confers no right or claim to these strings upon the applicant.			
	16	Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.	Y				
	17	<b>OPTIONAL.</b> Provide a representation of the label according to the International Phonetic Alphabet ( <a href="http://www.langsci.ucl.ac.uk/ipa/">http://www.langsci.ucl.ac.uk/ipa/</a> ).	Y	If provided, this information will be used as a guide to ICANN in communications regarding the application.			
<b>Mission/Purpose</b>	18	(a) Describe the mission/purpose of your proposed gTLD.	Y	The information gathered in response to Question 18 is intended to inform the post-launch review of the New gTLD Program, from the perspective of assessing the relative costs and benefits achieved in the expanded gTLD space.  For the application to be considered complete, answers to this section must be fulsome and sufficiently quantitative and detailed to inform future study on plans vs. results.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				<p>The New gTLD Program will be reviewed, as specified in section 9.3 of the Affirmation of Commitments. This will include consideration of the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of (a) the application and evaluation process, and (b) safeguards put in place to mitigate issues involved in the introduction or expansion.</p> <p>The information gathered in this section will be one source of input to help inform this review. This information is not used as part of the evaluation or scoring of the application, except to the extent that the information may overlap with questions or evaluation areas that are scored.</p> <p>An applicant wishing to designate this application as community-based should ensure that these responses are consistent with its responses for question 20 below.</p>			
		(b) How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?	Y	<p>Answers should address the following points:</p> <ul style="list-style-type: none"> <li>i. What is the goal of your proposed gTLD in terms of areas of specialty, service levels, or reputation?</li> <li>ii. What do you anticipate your proposed gTLD will add to the current space, in terms of competition, differentiation, or innovation?</li> <li>iii. What goals does your proposed gTLD have in terms of user experience?</li> <li>iv. Provide a complete description of the applicant's intended registration policies in support of the goals listed above.</li> <li>v. Will your proposed gTLD impose any measures for</li> </ul>			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				<p>protecting the privacy or confidential information of registrants or users? If so, please describe any such measures.</p> <p>Describe whether and in what ways outreach and communications will help to achieve your projected benefits.</p>			
	18	(c) What operating rules will you adopt to eliminate or minimize social costs (e.g., time or financial resource costs, as well as various types of consumer vulnerabilities)? What other steps will you take to minimize negative consequences/costs imposed upon consumers?	Y	<p>Answers should address the following points:</p> <ul style="list-style-type: none"> <li>i. How will multiple applications for a particular domain name be resolved, for example, by auction or on a first-come/first-serve basis?</li> <li>ii. Explain any cost benefits for registrants you intend to implement (e.g., advantageous pricing, introductory discounts, bulk registration discounts).</li> <li>iii. Note that the Registry Agreement requires that registrars be offered the option to obtain initial domain name registrations for periods of one to ten years at the discretion of the registrar, but no greater than ten years. Additionally, the Registry Agreement requires advance written notice of price increases. Do you intend to make contractual commitments to registrants regarding the magnitude of price escalation? If so, please describe your plans.</li> </ul>			
Community-based Designation	19	Is the application for a community-based TLD?	Y	There is a presumption that the application is a standard application (as defined in the Applicant Guidebook) if this question is left unanswered.			



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				The applicant's designation as standard or community-based cannot be changed once the application is submitted.			
	20	(a) Provide the name and full description of the community that the applicant is committing to serve. In the event that this application is included in a community priority evaluation, it will be scored based on the community identified in response to this question. The name of the community does not have to be formally adopted for the application to be designated as community-based.	Y	<p>Descriptions should include:</p> <ul style="list-style-type: none"> <li>• How the community is delineated from Internet users generally. Such descriptions may include, but are not limited to, the following: membership, registration, or licensing processes, operation in a particular industry, use of a language.</li> <li>• How the community is structured and organized. For a community consisting of an alliance of groups, details about the constituent parts are required.</li> <li>• When the community was established, including the date(s) of formal organization, if any, as well as a description of community activities to date.</li> <li>• The current estimated size of the community, both as to membership and geographic extent.</li> </ul>		<p>Responses to Question 20 will be regarded as firm commitments to the specified community and reflected in the Registry Agreement, provided the application is successful.</p> <p>Responses are not scored in the Initial Evaluation. Responses may be scored in a community priority evaluation, if applicable. Criteria and scoring methodology for the community priority evaluation are described in Module 4 of the Applicant Guidebook.</p>	
		(b) Explain the applicant's relationship to the community identified in 20(a).	Y	<p>Explanations should clearly state:</p> <ul style="list-style-type: none"> <li>• Relations to any community organizations.</li> <li>• Relations to the community and its constituent parts/groups.</li> <li>• Accountability mechanisms of the applicant to the community.</li> </ul>			
		(c) Provide a description of the community-based purpose of the applied-for gTLD.	Y	<p>Descriptions should include:</p> <ul style="list-style-type: none"> <li>• Intended registrants in the TLD.</li> <li>• Intended end-users of the TLD.</li> <li>• Related activities the applicant has carried out or intends to carry out in service of this purpose.</li> <li>• Explanation of how the purpose is of a lasting nature.</li> </ul>			
		(d) Explain the relationship between the applied-for gTLD string and the community identified in 20(a).	Y	<p>Explanations should clearly state:</p> <ul style="list-style-type: none"> <li>• relationship to the established name, if any, of the community.</li> </ul>			



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				<ul style="list-style-type: none"> <li>relationship to the identification of community members.</li> <li>any connotations the string may have beyond the community.</li> </ul>			
		(e) Provide a complete description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD. Policies and enforcement mechanisms are expected to constitute a coherent set.	Y	<p>Descriptions should include proposed policies, if any, on the following:</p> <ul style="list-style-type: none"> <li>Eligibility: who is eligible to register a second-level name in the gTLD, and how will eligibility be determined.</li> <li>Name selection: what types of second-level names may be registered in the gTLD.</li> <li>Content/Use: what restrictions, if any, the registry operator will impose on how a registrant may use its registered name.</li> <li>Enforcement: what investigation practices and mechanisms exist to enforce the policies above, what resources are allocated for enforcement, and what appeal mechanisms are available to registrants.</li> </ul>			
		(f) Attach any written endorsements for the application from established institutions representative of the community identified in 20(a). An applicant may submit written endorsements by multiple institutions, if relevant to the community.	Y	<p>At least one such endorsement is required for a complete application. The form and content of the endorsement are at the discretion of the party providing the endorsement; however, the letter must identify the applied-for gTLD string and the applying entity, include an express statement support for the application, and the supply the contact information of the entity providing the endorsement.</p> <p>Endorsements from institutions not mentioned in the response to 20(b) should be accompanied by a clear description of each such institution's relationship to the community.</p> <p>Endorsements presented as supporting documentation for this question should be submitted in the original language.</p>			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
Geographic Names	21	(a) Is the application for a geographic name?	Y	<p>An applied-for gTLD string is considered a geographic name requiring government support if it is: (a) the capital city name of a country or territory listed in the ISO 3166-1 standard; (b) a city name, where it is clear from statements in the application that the applicant intends to use the gTLD for purposes associated with the city name; (c) a sub-national place name listed in the ISO 3166-2 standard; or (d) a name listed as a UNESCO region or appearing on the "Composition of macro geographic (continental) or regions, geographic sub-regions, and selected economic and other groupings" list. See Module 2 for complete definitions and criteria.</p> <p>An application for a country or territory name, as defined in the Applicant Guidebook, will not be approved.</p>			
		(b) If a geographic name, attach documentation of support or non-objection from all relevant governments or public authorities.	N	<p>See the documentation requirements in Module 2 of the Applicant Guidebook.</p> <p>Documentation presented in response to this question should be submitted in the original language.</p>			
Protection of Geographic Names	22	Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD. This should include any applicable rules and procedures for reservation and/or release of such names.	Y	<p>Applicants should consider and describe how they will incorporate Governmental Advisory Committee (GAC) advice in their management of second-level domain name registrations. See "Principles regarding New gTLDs" at <a href="https://gacweb.icann.org/display/GACADV/New+gTLDs">https://gacweb.icann.org/display/GACADV/New+gTLDs</a>.</p> <p>For reference, applicants may draw on existing methodology developed for the reservation and release of country names in the .INFO top-level domain. See the Dot Info Circular at <a href="https://gacweb.icann.org/display/GACADV/New+gTLDs">https://gacweb.icann.org/display/GACADV/New+gTLDs</a>.</p> <p>Proposed measures will be posted for public comment as part of the application. However, note that procedures for release of geographic names at the second level</p>			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				must be separately approved according to Specification 5 of the Registry Agreement. That is, approval of a gTLD application does not constitute approval for release of any geographic names under the Registry Agreement. Such approval must be granted separately by ICANN.			
Registry Services	23	<p>Provide name and full description of all the Registry Services to be provided. Descriptions should include both technical and business components of each proposed service, and address any potential security or stability concerns.</p> <p>The following registry services are customary services offered by a registry operator:</p> <ul style="list-style-type: none"> <li>A. Receipt of data from registrars concerning registration of domain names and name servers.</li> <li>B. Dissemination of TLD zone files.</li> <li>C. Dissemination of contact or other information concerning domain name registrations (e.g., port-43 WHOIS, Web-based Whois, RESTful Whois service).</li> <li>D. Internationalized Domain Names, where offered.</li> <li>E. DNS Security Extensions (DNSSEC).</li> </ul> <p>The applicant must describe whether any of these registry services are intended to be offered in a manner unique to the TLD.</p> <p>Additional proposed registry services that are unique to the registry must also be described.</p>	Y	<p>Registry Services are defined as the following: (1) operations of the Registry critical to the following tasks: (i) the receipt of data from registrars concerning registrations of domain names and name servers; (ii) provision to registrars of status information relating to the zone servers for the TLD; (iii) dissemination of TLD zone files; (iv) operation of the Registry zone servers; and (v) dissemination of contact and other information concerning domain name server registrations in the TLD as required by the Registry Agreement; and (2) other products or services that the Registry Operator is required to provide because of the establishment of a Consensus Policy; (3) any other products or services that only a Registry Operator is capable of providing, by reason of its designation as the Registry Operator. A full definition of Registry Services can be found at <a href="http://www.icann.org/en/registries/rsep/rsep.html">http://www.icann.org/en/registries/rsep/rsep.html</a>.</p> <p>Security: For purposes of this Applicant Guidebook, an effect on security by the proposed Registry Service means (1) the unauthorized disclosure, alteration, insertion or destruction of Registry Data, or (2) the unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with applicable standards.</p> <p>Stability: For purposes of this Applicant Guidebook, an effect on stability shall mean that the proposed Registry Service (1) is not compliant with applicable relevant standards that are authoritative and published by a well-established, recognized and</p>		<p>Responses are not scored. A preliminary assessment will be made to determine if there are potential security or stability issues with any of the applicant's proposed Registry Services. If any such issues are identified, the application will be referred for an extended review. See the description of the Registry Services review process in Module 2 of the Applicant Guidebook. Any information contained in the application may be considered as part of the Registry Services review. If its application is approved, applicant may engage in only those registry services defined in the application, unless a new request is submitted to ICANN in accordance with the Registry Agreement.</p>	

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				authoritative standards body, such as relevant Standards-Track or Best Current Practice RFCs sponsored by the IETF, or (2) creates a condition that adversely affects the throughput, response time, consistency or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant Standards-Track or Best Current Practice RFCs and relying on Registry Operator's delegation information or provisioning.			
Demonstration of Technical & Operational Capability (External)	24	<p>Shared Registration System (SRS) Performance: describe</p> <ul style="list-style-type: none"> <li>the plan for operation of a robust and reliable SRS. SRS is a critical registry function for enabling multiple registrars to provide domain name registration services in the TLD. SRS must include the EPP interface to the registry, as well as any other interfaces intended to be provided, if they are critical to the functioning of the registry. Please refer to the requirements in Specification 6 (section 1.2) and Specification 10 (SLA Matrix) attached to the Registry Agreement; and</li> <li>resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A complete answer should include, but is not limited to:</p> <ul style="list-style-type: none"> <li>A high-level SRS system description;</li> <li>Representative network diagram(s);</li> <li>Number of servers;</li> <li>Description of interconnectivity with other registry systems;</li> <li>Frequency of synchronization between servers; and</li> <li>Synchronization scheme (e.g., hot standby, cold standby).</li> </ul>	Y	<p>The questions in this section (24-44) are intended to give applicants an opportunity to demonstrate their technical and operational capabilities to run a registry. In the event that an applicant chooses to outsource one or more parts of its registry operations, the applicant should still provide the full details of the technical arrangements.</p> <p>Note that the resource plans provided in this section assist in validating the technical and operational plans as well as informing the cost estimates in the Financial section below.</p> <p>Questions 24-30(a) are designed to provide a description of the applicant's intended technical and operational approach for those registry functions that are outward-facing, i.e., interactions with registrars, registrants, and various DNS users. Responses to these questions will be published to allow review by affected parties.</p>	0-1	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>a plan for operating a robust and reliable SRS, one of the five critical registry functions;</li> <li>scalability and performance consistent with the overall business approach, and planned size of the registry;</li> <li>a technical plan that is adequately resourced in the planned costs detailed in the financial section; and</li> <li>evidence of compliance with Specification 6 (section 1.2) to the Registry Agreement.</li> </ol>	<p><b>1 - meets requirements:</b> Response includes</p> <ol style="list-style-type: none"> <li>An adequate description of SRS that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</li> <li>Details of a well-developed plan to operate a robust and reliable SRS;</li> <li>SRS plans are sufficient to result in compliance with Specification 6 and Specification 10 to the Registry Agreement;</li> <li>SRS is consistent with the technical, operational and financial approach described in the application; and</li> <li>Demonstrates that adequate technical resources are already on hand, or committed or readily available to carry out this function.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		A complete answer is expected to be no more than 5 pages. (As a guide, one page contains approximately 4000 characters).					
	25	<p>Extensible Provisioning Protocol (EPP): provide a detailed description of the interface with registrars, including how the applicant will comply with EPP in RFCs 3735 (if applicable), and 5730-5734.</p> <p>If intending to provide proprietary EPP extensions, provide documentation consistent with RFC 3735, including the EPP templates and schemas that will be used.</p> <p>Describe resourcing plans (number and description of personnel roles allocated to this area).</p> <p>A complete answer is expected to be no more than 5 pages. If there are proprietary EPP extensions, a complete answer is also expected to be no more than 5 pages per EPP extension.</p>	Y		0-1	<p>Complete answer demonstrates:</p> <p>(1) complete knowledge and understanding of this aspect of registry technical requirements;</p> <p>(2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and</p> <p>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section;</p> <p>(4) ability to comply with relevant RFCs;</p> <p>(5) if applicable, a well-documented implementation of any proprietary EPP extensions; and</p> <p>(6) if applicable, how proprietary EPP extensions are consistent with the registration lifecycle as described in Question 27.</p>	<p><b>1 - meets requirements:</b> Response includes</p> <p>(1) Adequate description of EPP that substantially demonstrates the applicant's capability and knowledge required to meet this element;</p> <p>(2) Sufficient evidence that any proprietary EPP extensions are compliant with RFCs and provide all necessary functionalities for the provision of registry services;</p> <p>(3) EPP interface is consistent with the technical, operational, and financial approach as described in the application; and</p> <p>(4) Demonstrates that technical resources are already on hand, or committed or readily available.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>
	26	<p>Whois: describe</p> <ul style="list-style-type: none"> <li>• how the applicant will comply with Whois specifications for data objects, bulk access, and lookups as defined in Specifications 4 and 10 to the Registry Agreement;</li> <li>• how the Applicant's Whois service will comply with RFC 3912; and</li> <li>• resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A complete answer should include, but is not limited to:</p>	Y	The Registry Agreement (Specification 4) requires provision of Whois lookup services for all names registered in the TLD. This is a minimum requirement. Provision for Searchable Whois as defined in the scoring column is a requirement for achieving a score of 2 points.	0-2	<p>Complete answer demonstrates:</p> <p>(1) complete knowledge and understanding of this aspect of registry technical requirements, (one of the five critical registry functions);</p> <p>(2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry;</p> <p>(3) a technical plan that is adequately resourced in the</p>	<p><b>2 – exceeds requirements:</b> Response meets all the attributes for a score of 1 and includes:</p> <p>(1) A Searchable Whois service: Whois service includes web-based search capabilities by domain name, registrant name, postal address, contact names, registrar IDs, and Internet Protocol addresses without arbitrary limit. Boolean search capabilities may be offered. The service shall include appropriate precautions to avoid abuse of this feature (e.g., limiting access to legitimate authorized users), and the</p>



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<ul style="list-style-type: none"> <li>• A high-level Whois system description;</li> <li>• Relevant network diagram(s);</li> <li>• IT and infrastructure resources (e.g., servers, switches, routers and other components);</li> <li>• Description of interconnectivity with other registry systems; and</li> <li>• Frequency of synchronization between servers.</li> </ul> <p>To be eligible for a score of 2, answers must also include:</p> <ul style="list-style-type: none"> <li>• Provision for Searchable Whois capabilities; and</li> <li>• A description of potential forms of abuse of this feature, how these risks will be mitigated, and the basis for these descriptions.</li> </ul> <p>A complete answer is expected to be no more than 5 pages.</p>				<p>planned costs detailed in the financial section;</p> <p>(4) ability to comply with relevant RFCs;</p> <p>(5) evidence of compliance with Specifications 4 and 10 to the Registry Agreement; and</p> <p>(6) if applicable, a well-documented implementation of Searchable Whois.</p>	<p>application demonstrates compliance with any applicable privacy laws or policies.</p> <p><b>1 - meets requirements:</b> Response includes</p> <p>(1) adequate description of Whois service that substantially demonstrates the applicant's capability and knowledge required to meet this element;</p> <p>(2) Evidence that Whois services are compliant with RFCs, Specifications 4 and 10 to the Registry Agreement, and any other contractual requirements including all necessary functionalities for user interface;</p> <p>(3) Whois capabilities consistent with the technical, operational, and financial approach as described in the application; and</p> <p>(4) demonstrates an adequate level of resources that are already on hand or readily available to carry out this function.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>
	27	<p>Registration Life Cycle: provide a detailed description of the proposed registration lifecycle for domain names in the proposed gTLD. The description must:</p> <ul style="list-style-type: none"> <li>• explain the various registration states as well as the criteria and procedures that are used to change state;</li> <li>• describe the typical registration lifecycle of create/update/delete and all intervening steps such as pending, locked, expired, and transferred that may apply;</li> <li>• clearly explain any time elements that are involved - for instance details of add-grace or redemption grace periods, or notice periods for renewals or transfers; and</li> <li>• describe resourcing plans for this aspect of the criteria (number and</li> </ul>	Y		0-1	<p>Complete answer demonstrates:</p> <p>(1) complete knowledge and understanding of registration lifecycles and states;</p> <p>(2) consistency with any specific commitments made to registrants as adapted to the overall business approach for the proposed gTLD; and</p> <p>(3) the ability to comply with relevant RFCs.</p>	<p><b>1 - meets requirements:</b> Response includes</p> <p>(1) An adequate description of the registration lifecycle that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</p> <p>(2) Details of a fully developed registration life cycle with definition of various registration states, transition between the states, and trigger points;</p> <p>(3) A registration lifecycle that is consistent with any commitments to registrants and with technical, operational, and financial plans described in the application; and</p> <p>(4) Demonstrates an adequate level of</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>description of personnel roles allocated to this area).</p> <p>The description of the registration lifecycle should be supplemented by the inclusion of a state diagram, which captures definitions, explanations of trigger points, and transitions from state to state.</p> <p>If applicable, provide definitions for aspects of the registration lifecycle that are not covered by standard EPP RFCs.</p> <p>A complete answer is expected to be no more than 5 pages.</p>					<p>resources that are already on hand or committed or readily available to carry out this function.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>
	28	<p>Abuse Prevention and Mitigation: Applicants should describe the proposed policies and procedures to minimize abusive registrations and other activities that have a negative impact on Internet users. A complete answer should include, but is not limited to:</p> <ul style="list-style-type: none"> <li>An implementation plan to establish and publish on its website a single abuse point of contact responsible for addressing matters requiring expedited attention and providing a timely response to abuse complaints concerning all names registered in the TLD through all registrars of record, including those involving a reseller;</li> <li>Policies for handling complaints regarding abuse;</li> <li>Proposed measures for removal of orphan glue records for names removed from the zone when provided with evidence in written form that the glue is present in connection with malicious conduct (see Specification 6); and</li> <li>Resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>To be eligible for a score of 2, answers must include measures to promote Whois accuracy as well as measures from one other area as</p>	Y	<p>Note that, while orphan glue often supports correct and ordinary operation of the DNS, registry operators will be required to take action to remove orphan glue records (as defined at <a href="http://www.icann.org/en/committees/security/sac048.pdf">http://www.icann.org/en/committees/security/sac048.pdf</a>) when provided with evidence in written form that such records are present in connection with malicious conduct.</p>	0-2	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>(1) Comprehensive abuse policies, which include clear definitions of what constitutes abuse in the TLD, and procedures that will effectively minimize potential for abuse in the TLD;</li> <li>(2) Plans are adequately resourced in the planned costs detailed in the financial section;</li> <li>(3) Policies and procedures identify and address the abusive use of registered names at startup and on an ongoing basis; and</li> <li>(4) When executed in accordance with the Registry Agreement, plans will result in compliance with contractual requirements.</li> </ol>	<p><b>2 – exceeds requirements:</b> Response meets all the attributes for a score of 1 and includes:</p> <ol style="list-style-type: none"> <li>(1) Details of measures to promote Whois accuracy, using measures specified here or other measures commensurate in their effectiveness; and</li> <li>(2) Measures from at least one additional area to be eligible for 2 points as described in the question.</li> </ol> <p><b>1 - meets requirements</b> Response includes:</p> <ol style="list-style-type: none"> <li>(1) An adequate description of abuse prevention and mitigation policies and procedures that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</li> <li>(2) Details of well-developed abuse policies and procedures;</li> <li>(3) Plans are sufficient to result in compliance with contractual requirements;</li> <li>(4) Plans are consistent with the technical, operational, and financial approach described in the application, and any commitments made to registrants; and</li> <li>(5) Demonstrates an adequate level of resources that are on hand, committed, or readily available to</li> </ol>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>described below.</p> <ul style="list-style-type: none"> <li>• Measures to promote Whois accuracy (can be undertaken by the registry directly or by registrars via requirements in the Registry-Registrar Agreement (RRA)) may include, but are not limited to: <ul style="list-style-type: none"> <li>○ Authentication of registrant information as complete and accurate at time of registration. Measures to accomplish this could include performing background checks, verifying all contact information of principals mentioned in registration data, reviewing proof of establishment documentation, and other means.</li> <li>○ Regular monitoring of registration data for accuracy and completeness, employing authentication methods, and establishing policies and procedures to address domain names with inaccurate or incomplete Whois data; and</li> <li>○ If relying on registrars to enforce measures, establishing policies and procedures to ensure compliance, which may include audits, financial incentives, penalties, or other means. Note that the requirements of the RAA will continue to apply to all ICANN-accredited registrars.</li> </ul> </li> <li>• A description of policies and procedures that define malicious or abusive behavior, capture metrics, and establish Service Level Requirements for resolution, including service levels for responding to law enforcement requests. This may include rapid takedown or suspension systems and sharing information regarding malicious or abusive behavior with industry partners;</li> <li>• Adequate controls to ensure proper access to domain functions (can be undertaken by the registry directly or by</li> </ul>					<p>carry out this function.  <b>0 – fails requirements</b>  Does not meet all the requirements to score 1.</p>



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>registrars via requirements in the Registry-Registrar Agreement (RRA)) may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>○ Requiring multi-factor authentication (i.e., strong passwords, tokens, one-time passwords) from registrants to process update, transfers, and deletion requests;</li> <li>○ Requiring multiple, unique points of contact to request and/or approve update, transfer, and deletion requests; and</li> <li>○ Requiring the notification of multiple, unique points of contact when a domain has been updated, transferred, or deleted.</li> </ul> <p>A complete answer is expected to be no more than 20 pages.</p>					
	29	<p>Rights Protection Mechanisms: Applicants must describe how their registry will comply with policies and practices that minimize abusive registrations and other activities that affect the legal rights of others, such as the Uniform Domain Name Dispute Resolution Policy (UDRP), Uniform Rapid Suspension (URS) system, and Trademark Claims and Sunrise services at startup.</p> <p>A complete answer should include:</p> <ul style="list-style-type: none"> <li>• A description of how the registry operator will implement safeguards against allowing unqualified registrations (e.g., registrations made in violation of the registry's eligibility restrictions or policies), and reduce opportunities for behaviors such as phishing or pharming. At a minimum, the registry operator must offer a Sunrise period and a Trademark Claims service during the required time periods, and implement decisions rendered under the URS on an ongoing basis; and</li> <li>• A description of resourcing plans for the</li> </ul>	Y		0-2	<p>Complete answer describes mechanisms designed to:</p> <ul style="list-style-type: none"> <li>(1) prevent abusive registrations, and</li> <li>(2) identify and address the abusive use of registered names on an ongoing basis.</li> </ul>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and includes:</p> <ul style="list-style-type: none"> <li>(1) Identification of rights protection as a core objective, supported by a well-developed plan for rights protection; and</li> <li>(2) Mechanisms for providing effective protections that exceed minimum requirements (e.g., RPMs in addition to those required in the registry agreement).</li> </ul> <p><b>1 - meets requirements:</b> Response includes</p> <ul style="list-style-type: none"> <li>(1) An adequate description of RPMs that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</li> <li>(2) A commitment from the applicant to implement of rights protection mechanisms sufficient to comply with minimum requirements in Specification 7;</li> <li>(3) Plans that are sufficient to result in compliance with contractual requirements;</li> </ul>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</p> <p>To be eligible for a score of 2, answers must also include additional measures specific to rights protection, such as abusive use policies, takedown procedures, registrant pre-verification, or authentication procedures, or other covenants.</p> <p>A complete answer is expected to be no more than 10 pages.</p>					<p>(4) Mechanisms that are consistent with the technical, operational, and financial approach described in the application; and</p> <p>(5) Demonstrates an adequate level of resources that are on hand, committed, or readily available to carry out this function.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>
	30	<p>(a) Security Policy: provide a summary of the security policy for the proposed registry, including but not limited to:</p> <ul style="list-style-type: none"> <li>• indication of any independent assessment reports demonstrating security capabilities, and provisions for periodic independent assessment reports to test security capabilities;</li> <li>• description of any augmented security levels or capabilities commensurate with the nature of the applied for gTLD string, including the identification of any existing international or industry relevant security standards the applicant commits to following (reference site must be provided);</li> <li>• list of commitments made to registrants concerning security levels.</li> </ul> <p>To be eligible for a score of 2, answers must also include:</p> <ul style="list-style-type: none"> <li>• Evidence of an independent assessment report demonstrating effective security controls (e.g., ISO 27001).</li> </ul> <p>A summary of the above should be no more than 20 pages. Note that the complete security policy for the registry is required to be submitted in accordance with 30(b).</p>	Y	<p>Criterion 5 calls for security levels to be appropriate for the use and level of trust associated with the TLD string, such as, for example, financial services oriented TLDs. "Financial services" are activities performed by financial institutions, including: 1) the acceptance of deposits and other repayable funds; 2) lending; 3) payment and remittance services; 4) insurance or reinsurance services; 5) brokerage services; 6) investment services and activities; 7) financial leasing; 8) issuance of guarantees and commitments; 9) provision of financial advice; 10) portfolio management and advice; or 11) acting as a financial clearinghouse. Financial services is used as an example only; other strings with exceptional potential to cause harm to consumers would also be expected to deploy appropriate levels of security.</p>	0-2	<p>Complete answer demonstrates:</p> <p>(1) detailed description of processes and solutions deployed to manage logical security across infrastructure and systems, monitoring and detecting threats and security vulnerabilities and taking appropriate steps to resolve them;</p> <p>(2) security capabilities are consistent with the overall business approach and planned size of the registry;</p> <p>(3) a technical plan adequately resourced in the planned costs detailed in the financial section;</p> <p>(4) security measures are consistent with any commitments made to registrants regarding security levels; and</p> <p>(5) security measures are appropriate for the applied-for gTLD string (For example, applications for strings with unique trust implications, such as financial services-oriented strings, would be expected to provide a commensurate level of security).</p>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and includes:</p> <p>(1) Evidence of highly developed and detailed security capabilities, with various baseline security levels, independent benchmarking of security metrics, robust periodic security monitoring, and continuous enforcement; and</p> <p>(2) an independent assessment report is provided demonstrating effective security controls are either in place or have been designed, and are commensurate with the applied-for gTLD string. (This could be ISO 27001 certification or other well-established and recognized industry certifications for the registry operation. If new independent standards for demonstration of effective security controls are established, such as the High Security Top Level Domain (HSTLD) designation, this could also be included. An illustrative example of an independent standard is the proposed set of requirements described in <a href="http://www.icann.org/en/correspondence/aba-bits-to-beckstrom-crocker-20dec11-en.pdf">http://www.icann.org/en/correspondence/aba-bits-to-beckstrom-crocker-20dec11-en.pdf</a>.)</p> <p><b>1 - meets requirements:</b> Response includes:</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
							(1) Adequate description of security policies and procedures that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) A description of adequate security capabilities, including enforcement of logical access control, threat analysis, incident response and auditing. Ad-hoc oversight and governance and leading practices being followed; (3) Security capabilities consistent with the technical, operational, and financial approach as described in the application, and any commitments made to registrants; (4) Demonstrates that an adequate level of resources are on hand, committed or readily available to carry out this function; and (5) Proposed security measures are commensurate with the nature of the applied-for gTLD string. <b>0 - fails requirements:</b> Does not meet all the requirements to score 1.
Demonstration of Technical & Operational Capability (Internal)	30	(b) Security Policy: provide the complete security policy and procedures for the proposed registry, including but not limited to: <ul style="list-style-type: none"> <li>• system (data, server, application / services) and network access control, ensuring systems are maintained in a secure fashion, including details of how they are monitored, logged and backed up;</li> <li>• resources to secure integrity of updates between registry systems and nameservers, and between nameservers, if any;</li> <li>• independent assessment reports demonstrating security capabilities (submitted as attachments), if any;</li> <li>• provisioning and other measures that mitigate risks posed by denial of service attacks;</li> <li>• computer and network incident response</li> </ul>	N	Questions 30(b) – 44 are designed to provide a description of the applicant's intended technical and operational approach for those registry functions that are internal to the infrastructure and operations of the registry. To allow the applicant to provide full details and safeguard proprietary information, responses to these questions will not be published.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>policies, plans, and processes;</p> <ul style="list-style-type: none"> <li>plans to minimize the risk of unauthorized access to its systems or tampering with registry data;</li> <li>intrusion detection mechanisms, a threat analysis for the proposed registry, the defenses that will be deployed against those threats, and provision for periodic threat analysis updates;</li> <li>details for auditing capability on all network access;</li> <li>physical security approach;</li> <li>identification of department or group responsible for the registry's security organization;</li> <li>background checks conducted on security personnel;</li> <li>description of the main security threats to the registry operation that have been identified; and</li> <li>resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul>					
	31	<p>Technical Overview of Proposed Registry: provide a technical overview of the proposed registry.</p> <p>The technical plan must be adequately resourced, with appropriate expertise and allocation of costs. The applicant will provide financial descriptions of resources in the next section and those resources must be reasonably related to these technical requirements.</p> <p>The overview should include information on the estimated scale of the registry's technical operation, for example, estimates for the number of registration transactions and DNS queries per month should be provided for the first two years of operation.</p> <p>In addition, the overview should account for geographic dispersion of incoming network traffic such as DNS, Whois, and registrar transactions.</p>	N	To the extent this answer is affected by the applicant's intent to outsource various registry operations, the applicant should describe these plans (e.g., taking advantage of economies of scale or existing facilities). However, the response must include specifying the technical plans, estimated scale, and geographic dispersion as required by the question.	0-1	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>complete knowledge and understanding of technical aspects of registry requirements;</li> <li>an adequate level of resiliency for the registry's technical operations;</li> <li>consistency with planned or currently deployed technical/operational solutions;</li> <li>consistency with the overall business approach and planned size of the registry;</li> <li>adequate resourcing for technical plan in the</li> </ol>	<p><b>1 - meets requirements:</b> Response includes:</p> <ol style="list-style-type: none"> <li>A description that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</li> <li>Technical plans consistent with the technical, operational, and financial approach as described in the application;</li> <li>Demonstrates an adequate level of resources that are on hand, committed, or readily available to carry out this function.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>If the registry serves a highly localized registrant base, then traffic might be expected to come mainly from one area.</p> <p>This high-level summary should not repeat answers to questions below. Answers should include a visual diagram(s) to highlight dataflows, to provide context for the overall technical infrastructure. Detailed diagrams for subsequent questions should be able to map back to this high-level diagram(s). The visual diagram(s) can be supplemented with documentation, or a narrative, to explain how all of the Technical &amp; Operational components conform.</p> <p>A complete answer is expected to be no more than 10 pages.</p>				planned costs detailed in the financial section; and (6) consistency with subsequent technical questions.	
	32	<p>Architecture: provide documentation for the system and network architecture that will support registry operations for the proposed scale of the registry. System and network architecture documentation must clearly demonstrate the applicant's ability to operate, manage, and monitor registry systems. Documentation should include multiple diagrams or other components including but not limited to:</p> <ul style="list-style-type: none"> <li>• Detailed network diagram(s) showing the full interplay of registry elements, including but not limited to SRS, DNS, Whois, data escrow, and registry database functions;</li> <li>• Network and associated systems necessary to support registry operations, including: <ul style="list-style-type: none"> <li>▪ Anticipated TCP / IP addressing scheme,</li> <li>▪ Hardware (i.e., servers, routers, networking components, virtual machines and key characteristics (CPU and RAM, Disk space, internal network connectivity, and make and model)),</li> <li>▪ Operating system and versions, and</li> <li>▪ Software and applications (with version information) necessary to support registry operations, management, and monitoring</li> </ul> </li> <li>• General overview of capacity planning, including bandwidth allocation plans;</li> <li>• List of providers / carriers; and</li> <li>• Resourcing plans for the initial</li> </ul>	N		0-2	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>(1) detailed and coherent network architecture;</li> <li>(2) architecture providing resiliency for registry systems;</li> <li>(3) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; and</li> <li>(4) a technical plan that is adequately resourced in the planned costs detailed in the financial section.</li> </ol>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and includes</p> <ol style="list-style-type: none"> <li>(1) Evidence of highly developed and detailed network architecture that is able to scale well above stated projections for high registration volumes, thereby significantly reducing the risk from unexpected volume surges and demonstrates an ability to adapt quickly to support new technologies and services that are not necessarily envisaged for initial registry startup; and</li> <li>(2) Evidence of a highly available, robust, and secure infrastructure.</li> </ol> <p><b>1 - meets requirements:</b> Response includes</p> <ol style="list-style-type: none"> <li>(1) An adequate description of the architecture that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</li> <li>(2) Plans for network architecture describe all necessary elements;</li> <li>(3) Descriptions demonstrate adequate network architecture providing robustness and security of the</li> </ol>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</p> <p>To be eligible for a score of 2, answers must also include evidence of a network architecture design that greatly reduces the risk profile of the proposed registry by providing a level of scalability and adaptability (e.g., protection against DDoS attacks) that far exceeds the minimum configuration necessary for the expected volume.</p> <p>A complete answer is expected to be no more than 10 pages.</p>					<p>registry;</p> <p>(4) Bandwidth and SLA are consistent with the technical, operational, and financial approach as described in the application; and</p> <p>(5) Demonstrates an adequate level of resources that are on hand, or committed or readily available to carry out this function.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>
	33	<p>Database Capabilities: provide details of database capabilities including but not limited to:</p> <ul style="list-style-type: none"> <li>• database software;</li> <li>• storage capacity (both in raw terms [e.g., MB, GB] and in number of registrations / registration transactions);</li> <li>• maximum transaction throughput (in total and by type of transaction);</li> <li>• scalability;</li> <li>• procedures for object creation, editing, and deletion, and user and credential management;</li> <li>• high availability;</li> <li>• change management procedures;</li> <li>• reporting capabilities; and</li> <li>• resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A registry database data model can be included to provide additional clarity to this response.</p> <p>Note: Database capabilities described should be in reference to registry services and not necessarily related support functions such as Personnel or Accounting, unless such services are inherently intertwined with the delivery of registry services.</p> <p>To be eligible for a score of 2, answers must also</p>	N		0-2	<p>Complete answer demonstrates:</p> <p>(1) complete knowledge and understanding of database capabilities to meet the registry technical requirements;</p> <p>(2) database capabilities consistent with the overall business approach and planned size of the registry; and</p> <p>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.</p>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and includes</p> <p>(1) Highly developed and detailed description of database capabilities that are able to scale well above stated projections for high registration volumes, thereby significantly reducing the risk from unexpected volume surges and demonstrates an ability to adapt quickly to support new technologies and services that are not necessarily envisaged for registry startup; and</p> <p>(2) Evidence of comprehensive database capabilities, including high scalability and redundant database infrastructure, regularly reviewed operational and reporting procedures following leading practices.</p> <p><b>1 - meets requirements:</b> Response includes</p> <p>(1) An adequate description of database capabilities that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</p> <p>(2) Plans for database capabilities</p>



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>include evidence of database capabilities that greatly reduce the risk profile of the proposed registry by providing a level of scalability and adaptability that far exceeds the minimum configuration necessary for the expected volume.</p> <p>A complete answer is expected to be no more than 5 pages.</p>					<p>describe all necessary elements;</p> <p>(3) Descriptions demonstrate adequate database capabilities, with database throughput, scalability, and database operations with limited operational governance;</p> <p>(4) Database capabilities are consistent with the technical, operational, and financial approach as described in the application; and</p> <p>(5) Demonstrates that an adequate level of resources that are on hand, or committed or readily available to carry out this function.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>
	34	<p>Geographic Diversity: provide a description of plans for geographic diversity of:</p> <p>a. name servers, and</p> <p>b. operations centers.</p> <p>Answers should include, but are not limited to:</p> <ul style="list-style-type: none"> <li>the intended physical locations of systems, primary and back-up operations centers (including security attributes), and other infrastructure;</li> <li>any registry plans to use Anycast or other topological and geographical diversity measures, in which case, the configuration of the relevant service must be included;</li> <li>resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>To be eligible for a score of 2, answers must also include evidence of a geographic diversity plan that greatly reduces the risk profile of the proposed registry by ensuring the continuance of all vital business functions (as identified in the applicant's continuity plan in Question 39) in the event of a natural or other disaster) at the principal place of business or point of presence.</p>	N		0-2	<p>Complete answer demonstrates:</p> <p>(1) geographic diversity of nameservers and operations centers;</p> <p>(2) proposed geo-diversity measures are consistent with the overall business approach and planned size of the registry; and</p> <p>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.</p>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and includes</p> <p>(1) Evidence of highly developed measures for geo-diversity of operations, with locations and functions to continue all vital business functions in the event of a natural or other disaster at the principal place of business or point of presence; and</p> <p>(2) A high level of availability, security, and bandwidth.</p> <p><b>1 - meets requirements:</b> Response includes</p> <p>(1) An adequate description of Geographic Diversity that substantially demonstrates the applicant's capabilities and knowledge required to meet this element;</p> <p>(2) Plans provide adequate geo-diversity of name servers and operations to continue critical registry functions in the event of a temporary outage at the principal place of business or point of presence;</p> <p>(3) Geo-diversity plans are consistent</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		A complete answer is expected to be no more than 5 pages.					with technical, operational, and financial approach as described in the application; and (4) Demonstrates adequate resources that are on hand, or committed or readily available to carry out this function. <b>0 - fails requirements:</b> Does not meet all the requirements to score 1.
	35	<p>DNS Service: describe the configuration and operation of nameservers, including how the applicant will comply with relevant RFCs.</p> <p>All name servers used for the new gTLD must be operated in compliance with the DNS protocol specifications defined in the relevant RFCs, including but not limited to: 1034, 1035, 1982, 2181, 2182, 2671, 3226, 3596, 3597, 3901, 4343, and 4472.</p> <ul style="list-style-type: none"> <li>• Provide details of the intended DNS Service including, but not limited to: A description of the DNS services to be provided, such as query rates to be supported at initial operation, and reserve capacity of the system. Describe how your nameserver update methods will change at various scales. Describe how DNS performance will change at various scales.</li> <li>• RFCs that will be followed – describe how services are compliant with RFCs and if these are dedicated or shared with any other functions (capacity/performance) or DNS zones.</li> <li>• The resources used to implement the services - describe complete server hardware and software, including network bandwidth and addressing plans for servers. Also include resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> <li>• Demonstrate how the system will</li> </ul>	N	<p>Note that the use of DNS wildcard resource records as described in RFC 4592 or any other method or technology for synthesizing DNS resource records or using redirection within the DNS by the registry is prohibited in the Registry Agreement.</p> <p>Also note that name servers for the new gTLD must comply with IANA Technical requirements for authoritative name servers: <a href="http://www.iana.org/procedures/nameserver-requirements.html">http://www.iana.org/procedures/nameserver-requirements.html</a>.</p>	0-1	<p>Complete answer demonstrates:</p> <p>(1) adequate description of configurations of nameservers and compliance with respective DNS protocol-related RFCs;</p> <p>(2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry;</p> <p>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section;</p> <p>(4) evidence of compliance with Specification 6 to the Registry Agreement; and</p> <p>(5) evidence of complete knowledge and understanding of requirements for DNS service, one of the five critical registry functions.</p>	<p><b>1 - meets requirements:</b> Response includes:</p> <p>(1) Adequate description of DNS service that that substantially demonstrates the applicant's capability and knowledge required to meet this element;</p> <p>(2) Plans are sufficient to result in compliance with DNS protocols (Specification 6, section 1.1) and required performance specifications Specification 10, Service Level Matrix;</p> <p>(3) Plans are consistent with technical, operational, and financial approach as described in the application; and</p> <p>(4) Demonstrates an adequate level of resources that are on hand, or committed or readily available to carry out this function.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>function - describe how the proposed infrastructure will be able to deliver the performance described in Specification 10 (section 2) attached to the Registry Agreement.</p> <p>Examples of evidence include:</p> <ul style="list-style-type: none"> <li>• Server configuration standard (i.e., planned configuration).</li> <li>• Network addressing and bandwidth for query load and update propagation.</li> <li>• Headroom to meet surges.</li> </ul> <p>A complete answer is expected to be no more than 10 pages.</p>					
	36	<p>IPv6 Reachability: provide a description of plans for providing IPv6 transport including, but not limited to:</p> <ul style="list-style-type: none"> <li>• How the registry will support IPv6 access to Whois, Web-based Whois and any other Registration Data Publication Service as described in Specification 6 (section 1.5) to the Registry Agreement.</li> <li>• How the registry will comply with the requirement in Specification 6 for having at least two nameservers reachable over IPv6.</li> <li>• List all services that will be provided over IPv6, and describe the IPv6 connectivity and provider diversity that will be used.</li> <li>• Resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A complete answer is expected to be no more than 5 pages.</p>	N	<p>IANA nameserver requirements are available at <a href="http://www.iana.org/procedures/nameserver-requirements.html">http://www.iana.org/procedures/nameserver-requirements.html</a>.</p>	0-1	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>(1) complete knowledge and understanding of this aspect of registry technical requirements;</li> <li>(2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry;</li> <li>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and</li> <li>(4) evidence of compliance with Specification 6 to the Registry Agreement.</li> </ol>	<p><b>1 - meets requirements:</b> Response includes</p> <ol style="list-style-type: none"> <li>(1) Adequate description of IPv6 reachability that substantially demonstrates the applicant's capability and knowledge required to meet this element;</li> <li>(2) A description of an adequate implementation plan addressing requirements for IPv6 reachability, indicating IPv6 reachability allowing IPv6 transport in the network over two independent IPv6 capable networks in compliance to IPv4 IANA specifications, and Specification 10;</li> <li>(3) IPv6 plans consistent with the technical, operational, and financial approach as described in the application; and</li> <li>(4) Demonstrates an adequate level of resources that are on hand, committed or readily available to carry out this function.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
	37	<p>Data Backup Policies &amp; Procedures: provide</p> <ul style="list-style-type: none"> <li>• details of frequency and procedures for backup of data,</li> <li>• hardware, and systems used for backup, data format,</li> <li>• data backup features,</li> <li>• backup testing procedures,</li> <li>• procedures for retrieval of data/rebuild of database,</li> <li>• storage controls and procedures, and</li> <li>• resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A complete answer is expected to be no more than 5 pages.</p>	N		0-1	<p>Complete answer demonstrates:</p> <p>(1) detailed backup and retrieval processes deployed;</p> <p>(2) backup and retrieval process and frequency are consistent with the overall business approach and planned size of the registry; and</p> <p>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.</p>	<p><b>1 - meets requirements:</b> Response includes</p> <p>(1) Adequate description of backup policies and procedures that substantially demonstrate the applicant's capabilities and knowledge required to meet this element;</p> <p>(2) A description of leading practices being or to be followed;</p> <p>(3) Backup procedures consistent with the technical, operational, and financial approach as described in the application; and</p> <p>(4) Demonstrates an adequate level of resources that are on hand, or committed or readily available to carry out this function.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>
	38	<p>Data Escrow: describe</p> <ul style="list-style-type: none"> <li>• how the applicant will comply with the data escrow requirements documented in the Registry Data Escrow Specification (Specification 2 of the Registry Agreement); and</li> <li>• resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A complete answer is expected to be no more than 5 pages</p>	N		0-1	<p>Complete answer demonstrates:</p> <p>(1) complete knowledge and understanding of data escrow, one of the five critical registry functions;</p> <p>(2) compliance with Specification 2 of the Registry Agreement;</p> <p>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and</p> <p>(4) the escrow arrangement is consistent with the overall business approach and size/scope of the registry.</p>	<p><b>1 – meets requirements:</b> Response includes</p> <p>(1) Adequate description of a Data Escrow process that substantially demonstrates the applicant's capability and knowledge required to meet this element;</p> <p>(2) Data escrow plans are sufficient to result in compliance with the Data Escrow Specification (Specification 2 to the Registry Agreement);</p> <p>(3) Escrow capabilities are consistent with the technical, operational, and financial approach as described in the application; and</p> <p>(4) Demonstrates an adequate level of resources that are on hand, committed, or readily available to carry out this function.</p> <p><b>0 – fails requirements:</b> Does not meet all the requirements to score a 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
	39	<p>Registry Continuity: describe how the applicant will comply with registry continuity obligations as described in Specification 6 (section 3) to the registry agreement. This includes conducting registry operations using diverse, redundant servers to ensure continued operation of critical functions in the case of technical failure.</p> <p>Describe resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</p> <p>The response should include, but is not limited to, the following elements of the business continuity plan:</p> <ul style="list-style-type: none"> <li>• Identification of risks and threats to compliance with registry continuity obligations;</li> <li>• Identification and definitions of vital business functions (which may include registry services beyond the five critical registry functions) versus other registry functions and supporting operations and technology;</li> <li>• Definitions of Recovery Point Objectives and Recovery Time Objective; and</li> <li>• Descriptions of testing plans to promote compliance with relevant obligations.</li> </ul> <p>To be eligible for a score of 2, answers must also include:</p> <ul style="list-style-type: none"> <li>• A highly detailed plan that provides for leading practice levels of availability; and</li> <li>• Evidence of concrete steps such as a contract with a backup provider (in addition to any currently designated service operator) or a maintained hot site.</li> </ul> <p>A complete answer is expected to be no more than 15 pages.</p>	N	<p>For reference, applicants should review the ICANN gTLD Registry Continuity Plan at <a href="http://www.icann.org/en/registries/continuity/gtld-registry-continuity-plan-25apr09-en.pdf">http://www.icann.org/en/registries/continuity/gtld-registry-continuity-plan-25apr09-en.pdf</a>.</p> <p>A Recovery Point Objective (RPO) refers to the point in time to which data should be recovered following a business disruption or disaster. The RPO allows an organization to define a window of time before a disruption or disaster during which data may be lost and is independent of the time it takes to get a system back on-line. If the RPO of a company is two hours, then when a system is brought back on-line after a disruption/disaster, all data must be restored to a point within two hours before the disaster.</p> <p>A Recovery Time Objective (RTO) is the duration of time within which a process must be restored after a business disruption or disaster to avoid what the entity may deem as unacceptable consequences. For example, pursuant to the draft Registry Agreement DNS service must not be down for longer than 4 hours. At 4 hours ICANN may invoke the use of an Emergency Back End Registry Operator to take over this function. The entity may deem this to be an unacceptable consequence therefore they may set their RTO to be something less than 4 hours and would build continuity plans accordingly.</p> <p>Vital business functions are functions that are critical to the success of the operation. For example, if a registry operator provides an additional service beyond the five critical registry functions, that it deems as central to its TLD, or supports an operation that is central to the TLD, this might be identified as a vital business function.</p>	0-2	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>(1) detailed description showing plans for compliance with registry continuity obligations;</li> <li>(2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry;</li> <li>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and</li> <li>(4) evidence of compliance with Specification 6 to the Registry Agreement.</li> </ol>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and includes:</p> <ol style="list-style-type: none"> <li>(1) Highly developed and detailed processes for maintaining registry continuity; and</li> <li>(2) Evidence of concrete steps, such as a contract with a backup service provider or a maintained hot site.</li> </ol> <p><b>1 - meets requirements:</b> Response includes:</p> <ol style="list-style-type: none"> <li>(1) Adequate description of a Registry Continuity plan that substantially demonstrates capability and knowledge required to meet this element;</li> <li>(2) Continuity plans are sufficient to result in compliance with requirements (Specification 6);</li> <li>(3) Continuity plans are consistent with the technical, operational, and financial approach as described in the application; and</li> <li>(4) Demonstrates an adequate level of resources that are on hand, committed readily available to carry out this function.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>
	40	<p>Registry Transition: provide a Service Migration plan (as described in the Registry Transition Processes) that could be followed in the event</p>	N		0-1	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>(1) complete knowledge and</li> </ol>	<p><b>1 - meets requirements:</b> Response includes</p> <ol style="list-style-type: none"> <li>(1) Adequate description of a registry</li> </ol>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>that it becomes necessary to permanently transition the proposed gTLD to a new operator. The plan must take into account, and be consistent with the vital business functions identified in the previous question.</p> <p>Elements of the plan may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Preparatory steps needed for the transition of critical registry functions;</li> <li>• Monitoring during registry transition and efforts to minimize any interruption to critical registry functions during this time; and</li> <li>• Contingency plans in the event that any part of the registry transition is unable to move forward according to the plan.</li> </ul> <p>A complete answer is expected to be no more than 10 pages.</p>				<p>understanding of the Registry Transition Processes; and</p> <p>(2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry.</p>	<p>transition plan that substantially demonstrates the applicant's capability and knowledge required to meet this element;</p> <p>(2) A description of an adequate registry transition plan with appropriate monitoring during registry transition; and</p> <p>(3) Transition plan is consistent with the technical, operational, and financial approach as described in the application.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>
	41	<p>Failover Testing: provide</p> <ul style="list-style-type: none"> <li>• a description of the failover testing plan, including mandatory annual testing of the plan. Examples may include a description of plans to test failover of data centers or operations to alternate sites, from a hot to a cold facility, registry data escrow testing, or other mechanisms. The plan must take into account and be consistent with the vital business functions identified in Question 39; and</li> <li>• resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>The failover testing plan should include, but is not limited to, the following elements:</p> <ul style="list-style-type: none"> <li>• Types of testing (e.g., walkthroughs, takedown of sites) and the frequency of testing;</li> <li>• How results are captured, what is done</li> </ul>	N		0-1	<p>Complete answer demonstrates:</p> <p>(1) complete knowledge and understanding of this aspect of registry technical requirements;</p> <p>(2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and</p> <p>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.</p>	<p><b>1 - meets requirements:</b> Response includes</p> <p>(1) An adequate description of a failover testing plan that substantially demonstrates the applicant's capability and knowledge required to meet this element;</p> <p>(2) A description of an adequate failover testing plan with an appropriate level of review and analysis of failover testing results;</p> <p>(3) Failover testing plan is consistent with the technical, operational, and financial approach as described in the application; and</p> <p>(4) Demonstrates an adequate level of resources that are on hand, committed or readily available to carry out this function.</p> <p><b>0 – fails requirements</b> Does not meet all the requirements to score a 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>with the results, and with whom results are shared;</p> <ul style="list-style-type: none"> <li>• How test plans are updated (e.g., what triggers an update, change management processes for making updates);</li> <li>• Length of time to restore critical registry functions;</li> <li>• Length of time to restore all operations, inclusive of critical registry functions; and</li> <li>• Length of time to migrate from one site to another.</li> </ul> <p>A complete answer is expected to be no more than 10 pages.</p>					
	42	<p>Monitoring and Fault Escalation Processes: provide</p> <ul style="list-style-type: none"> <li>• a description of the proposed (or actual) arrangements for monitoring critical registry systems (including SRS, database systems, DNS servers, Whois service, network connectivity, routers and firewalls). This description should explain how these systems are monitored and the mechanisms that will be used for fault escalation and reporting, and should provide details of the proposed support arrangements for these registry systems.</li> <li>• resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>To be eligible for a score of 2, answers must also include:</p> <ul style="list-style-type: none"> <li>• Meeting the fault tolerance / monitoring guidelines described</li> <li>• Evidence of commitment to provide a 24x7 fault response team.</li> </ul> <p>A complete answer is expected to be no more than 10 pages.</p>	N		0-2	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>(1) complete knowledge and understanding of this aspect of registry technical requirements;</li> <li>(2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry;</li> <li>(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and</li> <li>(4) consistency with the commitments made to registrants and registrars regarding system maintenance.</li> </ol>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and includes</p> <ol style="list-style-type: none"> <li>(1) Evidence showing highly developed and detailed fault tolerance/monitoring and redundant systems deployed with real-time monitoring tools / dashboard (metrics) deployed and reviewed regularly;</li> <li>(2) A high level of availability that allows for the ability to respond to faults through a 24x7 response team.</li> </ol> <p><b>1 - meets requirements:</b> Response includes</p> <ol style="list-style-type: none"> <li>(1) Adequate description of monitoring and fault escalation processes that substantially demonstrates the applicant's capability and knowledge required to meet this element;</li> <li>(2) Evidence showing adequate fault tolerance/monitoring systems planned with an appropriate level of monitoring and limited periodic review being performed;</li> <li>(3) Plans are consistent with the technical, operational, and financial approach described in the application; and</li> <li>(4) Demonstrates an adequate level of resources that are on hand,</li> </ol>



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
							committed or readily available to carry out this function. <b>0 - fails requirements:</b> Does not meet all the requirements to score 1.
	43	<p>DNSSEC: Provide</p> <ul style="list-style-type: none"> <li>The registry's DNSSEC policy statement (DPS), which should include the policies and procedures the proposed registry will follow, for example, for signing the zone file, for verifying and accepting DS records from child domains, and for generating, exchanging, and storing keying material;</li> <li>Describe how the DNSSEC implementation will comply with relevant RFCs, including but not limited to: RFCs 4033, 4034, 4035, 5910, 4509, 4641, and 5155 (the latter will only be required if Hashed Authenticated Denial of Existence will be offered); and</li> <li>resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A complete answer is expected to be no more than 5 pages. Note, the DPS is required to be submitted as part of the application</p>	N		0-1	<p>Complete answer demonstrates:</p> <ol style="list-style-type: none"> <li>complete knowledge and understanding of this aspect of registry technical requirements, one of the five critical registry functions;</li> <li>a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry;</li> <li>a technical plan that is adequately resourced in the planned costs detailed in the financial section; and</li> <li>an ability to comply with relevant RFCs.</li> </ol>	<p><b>1 - meets requirements:</b> Response includes</p> <ol style="list-style-type: none"> <li>An adequate description of DNSSEC that substantially demonstrates the applicant's capability and knowledge required to meet this element;</li> <li>Evidence that TLD zone files will be signed at time of launch, in compliance with required RFCs, and registry offers provisioning capabilities to accept public key material from registrants through the SRS ;</li> <li>An adequate description of key management procedures in the proposed TLD, including providing secure encryption key management (generation, exchange, and storage);</li> <li>Technical plan is consistent with the technical, operational, and financial approach as described in the application; and</li> <li>Demonstrates an adequate level of resources that are already on hand, committed or readily available to carry out this function.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
	44	<p><b>OPTIONAL.</b> IDNs:</p> <ul style="list-style-type: none"> <li>State whether the proposed registry will support the registration of IDN labels in the TLD, and if so, how. For example, explain which characters will be supported, and provide the associated IDN Tables with variant characters identified, along with a corresponding registration policy. This includes public interfaces to the databases such as Whois and EPP.</li> <li>Describe how the IDN implementation will comply with RFCs 5809-5893 as well as the ICANN IDN Guidelines at <a href="http://www.icann.org/en/topics/idn/implementation-guidelines.htm">http://www.icann.org/en/topics/idn/implementation-guidelines.htm</a>.</li> <li>Describe resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).</li> </ul> <p>A complete answer is expected to be no more than 10 pages plus attachments.</p>	N	<p>IDNs are an optional service at time of launch. Absence of IDN implementation or plans will not detract from an applicant's score. Applicants who respond to this question with plans for implementation of IDNs at time of launch will be scored according to the criteria indicated here.</p> <p>IDN tables should be submitted in a machine-readable format. The model format described in Section 5 of RFC 4290 would be ideal. The format used by RFC 3743 is an acceptable alternative. Variant generation algorithms that are more complex (such as those with contextual rules) and cannot be expressed using these table formats should be specified in a manner that could be re-implemented programmatically by ICANN. Ideally, for any complex table formats, a reference code implementation should be provided in conjunction with a description of the generation rules.</p>	0-1	<p>IDNs are an optional service. Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan that is adequately resourced in the planned costs detailed in the financial section; (3) consistency with the commitments made to registrants and the technical, operational, and financial approach described in the application; (4) issues regarding use of scripts are settled and IDN tables are complete and publicly available; and (5) ability to comply with relevant RFCs.</p>	<p><b>1 - meets requirements for this optional element:</b> Response includes</p> <ol style="list-style-type: none"> <li>Adequate description of IDN implementation that substantially demonstrates the applicant's capability and knowledge required to meet this element;</li> <li>An adequate description of the IDN procedures, including complete IDN tables, compliance with IDNA/IDN guidelines and RFCs, and periodic monitoring of IDN operations;</li> <li>Evidence of ability to resolve rendering and known IDN issues or spoofing attacks;</li> <li>IDN plans are consistent with the technical, operational, and financial approach as described in the application; and</li> <li>Demonstrates an adequate level of resources that are on hand, committed readily available to carry out this function.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>
<b>Demonstration of Financial Capability</b>	45	<p>Financial Statements: provide</p> <ul style="list-style-type: none"> <li>audited or independently certified financial statements for the most recently completed fiscal year for the applicant, and</li> <li>audited or unaudited financial statements for the most recently ended interim financial period for the applicant for which this information may be released.</li> </ul> <p>For newly-formed applicants, or where financial statements are not audited, provide:</p> <ul style="list-style-type: none"> <li>the latest available unaudited financial statements; and</li> <li>an explanation as to why audited or independently certified financial statements are not available.</li> </ul> <p>At a minimum, the financial statements should be provided for the legal entity listed as the applicant.</p>	N	<p>The questions in this section (45-50) are intended to give applicants an opportunity to demonstrate their financial capabilities to run a registry.</p> <p>Supporting documentation for this question should be submitted in the original language.</p>	0-1	<p>Audited or independently certified financial statements are prepared in accordance with International Financial Reporting Standards (IFRS) adopted by the International Accounting Standards Board (IASB) or nationally recognized accounting standards (e.g., GAAP). This will include a balance sheet and income statement reflecting the applicant's financial position and results of operations, a statement of shareholders equity/partner capital, and a cash flow statement. In the event the applicant is an entity newly formed for the purpose of applying for a gTLD and with little to no operating history</p>	<p><b>1 - meets requirements:</b> Complete audited or independently certified financial statements are provided, at the highest level available in the applicant's jurisdiction. Where such audited or independently certified financial statements are not available, such as for newly-formed entities, the applicant has provided an explanation and has provided, at a minimum, unaudited financial statements.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>Financial statements are used in the analysis of projections and costs.</p> <p>A complete answer should include:</p> <ul style="list-style-type: none"> <li>• balance sheet;</li> <li>• income statement;</li> <li>• statement of shareholders equity/partner capital;</li> <li>• cash flow statement, and</li> <li>• letter of auditor or independent certification, if applicable.</li> </ul>				(less than one year), the applicant must submit, at a minimum, pro forma financial statements including all components listed in the question. Where audited or independently certified financial statements are not available, applicant has provided an adequate explanation as to the accounting practices in its jurisdiction and has provided, at a minimum, unaudited financial statements.	
	46	<p>Projections Template: provide financial projections for costs and funding using Template 1, Most Likely Scenario (attached).</p> <p>Note, if certain services are outsourced, reflect this in the relevant cost section of the template.</p> <p>The template is intended to provide commonality among TLD applications and thereby facilitate the evaluation process.</p> <p>A complete answer is expected to be no more than 10 pages in addition to the template.</p>	N		0-1	<p>Applicant has provided a thorough model that demonstrates a sustainable business (even if break-even is not achieved through the first three years of operation).</p> <p>Applicant's description of projections development is sufficient to show due diligence.</p>	<p><b>1 - meets requirements:</b></p> <ol style="list-style-type: none"> <li>(1) Financial projections adequately describe the cost, funding and risks for the application</li> <li>(2) Demonstrates resources and plan for sustainable operations; and</li> <li>(3) Financial assumptions about the registry operations, funding and market are identified, explained, and supported.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all of the requirements to score a 1.</p>
	47	<p>Costs and capital expenditures: in conjunction with the financial projections template, describe and explain:</p> <ul style="list-style-type: none"> <li>• the expected operating costs and capital expenditures of setting up and operating the proposed registry;</li> <li>• any functions to be outsourced, as indicated in the cost section of the template, and the reasons for outsourcing;</li> <li>• any significant variances between years in any category of expected costs; and</li> <li>• a description of the basis / key assumptions including rationale for the costs provided in the projections template. This may include an</li> </ul>	N	This question is based on the template submitted in question 46.	0-2	<p>Costs identified are consistent with the proposed registry services, adequately fund technical requirements, and are consistent with proposed mission/purpose of the registry. Costs projected are reasonable for a registry of size and scope described in the application. Costs identified include the funding costs (interest expenses and fees) related to the continued operations instrument described in Question 50 below.</p>	<p><b>2 - exceeds requirements:</b> Response meets all of the attributes for a score of 1 and:</p> <ol style="list-style-type: none"> <li>(1) Estimated costs and assumptions are conservative and consistent with an operation of the registry volume/scope/size as described by the applicant;</li> <li>(2) Estimates are derived from actual examples of previous or existing registry operations or equivalent; and</li> <li>(3) Conservative estimates are based on those experiences and describe a range of anticipated costs and use the high end of those estimates.</li> </ol>



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>executive summary or summary outcome of studies, reference data, or other steps taken to develop the responses and validate any assumptions made.</p> <p>As described in the Applicant Guidebook, the information provided will be considered in light of the entire application and the evaluation criteria. Therefore, this answer should agree with the information provided in Template 1 to: 1) maintain registry operations, 2) provide registry services described above, and 3) satisfy the technical requirements described in the Demonstration of Technical &amp; Operational Capability section. Costs should include both fixed and variable costs.</p> <p>To be eligible for a score of two points, answers must demonstrate a conservative estimate of costs based on actual examples of previous or existing registry operations with similar approach and projections for growth and costs or equivalent. Attach reference material for such examples.</p> <p>A complete answer is expected to be no more than 10 pages.</p>				<p>Key assumptions and their rationale are clearly described and may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Key components of capital expenditures;</li> <li>• Key components of operating costs, unit operating costs, headcount, number of technical/operating/equipment units, marketing, and other costs; and</li> <li>• Costs of outsourcing, if any.</li> </ul>	<p><b>1 - meets requirements:</b></p> <p>(1) Cost elements are reasonable and complete (i.e., cover all of the aspects of registry operations: registry services, technical requirements and other aspects as described by the applicant);</p> <p>(2) Estimated costs and assumptions are consistent and defensible with an operation of the registry volume/scope/size as described by the applicant; and</p> <p>(3) Projections are reasonably aligned with the historical financial statements provided in Question 45.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>
		<p>(b) Describe anticipated ranges in projected costs. Describe factors that affect those ranges.</p> <p>A complete answer is expected to be no more than 10 pages.</p>	N				
	48	<p>(a) Funding and Revenue: Funding can be derived from several sources (e.g., existing capital or proceeds/revenue from operation of the proposed registry).</p> <p>Describe:</p> <p>I) How existing funds will provide resources for both: a) start-up of operations, and b) ongoing operations;</p> <p>II) the revenue model including projections for transaction volumes and price (if the applicant does not intend to rely on registration revenue in order to cover the costs of the registry's</p>	N	Supporting documentation for this question should be submitted in the original language.	0-2	<p>Funding resources are clearly identified and adequately provide for registry cost projections. Sources of capital funding are clearly identified, held apart from other potential uses of those funds and available. The plan for transition of funding sources from available capital to revenue from operations (if applicable) is described.</p>	<p><b>2 - exceeds requirements:</b></p> <p>Response meets all the attributes for a score of 1 and</p> <p>(1) Existing funds (specifically all funds required for start-up) are quantified, on hand, segregated in an account available only to the applicant for purposes of the application only, ;</p> <p>(2) If on-going operations are to be at least partially resourced from existing funds (rather than revenue from on-going operations) that funding is segregated and</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>operation, it must clarify how the funding for the operation will be developed and maintained in a stable and sustainable manner);</p> <p>III) outside sources of funding (the applicant must, where applicable, provide evidence of the commitment by the party committing the funds). Secured vs unsecured funding should be clearly identified, including associated sources of funding (i.e., different types of funding, level and type of security/collateral, and key items) for each type of funding;</p> <p>IV) Any significant variances between years in any category of funding and revenue; and</p> <p>V) A description of the basis / key assumptions including rationale for the funding and revenue provided in the projections template. This may include an executive summary or summary outcome of studies, reference data, or other steps taken to develop the responses and validate any assumptions made; and</p> <p>VI) Assurances that funding and revenue projections cited in this application are consistent with other public and private claims made to promote the business and generate support. To be eligible for a score of 2 points, answers must demonstrate:</p> <p>I) A conservative estimate of funding and revenue; and</p> <p>II) Ongoing operations that are not dependent on projected revenue.</p> <p>A complete answer is expected to be no more than 10 pages.</p>				<p>Outside sources of funding are documented and verified. Examples of evidence for funding sources include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Executed funding agreements;</li> <li>• A letter of credit;</li> <li>• A commitment letter; or</li> <li>• A bank statement.</li> </ul> <p>Funding commitments may be conditional on the approval of the application. Sources of capital funding required to sustain registry operations on an on-going basis are identified. The projected revenues are consistent with the size and projected penetration of the target markets.</p> <p>Key assumptions and their rationale are clearly described and address, at a minimum:</p> <ul style="list-style-type: none"> <li>• Key components of the funding plan and their key terms; and</li> <li>• Price and number of registrations.</li> </ul>	<p>earmarked for this purpose only in an amount adequate for three years operation;</p> <p>(3) If ongoing operations are to be at least partially resourced from revenues, assumptions made are conservative and take into consideration studies, reference data, or other steps taken to develop the response and validate any assumptions made; and</p> <p>(4) Cash flow models are prepared which link funding and revenue assumptions to projected actual business activity.</p> <p><b>1 - meets requirements:</b></p> <p>(1) Assurances provided that materials provided to investors and/or lenders are consistent with the projections and assumptions included in the projections templates;</p> <p>(2) Existing funds (specifically all funds required for start-up) are quantified, committed, identified as available to the applicant;</p> <p>(3) If on-going operations are to be at least partially resourced from existing funds (rather than revenue from on-going operations) that funding is quantified and its sources identified in an amount adequate for three years operation;</p> <p>(4) If ongoing operations are to be at least partially resourced from revenues, assumptions made are reasonable and are directly related to projected business volumes, market size and penetration; and</p> <p>(5) Projections are reasonably aligned with the historical financial statements provided in Question 45.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>(b) Describe anticipated ranges in projected funding and revenue. Describe factors that affect those ranges.</p> <p>A complete answer is expected to be no more than 10 pages.</p>	N				
	49	<p>(a) Contingency Planning: describe your contingency planning:</p> <ul style="list-style-type: none"> <li>Identify any projected barriers/risks to implementation of the business approach described in the application and how they affect cost, funding, revenue, or timeline in your planning;</li> <li>Identify the impact of any particular regulation, law or policy that might impact the Registry Services offering; and</li> <li>Describe the measures to mitigate the key risks as described in this question.</li> </ul> <p>A complete answer should include, for each contingency, a clear description of the impact to projected revenue, funding, and costs for the 3-year period presented in Template 1 (Most Likely Scenario).</p> <p>To be eligible for a score of 2 points, answers must demonstrate that action plans and operations are adequately resourced in the existing funding and revenue plan even if contingencies occur.</p> <p>A complete answer is expected to be no more than 10 pages.</p>	N		0-2	<p>Contingencies and risks are identified, quantified, and included in the cost, revenue, and funding analyses. Action plans are identified in the event contingencies occur. The model is resilient in the event those contingencies occur. Responses address the probability and resource impact of the contingencies identified.</p>	<p><b>2 - exceeds requirements:</b> Response meets all attributes for a score of 1 and:</p> <ol style="list-style-type: none"> <li>Action plans and operations are adequately resourced in the existing funding and revenue plan even if contingencies occur.</li> </ol> <p><b>1 - meets requirements:</b></p> <ol style="list-style-type: none"> <li>Model adequately identifies the key risks (including operational, business, legal, jurisdictional, financial, and other relevant risks);</li> <li>Response gives consideration to probability and resource impact of contingencies identified; and</li> <li>If resources are not available to fund contingencies in the existing plan, funding sources and a plan for obtaining them are identified.</li> </ol> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>
		<p>(b) Describe your contingency planning where funding sources are so significantly reduced that material deviations from the implementation model are required. In particular, describe:</p> <ul style="list-style-type: none"> <li>how on-going technical requirements will be met; and</li> <li>what alternative funding can be reasonably raised at a later time.</li> </ul> <p>Provide an explanation if you do not believe there is any chance of reduced funding.</p>	N				

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>Complete a financial projections template (Template 2, Worst Case Scenario)</p> <p>A complete answer is expected to be no more than 10 pages, in addition to the template.</p>					
		<p>(c) Describe your contingency planning where activity volumes so significantly exceed the high projections that material deviation from the implementation model are required. In particular, how will on-going technical requirements be met?</p> <p>A complete answer is expected to be no more than 10 pages.</p>	N				
	50	<p>(a) Provide a cost estimate for funding critical registry functions on an annual basis, and a rationale for these cost estimates commensurate with the technical, operational, and financial approach described in the application.</p> <p>The critical functions of a registry which must be supported even if an applicant's business and/or funding fails are:</p> <p>(1) DNS resolution for registered domain names</p> <p>Applicants should consider ranges of volume of daily DNS queries (e.g., 0-100M, 100M-1B, 1B+), the incremental costs associated with increasing levels of such queries, and the ability to meet SLA performance metrics.</p> <p>(2) Operation of the Shared Registration System</p> <p>Applicants should consider ranges of volume of daily EPP transactions (e.g., 0-200K, 200K-2M, 2M+), the incremental costs associated with</p>	N	<p>Registrant protection is critical and thus new gTLD applicants are requested to provide evidence indicating that the critical functions will continue to be performed even if the registry fails. Registrant needs are best protected by a clear demonstration that the basic registry functions are sustained for an extended period even in the face of registry failure. Therefore, this section is weighted heavily as a clear, objective measure to protect and serve registrants.</p> <p>The applicant has two tasks associated with adequately making this demonstration of continuity for critical registry functions. First, costs for maintaining critical registrant protection functions are to be estimated (Part a). In evaluating the application, the evaluators will adjudge whether the estimate is reasonable given the systems architecture and overall business approach described elsewhere in the application.</p> <p>The Continuing Operations Instrument (COI) is invoked by ICANN if necessary to pay for an Emergency Back End Registry Operator (EBERO) to maintain the five critical registry functions for a period of three to five years. Thus, the cost estimates are tied to the cost for a third party to provide the functions, not</p>	0-3	<p>Figures provided are based on an accurate estimate of costs. Documented evidence or detailed plan for ability to fund on-going critical registry functions for registrants for a period of three years in the event of registry failure, default or until a successor operator can be designated. Evidence of financial wherewithal to fund this requirement prior to delegation. This requirement must be met prior to or concurrent with the execution of the Registry Agreement.</p>	<p><b>3 - exceeds requirements:</b> Response meets all the attributes for a score of 1 and:</p> <p>(1) Financial instrument is secured and in place to provide for on-going operations for at least three years in the event of failure.</p> <p><b>1 - meets requirements:</b></p> <p>(1) Costs are commensurate with technical, operational, and financial approach as described in the application; and</p> <p>(2) Funding is identified and instrument is described to provide for on-going operations of at least three years in the event of failure.</p> <p><b>0 - fails requirements:</b> Does not meet all the requirements to score a 1.</p>

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>increasing levels of such queries, and the ability to meet SLA performance metrics.</p> <p>(3) Provision of Whois service</p> <p>Applicants should consider ranges of volume of daily Whois queries (e.g., 0-100K, 100k-1M, 1M+), the incremental costs associated with increasing levels of such queries, and the ability to meet SLA performance metrics for both web-based and port-43 services.</p> <p>(4) Registry data escrow deposits</p> <p>Applicants should consider administration, retention, and transfer fees as well as daily deposit (e.g., full or incremental) handling. Costs may vary depending on the size of the files in escrow (i.e., the size of the registry database).</p> <p>(5) Maintenance of a properly signed zone in accordance with DNSSEC requirements.</p> <p>Applicants should consider ranges of volume of daily DNS queries (e.g., 0-100M, 100M-1B, 1B+), the incremental costs associated with increasing levels of such queries, and the ability to meet SLA performance metrics.</p> <p>List the estimated annual cost for each of these functions (specify currency used).</p> <p>A complete answer is expected to be no more than 10 pages.</p>		<p>to the applicant's actual in-house or subcontracting costs for provision of these functions.</p> <p>Refer to guidelines at <a href="http://www.icann.org/en/announcements/announcement-3-23dec11-en.htm">http://www.icann.org/en/announcements/announcement-3-23dec11-en.htm</a> regarding estimation of costs. However, the applicant must provide its own estimates and explanation in response to this question.</p>			
		<p>(b) Applicants must provide evidence as to how the funds required for performing these critical registry functions will be available and guaranteed to fund registry operations (for the protection of registrants in the new gTLD) for a</p>	N	<p>Second (Part b), methods of securing the funds required to perform those functions for at least three years are to be described by the applicant in accordance with the criteria below. Two types of instruments will fulfill</p>			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>minimum of three years following the termination of the Registry Agreement. ICANN has identified two methods to fulfill this requirement:</p> <p><u>(i) Irrevocable standby letter of credit (LOC)</u> issued by a reputable financial institution.</p> <ul style="list-style-type: none"> <li>• The amount of the LOC must be equal to or greater than the amount required to fund the registry operations specified above for at least three years. In the event of a draw upon the letter of credit, the actual payout would be tied to the cost of running those functions.</li> <li>• The LOC must name ICANN or its designee as the beneficiary. Any funds paid out would be provided to the designee who is operating the required registry functions.</li> <li>• The LOC must have a term of at least five years from the delegation of the TLD. The LOC may be structured with an annual expiration date if it contains an evergreen provision providing for annual extensions, without amendment, for an indefinite number of periods until the issuing bank informs the beneficiary of its final expiration or until the beneficiary releases the LOC as evidenced in writing. If the expiration date occurs prior to the fifth anniversary of the delegation of the TLD, applicant will be required to obtain a replacement instrument.</li> <li>• The LOC must be issued by a reputable financial institution insured at the highest level in its jurisdiction. Documentation should indicate by whom the issuing institution is insured (i.e., as opposed to by whom the institution is rated).</li> <li>• The LOC will provide that ICANN or its designee shall be unconditionally entitled to a release of funds (full or partial) thereunder upon delivery of written notice by ICANN or its designee.</li> <li>• Applicant should attach an original copy of the executed letter of credit or a draft of the letter of credit containing the full terms and conditions. If not yet executed, the Applicant will be required to provide ICANN with an original copy of the executed LOC prior to or concurrent with the execution of the Registry Agreement.</li> <li>• The LOC must contain at least the following required elements: <ul style="list-style-type: none"> <li>○ Issuing bank and date of issue.</li> <li>○ Beneficiary: ICANN / 4676 Admiralty</li> </ul> </li> </ul>		<p>this requirement. The applicant must identify which of the two methods is being described. The instrument is required to be in place at the time of the execution of the Registry Agreement.</p> <p>Financial Institution Ratings: The instrument must be issued or held by a financial institution with a rating beginning with "A" (or the equivalent) by any of the following rating agencies: A.M. Best, Dominion Bond Rating Service, Egan-Jones, Fitch Ratings, Kroll Bond Rating Agency, Moody's, Morningstar, Standard &amp; Poor's, and Japan Credit Rating Agency.</p> <p>If an applicant cannot access a financial institution with a rating beginning with "A," but a branch or subsidiary of such an institution exists in the jurisdiction of the applying entity, then the instrument may be issued by the branch or subsidiary or by a local financial institution with an equivalent or higher rating to the branch or subsidiary.</p> <p>If an applicant cannot access any such financial institutions, the instrument may be issued by the highest-rated financial institution in the national jurisdiction of the applying entity, if accepted by ICANN.</p> <p>Execution by ICANN: For any financial instruments that contemplate ICANN being a party, upon the written request of the applicant, ICANN may (but is not obligated to) execute such agreement prior to submission of the applicant's application if the agreement is on terms acceptable to ICANN. ICANN encourages applicants to deliver a written copy of any such agreement (only if it requires ICANN's signature) to ICANN as soon as possible to facilitate ICANN's review. If the financial instrument requires ICANN's signature, then the applicant will receive 3 points for question 50 (for the instrument being "secured and in place") only if ICANN executes the agreement prior to submission of the application. ICANN will determine, in</p>			



	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>Way, Suite 330 / Marina del Rey, CA 90292 / US, or its designee.</p> <ul style="list-style-type: none"> <li>○ Applicant's complete name and address.</li> <li>○ LOC identifying number.</li> <li>○ Exact amount in USD.</li> <li>○ Expiry date.</li> <li>○ Address, procedure, and required forms whereby presentation for payment is to be made.</li> <li>○ Conditions: <ul style="list-style-type: none"> <li>▪ Partial drawings from the letter of credit may be made provided that such payment shall reduce the amount under the standby letter of credit.</li> <li>▪ All payments must be marked with the issuing bank name and the bank's standby letter of credit number.</li> <li>▪ LOC may not be modified, amended, or amplified by reference to any other document, agreement, or instrument.</li> <li>▪ The LOC is subject to the International Standby Practices (ISP 98) International Chamber of Commerce (Publication No. 590), or to an alternative standard that has been demonstrated to be reasonably equivalent.</li> </ul> </li> </ul> <p>(ii) <u>A deposit into an irrevocable cash escrow account held by a reputable financial institution.</u></p> <ul style="list-style-type: none"> <li>• The amount of the deposit must be equal to or greater than the amount required to fund registry operations for at least three years.</li> <li>• Cash is to be held by a third party financial institution which will not allow the funds to be commingled with the Applicant's operating funds or other funds and may only be accessed by ICANN or its designee if certain conditions are met.</li> <li>• The account must be held by a reputable financial institution insured at the highest level in its jurisdiction. Documentation should indicate by whom the issuing institution is insured (i.e., as opposed to by whom the institution is rated).</li> <li>• The escrow agreement relating to the escrow account will provide that ICANN or its designee shall be unconditionally entitled to a release of funds (full or partial) thereunder upon delivery of written notice by ICANN or its designee.</li> <li>• The escrow agreement must have a term</li> </ul>		<p>its sole discretion, whether to execute and become a party to a financial instrument.</p> <p>The financial instrument should be submitted in the original language.</p>			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		<p>of five years from the delegation of the TLD.</p> <ul style="list-style-type: none"> <li>The funds in the deposit escrow account are not considered to be an asset of ICANN.</li> <li>Any interest earnings less bank fees are to accrue to the deposit, and will be paid back to the applicant upon liquidation of the account to the extent not used to pay the costs and expenses of maintaining the escrow.</li> <li>The deposit plus accrued interest, less any bank fees in respect of the escrow, is to be returned to the applicant if the funds are not used to fund registry functions due to a triggering event or after five years, whichever is greater.</li> <li>The Applicant will be required to provide ICANN an explanation as to the amount of the deposit, the institution that will hold the deposit, and the escrow agreement for the account at the time of submitting an application.</li> <li>Applicant should attach evidence of deposited funds in the escrow account, or evidence of provisional arrangement for deposit of funds. Evidence of deposited funds and terms of escrow agreement must be provided to ICANN prior to or concurrent with the execution of the Registry Agreement.</li> </ul>					



## Instructions: TLD Applicant – Financial Projections

The application process requires the applicant to submit two cash basis Financial Projections.

The first projection (Template 1) should show the Financial Projections associated with the Most Likely scenario expected. This projection should include the forecasted registration volume, registration fee, and all costs and capital expenditures expected during the start-up period and during the first three years of operations. Template 1 relates to Question 46 (Projections Template) in the application.

We also ask that applicants show as a separate projection (Template 2) the Financial Projections associated with a realistic Worst Case scenario. Template 2 relates to Question 49 (Contingency Planning) in the application.

For each Projection prepared, please include Comments and Notes on the bottom of the projection (in the area provided) to provide those reviewing these projections with information regarding:

1. Assumptions used, significant variances in Operating Cash Flows and Capital Expenditures from year-to-year;
2. How you plan to fund operations;
3. Contingency planning

As you complete Template 1 and Template 2, please reference data points and/or formulas used in your calculations (where appropriate).

## Section I – Projected Cash inflows and outflows

### Projected Cash Inflows

**Lines A and B.** Provide the number of forecasted registrations and the registration fee for years 1, 2, and 3. Leave the *Start-up* column blank. The start-up period is for cash costs and capital expenditures only; there should be no cash projections input to this column.

**Line C.** Multiply lines A and B to arrive at the *Registration Cash Inflow* for line C.

**Line D.** Provide projected cash inflows from any other revenue source for years 1, 2, and 3. For any figures provided on line D, please disclose the source in the *Comments/Notes* box of Section I. Note, do not include funding in Line D as that is covered in Section VI.

**Line E.** Add lines C and D to arrive at the total cash inflow.

### Projected Operating Cash Outflows

**Start up costs** - For all line items (F thru L) Please describe the total period of time this start-up cost is expected to cover in the *Comments/Notes* box.

**Line F.** Provide the projected labor costs for marketing, customer support, and technical support for start-up, year 1, year 2, and year 3. Note, other labor costs should be put in line *L (Other Costs)* and specify the type of labor and associated projected costs in the *Comments/Notes* box of this section.

**Line G.** *Marketing Costs* represent the amount spent on advertising, promotions, and other marketing activities. This amount should not include labor costs included in Marketing Labor (line *F*).

**Lines H through K.** Provide projected costs for facilities, G&A, interests and taxes, and Outsourcing for start-up as well as for years 1, 2, and 3. Be sure to list the type of activities that are being outsourced. You may combine certain activities from the same provider as long as an appropriate description of the services being combined is listed in the *Comments/Notes* box.

**Line L.** Provide any other projected operating costs for start-up, year 1, year 2, year 3. Be sure to specify the type of cost in the *Comments/Notes* box.

**Line M.** Add lines *F* through *L* to arrive at the total costs for line *M*.

**Line N.** Subtract line *E* from line *M* to arrive at the projected net operation number for line *N*.

## **Section IIa – Breakout of Fixed and Variable Operating Cash Outflows**

**Line A.** Provide the projected variable operating cash outflows including labor and other costs that are not fixed in nature. Variable operating cash outflows are expenditures that fluctuate in relationship with increases or decreases in production or level of operations.

**Line B.** Provide the projected fixed operating cash outflows. Fixed operating cash outflows are expenditures that do not generally fluctuate in relationship with increases or decreases in production or level of operations. Such costs are generally necessary to be incurred in order to operate the base line operations of the organization or are expected to be incurred based on contractual commitments.

**Line C –** Add lines *A* and *B* to arrive at total Fixed and Variable Operating Cash Outflows for line *C*. This must equal Total Operating Cash Outflows from Section I, Line *M*.

## **Section IIb – Breakout of Critical Registry Function Operating Cash Outflows**

**Lines A – E.** Provide the projected cash outflows for the five critical registry functions. If these functions are outsourced, the component of the outsourcing fee representing these functions must be separately identified and provided. These costs are based on the applicant's cost to manage these functions and should be calculated separately from the Continued Operations Instrument (COI) for Question 50.

**Line F.** If there are other critical registry functions based on the applicant's registry business model then the projected cash outflow for this function must be provided with a description added to the *Comment/Notes* box. This projected cash outflow may also be included in the 3-year reserve.

**Line G.** Add lines *A* through *F* to arrive at the Total Critical Registry Function Cash Outflows.

## Section III – Projected Capital Expenditures

**Lines A through C.** Provide projected hardware, software, and furniture & equipment capital expenditures for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

**Line D.** Provide any projected capital expenditures as a result of outsourcing. This should be included for start-up and years 1, 2, and 3. Specify the type of expenditure and describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box of Section III.

**Line E** – Please describe “other” capital expenditures in the *Comments/Notes* box.

**Line F.** Add lines A through E to arrive at the Total Capital Expenditures.

## Section IV – Projected Assets & Liabilities

**Lines A through C.** Provide projected cash, account receivables, and other current assets for start-up as well as for years 1, 2, and 3. For *Other Current Assets*, specify the type of asset and describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

**Line D.** Add lines A, B, C to arrive at the Total Current Assets.

**Lines E through G.** Provide projected accounts payable, short-term debt, and other current liabilities for start-up as well as for years 1, 2, and 3. For *Other Current Liabilities*, specify the type of liability and describe the total period of time the start-up up cost is expected to cover in the *Comments/Notes* box.

**Line H.** Ad lines E through G to arrive at the total current liabilities.

**Lines I through K.** Provide the projected fixed assets (PP&E), the 3-year reserve, and long-term assets for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

**Line L.** Ad lines I through K to arrive at the total long-term assets.

**Line M.** Provide the projected long-term debt for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box

## Section V – Projected Cash Flow

Cash flow is driven by *Projected Net Operations* (Section I), *Projected Capital Expenditures* (Section III), and *Projected Assets & Liabilities* (Section IV).

**Line A.** Provide the projected net operating cash flows for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

**Line B.** Provide the projected capital expenditures for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box of Section V.

**Lines C through F.** Provide the projected change in non-cash current assets, total current liabilities, debt adjustments, and other adjustments for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

**Line G.** Add lines A through F to arrive at the projected net cash flow for line H.

## **Section VI – Sources of Funds**

**Lines A & B.** Provide projected funds from debt and equity at start-up. Describe the sources of debt and equity funding as well as the total period of time the start-up is expected to cover in the *Comments/Notes* box. Please also provide evidence the funding (e.g., letter of commitment).

**Line C.** Add lines A and B to arrive at the total sources of funds for line C.

### **General Comments – Regarding Assumptions Used, Significant Variances Between Years, etc.**

Provide explanations for any significant variances between years (or expected in years beyond the timeframe of the template) in any category of costing or funding.

### **General Comments – Regarding how the Applicant Plans to Fund Operations**

Provide general comments explaining how you will fund operations. Funding should be explained in detail in response to question 48.

### **General Comments – Regarding Contingencies**

Provide general comments to describe your contingency planning. Contingency planning should be explained in detail in response to question 49.

TLD Applicant -- Financial Projections : **Sample**

Sec.	Reference / Formula	Live / Operational			
		Start-up Costs	Year 1	Year 2	Year 3
In local currency (unless noted otherwise)					
i) Projected Cash Inflows and Outflows					
A) Forecasted registration volume		-	62 000	81 600	105 180
B) Registration Fee		\$ -	\$ 5.00	\$ 5.50	\$ 6.05
C) Registration cash inflows	A * B	-	310 000	448 800	636 339
D) Other cash inflows		-	35 000	48 000	62 000
E) Total Cash Inflows		-	345 000	496 800	698 339
Projected Operating Cash Outflows					
F) Labor:					
i) Marketing Labor		25 000	66 000	72 000	81 000
ii) Customer Support Labor		5 000	68 000	71 000	74 000
iii) Technical Labor		32 000	45 000	47 000	49 000
G) Marketing		40 000	44 000	26 400	31 680
H) Facilities		7 000	10 000	12 000	14 400
I) General & Administrative		14 000	112 000	122 500	136 000
J) Interest and Taxes		27 500	29 000	29 800	30 760
K) Outsourcing Operating Costs, if any (list the type of activities being outsourced):					
i) Hot site maintenance		5 000	7 500	7 500	7 500
ii) Partial Registry Functions		32 000	37 500	41 000	43 000
iii) (list type of activities being outsourced)		-	-	-	-
iv) (list type of activities being outsourced)		-	-	-	-
v) (list type of activities being outsourced)		-	-	-	-
vi) (list type of activities being outsourced)		-	-	-	-
L) Other Operating Costs		12 200	18 000	21 600	25 920
M) Total Operating Cash Outflows		199 700	437 000	450 800	493 260
N) Projected Net Operating Cash flow	E - M	(199 700)	(92 000)	46 000	205 079
Ia) Break out of Fixed and Variable Operating Cash Outflows					
A) Total Variable Operating Costs		92 000	195 250	198 930	217 416
B) Total Fixed Operating Costs		107 700	241 750	251 870	275 844
C) Total Operating Cash Outflows	= Sec. I) M CHECK	199 700	437 000	450 800	493 260
Ib) Break out of Critical Registry Function Operating Cash Outflows					
A) Operation of SRS		-	5 000	5 500	6 050
B) Provision of Whois		-	6 000	6 600	7 260
C) DNS Resolution for Registered Domain Names		-	7 000	7 700	8 470
D) Registry Data Escrow		-	8 000	8 800	9 680
E) Maintenance of Zone in accordance with DNSSEC		-	9 000	9 900	10 890
F) Other		-	-	-	-
G) Total Critical Function Cash Outflows		-	35 000	38 500	42 350
III) Projected Capital Expenditures					
A) Hardware		98 000	21 000	16 000	58 000
B) Software		32 000	18 000	24 000	11 000
C) Furniture & Other Equipment		43 000	22 000	14 000	16 000
D) Outsourcing Capital Expenditures, if any (list the type of capital expenditures):					
i)		-	-	-	-
ii)		-	-	-	-
iii)		-	-	-	-
iv)		-	-	-	-
v)		-	-	-	-
vi)		-	-	-	-
E) Other Capital Expenditures		-	-	-	-
F) Total Capital Expenditures		173 000	61 000	54 000	85 000
IV) Projected Assets & Liabilities					
A) Cash		668 300	474 300	413 000	471 679
B) Accounts receivable		-	70 000	106 000	160 000
C) Other current assets		-	40 000	60 000	80 000
D) Total Current Assets		668 300	584 300	579 000	711 679
E) Accounts payable		41 000	110 000	113 000	125 300
F) Short-term Debt		-	-	-	-
G) Other Current Liabilities		-	-	-	-
H) Total Current Liabilities		41 000	110 000	113 000	125 300
I) Total Property, Plant & Equipment (PP&E)	= Sec III) F: cumulative Prior Yr - Cur Yr	173 000	234 000	288 000	373 000
J) 3-year Reserve		186 000	186 000	186 000	186 000
K) Other Long-term Assets		-	-	-	-
L) Total Long-term Assets		359 000	420 000	474 000	559 000
M) Total Long-term Debt		1 000 000	1 000 000	1 000 000	1 000 000
V) Projected Cash flow (excl. 3-year Reserve)					
A) Net operating cash flows	= Sec. I) N	(199 700)	(92 000)	46 000	205 079
B) Capital expenditures	= Sec. III) FE	(173 000)	(61 000)	(54 000)	(85 000)
C) Change in Non Cash Current Assets	= Sec. IV) (B) (C): Prior Yr - Cur Yr	n/a	(110 000)	(56 000)	(74 000)
D) Change in Total Current Liabilities	= Sec. IV) H: Cur Yr - Prior Yr	41 000	69 000	3 000	12 300
E) Debt Adjustments	= Sec. IV) F and M: Cur Yr - Prior Yr	n/a	-	-	-
F) Other Adjustments		-	-	-	-
G) Projected Net Cash flow		(331 700)	(194 000)	(61 000)	58,379
VI) Sources of funds					
A) Debt:					
i) On-hand at time of application		1 000 000	-	-	-
ii) Contingent and/or committed but not yet on-hand		-	-	-	-
B) Equity:					
i) On-hand at time of application		-	-	-	-
ii) Contingent and/or committed but not yet on-hand		-	-	-	-
C) Total Sources of funds		1 000 000	-	-	-

Comments / Notes
Provide name of local currency used.
Registration was forecasted based on recent market surveys which we have attached and discussed below. We do not anticipate significant increases in Registration Fees subsequent to year 3.
Other cash inflows represent advertising monies expected from display ads on our website.
Costs are further detailed and explained in response to question 47.
Provide a list and associated cost for each outsourced function. Outsourcing hot site to ABC Company - cost based on number of servers hosted and customer support. Outsourced certain registry and other functions to ABC registry (applicant should list outsourced functions). Costs for each year are based on expected domains under management.
Variable Costs: -Start Up equals all labor plus 75% of marketing. -Years 1 through 3 equal 75% of all labor plus 50% of Marketing and 30% of G&A and Other Operating Costs Fixed Costs: equals Total Costs less Variable Costs
Check that I) C equals I) N.
Note: these are based on the applicant's cost to manage these functions and should be calculated separately from the Continued Operations Instrument (COI) for Question 50
Commensurate with Question 24 Commensurate with Question 26 Commensurate with Question 35 Commensurate with Question 38 Commensurate with Question 43
-Hardware & Software have a useful life of 3 years -Furniture & other equipment have a useful life of 5 years
List and describe each identifiable type of outsourcing.
List and describe each identifiable type of outsourcing.
List and describe each identifiable type of outsourcing.
List and describe each identifiable type of outsourcing.
List and describe each identifiable type of outsourcing.
List and describe each identifiable type of outsourcing.
Should equal amount calculated for Question 50
Principal payments on the line of credit with XYZ Bank will not be incurred until Year 5. Interest will be paid as incurred and is reflected in Sec. I) J.
The \$41k in Start Up Costs represents an offset of the Accounts Payable reflected in the Projected balance sheet. Subsequent years are based on changes in Current Liabilities where Prior Year is subtracted from the Current year.
See below for comments on funding. Revenues are further detailed and explained in response to question 48.

**General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):**  
 We expect the number of registrations to grow at approximately 30% per year with an increase in the registration fee of \$1 per year for the first three years. These volume assumptions are based on the attached (i) market data and (ii) published benchmark registry growth. Fee assumptions are aligned with the growth plan and anticipated demand based on the registration curve. We anticipate our costs will increase at a controlled pace over the first three years except for marketing costs which will be higher in the start-up and first year as we establish our brand name and work to increase registrations. Operating costs are supported by the attached (i) benchmark report for a basket of similar registries and (ii) a build-up of costs based on our current operations. Our capital expenditures will be greatest in the start-up phase and then our need to invest in computer hardware and software will level off after the start-up period. Capital expenses are based on contract drafts and discussions held with vendors. We have included and referenced the hardware costs to support the estimates. Our investment in Furniture and Equipment will be greatest in the start-up period as we build our infrastructure and then decrease in the following periods.  
 Start-up: Our start-up phase is anticipated to comprise [X] months in line with benchmark growth curves indicated by prior start-ups and published market data. Our assumptions were derived from the attached support.

**Comments regarding how the Applicant plans to Fund operations:**  
 We have recently negotiated a line of credit with XYZ Bank (a copy of the fully executed line of credit agreement has been included with our application) and this funding will allow us to purchase necessary equipment and pay for employees and other Operating Costs during our start-up period and the first few years of operations. We expect that our business operation will be self-funded (i.e. revenue from operations will cover all anticipated costs and capital expenditures) by the second half of our second year in operation; we also expect to become profitable with positive cash flow in year three.

**General Comments regarding contingencies:**  
 Although we expect to be cash flow positive by the end of year 2, the recently negotiated line of credit will cover our operating costs for the first 4 years of operation if necessary. We have also entered into an agreement with XYZ Co. to assume our registrants should our business model not have the ability to sustain itself in future years. Agreement with XYZ Co. has been included with our application. A full description of risks and a range of potential outcomes and impacts are included in our responses to Question 49. These responses have quantified the impacts of certain probabilities and our negotiated funding and action plans as shown are adequate to fund our business operations.

**Template 1 - Financial Projections: Most Likely**

**Comments / Notes**

In local currency (unless noted otherwise)		Reference / Formula	Live / Operational				Provide name of local currency used.
Sec.			Start-up Costs	Year 1	Year 2	Year 3	
<b>I) Projected Cash inflows and outflows</b>							
	A) Forecasted registration volume						
	B) Registration fee						
	C) Registration cash inflows						
	D) Other cash inflows						
	E) Total Cash Inflows						
<b>Projected Operating Cash Outflows</b>							
<b>F) Labor:</b>							
	i) Marketing Labor						
	ii) Customer Support Labor						
	iii) Technical Labor						
	G) Marketing						
	H) Facilities						
	I) General & Administrative						
	J) Interest and Taxes						
	K) Outsourcing Operating Costs, if any (list the type of activities being outsourced):						
	i) (list type of activities being outsourced)						
	ii) (list type of activities being outsourced)						
	iii) (list type of activities being outsourced)						
	iv) (list type of activities being outsourced)						
	v) (list type of activities being outsourced)						
	vi) (list type of activities being outsourced)						
	L) Other Operating costs						
	M) Total Operating Cash Outflows						
	N) Projected Net Operating Cash flow						
<b>IIa) Break out of Fixed and Variable Operating Cash Outflows</b>							
	A) Total Variable Operating Costs						
	B) Total Fixed Operating Costs						
	C) Total Operating Cash Outflows						
		CHECK					
<b>IIb) Break out of Critical Function Operating Cash Outflows</b>							
	A) Operation of SRS						
	B) Provision of Whois						
	C) DNS Resolution for Registered Domain Names						
	D) Registry Data Escrow						
	E) Maintenance of Zone in accordance with DNSSEC						
	G) Total Critical Registry Function Cash Outflows						
	H) 3-year Total						
<b>III) Projected Capital Expenditures</b>							
	A) Hardware						
	B) Software						
	C) Furniture & Other Equipment						
	D) Outsourcing Capital Expenditures, if any (list the type of capital expenditures)						
	i)						
	ii)						
	iii)						
	iv)						
	v)						
	vi)						
	E) Other Capital Expenditures						
	F) Total Capital Expenditures						
<b>IV) Projected Assets &amp; Liabilities</b>							
	A) Cash						
	B) Accounts receivable						
	C) Other current assets						
	D) Total Current Assets						
	E) Accounts payable						
	F) Short-term Debt						
	G) Other Current Liabilities						
	H) Total Current Liabilities						
	I) Total Property, Plant & Equipment (PP&E)						
	J) 3-year Reserve						
	K) Other Long-term Assets						
	L) Total Long-term Assets						
	M) Total Long-term Debt						
<b>V) Projected Cash flow (excl. 3-year Reserve)</b>							
	A) Net operating cash flows						
	B) Capital expenditures						
	C) Change in Non Cash Current Assets	n/a					
	D) Change in Total Current Liabilities						
	E) Debt Adjustments	n/a					
	F) Other Adjustments						
	G) Other Adjustments						
	H) Projected Net Cash flow						
<b>VI) Sources of funds</b>							
<b>A) Debt:</b>							
	i) On-hand at time of application						
	ii) Contingent and/or committed but not yet on-hand						
<b>B) Equity:</b>							
	i) On-hand at time of application						
	ii) Contingent and/or committed but not yet on-hand						
	C) Total Sources of funds						
<b>General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):</b>							
<b>Comments regarding how the Applicant plans to Fund operations:</b>							
<b>General Comments regarding contingencies:</b>							

Template 2 - Financial Projections: Worst Case						Comments / Notes	
In local currency (unless noted otherwise)			Live / Operational				Provide name of local currency used.
Sec.	Reference / Formula	Start-up Costs	Year 1	Year 2	Year 3		
I)	Projected Cash inflows and outflows						
	A) Forecasted registration volume						
	B) Registration fee						
	C) Registration cash inflows						
	D) Other cash inflows						
	E) Total Cash Inflows						
	Projected Operating Cash Outflows						
	F) Labor:						
	i) Marketing Labor						
	ii) Customer Support Labor						
	iii) Technical Labor						
	G) Marketing						
	H) Facilities						
	I) General & Administrative						
	J) Interest and Taxes						
	K) Outsourcing Operating Costs, if any (list the type of activities being outsourced):						
	i) (list type of activities being outsourced)						
	ii) (list type of activities being outsourced)						
	iii) (list type of activities being outsourced)						
	iv) (list type of activities being outsourced)						
	v) (list type of activities being outsourced)						
	vi) (list type of activities being outsourced)						
	L) Other Operating costs						
	M) Total Operating Cash Outflows						
	N) Projected Net Operating Cash flow						
IIa)	Break out of Fixed and Variable Operating Cash Outflows						
	A) Total Variable Operating Costs						
	B) Total Fixed Operating Costs						
	C) Total Operating Cash Outflows						
		CHECK					
IIb)	Break out of Critical Function Operating Cash Outflows						
	A) Operation of SRS						
	B) Provision of Whois						
	C) DNS Resolution for Registered Domain Names						
	D) Registry Data Escrow						
	E) Maintenance of Zone in accordance with DNSSEC						
	G) Total Critical Registry Function Cash Outflows						
	H) 3-year Total						
III)	Projected Capital Expenditures						
	A) Hardware						
	B) Software						
	C) Furniture & Other Equipment						
	D) Outsourcing Capital Expenditures, if any (list the type of capital expenditures)						
	i)						
	ii)						
	iii)						
	iv)						
	v)						
	vi)						
	E) Other Capital Expenditures						
	F) Total Capital Expenditures						
IV)	Projected Assets & Liabilities						
	A) Cash						
	B) Accounts receivable						
	C) Other current assets						
	D) Total Current Assets						
	E) Accounts payable						
	F) Short-term Debt						
	G) Other Current Liabilities						
	H) Total Current Liabilities						
	I) Total Property, Plant & Equipment (PP&E)						
	J) 3-year Reserve						
	K) Other Long-term Assets						
	L) Total Long-term Assets						
	M) Total Long-term Debt						
V)	Projected Cash flow (excl. 3-year Reserve)						
	A) Net operating cash flows						
	B) Capital expenditures						
	C) Change in Non Cash Current Assets	n/a					
	D) Change in Total Current Liabilities						
	E) Debt Adjustments	n/a					
	F) Other Adjustments						
	G) Projected Net Cash flow						
VI)	Sources of funds						
	A) Debt:						
	i) On-hand at time of application						
	ii) Contingent and/or committed but not yet on-hand						
	B) Equity:						
	i) On-hand at time of application						
	ii) Contingent and/or committed but not yet on-hand						
	C) Total Sources of funds						
General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):							
Comments regarding how the Applicant plans to Fund operations:							
General Comments regarding contingencies:							



# gTLD Applicant Guidebook

(v. 2012-06-04)

Module 3

4 June 2012



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# Module 3

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## Objection Procedures

This module describes two types of mechanisms that may affect an application:

- I. The procedure by which ICANN's Governmental Advisory Committee may provide GAC Advice on New gTLDs to the ICANN Board of Directors concerning a specific application. This module describes the purpose of this procedure, and how GAC Advice on New gTLDs is considered by the ICANN Board once received.
- II. The dispute resolution procedure triggered by a formal objection to an application by a third party. This module describes the purpose of the objection and dispute resolution mechanisms, the grounds for lodging a formal objection to a gTLD application, the general procedures for filing or responding to an objection, and the manner in which dispute resolution proceedings are conducted.

This module also discusses the guiding principles, or standards, that each dispute resolution panel will apply in reaching its expert determination.

All applicants should be aware of the possibility that a formal objection may be filed against any application, and of the procedures and options available in the event of such an objection.

### 3.1 GAC Advice on New gTLDs

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ICANN's Governmental Advisory Committee was formed to consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues.

The process for GAC Advice on New gTLDs is intended to address applications that are identified by governments to be problematic, e.g., that potentially violate national law or raise sensitivities.

GAC members can raise concerns about any application to the GAC. The GAC as a whole will consider concerns

raised by GAC members, and agree on GAC advice to forward to the ICANN Board of Directors.

The GAC can provide advice on any application. For the Board to be able to consider the GAC advice during the evaluation process, the GAC advice would have to be submitted by the close of the Objection Filing Period (see Module 1).

GAC Advice may take one of the following forms:

- I. The GAC advises ICANN that it is the consensus of the GAC that a particular application should not proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.
- II. The GAC advises ICANN that there are concerns about a particular application "dot-example." The ICANN Board is expected to enter into dialogue with the GAC to understand the scope of concerns. The ICANN Board is also expected to provide a rationale for its decision.
- III. The GAC advises ICANN that an application should not proceed unless remediated. This will raise a strong presumption for the Board that the application should not proceed unless there is a remediation method available in the Guidebook (such as securing the approval of one or more governments), that is implemented by the applicant.

Where GAC Advice on New gTLDs is received by the Board concerning an application, ICANN will publish the Advice and endeavor to notify the relevant applicant(s) promptly. The applicant will have a period of 21 calendar days from the publication date in which to submit a response to the ICANN Board.

ICANN will consider the GAC Advice on New gTLDs as soon as practicable. The Board may consult with independent experts, such as those designated to hear objections in the New gTLD Dispute Resolution Procedure, in cases where the issues raised in the GAC advice are pertinent to one of the subject matter areas of the objection procedures. The receipt of GAC advice will not toll the processing of any application (i.e., an application will not be suspended but will continue through the stages of the application process).

## 3.2 *Public Objection and Dispute Resolution Process*

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The independent dispute resolution process is designed to protect certain interests and rights. The process provides a path for formal objections during evaluation of the applications. It allows a party with standing to have its objection considered before a panel of qualified experts.

A formal objection can be filed only on four enumerated grounds, as described in this module. A formal objection initiates a dispute resolution proceeding. In filing an application for a gTLD, the applicant agrees to accept the applicability of this gTLD dispute resolution process. Similarly, an objector accepts the applicability of this gTLD dispute resolution process by filing its objection.

As described in section 3.1 above, ICANN's Governmental Advisory Committee has a designated process for providing advice to the ICANN Board of Directors on matters affecting public policy issues, and these objection procedures would not be applicable in such a case. The GAC may provide advice on any topic and is not limited to the grounds for objection enumerated in the public objection and dispute resolution process.

### 3.2.1 *Grounds for Objection*

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A formal objection may be filed on any one of the following four grounds:

***String Confusion Objection*** – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied-for gTLD string in the same round of applications.

***Legal Rights Objection*** – The applied-for gTLD string infringes the existing legal rights of the objector.

***Limited Public Interest Objection*** – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law.

***Community Objection*** – There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

The rationales for these objection grounds are discussed in the final report of the ICANN policy development process for new gTLDs. For more information on this process, see

<http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-part-08aug07.htm>.

### 3.2.2 *Standing to Object*

Objectors must satisfy standing requirements to have their objections considered. As part of the dispute proceedings, all objections will be reviewed by a panel of experts designated by the applicable Dispute Resolution Service Provider (DRSP) to determine whether the objector has standing to object. Standing requirements for the four objection grounds are:

Objection ground	Who may object
String confusion	Existing TLD operator or gTLD applicant in current round. In the case where an IDN ccTLD Fast Track request has been submitted before the public posting of gTLD applications received, and the Fast Track requestor wishes to file a string confusion objection to a gTLD application, the Fast Track requestor will be granted standing.
Legal rights	Rightsholders
Limited public interest	No limitations on who may file – however, subject to a “quick look” designed for early conclusion of frivolous and/or abusive objections
Community	Established institution associated with a clearly delineated community

#### 3.2.2.1 *String Confusion Objection*

Two types of entities have standing to object:

- An existing TLD operator may file a string confusion objection to assert string confusion between an applied-for gTLD and the TLD that it currently operates.
- Any gTLD applicant in this application round may file a string confusion objection to assert string confusion between an applied-for gTLD and the gTLD for which it has applied, where string confusion between the two applicants has not already been found in the Initial Evaluation. That is, an applicant does not have standing to object to another application with which it is already in a contention set as a result of the Initial Evaluation.

In the case where an existing TLD operator successfully asserts string confusion with an applicant, the application will be rejected.

In the case where a gTLD applicant successfully asserts string confusion with another applicant, the only possible

outcome is for both applicants to be placed in a contention set and to be referred to a contention resolution procedure (refer to Module 4, String Contention Procedures). If an objection by one gTLD applicant to another gTLD application is unsuccessful, the applicants may both move forward in the process without being considered in direct contention with one another.

### **3.2.2.2 Legal Rights Objection**

A rightsholder has standing to file a legal rights objection. The source and documentation of the existing legal rights the objector is claiming (which may include either registered or unregistered trademarks) are infringed by the applied-for gTLD must be included in the filing.

An intergovernmental organization (IGO) is eligible to file a legal rights objection if it meets the criteria for registration of a .INT domain name<sup>1</sup>:

- a) An international treaty between or among national governments must have established the organization; and
- b) The organization that is established must be widely considered to have independent international legal personality and must be the subject of and governed by international law.

The specialized agencies of the UN and the organizations having observer status at the UN General Assembly are also recognized as meeting the criteria.

### **3.2.2.3 Limited Public Interest Objection**

Anyone may file a Limited Public Interest Objection. Due to the inclusive standing base, however, objectors are subject to a "quick look" procedure designed to identify and eliminate frivolous and/or abusive objections. An objection found to be manifestly unfounded and/or an abuse of the right to object may be dismissed at any time.

A Limited Public Interest objection would be manifestly unfounded if it did not fall within one of the categories that have been defined as the grounds for such an objection (see subsection 3.5.3).

A Limited Public Interest objection that is manifestly unfounded may also be an abuse of the right to object. An objection may be framed to fall within one of the

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<sup>1</sup> See also <http://www.iana.org/domains/int/policy/>.

accepted categories for Limited Public Interest objections, but other facts may clearly show that the objection is abusive. For example, multiple objections filed by the same or related parties against a single applicant may constitute harassment of the applicant, rather than a legitimate defense of legal norms that are recognized under general principles of international law. An objection that attacks the applicant, rather than the applied-for string, could be an abuse of the right to object.<sup>2</sup>

The quick look is the Panel's first task, after its appointment by the DRSP and is a review on the merits of the objection. The dismissal of an objection that is manifestly unfounded and/or an abuse of the right to object would be an Expert Determination, rendered in accordance with Article 21 of the New gTLD Dispute Resolution Procedure.

In the case where the quick look review does lead to the dismissal of the objection, the proceedings that normally follow the initial submissions (including payment of the full advance on costs) will not take place, and it is currently contemplated that the filing fee paid by the applicant would be refunded, pursuant to Procedure Article 14(e).

#### 3.2.2.4 Community Objection

Established institutions associated with clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection. To qualify for standing for a community objection, the objector must prove both of the following:

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<sup>2</sup> The jurisprudence of the European Court of Human Rights offers specific examples of how the term "manifestly ill-founded" has been interpreted in disputes relating to human rights. Article 35(3) of the European Convention on Human Rights provides: "The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application." The ECHR renders reasoned decisions on admissibility, pursuant to Article 35 of the Convention. (Its decisions are published on the Court's website <http://www.echr.coe.int>.) In some cases, the Court briefly states the facts and the law and then announces its decision, without discussion or analysis. E.g., Decision as to the Admissibility of Application No. 34328/96 by Egbert Peree against the Netherlands (1998). In other cases, the Court reviews the facts and the relevant legal rules in detail, providing an analysis to support its conclusion on the admissibility of an application. Examples of such decisions regarding applications alleging violations of Article 10 of the Convention (freedom of expression) include: *Décision sur la recevabilité de la requête no 65831/01 présentée par Roger Garaudy contre la France* (2003); *Décision sur la recevabilité de la requête no 65297/01 présentée par Eduardo Fernando Alves Costa contre le Portugal* (2004).

The jurisprudence of the European Court of Human Rights also provides examples of the abuse of the right of application being sanctioned, in accordance with ECHR Article 35(3). See, for example, *Décision partielle sur la recevabilité de la requête no 61164/00 présentée par Gérard Duringer et autres contre la France et de la requête no 18589/02 contre la France* (2003).

***It is an established institution*** – Factors that may be considered in making this determination include, but are not limited to:

- Level of global recognition of the institution;
- Length of time the institution has been in existence; and
- Public historical evidence of its existence, such as the presence of a formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.

***It has an ongoing relationship with a clearly delineated community*** – Factors that may be considered in making this determination include, but are not limited to:

- The presence of mechanisms for participation in activities, membership, and leadership;
- Institutional purpose related to the benefit of the associated community;
- Performance of regular activities that benefit the associated community; and
- The level of formal boundaries around the community.

The panel will perform a balancing of the factors listed above, as well as other relevant information, in making its determination. It is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements.

### ***3.2.3 Dispute Resolution Service Providers***

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To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date, directly with the appropriate DRSP for each objection ground.

- The International Centre for Dispute Resolution has agreed to administer disputes brought pursuant to string confusion objections.
- The Arbitration and Mediation Center of the World Intellectual Property Organization has agreed to administer disputes brought pursuant to legal rights objections.

- The International Center of Expertise of the International Chamber of Commerce has agreed to administer disputes brought pursuant to Limited Public Interest and Community Objections.

ICANN selected DRSPs on the basis of their relevant experience and expertise, as well as their willingness and ability to administer dispute proceedings in the new gTLD Program. The selection process began with a public call for expressions of interest<sup>3</sup> followed by dialogue with those candidates who responded. The call for expressions of interest specified several criteria for providers, including established services, subject matter expertise, global capacity, and operational capabilities. An important aspect of the selection process was the ability to recruit panelists who will engender the respect of the parties to the dispute.

### *3.2.4 Options in the Event of Objection*

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Applicants whose applications are the subject of an objection have the following options:

The applicant can work to reach a settlement with the objector, resulting in withdrawal of the objection or the application;

The applicant can file a response to the objection and enter the dispute resolution process (refer to Section 3.2); or

The applicant can withdraw, in which case the objector will prevail by default and the application will not proceed further.

If for any reason the applicant does not file a response to an objection, the objector will prevail by default.

### *3.2.5 Independent Objector*

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A formal objection to a gTLD application may also be filed by the Independent Objector (IO). The IO does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet.

In light of this public interest goal, the Independent Objector is limited to filing objections on the grounds of Limited Public Interest and Community.

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<sup>3</sup> See <http://www.icann.org/en/announcements/announcement-21dec07.htm>.



Neither ICANN staff nor the ICANN Board of Directors has authority to direct or require the IO to file or not file any particular objection. If the IO determines that an objection should be filed, he or she will initiate and prosecute the objection in the public interest.

**Mandate and Scope** - The IO may file objections against “highly objectionable” gTLD applications to which no objection has been filed. The IO is limited to filing two types of objections: (1) Limited Public Interest objections and (2) Community objections. The IO is granted standing to file objections on these enumerated grounds, notwithstanding the regular standing requirements for such objections (see subsection 3.1.2).

The IO may file a Limited Public Interest objection against an application even if a Community objection has been filed, and vice versa.

The IO may file an objection against an application, notwithstanding the fact that a String Confusion objection or a Legal Rights objection was filed.

Absent extraordinary circumstances, the IO is not permitted to file an objection to an application where an objection has already been filed on the same ground.

The IO may consider public comment when making an independent assessment whether an objection is warranted. The IO will have access to application comments received during the comment period.

In light of the public interest goal noted above, the IO shall not object to an application unless at least one comment in opposition to the application is made in the public sphere.

**Selection** – The IO will be selected by ICANN, through an open and transparent process, and retained as an independent consultant. The Independent Objector will be an individual with considerable experience and respect in the Internet community, unaffiliated with any gTLD applicant.

Although recommendations for IO candidates from the community are welcomed, the IO must be and remain independent and unaffiliated with any of the gTLD applicants. The various rules of ethics for judges and international arbitrators provide models for the IO to declare and maintain his/her independence.

The IO's (renewable) tenure is limited to the time necessary to carry out his/her duties in connection with a single round of gTLD applications.

**Budget and Funding** – The IO's budget would comprise two principal elements: (a) salaries and operating expenses, and (b) dispute resolution procedure costs – both of which should be funded from the proceeds of new gTLD applications.

As an objector in dispute resolution proceedings, the IO is required to pay filing and administrative fees, as well as advance payment of costs, just as all other objectors are required to do. Those payments will be refunded by the DRSP in cases where the IO is the prevailing party.

In addition, the IO will incur various expenses in presenting objections before DRSP panels that will not be refunded, regardless of the outcome. These expenses include the fees and expenses of outside counsel (if retained) and the costs of legal research or factual investigations.

### **3.3 Filing Procedures**

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The information included in this section provides a summary of procedures for filing:

- Objections; and
- Responses to objections.

For a comprehensive statement of filing requirements applicable generally, refer to the New gTLD Dispute Resolution Procedure ("Procedure") included as an attachment to this module. In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail.

Note that the rules and procedures of each DRSP specific to each objection ground must also be followed. See <http://newgtlds.icann.org/en/program-status/objection-dispute-resolution>.

#### **3.3.1 Objection Filing Procedures**

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The procedures outlined in this subsection must be followed by any party wishing to file a formal objection to an application that has been posted by ICANN. Should an applicant wish to file a formal objection to another gTLD application, it would follow these same procedures.

- All objections must be filed electronically with the appropriate DRSP by the posted deadline date.

Objections will not be accepted by the DRSPs after this date.

- All objections must be filed in English.
- Each objection must be filed separately. An objector wishing to object to several applications must file a separate objection and pay the accompanying filing fees for each application that is the subject of an objection. If an objector wishes to object to an application on more than one ground, the objector must file separate objections and pay the accompanying filing fees for each objection ground.

Each objection filed by an objector must include:

- The name and contact information of the objector.
- A statement of the objector's basis for standing; that is, why the objector believes it meets the standing requirements to object.
- A description of the basis for the objection, including:
  - A statement giving the specific ground upon which the objection is being filed.
  - A detailed explanation of the validity of the objection and why it should be upheld.
- Copies of any documents that the objector considers to be a basis for the objection.

Objections are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

An objector must provide copies of all submissions to the DRSP associated with the objection proceedings to the applicant.

The DRSP will publish, and regularly update a list on its website identifying all objections as they are filed. ICANN will post on its website a notice of all objections filed once the objection filing period has closed.

### ***3.3.2 Objection Filing Fees***

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At the time an objection is filed, the objector is required to pay a filing fee in the amount set and published by the relevant DRSP. If the filing fee is not paid, the DRSP will

dismiss the objection without prejudice. See Section 1.5 of Module 1 regarding fees.

Funding from ICANN for objection filing fees, as well as for advance payment of costs (see subsection 3.4.7 below) is available to the At-Large Advisory Committee (ALAC). Funding for ALAC objection filing and dispute resolution fees is contingent on publication by ALAC of its approved process for considering and making objections. At a minimum, the process for objecting to a gTLD application will require: bottom-up development of potential objections, discussion and approval of objections at the Regional At-Large Organization (RALO) level, and a process for consideration and approval of the objection by the At-Large Advisory Committee.

Funding from ICANN for objection filing fees, as well as for advance payment of costs, is available to individual national governments in the amount of USD 50,000 with the guarantee that a minimum of one objection per government will be fully funded by ICANN where requested. ICANN will develop a procedure for application and disbursement of funds.

Funding available from ICANN is to cover costs payable to the dispute resolution service provider and made directly to the dispute resolution service provider; it does not cover other costs such as fees for legal advice.

### **3.3.3 Response Filing Procedures**

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Upon notification that ICANN has published the list of all objections filed (refer to subsection 3.3.1), the DRSPs will notify the parties that responses must be filed within 30 calendar days of receipt of that notice. DRSPs will not accept late responses. Any applicant that fails to respond to an objection within the 30-day response period will be in default, which will result in the objector prevailing.

- All responses must be filed in English.
- Each response must be filed separately. That is, an applicant responding to several objections must file a separate response and pay the accompanying filing fee to respond to each objection.
- Responses must be filed electronically.

Each response filed by an applicant must include:

- The name and contact information of the applicant.

- A point-by-point response to the claims made by the objector.
- Any copies of documents that it considers to be a basis for the response.

Responses are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

Each applicant must provide copies of all submissions to the DRSP associated with the objection proceedings to the objector.

### ***3.3.4 Response Filing Fees***

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At the time an applicant files its response, it is required to pay a filing fee in the amount set and published by the relevant DRSP, which will be the same as the filing fee paid by the objector. If the filing fee is not paid, the response will be disregarded, which will result in the objector prevailing.

## ***3.4 Objection Processing Overview***

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The information below provides an overview of the process by which DRSPs administer dispute proceedings that have been initiated. For comprehensive information, please refer to the New gTLD Dispute Resolution Procedure (included as an attachment to this module).

### ***3.4.1 Administrative Review***

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Each DRSP will conduct an administrative review of each objection for compliance with all procedural rules within 14 calendar days of receiving the objection. Depending on the number of objections received, the DRSP may ask ICANN for a short extension of this deadline.

If the DRSP finds that the objection complies with procedural rules, the objection will be deemed filed, and the proceedings will continue. If the DRSP finds that the objection does not comply with procedural rules, the DRSP will dismiss the objection and close the proceedings without prejudice to the objector's right to submit a new objection that complies with procedural rules. The DRSP's review or rejection of the objection will not interrupt the time limit for filing an objection.

### ***3.4.2 Consolidation of Objections***

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Once the DRSP receives and processes all objections, at its discretion the DRSP may elect to consolidate certain objections. The DRSP shall endeavor to decide upon

consolidation prior to issuing its notice to applicants that the response should be filed and, where appropriate, shall inform the parties of the consolidation in that notice.

An example of a circumstance in which consolidation might occur is multiple objections to the same application based on the same ground.

In assessing whether to consolidate objections, the DRSP will weigh the efficiencies in time, money, effort, and consistency that may be gained by consolidation against the prejudice or inconvenience consolidation may cause. The DRSPs will endeavor to have all objections resolved on a similar timeline. It is intended that no sequencing of objections will be established.

New gTLD applicants and objectors also will be permitted to propose consolidation of objections, but it will be at the DRSP's discretion whether to agree to the proposal.

ICANN continues to strongly encourage all of the DRSPs to consolidate matters whenever practicable.

### 3.4.3 *Mediation*

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The parties to a dispute resolution proceeding are encouraged—but not required—to participate in mediation aimed at settling the dispute. Each DRSP has experts who can be retained as mediators to facilitate this process, should the parties elect to do so, and the DRSPs will communicate with the parties concerning this option and any associated fees.

If a mediator is appointed, that person may not serve on the panel constituted to issue an expert determination in the related dispute.

There are no automatic extensions of time associated with the conduct of negotiations or mediation. The parties may submit joint requests for extensions of time to the DRSP according to its procedures, and the DRSP or the panel, if appointed, will decide whether to grant the requests, although extensions will be discouraged. Absent exceptional circumstances, the parties must limit their requests for extension to 30 calendar days.

The parties are free to negotiate without mediation at any time, or to engage a mutually acceptable mediator of their own accord.

### **3.4.4 Selection of Expert Panels**

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A panel will consist of appropriately qualified experts appointed to each proceeding by the designated DRSP. Experts must be independent of the parties to a dispute resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing an expert for lack of independence.

There will be one expert in proceedings involving a string confusion objection.

There will be one expert, or, if all parties agree, three experts with relevant experience in intellectual property rights disputes in proceedings involving an existing legal rights objection.

There will be three experts recognized as eminent jurists of international reputation, with expertise in relevant fields as appropriate, in proceedings involving a Limited Public Interest objection.

There will be one expert in proceedings involving a community objection.

Neither the experts, the DRSP, ICANN, nor their respective employees, directors, or consultants will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any proceeding under the dispute resolution procedures.

### **3.4.5 Adjudication**

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The panel may decide whether the parties shall submit any written statements in addition to the filed objection and response, and may specify time limits for such submissions.

In order to achieve the goal of resolving disputes rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the panel may require a party to produce additional evidence.

Disputes will usually be resolved without an in-person hearing. The panel may decide to hold such a hearing only in extraordinary circumstances.

### **3.4.6 Expert Determination**

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The DRSPs' final expert determinations will be in writing and will include:

- A summary of the dispute and findings;

- An identification of the prevailing party; and
- The reasoning upon which the expert determination is based.

Unless the panel decides otherwise, each DRSP will publish all decisions rendered by its panels in full on its website.

The findings of the panel will be considered an expert determination and advice that ICANN will accept within the dispute resolution process.

### **3.4.7 Dispute Resolution Costs**

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Before acceptance of objections, each DRSP will publish a schedule of costs or statement of how costs will be calculated for the proceedings that it administers under this procedure. These costs cover the fees and expenses of the members of the panel and the DRSP's administrative costs.

ICANN expects that string confusion and legal rights objection proceedings will involve a fixed amount charged by the panelists while Limited Public Interest and community objection proceedings will involve hourly rates charged by the panelists.

Within ten (10) calendar days of constituting the panel, the DRSP will estimate the total costs and request advance payment in full of its costs from both the objector and the applicant. Each party must make its advance payment within ten (10) calendar days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the parties will be credited against the amounts due for this advance payment of costs.

The DRSP may revise its estimate of the total costs and request additional advance payments from the parties during the resolution proceedings.

Additional fees may be required in specific circumstances; for example, if the DRSP receives supplemental submissions or elects to hold a hearing.

If an objector fails to pay these costs in advance, the DRSP will dismiss its objection and no fees paid by the objector will be refunded.

If an applicant fails to pay these costs in advance, the DRSP will sustain the objection and no fees paid by the applicant will be refunded.



After the hearing has taken place and the panel renders its expert determination, the DRSP will refund the advance payment of costs to the prevailing party.

### ***3.5 Dispute Resolution Principles (Standards)***

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Each panel will use appropriate general principles (standards) to evaluate the merits of each objection. The principles for adjudication on each type of objection are specified in the paragraphs that follow. The panel may also refer to other relevant rules of international law in connection with the standards.

The objector bears the burden of proof in each case.

The principles outlined below are subject to evolution based on ongoing consultation with DRSPs, legal experts, and the public.

#### ***3.5.1 String Confusion Objection***

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A DRSP panel hearing a string confusion objection will consider whether the applied-for gTLD string is likely to result in string confusion. String confusion exists where a string so nearly resembles another that it is likely to deceive or cause confusion. For a likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

#### ***3.5.2 Legal Rights Objection***

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In interpreting and giving meaning to GNSO Recommendation 3 (“Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law”), a DRSP panel of experts presiding over a legal rights objection will determine whether the potential use of the applied-for gTLD by the applicant takes unfair advantage of the distinctive character or the reputation of the objector’s registered or unregistered trademark or service mark (“mark”) or IGO name or acronym (as identified in the treaty establishing the organization), or unjustifiably impairs the distinctive character or the reputation of the objector’s mark or IGO name or acronym, or otherwise creates an impermissible likelihood of confusion between the applied-for gTLD and the objector’s mark or IGO name or acronym.

In the case where the objection is based on trademark rights, the panel will consider the following non-exclusive factors:

1. Whether the applied-for gTLD is identical or similar, including in appearance, phonetic sound, or meaning, to the objector's existing mark.
2. Whether the objector's acquisition and use of rights in the mark has been bona fide.
3. Whether and to what extent there is recognition in the relevant sector of the public of the sign corresponding to the gTLD, as the mark of the objector, of the applicant or of a third party.
4. Applicant's intent in applying for the gTLD, including whether the applicant, at the time of application for the gTLD, had knowledge of the objector's mark, or could not have reasonably been unaware of that mark, and including whether the applicant has engaged in a pattern of conduct whereby it applied for or operates TLDs or registrations in TLDs which are identical or confusingly similar to the marks of others.
5. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the gTLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise by the objector of its mark rights.
6. Whether the applicant has marks or other intellectual property rights in the sign corresponding to the gTLD, and, if so, whether any acquisition of such a right in the sign, and use of the sign, has been bona fide, and whether the purported or likely use of the gTLD by the applicant is consistent with such acquisition or use.
7. Whether and to what extent the applicant has been commonly known by the sign corresponding to the gTLD, and if so, whether any purported or likely use of the gTLD by the applicant is consistent therewith and bona fide.
8. Whether the applicant's intended use of the gTLD would create a likelihood of confusion with the objector's mark as to the source, sponsorship, affiliation, or endorsement of the gTLD.

In the case where a legal rights objection has been filed by an IGO, the panel will consider the following non-exclusive factors:

1. Whether the applied-for gTLD is identical or similar, including in appearance, phonetic sound or meaning, to the name or acronym of the objecting IGO;
2. Historical coexistence of the IGO and the applicant's use of a similar name or acronym. Factors considered may include:
  - a. Level of global recognition of both entities;
  - b. Length of time the entities have been in existence;
  - c. Public historical evidence of their existence, which may include whether the objecting IGO has communicated its name or abbreviation under Article 6<sup>ter</sup> of the Paris Convention for the Protection of Industrial Property.
3. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the TLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise of the objecting IGO's name or acronym;
4. Whether and to what extent the applicant has been commonly known by the sign corresponding to the applied-for gTLD, and if so, whether any purported or likely use of the gTLD by the applicant is consistent therewith and bona fide; and
5. Whether the applicant's intended use of the applied-for gTLD would create a likelihood of confusion with the objecting IGO's name or acronym as to the source, sponsorship, affiliation, or endorsement of the TLD.

### ***3.5.3 Limited Public Interest Objection***

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An expert panel hearing a Limited Public Interest objection will consider whether the applied-for gTLD string is contrary to general principles of international law for morality and public order.

Examples of instruments containing such general principles include:

- The Universal Declaration of Human Rights (UDHR)

- The International Covenant on Civil and Political Rights (ICCPR)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The International Convention on the Elimination of All Forms of Racial Discrimination
- Declaration on the Elimination of Violence against Women
- The International Covenant on Economic, Social, and Cultural Rights
- The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families
- Slavery Convention
- Convention on the Prevention and Punishment of the Crime of Genocide
- Convention on the Rights of the Child

Note that these are included to serve as examples, rather than an exhaustive list. It should be noted that these instruments vary in their ratification status. Additionally, states may limit the scope of certain provisions through reservations and declarations indicating how they will interpret and apply certain provisions. National laws not based on principles of international law are not a valid ground for a Limited Public Interest objection.

Under these principles, everyone has the right to freedom of expression, but the exercise of this right carries with it special duties and responsibilities. Accordingly, certain limited restrictions may apply.

The grounds upon which an applied-for gTLD string may be considered contrary to generally accepted legal norms relating to morality and public order that are recognized under principles of international law are:

- Incitement to or promotion of violent lawless action;
- Incitement to or promotion of discrimination based upon race, color, gender, ethnicity, religion or national origin, or other similar types of

discrimination that violate generally accepted legal norms recognized under principles of international law;

- Incitement to or promotion of child pornography or other sexual abuse of children; or
- A determination that an applied-for gTLD string would be contrary to specific principles of international law as reflected in relevant international instruments of law.

The panel will conduct its analysis on the basis of the applied-for gTLD string itself. The panel may, if needed, use as additional context the intended purpose of the TLD as stated in the application.

### 3.5.4 *Community Objection*

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The four tests described here will enable a DRSP panel to determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted. For an objection to be successful, the objector must prove that:

- The community invoked by the objector is a clearly delineated community; and
- Community opposition to the application is substantial; and
- There is a strong association between the community invoked and the applied-for gTLD string; and
- The application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. Each of these tests is described in further detail below.

**Community** – The objector must prove that the community expressing opposition can be regarded as a clearly delineated community. A panel could balance a number of factors to determine this, including but not limited to:

- The level of public recognition of the group as a community at a local and/or global level;
- The level of formal boundaries around the community and what persons or entities are considered to form the community;

- The length of time the community has been in existence;
- The global distribution of the community (this may not apply if the community is territorial); and
- The number of people or entities that make up the community.

If opposition by a number of people/entities is found, but the group represented by the objector is not determined to be a clearly delineated community, the objection will fail.

**Substantial Opposition** – The objector must prove substantial opposition within the community it has identified itself as representing. A panel could balance a number of factors to determine whether there is substantial opposition, including but not limited to:

- Number of expressions of opposition relative to the composition of the community;
- The representative nature of entities expressing opposition;
- Level of recognized stature or weight among sources of opposition;
- Distribution or diversity among sources of expressions of opposition, including:
  - Regional
  - Subsectors of community
  - Leadership of community
  - Membership of community
- Historical defense of the community in other contexts; and
- Costs incurred by objector in expressing opposition, including other channels the objector may have used to convey opposition.

If some opposition within the community is determined, but it does not meet the standard of substantial opposition, the objection will fail.

**Targeting** – The objector must prove a strong association between the applied-for gTLD string and the community represented by the objector. Factors that could be

balanced by a panel to determine this include but are not limited to:

- Statements contained in application;
- Other public statements by the applicant;
- Associations by the public.

If opposition by a community is determined, but there is no strong association between the community and the applied-for gTLD string, the objection will fail.

**Detriment** – The objector must prove that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. An allegation of detriment that consists only of the applicant being delegated the string instead of the objector will not be sufficient for a finding of material detriment.

Factors that could be used by a panel in making this determination include but are not limited to:

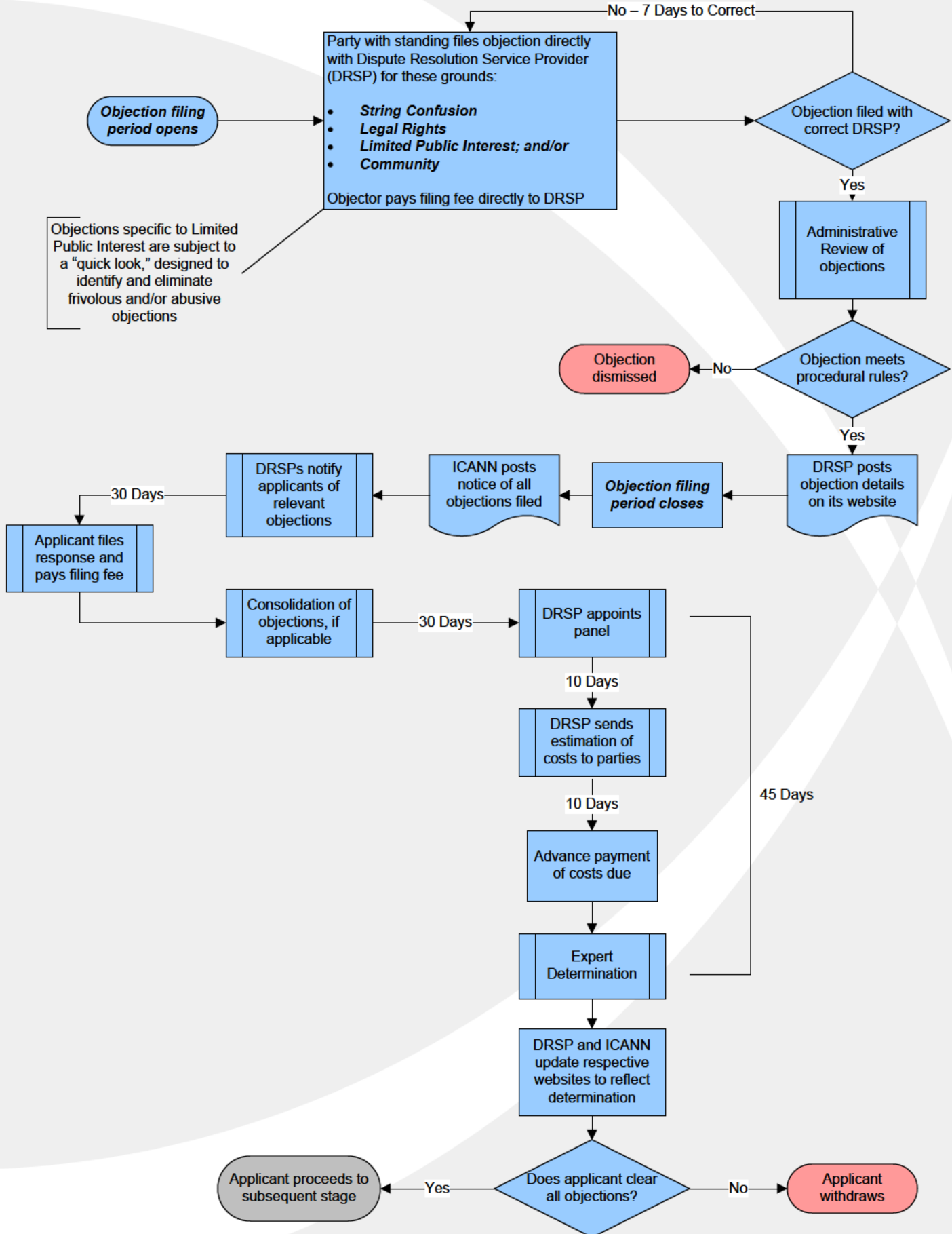
- Nature and extent of damage to the reputation of the community represented by the objector that would result from the applicant's operation of the applied-for gTLD string;
- Evidence that the applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely, including evidence that the applicant has not proposed or does not intend to institute effective security protection for user interests;
- Interference with the core activities of the community that would result from the applicant's operation of the applied-for gTLD string;
- Dependence of the community represented by the objector on the DNS for its core activities;
- Nature and extent of concrete or economic damage to the community represented by the objector that would result from the applicant's operation of the applied-for gTLD string; and
- Level of certainty that alleged detrimental outcomes would occur.

If opposition by a community is determined, but there is no likelihood of material detriment to the targeted community resulting from the applicant's operation of the applied-for gTLD, the objection will fail.

The objector must meet all four tests in the standard for the objection to prevail.



# DRAFT - New gTLD Program – Objection and Dispute Resolution



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# *Attachment to Module 3*

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## *New gTLD Dispute Resolution Procedure*

These Procedures were designed with an eye toward timely and efficient dispute resolution. As part of the New gTLD Program, these Procedures apply to all proceedings administered by each of the dispute resolution service providers (DRSP). Each of the DRSPs has a specific set of rules that will also apply to such proceedings.

## NEW gTLD DISPUTE RESOLUTION PROCEDURE

### Article 1. ICANN's New gTLD Program

- (a) The Internet Corporation for Assigned Names and Numbers ("ICANN") has implemented a program for the introduction of new generic Top-Level Domain Names ("gTLDs") in the internet. There will be a succession of rounds, during which applicants may apply for new gTLDs, in accordance with terms and conditions set by ICANN.
- (b) The new gTLD program includes a dispute resolution procedure, pursuant to which disputes between a person or entity who applies for a new gTLD and a person or entity who objects to that gTLD are resolved in accordance with this New gTLD Dispute Resolution Procedure (the "Procedure").
- (c) Dispute resolution proceedings shall be administered by a Dispute Resolution Service Provider ("DRSP") in accordance with this Procedure and the applicable DRSP Rules that are identified in Article 4(b).
- (d) By applying for a new gTLD, an applicant accepts the applicability of this Procedure and the applicable DRSP's Rules that are identified in Article 4(b); by filing an objection to a new gTLD, an objector accepts the applicability of this Procedure and the applicable DRSP's Rules that are identified in Article 4(b). The parties cannot derogate from this Procedure without the express approval of ICANN and from the applicable DRSP Rules without the express approval of the relevant DRSP.

### Article 2. Definitions

- (a) The "Applicant" or "Respondent" is an entity that has applied to ICANN for a new gTLD and that will be the party responding to the Objection.
- (b) The "Objector" is one or more persons or entities who have filed an objection against a new gTLD for which an application has been submitted.
- (c) The "Panel" is the panel of Experts, comprising one or three "Experts," that has been constituted by a DRSP in accordance with this Procedure and the applicable DRSP Rules that are identified in Article 4(b).
- (d) The "Expert Determination" is the decision upon the merits of the Objection that is rendered by a Panel in a proceeding conducted under this Procedure and the applicable DRSP Rules that are identified in Article 4(b).
- (e) The grounds upon which an objection to a new gTLD may be filed are set out in full in Module 3 of the Applicant Guidebook. Such grounds are identified in this Procedure, and are based upon the Final Report on the Introduction of New Generic Top-Level Domains, dated 7 August 2007, issued by the ICANN Generic Names Supporting Organization (GNSO), as follows:
  - (i) "String Confusion Objection" refers to the objection that the string comprising the potential gTLD is confusingly similar to an existing top-level domain or another string applied for in the same round of applications.
  - (ii) "Existing Legal Rights Objection" refers to the objection that the string comprising the potential new gTLD infringes the existing legal rights of others

that are recognized or enforceable under generally accepted and internationally recognized principles of law.

- (iii) "Limited Public Interest Objection" refers to the objection that the string comprising the potential new gTLD is contrary to generally accepted legal norms relating to morality and public order that are recognized under principles of international law.
- (iv) "Community Objection" refers to the objection that there is substantial opposition to the application from a significant portion of the community to which the string may be explicitly or implicitly targeted.
- (f) "DRSP Rules" are the rules of procedure of a particular DRSP that have been identified as being applicable to objection proceedings under this Procedure.

### **Article 3. Dispute Resolution Service Providers**

The various categories of disputes shall be administered by the following DRSPs:

- (a) String Confusion Objections shall be administered by the International Centre for Dispute Resolution.
- (b) Existing Legal Rights Objections shall be administered by the Arbitration and Mediation Center of the World Intellectual Property Organization.
- (c) Limited Public Interest Objections shall be administered by the International Centre for Expertise of the International Chamber of Commerce.
- (d) Community Objections shall be administered by the International Centre for Expertise of the International Chamber of Commerce.

### **Article 4. Applicable Rules**

- (a) All proceedings before the Panel shall be governed by this Procedure and by the DRSP Rules that apply to a particular category of objection. The outcome of the proceedings shall be deemed an Expert Determination, and the members of the Panel shall act as experts.
- (b) The applicable DRSP Rules are the following:
  - (i) For a String Confusion Objection, the applicable DRSP Rules are the ICDR Supplementary Procedures for ICANN's New gTLD Program.
  - (ii) For an Existing Legal Rights Objection, the applicable DRSP Rules are the WIPO Rules for New gTLD Dispute Resolution.
  - (iii) For a Limited Public Interest Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce (ICC), as supplemented by the ICC as needed.
  - (iv) For a Community Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce (ICC), as supplemented by the ICC as needed.
- (c) In the event of any discrepancy between this Procedure and the applicable DRSP Rules, this Procedure shall prevail.

- (d) The place of the proceedings, if relevant, shall be the location of the DRSP that is administering the proceedings.
- (e) In all cases, the Panel shall ensure that the parties are treated with equality, and that each party is given a reasonable opportunity to present its position.

#### **Article 5. Language**

- (a) The language of all submissions and proceedings under this Procedure shall be English.
- (b) Parties may submit supporting evidence in its original language, provided and subject to the authority of the Panel to determine otherwise, that such evidence is accompanied by a certified or otherwise official English translation of all relevant text.

#### **Article 6. Communications and Time Limits**

- (a) All communications by the Parties with the DRSPs and Panels must be submitted electronically. A Party that wishes to make a submission that is not available in electronic form (e.g., evidentiary models) shall request leave from the Panel to do so, and the Panel, in its sole discretion, shall determine whether to accept the non-electronic submission.
- (b) The DRSP, Panel, Applicant, and Objector shall provide copies to one another of all correspondence (apart from confidential correspondence between the Panel and the DRSP and among the Panel) regarding the proceedings.
- (c) For the purpose of determining the date of commencement of a time limit, a notice or other communication shall be deemed to have been received on the day that it is transmitted in accordance with paragraphs (a) and (b) of this Article.
- (d) For the purpose of determining compliance with a time limit, a notice or other communication shall be deemed to have been sent, made or transmitted if it is dispatched in accordance with paragraphs (a) and (b) of this Article prior to or on the day of the expiration of the time limit.
- (e) For the purpose of calculating a period of time under this Procedure, such period shall begin to run on the day following the day when a notice or other communication is received.
- (f) Unless otherwise stated, all time periods provided in the Procedure are calculated on the basis of calendar days

#### **Article 7. Filing of the Objection**

- (a) A person wishing to object to a new gTLD for which an application has been submitted may file an objection ("Objection"). Any Objection to a proposed new gTLD must be filed before the published closing date for the Objection Filing period.
- (b) The Objection must be filed with the appropriate DRSP, using a model form made available by that DRSP, with copies to ICANN and the Applicant.
- (c) The electronic addresses for filing Objections (the specific addresses shall be made available once they are created by providers):
  - (i) A String Confusion Objection must be filed at: [●].

- (ii) An Existing Legal Rights Objection must be filed at: [●].
  - (iii) A Limited Public Interest Objection must be filed at: [●].
  - (iv) A Community Objection must be filed at: [●].
- (d) All Objections must be filed separately:
- (i) An Objector who wishes to object to an application on more than one ground must file separate objections with the appropriate DRSP(s).
  - (ii) An Objector who wishes to object to more than one gTLD must file separate objections to each gTLD with the appropriate DRSP(s).
- (e) If an Objection is filed with the wrong DRSP, that DRSP shall promptly notify the Objector of the error and that DRSP shall not process the incorrectly filed Objection. The Objector may then cure the error by filing its Objection with the correct DRSP within seven (7) days of receipt of the error notice, failing which the Objection shall be disregarded. If the Objection is filed with the correct DRSP within seven (7) days of receipt of the error notice but after the lapse of the time for submitting an Objection stipulation by Article 7(a) of this Procedure, it shall be deemed to be within this time limit.

## **Article 8. Content of the Objection**

- (a) The Objection shall contain, *inter alia*, the following information:
- (i) The names and contact information (address, telephone number, email address, etc.) of the Objector;
  - (ii) A statement of the Objector's basis for standing; and
  - (iii) A description of the basis for the Objection, including:
    - (aa) A statement of the ground upon which the Objection is being filed, as stated in Article 2(e) of this Procedure;
    - (bb) An explanation of the validity of the Objection and why the objection should be upheld.
- (b) The substantive portion of the Objection shall be limited to 5,000 words or 20 pages, whichever is less, excluding attachments. The Objector shall also describe and provide copies of any supporting or official documents upon which the Objection is based.
- (c) At the same time as the Objection is filed, the Objector shall pay a filing fee in the amount set in accordance with the applicable DRSP Rules and include evidence of such payment in the Objection. In the event that the filing fee is not paid within ten (10) days of the receipt of the Objection by the DRSP, the Objection shall be dismissed without prejudice.

## **Article 9. Administrative Review of the Objection**

- (a) The DRSP shall conduct an administrative review of the Objection for the purpose of verifying compliance with Articles 5-8 of this Procedure and the applicable DRSP Rules, and inform the Objector, the Applicant and ICANN of the result of its review within

fourteen (14) days of its receipt of the Objection. The DRSP may extend this time limit for reasons explained in the notification of such extension.

- (b) If the DRSP finds that the Objection complies with Articles 5-8 of this Procedure and the applicable DRSP Rules, the DRSP shall confirm that the Objection shall be registered for processing.
- (c) If the DRSP finds that the Objection does not comply with Articles 5-8 of this Procedure and the applicable DRSP Rules, the DRSP shall have the discretion to request that any administrative deficiencies in the Objection be corrected within five (5) days. If the deficiencies in the Objection are cured within the specified period but after the lapse of the time limit for submitting an Objection stipulated by Article 7(a) of this Procedure, the Objection shall be deemed to be within this time limit.
- (d) If the DRSP finds that the Objection does not comply with Articles 5-8 of this Procedure and the applicable DRSP Rules, and the deficiencies in the Objection are not corrected within the period specified in Article 9(c), the DRSP shall dismiss the Objection and close the proceedings, without prejudice to the Objector's submission of a new Objection that complies with this Procedure, provided that the Objection is filed within the deadline for filing such Objections. The DRSP's review of the Objection shall not interrupt the running of the time limit for submitting an Objection stipulated by Article 7(a) of this Procedure.
- (e) Immediately upon registering an Objection for processing, pursuant to Article 9(b), the DRSP shall post the following information about the Objection on its website: (i) the proposed string to which the Objection is directed; (ii) the names of the Objector and the Applicant; (iii) the grounds for the Objection; and (iv) the dates of the DRSP's receipt of the Objection.

## **Article 10. ICANN's Dispute Announcement**

- (a) Within thirty (30) days of the deadline for filing Objections in relation to gTLD applications in a given round, ICANN shall publish a document on its website identifying all of the admissible Objections that have been filed (the "Dispute Announcement"). ICANN shall also directly inform each DRSP of the posting of the Dispute Announcement.
- (b) ICANN shall monitor the progress of all proceedings under this Procedure and shall take steps, where appropriate, to coordinate with any DRSP in relation to individual applications for which objections are pending before more than one DRSP.

## **Article 11. Response to the Objection**

- (a) Upon receipt of the Dispute Announcement, each DRSP shall promptly send a notice to: (i) each Applicant for a new gTLD to which one or more admissible Objections have been filed with that DRSP; and (ii) the respective Objector(s).
- (b) The Applicant shall file a response to each Objection (the "Response"). The Response shall be filed within thirty (30) days of the transmission of the notice by the DRSP pursuant to Article 11(a).
- (c) The Response must be filed with the appropriate DRSP, using a model form made available by that DRSP, with copies to ICANN and the Objector.

- (d) The Response shall contain, inter alia, the following information:
  - (i) The names and contact information (address, telephone number, email address, etc.) of the Applicant; and
  - (ii) A point-by-point response to the statements made in the Objection.
- (e) The substantive portion of the Response shall be limited to 5,000 words or 20 pages, whichever is less, excluding attachments. The Applicant shall also describe and provide copies of any supporting or official documents upon which the Response is based.
- (f) At the same time as the Response is filed, the Applicant shall pay a filing fee in the amount set and published by the relevant DRSP (which shall be the same as the filing fee paid by the Objector) and include evidence of such payment in the Response. In the event that the filing fee is not paid within ten (10) days of the receipt of the Response by the DRSP, the Applicant shall be deemed to be in default, any Response disregarded and the Objection shall be deemed successful.
- (g) If the DRSP finds that the Response does not comply with Articles 11(c) and (d)(1) of this Procedure and the applicable DRSP Rules, the DRSP shall have the discretion to request that any administrative deficiencies in the Response be corrected within five (5) days. If the administrative deficiencies in the Response are cured within the specified period but after the lapse of the time limit for submitting a Response pursuant to this Procedure, the Response shall be deemed to be within this time limit.
- (g) If the Applicant fails to file a Response to the Objection within the 30-day time limit, the Applicant shall be deemed to be in default and the Objection shall be deemed successful. No fees paid by the Applicant will be refunded in case of default.

## **Article 12. Consolidation of Objections**

- (a) The DRSP is encouraged, whenever possible and practicable, and as may be further stipulated in the applicable DRSP Rules, to consolidate Objections, for example, when more than one Objector has filed an Objection to the same gTLD on the same grounds. The DRSP shall endeavor to decide upon consolidation prior to issuing its notice pursuant to Article 11(a) and, where appropriate, shall inform the parties of the consolidation in that notice.
- (b) If the DRSP itself has not decided to consolidate two or more Objections, any Applicant or Objector may propose the consolidation of Objections within seven (7) days of the notice given by the DRSP pursuant to Article 11(a). If, following such a proposal, the DRSP decides to consolidate certain Objections, which decision must be made within 14 days of the notice given by the DRSP pursuant to Article 11(a), the deadline for the Applicant's Response in the consolidated proceeding shall be thirty (30) days from the Applicant's receipt of the DRSP's notice of consolidation.
- (c) In deciding whether to consolidate Objections, the DRSP shall weigh the benefits (in terms of time, cost, consistency of decisions, etc.) that may result from the consolidation against the possible prejudice or inconvenience that the consolidation may cause. The DRSP's determination on consolidation shall be final and not subject to appeal.
- (d) Objections based upon different grounds, as summarized in Article 2(e), shall not be consolidated.



### **Article 13. The Panel**

- (a) The DRSP shall select and appoint the Panel of Expert(s) within thirty (30) days after receiving the Response.
- (b) Number and specific qualifications of Expert(s):
  - (i) There shall be one Expert in proceedings involving a String Confusion Objection.
  - (ii) There shall be one Expert or, if all of the Parties so agree, three Experts with relevant experience in intellectual property rights disputes in proceedings involving an Existing Legal Rights Objection.
  - (iii) There shall be three Experts recognized as eminent jurists of international reputation, one of whom shall be designated as the Chair. The Chair shall be of a nationality different from the nationalities of the Applicant and of the Objector, in proceedings involving a Limited Public Interest Objection.
  - (iv) There shall be one Expert in proceedings involving a Community Objection.
- (c) All Experts acting under this Procedure shall be impartial and independent of the parties. The applicable DRSP Rules stipulate the manner by which each Expert shall confirm and maintain their impartiality and independence.
- (d) The applicable DRSP Rules stipulate the procedures for challenging an Expert and replacing an Expert.
- (e) Unless required by a court of law or authorized in writing by the parties, an Expert shall not act in any capacity whatsoever, in any pending or future proceedings, whether judicial, arbitral or otherwise, relating to the matter referred to expert determination under this Procedure.

### **Article 14. Costs**

- (a) Each DRSP shall determine the costs for the proceedings that it administers under this Procedure in accordance with the applicable DRSP Rules. Such costs shall cover the fees and expenses of the members of the Panel, as well as the administrative fees of the DRSP (the "Costs").
- (b) Within ten (10) days of constituting the Panel, the DRSP shall estimate the total Costs and request the Objector and the Applicant/Respondent each to pay in advance the full amount of the Costs to the DRSP. Each party shall make its advance payment of Costs within ten (10) days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the Parties shall be credited against the amounts due for this advance payment of Costs.
- (c) The DRSP may revise its estimate of the total Costs and request additional advance payments from the parties during the proceedings.
- (d) Failure to make an advance payment of Costs:
  - (i) If the Objector fails to make the advance payment of Costs, its Objection shall be dismissed and no fees that it has paid shall be refunded.

- (ii) If the Applicant fails to make the advance payment of Costs, the Objection will be deemed to have been sustained and no fees that the Applicant has paid shall be refunded.
- (e) Upon the termination of the proceedings, after the Panel has rendered its Expert Determination, the DRSP shall refund to the prevailing party, as determined by the Panel, its advance payment(s) of Costs.

### **Article 15. Representation and Assistance**

- (a) The parties may be represented or assisted by persons of their choice.
- (b) Each party or party representative shall communicate the name, contact information and function of such persons to the DRSP and the other party (or parties in case of consolidation).

### **Article 16. Negotiation and Mediation**

- (a) The parties are encouraged, but not required, to participate in negotiations and/or mediation at any time throughout the dispute resolution process aimed at settling their dispute amicably.
- (b) Each DRSP shall be able to propose, if requested by the parties, a person who could assist the parties as mediator.
- (c) A person who acts as mediator for the parties shall not serve as an Expert in a dispute between the parties under this Procedure or any other proceeding under this Procedure involving the same gTLD.
- (d) The conduct of negotiations or mediation shall not, *ipso facto*, be the basis for a suspension of the dispute resolution proceedings or the extension of any deadline under this Procedure. Upon the joint request of the parties, the DRSP or (after it has been constituted) the Panel may grant the extension of a deadline or the suspension of the proceedings. Absent exceptional circumstances, such extension or suspension shall not exceed thirty (30) days and shall not delay the administration of any other Objection.
- (e) If, during negotiations and/or mediation, the parties agree on a settlement of the matter referred to the DRSP under this Procedure, the parties shall inform the DRSP, which shall terminate the proceedings, subject to the parties' payment obligation under this Procedure having been satisfied, and inform ICANN and the parties accordingly.

### **Article 17. Additional Written Submissions**

- (a) The Panel may decide whether the parties shall submit any written statements in addition to the Objection and the Response, and it shall fix time limits for such submissions.
- (b) The time limits fixed by the Panel for additional written submissions shall not exceed thirty (30) days, unless the Panel, having consulted the DRSP, determines that exceptional circumstances justify a longer time limit.

## **Article 18. Evidence**

In order to achieve the goal of resolving disputes over new gTLDs rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the Panel may require a party to provide additional evidence.

## **Article 19. Hearings**

- (a) Disputes under this Procedure and the applicable DRSP Rules will usually be resolved without a hearing.
- (b) The Panel may decide, on its own initiative or at the request of a party, to hold a hearing only in extraordinary circumstances.
- (c) In the event that the Panel decides to hold a hearing:
  - (i) The Panel shall decide how and where the hearing shall be conducted.
  - (ii) In order to expedite the proceedings and minimize costs, the hearing shall be conducted by videoconference if possible.
  - (iii) The hearing shall be limited to one day, unless the Panel decides, in exceptional circumstances, that more than one day is required for the hearing.
  - (iv) The Panel shall decide whether the hearing will be open to the public or conducted in private.

## **Article 20. Standards**

- (a) For each category of Objection identified in Article 2(e), the Panel shall apply the standards that have been defined by ICANN.
- (b) In addition, the Panel may refer to and base its findings upon the statements and documents submitted and any rules or principles that it determines to be applicable.
- (c) The Objector bears the burden of proving that its Objection should be sustained in accordance with the applicable standards.

## **Article 21. The Expert Determination**

- (a) The DRSP and the Panel shall make reasonable efforts to ensure that the Expert Determination is rendered within forty-five (45) days of the constitution of the Panel. In specific circumstances such as consolidated cases and in consultation with the DRSP, if significant additional documentation is requested by the Panel, a brief extension may be allowed.
- (b) The Panel shall submit its Expert Determination in draft form to the DRSP's scrutiny as to form before it is signed, unless such scrutiny is specifically excluded by the applicable DRSP Rules. The modifications proposed by the DRSP to the Panel, if any, shall address only the form of the Expert Determination. The signed Expert Determination shall be communicated to the DRSP, which in turn will communicate that Expert Determination to the Parties and ICANN.
- (c) When the Panel comprises three Experts, the Expert Determination shall be made by a majority of the Experts.

- (d) The Expert Determination shall be in writing, shall identify the prevailing party and shall state the reasons upon which it is based. The remedies available to an Applicant or an Objector pursuant to any proceeding before a Panel shall be limited to the success or dismissal of an Objection and to the refund by the DRSP to the prevailing party, as determined by the Panel in its Expert Determination, of its advance payment(s) of Costs pursuant to Article 14(e) of this Procedure and any relevant provisions of the applicable DRSP Rules.
- (e) The Expert Determination shall state the date when it is made, and it shall be signed by the Expert(s). If any Expert fails to sign the Expert Determination, it shall be accompanied by a statement of the reason for the absence of such signature.
- (f) In addition to providing electronic copies of its Expert Determination, the Panel shall provide a signed hard copy of the Expert Determination to the DRSP, unless the DRSP Rules provide for otherwise.
- (g) Unless the Panel decides otherwise, the Expert Determination shall be published in full on the DRSP's website.

## **Article 22. Exclusion of Liability**

In addition to any exclusion of liability stipulated by the applicable DRSP Rules, neither the Expert(s), nor the DRSP and its employees, nor ICANN and its Board members, employees and consultants shall be liable to any person for any act or omission in connection with any proceeding conducted under this Procedure.

## **Article 23. Modification of the Procedure**

- (a) ICANN may from time to time, in accordance with its Bylaws, modify this Procedure.
- (b) The version of this Procedure that is applicable to a dispute resolution proceeding is the version that was in effect on the day when the relevant application for a new gTLD is submitted.



# gTLD Applicant Guidebook

(v. 2012-06-04)

Module 4

4 June 2012

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# Module 4

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## *String Contention Procedures*

This module describes situations in which contention over applied-for gTLD strings occurs, and the methods available to applicants for resolving such contention cases.

### *4.1 String Contention*

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String contention occurs when either:

1. Two or more applicants for an identical gTLD string successfully complete all previous stages of the evaluation and dispute resolution processes; or
2. Two or more applicants for similar gTLD strings successfully complete all previous stages of the evaluation and dispute resolution processes, and the similarity of the strings is identified as creating a probability of user confusion if more than one of the strings is delegated.

ICANN will not approve applications for proposed gTLD strings that are identical or that would result in user confusion, called contending strings. If either situation above occurs, such applications will proceed to contention resolution through either community priority evaluation, in certain cases, or through an auction. Both processes are described in this module. A group of applications for contending strings is referred to as a contention set.

(In this Applicant Guidebook, “similar” means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.)

#### *4.1.1 Identification of Contention Sets*

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Contention sets are groups of applications containing identical or similar applied-for gTLD strings. Contention sets are identified during Initial Evaluation, following review of all applied-for gTLD strings. ICANN will publish preliminary contention sets once the String Similarity review is completed, and will update the contention sets as necessary during the evaluation and dispute resolution stages.

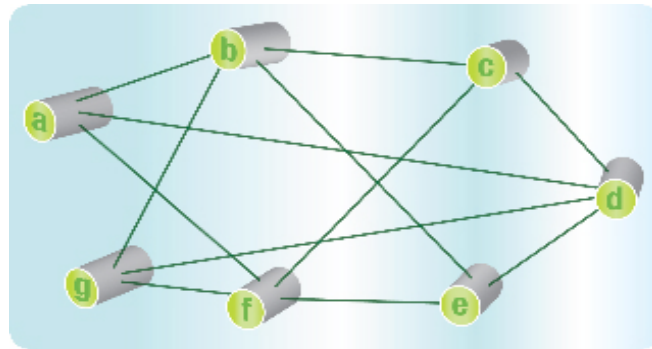
Applications for identical gTLD strings will be automatically assigned to a contention set. For example, if Applicant A and Applicant B both apply for .TLDSTRING, they will be identified as being in a contention set. Such testing for identical strings also takes into consideration the code point variants listed in any relevant IDN table. That is, two or more applicants whose applied-for strings or designated variants are variant strings according to an IDN table submitted to ICANN would be considered in direct contention with one another. For example, if one applicant applies for string A and another applies for string B, and strings A and B are variant TLD strings as defined in Module 1, then the two applications are in direct contention.

The String Similarity Panel will also review the entire pool of applied-for strings to determine whether the strings proposed in any two or more applications are so similar that they would create a probability of user confusion if allowed to coexist in the DNS. The panel will make such a determination for each pair of applied-for gTLD strings. The outcome of the String Similarity review described in Module 2 is the identification of contention sets among applications that have direct or indirect contention relationships with one another.

Two strings are in **direct contention** if they are identical or similar to one another. More than two applicants might be represented in a direct contention situation: if four different applicants applied for the same gTLD string, they would all be in direct contention with one another.

Two strings are in **indirect contention** if they are both in direct contention with a third string, but not with one another. The example that follows explains direct and indirect contention in greater detail.

In Figure 4-1, Strings A and B are an example of direct contention. Strings C and G are an example of indirect contention. C and G both contend with B, but not with one another. The figure as a whole is one contention set. A contention set consists of all applications that are linked by string contention to one another, directly or indirectly.



**Figure 4-1 – This diagram represents one contention set, featuring both directly and indirectly contending strings.**

While preliminary contention sets are determined during Initial Evaluation, the final configuration of the contention sets can only be established once the evaluation and dispute resolution process stages have concluded. This is because any application excluded through those processes might modify a contention set identified earlier.

A contention set may be augmented, split into two sets, or eliminated altogether as a result of an Extended Evaluation or dispute resolution proceeding. The composition of a contention set may also be modified as some applications may be voluntarily withdrawn throughout the process.

Refer to Figure 4-2: In contention set 1, applications D and G are eliminated. Application A is the only remaining application, so there is no contention left to resolve.

In contention set 2, all applications successfully complete Extended Evaluation and Dispute Resolution, so the original contention set remains to be resolved.

In contention set 3, application F is eliminated. Since application F was in direct contention with E and J, but E and J are not in contention with one other, the original contention set splits into two sets: one containing E and K in direct contention, and one containing I and J.



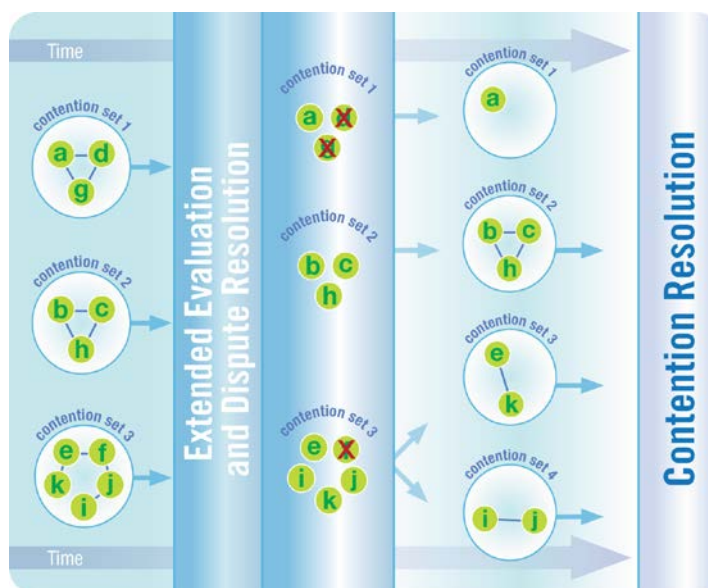


Figure 4-2 – Resolution of string contention cannot begin until all applicants within a contention set have completed all applicable previous stages.

The remaining contention cases must then be resolved through community priority evaluation or by other means, depending on the circumstances. In the string contention resolution stage, ICANN addresses each contention set to achieve an unambiguous resolution.

As described elsewhere in this guidebook, cases of contention might be resolved by community priority evaluation or an agreement among the parties. Absent that, the last-resort contention resolution mechanism will be an auction.

#### 4.1.2 *Impact of String Confusion Dispute Resolution Proceedings on Contention Sets*

If an applicant files a string confusion objection against another application (refer to Module 3), and the panel finds that user confusion is probable (that is, finds in favor of the objector), the two applications will be placed in direct contention with each other. Thus, the outcome of a dispute resolution proceeding based on a string confusion objection would be a new contention set structure for the relevant applications, augmenting the original contention set.

If an applicant files a string confusion objection against another application, and the panel finds that string

confusion does not exist (that is, finds in favor of the responding applicant), the two applications will not be considered in direct contention with one another.

A dispute resolution outcome in the case of a string confusion objection filed by another applicant will not result in removal of an application from a previously established contention set.

#### *4.1.3 Self-Resolution of String Contention*

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Applicants that are identified as being in contention are encouraged to reach a settlement or agreement among themselves that resolves the contention. This may occur at any stage of the process, once ICANN publicly posts the applications received and the preliminary contention sets on its website.

Applicants may resolve string contention in a manner whereby one or more applicants withdraw their applications. An applicant may not resolve string contention by selecting a new string or by replacing itself with a joint venture. It is understood that applicants may seek to establish joint ventures in their efforts to resolve string contention. However, material changes in applications (for example, combinations of applicants to resolve contention) will require re-evaluation. This might require additional fees or evaluation in a subsequent application round. Applicants are encouraged to resolve contention by combining in a way that does not materially affect the remaining application. Accordingly, new joint ventures must take place in a manner that does not materially change the application, to avoid being subject to re-evaluation.

#### *4.1.4 Possible Contention Resolution Outcomes*

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An application that has successfully completed all previous stages and is no longer part of a contention set due to changes in the composition of the contention set (as described in subsection 4.1.1) or self-resolution by applicants in the contention set (as described in subsection 4.1.3) may proceed to the next stage.

An application that prevails in a contention resolution procedure, either community priority evaluation or auction, may proceed to the next stage.

In some cases, an applicant who is not the outright winner of a string contention resolution process can still proceed. This situation is explained in the following paragraphs.

If the strings within a given contention set are all identical, the applications are in direct contention with each other and there can only be one winner that proceeds to the next step.

However, where there are both direct and indirect contention situations within a set, more than one string may survive the resolution.

For example, consider a case where string A is in contention with B, and B is in contention with C, but C is not in contention with A. If A wins the contention resolution procedure, B is eliminated but C can proceed since C is not in direct contention with the winner and both strings can coexist in the DNS without risk for confusion.

## ***4.2 Community Priority Evaluation***

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Community priority evaluation will only occur if a community-based applicant selects this option. Community priority evaluation can begin once all applications in the contention set have completed all previous stages of the process.

The community priority evaluation is an independent analysis. Scores received in the applicant reviews are not carried forward to the community priority evaluation. Each application participating in the community priority evaluation begins with a score of zero.

### ***4.2.1 Eligibility for Community Priority Evaluation***

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As described in subsection 1.2.3 of Module 1, all applicants are required to identify whether their application type is:

- Community-based; or
- Standard.

Applicants designating their applications as community-based are also asked to respond to a set of questions in the application form to provide relevant information if a community priority evaluation occurs.

Only community-based applicants are eligible to participate in a community priority evaluation.

At the start of the contention resolution stage, all community-based applicants within remaining contention sets will be notified of the opportunity to opt for a community priority evaluation via submission of a deposit by a specified date. Only those applications for which a deposit has been received by the deadline will be scored in the community priority evaluation. Following the evaluation, the deposit will be refunded to applicants that score 14 or higher.

Before the community priority evaluation begins, the applicants who have elected to participate may be asked to provide additional information relevant to the community priority evaluation.

#### ***4.2.2 Community Priority Evaluation Procedure***

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Community priority evaluations for each eligible contention set will be performed by a community priority panel appointed by ICANN to review these applications. The panel's role is to determine whether any of the community-based applications fulfills the community priority criteria. Standard applicants within the contention set, if any, will not participate in the community priority evaluation.

If a single community-based application is found to meet the community priority criteria (see subsection 4.2.3 below), that applicant will be declared to prevail in the community priority evaluation and may proceed. If more than one community-based application is found to meet the criteria, the remaining contention between them will be resolved as follows:

- In the case where the applications are in indirect contention with one another (see subsection 4.1.1), they will both be allowed to proceed to the next stage. In this case, applications that are in direct contention with any of these community-based applications will be eliminated.
- In the case where the applications are in direct contention with one another, these applicants will proceed to an auction. If all parties agree and present a joint request, ICANN may postpone the auction for a three-month period while the parties attempt to reach a settlement before proceeding to auction. This is a one-time option; ICANN will grant no more than one such request for each set of contending applications.

If none of the community-based applications are found to meet the criteria, then all of the parties in the contention set (both standard and community-based applicants) will proceed to an auction.

Results of each community priority evaluation will be posted when completed.

Applicants who are eliminated as a result of a community priority evaluation are eligible for a partial refund of the gTLD evaluation fee (see Module 1).

### ***4.2.3 Community Priority Evaluation Criteria***

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The Community Priority Panel will review and score the one or more community-based applications having elected the community priority evaluation against four criteria as listed below.

The scoring process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). This calls for a holistic approach, taking multiple criteria into account, as reflected in the process. The scoring will be performed by a panel and be based on information provided in the application plus other relevant information available (such as public information regarding the community represented). The panel may also perform independent research, if deemed necessary to reach informed scoring decisions.

It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application, as embodied in the criteria below. Accordingly, a finding by the panel that an application does not meet the scoring threshold to prevail in a community priority evaluation is not necessarily an indication the community itself is in some way inadequate or invalid.

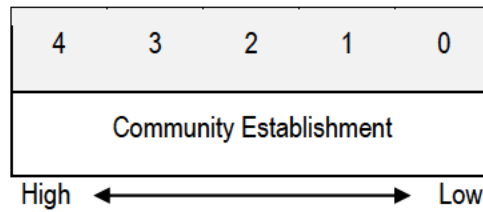
The sequence of the criteria reflects the order in which they will be assessed by the panel. The utmost care has been taken to avoid any “double-counting” - any negative aspect found in assessing an application for one criterion

should only be counted there and should not affect the assessment for other criteria.

An application must score at least 14 points to prevail in a community priority evaluation. The outcome will be determined according to the procedure described in subsection 4.2.2.

**Criterion #1: Community Establishment (0-4 points)**

A maximum of 4 points is possible on the Community Establishment criterion:



As measured by:

A. Delineation (2)

2	1	0
Clearly delineated, organized, and pre-existing community.	Clearly delineated and pre-existing community, but not fulfilling the requirements for a score of 2.	Insufficient delineation and pre-existence for a score of 1.

B. Extension (2)

2	1	0
Community of considerable size and longevity.	Community of either considerable size or longevity, but not fulfilling the requirements for a score of 2.	Community of neither considerable size nor longevity.

This section relates to the community as explicitly identified and defined according to statements in the application. (The implicit reach of the applied-for string is not

considered here, but taken into account when scoring Criterion #2, "Nexus between Proposed String and Community.")

### **Criterion 1 Definitions**

- "Community" - Usage of the expression "community" has evolved considerably from its Latin origin – "communitas" meaning "fellowship" – while still implying more of cohesion than a mere commonality of interest. Notably, as "community" is used throughout the application, there should be:  
(a) an awareness and recognition of a community among its members; (b) some understanding of the community's existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.
- "Delineation" relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low.
- "Pre-existing" means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007.
- "Organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.
- "Extension" relates to the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime, as further explained in the following.
- "Size" relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers - a geographic location community may count millions of members in a limited location, a language community may have a million members with some spread over the globe, a community of service providers may have "only" some hundred members although well spread over the globe, just to mention some examples - all these can be regarded as of "considerable size."

- "Longevity" means that the pursuits of a community are of a lasting, non-transient nature.

**Criterion 1 Guidelines**

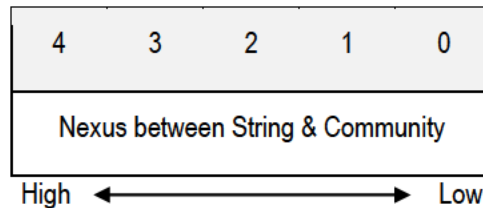
With respect to "Delineation" and "Extension," it should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both "Delineation" and "Extension."

With respect to "Delineation," if an application satisfactorily demonstrates all three relevant parameters (delineation, pre-existing and organized), then it scores a 2.

With respect to "Extension," if an application satisfactorily demonstrates both community size and longevity, it scores a 2.

**Criterion #2: Nexus between Proposed String and Community (0-4 points)**

A maximum of 4 points is possible on the Nexus criterion:



As measured by:

A. Nexus (3)

3	2	0
The string matches the name of the community or is a well-known short-form or abbreviation of the community	String identifies the community, but does not qualify for a score of 3.	String nexus does not fulfill the requirements for a score of 2.



3	2	0
---	---	---

name.

B. Uniqueness (1)

1	0
---	---

String has no other significant meaning beyond identifying the community described in the application.

String does not fulfill the requirement for a score of 1.

This section evaluates the relevance of the string to the specific community that it claims to represent.

**Criterion 2 Definitions**

- "Name" of the community means the established name by which the community is commonly known by others. It may be, but does not need to be, the name of an organization dedicated to the community.
- "Identify" means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.

**Criterion 2 Guidelines**

With respect to "Nexus," for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification / name of the community.

With respect to "Nexus," for a score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community. As an example, a string could qualify for a score of 2 if it is a noun that the typical community member would naturally be called in the context. If the string appears excessively broad (such as, for example, a globally well-known but local tennis club applying for ".TENNIS") then it would not qualify for a 2.

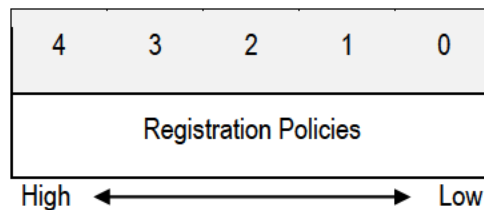
With respect to "Uniqueness," "significant meaning" relates to the public in general, with consideration of the community language context added.

"Uniqueness" will be scored both with regard to the community context and from a general point of view. For example, a string for a particular geographic location community may seem unique from a general perspective, but would not score a 1 for uniqueness if it carries another significant meaning in the common language used in the relevant community location. The phrasing "...beyond identifying the community" in the score of 1 for "uniqueness" implies a requirement that the string does identify the community, i.e. scores 2 or 3 for "Nexus," in order to be eligible for a score of 1 for "Uniqueness."

It should be noted that "Uniqueness" is only about the *meaning* of the string - since the evaluation takes place to resolve contention there will obviously be other applications, community-based and/or standard, with identical or confusingly similar strings in the contention set to resolve, so the string will clearly not be "unique" in the sense of "alone."

### Criterion #3: Registration Policies (0-4 points)

A maximum of 4 points is possible on the Registration Policies criterion:



As measured by:

#### A. Eligibility (1)

1	0
Eligibility restricted to community members.	Largely unrestricted approach to eligibility.

B. Name selection (1)

1	0
Policies include name selection rules consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

C. Content and use (1)

1	0
Policies include rules for content and use consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

D. Enforcement (1)

1	0
Policies include specific enforcement measures (e.g. investigation practices, penalties, takedown procedures) constituting a coherent set with appropriate appeal mechanisms.	Policies do not fulfill the requirements for a score of 1.

This section evaluates the applicant's registration policies as indicated in the application. Registration policies are the conditions that the future registry will set for prospective registrants, i.e. those desiring to register second-level domain names under the registry.

### **Criterion 3 Definitions**

- "Eligibility" means the qualifications that entities or individuals must have in order to be allowed as registrants by the registry.
- "Name selection" means the conditions that must be fulfilled for any second-level domain name to be deemed acceptable by the registry.
- "Content and use" means the restrictions stipulated by the registry as to the content provided in and the use of any second-level domain name in the registry.
- "Enforcement" means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.

### **Criterion 3 Guidelines**

With respect to "Eligibility," the limitation to community "members" can invoke a formal membership but can also be satisfied in other ways, depending on the structure and orientation of the community at hand. For example, for a geographic location community TLD, a limitation to members of the community can be achieved by requiring that the registrant's physical address is within the boundaries of the location.

With respect to "Name selection," "Content and use," and "Enforcement," scoring of applications against these sub-criteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.

**Criterion #4: Community Endorsement (0-4 points)**

4	3	2	1	0
Community Endorsement				
High		←————→		Low

As measured by:

A. Support (2)

2	1	0
Applicant is, or has documented support from, the recognized community institution(s)/ member organization(s) or has otherwise documented authority to represent the community.	Documented support from at least one group with relevance, but insufficient support for a score of 2.	Insufficient proof of support for a score of 1.

B. Opposition (2)

2	1	0
No opposition of relevance.	Relevant opposition from one group of non-negligible size.	Relevant opposition from two or more groups of non-negligible size.

This section evaluates community support and/or opposition to the application. Support and opposition will be scored in relation to the communities explicitly addressed as stated in the application, with due regard for the communities implicitly addressed by the string.

**Criterion 4 Definitions**

- "Recognized" means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by

the community members as representative of the community.

- "Relevance" and "relevant" refer to the communities explicitly and implicitly addressed. This means that opposition from communities not identified in the application but with an association to the applied-for string would be considered relevant.

#### **Criterion 4 Guidelines**

With respect to "Support," it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations.

Also with respect to "Support," the plurals in brackets for a score of 2, relate to cases of multiple institutions/organizations. In such cases there must be documented support from institutions/organizations representing a majority of the overall community addressed in order to score 2.

The applicant will score a 1 for "Support" if it does not have support from the majority of the recognized community institutions/member organizations, or does not provide full documentation that it has authority to represent the community with its application. A 0 will be scored on "Support" if the applicant fails to provide documentation showing support from recognized community institutions/community member organizations, or does not provide documentation showing that it has the authority to represent the community. It should be noted, however, that documented support from groups or communities that may be seen as implicitly addressed but have completely different orientations compared to the applicant community will not be required for a score of 2 regarding support.

To be taken into account as relevant support, such documentation must contain a description of the process and rationale used in arriving at the expression of support. Consideration of support is not based merely on the number of comments or expressions of support received.

When scoring "Opposition," previous objections to the application as well as public comments during the same application round will be taken into account and assessed

in this context. There will be no presumption that such objections or comments would prevent a score of 2 or lead to any particular score for “Opposition.” To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant.

### ***4.3 Auction: Mechanism of Last Resort***

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It is expected that most cases of contention will be resolved by the community priority evaluation, or through voluntary agreement among the involved applicants. Auction is a tie-breaker method for resolving string contention among the applications within a contention set, if the contention has not been resolved by other means.

An auction will not take place to resolve contention in the case where the contending applications are for geographic names (as defined in Module 2). In this case, the applications will be suspended pending resolution by the applicants.

An auction will take place, where contention has not already been resolved, in the case where an application for a geographic name is in a contention set with applications for similar strings that have not been identified as geographic names.

In practice, ICANN expects that most contention cases will be resolved through other means before reaching the auction stage. However, there is a possibility that significant funding will accrue to ICANN as a result of one or more auctions.<sup>1</sup>

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<sup>1</sup> The purpose of an auction is to resolve contention in a clear, objective manner. It is planned that costs of the new gTLD program will offset by fees, so any funds coming from a last resort contention resolution mechanism such as auctions would result (after paying for the auction process) in additional funding. Any proceeds from auctions will be reserved and earmarked until the uses of funds are determined. Funds must be used in a manner that supports directly ICANN's Mission and Core Values and also allows ICANN to maintain its not for profit status.

Possible uses of auction funds include formation of a foundation with a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community, such as grants to support new gTLD applications or registry operators from communities in subsequent gTLD rounds, the creation of an ICANN-administered/community-based fund for specific projects for the benefit of the Internet community, the creation of a registry continuity fund for the protection of registrants (ensuring that funds would be in place to support the operation of a gTLD registry until a successor could be found), or establishment of a security fund to expand use of secure protocols, conduct research, and support standards development organizations in accordance with ICANN's security and stability mission.

### 4.3.1 Auction Procedures

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An auction of two or more applications within a contention set is conducted as follows. The auctioneer successively increases the prices associated with applications within the contention set, and the respective applicants indicate their willingness to pay these prices. As the prices rise, applicants will successively choose to exit from the auction. When a sufficient number of applications have been eliminated so that no direct contentions remain (i.e., the remaining applications are no longer in contention with one another and all the relevant strings can be delegated as TLDs), the auction will be deemed to conclude. At the auction's conclusion, the applicants with remaining applications will pay the resulting prices and proceed toward delegation. This procedure is referred to as an "ascending-clock auction."

This section provides applicants an informal introduction to the practicalities of participation in an ascending-clock auction. It is intended only as a general introduction and is only preliminary. The detailed set of Auction Rules will be available prior to the commencement of any auction proceedings. If any conflict arises between this module and the auction rules, the auction rules will prevail.

For simplicity, this section will describe the situation where a contention set consists of two or more applications for identical strings.

All auctions will be conducted over the Internet, with participants placing their bids remotely using a web-based software system designed especially for auction. The auction software system will be compatible with current versions of most prevalent browsers, and will not require the local installation of any additional software.

Auction participants ("bidders") will receive instructions for access to the online auction site. Access to the site will be password-protected and bids will be encrypted through SSL. If a bidder temporarily loses connection to the Internet, that bidder may be permitted to submit its bids in a given auction round by fax, according to procedures described

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The amount of funding resulting from auctions, if any, will not be known until all relevant applications have completed this step. Thus, a detailed mechanism for allocation of these funds is not being created at present. However, a process can be pre-established to enable community consultation in the event that such funds are collected. This process will include, at a minimum, publication of data on any funds collected, and public comment on any proposed models.



in the auction rules. The auctions will generally be conducted to conclude quickly, ideally in a single day.

The auction will be carried out in a series of auction rounds, as illustrated in Figure 4-3. The sequence of events is as follows:

1. For each auction round, the auctioneer will announce in advance: (1) the start-of-round price, (2) the end-of-round price, and (3) the starting and ending times of the auction round. In the first auction round, the start-of-round price for all bidders in the auction will be USD 0. In later auction rounds, the start-of-round price will be its end-of-round price from the previous auction round.



Figure 4-3 – Sequence of events during an ascending-clock auction.

2. During each auction round, bidders will be required to submit a bid or bids representing their willingness to pay within the range of intermediate prices between the start-of-round and end-of-round prices. In this way a bidder indicates its willingness to stay in the auction at all prices through and including the end-of-auction round price, or its wish to exit the auction at a price less than the end-of-auction round price, called the exit bid.
3. Exit is irrevocable. If a bidder exited the auction in a previous auction round, the bidder is not permitted to re-enter in the current auction round.

4. Bidders may submit their bid or bids at any time during the auction round.
5. Only bids that comply with all aspects of the auction rules will be considered valid. If more than one valid bid is submitted by a given bidder within the time limit of the auction round, the auctioneer will treat the last valid submitted bid as the actual bid.
6. At the end of each auction round, bids become the bidders' legally-binding offers to secure the relevant gTLD strings at prices up to the respective bid amounts, subject to closure of the auction in accordance with the auction rules. In later auction rounds, bids may be used to exit from the auction at subsequent higher prices.
7. After each auction round, the auctioneer will disclose the aggregate number of bidders remaining in the auction at the end-of-round prices for the auction round, and will announce the prices and times for the next auction round.
  - Each bid should consist of a single price associated with the application, and such price must be greater than or equal to the start-of-round price.
  - If the bid amount is strictly less than the end-of-round price, then the bid is treated as an exit bid at the specified amount, and it signifies the bidder's binding commitment to pay up to the bid amount if its application is approved.
  - If the bid amount is greater than or equal to the end-of-round price, then the bid signifies that the bidder wishes to remain in the auction at all prices in the current auction round, and it signifies the bidder's binding commitment to pay up to the end-of-round price if its application is approved. Following such bid, the application cannot be eliminated within the current auction round.
  - To the extent that the bid amount exceeds the end-of-round price, then the bid is also treated as a proxy bid to be carried forward to the next auction round. The bidder will be permitted to change the proxy bid amount in the next auction round, and the amount of the proxy bid will not constrain the bidder's ability to submit any valid bid amount in the next auction round.

- No bidder is permitted to submit a bid for any application for which an exit bid was received in a prior auction round. That is, once an application has exited the auction, it may not return.
  - If no valid bid is submitted within a given auction round for an application that remains in the auction, then the bid amount is taken to be the amount of the proxy bid, if any, carried forward from the previous auction round or, if none, the bid is taken to be an exit bid at the start-of-round price for the current auction round.
8. This process continues, with the auctioneer increasing the price range for each given TLD string in each auction round, until there is one remaining bidder at the end-of-round price. After an auction round in which this condition is satisfied, the auction concludes and the auctioneer determines the clearing price. The last remaining application is deemed the successful application, and the associated bidder is obligated to pay the clearing price.

Figure 4-4 illustrates how an auction for five contending applications might progress.

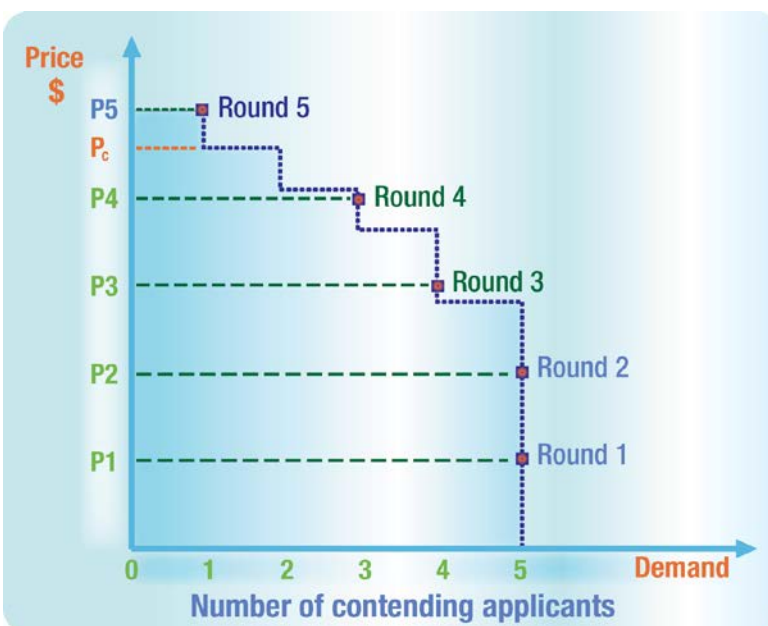


Figure 4-4 – Example of an auction for five mutually-contending applications.

- Before the first auction round, the auctioneer announces the end-of-round price  $P_1$ .
- During Auction round 1, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least  $P_1$ . Since the aggregate demand exceeds one, the auction proceeds to Auction round 2. The auctioneer discloses that five contending applications remained at  $P_1$  and announces the end-of-round price  $P_2$ .
- During Auction round 2, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least  $P_2$ . The auctioneer discloses that five contending applications remained at  $P_2$  and announces the end-of-round price  $P_3$ .
- During Auction round 3, one of the bidders submits an exit bid at slightly below  $P_3$ , while the other four bidders submit bids of at least  $P_3$ . The auctioneer discloses that four contending applications remained at  $P_3$  and announces the end-of-round price  $P_4$ .
- During Auction round 4, one of the bidders submits an exit bid midway between  $P_3$  and  $P_4$ , while the other three remaining bidders submit bids of at least  $P_4$ . The auctioneer discloses that three contending applications remained at  $P_4$  and announces the end-of-auction round price  $P_5$ .
- During Auction round 5, one of the bidders submits an exit bid at slightly above  $P_4$ , and one of the bidders submits an exit bid at  $P_c$  midway between  $P_4$  and  $P_5$ . The final bidder submits a bid greater than  $P_c$ . Since the aggregate demand at  $P_5$  does not exceed one, the auction concludes in Auction round 5. The application associated with the highest bid in Auction round 5 is deemed the successful application. The clearing price is  $P_c$ , as this is the lowest price at which aggregate demand can be met.

To the extent possible, auctions to resolve multiple string contention situations will be conducted simultaneously.

#### 4.3.1.1 Currency

For bids to be comparable, all bids in the auction will be submitted in any integer (whole) number of US dollars.

#### 4.3.1.2 Fees

A bidding deposit will be required of applicants participating in the auction, in an amount to be determined. The bidding deposit must be transmitted by wire transfer to a specified bank account specified by ICANN or its auction provider at a major international bank, to be received in advance of the auction date. The amount of the deposit will determine a bidding limit for each bidder: the bidding deposit will equal 10% of the bidding limit; and the bidder will not be permitted to submit any bid in excess of its bidding limit.

In order to avoid the need for bidders to pre-commit to a particular bidding limit, bidders may be given the option of making a specified deposit that will provide them with unlimited bidding authority for a given application. The amount of the deposit required for unlimited bidding authority will depend on the particular contention set and will be based on an assessment of the possible final prices within the auction.

All deposits from non-defaulting losing bidders will be returned following the close of the auction.

#### 4.3.2 Winning Bid Payments

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Any applicant that participates in an auction will be required to sign a bidder agreement that acknowledges its rights and responsibilities in the auction, including that its bids are legally binding commitments to pay the amount bid if it wins (i.e., if its application is approved), and to enter into the prescribed registry agreement with ICANN— together with a specified penalty for defaulting on payment of its winning bid or failing to enter into the required registry agreement.

The winning bidder in any auction will be required to pay the full amount of the final price within 20 business days of the end of the auction. Payment is to be made by wire transfer to the same international bank account as the bidding deposit, and the applicant's bidding deposit will be credited toward the final price.

In the event that a bidder anticipates that it would require a longer payment period than 20 business days due to verifiable government-imposed currency restrictions, the bidder may advise ICANN well in advance of the auction and ICANN will consider applying a longer payment period to all bidders within the same contention set.

Any winning bidder for whom the full amount of the final price is not received within 20 business days of the end of an auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that receipt of full payment is imminent.

Any winning bidder for whom the full amount of the final price is received within 20 business days of the end of an auction retains the obligation to execute the required registry agreement within 90 days of the end of auction. Such winning bidder who does not execute the agreement within 90 days of the end of the auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that execution of the registry agreement is imminent.

### *4.3.3 Post-Default Procedures*

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Once declared in default, any winning bidder is subject to immediate forfeiture of its position in the auction and assessment of default penalties. After a winning bidder is declared in default, the remaining bidders will receive an offer to have their applications accepted, one at a time, in descending order of their exit bids. In this way, the next bidder would be declared the winner subject to payment of its last bid price. The same default procedures and penalties are in place for any runner-up bidder receiving such an offer.

Each bidder that is offered the relevant gTLD will be given a specified period—typically, four business days—to respond as to whether it wants the gTLD. A bidder who responds in the affirmative will have 20 business days to submit its full payment. A bidder who declines such an offer cannot revert on that statement, has no further obligations in this context and will not be considered in default.

The penalty for defaulting on a winning bid will equal 10% of the defaulting bid.<sup>2</sup> Default penalties will be charged against any defaulting applicant's bidding deposit before the associated bidding deposit is returned.

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<sup>2</sup> If bidders were given the option of making a specified deposit that provided them with unlimited bidding authority for a given application and if the winning bidder utilized this option, then the penalty for defaulting on a winning bid will be the lesser of the following: (1) 10% of the defaulting bid, or (2) the specified deposit amount that provided the bidder with unlimited bidding authority.

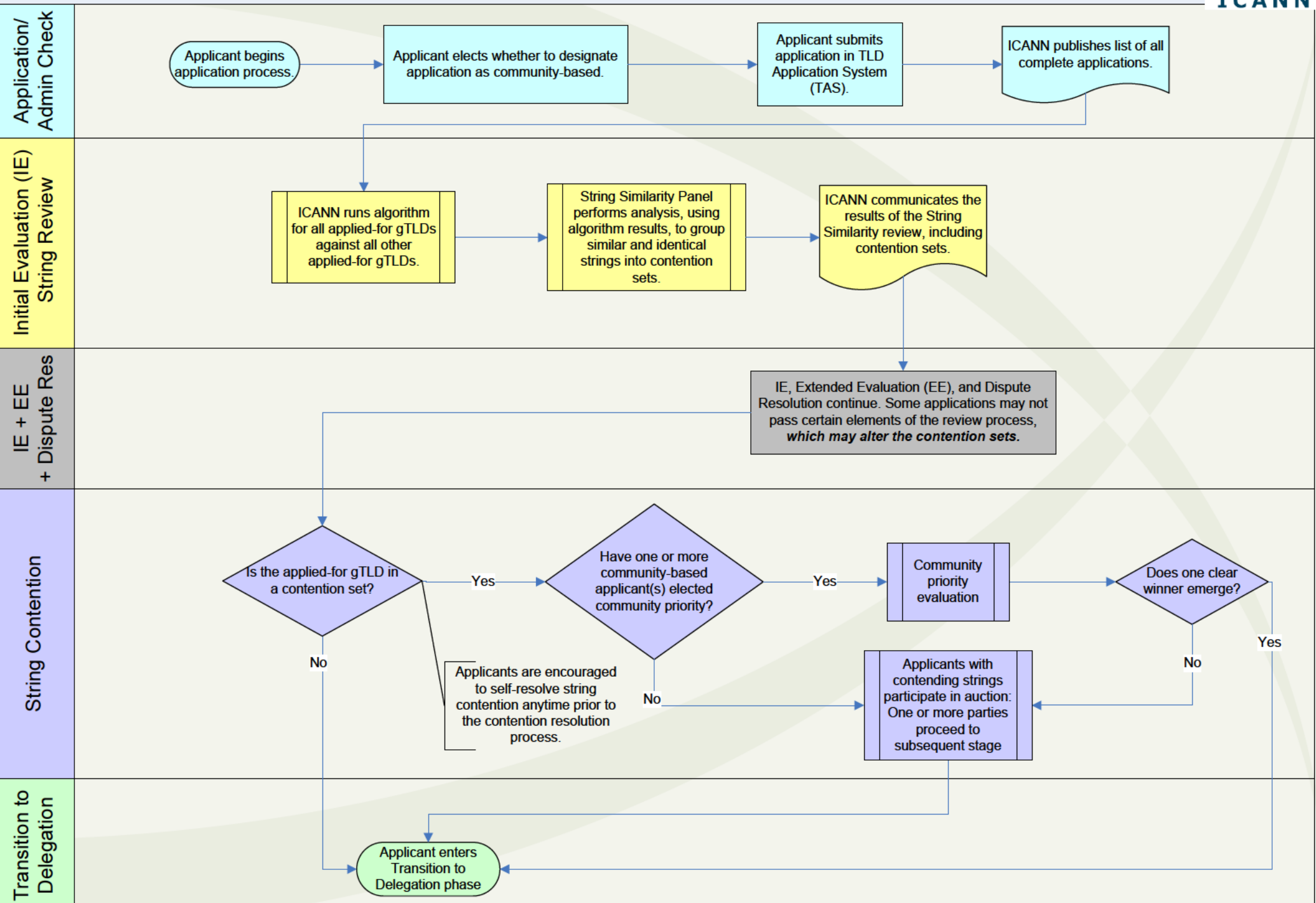
## 4.4 *Contention Resolution and Contract Execution*

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An applicant that has been declared the winner of a contention resolution process will proceed by entering into the contract execution step. (Refer to section 5.1 of Module 5.)

If a winner of the contention resolution procedure has not executed a contract within 90 calendar days of the decision, ICANN has the right to deny that application and extend an offer to the runner-up applicant, if any, to proceed with its application. For example, in an auction, another applicant who would be considered the runner-up applicant might proceed toward delegation. This offer is at ICANN's option only. The runner-up applicant in a contention resolution process has no automatic right to an applied-for gTLD string if the first place winner does not execute a contract within a specified time. If the winning applicant can demonstrate that it is working diligently and in good faith toward successful completion of the steps necessary for entry into the registry agreement, ICANN may extend the 90-day period at its discretion. Runner-up applicants have no claim of priority over the winning application, even after what might be an extended period of negotiation.

# DRAFT - New gTLD Program - String Contention



Application/  
Admin Check

Initial Evaluation (IE)  
String Review

IE + EE  
+ Dispute Res

String Contention

Transition to  
Delegation

Applicant begins application process

Applicant elects whether to designate application as community-based.

Applicant submits application in TLD Application System (TAS).

ICANN publishes list of all complete applications.

ICANN runs algorithm for all applied-for gTLDs against all other applied-for gTLDs.

String Similarity Panel performs analysis, using algorithm results, to group similar and identical strings into contention sets.

ICANN communicates the results of the String Similarity review, including contention sets.

IE, Extended Evaluation (EE), and Dispute Resolution continue. Some applications may not pass certain elements of the review process, which may alter the contention sets.

Is the applied-for gTLD in a contention set?

Have one or more community-based applicant(s) elected community priority?

Community priority evaluation

Does one clear winner emerge?

Applicants are encouraged to self-resolve string contention anytime prior to the contention resolution process.

Applicants with contending strings participate in auction: One or more parties proceed to subsequent stage

Applicant enters Transition to Delegation phase





# gTLD Applicant Guidebook

(v. 2012-06-04)

Module 5

4 June 2012

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# Module 5

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## *Transition to Delegation*

This module describes the final steps required of an applicant for completion of the process, including execution of a registry agreement with ICANN and preparing for delegation of the new gTLD into the root zone.

### *5.1 Registry Agreement*

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All applicants that have successfully completed the evaluation process—including, if necessary, the dispute resolution and string contention processes—are required to enter into a registry agreement with ICANN before proceeding to delegation.

After the close of each stage in the process, ICANN will send a notification to those successful applicants that are eligible for execution of a registry agreement at that time.

To proceed, applicants will be asked to provide specified information for purposes of executing the registry agreement:

1. Documentation of the applicant's continued operations instrument (see Specification 8 to the agreement).
2. Confirmation of contact information and signatory to the agreement.
3. Notice of any material changes requested to the terms of the agreement.
4. The applicant must report: (i) any ownership interest it holds in any registrar or reseller of registered names, (ii) if known, any ownership interest that a registrar or reseller of registered names holds in the applicant, and (iii) if the applicant controls, is controlled by, or is under common control with any registrar or reseller of registered names. ICANN retains the right to refer an application to a competition authority prior to entry into the registry agreement if it is determined that the registry-registrar cross-ownership

arrangements might raise competition issues. For this purpose "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

To ensure that an applicant continues to be a going concern in good legal standing, ICANN reserves the right to ask the applicant to submit additional updated documentation and information before entering into the registry agreement.

ICANN will begin processing registry agreements one month after the date of the notification to successful applicants. Requests will be handled in the order the complete information is received.

Generally, the process will include formal approval of the agreement without requiring additional Board review, so long as: the application passed all evaluation criteria; there are no material changes in circumstances; and there are no material changes to the base agreement. There may be other cases where the Board requests review of an application.

Eligible applicants are expected to have executed the registry agreement within nine (9) months of the notification date. Failure to do so may result in loss of eligibility, at ICANN's discretion. An applicant may request an extension of this time period for up to an additional nine (9) months if it can demonstrate, to ICANN's reasonable satisfaction, that it is working diligently and in good faith toward successfully completing the steps necessary for entry into the registry agreement.

The registry agreement can be reviewed in the attachment to this module. Certain provisions in the agreement are labeled as applicable to governmental and intergovernmental entities only. Private entities, even if supported by a government or IGO, would not ordinarily be eligible for these special provisions.

All successful applicants are expected to enter into the agreement substantially as written. Applicants may request and negotiate terms by exception; however, this extends

the time involved in executing the agreement. In the event that material changes to the agreement are requested, these must first be approved by the ICANN Board of Directors before execution of the agreement.

ICANN's Board of Directors has ultimate responsibility for the New gTLD Program. The Board reserves the right to individually consider an application for a new gTLD to determine whether approval would be in the best interest of the Internet community. Under exceptional circumstances, the Board may individually consider a gTLD application. For example, the Board might individually consider an application as a result of GAC Advice on New gTLDs or of the use of an ICANN accountability mechanism.

## *5.2 Pre-Delegation Testing*

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Each applicant will be required to complete pre-delegation technical testing as a prerequisite to delegation into the root zone. This pre-delegation test must be completed within the time period specified in the registry agreement.

The purpose of the pre-delegation technical test is to verify that the applicant has met its commitment to establish registry operations in accordance with the technical and operational criteria described in Module 2.

The test is also intended to indicate that the applicant can operate the gTLD in a stable and secure manner. All applicants will be tested on a pass/fail basis according to the requirements that follow.

The test elements cover both the DNS server operational infrastructure and registry system operations. In many cases the applicant will perform the test elements as instructed and provide documentation of the results to ICANN to demonstrate satisfactory performance. At ICANN's discretion, aspects of the applicant's self-certification documentation can be audited either on-site at the services delivery point of the registry or elsewhere as determined by ICANN.

### *5.2.1 Testing Procedures*

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The applicant may initiate the pre-delegation test by submitting to ICANN the Pre-Delegation form and accompanying documents containing all of the following information:

- All name server names and IPv4/IPv6 addresses to be used in serving the new TLD data;
- If using anycast, the list of names and IPv4/IPv6 unicast addresses allowing the identification of each individual server in the anycast sets;
- If IDN is supported, the complete IDN tables used in the registry system;
- A test zone for the new TLD must be signed at test time and the valid key-set to be used at the time of testing must be provided to ICANN in the documentation, as well as the TLD DNSSEC Policy Statement (DPS);
- The executed agreement between the selected escrow agent and the applicant; and
- Self-certification documentation as described below for each test item.

ICANN will review the material submitted and in some cases perform tests in addition to those conducted by the applicant. After testing, ICANN will assemble a report with the outcome of the tests and provide that report to the applicant.

Any clarification request, additional information request, or other request generated in the process will be highlighted and listed in the report sent to the applicant.

ICANN may request the applicant to complete load tests considering an aggregated load where a single entity is performing registry services for multiple TLDs.

Once an applicant has met all of the pre-delegation testing requirements, it is eligible to request delegation of its applied-for gTLD.

If an applicant does not complete the pre-delegation steps within the time period specified in the registry agreement, ICANN reserves the right to terminate the registry agreement.

### 5.2.2 Test Elements: DNS Infrastructure

The first set of test elements concerns the DNS infrastructure of the new gTLD. In all tests of the DNS infrastructure, all requirements are independent of whether IPv4 or IPv6 is used. All tests shall be done both over IPv4 and IPv6, with reports providing results according to both protocols.

**UDP Support** -- The DNS infrastructure to which these tests apply comprises the complete set of servers and network infrastructure to be used by the chosen providers to deliver DNS service for the new gTLD to the Internet. The documentation provided by the applicant must include the results from a system performance test indicating available network and server capacity and an estimate of expected capacity during normal operation to ensure stable service as well as to adequately address Distributed Denial of Service (DDoS) attacks.

Self-certification documentation shall include data on load capacity, latency and network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries responded against an increasing number of queries per second generated from local (to the servers) traffic generators. The table shall include at least 20 data points and loads of UDP-based queries that will cause up to 10% query loss against a randomly selected subset of servers within the applicant's DNS infrastructure. Responses must either contain zone data or be NXDOMAIN or NODATA responses to be considered valid.

Query latency shall be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing information on the transit and peering arrangements for the DNS server locations, listing the AS numbers of the transit providers or peers at each point of presence and available bandwidth at those points of presence.

**TCP support** -- TCP transport service for DNS queries and responses must be enabled and provisioned for expected load. ICANN will review the capacity self-certification documentation provided by the applicant and will perform TCP reachability and transaction capability tests across a

randomly selected subset of the name servers within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

Self-certification documentation shall include data on load capacity, latency and external network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries that generated a valid (zone data, NODATA, or NXDOMAIN) response against an increasing number of queries per second generated from local (to the name servers) traffic generators. The table shall include at least 20 data points and loads that will cause up to 10% query loss (either due to connection timeout or connection reset) against a randomly selected subset of servers within the applicant's DNS infrastructure.

Query latency will be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing records of TCP-based DNS queries from nodes external to the network hosting the servers. These locations may be the same as those used for measuring latency above.

**DNSSEC support** -- Applicant must demonstrate support for EDNS(0) in its server infrastructure, the ability to return correct DNSSEC-related resource records such as DNSKEY, RRSIG, and NSEC/NSEC3 for the signed zone, and the ability to accept and publish DS resource records from second-level domain administrators. In particular, the applicant must demonstrate its ability to support the full life cycle of KSK and ZSK keys. ICANN will review the self-certification materials as well as test the reachability, response sizes, and DNS transaction capacity for DNS queries using the EDNS(0) protocol extension with the "DNSSEC OK" bit set for a randomly selected subset of all name servers within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

Load capacity, query latency, and reachability shall be documented as for UDP and TCP above.

### 5.2.3 Test Elements: Registry Systems

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As documented in the registry agreement, registries must provide support for EPP within their Shared Registration System, and provide Whois service both via port 43 and a web interface, in addition to support for the DNS. This section details the requirements for testing these registry systems.

**System performance** -- The registry system must scale to meet the performance requirements described in Specification 10 of the registry agreement and ICANN will require self-certification of compliance. ICANN will review the self-certification documentation provided by the applicant to verify adherence to these minimum requirements.

**Whois support** -- Applicant must provision Whois services for the anticipated load. ICANN will verify that Whois data is accessible over IPv4 and IPv6 via both TCP port 43 and via a web interface and review self-certification documentation regarding Whois transaction capacity. Response format according to Specification 4 of the registry agreement and access to Whois (both port 43 and via web) will be tested by ICANN remotely from various points on the Internet over both IPv4 and IPv6.

Self-certification documents shall describe the maximum number of queries per second successfully handled by both the port 43 servers as well as the web interface, together with an applicant-provided load expectation.

Additionally, a description of deployed control functions to detect and mitigate data mining of the Whois database shall be documented.

**EPP Support** -- As part of a shared registration service, applicant must provision EPP services for the anticipated load. ICANN will verify conformance to appropriate RFCs (including EPP extensions for DNSSEC). ICANN will also review self-certification documentation regarding EPP transaction capacity.

Documentation shall provide a maximum Transaction per Second rate for the EPP interface with 10 data points corresponding to registry database sizes from 0 (empty) to the expected size after one year of operation, as determined by applicant.



Documentation shall also describe measures taken to handle load during initial registry operations, such as a land-rush period.

**IPv6 support** -- The ability of the registry to support registrars adding, changing, and removing IPv6 DNS records supplied by registrants will be tested by ICANN. If the registry supports EPP access via IPv6, this will be tested by ICANN remotely from various points on the Internet.

**DNSSEC support** -- ICANN will review the ability of the registry to support registrars adding, changing, and removing DNSSEC-related resource records as well as the registry's overall key management procedures. In particular, the applicant must demonstrate its ability to support the full life cycle of key changes for child domains. Inter-operation of the applicant's secure communication channels with the IANA for trust anchor material exchange will be verified.

The practice and policy document (also known as the DNSSEC Policy Statement or DPS), describing key material storage, access and usage for its own keys is also reviewed as part of this step.

**IDN support** -- ICANN will verify the complete IDN table(s) used in the registry system. The table(s) must comply with the guidelines in <http://iana.org/procedures/idn-repository.html>.

Requirements related to IDN for Whois are being developed. After these requirements are developed, prospective registries will be expected to comply with published IDN-related Whois requirements as part of pre-delegation testing.

**Escrow deposit** -- The applicant-provided samples of data deposit that include both a full and an incremental deposit showing correct type and formatting of content will be reviewed. Special attention will be given to the agreement with the escrow provider to ensure that escrowed data can be released within 24 hours should it be necessary. ICANN may, at its option, ask an independent third party to demonstrate the reconstitutability of the registry from escrowed data. ICANN may elect to test the data release process with the escrow agent.

### 5.3 Delegation Process

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Upon notice of successful completion of the ICANN pre-delegation testing, applicants may initiate the process for delegation of the new gTLD into the root zone database.

This will include provision of additional information and completion of additional technical steps required for delegation. Information about the delegation process is available at <http://iana.org/domains/root/>.

### 5.4 Ongoing Operations

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An applicant that is successfully delegated a gTLD will become a “Registry Operator.” In being delegated the role of operating part of the Internet’s domain name system, the applicant will be assuming a number of significant responsibilities. ICANN will hold all new gTLD operators accountable for the performance of their obligations under the registry agreement, and it is important that all applicants understand these responsibilities.

#### 5.4.1 What is Expected of a Registry Operator

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The registry agreement defines the obligations of gTLD registry operators. A breach of the registry operator’s obligations may result in ICANN compliance actions up to and including termination of the registry agreement. Prospective applicants are encouraged to review the following brief description of some of these responsibilities.

Note that this is a non-exhaustive list provided to potential applicants as an introduction to the responsibilities of a registry operator. For the complete and authoritative text, please refer to the registry agreement.

A registry operator is obligated to:

**Operate the TLD in a stable and secure manner.** The registry operator is responsible for the entire technical operation of the TLD. As noted in RFC 1591<sup>1</sup>:

“The designated manager must do a satisfactory job of operating the DNS service for the domain. That is, the actual management of the assigning of domain names, delegating subdomains and operating nameservers must be done with technical competence. This includes keeping

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<sup>1</sup> See <http://www.rfc-editor.org/rfc/rfc1591.txt>

the central IR<sup>2</sup> (in the case of top-level domains) or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience.”

The registry operator is required to comply with relevant technical standards in the form of RFCs and other guidelines. Additionally, the registry operator must meet performance specifications in areas such as system downtime and system response times (see Specifications 6 and 10 of the registry agreement).

***Comply with consensus policies and temporary policies.***

gTLD registry operators are required to comply with consensus policies. Consensus policies may relate to a range of topics such as issues affecting interoperability of the DNS, registry functional and performance specifications, database security and stability, or resolution of disputes over registration of domain names.

To be adopted as a consensus policy, a policy must be developed by the Generic Names Supporting Organization (GNSO)<sup>3</sup> following the process in Annex A of the ICANN Bylaws.<sup>4</sup> The policy development process involves deliberation and collaboration by the various stakeholder groups participating in the process, with multiple opportunities for input and comment by the public, and can take significant time.

Examples of existing consensus policies are the Inter-Registrar Transfer Policy (governing transfers of domain names between registrars), and the Registry Services Evaluation Policy (establishing a review of proposed new registry services for security and stability or competition concerns), although there are several more, as found at <http://www.icann.org/en/general/consensus-policies.htm>.

gTLD registry operators are obligated to comply with both existing consensus policies and those that are developed in the future. Once a consensus policy has been formally adopted, ICANN will provide gTLD registry operators with notice of the requirement to implement the new policy and the effective date.

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<sup>2</sup> IR is a historical reference to “Internet Registry,” a function now performed by ICANN.

<sup>3</sup> <http://gns0.icann.org>

<sup>4</sup> <http://www.icann.org/en/general/bylaws.htm#AnnexA>

In addition, the ICANN Board may, when required by circumstances, establish a temporary policy necessary to maintain the stability or security of registry services or the DNS. In such a case, all gTLD registry operators will be required to comply with the temporary policy for the designated period of time.

For more information, see Specification 1 of the registry agreement.

**Implement start-up rights protection measures.** The registry operator must implement, at a minimum, a Sunrise period and a Trademark Claims service during the start-up phases for registration in the TLD, as provided in the registry agreement. These mechanisms will be supported by the established Trademark Clearinghouse as indicated by ICANN.

The Sunrise period allows eligible rightsholders an early opportunity to register names in the TLD.

The Trademark Claims service provides notice to potential registrants of existing trademark rights, as well as notice to rightsholders of relevant names registered. Registry operators may continue offering the Trademark Claims service after the relevant start-up phases have concluded.

For more information, see Specification 7 of the registry agreement and the Trademark Clearinghouse model accompanying this module.

**Implement post-launch rights protection measures.** The registry operator is required to implement decisions made under the Uniform Rapid Suspension (URS) procedure, including suspension of specific domain names within the registry. The registry operator is also required to comply with and implement decisions made according to the Trademark Post-Delegation Dispute Resolution Policy (PDDRP).

The required measures are described fully in the URS and PDDRP procedures accompanying this module. Registry operators may introduce additional rights protection measures relevant to the particular gTLD.

**Implement measures for protection of country and territory names in the new gTLD.** All new gTLD registry operators are required to provide certain minimum protections for country and territory names, including an initial reservation requirement and establishment of applicable rules and

procedures for release of these names. The rules for release can be developed or agreed to by governments, the GAC, and/or approved by ICANN after a community discussion. Registry operators are encouraged to implement measures for protection of geographical names in addition to those required by the agreement, according to the needs and interests of each gTLD's particular circumstances. (See Specification 5 of the registry agreement).

**Pay recurring fees to ICANN.** In addition to supporting expenditures made to accomplish the objectives set out in ICANN's mission statement, these funds enable the support required for new gTLDs, including: contractual compliance, registry liaison, increased registrar accreditations, and other registry support activities. The fees include both a fixed component (USD 25,000 annually) and, where the TLD exceeds a transaction volume, a variable fee based on transaction volume. See Article 6 of the registry agreement.

**Regularly deposit data into escrow.** This serves an important role in registrant protection and continuity for certain instances where the registry or one aspect of the registry operations experiences a system failure or loss of data. (See Specification 2 of the registry agreement.)

**Deliver monthly reports in a timely manner.** A registry operator must submit a report to ICANN on a monthly basis. The report includes registrar transactions for the month and is used by ICANN for calculation of registrar fees. (See Specification 3 of the registry agreement.)

**Provide Whois service.** A registry operator must provide a publicly available Whois service for registered domain names in the TLD. (See Specification 4 of the registry agreement.)

**Maintain partnerships with ICANN-accredited registrars.** A registry operator creates a Registry-Registrar Agreement (RRA) to define requirements for its registrars. This must include certain terms that are specified in the Registry Agreement, and may include additional terms specific to the TLD. A registry operator must provide non-discriminatory access to its registry services to all ICANN-accredited registrars with whom it has entered into an RRA, and who are in compliance with the requirements. This includes providing advance notice of pricing changes to all

registrars, in compliance with the time frames specified in the agreement. (See Article 2 of the registry agreement.)

**Maintain an abuse point of contact.** A registry operator must maintain and publish on its website a single point of contact responsible for addressing matters requiring expedited attention and providing a timely response to abuse complaints concerning all names registered in the TLD through all registrars of record, including those involving a reseller. A registry operator must also take reasonable steps to investigate and respond to any reports from law enforcement, governmental and quasi-governmental agencies of illegal conduct in connection with the use of the TLD. (See Article 2 and Specification 6 of the registry agreement.)

**Cooperate with contractual compliance audits.** To maintain a level playing field and a consistent operating environment, ICANN staff performs periodic audits to assess contractual compliance and address any resulting problems. A registry operator must provide documents and information requested by ICANN that are necessary to perform such audits. (See Article 2 of the registry agreement.)

**Maintain a Continued Operations Instrument.** A registry operator must, at the time of the agreement, have in place a continued operations instrument sufficient to fund basic registry operations for a period of three (3) years. This requirement remains in place for five (5) years after delegation of the TLD, after which time the registry operator is no longer required to maintain the continued operations instrument. (See Specification 8 to the registry agreement.)

**Maintain community-based policies and procedures.** If the registry operator designated its application as community-based at the time of the application, the registry operator has requirements in its registry agreement to maintain the community-based policies and procedures it specified in its application. The registry operator is bound by the Registry Restrictions Dispute Resolution Procedure with respect to disputes regarding execution of its community-based policies and procedures. (See Article 2 to the registry agreement.)

**Have continuity and transition plans in place.** This includes performing failover testing on a regular basis. In the event that a transition to a new registry operator becomes necessary, the registry operator is expected to cooperate

by consulting with ICANN on the appropriate successor, providing the data required to enable a smooth transition, and complying with the applicable registry transition procedures. (See Articles 2 and 4 of the registry agreement.)

***Make TLD zone files available via a standardized process.***

This includes provision of access to the registry's zone file to credentialed users, according to established access, file, and format standards. The registry operator will enter into a standardized form of agreement with zone file users and will accept credential information for users via a clearinghouse. (See Specification 4 of the registry agreement.)

***Implement DNSSEC.*** The registry operator is required to sign the TLD zone files implementing Domain Name System Security Extensions (DNSSEC) in accordance with the relevant technical standards. The registry must accept public key material from registrars for domain names registered in the TLD, and publish a DNSSEC Policy Statement describing key material storage, access, and usage for the registry's keys. (See Specification 6 of the registry agreement.)

#### ***5.4.2 What is Expected of ICANN***

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ICANN will continue to provide support for gTLD registry operators as they launch and maintain registry operations. ICANN's gTLD registry liaison function provides a point of contact for gTLD registry operators for assistance on a continuing basis.

ICANN's contractual compliance function will perform audits on a regular basis to ensure that gTLD registry operators remain in compliance with agreement obligations, as well as investigate any complaints from the community regarding the registry operator's adherence to its contractual obligations. See <http://www.icann.org/en/compliance/> for more information on current contractual compliance activities.

ICANN's Bylaws require ICANN to act in an open and transparent manner, and to provide equitable treatment among registry operators. ICANN is responsible for maintaining the security and stability of the global Internet, and looks forward to a constructive and cooperative relationship with future gTLD registry operators in furtherance of this goal.

# Draft – New gTLD Program - Transition to Delegation

(Timeframes are estimates only)

## Applicant Doc Prep 1 Month

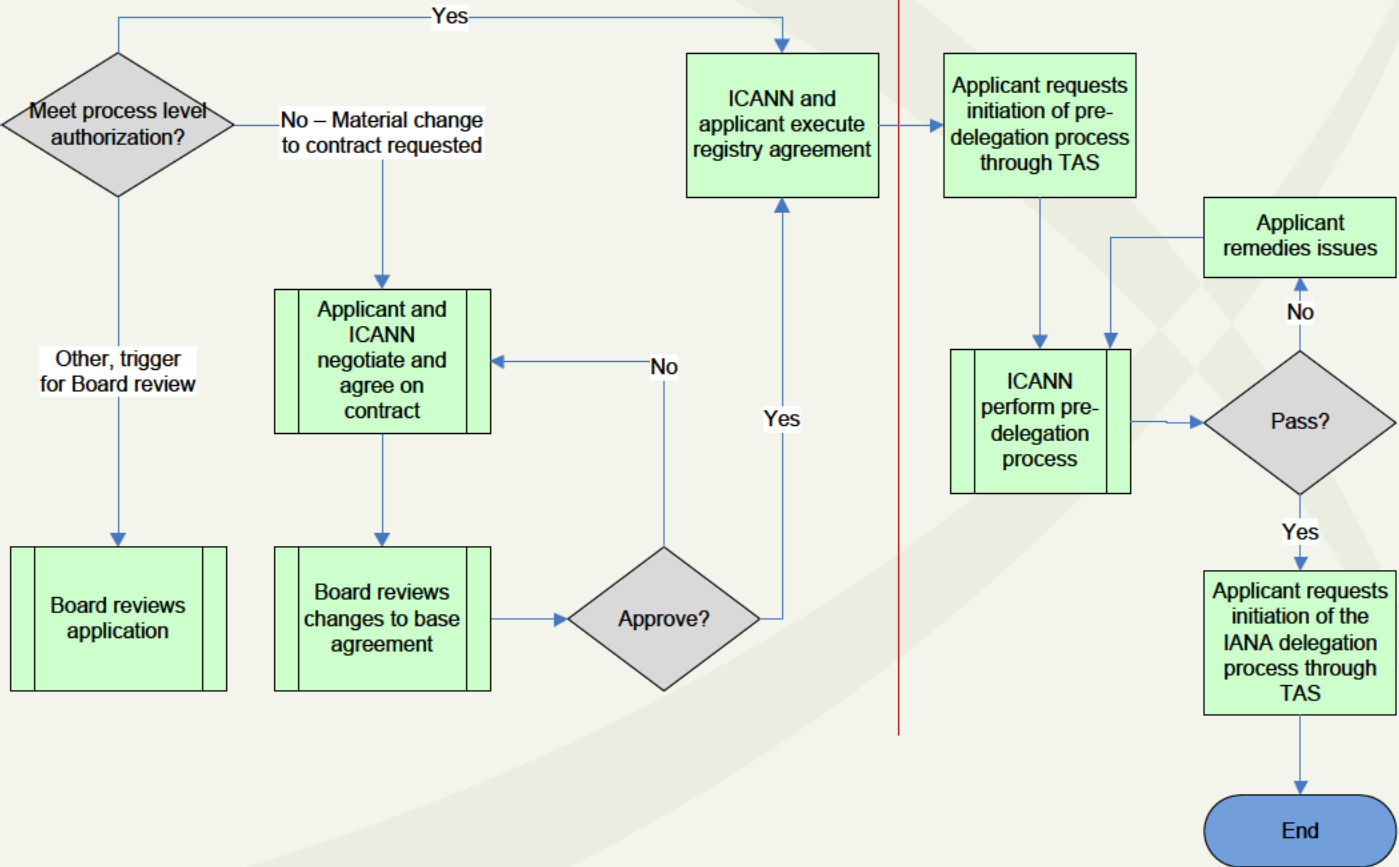
## Contracting – 1 day to 9 months

## Pre-Delegation Testing – 1 to 12 months

ICANN provides notice of eligibility to applicant

Applicant prepares documentation for contracting

- Includes:
- Material changes in circumstances
  - Continued Operations instrument
  - Designated contracting parties





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# *New gTLD Agreement*

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This document contains the registry agreement associated with the Applicant Guidebook for New gTLDs.

Successful gTLD applicants would enter into this form of registry agreement with ICANN prior to delegation of the new gTLD. (Note: ICANN reserves the right to make reasonable updates and changes to this proposed agreement during the course of the application process, including as the possible result of new policies that might be adopted during the course of the application process).

## REGISTRY AGREEMENT

This REGISTRY AGREEMENT (this “Agreement”) is entered into as of \_\_\_\_\_ (the “Effective Date”) between Internet Corporation for Assigned Names and Numbers, a California nonprofit public benefit corporation (“ICANN”), and \_\_\_\_\_, a \_\_\_\_\_ (“Registry Operator”).

### ARTICLE 1.

#### DELEGATION AND OPERATION OF TOP-LEVEL DOMAIN; REPRESENTATIONS AND WARRANTIES

**1.1 Domain and Designation.** The Top-Level Domain to which this Agreement applies is \_\_\_\_\_ (the “TLD”). Upon the Effective Date and until the end of the Term (as defined in Section 4.1), ICANN designates Registry Operator as the registry operator for the TLD, subject to the requirements and necessary approvals for delegation of the TLD and entry into the root-zone.

**1.2 Technical Feasibility of String.** While ICANN has encouraged and will continue to encourage universal acceptance of all top-level domain strings across the Internet, certain top-level domain strings may encounter difficulty in acceptance by ISPs and webhosters and/or validation by web applications. Registry Operator shall be responsible for ensuring to its satisfaction the technical feasibility of the TLD string prior to entering into this Agreement.

#### **1.3 Representations and Warranties.**

(a) Registry Operator represents and warrants to ICANN as follows:

(i) all material information provided and statements made in the registry TLD application, and statements made in writing during the negotiation of this Agreement, were true and correct in all material respects at the time made, and such information or statements continue to be true and correct in all material respects as of the Effective Date except as otherwise previously disclosed in writing by Registry Operator to ICANN;

(ii) Registry Operator is duly organized, validly existing and in good standing under the laws of the jurisdiction set forth in the preamble hereto, and Registry Operator has all requisite power and authority and obtained all necessary approvals to enter into and duly execute and deliver this Agreement; and

(iii) Registry Operator has delivered to ICANN a duly executed instrument that secures the funds required to perform registry functions for the TLD in the event of the termination or expiration of this Agreement (the “Continued Operations Instrument”), and such instrument is a binding obligation of the parties thereto, enforceable against the parties thereto in accordance with its terms.

(b) ICANN represents and warrants to Registry Operator that ICANN is a nonprofit public benefit corporation duly organized, validly existing and in good standing under the laws of the State of California, United States of America. ICANN has all requisite power and authority and obtained all necessary corporate approvals to enter into and duly execute and deliver this Agreement.

## ARTICLE 2.

### COVENANTS OF REGISTRY OPERATOR

Registry Operator covenants and agrees with ICANN as follows:

**2.1 Approved Services; Additional Services.** Registry Operator shall be entitled to provide the Registry Services described in clauses (a) and (b) of the first paragraph of Section 2.1 in the specification at [*see specification 6*] (“Specification 6”) and such other Registry Services set forth on Exhibit A (collectively, the “Approved Services”). If Registry Operator desires to provide any Registry Service that is not an Approved Service or is a modification to an Approved Service (each, an “Additional Service”), Registry Operator shall submit a request for approval of such Additional Service pursuant to the Registry Services Evaluation Policy at <http://www.icann.org/en/registries/rsep/rsep.html>, as such policy may be amended from time to time in accordance with the bylaws of ICANN (as amended from time to time, the “ICANN Bylaws”) applicable to Consensus Policies (the “RSEP”). Registry Operator may offer Additional Services only with the written approval of ICANN, and, upon any such approval, such Additional Services shall be deemed Registry Services under this Agreement. In its reasonable discretion, ICANN may require an amendment to this Agreement reflecting the provision of any Additional Service which is approved pursuant to the RSEP, which amendment shall be in a form reasonably acceptable to the parties.

**2.2 Compliance with Consensus Policies and Temporary Policies.** Registry Operator shall comply with and implement all Consensus Policies and Temporary Policies found at <http://www.icann.org/general/consensus-policies.htm>, as of the Effective Date and as may in the future be developed and adopted in accordance with the ICANN Bylaws, provided such future Consensus Policies and Temporary Policies are adopted in accordance with the procedure and relate to those topics and subject to those limitations set forth at [*see specification 1*]\* (“Specification 1”).

**2.3 Data Escrow.** Registry Operator shall comply with the registry data escrow procedures posted at [*see specification 2*]\*.

**2.4 Monthly Reporting.** Within twenty (20) calendar days following the end of each calendar month, Registry Operator shall deliver to ICANN reports in the format posted in the specification at [*see specification 3*]\*.

**2.5 Publication of Registration Data.** Registry Operator shall provide public access to registration data in accordance with the specification posted at [*see specification 4*]\* (“Specification 4”).

**2.6 Reserved Names.** Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall comply with the restrictions on registration of character strings set forth at [*see specification 5*]\* (“Specification 5”). Registry Operator may establish policies concerning the reservation or blocking of additional character strings within the TLD at its discretion. If Registry Operator is the registrant for any domain names in the Registry TLD (other than the Second-Level Reservations for Registry Operations from Specification 5), such registrations must be through an ICANN accredited registrar. Any such registrations will be considered Transactions (as defined in Section 6.1) for purposes of calculating the Registry-Level Transaction Fee to be paid to ICANN by Registry Operator pursuant to Section 6.1.

**2.7 Registry Interoperability and Continuity.** Registry Operator shall comply with the Registry Interoperability and Continuity Specifications as set forth in Specification 6.

\* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

**2.8 Protection of Legal Rights of Third Parties.** Registry Operator must specify, and comply with, a process and procedures for launch of the TLD and initial registration-related and ongoing protection of the legal rights of third parties as set forth in the specification at [*see specification 7*]\* (“Specification 7”). Registry Operator may, at its election, implement additional protections of the legal rights of third parties. Any changes or modifications to the process and procedures required by Specification 7 following the Effective Date must be approved in advance by ICANN in writing. Registry Operator must comply with all remedies imposed by ICANN pursuant to Section 2 of Specification 7, subject to Registry Operator’s right to challenge such remedies as set forth in the applicable procedure described therein. Registry Operator shall take reasonable steps to investigate and respond to any reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of the TLD. In responding to such reports, Registry Operator will not be required to take any action in contravention of applicable law.

**2.9 Registrars.**

(a) Registry Operator must use only ICANN accredited registrars in registering domain names. Registry Operator must provide non-discriminatory access to Registry Services to all ICANN accredited registrars that enter into and are in compliance with the registry-registrar agreement for the TLD; provided, that Registry Operator may establish non-discriminatory criteria for qualification to register names in the TLD that are reasonably related to the proper functioning of the TLD. Registry Operator must use a uniform non-discriminatory agreement with all registrars authorized to register names in the TLD. Such agreement may be revised by Registry Operator from time to time; provided, however, that any such revisions must be approved in advance by ICANN.

(b) If Registry Operator (i) becomes an Affiliate or reseller of an ICANN accredited registrar, or (ii) subcontracts the provision of any Registry Services to an ICANN accredited registrar, registrar reseller or any of their respective Affiliates, then, in either such case of (i) or (ii) above, Registry Operator will give ICANN prompt notice of the contract, transaction or other arrangement that resulted in such affiliation, reseller relationship or subcontract, as applicable, including, if requested by ICANN, copies of any contract relating thereto; provided, that ICANN will not disclose such contracts to any third party other than relevant competition authorities. ICANN reserves the right, but not the obligation, to refer any such contract, transaction or other arrangement to relevant competition authorities in the event that ICANN determines that such contract, transaction or other arrangement might raise competition issues.

(c) For the purposes of this Agreement: (i) “Affiliate” means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person or entity specified, and (ii) “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

**2.10 Pricing for Registry Services.**

(a) With respect to initial domain name registrations, Registry Operator shall provide ICANN and each ICANN accredited registrar that has executed the registry-registrar agreement for the TLD advance written notice of any price increase (including as a result of the elimination of any refunds, rebates, discounts, product tying or other programs which had the effect of reducing the price charged to registrars, unless such refunds, rebates, discounts, product tying or other programs are of a limited

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duration that is clearly and conspicuously disclosed to the registrar when offered) of no less than thirty (30) calendar days. Registry Operator shall offer registrars the option to obtain initial domain name registrations for periods of one to ten years at the discretion of the registrar, but no greater than ten years.

(b) With respect to renewal of domain name registrations, Registry Operator shall provide ICANN and each ICANN accredited registrar that has executed the registry-registrar agreement for the TLD advance written notice of any price increase (including as a result of the elimination of any refunds, rebates, discounts, product tying, Qualified Marketing Programs or other programs which had the effect of reducing the price charged to registrars) of no less than one hundred eighty (180) calendar days. Notwithstanding the foregoing sentence, with respect to renewal of domain name registrations: (i) Registry Operator need only provide thirty (30) calendar days notice of any price increase if the resulting price is less than or equal to (A) for the period beginning on the Effective Date and ending twelve (12) months following the Effective Date, the initial price charged for registrations in the TLD, or (B) for subsequent periods, a price for which Registry Operator provided a notice pursuant to the first sentence of this Section 2.10(b) within the twelve (12) month period preceding the effective date of the proposed price increase; and (ii) Registry Operator need not provide notice of any price increase for the imposition of the Variable Registry-Level Fee set forth in Section 6.3. Registry Operator shall offer registrars the option to obtain domain name registration renewals at the current price (i.e. the price in place prior to any noticed increase) for periods of one to ten years at the discretion of the registrar, but no greater than ten years.

(c) In addition, Registry Operator must have uniform pricing for renewals of domain name registrations (“Renewal Pricing”). For the purposes of determining Renewal Pricing, the price for each domain registration renewal must be identical to the price of all other domain name registration renewals in place at the time of such renewal, and such price must take into account universal application of any refunds, rebates, discounts, product tying or other programs in place at the time of renewal. The foregoing requirements of this Section 2.10(c) shall not apply for (i) purposes of determining Renewal Pricing if the registrar has provided Registry Operator with documentation that demonstrates that the applicable registrant expressly agreed in its registration agreement with registrar to higher Renewal Pricing at the time of the initial registration of the domain name following clear and conspicuous disclosure of such Renewal Pricing to such registrant, and (ii) discounted Renewal Pricing pursuant to a Qualified Marketing Program (as defined below). The parties acknowledge that the purpose of this Section 2.10(c) is to prohibit abusive and/or discriminatory Renewal Pricing practices imposed by Registry Operator without the written consent of the applicable registrant at the time of the initial registration of the domain and this Section 2.10(c) will be interpreted broadly to prohibit such practices. For purposes of this Section 2.10(c), a “Qualified Marketing Program” is a marketing program pursuant to which Registry Operator offers discounted Renewal Pricing, provided that each of the following criteria is satisfied: (i) the program and related discounts are offered for a period of time not to exceed one hundred eighty (180) calendar days (with consecutive substantially similar programs aggregated for purposes of determining the number of calendar days of the program), (ii) all ICANN accredited registrars are provided the same opportunity to qualify for such discounted Renewal Pricing; and (iii) the intent or effect of the program is not to exclude any particular class(es) of registrations (e.g., registrations held by large corporations) or increase the renewal price of any particular class(es) of registrations. Nothing in this Section 2.10(c) shall limit Registry Operator’s obligations pursuant to Section 2.10(b).

(d) Registry Operator shall provide public query-based DNS lookup service for the TLD (that is, operate the Registry TLD zone servers) at its sole expense.

## **2.11 Contractual and Operational Compliance Audits.**

\* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

(a) ICANN may from time to time (not to exceed twice per calendar year) conduct, or engage a third party to conduct, contractual compliance audits to assess compliance by Registry Operator with its representations and warranties contained in Article 1 of this Agreement and its covenants contained in Article 2 of this Agreement. Such audits shall be tailored to achieve the purpose of assessing compliance, and ICANN will (a) give reasonable advance notice of any such audit, which notice shall specify in reasonable detail the categories of documents, data and other information requested by ICANN, and (b) use commercially reasonable efforts to conduct such audit in such a manner as to not unreasonably disrupt the operations of Registry Operator. As part of such audit and upon request by ICANN, Registry Operator shall timely provide all responsive documents, data and any other information necessary to demonstrate Registry Operator's compliance with this Agreement. Upon no less than five (5) business days notice (unless otherwise agreed to by Registry Operator), ICANN may, as part of any contractual compliance audit, conduct site visits during regular business hours to assess compliance by Registry Operator with its representations and warranties contained in Article 1 of this Agreement and its covenants contained in Article 2 of this Agreement.

(b) Any audit conducted pursuant to Section 2.11(a) will be at ICANN's expense, unless (i) Registry Operator (A) controls, is controlled by, is under common control or is otherwise Affiliated with, any ICANN accredited registrar or registrar reseller or any of their respective Affiliates, or (B) has subcontracted the provision of Registry Services to an ICANN accredited registrar or registrar reseller or any of their respective Affiliates, and, in either case of (A) or (B) above, the audit relates to Registry Operator's compliance with Section 2.14, in which case Registry Operator shall reimburse ICANN for all reasonable costs and expenses associated with the portion of the audit related to Registry Operator's compliance with Section 2.14, or (ii) the audit is related to a discrepancy in the fees paid by Registry Operator hereunder in excess of 5% to ICANN's detriment, in which case Registry Operator shall reimburse ICANN for all reasonable costs and expenses associated with the entirety of such audit. In either such case of (i) or (ii) above, such reimbursement will be paid together with the next Registry-Level Fee payment due following the date of transmittal of the cost statement for such audit.

(c) Notwithstanding Section 2.11(a), if Registry Operator is found not to be in compliance with its representations and warranties contained in Article 1 of this Agreement or its covenants contained in Article 2 of this Agreement in two consecutive audits conducted pursuant to this Section 2.11, ICANN may increase the number of such audits to one per calendar quarter.

(d) Registry Operator will give ICANN immediate notice of the commencement of any of the proceedings referenced in Section 4.3(d) or the occurrence of any of the matters specified in Section 4.3(f).

**2.12 Continued Operations Instrument.** Registry Operator shall comply with the terms and conditions relating to the Continued Operations Instrument set forth in the specification at [*see specification 8*].

**2.13 Emergency Transition.** Registry Operator agrees that in the event that any of the registry functions set forth in Section 6 of Specification 10 fails for a period longer than the emergency threshold for such function set forth in Section 6 of Specification 10, ICANN may designate an emergency interim registry operator of the registry for the TLD (an "Emergency Operator") in accordance with ICANN's registry transition process (available at \_\_\_\_\_) (as the same may be amended from time to time, the "Registry Transition Process") until such time as Registry Operator has demonstrated to ICANN's reasonable satisfaction that it can resume operation of the registry for the TLD without the reoccurrence of such failure. Following such demonstration, Registry Operator may transition back into operation of the registry for the TLD pursuant to the procedures set out in the Registry Transition Process,

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provided that Registry Operator pays all reasonable costs incurred (i) by ICANN as a result of the designation of the Emergency Operator and (ii) by the Emergency Operator in connection with the operation of the registry for the TLD, which costs shall be documented in reasonable detail in records that shall be made available to Registry Operator. In the event ICANN designates an Emergency Operator pursuant to this Section 2.13 and the Registry Transition Process, Registry Operator shall provide ICANN or any such Emergency Operator with all data (including the data escrowed in accordance with Section 2.3) regarding operations of the registry for the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such Emergency Operator. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event that an Emergency Operator is designated pursuant to this Section 2.13. In addition, in the event of such failure, ICANN shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable.

**2.14 Registry Code of Conduct.** In connection with the operation of the registry for the TLD, Registry Operator shall comply with the Registry Code of Conduct as set forth in the specification at [*see specification 9*].

**2.15 Cooperation with Economic Studies.** If ICANN initiates or commissions an economic study on the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters, Registry Operator shall reasonably cooperate with such study, including by delivering to ICANN or its designee conducting such study all data reasonably necessary for the purposes of such study requested by ICANN or its designee, provided, that Registry Operator may withhold any internal analyses or evaluations prepared by Registry Operator with respect to such data. Any data delivered to ICANN or its designee pursuant to this Section 2.15 shall be fully aggregated and anonymized by ICANN or its designee prior to any disclosure of such data to any third party.

**2.16 Registry Performance Specifications.** Registry Performance Specifications for operation of the TLD will be as set forth in the specification at [*see specification 10*]\*. Registry Operator shall comply with such Performance Specifications and, for a period of at least one year, shall keep technical and operational records sufficient to evidence compliance with such specifications for each calendar year during the Term.

**2.17 Personal Data.** Registry Operator shall (i) notify each ICANN-accredited registrar that is a party to the registry-registrar agreement for the TLD of the purposes for which data about any identified or identifiable natural person (“Personal Data”) submitted to Registry Operator by such registrar is collected and used under this Agreement or otherwise and the intended recipients (or categories of recipients) of such Personal Data, and (ii) require such registrar to obtain the consent of each registrant in the TLD for such collection and use of Personal Data. Registry Operator shall take reasonable steps to protect Personal Data collected from such registrar from loss, misuse, unauthorized disclosure, alteration or destruction. Registry Operator shall not use or authorize the use of Personal Data in a way that is incompatible with the notice provided to registrars.

**2.18 [*Note: For Community-Based TLDs Only*] Obligations of Registry Operator to TLD Community.** Registry Operator shall establish registration policies in conformity with the application submitted with respect to the TLD for: (i) naming conventions within the TLD, (ii) requirements for registration by members of the TLD community, and (iii) use of registered domain names in conformity with the stated purpose of the community-based TLD. Registry Operator shall operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD. Registry Operator shall establish procedures for the enforcement of registration policies for the TLD, and resolution of disputes concerning compliance with TLD registration

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policies, and shall enforce such registration policies. Registry Operator agrees to implement and be bound by the Registry Restrictions Dispute Resolution Procedure as set forth at [*insert applicable URL*] with respect to disputes arising pursuant to this Section 2.18.]

### ARTICLE 3.

#### COVENANTS OF ICANN

ICANN covenants and agrees with Registry Operator as follows:

**3.1 Open and Transparent.** Consistent with ICANN’s expressed mission and core values, ICANN shall operate in an open and transparent manner.

**3.2 Equitable Treatment.** ICANN shall not apply standards, policies, procedures or practices arbitrarily, unjustifiably, or inequitably and shall not single out Registry Operator for disparate treatment unless justified by substantial and reasonable cause.

**3.3 TLD Nameservers.** ICANN will use commercially reasonable efforts to ensure that any changes to the TLD nameserver designations submitted to ICANN by Registry Operator (in a format and with required technical elements specified by ICANN at <http://www.iana.org/domains/root/> will be implemented by ICANN within seven (7) calendar days or as promptly as feasible following technical verifications.

**3.4 Root-zone Information Publication.** ICANN’s publication of root-zone contact information for the TLD will include Registry Operator and its administrative and technical contacts. Any request to modify the contact information for the Registry Operator must be made in the format specified from time to time by ICANN at <http://www.iana.org/domains/root/>.

**3.5 Authoritative Root Database.** To the extent that ICANN is authorized to set policy with regard to an authoritative root server system, ICANN shall use commercially reasonable efforts to (a) ensure that the authoritative root will point to the top-level domain nameservers designated by Registry Operator for the TLD, (b) maintain a stable, secure, and authoritative publicly available database of relevant information about the TLD, in accordance with ICANN publicly available policies and procedures, and (c) coordinate the Authoritative Root Server System so that it is operated and maintained in a stable and secure manner; provided, that ICANN shall not be in breach of this Agreement and ICANN shall have no liability in the event that any third party (including any governmental entity or internet service provider) blocks or restricts access to the TLD in any jurisdiction.

### ARTICLE 4.

#### TERM AND TERMINATION

**4.1 Term.** The term of this Agreement will be ten years from the Effective Date (as such term may be extended pursuant to Section 4.2, the “Term”).

**4.2 Renewal.**

(a) This Agreement will be renewed for successive periods of ten years upon the expiration of the initial Term set forth in Section 4.1 and each successive Term, unless:

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(i) Following notice by ICANN to Registry Operator of a fundamental and material breach of Registry Operator's covenants set forth in Article 2 or breach of its payment obligations under Article 6 of this Agreement, which notice shall include with specificity the details of the alleged breach, and such breach has not been cured within thirty (30) calendar days of such notice, (A) an arbitrator or court has finally determined that Registry Operator has been in fundamental and material breach of such covenant(s) or in breach of its payment obligations, and (B) Registry Operator has failed to comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court; or

(ii) During the then current Term, Registry Operator shall have been found by an arbitrator (pursuant to Section 5.2 of this Agreement) on at least three (3) separate occasions to have been in fundamental and material breach (whether or not cured) of Registry Operator's covenants set forth in Article 2 or breach of its payment obligations under Article 6 of this Agreement.

(b) Upon the occurrence of the events set forth in Section 4.2(a) (i) or (ii), the Agreement shall terminate at the expiration of the then current Term.

#### **4.3 Termination by ICANN.**

(a) ICANN may, upon notice to Registry Operator, terminate this Agreement if: (i) Registry Operator fails to cure (A) any fundamental and material breach of Registry Operator's representations and warranties set forth in Article 1 or covenants set forth in Article 2, or (B) any breach of Registry Operator's payment obligations set forth in Article 6 of this Agreement, each within thirty (30) calendar days after ICANN gives Registry Operator notice of such breach, which notice will include with specificity the details of the alleged breach, (ii) an arbitrator or court has finally determined that Registry Operator is in fundamental and material breach of such covenant(s) or in breach of its payment obligations, and (iii) Registry Operator fails to comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court.

(b) ICANN may, upon notice to Registry Operator, terminate this Agreement if Registry Operator fails to complete all testing and procedures (identified by ICANN in writing to Registry Operator prior to the date hereof) for delegation of the TLD into the root zone within twelve (12) months of the Effective Date. Registry Operator may request an extension for up to additional twelve (12) months for delegation if it can demonstrate, to ICANN's reasonable satisfaction, that Registry Operator is working diligently and in good faith toward successfully completing the steps necessary for delegation of the TLD. Any fees paid by Registry Operator to ICANN prior to such termination date shall be retained by ICANN in full.

(c) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator fails to cure a material breach of Registry Operator's obligations set forth in Section 2.12 of this Agreement within thirty (30) calendar days of delivery of notice of such breach by ICANN, or if the Continued Operations Instrument is not in effect for greater than sixty (60) consecutive calendar days at any time following the Effective Date, (ii) an arbitrator or court has finally determined that Registry Operator is in material breach of such covenant, and (iii) Registry Operator fails to cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court.

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(d) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator makes an assignment for the benefit of creditors or similar act, (ii) attachment, garnishment or similar proceedings are commenced against Registry Operator, which proceedings are a material threat to Registry Operator's ability to operate the registry for the TLD, and are not dismissed within sixty (60) days of their commencement, (iii) a trustee, receiver, liquidator or equivalent is appointed in place of Registry Operator or maintains control over any of Registry Operator's property, (iv) execution is levied upon any property of Registry Operator, (v) proceedings are instituted by or against Registry Operator under any bankruptcy, insolvency, reorganization or other laws relating to the relief of debtors and such proceedings are not dismissed within thirty (30) days of their commencement, or (vi) Registry Operator files for protection under the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., or a foreign equivalent or liquidates, dissolves or otherwise discontinues its operations or the operation of the TLD.

(e) ICANN may, upon thirty (30) calendar days' notice to Registry Operator, terminate this Agreement pursuant to Section 2 of Specification 7, subject to Registry Operator's right to challenge such termination as set forth in the applicable procedure described therein.

(f) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator knowingly employs any officer that is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such officer is not terminated within thirty (30) calendar days of Registry Operator's knowledge of the foregoing, or (ii) any member of Registry Operator's board of directors or similar governing body is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such member is not removed from Registry Operator's board of directors or similar governing body within thirty (30) calendar days of Registry Operator's knowledge of the foregoing.

(g) *[Applicable to intergovernmental organizations or governmental entities only.]*  
ICANN may terminate this Agreement pursuant to Section 7.14.

#### **4.4 Termination by Registry Operator.**

(a) Registry Operator may terminate this Agreement upon notice to ICANN if, (i) ICANN fails to cure any fundamental and material breach of ICANN's covenants set forth in Article 3, within thirty (30) calendar days after Registry Operator gives ICANN notice of such breach, which notice will include with specificity the details of the alleged breach, (ii) an arbitrator or court has finally determined that ICANN is in fundamental and material breach of such covenants, and (iii) ICANN fails to comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court.

(b) Registry Operator may terminate this Agreement for any reason upon one hundred eighty (180) calendar day advance notice to ICANN.

**4.5 Transition of Registry upon Termination of Agreement.** Upon expiration of the Term pursuant to Section 4.1 or Section 4.2 or any termination of this Agreement pursuant to Section 4.3 or Section 4.4, Registry Operator shall provide ICANN or any successor registry operator that may be designated by ICANN for the TLD in accordance with this Section 4.5 with all data (including the data

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escrowed in accordance with Section 2.3) regarding operations of the registry for the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator. After consultation with Registry Operator, ICANN shall determine whether or not to transition operation of the TLD to a successor registry operator in its sole discretion and in conformance with the Registry Transition Process; provided, however, that if Registry Operator demonstrates to ICANN's reasonable satisfaction that (i) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator for its own exclusive use, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and (iii) transitioning operation of the TLD is not necessary to protect the public interest, then ICANN may not transition operation of the TLD to a successor registry operator upon the expiration or termination of this Agreement without the consent of Registry Operator (which shall not be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, the foregoing sentence shall not prohibit ICANN from delegating the TLD pursuant to a future application process for the delegation of top-level domains, subject to any processes and objection procedures instituted by ICANN in connection with such application process intended to protect the rights of third parties. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event of a transition of the TLD pursuant to this Section 4.5. In addition, ICANN or its designee shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable, regardless of the reason for termination or expiration of this Agreement.

*[Alternative Section 4.5 Transition of Registry upon Termination of Agreement text for intergovernmental organizations or governmental entities or other special circumstances:*

**“Transition of Registry upon Termination of Agreement.** Upon expiration of the Term pursuant to Section 4.1 or Section 4.2 or any termination of this Agreement pursuant to Section 4.3 or Section 4.4, in connection with ICANN's designation of a successor registry operator for the TLD, Registry Operator and ICANN agree to consult each other and work cooperatively to facilitate and implement the transition of the TLD in accordance with this Section 4.5. After consultation with Registry Operator, ICANN shall determine whether or not to transition operation of the TLD to a successor registry operator in its sole discretion and in conformance with the Registry Transition Process. In the event ICANN determines to transition operation of the TLD to a successor registry operator, upon Registry Operator's consent (which shall not be unreasonably withheld, conditioned or delayed), Registry Operator shall provide ICANN or such successor registry operator for the TLD with any data regarding operations of the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator in addition to data escrowed in accordance with Section 2.3 hereof. In the event that Registry Operator does not consent to provide such data, any registry data related to the TLD shall be returned to Registry Operator, unless otherwise agreed upon by the parties. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event of a transition of the TLD pursuant to this Section 4.5. In addition, ICANN or its designee shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable, regardless of the reason for termination or expiration of this Agreement.”]

**4.6 Effect of Termination.** Upon any expiration of the Term or termination of this Agreement, the obligations and rights of the parties hereto shall cease, provided that such expiration or termination of this Agreement shall not relieve the parties of any obligation or breach of this Agreement accruing prior to such expiration or termination, including, without limitation, all accrued payment obligations arising under Article 6. In addition, Article 5, Article 7, Section 2.12, Section 4.5, and this

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Section 4.6 shall survive the expiration or termination of this Agreement. For the avoidance of doubt, the rights of Registry Operator to operate the registry for the TLD shall immediately cease upon any expiration of the Term or termination of this Agreement.

## ARTICLE 5.

### DISPUTE RESOLUTION

**5.1 Cooperative Engagement.** Before either party may initiate arbitration pursuant to Section 5.2 below, ICANN and Registry Operator, following initiation of communications by either party, must attempt to resolve the dispute by engaging in good faith discussion over a period of at least fifteen (15) calendar days.

**5.2 Arbitration.** Disputes arising under or in connection with this Agreement, including requests for specific performance, will be resolved through binding arbitration conducted pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce. The arbitration will be conducted in the English language and will occur in Los Angeles County, California. Any arbitration will be in front of a single arbitrator, unless (i) ICANN is seeking punitive or exemplary damages, or operational sanctions, or (ii) the parties agree in writing to a greater number of arbitrators. In either case of clauses (i) or (ii) in the preceding sentence, the arbitration will be in front of three arbitrators with each party selecting one arbitrator and the two selected arbitrators selecting the third arbitrator. In order to expedite the arbitration and limit its cost, the arbitrator(s) shall establish page limits for the parties' filings in conjunction with the arbitration, and should the arbitrator(s) determine that a hearing is necessary, the hearing shall be limited to one (1) calendar day, provided that in any arbitration in which ICANN is seeking punitive or exemplary damages, or operational sanctions, the hearing may be extended for one (1) additional calendar day if agreed upon by the parties or ordered by the arbitrator(s) based on the arbitrator(s) independent determination or the reasonable request of one of the parties thereto. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys' fees, which the arbitrator(s) shall include in the awards. In the event the arbitrators determine that Registry Operator has been repeatedly and willfully in fundamental and material breach of its obligations set forth in Article 2, Article 6 or Section 5.4 of this Agreement, ICANN may request the arbitrators award punitive or exemplary damages, or operational sanctions (including without limitation an order temporarily restricting Registry Operator's right to sell new registrations). In any litigation involving ICANN concerning this Agreement, jurisdiction and exclusive venue for such litigation will be in a court located in Los Angeles County, California; however, the parties will also have the right to enforce a judgment of such a court in any court of competent jurisdiction.

[Alternative **Section 5.2 Arbitration** text for intergovernmental organizations or governmental entities or other special circumstances:

**“Arbitration.** Disputes arising under or in connection with this Agreement, including requests for specific performance, will be resolved through binding arbitration conducted pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce. The arbitration will be conducted in the English language and will occur in Geneva, Switzerland, unless another location is mutually agreed upon by Registry Operator and ICANN. Any arbitration will be in front of a single arbitrator, unless (i) ICANN is seeking punitive or exemplary damages, or operational sanctions, or (ii) the parties agree in writing to a greater number of arbitrators. In either case of clauses (i) or (ii) in the preceding sentence, the arbitration will be in front of three arbitrators with each party selecting one arbitrator and the two selected arbitrators selecting the third arbitrator. In order to expedite the arbitration and limit its cost, the arbitrator(s) shall establish page limits for the parties' filings in conjunction with the

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arbitration, and should the arbitrator(s) determine that a hearing is necessary, the hearing shall be limited to one (1) calendar day, provided that in any arbitration in which ICANN is seeking punitive or exemplary damages, or operational sanctions, the hearing may be extended for one (1) additional calendar day if agreed upon by the parties or ordered by the arbitrator(s) based on the arbitrator(s) independent determination or the reasonable request of one of the parties thereto. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys' fees, which the arbitrator(s) shall include in the awards. In the event the arbitrators determine that Registry Operator has been repeatedly and willfully in fundamental and material breach of its obligations set forth in Article 2, Article 6 or Section 5.4 of this Agreement, ICANN may request the arbitrators award punitive or exemplary damages, or operational sanctions (including without limitation an order temporarily restricting Registry Operator's right to sell new registrations). In any litigation involving ICANN concerning this Agreement, jurisdiction and exclusive venue for such litigation will be in a court located in Geneva, Switzerland, unless an another location is mutually agreed upon by Registry Operator and ICANN; however, the parties will also have the right to enforce a judgment of such a court in any court of competent jurisdiction.”]

**5.3 Limitation of Liability.** ICANN's aggregate monetary liability for violations of this Agreement will not exceed an amount equal to the Registry-Level Fees paid by Registry Operator to ICANN within the preceding twelve-month period pursuant to this Agreement (excluding the Variable Registry-Level Fee set forth in Section 6.3, if any). Registry Operator's aggregate monetary liability to ICANN for breaches of this Agreement will be limited to an amount equal to the fees paid to ICANN during the preceding twelve-month period (excluding the Variable Registry-Level Fee set forth in Section 6.3, if any), and punitive and exemplary damages, if any, awarded in accordance with Section 5.2. In no event shall either party be liable for special, punitive, exemplary or consequential damages arising out of or in connection with this Agreement or the performance or nonperformance of obligations undertaken in this Agreement, except as provided in Section 5.2. Except as otherwise provided in this Agreement, neither party makes any warranty, express or implied, with respect to the services rendered by itself, its servants or agents, or the results obtained from their work, including, without limitation, any implied warranty of merchantability, non-infringement or fitness for a particular purpose.

**5.4 Specific Performance.** Registry Operator and ICANN agree that irreparable damage could occur if any of the provisions of this Agreement was not performed in accordance with its specific terms. Accordingly, the parties agree that they each shall be entitled to seek from the arbitrator specific performance of the terms of this Agreement (in addition to any other remedy to which each party is entitled).

## ARTICLE 6.

### FEES

**6.1 Registry-Level Fees.** Registry Operator shall pay ICANN a Registry-Level Fee equal to (i) the Registry Fixed Fee of US\$6,250 per calendar quarter and (ii) the Registry-Level Transaction Fee. The Registry-Level Transaction Fee will be equal to the number of annual increments of an initial or renewal domain name registration (at one or more levels, and including renewals associated with transfers from one ICANN-accredited registrar to another, each a “Transaction”), during the applicable calendar quarter multiplied by US\$0.25; provided, however that the Registry-Level Transaction Fee shall not apply until and unless more than 50,000 Transactions have occurred in the TLD during any calendar quarter or any four calendar quarter period (the “Transaction Threshold”) and shall apply to each Transaction that occurred during each quarter in which the Transaction Threshold has been met, but shall not apply to each quarter in which the Transaction Threshold has not been met. Registry Operator shall pay the Registry-

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Level Fees on a quarterly basis by the 20th day following the end of each calendar quarter (i.e., on April 20, July 20, October 20 and January 20 for the calendar quarters ending March 31, June 30, September 30 and December 31) of the year to an account designated by ICANN.

**6.2 Cost Recovery for RSTEP.** Requests by Registry Operator for the approval of Additional Services pursuant to Section 2.1 may be referred by ICANN to the Registry Services Technical Evaluation Panel ("RSTEP") pursuant to that process at <http://www.icann.org/en/registries/rsep/>. In the event that such requests are referred to RSTEP, Registry Operator shall remit to ICANN the invoiced cost of the RSTEP review within ten (10) business days of receipt of a copy of the RSTEP invoice from ICANN, unless ICANN determines, in its sole and absolute discretion, to pay all or any portion of the invoiced cost of such RSTEP review.

**6.3 Variable Registry-Level Fee.**

(a) If the ICANN accredited registrars (as a group) do not approve pursuant to the terms of their registrar accreditation agreements with ICANN the variable accreditation fees established by the ICANN Board of Directors for any ICANN fiscal year, upon delivery of notice from ICANN, Registry Operator shall pay to ICANN a Variable Registry-Level Fee, which shall be paid on a fiscal quarter basis, and shall accrue as of the beginning of the first fiscal quarter of such ICANN fiscal year. The fee will be calculated and invoiced by ICANN on a quarterly basis, and shall be paid by Registry Operator within sixty (60) calendar days with respect to the first quarter of such ICANN fiscal year and within twenty (20) calendar days with respect to each remaining quarter of such ICANN fiscal year, of receipt of the invoiced amount by ICANN. The Registry Operator may invoice and collect the Variable Registry-Level Fees from the registrars who are party to a registry-registrar agreement with Registry Operator (which agreement may specifically provide for the reimbursement of Variable Registry-Level Fees paid by Registry Operator pursuant to this Section 6.3); provided, that the fees shall be invoiced to all ICANN accredited registrars if invoiced to any. The Variable Registry-Level Fee, if collectible by ICANN, shall be an obligation of Registry Operator and shall be due and payable as provided in this Section 6.3 irrespective of Registry Operator's ability to seek and obtain reimbursement of such fee from registrars. In the event ICANN later collects variable accreditation fees for which Registry Operator has paid ICANN a Variable Registry-Level Fee, ICANN shall reimburse the Registry Operator an appropriate amount of the Variable Registry-Level Fee, as reasonably determined by ICANN. If the ICANN accredited registrars (as a group) do approve pursuant to the terms of their registrar accreditation agreements with ICANN the variable accreditation fees established by the ICANN Board of Directors for a fiscal year, ICANN shall not be entitled to a Variable-Level Fee hereunder for such fiscal year, irrespective of whether the ICANN accredited registrars comply with their payment obligations to ICANN during such fiscal year.

(b) The amount of the Variable Registry-Level Fee will be specified for each registrar, and may include both a per-registrar component and a transactional component. The per-registrar component of the Variable Registry-Level Fee shall be specified by ICANN in accordance with the budget adopted by the ICANN Board of Directors for each ICANN fiscal year. The transactional component of the Variable Registry-Level Fee shall be specified by ICANN in accordance with the budget adopted by the ICANN Board of Directors for each ICANN fiscal year but shall not exceed US\$0.25 per domain name registration (including renewals associated with transfers from one ICANN-accredited registrar to another) per year.

**6.4 Adjustments to Fees.** Notwithstanding any of the fee limitations set forth in this Article 6, commencing upon the expiration of the first year of this Agreement, and upon the expiration of each year thereafter during the Term, the then current fees set forth in Section 6.1 and Section 6.3 may be

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adjusted, at ICANN's discretion, by a percentage equal to the percentage change, if any, in (i) the Consumer Price Index for All Urban Consumers, U.S. City Average (1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index (the "CPI") for the month which is one (1) month prior to the commencement of the applicable year, over (ii) the CPI published for the month which is one (1) month prior to the commencement of the immediately prior year. In the event of any such increase, ICANN shall provide notice to Registry Operator specifying the amount of such adjustment. Any fee adjustment under this Section 6.4 shall be effective as of the first day of the year in which the above calculation is made.

**6.5 Additional Fee on Late Payments.** For any payments thirty (30) calendar days or more overdue under this Agreement, Registry Operator shall pay an additional fee on late payments at the rate of 1.5% per month or, if less, the maximum rate permitted by applicable law.

## ARTICLE 7.

### MISCELLANEOUS

#### 7.1 Indemnification of ICANN.

(a) Registry Operator shall indemnify and defend ICANN and its directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all third-party claims, damages, liabilities, costs, and expenses, including reasonable legal fees and expenses, arising out of or relating to intellectual property ownership rights with respect to the TLD, the delegation of the TLD to Registry Operator, Registry Operator's operation of the registry for the TLD or Registry Operator's provision of Registry Services, provided that Registry Operator shall not be obligated to indemnify or defend any Indemnitee to the extent the claim, damage, liability, cost or expense arose: (i) due to the actions or omissions of ICANN, its subcontractors, panelists or evaluators specifically related to and occurring during the registry TLD application process (other than actions or omissions requested by or for the benefit of Registry Operator), or (ii) due to a breach by ICANN of any obligation contained in this Agreement or any willful misconduct by ICANN. This Section shall not be deemed to require Registry Operator to reimburse or otherwise indemnify ICANN for costs associated with the negotiation or execution of this Agreement, or with monitoring or management of the parties' respective obligations hereunder. Further, this Section shall not apply to any request for attorney's fees in connection with any litigation or arbitration between or among the parties, which shall be governed by Article 5 or otherwise awarded by a court or arbitrator.

[Alternative **Section 7.1(a)** text for intergovernmental organizations or governmental entities:

"Registry Operator shall use its best efforts to cooperate with ICANN in order to ensure that ICANN does not incur any costs associated with claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to intellectual property ownership rights with respect to the TLD, the delegation of the TLD to Registry Operator, Registry Operator's operation of the registry for the TLD or Registry Operator's provision of Registry Services, provided that Registry Operator shall not be obligated to provide such cooperation to the extent the claim, damage, liability, cost or expense arose due to a breach by ICANN of any of its obligations contained in this Agreement or any willful misconduct by ICANN. This Section shall not be deemed to require Registry Operator to reimburse or otherwise indemnify ICANN for costs associated with the negotiation or execution of this Agreement, or with monitoring or management of the parties' respective obligations hereunder. Further, this Section shall not apply to any request for attorney's fees in connection with any

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litigation or arbitration between or among the parties, which shall be governed by Article 5 or otherwise awarded by a court or arbitrator.”]

(b) For any claims by ICANN for indemnification whereby multiple registry operators (including Registry Operator) have engaged in the same actions or omissions that gave rise to the claim, Registry Operator’s aggregate liability to indemnify ICANN with respect to such claim shall be limited to a percentage of ICANN’s total claim, calculated by dividing the number of total domain names under registration with Registry Operator within the TLD (which names under registration shall be calculated consistently with Article 6 hereof for any applicable quarter) by the total number of domain names under registration within all top level domains for which the registry operators thereof are engaging in the same acts or omissions giving rise to such claim. For the purposes of reducing Registry Operator’s liability under Section 7.1(a) pursuant to this Section 7.1(b), Registry Operator shall have the burden of identifying the other registry operators that are engaged in the same actions or omissions that gave rise to the claim, and demonstrating, to ICANN’s reasonable satisfaction, such other registry operators’ culpability for such actions or omissions. For the avoidance of doubt, in the event that a registry operator is engaged in the same acts or omissions giving rise to the claims, but such registry operator(s) do not have the same or similar indemnification obligations to ICANN as set forth in Section 7.1(a) above, the number of domains under management by such registry operator(s) shall nonetheless be included in the calculation in the preceding sentence. [*Note: This Section 7.1(b) is inapplicable to intergovernmental organizations or governmental entities.*]

**7.2 Indemnification Procedures.** If any third-party claim is commenced that is indemnified under Section 7.1 above, ICANN shall provide notice thereof to Registry Operator as promptly as practicable. Registry Operator shall be entitled, if it so elects, in a notice promptly delivered to ICANN, to immediately take control of the defense and investigation of such claim and to employ and engage attorneys reasonably acceptable to ICANN to handle and defend the same, at Registry Operator’s sole cost and expense, provided that in all events ICANN will be entitled to control at its sole cost and expense the litigation of issues concerning the validity or interpretation of ICANN’s policies, Bylaws or conduct. ICANN shall cooperate, at Registry Operator’s cost and expense, in all reasonable respects with Registry Operator and its attorneys in the investigation, trial, and defense of such claim and any appeal arising therefrom, and may, at its own cost and expense, participate, through its attorneys or otherwise, in such investigation, trial and defense of such claim and any appeal arising therefrom. No settlement of a claim that involves a remedy affecting ICANN other than the payment of money in an amount that is fully indemnified by Registry Operator will be entered into without the consent of ICANN. If Registry Operator does not assume full control over the defense of a claim subject to such defense in accordance with this Section 7.2, ICANN will have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Registry Operator and Registry Operator shall cooperate in such defense. [*Note: This Section 7.2 is inapplicable to intergovernmental organizations or governmental entities.*]

**7.3 Defined Terms.** For purposes of this Agreement, unless such definitions are amended pursuant to a Consensus Policy at a future date, in which case the following definitions shall be deemed amended and restated in their entirety as set forth in such Consensus Policy, Security and Stability shall be defined as follows:

(a) For the purposes of this Agreement, an effect on “Security” shall mean (1) the unauthorized disclosure, alteration, insertion or destruction of registry data, or (2) the unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.

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(b) For purposes of this Agreement, an effect on “Stability” shall refer to (1) lack of compliance with applicable relevant standards that are authoritative and published by a well-established and recognized Internet standards body, such as the relevant Standards-Track or Best Current Practice Requests for Comments (“RFCs”) sponsored by the Internet Engineering Task Force; or (2) the creation of a condition that adversely affects the throughput, response time, consistency or coherence of responses to Internet servers or end systems operating in accordance with applicable relevant standards that are authoritative and published by a well-established and recognized Internet standards body, such as the relevant Standards-Track or Best Current Practice RFCs, and relying on Registry Operator's delegated information or provisioning of services.

**7.4 No Offset.** All payments due under this Agreement will be made in a timely manner throughout the Term and notwithstanding the pendency of any dispute (monetary or otherwise) between Registry Operator and ICANN.

**7.5 Change in Control; Assignment and Subcontracting.** Neither party may assign this Agreement without the prior written approval of the other party, which approval will not be unreasonably withheld. Notwithstanding the foregoing, ICANN may assign this Agreement in conjunction with a reorganization or re-incorporation of ICANN to another nonprofit corporation or similar entity organized in the same legal jurisdiction in which ICANN is currently organized for the same or substantially the same purposes. For purposes of this Section 7.5, a direct or indirect change of control of Registry Operator or any material subcontracting arrangement with respect to the operation of the registry for the TLD shall be deemed an assignment. ICANN shall be deemed to have reasonably withheld its consent to any such a direct or indirect change of control or subcontracting arrangement in the event that ICANN reasonably determines that the person or entity acquiring control of Registry Operator or entering into such subcontracting arrangement (or the ultimate parent entity of such acquiring or subcontracting entity) does not meet the ICANN-adopted registry operator criteria or qualifications then in effect. In addition, without limiting the foregoing, Registry Operator must provide no less than thirty (30) calendar days advance notice to ICANN of any material subcontracting arrangements, and any agreement to subcontract portions of the operations of the TLD must mandate compliance with all covenants, obligations and agreements by Registry Operator hereunder, and Registry Operator shall continue to be bound by such covenants, obligations and agreements. Without limiting the foregoing, Registry Operator must also provide no less than thirty (30) calendar days advance notice to ICANN prior to the consummation of any transaction anticipated to result in a direct or indirect change of control of Registry Operator. Such change of control notification shall include a statement that affirms that the ultimate parent entity of the party acquiring such control meets the ICANN-adopted specification or policy on registry operator criteria then in effect, and affirms that Registry Operator is in compliance with its obligations under this Agreement. Within thirty (30) calendar days of such notification, ICANN may request additional information from Registry Operator establishing compliance with this Agreement, in which case Registry Operator must supply the requested information within fifteen (15) calendar days. If ICANN fails to expressly provide or withhold its consent to any direct or indirect change of control of Registry Operator or any material subcontracting arrangement within thirty (30) (or, if ICANN has requested additional information from Registry Operator as set forth above, sixty (60)) calendar days of the receipt of written notice of such transaction from Registry Operator, ICANN shall be deemed to have consented to such transaction. In connection with any such transaction, Registry Operator shall comply with the Registry Transition Process.

#### **7.6 Amendments and Waivers.**

(a) If ICANN determines that an amendment to this Agreement (including to the Specifications referred to herein) and all other registry agreements between ICANN and the Applicable

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Registry Operators (the “Applicable Registry Agreements”) is desirable (each, a “Special Amendment”), ICANN may submit a Special Amendment for approval by the Applicable Registry Operators pursuant to the process set forth in this Section 7.6, provided that a Special Amendment is not a Restricted Amendment (as defined below). Prior to submitting a Special Amendment for such approval, ICANN shall first consult in good faith with the Working Group (as defined below) regarding the form and substance of a Special Amendment. The duration of such consultation shall be reasonably determined by ICANN based on the substance of the Special Amendment. Following such consultation, ICANN may propose the adoption of a Special Amendment by publicly posting such amendment on its website for no less than thirty (30) calendar days (the “Posting Period”) and providing notice of such amendment by ICANN to the Applicable Registry Operators in accordance with Section 7.8. ICANN will consider the public comments submitted on a Special Amendment during the Posting Period (including comments submitted by the Applicable Registry Operators).

(b) If, within two (2) calendar years of the expiration of the Posting Period (the “Approval Period”), (i) the ICANN Board of Directors approves a Special Amendment (which may be in a form different than submitted for public comment) and (ii) such Special Amendment receives Registry Operator Approval (as defined below), such Special Amendment shall be deemed approved (an “Approved Amendment”) by the Applicable Registry Operators (the last date on which such approvals are obtained is herein referred to as the “Amendment Approval Date”) and shall be effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice from ICANN to Registry Operator (the “Amendment Effective Date”). In the event that a Special Amendment is not approved by the ICANN Board of Directors or does not receive Registry Operator Approval within the Approval Period, the Special Amendment will have no effect. The procedure used by ICANN to obtain Registry Operator Approval shall be designed to document the written approval of the Applicable Registry Operators, which may be in electronic form.

(c) During the thirty (30) calendar day period following the Amendment Approval Date, Registry Operator (so long as it did not vote in favor of the Approved Amendment) may apply in writing to ICANN for an exemption from the Approved Amendment (each such request submitted by Registry Operator hereunder, an “Exemption Request”). Each Exemption Request will set forth the basis for such request and provide detailed support for an exemption from the Approved Amendment. An Exemption Request may also include a detailed description and support for any alternatives to, or a variation of, the Approved Amendment proposed by such Registry Operator. An Exemption Request may only be granted upon a clear and convincing showing by Registry Operator that compliance with the Approved Amendment conflicts with applicable laws or would have a material adverse effect on the long-term financial condition or results of operations of Registry Operator. No Exemption Request will be granted if ICANN determines, in its reasonable discretion, that granting such Exemption Request would be materially harmful to registrants or result in the denial of a direct benefit to registrants. Within ninety (90) calendar days of ICANN’s receipt of an Exemption Request, ICANN shall either approve (which approval may be conditioned or consist of alternatives to or a variation of the Approved Amendment) or deny the Exemption Request in writing, during which time the Approved Amendment will not amend this Agreement; provided, that any such conditions, alternatives or variations shall be effective and, to the extent applicable, will amend this Agreement as of the Amendment Effective Date. If the Exemption Request is approved by ICANN, the Approved Amendment will not amend this Agreement. If such Exemption Request is denied by ICANN, the Approved Amendment will amend this Agreement as of the Amendment Effective Date (or, if such date has passed, such Approved Amendment shall be deemed effective immediately on the date of such denial), provided that Registry Operator may, within thirty (30) calendar days following receipt of ICANN’s determination, appeal ICANN’s decision to deny the Exemption Request pursuant to the dispute resolution procedures set forth in Article 5. The Approved

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Amendment will be deemed not to have amended this Agreement during the pendency of the dispute resolution process. For avoidance of doubt, only Exemption Requests submitted by Registry Operator that are approved by ICANN pursuant to this Section 7.6(c) or through an arbitration decision pursuant to Article 5 shall exempt Registry Operator from any Approved Amendment, and no exemption request granted to any other Applicable Registry Operator (whether by ICANN or through arbitration) shall have any effect under this Agreement or exempt Registry Operator from any Approved Amendment.

(d) Except as set forth in this Section 7.6, no amendment, supplement or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties, and nothing in this Section 7.6 shall restrict ICANN and Registry Operator from entering into bilateral amendments and modifications to this Agreement negotiated solely between the two parties. No waiver of any provision of this Agreement shall be binding unless evidenced by a writing signed by the party waiving compliance with such provision. No waiver of any of the provisions of this Agreement or failure to enforce any of the provisions hereof shall be deemed or shall constitute a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided. For the avoidance of doubt, nothing in this Section 7.6 shall be deemed to limit Registry Operator's obligation to comply with Section 2.2.

(e) For purposes of this Section 7.6, the following terms shall have the following meanings:

(i) "Applicable Registry Operators" means, collectively, the registry operators of the top-level domains party to a registry agreement that contains a provision similar to this Section 7.6, including Registry Operator.

(ii) "Registry Operator Approval" means the receipt of each of the following: (A) the affirmative approval of the Applicable Registry Operators whose payments to ICANN accounted for two-thirds of the total amount of fees (converted to U.S. dollars, if applicable) paid to ICANN by all the Applicable Registry Operators during the immediately previous calendar year pursuant to the Applicable Registry Agreements, and (B) the affirmative approval of a majority of the Applicable Registry Operators at the time such approval is obtained. For avoidance of doubt, with respect to clause (B), each Applicable Registry Operator shall have one vote for each top-level domain operated by such Registry Operator pursuant to an Applicable Registry Agreement.

(iii) "Restricted Amendment" means the following: (i) an amendment of Specification 1, (ii) except to the extent addressed in Section 2.10 hereof, an amendment that specifies the price charged by Registry Operator to registrars for domain name registrations, (iii) an amendment to the definition of Registry Services as set forth in the first paragraph of Section 2.1 of Specification 6, or (iv) an amendment to the length of the Term.

(iv) "Working Group" means representatives of the Applicable Registry Operators and other members of the community that ICANN appoints, from time to time, to serve as a working group to consult on amendments to the Applicable Registry Agreements (excluding bilateral amendments pursuant to Section 7.6(d)).

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**7.7 No Third-Party Beneficiaries.** This Agreement will not be construed to create any obligation by either ICANN or Registry Operator to any non-party to this Agreement, including any registrar or registered name holder.

**7.8 General Notices.** Except for notices pursuant to Section 7.6, all notices to be given under or in relation to this Agreement will be given either (i) in writing at the address of the appropriate party as set forth below or (ii) via facsimile or electronic mail as provided below, unless that party has given a notice of change of postal or email address, or facsimile number, as provided in this agreement. All notices under Section 7.6 shall be given by both posting of the applicable information on ICANN's web site and transmission of such information to Registry Operator by electronic mail. Any change in the contact information for notice below will be given by the party within thirty (30) calendar days of such change. Notices, designations, determinations, and specifications made under this Agreement will be in the English language. Other than notices under Section 7.6, any notice required by this Agreement will be deemed to have been properly given (i) if in paper form, when delivered in person or via courier service with confirmation of receipt or (ii) if via facsimile or by electronic mail, upon confirmation of receipt by the recipient's facsimile machine or email server, provided that such notice via facsimile or electronic mail shall be followed by a copy sent by regular postal mail service within two (2) business days. Any notice required by Section 7.6 will be deemed to have been given when electronically posted on ICANN's website and upon confirmation of receipt by the email server. In the event other means of notice become practically achievable, such as notice via a secure website, the parties will work together to implement such notice means under this Agreement.

If to ICANN, addressed to:  
Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina Del Rey, California 90292  
Telephone: 1-310-823-9358  
Facsimile: 1-310-823-8649  
Attention: President and CEO

With a Required Copy to: General Counsel  
Email: (As specified from time to time.)

If to Registry Operator, addressed to:

[\_\_\_\_\_]
[\_\_\_\_\_]
[\_\_\_\_\_]

Telephone:
Facsimile:
Attention:

With a Required Copy to:
Email: (As specified from time to time.)

**7.9 Entire Agreement.** This Agreement (including those specifications and documents incorporated by reference to URL locations which form a part of it) constitutes the entire agreement of the parties hereto pertaining to the operation of the TLD and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties on that subject.

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**7.10 English Language Controls.** Notwithstanding any translated version of this Agreement and/or specifications that may be provided to Registry Operator, the English language version of this Agreement and all referenced specifications are the official versions that bind the parties hereto. In the event of any conflict or discrepancy between any translated version of this Agreement and the English language version, the English language version controls. Notices, designations, determinations, and specifications made under this Agreement shall be in the English language.

**7.11 Ownership Rights.** Nothing contained in this Agreement shall be construed as establishing or granting to Registry Operator any property ownership rights or interests in the TLD or the letters, words, symbols or other characters making up the TLD string.

**7.12 Severability.** This Agreement shall be deemed severable; the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of the balance of this Agreement or of any other term hereof, which shall remain in full force and effect. If any of the provisions hereof are determined to be invalid or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible.

**7.13 Court Orders.** ICANN will respect any order from a court of competent jurisdiction, including any orders from any jurisdiction where the consent or non-objection of the government was a requirement for the delegation of the TLD. Notwithstanding any other provision of this Agreement, ICANN's implementation of any such order will not be a breach of this Agreement.

*[Note: The following section is applicable to intergovernmental organizations or governmental entities only.]*

**7.14 Special Provision Relating to Intergovernmental Organizations or Governmental Entities.**

(a) ICANN acknowledges that Registry Operator is an entity subject to public international law, including international treaties applicable to Registry Operator (such public international law and treaties, collectively hereinafter the "Applicable Laws"). Nothing in this Agreement and its related specifications shall be construed or interpreted to require Registry Operator to violate Applicable Laws or prevent compliance therewith. The Parties agree that Registry Operator's compliance with Applicable Laws shall not constitute a breach of this Agreement.

(b) In the event Registry Operator reasonably determines that any provision of this Agreement and its related specifications, or any decisions or policies of ICANN referred to in this Agreement, including but not limited to Temporary Policies and Consensus Policies (such provisions, specifications and policies, collectively hereinafter, "ICANN Requirements"), may conflict with or violate Applicable Law (hereinafter, a "Potential Conflict"), Registry Operator shall provide detailed notice (a "Notice") of such Potential Conflict to ICANN as early as possible and, in the case of a Potential Conflict with a proposed Consensus Policy, no later than the end of any public comment period on such proposed Consensus Policy. In the event Registry Operator determines that there is Potential Conflict between a proposed Applicable Law and any ICANN Requirement, Registry Operator shall provide detailed Notice of such Potential Conflict to ICANN as early as possible and, in the case of a Potential Conflict with a proposed Consensus Policy, no later than the end of any public comment period on such proposed Consensus Policy.

(c) As soon as practicable following such review, the parties shall attempt to resolve the Potential Conflict by cooperative engagement pursuant to the procedures set forth in Section 5.1. In

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addition, Registry Operator shall use its best efforts to eliminate or minimize any impact arising from such Potential Conflict between Applicable Laws and any ICANN Requirement. If, following such cooperative engagement, Registry Operator determines that the Potential Conflict constitutes an actual conflict between any ICANN Requirement, on the one hand, and Applicable Laws, on the other hand, then ICANN shall waive compliance with such ICANN Requirement (provided that the parties shall negotiate in good faith on a continuous basis thereafter to mitigate or eliminate the effects of such non-compliance on ICANN), unless ICANN reasonably and objectively determines that the failure of Registry Operator to comply with such ICANN Requirement would constitute a threat to the Security and Stability of Registry Services, the Internet or the DNS (hereinafter, an “ICANN Determination”). Following receipt of notice by Registry Operator of such ICANN Determination, Registry Operator shall be afforded a period of ninety (90) calendar days to resolve such conflict with an Applicable Law. If the conflict with an Applicable Law is not resolved to ICANN’s complete satisfaction during such period, Registry Operator shall have the option to submit, within ten (10) calendar days thereafter, the matter to binding arbitration as defined in subsection (d) below. If during such period, Registry Operator does not submit the matter to arbitration pursuant to subsection (d) below, ICANN may, upon notice to Registry Operator, terminate this Agreement with immediate effect.

(d) If Registry Operator disagrees with an ICANN Determination, Registry Operator may submit the matter to binding arbitration pursuant to the provisions of Section 5.2, except that the sole issue presented to the arbitrator for determination will be whether or not ICANN reasonably and objectively reached the ICANN Determination. For the purposes of such arbitration, ICANN shall present evidence to the arbitrator supporting the ICANN Determination. If the arbitrator determines that ICANN did not reasonably and objectively reach the ICANN Determination, then ICANN shall waive Registry Operator’s compliance with the subject ICANN Requirement. If the arbitrators or pre-arbitral referee, as applicable, determine that ICANN did reasonably and objectively reach the ICANN Determination, then, upon notice to Registry Operator, ICANN may terminate this Agreement with immediate effect.

(e) Registry Operator hereby represents and warrants that, to the best of its knowledge as of the date of execution of this Agreement, no existing ICANN Requirement conflicts with or violates any Applicable Law.

(f) Notwithstanding any other provision of this Section 7.14, following an ICANN Determination and prior to a finding by an arbitrator pursuant to Section 7.14(d) above, ICANN may, subject to prior consultations with Registry Operator, take such reasonable technical measures as it deems necessary to ensure the Security and Stability of Registry Services, the Internet and the DNS. These reasonable technical measures shall be taken by ICANN on an interim basis, until the earlier of the date of conclusion of the arbitration procedure referred to in Section 7.14(d) above or the date of complete resolution of the conflict with an Applicable Law. In case Registry Operator disagrees with such technical measures taken by ICANN, Registry Operator may submit the matter to binding arbitration pursuant to the provisions of Section 5.2 above, during which process ICANN may continue to take such technical measures. In the event that ICANN takes such measures, Registry Operator shall pay all costs incurred by ICANN as a result of taking such measures. In addition, in the event that ICANN takes such measures, ICANN shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable.

\* \* \* \* \*

\* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

\* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS**

By: \_\_\_\_\_  
[\_\_\_\_\_] President and CEO

Date:

**[Registry Operator]**

By: \_\_\_\_\_  
[\_\_\_\_\_] \_\_\_\_\_  
[\_\_\_\_\_]

Date:

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**EXHIBIT A**

**Approved Services**

# SPECIFICATION 1

## CONSENSUS POLICIES AND TEMPORARY POLICIES SPECIFICATION

### 1. Consensus Policies.

- 1.1. “*Consensus Policies*” are those policies established (1) pursuant to the procedure set forth in ICANN's Bylaws and due process, and (2) covering those topics listed in Section 1.2 of this document. The Consensus Policy development process and procedure set forth in ICANN's Bylaws may be revised from time to time in accordance with the process set forth therein.
- 1.2. Consensus Policies and the procedures by which they are developed shall be designed to produce, to the extent possible, a consensus of Internet stakeholders, including the operators of gTLDs. Consensus Policies shall relate to one or more of the following:
  - 1.2.1. issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet or Domain Name System (“DNS”);
  - 1.2.2. functional and performance specifications for the provision of Registry Services;
  - 1.2.3. Security and Stability of the registry database for the TLD;
  - 1.2.4. registry policies reasonably necessary to implement Consensus Policies relating to registry operations or registrars;
  - 1.2.5. resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names); or
  - 1.2.6. restrictions on cross-ownership of registry operators and registrars or registrar resellers and regulations and restrictions with respect to registry operations and the use of registry and registrar data in the event that a registry operator and a registrar or registrar reseller are affiliated.
- 1.3. Such categories of issues referred to in Section 1.2 shall include, without limitation:
  - 1.3.1. principles for allocation of registered names in the TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);
  - 1.3.2. prohibitions on warehousing of or speculation in domain names by registries or registrars;
  - 1.3.3. reservation of registered names in the TLD that may not be registered initially or that may not be renewed due to reasons reasonably related to (i) avoidance of confusion among or misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or the Internet (e.g., establishment of reservations of names from registration); and
  - 1.3.4. maintenance of and access to accurate and up-to-date information concerning domain name registrations; and procedures to avoid disruptions of domain name registrations due to suspension or termination of operations by a registry operator or a registrar, including procedures for allocation of responsibility for serving registered domain names in a TLD affected by such a suspension or termination.
- 1.4. In addition to the other limitations on Consensus Policies, they shall not:

- 1.4.1. prescribe or limit the price of Registry Services;
  - 1.4.2. modify the terms or conditions for the renewal or termination of the Registry Agreement;
  - 1.4.3. modify the limitations on Temporary Policies (defined below) or Consensus Policies;
  - 1.4.4. modify the provisions in the registry agreement regarding fees paid by Registry Operator to ICANN; or
  - 1.4.5. modify ICANN's obligations to ensure equitable treatment of registry operators and act in an open and transparent manner.
2. **Temporary Policies.** Registry Operator shall comply with and implement all specifications or policies established by the Board on a temporary basis, if adopted by the Board by a vote of at least two-thirds of its members, so long as the Board reasonably determines that such modifications or amendments are justified and that immediate temporary establishment of a specification or policy on the subject is necessary to maintain the stability or security of Registry Services or the DNS ("*Temporary Policies*").
- 2.1. Such proposed specification or policy shall be as narrowly tailored as feasible to achieve those objectives. In establishing any Temporary Policy, the Board shall state the period of time for which the Temporary Policy is adopted and shall immediately implement the Consensus Policy development process set forth in ICANN's Bylaws.
    - 2.1.1. ICANN shall also issue an advisory statement containing a detailed explanation of its reasons for adopting the Temporary Policy and why the Board believes such Temporary Policy should receive the consensus support of Internet stakeholders.
    - 2.1.2. If the period of time for which the Temporary Policy is adopted exceeds 90 days, the Board shall reaffirm its temporary adoption every 90 days for a total period not to exceed one year, in order to maintain such Temporary Policy in effect until such time as it becomes a Consensus Policy. If the one year period expires or, if during such one year period, the Temporary Policy does not become a Consensus Policy and is not reaffirmed by the Board, Registry Operator shall no longer be required to comply with or implement such Temporary Policy.
3. **Notice and Conflicts.** Registry Operator shall be afforded a reasonable period of time following notice of the establishment of a Consensus Policy or Temporary Policy in which to comply with such policy or specification, taking into account any urgency involved. In the event of a conflict between Registry Services and Consensus Policies or any Temporary Policy, the Consensus Policies or Temporary Policy shall control, but only with respect to subject matter in conflict.

## SPECIFICATION 2

### DATA ESCROW REQUIREMENTS

Registry Operator will engage an independent entity to act as data escrow agent (“*Escrow Agent*”) for the provision of data escrow services related to the Registry Agreement. The following Technical Specifications set forth in Part A, and Legal Requirements set forth in Part B, will be included in any data escrow agreement between Registry Operator and the Escrow Agent, under which ICANN must be named a third-party beneficiary. In addition to the following requirements, the data escrow agreement may contain other provisions that are not contradictory or intended to subvert the required terms provided below.

#### PART A – TECHNICAL SPECIFICATIONS

1. **Deposits.** There will be two types of Deposits: Full and Differential. For both types, the universe of Registry objects to be considered for data escrow are those objects necessary in order to offer all of the approved Registry Services.
  - 1.1 “**Full Deposit**” will consist of data that reflects the state of the registry as of 00:00:00 UTC on each Sunday.
  - 1.2 “**Differential Deposit**” means data that reflects all transactions that were not reflected in the last previous Full or Differential Deposit, as the case may be. Each Differential Deposit will contain all database transactions since the previous Deposit was completed as of 00:00:00 UTC of each day, but Sunday. Differential Deposits must include complete Escrow Records as specified below that were not included or changed since the most recent full or Differential Deposit (i.e., newly added or modified domain names).
  
2. **Schedule for Deposits.** Registry Operator will submit a set of escrow files on a daily basis as follows:
  - 2.1 Each Sunday, a Full Deposit must be submitted to the Escrow Agent by 23:59 UTC.
  - 2.2 The other six days of the week, the corresponding Differential Deposit must be submitted to Escrow Agent by 23:59 UTC.
  
3. **Escrow Format Specification.**
  - 3.1 **Deposit’s Format.** Registry objects, such as domains, contacts, name servers, registrars, etc. will be compiled into a file constructed as described in draft-arias-noguchi-registry-data-escrow, see [1]. The aforementioned document describes some elements as optional; Registry Operator will include those elements in the Deposits if they are available. Registry Operator will use the draft version available at the time of signing the Agreement, if not already an RFC. Once the specification is published as an RFC, Registry Operator will implement that specification, no later than 180 days after. UTF-8 character encoding will be used.
  
  - 3.2 **Extensions.** If a Registry Operator offers additional Registry Services that require submission of additional data, not included above, additional “extension schemas” shall be defined in a case by case base to represent that data. These “extension schemas” will be specified as described in [1]. Data related to the “extensions schemas” will be included in the deposit file described in section 3.1. ICANN and the respective Registry shall work together to agree on such new objects’ data escrow specifications.

4. **Processing of Deposit files.** The use of compression is recommended in order to reduce electronic data transfer times, and storage capacity requirements. Data encryption will be used to ensure the privacy of registry escrow data. Files processed for compression and encryption will be in the binary OpenPGP format as per OpenPGP Message Format - RFC 4880, see [2]. Acceptable algorithms for Public-key cryptography, Symmetric-key cryptography, Hash and Compression are those enumerated in RFC 4880, not marked as deprecated in OpenPGP IANA Registry, see [3], that are also royalty-free. The process to follow for a data file in original text format is:
- (1) The file should be compressed. The suggested algorithm for compression is ZIP as per RFC 4880.
  - (2) The compressed data will be encrypted using the escrow agent's public key. The suggested algorithms for Public-key encryption are Elgamal and RSA as per RFC 4880. The suggested algorithms for Symmetric-key encryption are TripleDES, AES128 and CAST5 as per RFC 4880.
  - (3) The file may be split as necessary if, once compressed and encrypted is larger than the file size limit agreed with the escrow agent. Every part of a split file, or the whole file if split is not used, will be called a processed file in this section.
  - (4) A digital signature file will be generated for every processed file using the Registry's private key. The digital signature file will be in binary OpenPGP format as per RFC 4880 [2], and will not be compressed or encrypted. The suggested algorithms for Digital signatures are DSA and RSA as per RFC 4880. The suggested algorithm for Hashes in Digital signatures is SHA256.
  - (5) The processed files and digital signature files will then be transferred to the Escrow Agent through secure electronic mechanisms, such as, SFTP, SCP, HTTPS file upload, etc. as agreed between the Escrow Agent and the Registry Operator. Non-electronic delivery through a physical medium such as CD-ROMs, DVD-ROMs, or USB storage devices may be used if authorized by ICANN.
  - (6) The Escrow Agent will then validate every (processed) transferred data file using the procedure described in section 8.
5. **File Naming Conventions.** Files will be named according to the following convention: {gTLD}\_{YYYY-MM-DD}\_{type}\_S{#}\_R{rev}.{ext} where:
- 5.1 {gTLD} is replaced with the gTLD name; in case of an IDN-TLD, the ASCII-compatible form (A-Label) must be used;
  - 5.2 {YYYY-MM-DD} is replaced by the date corresponding to the time used as a timeline watermark for the transactions; i.e. for the Full Deposit corresponding to 2009-08-02T00:00Z, the string to be used would be "2009-08-02";
  - 5.3 {type} is replaced by:
    - (1) "full", if the data represents a Full Deposit;
    - (2) "diff", if the data represents a Differential Deposit;
    - (3) "thin", if the data represents a Bulk Registration Data Access file, as specified in section 3 of Specification 4;
  - 5.4 {#} is replaced by the position of the file in a series of files, beginning with "1"; in case of a lone file, this must be replaced by "1".
  - 5.5 {rev} is replaced by the number of revision (or resend) of the file beginning with "0";
  - 5.6 {ext} is replaced by "sig" if it is a digital signature file of the quasi-homonymous file. Otherwise it is replaced by "ryde".

6. **Distribution of Public Keys.** Each of Registry Operator and Escrow Agent will distribute its public key to the other party (Registry Operator or Escrow Agent, as the case may be) via email to an email address to be specified. Each party will confirm receipt of the other party's public key with a reply email, and the distributing party will subsequently reconfirm the authenticity of the key transmitted via offline methods, like in person meeting, telephone, etc. In this way, public key transmission is authenticated to a user able to send and receive mail via a mail server operated by the distributing party. Escrow Agent, Registry and ICANN will exchange keys by the same procedure.
7. **Notification of Deposits.** Along with the delivery of each Deposit, Registry Operator will deliver to Escrow Agent and to ICANN a written statement (which may be by authenticated e-mail) that includes a copy of the report generated upon creation of the Deposit and states that the Deposit has been inspected by Registry Operator and is complete and accurate. Registry Operator will include the Deposit's "id" and "resend" attributes in its statement. The attributes are explained in [1].
8. **Verification Procedure.**
  - (1) The signature file of each processed file is validated.
  - (2) If processed files are pieces of a bigger file, the latter is put together.
  - (3) Each file obtained in the previous step is then decrypted and uncompressed.
  - (4) Each data file contained in the previous step is then validated against the format defined in [1].
  - (5) If [1] includes a verification process, that will be applied at this step.  
If any discrepancy is found in any of the steps, the Deposit will be considered incomplete.
9. **References.**
  - [1] Domain Name Data Escrow Specification (work in progress), <http://tools.ietf.org/html/draft-arias-noguchi-registry-data-escrow>
  - [2] OpenPGP Message Format, <http://www.rfc-editor.org/rfc/rfc4880.txt>
  - [3] OpenPGP parameters, <http://www.iana.org/assignments/pgp-parameters/pgp-parameters.xhtml>

**PART B – LEGAL REQUIREMENTS**

1. **Escrow Agent.** Prior to entering into an escrow agreement, the Registry Operator must provide notice to ICANN as to the identity of the Escrow Agent, and provide ICANN with contact information and a copy of the relevant escrow agreement, and all amendment thereto. In addition, prior to entering into an escrow agreement, Registry Operator must obtain the consent of ICANN to (a) use the specified Escrow Agent, and (b) enter into the form of escrow agreement provided. ICANN must be expressly designated a third-party beneficiary of the escrow agreement. ICANN reserves the right to withhold its consent to any Escrow Agent, escrow agreement, or any amendment thereto, all in its sole discretion.
2. **Fees.** Registry Operator must pay, or have paid on its behalf, fees to the Escrow Agent directly. If Registry Operator fails to pay any fee by the due date(s), the Escrow Agent will give ICANN written notice of such non-payment and ICANN may pay the past-due fee(s) within ten business days after receipt of the written notice from Escrow Agent. Upon payment of the past-due fees by ICANN, ICANN shall have a claim for such amount against Registry Operator, which Registry Operator shall be required to submit to ICANN together with the next fee payment due under the Registry Agreement.
3. **Ownership.** Ownership of the Deposits during the effective term of the Registry Agreement shall remain with Registry Operator at all times. Thereafter, Registry Operator shall assign any such ownership rights (including intellectual property rights, as the case may be) in such Deposits to ICANN. In the event that during the term of the Registry Agreement any Deposit is released from escrow to ICANN, any intellectual property rights held by Registry Operator in the Deposits will automatically be licensed on a non-exclusive, perpetual, irrevocable, royalty-free, paid-up basis to ICANN or to a party designated in writing by ICANN.
4. **Integrity and Confidentiality.** Escrow Agent will be required to (i) hold and maintain the Deposits in a secure, locked, and environmentally safe facility, which is accessible only to authorized representatives of Escrow Agent, (ii) protect the integrity and confidentiality of the Deposits using commercially reasonable measures and (iii) keep and safeguard each Deposit for one year. ICANN and Registry Operator will be provided the right to inspect Escrow Agent's applicable records upon reasonable prior notice and during normal business hours. Registry Operator and ICANN will be provided with the right to designate a third-party auditor to audit Escrow Agent's compliance with the technical specifications and maintenance requirements of this Specification 2 from time to time.

If Escrow Agent receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposits, Escrow Agent will promptly notify the Registry Operator and ICANN unless prohibited by law. After notifying the Registry Operator and ICANN, Escrow Agent shall allow sufficient time for Registry Operator or ICANN to challenge any such order, which shall be the responsibility of Registry Operator or ICANN; provided, however, that Escrow Agent does not waive its rights to present its position with respect to any such order. Escrow Agent will cooperate with the Registry Operator or ICANN to support efforts to quash or limit any subpoena, at such party's expense. Any party requesting additional assistance shall pay Escrow Agent's standard charges or as quoted upon submission of a detailed request.

5. **Copies.** Escrow Agent may be permitted to duplicate any Deposit, in order to comply with the terms and provisions of the escrow agreement.
6. **Release of Deposits.** Escrow Agent will make available for electronic download (unless otherwise requested) to ICANN or its designee, within twenty-four hours, at the Registry Operator's expense, all Deposits in Escrow Agent's possession in the event that the Escrow Agent receives a request from Registry Operator to effect such delivery to ICANN, or receives one of the following written notices by ICANN stating that:
- 6.1 the Registry Agreement has expired without renewal, or been terminated; or
  - 6.2 ICANN failed, with respect to (a) any Full Deposit or (b) five Differential Deposits within any calendar month, to receive, within five calendar days after the Deposit's scheduled delivery date, notification of receipt from Escrow Agent; (x) ICANN gave notice to Escrow Agent and Registry Operator of that failure; and (y) ICANN has not, within seven calendar days after such notice, received notice from Escrow Agent that the Deposit has been received; or
  - 6.3 ICANN has received notification from Escrow Agent of failed verification of a Full Deposit or of failed verification of five Differential Deposits within any calendar month and (a) ICANN gave notice to Registry Operator of that receipt; and (b) ICANN has not, within seven calendar days after such notice, received notice from Escrow Agent of verification of a remediated version of such Full Deposit or Differential Deposit; or
  - 6.4 Registry Operator has: (i) ceased to conduct its business in the ordinary course; or (ii) filed for bankruptcy, become insolvent or anything analogous to any of the foregoing under the laws of any jurisdiction anywhere in the world; or
  - 6.5 Registry Operator has experienced a failure of critical registry functions and ICANN has asserted its rights pursuant to Section 2.13 of the Registry Agreement; or
  - 6.6 a competent court, arbitral, legislative, or government agency mandates the release of the Deposits to ICANN.

Unless Escrow Agent has previously released the Registry Operator's Deposits to ICANN or its designee, Escrow Agent will deliver all Deposits to ICANN upon termination of the Registry Agreement or the Escrow Agreement.

7. **Verification of Deposits.**
- 7.1 Within twenty-four hours after receiving each Deposit or corrected Deposit, Escrow Agent must verify the format and completeness of each Deposit and deliver to ICANN a copy of the verification report generated for each Deposit. Reports will be delivered electronically, as specified from time to time by ICANN.
  - 7.2 If Escrow Agent discovers that any Deposit fails the verification procedures, Escrow Agent must notify, either by email, fax or phone, Registry Operator and ICANN of such nonconformity within twenty-four hours after receiving the non-conformant Deposit. Upon notification of such verification failure, Registry Operator must begin developing modifications, updates, corrections, and other fixes of the Deposit necessary for the Deposit to pass the verification procedures and deliver such fixes to Escrow Agent as promptly as possible.
8. **Amendments.** Escrow Agent and Registry Operator shall amend the terms of the Escrow Agreement to conform to this Specification 2 within ten (10) calendar days of any amendment or modification to this Specification 2. In the event of a conflict between this Specification 2 and the Escrow Agreement, this Specification 2 shall control.
9. **Indemnity.** Registry Operator shall indemnify and hold harmless Escrow Agent and each of its directors, officers, agents, employees, members, and stockholders ("Escrow Agent Indemnitees")



absolutely and forever from and against any and all claims, actions, damages, suits, liabilities, obligations, costs, fees, charges, and any other expenses whatsoever, including reasonable attorneys' fees and costs, that may be asserted by a third party against any Escrow Agent Indemnitees in connection with the Escrow Agreement or the performance of Escrow Agent or any Escrow Agent Indemnitees thereunder (with the exception of any claims based on the misrepresentation, negligence, or misconduct of Escrow Agent, its directors, officers, agents, employees, contractors, members, and stockholders). Escrow Agent shall indemnify and hold harmless Registry Operator and ICANN, and each of their respective directors, officers, agents, employees, members, and stockholders ("Indemnitees") absolutely and forever from and against any and all claims, actions, damages, suits, liabilities, obligations, costs, fees, charges, and any other expenses whatsoever, including reasonable attorneys' fees and costs, that may be asserted by a third party against any Indemnitee in connection with the misrepresentation, negligence or misconduct of Escrow Agent, its directors, officers, agents, employees and contractors.

## SPECIFICATION 3

### FORMAT AND CONTENT FOR REGISTRY OPERATOR MONTHLY REPORTING

Registry Operator shall provide one set of monthly reports per gTLD to \_\_\_\_\_ with the following content. ICANN may request in the future that the reports be delivered by other means and using other formats. ICANN will use reasonable commercial efforts to preserve the confidentiality of the information reported until three months after the end of the month to which the reports relate.

**1. Per-Registrar Transactions Report.** This report shall be compiled in a comma separated-value formatted file as specified in RFC 4180. The file shall be named “gTLD-transactions-yyyymm.csv”, where “gTLD” is the gTLD name; in case of an IDN-TLD, the A-label shall be used; “yyyymm” is the year and month being reported. The file shall contain the following fields per registrar:

Field #	Field Name	Description
01	registrar-name	registrar's full corporate name as registered with IANA
02	iana-id	<a href="http://www.iana.org/assignments/registrar-ids">http://www.iana.org/assignments/registrar-ids</a>
03	total-domains	total domains under sponsorship
04	total-nameservers	total name servers registered for TLD
05	net-adds-1-yr	number of domains successfully registered with an initial term of one year (and not deleted within the add grace period)
06	net-adds-2-yr	number of domains successfully registered with an initial term of two years (and not deleted within the add grace period)
07	net-adds-3-yr	number of domains successfully registered with an initial term of three years (and not deleted within the add grace period)
08	net-adds-4-yr	number of domains successfully registered with an initial term of four years (and not deleted within the add grace period)
09	net-adds-5-yr	number of domains successfully registered with an initial term of five years (and not deleted within the add grace period)
10	net-adds-6-yr	number of domains successfully registered with an initial term of six years (and not deleted within the add grace period)
11	net-adds-7-yr	number of domains successfully registered with an initial term of seven years (and not deleted within the add grace period)

12	net-adds-8-yr	number of domains successfully registered with an initial term of eight years (and not deleted within the add grace period)
13	net-adds-9-yr	number of domains successfully registered with an initial term of nine years (and not deleted within the add grace period)
14	net-adds-10-yr	number of domains successfully registered with an initial term of ten years (and not deleted within the add grace period)
15	net-renews-1-yr	number of domains successfully renewed either automatically or by command with a new renewal period of one year (and not deleted within the renew grace period)
16	net-renews-2-yr	number of domains successfully renewed either automatically or by command with a new renewal period of two years (and not deleted within the renew grace period)
17	net-renews-3-yr	number of domains successfully renewed either automatically or by command with a new renewal period of three years (and not deleted within the renew grace period)
18	net-renews-4-yr	number of domains successfully renewed either automatically or by command with a new renewal period of four years (and not deleted within the renew grace period)
19	net-renews-5-yr	number of domains successfully renewed either automatically or by command with a new renewal period of five years (and not deleted within the renew grace period)
20	net-renews-6-yr	number of domains successfully renewed either automatically or by command with a new renewal period of six years (and not deleted within the renew grace period)
21	net-renews-7-yr	number of domains successfully renewed either automatically or by command with a new renewal period of seven years (and not deleted within the renew grace period)
22	net-renews-8-yr	number of domains successfully renewed either automatically or by command with a new renewal period of eight years (and not deleted within the renew grace period)
23	net-renews-9-yr	number of domains successfully renewed either

		automatically or by command with a new renewal period of nine years (and not deleted within the renew grace period)
24	net-renews-10-yr	number of domains successfully renewed either automatically or by command with a new renewal period of ten years (and not deleted within the renew grace period)
25	transfer-gaining-successful	transfers initiated by this registrar that were ack'd by the other registrar – either by command or automatically
26	transfer-gaining-nacked	transfers initiated by this registrar that were n'acked by the other registrar
27	transfer-losing-successful	transfers initiated by another registrar that this registrar ack'd – either by command or automatically
28	transfer-losing-nacked	transfers initiated by another registrar that this registrar n'acked
29	transfer-disputed-won	number of transfer disputes in which this registrar prevailed
30	transfer-disputed-lost	number of transfer disputes this registrar lost
31	transfer-disputed-noddecision	number of transfer disputes involving this registrar with a split or no decision
32	deleted-domains-grace	domains deleted within the add grace period
33	deleted-domains-nograce	domains deleted outside the add grace period
34	restored-domains	domain names restored from redemption period
35	restored-noreport	total number of restored names for which the registrar failed to submit a restore report
36	agp-exemption-requests	total number of AGP (add grace period) exemption requests
37	agp-exemptions-granted	total number of AGP (add grace period) exemption requests granted
38	agp-exempted-domains	total number of names affected by granted AGP (add grace period) exemption requests
39	attempted-adds	number of attempted (successful and failed) domain name create commands

The first line shall include the field names exactly as described in the table above as a “header line” as described in section 2 of RFC 4180. The last line of each report shall include totals for each column across all registrars; the first field of this line shall read “Totals” while the second field shall be left empty in that line. No other lines besides the ones described above shall be included. Line breaks shall be <U+000D, U+000A> as described in RFC 4180.

**2. Registry Functions Activity Report.** This report shall be compiled in a comma separated-value formatted file as specified in RFC 4180. The file shall be named “gTLD-activity-yyyymm.csv”, where “gTLD” is the gTLD name; in case of an IDN-TLD, the A-label shall be used; “yyyymm” is the year and month being reported. The file shall contain the following fields:

Field #	Field Name	Description
01	operational-registrars	number of operational registrars at the end of the reporting period
02	ramp-up-registrars	number of registrars that have received a password for access to OT&E at the end of the reporting period
03	pre-ramp-up-registrars	number of registrars that have requested access, but have not yet entered the ramp-up period at the end of the reporting period
04	zfa-passwords	number of active zone file access passwords at the end of the reporting period
05	whois-43-queries	number of WHOIS (port-43) queries responded during the reporting period
06	web-whois-queries	number of Web-based Whois queries responded during the reporting period, not including searchable Whois
07	searchable-whois-queries	number of searchable Whois queries responded during the reporting period, if offered
08	dns-udp-queries-received	number of DNS queries received over UDP transport during the reporting period
09	dns-udp-queries-responded	number of DNS queries received over UDP transport that were responded during the reporting period
10	dns-tcp-queries-received	number of DNS queries received over TCP transport during the reporting period
11	dns-tcp-queries-responded	number of DNS queries received over TCP transport that were responded during the reporting period
12	srs-dom-check	number of SRS (EPP and any other interface) domain name “check” requests responded during the reporting period
13	srs-dom-create	number of SRS (EPP and any other interface) domain name “create” requests responded during the reporting period
14	srs-dom-delete	number of SRS (EPP and any other interface) domain name “delete” requests responded during the reporting period
15	srs-dom-info	number of SRS (EPP and any other interface) domain name “info” requests responded during the reporting period
16	srs-dom-renew	number of SRS (EPP and any other interface) domain name

		“renew” requests responded during the reporting period
17	srs-dom-rgp-restore-report	number of SRS (EPP and any other interface) domain name RGP “restore” requests responded during the reporting period
18	srs-dom-rgp-restore-request	number of SRS (EPP and any other interface) domain name RGP “restore” requests delivering a restore report responded during the reporting period
19	srs-dom-transfer-approve	number of SRS (EPP and any other interface) domain name “transfer” requests to approve transfers responded during the reporting period
20	srs-dom-transfer-cancel	number of SRS (EPP and any other interface) domain name “transfer” requests to cancel transfers responded during the reporting period
21	srs-dom-transfer-query	number of SRS (EPP and any other interface) domain name “transfer” requests to query about a transfer responded during the reporting period
22	srs-dom-transfer-reject	number of SRS (EPP and any other interface) domain name “transfer” requests to reject transfers responded during the reporting period
23	srs-dom-transfer-request	number of SRS (EPP and any other interface) domain name “transfer” requests to request transfers responded during the reporting period
24	srs-dom-update	number of SRS (EPP and any other interface) domain name “update” requests (not including RGP restore requests) responded during the reporting period
25	srs-host-check	number of SRS (EPP and any other interface) host “check” requests responded during the reporting period
26	srs-host-create	number of SRS (EPP and any other interface) host “create” requests responded during the reporting period
27	srs-host-delete	number of SRS (EPP and any other interface) host “delete” requests responded during the reporting period
28	srs-host-info	number of SRS (EPP and any other interface) host “info” requests responded during the reporting period
29	srs-host-update	number of SRS (EPP and any other interface) host “update” requests responded during the reporting period
30	srs-cont-check	number of SRS (EPP and any other interface) contact “check” requests responded during the reporting period
31	srs-cont-create	number of SRS (EPP and any other interface) contact “create” requests responded during the reporting period

32	srs-cont-delete	number of SRS (EPP and any other interface) contact “delete” requests responded during the reporting period
33	srs-cont-info	number of SRS (EPP and any other interface) contact “info” requests responded during the reporting period
34	srs-cont-transfer-approve	number of SRS (EPP and any other interface) contact “transfer” requests to approve transfers responded during the reporting period
35	srs-cont-transfer-cancel	number of SRS (EPP and any other interface) contact “transfer” requests to cancel transfers responded during the reporting period
36	srs-cont-transfer-query	number of SRS (EPP and any other interface) contact “transfer” requests to query about a transfer responded during the reporting period
37	srs-cont-transfer-reject	number of SRS (EPP and any other interface) contact “transfer” requests to reject transfers responded during the reporting period
38	srs-cont-transfer-request	number of SRS (EPP and any other interface) contact “transfer” requests to request transfers responded during the reporting period
39	srs-cont-update	number of SRS (EPP and any other interface) contact “update” requests responded during the reporting period

The first line shall include the field names exactly as described in the table above as a “header line” as described in section 2 of RFC 4180. No other lines besides the ones described above shall be included. Line breaks shall be <U+000D, U+000A> as described in RFC 4180.

## SPECIFICATION 4

### SPECIFICATION FOR REGISTRATION DATA PUBLICATION SERVICES

1. **Registration Data Directory Services.** Until ICANN requires a different protocol, Registry Operator will operate a WHOIS service available via port 43 in accordance with RFC 3912, and a web-based Directory Service at <whois.nic.TLD> providing free public query-based access to at least the following elements in the following format. ICANN reserves the right to specify alternative formats and protocols, and upon such specification, the Registry Operator will implement such alternative specification as soon as reasonably practicable.

1.1. The format of responses shall follow a semi-free text format outline below, followed by a blank line and a legal disclaimer specifying the rights of Registry Operator, and of the user querying the database.

1.2. Each data object shall be represented as a set of key/value pairs, with lines beginning with keys, followed by a colon and a space as delimiters, followed by the value.

1.3. For fields where more than one value exists, multiple key/value pairs with the same key shall be allowed (for example to list multiple name servers). The first key/value pair after a blank line should be considered the start of a new record, and should be considered as identifying that record, and is used to group data, such as hostnames and IP addresses, or a domain name and registrant information, together.

#### 1.4. Domain Name Data:

1.4.1. **Query format:** whois EXAMPLE.TLD

1.4.2. **Response format:**

```

Domain Name: EXAMPLE.TLD
Domain ID: D1234567-TLD
WHOIS Server: whois.example.tld
Referral URL: http://www.example.tld
Updated Date: 2009-05-29T20:13:00Z
Creation Date: 2000-10-08T00:45:00Z
Registry Expiry Date: 2010-10-08T00:44:59Z
Sponsoring Registrar: EXAMPLE REGISTRAR LLC
Sponsoring Registrar IANA ID: 5555555
Domain Status: clientDeleteProhibited
Domain Status: clientRenewProhibited
Domain Status: clientTransferProhibited
Domain Status: serverUpdateProhibited
Registrant ID: 5372808-ERL
Registrant Name: EXAMPLE REGISTRANT
Registrant Organization: EXAMPLE ORGANIZATION
Registrant Street: 123 EXAMPLE STREET
Registrant City: ANYTOWN
Registrant State/Province: AP
Registrant Postal Code: A1A1A1
Registrant Country: EX

```



Registrant Phone: +1.5555551212  
Registrant Phone Ext: 1234  
Registrant Fax: +1.5555551213  
Registrant Fax Ext: 4321  
Registrant Email: EMAIL@EXAMPLE.TLD  
Admin ID: 5372809-ERL  
Admin Name: EXAMPLE REGISTRANT ADMINISTRATIVE  
Admin Organization: EXAMPLE REGISTRANT ORGANIZATION  
Admin Street: 123 EXAMPLE STREET  
Admin City: ANYTOWN  
Admin State/Province: AP  
Admin Postal Code: A1A1A1  
Admin Country: EX  
Admin Phone: +1.5555551212  
Admin Phone Ext: 1234  
Admin Fax: +1.5555551213  
Admin Fax Ext:  
Admin Email: EMAIL@EXAMPLE.TLD  
Tech ID: 5372811-ERL  
Tech Name: EXAMPLE REGISTRAR TECHNICAL  
Tech Organization: EXAMPLE REGISTRAR LLC  
Tech Street: 123 EXAMPLE STREET  
Tech City: ANYTOWN  
Tech State/Province: AP  
Tech Postal Code: A1A1A1  
Tech Country: EX  
Tech Phone: +1.1235551234  
Tech Phone Ext: 1234  
Tech Fax: +1.5555551213  
Tech Fax Ext: 93  
Tech Email: EMAIL@EXAMPLE.TLD  
Name Server: NS01.EXAMPLEREGISTRAR.TLD  
Name Server: NS02.EXAMPLEREGISTRAR.TLD  
DNSSEC: signedDelegation  
DNSSEC: unsigned  
>>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

## 1.5. Registrar Data:

1.5.1. **Query format:** whois "registrar Example Registrar, Inc."

1.5.2. **Response format:**

Registrar Name: Example Registrar, Inc.  
Street: 1234 Admiralty Way  
City: Marina del Rey  
State/Province: CA  
Postal Code: 90292  
Country: US  
Phone Number: +1.3105551212  
Fax Number: +1.3105551213

Email: registrar@example.tld  
 WHOIS Server: whois.example-registrar.tld  
 Referral URL: http://www.example-registrar.tld  
 Admin Contact: Joe Registrar  
 Phone Number: +1.3105551213  
 Fax Number: +1.3105551213  
 Email: joeregistrar@example-registrar.tld  
 Admin Contact: Jane Registrar  
 Phone Number: +1.3105551214  
 Fax Number: +1.3105551213  
 Email: janeregistrar@example-registrar.tld  
 Technical Contact: John Geek  
 Phone Number: +1.3105551215  
 Fax Number: +1.3105551216  
 Email: johngeek@example-registrar.tld  
 >>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

## 1.6. Nameserver Data:

1.6.1. **Query format:** whois "NS1.EXAMPLE.TLD" or whois "nameserver (IP Address)"

1.6.2. **Response format:**

Server Name: NS1.EXAMPLE.TLD  
 IP Address: 192.0.2.123  
 IP Address: 2001:0DB8::1  
 Registrar: Example Registrar, Inc.  
 WHOIS Server: whois.example-registrar.tld  
 Referral URL: http://www.example-registrar.tld  
 >>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

1.7. The format of the following data fields: domain status, individual and organizational names, address, street, city, state/province, postal code, country, telephone and fax numbers, email addresses, date and times should conform to the mappings specified in EPP RFCs 5730-5734 so that the display of this information (or values return in WHOIS responses) can be uniformly processed and understood.

1.8. **Searchability.** Offering searchability capabilities on the Directory Services is optional but if offered by the Registry Operator it shall comply with the specification described in this section.

1.8.1. Registry Operator will offer searchability on the web-based Directory Service.

1.8.2. Registry Operator will offer partial match capabilities, at least, on the following fields: domain name, contacts and registrant's name, and contact and registrant's postal address, including all the sub-fields described in EPP (e.g., street, city, state or province, etc.).

1.8.3. Registry Operator will offer exact-match capabilities, at least, on the following fields: registrar id, name server name, and name server's IP address (only applies to IP addresses stored by the registry, i.e., glue records).

1.8.4. Registry Operator will offer Boolean search capabilities supporting, at least, the following logical operators to join a set of search criteria: AND, OR, NOT.

1.8.5. Search results will include domain names matching the search criteria.

1.8.6. Registry Operator will: 1) implement appropriate measures to avoid abuse of this feature (e.g., permitting access only to legitimate authorized users); and 2) ensure the feature is in compliance with any applicable privacy laws or policies.

## 2. Zone File Access

### 2.1. Third-Party Access

2.1.1. **Zone File Access Agreement.** Registry Operator will enter into an agreement with any Internet user that will allow such user to access an Internet host server or servers designated by Registry Operator and download zone file data. The agreement will be standardized, facilitated and administered by a Centralized Zone Data Access Provider (the “CZDA Provider”). Registry Operator will provide access to zone file data per Section 2.1.3 and do so using the file format described in Section 2.1.4. Notwithstanding the foregoing, (a) the CZDA Provider may reject the request for access of any user that does not satisfy the credentialing requirements in Section 2.1.2 below; (b) Registry Operator may reject the request for access of any user that does not provide correct or legitimate credentials under Section 2.1.2 or where Registry Operator reasonably believes will violate the terms of Section 2.1.5. below; and, (c) Registry Operator may revoke access of any user if Registry Operator has evidence to support that the user has violated the terms of Section 2.1.5.

2.1.2. **Credentialing Requirements.** Registry Operator, through the facilitation of the CZDA Provider, will request each user to provide it with information sufficient to correctly identify and locate the user. Such user information will include, without limitation, company name, contact name, address, telephone number, facsimile number, email address, and the Internet host machine name and IP address.

2.1.3. **Grant of Access.** Each Registry Operator will provide the Zone File FTP (or other Registry supported) service for an ICANN-specified and managed URL (specifically, <TLD>.zda.icann.org where <TLD> is the TLD for which the registry is responsible) for the user to access the Registry’s zone data archives. Registry Operator will grant the user a non-exclusive, non-transferable, limited right to access Registry Operator’s Zone File FTP server, and to transfer a copy of the top-level domain zone files, and any associated cryptographic checksum files no more than once per 24 hour period using FTP, or other data transport and access protocols that may be prescribed by ICANN. For every zone file access server, the zone files are in the top-level directory called <zone>.zone.gz, with <zone>.zone.gz.md5 and <zone>.zone.gz.sig to verify downloads. If the Registry Operator also provides historical data, it will use the naming pattern <zone>-yyyymmdd.zone.gz, etc.

2.1.4. **File Format Standard.** Registry Operator will provide zone files using a sub-format of the standard Master File format as originally defined in RFC 1035, Section 5, including all the records present in the actual zone used in the public DNS. Sub-format is as follows:

1. Each record must include all fields in one line as: <domain-name> <TTL> <class> <type> <RDATA>.
2. Class and Type must use the standard mnemonics and must be in lower case.

3. TTL must be present as a decimal integer.
4. Use of /X and /DDD inside domain names is allowed.
5. All domain names must be in lower case.
6. Must use exactly one tab as separator of fields inside a record.
7. All domain names must be fully qualified.
8. No \$ORIGIN directives.
9. No use of "@" to denote current origin.
10. No use of "blank domain names" at the beginning of a record to continue the use of the domain name in the previous record.
11. No \$INCLUDE directives.
12. No \$TTL directives.
13. No use of parentheses, e.g., to continue the list of fields in a record across a line boundary.
14. No use of comments.
15. No blank lines.
16. The SOA record should be present at the top and (duplicated at) the end of the zone file.
17. With the exception of the SOA record, all the records in a file must be in alphabetical order.
18. One zone per file. If a TLD divides its DNS data into multiple zones, each goes into a separate file named as above, with all the files combined using tar into a file called <tld>.zone.tar.

**2.1.5. Use of Data by User.** Registry Operator will permit user to use the zone file for lawful purposes; provided that, (a) user takes all reasonable steps to protect against unauthorized access to and use and disclosure of the data, and (b) under no circumstances will Registry Operator be required or permitted to allow user to use the data to, (i) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than user's own existing customers, or (ii) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator or any ICANN-accredited registrar.

**2.1.6. Term of Use.** Registry Operator, through CZDA Provider, will provide each user with access to the zone file for a period of not less than three (3) months. Registry Operator will allow users to renew their Grant of Access.

**2.1.7. No Fee for Access.** Registry Operator will provide, and CZDA Provider will facilitate, access to the zone file to user at no cost.

## **2.2 Co-operation**

**2.2.1. Assistance.** Registry Operator will co-operate and provide reasonable assistance to ICANN and the CZDA Provider to facilitate and maintain the efficient access of zone file data by permitted users as contemplated under this Schedule.

**2.3 ICANN Access.** Registry Operator shall provide bulk access to the zone files for the TLD to ICANN or its designee on a continuous basis in the manner ICANN may reasonably specify from time to time.

**2.4 Emergency Operator Access.** Registry Operator shall provide bulk access to the zone files for the TLD to the Emergency Operators designated by ICANN on a continuous basis in the manner ICANN may reasonably specify from time to time.

### 3. Bulk Registration Data Access to ICANN

**3.1. Periodic Access to Thin Registration Data.** In order to verify and ensure the operational stability of Registry Services as well as to facilitate compliance checks on accredited registrars, Registry Operator will provide ICANN on a weekly basis (the day to be designated by ICANN) with up-to-date Registration Data as specified below. Data will include data committed as of 00:00:00 UTC on the day previous to the one designated for retrieval by ICANN.

**3.1.1. Contents.** Registry Operator will provide, at least, the following data for all registered domain names: domain name, domain name repository object id (roid), registrar id (IANA ID), statuses, last updated date, creation date, expiration date, and name server names. For sponsoring registrars, at least, it will provide: registrar name, registrar repository object id (roid), hostname of registrar Whois server, and URL of registrar.

**3.1.2. Format.** The data will be provided in the format specified in Specification 2 for Data Escrow (including encryption, signing, etc.) but including only the fields mentioned in the previous section, i.e., the file will only contain Domain and Registrar objects with the fields mentioned above. Registry Operator has the option to provide a full deposit file instead as specified in Specification 2.

**3.1.3. Access.** Registry Operator will have the file(s) ready for download as of 00:00:00 UTC on the day designated for retrieval by ICANN. The file(s) will be made available for download by SFTP, though ICANN may request other means in the future.

**3.2. Exceptional Access to Thick Registration Data.** In case of a registrar failure, de-accreditation, court order, etc. that prompts the temporary or definitive transfer of its domain names to another registrar, at the request of ICANN, Registry Operator will provide ICANN with up-to-date data for the domain names of the losing registrar. The data will be provided in the format specified in Specification 2 for Data Escrow. The file will only contain data related to the domain names of the losing registrar. Registry Operator will provide the data within 2 business days. Unless otherwise agreed by Registry Operator and ICANN, the file will be made available for download by ICANN in the same manner as the data specified in Section 3.1. of this Specification.

## SPECIFICATION 5

### SCHEDULE OF RESERVED NAMES AT THE SECOND LEVEL IN GTLD REGISTRIES

Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall reserve (i.e., Registry Operator shall not register, delegate, use or otherwise make available such labels to any third party, but may register such labels in its own name in order to withhold them from delegation or use) names formed with the following labels from initial (i.e. other than renewal) registration within the TLD:

1. **Example. The label “EXAMPLE”** shall be reserved at the second level and at all other levels within the TLD at which Registry Operator makes registrations.
2. **Two-character labels.** All two-character labels shall be initially reserved. The reservation of a two-character label string may be released to the extent that Registry Operator reaches agreement with the government and country-code manager. The Registry Operator may also propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes.
3. **Tagged Domain Names.** Labels may only include hyphens in the third and fourth position if they represent valid internationalized domain names in their ASCII encoding (for example "xn--ndk061n").
4. **Second-Level Reservations for Registry Operations.** The following names are reserved for use in connection with the operation of the registry for the TLD. Registry Operator may use them, but upon conclusion of Registry Operator's designation as operator of the registry for the TLD they shall be transferred as specified by ICANN: NIC, WWW, IRIS and WHOIS.
5. **Country and Territory Names.** The country and territory names contained in the following internationally recognized lists shall be initially reserved at the second level and at all other levels within the TLD at which the Registry Operator provides for registrations:
  - 5.1. the short form (in English) of all country and territory names contained on the ISO 3166-1 list, as updated from time to time, including the European Union, which is exceptionally reserved on the ISO 3166-1 list, and its scope extended in August 1999 to any application needing to represent the name European Union  
<[http://www.iso.org/iso/support/country\\_codes/iso\\_3166\\_code\\_lists/iso-3166-1\\_decoding\\_table.htm#EU](http://www.iso.org/iso/support/country_codes/iso_3166_code_lists/iso-3166-1_decoding_table.htm#EU)>;
  - 5.2. the United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World; and
  - 5.3. the list of United Nations member states in 6 official United Nations languages prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names;

provided, that the reservation of specific country and territory names may be released to the extent that Registry Operator reaches agreement with the applicable government(s), provided, further, that

Registry Operator may also propose release of these reservations, subject to review by ICANN's Governmental Advisory Committee and approval by ICANN.

## SPECIFICATION 6

### REGISTRY INTEROPERABILITY AND CONTINUITY SPECIFICATIONS

#### 1. Standards Compliance

1.1. **DNS.** Registry Operator shall comply with relevant existing RFCs and those published in the future by the Internet Engineering Task Force (IETF) including all successor standards, modifications or additions thereto relating to the DNS and name server operations including without limitation RFCs 1034, 1035, 1982, 2181, 2182, 2671, 3226, 3596, 3597, 4343, and 5966.

1.2. **EPP.** Registry Operator shall comply with relevant existing RFCs and those published in the future by the Internet Engineering Task Force (IETF) including all successor standards, modifications or additions thereto relating to the provisioning and management of domain names using the Extensible Provisioning Protocol (EPP) in conformance with RFCs 5910, 5730, 5731, 5732, 5733 and 5734. If Registry Operator implements Registry Grace Period (RGP), it will comply with RFC 3915 and its successors. If Registry Operator requires the use of functionality outside the base EPP RFCs, Registry Operator must document EPP extensions in Internet-Draft format following the guidelines described in RFC 3735. Registry Operator will provide and update the relevant documentation of all the EPP Objects and Extensions supported to ICANN prior to deployment.

1.3. **DNSSEC.** Registry Operator shall sign its TLD zone files implementing Domain Name System Security Extensions (“DNSSEC”). During the Term, Registry Operator shall comply with RFCs 4033, 4034, 4035, 4509 and their successors, and follow the best practices described in RFC 4641 and its successors. If Registry Operator implements Hashed Authenticated Denial of Existence for DNS Security Extensions, it shall comply with RFC 5155 and its successors. Registry Operator shall accept public-key material from child domain names in a secure manner according to industry best practices. Registry shall also publish in its website the DNSSEC Practice Statements (DPS) describing critical security controls and procedures for key material storage, access and usage for its own keys and secure acceptance of registrants’ public-key material. Registry Operator shall publish its DPS following the format described in “DPS-framework” (currently in draft format, see <http://tools.ietf.org/html/draft-ietf-dnsop-dnssec-dps-framework>) within 180 days after the “DPS-framework” becomes an RFC.

1.4. **IDN.** If the Registry Operator offers Internationalized Domain Names (“IDNs”), it shall comply with RFCs 5890, 5891, 5892, 5893 and their successors. Registry Operator shall comply with the ICANN IDN Guidelines at <http://www.icann.org/en/topics/idn/implementation-guidelines.htm>, as they may be amended, modified, or superseded from time to time. Registry Operator shall publish and keep updated its IDN Tables and IDN Registration Rules in the IANA Repository of IDN Practices as specified in the ICANN IDN Guidelines.

1.5. **IPv6.** Registry Operator shall be able to accept IPv6 addresses as glue records in its Registry System and publish them in the DNS. Registry Operator shall offer public IPv6 transport for, at least, two of the Registry’s name servers listed in the root zone with the corresponding IPv6 addresses registered with IANA. Registry Operator should follow “DNS IPv6 Transport Operational Guidelines” as described in BCP 91 and the recommendations and considerations described in RFC 4472. Registry Operator shall offer public IPv6 transport for its Registration Data Publication Services as defined in Specification 4 of this Agreement; e.g. Whois (RFC 3912), Web based Whois. Registry Operator shall offer public IPv6 transport for its Shared Registration System (SRS) to any Registrar, no later than six months after receiving the first request in writing from a gTLD accredited Registrar willing to operate with the SRS over IPv6.



## 2. Registry Services

2.1. **Registry Services.** “Registry Services” are, for purposes of the Registry Agreement, defined as the following: (a) those services that are operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry DNS servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by this Agreement; (b) other products or services that the Registry Operator is required to provide because of the establishment of a Consensus Policy as defined in Specification 1; (c) any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator; and (d) material changes to any Registry Service within the scope of (a), (b) or (c) above.

2.2. **Wildcard Prohibition.** For domain names which are either not registered, or the registrant has not supplied valid records such as NS records for listing in the DNS zone file, or their status does not allow them to be published in the DNS, the use of DNS wildcard Resource Records as described in RFCs 1034 and 4592 or any other method or technology for synthesizing DNS Resources Records or using redirection within the DNS by the Registry is prohibited. When queried for such domain names the authoritative name servers must return a “Name Error” response (also known as NXDOMAIN), RCODE 3 as described in RFC 1035 and related RFCs. This provision applies for all DNS zone files at all levels in the DNS tree for which the Registry Operator (or an affiliate engaged in providing Registration Services) maintains data, arranges for such maintenance, or derives revenue from such maintenance.

## 3. Registry Continuity

3.1. **High Availability.** Registry Operator will conduct its operations using network and geographically diverse, redundant servers (including network-level redundancy, end-node level redundancy and the implementation of a load balancing scheme where applicable) to ensure continued operation in the case of technical failure (widespread or local), or an extraordinary occurrence or circumstance beyond the control of the Registry Operator.

3.2. **Extraordinary Event.** Registry Operator will use commercially reasonable efforts to restore the critical functions of the registry within 24 hours after the termination of an extraordinary event beyond the control of the Registry Operator and restore full system functionality within a maximum of 48 hours following such event, depending on the type of critical function involved. Outages due to such an event will not be considered a lack of service availability.

3.3. **Business Continuity.** Registry Operator shall maintain a business continuity plan, which will provide for the maintenance of Registry Services in the event of an extraordinary event beyond the control of the Registry Operator or business failure of Registry Operator, and may include the designation of a Registry Services continuity provider. If such plan includes the designation of a Registry Services continuity provider, Registry Operator shall provide the name and contact information for such Registry Services continuity provider to ICANN. In the case of an extraordinary event beyond the control of the Registry Operator where the Registry Operator cannot be contacted, Registry Operator consents that ICANN may contact the designated Registry Services continuity provider, if one exists. Registry Operator shall conduct Registry Services Continuity testing at least once per year.

## 4. Abuse Mitigation

4.1. **Abuse Contact.** Registry Operator shall provide to ICANN and publish on its website its accurate contact details including a valid email and mailing address as well as a primary contact for handling inquiries related to malicious conduct in the TLD, and will provide ICANN with prompt notice of any changes to such contact details.

4.2. **Malicious Use of Orphan Glue Records.** Registry Operators shall take action to remove orphan glue records (as defined at <http://www.icann.org/en/committees/security/sac048.pdf>) when provided with evidence in written form that such records are present in connection with malicious conduct.

## **5. Supported Initial and Renewal Registration Periods**

5.1. **Initial Registration Periods.** Initial registrations of registered names may be made in the registry in one (1) year increments for up to a maximum of ten (10) years. For the avoidance of doubt, initial registrations of registered names may not exceed ten (10) years.

5.2. **Renewal Periods.** Renewal of registered names may be made in one (1) year increments for up to a maximum of ten (10) years. For the avoidance of doubt, renewal of registered names may not extend their registration period beyond ten (10) years from the time of the renewal.

## SPECIFICATION 7

### MINIMUM REQUIREMENTS FOR RIGHTS PROTECTION MECHANISMS

1. **Rights Protection Mechanisms.** Registry Operator shall implement and adhere to any rights protection mechanisms (“RPMs”) that may be mandated from time to time by ICANN. In addition to such RPMs, Registry Operator may develop and implement additional RPMs that discourage or prevent registration of domain names that violate or abuse another party’s legal rights. Registry Operator will include all ICANN mandated and independently developed RPMs in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD. Registry Operator shall implement in accordance with requirements established by ICANN each of the mandatory RPMs set forth in the Trademark Clearinghouse (posted at [url to be inserted when final Trademark Clearinghouse is adopted]), which may be revised by ICANN from time to time. Registry Operator shall not mandate that any owner of applicable intellectual property rights use any other trademark information aggregation, notification, or validation service in addition to or instead of the ICANN-designated Trademark Clearinghouse.

2. **Dispute Resolution Mechanisms.** Registry Operator will comply with the following dispute resolution mechanisms as they may be revised from time to time:

- a. the Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) and the Registration Restriction Dispute Resolution Procedure (RRDRP) adopted by ICANN (posted at [urls to be inserted when final procedure is adopted]). Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Registry Agreement) following a determination by any PDDRP or RRDRP panel and to be bound by any such determination; and
- b. the Uniform Rapid Suspension system (“URS”) adopted by ICANN (posted at [url to be inserted]), including the implementation of determinations issued by URS examiners.

## SPECIFICATION 8

### CONTINUED OPERATIONS INSTRUMENT

1. The Continued Operations Instrument shall (a) provide for sufficient financial resources to ensure the continued operation of the critical registry functions related to the TLD set forth in Section [\_\_] of the Applicant Guidebook posted at [url to be inserted upon finalization of Applicant Guidebook] (which is hereby incorporated by reference into this Specification 8) for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6<sup>th</sup>) anniversary of the Effective Date, and (b) be in the form of either (i) an irrevocable standby letter of credit, or (ii) an irrevocable cash escrow deposit, each meeting the requirements set forth in Section [\_\_] of the Applicant Guidebook posted at [url to be inserted upon finalization of Applicant Guidebook] (which is hereby incorporated by reference into this Specification 8). Registry Operator shall use its best efforts to take all actions necessary or advisable to maintain in effect the Continued Operations Instrument for a period of six (6) years from the Effective Date, and to maintain ICANN as a third party beneficiary thereof. Registry Operator shall provide to ICANN copies of all final documents relating to the Continued Operations Instrument and shall keep ICANN reasonably informed of material developments relating to the Continued Operations Instrument. Registry Operator shall not agree to, or permit, any amendment of, or waiver under, the Continued Operations Instrument or other documentation relating thereto without the prior written consent of ICANN (such consent not to be unreasonably withheld). The Continued Operations Instrument shall expressly state that ICANN may access the financial resources of the Continued Operations Instrument pursuant to Section 2.13 or Section 4.5 [*insert for government entity*: or Section 7.14] of the Registry Agreement.
2. If, notwithstanding the use of best efforts by Registry Operator to satisfy its obligations under the preceding paragraph, the Continued Operations Instrument expires or is terminated by another party thereto, in whole or in part, for any reason, prior to the sixth anniversary of the Effective Date, Registry Operator shall promptly (i) notify ICANN of such expiration or termination and the reasons therefor and (ii) arrange for an alternative instrument that provides for sufficient financial resources to ensure the continued operation of the Registry Services related to the TLD for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6) anniversary of the Effective Date (an “Alternative Instrument”). Any such Alternative Instrument shall be on terms no less favorable to ICANN than the Continued Operations Instrument and shall otherwise be in form and substance reasonably acceptable to ICANN.
3. Notwithstanding anything to the contrary contained in this Specification 8, at any time, Registry Operator may replace the Continued Operations Instrument with an alternative

instrument that (i) provides for sufficient financial resources to ensure the continued operation of the Registry Services related to the TLD for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6) anniversary of the Effective Date, and (ii) contains terms no less favorable to ICANN than the Continued Operations Instrument and is otherwise in form and substance reasonably acceptable to ICANN. In the event Registry Operation replaces the Continued Operations Instrument either pursuant to paragraph 2 or this paragraph 3, the terms of this Specification 8 shall no longer apply with respect to the original Continuing Operations Instrument, but shall thereafter apply with respect to such replacement instrument(s).

## SPECIFICATION 9

### Registry Operator Code of Conduct

1. In connection with the operation of the registry for the TLD, Registry Operator will not, and will not allow any parent, subsidiary, Affiliate, subcontractor or other related entity, to the extent such party is engaged in the provision of Registry Services with respect to the TLD (each, a “Registry Related Party”), to:
  - a. directly or indirectly show any preference or provide any special consideration to any registrar with respect to operational access to registry systems and related registry services, unless comparable opportunities to qualify for such preferences or considerations are made available to all registrars on substantially similar terms and subject to substantially similar conditions;
  - b. register domain names in its own right, except for names registered through an ICANN accredited registrar that are reasonably necessary for the management, operations and purpose of the TLD, provided, that Registry Operator may reserve names from registration pursuant to Section 2.6 of the Registry Agreement;
  - c. register names in the TLD or sub-domains of the TLD based upon proprietary access to information about searches or resolution requests by consumers for domain names not yet registered (commonly known as, "front-running");
  - d. allow any Affiliated registrar to disclose user data to Registry Operator or any Registry Related Party, except as necessary for the management and operations of the TLD, unless all unrelated third parties (including other registry operators) are given equivalent access to such user data on substantially similar terms and subject to substantially similar conditions; or
  - e. disclose confidential registry data or confidential information about its Registry Services or operations to any employee of any DNS services provider, except as necessary for the management and operations of the TLD, unless all unrelated third parties (including other registry operators) are given equivalent access to such confidential registry data or confidential information on substantially similar terms and subject to substantially similar conditions.
2. If Registry Operator or a Registry Related Party also operates as a provider of registrar or registrar-reseller services, Registry Operator will, or will cause such Registry Related Party to, ensure that such services are offered through a legal entity separate from Registry Operator, and maintain separate books of accounts with respect to its registrar or registrar-reseller operations.
3. Registry Operator will conduct internal reviews at least once per calendar year to

- ensure compliance with this Code of Conduct. Within twenty (20) calendar days following the end of each calendar year, Registry Operator will provide the results of the internal review, along with a certification executed by an executive officer of Registry Operator certifying as to Registry Operator's compliance with this Code of Conduct, via email to an address to be provided by ICANN. (ICANN may specify in the future the form and contents of such reports or that the reports be delivered by other reasonable means.) Registry Operator agrees that ICANN may publicly post such results and certification.
4. Nothing set forth herein shall: (i) limit ICANN from conducting investigations of claims of Registry Operator's non-compliance with this Code of Conduct; or (ii) provide grounds for Registry Operator to refuse to cooperate with ICANN investigations of claims of Registry Operator's non-compliance with this Code of Conduct.
  5. Nothing set forth herein shall limit the ability of Registry Operator or any Registry Related Party, to enter into arms-length transactions in the ordinary course of business with a registrar or reseller with respect to products and services unrelated in all respects to the TLD.
  6. Registry Operator may request an exemption to this Code of Conduct, and such exemption may be granted by ICANN in ICANN's reasonable discretion, if Registry Operator demonstrates to ICANN's reasonable satisfaction that (i) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator for its own exclusive use, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and (iii) application of this Code of Conduct to the TLD is not necessary to protect the public interest.

## SPECIFICATION 10

### REGISTRY PERFORMANCE SPECIFICATIONS

#### 1. Definitions

- 1.1. **DNS.** Refers to the Domain Name System as specified in RFCs 1034, 1035, and related RFCs.
- 1.2. **DNSSEC proper resolution.** There is a valid DNSSEC chain of trust from the root trust anchor to a particular domain name, e.g., a TLD, a domain name registered under a TLD, etc.
- 1.3. **EPP.** Refers to the Extensible Provisioning Protocol as specified in RFC 5730 and related RFCs.
- 1.4. **IP address.** Refers to IPv4 or IPv6 addresses without making any distinction between the two. When there is need to make a distinction, IPv4 or IPv6 is used.
- 1.5. **Probes.** Network hosts used to perform (DNS, EPP, etc.) tests (see below) that are located at various global locations.
- 1.6. **RDDS.** Registration Data Directory Services refers to the collective of WHOIS and Web-based WHOIS services as defined in Specification 4 of this Agreement.
- 1.7. **RTT.** Round-Trip Time or **RTT** refers to the time measured from the sending of the first bit of the first packet of the sequence of packets needed to make a request until the reception of the last bit of the last packet of the sequence needed to receive the response. If the client does not receive the whole sequence of packets needed to consider the response as received, the request will be considered unanswered.
- 1.8. **SLR.** Service Level Requirement is the level of service expected for a certain parameter being measured in a Service Level Agreement (SLA).

#### 2. Service Level Agreement Matrix

	Parameter	SLR (monthly basis)
<b>DNS</b>	DNS service availability	0 min downtime = 100% availability
	DNS name server availability	≤ 432 min of downtime (≈ 99%)
	TCP DNS resolution RTT	≤ 1500 ms, for at least 95% of the queries
	UDP DNS resolution RTT	≤ 500 ms, for at least 95% of the queries
	DNS update time	≤ 60 min, for at least 95% of the probes
<b>RDDS</b>	RDDS availability	≤ 864 min of downtime (≈ 98%)
	RDDS query RTT	≤ 2000 ms, for at least 95% of the queries
	RDDS update time	≤ 60 min, for at least 95% of the probes
<b>EPP</b>	EPP service availability	≤ 864 min of downtime (≈ 98%)
	EPP session-command RTT	≤ 4000 ms, for at least 90% of the commands
	EPP query-command RTT	≤ 2000 ms, for at least 90% of the commands
	EPP transform-command RTT	≤ 4000 ms, for at least 90% of the commands



Registry Operator is encouraged to do maintenance for the different services at the times and dates of statistically lower traffic for each service. However, note that there is no provision for planned outages or similar; any downtime, be it for maintenance or due to system failures, will be noted simply as downtime and counted for SLA purposes.

### 3. DNS

- 3.1. **DNS service availability.** Refers to the ability of the group of listed-as-authoritative name servers of a particular domain name (e.g., a TLD), to answer DNS queries from DNS probes. For the service to be considered available at a particular moment, at least, two of the delegated name servers registered in the DNS must have successful results from “**DNS tests**” to each of their public-DNS registered “**IP addresses**” to which the name server resolves. If 51% or more of the DNS testing probes see the service as unavailable during a given time, the DNS service will be considered unavailable.
- 3.2. **DNS name server availability.** Refers to the ability of a public-DNS registered “**IP address**” of a particular name server listed as authoritative for a domain name, to answer DNS queries from an Internet user. All the public DNS-registered “**IP address**” of all name servers of the domain name being monitored shall be tested individually. If 51% or more of the DNS testing probes get undefined/unanswered results from “**DNS tests**” to a name server “**IP address**” during a given time, the name server “**IP address**” will be considered unavailable.
- 3.3. **UDP DNS resolution RTT.** Refers to the **RTT** of the sequence of two packets, the UDP DNS query and the corresponding UDP DNS response. If the **RTT** is 5 times greater than the time specified in the relevant **SLR**, the **RTT** will be considered undefined.
- 3.4. **TCP DNS resolution RTT.** Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the DNS response for only one DNS query. If the **RTT** is 5 times greater than the time specified in the relevant **SLR**, the **RTT** will be considered undefined.
- 3.5. **DNS resolution RTT.** Refers to either “**UDP DNS resolution RTT**” or “**TCP DNS resolution RTT**”.
- 3.6. **DNS update time.** Refers to the time measured from the reception of an EPP confirmation to a transform command on a domain name, until the name servers of the parent domain name answer “**DNS queries**” with data consistent with the change made. This only applies for changes to DNS information.
- 3.7. **DNS test.** Means one non-recursive DNS query sent to a particular “**IP address**” (via UDP or TCP). If DNSSEC is offered in the queried DNS zone, for a query to be considered answered, the signatures must be positively verified against a corresponding DS record published in the parent zone or, if the parent is not signed, against a statically configured Trust Anchor. The answer to the query must contain the corresponding information from the Registry System, otherwise the query will be considered unanswered. A query with a “**DNS resolution RTT**” 5 times higher than the corresponding **SLR**, will be considered unanswered. The possible results to a DNS test are: a number in milliseconds corresponding to the “**DNS resolution RTT**” or, undefined/unanswered.
- 3.8. **Measuring DNS parameters.** Every minute, every DNS probe will make an UDP or TCP “**DNS test**” to each of the public-DNS registered “**IP addresses**” of the name servers of the domain

name being monitored. If a “**DNS test**” result is undefined/unanswered, the tested IP will be considered unavailable from that probe until it is time to make a new test.

3.9. **Collating the results from DNS probes.** The minimum number of active testing probes to consider a measurement valid is 20 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.

3.10. **Distribution of UDP and TCP queries.** DNS probes will send UDP or TCP “**DNS test**” approximating the distribution of these queries.

3.11. **Placement of DNS probes.** Probes for measuring DNS parameters shall be placed as near as possible to the DNS resolvers on the networks with the most users across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

#### 4. **RDDS**

4.1. **RDDS availability.** Refers to the ability of all the RDDS services for the TLD, to respond to queries from an Internet user with appropriate data from the relevant Registry System. If 51% or more of the RDDS testing probes see any of the RDDS services as unavailable during a given time, the RDDS will be considered unavailable.

4.2. **WHOIS query RTT.** Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the WHOIS response. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

4.3. **Web-based-WHOIS query RTT.** Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the HTTP response for only one HTTP request. If Registry Operator implements a multiple-step process to get to the information, only the last step shall be measured. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

4.4. **RDDS query RTT.** Refers to the collective of “**WHOIS query RTT**” and “**Web-based-WHOIS query RTT**”.

4.5. **RDDS update time.** Refers to the time measured from the reception of an EPP confirmation to a transform command on a domain name, host or contact, up until the servers of the RDDS services reflect the changes made.

4.6. **RDDS test.** Means one query sent to a particular “**IP address**” of one of the servers of one of the RDDS services. Queries shall be about existing objects in the Registry System and the responses must contain the corresponding information otherwise the query will be considered unanswered. Queries with an **RTT** 5 times higher than the corresponding SLR will be considered as unanswered. The possible results to an RDDS test are: a number in milliseconds corresponding to the **RTT** or undefined/unanswered.

4.7. **Measuring RDDS parameters.** Every 5 minutes, RDDS probes will select one IP address from all the public-DNS registered “**IP addresses**” of the servers for each RDDS service of the TLD being monitored and make an “**RDDS test**” to each one. If an “**RDDS test**” result is

undefined/unanswered, the corresponding RDDS service will be considered as unavailable from that probe until it is time to make a new test.

4.8. **Collating the results from RDDS probes.** The minimum number of active testing probes to consider a measurement valid is 10 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.

4.9. **Placement of RDDS probes.** Probes for measuring RDDS parameters shall be placed inside the networks with the most users across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

## 5. **EPP**

5.1. **EPP service availability.** Refers to the ability of the TLD EPP servers as a group, to respond to commands from the Registry accredited Registrars, who already have credentials to the servers. The response shall include appropriate data from the Registry System. An EPP command with “**EPP command RTT**” 5 times higher than the corresponding SLR will be considered as unanswered. If 51% or more of the EPP testing probes see the EPP service as unavailable during a given time, the EPP service will be considered unavailable.

5.2. **EPP session-command RTT.** Refers to the **RTT** of the sequence of packets that includes the sending of a session command plus the reception of the EPP response for only one EPP session command. For the login command it will include packets needed for starting the TCP session. For the logout command it will include packets needed for closing the TCP session. EPP session commands are those described in section 2.9.1 of EPP RFC 5730. If the **RTT** is 5 times or more the corresponding SLR, the **RTT** will be considered undefined.

5.3. **EPP query-command RTT.** Refers to the **RTT** of the sequence of packets that includes the sending of a query command plus the reception of the EPP response for only one EPP query command. It does not include packets needed for the start or close of either the EPP or the TCP session. EPP query commands are those described in section 2.9.2 of EPP RFC 5730. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

5.4. **EPP transform-command RTT.** Refers to the **RTT** of the sequence of packets that includes the sending of a transform command plus the reception of the EPP response for only one EPP transform command. It does not include packets needed for the start or close of either the EPP or the TCP session. EPP transform commands are those described in section 2.9.3 of EPP RFC 5730. If the **RTT** is 5 times or more the corresponding SLR, the **RTT** will be considered undefined.

5.5. **EPP command RTT.** Refers to “**EPP session-command RTT**”, “**EPP query-command RTT**” or “**EPP transform-command RTT**”.

5.6. **EPP test.** Means one EPP command sent to a particular “**IP address**” for one of the EPP servers. Query and transform commands, with the exception of “create”, shall be about existing objects in the Registry System. The response shall include appropriate data from the Registry System. The possible results to an EPP test are: a number in milliseconds corresponding to the “**EPP command RTT**” or undefined/unanswered.

5.7. **Measuring EPP parameters.** Every 5 minutes, EPP probes will select one “**IP address**“ of the EPP servers of the TLD being monitored and make an “**EPP test**”; every time they should alternate between the 3 different types of commands and between the commands inside each category. If an “**EPP test**” result is undefined/unanswered, the EPP service will be considered as unavailable from that probe until it is time to make a new test.

5.8. **Collating the results from EPP probes.** The minimum number of active testing probes to consider a measurement valid is 5 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.

5.9. **Placement of EPP probes.** Probes for measuring EPP parameters shall be placed inside or close to Registrars points of access to the Internet across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

6. **Emergency Thresholds**

The following matrix presents the Emergency Thresholds that, if reached by any of the services mentioned above for a TLD, would cause the Emergency Transition of the Critical Functions as specified in Section 2.13. of this Agreement.

<b>Critical Function</b>	<b>Emergency Threshold</b>
DNS service (all servers)	4-hour downtime / week
DNSSEC proper resolution	4-hour downtime / week
EPP	24-hour downtime / week
RDDS (WHOIS/Web-based WHOIS)	24-hour downtime / week
Data Escrow	Breach of the Registry Agreement caused by missing escrow deposits as described in Specification 2, Part B, Section 6.

7. **Emergency Escalation**

Escalation is strictly for purposes of notifying and investigating possible or potential issues in relation to monitored services. The initiation of any escalation and the subsequent cooperative investigations do not in themselves imply that a monitored service has failed its performance requirements.

Escalations shall be carried out between ICANN and Registry Operators, Registrars and Registry Operator, and Registrars and ICANN. Registry Operators and ICANN must provide said emergency operations departments. Current contacts must be maintained between ICANN and Registry Operators and published to Registrars, where relevant to their role in escalations, prior to any processing of an Emergency Escalation by all related parties, and kept current at all times.

7.1. **Emergency Escalation initiated by ICANN**

Upon reaching 10% of the Emergency thresholds as described in Section 6, ICANN’s emergency operations will initiate an Emergency Escalation with the relevant Registry Operator. An Emergency Escalation consists of the following minimum elements: electronic (i.e., email or SMS) and/or voice contact notification to the Registry Operator’s emergency operations department with detailed information concerning the issue being escalated, including evidence of monitoring failures, cooperative trouble-shooting of the monitoring failure between ICANN staff and the Registry Operator, and the

commitment to begin the process of rectifying issues with either the monitoring service or the service being monitoring.

### 7.2. Emergency Escalation initiated by Registrars

Registry Operator will maintain an emergency operations departments prepared to handle emergency requests from registrars. In the event that a registrar is unable to conduct EPP transactions with the Registry because of a fault with the Registry Service and is unable to either contact (through ICANN mandated methods of communication) the Registry Operator, or the Registry Operator is unable or unwilling to address the fault, the registrar may initiate an Emergency Escalation to the emergency operations department of ICANN. ICANN then may initiate an Emergency Escalation with the Registry Operator as explained above.

### 7.3. Notifications of Outages and Maintenance

In the event that a Registry Operator plans maintenance, they will provide related notice to the ICANN emergency operations department, at least, 24 hours ahead of that maintenance. ICANN's emergency operations department will note planned maintenance times, and suspend Emergency Escalation services for the monitored services during the expected maintenance outage period.

If Registry Operator declares an outage, as per their contractual obligations with ICANN, on services under SLA and performance requirements, it will notify the ICANN emergency operations department. During that declared outage, ICANN's emergency operations department will note and suspend Emergency Escalation services for the monitored services involved.

## 8. Covenants of Performance Measurement

8.1. **No interference.** Registry Operator shall not interfere with measurement **Probes**, including any form of preferential treatment of the requests for the monitored services. Registry Operator shall respond to the measurement tests described in this Specification as it would do with any other request from Internet users (for DNS and RDDS) or registrars (for EPP).

8.2. **ICANN testing registrar.** Registry Operator agrees that ICANN will have a testing registrar used for purposes of measuring the **SLRs** described above. Registry Operator agrees to not provide any differentiated treatment for the testing registrar other than no billing of the transactions. ICANN shall not use the registrar for registering domain names (or other registry objects) for itself or others, except for the purposes of verifying contractual compliance with the conditions described in this Agreement.

**TRADEMARK CLEARINGHOUSE**  
**4 JUNE 2012**

**1. PURPOSE OF CLEARINGHOUSE**

- 1.1 The Trademark Clearinghouse is a central repository for information to be authenticated, stored, and disseminated, pertaining to the rights of trademark holders. ICANN will enter into an arms-length contract with service provider or providers, awarding the right to serve as a Trademark Clearinghouse Service Provider, i.e., to accept, authenticate, validate and facilitate the transmission of information related to certain trademarks.
- 1.2 The Clearinghouse will be required to separate its two primary functions: (i) authentication and validation of the trademarks in the Clearinghouse; and (ii) serving as a database to provide information to the new gTLD registries to support pre-launch Sunrise or Trademark Claims Services. Whether the same provider could serve both functions or whether two providers will be determined in the tender process.
- 1.3 The Registry shall only need to connect with one centralized database to obtain the information it needs to conduct its Sunrise or Trademark Claims Services regardless of the details of the Trademark Clearinghouse Service Provider's contract(s) with ICANN.
- 1.4 Trademark Clearinghouse Service Provider may provide ancillary services, as long as those services and any data used for those services are kept separate from the Clearinghouse database.
- 1.5 The Clearinghouse database will be a repository of authenticated information and disseminator of the information to a limited number of recipients. Its functions will be performed in accordance with a limited charter, and will not have any discretionary powers other than what will be set out in the charter with respect to authentication and validation. The Clearinghouse administrator(s) cannot create policy. Before material changes are made to the Clearinghouse functions, they will be reviewed through the ICANN public participation model.
- 1.6 Inclusion in the Clearinghouse is not proof of any right, nor does it create any legal rights. Failure to submit trademarks into the Clearinghouse should not be perceived to be lack of vigilance by trademark holders or a waiver of any rights, nor can any negative influence be drawn from such failure.

**2. SERVICE PROVIDERS**

- 2.1 The selection of Trademark Clearinghouse Service Provider(s) will be subject to predetermined criteria, but the foremost considerations will be the ability to store, authenticate, validate and disseminate the data at the highest level of technical stability

and security without interference with the integrity or timeliness of the registration process or registry operations.

2.2 Functions – Authentication/Validation; Database Administration. Public commentary has suggested that the best way to protect the integrity of the data and to avoid concerns that arise through sole-source providers would be to separate the functions of database administration and data authentication/validation.

2.2.1 One entity will authenticate registrations ensuring the word marks qualify as registered or are court-validated word marks or word marks that are protected by statute or treaty. This entity would also be asked to ensure that proof of use of marks is provided, which can be demonstrated by furnishing a signed declaration and one specimen of current use.

2.2.2 The second entity will maintain the database and provide Sunrise and Trademark Claims Services (described below).

2.3 Discretion will be used, balancing effectiveness, security and other important factors, to determine whether ICANN will contract with one or two entities - one to authenticate and validate, and the other to, administer in order to preserve integrity of the data.

2.4 Contractual Relationship.

2.4.1 The Clearinghouse shall be separate and independent from ICANN. It will operate based on market needs and collect fees from those who use its services. ICANN may coordinate or specify interfaces used by registries and registrars, and provide some oversight or quality assurance function to ensure rights protection goals are appropriately met.

2.4.2 The Trademark Clearinghouse Service Provider(s) (authenticator/validator and administrator) will be selected through an open and transparent process to ensure low costs and reliable, consistent service for all those utilizing the Clearinghouse services.

2.4.3 The Service Provider(s) providing the authentication of the trademarks submitted into the Clearinghouse shall adhere to rigorous standards and requirements that would be specified in an ICANN contractual agreement.

2.4.4 The contract shall include service level requirements, customer service availability (with the goal of seven days per week, 24 hours per day, 365 days per year), data escrow requirements, and equal access requirements for all persons and entities required to access the Trademark Clearinghouse database.

- 2.4.5 To the extent practicable, the contract should also include indemnification by Service Provider for errors such as false positives for participants such as Registries, ICANN, Registrants and Registrars.
- 2.5. Service Provider Requirements. The Clearinghouse Service Provider(s) should utilize regional marks authentication service providers (whether directly or through sub-contractors) to take advantage of local experts who understand the nuances of the trademark in question. Examples of specific performance criteria details in the contract award criteria and service-level-agreements are:
  - 2.5.1 provide 24 hour accessibility seven days a week (database administrator);
  - 2.5.2 employ systems that are technically reliable and secure (database administrator);
  - 2.5.3 use globally accessible and scalable systems so that multiple marks from multiple sources in multiple languages can be accommodated and sufficiently cataloged (database administrator and validator);
  - 2.5.4 accept submissions from all over the world - the entry point for trademark holders to submit their data into the Clearinghouse database could be regional entities or one entity;
  - 2.5.5 allow for multiple languages, with exact implementation details to be determined;
  - 2.5.6 provide access to the Registrants to verify and research Trademark Claims Notices;
  - 2.5.7 have the relevant experience in database administration, validation or authentication, as well as accessibility to and knowledge of the various relevant trademark laws (database administrator and authenticator); and
  - 2.5.8 ensure through performance requirements, including those involving interface with registries and registrars, that neither domain name registration timeliness, nor registry or registrar operations will be hindered (database administrator).

### **3. CRITERIA FOR TRADEMARK INCLUSION IN CLEARINGHOUSE**

- 3.1 The trademark holder will submit to one entity – a single entity for entry will facilitate access to the entire Clearinghouse database. If regional entry points are used, ICANN will publish an information page describing how to locate regional submission points. Regardless of the entry point into the Clearinghouse, the authentication procedures established will be uniform.
- 3.2 The standards for inclusion in the Clearinghouse are:
  - 3.2.1 Nationally or regionally registered word marks from all jurisdictions.
  - 3.2.2 Any word mark that has been validated through a court of law or other judicial proceeding.



- 3.2.3 Any word mark protected by a statute or treaty in effect at the time the mark is submitted to the Clearinghouse for inclusion.
  - 3.2.4 Other marks that constitute intellectual property.
  - 3.2.5 Protections afforded to trademark registrations do not extend to applications for registrations, marks within any opposition period or registered marks that were the subject of successful invalidation, cancellation or rectification proceedings.
- 3.3 The type of data supporting entry of a registered word mark into the Clearinghouse must include a copy of the registration or the relevant ownership information, including the requisite registration number(s), the jurisdictions where the registrations have issued, and the name of the owner of record.
- 3.4 Data supporting entry of a judicially validated word mark into the Clearinghouse must include the court documents, properly entered by the court, evidencing the validation of a given word mark.
- 3.5 Data supporting entry into the Clearinghouse of word marks protected by a statute or treaty in effect at the time the mark is submitted to the Clearinghouse for inclusion, must include a copy of the relevant portion of the statute or treaty and evidence of its effective date.
- 3.6 Data supporting entry into the Clearinghouse of marks that constitute intellectual property of types other than those set forth in sections 3.2.1-3.2.3 above shall be determined by the registry operator and the Clearinghouse based on the services any given registry operator chooses to provide.
- 3.7 Registrations that include top level extensions such as “icann.org” or “.icann” as the word mark will not be permitted in the Clearinghouse regardless of whether that mark has been registered or it has been otherwise validated or protected (e.g., if a mark existed for icann.org or .icann, neither will not be permitted in the Clearinghouse).
- 3.8 All mark holders seeking to have their marks included in the Clearinghouse will be required to submit a declaration, affidavit, or other sworn statement that the information provided is true and current and has not been supplied for an improper purpose. The mark holder will also be required to attest that it will keep the information supplied to the Clearinghouse current so that if, during the time the mark is included in the Clearinghouse, a registration gets cancelled or is transferred to another entity, or in the case of a court- or Clearinghouse-validated mark the holder abandons use of the mark, the mark holder has an affirmative obligation to notify the Clearinghouse. There will be penalties for failing to keep information current. Moreover, it is anticipated that there will be a process whereby registrations can be

removed from the Clearinghouse if it is discovered that the marks are procured by fraud or if the data is inaccurate.

- 3.9 As an additional safeguard, the data will have to be renewed periodically by any mark holder wishing to remain in the Clearinghouse. Electronic submission should facilitate this process and minimize the cost associated with it. The reason for periodic authentication is to streamline the efficiencies of the Clearinghouse and the information the registry operators will need to process and limit the marks at issue to the ones that are in use.

#### **4. USE OF CLEARINGHOUSE DATA**

- 4.1 All mark holders seeking to have their marks included in the Clearinghouse will have to consent to the use of their information by the Clearinghouse. However, such consent would extend only to use in connection with the stated purpose of the Trademark Clearinghouse Database for Sunrise or Trademark Claims services. The reason for such a provision would be to presently prevent the Clearinghouse from using the data in other ways without permission. There shall be no bar on the Trademark Clearinghouse Service Provider or other third party service providers providing ancillary services on a non-exclusive basis.
- 4.2 In order not to create a competitive advantage, the data in the Trademark Clearinghouse should be licensed to competitors interested in providing ancillary services on equal and non-discriminatory terms and on commercially reasonable terms if the mark holders agree. Accordingly, two licensing options will be offered to the mark holder: (a) a license to use its data for all required features of the Trademark Clearinghouse, with no permitted use of such data for ancillary services either by the Trademark Clearinghouse Service Provider or any other entity; or (b) license to use its data for the mandatory features of the Trademark Clearinghouse and for any ancillary uses reasonably related to the protection of marks in new gTLDs, which would include a license to allow the Clearinghouse to license the use and data in the Trademark Clearinghouse to competitors that also provide those ancillary services. The specific implementation details will be determined, and all terms and conditions related to the provision of such services shall be included in the Trademark Clearinghouse Service Provider's contract with ICANN and subject to ICANN review.
- 4.3 Access by a prospective registrant to verify and research Trademark Claims Notices shall not be considered an ancillary service, and shall be provided at no cost to the Registrant. Misuse of the data by the service providers would be grounds for immediate termination.

## **5. DATA AUTHENTICATION AND VALIDATION GUIDELINES**

- 5.1 One core function for inclusion in the Clearinghouse would be to authenticate that the data meets certain minimum criteria. As such, the following minimum criteria are suggested:
- 5.1.1 An acceptable list of data authentication sources, i.e. the web sites of patent and trademark offices throughout the world, third party providers who can obtain information from various trademark offices;
  - 5.1.2 Name, address and contact information of the applicant is accurate, current and matches that of the registered owner of the trademarks listed;
  - 5.1.3 Electronic contact information is provided and accurate;
  - 5.1.4 The registration numbers and countries match the information in the respective trademark office database for that registration number.
- 5.2 For validation of marks by the Clearinghouse that were not protected via a court, statute or treaty, the mark holder shall be required to provide evidence of use of the mark in connection with the bona fide offering for sale of goods or services prior to application for inclusion in the Clearinghouse. Acceptable evidence of use will be a signed declaration and a single specimen of current use, which might consist of labels, tags, containers, advertising, brochures, screen shots, or something else that evidences current use.

## **6. MANDATORY RIGHTS PROTECTION MECHANISMS**

All new gTLD registries will be required to use the Trademark Clearinghouse to support its pre-launch or initial launch period rights protection mechanisms (RPMs). These RPMs, at a minimum, must consist of a Trademark Claims service and a Sunrise process.

- 6.1 Trademark Claims service
- 6.1.1 New gTLD Registry Operators must provide Trademark Claims services during an initial launch period for marks in the Trademark Clearinghouse. This launch period must occur for at least the first 60 days that registration is open for general registration.
  - 6.1.2 A Trademark Claims service is intended to provide clear notice to the prospective registrant of the scope of the mark holder's rights in order to minimize the chilling effect on registrants (Trademark Claims Notice). A form that describes the required elements is attached. The specific statement by

prospective registrant warrants that: (i) the prospective registrant has received notification that the mark(s) is included in the Clearinghouse; (ii) the prospective registrant has received and understood the notice; and (iii) to the best of the prospective registrant's knowledge, the registration and use of the requested domain name will not infringe on the rights that are the subject of the notice.

- 6.1.3 The Trademark Claims Notice should provide the prospective registrant access to the Trademark Clearinghouse Database information referenced in the Trademark Claims Notice to enhance understanding of the Trademark rights being claimed by the trademark holder. These links (or other sources) shall be provided in real time without cost to the prospective registrant. Preferably, the Trademark Claims Notice should be provided in the language used for the rest of the interaction with the registrar or registry, but it is anticipated that at the very least in the most appropriate UN-sponsored language (as specified by the prospective registrant or registrar/registry).
- 6.1.4 If the domain name is registered in the Clearinghouse, the registrar (again through an interface with the Clearinghouse) will promptly notify the mark holders(s) of the registration after it is effectuated.
- 6.1.5 The Trademark Clearinghouse Database will be structured to report to registries when registrants are attempting to register a domain name that is considered an "Identical Match" with the mark in the Clearinghouse. "Identical Match" means that the domain name consists of the complete and identical textual elements of the mark. In this regard: (a) spaces contained within a mark that are either replaced by hyphens (and vice versa) or omitted; (b) only certain special characters contained within a trademark are spelled out with appropriate words describing it (@ and &); (c) punctuation or special characters contained within a mark that are unable to be used in a second-level domain name may either be (i) omitted or (ii) replaced by spaces, hyphens or underscores and still be considered identical matches; and (d) no plural and no "marks contained" would qualify for inclusion.

## 6.2 Sunrise service

- 6.2.1 Sunrise registration services must be offered for a minimum of 30 days during the pre-launch phase and notice must be provided to all trademark holders in the Clearinghouse if someone is seeking a sunrise registration. This notice will be provided to holders of marks in the Clearinghouse that are an Identical Match to the name to be registered during Sunrise.
- 6.2.2 Sunrise Registration Process. For a Sunrise service, sunrise eligibility requirements (SERs) will be met as a minimum requirement, verified by Clearinghouse data, and

incorporate a Sunrise Dispute Resolution Policy (SDRP).

- 6.2.3 The proposed SERs include: (i) ownership of a mark (that satisfies the criteria in section 7.2 below), (ii) optional registry elected requirements re: international class of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.
- 6.2.4 The proposed SDRP must allow challenges based on at least the following four grounds: (i) at time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.
- 6.2.5 The Clearinghouse will maintain the SERs, validate and authenticate marks, as applicable, and hear challenges.

## **7. PROTECTION FOR MARKS IN CLEARINGHOUSE**

The scope of registered marks that must be honored by registries in providing Trademarks Claims services is broader than those that must be honored by registries in Sunrise services.

- 7.1 For Trademark Claims services - Registries must recognize and honor all word marks that have been or are: (i) nationally or regionally registered; (ii) court-validated; or (iii) specifically protected by a statute or treaty in effect at the time the mark is submitted to the Clearinghouse for inclusion. No demonstration of use is required.
- 7.2 For Sunrise services - Registries must recognize and honor all word marks: (i) nationally or regionally registered and for which proof of use – which can be a declaration and a single specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse; or (ii) that have been court-validated; or (iii) that are specifically protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008.

## **8. COSTS OF CLEARINGHOUSE**

Costs should be completely borne by the parties utilizing the services. Trademark holders will pay to register the Clearinghouse, and registries will pay for Trademark Claims and Sunrise services. Registrars and others who avail themselves of Clearinghouse services will pay the Clearinghouse directly.

## **TRADEMARK NOTICE**

[In English and the language of the registration agreement]

You have received this Trademark Notice because you have applied for a domain name which matches at least one trademark record submitted to the Trademark Clearinghouse.

You may or may not be entitled to register the domain name depending on your intended use and whether it is the same or significantly overlaps with the trademarks listed below.

***Your rights to register this domain name may or may not be protected as noncommercial use or "fair use" by the laws of your country. [in bold italics or all caps]***

Please read the trademark information below carefully, including the trademarks, jurisdictions, and goods and service for which the trademarks are registered. Please be aware that not all jurisdictions review trademark applications closely, so some of the trademark information below may exist in a national or regional registry which does not conduct a thorough or substantive review of trademark rights prior to registration.

***If you have questions, you may want to consult an attorney or legal expert on trademarks and intellectual property for guidance.***

If you continue with this registration, you represent that, you have received and you understand this notice and to the best of your knowledge, your registration and use of the requested domain name will not infringe on the trademark rights listed below.

The following [number] Trademarks are listed in the Trademark Clearinghouse:

1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact:

[with links to the TM registrations as listed in the TM Clearinghouse]

2. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant:

Trademark Registrant Contact:

\*\*\*\*\* [with links to the TM registrations as listed in the TM Clearinghouse]

X. 1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact:

**UNIFORM RAPID SUSPENSION SYSTEM (“URS”)  
4 JUNE 2012**

**DRAFT PROCEDURE**

**1. Complaint**

1.1 Filing the Complaint

- a) Proceedings are initiated by electronically filing with a URS Provider a Complaint outlining the trademark rights and the actions complained of entitling the trademark holder to relief.
- b) Each Complaint must be accompanied by the appropriate fee, which is under consideration. The fees will be non-refundable.
- c) One Complaint is acceptable for multiple related companies against one Registrant, but only if the companies complaining are related. Multiple Registrants can be named in one Complaint only if it can be shown that they are in some way related. There will not be a minimum number of domain names imposed as a prerequisite to filing.

1.2 Contents of the Complaint

The form of the Complaint will be simple and as formulaic as possible. There will be a Form Complaint. The Form Complaint shall include space for the following:

- 1.2.1 Name, email address and other contact information for the Complaining Party (Parties).
- 1.2.2 Name, email address and contact information for any person authorized to act on behalf of Complaining Parties.
- 1.2.3 Name of Registrant (i.e. relevant information available from Whois) and Whois listed available contact information for the relevant domain name(s).
- 1.2.4 The specific domain name(s) that are the subject of the Complaint. For each domain name, the Complainant shall include a copy of the currently available Whois information and a description and copy, if available, of the offending portion of the website content associated with each domain name that is the subject of the Complaint.
- 1.2.5 The specific trademark/service marks upon which the Complaint is based and pursuant to which the Complaining Parties are asserting their rights to them, for which goods and in connection with what services.
- 1.2.6 A statement of the grounds upon which the Complaint is based setting forth facts showing that the Complaining Party is entitled to relief, namely:

1.2.6.1. that the registered domain name is identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use; or (ii) that has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

- a. Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use in commerce - was submitted to, and validated by, the Trademark Clearinghouse)
- b. Proof of use may also be submitted directly with the URS Complaint.

and

1.2.6.2. that the Registrant has no legitimate right or interest to the domain name; and

1.2.6.3. that the domain was registered and is being used in bad faith.

A non-exclusive list of circumstances that demonstrate bad faith registration and use by the Registrant include:

- a. Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of pocket costs directly related to the domain name; or
- b. Registrant has registered the domain name in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that Registrant has engaged in a pattern of such conduct; or
- c. Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- d. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location.



1.2.7 A box in which the Complainant may submit up to 500 words of explanatory free form text.

1.2.8. An attestation that the Complaint is not being filed for any improper basis and that there is a sufficient good faith basis for filing the Complaint.

## **2. Fees**

2.1 URS Provider will charge fees to the Complainant. Fees are thought to be in the range of USD 300 per proceeding, but will ultimately be set by the Provider.

2.2 Complaints listing fifteen (15) or more disputed domain names registered by the same registrant will be subject to a Response Fee which will be refundable to the prevailing party. Under no circumstances shall the Response Fee exceed the fee charged to the Complainant.

## **3. Administrative Review**

3.1 Complaints will be subjected to an initial administrative review by the URS Provider for compliance with the filing requirements. This is a review to determine that the Complaint contains all of the necessary information, and is not a determination as to whether a *prima facie* case has been established.

3.2 The Administrative Review shall be conducted within two (2) business days of submission of the Complaint to the URS Provider.

3.3 Given the rapid nature of this Procedure, and the intended low level of required fees, there will be no opportunity to correct inadequacies in the filing requirements.

3.4 If a Complaint is deemed non-compliant with filing requirements, the Complaint will be dismissed without prejudice to the Complainant filing a new complaint. The initial filing fee shall not be refunded in these circumstances.

## **4. Notice and Locking of Domain**

4.1 Upon completion of the Administrative Review, the URS Provider must immediately notify the registry operator (via email) ("Notice of Complaint") after the Complaint has been deemed compliant with the filing requirements. Within 24 hours of receipt of the Notice of Complaint from the URS Provider, the registry operator shall "lock" the domain, meaning the registry shall restrict all changes to the registration data, including transfer and deletion of the domain names, but the name will continue to resolve. The registry operator will notify the URS Provider immediately upon locking the domain name ("Notice of Lock").

4.2 Within 24 hours after receiving Notice of Lock from the registry operator, the URS Provider shall notify the Registrant of the Complaint, sending a hard copy of the Notice of Complaint to the addresses listed in the Whois contact information, and providing an electronic copy of the Complaint, advising of the locked status, as well as the potential

effects if the Registrant fails to respond and defend against the Complaint. Notices must be clear and understandable to Registrants located globally. The Notice of Complaint shall be in English and translated by the Provider into the predominant language used in the registrant's country or territory.

- 4.3 All Notices to the Registrant shall be sent through email, fax (where available) and postal mail. The Complaint and accompanying exhibits, if any, shall be served electronically.
- 4.4 The URS Provider shall also electronically notify the registrar of record for the domain name at issue via the addresses the registrar has on file with ICANN.

## **5. The Response**

- 5.1 A Registrant will have 14 calendar days from the date the URS Provider sent its Notice of Complaint to the Registrant to electronically file a Response with the URS Provider. Upon receipt, the Provider will electronically send a copy of the Response, and accompanying exhibits, if any, to the Complainant.
- 5.2 No filing fee will be charged if the Registrant files its Response prior to being declared in default or not more than thirty (30) days following a Determination. For Responses filed more than thirty (30) days after a Determination, the Registrant should pay a reasonable non-refundable fee for re-examination, plus a Response Fee as set forth in section 2.2 above if the Complaint lists twenty-six (26) or more disputed domain names against the same registrant. The Response Fee will be refundable to the prevailing party.
- 5.3 Upon request by the Registrant, a limited extension of time to respond may be granted by the URS Provider if there is a good faith basis for doing so. In no event shall the extension be for more than seven (7) calendar days.
- 5.4 The Response shall be no longer than 2,500 words, excluding attachments, and the content of the Response should include the following:
  - 5.4.1 Confirmation of Registrant data.
  - 5.4.2 Specific admission or denial of each of the grounds upon which the Complaint is based.
  - 5.4.3 Any defense which contradicts the Complainant's claims.
  - 5.4.4 A statement that the contents are true and accurate.
- 5.5 In keeping with the intended expedited nature of the URS and the remedy afforded to a successful Complainant, affirmative claims for relief by the Registrant will not be permitted except for an allegation that the Complainant has filed an abusive Complaint.
- 5.6 Once the Response is filed, and the URS Provider determines that the Response is compliant with the filing requirements of a Response (which shall be on the same day),

the Complaint, Response and supporting materials will immediately be sent to a qualified Examiner, selected by the URS Provider, for review and Determination. All materials submitted are considered by the Examiner.

- 5.7 The Response can contain any facts refuting the claim of bad faith registration by setting out any of the following circumstances:
- 5.7.1 Before any notice to Registrant of the dispute, Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
  - 5.7.2 Registrant (as an individual, business or other organization) has been commonly known by the domain name, even if Registrant has acquired no trademark or service mark rights; or
  - 5.7.3 Registrant is making a legitimate or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Such claims, if found by the Examiner to be proved based on its evaluation of all evidence, shall result in a finding in favor of the Registrant.

- 5.8 The Registrant may also assert Defenses to the Complaint to demonstrate that the Registrant's use of the domain name is not in bad faith by showing, for example, one of the following:
- 5.8.1 The domain name is generic or descriptive and the Registrant is making fair use of it.
  - 5.8.2 The domain name sites are operated solely in tribute to or in criticism of a person or business that is found by the Examiner to be fair use.
  - 5.8.3 Registrant's holding of the domain name is consistent with an express term of a written agreement entered into by the disputing Parties and that is still in effect.
  - 5.8.4 The domain name is not part of a wider pattern or series of abusive registrations because the Domain Name is of a significantly different type or character to other domain names registered by the Registrant.
- 5.9 Other factors for the Examiner to consider:
- 5.9.1 Trading in domain names for profit, and holding a large portfolio of domain names, are of themselves not indicia of bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner must review each case on its merits.
  - 5.9.2 Sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) does not in and of itself constitute bad faith under the URS.

Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner will take into account:

5.9.2.1. the nature of the domain name;

5.9.2.2. the nature of the advertising links on any parking page associated with the domain name; and

5.9.2.3. that the use of the domain name is ultimately the Registrant's responsibility.

## **6. Default**

- 6.1 If at the expiration of the 14-day answer period (or extended period if granted), the Registrant does not submit an answer, the Complaint proceeds to Default.
- 6.2 In either case, the Provider shall provide Notice of Default via email to the Complainant and Registrant, and via mail and fax to Registrant. During the Default period, the Registrant will be prohibited from changing content found on the site to argue that it is now a legitimate use and will also be prohibited from changing the Whois information.
- 6.3 All Default cases proceed to Examination for review on the merits of the claim.
- 6.4 If after Examination in Default cases, the Examiner rules in favor of Complainant, Registrant shall have the right to seek relief from Default via de novo review by filing a Response at any time up to six months after the date of the Notice of Default. The Registrant will also be entitled to request an extension of an additional six months if the extension is requested before the expiration of the initial six-month period.
- 6.5 If a Response is filed after: (i) the Respondent was in Default (so long as the Response is filed in accordance with 6.4 above); and (ii) proper notice is provided in accordance with the notice requirements set forth above, the domain name shall again resolve to the original IP address as soon as practical, but shall remain locked as if the Response had been filed in a timely manner before Default. The filing of a Response after Default is not an appeal; the case is considered as if responded to in a timely manner.
- 6.5 If after Examination in Default case, the Examiner rules in favor of Registrant, the Provider shall notify the Registry Operator to unlock the name and return full control of the domain name registration to the Registrant.

## **7. Examiners**

- 7.1 One Examiner selected by the Provider will preside over a URS proceeding.
- 7.2 Examiners should have demonstrable relevant legal background, such as in trademark law, and shall be trained and certified in URS proceedings. Specifically, Examiners shall be provided with instructions on the URS elements and defenses and how to conduct the examination of a URS proceeding.

- 7.3 Examiners used by any given URS Provider shall be rotated to the extent feasible to avoid “forum or examiner shopping.” URS Providers are strongly encouraged to work equally with all certified Examiners, with reasonable exceptions (such as language needs, non-performance, or malfeasance) to be determined on a case by case analysis.

## **8. Examination Standards and Burden of Proof**

- 8.1 The standards that the qualified Examiner shall apply when rendering its Determination are whether:
- 8.1.2 The registered domain name is identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use; or (ii) that has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty currently in effect and that was in effect at the time the URS Complaint is filed; and
- 8.1.2.1 Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse.
- 8.1.2.2 Proof of use may also be submitted directly with the URS Complaint.
- 8.1.2 The Registrant has no legitimate right or interest to the domain name; and
- 8.1.3 The domain was registered and is being used in a bad faith.
- 8.2 The burden of proof shall be clear and convincing evidence.
- 8.3 For a URS matter to conclude in favor of the Complainant, the Examiner shall render a Determination that there is no genuine issue of material fact. Such Determination may include that: (i) the Complainant has rights to the name; and (ii) the Registrant has no rights or legitimate interest in the name. This means that the Complainant must present adequate evidence to substantiate its trademark rights in the domain name (e.g., evidence of a trademark registration and evidence that the domain name was registered and is being used in bad faith in violation of the URS).
- 8.4 If the Examiner finds that the Complainant has not met its burden, or that genuine issues of material fact remain in regards to any of the elements, the Examiner will reject the Complaint under the relief available under the URS. That is, the Complaint shall be dismissed if the Examiner finds that evidence was presented or is available to the Examiner to indicate that the use of the domain name in question is a non-infringing use or fair use of the trademark.
- 8.5 Where there is any genuine contestable issue as to whether a domain name registration and use of a trademark are in bad faith, the Complaint will be denied, the URS proceeding will be terminated without prejudice, e.g., a UDRP, court proceeding or

another URS may be filed. The URS is not intended for use in any proceedings with open questions of fact, but only clear cases of trademark abuse.

- 8.6 To restate in another way, if the Examiner finds that all three standards are satisfied by clear and convincing evidence and that there is no genuine contestable issue, then the Examiner shall issue a Determination in favor of the Complainant. If the Examiner finds that any of the standards have not been satisfied, then the Examiner shall deny the relief requested, thereby terminating the URS proceeding without prejudice to the Complainant to proceed with an action in court of competent jurisdiction or under the UDRP.

## **9. Determination**

- 9.1 There will be no discovery or hearing; the evidence will be the materials submitted with the Complaint and the Response, and those materials will serve as the entire record used by the Examiner to make a Determination.
- 9.2 If the Complainant satisfies the burden of proof, the Examiner will issue a Determination in favor of the Complainant. The Determination will be published on the URS Provider's website. However, there should be no other preclusive effect of the Determination other than the URS proceeding to which it is rendered.
- 9.3 If the Complainant does not satisfy the burden of proof, the URS proceeding is terminated and full control of the domain name registration shall be returned to the Registrant.
- 9.4 Determinations resulting from URS proceedings will be published by the service provider in a format specified by ICANN.
- 9.5 Determinations shall also be emailed by the URS Provider to the Registrant, the Complainant, the Registrar, and the Registry Operator, and shall specify the remedy and required actions of the registry operator to comply with the Determination.
- 9.6 To conduct URS proceedings on an expedited basis, examination should begin immediately upon the earlier of the expiration of a fourteen (14) day Response period (or extended period if granted), or upon the submission of the Response. A Determination shall be rendered on an expedited basis, with the stated goal that it be rendered within three (3) business days from when Examination began. Absent extraordinary circumstances, however, Determinations must be issued no later than five (5) days after the Response is filed. Implementation details will be developed to accommodate the needs of service providers once they are selected. (The tender offer for potential service providers will indicate that timeliness will be a factor in the award decision.)

## **10. Remedy**

- 10.1 If the Determination is in favor of the Complainant, the decision shall be immediately transmitted to the registry operator.

- 10.2 Immediately upon receipt of the Determination, the registry operator shall suspend the domain name, which shall remain suspended for the balance of the registration period and would not resolve to the original web site. The nameservers shall be redirected to an informational web page provided by the URS Provider about the URS. The URS Provider shall not be allowed to offer any other services on such page, nor shall it directly or indirectly use the web page for advertising purposes (either for itself or any other third party). The Whois for the domain name shall continue to display all of the information of the original Registrant except for the redirection of the nameservers. In addition, the Whois shall reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration.
- 10.3 There shall be an option for a successful Complainant to extend the registration period for one additional year at commercial rates.
- 10.4 No other remedies should be available in the event of a Determination in favor of the Complainant.

## **11. Abusive Complaints**

- 11.1 The URS shall incorporate penalties for abuse of the process by trademark holders.
- 11.2 In the event a party is deemed to have filed two (2) abusive Complaints, or one (1) “deliberate material falsehood,” that party shall be barred from utilizing the URS for one-year following the date of issuance of a Determination finding a complainant to have: (i) filed its second abusive complaint; or (ii) filed a deliberate material falsehood.
- 11.3 A Complaint may be deemed abusive if the Examiner determines:
  - 11.3.1 it was presented solely for improper purpose such as to harass, cause unnecessary delay, or needlessly increase the cost of doing business; and
  - 11.3.2 (i) the claims or other assertions were not warranted by any existing law or the URS standards; or (ii) the factual contentions lacked any evidentiary support
- 11.4 An Examiner may find that Complaint contained a deliberate material falsehood if it contained an assertion of fact, which at the time it was made, was made with the knowledge that it was false and which, if true, would have an impact on the outcome on the URS proceeding.
- 11.5 Two findings of “deliberate material falsehood” shall permanently bar the party from utilizing the URS.
- 11.6 URS Providers shall be required to develop a process for identifying and tracking barred parties, and parties whom Examiners have determined submitted abusive complaints or deliberate material falsehoods.

- 11.7 The dismissal of a complaint for administrative reasons or a ruling on the merits, in itself, shall not be evidence of filing an abusive complaint.
- 11.8 A finding that filing of a complaint was abusive or contained a deliberate materially falsehood can be appealed solely on the grounds that an Examiner abused his/her discretion, or acted in an arbitrary or capricious manner.

## **12. Appeal**

- 12.1 Either party shall have a right to seek a de novo appeal of the Determination based on the existing record within the URS proceeding for a reasonable fee to cover the costs of the appeal. An appellant must identify the specific grounds on which the party is appealing, including why the appellant claims the Examiner's Determination was incorrect.
- 12.2 The fees for an appeal shall be borne by the appellant. A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint. The Appeal Panel, to be selected by the Provider, may request, in its sole discretion, further statements or documents from either of the Parties.
- 12.3 Filing an appeal shall not change the domain name's resolution. For example, if the domain name no longer resolves to the original nameservers because of a Determination in favor of the Complainant, the domain name shall continue to point to the informational page provided by the URS Provider. If the domain name resolves to the original nameservers because of a Determination in favor of the registrant, it shall continue to resolve during the appeal process.
- 12.4 An appeal must be filed within 14 days after a Determination is issued and any Response must be filed 14 days after an appeal is filed.
- 12.5 If a respondent has sought relief from Default by filing a Response within six months (or the extended period if applicable) of issuance of initial Determination, an appeal must be filed within 14 days from date the second Determination is issued and any Response must be filed 14 days after the appeal is filed.
- 12.6 Notice of appeal and findings by the appeal panel shall be sent by the URS Provider via e-mail to the Registrant, the Complainant, the Registrar, and the Registry Operator.
- 12.7 The Providers' rules and procedures for appeals, other than those stated above, shall apply.

## **13. Other Available Remedies**

The URS Determination shall not preclude any other remedies available to the appellant, such as UDRP (if appellant is the Complainant), or other remedies as may be available in a court of competition jurisdiction. A URS Determination for or against a party shall not prejudice the



party in UDRP or any other proceedings.

**14. Review of URS**

A review of the URS procedure will be initiated one year after the first Examiner Determination is issued. Upon completion of the review, a report shall be published regarding the usage of the procedure, including statistical information, and posted for public comment on the usefulness and effectiveness of the procedure.

**TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE (TRADEMARK PDDRP)**  
**4 JUNE 2012**

**1. Parties to the Dispute**

The parties to the dispute will be the trademark holder and the gTLD registry operator. ICANN shall not be a party.

**2. Applicable Rules**

2.1 This procedure is intended to cover Trademark post-delegation dispute resolution proceedings generally. To the extent more than one Trademark PDDRP provider ("Provider") is selected to implement the Trademark PDDRP, each Provider may have additional rules that must be followed when filing a Complaint. The following are general procedures to be followed by all Providers.

2.2 In the Registry Agreement, the registry operator agrees to participate in all post-delegation procedures and be bound by the resulting Determinations.

**3. Language**

3.1 The language of all submissions and proceedings under the procedure will be English.

3.2 Parties may submit supporting evidence in their original language, provided and subject to the authority of the Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

**4. Communications and Time Limits**

4.1 All communications with the Provider must be submitted electronically.

4.2 For the purpose of determining the date of commencement of a time limit, a notice or other communication will be deemed to have been received on the day that it is transmitted to the appropriate contact person designated by the parties.

4.3 For the purpose of determining compliance with a time limit, a notice or other communication will be deemed to have been sent, made or transmitted on the day that it is dispatched.

4.4 For the purpose of calculating a period of time under this procedure, such period will begin to run on the day following the date of receipt of a notice or other communication.

4.5 All references to day limits shall be considered as calendar days unless otherwise specified.

## 5. Standing

- 5.1 The mandatory administrative proceeding will commence when a third-party complainant (“Complainant”) has filed a Complaint with a Provider asserting that the Complainant is a trademark holder (which may include either registered or unregistered marks as defined below) claiming that one or more of its marks have been infringed, and thereby the Complainant has been harmed, by the registry operator’s manner of operation or use of the gTLD.
- 5.2 Before proceeding to the merits of a dispute, and before the Respondent is required to submit a substantive Response, or pay any fees, the Provider shall appoint a special one-person Panel to perform an initial “threshold” review (“Threshold Review Panel”).

## 6. Standards

For purposes of these standards, “registry operator” shall include entities directly or indirectly controlling, controlled by or under common control with a registry operator, whether by ownership or control of voting securities, by contract or otherwise where ‘control’ means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether by ownership or control of voting securities, by contract or otherwise.

### 6.1 Top Level:

A complainant must assert and prove, by clear and convincing evidence, that the registry operator’s affirmative conduct in its operation or use of its gTLD string that is identical or confusingly similar to the complainant’s mark, causes or materially contributes to the gTLD doing one of the following:

*(a) taking unfair advantage of the distinctive character or the reputation of the complainant’s mark; or*

*(b) impairing the distinctive character or the reputation of the complainant’s mark; or*

*(c) creating a likelihood of confusion with the complainant’s mark.*

An example of infringement at the top-level is where a TLD string is identical to a trademark and then the registry operator holds itself out as the beneficiary of the mark.

### 6.2 Second Level

Complainants are required to prove, by clear and convincing evidence that, through the registry operator’s affirmative conduct:

*(a) there is a substantial pattern or practice of specific bad faith intent by the registry operator to profit from the sale of trademark infringing domain names; and*

*(b) the registry operator's bad faith intent to profit from the systematic registration of domain names within the gTLD that are identical or confusingly similar to the complainant's mark, which:*

*(i) takes unfair advantage of the distinctive character or the reputation of the complainant's mark; or*

*(ii) impairs the distinctive character or the reputation of the complainant's mark, or*

*(iii) creates a likelihood of confusion with the complainant's mark.*

In other words, it is not sufficient to show that the registry operator is on notice of possible trademark infringement through registrations in the gTLD. The registry operator is not liable under the PDDRP solely because: (i) infringing names are in its registry; or (ii) the registry operator knows that infringing names are in its registry; or (iii) the registry operator did not monitor the registrations within its registry.

A registry operator is not liable under the PDDRP for any domain name registration that: (i) is registered by a person or entity that is unaffiliated with the registry operator; (ii) is registered without the direct or indirect encouragement, inducement, initiation or direction of any person or entity affiliated with the registry operator; and (iii) provides no direct or indirect benefit to the registry operator other than the typical registration fee (which may include other fees collected incidental to the registration process for value added services such as enhanced registration security).

An example of infringement at the second level is where a registry operator has a pattern or practice of actively and systematically encouraging registrants to register second level domain names and to take unfair advantage of the trademark to the extent and degree that bad faith is apparent. Another example of infringement at the second level is where a registry operator has a pattern or practice of acting as the registrant or beneficial user of infringing registrations, to monetize and profit in bad faith.

## **7. Complaint**

### **7.1 Filing:**

The Complaint will be filed electronically. Once the Administrative Review has been completed and the Provider deems the Complaint to be in compliance, the Provider will electronically serve the Complaint and serve a paper notice on the registry operator that is the subject of the Complaint ("Notice of Complaint") consistent with the contact information listed in the Registry Agreement.

### **7.2 Content:**

**7.2.1** The name and contact information, including address, phone, and email address, of the Complainant, and, to the best of Complainant's knowledge, the name and address of the current owner of the registration.

- 7.2.2 The name and contact information, including address, phone, and email address of any person authorized to act on behalf of Complainant.
- 7.2.3 A statement of the nature of the dispute, and any relevant evidence, which shall include:
- (a) The particular legal rights claim being asserted, the marks that form the basis for the dispute and a short and plain statement of the basis upon which the Complaint is being filed.
  - (b) A detailed explanation of how the Complainant's claim meets the requirements for filing a claim pursuant to that particular ground or standard.
  - (c) A detailed explanation of the validity of the Complaint and why the Complainant is entitled to relief.
  - (d) A statement that the Complainant has at least 30 days prior to filing the Complaint notified the registry operator in writing of: (i) its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks and (ii) its willingness to meet to resolve the issue.
  - (e) An explanation of how the mark is used by the Complainant (including the type of goods/services, period and territory of use – including all on-line usage) or otherwise protected by statute, treaty or has been validated by a court or the Clearinghouse.
  - (f) Copies of any documents that the Complainant considers to evidence its basis for relief, including evidence of current use of the Trademark at issue in the Complaint and domain name registrations.
  - (g) A statement that the proceedings are not being brought for any improper purpose.
  - (h) A statement describing how the registration at issue has harmed the trademark owner.
- 7.3 Complaints will be limited 5,000 words and 20 pages, excluding attachments, unless the Provider determines that additional material is necessary.
- 7.4 At the same time the Complaint is filed, the Complainant will pay a non-refundable filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within 10 days of the receipt of the Complaint by the Provider, the Complaint will be dismissed without prejudice.

## **8. Administrative Review of the Complaint**

- 8.1 All Complaints will be reviewed by the Provider within five (5) business days of submission to the Provider to determine whether the Complaint contains all necessary information and complies with the procedural rules.
- 8.2 If the Provider finds that the Complaint complies with procedural rules, the Complaint will be deemed filed, and the proceedings will continue to the Threshold Review. If the Provider finds that the Complaint does not comply with procedural rules, it will electronically notify the Complainant of such non-compliance and provide the Complainant five (5) business days to submit an amended Complaint. If the Provider does not receive an amended Complaint within the five (5) business days provided, it will dismiss the Complaint and close the proceedings without prejudice to the Complainant's submission of a new Complaint that complies with procedural rules. Filing fees will not be refunded.
- 8.3 If deemed compliant, the Provider will electronically serve the Complaint on the registry operator and serve the Notice of Complaint consistent with the contact information listed in the Registry Agreement.

## **9. Threshold Review**

- 9.1 Provider shall establish a Threshold Review Panel, consisting of one panelist selected by the Provider, for each proceeding within five (5) business days after completion of Administrative Review and the Complaint has been deemed compliant with procedural rules.
- 9.2 The Threshold Review Panel shall be tasked with determining whether the Complainant satisfies the following criteria:
  - 9.2.1 The Complainant is a holder of a word mark that: (i) is nationally or regionally registered and that is in current use; or (ii) has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty at the time the PDDRP complaint is filed;
    - 9.2.1.1 Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse
    - 9.2.1.2 Proof of use may also be submitted directly with the Complaint.
  - 9.2.2 The Complainant has asserted that it has been materially harmed as a result of trademark infringement;
  - 9.2.3 The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Top Level Standards herein  
OR

The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Second Level Standards herein;

- 9.2.4 The Complainant has asserted that: (i) at least 30 days prior to filing the Complaint the Complainant notified the registry operator in writing of its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks, and its willingness to meet to resolve the issue; (ii) whether the registry operator responded to the Complainant's notice of specific concerns; and (iii) if the registry operator did respond, that the Complainant attempted to engage in good faith discussions to resolve the issue prior to initiating the PDDRP.
- 9.3 Within ten (10) business days of date Provider served Notice of Complaint, the registry operator shall have the opportunity, but is not required, to submit papers to support its position as to the Complainant's standing at the Threshold Review stage. If the registry operator chooses to file such papers, it must pay a filing fee.
- 9.4 If the registry operator submits papers, the Complainant shall have ten (10) business days to submit an opposition.
- 9.5 The Threshold Review Panel shall have ten (10) business days from due date of Complainant's opposition or the due date of the registry operator's papers if none were filed, to issue Threshold Determination.
- 9.6 Provider shall electronically serve the Threshold Determination on all parties.
- 9.7 If the Complainant has not satisfied the Threshold Review criteria, the Provider will dismiss the proceedings on the grounds that the Complainant lacks standing and declare that the registry operator is the prevailing party.
- 9.8 If the Threshold Review Panel determines that the Complainant has standing and satisfied the criteria then the Provider will commence the proceedings on the merits.

## **10. Response to the Complaint**

- 10.1 The registry operator must file a Response to each Complaint within forty-five (45) days after the date of the Threshold Review Panel Declaration.
- 10.2 The Response will comply with the rules for filing of a Complaint and will contain the name and contact information for the registry operator, as well as a point-by-point response to the statements made in the Complaint.
- 10.3 The Response must be filed with the Provider and the Provider must serve it upon the Complainant in electronic form with a hard-copy notice that it has been served.

- 10.4 Service of the Response will be deemed effective, and the time will start to run for a Reply, upon confirmation that the electronic Response and hard-copy notice of the Response was sent by the Provider to the addresses provided by the Complainant.
- 10.5 If the registry operator believes the Complaint is without merit, it will affirmatively plead in its Response the specific grounds for the claim.

## **11. Reply**

- 11.1 The Complainant is permitted ten (10) days from Service of the Response to submit a Reply addressing the statements made in the Response showing why the Complaint is not “without merit.” A Reply may not introduce new facts or evidence into the record, but shall only be used to address statements made in the Response. Any new facts or evidence introduced in a Response shall be disregarded by the Expert Panel.
- 11.2 Once the Complaint, Response and Reply (as necessary) are filed and served, a Panel will be appointed and provided with all submissions.

## **12. Default**

- 12.1 If the registry operator fails to respond to the Complaint, it will be deemed to be in default.
- 12.2 Limited rights to set aside the finding of default will be established by the Provider, but in no event will they be permitted absent a showing of good cause to set aside the finding of default.
- 12.3 The Provider shall provide notice of Default via email to the Complainant and registry operator.
- 12.4 All Default cases shall proceed to Expert Determination on the merits.

## **13. Expert Panel**

- 13.1 The Provider shall establish an Expert Panel within 21 days after receiving the Reply, or if no Reply is filed, within 21 days after the Reply was due to be filed.
- 13.2 The Provider shall appoint a one-person Expert Panel, unless any party requests a three- member Expert Panel. No Threshold Panel member shall serve as an Expert Panel member in the same Trademark PDDRP proceeding.
- 13.3 In the case where either party requests a three-member Expert Panel, each party (or each side of the dispute if a matter has been consolidated) shall select an Expert and the two selected Experts shall select the third Expert Panel member. Such selection shall be made pursuant to the Providers rules or procedures. Trademark PDDRP panelists within a Provider shall be rotated to the extent feasible.



- 13.4 Expert Panel member must be independent of the parties to the post-delegation challenge. Each Provider will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing a panelist for lack of independence.

**14. Costs**

- 14.1 The Provider will estimate the costs for the proceedings that it administers under this procedure in accordance with the applicable Provider rules. Such costs will be estimated to cover the administrative fees of the Provider, the Threshold Review Panel and the Expert Panel, and are intended to be reasonable.
- 14.2 The Complainant shall be required to pay the filing fee as set forth above in the “Complaint” section, and shall be required to submit the full amount of the Provider estimated administrative fees, the Threshold Review Panel fees and the Expert Panel fees at the outset of the proceedings. Fifty percent of that full amount shall be in cash (or cash equivalent) to cover the Complainant’s share of the proceedings and the other 50% shall be in either cash (or cash equivalent), or in bond, to cover the registry operator’s share if the registry operator prevails.
- 14.3 If the Panel declares the Complainant to be the prevailing party, the registry operator is required to reimburse Complainant for all Panel and Provider fees incurred. Failure to do shall be deemed a violation of the Trademark PDDRP and a breach of the Registry Agreement, subject to remedies available under the Agreement up to and including termination.

**15. Discovery**

- 15.1 Whether and to what extent discovery is allowed is at the discretion of the Panel, whether made on the Panel’s own accord, or upon request from the Parties.
- 15.2 If permitted, discovery will be limited to that for which each Party has a substantial need.
- 15.3 In extraordinary circumstances, the Provider may appoint experts to be paid for by the Parties, request live or written witness testimony, or request limited exchange of documents.
- 15.4 At the close of discovery, if permitted by the Expert Panel, the Parties will make a final evidentiary submission, the timing and sequence to be determined by the Provider in consultation with the Expert Panel.

**16. Hearings**

- 16.1 Disputes under this Procedure will be resolved without a hearing unless either party requests a hearing or the Expert Panel determines on its own initiative that one is necessary.

- 16.2 If a hearing is held, videoconferences or teleconferences should be used if at all possible. If not possible, then the Expert Panel will select a place for hearing if the Parties cannot agree.
- 16.3 Hearings should last no more than one day, except in the most extraordinary circumstances.
- 16.4 All dispute resolution proceedings will be conducted in English.

## **17. Burden of Proof**

The Complainant bears the burden of proving the allegations in the Complaint; the burden must be by clear and convincing evidence.

## **18. Remedies**

- 18.1 Since registrants are not a party to the action, a recommended remedy cannot take the form of deleting, transferring or suspending registrations (except to the extent registrants have been shown to be officers, directors, agents, employees, or entities under common control with a registry operator).
  - 18.2 Recommended remedies will not include monetary damages or sanctions to be paid to any party other than fees awarded pursuant to section 14.
  - 18.3 The Expert Panel may recommend a variety of graduated enforcement tools against the registry operator if it the Expert Panel determines that the registry operator is liable under this Trademark PDDRP, including:
    - 18.3.1 Remedial measures for the registry to employ to ensure against allowing future infringing registrations, which may be in addition to what is required under the registry agreement, except that the remedial measures shall not:
      - (a) Require the Registry Operator to monitor registrations not related to the names at issue in the PDDRP proceeding; or
      - (b) Direct actions by the registry operator that are contrary to those required under the Registry Agreement;
    - 18.3.2 Suspension of accepting new domain name registrations in the gTLD until such time as the violation(s) identified in the Determination is(are) cured or a set period of time;
- OR,
- 18.3.3 In extraordinary circumstances where the registry operator acted with malice, providing for the termination of a Registry Agreement.

- 18.4 In making its recommendation of the appropriate remedy, the Expert Panel will consider the ongoing harm to the Complainant, as well as the harm the remedies will create for other, unrelated, good faith domain name registrants operating within the gTLD.
- 18.5 The Expert Panel may also determine whether the Complaint was filed “without merit,” and, if so, award the appropriate sanctions on a graduated scale, including:
  - 18.5.1 Temporary bans from filing Complaints;
  - 18.5.2 Imposition of costs of registry operator, including reasonable attorney fees; and
  - 18.5.3 Permanent bans from filing Complaints after being banned temporarily.
- 18.6 Imposition of remedies shall be at the discretion of ICANN, but absent extraordinary circumstances, those remedies will be in line with the remedies recommended by the Expert Panel.

## **19. The Expert Panel Determination**

- 19.1 The Provider and the Expert Panel will make reasonable efforts to ensure that the Expert Determination is issued within 45 days of the appointment of the Expert Panel and absent good cause, in no event later than 60 days after the appointment of the Expert Panel.
- 19.2 The Expert Panel will render a written Determination. The Expert Determination will state whether or not the Complaint is factually founded and provide the reasons for that Determination. The Expert Determination should be publicly available and searchable on the Provider’s web site.
- 19.3 The Expert Determination may further include a recommendation of specific remedies. Costs and fees to the Provider, to the extent not already paid, will be paid within thirty (30) days of the Expert Panel’s Determination.
- 19.4 The Expert Determination shall state which party is the prevailing party.
- 19.5 While the Expert Determination that a registry operator is liable under the standards of the Trademark PDDRP shall be taken into consideration, ICANN will have the authority to impose the remedies, if any, that ICANN deems appropriate given the circumstances of each matter.

## **20. Appeal of Expert Determination**

- 20.1 Either party shall have a right to seek a de novo appeal of the Expert Determination of liability or recommended remedy based on the existing record within the Trademark PDDRP proceeding for a reasonable fee to cover the costs of the appeal.
- 20.2 An appeal must be filed with the Provider and served on all parties within 20 days after an Expert Determination is issued and a response to the appeal must be filed within 20

days after the appeal. Manner and calculation of service deadlines shall in consistent with those set forth in Section 4 above, "Communication and Time Limits."

- 20.3 A three-member Appeal Panel is to be selected by the Provider, but no member of the Appeal Panel shall also have been an Expert Panel member.
- 20.4 The fees for an appeal in the first instance shall be borne by the appellant.
- 20.5 A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint.
- 20.6 The Appeal Panel may request at its sole discretion, further statements or evidence from any party regardless of whether the evidence pre-dates the filing of the Complaint if the Appeal Panel determines such evidence is relevant.
- 20.7 The prevailing party shall be entitled to an award of costs of appeal.
- 20.8 The Providers rules and procedures for appeals, other than those stated above, shall apply.

## **21. Challenge of a Remedy**

- 21.1 ICANN shall not implement a remedy for violation of the Trademark PDDRP for at least 20 days after the issuance of an Expert Determination, providing time for an appeal to be filed.
- 21.2 If an appeal is filed, ICANN shall stay its implementation of a remedy pending resolution of the appeal.
- 21.3 If ICANN decides to implement a remedy for violation of the Trademark PDDRP, ICANN will wait ten (10) business days (as observed in the location of its principal office) after notifying the registry operator of its decision. ICANN will then implement the decision unless it has received from the registry operator during that ten (10) business-day period official documentation that the registry operator has either: (a) commenced a lawsuit against the Complainant in a court of competent jurisdiction challenging the Expert Determination of liability against the registry operator, or (b) challenged the intended remedy by initiating dispute resolution under the provisions of its Registry Agreement. If ICANN receives such documentation within the ten (10) business day period, it will not seek to implement the remedy in furtherance of the Trademark PDDRP until it receives: (i) evidence of a resolution between the Complainant and the registry operator; (ii) evidence that registry operator's lawsuit against Complainant has been dismissed or withdrawn; or (iii) a copy of an order from the dispute resolution provider selected pursuant to the Registry Agreement dismissing the dispute against ICANN whether by reason of agreement of the parties or upon determination of the merits.

- 21.4 The registry operator may challenge ICANN's imposition of a remedy imposed in furtherance of an Expert Determination that the registry operator is liable under the PDDRP, to the extent a challenge is warranted, by initiating dispute resolution under the provisions of its Registry Agreement. Any arbitration shall be determined in accordance with the parties' respective rights and duties under the Registry Agreement. Neither the Expert Determination nor the decision of ICANN to implement a remedy is intended to prejudice the registry operator in any way in the determination of the arbitration dispute. Any remedy involving a termination of the Registry Agreement must be according to the terms and conditions of the termination provision of the Registry Agreement.
- 21.5 Nothing herein shall be deemed to prohibit ICANN from imposing remedies at any time and of any nature it is otherwise entitled to impose for a registry operator's non-compliance with its Registry Agreement.

**22. Availability of Court or Other Administrative Proceedings**

- 22.1 The Trademark PDDRP is not intended as an exclusive procedure and does not preclude individuals from seeking remedies in courts of law, including, as applicable, review of an Expert Determination as to liability.
- 22.2 In those cases where a Party submits documented proof to the Provider that a Court action involving the same Parties, facts and circumstances as the Trademark PDDRP was instituted prior to the filing date of the Complaint in the Trademark PDDRP, the Provider shall suspend or terminate the Trademark PDDRP.

**REGISTRY RESTRICTIONS DISPUTE RESOLUTION PROCEDURE (RRDRP)<sup>1</sup>**  
**4 JUNE 2012**

**1. Parties to the Dispute**

The parties to the dispute will be the harmed established institution and the gTLD registry operator. ICANN shall not be a party.

**2. Applicable Rules**

2.1 This procedure is intended to cover these dispute resolution proceedings generally. To the extent more than one RRDRP provider (“Provider”) is selected to implement the RRDRP, each Provider may have additional rules and procedures that must be followed when filing a Complaint. The following are the general procedure to be followed by all Providers.

2.2 In any new community-based gTLD registry agreement, the registry operator shall be required to agree to participate in the RRDRP and be bound by the resulting Determinations.

**3. Language**

3.1 The language of all submissions and proceedings under the procedure will be English.

3.2 Parties may submit supporting evidence in their original language, provided and subject to the authority of the RRDRP Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

**4. Communications and Time Limits**

4.1 All communications with the Provider must be filed electronically.

4.2 For the purpose of determining the date of commencement of a time limit, a notice or other communication will be deemed to have been received on the day that it is transmitted to the appropriate contact person designated by the parties.

4.3 For the purpose of determining compliance with a time limit, a notice or other communication will be deemed to have been sent, made or transmitted on the day that it is dispatched.

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<sup>1</sup> Initial complaints that a Registry has failed to comply with registration restrictions shall be processed through a Registry Restriction Problem Report System (RRPRS) using an online form similar to the Whois Data Problem Report System (WDPRS) at InterNIC.net. A nominal processing fee could serve to decrease frivolous complaints. The registry operator shall receive a copy of the complaint and will be required to take reasonable steps to investigate (and remedy if warranted) the reported non-compliance. The Complainant will have the option to escalate the complaint in accordance with this RRDRP, if the alleged non-compliance continues. Failure by the Registry to address the complaint to complainant’s satisfaction does not itself give the complainant standing to file an RRDRP complaint.

- 4.4 For the purpose of calculating a period of time under this procedure, such period will begin to run on the day following the date of receipt of a notice or other communication.
- 4.5 All references to day limits shall be considered as calendar days unless otherwise specified.

## **5. Standing**

- 5.1 The mandatory administrative proceeding will commence when a third-party complainant (“Complainant”) has filed a Complaint with a Provider asserting that the Complainant is a harmed established institution as a result of the community-based gTLD registry operator not complying with the registration restrictions set out in the Registry Agreement.
- 5.2 Established institutions associated with defined communities are eligible to file a community objection. The “defined community” must be a community related to the gTLD string in the application that is the subject of the dispute. To qualify for standing for a community claim, the Complainant must prove both: it is an established institution, and has an ongoing relationship with a defined community that consists of a restricted population that the gTLD supports.
- 5.3 Complainants must have filed a claim through the Registry Restriction Problem Report System (RRPRS) to have standing to file an RRDRP.
- 5.4 The Panel will determine standing and the Expert Determination will include a statement of the Complainant’s standing.

## **6. Standards**

- 6.1 For a claim to be successful, the claims must prove that:
  - 6.1.1 The community invoked by the objector is a defined community;
  - 6.1.2 There is a strong association between the community invoked and the gTLD label or string;
  - 6.1.3 The TLD operator violated the terms of the community-based restrictions in its agreement;
  - 6.1.4 There is a measureable harm to the Complainant and the community named by the objector.

## **7. Complaint**

- 7.1 Filing:

The Complaint will be filed electronically. Once the Administrative Review has been completed and the Provider deems the Complaint to be in compliance, the Provider will electronically serve the Complaint and serve a hard copy and fax notice on the registry operator consistent with the contact information listed in the Registry Agreement.

7.2 Content:

- 7.2.1 The name and contact information, including address, phone, and email address, of the Complainant, the registry operator and, to the best of Complainant's knowledge, the name and address of the current owner of the registration.
- 7.2.2 The name and contact information, including address, phone, and email address of any person authorized to act on behalf of Complainant.
- 7.2.3 A statement of the nature of the dispute, which must include:
  - 7.2.3.1 The particular registration restrictions in the Registry Agreement with which the registry operator is failing to comply; and
  - 7.2.3.2 A detailed explanation of how the registry operator's failure to comply with the identified registration restrictions has caused harm to the complainant.
- 7.2.4 A statement that the proceedings are not being brought for any improper purpose.
- 7.2.5 A statement that the Complainant has filed a claim through the RRPRS and that the RRPRS process has concluded.
- 7.2.6 A statement that Complainant has not filed a Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) complaint relating to the same or similar facts or circumstances.

7.3 Complaints will be limited to 5,000 words and 20 pages, excluding attachments, unless the Provider determines that additional material is necessary.

7.4 Any supporting documents should be filed with the Complaint.

7.5 At the same time the Complaint is filed, the Complainant will pay a filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within 10 days of the receipt of the Complaint by the Provider, the Complaint will be dismissed without prejudice to the Complainant to file another complaint.

## **8. Administrative Review of the Complaint**

8.1 All Complaints will be reviewed within five (5) business days of submission by panelists designated by the applicable Provider to determine whether the Complainant has complied with the procedural rules.



- 8.2 If the Provider finds that the Complaint complies with procedural rules, the Complaint will be deemed filed, and the proceedings will continue. If the Provider finds that the Complaint does not comply with procedural rules, it will electronically notify the Complainant of such non-compliance and provide the Complainant five (5) business days to submit an amended Complaint. If the Provider does not receive an amended Complaint within the five (5) business days provided, it will dismiss the Complaint and close the proceedings without prejudice to the Complainant's submission of a new Complaint that complies with procedural rules. Filing fees will not be refunded if the Complaint is deemed not in compliance.
- 8.3 If deemed compliant, the Provider will electronically serve the Complaint on the registry operator and serve a paper notice on the registry operator that is the subject of the Complaint consistent with the contact information listed in the Registry Agreement.

## **9. Response to the Complaint**

- 9.1 The registry operator must file a response to each Complaint within thirty (30) days of service the Complaint.
- 9.2 The Response will comply with the rules for filing of a Complaint and will contain the names and contact information for the registry operator, as well as a point by point response to the statements made in the Complaint.
- 9.3 The Response must be electronically filed with the Provider and the Provider must serve it upon the Complainant in electronic form with a hard-copy notice that it has been served.
- 9.4 Service of the Response will be deemed effective, and the time will start to run for a Reply, upon electronic transmission of the Response.
- 9.5 If the registry operator believes the Complaint is without merit, it will affirmatively plead in its Response the specific grounds for the claim.
- 9.6 At the same time the Response is filed, the registry operator will pay a filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within ten (10) days of the receipt of the Response by the Provider, the Response will be deemed improper and not considered in the proceedings, but the matter will proceed to Determination.

## **10 Reply**

- 10.1 The Complainant is permitted ten (10) days from Service of the Response to submit a Reply addressing the statements made in the Response showing why the Complaint is not "without merit." A Reply may not introduce new facts or evidence into the record, but shall only be used to address statements made in the Response. Any new facts or evidence introduced in a Response shall be disregarded by the Expert Panel.
- 10.2 Once the Complaint, Response and Reply (as necessary) are filed and served, a Panel will be appointed and provided with all submissions.

## **11. Default**

- 11.1 If the registry operator fails to respond to the Complaint, it will be deemed to be in default.
- 11.2 Limited rights to set aside the finding of default will be established by the Provider, but in no event will it be permitted absent a showing of good cause to set aside the finding of Default.
- 11.3 The Provider shall provide Notice of Default via email to the Complainant and registry operator.
- 11.4 All Default cases shall proceed to Expert Determination on the merits.

## **12. Expert Panel**

- 12.1 The Provider shall select and appoint a single-member Expert Panel within (21) days after receiving the Reply, or if no Reply is filed, within 21 days after the Reply was due to be filed.
- 12.2 The Provider will appoint a one-person Expert Panel unless any party requests a three-member Expert Panel.
- 12.3 In the case where either party requests a three-member Expert Panel, each party (or each side of the dispute if a matter has been consolidated) shall select an Expert and the two selected Experts shall select the third Expert Panel member. Such selection shall be made pursuant to the Provider's rules or procedures. RRDRP panelists within a Provider shall be rotated to the extent feasible.
- 12.4 Expert Panel members must be independent of the parties to the post-delegation challenge. Each Provider will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing an Expert for lack of independence.

## **13. Costs**

- 13.1 The Provider will estimate the costs for the proceedings that it administers under this procedure in accordance with the applicable Provider Rules. Such costs will cover the administrative fees, including the Filing and Response Fee, of the Provider, and the Expert Panel fees, and are intended to be reasonable.
- 13.2 The Complainant shall be required to pay the Filing fee as set forth above in the "Complaint" section, and shall be required to submit the full amount of the other Provider-estimated administrative fees, including the Response Fee, and the Expert Panel fees at the outset of the proceedings. Fifty percent of that full amount shall be in cash (or cash equivalent) to cover the Complainant's share of the proceedings and the other 50% shall be in either cash (or cash equivalent), or in bond, to cover the registry operator's share if the registry operator prevails.

- 13.3 If the Panel declares the Complainant to be the prevailing party, the registry operator is required to reimburse Complainant for all Panel and Provider fees incurred, including the Filing Fee. Failure to do so shall be deemed a violation of the RRDRP and a breach of the Registry Agreement, subject to remedies available under the Agreement up to and including termination.
- 13.4 If the Panel declares the registry operator to be the prevailing party, the Provider shall reimburse the registry operator for its Response Fee.

#### **14. Discovery/Evidence**

- 14.1 In order to achieve the goal of resolving disputes rapidly and at a reasonable cost, discovery will generally not be permitted. In exceptional cases, the Expert Panel may require a party to provide additional evidence.
- 14.2 If permitted, discovery will be limited to that for which each Party has a substantial need.
- 14.3 Without a specific request from the Parties, but only in extraordinary circumstances, the Expert Panel may request that the Provider appoint experts to be paid for by the Parties, request live or written witness testimony, or request limited exchange of documents.

#### **15. Hearings**

- 15.1 Disputes under this RRDRP will usually be resolved without a hearing.
- 15.2 The Expert Panel may decide on its own initiative, or at the request of a party, to hold a hearing. However, the presumption is that the Expert Panel will render Determinations based on written submissions and without a hearing.
- 15.3 If a request for a hearing is granted, videoconferences or teleconferences should be used if at all possible. If not possible, then the Expert Panel will select a place for hearing if the parties cannot agree.
- 15.4 Hearings should last no more than one day, except in the most exceptional circumstances.
- 15.5 If the Expert Panel grants one party's request for a hearing, notwithstanding the other party's opposition, the Expert Panel is encouraged to apportion the hearing costs to the requesting party as the Expert Panel deems appropriate.
- 15.6 All dispute resolution proceedings will be conducted in English.

#### **16. Burden of Proof**

The Complainant bears the burden of proving its claim; the burden should be by a preponderance of the evidence.

## **17. Recommended Remedies**

- 17.1 Since registrants of domain names registered in violation of the agreement restriction are not a party to the action, a recommended remedy cannot take the form of deleting, transferring or suspending registrations that were made in violation of the agreement restrictions (except to the extent registrants have been shown to be officers, directors, agents, employees, or entities under common control with a registry operator).
- 17.2 Recommended remedies will not include monetary damages or sanctions to be paid to any party other than fees awarded pursuant to section 13.
- 17.3 The Expert Panel may recommend a variety of graduated enforcement tools against the registry operator if the Expert Panel determines that the registry operator allowed registrations outside the scope of its promised limitations, including:
- 17.3.1 Remedial measures, which may be in addition to requirements under the registry agreement, for the registry to employ to ensure against allowing future registrations that do not comply with community-based limitations; except that the remedial measures shall not:
- (a) Require the registry operator to monitor registrations not related to the names at issue in the RRDRP proceeding, or
  - (b) direct actions by the registry operator that are contrary to those required under the registry agreement
- 17.3.2 Suspension of accepting new domain name registrations in the gTLD until such time as the violation(s) identified in the Determination is(are) cured or a set period of time;
- OR,
- 17.3.3 In extraordinary circumstances where the registry operator acted with malice providing for the termination of a registry agreement.
- 17.3 In making its recommendation of the appropriate remedy, the Expert Panel will consider the ongoing harm to the Complainant, as well as the harm the remedies will create for other, unrelated, good faith domain name registrants operating within the gTLD.

## **18. The Expert Determination**

- 18.1 The Provider and the Expert Panel will make reasonable efforts to ensure that the Expert Determination is rendered within 45 days of the appointment of the Expert Panel and absent good cause, in no event later than 60 days after the appointment of the Expert Panel.
- 18.2 The Expert Panel will render a written Determination. The Expert Determination will state whether or not the Complaint is factually founded and provide the reasons for its

Determination. The Expert Determination should be publicly available and searchable on the Provider's web site.

- 18.3 The Expert Determination may further include a recommendation of specific remedies. Costs and fees to the Provider, to the extent not already paid, will be paid within thirty (30) days of the Expert Determination.
- 18.4 The Expert Determination shall state which party is the prevailing party.
- 18.5 While the Expert Determination that a community-based restricted gTLD registry operator was not meeting its obligations to police the registration and use of domains within the applicable restrictions shall be considered, ICANN shall have the authority to impose the remedies ICANN deems appropriate, given the circumstances of each matter.

## **19. Appeal of Expert Determination**

- 19.1 Either party shall have a right to seek a de novo appeal of the Expert Determination based on the existing record within the RDRP proceeding for a reasonable fee to cover the costs of the appeal.
- 19.2 An appeal must be filed with the Provider and served on all parties within 20 days after an Expert Determination is issued and a response to the appeal must be filed within 20 days after the appeal. Manner and calculation of service deadlines shall in consistent with those set forth in Section 4 above, "Communication and Time Limits."
- 19.3 A three-member Appeal Panel is to be selected by the Provider, but no member of the Appeal Panel shall also have been an Expert Panel member.
- 19.4 The fees for an appeal in the first instance shall be borne by the appellant.
- 19.5 A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint.
- 19.6 The Appeal Panel may request at its sole discretion, further statements or evidence from any party regardless of whether the evidence pre-dates the filing of the Complaint if the Appeal Panel determines such evidence is relevant.
- 19.7 The prevailing party shall be entitled to an award of costs of appeal.
- 19.8 The Providers rules and procedures for appeals, other than those stated above, shall apply.

## **20. Breach**

- 20.1 If the Expert determines that the registry operator is in breach, ICANN will then proceed to notify the registry operator that it is in breach. The registry operator will be given the opportunity to cure the breach as called for in the Registry Agreement.

- 20.2 If registry operator fails to cure the breach then both parties are entitled to utilize the options available to them under the registry agreement, and ICANN may consider the recommended remedies set forth in the Expert Determination when taking action.
- 20.3 Nothing herein shall be deemed to prohibit ICANN from imposing remedies at any time and of any nature it is otherwise entitled to impose for a registry operator's non-compliance with its Registry Agreement.

**21. Availability of Court or Other Administrative Proceedings**

- 21.1 The RRDRP is not intended as an exclusive procedure and does not preclude individuals from seeking remedies in courts of law, including, as applicable, review of an Expert Determination as to liability.
- 21.2 The parties are encouraged, but not required to participate in informal negotiations and/or mediation at any time throughout the dispute resolution process but the conduct of any such settlement negotiation is not, standing alone, a reason to suspend any deadline under the proceedings.



# gTLD Applicant Guidebook

(v. 2012-06-04)

Module 6

4 June 2012

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# Module 6

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## *Top-Level Domain Application - Terms and Conditions*

By submitting this application through ICANN's online interface for a generic Top Level Domain (gTLD) (this application), applicant (including all parent companies, subsidiaries, affiliates, agents, contractors, employees and any and all others acting on its behalf) agrees to the following terms and conditions (these terms and conditions) without modification. Applicant understands and agrees that these terms and conditions are binding on applicant and are a material part of this application.

1. Applicant warrants that the statements and representations contained in the application (including any documents submitted and oral statements made and confirmed in writing in connection with the application) are true and accurate and complete in all material respects, and that ICANN may rely on those statements and representations fully in evaluating this application. Applicant acknowledges that any material misstatement or misrepresentation (or omission of material information) may cause ICANN and the evaluators to reject the application without a refund of any fees paid by Applicant. Applicant agrees to notify ICANN in writing of any change in circumstances that would render any information provided in the application false or misleading.
2. Applicant warrants that it has the requisite organizational power and authority to make this application on behalf of applicant, and is able to make all agreements, representations, waivers, and understandings stated in these terms and conditions and to enter into the form of registry agreement as posted with these terms and conditions.
3. Applicant acknowledges and agrees that ICANN has the right to determine not to proceed with any and all applications for new gTLDs, and that there is no assurance that any additional gTLDs will be created. The decision to review, consider and approve an application to establish one or more



gTLDs and to delegate new gTLDs after such approval is entirely at ICANN's discretion. ICANN reserves the right to reject any application that ICANN is prohibited from considering under applicable law or policy, in which case any fees submitted in connection with such application will be returned to the applicant.

4. Applicant agrees to pay all fees that are associated with this application. These fees include the evaluation fee (which is to be paid in conjunction with the submission of this application), and any fees associated with the progress of the application to the extended evaluation stages of the review and consideration process with respect to the application, including any and all fees as may be required in conjunction with the dispute resolution process as set forth in the application. Applicant acknowledges that the initial fee due upon submission of the application is only to obtain consideration of an application. ICANN makes no assurances that an application will be approved or will result in the delegation of a gTLD proposed in an application. Applicant acknowledges that if it fails to pay fees within the designated time period at any stage of the application review and consideration process, applicant will forfeit any fees paid up to that point and the application will be cancelled. Except as expressly provided in this Application Guidebook, ICANN is not obligated to reimburse an applicant for or to return any fees paid to ICANN in connection with the application process.
5. Applicant shall indemnify, defend, and hold harmless ICANN (including its affiliates, subsidiaries, directors, officers, employees, consultants, evaluators, and agents, collectively the ICANN Affiliated Parties) from and against any and all third-party claims, damages, liabilities, costs, and expenses, including legal fees and expenses, arising out of or relating to: (a) ICANN's or an ICANN Affiliated Party's consideration of the application, and any approval rejection or withdrawal of the application; and/or (b) ICANN's or an ICANN Affiliated Party's reliance on information provided by applicant in the application.

6. Applicant hereby releases ICANN and the ICANN Affiliated Parties from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN or any ICANN Affiliated Party in connection with ICANN's or an ICANN Affiliated Party's review of this application, investigation or verification, any characterization or description of applicant or the information in this application, any withdrawal of this application or the decision by ICANN to recommend, or not to recommend, the approval of applicant's gTLD application. APPLICANT AGREES NOT TO CHALLENGE, IN COURT OR IN ANY OTHER JUDICIAL FORA, ANY FINAL DECISION MADE BY ICANN WITH RESPECT TO THE APPLICATION, AND IRREVOCABLY WAIVES ANY RIGHT TO SUE OR PROCEED IN COURT OR ANY OTHER JUDICIAL FORA ON THE BASIS OF ANY OTHER LEGAL CLAIM AGAINST ICANN AND ICANN AFFILIATED PARTIES WITH RESPECT TO THE APPLICATION. APPLICANT ACKNOWLEDGES AND ACCEPTS THAT APPLICANT'S NONENTITLEMENT TO PURSUE ANY RIGHTS, REMEDIES, OR LEGAL CLAIMS AGAINST ICANN OR THE ICANN AFFILIATED PARTIES IN COURT OR ANY OTHER JUDICIAL FORA WITH RESPECT TO THE APPLICATION SHALL MEAN THAT APPLICANT WILL FOREGO ANY RECOVERY OF ANY APPLICATION FEES, MONIES INVESTED IN BUSINESS INFRASTRUCTURE OR OTHER STARTUP COSTS AND ANY AND ALL PROFITS THAT APPLICANT MAY EXPECT TO REALIZE FROM THE OPERATION OF A REGISTRY FOR THE TLD; PROVIDED, THAT APPLICANT MAY UTILIZE ANY ACCOUNTABILITY MECHANISM SET FORTH IN ICANN'S BYLAWS FOR PURPOSES OF CHALLENGING ANY FINAL DECISION MADE BY ICANN WITH RESPECT TO THE APPLICATION. APPLICANT ACKNOWLEDGES THAT ANY ICANN AFFILIATED PARTY IS AN EXPRESS THIRD PARTY BENEFICIARY OF THIS SECTION 6 AND MAY ENFORCE EACH PROVISION OF THIS SECTION 6 AGAINST APPLICANT.
  
7. Applicant hereby authorizes ICANN to publish on ICANN's website, and to disclose or publicize in any other manner, any materials submitted to, or obtained or generated by, ICANN and the ICANN Affiliated Parties in connection with the application, including evaluations, analyses and any other

materials prepared in connection with the evaluation of the application; provided, however, that information will not be disclosed or published to the extent that this Applicant Guidebook expressly states that such information will be kept confidential, except as required by law or judicial process. Except for information afforded confidential treatment, applicant understands and acknowledges that ICANN does not and will not keep the remaining portion of the application or materials submitted with the application confidential.

8. Applicant certifies that it has obtained permission for the posting of any personally identifying information included in this application or materials submitted with this application. Applicant acknowledges that the information that ICANN posts may remain in the public domain in perpetuity, at ICANN's discretion. Applicant acknowledges that ICANN will handle personal information collected in accordance with its gTLD Program privacy statement <http://newgtlds.icann.org/en/applicants/agb/program-privacy>, which is incorporated herein by this reference. If requested by ICANN, Applicant will be required to obtain and deliver to ICANN and ICANN's background screening vendor any consents or agreements of the entities and/or individuals named in questions 1-11 of the application form necessary to conduct these background screening activities. In addition, Applicant acknowledges that to allow ICANN to conduct thorough background screening investigations:
  - a. Applicant may be required to provide documented consent for release of records to ICANN by organizations or government agencies;
  - b. Applicant may be required to obtain specific government records directly and supply those records to ICANN for review;
  - c. Additional identifying information may be required to resolve questions of identity of individuals within the applicant organization;

- d. Applicant may be requested to supply certain information in the original language as well as in English.
9. Applicant gives ICANN permission to use applicant's name in ICANN's public announcements (including informational web pages) relating to Applicant's application and any action taken by ICANN related thereto.
10. Applicant understands and agrees that it will acquire rights in connection with a gTLD only in the event that it enters into a registry agreement with ICANN, and that applicant's rights in connection with such gTLD will be limited to those expressly stated in the registry agreement. In the event ICANN agrees to recommend the approval of the application for applicant's proposed gTLD, applicant agrees to enter into the registry agreement with ICANN in the form published in connection with the application materials. (Note: ICANN reserves the right to make reasonable updates and changes to this proposed draft agreement during the course of the application process, including as the possible result of new policies that might be adopted during the course of the application process). Applicant may not resell, assign, or transfer any of applicant's rights or obligations in connection with the application.
11. Applicant authorizes ICANN to:
  - a. Contact any person, group, or entity to request, obtain, and discuss any documentation or other information that, in ICANN's sole judgment, may be pertinent to the application;
  - b. Consult with persons of ICANN's choosing regarding the information in the application or otherwise coming into ICANN's possession, provided, however, that ICANN will use reasonable efforts to ensure that such persons maintain the confidentiality of information in the application that this Applicant Guidebook expressly states will be kept confidential.

12. For the convenience of applicants around the world, the application materials published by ICANN in the English language have been translated into certain other languages frequently used around the world. Applicant recognizes that the English language version of the application materials (of which these terms and conditions is a part) is the version that binds the parties, that such translations are non-official interpretations and may not be relied upon as accurate in all respects, and that in the event of any conflict between the translated versions of the application materials and the English language version, the English language version controls.
13. Applicant understands that ICANN has a long-standing relationship with Jones Day, an international law firm, and that ICANN intends to continue to be represented by Jones Day throughout the application process and the resulting delegation of TLDs. ICANN does not know whether any particular applicant is or is not a client of Jones Day. To the extent that Applicant is a Jones Day client, by submitting this application, Applicant agrees to execute a waiver permitting Jones Day to represent ICANN adverse to Applicant in the matter. Applicant further agrees that by submitting its Application, Applicant is agreeing to execute waivers or take similar reasonable actions to permit other law and consulting firms retained by ICANN in connection with the review and evaluation of its application to represent ICANN adverse to Applicant in the matter.
14. ICANN reserves the right to make reasonable updates and changes to this applicant guidebook and to the application process, including the process for withdrawal of applications, at any time by posting notice of such updates and changes to the ICANN website, including as the possible result of new policies that might be adopted or advice to ICANN from ICANN advisory committees during the course of the application process. Applicant acknowledges that ICANN may make such updates and changes and agrees that its application will be subject to any such updates and changes. In the event that Applicant has completed and submitted its application prior to

such updates or changes and Applicant can demonstrate to ICANN that compliance with such updates or changes would present a material hardship to Applicant, then ICANN will work with Applicant in good faith to attempt to make reasonable accommodations in order to mitigate any negative consequences for Applicant to the extent possible consistent with ICANN's mission to ensure the stable and secure operation of the Internet's unique identifier systems.

## **Annex 10**



**New gTLD Program**  
**Community Priority Evaluation Report**  
Report Date: 21 May 2015

Application ID:	1-1830-1672
Applied-for String:	SHOP
Applicant Name:	Commercial Connect LLC

**Overall Community Priority Evaluation Summary**

Community Priority Evaluation Result	Did Not Prevail
<p>Thank you for your participation in the New gTLD Program. After careful consideration and extensive review of the information provided in your application, including documents of support, the Community Priority Evaluation panel determined that the application did not meet the requirements specified in the Applicant Guidebook. Your application did not prevail in Community Priority Evaluation.</p> <p>Your application may still resolve string contention through the other methods as described in Module 4 of the Applicant Guidebook.</p>	

**Panel Summary**

Overall Scoring	5 Point(s)																			
<table border="1"><thead><tr><th>Criteria</th><th>Earned</th><th>Achievable</th></tr></thead><tbody><tr><td>#1: Community Establishment</td><td>0</td><td>4</td></tr><tr><td>#2: Nexus between Proposed String and Community</td><td>0</td><td>4</td></tr><tr><td>#3: Registration Policies</td><td>3</td><td>4</td></tr><tr><td>#4: Community Endorsement</td><td>2</td><td>4</td></tr><tr><td>Total</td><td>5</td><td>16</td></tr></tbody></table>	Criteria	Earned	Achievable	#1: Community Establishment	0	4	#2: Nexus between Proposed String and Community	0	4	#3: Registration Policies	3	4	#4: Community Endorsement	2	4	Total	5	16		
Criteria	Earned	Achievable																		
#1: Community Establishment	0	4																		
#2: Nexus between Proposed String and Community	0	4																		
#3: Registration Policies	3	4																		
#4: Community Endorsement	2	4																		
Total	5	16																		
<b>Minimum Required Total Score to Pass <u>14</u></b>																				

Criterion #1: Community Establishment	0/4 Point(s)
1-A Delineation	0/2 Point(s)
<p>The Community Priority Evaluation panel determined that the community as defined by the application did not meet the criterion for Delineation as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook (AGB), as the community defined in the application does not demonstrate sufficient delineation, organization, or pre-existence. The application received a score of 0 out of 2 points under criterion 1-A: Delineation.</p>	



### Delineation

Two conditions must be met to fulfill the requirements for delineation: there must be a clear, straightforward membership definition<sup>1</sup> and there must be awareness and recognition of a community (as defined by the application) among its members.

The applicant defines its community as follows:

The community for the .SHOP will be for eCommerce Operators - For the purpose of this application we are defining our community as eCommerce operators that directly sell to the general public on the internet. This community is basically a B2C site that utilizes credit card processing requiring them to abide by PCI DSS (Payment Card Industry Data Security Standards) to operate.

The application further delineates its users from the general public with the following:

This community is easily identified as websites that have shopping cart programs that utilize SSL (Secured Socket Layer) certificates (required under PCI DSS) to process their transactions. Studies have been performed to help identify these website operators and we have a 95% confidence that we have a clear and defined subset of the internet.

According to the AGB, “Delineation relates to the membership of a community, where a clear and straightforward membership definition scores high, while an unclear, dispersed or unbound definition scores low.” Given the applicant’s restriction of its proposed community to online businesses that require use of SSL certificates, the Panel has determined that the application provides a clear and straight-forward membership definition and thus meets the first of the AGB’s two criteria for Delineation.

According to the AGB’s second Delineation criterion, “community” implies “more of cohesion than a mere commonality of interest” and there should be “an awareness and recognition of a community among its members.” The application materials and further research provide no substantive evidence of what the AGB calls “cohesion” – that is, that the various members of the community as defined by the application are “united or form a whole” (Oxford Dictionaries). The proposed community encompasses a very large and growing field of diverse and geographically dispersed online retailers. While the application’s reliance on SSL certificates delineates a subset of retailers, SSL is simply one of several necessary tools for conducting online business. Use of SSL, however, is not sufficient to ensure that all entities using it are aware of one another as a community, and that the proposed community coheres as per the AGB. Furthermore, based on the Panel’s research, various entities in the proposed community do not show an awareness or recognition of other segments of the applicant’s proposed community, whether by way of interaction or an explicit statement of cohesion.<sup>2</sup>

The Panel determined that the community as defined in the application satisfies only one of the two conditions to fulfill the requirements for delineation.

### Organization

Two conditions must be met to fulfill the requirements for organization: there must be at least one entity mainly dedicated to the community and there must be documented evidence of community activities.

According to the AGB, “organized” implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.” Based on information provided in the application materials and the Panel’s research, there is no entity that is mainly dedicated to the community defined in the application.

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<sup>1</sup> According to the AGB, “an unclear, dispersed, or unbound definition scores low” (ICANN Applicant Guidebook 4.2.3)

<sup>2</sup> The Panel acknowledges that an exhaustive review of all proposed community member entities is not possible and has reviewed a number of representative examples to determine awareness and recognition among proposed community members.

The community as defined in the application is dispersed geographically and across a wide array of business types and activities, including all business entities or organizations that sell to consumers using websites that have shopping cart programs that utilize SSL certificates to process their transactions. According to the application:

Initially, since there was no clear community representation, we worked on establishing some form of a member trade association. The result was the creation of ECWR.net (eCommerce World Retailers). This was formed in March, 2004 and clearly predates the 2007 requirement in the Applicant Guidebook.

The applicant acknowledges that the proposed community was not organized, and that it has sought to organize the proposed community members through ECWR.net, which provides information and resources to the e-commerce community. The application states that the ECWR has “in excess of 1,000 members representing a substantial amount of eCommerce,” though evidence of these retailers’ participation or of the group’s activity generally is not significant. Additionally, recent estimates put the number of US-based e-commerce retailers at over 102,000<sup>3</sup>; this figure does not include e-commerce retailers from other major global markets that the applicant also includes in its proposed community. Therefore, the ECWR is only dedicated to a subset of the community defined by the application. The applicant states that its members “represent an equivalent [*vis*] in excess of \$866 trillion in annual sales.” However, estimates of the total retail market (both online and in-store) for 2014 show total sales of around US\$22.5 trillion.<sup>4</sup> Another entity to which the application makes reference, the National Retail Federation<sup>5</sup>, and a subsidiary organization, Shop.org, are committed to the retail (including e-commerce) community defined by the applicant, but its advocacy and policy activities are largely limited to US policy issues.<sup>6</sup> Therefore, the Panel has determined that there is no entity mainly dedicated to the community in all the breadth and geographic range defined in the application.

The Panel determined that the community as defined in the application does not satisfy either of the two conditions to fulfill the requirements for organization.

#### Pre-existence

To fulfill the requirements for pre-existence, the community must have been active prior to September 2007 (when the new gTLD policy recommendations were completed) and must display an awareness and recognition of a community among its members.

The community as defined in the application was not active prior to September 2007. According to section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, the CPE process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to obtain a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). The Panel determined that this application refers to a “community” construed to obtain a sought-after generic word as a gTLD string, and that the application is attempting to organize the entities described in the application materials through a gTLD. The proposed community therefore could not have been active prior to the above date (although many of its constituent parts were active).

The application refers to several organizations that existed prior to 2007, including organizations that have endorsed its application and others that represent parts of the defined community. However, the fact that

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<sup>3</sup> See <http://www.forbes.com/sites/mikalbelicove/2013/09/18/how-many-u-s-based-online-retail-stores-are-on-the-internet/>

<sup>4</sup> See “Retail Sales Worldwide Will Top \$22 Trillion This Year,” <http://www.emarketer.com/Article/Retail-Sales-Worldwide-Will-Top-22-Trillion-This-Year/1011765>

<sup>5</sup> According to its website, the National Retail Federation “is the world’s largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and Internet retailers from the United States and more than 45 countries.”

<sup>6</sup> See <https://nrf.com/advocacy/policy-agenda>; also see <https://nrf.com/membership/committees/shoporg-policy-advisory-group>

these organizations were active prior to 2007 does not mean that these organizations were active as part of the larger community as defined in the application prior to 2007, as required by the AGB.

The Panel determined that the community as defined in the application does not fulfill the requirements for pre-existence.

1-B Extension

**0/2 Point(s)**

The Panel determined that the community as identified in the application did not meet the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as the application did not fulfill the requirements for size, nor demonstrate the longevity of the community. The application received a score of 0 out of 2 points under criterion 1-B: Extension.

Size

Two conditions must be met to fulfill the requirements for size: the community must be of considerable size and must display an awareness and recognition of a community among its members.

The community as defined in the application is of considerable size. According to the application, “We currently have in excess of 1,000 members representing a substantial amount of eCommerce (these members represent an equivalent [sic] in excess of \$866 trillion in annual sales).”<sup>7</sup> The community for .SHOP as defined in the application, therefore, is large both in terms of geographical reach and number of members globally. However, as previously noted, the community as defined in the application does not show evidence of “cohesion” among its members, as required by the AGB.<sup>8</sup> Therefore, it fails the second criterion for Size. The Panel determined that the community as defined in the application meets only one of the two criteria required.

Longevity

Two conditions must be met to fulfill the requirements for longevity: the community must demonstrate longevity and must display an awareness and recognition of a community among its members.

The community as defined in the application does not demonstrate longevity. According to section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, the CPE process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application).

The Panel determined that this application refers to a proposed community construed to obtain a sought-after generic word as a gTLD. As previously stated, the community as defined in the application does not have awareness and recognition among its members. Failing this kind of “cohesion,” the community defined by the application does not meet the AGB’s standards for a community. Therefore, as a construed community, the proposed community cannot meet the AGB’s requirements for longevity.

The Panel determined that the community as defined in the application does not satisfy either of the two conditions to fulfill the requirements for longevity.

**Criterion #2: Nexus between Proposed String and Community**

**0/4 Point(s)**

2-A Nexus

**0/3 Point(s)**

The Panel determined that the application did not meet the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The string does not identify or match the name of the community as defined in the application, nor is it a well-known short-form or abbreviation of the community. The application received a score of 0 out of 3 points under criterion 2-A: Nexus.

<sup>7</sup> See footnote 4, regarding the implicit errors here; nevertheless, the size of the community as defined is substantial.

<sup>8</sup>As stated previously, according to the AGB, “community” implies “more of cohesion than a mere commonality of interest...There should be: (a) an awareness and recognition of a community among its members...” Failing such qualities, the AGB’s requirements for community establishment are not met.

To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus (of 2 out of 3 points; 1 point is not possible), the applied-for string must identify the community. “Identify means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.”

The application for .SHOP defines the community as “eCommerce operators that directly sell to the general public on the internet.” According to the application documentation, “.SHOP matches the name of the community and is well known in many languages” and “.SHOP has no other significant meaning than eCommerce.” Elsewhere in its application, however, the applicant states a more commonly understood definition for the string: “.Shop is globally recognized and exists in excess of twenty different languages all with the same meaning: a building or room stocked with merchandise for sale: a store.”

The applied-for string does not *match* the name of the community as defined in the application. According to the AGB, a string is a “match” if it is “the established name by which the community is commonly known by others” – i.e., that the applied-for string is the same as the one name that is most commonly understood to refer to the community. However, in addition to making reference to the “SHOP” community in its application, the applicant also refers to its commitment to the “e-commerce community” in its mission statement and uses “e-commerce” throughout its application to refer to the community defined in the application. It is evident, therefore, that “SHOP” is not the *established* name as required for a string to be considered a match and that it does not meet the AGB requirements for a full score.

The applied-for string does not *identify* the defined community, as the AGB requires for a partial score. The string .SHOP over-reaches substantially beyond the applicant’s proposed community. This is because the string .SHOP identifies both online (i.e. e-commerce) as well as brick-and-mortar entities<sup>9</sup> that sell goods and services. The latter represent a significant portion of overall global retail<sup>10</sup> sales, but are not included in the applicant’s proposed community, which is “eCommerce operators that directly sell to the general public on the internet” only and not brick-and-mortar stores. Indeed, in 2014 an estimated 94.1% of global retail sales were accounted for by brick-and-mortar establishments.<sup>11</sup> Thus the string significantly overreaches beyond the proposed community.

The Panel determined that the applied-for string does not match or identify the community or the community members as defined in the application. It therefore does not meet the requirements for Nexus.

2-B Uniqueness

**0/1 Point(s)**

The Panel determined that the application did not meet the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB as the string does not score a 2 or a 3 on Nexus. The application received a score of 0 out of 1 point under criterion 2-B: Uniqueness.

To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application and it must also score a 2 or a 3 on Nexus. The string as defined in the application does not demonstrate uniqueness as the string does not score a 2 or a 3 on Nexus and is therefore ineligible for a score of 1 for Uniqueness. This is based on the Panel’s determination that the applied-for string “.SHOP” does not identify the community defined by the application according to AGB standards. Therefore, since the string does not identify the community, it cannot be said to “have no other significant meaning *beyond identifying the community*” (emphasis added, AGB). The Panel determined that the applied-for string does not satisfy the condition to fulfill the requirements for Uniqueness.

<sup>9</sup> The applicant itself notes that “.Shop is globally recognized and exists in excess of twenty different languages all with the same meaning: a building or room stocked with merchandise for sale...”

<sup>10</sup> The Panel acknowledges that the word “shop” may also identify establishments outside of the retail industry.

<sup>11</sup> <http://www.emarketer.com/Article/Retail-Sales-Worldwide-Will-Top-22-Trillion-This-Year/1011765>

<b>Criterion #3: Registration Policies</b>	<b>3/4 Point(s)</b>
<b>3-A Eligibility</b>	<b>1/1 Point(s)</b>
<p>The Panel determined that the application meets the criterion for Eligibility as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as eligibility is restricted to community members. The application received a maximum score of 1 point under criterion 3-A: Eligibility.</p> <p>To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members. According to the application:</p> <p style="padding-left: 40px;">The .SHOP domain name is intended for eCommerce purposes. This means that a website using .SHOP must have eCommerce-enabled ability to provide a direct conduit to making transaction on the web. In other words, it is expected that a .SHOP website will have items or services available for sale on that site and that there is an easy path to purchasing these items. These transaction [<i>sic</i>] must also use secure communications when processing said transactions.</p> <p>The application therefore demonstrates adherence to the AGB’s requirement by restricting domain registration to individuals who are members of the community defined by the application. The Panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.</p>	
<b>3-B Name Selection</b>	<b>0/1 Point(s)</b>
<p>The Panel determined that the application did not meet the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as name selection rules are not consistent with the articulated community-based purpose of the applied-for TLD. The application received a score of 0 out of 1 point under criterion 3-B: Name Selection.</p> <p>According to the application:</p> <p style="padding-left: 40px;">In order for an applicant to be considered “qualified” to purchase a .SHOP top-level domain name, they must go through a strict verification process where Commercial Connect researches the identity of that applicant and his business using semi-automated process patent pending processes. Once the registrant is “verified,” they are assigned a contact ID which will, then, allow them to register a .SHOP domain name. ...</p> <p style="padding-left: 40px;">The minimum character length for a domain name is one character, excluding the .SHOP extension. The maximum character length for a domain name is 63 characters excluding the extension. A domain name must not begin with a dash “-” or dot “.” and must not begin with the following sequence: “alphanumeric_alphanumeric_dash (“-“)_dash (“-“)”.</p> <p style="padding-left: 40px;">Each character in the domain name, excluding the dots (“.”)s must be a letter, digit, or dash (“-“). The last character must be a digit or letter. It cannot be a dash (“-“).</p> <p>The application does not directly refer to its community-based purpose in discussion of name selection rules, nor are they implicitly based on the community-based purpose of the applied for TLD, which is to “aid in the the [<i>sic</i>] development of a safer, cheaper, and more secure platform for eCommerce, providing for a better online shopping experience.” Furthermore, the above mentioned technical requirements are the same as the minimum requirements for any second level domain in a gTLD, Therefore, the Panel determined that the application did not satisfy the condition to fulfill the requirements for Name Selection.</p>	
<b>3-C Content and Use</b>	<b>1/1 Point(s)</b>
<p>The Panel determined that the application meets the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria). The application provides evidence that the content and use rules included are consistent with the articulated community-based purpose of the applied-for TLD. The application therefore received a score of 1 point under criterion 3-C: Content and Use.</p> <p>To fulfill the requirements for Content and Use, the registration policies for content and use must be consistent with the articulated community-based purpose of the applied-for gTLD. According to the application:</p>	

Requirements for the applicant initially will be an agreement that the website will be offering goods and/or services under a secured socket layer (SSL) trusted connection. [...] There may be additional circumstances whereby it will not be required for the registrant of a .SHOP domain name have a functioning eCommerce site. [...] Generic .SHOP domain names should be eCommerce site-enabled and not forwarded to other sites. [...] property.

The application therefore demonstrates adherence to the AGB's requirement of content and use rules that are consistent with the application's community-based purpose, which is to "aid in the the [sic] development of a safer, cheaper, and more secure platform for eCommerce, providing for a better online shopping experience."

3-D Enforcement

**1/1 Point(s)**

The Panel determined that the application meets the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The application provides specific enforcement measures and outlines a coherent and appropriate appeals mechanisms. The application received a score of 1 point under criterion 3-D: Enforcement.

Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. According to the application:

Commercial Connect, LLC may, in its sole discretion, suspend or terminate a user's service for violation of any of the requirements or provisions of the United States government on receipt of a complaint if Commercial Connect LLC believes suspension or termination is necessary to comply with the law, protect the public interest, prevent unlawful activity or protect the health, safety, or privacy of an individual.

If immediate action is not required, Commercial Connect, LLC will work with registrants and a complainant to remedy violations. [...] Disputes arising under or in connection with this Agreement, including requests for specific performance shall be resolved through binding arbitration conducted as provided in this Section pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce ("ICC"). [...] Mechanisms will be in place for the notificaton [sic] and eventual suspension of domain regisrtrants [sic] that either do not qualify to operate a .SHOP TLD or are operating it inconsistently with its intended use. Two Warning [sic] will be sent and an appeal process will be available before action is taken to suspend a .SHOP TLD.

The applicant outlined policies that include specific enforcement measures constituting a coherent set. The applicant outlines a comprehensive list of investigation procedures, and circumstances in which the registry is entitled to suspend domain names and refers to an appeals process available to registrants. The Panel determined that the application satisfies both of the two conditions to fulfill the requirements for Enforcement and therefore scores 1 point.

**Criterion #4: Community Endorsement**

**2/4 Point(s)**

Support for or opposition to a CPE gTLD application may come by way of an application comment on ICANN's website, attachment to the application, or by correspondence with ICANN. The Panel reviews these comments and documents and as applicable attempts to verify them as per the guidelines published on the ICANN CPE website. Further details and procedures regarding the review and verification process may be found at <http://newgtlds.icann.org/en/applicants/cpe>. The table below summarizes the review and verification of all support for and opposition to the Commercial Connect LLC application for the string .SHOP.

## Summary of Review & Verification of Support/Opposition Materials

	Total Received and Reviewed	Total Valid for Verification	Verification Attempted	Successfully Verified
Application Comments	7	2	2	1
Attachments to 20(f)	17	3	3	2
Correspondence	6 <sup>12</sup>	3	3	2
<b>Grand Total</b>	<b>30</b>	<b>8</b>	<b>8</b>	<b>5</b>

### 4-A Support

*1/2 Point(s)*

The Panel determined that the application partially met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as there was documented support from at least one group with relevance. The application received a score of 1 out of 2 points under criterion 4-A: Support.

To receive the maximum score for Support, the applicant is, or must have documented support from the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community. "Recognized" means that the institution(s)/organization(s), through membership or otherwise, are clearly recognized by the community members as representative of the community as a whole. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance. "Relevance" refers to the communities explicitly and implicitly addressed by the application.

The Panel determined that the applicant was not the recognized community institution(s)/member organization(s), nor did it have documented authority to represent the community, or documented support from the recognized community institution(s)/member organization(s). A recognized community institution or member organization is one which not only (1) represents the entirety of the community as defined by the application (in all its breadth of categories as described in Delineation), but is also (2) recognized by the same community as its representative. No such organization among the applicant's supporters demonstrates the kind of structure required to be a "recognized" organization, as per AGB guidelines, and the Panel has determined that no such organization exists. However, the applicant possesses documented support from at least one group with relevance and this documentation contained a description of the process and rationale used in arriving at the expression of support, as required by the AGB. The Community Priority Evaluation Panel determined that the applicant partially satisfies the requirements for Support.

### 4-B Opposition

*1/2 Point(s)*

The Community Priority Evaluation panel has determined that the application partially met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application received relevant opposition from one source. The application received a score of 1 out of 2 points under criterion 4-B: Opposition.

To receive the maximum score for Opposition, the application must not have received any opposition of relevance. To receive a partial score for Opposition, the application must have received opposition from, at most, one relevant group of non-negligible size.

The Community Priority Evaluation panel has determined that there is relevant opposition to the application from a group of non-negligible size, from an entity within the community explicitly addressed by the

<sup>12</sup> Five pieces of correspondence were received by 4/17/15, one of which included two letters.

application. The entity is a multinational company. The grounds for the objection do not fall under any of those excluded by the AGB (such as spurious or unsubstantiated claims), but rather relate to the applicant's right to regulate a namespace in which the opponent has a place. Therefore, the Panel has determined that the applicant partially satisfied the requirements for Opposition.

**Disclaimer:** Please note that these Community Priority Evaluation results do not necessarily determine the final result of the application. In limited cases the results might be subject to change. These results do not constitute a waiver or amendment of any provision of the AGB or the Registry Agreement. For updated application status and complete details on the program, please refer to the AGB and the ICANN New gTLDs microsite at <[newgtlds.icann.org](http://newgtlds.icann.org)>.



## **Annex 12**

[English \(/translations\)](#) [العربية \(/ar\)](#) [Español \(/es\)](#)[Français \(/fr\)](#) [Русский \(/ru\)](#) [中文 \(/zh\)](#)[Log In \(/users/sign\\_in\)](#) [Sign Up \(/users/sign\\_up\)](#)Search ICANN.org [GET STARTED \(/GET-STARTED\)](#)[NEWS & MEDIA \(/NEWS\)](#)[POLICY \(/POLICY\)](#)[PUBLIC COMMENT \(/PUBLIC-COMMENTS\)](#)[RESOURCES \(/RESOURCES\)](#)[COMMUNITY \(/COMMUNITY\)](#)[IANA STEWARDSHIP](#)[& ACCOUNTABILITY \(/STEWARDSHIP-ACCOUNTABILITY\)](#)

## Details

[ICANN \(Internet Corporation for Assigned Names and Numbers\) Announcements](#)

27 Jan 2016

[DNS \(Domain Name System\) Marketplace](#)[New gTLDs](#)[Technology](#)[gTLD \(generic Top Level Domain\)](#)

## Results Available for 27 January 2016 New gTLD (generic Top Level Domain) Program Auction

This page is available in:

[العربية \(http://www.icann.org/news/announcement-2-2016-01-27-ar\)](http://www.icann.org/news/announcement-2-2016-01-27-ar) | [Português \(http://www.icann.org/news/announcement-2-2016-01-27-pt\)](http://www.icann.org/news/announcement-2-2016-01-27-pt) | [Русский \(http://www.icann.org/news/announcement-2-2016-01-27-ru\)](http://www.icann.org/news/announcement-2-2016-01-27-ru) | [Español \(http://www.icann.org/news/announcement-2-2016-01-27-es\)](http://www.icann.org/news/announcement-2-2016-01-27-es) | [Français \(http://www.icann.org/news/announcement-2-2016-01-27-fr\)](http://www.icann.org/news/announcement-2-2016-01-27-fr) | [中文 \(http://www.icann.org/news/announcement-2-2016-01-27-zh\)](http://www.icann.org/news/announcement-2-2016-01-27-zh) | English

On 27 January 2016, [Power Auctions LLC \(http://www.powerauctions.com/\)](http://www.powerauctions.com/), ICANN (Internet Corporation for Assigned Names and Numbers)'s authorized auction service provider, conducted a [New gTLD \(generic Top Level Domain\) Program Auction](#) to resolve string contention for one new generic top-level domain (gTLD (generic Top Level Domain)) contention set: .SHOP. This set was previously identified as an indirect contention set consisting of both the .SHOP and .SHOPPING strings. The applicants for .SHOPPING have resolved their contention amongst themselves, eliminating the linkage between .SHOP and .SHOPPING. The remaining contention set is a direct contention set for the string .SHOP. The applicants were unable to resolve contention among themselves; thus their contention set proceeded to auction, which is the method of last resort to resolve string contention as prescribed in Module 4 of the [New gTLD \(generic Top Level Domain\) Program Applicant Guidebook \(http://newgtlds.icann.org/en/applicants/agg\)](#). Subject to payment of the winning price and meeting all other criteria for eligibility, the winner will enter ICANN (Internet Corporation for Assigned Names and Numbers)'s contracting process to sign a Registry Agreement to operate the [gTLD \(generic Top Level Domain\)](#).

Seven applicants completed all necessary prerequisites and participated in the auction for .SHOP. GMO Registry, Inc., applicant for .SHOP, prevailed with a winning price of \$41,501,000.

All proceeds from the Auction are being segregated and withheld from use until ICANN (Internet Corporation for Assigned Names and Numbers)'s Board of Directors define a plan for an appropriate use of the funds through consultation with the community.

## More Information

- **Contention Set Status** (<https://gtdresult.icann.org/application-result/applicationstatus/stringcontentionstatus>): 212 of 233 contention sets are now resolved. The majority have self-resolved, but 15 sets resolved via Auction (method of last resort).
- **Auction Results** (<https://gtdresult.icann.org/application-result/applicationstatus/auctionresults>): Auction reports on this page of the New gTLD (generic Top Level Domain) Microsite provide additional information on each Auction outcome.
- **Auction Proceeds and Costs** (<http://newgtlds.icann.org/en/applicants/auctions/proceeds>): A detailed summary of the proceeds and costs of each Auction through January 2016. This information will be updated within 7 days of each Auction.
- **Auction Schedule** (<https://newgtlds.icann.org/en/applicants/auctions/schedule-27jan16-en.pdf>). [PDF, 264 KB]: Updated as of 27 January 2016.
- General **New gTLD (generic Top Level Domain) Program Auctions** (<http://newgtlds.icann.org/en/applicants/auctions>) information.

## About ICANN (Internet Corporation for Assigned Names and Numbers)

*ICANN (Internet Corporation for Assigned Names and Numbers)'s mission is to help ensure a stable, secure and unified global Internet. To reach another person on the Internet, you have to type an address into your computer - a name or a number. That address has to be unique so computers know where to find each other. ICANN (Internet Corporation for Assigned Names and Numbers) helps coordinate and support these unique identifiers across the world. ICANN (Internet Corporation for Assigned Names and Numbers) was formed in 1998 as a not-for-profit public-benefit corporation and a community with participants from all over the world. ICANN (Internet Corporation for Assigned Names and Numbers) and its community help keep the Internet secure, stable and interoperable. It also promotes competition and develops policy for the top-level of the Internet's naming system and facilitates the use of other unique Internet identifiers. For more information please visit: [www.icann.org/\(\)](http://www.icann.org/).*

[Reminder: Nomination Period Open For ICANN \(Internet Corporation for Assigned Names and Numbers\) Multistakeholder Ethos Award I Award Targeted for ICANN \(Internet Corporation for Assigned Names and Numbers\) 56 | Nominations Close 12 March 2016 \(/news/announcement-2016-02-09-en\).](#)

[Experienced Technology Leader Named as ICANN \(Internet Corporation for Assigned Names and Numbers\) President and CEO \(/news/announcement-2-2016-02-08-en\).](#)

[Pre-ICANN \(Internet Corporation for Assigned Names and Numbers\) 55 Policy Update Webinar \(/news/announcement-2016-02-08-en\).](#)

[GNSO \(Generic Names Supporting Organization\) Privacy and Proxy Services Accreditation Issues Policy Development Process Recommendations for ICANN \(Internet Corporation for Assigned Names and Numbers\) Board Consideration \(/news/announcement-2016-02-05-en\).](#)



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[Community Wiki](#)  
(<https://community.icann.org>)



[CANN Blog \(/news/blog\)](#)

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			<a href="#">Correspondence</a> ( <a href="/en/news/correspondence">/en/news/correspondence</a> )	

## **Annex 13**



NOTICE OF INDEPENDENT REVIEW

Date: November 17, 2015
To: Name (of the party on which this Notice is to be served) ICANN Nationality: USA
Address: 12025 Waterfront Dr, Ste 300
City: Los Angeles State/Province: CA Country: US Post Code: 90094-2536
Telephone: +1.3103015800 Facsimile: +1.3108238649 Email: independentreview@icann.org
Name of Representative: (if known) Mr. John Jeffrey Name of Firm: (if applicable)
Address: ICANN, 12025 Waterfront Dr, Ste 300
City: Los Angeles State/Province: CA Country: US Post Code: 90094-2536
Telephone: +1.3103015800 Facsimile: +1.3108238649 Email: John.Jeffrey@ICANN.org

The named claimant seeks this independent review in accordance with Article IV, Section 3 of the ICANN Bylaws. The claimant agrees that such Independent Review shall be conducted pursuant to the International Arbitration Rules ("Rules") of the International Dispute Resolution Procedures as supplemented per ICANN's Bylaws.

Nature of the Dispute: (attach additional sheets, if necessary) IDR Proceeding of an ICANN Board Action
The Claim or Relief Sought: (the amount, if any) Subject ICANN Board Decision to IRP Panel Review
Type of Business: Claimant New gTLD Applicant
Place of Review Requested: Los Angeles, CA USA

You are hereby notified that copies of this NOTICE are being filed with the INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION at Case Filing Services, 1101 Laurel Oak Road, Suite 100, Voorhess, NJ 08043 email: casefiling@adr.org with a request that it commence administration of an independent review. Under the rules, you may file a Statement of Defense within the time specified in the rules after notice from the administrator.

Name of Claimant: Commercial Connect, LLC Nationality: US
Address: (to be used in connection with this case) Contact Information Redacted
City: Contact Information Redacted State/Province: Contact Information Redacted Country: Contact Information Redacted Post Code: Contact Information Redacted
Telephone: Contact Information Redacted Facsimile: Contact Information Redacted Email: Contact Information Redacted
Name of Representative: (if known) Jeffrey Smith Name of Firm: (if applicable)
Address: Contact Information Redacted
City: Contact Information Redacted State/Province: Contact Information Redacted Country: Contact Information Redacted Post Code: Contact Information Redacted
Telephone: Contact Information Redacted Facsimile: Contact Information Redacted Email: Contact Information Redacted

To begin proceedings, please send two copies of this notice of independent review, with the filing fee as provided for in the Rules, to the ICDR. Send the original notice to the respondent.

Signature (may be signed by a representative) Title: Date:

If you have any questions, please contact the International Centre for Dispute Resolution at 1.888.855.9575 or +1.212.484.4181 or visit our website at www.icdr.org.

**NOTICE OF INDEPENDENT REVIEW - Cont'd**

**Cooperative Engagement Completed?** [Y/N]  N

**Is this a representational complaint brought on behalf of others?** [Y/N]  N

If yes, claimant must demonstrate that the claimant itself has been directly impacted and materially harmed by the alleged violation of the Bylaws or Articles of Incorporation giving rise to the request.

**Number of Panelists Requested?**  3

**Are there any areas of particular expertise that claimant recommends a Panelist to have?**

**IDRP Proceeding of an ICANN Board Action**

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In the submission, state specifically the grounds under which the claimant has the standing and the right to assert this claim. For the purposes of the Independent Review Process (IRP), demonstration of standing requires the claimant to, in specific and particular details, identify how it has been directly impacted and materially harmed by an ICANN Board decision, and not by the actions of third parties. Material harm requires that there must be a loss or injury suffered (financial or non-financial) that is a directly and causally connected to the Board violation of the Bylaws or Articles of Incorporation on which the complaint is based. The decision of the IRP Panel (as reviewed and acted upon by the Board) must be able to stop the harm. Injury or harm caused by third parties as a result of acting in line with the Board's decision is not a sufficient ground for Independent Review. Similarly, injury or harm that is only of a sufficient magnitude because it was exacerbated by the actions of a third party is also not a sufficient ground for an Independent Review.

**By submitting this Notice, Claimant acknowledges the following:**

Written submissions of argument to the IRP Panel are limited to 25 pages, double-spaced and in 12-point font.

The Chair of the standing panel for the IRP retains the ability to decide on what the appropriate size of the panel will be, based upon issues such as the complexity of the matter alleged. The Chair may also make recommendations of whether any particular expertise is desired on the Panel. In the event the standing panel is not yet comprised, the ICDR will assist in determining the appropriate size of the panel and the particular expertise that is recommended for the panel.

The IRP Panel shall have the power to dismiss the request summarily in the event the claimant cannot demonstrate standing to initiate the proceeding. The IRP Panel shall also have the power to dismiss frivolous or vexatious requests.

If the claimant has not availed itself, in good faith, of the cooperative engagement or conciliation process and ICANN is the prevailing party in the IRP, the IRP Panel must award ICANN all reasonable fees and costs incurred by ICANN in the IRP, including legal fees.

The ICANN Board's decision following on from the Declaration of the IRP Panel is final and creates precedent for future IRP proceedings. If the subject matter of the request is on the same issue as a prior IRP Proceeding, the ICANN Board's decision on the prior IRP Panel is binding and serves as grounds for summary dismissal of the request for Independent Review.



## **Annex 14**

## **Reconsideration Request**

### **1. Requester Information**

**Name:** Commercial Connect, LLC

**Address:** Contact Information Redacted

**Email:** Contact Information Redacted

### **2. Request for Reconsideration of (check one only):**

**Board action/inaction**

**Staff action/inaction**

### **3. Description of specific action you are seeking to have reconsidered.**

Requester is an applicant for the .SHOP generic top-level domain (gTLD), and this by way of:

- An application that has been submitted to ICANN in 2000 during the first round of applications for new gTLDs;<sup>1</sup>
- An application for a so-called community-based gTLD, submitted to ICANN in the context of the New gTLD Program on April of 2012.

During the first round of applications for new gTLDs, ICANN received three (3) applications for the .SHOP gTLD; in the context of the New gTLD Program ("2012", or "3<sup>rd</sup> round"), ICANN received 9 applications in total for this string.

On 27 January 2016, Power Auctions LLC, ICANN's authorized auction service provider, conducted a New gTLD Program Auction to resolve the string contention for the new generic top-level domain (gTLD) .SHOP.

*According to ICANN, "[t]he applicants were unable to resolve contention among themselves; thus their contention set proceeded to auction, which is the method of last resort to resolve string contention as prescribed in Module 4 of the New gTLD Program Applicant Guidebook. Subject to payment of the winning price and meeting all other criteria for eligibility, the winner will enter ICANN's contracting process to sign a Registry Agreement to operate the gTLD."*<sup>2</sup>

### **4. Date of action/inaction:**

<sup>1</sup> <http://archive.icann.org/en/tlds/mall1/>.

<sup>2</sup> <https://www.icann.org/news/announcement-2-2016-01-27-en>.

January 27, 2016.

**5. On what date did you become aware of the action or that action would not be taken?**

January 28, 2016.

**6. Describe how you believe you are materially affected by the action or inaction:**

Requester is the applicant for the .SHOP gTLD during the first round of new gTLD applications, organized by ICANN in 2000, as well as the applicant for the community-based gTLD .SHOP in the context of the New 2012 gTLD Program (Application ID: 1-1830-1672, Prioritization Number: 649; see <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/307> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/307?t:ac=307>) (hereinafter jointly referred to as the "Applications").

Therefore, the Requester is now facing contention resolution with various other applicants for the same string "*through the other methods as described in Module 4 of the Applicant Guidebook*", requiring Requester to – ultimately – resolve such contention directly with the other applicants for the .SHOP gTLD. In this respect, ICANN has requested Requester to participate in an auction organized by ICANN for which additional and substantial funding must be sought, which could have been avoided they followed their own GNSO principles, recommendations and implementation guidelines outlined in their Final Report published on August 8, 20017 (<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-part-08aug07.htm>) (hereinafter: the "GNSO Final Report") and if the Community Priority Evaluation Report and ICANN's Determination following the publication of such report not to accept Requester's community-based qualification of its application had been developed in accordance with ICANN's standards, in particular those set out in the GNSO's Final Report and the Applicant Guidebook.

**7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.**

Requester was the only applicant to fully qualify for the .SHOP gTLD during ICANN's first round of new gTLDs in 2000 (an application which is still active according to ICANN's own legal staff) and was promised by ICANN publically priority for delegation of the .SHOP gTLD.

## 8. Detail of Board or Staff Action – Required Information

### 1. Introduction

According to the Requester, the EIU and ICANN has not acted in compliance with a wide variety of processes, procedures, and rules, in particular ICANN's own By-Laws as well as the GNSO Final Report and the Applicant Guidebook in organizing and completing the "method of last resort auction" for the .SHOP gTLD in accordance with the processes defined for the New 2012 gTLD Program Auctions.

Reference is made to ICANN's "New gTLD Program Auctions" page, which is available at <https://newgtlds.icann.org/en/applicants/auctions>.

The paragraph describing the "Auction Eligibility" requirements that have been defined by ICANN in the context of the New gTLD Program Auctions" reads as follows:

#### ***"Auction Eligibility***

*A string contention set will be eligible to enter into a New gTLD Program Auction under the following circumstances only:*

- *All active applications in the contention set have:*
  - o *Passed evaluation*
  - o *Resolved any applicable GAC advice*
  - o *Resolved any objections*
  - o ***No pending ICANN Accountability Mechanisms***
- *Each applied-for gTLD in the contention set is:*
  - o *Not classified as "High-Risk" per the Name Collision Occurrence Management Plan" (emphasis added)*

In the case at hand, the "string contention set" relates to the applications for .SHOP (or any confusingly similar string).

The status of Requester's application for the .SHOP gTLD was "active" on January 27, 2016.

Requester has submitted on January 26, 2016 a Reconsideration Request, which has been published on the ICANN website at <https://www.icann.org/resources/pages/reconsideration-16-1-commercial-connect-request-2016-01-27-en>; the complete request can be retrieved at <https://www.icann.org/en/system/files/files/reconsideration-16-1-commercial-connect-request-redacted-26jan16-en.pdf>.

Therefore, ICANN received Reconsideration Request #16-1 prior to the scheduled auction date for resolving the .SHOP contention set, being January 27, 2016.

It is clear that the Reconsideration Request process is an ICANN Accountability Mechanism, as defined by Article IV: Accountability and Review of ICANN's By-Laws (see <https://www.icann.org/resources/pages/governance/bylaws-en/#IV>).

Bearing in mind the above elements, the .SHOP contention set was not eligible to a "New gTLD Program Auction" on January 27, 2016: indeed, Requester was a community applicant as described in the GNSO Final Report and was entitled to delegation of .shop and since the Requester invoked an ICANN Accountability Mechanism – being Reconsideration Request 16-1 – which should have disqualified the contention set for a New gTLD Program Auction.

By organizing the New gTLD Program Auction for the .SHOP contention set, ICANN ignored Requester's Reconsideration Request, and awarded the .SHOP gTLD to another member in the .SHOP contention set. By doing so, Requester's investments in time, money and efforts in applying for the .SHOP gTLD since and during the 2000 round of new gTLDs as well as the New 2012 gTLD Program are lost, notwithstanding the fact that Requester should:

- a) have been awarded the .SHOP gTLD in the context of the 2000 round or, at least, ICANN did not disqualify Requester's former application nor provided for any motivated decision in this respect; and/or
- b) have been awarded .SHOP gTLD in the context of the New gTLD Program since
  - (i) all qualifications and criteria were met for Community Priority Evaluation, bearing in mind the criteria defined by the GNSO Final Report; and
  - (ii) according to Recommendation 1 of the GNSO Final Report "*no subsequent, additional selection criteria should be used in the selection process*" should be used; and/or
- c) be given each and every opportunity to invoke all possible ICANN Accountability Mechanisms provided in ICANN's By-Laws in order to see its application for the community-based .SHOP gTLD qualify under the standards that have been defined in the GNSO's Final Report and the Applicant Guidebook in the context of Community Priority Evaluation; and/or
- d) had been able to formally invoke an objection to the CPE determination and been able to participate in an appeals mechanism which should have been in place as promised by the Final Report and mandated by .

## **9. What are you asking ICANN to do now?**

Considering the information and arguments included in this Reconsideration Request, Requesters request ICANN to:



- (i) acknowledge receipt of this Reconsideration Request;
- (ii) provide a full explanation of why ICANN has not approved Requester's application in the context of the 2000 round, in light of ICANN's Mission and Core Values;
- (iii) why ICANN has ignored Requester's initial application in making determinations in the context of the 2000 round and the New gTLD Program, and more in particular in the CPE and auction processes;
- (iv) set aside the results of the New gTLD Program Auction for the .SHOP contention set dated January 27, 2016 pending the outcome of Reconsideration Request 16-1 and any Accountability Mechanisms Requester may invoke following the determination by ICANN, unless Requester withdraws its claims;
- (v) in any event: suspend the process for entering into an agreement with any party having participated in the auction process for the .SHOP gTLD before any pending or future Accountability Mechanisms relating to applications for the .SHOP gTLD have been completed.

**10. Please state specifically the grounds under which you have the standing and the right to assert this Request for Reconsideration, and the grounds or justifications that support your request.**

Requester has standing in accordance with

- (1) the terms that have been published by ICANN in the context of the 2000 round of new gTLD applications;
- (2) ICANN's By-Laws, considering the fact that Requester has been adversely affected by the decision by ICANN to initiate and complete the New gTLD Program Auction for the .SHOP gTLD; and
- (3) ICANN's Top-Level Domain Application Terms and Conditions.

**11. Are you bringing this Reconsideration Request on behalf of multiple persons or entities? (Check one)**

Yes

No

**11a. If yes, Is the causal connection between the circumstances of the Reconsideration Request and the harm the same for all of the complaining parties? Explain.**

N/A

**Do you have any documents you want to provide to ICANN?**

If you do, please attach those documents to the email forwarding this request. Note that all documents provided, including this Request, will be publicly posted at <http://www.icann.org/en/committees/board-governance/requests-for-reconsideration-en.htm>.

**Terms and Conditions for Submission of Reconsideration Requests**

The Board Governance Committee has the ability to consolidate the consideration of Reconsideration Requests if the issues stated within are sufficiently similar.

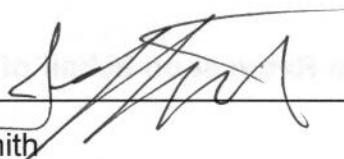
The Board Governance Committee may dismiss Reconsideration Requests that are querulous or vexatious.

Hearings are not required in the Reconsideration Process, however Requestors may request a hearing. The BGC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing.

The BGC may take a decision on reconsideration of requests relating to staff action/inaction without reference to the full ICANN Board. Whether recommendations will issue to the ICANN Board is within the discretion of the BGC.

The ICANN Board of Director's decision on the BGC's reconsideration recommendation is final and not subject to a reconsideration request.

Respectfully Submitted,

  
\_\_\_\_\_  
Jeffrey Smith

President

Commercial Connect, LLC

February 10, 2016

\_\_\_\_\_  
Date

## **Annex 15d**





18 September 2013

Dr Steve Crocker, Chair, ICANN Board  
Mr Cherine Chalaby, Chair, ICANN Board NGPC

Dear Steve, Dear Cherine,

**GNSO Council policy concerns relating to string similarity in new gTLD applications**

At the direction of the GNSO Council, I am writing to you to highlight issues relating to the string similarity review work within the new gTLD programme, especially in so far as these concerns relate to the application of existing policy.

In this context, the Council would like to draw your attention to the existing ICANN GNSO Final Report on the introduction of new generic top-level domains as approved by the GNSO in September 2007.

[http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm#\\_Toc43798015](http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm#_Toc43798015)

In particular, we would like to draw your attention to the following policy recommendations:

**Recommendation 1:** ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.

**Recommendation 2:** Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.

**Recommendation 9:** There must be a clear and pre-published application process using objective and measurable criteria.

The Council is aware of and has discussed the inconsistencies in the current output of the string similarity review process such that, when tested against the above recommendations, the output is apparently not consistent with the above policy recommendations of the GNSO.

Example inconsistencies of output which have given rise to the concern include; different outcomes (in favour of the applicant or the objector) in the case of identical strings (.cam & .com, cam & .com), different outcomes in the case of plurals (.sport & .sports, .hotel & .hotels) and different outcomes in the case of strings where there is only one letter different (.com & .ecom, .post and .epost).

At this point, the Council wishes to draw your attention to and highlight the apparent inconsistencies with existing policy. We intend to pick up this issue and look into the matter in more detail in the near future and will welcome any updates from you in the interim.

Should you require further clarification or input, please revert to me in my capacity as Chair of the GNSO Council.

Yours sincerely,

Jonathan Robinson  
Chair, ICANN GNSO Council

## **Annex 15e**



August 30, 2013

Fadi Chehadé  
President and Chief Executive Officer  
Internet Corporation for Assigned Names and Numbers  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536

Re: GNSO Discussion with ICANN CEO

Dear Fadi:

As you will recall, we had an exchange during the GNSO discussion at the recent ICANN meeting in Durban. In that exchange, which is reprinted from ICANN's transcript below, I indicated that ICANN was not holding itself accountable and that ICANN was elevating risk-avoidance over true accountability. In response, you asked me to send you a list of items that I felt displayed this behavior by ICANN. This letter contains a short list of such items that I have prepared in response to your request. By no means is this list intended to be exhaustive of the examples that could be identified to prove my point. Rather, this list is intended to be illustrative of the kind of unaccountable actions we have seen from ICANN in the recent past.

***July 14, 2013 Exchange Between Chuck Gomes and ICANN CEO Fadi Chehadé***

**Gomes:** . . . there is [sic] a lot of words given to the public interest and ICANN serving the public interest and partnership, etcetera. The one thing that it [sic] has continued in ICANN the corporation is that the number one priority is always protecting ICANN the corporation. That comes before public interest. That comes before partnerships. And in my opinion ICANN has never really been willing to step up very much at all in terms of assuming accountability for some of the things. The accountability is pushed down to contracted parties, to registrants, to everyone else except the corporation. And I've never seen any meaningful movement away from that. And in my opinion it would be very helpful if there was shared accountability and that takes lots of forms. So I point that out because that's an area where I think if anything the corporation has even become worse at in the last year. Thank you.

**Chehadé:** I invite you to send me a list of the areas you think we can increase our accountability.

***Examples of ICANN's Unaccountable Actions as Requested by ICANN CEO Fadi Chehadé***

1. One prominent example of ICANN's unwillingness to be held accountable is with its agreements with registries and registrars. Whether it is a desire to minimize the number of resources devoted to contractual compliance, reduce the cycles to achieve policy completion or to increase the amount of control that ICANN has in this multi-stakeholder model, these agreements from the start have been slanted to ICANN's favor and burdensome for applicants, registrars, and registries. All risks have been flowed down to registries and registrars with requirements to indemnify ICANN while removing any chance for the contracted parties to take action against ICANN, if warranted. This was compounded further in 2013 when the ICANN staff, in a surprise move, decided to impose the unilateral right to amend clauses in the new gTLD registry agreements. To this point of accountability, Verisign said at the time in a public comment the following:

In the current framework described in Section 7.6, ICANN cannot be held accountable because there is no mechanism to do so. ICANN refuses to allow any dispute about the "public interest" to be settled by a court of competent jurisdiction. Instead, ICANN is requiring arbitration lasting exactly one day. This response alone is telling: How could judicial review of a regulatory authority's unilateral actions possibly be against the "public interest"? It is as if the community is being asked by ICANN to "wait and see" or to simply "trust us." If judicial review does not fall within the "public interest" standard, it is reasonable to question ICANN's perspective on, and analysis behind, what it may find to be in the "public interest." Without defined criteria, accountability or consistency, how can the community that ICANN was created to serve rely on ICANN to reasonably determine what is in the "public interest?"

2. Since the Paris meeting in June of 2008, ICANN has extolled the benefits of new gTLDs to potential applicants, including brand owners. It was not until after applications were submitted in April 2012, and after hundreds of initial string evaluations had been conducted, that in August 2013 ICANN warned the world about possible SSR impacts that the SSAC had been communicating to ICANN and the ICANN Board of Directors through SSAC reports and advisories over the last four years. We view ICANN's refusal to address the well documented SSR issues as indicative of its lack of accountability. No accountable organization would ignore the advice that ICANN has ignored for four years. If my Board of Directors did so in a similar fashion, the Board would be voted out, or sued, or both. Did ICANN consider the consequences of prioritizing the rollout of new gTLDs over security and stability for the betterment of the organization?

ICANN's inattention to fundamental SSR issues is only one aspect of its accountability problem. We saw (and have now commented upon) ICANN's proposal to mitigate the risks of name collisions and frankly, we are shocked at ICANN's refusal to accept

responsibility for the risks. Under ICANN's proposal, all of the duties to preserve the stability and security of the DNS, as well as all of the risks and costs, are transferred by ICANN to applicants. One such risk is very clearly that ICANN's proposal would almost certainly threaten the reputation of any brand applicant. Did ICANN consider that it is possible, if not likely, that reputational damage to a brand could result from that brand being required to warn users of harm caused by what is essentially a marketing campaign? Applicants would have to tell the global Internet services, businesses, and brand-loyal consumer communities that delegation of their brand TLD could break their networks and possibly result in the loss of confidential information and possibly enable cyber-attacks and other nefarious behavior. Does ICANN recognize, and will it be accountable for, prioritization of the new gTLD rollout over security and stability in a way that stands to hurt brands while enhancing the position of ICANN the organization over the community once again? To place this burden on applicants -- with no community discussion, and no sensitivity to the potential reputational, legal, and other serious risks -- is inconsiderate at best and most likely a calculated move to protect ICANN. This was precisely my point to you in Durban as reflected in the transcript above.

3. A third example is related to ICANN's lack of accountability to its own multi-stakeholder processes. A clear recommendation from the Board-approved New gTLD PDP was that new strings should not be confusingly similar to existing gTLD, ccTLD, or other applied-for strings. In the implementation process of the new gTLD recommendations, the GNSO Council recommended that an exception process be designed to avoid false positives, i.e., cases where there might be visual string confusion but no actual user confusion. However, with vague rationale and minimal communication, ICANN staff refused to follow this advice. Specifically, in dealing with the issue of plural and singular strings, ICANN took a very liberal position that they are not confusingly similar and appear to have pushed this decision to the objection panels so as to not have to be accountable for terminating some future strings; it is quite likely that ICANN would not have had to do so if it had dealt with the exception procedure as recommended by its gTLD policy making body. ICANN has created the untenable situation today, where some plurals have been accepted and others have been rejected by these review teams. The question now is whether ICANN will accept responsibility and be held accountable for the situation created by its decisions.
4. Another example is ICANN staff's recent tendency to issue top-down edicts that do not include community discussion while at the same time touting the virtues of the global multi-stakeholder model of Internet governance. It is a gross inconsistency to make such claims while operating in a top-down manner that does an end-run around the very multi-stakeholder processes from which it was founded. Change is fine, but change must arise from within the established governance model and not be driven by self-interested parties that are out of step with the consensus views. Reversing or ignoring decisions that arise within the multi-stakeholder processes by cherry-picking favorable public comments cannot be construed as a true implementation of the multi-stakeholder model. ICANN's consideration and analysis of public comments too often reflects its own view and often provides mere lip service to views that are inconsistent with ICANN's institutional

preferences. ICANN is charged with resisting the tendency to merely act in its own self-interest. The public comment process is an important part of the multi-stakeholder process as it allows for discussion and suggestions from those not participating within the multiple constituencies and provides a last check to ensure that the process has gotten it right. A recent example of this relates to the previously mentioned process for making end-users aware of security issues pertaining to name collisions in the DNS. A hurried staff solution void of understanding of the unintended consequences and, where the proposed solution is so transparently in ICANN's own best interest, is not consistent with the conduct of an accountable organization and is the opposite of a multi-stakeholder or consensus-driven process.

One of the key advantages of the multi-stakeholder model is to obtain broad input from representative stakeholders before making recommendations so that the public comments can be solicited on reasonably complete proposals. ICANN needs to be accountable to itself and to the community to uphold the multi-stakeholder process even when it is inconvenient for it to do so.

5. The establishment of the five strategic panels and the creation of "ICANN LABS" is another recent example of ICANN's lack of accountability to the community and to the multi-stakeholder model. The purpose of these two efforts is to set the tone and direction for ICANN in the future apparently over the traditional consensus building process required by the AOC. A sustainable multi-stakeholder model is constituted by, and considerate of, the community at-large and yet these strategic initiatives are composed of ICANN-selected members and are managed by ICANN alone. We understand that \$3.5 million has been allocated in the FY14 budget for the five strategic panels; I do not know how much is allocated for the Labs project. To this point, I am not aware of any discussion with the broader ICANN community on either of these efforts even though they will use significant portions of community-provided funds and could have a significant impact on ICANN future decisions and direction. It is certainly possible that these uncoordinated initiatives might have a positive impact but I am confident of one thing: The chances of them having a positive impact would have been increased if ICANN sought community input before initiating them. Both efforts are perfect examples of ICANN's recent propensity to operate in an unaccountable top-down approach instead of ICANN's traditional and mandated bottom-up fashion.
6. My final example relates to the posting of ICANN staff's proposed Rights Protection Mechanism (RPM) requirements that took place on August 6. As mentioned above, ICANN staff simply ignored input from applicants who had been working with them for weeks and ICANN itself determined what the requirements should be. The group that had been initially working on this with ICANN suggested that their proposed revisions be integrated into the ICANN staff proposed requirements to ensure a fairer consideration of them. You will recall that a similar action happened with the 2013 Registrar Accreditation Agreement (RAA) and you promised that it would not happen again. Nevertheless, once again, the ICANN staff posted its own version of the proposed revisions excluding key elements. In my opinion that was, at best, inconsiderate of the multi-stakeholder model and of the working teams; in addition this action calls into



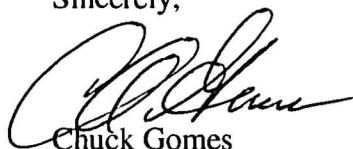
August 30, 2013

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question the motivation of the ICANN staff involved and the motives of its leadership. Those of us who had worked for weeks on this at least hoped that there would be an opportunity to obtain community input on our suggestions but only a small subset of them were included, and even those that were included were colored by ICANN staff commentary. Based on these recent actions, it appears as though the ICANN staff is taking advantage of the motivation by many to get their TLDs approved quickly and therefore is acting in an unaccountable manner inconsistent with the multi-stakeholder model.

If the examples of ICANN's unaccountable conduct noted above were minor or were infrequent, I would not be as concerned. Rather, the examples seem to represent the new standard operating policy for ICANN that, if anything, is getting more acute. I fully understand the ICANN Board's fiduciary responsibility to protect the corporation but when this desire prevents ICANN from acting in the public interest, which is a paramount Board responsibility, then something is seriously askew. There needs to be balance when interests collide and there is very little if any balance now.

Sincerely,



Chuck Gomes  
Vice President, Policy  
VeriSign, Inc.



## **Annex 15f**

## eCommerce World Retailers, Inc.

Contact Information Redacted

<http://www.ECWR.net>

November 20, 2013

Dr. Steve Crocker, Chair, ICANN Board  
Cherine Chalaby, Chair, ICANN Board NGPC  
ICANN Members and Interested Parties

Re: TLD Application Process Transparency Issues & Resolution Suggestions

Dear Internet Interested Parties:

We at eCommerce World Retailers, Inc. implore ICANN to **stop, take a look, and listen** to the dozens of comments, pleadings and complaints addressed at the new gTLD application process. Specifically ICANN's inaction and failure to properly review for string similarity in the process. All major organizations at ICANN have expressed grave concerns over this process not being properly performed. Governments have also written letters with similar concerns.

There has been a lot of commotion about the new top level domains that will be released to the internet in the next few months. My question is what happened to the closely held belief that internet name space should be sacred and sparse?

It was acknowledged long before ICANN's existence that top level domain name space should exist for a clear and defined reason (see RFC1591). Initially, TLDs such as .com (for commercial use) .org (for non-profit organizations) .net (for network providers) , .gov (for governmental use) and .edu (for educational institutions) were used on the internet whereby the end user would have a clear understanding as to what the extensions meant and it gave instant recognition and credibility to certain websites such as those used by universities and the government.

In RFC 1591 it clearly discusses the concept of name space. **"Each of the generic TLDs was created for a general category of organizations."** <http://www.ietf.org/rfc/rfc1591.txt>

**This RFC has not changed in this regard.**

The name space concept was placed deep in ICANN's mission, core values and even its motto of "One World, One Internet." These concepts were formed by years of intellectual study, research and deliberation on how the internet should be organized and laid out and literally hundreds of engineers, end users and internet professionals devoted their time, resources and knowledge to contribute to a logical, secure and stable organization.

The gTLD Applicant Guidebook sets forth the procedures for the application and delegation of new gTLDs. It does not replace, and certainly should not be inconsistent, with ICANN's long standing

principles that form the bedrock of ICANN's core mission of ensuring the stable and secure operation of the Internet's unique identifier systems. During the drafting and implementation of the AGB, it has become obvious that ICANN was making the clearly understood principles of name similarity more vague. For example, discussions leading up to the adoption of the AGB included the importance of avoiding the introduction of confusingly similar gTLDs. The definition of "similar" was extensively discussed and the use of a String Similarity Panel to make an initial evaluation of the applications for new gTLDs was proposed. Specifically, it was agreed that "similar" meant similar in sight, sound, meaning or confusing in any way, and that ICANN would enlist linguists to serve on the String Similarity Panel to make a final evaluation (as opposed to the initial evaluation) as to the similarity of applications for new gTLDs. While the word visual is clearly mentioned, it did not remove the intent of the panel to check for all similarities including sound and meaning. Clearly, the mechanical act of reviewing new gTLDs for "visual" similarity does not require the skills of linguists. Deviations in the AGB from the reasoning and principles discussed by the various stakeholders leading up to the AGB appears to be a root cause of the problems currently being encountered in the application process.

When applications for new TLD's were accepted in 2012, the AGB had been adopted after four years of development. During development of the AGB, public meetings were held worldwide outlining the steps to be followed in order for a new TLD to be delegated. One of the primary steps involved taking all of the applied for TLDs and placing them into contention sets whereby all TLDs that had similar meaning or would be confusing in any way to the end user would be grouped together and only one in that group would prevail and be awarded the single TLD for that name space.

For instance, in the eCommerce arena, TLDs applicants such as .shop, .shopyourway, .mall (IDN), .market or. bazaar (IDN), Consumer Electronics (IDN), .webstore (IDN), .eshop (IDN), .shopping (IDN), .onlineshopping (IDN), .store (IDN), .sale (IDN), .shopping, .forsale, .ecom, .sale, .numberOneStore (IDN), .store, .buy, .supplies, and .services would all be grouped together and only one would be successful to be delegated the much sought after eCommerce name space in order to ensure the stable and secure operation of the Internet's unique identifier systems. For example, ICANN would certainly not allow new gTLDs for .com1 .com2 .com3 .com4, through .com22 due to the confusion that would be introduced through such similar gTLDs. If someone was instructed to go to "MYHATSHOP.com16," what would be the chances of them remembering the .com16? Not likely, thus delegation of such confusingly similar new gTLDs would undermine the security and stability of the existing system thereby making the gTLD expansion a complete failure.

However, in interpreting AGB procedures that limited the review of the String Similarity Panel, ICANN strayed from its core mission and calls into question the integrity of the entire new gTLD process. Christine Willett, ICANN's VP of gTLD Operations, stated that she instructed the name similarity panel to only perform a visual check. This is crucial since all information on the subject of string similarity mentions that all forms or similarity must be considered. On two separate occasions, the undersigned has publically questioned ICANN regarding the deviations of ICANN's and the GNSO's policies as well as the AGB from the previous discussions regarding the scope of review of the String similarity Panel and directly asked ICANN to confirm or deny whether or not all similarity tests would be performed prior to the applications being closed. Kurt Pritz refused to answer the question in both forums.

As a result of Christine Willett instructing the panel to only perform visual similarity check, the linguists making up the String Similarity Panel determined that of the 1930 or so new gTLD applications, only four (4) **non-identical** applications were found to be similar based solely on visual similarity.

A passage for the EOI for the String Similarity Panel under string similarity states:

*“Both the GNSO (Recommendation 2: “Strings must not be confusingly similar to an existing top-level domain or a Reserved Name”) and the GAC (Principle 2.4: “In the interests of consumer confidence and security, new gTLDs should not be confusingly similar to existing TLDs”) have identified “confusing similarity” as a reason to reject an applied-for new gTLD string. Policy discussions indicate that the most important reason to disallow similar strings as top-level domain names is to protect Internet users from the increased exposure to fraud and other risks that could ensue from confusion of one string for another.”*

This limitation of the review by the String Similarity Panel is contrary to GNSO advice as well as GAC Advice . The GNSO was charged with developing and providing the policies and procedures necessary to implement the new gTLD process. Letters of concerns, pleadings and even outright complaints from GNSO regarding this issue were met mostly with silence by ICANN. For example, the GNSO Board Report indicating why the string similarity test is so important and how it supports Mission Statements 1 through 3 and Core Values C1 – 6 through 11 can be found at - <http://gns0.icann.org/issues/new-gtlds/council-report-to-board-pdp-new-gtlds-11sep07.pdf>, quoted below:

Discussions and comments are made for string similarity tests – Please see <http://archive.icann.org/en/topics/new-gtlds/summary-analysis-agv6-30may11-en.pdf>. In this vital document on Page 70, after restating all comments – there are decision made on which similarity tests will be performed as stated:

*One comment suggests that, —Aural and meaning similarity should not be considered at all. As reinforced by community discussion, possible examination for these types of similarity was included in the policy recommendations of the GNSO that was approved by the Board. **The idea is that user confusion should not be likely to occur – no matter what the cause of that confusion, Therefore, absent other policy advice, the current objection model that includes ALL TYPES OF CONFUSION WILL REMAIN IN PLACE**, although the similarity assessment during initial evaluation will be limited to visual similarity.*

ICANN’s Mission Statement can be located at <http://www.icann.org/en/about/governance/bylaws#l>

It appears that recent changes to ICANN management may have caused ICANN to lose its corporate knowledge gathered by its predecessors. The security and stability of the Internet's unique identifier system is in jeopardy due to ICANN’s failure to adhere to its long standing previously successful name space concept which groups similar domain names accordingly.

With continued urging of the GNSO, significant internet leaders and scholars all addressing this issue, why is there nothing being done?

There seems to be no one at ICANN who will champion this issue and make it right. Mr. Chehade has requested information as to where ICANN has been deficient in accountability and transparency and it has been presented to him that the Name Similarity issue is highest on the list. This was provided to him by Chuck Gomes former chair of the GNSO.

[http://www.circleid.com/posts/20130904\\_examples\\_of\\_where\\_icann\\_can\\_be\\_more\\_accountable/](http://www.circleid.com/posts/20130904_examples_of_where_icann_can_be_more_accountable/)

I also personally wrote to Mr. Chehade last year asking him to consider carefully the instructions presented to the string similarity panel as it could result in severe consequences for the internet and its stakeholders. <http://www.icann.org/en/news/correspondence/smith-to-chehade-16nov12-en.pdf>

In a letter from Senator Rockefeller to Steve Crocker, after learning that the String Similarity Panel neglected to consolidate the 706 generic strings into the expected 50-75 strings, he urged ICANN to move cautiously on the issues. <http://www.icann.org/en/news/correspondence/rockefeller-to-crocker-26jun13-en>

A recent letter dated September 13, 2013 from Jonathan Robinson, Chair, ICANN GNSO Council to Dr. Steve Crocker, ICANN Board and Cherine Chalaby, Chair of the New gTLD Program Committee notifies the ICANN Board that certain recommendations have not been properly implemented. Specifically, he identifies recommendation 2- Strings must not be confusingly similar and recommendation 9- there must be a clear and pre-published application process using objective and measurable criteria. – see <http://gns0.icann.org/en/correspondence/robinson-to-crocker-chalaby-18sep13-en.pdf>

A recent letter dated September 16, 2013 from Alan Greenburg and the ALAC they also urge ICANN to readdress the Similar String issue. – see <https://community.icann.org/display/alacpolicydev/At-Large+Confusingly+Similar+gTLDs+Workspace>

With a published study commissioned by the eCWR, we have evaluated the newly submitted gTLD applications and estimated close to 647 unique Brand Strings, and 89 unique geographic strings. The remaining roughly 966 applications are competing for 706 unique generic strings of which only 56 have unique meanings. In other words, if ICANN fulfilled its mission properly, the 706 applications should only result in 50-75 new generic TLDs to be delegated. See <http://www.ecwr.net/forumdisplay.php?20-SHOP-and-the-New-Top-Level-Domains>

After receiving the final count of applications, it was estimated that approximately 75 new unique generic TLDs would be released. and what was promised to the US government when we had senate hearings on this subject as well as what was promised to the business community when they complained about the extreme expense of protecting trademarks with new TLDs. Remember that these new generic TLDs are to only be used as categories or name space as per RFC1591.

Is it possible that because of the “gold rush” of the new gTLDs, ICANN has shifted its position and has been biased by the influx of new and unexpected application fees which has caused it to deviate from its core mission?

As a member of eCommerce World Retailers, and as a long standing gTLD applicant, we are formally requesting that ICANN adhere to their founding principles and be restrictive and conservative as to how new TLDs are delegated. Allowing more TLDs may be misconstrued as increased competition-- but at what expense? It will only create confusion and chaos. The TLD market is not an open market, it plainly is a monopoly which ICANN is charged with diligently entrusting one entity per name space to operate. Inside of those name spaces, creativity and the free flow of ideas will result in real competition.

We at eCommerce World Retailers have strived since 2004 to support and develop a mechanism to operate an open, transparent and safe eCommerce environment which we have entrusted Commercial Connect, LLC. and their application for .shop to convey. Commercial Connect, LLC., is the original final applicant for .shop in 2000 which made it through the entire ICANN process for eCommerce without being denied, but has yet to be awarded the .shop delegation. There are approximately 38 other applicants and 22 variations for eCommerce TLDs with only two claiming to represent community. Community, transparency, secure and stability are all concepts conveyed in Commercial Connect's .shop application and are sorely missing in all of the others. Community applications have historically and justifiably been ICANN's preference to delegating TLDs and should remain a central focus to properly determine community support without erroneously disallowing applicants with no significant objections.

It would be confusing to any end user as to which eCommerce solution is the safe and trusted community supported TLD if in fact 20+ other similar TLDs existed in the same name space.

Which TLD in the following list would you consider the community, safe and secure space to do eCommerce? .shop, .shopyourway, .mall (IDN), .market or. bazaar (IDN), Consumer Electronics (IDN), .webstore (IDN), .eshop (IDN), .shopping (IDN), .onlineshopping (IDN), .store (IDN), .sale (IDN), .shopping, .forsale, .ecom, .sale, .numberOneStore (IDN), .store, .buy, .supplies, and/or .services ? And which TLD will you

In addition, it is dangerous to award 23 eCommerce TLDs as the business plans and models would vary significantly. Thus, the cost of \$1 to \$3 million per year to operate a competing back-end registry would prove to many of these companies to be cost prohibitive and eventually lead to failure for many, if not most, of these delegated registrars. **At this point, ICANN would have succeeded at one of the most horrific failures in internet history, the destruction of TLDs.**

In view of the growing discontent with the ICANN application process, WHY is ICANN not doing their best to correct this severe deficiency? .

I am clearly concerned about eCommerce and its ability to survive and even thrive on the internet but other name spaces will face similar challenges. For example, TLDs with similar meaning to .KIDS may include one which would be a policed safe and secure segment for children while others could potentially be used as predatory segments that could possibly target and cause harm.

While this seems like we are beating a dead horse by discussing the subject of string similarity, this horse keeps rearing its ugly head currently in the form of name collision and recently in the unprecedented number of Requests for Reconsideration that ICANN has received in regards to the very inconsistent decisions from ICDR's (Non-expert) panels on name similarity.

**By continuing to release new generic TLD's, other current applicants are now at a severe disadvantage.** Any current applicant that has a TLD similar to the already delegated TLD's are at risk of being barred from becoming delegated simply by referring to ICANN's policies on similar TLD's. This unfair treatment whereby ICANN approved one applicant over another without first grouping and considering name similarity can be considered gross negligence.

The only solution is to halt the current process and begin it anew with procedures adhering to the recommendations of the GNSO that take into full account all of ICANN's discussions, policies, procedures, core values, missions relating to this issue

The lack of transparency and accountability on this issue has been frustrating. Over the last eight (8) months we have addressed this issue in letters to many different recipients at ICANN. Most are not aware of the specifics of the issue and for certain, no one has managed to follow-up or compare their letters with those that other have received.

<http://gns0.icann.org/en/correspondence/robinson-to-crocker-chalaby-18sep13-en.pdf>

Again, there are significant individuals on ICANN committees and councils that are aware of the issue but no effective action is taking place. Instead ICANN is currently moving forward with delegation and making active new gTLDs that could have significant consequences on other applicants without following the basic steps which include full string similarity review in order to place the applications into proper contention sets.

In a recent draft for a five year strategic plan by ICANN, the third Focus Area is entitled "Supporting a healthy unique identifier ecosystem." We are certainly off track and what is done today will have drastic repercussions in the not too distant future. <http://www.icann.org/en/about/planning/strategic-engagement/focus-areas-29oct13-en.pdf>

Our request for ICANN to properly perform the name similarity process only brings more competition to the much sought after .shop eCommerce TLD name space. It delays the delegation period and can potentially delay the review for community priority evaluation. However, we all feel that the process should be done fairly, done efficiently and most of all done correctly. In order to achieve this, ICANN must halt the current process and must implement the correct procedures to ensure that the String Similarity Panel can properly assess the strings for aural, similar and/or confusing meanings. Likewise ICANN must provide well defined guidelines to the expert panels that review the results of the String Similarity Panels to ensure consistent and predictable results that advance ICANN's core mission. There is similar vague language in the recently published Guidelines for the Extended Process Similarity Review Panel (EPSRP) for the IDN ccTLD Fast Track Process dated November 5, 2013, while visual similarity may be the only pertinent form for a 2 letter ccTLD (which is why the term visual keeps appearing as it was taken out of context referring to ccTLDs and used as just one example for confusion), confusing issues could still arise. If this issue is not corrected it will continue to flow over to and corrupt other processes similar to the name collision issue and how the dispute mechanism has failed.

Who can make this decision and implement this? How quickly can it be done and what will the published pre-determined instructions that are provided be? These are questions that need immediate answers so we can restore our faith in ICANN's ability to effectively manage the internet name space.

Sincerely,

Jeffrey Smith  
Founding Board Member  
eCommerce World Retailers, Inc.  
CEO, Commercial Connect, LLC





## **Annex 15h**



**Samantha M. Quimby**  
Managing Associate  
Contact Information Redacted

June 10, 2013

Via Electronic Mail

Fadi Chehadé  
Chief Executive Officer  
ICANN  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90095-2536

**Re: Application #1-1830-1672 Commercial Connect LLC for .shop TLD**

Dear Mr. Chehadé:

Our firm has been retained by Commercial Connect, LLC (“Commercial Connect”) regarding its concern over the treatment of its application for the .SHOP top-level domain (TLD) and the subsequent events in the most recent TLD application round.

**BACKGROUND OF .SHOP**

Commercial Connect’s dispute is based in the history of its application with ICANN for the .SHOP TLD. Commercial Connect was created out of a strategic partnership formed between the Simon Property Group and Computer Analytical Systems, Inc.—a combination of expertise in the retail industry and communications and technology infrastructure that is particularly well-suited to maintaining an e-commerce-focused community.

Commercial Connect filed its initial application to operate a .shop registry with ICANN in 2000. While Commercial Connect was not delegated the .shop registry at that time, ICANN made clear that its application was not to be considered “rejected” – rather, it was considered to still be “pending.” Moreover, representatives of ICANN conveyed to Commercial Connect that its *pending application* would be given priority in future application rounds. Of the original applicants for .SHOP during the year 2000 application round, only Commercial Connect’s application (which was approved throughout the entire process in 2000) remains as a current applicant today.

## STATUS OF CURRENT .SHOP APPLICATION

Despite ICANN's promises, Commercial Connect has received the opposite of "priority" in the most recent application round. Rather, nine applicants have submitted applications for .SHOP—eight newcomers and Commercial Connect – each of which are considered to be in the same "contention set" that will necessitate a bidding phase in the near future amongst those remaining applications should issues arise in Commercial Connect's priority community evaluation. In addition, a number of applications have been submitted for confusingly similar strings, such as .SHOPPING and 网店 (online shop) – TLDs that have not been deemed "confusingly similar" by the corresponding panel charged with such review. Lastly, Commercial Connect has been met with delay after delay in its application's Initial Evaluation (IE) process, including a communication of June 7, 2013, that stated:

"We are writing to inform you that the Initial Evaluation (IE) results for application ID 1-1830-1672 will not be posted during this week's release of results."

While no explanation was proffered for this delay, Commercial Connect firmly expected to have the IE results of its .SHOP application posted during the week of June 7, 2013. This reasonable expectation is based upon its placement in the lottery system – i.e., Commercial Connect received number 649 in ICANN's lottery process, the result of a "re-vamping" of the order for processing applications. Despite its placement at 649, ICANN is now releasing IE results for applications in the 700's. In short, Commercial Connect's application appears to have been skipped with no indication on when the IE results will be provided.

## STRING SIMILARITY AND COMMUNITY PRIORITY

Commercial Connect firmly believes that it has been prejudiced by ICANN's string similarity results in at least two ways. First, Commercial Connect believes, as it has previously indicated in its correspondence with ICANN, that ICANN's concept of string similarity is not certain and does not comply with the parameters ICANN had developed and announced – i.e., that focusing solely on "visual" similarities does not allow for consideration of other TLD applications that either sound the same or mean the same, in direct conflict with the stated objective of avoiding user confusion. This has left Commercial Connect in a position that it would not have expected, objecting to numerous strings based on similarity of meaning (in both English and foreign languages) that were omitted from the contention set as determined by the string similarity review panel – not to mention TLDs that are clearly similar to one another visually. It is reasonable to assume that the public's confidence (not to mention our client's) is shaken when, for example, a review panel under the direction of ICANN concludes that .SHOP and .SHOPPING are not visually similar to one another.

Second, the problems associated with filing so many objections were only compounded by ICANN's delay in releasing its string similarity results, or "contention sets." To be sure, ICANN did not release these results to the public until February 27, 2013, resulting with only ten (10) business days to analyze the results, make strategic decisions regarding the results, and draft and file the objections. Commercial Connect requested an extension of the filing deadline and

was refused. The result of a great amount of work and limited time resulted in what will generously be described as a “scramble” – Commercial Connect could not have reasonably anticipated the need to file objections against TLDs such as .SHOPPING or .网店 (online shop) – and many applications were not objected to simply for lack of time to file.

Finally, Commercial Connect is greatly concerned with ICANN’s recent decision to launch the IDNs first. If the IDNs receive preference over other applications as previously communicated by ICANN, this raises concerns with the potential uncertainty through hypothetical scenarios—for example, whether preference for the HANI script’s equivalent of .FOOD would pose string similarity issues for an applicant for .FOOD in English. Moreover, allowing the IDNs to move forward prior to final determinations in the Community Priority Evaluation has the effect of obviating the very benefit to be awarded to community based TLDs – namely, the benefit of priority.

## CONCLUSION

Commercial Connect has previously posited a number of these concerns to ICANN. To date, these concerns have not been addressed. In Commercial Connect’s view, which is informed by the events detailed above, uncertainty currently reigns.

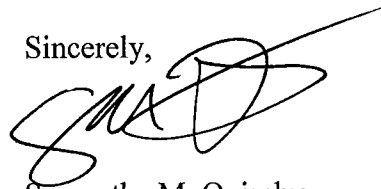
Moreover, the actions described above do not comport with ICANN's stated “first priority” to “preserve the stability of the Internet” or the self-mandated aspiration to place “significant emphasis on the demonstrated ability of the applicant or a member of the proposing team to operate a TLD registry of significant scale in a manner that provides affordable services with a high degree of service responsiveness and reliability.” Ultimately, Commercial Connect believes that ICANN must and should operate by the criteria that ICANN itself established. Without adopting its own processes or allowing applicants a fair opportunity to meaningfully participate in the process as they expected to do, based upon ICANN’s previous guidance, applicants, including Commercial Connect, face significant risks that their applications will be subject to unexpected and capricious standards. The potential result not only harms applicants but also users, at significant monetary damage to Commercial Connect.

On behalf of our client, we must insist that ICANN take reasonable and immediate steps to implement a solution to the ongoing prejudice and harm to that is occurring to Commercial Connect. Issues of immediate concern include:

- A date certain when Commercial Connect will be provided with its initial evaluation results;
- An explanation on how ICANN expects to handle the stability issue of similar and/or confusing gTLD’s since the similarity panel failed to abide by ICANN’s set policies and statements; and
- A timeline along with specific instructions for the CPE panel on when and how the community priority evaluations (CPEs) will take place with assurances that the competitive strings would not be delegated until after community priority evaluations are complete.

To that end, we look forward to our conference call on Monday, June 10, 2013 at 11am PST to discuss how we may come about such a resolution.

Sincerely,

A handwritten signature in black ink, appearing to read 'SMQ', with a long, sweeping horizontal line extending from the top right of the signature.

Samantha M. Quimby

SMQ:nmh

## **Annex 15i**

# **ICANN Generic Names Supporting Organisation**

## **Board Report**

### **Introduction of New Generic Top-Level Domains**

**11 September 2007**

# **Board Report & GNSO Council Final Report Part A & B**

## **Introduction of New Generic Top-Level Domains**

**INSERT UPDATED TOC**



## ABSTRACT

This is the Board Report for the Generic Names Supporting Organization (GNSO) Council's policy development process on the Introduction of New Top-Level Domains. The Report is in two parts. Part A includes the requirements for a Board Report in addition to the GNSO Council's *Final Report* which includes their substantive discussion of the Principles, Policy Recommendations and Implementation Guidelines. Part B of the *Final Report* contains a range of supplementary materials that have been used by the Committee during the course of the Policy Development Process, most notably detailed Constituency Statements, Expert Papers and other reference materials.

The process for the introduction of new generic top-level domains (gTLDs) is central to fostering choice and competition in domain registration services, and as such is significant to the promotion of ICANN's core values. The evolution of the namespace toward enhanced diversity of services and service providers must be planned and managed effectively to ensure that the security, stability, reliability, and global interoperability of the Internet is maintained.

The proposed policy that would guide the introduction of new gTLDs was created by the GNSO over the last two years through its bottom-up, multi-stakeholder policy development process. The GNSO received assistance from ICANN staff to help ensure that their final recommendations and guidelines are implementable. The questions that have been addressed by the GNSO in the development of new gTLD policy are complex and involve technical, economic, operational, legal, public policy, and other considerations. The intended result is a straightforward process that awards new gTLDs if they satisfy the criteria and no objections are sustained.

Readers wishing immediate access the core substance of the suggested approach are advised to focus first on the [Recommendations \(click to get](#)

[there](#)), which give the fundamentals, in part based on the agreed [Principles](#). Next, implementation advice is provided in the [Implementation Guidelines](#). Reading of the documents in full will provide the comprehensive advice and discussions regarding the GNSO's new gTLD's policy recommendations.

## BOARD REPORT REQUIREMENTS

- 1.1 This is the Board Report for the *Introduction of New Top-Level Domains*. According to the GNSO's policy development process, the Board Report must contain the following elements.
- a. A clear statement of any Supermajority Vote recommendation of the Council.  
  
The GNSO Council considered the *Final Report* and the results of the 20 day public comment period at its meeting on 6 September 2007.  
  
The GNSO Council voted on the package of recommendations as follows, as quoted from the minutes, [insert after minutes and MP3 recording completed]  
  
[The motion carried with a supermajority vote as defined in the ICANN bylaws, section 16 (<http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA>)]
  - b. If a Supermajority Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) that held the position;
  - c. An analysis of how the issue would affect each constituency, including any financial impact on the constituency; [this is included in full in the Constituency Statements found in Part B of the *Final Report* in addition to the supplementary Minority Statements submitted by the NCUC and the personal comments made by Ms Avri Doria which are found in the Part A Annexes]
  - d. An analysis of the period of time that would likely be necessary to implement the policy; [this is found in the Implementation Team *Discussion Points* document along with the draft RFP, the draft base contract and the instructions to applicants]
  - e. The advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and relevant experience; and (ii) potential conflicts of interest; [these are found in full in Part B in the Supplementary Materials]
  - f. The Final Report submitted to the Council; [the Final Report is included in full in the sections below]
  - g. A copy of the minutes of the Council deliberation on the policy issue, including the all opinions expressed during such deliberation,

accompanied by a description of who expressed such opinions. [insert the minutes of the meeting are found in full below once complete. The MP3 recording of the meeting can be found here insert URL]

## BACKGROUND

Following a succession of activities relating to the introduction of new gTLDs, since the inception of ICANN (for a complete history see the Final Report), the initial step for a PDP on new gTLDs was taken on 22 September 2005 when the GNSO Council requested ICANN staff to produce an Issues Report on the topic of new TLDs. The requested report covered four issue areas:

- Whether to continue to introduce new gTLDs
- Criteria for approving applications for new gTLDs
- Allocation methods
- Contractual conditions.

The Issues Report was discussed at the GNSO Council meeting on 28 November 2005 and the GNSO Council voted unanimously to initiate a formal PDP on this matter. Notice of the new PDP, along with draft terms of reference for the new initiative and a call for public reactions and substantive papers were published on 6 December 2005, with a 31 January 2006 deadline for all submissions. Formal terms of reference for the PDP were approved at the 2 December 2005 GNSO Council meeting, with a separate motion confirming that the PDP would be undertaken as a “committee of the whole” chaired by the GNSO Council chair Bruce Tonkin, who eventually was succeeded in both these respects by Avri Doria in May 2007.

A mailing list for the New gTLD Committee was established on 17 January 2006, and a draft Initial report was published on 19 February 2006, with a public comment period ending on 3 March 2006. The final Initial Report was published on 15 March 2006. The first Draft Final Report was publicly circulated on 14 November 2006, along with a Staff memo recommending additional considerations in several areas. Further Draft Final Report versions were released during 2007 and the last draft version was subject to public comments from 10 to 30 August 2007. The ultimate Final Report, dated 29 August, was adopted with a supermajority vote by the GNSO Council on 6 September 2007.

# FINAL REPORT

## Background

1. The Internet Corporation for Assigned Names and Numbers (ICANN) is responsible for the overall coordination of “the global Internet's system of unique identifiers” and ensuring the “stable and secure operation of the Internet's unique identifier systems. In particular, ICANN coordinates the “allocation and assignment of the three sets of unique identifiers for the Internet”. These are “domain names”(forming a system called the DNS); Internet protocol (IP) addresses and autonomous system (AS) numbers and Protocol port and parameter numbers”. ICANN is also responsible for the “operation and evolution of the DNS root name server system and policy development reasonably and appropriately related to these technical functions”. These elements are all contained in ICANN's Mission and Core Values<sup>1</sup> in addition to provisions which enable policy development work that, once approved by the ICANN Board, become binding on the organization. The results of the policy development process found here relate to the introduction of new generic top-level domains.
2. This document is the *Final Report* of the Generic Names Supporting Organisation's (GNSO) Policy Development Process (PDP) that has been conducted using ICANN's Bylaws and policy development guidelines that relate to the work of the GNSO. This *Report* reflects a comprehensive examination of four Terms of Reference designed to establish a stable and ongoing process that facilitates the introduction of new top-level domains. The policy development process (PDP) is part of the Generic Names Supporting Organisation's (GNSO) mandate within the ICANN structure. However, close consultation with other ICANN Supporting Organisations and Advisory Committees has been an integral part of the process. The

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<sup>1</sup> <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#l>

- consultations and negotiations have also included a wide range of interested stakeholders from within and outside the ICANN community<sup>2</sup>.
3. The *Final Report* is in two parts. This document is Part A and contains the full explanation of each of the Principles, Recommendations and Implementation Guidelines that the Committee has developed since December 2005<sup>3</sup>. Part B of the *Report* contains a wide range of supplementary materials which have been used in the policy development process including Constituency Impact Statements (CIS), a series of Working Group Reports on important sub-elements of the Committee's deliberations, a collection of external reference materials, and the procedural documentation of the policy development process<sup>4</sup>.
  4. The finalisation of the policy for the introduction of new top-level domains is part of a long series of events that have dramatically changed the nature of the Internet. The 1969 ARPANET diagram shows the initial design of a network that is now global in its reach and an integral part of many lives and businesses. The policy recommendations found here illustrate the complexity of the Internet of 2007 and, as a package, propose a system to add new top-level domains in an orderly and transparent way. The ICANN Staff Implementation Team, consisting of policy, operational and legal staff members, has worked closely with the Committee on all aspects of the policy development process<sup>5</sup>. The ICANN Board has received regular information and updates about the process and the substantive results of the Committee's work.

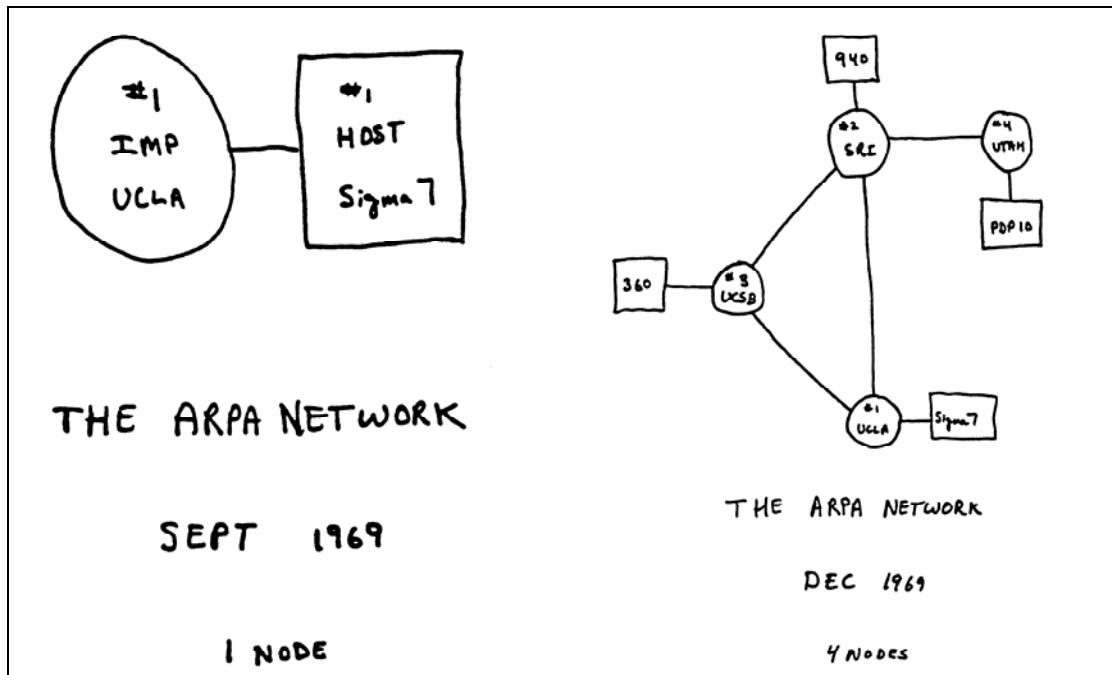
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<sup>2</sup> The ICANN "community" is a complex matrix of intersecting organizations and which are represented graphically here. <http://www.icann.org/structure/>

<sup>3</sup> The *Final Report* is Step 9 in the GNSO's policy development process which is set out in full at <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA>.

<sup>4</sup> Found here <http://gns0.icann.org/issues/new-gtlds/>.

<sup>5</sup> The ICANN Staff *Discussion Points* documents can be found at <http://gns0.icann.org/drafts/GNSO-PDP-Dec05-StaffMemo-14Nov06.pdf> and <http://gns0.icann.org/drafts/PDP-Dec05-StaffMemo-19-jun-07.pdf>



5. The majority of the early work on the introduction of new top-level domains is found in the IETF's Request for Comment series. RFC 1034<sup>6</sup> is a fundamental resource that explains key concepts of the naming system. Read in conjunction with RFC920<sup>7</sup>, an historical picture emerges of how and why the domain name system hierarchy has been organised. Postel & Reynolds set out in their RFC920 introduction about the "General Purpose Domains" that ... "While the initial domain name "ARPA" arises from the history of the development of this system and environment, in the future most of the top level names will be very general categories like "government", "education", or "commercial". The motivation is to provide an organization name that is free of undesirable semantics."
  
6. In 2007, the Internet is multi-dimensional and its development is driven by widespread access to inexpensive communications technologies in many

<sup>6</sup> Authored in 1987 by Paul Mockapetris and found at <http://www.ietf.org/rfc/rfc1034>

<sup>7</sup> Authored in October 1984 by Jon Postel and J Reynolds and found at <http://www.ietf.org/rfc/rfc920>

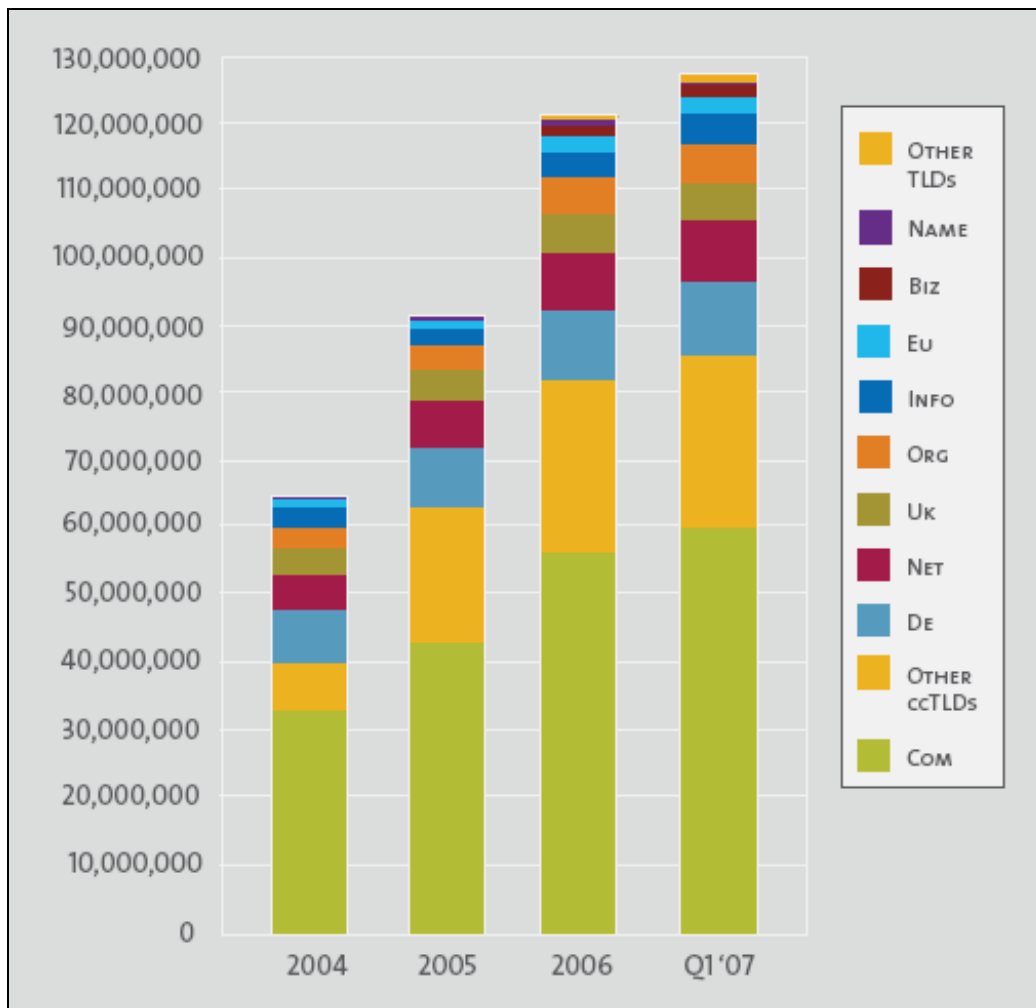


parts of the world. In addition, global travel is now relatively inexpensive, efficient and readily available to a diverse range of travellers. As a consequence, citizens no longer automatically associate themselves with countries but with international communities of linguistic, cultural or professional interests independent of physical location. Many people now exercise multiple citizenship rights, speak many different languages and quite often live far from where they were born or educated. The 2007 OECD *Factbook*<sup>8</sup> provides comprehensive statistics about the impact of migration on OECD member countries. In essence, many populations are fluid and changing due in part to easing labour movement restrictions but also because technology enables workers to live in one place and work in another relatively easily. As a result, companies and organizations are now global and operate across many geographic borders and jurisdictions. The following illustration<sup>9</sup> shows how rapidly the number of domain names under registration has increased and one could expect that trend to continue with the introduction of new top-level domains.

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<sup>8</sup> Found at <http://www.oecd.org/dataoecd/15/37/38336539.pdf>

<sup>9</sup> From Verisign's June 2007 *Domain Name Industry Brief*.



7. A key driver of change has been the introduction of competition in the registration of domain names through ICANN Accredited Registrars<sup>10</sup>. In June 2007, there were more than 800 accredited registrars who register names for end users with ongoing downward pressure on the prices end-users pay for domain name registration.

8. ICANN's work on the introduction of new top-level domains has been underway since 1999. By mid-1999, Working Group C<sup>11</sup> had quickly reached consensus on two issues, namely that "...ICANN should add new

<sup>10</sup> The full list is available here <http://www.icann.org/registrars/accredited-list.html>

<sup>11</sup> Report found at <http://www.icann.org/dns/wgc-report-21mar00.htm>

- gTLDs to the root. The second is that ICANN should begin the deployment of new gTLDs with an initial rollout of six to ten new gTLDs, followed by an evaluation period". This work was undertaken throughout 2000 and saw the introduction of, for example, .coop, .aero and .biz.
9. After an evaluation period, a further round of sponsored TLDs was introduced during 2003 and 2004 which included, amongst others, .mobi and .travel<sup>12</sup>.
  10. The July 2007 zone file survey statistics from [www.registrarstats.com](http://www.registrarstats.com)<sup>13</sup> shows that there are slightly more than 96,000,000 top level domains registered across a selection of seven top-level domains including .com, .net and .info. Evidence from potential new applicants provides more impetus to implement a system that enables the ongoing introduction of new top level domains<sup>14</sup>. In addition, interest from Internet users who could use Internationalised Domain Names (IDNs) in a wide variety of scripts beyond ASCII is growing rapidly.
  11. To arrive at the full set of policy recommendations which are found here, the Committee considered the responses to a Call for Expert Papers issued at the beginning of the policy development process<sup>15</sup>, and which was augmented by a full set of GNSO Constituency Statements<sup>16</sup>. These are all found in Part B of the *Final Report* and should be read in conjunction with this document. In addition, the Committee received detailed responses from the Implementation Team about proposed policy recommendations and the implementation of the recommendations package as an on-line application process that could be used by a wide array of potential applicants.
  12. The Committee reviewed and analysed a wide variety of materials including Working Group C's findings, the evaluation reports from the 2003

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<sup>12</sup> Found at <http://www.icann.org/announcements/announcement-31aug04.htm>

<sup>13</sup> <http://www.registrarstats.com/Public/ZoneFileSurvey.aspx>

<sup>14</sup> Verisign produce a regular report on the domain name industry.

[http://www.verisign.com/Resources/Naming\\_Services\\_Resources/Domain\\_Name\\_Industry\\_Brief/index.html](http://www.verisign.com/Resources/Naming_Services_Resources/Domain_Name_Industry_Brief/index.html)

<sup>15</sup> The announcement is here <http://icann.org/announcements/announcement-03jan06.htm>

and the results are here <http://gns0.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

<sup>16</sup> Found here <http://gns0.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

& 2004 round of sponsored top-level domains and a full range of other historic materials<sup>17</sup>.

13. In the past, a number of different approaches to new top level domains have been considered including the formulation of a structured taxonomy<sup>18</sup> of names, for example, .auto, .books, .travel and .music. The Committee has opted to enable potential applicants to self-select strings that are either the most appropriate for their customers or potentially the most marketable. It is expected that applicants will apply for targeted community strings such as .travel for the travel industry and .cat for the Catalan community as well as some generic strings. The Committee identified five key drivers for the introduction of new top-level domains.

- (i) It is consistent with the reasons articulated in 1999 when the first proof-of-concept round was initiated
- (ii) There are no technical impediments to the introduction of new top-level domains as evidenced by the two previous rounds
- (iii) Expanding the domain name space to accommodate the introduction of both new ASCII and internationalised domain name (IDN) top-level domains will give end users more choice about the nature of their presence on the Internet. In addition, users will be able to use domain names in their language of choice.
- (iv) There is demand for additional top-level domains as a business opportunity. The GNSO Committee expects that this business opportunity will stimulate competition at the registry service level which is consistent with ICANN's Core Value 6.

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<sup>17</sup> <http://gnso.icann.org/issues/new-gtlds/>

<sup>18</sup> For example, see the GA List discussion thread found at <http://gnso.icann.org/mailling-lists/archives/ga/msg03337.html> & earlier discussion on IANA lists <http://www.iana.org/comments/26sep1998-02oct1998/msg00016.html>. The 13 June 2002 paper regarding a taxonomy for non-ASCII TLDs is also illuminating <http://www.icann.org/committees/idn/registry-selection-paper-13jun02.htm>

- (v) No compelling reason has been articulated to not proceed with accepting applications for new top-level domains.

14. The remainder of this Report is structured around the four *Terms of Reference*. This includes an explanation of the Principles that have guided the work taking into account the Governmental Advisory Committee's March 2007 *Public Policy Principles for New gTLDs*<sup>19</sup>; a comprehensive set of Recommendations which has majority Committee support and a set of Implementation Guidelines which has been discussed in great detail with the ICANN Staff Implementation Team. The Implementation Team has released two *ICANN Staff Discussion Points* documents (in November 2006 and June 2007). Version 2 provides detailed analysis of the proposed recommendations from an implementation standpoint and provides suggestions about the way in which the implementation plan may come together. The ICANN Board will make the final decision about the actual structure of the application and evaluation process.

15. In each of the sections below the Committee's recommendations are discussed in more detail with an explanation of the rationale for the decisions. The recommendations have been the subject of numerous public comment periods and intensive discussion across a range of stakeholders including ICANN's GNSO Constituencies, ICANN Supporting Organisations and Advisory Committees and members of the broader Internet-using public that is interested in ICANN's work<sup>20</sup>. In particular, detailed work has been conducted through the Internationalised Domain Names Working Group (IDN-WG)<sup>21</sup>, the Reserved Names Working Group (RN-WG)<sup>22</sup> and the Protecting the Rights of Others Working Group (PRO-WG)<sup>23</sup>. The Working Group Reports are found in full in Part B of the *Final Report* along with the March 2007 GAC *Public*

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<sup>19</sup> Found here [http://gac.icann.org/web/home/gTLD\\_principles.pdf](http://gac.icann.org/web/home/gTLD_principles.pdf)

<sup>20</sup> A list of the working materials of the new TLDs Committee can be found at <http://gns0.icann.org/issues/new-gtlds/>.

<sup>21</sup> The Outcomes Report for the IDN-WG is found <http://gns0.icann.org/drafts/idn-wg-fr-22mar07.htm>. A full set of resources which the WG is using is found at <http://gns0.icann.org/issues/idn-tlds/>.

<sup>22</sup> The Final Report of the RN-WG is found at <http://gns0.icann.org/drafts/rn-wg-fr19mar07.pdf>

<sup>23</sup> The Final Report of the PRO-WG is found at <http://gns0.icann.org/drafts/GNSO-PRO-WG-final-01Jun07.pdf>

*Policy Principles for New Top-Level Domains, Constituency Impact Statements.* A minority statement from the NCUC about Recommendations 6 & 20 are found Annexes for this document along with individual comments from Nominating Committee appointee Ms Avri Doria.

## SUMMARY -- PRINCIPLES, RECOMMENDATIONS & IMPLEMENTATION GUIDELINES

1. This section sets out, in table form, the set of Principles, proposed Policy Recommendations and Guidelines that the Committee has derived through its work. The addition of new gTLDs will be done in accordance with ICANN's primary mission which is to ensure the security and stability of the DNS and, in particular, the Internet's root server system<sup>24</sup>.
2. The Principles are a combination of GNSO Committee priorities, ICANN staff implementation principles developed in tandem with the Committee and the March 2007 GAC Public Policy Principles on New Top-Level Domains. The Principles are supported by all GNSO Constituencies.<sup>25</sup>
3. ICANN's Mission and Core Values were key reference points for the development of the Committee's Principles, Recommendations and Implementation Guidelines. These are referenced in the right-hand column of the tables below.
4. The Principles have support from all GNSO Constituencies.

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<sup>24</sup> The root server system is explained here <http://en.wikipedia.org/wiki/Rootserver>

<sup>25</sup> Ms Doria supports all of the Principles but expressed concern about Principle B by saying "...While I strongly support the introduction of IDN TLDS, I am concerned that the unresolved issues with IDN ccTLD equivalents may interfere with the introduction of IDN TLDs. I am also concerned that some of these issues could impede the introduction of some new ASCII TLDs dealing with geographically related identifiers" and Principle D "...While I favor the establishment of a minimum set of necessary technical criteria, I am concerned that this set actually be the basic minimum set necessary to protect the stability, security and global interoperability."

	PRINCIPLES	MISSION & CORE VALUES
A	New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.	M1 & CV1 & 2, 4-10
B	Some new generic top-level domains should be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.	M1-3 & CV 1, 4 & 6
C	The reasons for introducing new top-level domains include that there is demand from potential applicants for new top-level domains in both ASCII and IDN formats. In addition the introduction of new top-level domain application process has the potential to promote competition in the provision of registry services, to add to consumer choice, market differentiation and geographical and service-provider diversity.	M3 & CV 4-10
D	A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.	M1-3 & CV 1
E	A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meets its obligations under the terms of ICANN's registry agreement.	M1-3 & CV 1
F	A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.	M1-3 & CV 1
G	The string evaluation process must not infringe the applicant's freedom of expression rights that are protected under internationally recognized principles of law.	



	RECOMMENDATIONS <sup>26</sup>	MISSION & CORE VALUES
1	<p>ICANN must implement a process that allows the introduction of new top-level domains.</p> <p>The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination.</p> <p>All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.</p>	M1-3 & CV1-11
2	Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.	M1-3 & C1-6-11
3	<p>Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.</p> <p>Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industry Property (in particular trademark rights), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) (in particular freedom of expression rights).</p>	CV3
4	Strings must not cause any technical instability.	M1-3 & CV 1
5	Strings must not be a Reserved Word <sup>27</sup> .	M1-3 & CV 1 & 3

<sup>26</sup> Note the updated recommendation text sent to the gTLD-council list after the 7 June meeting. <http://forum.icann.org/lists/gtld-council/msg00520.html>

<sup>27</sup> Reserved word limitations will be included in the base contract that will be available to applicants prior to the start of the application round.

6*	<p>Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.</p> <p>Examples of such principles of law include, but are not limited to, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination, intellectual property treaties administered by the World Intellectual Property Organisation (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).</p>	M3 & CV 4
7	Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.	M1-3 & CV1
8	Applicants must be able to demonstrate their financial and organisational operational capability.	M1-3 & CV1
9	There must be a clear and pre-published application process using objective and measurable criteria.	M3 & CV6-9
10	There must be a base contract provided to applicants at the beginning of the application process.	CV7-9
11	[Replaced with Recommendation 20 and Implementation Guideline P and inserted into Term of Reference 3 Allocation Methods section]	
12	Dispute resolution and challenge processes must be established prior to the start of the process.	CV7-9
13	Applications must initially be assessed in rounds until the scale of demand is clear.	CV7-9
14	The initial registry agreement term must be of a commercially reasonable length.	CV5-9

15	There must be renewal expectancy.	CV5-9
16	Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved.	CV5-9
17	A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.	M1 & CV1
18	If an applicant offers an IDN service, then ICANN's IDN guidelines <sup>28</sup> must be followed.	M1 & CV1
19	Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars.	M1 & CV1
20*	An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.	

\* The NCUC submitted Minority Statements on Recommendations 6 and 20. The remainder of the Recommendations have support from all GNSO Constituencies.

	IMPLEMENTATION GUIDELINES	MISSION & CORE VALUES
IG A	The application process will provide a pre-defined roadmap for applicants that encourages the submission of applications for new top-level domains.	CV 2, 5, 6, 8 & 9
IG B	Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process.  Application fees may differ for applicants.	CV 5, 6, 8 & 9
IG C	ICANN will provide frequent communications with applicants and the public including comment forums.	CV 9 & 10
IG D	A first come first served processing schedule within the application round will be implemented and will continue	CV 8-

<sup>28</sup> <http://www.icann.org/general/idn-guidelines-22feb06.htm>

	for an ongoing process, if necessary.	10
	Applications will be time and date stamped on receipt.	
IG E	The application submission date will be at least four months after the issue of the Request for Proposal and ICANN will promote the opening of the application round.	CV 9 & 10
IG F*	If there is contention for strings, applicants may <sup>29</sup> : <ul style="list-style-type: none"> <li>i) resolve contention between them within a pre-established timeframe</li> <li>ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;</li> <li>iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.</li> </ul>	CV 7-10
IG H*	Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exceptions: <ul style="list-style-type: none"> <li>(i) the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application; and</li> <li>(ii) a formal objection process is initiated.</li> </ul> <p>Under these exceptions, Staff Evaluators will devise criteria and procedures to investigate the claim.</p>	CV 7 - 10

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<sup>29</sup> The Implementation Team sought advice from a number of auction specialists and examined other industries in which auctions were used to make clear and binding decisions. Further expert advice will be used in developing the implementation of the application process to ensure the fairest and most appropriate method of resolving contention for strings.

	Under exception (ii), an expert panel will apply the process, guidelines, and definitions set forth in IG P.	
IG H	External dispute providers will give decisions on objections.	CV 10
IG I	An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process.	CV 10
IG J	The base contract should balance market certainty and flexibility for ICANN to accommodate a rapidly changing market place.	CV 4-10
IG K	ICANN should take a consistent approach to the establishment of registry fees.	CV 5
IG L	The use of personal data must be limited to the purpose for which it is collected.	CV 8
IG M	ICANN may establish a capacity building and support mechanism aiming at facilitating effective communication on important and technical Internet governance functions in a way that no longer requires all participants in the conversation to be able to read and write English <sup>30</sup> .	CV 3 - 7
IG N	ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.	CV 3 - 7
IG O	ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations.	CV 8 -10
IG P*	The following process, definitions and guidelines refer to Recommendation 20.	

### **Process**

Opposition must be objection based.

Determination will be made by a dispute resolution panel

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<sup>30</sup> Detailed work is being undertaken, lead by the Corporate Affairs Department, on establishing a translation framework for ICANN documentation. This element of the Implementation Guidelines may be addressed separately.

constituted for the purpose.

The objector must provide verifiable evidence that it is an established institution of the community (perhaps like the RSTEP pool of panelists from which a small panel would be constituted for each objection).

## **Guidelines**

The task of the panel is the determination of substantial opposition.

- a) **substantial** – in determining substantial the panel will assess the following: signification portion, community, explicitly targeting, implicitly targeting, established institution, formal existence, detriment
- b) **significant portion** – in determining significant portion the panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.
- c) **community** – community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community. It may be a closely related community which believes it is impacted.
- d) **explicitly targeting** – explicitly targeting means there is a description of the intended use of the TLD in the application.
- e) **implicitly targeting** – implicitly targeting means that the objector

makes an assumption of targeting or that the objector believes there may be confusion by users over its intended use.

- f) **established institution** – an institution that has been in formal existence for at least 5 years. In exceptional cases, standing may be granted to an institution that has been in existence for fewer than 5 years.

Exceptional circumstances include but are not limited to a re-organization, merger or an inherently younger community.

The following ICANN organizations are defined as established institutions: GAC, ALAC, GNSO, ccNSO, ASO.

- g) **formal existence** – formal existence may be demonstrated by appropriate public registration, public historical evidence, validation by a government, intergovernmental organization, international treaty organization or similar.

- h) **detriment** – the objector must provide sufficient evidence to allow the panel to determine that there would be a likelihood of detriment to the rights or legitimate interests of the community or to users more widely.

IG Q ICANN staff will provide an automatic reply to all those who submit public comments that will explain the objection procedure.

IG R Once formal objections or disputes are accepted for review there will be a cooling off period to allow parties to resolve the dispute or objection before review by the panel is initiated.

\* The NCUC submitted Minority Statements on Implementation Guidelines F, H & P. The remainder of the Implementation Guidelines have support from all GNSO Constituencies.

1. This set of implementation guidelines is the result of detailed discussion, particularly with respect to the two *ICANN Staff Discussion Points*<sup>31</sup> documents that were prepared to facilitate consultation with the GNSO Committee about the implementation impacts of the proposed policy Recommendations. The Implementation Guidelines will be used to inform the final Implementation Plan which is approved by the ICANN Board
2. The *Discussion Points* documents contain draft flowcharts which have been developed by the Implementation Team and which will be updated, based on the final vote of the GNSO Council and the direction of the ICANN Board. The *Discussion Points* documents have been used in the ongoing internal implementation discussions that have focused on ensuring that draft recommendations proposed by the Committee are implementable in an efficient and transparent manner<sup>32</sup>. The flowchart setting out the proposed Contention Evaluation Process is a more detailed component within the Application Evaluation Process and will be amended to take into account the inputs from Recommendation 20 and its related Implementation Guidelines.
3. This policy development process has been designed to produce a systemised and ongoing mechanism for applicants to propose new top-level domains. The Request for Proposals (RFP) for the first round will include scheduling information for the subsequent rounds to occur within one year. After the first round of new applications, the application system will be evaluated by ICANN's TLDs Project Office to assess the effectiveness of the application system. Success metrics will be developed and any necessary adjustments made to the process for subsequent rounds.
4. The following sections set out in detail the explanation for the Committee's recommendations for each Term of Reference.

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<sup>31</sup> <http://gns0.icann.org/drafts/GNSO-PDP-Dec05-StaffMemo-14Nov06.pdf>

<sup>32</sup> Consistent with ICANN's commitments to accountability and transparency found at <http://www.icann.org/announcements/announcement-26jan07b.htm>



## TERM OF REFERENCE ONE -- WHETHER TO INTRODUCE NEW TOP-LEVEL DOMAINS

1. **Recommendation 1 Discussion – All GNSO Constituencies supported the introduction of new top-level domains.**
2. The GNSO Committee was asked to address the question of whether to introduce new top-level domains. The Committee recommends that ICANN should implement a process that allows the introduction of new top level domains and that work should proceed to develop policies that will enable the introduction of new generic top-level domains, taking into account the recommendations found in the latter sections of the *Report* concerning Selection Criteria (Term of Reference 2), Allocation Methods (Term of Reference 3) and Policies for Contractual Conditions (Term of Reference 4).
3. ICANN's work on the introduction of new top-level domains has been ongoing since 1999. The early work included the 2000 Working Group C Report<sup>33</sup> that also asked the question of "whether there should be new TLDs". By mid-1999, the Working Group had quickly reached consensus on two issues, namely that "...ICANN should add new gTLDs to the root. The second is that ICANN should begin the deployment of new gTLDs with an initial rollout of six to ten new gTLDs, followed by an evaluation period". This work was undertaken throughout 2000 and saw the introduction of, for example, .coop, .aero and .biz.
4. After an evaluation period, a further round of sponsored TLDs was introduced during 2003 and 2004 which included, amongst others, .mobi and .travel.
5. In addressing Term of Reference One, the Committee arrived at its recommendation by reviewing and analysing a wide variety of materials including Working Group C's findings; the evaluation reports from the 2003-

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<sup>33</sup> Found at <http://www.icann.org/dnsso/wgc-report-21mar00.htm>

2004 round of sponsored top-level domains and full range of other historic materials which are posted at <http://gnso.icann.org/issues/new-gtlds/>

6. In addition, the Committee considered the responses to a Call for Expert Papers issued at the beginning of the policy development process<sup>34</sup>. These papers augmented a full set of GNSO Constituency Statements<sup>35</sup> and a set of Constituency Impact Statements<sup>36</sup> that addressed specific elements of the Principles, Recommendations and Implementation Guidelines.
7. The Committee was asked, at its February 2007 Los Angeles meeting, to confirm its rationale for recommending that ICANN introduce new top-level domains. In summary, there are five threads which have emerged:
  - (i) It is consistent with the reasons articulated in 1999 when the first proof-of-concept round was initiated
  - (ii) There are no technical impediments to the introduction of new top-level domains as evidenced by the two previous rounds
  - (iii) It is hoped that expanding the domain name space to accommodate the introduction of both new ASCII and internationalised domain name (IDN) top-level domains will give end users more choice about the nature of their presence on the Internet. In addition, users will be able to use domain names in their language of choice.
  - (iv) In addition, the introduction of a new top-level domain application process has the potential to promote competition in the provision of registry services, and to add to consumer choice, market differentiation and geographic and service-provider diversity which is consistent with ICANN's Core Value 6.
  - (v) No compelling reason has been articulated to not proceed with accepting applications for new top-level domains.

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<sup>34</sup> The announcement is here <http://icann.org/announcements/announcement-03jan06.htm> and the results are here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

<sup>35</sup> Found here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

<sup>36</sup> Found here <http://forum.icann.org/lists/gtld-council/>

8. Article X, Part 7, Section E of the GNSO's Policy Development Process requires the submission of "constituency impact statements" which reflect the potential implementation impact of policy recommendations. By 4 July 2007 all GNSO Constituencies had submitted Constituency Impact Statements (CIS) to the gtld-council mailing list<sup>37</sup>. Each of those statements is referred to throughout the next sections<sup>38</sup> and are found in full in Part B of the *Report*. The NCUC submitted Minority Statements on Recommendations 6 & 20 and on Implementation Guidelines F, H & P. These statements are found in full here in Annex A & C, respectively, as they relate specifically to the finalised text of those two recommendations. GNSO Committee Chair and Nominating Committee appointee Ms Avri Doria also submitted individual comments on the recommendation package. Her comments are found in Annex B here.

9. All Constituencies support the introduction of new TLDs particularly if the application process is transparent and objective. For example, the ISPCP said that, "...the ISPCP is highly supportive of the principles defined in this section, especially with regards to the statement in [principle A] (A): New generic top-level domains must be introduced in an orderly, timely and predictable way. Network operators and ISPs must ensure their customers do not encounter problems in addressing their emails, and in their web searching and access activities, since this can cause customer dissatisfaction and overload help-desk complaints. Hence this principle is a vital component of any addition sequence to the gTLD namespace. The various criteria as defined in D, E and F, are also of great importance in contributing to minimise the risk of moving forward with any new gTLDs, and our constituency urges ICANN to ensure they are scrupulously observed during the applications evaluation process". The Business Constituency's (BC) CIS said that "...If the outcome is the best possible there will be a beneficial impact on business

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<sup>37</sup> Archived at <http://forum.icann.org/lists/gtld-council/>

<sup>38</sup> Business Constituency <http://forum.icann.org/lists/gtld-council/msg00501.html>, Intellectual Property Constituency <http://forum.icann.org/lists/gtld-council/msg00514.html>, Internet Service Providers <http://forum.icann.org/lists/gtld-council/msg00500.html>, NCUC <http://forum.icann.org/lists/gtld-council/msg00530.html>, Registry Constituency <http://forum.icann.org/lists/gtld-council/msg00494.html>

users from: a reduction in the competitive concentration in the Registry sector; increased choice of domain names; lower fees for registration and ownership; increased opportunities for innovative on-line business models.” The Registrar Constituency (RC) agreed with this view stating that “...new gTLDs present an opportunity to Registrars in the form of additional products and associated services to offer to its customers. However, that opportunity comes with the costs of implementing the new gTLDs as well as the efforts required to do the appropriate business analysis to determine which of the new gTLDs are appropriate for its particular business model.”

10. The Registry Constituency (RyC) said that “...Regarding increased competition, the RyC has consistently supported the introduction of new gTLDs because we believe that: there is a clear demand for new TLDs; competition creates more choices for potential registrants; introducing new TLDs with different purposes increases the public benefit; new gTLDs will result in creativity and differentiation in the domain name industry; the total market for all TLDs, new and old, will be expanded.” In summary, the Committee recommended, “ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process”. Given that this recommendation has support from all Constituencies, the following sections set out the other Terms of Reference recommendations.

## TERM OF REFERENCE -- SELECTION CRITERIA

### 1. Recommendation 2 Discussion -- Strings must not be confusingly similar to an existing top-level domain.

- i) This recommendation has support from all the GNSO Constituencies. Ms Doria accepted the recommendation with the concern expressed below<sup>39</sup>.
- ii) The list of existing top-level domains is maintained by IANA and is listed in full on ICANN's website<sup>40</sup>. Naturally, as the application process enables the operation of new top-level domains this list will get much longer and the test more complex. The RyC, in its Impact Statement, said that "...This recommendation is especially important to the RyC. ... It is of prime concern for the RyC that the introduction of new gTLDs results in a ubiquitous experience for Internet users that minimizes user confusion. gTLD registries will be impacted operationally and financially if new gTLDs are introduced that create confusion with currently existing gTLD strings or with strings that are introduced in the future. There is a strong possibility of significant impact on gTLD registries if IDN versions of existing ASCII gTLDs are introduced by registries different than the ASCII gTLD registries. Not only could there be user

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<sup>39</sup> "My concern involves using definitions that rely on legal terminology established for trademarks for what I believe should be a policy based on technical criteria.

In the first instance I believe that this is essentially a technical issue that should have been resolved with reference to typography, homologues, orthographic neighbourhood, transliteration and other technically defined attributes of a name that would make it unacceptable. There is a large body of scientific and technical knowledge and description in this field that we could have drawn on.

By using terms that rely on the legal language of trademark law, I believe we have created an implicit redundancy between recommendations 2 and 3. I.e., I believe both 2 and 3 can be used to protect trademarks and other intellectual property rights, and while 3 has specific limitations, 2 remains open to full and varied interpretation.

As we begin to consider IDNs, I am concerned that the interpretations of confusingly similar may be used to eliminate many potential TLDs based on translation. That is, when a translation may have the same or similar meaning to an existing TLD, that the new name may be eliminated because it is considered confusing to users who know both languages."

<sup>40</sup> <http://data.iana.org/TLD/tlds-alpha-by-domain.txt>

confusion in both email and web applications, but dispute resolution processes could be greatly complicated.” The ISPCP also stated that this recommendation was “especially important in the avoidance of any negative impact on network activities.” The RC stated that “...Registrars would likely be hesitant to offer confusingly similar gTLDs due to customer demand and support concerns. On the other hand, applying the concept too broadly would inhibit gTLD applicants and ultimately limit choice to Registrars and their customers”.

- iii) There are two other key concepts within this recommendation. The first is the issue of “confusingly similar”<sup>41</sup> and the second “likelihood of confusion”. There is extensive experience within the Committee with respect to trademark law and the issues found below have been discussed at length, both within the Committee and amongst the Implementation Team.
- iv) The Committee used a wide variety of existing law<sup>42</sup>, international treaty agreements and covenants to arrive at a common understanding that strings should not be confusingly similar either to existing top-level domains like .com and .net or to existing trademarks<sup>43</sup>. For example, the Committee considered the World Trade Organisation’s TRIPS agreement, in particular Article 16 which discusses the rights which are

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<sup>41</sup> See section 4A -- <http://www.icann.org/udrp/udrp-policy-24oct99.htm>.

<sup>42</sup> In addition to the expertise within the Committee, the NCUC provided, as part of its Constituency Impact Statement expert outside advice from Professor Christine Haight Farley which said, in part, “...A determination about whether use of a mark by another is “confusingly similar” is simply a first step in the analysis of infringement. As the committee correctly notes, account will be taken of visual, phonetic and conceptual similarity. But this determination does not end the analysis. Delta Dental and Delta Airlines are confusingly similar, but are not like to cause confusion, and therefore do not infringe. ... In trademark law, where there is confusing similarity and the mark is used on similar goods or services, a likelihood of confusion will usually be found. European trademark law recognizes this point perhaps more readily than U.S. trademark law. As a result, sometimes “confusingly similar” is used as shorthand for “likelihood of confusion”. However, these concepts must remain distinct in domain name policy where there is no opportunity to consider how the mark is being used.”

<sup>43</sup> In addition, advice was sought from experts within WIPO who continue to provide guidance on this and other elements of dispute resolution procedures.

conferred to a trademark owner.<sup>44</sup> In particular, the Committee agreed upon an expectation that strings must avoid increasing opportunities for entities or individuals, who operate in bad faith and who wish to defraud consumers. The Committee also considered the Universal Declaration of Human Rights<sup>45</sup> and the International Covenant on Civil and Political Rights which address the “freedom of expression” element of the Committee’s deliberations.

- v) The Committee also benefited from the work of the Protecting the Rights of Others Working Group (PRO-WG). The PRO-WG presented its *Final Report*<sup>46</sup> to the Committee at the June 2007 San Juan meeting. The Committee agreed that the Working Group could develop some reference implementation guidelines on rights protection mechanisms that may inform potential new TLD applicants during the application process. A small ad-hoc group of interested volunteers are preparing those materials for consideration by the Council by mid-October 2007.
- vi) The Committee had access to a wide range of differing approaches to rights holder protection mechanisms including the United Kingdom, the USA, Jordan, Egypt and Australia<sup>47</sup>.

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<sup>44</sup> Kristina Rosette provided the reference to the *Agreement on Trade-Related Aspects of Intellectual Property Rights* which is found online at [http://www.wto.org/english/tratop\\_e/trips\\_e/t\\_agm1\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/t_agm1_e.htm)

“...*Article 16* Rights Conferred 1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner’s consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use....”

<sup>45</sup> <http://www.ohchr.org/english/bodies/hrc/comments.htm>

<sup>46</sup> <http://gnso.icann.org/drafts/GNSO-PRO-WG-final-01Jun07.pdf>

<sup>47</sup> Charles Sha’ban provided a range of examples from Arabic speaking countries. For example, in Jordan, Article 7 Trademarks eligible for registration are 1- A trademark shall be registered if it is distinctive, as to words, letters, numbers, figures, colors, or other signs or any combination thereof and visually perceptible. 2- For the purposes of this Article, "distinctive" shall mean applied in a manner which secures distinguishing the goods of the proprietor of the trademark from those of other persons. Article 8 Marks which may not be registered as trademarks. The following may not be registered as trademarks: 10- A mark identical with one belonging to a different proprietor which is already entered in the register in respect of the same goods or class of goods for which the mark is

vii) In addition, the Committee referred to the 1883 *Paris Convention on the Protection of Industrial Property*<sup>48</sup>. It describes the notion of confusion and describes creating confusion as “to create confusion by any means whatever” {Article 10bis (3) (1) and, further, being “liable to mislead the public” {Article 10bis (3) (3)}. The treatment of confusingly similar is also contained in European Union law (currently covering twenty-seven countries) and is structured as follows. “...because of its identity with or similarity to...there exists a likelihood of confusion on the part of the public...; the likelihood of confusion includes the likelihood of association...” {Article 4 (1) (b) of the 1988 EU Trade Mark directive 89/104/EEC}. Article 8 (1) (b) of the 1993 European Union Trade Mark regulation 40/94 is also relevant.

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intended to be registered, or so closely resembling such trademark to the extent that it may lead to deceiving third parties.

12- The trademark which is identical or similar to, or constitutes a translation of, a well-known trademark for use on similar or identical goods to those for which that one is well-known for and whose use would cause confusion with the well-known mark, or for use of different goods in such a way as to prejudice the interests of the owner of the well-known mark and leads to believing that there is a connection between its owner and those goods as well as the marks which are similar or identical to the honorary badges, flags, and other insignia as well as the names and abbreviations relating to international or regional organizations or those that offend our Arab and Islamic age-old values.

In Oman for example, Article 2 of the Sultan Decree No. 38/2000 states:

“The following shall not be considered as trademarks and shall not be registered as such:  If the mark is identical, similar to a degree which causes confusion, or a translation of a trademark or a commercial name known in the Sultanate of Oman with respect to identical or similar goods or services belonging to another business, or if it is known and registered in the Sultanate of Oman on goods and service which are neither identical nor similar to those for which the mark is sought to be registered provided that the usage of the mark on those goods or services in this last case will suggest a connection between those goods or services and the owner of the known trademark and such use will cause damage to the interests of the owner of the known trademark.”

Although the laws In Egypt do not have specific provisions regarding confusion they stress in great detail the importance of distinctiveness of a trade mark.

Article 63 in the IP Law of Egypt No.82 for the year 2002 states:

“A trademark is any sign distinguishing goods, whether products or services, and include is particular names represented in a distinctive manner, signatures, words, letters, numerals, design, symbols, signposts, stamps, seal, drawings, engravings, a combination of distinctly formed colors and any other combination of these elements if used, or meant to be used, to distinguish the precedents of a particular industry, agriculture, forest or mining venture or any goods, or to indicate the origin of products or goods or their quality, category, guarantee, preparation process, or to indicate the provision of any service. In all cases, a trademark shall be a sign that is recognizable by sight.”

48 Found at [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.ht](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.ht) with 171 contracting parties.



- viii) In the United States, existing trade mark law requires applicants for trademark registration to state under penalty of perjury that "...to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive..." which is contained in Section 1051 (3) (d) of the US Trademark Act 2005 (found at <http://www.bitlaw.com/source/15usc/1051.html>.)<sup>49</sup>
- ix) In Australia, the Australian Trade Marks Act 1995 Section 10 says that "...For the purposes of this Act, a trade mark is taken to be deceptively similar to another trade mark if it so nearly resembles that other trade mark that it is likely to deceive or cause confusion" (found at [http://www.ipaustralia.gov.au/resources/legislation\\_index.shtml](http://www.ipaustralia.gov.au/resources/legislation_index.shtml))
- x) A number of different trademark offices provide guidance on how to interpret confusion. For example, the European Union Trade Mark Office provides guidance on how to interpret confusion. *"...confusion may be visual, phonetic or conceptual. A mere aural similarity may create a likelihood of confusion. A mere visual similarity may create a likelihood of confusion. Confusion is based on the fact that the relevant public does not tend to analyse a word in detail but pays more attention to the distinctive and dominant components. Similarities are more significant than dissimilarities. The visual comparison is based on an analysis of the number and sequence of the letters, the number of words and the structure of the signs. Further particularities may be of relevance, such as the existence of special letters or accents that may be perceived as an indication of a specific language. For words, the visual comparison coincides with the phonetic comparison unless in the relevant language the word is not pronounced as it is written. It should*

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<sup>49</sup> Further information can be found at the US Patent and Trademark Office's website <http://www.uspto.gov/>

*be assumed that the relevant public is either unfamiliar with that foreign language, or even if it understands the meaning in that foreign language, will still tend to pronounce it in accordance with the phonetic rules of their native language. The length of a name may influence the effect of differences. The shorter a name, the more easily the public is able to perceive all its single elements. Thus, small differences may frequently lead in short words to a different overall impression. In contrast, the public is less aware of differences between long names. The overall phonetic impression is particularly influenced by the number and sequence of syllables.”* (found at <http://oami.europa.eu/en/mark/marque/direc.htm>).

- xi) An extract from the United Kingdom’s Trade Mark Office’s Examiner’s Guidance Manual is useful in explaining further the Committee’s approach to developing its Recommendation. *“For likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average consumer. Likelihood of association is not an alternative to likelihood of confusion, “but serves to define its scope”. Mere association, in the sense that the later mark brings the earlier mark to mind is insufficient to find a likelihood of confusion, unless the average consumer, in bringing the earlier mark to mind, is led to expect the goods or services of both marks to be under the control of one single trade source. “The risk that the public might believe that the goods/services in question come from the same undertaking or, as the case may be, from economically-linked undertakings, constitutes a likelihood of confusion...”* (found at <http://www.patent.gov.uk/tm/t-decisionmaking/t-law/t-law-manual.htm>)
- xii) The Committee also looked in detail at the existing provisions of ICANN’s Registrar Accreditation Agreement, particularly Section 3.7.7.9<sup>50</sup> which says that “...The Registered Name Holder shall

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<sup>50</sup> Found at <http://www.icann.org/registrars/ra-agreement-17may01.htm#3>

represent that, to the best of the Registered Name Holder's knowledge and belief, neither the registration of the Registered Name nor the manner in which it is directly or indirectly used infringes the legal rights of any third party.”

xiii) The implications of the introduction of Internationalised Domain Names (IDNs) are, in the main, the same as for ASCII top-level domains. On 22 March 2007 the IDN-WG released its *Outcomes Report*<sup>51</sup> that the Working Group presented to the GNSO Committee. The Working Group's exploration of IDN-specific issues confirmed that the new TLD recommendations are valid for IDN TLDs. The full IDN WG Report is found in Part B of the *Report*.

xiv) The technical testing for IDNs at the top-level is not yet completed although strong progress is being made. Given this and the other work that is taking place around the introduction of IDNs at the top-level, there are some critical factors that may impede the immediate acceptance of new IDN TLD applications. The conditions under which those applications would be assessed would remain the same as for ASCII TLDs.

xv) Detailed work continues on the preparation of an Implementation Plan that reflects both the Principles and the Recommendations. The proposed Implementation Plan deals with a comprehensive range of potentially controversial (for whatever reason) string applications which balances the need for reasonable protection of existing legal rights and the capacity to innovate with new uses for top level domains that may be attractive to a wide range of users<sup>52</sup>.

xvi) The draft Implementation Plan (included in the *Discussion Points* document), illustrates the flow of the application and evaluation process

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<sup>51</sup> Found at <http://gnso.icann.org/drafts/idn-wg-fr-22mar07.htm>.

<sup>52</sup> The 2003 correspondence between ICANN's then General Counsel and the then GAC Chairman is also useful <http://www.icann.org/correspondence/touton-letter-to-tarmizi-10feb03.htm>.

and includes a detailed dispute resolution and extended evaluation tracks designed to resolve objections to applicants or applications.

- xvii) There is tension between those on the Committee who are concerned about the protection of existing TLD strings and those concerned with the protection of trademark and other rights as compared to those who wish, as far as possible, to preserve freedom of expression and creativity. The *Implementation Plan* sets out a series of tests to apply the recommendation during the application evaluation process.

**2. Recommendation 3 Discussion -- Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law. Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industry Property (in particular trademark rights), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) (in particular freedom of expression rights).**

- i. This recommendation has support from all GNSO Constituencies. Ms Doria supported the recommendation with concern expressed below<sup>53</sup>.
- ii. This recommendation was discussed in detail in the lead up to the Committee's 7 June 2007 conference call and it was agreed that further work would be beneficial. That work was conducted through a series of teleconferences and email exchanges. The Committee decided to leave the recommendation text as it had been drafted and insert a new Principle G that reads "...The string evaluation process must not

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<sup>53</sup> "My first concern relates to the protection of what can be called the linguistic commons. While it is true that much of trademark law and practice does protect general vocabulary and common usage from trademark protection, I am not sure that this is always the case in practice. I am also not convinced that trademark law and policy that applies to specific product type within a specific locale is entirely compatible with a general and global naming system."

infringe the applicant's freedom of expression rights that are protected under internationally recognized principles of law.”

- iii. Prior to this, the Committee engaged in comprehensive discussion about this recommendation and took advice from a number of experts within the group<sup>54</sup>. The original text of the recommendation has been modified to recognise that an applicant would be bound by the laws of the country where they are located and an applicant may be bound by another country that has jurisdiction over them. In addition, the original formulation that included “freedom of speech” was modified to read the more generally applicable “freedom of expression”.
- iv. Before reaching agreement on the final text, the IPC and the NCUC, in their respective Constituency Impact Statements (CIS), had differing views. The NCUC argued that “...there is no recognition that trade marks (and other legal rights have legal limits and *defenses*.” The IPC says “agreed [to the recommendation], and, as stated before, appropriate mechanisms must be in place to address conflicts that may arise between any proposed new string and the IP rights of others.”

### **3. Recommendation 4 Discussion -- Strings must not cause any technical instability.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. It was agreed by the Committee that the string should not cause any technical issues that threatened the stability and security of the Internet.
- iii. In its CIS, the ISPCP stated that “...this is especially important in the avoidance of any negative impact on network activities...The ISPCP considers recommendations 7 and 8 to be fundamental. The technical, financial, organizational and operational capability of the applicant are the evaluators' instruments for preventing potential negative impact on

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<sup>54</sup> For example, David Maher, Jon Bing, Steve Metalitz, Philip Sheppard and Michael Palage.

a new string on the activities of our sector (and indeed of many other sectors).” The IPC also agreed that “technical and operational stability are imperative to any new gTLD introduction.” The RC said “...This is important to Registrars in that unstable registry and/or zone operations would have a serious and costly impact on its operations and customer service and support.”

- iv. The Security and Stability Advisory Committee (SSAC) has been involved in general discussions about new top level domains and will be consulted formally to confirm that the implementation of the recommendations will not cause any technical instability.
- v. A reserved word list, which includes strings which are reserved for technical reasons, has been recommended by the RN-WG. This table is found in the section below.

#### 4. **Recommendation 5 Discussion -- Strings must not be a Reserved Word.**<sup>55</sup>

- i. This recommendation is supported by all GNSO Constituencies. Ms Doria supported the recommendation but expressed some concerns outlined in the footnote below.<sup>56</sup>
- ii. The RN WG developed a definition of “reserved word” in the context of new TLDs which said “...depending on the specific reserved name category as well as the type (ASCII or IDN), the reserved name requirements recommended may apply in any one or more of the following levels as indicated:

1. At the top level regarding gTLD string restrictions

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<sup>55</sup> Reserved Word has a specific meaning in the ICANN context and includes, for example, the reserved word provisions in ICANN’s existing registry contracts. See <http://www.icann.org/registries/agreements.htm>.

<sup>56</sup> “Until such time as the technical work on IDNAbis is completed, I am concerned about establishing reserved name rules connected to IDNs. My primary concern involves policy decisions made in ICANN for reserved names becoming hard coded in the IDNAbis technical solution and thus becoming technical constraints that are no longer open to future policy reconsideration.”

2. At the second-level as contractual conditions
  3. At the third-level as contractual conditions for any new gTLDs that offer domain name registrations at the third-level.
- iii. The notion of “reserved words” has a specific meaning within the ICANN context. Each of the existing ICANN registry contracts has provisions within it that govern the use of reserved words. Some of these recommendations will become part of the contractual conditions for new registry operators.
- iv. The Reserved Names Working Group (RN-WG) developed a series of recommendations across a broad spectrum of reserved words. The Working Group’s *Final Report*<sup>57</sup> was reviewed and the recommendations updated by the Committee at ICANN’s Puerto Rico meeting and, with respect to the recommendations relating to IDNs, with IDN experts. The final recommendations are included in the following table.

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<sup>57</sup> Found online at <http://gnso.icann.org/issues/new-gtlds/final-report-rn-wg-23may07.htm> and in full in Part B of the *Report*.

	<b>Reserved Name Category</b>	<b>Domain Name Level(s)</b>	<b>Recommendation</b>
1	ICANN & IANA	All ASCII	The names listed as ICANN and IANA names will be reserved at all levels.
2	ICANN & IANA	Top level, IDN	Any names that appear in the IDN evaluation facility <sup>58</sup> which consist exclusively of translations of 'example' or 'test' that appear in the document at <a href="http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf">http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf</a> shall be reserved.
3	ICANN & IANA	2 <sup>nd</sup> & 3rd levels, IDN	Any names that appear in the IDN evaluation facility which consist exclusively of translations of 'example' or 'test' that appear in the document at <a href="http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf">http://www.icann.org/topics/idn/idn-evaluation-plan-v2%209.pdf</a> shall be reserved.
4	Symbols	All	We recommend that the current practice be maintained, so that no symbols other than the '-' [hyphen] be considered for use, with further allowance for any equivalent marks that may explicitly be made available in future revisions of the IDNA protocol.
5	Single and Two Character IDNs	IDNA-valid strings at all levels	Single and two-character U-labels on the top level and second level of a domain name should not be restricted in general. At the top level, requested strings should be analyzed on a case-by-case basis in the new gTLD process depending on the script and language used in order to determine whether the string should be granted for allocation in the DNS with particular caution applied to U-labels in Latin script (see Recommendation 10 below). Single and two character labels at the second level and the third level if applicable should be available for registration, provided they are consistent with the IDN Guidelines.
6	Single Letters	Top Level	We recommend reservation of single letters at the top level based on technical questions raised. If sufficient research at a later date demonstrates that the technical issues and concerns are addressed, the topic of releasing reservation status can be reconsidered.
7	Single Letters and Digits	2 <sup>nd</sup> Level	In future gTLDs we recommend that single letters and single digits be available at the second (and third level if applicable).

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<sup>58</sup> The Committee are aware that the terminology used here for the purposes of policy recommendations requires further refinement and may be at odds with similar terminology developed in other context. The terminology may be imprecise in other contexts than the general discussion about reserved words found here.



	<b>Reserved Name Category</b>	<b>Domain Name Level(s)</b>	<b>Recommendation</b>
8	Single and Two Digits	Top Level	A top-level label must not be a plausible component of an IPv4 or IPv6 address. (e.g., .3, .99, .123, .1035, .0xAF, .1578234)
9	Single Letter, Single Digit Combinations	Top Level	Applications may be considered for single letter, single digit combinations at the top level in accordance with the terms set forth in the new gTLD process.  Examples include .3F, .A1, .u7.
10	Two Letters	Top Level	We recommend that the current practice of allowing two letter names at the top level, only for ccTLDs, remains at this time. <sup>59</sup>  Examples include .AU, .DE, .UK.
11	Any combination of Two Letters, Digits	2 <sup>nd</sup> Level	Registries may propose release provided that measures to avoid confusion with any corresponding country codes are implemented. <sup>60</sup> Examples include ba.aero, ub.cat, 53.com, 3M.com, e8.org.
12	Tagged Names	Top Level ASCII	In the absence of standardization activity and appropriate IANA registration, all labels with hyphens in both the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n") must be reserved at the top-level. <sup>61</sup>

<sup>59</sup> The subgroup was encouraged by the ccNSO not to consider removing the restriction on two-letter names at the top level. IANA has based its allocation of two-letter names at the top level on the ISO 3166 list. There is a risk of collisions between any interim allocations, and ISO 3166 assignments which may be desired in the future.

<sup>60</sup> The existing gTLD registry agreements provide for a method of potential release of two-character LDH names at the second level. In addition, two character LDH strings at the second level may be released through the process for new registry services, which process involves analysis of any technical or security concerns and provides opportunity for public input. Technical issues related to the release of two-letter and/or number strings have been addressed by the RSTEP Report on GNR's proposed registry service. The GAC has previously noted the WIPO II Report statement that "If ISO 3166 alpha-2 country code elements are to be registered as domain names in the gTLDs, it is recommended that this be done in a manner that minimises the potential for confusion with the ccTLDs."

<sup>61</sup> Considering that the current requirement in all 16 registry agreement reserves "All labels with hyphens in the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n")", this requirement reserves any names having any of a combination of 1296 different prefixes (36x36).

	Reserved Name Category	Domain Name Level(s)	Recommendation
13	N/A	Top Level IDN	<p>For each IDN gTLD proposed, applicant must provide both the "ASCII compatible encoding" ("A-label") and the "Unicode display form" ("U-label")<sup>62</sup> For example:</p> <ul style="list-style-type: none"> <li>• If the Chinese word for 'Beijing' is proposed as a new gTLD, the applicant would be required to provide the A-label (xn--1lq90i) and the U-label (北京).</li> <li>• If the Japanese word for 'Tokyo' is proposed as a new gTLD, the applicant would be required to provide the A-label (xn--1lqs71d) and the U-label (東京).</li> </ul>
14	Tagged Names	2 <sup>nd</sup> Level ASCII	The current reservation requirement be reworded to say, " <i>In the absence of standardization activity and appropriate IANA registration, all labels with hyphens in both the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n") must be reserved in ASCII at the second (2<sup>nd</sup>) level.</i> " <sup>63</sup> – added words in <i>italics</i> . (Note that names starting with "xn--" may only be used if the current ICANN IDN Guidelines are followed by a gTLD registry.)
15	Tagged Names	3 <sup>rd</sup> Level ASCII	All labels with hyphens in both the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n") must be reserved in ASCII at the third (3 <sup>rd</sup> level) for gTLD registries that register names at the third level." <sup>64</sup> – added words in <i>italics</i> . (Note that names starting with "xn--" may only be used if the current ICANN IDN Guidelines are followed by a gTLD registry.)
16	NIC, WHOIS, WWW	Top ASCII	The following names must be reserved: nic, whois, www.
17	NIC, WHOIS, WWW	Top IDN	Do not try to translate nic, whois and www into Unicode versions for various scripts or to reserve any ACE versions of such translations or transliterations if they exist.

<sup>62</sup> Internet Draft IDNAbis Issues: <http://www.ietf.org/internet-drafts/draft-klensin-idnabis-issues-01.txt> (J. Klensin), Section 3.1.1.1

<sup>63</sup> Considering that the current requirement in all 16 registry agreement reserves "All labels with hyphens in the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n")", this requirement reserves any names having any of a combination of 1296 different prefixes (36x36).

<sup>64</sup> Considering that the current requirement in all 16 registry agreement reserves "All labels with hyphens in the third and fourth character positions (e.g., "bq--1k2n4h4b" or "xn--ndk061n")", this requirement reserves any names having any of a combination of 1296 different prefixes (36x36).

	<b>Reserved Name Category</b>	<b>Domain Name Level(s)</b>	<b>Recommendation</b>
18	NIC, WHOIS, WWW	Second and Third* ASCII	The following names must be reserved for use in connection with the operation of the registry for the Registry TLD: nic, whois, www Registry Operator may use them, but upon conclusion of Registry Operator's designation as operator of the registry for the Registry TLD, they shall be transferred as specified by ICANN. (*Third level only applies in cases where a registry offers registrations at the third level.)
19	NIC, WHOIS, WWW	Second and Third* IDN	Do not try to translate nic, whois and www into Unicode versions for various scripts or to reserve any ACE versions of such translations or transliterations if they exist, except on a case by case basis as proposed by given registries. (*Third level only applies in cases where a registry offers registrations at the third level.)
20	Geographic and geopolitical	Top Level ASCII and IDN	There should be no geographical reserved names (i.e., no exclusionary list, no presumptive right of registration, no separate administrative procedure, etc.). The proposed challenge mechanisms currently being proposed in the draft new gTLD process would allow national or local governments to initiate a challenge, therefore no additional protection mechanisms are needed. Potential applicants for a new TLD need to represent that the use of the proposed string is not in violation of the national laws in which the applicant is incorporated.

However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC Principles, and the advisory role vested to it under the ICANN Bylaws. Additionally, a summary overview of the obstacles encountered by previous applicants involving similar TLDs should be provided to allow an applicant to make an informed decision. Potential applicants should also be advised that the failure of the GAC, or an individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN Bylaws.

*Note New gTLD Recommendation 20*

	<b>Reserved Name Category</b>	<b>Domain Name Level(s)</b>	<b>Recommendation</b>
21	Geographic and geopolitical	All Levels ASCII and IDN	The term 'geopolitical names' should be avoided until such time that a useful definition can be adopted. The basis for this recommendation is founded on the potential ambiguity regarding the definition of the term, and the lack of any specific definition of it in the WIPO Second Report on Domain Names or GAC recommendations.

*Note New gTLD Recommendation 20*

22	Geographic and geopolitical	Second Level & Third Level if applicable, ASCII & IDN	The consensus view of the working group is given the lack of any established international law on the subject, conflicting legal opinions, and conflicting recommendations emerging from various governmental fora, the current geographical reservation provision contained in the sTLD contracts during the 2004 Round should be removed, and harmonized with the more recently executed .COM, .NET, .ORG, .BIZ and .INFO registry contracts. The only exception to this consensus recommendation is those registries incorporated/organized under countries that require additional protection for geographical identifiers. In this instance, the registry would have to incorporate appropriate mechanisms to comply with their national/local laws.
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For those registries incorporated/organized under the laws of those countries that have expressly supported the guidelines of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications as adopted by the WIPO General Assembly, it is strongly recommended (but not mandated) that these registries take appropriate action to promptly implement protections that are in line with these WIPO guidelines and are in accordance with the relevant national laws of the applicable Member State.

*Note New gTLD Recommendation 20*

	<b>Reserved Name Category</b>	<b>Domain Name Level(s)</b>	<b>Recommendation</b>
23	gTLD Reserved Names	Second & Third Level ASCII and IDN (when applicable)	Absent justification for user confusion <sup>65</sup> , the recommendation is that gTLD strings should no longer be reserved from registration for new gTLDs at the second or when applicable at the third level. Applicants for new gTLDs should take into consideration possible abusive or confusing uses of existing gTLD strings at the second level of their corresponding gTLD, based on the nature of their gTLD, when developing the startup process for their gTLD.
24	Controversial Names	All Levels, ASCII & IDN	There should not be a new reserved names category for Controversial Names.
25	Controversial Names	Top Level, ASCII & IDN	There should be a list of disputed names created as a result of the dispute process to be created by the new gTLD process. <i>Note New gTLD Recommendation 6</i>
26	Controversial Names	Top Level, ASCII & IDN	In the event of the initiation of a CN-DRP process, applications for that label will be placed in a HOLD status that would allow for the dispute to be further examined. If the dispute is dismissed or otherwise resolved favorably, the applications will reenter the processing queue. The period of time allowed for dispute should be finite and should be relegated to the CN-DRP process. The external dispute process should be defined to be objective, neutral, and transparent. The outcome of any dispute shall not result in the development of new categories of Reserved Names. <sup>66</sup> <i>Note New gTLD Recommendation 6</i>
27	Controversial Names	Top Level, ASCII & IDN	The new GTLD Controversial Names Dispute Resolution Panel should be established as a standing mechanism that is convened at the time a dispute is initiated. Preliminary elements of that process are provided in this report but further work is needed in this area. <i>Note New gTLD Recommendation 6</i>

<sup>65</sup> With its recommendation, the sub-group takes into consideration that justification for potential user confusion (i.e., the minority view) as a result of removing the contractual condition to reserve gTLD strings for new TLDs may surface during one or more public comment periods.

<sup>66</sup> Note that this recommendation is a continuation of the recommendation in the original RN-WG report, modified to synchronize with the additional work done in the 30-day extension period.

	<b>Reserved Name Category</b>	<b>Domain Name Level(s)</b>	<b>Recommendation</b>
28	Controversial Names	Top Level, ASCII & IDN	<p>Within the dispute process, disputes would be initiated by the ICANN Advisory Committees (e.g, ALAC or GAC) or supporting organizations (e.g, GNSO or ccNSO). As these organizations do not currently have formal processes for receiving, and deciding on such activities, these processes would need to be defined:</p> <ul style="list-style-type: none"> <li>○ The Advisory Groups and the Supporting Organizations, using their own processes and consistent with their organizational structure, will need to define procedures for deciding on any requests for dispute initiation.</li> <li>○ Any consensus or other formally supported position from an ICANN Advisory Committee or ICANN Supporting Organization must document the position of each member within that committee or organization (i.e., support, opposition, abstention) in compliance with both the spirit and letter of the ICANN bylaws regarding openness and transparency.</li> </ul> <p><i>Note New gTLD Recommendation 6</i></p>
29	Controversial Names	Top Level, ASCII & IDN	<p>Further work is needed to develop predictable and transparent criteria that can be used by the Controversial Resolution Panel. These criteria must take into account the need to:</p> <ul style="list-style-type: none"> <li>▪ Protect freedom of expression</li> <li>▪ Affirm the fundamental human rights, in the dignity and worth of the human person and the equal rights of men and women</li> <li>▪ Take into account sensitivities regarding terms with cultural and religious significance.</li> </ul> <p><i>Note New gTLD Recommendation 6</i></p>
30	Controversial Names	Top Level, ASCII & IDN	<p>In any dispute resolution process, or sequence of issue resolution processes, the Controversial name category should be the last category considered.</p> <p><i>Note New gTLD Recommendation 6</i></p>

- v. With respect to geographic terms, the NCUC’s CIS stated that “...We oppose any attempts to create lists of reserved names. Even examples are to be avoided as they can only become prescriptive. We are

concerned that geographic names should not be fenced off from the commons of language and rather should be free for the use of all...Moreover, the proposed recommendation does not make allowance for the duplication of geographic names outside the ccTLDs – where the real issues arise and the means of resolving competing use and fair and nominative use.”

- vi. The GAC’s Public Policy Principle 2.2 states that “ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant government or public authorities.”
- vii. The Implementation Team has developed some suggestions about how this recommendation may be implemented. Those suggestions and the process flow were incorporated into the Version 2 of the ICANN Staff *Discussion Points* document for consideration by the Committee.

**5. Recommendation 6 Discussion -- Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.**

**Examples of such principles of law include, but are not limited to, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention of the Elimination of All Forms of Racial Discrimination, intellectual property treaties administered by the World Intellectual Property Organisation (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).**

- i. This Recommendation is supported by all GNSO Constituencies except the NCUC. The NCUC has submitted a Minority Statement which is found in full in Annex A. The NCUC’s earlier Constituency Impact Statement is found, along with all the GNSO Constituency Impact Statements, in Part B of this report. Ms Doria has submitted individual

comments<sup>67</sup>. The Committee has discussed this recommendation in great detail and has attempted to address the experiences of the 2003-2004 sTLD round and the complex issues surrounding the .xxx application. The Committee has also recognised the GAC's Public Policy Principles, most notably Principle 2.1 a) and b) which refer to both freedom of expression and terms with significance in a variety of contexts. In addition, the Committee recognises the tension respecting freedom of expression and being sensitive to the legitimate concerns others have about offensive terms. The NCUC's earlier CIS says "...we oppose any string criteria based on morality and public order".

- ii. Other Constituencies did not address this recommendation in their CISs. The Implementation Team has tried to balance these views by establishing an Implementation Plan that recognises the practical effect of opening a new top-level domain application system that will attract applications that some members of the community do not agree with. Whilst ICANN does have a technical co-ordination remit, it must also put in place a system of handling objections to strings or to applicants, using pre-published criteria, that is fair and predictable for applicants. It is also necessary to develop guidance for independent evaluators tasked with making decisions about objections.

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<sup>67</sup> Ms Doria said "...My primary concern focuses on the term 'morality'. While public order is frequently codified in national laws and occasionally in international law and conventions, the definition of what constitutes morality is not generally codified, and when it is, I believe it could be referenced as public order. This concern is related to the broad set of definitions used in the world to define morality. By including morality in the list of allowable exclusions we have made the possible exclusion list indefinitely large and have subjected the process to the consideration of all possible religious and ethical systems. ICANN or the panel of reviewers will also have to decide between different sets of moral principles, e.g, a morality that holds that people should be free to express themselves in all forms of media and those who believe that people should be free from exposure to any expression that is prohibited by their faith or moral principles. This recommendation will also subject the process to the fashion and occasional demagoguery of political correctness. I do not understand how ICANN or any expert panel will be able to judge that something should be excluded based on reasons of morality without defining, at least de-facto, an ICANN definition of morality? And while I am not a strict constructionist and sometimes allow for the broader interpretation of ICANN's mission, I do not believe it includes the definition of a system of morality."



- iii. In its consideration of public policy aspects of new top-level domains the Committee examined the approach taken in a wide variety of jurisdictions to issues of morality and public order. This was done not to make decisions about acceptable strings but to provide a series of potential tests for independent evaluators to use should an objection be raised to an application. The use of the phrase “morality and public order” within the recommendation was done to set some guidelines for potential applicants about areas that may raise objections. The phrasing was also intended to set parameters for potential objectors so that any objection to an application could be analysed within the framework of broadly accepted legal norms that independent evaluators could use across a broad spectrum of possible objections. The Committee also sought to ensure that the objections process would have parameters set for who could object. Those suggested parameters are found within the Implementation Guidelines.
- iv. In reaching its decision about the recommendation, the Committee sought to be consistent with, for example, Article 3 (1) (f) of the 1988 European Union Trade Mark Directive 89/104/EEC and within Article 7 (1) (f) of the 1993 European Union Trade Mark Regulation 40/94. In addition, the phrasing “contrary to morality or public order and in particular of such a nature as to deceive the public” comes from Article 6quinques (B)(3) of the 1883 *Paris Convention*. The reference to the *Paris Convention* remains relevant to domain names even though, when it was drafted, domain names were completely unheard of.
- v. The concept of “morality” is captured in Article 19 United Nations Convention on Human Rights (<http://www.unhchr.ch/udhr/lang/eng.htm>) says “...Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Article 29 continues by saying that “...In the

exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”.

- vi. The EU Trade Mark Office’s Examiner’s guidelines provides assistance on how to interpret morality and deceit. “...Contrary to morality or public order. Words or images which are offensive, such as swear words or racially derogatory images, or which are blasphemous are not acceptable. There is a dividing line between this and words which might be considered in poor taste. The latter do not offend against this provision.” The further element is deception of the public which is treated in the following way. “...Deceive the public. To deceive the public, is for instance as to the nature, quality or geographical origin. For example, a word may give rise to a real expectation of a particular locality which is untrue.” For more information, see Sections 8.7 and 8.8 at <http://oami.europa.eu/en/mark/marque/direc.htm>
- vii. The UK Trade Mark office provides similar guidance in its Examiner’s Guidance Manual. “Marks which offend fall broadly into three types: those with criminal connotations, those with religious connotations and explicit/taboo signs. Marks offending public policy are likely to offend accepted principles of morality, e.g. illegal drug terminology, although the question of public policy may not arise against marks offending accepted principles of morality, for example, taboo swear words. If a mark is merely distasteful, an objection is unlikely to be justified, whereas if it would cause outrage or would be likely significantly to undermine religious, family or social values, then an objection will be appropriate. Offence may be caused on matters of race, sex, religious belief or general matters of taste and decency. Care should be taken when words have a religious significance and which may provoke

greater offence than mere distaste, or even outrage, if used to parody a religion or its values. Where a sign has a very sacred status to members of a religion, mere use may be enough to cause outrage.”

For more information, see <http://www.patent.gov.uk/tm/t-decisionmaking/t-law/t-law-manual.htm>)

- viii. This recommendation has been the subject of detailed Committee and small group work in an attempt to reach consensus about both the text of the recommendation and the examples included as guidance about generally accepted legal norms. The work has been informed by detailed discussion within the GAC and through interactions between the GNSO Committee and the GAC.

**6. Recommendation 7 Discussion -- Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. The Committee agreed that the technical requirements for applicants would include compliance with a minimum set of technical standards and that this requirement would be part of the new registry operator’s contractual conditions included in the proposed base contract. The more detailed discussion about technical requirements has been moved to the contractual conditions section.
- iii. Reference was made to numerous Requests for Comment (RFCs) and other technical standards which apply to existing registry operators. For example, Appendix 7 of the June 2005 .net agreement<sup>68</sup> provides a comprehensive listing of technical requirements in addition to other technical specifications in other parts of the agreement. These requirements are consistent with that which is expected of all current

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<sup>68</sup> <http://www.icann.org/tlds/agreements/net/appendix7.html>

registry operators. These standards would form the basis of any new top-level domain operator requirements.

- iv. This recommendation is referred to in two CISs. “The ISPCP considers recommendations 7 and 8 to be fundamental. The technical, financial, organisational and operational capabilities of the applicant are the evaluators’ instruments for preventing potential negative impact on a new string on the activities of our sector (and indeed of many other sectors).” The NCUC submitted “...we record that this must be limited to transparent, predictable and minimum technical requirements only. These must be published. They must then be adhered to neutrally, fairly and without discrimination.”
- v. The GAC supported this direction in its Public Policy Principles 2.6, 2.10 and 2.11.

## **7. Recommendation 8 Discussion -- Applicants must be able to demonstrate their financial and organisational operational capability.**

- i. This recommendation is supported by all GNSO Constituencies and accepted with concern by Ms Doria<sup>69</sup>.
- ii. The Committee discussed this requirement in detail and determined that it was reasonable to request this information from potential applicants. It was also consistent with past practices including the prior new TLD rounds in 2000 and 2003-2004; the .net and .org rebids and the conditions associated with ICANN registrar accreditation.
- iii. This is also consistent with best practice procurement guidelines recommended by the World Bank ([www.worldbank.org](http://www.worldbank.org)), the OECD

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<sup>69</sup> ‘While I accept that a prospective registry must show adequate operational capability, creating a financial criteria is of concern. There may be many different ways of satisfying the requirement for operational capability and stability that may not be demonstrable in a financial statement or traditional business plan. E.g., in the case of an less developed community, the registry may rely on volunteer effort from knowledgeable technical experts. Another concern I have with financial requirements and high application fees is that they may act to discourage applications from developing nations or indigenous and minority peoples that have a different set of financial opportunities or capabilities then those recognized as acceptable within an expensive and highly developed region such as Los Angeles or Brussels.’

([www.oecd.org](http://www.oecd.org)) and the Asian Development Bank ([www.adb.org](http://www.adb.org)) as well as a range of federal procurement agencies such as the UK telecommunications regulator, Ofcom; the US Federal Communications Commission and major public companies.

- iv. The challenging aspect of this recommendation is to develop robust and objective criteria against which applicants can be measured, recognising a vast array of business conditions and models. This will be an important element of the ongoing development of the Implementation Plan.
- v. The ISPCP discussed the importance of this recommendation in its CIS, as found in Recommendation 7 above.
- vi. The NCUC's CIS addressed this recommendation by saying "...we support this recommendation to the extent that the criteria is truly limited to minimum financial and organizational operational capability...All criteria must be transparent, predictable and minimum. They must be published. They must then be adhered to neutrally, fairly and without discrimination."
- vii. The GAC echoed these views in its Public Policy Principle 2.5 that said "...the evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process."

**8. Recommendation 9 Discussion -- There must be a clear and pre-published process using objective and measurable criteria.**

- i. This recommendation is supported by all GNSO Constituencies and by Ms Doria. It is consistent with ICANN's previous TLD rounds in 2000

and 2003-2004 and with its re-bid of both the .net and .org registry contracts.

- ii. It is also consistent with ICANN's Mission and Core Values especially 7, 8 and 9 which address openness in decision-making processes and the timeliness of those processes.
- iii. The Committee decided that the "process" criteria for introducing new top-level domains would follow a pre-published application system including the levying of an application fee to recover the costs of the application process. This is consistent with ICANN's approach to the introduction of new TLDs in the previous 2000 and 2004 round for new top-level domains.
- iv. The RyC reiterated its support for this recommendation in its CIS. It said that "...this Recommendation is of major importance to the RyC because the majority of constituency members incurred unnecessarily high costs in previous rounds of new gTLD introductions as a result of excessively long time periods from application submittal until they were able to start their business. We believe that a significant part of the delays were related to selection criteria and processes that were too subjective and not very measurable. It is critical in our opinion that the process for the introduction of new gTLDs be predictable in terms of evaluation requirements and timeframes so that new applicants can properly scope their costs and develop reliable implementation plans." The NCUC said that "...we strongly support this recommendation and again stress the need for all criteria to be limited to minimum operational, financial, and technical considerations. We all stress the need that all evaluation criteria be objective and measurable."

**9. Recommendation 10 Discussion -- There must be a base contract provided to applicants at the beginning of the process.**

- i. This recommendation is supported by all GNSO Constituencies and by Ms Doria.

- ii. The General Counsel's office has been involved in discussions about the provision of a base contract which would assist applicants both during the application process and in any subsequent contract negotiations.
- iii. A framework for the base contract was developed for discussion at the June 2007 ICANN meeting in Puerto Rico. The base contract will not be completed until the policy recommendations are in place. Completion of the policy recommendations will enable the completion of a draft base contract that would be available to applicants prior to the start of the new gTLD process, that is, prior to the beginning of the four-month window preceding the application submittal period.
- iv. The RyC, in its CIS, said, "...like the comments for Recommendation 9, we believe that this recommendation will facilitate a more cost-effective and timely application process and thereby minimize the negative impacts of a process that is less well-defined and objective. Having a clear understanding of base contractual requirements is essential for a new gTLD applicant in developing a complete business plan."

**10. Recommendation 11 Discussion** -- (This recommendation has been removed and is left intentionally blank. Note Recommendation 20 and its Implementation Guidelines).

**11. Recommendation 12 Discussion -- Dispute resolution and challenge processes must be established prior to the start of the process.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. The Committee has provided clear direction on its expectations that all the dispute resolution and challenge processes would be established prior to the opening of the application round. The full system will be published prior to an application round starting. However, the finalisation of this process is contingent upon a completed set of

recommendations being agreed; a public comment period and the final agreement of the ICANN Board.

- iii. The draft Implementation Plan in the Implementation Team *Discussion Points* document sets out the way in which the ICANN Staff proposes that disputes between applicants and challenge processes may be handled. Expert legal and other professional advice from, for example, auctions experts is being sought to augment the Implementation Plan.



## **TERM OF REFERENCE THREE -- ALLOCATION METHODS**

### **12. Recommendation 13 Discussion -- Applications must initially be assessed in rounds until the scale of demand is clear.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. This recommendation sets out the principal allocation methods for TLD applications. The narrative here should be read in conjunction with the draft flowcharts and the draft Request for Proposals.
- iii. An application round would be opened on Day 1 and closed on an agreed date in the future with an unspecified number of applications to be processed within that round.
- iv. This recommendation may be amended, after an evaluation period and report that may suggest modifications to this system. The development of objective “success metrics” is a necessary part of the evaluation process that could take place within the new TLDs Project Office.
- v. The ISPCP expressed its support for this recommendation. Its CIS said that “...this is an essential element in the deployment of new gTLDs, as it enables any technical difficulties to be quickly identified and sorted out, working with reduced numbers of new strings at a time, rather than many all at once. Recommendation 18 on the use of IDNs is also important in preventing any negative impact on network operators and ISPs.”

### **13. Recommendation 20 Discussion -- An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.**

- i. This recommendation is supported by the majority of GNSO Constituencies. Ms Doria supports the recommendation but has

concerns about its implementation<sup>70</sup>. The NCUC has submitted a Minority Statement which is found in full in Annex C about the recommendation and its associated Implementation Guidelines F, H and P.

- ii. This recommendation was developed during the preparations for the Committee's 7 June 2007 conference call and during subsequent Committee deliberations. The intention was to factor into the process the very likely possibility of objections to applications from a wide variety of stakeholders.
- iii. The language used here is relatively broad and the implementation impact of the proposed recommendation is discussed in detail in the Implementation Team's *Discussion Points* document.
- iv. The NCUC's response to this recommendation in its earlier CIS says, in part, "...recommendation 20 swallows up any attempt to narrow the string criteria to technical, operational and financial evaluations. It asks for objections based on entirely subjective and unknowable criteria and for unlimited reasons and by unlimited parties." This view has, in part, been addressed in the Implementation Team's proposed plan but this requires further discussion and agreement by the Committee.

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<sup>70</sup> "In general I support the policy though I do have concerns about the implementation which I discuss below in relation to IG (P)".

## **TERM OF REFERENCE FOUR -- CONTRACTUAL CONDITIONS**

### **14. Recommendation 14 Discussion -- The initial registry agreement term must be of a commercially reasonable length.**

- i. The remainder of the recommendations address Term of Reference Four on policies for contractual conditions and should be read in conjunction with Recommendation 10 on the provision of a base contract prior to the opening of an application round. The recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. This recommendation is consistent with the existing registry contract provisions found in, for example, the .com and .biz agreements.
- iii. These conditions would form the baseline conditions of term length for new TLD operators. It was determined that a term of ten years would reasonably balance the start up costs of registry operations with reasonable commercial terms.
- iv. The RyC commented on this recommendation in its CIS saying that "...the members of the RyC have learned first hand that operating a registry in a secure and stable manner is a capital intensive venture. Extensive infrastructure is needed both for redundant registration systems and global domain name constellations. Even the most successful registries have taken many years to recoup their initial investment costs. The RyC is convinced that these two recommendations [14 & 15] will make it easier for new applicants to raise the initial capital necessary and to continue to make investments needed to ensure the level of service expected by registrants and users of their TLDs. These two recommendations will have a very positive impact on new

gTLD registries and in turn on the quality of the service they will be able to provide to the Internet community.”

**15. Recommendation 15 -- There must be renewal expectancy.**

- i. This recommendation is consistent with the existing registry contract provisions found in, for example, the .com and .biz agreements and is supported by all Constituencies. Ms Doria supported the recommendation and provided the comments found in the footnote below.<sup>71</sup>
- ii. These conditions would form the baseline conditions of term length for new TLD operators. It was determined that a term of ten years would reasonably balance the start up costs of registry operations with reasonable commercial terms.
- iii. See the CIS comments from the RyC in the previous section.

**16. Recommendation 16 -- Registries must apply existing Consensus Policies<sup>72</sup> and adopt new Consensus Policies as they are approved.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. The full set of existing ICANN registry contracts can be found here <http://www.icann.org/registries/agreements.htm> and ICANN’s seven current Consensus Policies are found at <http://www.icann.org/general/consensus-policies.htm>.

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<sup>71</sup> “In general I support the idea that a registry that is doing a good job should have the expectancy of renewal. I do, however, believe that a registry, especially a registry with general market dominance, or specific or local market dominance, should be subject to comment from the relevant user public and to evaluation of that public comment before renewal. When performance is satisfactory, there should an expectation of renewal. When performance is not satisfactory, there should be some procedure for correcting the situation before renewal.”

<sup>72</sup> Consensus Policies has a particular meaning within the ICANN environment. Refer to <http://www.icann.org/general/consensus-policies.htm> for the full list of ICANN’s Consensus Policies.

- iii. ICANN develops binding Consensus Policies through its policy development processes, in this case, through the GNSO<sup>73</sup>.

**17. Recommendation 17 -- A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. Referring to the recommendations on contractual conditions above, this section sets out the discussion of the policies for contractual conditions for new top-level domain registry operators. The recommendations are consistent with the existing provisions for registry operators which were the subject of detailed community input throughout 2006<sup>74</sup>.
- iii. The Committee developed its recommendations during the Brussels and Amsterdam face-to-face consultations, with assistance from the ICANN General Counsel's office. The General Counsel's office has also provided a draft base contract which will be completed once the policy recommendations are agreed. Reference should also be made to Recommendation 5 on reserved words as some of the findings could be part of the base contract.
- iv. The Committee has focused on the key principles of consistency, openness and transparency. It was also determined that a scalable and predictable process is consistent with industry best practice standards for services procurement. The Committee referred in particular to standards within the broadcasting, telecommunications and Internet services industries to examine how regulatory agencies in those environments conducted, for

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<sup>73</sup> <http://www.icann.org/general/bylaws.htm#AnnexA>

<sup>74</sup> <http://www.icann.org/registries/agreements.htm>

example, spectrum auctions, broadcasting licence distribution and media ownership frameworks.

- v. Since then ICANN has developed and published a new approach to its compliance activities. These are found on ICANN's website at <http://www.icann.org/compliance/> and will be part of the development of base contract materials.
- vi. The Committee found a number of expert reports<sup>75</sup> beneficial. In particular, the World Bank report on mobile licensing conditions provides some guidance on best practice principles for considering broader market investment conditions. "...A major challenge facing regulators in developed and developing countries alike is the need to strike the right balance between ensuring certainty for market players and preserving flexibility of the regulatory process to accommodate the rapidly changing market, technological and policy conditions. As much as possible, policy makers and regulators should strive to promote investors' confidence and give incentives for long-term investment. They can do this by favouring the principle of 'renewal expectancy', but also by promoting regulatory certainty and predictability through a fair, transparent and participatory renewal process. For example, by providing details for license renewal or reissue, clearly establishing what is the discretion offered to the licensing body, or ensuring sufficient lead-times and transitional arrangements in the event of non-renewal or changes in licensing conditions. Public consultation procedures and guaranteeing the right to appeal regulatory decisions maximizes the prospects for a successful renewal process. As technological changes and convergence and technologically neutral approaches gain importance, regulators and policy

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<sup>75</sup> The full list of reports is found in the Reference section at the end of the document.

makers need to be ready to adapt and evolve licensing procedures and practices to the new environment.”

- vii. The Recommendations which the Committee has developed with respect to the introduction of new TLDs are consistent with the World Bank principles.

**18. Recommendation 18 Discussion -- If an applicant offers an IDN service, then ICANN’s IDN guidelines must be followed.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria. The introduction of internationalised domain names at the root presents ICANN with a series of implementation challenges. This recommendation would apply to any new gTLD (IDN or ASCII TLD) offering IDN services. The initial technical testing<sup>76</sup> has been completed and a series of live root tests will take place during the remainder of 2007.
- ii. The Committee recognises that there is ongoing work in other parts of the ICANN organisation that needs to be factored into the application process that will apply to IDN applications. The work includes the President’s Committee on IDNs and the GAC and ccNSO joint working group on IDNs.

**19. Recommendation 19 Discussion -- Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars.**

- i. This recommendation is supported by all GNSO Constituencies and Ms Doria.
- ii. There is a long history associated with the separation of registry and registrar operations for top-level domains. The structural separation of VeriSign’s registry operations from Network Solutions registrar operations explains much of the ongoing policy to require the use of ICANN accredited registrars.

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<sup>76</sup> <http://www.icann.org/announcements/announcement-4-07mar07.htm>

- iii. In order to facilitate the stable and secure operation of the DNS, the Committee agreed that it was prudent to continue the current requirement that registry operators be obliged to use ICANN accredited registrars.
- iv. ICANN's Registrar Accreditation Agreement has been in place since 2001<sup>77</sup>. Detailed information about the accreditation of registrars can be found on the ICANN website<sup>78</sup>. The accreditation process is under active discussion but the critical element of requiring the use of ICANN accredited registrars remains constant.
- v. In its CIS, the RyC noted that "...the RyC has no problem with this recommendation for larger gTLDs; the requirement to use accredited registrars has worked well for them. But it has not always worked as well for very small, specialized gTLDs. The possible impact on the latter is that they can be at the mercy of registrars for whom there is no good business reason to devote resources. In the New gTLD PDP, it was noted that this requirement would be less of a problem if the impacted registry would become a registrar for its own TLD, with appropriate controls in place. The RyC agrees with this line of reasoning but current registry agreements forbid registries from doing this. Dialog with the Registrars Constituency on this topic was initiated and is ongoing, the goal being to mutually agree on terms that could be presented for consideration and might provide a workable solution."

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<sup>77</sup> Found at <http://www.icann.org/registrars/ra-agreement-17may01.htm>

<sup>78</sup> Found at <http://www.icann.org/registrars/accreditation.htm>.



## NEXT STEPS

1. Under the GNSO's Policy Development Process, the production of this *Final Report* completes Stage 9. The next steps are to conduct a twenty-day public comment period running from 10 August to 30 August 2007. The GNSO Council is due to meet on 6 September 2007 to vote on the package of principles, policy recommendations and implementation guidelines.
2. After the GNSO Council have voted the Council Report to the Board is prepared. The GNSO's PDP guidelines stipulate that "the Staff Manager will be present at the final meeting of the Council, and will have five (5) calendar days after the meeting to incorporate the views of the Council into a report to be submitted to the Board (the "Board Report"). The Board Report must contain at least the following:
  - a. A clear statement of any Supermajority Vote recommendation of the Council;
  - b. If a Supermajority Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) that held the position;
  - c. An analysis of how the issue would affect each constituency, including any financial impact on the constituency;
  - d. An analysis of the period of time that would likely be necessary to implement the policy;
  - e. The advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and

relevant experience; and (ii) potential conflicts of interest;

- f. The Final Report submitted to the Council; and
- g. A copy of the minutes of the Council deliberation on the policy issue, including the all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.

3. It is expected that, according to the Bylaws, "...The Board will meet to discuss the GNSO Council recommendation as soon as feasible after receipt of the Board Report from the Staff Manager. In the event that the Council reached a Supermajority Vote, the Board shall adopt the policy according to the Council Supermajority Vote recommendation unless by a vote of more than sixty-six (66%) percent of the Board determines that such policy is not in the best interests of the ICANN community or ICANN. In the event that the Board determines not to act in accordance with the Council Supermajority Vote recommendation, the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council. The Council shall review the Board Statement for discussion with the Board within twenty (20) calendar days after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for its current recommendation. In the event that the Council is able to reach a Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than sixty-six (66%) percent of the Board determines that such policy is not in the interests of the ICANN

community or ICANN. In any case in which the Council is not able to reach Supermajority, a majority vote of the Board will be sufficient to act. When a final decision on a GNSO Council Recommendation or Supplemental Recommendation is timely, the Board shall take a preliminary vote and, where practicable, will publish a tentative decision that allows for a ten (10) day period of public comment prior to a final decision by the Board.”

4. The final stage in the PDP is the implementation of the policy which is also governed by the Bylaws as follows, “...Upon a final decision of the Board, the Board shall, as appropriate, give authorization or direction to the ICANN staff to take all necessary steps to implement the policy.”

## **Annex A – NCUC Minority Statement: Recommendation 6**

### **STATEMENT OF DISSENT ON RECOMMENDATION #6 OF GNSO'S NEW GTLD REPORT FROM THE NON-COMMERCIAL USERS CONSTITUENCY (NCUC) 20 July 2007**

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NCUC supports most of the recommendations in the GNSO's Final Report, but Recommendation #6 is one we cannot support.<sup>79</sup>

We oppose Recommendation #6 for the following reasons:

- 1) It will completely undermine ICANN's efforts to make the gTLD application process predictable, and instead make the evaluation process arbitrary, subjective and political;
- 2) It will have the effect of suppressing free and diverse expression;
- 3) It exposes ICANN to litigation risks;
- 4) It takes ICANN too far away from its technical coordination mission and into areas of legislating morality and public order.

We also believe that the objective of Recommendation #6 is unclear, in that much of its desirable substance is already covered by Recommendation #3. At a minimum, we believe that the words "relating to morality and public order" must be struck from the recommendation.

#### **1) Predictability, Transparency and Objectivity**

Recommendation #6 poses severe implementation problems. It makes it impossible to achieve the GNSO's goals of predictable and transparent evaluation criteria for new gTLDs.

Principle 1 of the New gTLD Report states that the evaluation process must be "predictable," and Recommendation #1 states that the evaluation criteria

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<sup>79</sup> Text of Recommendation #6: "Strings must not be contrary to generally accepted legal norms relating to morality and public order that are enforceable under generally accepted and internationally recognized principles of law. Examples of such principles of law include, but are not limited to, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination, intellectual property treaties administered by the World Intellectual Property Organisation (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)."

must be transparent, predictable, and fully available to applicants prior to their application.

NCUC strongly supports those guidelines. But no gTLD applicant can possibly know in advance what people or governments in a far away land will object to as “immoral” or contrary to “public order.” When applications are challenged on these grounds, applicants cannot possibly know what decision an expert panel – which will be assembled on an ad hoc basis with no precedent to draw on – will make about it.

Decisions by expert panels on “morality and public order” *must* be subjective and arbitrary, because there is no settled and well-established international law regarding the relationship between TLD strings and morality and public order. There is no single “community standard” of morality that ICANN can apply to all applicants in every corner of the globe. What is considered “immoral” in Teheran may be easily accepted in Los Angeles or Stockholm; what is considered a threat to “public order” in China and Russia may not be in Brazil and Qatar.

## **2) Suppression of expression of controversial views**

gTLD applicants will respond to the uncertainty inherent in a vague “morality and public order” standard and lack of clear standards by suppressing and avoiding any ideas that might generate controversy. Applicants will have to invest sizable sums of money to develop a gTLD application and see it through the ICANN process. Most of them will avoid risking a challenge under Recommendation #6. In other words, the presence of Recommendation #6 will result in self-censorship by most applicants.

That policy would strip citizens everywhere of their rights to express controversial ideas because someone else finds them offensive. This policy recommendation ignores international and national laws, in particular freedom of expression guarantees that permit the expression of “immoral” or otherwise controversial speech on the Internet.

## **3) Risk of litigation**

Some people in the ICANN community are under the mistaken impression that suppressing controversial gTLDs will protect it from litigation. Nothing could be further from the truth. By introducing subjective and culturally divisive standards into the evaluation process Recommendation #6 will increase the likelihood of litigation.

ICANN operates under authority from the US Commerce Department. It is undisputed that the US Commerce Department is prohibited from censoring the expression of US citizens in the manner proposed by Recommendation #6. The US Government cannot “contract away” the constitutional protections of its citizens to ICANN any more than it can engage in the censorship itself.

Adoption of Recommendation #6 invites litigation against ICANN to determine whether its censorship policy is compatible with the US First Amendment. An ICANN decision to suppress a gTLD string that would be permitted under US law could and probably would lead to legal challenges to the decision as a form of US Government action.

If ICANN left the adjudication of legal rights up to courts, it could avoid the legal risk and legal liability that this policy of censorship brings upon it.

#### **4) ICANN's mission and core values**

Recommendation #6 exceeds the scope of ICANN's technical mission. It asks ICANN to create rules and adjudicate disputes about what is permissible expression. It enables it to censor expression in domain names that would be lawful in some countries. It would require ICANN and "expert panels" to make decisions about permitting top-level domain names based on arbitrary "morality" judgments and other subjective criteria. Under Recommendation #6, ICANN will evaluate domain names based on ideas about "morality and public order" -- concepts for which there are varying interpretations, in both law and culture, in various parts of the world. Recommendation #6 risks turning ICANN into the arbiter of "morality" and "appropriate" public policy through global rules.

This new role for ICANN conflicts with its intended narrow technical mission, as embodied in its mission and core values. ICANN holds no legitimate authority to regulate in this entirely non-technical area and adjudicate the legal rights of others. This recommendation takes the adjudication of people's rights to use domain names out of the hands of democratically elected representatives and into the hands of "expert panels" or ICANN staff and board with no public accountability.

Besides exceeding the scope of ICANN's authority, Recommendation #6 seems unsure of its objective. It mandates "morality and public order" in domain names, but then lists, as examples of the type of rights to protect, the WTO TRIPS Agreement and all 24 World Intellectual Property (WIPO) Treaties, which deal with economic and trade rights, and have little to do with "morality and public order". Protection for intellectual property rights was fully covered in Recommendation #3, and no explanation has been provided as to why intellectual property rights would be listed again in a recommendation on "morality and public order", an entirely separate concept.

In conclusion Recommendation #6 exceeds ICANN's authority, ignores Internet users' free expression rights, and its adoption would impose an enormous burden on and liability for ICANN. It should not be adopted by the Board of Directors in the final policy decision for new gtlds.

## Annex B – Nominating Committee Appointee Avri Doria<sup>80</sup>: Individual Comments

Comments from Avri Doria

The “Personal level of support” indications fall into 3 categories:

- Support: these are principles, recommendations or guidelines that are compatible with my personal opinions
- Support with concerns: While these principles, recommendations and guidelines are not incompatible with my personal opinions, I have some concerns about them.
- Accept with concern: these recommendations and guidelines do not necessarily correspond to my personal opinions, but I am able to accept them in that they have the broad support of the committee. I do, however, have concerns with these recommendations and guideline.

I believe these comments are consistent with comments I have made throughout the process and do not constitute new input.

### Principles

#	Personal level of support	Explanation
A	Support	
B	Support with concerns	While I strongly support the introduction of IDN TLDS, I am concerned that the unresolved issues with IDN ccTLD equivalents may interfere with the introduction of IDN TLDs. I am also concerned that some of these issues could impede the introduction of some new ASCII TLDs dealing with geographically related identifiers.
C	Support	
D	Support with concerns	While I favor the establishment of a minimum set of necessary technical criteria, I am concerned that this set actually be the basic minimum set necessary to protect the stability, security and global interoperability.

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<sup>80</sup> Ms Doria took over from former GNSO Council Chairman (and GNSO new TLDs Committee Chairman) Dr Bruce Tonkin on 7 June 2007. Ms Doria’s term runs until 31 January 2008.

#	Personal level of support	Explanation
E-G	Support	

## Recommendations

#	Level of support	Explanation
1	Support	
2	Accept with concern	<p>My concern involves using definitions that rely on legal terminology established for trademarks for what I believe should be a policy based on technical criteria.</p> <ul style="list-style-type: none"> <li>• In the first instance I believe that this is essentially a technical issue that should have been resolved with reference to typography, homologues, orthographic neighbourhood, transliteration and other technically defined attributes of a name that would make it unacceptable. There is a large body of scientific and technical knowledge and description in this field that we could have drawn on.</li> <li>• By using terms that rely on the legal language of trademark law, I believe we have created an implicit redundancy between recommendations 2 and 3. I.e., I believe both 2 and 3 can be used to protect trademarks and other intellectual property rights, and while 3 has specific limitations, 2 remains open to full and varied interpretation.</li> <li>• As we begin to consider IDNs, I am concerned that the interpretations of confusingly similar may be used to eliminate many potential TLDs based on translation. That is, when a translation may have the same or similar meaning to an existing TLD, that the new name may be eliminated because it is considered confusing to users who know both languages.</li> </ul>



#	Level of support	Explanation
3	Support with concerns	<p>My first concern relates to the protection of what can be called the linguistic commons. While it is true that much of trademark law and practice does protect general vocabulary and common usage from trademark protection, I am not sure that this is always the case in practice.</p> <p>I am also not convinced that trademark law and policy that applies to specific product type within a specific locale is entirely compatible with a general and global naming system.</p>
4	Support	
5	Support with concerns	<p>Until such time as the technical work on IDNAbis is completed, I am concerned about establishing reserved name rules connected to IDNs. My primary concern involves policy decisions made in ICANN for reserved names becoming hard coded in the IDNAbis technical solution and thus becoming technical constraints that are no longer open to future policy reconsideration.</p>
6	Accept with concern	<p>My primary concern focuses on the term 'morality'. While public order is frequently codified in national laws and occasionally in international law and conventions, the definition of what constitutes morality is not generally codified, and when it is, I believe it could be referenced as public order.</p> <p>This concern is related to the broad set of definitions used in the world to define morality. By including morality in the list of allowable exclusions we have made the possible exclusion list indefinitely large and have subjected the process to the consideration of all possible religious and ethical systems. ICANN or the panel of reviewers will also have to decide between different sets of moral principles, e.g, a morality that holds that people should be free to express themselves in all forms of media and those who believe that people should be free from exposure to any expression that is prohibited by their faith or moral principles. This recommendation will also subject the process to the fashion and occasional demagoguery of political correctness. I do not understand how ICANN or any expert panel will be</p>

#	Level of support	Explanation
		able to judge that something should be excluded based on reasons of morality without defining, at least de-facto, an ICANN definition of morality? And while I am not a strict constructionist and sometimes allow for the broader interpretation of ICANN's mission, I do not believe it includes the definition of a system of morality.
7	Support	
8	Accept with concern	<p>While I accept that a prospective registry must show adequate operational capability, creating a financial criteria is of concern. There may be many different ways of satisfying the requirement for operational capability and stability that may not be demonstrable in a financial statement or traditional business plan. E.g., in the case of an less developed community, the registry may rely on volunteer effort from knowledgeable technical experts.</p> <p>Another concern I have with financial requirements and high application fees is that they may act to discourage applications from developing nations or indigenous and minority peoples that have a different set of financial opportunities or capabilities than those recognized as acceptable within an expensive and highly developed region such as Los Angeles or Brussels.</p>
9,10, 12-14	Support	
15	Support with concerns	<p>In general I support the idea that a registry that is doing a good job should have the expectancy of renewal. I do, however, believe that a registry, especially a registry with general market dominance, or specific or local market dominance, should be subject to comment from the relevant user public and to evaluation of that public comment before renewal. When performance is satisfactory, there should an expectation of renewal. When performance is not satisfactory, there should be some procedure for correcting the situation before renewal.</p>
16-19	Support	

#	Level of support	Explanation
20	Support with concerns	In general I support the policy though I do have concerns about the implementation which I discuss below in relation to IG (P)

## Implementation Guidelines

#	Level of support	Explanation
A-E	Support	
F	Accept with concern	In designing a New gTLD process, one of the original design goals had been to design a predictable and timely process that did not include the involvement of the Board of Directors except for very rare and exceptional cases and perhaps in the due diligence check of a final approval. My concern is that the use of Board in step (iii) may make them a regular part of many of the application procedure and may overload both the Board and the process. If every dispute can fall through to Board consideration in the process sieve, then the incentive to resolve the dispute earlier will be lessened.
G-M	Support	
N	Support with concerns	I strongly support the idea of financial assistance programs and fee reduction for less developed communities. I am concerned that not providing pricing that enables applications from less developed countries and communities may serve to increase the divide between the haves and the have nots in the Internet and may lead to a foreign 'land grab' of choice TLD names, especially IDN TLD names in a new form of resource colonialism because only those with well developed funding capability will be able to participate in the process as currently planned.
O	Support	
P	Support with concerns	While I essentially agree with the policy recommendation and its implementation guideline, its social justice and fairness depends heavily on the implementation issues. While the implementation

#	Level of support	Explanation
		<p>details are not yet settled, I have serious concerns about the published draft plans of the ICANN staff in this regard. The current proposal involves using fees to prevent vexatious or unreasonable objections. In my personal opinion this would be a cause of social injustice in the application of the policy as it would prejudice the objection policy in favor of the rich. I also believe that an objection policy based on financial means would allow for well endowed entities to object to any term they found objectionable, hence enabling them to be as vexatious as they wish to be.</p> <p>In order for an objection system to work properly, it must be fair and it must allow for any applicant to understand the basis on which they might have to answer an objection. If the policy and implementation are clear about objections only being considered when they can be shown to cause irreparable harm to a community then it may be possible to build a just process. In addition to the necessity for there to be strict filters on which potential objections are actually processed for further review by an objections review process, it is essential that an external and impartial professional review panel have a clear basis for judging any objections.</p> <p>I do not believe that the ability to pay for a review will provide a reasonable criteria, nor do I believe that financial barriers are an adequate filter for stopping vexatious or unreasonable objections though they are a sufficient barrier for the poor.</p> <p>I believe that ICANN should investigate other methods for balancing the need to allow even the poorest to raise an issue of irreparable harm while filtering out unreasonable disputes. I believe, as recommend in the Reserved Names Working group report, that the ALAC and GAC may be an important part of the solution. IG (P) currently includes support for treating ALAC and GAC as established institutions in regard to raising objections to TLD concerns. I believe this is an important part of the policy recommendation and should be retained in the implementation. I believe that it should be possible for the ALAC or GAC, through some internal procedure that they define, to take up the cause of the individual</p>

#	Level of support	Explanation
		complainant and to request a review by the external expert review panel. Some have argued that this is unacceptable because it operationalizes these Advisory Committees. I believe we do have precedence for such an operational role for volunteers within ICANN and that it is in keeping with their respective roles and responsibilities as representatives of the user community and of the international community of nations. I strongly recommend that such a solution be included in the Implementation of the New gTLD process.
Q	Support	

## **Annex C – NCUC Minority Statement: Recommendation 20 and Implementation Guidelines F, H & P**

### **STATEMENT OF DISSENT ON RECOMMENDATION #20 & IMPLEMENTATION GUIDELINES F, H, & P IN THE GNSO NEW GTLD COMMITTEE'S FINAL REPORT FROM THE NON-COMMERCIAL USERS CONSTITUENCY (NCUC)**

#### **RE: DOMAIN NAME OBJECTION AND REJECTION PROCESS**

25 July 2007

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#### **Text of Recommendation #20:**

"An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted."

#### **Text of Implementation Guideline F:**

If there is contention for strings, applicants may:

- i) resolve contention between them within a pre-established timeframe
- ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;
- iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.

#### **Text of Implementation Guideline H:**

External dispute providers will give decisions on complaints.

#### **Text of Implementation Guideline P:**

The following process, definitions, and guidelines refer to Recommendation 20.

#### **Process**

Opposition must be objection based.

Determination will be made by a dispute resolution panel constituted for the purpose.

The objector must provide verifiable evidence that it is an established institution of the community (perhaps like the RSTEP pool of panelists from which a small panel would be constituted for each objection).

## Guidelines

The task of the panel is the determination of substantial opposition.

### a) substantial

In determining substantial the panel will assess the following: significant portion, community, explicitly targeting, implicitly targeting, established institution, formal existence, detriment.

### b) significant portion:

In determining significant portion the panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.

### c) community

Community should be interpreted broadly and will include for example an economic sector, a cultural community, or a linguistic community. It may also be a closely related community which believes it is impacted.

### d) explicitly targeting

Explicitly targeting means there is a description of the intended use of the TLD in the application.

### e) implicitly targeting

Implicitly targeting means that the objector makes an assumption of targeting or that the objector believes there may be confusion by users over its intended use.

### f) established institution

An institution that has been in formal existence for at least 5 years. In exceptional cases, standing may be granted to an institution that has been in existence for fewer than 5 years. Exceptional circumstance include but are not limited to reorganisation, merger, or an inherently younger community. The following ICANN organizations are defined as established institutions: GAC, ALAC, GNSO, ccNSO, ASO.

### g) formal existence

Formal existence may be demonstrated by: appropriate public registration, public historical evidence, validation by a government, intergovernmental organization, international treaty organisation or similar.

### h) detriment

<< A >> Evidence of detriment to the community or to users more widely must be provided.

<< B >> [A likelihood of detriment to the community or to users more widely must be provided.]

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## **Recommendation #20**

The Non-Commercial Users Constituency (NCUC) Dissenting Statement on Recommendation #20 of the New GTLD Committee's Final Report<sup>81</sup> should be read in combination with Implementation Guidelines F, H & P, which detail the implementation of Recommendation #20. This statement should also be read in conjunction with its statement<sup>82</sup> of 13 June 2007 on the committee's draft report.

NCUC cannot support the committee's proposal for ICANN to establish a broad objection and rejection process for domain names that empowers ICANN and its "experts" to adjudicate the legal rights of domain name applicants (and objectors). The proposal would also empower ICANN and its "experts" to invent entirely new rights to domain names that do not exist in law and that will compete with existing legal rights to domains.

However "good-intentioned", the proposal would inevitably set up a system that decides legal rights based on subjective beliefs of "expert panels" and the amount of insider lobbying. The proposal would give "established institutions" veto power over applications for domain names to the detriment of innovators and start-ups. The proposal is further flawed because it makes no allowances for generic words to which no community claims exclusive "ownership" of. Instead, it wants to assign rights to use language based on subjective standards and will over-regulate to the detriment of competition, innovation, and free expression.

There is no limitation on the type of objections that can be raised to kill a domain name, no requirement that actual harm be shown to deny an application, and no recourse for the wrongful denial of legal rights by ICANN and its experts under this proposal. An applicant must be able to appeal decisions of ICANN and its experts to courts, who have more competence and authority to decide the applicant's legal rights. Legal due process requires maintaining a right to appeal these decisions to real courts.

The proposal is hopelessly flawed and will result in the improper rejection of many legitimate domain names. The reasons permitted to object to a domain are infinite in number. Anyone may make an objection; and an application will automatically be rejected upon a very low threshold of "detriment" or an even lower standard of "a likelihood of detriment" to anyone. Not a difficult bar to meet.

If ICANN attempted to put this policy proposal into practice it would intertwine itself in general policy debates, cultural clashes, business feuds, religious wars, and national politics, among a few of the disputes ICANN would have to rule on through this domain name policy.

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<sup>81</sup> Available at: <http://forum.icann.org/lists/gtld-council/pdfOQqgaRNrXf.pdf>

<sup>82</sup> Available at: <http://ipjustice.org/wp/2007/06/13/ncuc-newgtld-stmt-june2007/>



The proposal operates under false assumptions of “communities” that can be defined, and that parties can be rightfully appointed representatives of “the community” by ICANN. The proposal gives preference to “established institutions” for domain names, and leaves applicants’ without the backing of “established institutions” with little right to a top-level domain. The proposal operates to the detriment of small-scale start-ups and innovators who are clever enough to come up with an idea for a domain first, but lack the insider-connections and financial resources necessary to convince an ICANN panel of their worthiness.

It will be excessively expensive to apply for either a controversial or a popular domain name, so only well-financed “established institutions” will have both the standing and financial wherewithal to be awarded a top-level domain. The proposal privileges who is awarded a top-level domain, and thus discourages diversity of thought and the free flow of information by making it more difficult to obtain information on controversial ideas or from innovative new-comers.

### **Implementation Guideline F**

NCUC does not agree with the part of Implementation Guideline F that empowers ICANN identified “communities” to support or oppose applications. Why should all “communities” agree before a domain name can be issued? How to decide who speaks for a “community”?

NCUC also notes that ICANN’s Board of Directors would make the final decisions on applications and thus the legal rights of applicants under proposed IG-F. ICANN Board Members are not democratically elected, accountable to the public in any meaningful way, or trained in the adjudication of legal rights. Final decisions regarding legal rights should come from legitimate law-making processes, such as courts.

“Expert panels” or corporate officers are not obligated to respect an applicant’s free expression rights and there is no recourse for a decision by the panel or ICANN for rights wrongfully denied. None of the “expert” panelists are democratically elected, nor accountable to the public for their decisions. Yet they will take decisions on the boundaries between free expression and trademark rights in domain names; and “experts” will decide what ideas are too controversial to be permitted in a domain name under this process.

### **Implementation Guideline H**

Implementation Guideline H recommends a system to adjudicate legal rights that exists entirely outside of legitimate democratic law-making processes. The process sets up a system of unaccountable “private law” where “experts” are free to pick and choose favored laws, such as trademark rights, and ignore disfavored laws, such as free expression guarantees.

IG-H operates under the false premise that external dispute providers are authorized to adjudicate the legal rights of domain name applicants and objectors. It further presumes that such expert panels will be qualified to adjudicate the legal rights of applicants and others. But undertaking the creation of an entirely new international dispute resolution process for the adjudication of legal rights and the creation of new rights is not something that can be delegated to a team of experts. Existing international law that takes into account conflict of laws, choice of laws, jurisdiction, standing, and due process must be part of any legitimate process; and the applicant's legal rights including freedom of expression rights must be respected in the process.

### **Implementation Guideline P**

"The devil is in the details" of Implementation Guideline P as it describes in greater detail the proposed adversarial dispute process to adjudicate legal rights to top-level domain names in Recommendation #20. IG-P mandates the rejection of an application if there is "substantial opposition" to it according to ICANN's expert panel. But "substantial" is defined in such a way so as to actually mean "insubstantial" and as a result many legitimate domain names would be rejected by such an extremely low standard for killing an application.

Under IG-P, opposition against and support for an application must be made by an "established institution" for it to count as "significant", again favoring major industry players and mainstream cultural institutions over cultural diversity, innovative individuals, small niche, and medium-sized Internet businesses.

IG-P states that "community" should be interpreted broadly, which will allow for the maximum number of objections to a domain name to count against an application. It includes examples of "the economic sector, cultural community or linguistic community" as those who have a right to complain about an application. It also includes any "related community which believes it is impacted." So anyone who claims to represent a community and believes to be impacted by a domain name can file a complaint and have standing to object to another's application.

There is no requirement that the objection be based on legal rights or the operational capacity of the applicant. There is no requirement that the objection be reasonable or the belief about impact to be reasonable. There is no requirement that the harm be actual or verifiable. The standard for "community" is entirely subjective and based on the personal beliefs of the objector.

The definition of "implicitly targeting" further confirms this subjective standard by inviting objections where "the objector makes the assumption of targeting" and also where "the objector believes there may be confusion by users". Such a subjective process will inevitably result in the rejection of many

legitimate domain names.

Picking such a subjective standard conflicts with Principle A in the Final Report that states domain names must be introduced in a “predictable way”, and also with Recommendation 1 that states “All applicants for a new gTLD registry should be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process.” The subjectivity and unpredictability invited into the process by Recommendation #20 turn Principle A and Recommendation 1 from the same report upside down.

Besides the inherent subjectivity, the standard for killing applications is remarkably low. An application need not be intended to serve a particular community for “community-based” objections to kill the application under the proposal. Anyone who believed that he or she was part of the targeted community or who believes others face “detriment” have standing to object to a domain name, and the objection weighs in favor of “significant opposition”. This standard is even lower than the “reasonable person” standard, which would at least require that the belief be “reasonable” for it to count against an applicant. The proposed standard for rejecting domains is so low it even permits unreasonable beliefs about a domain name to weigh against an applicant.

If a domain name does cause confusion, existing trademark law and unfair competition law have dealt with it for years and already balanced intellectual property rights against free expression rights in domain names. There is neither reason nor authority for ICANN processes to overtake the adjudication of legal rights and invite unreasonable and illegitimate objections to domain names.

IG-P falsely assumes that the number of years in operation is indicative of one’s right to use language. It privileges entities over 5 years old with objection rights that will effectively veto innovative start-ups who cannot afford the dispute resolution process and will be forced to abandon their application to the incumbents.

IG-P sets the threshold for harm that must be shown to kill an application for a domain name remarkably low. Indeed harm need not be actual or verified for an application to be killed based on “substantial opposition” from a single objector.

Whether the committee selects the unbounded definition for “detriment” that includes a “likelihood of detriment” or the narrower definition of “evidence of detriment” as the standard for killing an application for a domain name is largely irrelevant. The difference is akin to re-arranging the deck chairs on the Titanic. ICANN will become bogged down with the approval of domain names either way, although it is worth noting that “likelihood of detriment” is a

very long way from “substantial harm” and an easy standard to meet, so will result in many more domain names being rejected.

The definitions and guidelines detailed in IG-P invite a lobby-fest between competing businesses, instill the “heckler’s veto” into domain name policy, privilege incumbents, price out of the market non-commercial applicants, and give third-parties who have no legal rights to domain names the power to block applications for those domains. A better standard for killing an application for non-technical reasons would be for a domain name to be shown to be illegal in the applicant’s jurisdiction before it can be rejected.

In conclusion, the committee’s recommendation for domain name objection and rejection processes are far too broad and unwieldy to be put into practice. They would stifle freedom of expression, innovation, cultural diversity, and market competition. Rather than follow existing law, the proposal would set up an illegitimate process that usurps jurisdiction to adjudicate peoples’ legal rights (and create new rights) in a process designed to favor incumbents. The adoption of this “free-for-all” objection and rejection process will further call into question ICANN’s legitimacy to govern and its ability to serve the global public interest that respects the rights of all citizens.

NCUC respectfully submits that ICANN will best serve the global public interest by resisting the temptation to stray from its technical mandate and meddle in international lawmaking as proposed by Rec. #20 and IG-F, IG-H, and IG-P of the New GTLD Committee Final Report.

## REFERENCE MATERIAL -- GLOSSARY<sup>83</sup>

TERM	ACRONYM & EXPLANATION
A-label	The A-label is what is transmitted in the DNS protocol and this is the ASCII-compatible (ACE) form of an IDNA string; for example "xn--11b5bs1di".
ASCII Compatible Encoding	ACE ACE is a system for encoding Unicode so each character can be transmitted using only the letters a-z, 0-9 and hyphens. Refer also to <a href="http://www.ietf.org/rfc/rfc3467.txt?number=3467">http://www.ietf.org/rfc/rfc3467.txt?number=3467</a>
American Standard Code for Information Exchange	ASCII ASCII is a common numerical code for computers and other devices that work with text. Computers can only understand numbers, so an ASCII code is the numerical representation of a character such as 'a' or '@'. See above referenced RFC for more information.
Advanced Research Projects Agency	ARPA <a href="http://www.darpa.mil/body/arpa_darpa.html">http://www.darpa.mil/body/arpa_darpa.html</a>
Commercial & Business Users Constituency	CBUC <a href="http://www.bizconst.org/">http://www.bizconst.org/</a>
Consensus Policy	A defined term in all ICANN registry contracts usually found in Article 3 (Covenants). See, for example, <a href="http://www.icann.org/tlds/agreements/biz/registry-agmt-08dec06.htm">http://www.icann.org/tlds/agreements/biz/registry-agmt-08dec06.htm</a>
Country Code Names Supporting Organization	ccNSO <a href="http://ccnso.icann.org/">http://ccnso.icann.org/</a>
Country Code Top Level Domain	ccTLD Two letter domains, such as .uk (United Kingdom), .de (Germany) and .jp (Japan) (for example), are called country code top level domains (ccTLDs) and correspond to a country, territory, or other geographic location. The rules and policies for registering domain names in the ccTLDs vary significantly and ccTLD registries limit use of the ccTLD to citizens of the corresponding country.  Some ICANN-accredited registrars provide registration services in the ccTLDs in addition to registering names in .biz, .com, .info, .name, .net and .org, however, ICANN does not specifically accredit registrars to provide ccTLD registration services.

<sup>83</sup> This glossary has been developed over the course of the policy development process. Refer here to ICANN's glossary of terms <http://www.icann.org/general/glossary.htm> for further information.

	For more information regarding registering names in ccTLDs, including a complete database of designated ccTLDs and managers, please refer to <a href="http://www.iana.org/cctld/cctld.htm">http://www.iana.org/cctld/cctld.htm</a> .
Domain Names	<p>The term <b>domain name</b> has multiple related meanings: A name that identifies a computer or computers on the internet. These names appear as a component of a Web site's URL, e.g. <a href="http://www.wikipedia.org">www.wikipedia.org</a>. This type of domain name is also called a hostname.</p> <p>The product that Domain name registrars provide to their customers. These names are often called <b>registered domain names</b>.</p> <p>Names used for other purposes in the Domain Name System (DNS), for example the special name which follows the @ sign in an email address, or the Top-level domains like .com, or the names used by the Session Initiation Protocol (VoIP), or DomainKeys.</p> <p><a href="http://en.wikipedia.org/wiki/Domain_names">http://en.wikipedia.org/wiki/Domain_names</a></p>
Domain Name System	The Domain Name System (DNS) helps users to find their way around the Internet. Every computer on the Internet has a unique address - just like a telephone number - which is a rather complicated string of numbers. It is called its "IP address" (IP stands for "Internet Protocol"). IP Addresses are hard to remember. The DNS makes using the Internet easier by allowing a familiar string of letters (the "domain name") to be used instead of the arcane IP address. So instead of typing 207.151.159.3, you can type <a href="http://www.internic.net">www.internic.net</a> . It is a "mnemonic" device that makes addresses easier to remember.
Generic Top Level Domain	<p>gTLD</p> <p>Most TLDs with three or more characters are referred to as "generic" TLDs, or "gTLDs". They can be subdivided into two types, "sponsored" TLDs (sTLDs) and "unsponsored TLDs (uTLDs), as described in more detail below.</p> <p>In the 1980s, seven gTLDs (.com, .edu, .gov, .int, .mil, .net, and .org) were created. Domain names may be registered in three of these (.com, .net, and .org) without restriction; the other four have limited purposes.</p> <p>In 2001 &amp; 2002 four new unsponsored TLDs (.biz, .info, .name, and .pro) were introduced. The other three new TLDs (.aero, .coop, and .museum) were sponsored.</p> <p>Generally speaking, an unsponsored TLD operates under policies established by the global Internet community directly through the ICANN process, while a sponsored TLD is a specialized TLD that has a sponsor representing the narrower community that is most affected by the TLD. The sponsor thus carries out delegated policy-formulation responsibilities over many matters concerning the TLD.</p>
Governmental Advisory Committee	<p>GAC</p> <p><a href="http://gac.icann.org/web/index.shtml">http://gac.icann.org/web/index.shtml</a>  <a href="http://gac.icann.org/web/index.shtml">http://gac.icann.org/web/index.shtml</a></p>

Intellectual Property Constituency	IPC <a href="http://www.ipconstituency.org/">http://www.ipconstituency.org/</a>
Internet Service & Connection Providers Constituency	ISPCP
Internationalized Domain Names	IDNs IDNs are domain names represented by local language characters. These domain names may contain characters with diacritical marks (required by many European languages) or characters from non-Latin scripts like Arabic or Chinese.
Internationalized Domain Names in Application	IDNA IDNA is a protocol that makes it possible for applications to handle domain names with non-ASCII characters. IDNA converts domain names with non-ASCII characters to ASCII labels that the DNS can accurately understand. These standards are developed within the IETF ( <a href="http://www.ietf.org">http://www.ietf.org</a> )
Internationalized Domain Names – Labels	IDN A Label The A-label is what is transmitted in the DNS protocol and this is the ASCII-compatible ACE) form of an IDN A string. For example “xn-1lq90i”. IDN U Label The U-label is what should be displayed to the user and is the representation of the IDN in Unicode. For example “北京” (“Beijing” in Chinese). LDH Label The LDH-label strictly refers to an all-ASCII label that obeys the "hostname" (LDH) conventions and that is not an IDN; for example “icann” in the domain name “icann.org”
Internationalized Domain Names Working Group	IDN-WG <a href="http://forum.icann.org/lists/gnso-idn-wg/">http://forum.icann.org/lists/gnso-idn-wg/</a>
Letter Digit Hyphen	LDH The hostname convention used by domain names before internationalization. This meant that domain names could only practically contain the letters a-z, digits 0-9 and the hyphen “-”. The term “LDH code points” refers to this subset. With the introduction of IDNs this rule is no longer relevant for all domain names. The LDH-label strictly refers to an all-ASCII label that obeys the "hostname" (LDH) conventions and that is not an IDN; for example “icann” in the domain name “icann.org”.
Nominating Committee	NomCom <a href="http://nomcom.icann.org/">http://nomcom.icann.org/</a>
Non-Commercial Users Constituency	NCUC <a href="http://www.ncdnhc.org/">http://www.ncdnhc.org/</a>

Policy Development Process	PDP See <a href="http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA">http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA</a>
Protecting the Rights of Others Working Group	PRO-WG See the mailing list archive at <a href="http://forum.icann.org/lists/gnso-pro-wg/">http://forum.icann.org/lists/gnso-pro-wg/</a>
Punycode	Punycode is the ASCII-compatible encoding algorithm described in Internet standard [RFC3492]. This is the method that will encode IDNs into sequences of ASCII characters in order for the Domain Name System (DNS) to understand and manage the names. The intention is that domain name registrants and users will never see this encoded form of a domain name. The sole purpose is for the DNS to be able to resolve for example a web-address containing local characters.
Registrar	Domain names ending with .aero, .biz, .com, .coop, .info, .museum, .name, .net, .org, and .pro can be registered through many different companies (known as "registrars") that compete with one another. A listing of these companies appears in the Accredited Registrar Directory.  The registrar asks registrants to provide various contact and technical information that makes up the domain name registration. The registrar keeps records of the contact information and submits the technical information to a central directory known as the "registry."
Registrar Constituency	RC <a href="http://www.icann-registrars.org/">http://www.icann-registrars.org/</a>
Registry	A registry is the authoritative, master database of all domain names registered in each Top Level Domain. The registry operator keeps the master database and also generates the "zone file" which allows computers to route Internet traffic to and from top-level domains anywhere in the world. Internet users don't interact directly with the registry operator. Users can register names in TLDs including .biz, .com, .info, .net, .name, .org by using an ICANN-Accredited Registrar.
Registry Constituency	RyC <a href="http://www.gtldregistries.org/">http://www.gtldregistries.org/</a>
Request for Comment A full list of all Requests for Comment <a href="http://www.rfc-editor.org/rfcxx00.html">http://www.rfc-editor.org/rfcxx00.html</a>  Specific references used in this report are shown in the next column.  This document uses language, for example, "should", "must" and "may", consistent with RFC2119.	RFC <a href="ftp://ftp.rfc-editor.org/in-notes/rfc1591.txt">ftp://ftp.rfc-editor.org/in-notes/rfc1591.txt</a> <a href="ftp://ftp.rfc-editor.org/in-notes/rfc2119.txt">ftp://ftp.rfc-editor.org/in-notes/rfc2119.txt</a> <a href="ftp://ftp.rfc-editor.org/in-notes/rfc2606.txt">ftp://ftp.rfc-editor.org/in-notes/rfc2606.txt</a>



Reserved Names Working Group	<p>RN-WG</p> <p>See the mailing list archive at <a href="http://forum.icann.org/lists/gnso-rn-wg/">http://forum.icann.org/lists/gnso-rn-wg/</a></p>
Root server	<p>A <b>root nameserver</b> is a DNS server that answers requests for the root namespace domain, and redirects requests for a particular top-level domain to that TLD's nameservers. Although any local implementation of DNS can implement its own private root nameservers, the term "root nameserver" is generally used to describe the thirteen well-known root nameservers that implement the root namespace domain for the Internet's official global implementation of the Domain Name System.</p> <p>All domain names on the Internet can be regarded as ending in a full stop character e.g. "en.wikipedia.org.". This final dot is generally implied rather than explicit, as modern DNS software does not actually require that the final dot be included when attempting to translate a domain name to an IP address. The empty string after the final dot is called the root domain, and all other domains (i.e. .com, .org, .net, etc.) are contained within the root domain. <a href="http://en.wikipedia.org/wiki/Root_server">http://en.wikipedia.org/wiki/Root_server</a></p>
Sponsored Top Level Domain	<p>sTLD</p> <p>A Sponsor is an organization to which some policy making is delegated from ICANN. The sponsored TLD has a Charter, which defines the purpose for which the sponsored TLD has been created and will be operated. The Sponsor is responsible for developing policies on the delegated topics so that the TLD is operated for the benefit of a defined group of stakeholders, known as the Sponsored TLD Community, that are most directly interested in the operation of the TLD. The Sponsor also is responsible for selecting the registry operator and to varying degrees for establishing the roles played by registrars and their relationship with the registry operator. The Sponsor must exercise its delegated authority according to fairness standards and in a manner that is representative of the Sponsored TLD Community.</p>
U-label	<p>The U-label is what should be displayed to the user and is the representation of the Internationalized Domain Name (IDN) in Unicode.</p>
Unicode Consortium	<p>A not-for-profit organization found to develop, extend and promote use of the Unicode standard. See <a href="http://www.unicode.org">http://www.unicode.org</a></p>
Unicode	<p>Unicode is a commonly used single encoding scheme that provides a unique number for each character across a wide variety of languages and scripts. The Unicode standard contains tables that list the code points for each local character identified. These tables continue to expand as more characters are digitalized.</p>

