

[2nd DRAFT 8.4.11]

EXPANDING DEVELOPING ECONOMIES PARTICIPATION IN THE NEW gTLD PROGRAM

JAS WG SECOND MILESTONE REPORT

PUBLIC COMMENTS SUMMARY

Sources: Public Comment Postings (10 June 2011-29 July 2011). The full text of the comments may be found at <http://forum.icann.org/lists/second-milestone-report/>.

GENERAL COMMENTS

Support.

MyTLD generally supports the second milestone report. *MyTLD* (8 July 2011). *PCH* (28 July 2011).

The BC supports the principle that certain assistance should be given to eligible applicants to assist them in submitting their TLD application to meet ICANN's mandate of inclusiveness on a global scale. However, once the process has begun, both "assisted applicants" and those that apply through the standard/community-based AG process must be on an equal footing through the entire process. No single applicant should be given any unique benefits over any other—once the application review process has started. *BC* (29 July 2011).

BC does recognize that some assisted applicants by virtue of language or location already face a non-level playing field. The BC recommends that ICANN ensure that public seminars on the nuances of the AG are on the agenda of all regularly scheduled ICANN meetings to mitigate such disparities. *BC* (29 July 2011).

After an applicant has passed through the process and had its string delegated into the root, it must then meet the same criteria as all other new gTLDs vis-à-vis its financial obligations to ICANN—i.e., no new gTLD manager should be given any financial dispensation once the delegation of its string has been completed. There are inherent costs of managing a TLD and every successful applicant must carefully plan their business to meet those costs. *BC* (29 July 2011).

The GAC and ALAC strongly believe that the Board must take all necessary steps to ensure that there are no barriers that would prevent the new gTLD round in 2012 from being fully inclusive to stakeholders and communities in all countries so that this is a truly global opportunity to contribute to the evolution of the domain name system. The GAC and ALAC are encouraged by the reference to the JAS-WG in the resolution of the Board which launched the gTLD expansion, as demonstrating the Board's commitment to taking full account of the concerns and specific needs of individual stakeholders and communities in developing countries. *ALAC & GAC* (4 Aug. 2011).

JAS WG response: The JAS WG notes the support for the process and thanks the respondents. Nothing in the JAS recommendations creates a lower bar for the performance of JAS qualified applicants. The purpose of the JAS recommendation is to assist qualified applicants in meeting the requirements as set forth in the AG.

Timetable.

Timing and the capability of ICANN and all of us to ensure that gTLD applicants get the support deserved in a timely manner prior to the opening of the first round is a concern. *MyTLD* (8 July 2011).

Puntogal is very concerned about the timetable. The support program should be implemented in the first round, starting 13 January 2012. Candidates ideally need to know if they are going to receive support, which kind of support, and the percentage of the total cost covered by the discount. Without this information, it will be impossible to write up any kind of marketing or financial plan to meet the 13 April deadline. The JAS WG should ask ICANN for any help they need so that the Board can vote on the issue at the next public meeting in Dakar. Any further delay might make the plan useless, as many potential beneficiaries may not have time to prepare their proposals. *Puntogal* (26 July 2011).

The BC supports the JAS WG's arguments that the support program should be implemented in the first round and subsequent rounds because of the already lengthy timeline. Further, since ICANN cannot give any clear indication when future rounds will take place, it is fair to assume that following a community review of the first round application processes, it will be at least another 24 months after that review is completed before the second round TLDs will come to market (at least 5 years from now). This will clearly disadvantage already disadvantaged communities and language/script users. *BC* (29 July 2011).

ICANN must now move forward quickly to support the JAS-WG in the finalization of the Second Milestone Report and the complete implementation of all its recommendations as soon as practicable so as to allow potential applicants sufficient time to prepare for the round. It is therefore a matter of urgency that ICANN commits the necessary legal, authoring and logistical resources required to support this work including the early publication of a universally accessible "Needs-Assessed Applicant Guidebook." ALAC & GAC (4 Aug. 2011).

JAS WG response: The JAS WG overall agrees the implementation of support to developing nations has to be timely and thanks the respondents. The JAS WG has requested that implementation work on the JAS recommended support program begin immediately.

Longer application period for developing economies.

Since a further subsequent round is not confirmed, the first round period should be at least 9-12 months, not 3 months; normally the ratio of the technology awareness penetration is very slow in the developing economies. Given the slow learning curve, more time and education is needed for prospective entrants in the developing economies. It is also observed that the awareness campaign is supposed to be launched primarily in the key market area/cities. UISOC (29 July 2011). UISOC (4 Aug. 2011).

JAS WG response: The JAS WG has briefly discussed timing and, in general, agreed this could be an issue, however outside the WG's scope. The timing consideration for implementation, as

well as dealing with the complexities any extension would cause, is mainly left to ICANN staff at this point.

Overall process (Part 5).

The BC supports the JAS WG recommendation that the best possible process to provide support for such applications is to be done through a process that is parallel to, and not a replacement of, the ICANN Applicant Guidebook. Even after the Guidebook is formally approved, the JAS WG can continue its work to refine those components of its mandate which remain unresolved. *BC (29 July 2011)*.

JAS WG response: The JAS WG, in its Final Report, is proposing a parallel process.

Budget increase.

The JAS WG should recommend to the ICANN Board that ICANN increase the \$2 million budget that has been announced. This amount might be insufficient due to the huge expectation created by the ngTLDs process after its long delay. Further, no one knows when the second round will be. Therefore, a large number of applicants that might receive support are to be expected. *Puntogal (26 July 2011)*.

The seed funding of \$2 million should be offered to qualifying needs-assessed applicants to assist with the costs of non-ICANN-related expenses which could include startup services and technical assistance. ALAC & GAC (4 Aug. 2011).

The \$750,000 reserved for the outreach campaign is too low (especially given 5 regions to cover, cost of advertising time). The reserved amount should be increased to 200-300% to cover the mentoring and support for the learning curve. The outreach program should include the experts and business analysts' debates on local TV channels in their languages. Newspaper articles and technical capacity building will also have some costs. UISOC (29 July 2011). UISOC (4 Aug. 2011).

Campaign outreach—geography. If we speak of global participation, or a global campaign, we should replicate the same advertisement in each country translated into their native languages plus English as a common language. It is also suggested to ensure the maximum participation in the ICANN Summit on Developing Countries (ISDC) being planned to be held during the October 2011 ICANN 42 meeting in Dakar. ICANN and funds supporting organizations should formulate the grant of the extended fellowship for internet user communities and business users from developing economies in addition to the current fellowship program which has been closed. UISOC (4 Aug. 2011).

Best practices. ICANN needs to develop and/or collate a set of best practices that would enable qualifying needs-assessed applicants to reduce costs and time in the application process and implementation steps. Such best practices could include application templates, encouragement to applicants to collaborate where appropriate, and assistance in the definition of continuity instruments. ALAC & GAC (4 Aug. 2011).

Budget increase: The JAS WG thanks the respondents and is thankful for the ICANN Board for allocating this “seed” money. JAS WG agrees that there should be more than \$2 million and this is why in its Final Report recommendations suggest a fee reduction program that is separate from and goes beyond the 2 Million USD allocation. Moreover, the JAS WG recommends a foundation be created by the ICANN Board where the 2 Million serves as seed money and the organization tasked for further fund raising efforts to support qualified applicants. See final report for detailed proposal.

JAS WG response on outreach campaign: The JAS WG welcomes the suggestions offered, but this is outside the WG's scope.

JAS WG response on best practices: The JAS WG recognizes that there will be extensive help required and having templates, best practices and other guidelines are good suggestions. One idea is to have a candidate handbook available and translated in various languages, as applicable. Staff is encouraged to develop such materials during the implementation phase.

Applicant Training.

To help the issue of timing, MyTLD recently announced free IDN training for IDN TLD applicants with need (gTLD and ccTLD). *MyTLD (8 July 2011)*.

If ICANN is interested, then a group of DNS experts proposes to build a program with volunteers to provide free training (including the IDN training) and to run that program for ICANN. ICANN should let this group know as soon as possible. *MyTLD (25 July 2011)*.

Learning more about ICANN and the new gTLD program is an important development issue for the people of the Pacific. It would be helpful if ICANN could provide personnel and some funding to run a training workshop for the members of the Pacific chapter of the Internet Society (PICISOC) who are able to attend the November 6-11, 2011, PacINET conference in American Samoa. It would also help for raising the profile of ICANN in the Pacific for ICANN personnel to regularly attend and participate in the Pacific chapter's annual conference program to update members on the latest developments from the three meetings held each year, and it might encourage more Pacific members to apply for ICANN fellowships. *M. Hilyard (26 July 2011).* *W. Tibben (29 July 2011)*.

Communications/awareness in developing economies.

More awareness of the gTLD, ccTLD and .Africa-related issues needs to be created alongside of implementation. This will improve the understanding of the whole concept of gTLD and IDN in order to increase the size of its usability. Adoption of generic and country code concepts has been slow in most developing countries due to lack of financial, policy and technical resources. There is a need to develop strategies such as awareness creation and capacity building to adapt the gTLD and IDN to existing and future technologies for the developing economies. *E. Afful (20 July 2011)*.

The primary criteria of financial capacity are appropriate. However, while this is necessary, the issue of ignorance (poor understanding of the implications of these changes) stands as a similar threat to achieving equity of access to gTLDs. *W. Tibben (29 July 2011)*.

More time and further attention to spreading the message about the work that the WG is undertaking is required. *W. Tibben (29 July 2011)*.

While the benefit likely to be received by applicants includes cost reduction, it would be appropriate that in next versions the document defines a probable final cost associated with eligible applicants from developing countries. Moreover, awareness//outreach efforts should be carried out in a planned, targeted manner. A pre-scan of an economy's organizational structure, business groups and other relevant audiences may assist in getting the desired results. ICANN fellows representing developing economies and other local Internet community structures (ISP

associations, ISOC chapters, technology activists) could assist greatly in broadcasting the awareness. *Naveed- ul-Haq (29 July 2011)*.

JAS WG response: The JAS agrees this is an issue; however, control over this issue is outside the JAS WG's scope. JAS WG encourages the community, with its knowledgeable members, to help with outreach and created local awareness as much as possible and has recommended that ICANN Staff set up a mechanism that matches those who can provide non-financial aid with those who need such assistance. The JAS WG believes ICANN should provide support to local communities to assist with outreach activities. The Final Report describes in more details, the concept of a staff community partnership.

Protections for Islands and other small states.

IRF has concern about the ability of small islands to manage, monitor and control the issuance of gTLDs that might affect local and small island national concerns at several levels, if current proposals for open issuance of gTLDs are implemented. Before approving gTLD changes, IRF requests that ICANN prepare a careful study of funding and technical assistance models that could be employed to equitably protect the interests of small islands and other small states, and that these results be included in the final implementation of gTLD reforms. *IRF (29 July 2011)*.

JAS WG response: One of the core reasons for the JAS WG was formed is to support equal access to the New gTLD Program. There was very little control on timing. A study would indeed be useful, but timing did not allow for it.

Cultural groups—equity of access.

The potential for culturally unique symbols either in graphical or text format to be appropriated without the knowledge of the respective cultural groups represents a significant challenge to equity of access. *W. Tibben (29 July 2011)*.

The WG should consider financial assistance for those who are not able to seek redress through channels particularly if legal costs of stakeholders are prohibitive. *W. Tibben (29 July 2011)*.

JAS WG response: While review panel could decide to allocate contingent allocation of funds to offset this legal cost should there be challenges, there are other mechanisms such as GAC and ALAC objection procedures and the independent objector to assist in such issues. The JAS WG, however, did not specify what kind of financial support could be provided and the contingent allocation of legal defense funds is something that could be proposed to the panel. The decision would then be for the panel to decide on the viability and appropriateness of such a proposal. The JAS WG created framework specifically allows for a varied set of proposals.

Lowering of barriers for developing economies.

The lowering of barriers for developing economies is critical to a truly global and inclusive new gTLD program. Such lowering of barriers should not just be limited to reducing application costs and providing ICANN Fellowships for people from developing countries but should also include:

- (a) Research on issues including the impact of new gTLDs on developing economies, done by neutral consultants from developing countries that are approved by an independent committee;
- (b) Reduction of costs through an additional levy on domain name application fees that goes toward a fund used by developing economies to cover the cost of objecting before ICANN authorized arbitrators (arbitration costs, legal costs, transportation, etc.) as well as the costs of multistakeholder outreach done throughout the developing world. There

may be some applicants who are already engaged in capacity development and their contributions over the years to capacity building can be reduced from the proposed additional levy.

- (c) Reservation;
- (d) Capacity development; and
- (e) Mentoring.

S. Tamanikaiwaimaro (30 July 2011).

JAS WG response: The JAS WG recognizes there are all kinds of areas where support could be given, and the WG offered a list of suggestions. The list recommended is not exhaustive and support can be extended in other areas mentioned. JAS WG encourages the community to come to the aid of JAS qualified applicants in the non-financial assistance mechanism. ICANN recently put together a web-page to assist applicants seeking support and organizations offering help to find each other. See: <http://newgtlds.icann.org/applicants/candidate-support>.

ELIGIBILITY FOR SUPPORT

Additional, specific input.

If helpful input on specific elements of Part 3 of the report does not result from the comment period, the RySG suggests that the Working Group request that community members should be asked to specifically provide pros and cons regarding the elements of Part 3 as well as suggestions for additional considerations. If possible, specific questions should be provided to which community members would be asked to respond. This could be done through a brief extension of the public comment period or separately via a request to SGs, constituencies, ACs and other SOs. *RySG (6 July 2011).*

Further work is still needed on definitions and language to ensure that the applicant support program cannot be gamed. Penalties for self-declared inaccurate or untrue information that enables an applicant to gain the right to support under this program should include a mechanism to recoup any and all funds paid out to such applicant. *BC (29 July 2011).*

Further consultation with stakeholders is necessary to ensure that the criteria proposed by the JAS WG are equitable, consistent with the principles of the new gTLD program, and promote the public interest. *IPC (1 Aug. 2011).*

The JAS-WG is requested to further elaborate about the terms of support--who will be and who will not be eligible for support--as well as about cost relief. What are the fundamental bases to segregate applicants? UISOC (4 Aug. 2011).

Detailed eligibility criteria and first round process (Part 3).

The WG should strictly limit the circle of potential applicants by specifying in more detail the eligibility criteria. The circle should not be enlarged by governments or government-owned entities as intended as this may initiate an uncontrollable demand for funds. Even with this restriction it can be expected that the number of "needy applicants" and their demand will exceed the financial support available. The WG should recommend a process for the first application round which would determine which of the applicants meeting the criteria would be supported (e.g. drawing lots, first come first serve, etc.). *ISPCP (27 July 2011).*

Additional criteria.

The BC feels strongly that two additional criteria for support for new applicants should be whether (or not) the applicant is proposing a non-ASCII string and whether the applicant is in a contention set with another applicant who didn't receive support. BC's position is that ICANN should design incentive mechanisms to encourage the build-out of IDNs and small or underserved languages. *BC (29 July 2011)*.

Governments and public-private partnerships.

Local and regional governments, as well as public-private partnerships, should remain eligible if they meet the positive criteria elements as listed in 3.1 and 3.2. The reference in 3.3 that disqualifies consideration of applicants who are "from a governmental or parastatal applicant" should therefore be significantly narrowed to exclude only national governments. *ALAC & GAC (4 Aug. 2011)*.

There are many least-developed countries that may not have sufficient resources, knowledge and infrastructure to participate in the program. In such countries or territories, only the government would be able to provide or run community welfare projects, development projects for underserved languages and social services. So, it is requested to allow the Government or subsidiaries of countries that are near the bottom lines in the list of G77 (at least 50 countries). *UISOC (4 Aug. 2011)*.

UISOC appreciates and supports the GAC request to consider the Government Applicants for developing economies. UISOC strongly recommends this proposal and agrees to the GAC WG review of the needs or criteria, but most of the least developed countries do not have adequate representation in the GAC WG. So, if the criteria or policies are being reviewed through the GAC members of the developed economies, the outcomes would not have true representation of the government representation of developing economies. *UISOC (4 Aug. 2011)*.

Ethnic, cultural and linguistic applications.

Puntogal thanks the JAS WG for including ethnic, cultural and linguistic candidates in the JAS WG Second Milestone Report as candidates that might receive support from the community. *Puntogal (26 July 2011)*.

BC strongly supports this criterion (3.1.1) because it is one of the BC's long-held positions—i.e., community-based gTLDs and IDNs are the optimal way to expand the name space. *BC (29 July 2011)*.

Support for the distinct communities is fine. However the definition of "the Support by ... communities" is a fragmented criteria. JAS-WG is requested to define what kind of support is justifiable or acceptable to them? E.g. a letter of support from a community? or required endorsement of signatures from 100 or 1,000 or more members from the related community? or an electronic survey (whereas that may be manipulated as well)? This is unlike the String Evaluation process of the Fast Track IDN ccTLD program, in which practically there was zero consideration toward the community base support survey. *UISOC (4 Aug. 2011)*.

Underserved languages (3.1.2).

The BC acknowledges the JAS WG's reference to the need to be vigilant against gaming and strongly supports using the new gTLD program to build out services not just for-but also based in- the developing world. It is the BC's long-held position that every community-based applicant should be allowed to increase their utility within their specific community by having the option to apply for their respective IDN-equivalent TLDs for a nominal additional fee (per IDN or translated equivalent). The same standard should be used in the case of developing economies.

Once an applicant has met the technical, financial and operational criteria detailed in the AG, and has been approved to have its string delegated, asking a community-based applicant to pay an additional \$185,000 for each translation of that approved string cannot be justified in a cost recovery model. *BC (29 July 2011)*.

The consideration of underserved languages and digitally divided communities is appreciated, but JAS-WG is requested to review how the ROI or efforts are justifiable (keeping in mind the annual fee of \$US25K) if the scope of the service deployment consideration is limited to the areas that may not have enough growth and/or development in their languages and at such locations where Internet service has been limited. These limitations will not provide them potential to compete with the TLD Business competitors, even to pay their own expenses or the annual fee for the gTLD name script (registry). *UISOC (4 Aug. 2011)*.

Operation in an emerging market or nation (3.1.3).

Regarding giving a support preference to applicants originating within the world's poorer economies, the BC agrees with the JAS WG that rather than undertaking the distracting task of being the arbiter of which economy should be ahead of another, ICANN should utilize the internationally agreed upon UN DESA list, as recommended in the report. *BC (29 July 2011)*.

UISOC appreciates the support and consideration of the development of least developed countries. UISOC agrees that operations within the same geographic area will provide social and economic benefit to the community as well as fast technical growth. But when you are considering the least developed or underdeveloped countries, most need a huge investment to establish secure and reliable datacenters to host the registry services, DNS and DNSSEC implementation and the infrastructure to keep the services running and connected 24/7 to the rest of the world. When the current TLDs (ccTLDs and gTLDs) are allowed to host their services at any location and clustered services anywhere else, it is requested to allow internet user communities and business users of developing economies to host their servers for registry and other services anywhere in the region where it is economical for them to obtain quality of services with reliability and security along with the mission statement for high availability. *UISOC (4 Aug. 2011)*.

Commercial businesses eligibility. The grant of the allowance (eligibility) should not be limited to the non-commercial name-scripts applicants. Developing economies and their applicants should have equal opportunities to participate in the new gTLD program as a Commercial Business to form the layers of a common Internet with comprehensive Global Coordination and without domination of a few companies or people. Otherwise, the Internet Business will remain in the hands of Developed Economies monopolies, due to high costs of application and the definition of set rules. *UISOC (4 Aug. 2011)*.

Local entrepreneur. This criterion, by requiring evaluation of the proposed name-script first on the basis of Social Benefits in its geographic areas, will be a burden and an obstacle for applicants in the Developing Economies. There is no such compulsion for those competitors who can put huge money into this business. Instead of creating new obstacles, the JAS WG was given the mandate to reduce the barriers to ensure full participation. *UISOC (4 Aug. 2011)*.

Sponsoring organizations. If the sponsor organizations are being assumed to provide financial support of US\$45K or US\$25K as an annual fee then UISOC would oppose such criteria. Most organizations would not be able to demonstrate the consistent approach towards their social service mission to facilitate their community with the gTLD services. It is not easy to educate them to prepare for delivering such services, their benefits, and their mechanism. However, JAS

WG may recommend that interested organizations include within their charter (onward) the commitment of delivery of these service(s) for their communities. *UISOC (4 Aug. 2011)*.

Notes on Financial need (3.2).

BC opposes the recommendation that where an applicant anticipates scheduled fees (e.g. extended evaluation) then the applicant must be capable of contributing one quarter of the scheduled fees. This recommendation, rather than supporting inclusiveness and a level playing field, gives one applicant an advantage over another by providing discounts for various parts of the review process and is antithetical to ICANN's impartiality. Once an application is submitted, each and every applicant must face the same processes and costs established in the AG to ensure a fair and equitable procedure. *BC (29 July 2011)*.

JAS WG should elaborate on the Scheduled Fees. If the applicant is unable to bear the primary cost, how would they be able to demonstrate the costs of the extended evaluation, etc.? Once the name-script/string is approved, the applicant should be compensated in all the costs, without having to pay costs in the next stage. *UISOC (4 Aug. 2011)*.

Fee level for developing economies and financial need. Does the JAS WG estimate that standard organizations from developing economies have a surplus budget for this contribution? Very few standard organizations will have such surplus reserve funds. The initiation of the new gTLD program deployment should be focused on global users. If that is ICANN's primary objective, then the basic fee structure (+onetime cost) should have been minimum. ICANN's fee for developing economies should be nominal (a few hundred dollars are enough). It is agreed that the applicant should demonstrate that they are in need of financial support. *UISOC (4 Aug. 2011)*.

Background on economic conditions. We agree that the applicant should provide background of the economic conditions that are causing constraints, but such list of weaknesses should be considered to support and help strengthen enough to cope with them, instead of highlighting their weaknesses negatively and using their statement of declaration as a tool for the easy rejection mechanism of the application. *UISOC (4 Aug. 2011)*.

Lower registry fees.

This raises the same issue as 3.2 about the level playing field; therefore, devoid of further information, BC would oppose this recommendation based on the principle of ensuring a fair and equitable procedure. *BC (29 July 2011)*.

JAS WG is requested to elaborate on what are the actual costs involved and how much cost reduction is going to be recommended? *UISOC (4 Aug. 2011)*.

Notes on ineligible criteria (3.3).

The BC is unclear about the nature of "...Government applications from Developing Countries for support"; the BC would like to understand under which circumstances governments would petition ICANN to provide applicant support to said government. *BC (29 July 2011)*.

Service to the public interest--demonstration of support by and/or for distinct cultural, linguistic and ethnic communities.

Care must be taken to identify all stakeholders that would be affected and calls for submissions must go to the equivalent of various Ministries of Culture and all other stakeholders within the respective countries. Adequate time must be given for ICANN representatives to conduct outreach on the matter; otherwise some communities will be marginalized. Material and training

should be done in the language or medium of communication of the countries. There should be a paid documentary on the subject on every TV channel in each country showing the various diverse impacts of gTLDs to enable and allow “fair play.” *S. Tamanikaiwaimaro (30 July 2011).*

There must be an extension of time before 2012 where ICANN organizes outreach in each country through coordinating the same with GAC members in the respective countries. Outreach must not be limited to internet societies but must be multi-stakeholder within countries, including governments, private sector, various government ministries, civil society, etc. *S. Tamanikaiwaimaro (30 July 2011).*

Public interest. There will be zero applications which will deny the public interest; however, JAS WB is requested to give any example regarding that same question for a standard applicant (Internet user community or business user constituency). What kind of public interest is assumed by most of the dot brand applications? *UISOC (4 Aug. 2011).*

Underserved-language which has had a limited presence on the Internet. A question arises regarding how the applicant would be able to show the revenue or ROI and how to provide financial analysis to pay back the fee of US\$25K per annum. *UISOC (29 July 2011).*

Definition of “para-statal”.

Puntogal agrees that no support should be granted to applications “from a governmental or para-statal applicant” if they come from a developed country. A more precise definition of “para-statal” will be helpful because many public-funded institutions (universities, public broadcasters, linguistic institutions, cultural associations, etc.) do collaborate at this moment with non-for-profit candidates who promote domains for cultural and linguistic communities. *Puntogal (26 July 2011).*

Dot-brand TLD exclusion.

The second bullet point of paragraph 3 should be deleted and the concern should be addressed on a case-by-case basis. E.g. in North America there are numerous sovereign nations and tribes of indigenous peoples with limited resources, developing economies, and legitimate cultural and linguistic identities to protect. These tribes may own trademarks and yet may need Applicant Support in establishing a gTLD which is identical to a trademark in the name of the tribe or its native language. *A. Aikman-Scales (29 July 2011).*

What is the rationale for the dot brand exclusion for developing economies? Are developing economies getting the same commercial earning as the brand/trademark holders of the developed economies? *UISOC (29 July 2011).*

UISOC does not understand why trademark holders in developing economies are being excluded from compensation in the fee and other relaxation. Most of the brand holders are not making enough commercial earning compared with the international brands/trademark holders of the developed economies. They might have a good name script suitable for .brand TLD but their current brand registration is just the protection of copyrights among the competitors of their own local region. *UISOC (4 Aug. 2011).*

Trademark-related strings should be eligible for support, if the applicant can meet the established financial needs requirement and other eligibility criteria. This will help to ensure fairness and consistency with the ICANN Board Resolution passed in Nairobi that calls for an “inclusive” new gTLD program. In no case does IPC believe that an otherwise worthy applicant should be excluded from support on the basis that their applied-for string relates to a trademark.

IPC's position is consistent with the GAC advice provided to the ICANN Board in Mexico City, when the GAC expressed concerns about the "single fee structure and its deterrent effect on the prospective proposals for new domains emanating from innovative SME or developing countries, as well as those serving non-commercial purposes." *IPC* (1 Aug. 2011).

Geographic name exclusion.

What is the rationale for the geographic name exclusion for developing economies? Are developing economies getting the same commercial earning as the developed economies? *UISOC* (29 July 2011).

It is also proposed by JAS WG that applicants from developing economies (and prospective beneficiaries of the compensation) may not be able to choose the geographic name. JAS WG is requested to elaborate on the purpose of this suggestion. Is there any intention to keep reserved the geographic name strings for the richest economies or diverting the business of geographic name TLDs to those applicants who are able to pay full (huge) costs? Due to these ineligibility clauses, JAS WG will not be able to get benefit from the actual theme, the basic concept of equal opportunities for everyone. *UISOC* (4 Aug. 2011).

Social welfare name scripts—Idea Generator.

Support for the Idea Generator should be reconsidered, where the idea generator applicant can be compensated with a royalty scheme if the name serves the social and public welfare but the applicant is not able to complete the process and manage the registry. *UISOC* (29 July 2011). *UISOC* (4 Aug. 2011).

JAS WG response: The JA WG thanks all the respondents that took the time to offer additional suggestions and comments regarding eligibility criteria. The Final Report, recently published, addresses who qualifies and who does not qualify for support. The Final Report also gives rationale for the WG's recommendations. Details of implementation are in the hands of the board and staff.

COST REDUCTION

Differential pricing for needy applicants.

There should be differential pricing assessed for applicants in need of assistance. S. *Tamanikaiwaimaro* (30 July 2011).

Application fee.

The following proposal regarding the overall application fee structure should be reconsidered: To promote the selection of fewer characters for IDN gTLDs (and ccTLDs), thereby reducing time and resource costs for Internet users, the first round application fee should be charged according to the number of characters (i.e., a basic fee for two letters; 50% additional for 3 letters; 100% additional for 4 letters; 150% for 5 letters; and 100% for every extra letter for longer scripts). A similar option should be considered for commercial and noncommercial name scripts for both developed and developing economies. *UISOC* (29 July 2011). *UISOC* (4 Aug. 2011).

The previous GAC advice recommending a reduced gTLD application fee of approximately \$47,000 should be implemented, including for applications designed to create a string in multiple IDN scripts. *ALAC & GAC* (4 Aug. 2011).

Multiple IDN scripts—lowered fees.

To address the requirements of qualifying needs-assessed applicants, the Board should undertake a policy initiative lowering fees for qualifying needs-assessed applicants for a string in multiple IDN scripts, particularly where simultaneous IDNs are required in countries of great linguistic diversity. *ALAC & GAC (4 Aug. 2011)*.

Bundling/underserved language script—reduced fees.

UISOC supports and strongly recommends the proposal of “bundling” variant and translation of same name-scripts. However, it should be further explained how to run identical name scripts as parallel registry of complete separate TLDs. *UISOC (4 Aug. 2011)*.

Financial support for developing economies.

If ICANN allows 100% waiver of the fee and other costs for applicants from the developing economies there will not be a huge burden on the funding support organization. This will encourage more applicants from developing economies, and those economies would be strengthened through a little support. *UISOC (29 July 2011)*. *UISOC (4 Aug. 2011)*.

Program Development Costs (US\$26K)—waiver.

Is it reduced cost or after reduction? Also, where did the figure of 76% and capability of \$5,000 come from? Is it an estimation of the JAS WG that a standard organization from developing economies has surplus budget about this? *UISOC (29 July 2011)*.

The program is already developed and is matured enough. Every additional applicant from developing economies will cost just a few hundred dollars to ICANN. So why the US\$26K being charged to developing economies for program development? JAS WG is requested to further elaborate the cost and reasons to charge in terms of the lowering risk and contingency. It should be the responsibility of the registries to ensure the maximum uptime of their services. They have to be supported financially and/or technically to ensure high availability or risk management alternate solutions. So, UISOC does not agree with this cost to be transferred to any applicant from the developing economies. Review base costs of about \$100K should be waived off 100%, because the application review UISOC proposes should be made through the resources of the same developing economies. The costs of the resources will be very much lower than current assumptions (ten times lower). *UISOC (4 Aug. 2011)*.

Recommendation 3 (4.1.1).

RySG supports recommendation 3 if it is possible, but believes that we may be at a point in the new gTLD process where it may not be possible to do further estimations of application processing costs. *RySG (6 July 2011)*.

Recommendations 1, 4, & 5 (4.1.1).

RySG supports recommendations 1, 4 & 5 if resulting fee reductions are offset by other sources of funds such as historical new gTLD funds from previous years (e.g. the \$2M from the reserved fund indentified by the Board in Singapore) or funds donated for this purpose from interested parties such as other new gTLD applicants, foundations, etc. New gTLD applicants should be given the opportunity in the application process to donate toward a fund for this purpose. *RySG (6 July 2011)*.

Recommendations 2 & 7 (4.1.1).

RySG supports recommendations 2 and 7 as long as potential registrants of applicable gTLDs are warned in advance of any increased risk and as long as other community members are not asked to bear the cost. *RySG (6 July 2011)*.

Staggered Fees Recommendation (4.1.2).

All new gTLD applicants need to demonstrate financial and technical capability to meet the obligations of a registry operator both in terms of up-front costs and ongoing costs. Regarding qualified applicants who need some financial support in the first few years, they should still be able to demonstrate a minimal level of financial capability such as the levels recommended by the WG in 3.2 of the Report (i.e., 25% of initial and ongoing fees). If these levels are approved, the payments should be paid in full. If funding does not allow for fees to be reduced to the 25% level, then it should be up to ICANN to develop payment schedules beyond the 25% level. Any such schedules and associated terms should become part of the registry agreement for the operator. *RySG (6 July 2011)*.

The BC opposes the staggered fee recommendation. To give one applicant an advantage over any other by providing discounts for various parts of the review process is antithetical to ICANN's impartiality. Once an application is submitted, each and every applicant must face the same processes and costs established in the AG to ensure a fair and equitable procedure. *BC (29 July 2011)*.

We appreciate the JAS WG supporting applicants of developing economies with the staggered fee, but keeping in mind if they have started the registration domains and are earning money. Otherwise, how would they be able to pay back? UISOC does not understand the reasoning explained in the second part of this paragraph—"that might otherwise have gone to the first and/or only group with enough money to apply." What does it mean, if the applicant of grant support from the developing economies is unable to pay back the fee? There is threatening that this registry may be given to another group who may have enough money? UISOC opposes this option. Once an applicant is granted with the financial and technical support on the approval of his proposed name script, he should not be threatened that any other can snatch the registry by using the power of wealth. *UISOC (4 Aug. 2011)*.

Cost reductions—process fairness. The BC supports the JAS WG cost reduction recommendations in 4.1.1 (program development costs waiver, lowering risk/contingency costs, review base cost and cost reduction to spur IDN buildout in small or underserved languages). But if the JAS WG's recommendation serves to give one applicant an advantage over another applicant by providing discounts for various parts of the review process it is antithetical to ICANN's impartiality. Once an application is submitted, each and every applicant must face the same processes and costs established in the AG to ensure a fair and equitable procedure. Any fee reductions should be reapplied to the applicant in the case of string contention with a non-qualified applicant. In other words, in the case of an auction between a JAS-qualified applicant and a non-qualified applicant, both applicants should start at a level playing field by not having one applicant paying lower fees than the other with such reductions to be used for the auctions. This would help to avoid the "gaming" potential. *BC (29 July 2011)*.

Support for objection costs.

IPC believes consideration should be given to providing support for those members of the public from developing countries that may have to object to a new gTLD string that infringes their legal rights, but do not have the economic resources to do so. In these cases, ICANN should provide support to assist with the costs and resources associated with objecting to an infringing new gTLD application. *IPC (1 Aug. 2011)*.

Inconsistent registry policies and objection process.

There are some inconsistencies expressed within policies of registries and also judgments from certain registries. E.g., rulings where companies are able to take precedence and priority over

family names presents unprecedented preposterous challenges. Fees and costs of objecting to certain applications are too expensive. Applicants should be made to advertise through every TV station in a prime time slot and broadcast through radio and gazette through newspapers and magazines in every language to invite objections. Costs in this regard should not be viewed as an impediment as this is a resource that will have infinite proprietorship. S.

Tamanikaiwaimaro (30 July 2011).

Non-financial support (4.2), Third party support facilitated by ICANN (4.3), Financial support distributed by an ICANN originated (Development) fund (4.4)—community input and support. ICANN staff would have to decide what, if any, services could be provided regarding these three recommendations. ICANN is essentially made up of and accountable to all stakeholders so any such support should be clearly defined and supported by the community. ICANN staff could develop a proposal for any such services and obtain community feedback before finalizing a plan. To ensure ICANN independence in the overall process, a neutral third party should be identified to administer such funds. *RySG (6 July 2011).*

Third party support. UISOC appreciates JAS WG supporting the applicants of developing economies through provision of third party facilities by ICANN and preparation of pools of expert resources for assistance of the applicants; however, this support should not be exclusive for only approved applicants but should also be for prospective applicants who are planning to participate. *UISOC (4 Aug. 2011).*

Legal and filing support (4.2)—third party provision.

Any assistance by ICANN in the area of providing legal and filing support for needy applicants beyond the information that is publicly available (e.g. the FAQ section of the new gTLD program website) may result in unfair treatment of applicants. ICANN should not be confronted with allegations that needy applicants benefit from “insider knowledge” that other applicants do not get access to. Legal and filing support should only be provided by recognized third parties, who would receive a degree of financial support. *ISPCP (27 July 2011).*

Non-financial support (4.2).

The BC supports the JAS WG on: awareness/outreach efforts including efforts to ensure more people in underserved markets are aware of the new gTLD program and what they can do to participate in it; and on relaxed vertical integration requirements. *BC (29 July 2011).*

The BC would like more information about the issues of logistical assistance, technical help and legal and filing support. Without further information, outside of coordinating workshops organized by the community on such issues as these at regularly scheduled ICANN meetings, the BC's position is that it is not ICANN's mandate to provide such assistance to one subset of the ICANN community. This may or may not be the JAS WG's view, so more information is needed to clarify this. *BC (29 July 2011).*

Financial support distributed by an ICANN originated (Development) Fund (4.4).

The BC supports the JAS WG recommendation that a dedicated committee be established to disburse funds to eligible applicants according to to-be-determined policies and looks forward to receiving more information on this critically important element of the program. *BC (29 July 2011).*

Financial support distributed by External Funding Agencies (4.5).

RySG supports this recommendation. ICANN staff should be able to serve as a source of information to external funding agencies as part of its normal services to the community. But it should not be assumed that external funding agencies will automatically come forward, so potential applicants and other interested parties should seek out such agencies and encourage their participation. *RySG (6 July 2011)*.

Repayment of support (Part 5).

RySG supports the recommendation that applicants that receive support under this program should repay that support as possible, and that such repayments go into a sustainable revolving fund used to support future applications, with the understanding that detailed processes would need to be finalized and applicable requirements included in registry agreements or some other contract between ICANN and the operator. *RySG (6 July 2011)*.

IDNs--incentives.

How much cost reduction is going to be recommended to encourage IDNs name spaces? Applicants from underserved language areas should also be granted the financial and technical support to develop the IDN conversion tools, plugins, IDN web components, browsers-IDN toolbars and resellers-APIs. We appreciate the Google development tools which are being used for bridging between digital gaps among the non-English communities. However, there is still a huge gap to be filled up with immediate action. *UISOC (29 July 2011). UISOC (4 Aug. 2011)*.

Multi-script Applications—lower, packaged price.

There is no mechanism in the Applicant Guidebook that will support applicants that wish to offer multiple script versions of their community or product, whether ASCII or IDN, to serve the diverse needs of non-English and non-Latin script users. ICANN, in keeping with its strategic plan and its international coordination role, needs to do more to open up the Internet to more languages and cultures around the globe. The Board and staff should revisit this issue and work with the community to provide an approach that enables applicants to offer multiple (“bundled”) applications that include different script versions of the same string at a lower, packaged price. Multi-script and smaller-script communities would be obvious beneficiaries. The key in both instances is to give all applicants the option of ‘add-ons’ to their primary gTLD application that would allow for any transliterations or translations of their chosen string for a packaged price. This would be consistent with ICANN’s stated values and make budget sense by staying within ICANN’s cost neutrality guidelines. A packaged review of related applications will lower ICANN’s review costs and lower costs to applicants—leading to more IDNs built out around the world. *R. Andruff et al.--35 signatories (21 July 2011)*.

Incentives to encourage IDN buildout (3.1.2).

As noted in past comments, the BC particularly supports the JAS WG recommendation for support for buildout in underserved languages and scripts. ICANN should design incentive mechanisms to encourage the build-out of IDNs and small or underserved languages. The ICANN Board and staff have acknowledged that some applicant processing costs would be avoided when evaluating additional strings from the same applicant. The BC stated that the reduced fee should be set such that all incremental costs are covered by the applicant and not shifted to other applicants. *BC (29 July 2011)*.

Partial refund from any auction proceeds (4.1.3).

The BC opposes the recommendation that qualified applicants receive a partial refund from any auction proceeds. To give one applicant an advantage over any other by providing discounts for various parts of the review process is antithetical to ICANN’s impartiality. Once an application is

submitted, each and every applicant must face the same processes and costs established in the AG to ensure a fair and equitable procedure. *BC (29 July 2011)*.

UISOC has no comments on this because it does not agree with auction or bidding as a solution for resolving conflicts. *UISOC (4 Aug. 2011)*.

JAS WG response: The JA WG appreciated the comments and concerns raised regarding the financial aspects of the proposal. The Final Report, recently published for public comment, records, as far as possible, the consensus position of the WG and gives the rationale for the WG's recommendations as well as references Board resolutions related to this topic. We acknowledge that some matters raised by respondents might be ameliorated in the implementation phase but the details of implementation are in the hands of the board and staff.

OPERATIONAL REQUIREMENTS

Technical support and capacity building. Support for qualified applicants should include technical support and the transfer of capacity building skills in various key areas, including IPv6 capability. *ALAC & GAC (4 Aug. 2011)*.

IPv6, DNSSEC, Continued Operation Instrument (4.1.1, 4.2).

It should be expected that IPv6 and DNSSEC will be included in all solutions offered by specialized companies. Waiving the requirement or deferring it would establish two classes of registries and thereby introduce and perpetuate a discriminatory scheme. Certainly, in areas of the world where IPv6 is not available, it cannot be used, but all registries should be IPv6 and DNSSEC-ready. *ISPCP (27 July 2011)*.

IPv6 and DNSSEC (4.1.1, 4.2, 4.3)—no deferral for developing countries.

It is harmful and uncomplimentary to suggest that developing countries defer deployment of IPv6 and DNSSEC, both of which offer developing and economically-challenged applicants a level playing field in which more established and financially-endowed competitors are not inherently advantaged. Suggesting that applicants from developing countries forego this opportunity would perpetuate the competitive inequalities of the digital divide and squander an opportunity for economic, competitive, and capacity-building advancement. ICANN, PCH, and many others have already invested considerable resources to ensure that everyone has equal access, at no cost, to the technologies and knowledge-transfer necessary to implement IPv6 and DNSSEC. All of ICANN's constituents should reap the rewards of that investment and it should not be suggested that those most in need be the last to benefit. *PCH (28 July 2011)*.

IPv6 Exemption-opposition.

Without further information, BC would oppose this recommendation because it is counterintuitive to the goal of narrowing the digital divide and keeping the lesser-developed economies to the same global standards. *BC (29 July 2011)*.

DNSSEC deferral-opposition.

The BC opposes a deferral of DNSSEC. As security and threats become ever more important issues, absolving any gTLD registry of its obligation to meet current ICANN standards is antithetical to ICANN's core mission of facilitating the stability and integrity of the Internet. *BC (29 July 2011)*.

IPv6 Support (4.3.3).

The BC opposes the recommendation that ICANN take on the role of facilitator between IPv6 providers and registries located in areas where IPv6 connectivity is limited or unavailable to provide IPv6 gateways into registry IPv4 services. This stands outside of ICANN's mandate and it contravenes fair and equitable procedures. *BC (29 July 2011)*.

The BC does support ICANN facilitating community workshops on IPv6 at all regularly scheduled ICANN meetings. *BC (29 July 2011)*.

ICANN is one of the stakeholder resources to help in the migration to IPv6, so the IPv6 implementation should not be compulsory for developing economies. ICANN is supposed to help and guide them and/or coordinate with them regarding how they might easily migrate from IPv4 to IPv6. This allowance is being accepted, keeping in mind the limitations of the global dependencies and limitation of the developing economies in providing the IPv6-ready Communication Infrastructure. *UISOC (4 Aug. 2011)*.

JAS WG response: JAS WG recognizes that the implementation of IPv6 and DNSSEC would help in leveling the playing field for the applicants. It is also recognized that this can place a burden on the applicants. JAS WG proposes the ASO arrange for a region's RIR, along with local ISPs, to guarantee the Candidates have IPv6 access through an IPv4 as solution to the problem that might obviate the need to waive the IPv6 requirement.

Financial Continued Operation Instrument.

The reduction of the financial obligations should be 24-36 months instead of just 6-12 months because developing economies would not be able to spend huge funds on advertisement and publicity, arranging to sign the contract with maximum registrars and appointing the resellers. If they are not able to bear the obligatory financial burden, those applicants should be supported financially to keep their services live. *UISOC (29 July 2011)*. *UISOC (4 Aug. 2011)*.

The BC opposes a reduction of the Financial Continued Operations Instrument Obligation to 6-12 months. To give one applicant an advantage over any other by providing discounts for various parts of the review process is antithetical to ICANN's impartiality. Once an application is submitted, each and every applicant must face the same processes and costs established in the AG to ensure a fair and equitable procedure. *BC (29 July 2011)*.

A reduction of the Financial Continued Operation Instrument Obligation may result in stability issues for the DNS if registries cannot properly fulfill their primarily technical-contractual obligations towards ICANN. While needy applicants might not be able to demonstrate sufficient financial capabilities, ICANN should consider allocating funds that could be made available to assist those applicants so that stability can be achieved. *ISPCP (27 July 2011)*.

To address the requirements of qualifying needs-assessed applicants, the Board should undertake a policy initiative allowing an additional option to the continuity instruments that would enable pooling of resources as well as providing applicants with the option to designate their intended successor operator, thereby reducing ongoing costs. *ALAC & GAC (4 Aug. 2011)*.

JAS WG should further explain the sharing of registry continuity operational costs with other qualified applicants. Is it allowed to be shared among developing economies and developed economies, or limited among developing economies? *UISOC (4 Aug. 2011)*.

Third party support facilitated by ICANN (4.3).

The BC supports the JAS WG on the issue of translation support (4.3.1). *BC (29 July 2011)*.

The BC opposes the JAS WG on the issues of logistical help, technical support, infrastructure for providing IPv6 compatibility, DNSSEC consulting, IDN implementation support, and possible technical setups. As noted regarding 4.2, outside of coordinating workshops organized by the community on such issues as these at regularly scheduled ICANN meetings, the BC's position is that it is not ICANN's mandate to provide such assistance to one subset of the ICANN community. *BC (29 July 2011)*.

Directory and referral service only for eligible applicants (4.3.2).

The BC supports ICANN facilitating contracts with granting agencies and foundations limited to its coordination role for eligible applicants. This means that ICANN could provide introductions only, if and when approached by grant providers/facilitators. Anything else stands outside of ICANN's mandate. *BC (29 July 2011)*.

In UISOC's opinion, ICANN should have to express the full commitment to provide all the applicants with the same level of facilities and equal opportunities. *UISOC (4 Aug. 2011)*.

JAS WG response: The JA WG thanks all the respondents for additional suggestions and comments offered. The Final Report, recently published, addresses in details some of the issues raised. Per Board direction, ICANN staff recently put together a web-page where to assist applicants seeking support and organizations offering help to find each other. See: <http://newqtlds.icann.org/applicants/candidate-support>. The JAS WG welcomes this development. The implementation details of the program are in the hands of the ICANN Board and staff.

MISCELLANEOUS/OTHER

Trademark protection.

It is encouraging to hear of the possibility of certain registries pledging to protect existing domain name owners against possible trademark violations by offering internationalized versions to existing domain name owners. Other applicants should do the same thing. *F.J. Lim (28 July 2011)*.

Internationalized domains—consistent user experience.

The reduction of confusion and complexities related to internationalized domain names, especially those in non-Latin alphabets, is an important focal point for the ICANN community. The use of the internet will continue to grow as it extends to people that have not been able to fully use domain names or email addresses in their native languages. Each user should be able to have the same experience as their counterpart on the other side of the world (e.g. someone typing shopping.net in Cantonese script and someone using shopping.net in latin script should be directed to the same page). This requires the participation of all applicants and should be taken into account during this application period. *F.J. Lim (28 July 2011)*.

JAS WG response: The JA WG thanks all the respondents for additional suggestions and comments offered. IDNs, in particular are an important topic discussed by the WG.

RESPONDENTS

Eleanor Afful (E. Afful)
Anne Aikman-Scalese (A. Aikman-Scalese)
At-Large Advisory Committee & Government Advisory Committee (ALAC & GAC)
Ronald Andruff et al. (R. Andruff)
Commercial & Business Users Constituency Comments (BC)
Maureen Hilyard (M. Hilyard)
Intellectual Property Constituency (IPC)
Internet Services Provider and Connectivity Provider Constituency (ISPCP)
Island Resources Foundation (IRF)
Fun Jin Lim (F.J. Lim)
MyTLD
Packet Clearing House (PCH)
Puntogal
Registries Stakeholder Group (RySG)
Salanieta T. Tamanikaiwaimaro (S. Tamanikaiwaimaro)
Will Tibben (W. Tibben)
Naveed-ul-Haq
Urdu Internet Society/Internet Governance of Pakistan (UISOC)