

Summary and Analysis - Snapshot Public Comments Received from June 16 to August 23 2010

This Summary and Analysis was prepared by the Join SO/AC New gTLD Applicant Support Working Group (hereafter referred as “Working Group”). The full text of the comments received can be found at: <http://www.icann.org/en/public-comment/#wg-snapshot>.

1. Overview

- The English language public comment period ran from 16 June 2010 to 21 July 2010.
- An extended public comment period to accommodate French, Spanish, Arabic, Russian, Chinese ran from 23 July 2010 to 23 August 2010.
- There were thirteen (13) submissions from eight (8) different parties:
 - AfriICANN/AFRALO Statement
 - Danny Younger
 - Stefano Cimatoribus
 - George Kirikos - Leap of Faith Financial Services Inc.
 - Jeff Neuman – Neustar
 - Dr. Ibaa Oueichek - Arab Team for domain names and Internet issues
 - Michele Neylon :: Blacknight
 - Debra Y. Hughes - American Red Cross
- *Note:* The AfriICANN/Afralo Statement was presented at the ICANN Brussels meeting and also submitted to the public forum.

2. Summary of Comments and WG Analysis

The comments captured below are excerpts of the actual comments and have been organized by topic followed by a short summary of the Working Group discussions.

2.1 From: ICANN African Community (22 June 2010)¹

The Members of the African Community, consisting of the AFRALO and the AfriCANN, attending the 38th ICANN meeting in Brussels, jointly discussed the possible support to be given to new gTLD applicants in Africa, who need assistance in applying for, and operating the gTLDs. As members of the community, we:

- Welcome the Board resolution 20 related to the support for Applicants requesting assistance in applying for and operating new gTLDs.
- Express our gratitude to the Board members for their consideration of the community concerns about the cost of applying for new gTLDs that might hinder applicants, especially those from developing countries.

¹ This comment was posted by mistake in the Applicant Guidebook, version 4 Public Forum - <http://forum.icann.org/lists/4gtld-guide/mail3.html>.

- Strongly believe that entrepreneur applicants from African countries, where the market is not wide enough for a reasonable profit making industry, are eligible for support.
- Deem that Civil society, NGOs and non for profit organizations in Africa are the most in need of such support, because they have a deep impact in society since they work at the grass-root level.
- Believe that support is of utmost importance for geographic, cultural linguistic, and more generally community based applications.
- Urge that support to new gTLD applicants in Africa be prioritised since this support will be an incitement for new aspirants to come forward and apply for new gTLDs.
- Believe that the support to be provided to applicants of new gTLDs in Africa should include, but is not limited to the following:
 - ✓ Financial, by reducing the application and the on-going fees
 - ✓ Linguistic, by translating all the application documents, especially the Applicant Guidebook, in the six UN languages
 - ✓ Legal, by assisting the applicants in preparing their applications properly.
 - ✓ Technical, by
 - helping the applicants to define the infrastructure options,
 - addressing the issue of infrastructure problems in some African countries; such as IPV6, internet connectivity etc.
- Strongly support that cost reduction is the key element in fulfilling the goals of ICANN Board's Resolution 20 within the principles of the recovery of the application and on-going costs.
- Propose that the following be entertained to achieve cost reduction:
 - ✓ Waiving the cost of Program Development (\$26k).
 - ✓ Waiving the Risk/Contingency cost (\$60k).
 - ✓ Lowering the application cost (\$100k)
 - ✓ Waiving the Registry fixed fees (\$25k per calendar year), and charge the Registry-Level Transaction Fee only (\$0.25 per domain name registration or renewal).
- Propose that the reduced cost be paid incrementally, which will give the African applicants more time to raise money, and investors will be more encouraged to fund an application that passes the initial evaluation.
- Believe that African communities apply for new gTLDs according to an appropriate business model taking into consideration the realities of the African region. ICANN's commitment towards supporting gTLD applicants in Africa will be a milestone to the development of the overall Internet community in Africa
- Since Africa is disadvantaged and lagging behind due to the digital divide, we strongly suggest that ICANN provides supplementary support and additional cost reduction for gTLDs applications from African countries

Working Group discussion summary:

The Milestone Report has been further clarified in relation to who can apply, particularly the fact that the recommendations are not restricted to non-for-profits. For all applicants, regardless of the entity type, the main criterion for eligibility is need and support would not be

given through this program unless the need criterion is met. The WG nevertheless believes that by narrowing the initial focus/round to a relatively limited identifiable set of potential applicants, the proposed applicant support program would potentially present political resistance and be controversial. This is why the cultural, linguistic and ethnic groups are proposed as a starting point and this could be revisited for future rounds.

It has also been a consensus among the WG members that the funds should not be further limited or prioritize applicants from a certain geographic location. The WG recognizes there might be applicants from Africa that are disadvantaged for a whole host of reasons, for instance political, economic, linguistic, logistical, etc. However, the proposal presented at this time does not envision automatically qualifying nor prioritizing an applicant for support simply based on a specific continent of origin/establishment. One must take into account that countries and entities within a specific continent and country have diversity in financial status and needs. Detailed discussions about the practical aspects of such criterion for prioritization presented to be challenging and unnecessarily open doors to various forms of gaming, which would be difficult to address, at least at this stage of the New gTLD Program getting close to launch. The WG further acknowledges that the definition of Non-Governmental Organizations (NGOs) may differ depending on the jurisdiction and the organizations legal status could also change over the course of time. Another important point is the fact that just because an entity is an NGO, it does not make it necessarily in need of support since there are many examples of NGOs around the world have adequate resources.

There were some concerns raised by the WG during this discussion, for example:

- Should we speak of future rounds not knowing if they will happen and if they do when?
- Are we at risk to limit innovation if targeting the support during the first round to the linguistic and ethnic group only?

2.2 From: G. Kirikos (20 July 2010)

ICANN does not value public input. We will passively resist by not participating in a process that only leads to predetermined outcomes. We request that ICANN notify the community when it is ready and willing to demonstrate that it properly values public comments.

Working Group discussion summary:

This comment is not directly related to this WG proposal or work, however it should be noted that this WG has listened and responded to comments.

2.3 From: Neustar; Blacknight Solutions (21 July 2010)

(Neustar) Agreement that support should be provided for certain gTLD applicants in some limited cases.

- Neustar agrees that in some limited circumstances special consideration should be given to applicants proposing certain types of gTLDs, who otherwise would not have the financial means or access to resources or expertise required to participate.

- Neustar supports the staggered fee approach recommended by the Working Group and the use of some portion of any auction proceeds to provide a partial refund of application fees to qualified applicants.
- Given the challenge posed by a minimum annual fee of \$25,000 for some disadvantaged applicants, Neustar supports elimination or reduction of fees for disadvantaged applicants, but only in circumstances where registration volumes do not support payment of the annual minimum.
- The Working Group’s proposed initial qualifications and criteria are appropriate (targeting certain communities, geographies and languages), but some additional thought should be given to the evaluation process for applicants wishing to participate, including the timing and resources required. Transparency—including information about the applicants, program applications, and financial or other support—is important to foster confidence in the program.
- Neustar intends to participate in the program by providing support of some kind to qualified Applicants.

(Blacknight Solutions) ICANN seems to think that TLDs in the “new regime” need to be slotted into a “one size fits all” scenario. This is neither realistic nor does it truly fit with ICANN’s own goals which are often summed up by Rod Beckstrom as “One World. One Internet. Everyone Connected.” To make this a reality, economic barriers need to be removed where appropriate. The Working Group documents recognize that strict criteria for economic exceptions need to be laid down and that only a limited number of applicants would meet the criteria. Several companies, including Blacknight Solutions, have stated that they would be willing to offer services to qualified applicants.

Working Group discussion summary:

The WG welcomes the involvement and intent to support several entities have expressed in the past months and expects a larger number of companies and individuals come forward to join and strengthen this program.

The Milestone Report acknowledges that applicants can benefit from a broad range of assistance beyond financial, including logistical, outreach, technical, administrative (application), etc. This broad range of assistance adds flexibility and diversity to a support program that hopefully can increase participation in the New gTLD process from around the world.

Although the Milestone Report presents a broad range of recommendations and there has been an effort to make it comprehensive, at this phase of the work, the recommendations detailed. The WG believe this is a beginning and further work will be carried not only by staff and policy, but also by various parties interested in helping in this evolving initiative. With this approach, the WG also believes there is more flexibility added to the implementation process and expects to see some or most aspects of the Milestone Report implemented in the first round.

2.4 From: American Red Cross (22 July 2010)

Not-for-profit organizations—request that ICANN set lower costs. Not-for-profit groups are concerned about the costs of the new gTLD program, both application-related and enforcement-related. The Red Cross strongly urges ICANN to consider that not-for-profit organizations may use a proposed new gTLD for internal business purposes under a model that is different from a commercial, profit-driven new gTLD. Red Cross is concerned that the various costs place the acquisition of a new gTLD out of reach of most not-for-profit organizations. The fees represent resources that must be allocated from funds that Red Cross and other groups would otherwise spend on directly serving the public. Red Cross requests that ICANN set a lower cost for not-for-profit organizations such as Red Cross in light of the significant and important role new gTLDs owned by these groups would serve for the ICANN community.

Support for Working Team 1 recommendations. Red Cross agrees with the intent of the following Working Team 1 recommendations: waiving the cost of Program Development for selected entities; staggered fees; auction proceeds—partial refund; lower registry fixed fees due to ICANN; reconsideration of the risk/contingency cost per applicant; and consideration of reduction of the fixed/variable cost of US \$100K for applicants that meet the Working Group criteria.

Working Team 2 Recommendations: Red Cross offers the following comments:

- Initial/pilot phase—also support not-for-profit organizations: Red Cross agrees with targeting support to ethnic and linguistic communities and also proposes that support be given to not-for-profit organizations during the initial/pilot phase.
- Red Cross disagrees with the recommendation that support for other groups, especially NGOs and civil society organizations, should be addressed at a later point. We strongly urge the Working Group and ICANN to consider support for not-for-profit organizations as soon as possible. Red Cross recommends immediate support during the initial/pilot phase for not-for-profit organizations that would use a new gTLD to communicate with the public about their mission and services, to engage in activities to increase social inclusion of non-governmental organizations with technology, to distribute educational, informational or lifesaving information to members of their communities, or to collect donations to support their operations. These potential applicants, whose mission, objectives and status can be verified and approved by the Working Group/ICANN criteria, are the type of potential applicants for which support is non-controversial.
- Red Cross agrees that the geographic location of the applicant is one of many factors that could be considered when deciding to provide support to applicants.
- Red Cross believes that the recommendations regarding groups not to be supported at this time lack sufficient specificity to provide meaningful comments.
- Significant outreach and education efforts are needed and should begin immediately and then increase once the final Applicant Guidebook is released, allowing for the ability to timely ask questions and seek guidance. ICANN should make information readily available about the new gTLD processes and procedures to potential applicants in underserved markets and to certain groups such as not-for-profit organizations that may

not be as engaged in ICANN activities. ICANN should improve its education and outreach services especially to not-for-profit organizations such as Red Cross to ensure that its user community is able to navigate the process and is not excluded or negatively impacted.

- In the outreach the provided information should address the application process as well as information of interest to those not applying for new gTLDs (e.g. objection procedures, rights protection mechanisms). Also, advice about the technical requirements for operating a new TLD (e.g. details of Modules 2 and 5) should be provided in this outreach to these targeted populations, regions and organizations, especially since those details are likely to be daunting to groups that have not previously operated a registry.
- Outreach should occur in all five ICANN regions and ICANN should provide live, in-person seminars open to the public, rather than only posting educational information on the ICANN website or hosting webinars.
- Fee reduction/subsidization and/or phased in payment of fees for deserving applicants. Red Cross supports the intent of this recommendation. The current proposed payment schedule and fees will be prohibitive and could impact the ability of not-for-profit organizations to fund and fulfill their mission-related activities and objectives.
- Technical support (infrastructure, education/consulting regarding DNSSEC, possible technical waivers or “step ups”, lower cost or shared back end registry services). Red Cross supports the intent of the recommendation especially since many applicants will be new to registry operations. Red Cross generally supports discounted pricing for or assistance with new gTLD back end registry services.
- Support for build out in underserved languages, IDNs for new gTLDs, price discounts to incentivize build out in scripts with limited web presence, bundled pricing to promote build out in multiple scripts at once, tests to prevent gaming and ensure support reaches its targets. Generally Red Cross supports discounted pricing for new gTLDs.

Working Group discussion summary:

The WG thanks the Red Cross and all other entities that explicitly took the time to support this important work. Some of the points raised were clarified in previous comment analysis, for example the simple fact that an entity holds a non-profit status, it does not mean this entity is financially unable to cover the fees and meets the “need” criterion.

The WG further acknowledges that the Red Cross notion of non-profit refers specifically to charitable and service organizations that attempt to keep the overhead as low as possible so that most of their funding can go to the victims/causes they are meant to help.

It is important to stress that the most important criterion is the need. At this stage, the need criterion is more important than the intention of the string or the structure or form of the applicant. The intent is, for the initial round, to focus and narrow the support to ethnic/linguistic communities since this is a less controversial group and will likely generate political support for this initiative. Also, these potential applicants have the benefits of being relatively well defined as groups, and pass the test of being generally non-controversial. Such communities already have a history of recognition at ICANN and facilitating community on the Internet is one of ICANN’s core values. Within the WG there was some

sentiment that support might be offered to groups that provide assistance to underserved communities, including in rare cases to applicants that might otherwise not qualify on the basis of need.

2.5 From: Arab Team (21 July 2010)

The Government support prohibition is overbroad, and the financial instrument requirement in case of registry failure is major barrier to entry. The Arab Team appreciates ICANN's and the Working Group's recognition of the important issue of applicant support. The ICANN GAC communiqué in connection with the issue of inclusiveness as a priority and not through program requirements excluding developing country stakeholders from participating in the new gTLD process is also important. Two important points need to be taken into account before issuance of a Milestone Report:

- (1) The proposal to prohibit "any" support from applications in connection with governments is overly broad and inappropriate;
- (2) While we are supportive of the need to ensure the protection of registrants in the event of a registry failure, the primary reliance by ICANN on a financial instrument is misguided. Other mechanisms exist to safeguard registrants in case of a registry failure. The potential posting of a financial instrument prior to launch of the gTLD represents a much more substantial barrier to entry than the application fee. The Working Group should address what other support mechanisms exist in the potential case of registry failure and how they could be made available to applicants.

Working Group discussion summary:

The Milestone Report has further clarified the issue raised. It is not the intent of the WG to propose that governments do not qualify or cannot participate to receive support through this program. Nevertheless, after careful consideration, it has been consensus of the WG that the support should not be used to subsidize a largely and purely government initiative. That said, if the proposal requesting assistance is majority government funding or a majority government sponsor, it should not qualify.

The WG acknowledges that this is a complex issue, particularly for the first round and raises important questions, such as: (a) Are governments part of a needy group? (b) How should a government led initiative be defined?

The proposal implementation details might require further details that address definition of projects in terms of persons, percentages, which would lead to a difficult and potentially controversial implementation process.

The WG reached a consensus that the current proposal should stay as it is, with additional clarification that an applicant with a government funding might qualify for support, however, the support is not intended for applications that are primarily government financed and supported.

The WG also agrees that it would be better if the program was multilingual, but it is difficult to implement in this round since it would require a major revamping of ICANN's processes and operations. ICANN needs to continue ensuring that informational materials are available in multiple languages. The WG further acknowledges that part of the support that can be offered to applicants is assistance with English applications and contracts (ICANN Registry Agreement).

In terms of the continuity instrument, the WG did discuss this issue and recommended some possible solutions. As part of the continuing work being considered for charter extension, this will be looked at further.

2.6 From: D. Younger (24 June 2010)

NGO Domain Proposal. The time is ripe for a new general organizational category TLD managed by IANA on a non-fee basis to serve the needs of the developing world in a sustainable manner and obviate the prospect of a multitude of new TLD applications each requiring some degree of support provisioning. The creation of a new TLD offering a form of relief to the disadvantaged among us should not have to be complex but should be a fairly straightforward proposition that reflects the community's will and commitment.

- An NGO domain comports well with fulfilling ICANN's charitable mission.
- An NGO domain would meet the principles set forth by the ICANN Business Constituency that new TLDs must meet (i.e., differentiation, certainty, honesty, competition, diversity and meaning).
- By aggregating a class under a single TLD, differentiation is possible at the second level. Organizations will find a place where they want to be and these NGOs will readily be found by their respective user communities at the second level.
- ICANN's current contingency fund is more than ample to fund the IANA's new duties on a first year basis; thereafter such charitable expenditures would become their own line in a line-item budget that would highlight IANA's charitable operations. In all likelihood IANA will not seek to invoke cost recovery measures, so the recovery cost of the NGO domain proposal will not be passed on to the disadvantaged that seek to use such registry services.
- The NGO domain approach is fiscally prudent; through it we can see if a substantial portion of the needs of those that work at the grass-roots level who lack the financial resources to support a registry operation (and whose needs perhaps might not be fully met by .ORG or through other current TLDs) can be met by the NGO domain. After that it can be determined if further initiatives are still warranted in order to better promote geographic, cultural and linguistic considerations.
- IANA is provisioned to implement the offering of the NGO domain at the root level in characters other than ASCII if that is necessary, and given IANA's origins and role there is a comfort level with designation of IANA as the trustee of the TLD for the global Internet community.
- Eligibility criteria for the NGO domain would need to be defined carefully by the Working Group and some documentation would be required—i.e., a charter or founding papers should likely be sufficient for the record.

Working Group discussion summary:

The Milestone Report has been further clarified in relation to who can apply, particularly the fact that the recommendations are not restricted to non-for-profits. For all applicants, regardless of the entity type, the main criterion for eligibility is need and support would not be given through this program unless the need criterion is met. The WG nevertheless believes that by narrowing the initial focus/round to a relatively limited identifiable set of potential applicants, the proposed applicant support program would potentially present political resistance and be controversial. This is why the cultural, linguistic and ethnic groups are proposed as a starting point and this could be revisited for future rounds.

Regarding the proposed examples and approach to simplify the program, although it has merit, it is important to remember that the complexity of the New gTLD Program is relative to the complexity of the New gTLD Policy developed by the GNSO. This policy was a long process of consensus building that took into account the experiences from previous rounds and needs of the market place.

2.7 From: D. Younger (17 July 2010)

Ongoing costs in the event of registry failure—assistance measures. While registrant protection is critical and critical registry functions must be sustained for an extended period of time in the event of registry failure, the 3-5 year timeframe established by ICANN in the DAG does not comport with the recommendations in the ICANN gTLD Registry Failover Plan presented on 15 June 2008.

- The Failover Plan calls for a timeframe of highly limited duration (30 to 90 days or more).
- The Failover Plan is completely at odds with the DAG's requirement for a financial surety instrument to guarantee continuity for critical registry functions for 3-5 years subsequent to a registry failure.
- The first step in reducing the financial instrument requirement has already been taken (see statement from ICANN staff regarding Benchmarking of Registry Operations that it is possible that continuity and registrant protection can still be met with a slightly reduced reserve requirement—i.e. 2 years of funding instead of 3 years). The Working Group should now press home the point that timeframes (and consequent costs) may logically be reduced further based on earlier communitywide Failover conclusions.
- Taking a conservative approach, a first step could be to stipulate to a financial instrument that supports critical registry functions for 180 days subsequent to the declaration of a registry "event". This is realistic and exceeds the Failover Plan recommendations.
- It should be considered whether a way can be formulated by which a potential successor operator can be pre-designated so that the extended financial surety obligation may be completely waived. Reducing or eliminating the DAG's required financial surety instrument would go a long way toward providing real support to new gTLD applicants. The Working Group can draw from ICANN's prior

experience with a pre-designation process (in .net and .org) in establishing a new procedure to prepare for a possible successor operator as part of each support-requiring-registry's Continuity Plan.

Working Group discussion summary:

See response to 2.5

2.8 From: D. Younger (17 July 2010)

Cultural and Linguistic TLDs—Proposal for Support and New Fast-Track Program. Cultural and linguistic TLDs should be treated in a fashion akin to new IDN TLD applicants (rather than as new gTLDs); they could well deserve their own unique class designation as cTLDs.

- The Working Group should make the case that it would be “good policy” that comports with ICANN’s charitable and educational mission to establish a new fast-track program for cultural and linguistic TLDs with clearly defined requirements.
- It may be advisable to agree to a minimal applicant fee for cultural and linguistic TLDs, similar to what has been calculated for IDN TLD applicants, and to agree to preparation of a pre-arranged and recommended annual registry contribution document.
- Considerations include: how large of an applicant pool is expected; and what portion of that applicant pool has a legitimate need for financial assistance? It is unclear if cultural communities are adequately served by .org or by their respective ccTLDs, so the process should begin with a campaign to solicit expressions of interest to better outline the scope and range of the potential applicant pool.

Working Group discussion summary:

This was out of scope for this WG.

2.9 From: D. Younger (17 July 2010)

Registrar Transaction Fee--Support for Disadvantaged gTLD Applicants. An increase in the registrar transaction fee (at a current low of eighteen cents) should be used to support disadvantaged gTLD applicants. It is not unreasonable to ask the broader registrant community to participate in supporting the expansion of the namespace, as such expansion will better serve the long-term broad registrant interest. Establishing a Foundation to properly manage such funding and to serve as a point of contact for charitable giving is a proper way forward.

Working Group discussion summary:

The Milestone Report presents ICANN and the community with diverse and specific ways to address the funding needs for this program. The WG believes there are several funding ways that should be explored before considering increasing the registrar transaction fees, since this would come from the pocket of the registrant (user).

From an implementation stand point, changes to registrar contracts are not an easy process and, overall, would add complexity and likely raise political issues.

Also, it is important to remember that the policy clearly states that the New gTLD Program should be self financing.

There is consensus in the WG for a proposal recommending that registrars put in place the means for existing registrants to make voluntary contributions to the development program through registrar-to-registry contribution pass-through, and to find ways of enabling non-registrant small donors to contribute to the development program. Concurrent with the execution of the development message to the donor communities, that the development message should also be delivered to the registrant, and non-registrant user communities through internal and external media.

There is also a minority concern about the degree to which Registrars would be open to this suggestion and the manner of its implementation.

2.10 From: S. Cimatoribus (20 July 2010); D. Younger (18 June 2010)

Bundling of Applications—Reduced Fee Proposal.

S. Cimatoribus - There should be a discounted fee for bundled applications with extra languages. ICANN should adjust the budget for application processing so that bundled IDN applications have lower costs and lower application fees. ICANN should encourage applicants to propose IDN versions of their preferred TLD string (e.g., .flowers in Cyrillic); this would allow people to use domain names and emails in their mother language. There may not be very many IDN applications unless ICANN offers incentives or discounted fees on bundled applications that include non-Latin IDNs.

D. Younger - A bundled gTLD application is the equivalent of an ASCII gTLD application combined with an additional IDN gTLD application. The Working Group should propose that each additional script proposed by a gTLD applicant will be priced commensurate with the cost calculations for the fast-track IDN ccTLDs—namely \$26,700 per script. Equivalency of treatment is the bigger issue—i.e., if a cost calculation has already been made for the processing of IDN applications, it would certainly be discriminatory (contrary to Section 3 of the ICANN By-laws) if an equivalent application were charged at a higher rate.

Working Group discussion summary:

Subject to the requirements for receiving support from the program, the WG believed that price reductions should be implemented to encourage the build out of IDNs in small or underserved languages, with the exact amount and timing of the support to be determined. There was a minority view from our Milestone Report that applicants who may not meet the need requirement for support but who have explicit endorsement from within the language community to be served should also be able to receive some form of support, for example bundling discounts, in order to offer these services to the underserved language/script community. This community endorsement must come from organizations, NGOs and/or local companies from within the language/script community.

2.11 From: D. Younger (19 July 2010)

Exception to Registry-Registrar Separation for certain groups. The Applicant Support Working Group should interact with the Vertical Integration Working Group to better define the public-interest-based exceptions category regarding registry-registrar separation so that a combined recommendation could be offered to the ICANN Board. Possible areas of exception include certain language groups, developing countries, certain communities due to size or economic conditions, etc. The Applicant Support Working Group will need to evaluate whether an exception for the registry operator is to be preferred over a subsidization effort to support a new local registrar.

Working Group discussion summary:

There was consensus that in cases where market power is not an issue, applicants who met the requirements for support would be granted a special exemption from the requirement for Registry-Registrar separation. This special exemption could be reviewed after 5 years. During the period of exemption, the ICANN compliance department/function would, at its own discretion, review to insure that the exemption was not being abused. This recommendation takes into account the advice given by the Government Advisory Committee (GAC) to the ICANN Board on 23 September 2010².

² Original GAC letter can be found here: <http://www.icann.org/en/correspondence/dryden-to-dengate-thrush-23sep10-en.pdf>