

Comment by Dotzon GmbH on

“Supplemental Report on the new gTLD Subsequent Procedures Policy Development Process (Work Track 5 on Geographic Names at the Top Level)”

We note that generally, the application process in 2012 went pretty well including the concept of reservation of specific strings and the requirement of support/non-objection letter for certain strings.

However, the clarity and certainty of the application process could be improved to avoid situations with Brands being uncertain whether the string they wish to apply-for is a geographic term and/or protected or not.

As a top-level domain is a unique global resource, we are of the opinion that the delegation of those resources has to be handled with due respect of the different level-playing field of the involved stakeholders and has to take into account sensitivities beyond international law. As an organization, ICANN is bound by its Bylaws to respect international and national law and will be challenged against this principle by the greater community.

We support some of the proposed mechanisms to enhance the clarity and predictability of the application process as noted in our comments to specific recommendations, questions and proposals.

Preliminary Recommendation 1	We support the recommendation.
Preliminary Recommendation 2	We support the recommendation.
Preliminary Recommendation 3	We support the recommendation.
Preliminary Recommendation 4	We support the recommendation.
Preliminary Recommendation 5	We support the recommendation.
Preliminary Recommendation 6	We support the recommendation.
Preliminary Recommendation 7	We support the recommendation.
Preliminary Recommendation 8	We support the recommendation.
Preliminary Recommendation 9	We support the recommendation.
Preliminary Recommendation 10	We support the recommendation.
Preliminary Recommendation 11	We support the recommendation.
Preliminary Recommendation 12	We support the recommendation.
Preliminary Recommendation 13	We support the recommendation.
Question e1	The rules applicable to geographic names as TLDs in the 2012 Applicant Guidebook (AGB) worked generally well and struck an appropriate balance between the different stakeholders. The concept of support / non-objection letters worked well in terms of clarity and predictability for our clients which applied for geographic terms and for brand names. Especially brands could profit from greater clarity and predictability if the similarity assessment process (Applicant Guidebook 2.2.1.1) would be further clarified.

Question e2	We recommend that geographic names should be clearly defined in the Applicant Guidebook along with any corresponding rules or requirements for those strings as it adds to clarity and predictability.
Question e3	We support preventative measures over curative measures as they add to much greater clarity and predictability: For applicants, for affected parties, for ICANN.org, and the application process and timing.
Question e4	We support these principles.
Question e5	ICANN is bound by its Articles of Incorporation and Bylaws to respect relevant principles of international law and applicable local law. To improve the application process from 2012, we recommend ICANN to respect national legislations when it comes to geographic names and their protection.
Question e6	We recommend to maintain the 2012 Applicant Guidebook rule, that a string was considered unavailable if it was a translation in any language of the following categories of country and territory names: <ul style="list-style-type: none"> • long-form name listed in the ISO 3166-1 standard. • short-form name listed in the ISO 3166-1 standard. • separable component of a country name designated on the “Separable Country Names List.”
Question e7	We believe that there should be a process in place at some point in the future but independent from the ongoing PDP to be able to delegate 3-letter strings and/or other country and territory names to specific parties.
Question e8	We recommend keeping “An application for any string that is a representation, in any language, of the capital city name of any country or territory listed in the ISO 3166-1 standard” because the geographic meaning applies whether or not the string is in the UN, official or national language.
Question e9	We recommend modifying the requirement to: “An application for a string which is a representation of a city name of any country or territory according to the list at http://unstats.un.org/unsd/demographic/products/dyb/dyb2015/Table08.xls . An application for such a string will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if: (a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; or (b) The applied-for string is a city name as listed on official city documents.”
Question e10	We support Proposal 19 (Variant 3), Proposal 21 and Proposal 23, as each of these proposals add to greater predictability and clarity. Proposal 24 and 25 have merits but lack the predictability. If governments were to provide such lists well in advance (1 year) of the application process, we would support

	these proposals. We support proposal 26 funded with the surplus from the application fees from the last round.
Question e11	In principle, we recommend that "no additional types of terms should be protected/restricted beyond those included in the 2012 Applicant Guidebook". If there is proven interest in the community, we would support to enhance the protection for "Non-ASCII geographic terms not included in the 2012 Applicant Guidebook".
Proposal 1 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We do not support the proposal since tools won't provide 100% predictability.
Proposal 2 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We support the proposal.
Proposal 3 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We do support the proposal because of liability issues.
Proposal 4 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We support the proposal.
Proposal 5 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We do not support the proposal as it can be gamed e.g. by contacting a person which is not responsible for issuing a support or no-objection letter.
Proposal 6 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We do not support the proposal as it conflicts with the string similarity definition.
Proposal 7 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We do not support the proposal as it conflicts with the public interest of geographic names and does not add to predictability of the process.
Proposal 8 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We support the proposal as long as it is coherent with the string similarity assessment.
Proposal 9 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We do not support this proposal as contracts between the registry and the respective government define sufficient oversight measures.
Proposal 10 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)	We support the proposal.

Proposal 11 – country and territory names (see deliberations section f.2.2.2 for context)	We do support the proposal.
Proposal 12 – country and territory names (see deliberations section f.2.2.2 for context)	We do not support the proposal.
Proposal 13 – country and territory names (see deliberations section f.2.2.2 for context)	We do not support the proposal.
Proposal 14 – country and territory names (see deliberations section f.2.2.6 for context)	We do not support the proposal.
Proposal 15 – country and territory names (see deliberations section f.2.2.7 for context)	We do not support the proposal as it does not add to predictability.
Proposal 16 – country and territory names (see deliberations section f.2.2.7 for context)	We do not support the proposal. The list should only include terms, by which the country is commonly known and not extended for "in any language".
Proposal 17 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.1 for context)	We do not support the proposal.
Proposal 18 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.1 for context)	We do not support the proposal.
Proposal 19 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We support the proposal.
Proposal 19, Variant 1 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We do not support the proposal.
Proposal 19, Variant 2 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We do not support the proposal.

Proposal 19, Variant 3 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We support the proposal.
Proposal 20 – names requiring government support/non-objections from the 2012 AGB	We do not support the proposal as it will lead to confusion, delays and uncertainty.
Proposal 21 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We support the proposal.
Proposal 22 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We do not support the proposal.
Proposal 23 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We support the proposal.
Proposal 24 – names requiring government support/non-	We support the proposal, please see our comment to e10.
Proposal 25 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We support the first part of the proposal: "Reserve non-capital city names that have "global recognition". We do not support "If a city wants apply for a gTLD, it can apply for a string containing the name of the city followed by the applicable country code." As no city is known and identifies itself by the artificial syntax "<cityname>-<cctld-code>". Contention should be resolved by other means, such as mediation and/or the GAC.
Proposal 26 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	We support the proposal.
Proposal 27 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.3 for context)	We do not support the proposal.
Proposal 28 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.3 for context)	We do not support the proposal.

Proposal 29 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.3 for context)	We do not support the proposal.
Proposal 30 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.4 for context)	We do not support the proposal.
Proposal 31 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.4 for context)	We do not support the proposal.
Proposal 32 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.4 for context)	We do not support the proposal.
Proposal 33 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	We support the proposal.
Proposal 34 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	We support the proposal but are of the opinion, that it raises legal issues in terms of liability.
Proposal 35 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	We do not support the proposal as it does not add to reliability and predictability.
Proposal 36 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	We support the proposal.
Proposal 37 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	We support the proposal.
Proposal 38 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	We support the proposal.