

3.1.8. - *Is clearer guidance needed in regards to consolidation of objections? Please explain.*

Yes. Clearer guidance should be given for objection consolidation.

The community objection proceedings exist as the primary method for community organizations to defend against gTLD applications they deem harmful to their communities. However, objections are only offered for a cost that some communities may find challenging to afford if faced with the reality of multiple and problematic strings/applications intersecting their communities. Objection consolidation suggested a form of financial relief, but without assurances that consolidation will be effectively utilized to keep costs from becoming a barrier to engagement, the current guidance offers no value to community objectors.

Before costs for community objections are established for subsequent rounds, clearer guidance is needed to encourage and clarify circumstances that generally and specifically warrant consolidation. DRSP's must agree to follow such guidance and some form of quality control standards must be established. This would not only ensure community objections remain focused on serving their intended purpose of addressing potential community harm, but it would also provide guidance and predictability to community organizations that may be extending themselves to simply engage.

What should be avoided is forcing a community organization to choose between which string/application they will object to from several they find problematic simply because they cannot fund multiple objections, especially when the organization is identifying similar harm(s) in each objection submitted. This can help ensure community interest is not stripped from the community objection process simply because some communities have less wealth.

Example of how poor guidance caused unnecessary financial burden:

ILGA is a community organization that found potential harm in several applications for strings intersecting their defined community. The harm identified was consistent in each application. Despite ILGA using near exact wording in their objections filed against three .GAY and one .LGBT applications, the DRSP decided against consolidating the objections, forcing deposits and eventual payment of four separate objections.

The current guidance merely states that "ICANN continues to strongly encourage all of the DRSPs to consolidate matters whenever practicable," yet this was not received by the DRSP as clear or predictable guidance. In addition, the AGB says the DRSP "will weight the efficiencies in time, money, effort, and consistency" when determining consolidation, despite having any quality control in place to ensure it happens.

Although the DRSP sent an early signal that consolidation of ILGA's objections was being considered, the DRSP then sought comment from all parties involved. Opposition from some applicants was expressed, suggesting concern that consolidation would expose financial details of their applications to others in the consolidation set. This concern had no basis since the objections had nothing to do with the financial aspect of the applications. After first deciding .LGBT would not be consolidated with .GAY, the DRSP later decided that not even the .GAY objections would be consolidated.

However, the DRSP did decide the three .GAY and one .LGBT objection would all be handled by the same panelist, despite denying consolidation. Although it seems the DRSP weighed "efficiencies in time, money, effort, and consistency" in assigning one panelist to all objections, the cost to the community organization objecting did not match the actions of the DRSP.

All .GAY decisions from the panelist were extremely similar, perhaps the simple proof that consolidation was warranted and that it was unnecessary for ILGA to pay for each objection separately. A comparative analysis of the results shows that in most cases a simple swapping of the applicant name is the only variance in the panelist's decisions.

.GAY Objection Results:

[Case No. EXP/392/ICANN/9](#)

[Case No. EXP/393/ICANN/10](#)

[Case No. EXP/394/ICANN/11](#)

Comparative Analysis of Results (by bullet points):

- a. Procedure: 1-5 *vary only by Applicant administrative details*
- b. Objector's Position: 6-10 *(only variance appears in #8 of one result because of an additional concern ILGA included in their objection against one of the applications)*
- c. Applicants Position: 11-12 or 11-13 *(vary based on applicant response)*
- d. Findings: 13-31 or 14-32 *are virtually verbatim for all*

A review of all three .GAY objection results reveals that approximately 90% or more of the bullet points contained in each result are identical. Aside from administrative uniqueness required to properly identify the applicant in each result, there was little else that made each result distinctly different from the others.

Because only the objection decisions are publicly available it is difficult to provide illustrations for comparison here, however we believe ILGA would be willing to make their community objections public for further review if ICANN and the DRSP approve.

Although the AGB suggested that similar objections against an application could be consolidated, it did not dismiss that similar objections from one entity or against the same string could also be consolidated. The community objection process already puts great burden on community organizations seeking to defend against harm for their members and it's made more challenging because of cost, lack of experience with ICANN processes, and ICANN imposed timelines that some community organizations (including non-profits and social service providers) are challenged to function within.

If consolidation is truly intended to serve the purpose stated in the AGB, it should not be a one sided benefit that is not considerate of community organizations and the role they play in the community objection procedures. Clear guidance on consolidation, which also takes into consideration the interests and perspectives of the community organization that may be objecting, is something that requires an honest discussion and resulting predictability.

*3.1.9. – Many community members have highlighted the high costs of objections. Do you believe that the costs of objections created a negative impact on their usage? If so, do you have suggestions for improving this issue? Are there issues beyond cost that might impact access, by various parties, to objections?*

Costs:

We believe that the cost of objections was a barrier to access and engagement. This is based on the limited number of community objections filed by gay community groups from the hundreds that expressed ongoing concern to dotgay LLC about applications they deemed harmful to the LGBTQIA population.

In our journey of community engagement and building consensus with the .GAY community application, we received a tremendous amount of feedback from community organizations expressing deep concern and shock with the cost schedule. The organizations ranged from non-profits, charitable causes and service provider groups to name a few, many making it clear they would be priced out of delivering filing fees and deposits in order to challenge applications they deemed harmful to members of the gay community.

Considering that future gTLD applications have the potential to raise concerns of harm in the purview of communities that are not well resourced, community objections must not price out community organizations that are willing or obliged to speak up on behalf of their members.

Not all communities have wealth and resources, so the community objection process must fully and properly consider this and address how some communities may be subject to further marginalization due to access limitations.

Although there are some features to the objection proceedings that do offer aid or relief, such as the independent objector and objection consolidation, these features are worthless unless there is awareness beyond the ICANN community and clearer guidance on when and where costs can be minimized or become less of a barrier to access. Simply making the objection proceedings and related methods of relief available does not automatically fulfil the goals of addressing harm in applications, especially if access for those expected to engage continues to be unattainable because due to lack of awareness.

Awareness:

As a community applicant that engaged with the gay community in all reaches of the globe during application development for .GAY, we consistently found ourselves being the first to bring LGBTQIA organization awareness to the new gTLD program and ICANN's objection proceedings. Our concern is that other communities without such links to the new gTLD program will remain among the most vulnerable and the most at risk in subsequent procedures, especially if strings associated with their community are knowingly or unknowingly selected by applicants without community dialogue or full consideration of potential harm.

The community objection proceedings should avoid becoming a mere dog and pony show that gives the impression that community objection is being taken seriously (for a price), and instead focus on ensuring real access for community organizations as a true instrument to mitigate harm. If only voices and concerns of wealthy community organizations are able to access, are the community objection procedures accomplishing their goals?

Since access is the critical component for objecting community parties to address perceived harm in new gTLD applications, more must be done to open that access. This includes an evaluation of the costs and opportunities that could ensure concerns from community organizations are accepted and considered, regardless of the objecting organization's financial capabilities. Addressing and combating potential harm should not remain the priority.