

4.2.16 Application Submission Limits

- 4.2.16.1 *Explanation of Subject*

There were no policy recommendations in the 2007 Final Report that sought to place restrictions on the number of applications that could be submitted from a single applicant. As such, in the 2012 New gTLD Program round, applicants were not limited in the number of applications they could submit.

- 4.2.16.2 *Questions and Concerns Related to Subject*

With the current implementation of the New gTLD Program, the DG noted that allowing unlimited applications from any applicant can make it more difficult for applicants with limited funding to adequately compete. Allowing unlimited applications creates more competition for the most valuable strings, making it especially difficult for applicants from underserved regions to realistically secure certain strings. With auctions identified as the method of last resort to resolve string contention, likely benefitting applicants with the deepest pockets, it makes it challenging for ICANN to achieve Article 1, Section 2,6 of its Bylaws:

Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.

In considering establishing limits, DG Members identified a number of questions or concerns that would require deliberations, including:

- Are there questions of fairness in establishing limits? Are there anti-trust implications for ICANN in possibly restricting competition for a scarce resource?
- What is a reasonable limit of applications per applicant?
- With the use of shelf-companies and consultants, is it feasible to restrict applications from an applicant?

Besides restricting the number of applications that an applicant can submit, the DG also considered measures that could be taken after submission. For instance, a limit could be established after string contention sets are established, requiring applicants to prioritize in the selection of their strings. The DG also identified the use of a comparative evaluation resolution method, which for instance could weight certain attributes, such as those related to communities, higher than commercial interests. However, in considering a less objective measure like comparative evaluation, it may warrant taking into account the challenges in implementing and operating Community Priority Evaluation (CPE), discussed in detail in section 4.4.5 on Community Applications. A comparative evaluation inherently creates winners and losers and the loser will be inclined to challenge the result more so than in the case where more objective measures are utilized (i.e., auctions).

The DG noted the possibility of a dedicated round for certain categories of applicants, such as those from Developing Countries, to help address the issues identified above. The DG also noted an alternative approach to a dedicated round could be placing caps on applicants from certain regions, industries, etc. The concept of a dedicated round or caps on applications from certain parties may be considered exclusionary and could introduce fairness issues that should be fully considered.

- *4.2.16.3 Relevant Guidance*

- N/A

- 4.2.16.4 Rationale for policy development:

Application limits were not discussed in the 2007 Final Report. If a potential PDP-WG on New gTLD Subsequent Procedures decides to undertake the task, it may need to consider defining the application limitation mechanism, assessing and resolving any questions related to the legality of the mechanism, establishing requirements, establishing validation and enforcement measures, among other elements, as suggested by the DG.

Given the likely complexity of establishing application limits, policy development is anticipated if this subject is undertaken by the PDP-WG.