June XX, 2016

Dear SO/AC/SG/C Chair

On May 13 2016 we wrote to you as the Co-Chairs of the GNSO's New gTLD Subsequent Procedures Working Group (WG) seeking a historical catalog of Advice or Statements on issues relevant to our work. We are now writing to seek your input on several overarching questions as part of the Group's first Constituency Comment process.

The Working Group was chartered by the GNSO Council to conduct a Policy Development Process (PDP) to determine what, if any changes may need to be made to the existing Introduction of New Generic Top-Level Domains policy recommendations from 8 August 2007 . As the original policy recommendations as adopted by the GNSO Council and ICANN Board have "been designed to produce systemized and ongoing mechanisms for applicants to propose new top-level domains", those policy recommendations remain in place for subsequent rounds of the New gTLD Program unless the GNSO Council would decide to modify those policy recommendations via a policy development process.

In June of 2014, the GNSO Council created the New gTLD Subsequent Procedures Discussion Group, which was focused on reflecting upon the experiences gained from the 2012 New gTLD round and identifying a recommended set of subjects that should be further analyzed in an Issue Report. At the ICANN53 meeting, The GNSO Council approved a motion to request that a Preliminary Issue Report be drafted by ICANN staff, basing the report on the set of deliverables developed by the Discussion Group, to further analyze issues identified and help determine if changes or adjustments are needed for subsequent new gTLD procedures. ICANN staff completed the Preliminary Issue Report on New gTLD Subsequent Procedures , which was published for public comment on 31 August 2015, with the comment period closing on 30 October 2015. ICANN staff reviewed public comments received and adjusted the Issue Report accordingly. The Final Issue Report , along with the summary and analysis of public comment received, were submitted to the GNSO Council for its consideration on 4 December 2015 and a PDP on New gTLD Subsequent Procedures was initiated on 17 December 2015. The GNSO Council adopted the PDP WG charter during its 21 January 2016 meeting, with a call for volunteers issued on 27 January 2016.

The PDP WG held its first meeting on 22 February 2016 and is currently meeting on a weekly basis. While the PDP WG has only begun its deliberations relatively recently, it has preliminarily considered a set of 6 subjects that it considers high level and foundational in nature. The review of these subjects are expected to serve as a dependency in considering the remaining 32 subjects, as well as perhaps other areas of focus that are identified during the life of the PDP WG. The GNSO's PDP Manual mandates that each PDP WG reach out at an early stage to all GNSO Stakeholder Groups and Constituencies to seek their input, and encourages WGs to seek input from ICANN's Supporting Organizations and Advisory Committees as well. We are now writing to update you on our activities to date, and to provide your group with an opportunity

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to assist the PDP WG with its assigned task, in respect of the following questions and issues that stem from our Charter and the initial deliberations of the WG. The PDP WG anticipates that it will provide additional updates and solicit input from the community again in the future, as the work progresses, and to address the other subjects identified in the WG charter.

The six subjects that the PDP WG is considering at this stage, and on which your views are now sought, are listed below and include a brief description and specific questions that the PDP WG seeks your input. Your input is critical in allowing these subjects to be considered fully and to achieve a thoughtful outcome, which could be new policy recommendations, amendment of existing policy recommendations, or more simply, implementation guidance to be considered in the future. In the following sections, each of the 6 questions will be described and specific questions asked. We would like your group's responses to the questions below and any other information on the topic that your group thinks is relevant to these subject. The six subjects are:

1. Should there in fact be additional new gTLDs in the future?
2. Should there be differentiation of gTLDs into types of gTLD, for example brand, geographical or supported/community, with different procedures or criteria?
3. Should the subsequent procedures for further new gTLDS be in the form of further "rounds"?
4. Predictability and flexibility. How should the two be balanced?
5. How can community engagement be improved in the processes?
6. Should there be limits to the number of applications, either in terms of processing at one time, or applications per applicant?

Finally, the PDP WG is aware of other efforts related to New gTLDs that are underway within the community, particularly the Competition, Consumer Trust & Consumer Choice Review Team (CCT RT); the PDP WG understands that coordination with other community efforts is needed to promote comprehensive solutions and outcomes. In addition to the CCT-RT, the PDP WG has identified the following initiatives that may have an influence on the outcomes of this WG.
- PDP on gTLD Registration Data Services
- PDP IGO-INGO Access to Curative Rights Protection Mechanisms
- Non-PDP CWG on the Use of Country and Territory Names as TLDs
- PDP Review of All Rights Protection Mechanisms in All gTLDs
- Other efforts in other SOAC?

We ask that you consider if there are additional efforts within the community that this PDP WG should consider.

This is the first of at least two Constituency Request requests we will be submitting. Once the input from this Constituency Comment is processed and work begins on the remaining 32 subjects, a second Constituency Request will be made.

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Thank you for the Insert Constituency Name consideration of this request. We look forward to any comments and any input that you and the organization you Chair are able to provide to our WG. If possible, please forward your comments and input to us by deadline so that we may fully consider it in our further deliberations.

Best regards,

Avri Doria, Jeff Neuman, and Stephen Coates, (WG Co-Chairs)

The 6 Specific Issues

Q1. Should there in fact be additional new gTLDs in the future?

The 2007 GNSO Final Report and the Applicant Guidebook (AGB) are consistent in the position that the previous policy development process was intended to establish an ongoing mechanism for potential applicants to apply for gTLDs. As such, a deviation from this position, such as cancelling the program, would warrant policy work. If the decision is made to deviate from existing policy, it should be based on fact-based decision-making.[1]

Further explanation?

Questions:

The 2007 consensus policy above expressed the commitment to a continuing mechanism for the introduction of new gTLDs. Are there any facts and/ or circumstances that have changed such that you believe this should no longer be the policy? Please explain.

Would the absence of continuing mechanisms be a risk to competition?

Are continuing mechanisms for the introduction of additional new gTLDs necessary to achieving sufficient diversity in terms of Internet names? Please explain.

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[1] Taken and amended from Issues Report

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Is it too early in the review cycle of the previous round determine the full range of benefits of the 2012 round of new gTLDs. Should that impact the decision to introduce additional new gTLDs and/or the timing of continuing mechanisms for new gTLDs?

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What additional considerations are there before deciding on continuing mechanisms for new gTLDs or to introduce policy changes?

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Any other Issues related to this overarching theme:

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Q2. Should any continuing mechanisms take into consideration categorization or differentiation of gTLDs?

Defining application categories was seen as too "challenging" during the development of the 2007 Final Report and the subsequent development of the Applicant Guidebook. However, the Applicant Guidebook did recognize that certain categories of TLDs deserved differential treatment in the application process, evaluation process, the string contention resolution process and in the ultimate Registry Agreement. The categories included geographic, community, brand TLDs and those associated with governments or governmental organizations.

The Working Group intends to formally address this issue depending on the feedback provided by the community Beyond simply identifying categories, the PDP-WG would need to consider the development of distinct and enforceable definitions, development of separate requirements and processes, validation and enforcement measures, and a process to switch categories post-delegation, among many other areas of work.

Further explanation?

Questions

Should subsequent procedures be structured to account for different types of gTLDs?

Several possible types have been suggested including:
- Open Registries
- Geographic
- Brand (Specification 13)
- Intergovernmental Organization
- Community
- Validated - Restricted Registries with qualification criteria that must be verified
- Not-for-profit or non-profit gTLDs, NGOs

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- Highly Regulated or 'Sensitive' TLDs
- Exclusive Use Registries (Keyword Registry limited to one registrant & affiliates) or Closed Generics
- Open TLD with minor charter registrations challenges , e.g. .name and .biz

The following questions refer to this list of possible types.

Are types missing from the list?

Do all types belong in the list?

If categories are recognized, in what areas of the application, evaluation, contention resolution and/or contracting processes should the categorization have an impact?

If different types of gTLD are defined, should all types be offered in each application window? Is it acceptable for an application window to opne for only one type of gTLD (e.g. a .Brands only application window)

Any other issues related to this overarching theme:

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Q3. Should the subsequent procedures for further new gTLDs be in the form of further "rounds"?

Recommendation 13 of the 2007 Final Report stated that "Applications must initially be assessed in rounds until the scale of demand is clear." However, it was acknowledged that Recommendation 13 could be modified, provided there is data and evidence that supports an alternative mechanism. A potential PDP-WG on New gTLD Subsequent Procedures may want to consider these suggested actions/questions to help determine if a change to the policy is warranted:

- Define, capture data, and analyze metrics to understand "scale of demand"
- Define, capture data, and analyze metrics other than "scale of demand" that may help in determining if an alternative application acceptance mechanism should be considered
- Determine if any other New gTLD Program reviews may benefit deliberations on this subject.

Further explanation?

Questions

Should we continue to assess applications for new gTLDs in "rounds" If not, how could you structure an alternate mechanism for assessing applications while at the same time taking into consideration public comments, objections, evaluation, etc.?

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How would the assessment of applications in a method other than in rounds impact rights holders if at all?

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Do rounds or other cyclical applications models lead to more consistent treatment of applicants?

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Should rounds or other cyclical application models be used to facilitate reviews and process improvement?

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Do rounds lead to greater predictability?

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Do rounds add latency to an application leading to longer times to market?

Do rounds create artificial demand and artificial scarcity?

Does timing between rounds lead to pent up demand?

Any other issues related to this overarching theme:

Q4. Predictability and flexibility. How can changes be introduced into the new gTLD Application process without sacrificing a predictable process??

> The PDP Working Group has discussed this issues and does not believe that there will need to be policy development with respect to this issue. .
> It should be noted and taken into account that there have been measures taken in the wider ICANN community that may help address some of the issues related to the subject of predictability, including the advent of new liaisons between Supporting Organizations (SOs) and Advisory Committees (ACs) and the GNSO actively seeking early engagement with other SOs and ACs, particularly with the GAC. In addition, the new GNSO processes developed by the Non-PDP Policy and Implementation Working Group should help to resolve problems that are only identified at a later stage, in a more consistent, predictable, and transparent manner, for not only this PDP-WG, but future GNSO efforts.[2]

Further explanation?

Question

Was the round of 2012 sufficiently predictable given external factors and the need to be flexible?

Do the changes implemented as a result of the establishment of Cross Community Working Groups and the adoption of the principles from the Policy and Implementation Working Group suffice to maintain predictability of the application process while at the same time provide for the needed flexibility to address changes of circustamces?

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[2] Take and amended from Issue report

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What are the impacts on applicants and consumers from a process that lacks predictability?

Any other issues related to this overarching theme:

Q5. How can community engagement be improved in the processes?

The subject of early engagement was not anticipated by the DG to require any type of policy development specific to New gTLDs. This issue is not isolated to New gTLDs, and as such, steps to increase opportunities for early engagement or outreach have already been implemented. For instance, the GNSO PDP Manual requires that outreach to Supporting Organizations (SOs), Advisory Committees (ACs), Stakeholder Groups, and Constituencies be conducted at certain intervals to ensure they are aware of the issue being discussed. In addition, many of the SOs and ACs maintain liaisons between their groups to ensure they remain informed and are able to communicate concerns back and forth. Beyond these proactive engagement measures, the PDP process is open and transparent, so any member of the community is welcome to participate. As well, the implementation of New gTLD policy via the AGB, allowed for participation from any aspect of the community, and this is expected to be the case for any subsequent implementation activities.[3]

Further explanation?

Questions

Is there more that can be done during the PDP to ensure, or enable, greater community engagement ?

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Should there be special post PDP policy consideration methods beyond those already defined by the GNSO? If yes, please makea suggestion?

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[3] Take and amended from Issues report

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Is there a time at which the application procedure in one application window should be frozen until after a new application window is opened.?

If the Board is faced with questions that cannot be addressed by the policy recommendations they were sent, must the Board bring the issue back to the GNSO and PDP process ?

Should a standard be established to discriminate between issues that must be solved during an open application window and those that can be postponed until a subsequent application window? Please give an example.

Any other issues related to this overarching theme:

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Q6. Should there be limits to the number of applications, either in terms of processing at one time, or application per applicant.

Application limits were not discussed in the 2007 Final Report. In the event that the PDP-WG undertakes policy development with respect to application limits, it will need to define the application limitation mechanism, assess and resolve any questions related to the legality of the mechanism, establishing requirements, establishing validation and enforcement measures, among other elements.

Further explanation?

Questions

Should an aggregate number of applications be established during any applications window or round?   If so, why?

If applications limits were established, how would the appropriate amount of applications be set to establish this limit?

How would you cut off application submission if such limits were established?

Would limits on the number of applications taken during an application window reduce fees?

Are limits to applications anticompetitive? Please explain.

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Do limits on applications favor "insiders?"

Should there be limits to the numbers of applications that one entity can submit? If so, how could such a limit be enforced?

Any other issues related to this overarching theme:

Open Question

Are there further overarching issues or considerations that should be discussed in the New gTLDs Subsequent Procedures PDP WG ?