

Comments on Processing of New gTLD Applications

Hong Kong Internet Registration Corporation Limited (HKIRC), the registry of the .hk and .香港 ccTLDs, submits the following comments on the processing of new gTLD applications on behalf of the .MTR new gTLD application, in HKIRC's capacity as the application's consultant.

Overall comment

HKIRC would like to commend ICANN on continuously seeking and addressing to inputs from the community, especially from the applicants, regarding the application process. HKIRC also appreciates the termination of the batching process in the form of "Digital Archery", in response to the negative feedback shared by majority of the applicant community.

HKIRC supports the idea of evaluating all the applications in a single batch and announcing all the Initial Evaluation results simultaneously, as suggested by the community during the Prague ICANN meeting. We acknowledge the fact that the time required for the Initial Evaluation might be lengthened, yet, we regard the likely delay in conclusion of the Initial Evaluation process a justifiable sacrifice for the sake of fairness to all applicants.

HKIRC acknowledges that the Governmental Advisory Committee (GAC) will only be able to finalise the considerations for providing any GAC advice on gTLD applications by April 2013 and that the clearance from GAC advice is a component of the gTLD application process.

HKIRC appreciates that ICANN is not planning to delegate TLDs at a rate greater than 1,000 per year, due to the challenge with maintaining root zone stability by controlling the rate of change to the root zone system.

However, HKIRC is of the view that there shall be a natural smoothing of applications ready to enter the stages of pre-delegation testing and delegation. There are currently 751 contended applications out of the total of 1,927 (with deduction of the three application withdrawals as of 10 August 2012). Potentially, there shall be less than 1,176 applications ready to enter the next stages right after Initial Evaluation concluded and the number is very close to the 1,000 per year delegation rate mentioned above. ICANN should be able to delegate all of these TLDs within a one-year time frame. By replying to the three questions ICANN posted for this comment opportunity, HKIRC shall propose below a metering method for delegating the TLDs within the one-year time frame.

Reply to the specific questions

1. *Should the metering or smoothing consider releasing evaluation results, and transitioning applications into the contract execution and pre-delegation testing phases, at different times?*
 - a. *How can applications be allocated to particular release times in a fair and equitable way?*
 - b. *Would this approach provide sufficient smoothing of the delegation rate?*
 - c. *Provide reasoning for selecting this approach.*

HKIRC is of the view that the release of Initial Evaluation results for all applications should be simultaneous. As mentioned before, there shall be a natural smoothing of the 1,927 applications where at least 751 of them will be taking different paths through objections and

contention resolution processes. The approximate 1,000 applications should all be transitioned into the contract execution and pre-delegation testing phases at the same time and handled within the one year time frame. This arrangement shall ensure that the release time of the applications is fair and equitable (it is in fact equal).

2. *Should the metering or smoothing be accomplished by downstream metering of application processing (i.e., in the contract execution, pre-delegation testing or delegation phases)?*

a. *How can applications be allocated to a particular timing in contract execution, pre-delegation testing, or delegation in a fair and equitable way?*

b. *Provide reasoning for selecting this approach.*

HKIRC would suggest that all “brand”, or specifically, trademark TLD applications that will be reserved for internal use and will not be open for registration (i.e. as closed registry) shall be handled first in contract execution, pre-delegation testing or delegation phases on a first-come, first-served basis. This arrangement is in fact a common and proven practice in the domain name industry, where trademark holders are usually given the highest priority when a new TLD is introduced via a "sunrise" registration period. The reason behind such arrangement is that the protection of trademarks and intellectual property has always been considered the most important priority to the community, and that the ICANN new gTLD process has incorporated and should continue maintaining elements that protect the interests of trademark and intellectual property owners.

Moreover, we expect that the work required for executing the contracts and testing for delegation should not be controversial and should be straightforward with the “brand” and closed TLD registries. ICANN would be given a good chance to process these TLDs in a relatively short period of time and learn from the experience, so that when it moves forward to process the “commercial” TLD delegations after this phase, it can ramp up the speed easily and smoothly. Processing the “brand” TLD delegation also posts minimal to zero impact to the “commercial” TLDs offering registration services, where they are more likely to be impacted by the launch time of their peers.

Our proposed priority should not be given to closed registries with generic and non-trademarked applied-for strings. As their TLDs are not trademarks, they have no good reason to be considered eligible for the priority as proposed above.

After all the “brand” TLDs are delegated, or when resource is available for ICANN to start taking up the work for other “types” of applications, other applications shall be handled on a first-come, first-served basis.

3. *Include a statement describing the level of importance that the order of evaluation and delegation has for your application.*

We are of the view that it is of utmost importance for our application to be evaluated simultaneously with others and to have the Initial Evaluation results released also at the same time with others. As “MTR” is an established, rightful and well recognised trademark of MTR Corporation Limited, we consider that it is important and equitable for .MTR to be delegated at the first phase of the one-year time frame after the release of the Initial Evaluation results.