



Comments on gTLD Application Processing

Thank you for the opportunity to comment on gTLD application processing. The following is Donuts Inc.'s input regarding application processing methods and timelines.

I. Definition of sequencing

Multiple terms have been used in community discussion to refer to the order in which applications are processed and, eventually, admitted to the root (including "metering," "sequencing," "ordering," "batching," "smoothing," etc.). For clarity in these comments, Donuts will refer to potential mechanisms for establishing such an order as *sequencing*, since *metering* could be interpreted as defining a rate instead of an order.

II. Discussion of current circumstances

ICANN [states](#):

"...the new gTLD Program Committee decided to terminate Digital Archery, and instructed ICANN staff to proceed with the initial evaluation of applications as quickly as possible. This evaluation is in progress based on a tentative project plan that foresees the **processing of applications in a single batch**, and **simultaneous release of results**. ICANN believes this approach is consistent with the constraints that various parts of the community have in performing their respective roles in the evaluation process, and with the **feedback received from the community at the Prague meeting**." (emphasis added)

This represents a proposed change to the Applicant Guidebook (AGB)—one that is inefficient and ineffective (as will be discussed below), and thus one Donuts does not support. Further, because there is no consensus in the applicant community for such a change, continuing forward with a single batch and simultaneous results is inappropriate.

While Donuts understands a replacement for Digital Archery is now necessary, Donuts supports a sequenced Initial Evaluation (IE) process, as put forth in the AGB.

Moreover, Donuts disagrees with items (b) and (d) in the Background section of ICANN's call for comments on this matter. Specifically, ICANN claims that the following have broad support:

- (b) The evaluation results have to be announced at the same time.
- (d) Delegation to the root must be at a smooth rate and must not exceed 1,000 per year.

ICANN has created a culture of delay with regard to this program. Delaying the announcement of results until the evaluation of every application is completed is inefficient and unnecessary at a time when the program sorely needs new efficiencies.

The 1,000 per year root delegation rate is based on outdated information and assumptions and should be reconsidered. This is discussed in further detail in Section VI below.

III. Attributes of application sequencing method

It is critical that any procedure for application sequencing carry the following attributes:

- Equitable and neutral. An equitable method that is fully objective and transparent—the method could be a “game,” but to be clear the method should be neither subject to unfair gaming nor a game solely of chance, and applicants must be unable to dishonestly influence the outcome.
- Efficient. As articulated by the applicant community, delays to date have and continue to cost significant resources. Efficiency is a critical element of all considerations going forward, and sequencing successfully establishes an environment that promotes processing efficiency. Processing and sequencing should then competently yield results as soon as possible and in a manner on which applicants can confidently rely.
- Precision and range. A method should provide sufficiently wide variability of possible outcomes so that applications can be ordered from first to last (and thus prevent “clumps” of TLDs).
- Simplicity and Familiarity. A system must be based on concepts with which all applicants are generally familiar and are easily understandable. Lack of familiarity and simplicity leads to criticism and misunderstanding.

Our proposals for potential sequencing methods are discussed in [Appendix A](#) of this comment.

IV. Timing of sequencing processes

A proactive sequencing process is necessary. Donuts believes sequencing should occur earlier rather than later. Establishing sequencing early, and preserving it through the process to delegation, is more reliable in a multi-stage evaluation process with unknown and untested processing times. Early sequencing would also allow the multiple parties with responsibility over discrete parts of application processing to use the sequencing numbers to determine handling priority.

Early sequencing further opens the process to far more efficiency. As a general principle, applications should move forward to the next available step the moment they are able to (subject to structural constraints, such as the timing of the Objection Period). The possibility of bottlenecks at root insertion thereby is minimized.

V. Answers to ICANN's specific questions in its request for community input

ICANN poses the following questions seeking specificity in proposed solutions. Donuts' answers are provided to each.

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?

Yes. Evaluation results should be released to the applicant and announced publicly as soon as they are ready.

- a. How can applications be allocated to particular release times in a fair and equitable way?

Applying a metering and sequencing method as soon as possible will establish handling priority through the rest of the process and prevent bottlenecks later.

Please refer to Appendix A for systems proposals and attributes of each.

- b. Would this approach provide sufficient smoothing of the delegation rate?

The sequencing approach we advocate for pre-delegation phases will make application review more manageable and efficient. As a by-product, sequencing the applications will allow ICANN staff and evaluators to

focus on the review and thereby help with metering (rate of admission to the root) at delegation.¹

c. Provide reasoning for selecting this approach.

Further efficiency is required to address past delays in the gTLD program in general. Accordingly, reasonable steps should be taken to minimize potential bottlenecks and future delays. Announcing all IE results at the end of the IE period and *only then* deciding on and employing an application priority method is a prescription for additional delay, is much less efficient and negatively impacts applicants and the program.

A sequencing approach that is easy to implement also would avoid the community discord over the Digital Archery initiative and related issues. Further, avoiding delays while concurrently honoring ICANN's responsibility to fairness and legal soundness increases the likelihood of community support and decreases the risk of legal or public comment contention from harmed applicants.

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)?

Not precisely as the question may suggest. Applications should be sequenced right away and the resulting sequence should be preserved through contracting and delegation. ICANN will thus need to provide the sequencing order to the parties with authority over separate parts of the process to ensure the integrity of the sequence, including "downstream" providers (contracting, pre-delegation testing, delegation). These parties will use the established sequence to determine processing priority for each application.² Establishing priority order for each application is best done at the beginning of the process, however, so every applicant can benefit from the resulting efficiency.

¹ An analogy that applies is one of autos on a highway—too many cars entering the highway at once creates traffic bottlenecks. Sequencing vehicles at on-ramps and with multiple lanes results in smoother traffic.

² The relative order of sequence numbers determines the order in which an application is processed at any given step. This applies in situations when an evaluator at one step has more applications than can be handled simultaneously. Example: An evaluator in Step X receives applications with sequence numbers 120, 130 and 131. The application numbered 120 is handled first, then 130, then 131—there is no need to wait for 121-129 before beginning work on 130, as 121-129 have been assigned elsewhere, or may be subject to objection. Evaluators at each step are doing the same, to keep the process moving forward.

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

A sequenced order should be in place and in use well prior to contract execution, pre-delegation testing, and delegation. The sequence should be applied (as discussed in (2) above) to these stages. Delaying the establishment of a sequenced order until these late steps invites inefficiency and puts off what reasonably should be done today. In addition, delaying a decision on sequencing methodology increases the possibility of community conflict and objection—particularly impactful during the already distracting (for ICANN and applicants) contract execution, pre-delegation testing or delegation phases.

- b. Provide reasoning for selecting this approach.

Please see 1.c above.

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

Sequencing is extremely important to Donuts and, we believe, to the success of the gTLD program.

VI. Additional important considerations

Initial Evaluation

IE should be completed as soon as possible. ICANN itself has projected a processing capacity estimate of 300 initial evaluations per month—at that rate, initial evaluations could be fully completed by January 2013. Donuts strongly encourages ICANN to meet (or beat) this deadline. If it is in danger of not completing IE in this timeframe, additional capacity should be made available to remove that risk.

String Similarity / Contention Sets

ICANN should announce string similarity results prior to the Toronto meeting, providing applicants certainty and better options for contention set resolution. This evaluation does not require consideration of the full application. ICANN should concentrate its examination only on those strings that have any potential for being confusingly similar. We estimate that number to be very low. With even a small devotion of resources by ICANN, this process does not require the 4.5 months currently projected. If, however, we have underestimated the effort required to produce string similarity results, Donuts encourages ICANN to allocate the resources necessary to shorten this phase of the process.

Finally, ICANN could further contribute to efficiency by immediately announcing which strings are not subject to similarity review. This would allow contending applicants to consider contention resolution sooner.

Objection Period

Donuts concurs with ICANN staff that the Objection Period should be no longer than seven months from the Reveal Date.

GAC Process

A. Early warnings

We agree with ICANN's decision to extend the GAC's timeline for Early Warnings to October 19 to accommodate the Toronto meeting.

B. GAC Advice

The AGB provides that GAC advice against an application creates a "strong presumption for the ICANN Board that the application should not be approved."—a much higher standard than applies to typical GAC advice.

The Board should welcome GAC advice at any time. However, if the GAC elects to avail itself to the AGB's enhanced presumption, the Board should require the GAC to provide that advice by the close of the Objection Period, as required by the AGB. Advice afterward would then carry its normal weight.

C. GAC Inter-sessional

Should the GAC require assistance in meeting this timeline, Donuts supports an inter-sessional meeting as early as possible in the six-month period between the Toronto and Beijing meetings.

Pre-delegation Testing

Donuts encourages ICANN to begin pre-delegation testing of registry technical systems as soon as practicable. It is operationally unnecessary to wait until the conclusion of IE.

Contracts

Donuts encourages ICANN to begin the contracting process as soon as practicable. The majority of applications are likely to pass IE and it is operationally unnecessary to wait until the conclusion of IE.

Root Insertion Metering

ICANN and the community should revisit the stated rate of no more than 1,000

insertions of new gTLDs into the root per year.

The reasoning behind the limit is more than two years out of date. Initially, this 1,000 per year limit proposal was based on an anticipated simultaneous implementation of DNSSEC, IPv6, and new gTLDs. As the timing of the three are no longer concurrent—two have been completed—the Board should consult the Security and Stability Advisory Committee and the Root Server System Advisory Committee to update the recommendation based on current information.

Transparency

Donuts requests that ICANN employ better transparency into the status of the process. A weekly update (similar to the one provided earlier this month) on IE status, number of withdrawn applications, background checks, number of strings found to be not confusingly similar, and other useful metrics would be very helpful and appreciated by the applicant community.

Appendix A

Potential Sequencing Methods

Donuts has identified three broad categories of potential applicant sequencing solutions.

1. **Competitive process:** Applicants engage in a contest to determine their order in the sequence.
2. **Predict a future event:** Applicants offer their prediction for a certain future event and are sequenced based on their predictive accuracy.
3. **Secondary timestamp:** Applicants are sequenced based on how close their applications were submitted to the minute mark or hour mark.

Donuts provides examples below that may produce a simple, efficient, and certain sequencing order. These examples use well-known and time-tested concepts and processes so that applicants are comfortable with the methods and risks and can be reasonably assured none is subject to unknown weaknesses or tricks.

1. Competitive process

Rock Paper Scissors (RPS): (<http://en.wikipedia.org/wiki/Rock-paper-scissors>)

Features

- Online playoff format
- Applicants “play” against each other until the applications are grouped into at least 32 groupings of 60 strings (5 rounds)
- “Best of” format (*e.g.*, “best-of-seven”) for each iteration
- Administered by independent judges

Advantages

- Results are certain
- Order would provide enough granularity for sequencing
- Difficult to “game” the system
- There is precedent for using RPS. U.S. courts have used RPS to resolve procedural disagreements, as have private parties worldwide to resolve significant and substantial commercial disputes.

Drawbacks

- Playoff format can be somewhat complex and thus has operational risk
- Relatively time- and resource-intensive
- Potential target for ridicule (*e.g.*, “Rock Paper Scissors to solve \$350 million problem?”)

Morra (or similar process): ([http://en.wikipedia.org/wiki/Morra_\(game\)](http://en.wikipedia.org/wiki/Morra_(game))); http://en.wikipedia.org/wiki/Guess_2/3_of_the_average)

Features

- Applicants participate in same iteration (but can be asynchronously) via the Internet
- Applicants provide two numbers: (1) a number between a certain range (*e.g.*, 0-1 million) and (2) a number representing the predicted aggregate total, or alternatively 2/3rds of the average, of the applicants' first numbers.
- Initially, some parties may perceive this to favor entities with multiple applications. However, it can be structured so that it does not (*e.g.*, allowing the first number range to be sufficiently wide or excluding the Applicant's first number from the average).

Advantages

- Relatively simple to administer, especially electronically
- Low operational risk
- Very efficient and results certain
- Applicants can be sequenced in one iteration

Drawbacks

- Little precedent for resolving contests of any type
- Minimizes any skill disparity among applicants

2. Predict a future event

Stock Index Prediction

Features

- Use of stock index prices are not necessary—applicants can substitute with another mathematical index, such as crude oil prices, rainfall amounts, average temperatures, etc.
- Select a future date or range of dates
- Predict the closing price(s), or average closing price(s), for one or more stock indices, such as Nikkei, FTSE, Hang Seng, or the DJIA
- Applicants can agree on one index or the collective total or average of multiple indices
- Predictive target must have large volume of free public information about the event(s)
- One authoritative source must be selected for measuring and/or publishing the result of the event

Advantages

- Easy to explain
- Market indices are public, well-known, and well-insulated from external pressure
- Low operational risk
- Very efficient; applicants can be sequenced in one iteration
- IANA/ICANN have used these concepts for previous decision-making procedures (<http://www.iana.org/reports/2009/ipv4-selection-mechanism.html>; <http://www.atm.tut.fi/list-archive/ietf-announce/msg13572.html>).

Drawbacks

- Nature of this specific method (stock index prediction) may be perceived as dissonant with ICANN's non-profit charter. Other future events can be substituted, however, to reduce or eliminate this potential drawback.
- Date (or range of dates) must be sufficiently in the future to produce adequate variability from current values

3. Secondary Timestamp

Timing of Application Submission

Features

- ICANN would publish and use currently existing timestamp for each application's submission in TAS
- Applications are then sequenced by timestamp; timestamps with the lowest second times (*i.e.*, 2:59:07 is preferable to 12:03:45), or alternatively minute times (*i.e.*, 2:59:07 is less preferable than 12:03:45), receive priority

Advantages

- Uses existing data already in ICANN's possession
- Completely insulated from external pressures
- Very efficient; applicants can be sequenced in few iterations (*i.e.*, "ties" on the second-time could be broken with a minute time assessment)
- Low operational risk
- True secondary timestamp as envisioned in the Guidebook
- Parties with multiple applications will not be grouped together

Drawbacks

- Minimizes any skill disparity among applicants