

August 19, 2012

Cherine Chalaby, Chair  
ICANN Board New gTLD Program Committee  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601

Re: Improvements Needed to ICANN's Proposed Batching Plan

Dear Chairman Chalaby and Members of the Program Committee:

We, the undersigned applicants, have been long-standing supporters and advocates of the new gTLD program and like many from which you have already heard, we do not wish to delay the new gTLD process any further. We as a community have an opportunity to ensure that the next phase of the process - [the batching and evaluation of applications](#) - goes forward in an efficient manner for both ICANN *and* applicants. And in that vein, we are proposing an alternative approach that addresses many of these concerns that we have heard expressed in the community.

In this letter, we propose a new approach to the rate and sequence at which batches are processed through evaluation and delegation. We are not asking that ICANN re-examine the policies underlying the batching process. The concept of progressively evaluating applications is a policy issue upon which the community debated and agreed. Rather, what we are proposing is a metering mechanism to ensure the most efficient path through the process as possible.

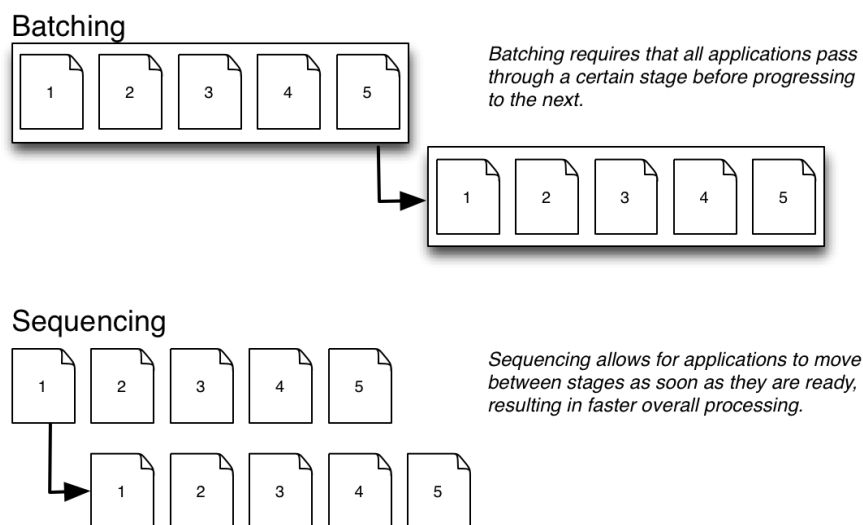
Although laid out in more detail below, a brief summary of our proposal follows:

- Rather than processing applications in large batches, ICANN should treat applications individually and move them to the next stage of the evaluation and delegation process as soon as is feasible.
- Due to various bottlenecks in the process, applications will need to be sequenced. We propose an approach of promoting a diversity of application types by dividing the application pool into "buckets", reflecting various types of applications, using an arbitrary (but not random) mechanism to sequence applications within each bucket, and creating an initial global sequence of applications by round-robinning through the series of buckets.
- Because the arbitrary approach to sequencing may not always result in the most efficient allocation of priorities, we propose that applicants may swap slots in the overall sequence by mutual consent.
- We believe it should still be possible for ICANN to begin delegating new gTLDs into the root in the first quarter of 2013, and that it is important for both applicants and the credibility of the program that ICANN does so.

### **Sequencing versus Batching**

Applications should be processed as efficiently and speedily as possible. In order to do this, ICANN should focus on sequencing rather than batching. Although the concept of batching has long been present in the Applicant Guidebook (AGB), batching is inefficient in that it creates a bottleneck to work in later parts of the process in order to allow for earlier processes to complete in their entirety. For example, if it took (hypothetically) one day to complete initial evaluation and one day to complete contract negotiations, for a group of 100 applications it would take 200 days to complete evaluation and contract negotiations using a batching approach, but only

101 days if the contract negotiations for the first application began as soon as evaluation was complete. The following diagram illustrates the disadvantage of a batched approach:

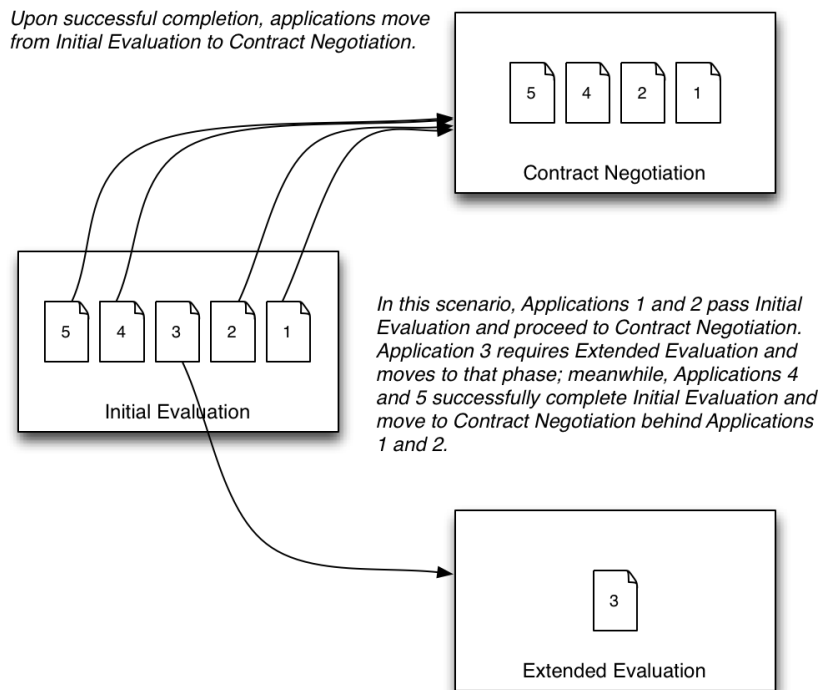


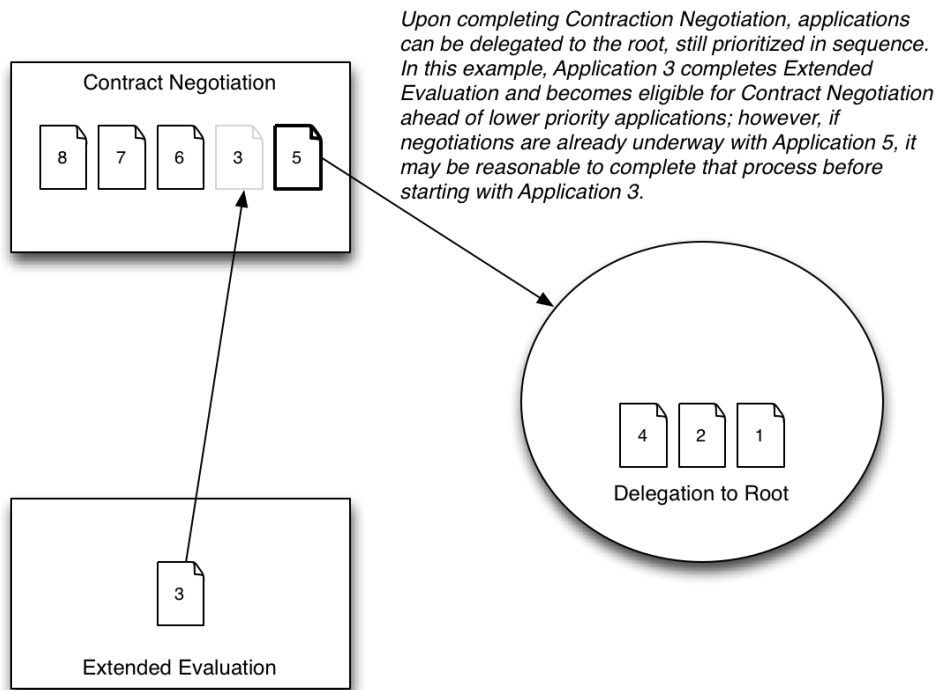
Even the batching approach outlined in the AGB requires a sequencing method in order to select which applicants should proceed in which batch. We believe that applying a reasonable sequencing approach throughout the evaluation and delegation process, rather than applying it in batches, addresses the core issues of resource scarcity and fairness that batching was intended to address without introducing unnecessary delay. For example, we do not believe ICANN's current plan to withhold initial evaluation results until all evaluations are complete serves any stated purpose. We encourage ICANN to release those results as they become available.

We also believe that sequencing will be required at some point in the evaluation and delegation process: even if all initial evaluation can be complete before the objection period ends (thus moving initial evaluation out of the critical path), other bottlenecks will arise whether they are contract negotiation, related to root scaling, etc. A reasonable sequencing scheme, once established, could also be used to guide initial evaluation and the release of those results. Sequencing should only be applied when a bottleneck arises and it is necessary to choose which application(s) may proceed. In order to allow for most efficient evaluation, sequencing schemes should avoid creating batches and instead assign a unique sequencing value to each application, thus eliminating dependencies. This implies that each application needs to have a unique sequencing value.

Once established, a per-application sequence value could be used throughout the evaluation and delegation process, but as mentioned above would only be applied where a bottleneck or contention for resources applies. For example, if ICANN believes that it can complete the initial evaluation of all applications prior to the end of the objection period, there is no need to use the overall sequence of applications during the initial evaluation process, especially if the overall efficiency of the process can be improved by evaluating applications in a different order. If an application were to be held up at a particular stage in the process (for example, through extended evaluation or objection processes) it should not delay subsequent applications from proceeding through the evaluation and delegation process. However, delayed applications would also not lose their overall priority, and would move ahead of lower priority applications at future bottlenecks.

Consider the case in which the first two applications in the overall sequence do not require extended evaluation or contention resolution, they might proceed on the path to delegation; application #3 might require extended evaluation, in which case additional applications (#4, #5, etc.) might also proceed on the path to delegation while the extended evaluation proceeds. Once extended evaluation is completed, application #3 may be ready to proceed to delegation but find a queue of other applications waiting due to restrictions on root scaling. In this case, application #3 would move ahead of all lower priority applications in the queue for delegation. Although this sequencing should be used to allow for a fair evaluation and delegation process, ICANN should make reasonable determinations as to when the sequencing can be applied most efficiently--for example, if contract negotiations were already underway with application #5 when application #3 completed extended evaluation, it might be reasonable to complete those negotiations before beginning that process with the higher-priority applicant. This process is illustrated below:





As was the case with digital archery, where contention sets exist, it will generally make sense to treat all applications within a contention set at the highest priority of any application within the set in order to avoid having lower priority applications significantly slow down the evaluation and delegation process for higher priority applications.

### Selecting a Sequencing Mechanism: “arbitrary” approaches to sequencing are preferred

Many applicants and other members of the community agree that random distribution is generally the most desirable; unfortunately, ICANN believes it is not allowed to perform random selections in order to avoid running afoul of lottery regulations. However, there are schemes that have many of the same properties of random selection, but are deterministic. We refer to these schemes as being “arbitrary” as opposed to “random.” Examples of such schemes include: sequencing applications based on alphabetical order; the SHA-1 hash of the applied-for string or the entire application; or the minute and seconds (but not the date or hour) of the submission of the application. These arbitrary sequencing approaches have the same desirable characteristics of random selection, especially when implemented after the applications have been submitted—they do not favor any particular application, applicant, or class of applicant and provide a unique sequencing value for all applications.

A good arbitrary sequencing mechanism should meet all of the following tests:

- Is not random. The outcome should be deterministic—if repeated multiple times the results should be the same.
- It should be fair, objective and transparent. Third parties should be able to replicate the results.
- It should rely on data that ICANN already has so that it is not susceptible to gaming.
- It should provide unique results for all applications, or provide for a very small number of ties between applications. It should not clump all applications from a given applicant with the same priority.

Each of the examples provided above meet these tests.

## **Reflecting the Diversity of the Applicant Pool**

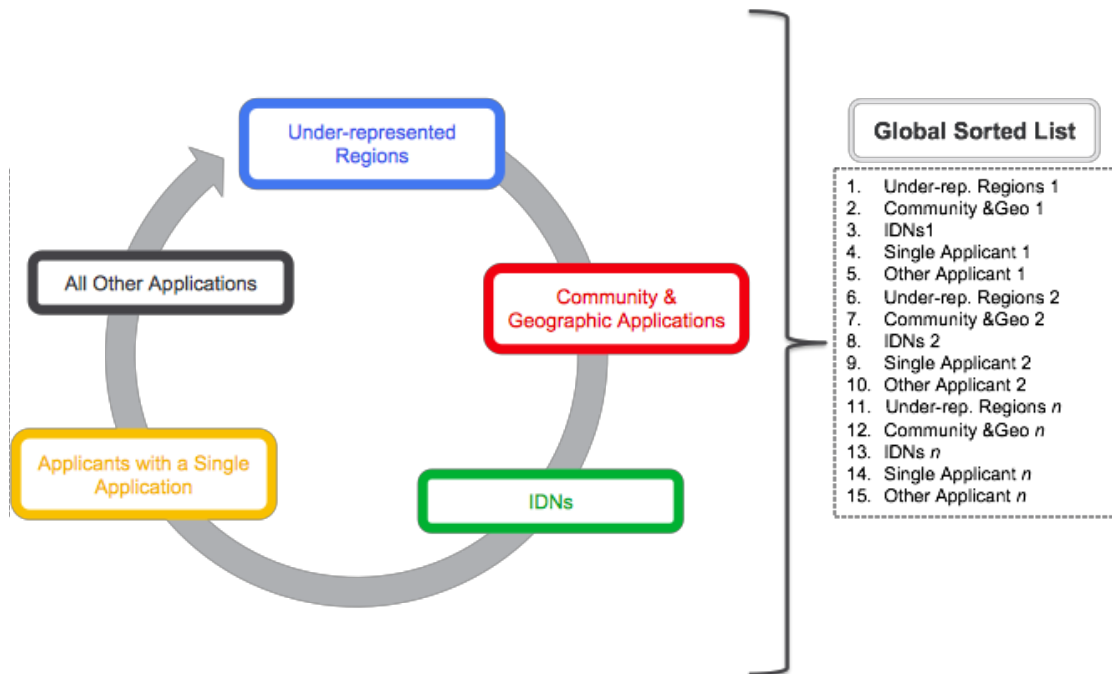
The process through which applications are sequenced should be as fair as possible, but it is also desirable for there to be diversity (in terms of type and region) among those applications delegated early. Because some application (and applicant) types are underrepresented numerically, based on the entire pool of applicants, it is reasonable to provide some advantage to them, while at the same time not crowding out other applications.

Therefore, we are proposing that applications be divided into several "buckets." We propose the following buckets (sorted in ascending order of expected size):

1. Applications submitted from under-represented regions, defined here as regions having less than 5% of total applications
2. Community and geographic applications
3. IDNs
4. Applications that meet all of the following criteria:
  - a. The application is not part of a contention set
  - b. The applicant is not applying for an exemption to the ROCC or otherwise intending to prevent registrations by third parties
  - c. The applicant is not applying for any other TLDs, nor are any other applicants that share common controlling ownership with the applicant
5. All other applications

We propose that within each bucket, an arbitrary sequencing would be applied (such as ordering based on application number, etc.) so there would be a sorted list of Community applications, a sorted list of IDNs, and on through all five buckets.

Then, to generate a global sequence, ICANN would round-robin through each bucket of applications such that the first chosen five applications would have one application from each bucket. As buckets are exhausted, ICANN would continue to round-robin through the remaining buckets until eventually only applications from the last bucket remain, at which point the remainder of those applications would be added to the end of the global sequence. In the event an application could fall into more than one bucket (such as a community IDN), the application would be placed in the bucket with the smallest number of applications. The merging of applications from buckets into a global sequence is illustrated below:



This approach will tend to move applications in the first four “priority buckets” to the front of the global sequence. For example, applications within the smallest bucket for under-represented regions will have an average position of 101 in the overall sequence (versus an average position of 965 if all applications were sequenced arbitrarily without the use of priority buckets) and no application from an under-represented region would be placed in the global sequence at a position lower than 201 (versus a worst-case of 1930 in a bucket-less sequence). Based on our initial analysis of bucket size, all applications from priority buckets would be assigned within the first third of the overall sequence.

### Voluntarily Re-ordering of the Sequence by Applicants

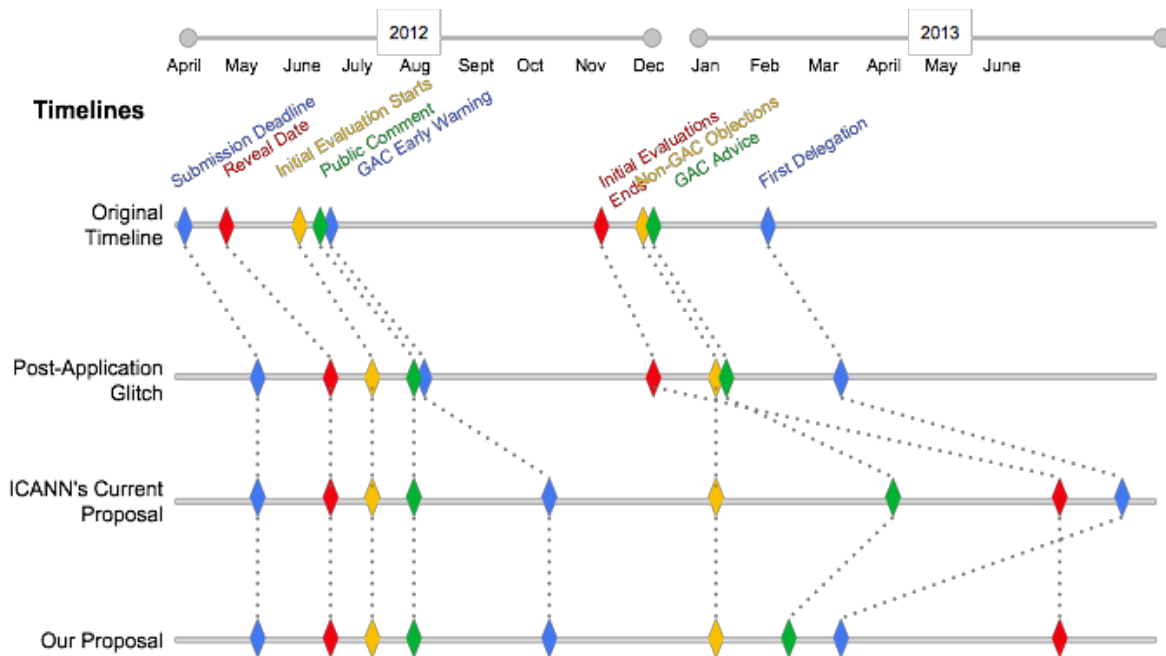
Arbitrary sequencing may result in moving some applications to the head of the line though the applicant would prefer to launch later in the process, and similarly, applicants with business plans that are fully ready to be executed may end up with applications near the end. Therefore, we believe the proposed metering process should include an ability for allowing applicants to swap slots in the overall sequence, which should address the concern raised above. Further, it will also allow market forces to provide some guidance to the overall sequencing while still providing a framework that is fair to all applicants regardless of financial situation.

As mentioned above, once the global sequence has been established, any two slots in the global sequence could be swapped with the consent of both applicants through any means designed by the parties involved. Once an initial sequence is established through the mechanisms described above, ICANN should allow for a period of time in which any two applicants may designate to ICANN that they wish to swap application priorities within the overall sequence. Ideally, ICANN would allow applicants to propose and confirm swaps through TAS or a similar tool. ICANN can designate a fixed period of time for such swaps (for example 30 days), at the end of which time the overall sequencing will become final and be used throughout the process.

### It Is Important for the First Delegations in the Program to Occur in Q1 2013

At the beginning of the new gTLD process, ICANN released a timeline to which all applicants and ICANN were expected to adhere. Because of the TAS technical glitch, these dates have already slipped roughly a month. This change in the approved timeline was due to technical error that was fully under ICANN's control. Applicants choosing to participate in the new gTLD program did so under this assumed timeline and as such, it is critical for the continued credibility of the program for ICANN to take all measures necessary to adhere to these deadlines set out in the initial timeline. One of our primary concerns with ICANN's new proposed single batch solution is that it will likely push back the delegation of the first set of TLDs until August 2013 - a roughly 6 month difference between the original planned release of February 2013.

As illustrated in the figure below, our proposal on sequencing applications combined with a GAC inter-sessional meeting in early 2012 allows ICANN to begin delegating new gTLDs in roughly the same timeframe as under the original digital archery proposal, while improving the overall efficiency of the evaluation and delegation process.



### Conclusion

It is critical that ICANN make every effort to adhere to the timeline that was agreed upon prior to the launch of the program. We believe that this proposal provides a framework for the ongoing evaluation and delegation of new gTLD applications that is both equitable and efficient, and that will produce a successful outcome for the new gTLD program as a whole. We urge you to consider this proposal and look forward to working with ICANN and other applicants to formulate a reasonable, efficient, and mutually beneficial path to new gTLD delegation.

Sincerely,

Caspar von Veltheim  
Bayern Connect, applicant for .bayer

Jacob Malthouse  
Big Room, applicant for .eco

Neal Freeman  
Celebrate Broadway, applicant for .broadway

Sarah Falvey  
Charleston Road Registry Inc., applicant for .google and others

Carolin Silbernagl  
dotHIV gemeinnuetziger e.V., applicant for .hiv

Tim Johnson  
Dot Kiwi Limited, applicant for .kiwi

Mark Dranse  
GCCIX WLL, applicant for .gcc

Rami Schwartz  
Latin American Telecom, applicant for .tube

Julie Chappell  
London & Partners, applicant for .london

Rob Hall  
Momentous Corp., applicant for .design and others

Robert Bolchoz  
Republican State Leadership Committee, applicant for .gop

Gil Hoover,  
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Antony Van Couvering  
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James Seng  
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