

Comments by dotBERLIN GmbH & Co. KG (.berlin)

Bethink on the Global Public Interest

After all the terrible technical glitches, procedural shortcomings and delays ICANN needs to find back to a path of vigor and reliability to regain trust in the global Internet community. Success stories in the new gTLD process are desperately needed as soon as possible.

Withholding uncontested applications for Geographical Names until all other applications have been processed would add-up to ICANN's incompetence to work in the public interest, an important and critical part of its mission. These Geographical Name applications are by the attached governmental support truly in the global public interest and must be the first step of ICANN's new life.

Additionally at least a dozen of City and Regional Governments have written to ICANN during the last months to support this approach, an example letter is attached. It was ignorant of ICANN not to publish these letters and not to give a feedback.

In order to follow ICANN's request to answer specific questions we would like to comment as follows:

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! In order to facilitate a smooth flooding of the root with new gTLDs the applications that have been evaluated should be directed immediately to "Transition to Delegation". A simultaneous release of evaluation results is counterproductive since it creates hundreds of months of delays in sum.

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

A fair and equitable way would be to delegate applications in an order that serves the public interest. Such an order should prioritize uncontested applications that have a special public interest status such as a) Geographical Name, b) Community or c) IDN (altogether only 242 gTLDs). The sequencing for delegation should follow a round-robin process per ICANN region.

An advantage of processing these categories first is that the adherent direct contention sets (at least 107 applications = 1 Geographical Name, 1 IDN, 105 community) are likely to be solved early in the process.

As a second step an ICANN region based round-robin should be conducted with uncontested applications from single applicants and portfolio applicants who can choose one string as their preferred one, assuming this string has neither objections nor contention.

The round-robin will be continued as long as necessary. Applications in extended evaluation, objection, contention and with GAC interaction will be added to the round-robin pool as soon as their objection and/or contention has been completed.

Would this approach provide sufficient smoothing of the delegation rate?

Our described approach would not only serve the public interest and take the interests of all applicants into respect, it would also allow creating new gTLD success stories for ICANN. Such events are needed to reinforce public interest, trust and reliability in ICANN and are according to ICANN's mission.

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)?

This is a question of facilitating efficiencies in the applications process. The RySG/NTAG group provide guidance on the efficiencies issue which we do not want to echo in detail here. However, with the proposed public interest prioritization and followed by a round-robin method we do not expect any further necessity to downstream delegation rates.

Keeping the said above in mind all applicants should be asked if they want to "opt out" with the consequence of being initially evaluated at a later stage. This could significantly decrease the number of applications to be reviewed ASAP.

Additionally obvious efficiencies should be leveraged to optimize the initial evaluation process. Efficiencies include that the majority of applications used the same registry service providers (question #23-44), that hundreds of applications by portfolio applicants are identical or very similar (question #13-12 and question #45-50) and that applications may be assigned to evaluators in a manner that allow to facilitate such optimization.

Furthermore is it is highly likely that applications that not received GAC Early Warning will also not receive a GAC Advice.

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

ICANN should forward applications in the "transition to delegation" status as soon as possible after they have been reviewed successfully in order to facilitate a smooth introduction of new TLDs into the root.

Provide reasoning for selecting this approach.

The questions should be asked the other way around. Are there any valid reasons why the publication of evaluation results should be withheld to a certain "reveal date"? Obviously no! Therefore ICANN should process gTLDs down the path as they are ready for the next step.

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

Since .berlin is the most known and popular new gTLDs string and is seen as "the mother of all New gTLDs" it would be welcome for everybody including ICANN to see .berlin as one of the first gTLDs going live. In terms of business planning an early approval of .berlin would for sure contribute to a maximum economical success as well.

When it comes to a Batching Procedure ICANN needs to bethink on its Mission, Core Values and the Global Public Interest and not fall for the Portfolio Applicants Line

It is highly inconsistent to value all applications the same through the batching/sequencing process. ICANN has already valued Geographical Names, Communities (except of strings which have been applied for to use as brand or company name) and IDNs differently by attributing a higher weight to them than Standard gTLDs, giving them special categories within the Applicant Guidebook, while also adding restrictions and other requirements to them. This valuation has been agreed upon by a multi-stakeholder consensus within the global Internet Community and cannot be annulled by an instant sequencing proposal. The goals were to give Internet Users more choice, support their language and to protect communities' of high semantic meaning on the Internet. The achievements of the new gTLD program will be also measured against these goals.

Sequencing all gTLD applications in the same manner would compromise these achievements and differences by valuing generic gTLDs such as .BET, .CLICK or .CASINO in the same way as supported public interest gTLDs such as .PARIS, .IEEE or .ORG in Chinese characters.

It is unfair to single applicants, especially the ones without a portfolio of gTLD strings to swap slots (rich applicants pay poor applicants to step back towards a later evaluation/approval date). This mechanism favors the interest of portfolio applicants, who have a greater chance of gaining advantage from this mechanism on average than single applicants. This would compromise what ICANN should represent, especially if it does not take diversity into consideration or take smaller single applicants more seriously or into account. We are strictly against any mechanism which involves money for swapping slots.

Der Regierende Bürgermeister von Berlin

Der Sprecher des Senats/Chef des Presse- und Informationsamtes
Staatssekretär



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Re: New gTLD Program; here: Batching and the Public Interest

Dear Dr. Crocker,

The City of Berlin supports the application submitted by dotBERLIN GmbH & Co. KG for the .berlin top-level domain. As you may recall, dotBERLIN was the first party to ask ICANN for a new application window in order to register .berlin at the ICANN meeting in Luxembourg in 2005 and has promoted and developed the idea of geographic TLDs operated in the public interest ever since.

Today we write to you regarding the proposed batching procedure for the New gTLD Program. It is with great concern that we note the absence of any consideration of the public interest in this proposal for building application batches.

As the guardian of the global public resource that is the Domain Name System, ICANN has a responsibility to ensure that a fair balance between public and private interests is maintained. In our view, the proposed batching procedure could upset this balance, bringing with it the danger that applications by applicants acting in the public interest may be excluded from evaluation for a prolonged time. At the same time, applications without any apparent regard for the public interest seem to be favored by the "digital archery" proposal.

We are confident that you share our view that this is a problematic scenario under any standard of responsible public management.

We therefore urge ICANN to ensure that community-based public-interest geographic gTLD applications are evaluated in the first batch, or given the necessary priority to be approved within a year of the launch of the initial new gTLD application window on January 12, 2012.

Sincerely,

Dr. Richard Meng
Spokesman of the Berlin Senate