



New gTLD Program Status

GNSO Council

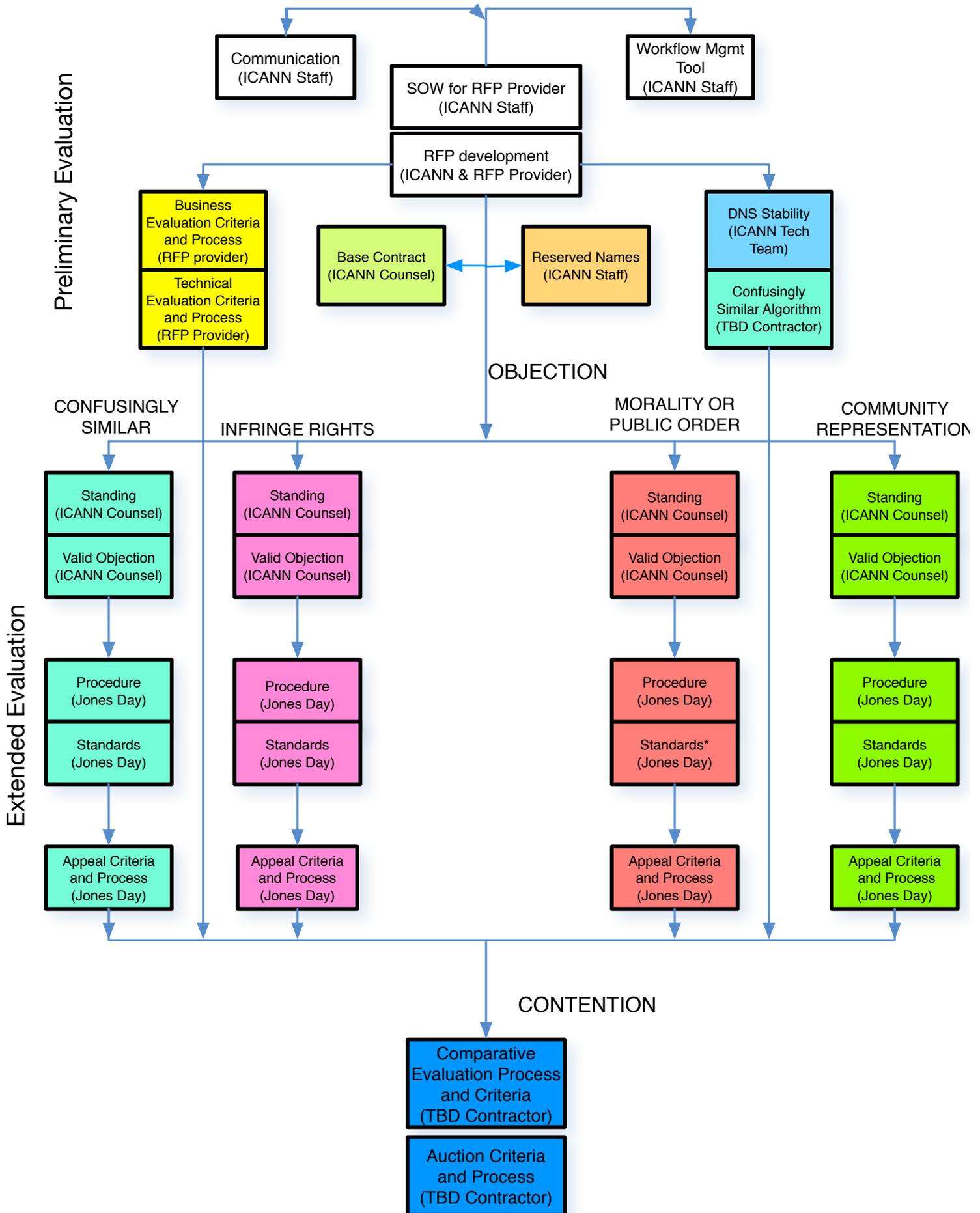
9 February 2008



Agenda

- Implementation plan
- Work accomplished
- Board approval
 - Recommendations
 - Implementation
- Timeline

New gTLD Work Breakdown Structure & Process Flow Diagram



RFP Overall

- Statement of Work released for a party to:
 - author certain provisions (technical business criteria, comparative evaluation)
 - integrate others work elements into RFP
- Retained two providers
 - Deloitte } { – Technical / Business
 - Interisle } { – N.A. / Europe
- Draft evaluation process map completed
- Operational risk assessment/readiness review underway
- Draft communications plan completed + global matrix
- Expect not-ready-for primetime rough draft mid-March

Strings must not cause any instability

- Draft paper addressing recommendation posted for comment
- LDH rules: no “all-number” TLDs
- Number of TLDs constrained by process, not technical capacity of root zone
- Should commonly used file extensions be reserved? (e.g., .exe, .pdf)

Applicants must be able to demonstrate their technical capability...

- ICANN intends to define criteria for a qualified operator
- The technical criteria in the RFP will match the qualified operator criteria
- At the time of application: applicants will state how they intend to meet the technical criteria in the application
- At time of delegation: applicant can either:
 - contract with a qualified operator, or
 - meet the criteria internally

Strings must not be confusingly similar to an existing top-level domain

- Algorithmic approach
 - wrote a statement of work and issued a request for proposals to construct an algorithm for determining whether strings are confusingly similar.
 - received proposals, three parties in development.
- Objection based process
 - standards and procedure contracted and in development

Three Important Recommendations: Objection-based Dispute Resolution

- For each recommendation (3, 6, 20) there are two independently derived products:
 - Standards
 - Dispute Resolution Process
- Different standards are required for each recommendation but many elements of a dispute resolution procedure can be used for all three recommendations

Strings must not infringe the existing legal rights of others

- Standards available in the US and Europe were exchanged and considered. Standards were deleted if they clearly could not be adopted in both sets of jurisdiction.
- The scope of the standards are narrowed to trademark, other types of infringement types (say defamation) are not workable.
- The implementation vision is a set of factors to be considered and balanced by the dispute resolution provider. This standard provides considerably more detail than UDRP but seems appropriate given the stage of the controversy, i.e., the label is not yet in use.

Standards: Protection of Rights

- Factors to be considered in determining infringement of rights:
 - Similar in appearance, phonetic sound or meaning to existing mark
 - Strength of mark
 - Proposed TLD is already being used as a mark
 - Similarity between string and portions of mark
 - Intent of the junior user's bad faith
 - Applicant rights or legitimate interest in TLD
 - Limited defenses enumerated
- The standards also propose protections for:
 - IGOs
 - Well-know marks
 - Previously disqualified names based on this objection

Strings must not be contrary to ... legal norms relating to morality and public order...

- General principles:
 - Everyone has the right to freedom of expression
 - That may be subject to certain narrowly interpreted exceptions that are necessary to protect other important rights.
- A core set of rules or standards derived from analysis of limits upon freedom of expression that exist under the laws of a diverse sample of countries:
 - Brazil
 - Egypt
 - France
 - Japan
 - Hong Kong
 - Malaysia
 - South Africa
 - United States

Proposed standards: Morality or Public Order

- Examples of narrow exceptions under consideration: where to draw the line?
 - Incitement to violent lawless action
 - Incitement to or promotion of discrimination upon race, color, gender, ethnicity, religion or national origin
 - Incitement to or promotion of child pornography or other sexual abuse of children
 - Blasphemy, protection of religion
 - Obscenity / Pornography
 - Sedition / subversive propaganda
 - Incitement to non-violent lawless action
- GAC issues can be addressed through this implementation

Community Based Objections

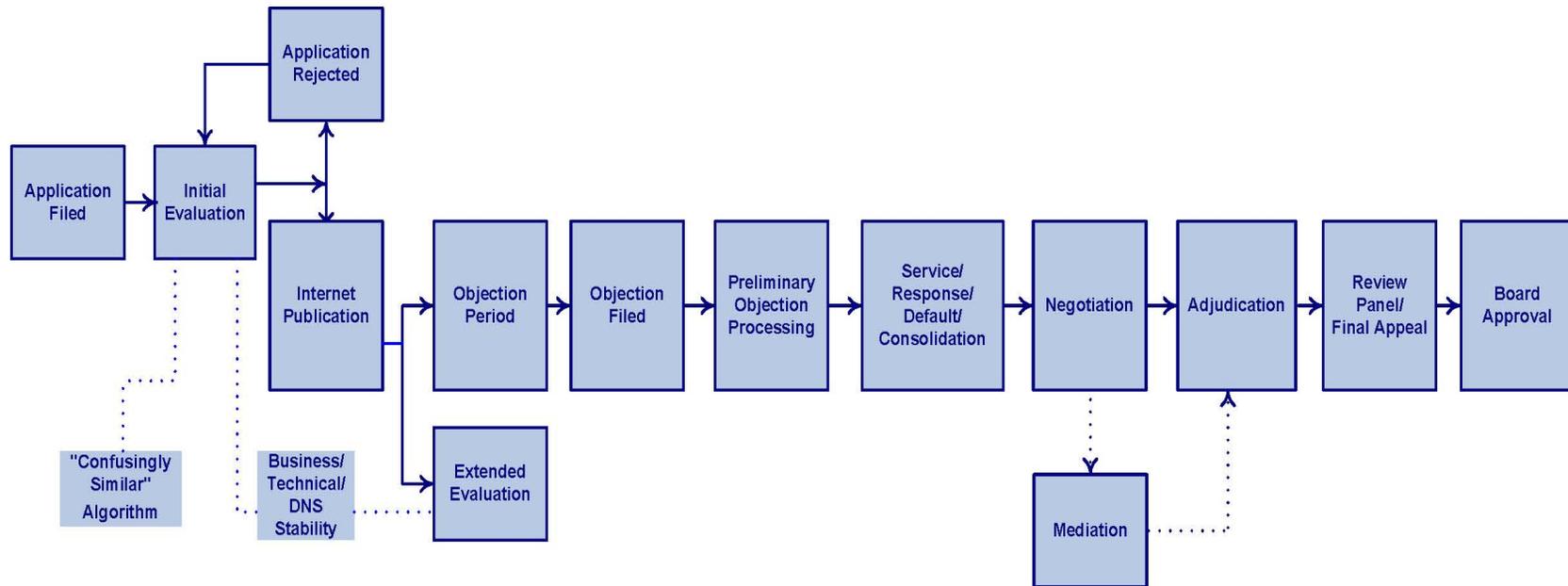
- “An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.”
- Standards being written that:
 - Application results in an objection
 - supported by substantial opposition
 - from significant established institution(s) of the economic sector or cultural community
 - that the TLD is intended to support

Dispute Resolution Process Development

- ICANN drafted dispute resolution procedure to be administered by one or more DRP provider(s) – certain areas are left blank (e.g., some timelines and fees) for collaboration with selected PR provider
- SOW to DRP providers published, meetings are being held this week with selected parties who submitted statements of interest
- It is anticipated that two DRP providers will be engaged:
 - Morality or Public Order / Community Objections
 - Infringement of Rights
- The critical path to project completion:
 - Provider selection
 - Procedure development
 - Process implementation

5 - 8 months ?

"INFRINGEMENT RIGHTS" GROUND



Base agreement terms and issues

- Draft includes:
 - Term with reasonable length & renewal presumption
 - Req't for compliance with Consensus Polices
 - Req't to use ICANN accredited registrars
 - Req't to adhere to failover / best practices
- Issues:
 - Use of accredited registrars: ICANN & registrars to work to support small registries and various business models
 - Study effects of cross ownership of registrars and registries
 - Different agreements for business, governments, IGO's?
 - One fee structure for all TLDs is problematic: fixed fee; transaction based; or % of revenue

Board Consideration of the Policy Recommendations

- Board has considered and discussed the recommendations on several occasions
- The threshold issue is whether the recommendations are “implementable,” i.e., in:
 - a reasonably timely manner;
 - at reasonable cost;
 - in a clear way without onerous process;
 - with a process without deleterious effect on the DNS or competition; and
 - with a Process does not unnecessarily restrict the number of new TLDs

Plan for Board Decision

- Staff provides routine updates to each Board meeting regarding implementation progress
- Implementation work has not been delayed
- Most recommendations should be agreed as implementable, (staff opinion of) work left is:
 - Retaining dispute resolution providers
 - Determining approximate dispute resolution costs and time to implement
 - Settling on dispute resolution standards, esp. with respect to morality/public order and community based objections
- This is 4 – 6 weeks of work

Implementation Timeline

Feb – May	Aspects of RFP published: base agreement; dispute standards and process; technical standard; confusingly similar algorithm/standards
Apr-Jun	Board approves recommendations (<i>staff target</i>)
15 Jun	Draft RFP published
	Communications effort launched
1 Aug	Final DRP in place (<i>accepting middle risk</i>)
15 Aug	RFP amended/posted after synthesizing public comment
~16 Sept	Board approves final RFP / implementations plan
Oct	Actual RFP posted – open for 90 days

Thank You