



GNSO Call for Papers on Terms of Reference for new gTLDs – The dotBERLIN View

1. Should new generic top level domain names be introduced?

- a. Given the information provided here and any other relevant information available to the GNSO, the GNSO should assess whether there is sufficient support within the Internet community to enable the introduction of new top level domains. If this is the case the following additional terms of reference are applicable.

Yes, new TLDs should be introduced. We agree with the arguments why to introduce new TLDs put forward by many others, especially the ALAC. In addition to those, we would like to highlight the following additional aspects:

Diversity of ICANN funding sources

New TLDs enable ICANN to diversify its funding model thanks to the application fees and the ICANN fees paid for domain registrations under the new TLDs. By contrast, in the absence of new TLDs ICANN is strongly dependent on legacy TLD operators for its funding.

Alternate roots and captured lookup protocols

If ICANN does not open the TLD process to additional TLDs, alternate roots and captured lookup-protocols will threaten ICANN's role as organisation which keeps the global Internet community together. Serious alternate root initiatives already exist, for instance i-DNS initiative promoting its multilingual Chinese TLD plug-in, or the ORSN initiative.

Local development alongside globalization

The Internet progresses not only at a global dimension, but also as a local resource of countries, regions or communities. This local development should be supported by new TLDs as well. While ccTLDs do provide a locally oriented resource, there are many large local communities that would best be served with a TLD. The trend to localize the Internet is fostered by the increasing investment of Internet heavyweights and the industry in local portals, e-commerce and search engines.

Diversity and choice decrease speculative pressure

The extension of the TLD name space decreases the incentive of cyber squatting and domain grabbing, thanks to the availability of alternatives.

Whose right is it to say "there is no need"?

We think that the respective communities should decide if new TLDs are needed.

There is no danger of a TLD invasion

Even though the number of existing TLDs dwarfs the number of new TLD proposals ever submitted to ICANN, there still seems to be a misconception on the danger of a TLD landrush.

Since 2000 new TLD RFP it has become evident that the limiting factor is not the ICANN application fee. The limiting factor is the work to be done in the community, the raising of community support, the development of the business plan - in short, the natural viability of the TLD.

This was shown even more clearly in the 2004 RFP round. The limiting factor was not the need to be an sTLD – any proposal could reasonably and appropriately be presented as an sTLD. In 2004 only applicants which had a clear concept, a proven business model and the support of their respective community queued up and in contrast to the 2000 RFP most of them got an approval. And even in the 2004 round, many applications would have been sent later, with better preparation and better



mechanisms for community representation if there had been a continuous, standing application process for new TLDs.

2. Selection Criteria for New Top Level Domains

- a. Taking into account the existing selection criteria from previous top level domain application processes and relevant criteria in registry services re-allocations, develop modified or new criteria which specifically address ICANN's goals of expanding the use and usability of the Internet. In particular, examine ways in which the allocation of new top level domains can meet demands for broader use of the Internet in developing countries.

The selection criteria explicitly and implicitly applied in the previous rounds are widely accepted. These include stability, viability, sizeable TLD community, diversity. We would like to focus on criteria that should be regarded as a plus for a given TLD application:

- Governmental issues (e.g. extent of legislation, industry self-regulation)
- Economic issues (income, etc)
- Technical issues (access, price, geographic distribution, etc)
- Social issues (education, gender, etc)

Governmental issues

In the context of TLDs launched since 2000, governments have been consulted in through the GAC and on an as-needed basis for specific new TLD proposals. In this case, the respective TLD applicant should establish a mechanism for consultation so that issues can be handled directly between the TLD community and the respective governments. ICANN should continue to be to listen to feedback from governments.

The new TLD process should not be designed to refer TLD issues to governments. On the other hand, evidence of support by government agencies or parliaments should be treated as a criterion in favour of a given TLD.

Economic issues

The Internet has become commodity to a large part of the population in developed nations. Even to deprived population groups access to the Internet is granted at welfare centres, schools, and others. This has to be established in developing countries at a larger scale. Sponsored by local Internet providers, welfare institutions like UNICEF or worldwide funds like the UNESCO could be supported. To enable the use of the Internet might be help to achieve sustainability; e.g. to start e-commerce with other nations.

Overall, the potential of a new TLD to foster economic development should be regarded as a criterion in favour of that TLD.

Technical issues

One of the most critical aspects of a broad usage of the Internet is a broad penetration of Internet access points. In developed countries a vast variety of access technologies such as DSL, WLL, WLAN, UMTS, and others enable people to use the Internet. In developing countries these technologies are often not established nationwide. Improving the distribution depends mainly on the business case local Internet providers make. If it brings no benefits to them they won't establish the infrastructure. At the end of the day economic benefits mainly depend on a rising demand for Internet access and services. The goal should be to intensify the local demand and this way encourage local providers to build up infrastructure.

A given new TLD may facilitate the adoption of technologies, and/or make this technology more accessible to a larger population. Any such potential deserves to be regarded as a criterion in favour of the respective new TLD proposal.



Social issues

Certain TLD proposals may have the potential to achieve socially desirable effects in terms of

- education
- access to communication
- gender issues
- promotion of small and medium enterprise (SME)
- rural development
- development of diverse local content
- fair access to resources
- development of local language and culture.

We believe that the presence of any such potential should be regarded as a criterion in favour of a given TLD application.

General issues

In general, a broader use of the Internet, not only in developing countries, has a strong reference to positive experiences with the Internet:

- find what you search
- ease of use
- opportunity to participate (e.g. communication, commerce, ...)
- offerings for deprived population groups

Search is still one of the biggest things on the Internet – why? People don't find intuitively what they are looking for. New TLDs could show an intuitive way to find websites (domain type-in) and could offer more trust and reliability among users.

The rising demand of localized services has to be taken into account as well. By new TLDs ICANN would spearhead the trend of localized infrastructures and would offer more diversity, competition and new revenue opportunities to local communities.

The promise of new TLDs towards a more intuitive use of the Internet and the build-up of infrastructure should be seen as a criterion in favour of that TLD.

- b. Examine whether preferential selection criteria (e.g. sponsored) could be developed which would encourage new and innovative ways of addressing the needs of Internet users.**

Since the development of the Internet evolves sometimes in leaps and is often triggered by unexpected technologies and ideas, ICANN should generally be open to every kind of new TLD.

- c. Examine whether additional criteria need to be developed which address ICANN's goals of ensuring the security and stability of the Internet.**

Currently no new criteria are required with respect to security and stability. As the Internet evolves, new issues may come up and should best be handled through the respective TLD communities, or, when standardization is desirable, through ICANN consensus policies.

It may be worth criteria that need not be added:

- Numbers of TLDs: It is now generally accepted opinion that even hundreds of new TLDs will not threaten the security and stability of the DNS. As stated by several reports the Internet stability won't be affected even by some thousand new TLDs.
- IDN TLDs: It can now be regarded as evident that IDN-based TLDs (assorted with policies defined by the respective language communities) are a positive contribution to Internet security and stability. ICANN should push and develop a specialised process with the respective language communities to ensure which IDN characters should be allowed as TLD letters and what the timeline for IDN TLDs is.

3. Allocation Methods for New Top Level Domains

- a. Using the experience gained in previous rounds, develop allocation methods for selecting new top level domain names.

Application procedure - revolving application windows

The ICANN new TLD process must offer revolving application windows and reliable timelines. Potential applicants need the revolving application windows because the time needed for serious preparation of a TLD proposal varies from one TLD to another. It must be kept in mind that TLD applicants need to build consensus within TLD community, create consultation and decision-making bodies, possibly conduct field tests and surveys, and raise a sufficient budget. Once the application is submitted, the applicant must be able to count on a timeline that will not slip.

As an example for a well structured application process one can regard the approval of pharmaceuticals at the FDA: Companies can apply any time and the following approval process does not last longer than 15 months in most cases.

We propose that ICANN should accept TLD applications at any time, at least in regular intervals like 2-4 times per year. The approval process of new TLDs should be a standing part of their work and should not take longer than 6 months. In the first 1-2 years of this new model it might be a good idea to have a certain application window each year at the same time.

Possible differentiation by type of TLD

- *Open TLDs class*

The purpose for using new TLDs can derive from a very broad variety of different needs. TLDs can be requested by small or large user groups, by closed or open communities, by special interest groups, for economic, linguistical, cultural, religious or other purposes. They can potentially target global, national, local or even smaller audiences. Reasonable TLDs might also cover future trends in business, communication or interaction.

For this reason the allocation of new TLDs should not be limited to a certain type of TLDs. The distinction between ccTLD and other TLDs (gTLDs or non ccTLDs) covers well today's and future trends and is open to applicants who present a reasonable request for an own TLD. We think that there should be, besides the cTLDs only another class, the open TLD class.

- *Descriptive TLDs add value*

But there could be one important criteria for selecting a new TLD string: The descriptive character. If a TLD string is descriptive at least to the community the applicant has defined, it will not only offer immediate certainty and meaning to this community but later also to a larger community on the net. ".de" (abbreviation of "Deutschland") is not self-explanatory to English-speaking people (they would expect .ge for "Germany"), Spanish-speaking people (they would expect .al for "Alemania") and many other languages. But the ".de" gives certainty and meaning to the large community of German-speaking Internet users and users outside of Germany



learned that “.de” are websites by Germans or with German content.

This example shows a fact which cannot be neglected. The “.de” TLD is short and convenient to use for many users and partly self-explanatory to the community which they target, but it also has been learned for more than a decade by the world wide Internet community.

If ICANN grants more TLDs to the DNS it should validate if the new TLD strings are more descriptive and thereby offer more certainty and meaning to Internet users. Good examples are the .info, .travel and .jobs TLD, which are self-explanatory to a broad community worldwide.

But there are also words, like “Limited” or “New York City” which might better serve meaning by their respective abbreviation .ltd or .nyc. Nevertheless it should be up to the applicant to show why the desired TLD string should be the original word or the abbreviation.

- b. Examine the full range of allocation methods including auctions, ballots, first-come first-served and comparative evaluation to determine the methods of allocation that best enhance user choice while not compromising predictability and stability.

Application process in general

The creation of new TLDs has been a bottom-up process which emerges from the Internet community globally. This turned out to be an appropriate procedure and should be the maxim also for the future. Everyone is free to come up with an idea for a new TLD, but there’s nothing wrong with the fact that not everyone will get its own TLD approved at the end of the day. If the TLD idea doesn’t have a valid business model as basic criterion and if it doesn’t add value to the Internet, give meaning at least to the party that applied and fulfils the criteria described below, ICANN should not grant the TLD. Getting a TLD approved should be a reliable process like a building application with certain fixed criteria but also a scope of decision-making by the authority.

2-tier allocation process

To relieve ICANN from the review of too many TLD applications a two-tier procedure could be a practical solution. First step for the applicant could be an independent review of the TLD business model by a renowned international acting management consultancy firm based on Terms of Reference defined by ICANN’s policy. Based on an opinion statement by that firm, the applicant could be allowed for the second step, to ask ICANN for the final approval.

Process in the event of contention

If there is contention for the same TLD string, the parties involved should be given the opportunity to present a joint application, or to submit competing applications by a given date. The TLD should be granted to the party which presents the best application in the interest of the TLD community.

The time it takes for an application to be reviewed is a sufficient waiting period to determine if there is contention. The second contender may be asked to post a bond in exchange for the delay imposed on the first applicant.

Auctions or lotteries are not that kind of steering vehicle that is appropriate for telecommunication regulation or the domain-name-system. The recent experience with UMTS auctions showed that, at best, the delayed adoption of the technology and polarised the industry.

First-come first-serve for TLDs

If ICANN changes its policies to a continuous application procedure the TLD should be granted on a first-come first-serve basis with a blocking of the string during the application procedure. The blocking should become effective after the first phase review of the application which shows that the application is serious and fulfils certain parameters (as described above). This is to avoid that applicants block a



certain TLD string just by spending the application fee. If a TLD string application is based on a certain community it is assumed that the major members of the defined community are supporting this application. It is unlikely that these major supporters also support another similar applicant. In the unlikely event that two parties apply for the same community string (e.g. two cities or two associations) ICANN should ask both parties to work together before granting the TLD.

When should ICANN say no?

Additionally an opposite question should be raised: In which cases a TLD should not be granted? We think, there're some obvious ones for this black list:

- TLDs which harm the DNS in any way
- TLDs which potentially confuse users, e.g. TLDs with mixed IDNs, numbers, punctuations
- TLDs which are too close to existing TLDs, e.g. .com and .comm
- TLDs which reflect internationally known famous and generic brands
- TLDs which obviously offend third parties
- TLDs which are obviously designed for bad faith or illegal use.
- TLDs which only show a very limited support of the community which they are representing

- c. Examine how allocation methods could be used to achieve ICANN's goals of fostering competition in domain name registration services and encouraging a diverse range of registry services providers.

Enhancing global and local competition can be reached by a policy which is open to any kind of new TLD proposals and by this does not limit ideas and innovation. Even a small community can reach this goal.

4. Policy to Guide Contractual Conditions for New Top Level Domains

- a. Using the experience of previous rounds of top level domain name application processes and the recent amendments to registry services agreements, develop policies to guide the contractual criteria which are publicly available prior to any application rounds.

As handled with success at registrar level, ICANN could establish an "ICANN accredited Registry" accreditation. This accreditation should be based on operational, technical, financial and economic criteria.

- b. Determine what policies are necessary to provide security and stability of registry services.

No comment.

- c. Determine appropriate policies to guide a contractual compliance programme for registry services.

No comment.

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