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New gTLD Process Changes

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- ICANN doesn't envision submission of applications before December 2009, second round following approximately 12 months later.
- Major issues identified from public comments need further work before finalizing the process:
 - Economic data on demand for new gTLDs
 - Better trademark protection at the second level of new gTLDs
 - Security and stability of the root zone with many changes happening over the next 12 months (DNSSEC, IDNs, IPv6, new gTLDs)
 - Further potential for malicious conduct from some registrants
- A second draft of the guidebook has been released that provides further clarity around issues such as fees, and geographic names.
- A third draft is expected to address some of the issues above.

New gTLD Application Listing

- ICANN will publish applications at one time:
 - Full application information will be published except for confidential financial and security information
- Objection period will start once applications are posted, and will close shortly after ICANN publishes initial evaluation report on the applications (covering evaluation of strings, financial , and operational capabilities).

Public Comments on Applications

- In addition to the formal objection filing process, ICANN will also operate a public comment process on the applications after posting.
- The evaluators will perform due diligence on the public comments as part of their Initial Evaluation and any Extended Evaluation or Comparative Evaluation.

Community Based Applications

- Community based applications given priority over “open” applications for the same gTLD string.
- Community applications must show:
 - Ongoing relationship with a defined community with a restricted population
 - The string strongly and specifically relates to the community named in the application
 - Dedicated registration and use policies
 - The application is endorsed in writing by an established institution representing the community is has named
- A successful community application will need to seek ICANN approval for material changes in the community based nature of the gTLD.

Application Fee

- Upfront application fee of US\$185,000 unchanged
- Refunds if an applicant withdraws at different stages of the process
 - After posting applications (70% refund)
 - After initial evaluation (35% refund)
 - After any later stage (e.g. during contention) (20% refund)
- If an application goes into comparative evaluation to resolve contention – each party pays a deposit and the winner gets a refund.

Within the guidelines there are no specific restrictions on applying for geographic names - except those considered to represent a country, territory or place name or regional language or people description.

- Now minimum of \$ 25,000 US per year – reduced from \$75,000 US
- \$0.25 US transaction fee in excess of 50,000 names registered

Registry/Registrar Separation

- Registry Operator must use ICANN accredited registrars.
- Affiliates of Registry Operator may be ICANN-accredited registrars authorized to register names in the TLD, provided, however, that together they may act as registrar for no more than 100,000 names registered in the gTLD.
- Registry Operator may not itself act as an authorized registrar for the TLD through the same entity that provides registry services.
- Registry Operator must provide non-discriminatory access to registry services to all ICANN accredited registrars that enter into and are in compliance with Registry Operator's registry-registrar agreement for the TLD.
- Registries must provide reasonable (i.e., six months) notice before any pricing changes are made on domain renewals.

- Applicant needs letter of support or non-objection for the following classes of geographic names:
 - Country or territory names
 - Sub-national names – county, province or state
 - Capital cities
 - Continent or UN region (needs support from substantial number of relevant governments)

- Further clarified criteria:
 - Incitement to or promotion of violent lawless action
 - Incitement to or promotion of discrimination based on race, color gender, ethnicity, religion or national origin
 - Incitement to or promotion of child pornography
 - Other equally generally accepted identified legal norms
- Still deciding on who will have standing to raise objection.

Disputes and Contention Resolution

- In addition to formal dispute processes, applications will be encouraged participate in negotiations and/or mediation.
- Dispute providers will have experts that can be retained as mediators.
- Auctions now proposed as last resort if contention amongst applicants for the same string can't be resolved. ICANN expects that most contention can be resolved without resorting to auctions.
- Any funds will be separated from general ICANN revenue, and potentially allocated to a separate foundation.
- Foundation may address issues of supporting applications in future from developing countries, funds for additional DNS security initiatives, funds for registry continuity activities.

Second Level Trademark Protection

- Melbourne IT working with members of the Intellectual Property Community around proposal for better protection for registrations at the second level for existing and new gTLDs.

Possible Registration of “Protected Names”

- Establish a “protected name registry”
 - No dictionary terms unless name has been adjudicated as a famous mark
 - Must be a word trademark
 - Trademark must have been examined through an examining trademark authority (e.g. like USA or Australian based system)
 - Trademark must have been well established (e.g. 5 years)
- For a protected name:
 - Registrars must do full validation of registrant identity (as for extended validation digital certificate)
 - Registrant must acknowledge trademark rights of protected name
 - Name posted for 30 days before registration and trademark owner may object through dispute process
 - Both parties put up fee for dispute resolution, and winner gets refund

Take-down Process

- Melbourne IT working with members of the Intellectual Property Community such as Mike Rodenbaugh around proposal for scalable take down processes that provide adequate protections for both a complainant and registrant, as well as some protections for the registrar for any action taken.

Possible Take-down for Malicious Intent

- Modeled on Digital Millennium Copyright Act (DMCA) process of USA.
- Registrars must maintain an abuse contact with procedures for filing dispute.
- Rights holder/complainant submits a formal report of abuse complying with documentation requirements.
- Registrar must contact registrant within a defined time frame (e.g. 48 hours).
- Registrant can respond and correct problem to satisfaction of complainant – a mediation process will be available.
- If Registrant and complainant disagree an independent dispute process can be initiated. Both parties pay a dispute fee and dispute winner receives a refund.
- Dispute processes vary depending on abuse cases – e.g. DNS misuse vs. trademark infringement.
- If registrant is unresponsive (e.g. within 72 hours) then registrar may take down the domain.
- Process to be agreed contractually as per UDRP provisions in registrar/registrant contracts.
- Complainants would be responsible for damages for false claims.

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