

## RESPONSES TO QUESTIONS NOTED DURING GAC DISCUSSION ON NEW gTLDs

1. **(Defensive Applications) What is the anticipated time at which the defensive applications issue will be resolved?**

Answer: Several steps were taken leading up to the resolutions referenced below. First was the opening of a public comment period. That public comment period closed on 20 March 2012. ICANN has since published a summary and analysis of the comments made (see [www.icann.org/en/news/public-comment/new-gtlds-defensive-applications-06feb12-en.htm](http://www.icann.org/en/news/public-comment/new-gtlds-defensive-applications-06feb12-en.htm)). The second action was a public workshop during the Costa Rica meeting for open public discussion on the recommendations made in the comment forum. The third action was a series of targeted communications to those most concerned about the issue, which are ongoing. The final action occurred when the New gTLD Program Committee took those inputs and decided as set forth below.

The matter was resolved by the New gTLD Program Committee on 10 April 2012:

Resolved (2012.04.10.NG1), the New gTLD Program Committee thanks the community for its participation in the discussion of this issue.

Resolved (2012.04.10.NG2), while the New gTLD Program Committee is not directing any changes to the Applicant Guidebook to address defensive gTLD applications at this time, the New gTLD Program Committee directs staff to provide a briefing paper on the topic of defensive registrations at the second level and requests the GNSO to consider whether additional work on defensive registrations at the second level should be undertaken;

Resolved (2012.04.10.NG3), the New gTLD Program Committee directs staff to continue implementing targeted communications about the processes used and protections available in the New gTLD Program.

See <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-10apr12-en.htm>

2. **(Root zone scaling) When will the preview copy of the expected documentation be available? When will the document ultimately be available?**

Answer: ICANN continues to work to ensure new TLDs are introduced in a manner that ensures the stable and secure operation of the domain name system. This work includes coordination activities among key DNS operators, ensuring smooth processing of gTLD applications, and operations planning for IANA, compliance, and other functions.

Prior to the approval of the New gTLD Program, ICANN published the report [Board Response to the GAC on Root Scaling \(http://archive.icann.org/en/topics/new-gtlds/root-zone-scaling-15apr11-en.pdf\)](http://archive.icann.org/en/topics/new-gtlds/root-zone-scaling-15apr11-en.pdf) intended to address the GAC Scorecard item. Discussion with ICANN Board members and others indicated that a more fulsome report would better address the need for definitive closure of the GAC-raised issues. Most of that work has been done and the results are being compiled. The report covers risks and risk mitigation for root server operations and root server provisioning (IANA services). The appendix compiles past reports on which this paper relies (such as the "[L](#)" [Root Case Study](#), the [Summary of Impact of Root Zone Scaling](#), [A Root Zone Scaling Explanatory Memorandum](#)), and provides other sources of authority.

A draft report is being reviewed by key Board members and will be furnished to the GAC immediately after accommodation of the Board's comments. We expect interested Board members to discuss it through more than one iteration (there has already been one round of comments). Upon completion of the process, a preview copy can be provided to the GAC as a whole or selected GAC members in draft form so that changes can be made to suit the expectations of governments.

3. **(Root zone scaling) Request for clarification that preview copy should go to whole GAC (i.e., not on a request basis) and status of document (i.e., represents point of view of Board, staff)**

Answer: Confirmed. See response to question No.2 above.

4. **(Batching) When will the criteria for the batching process be decided?** Answer: This has been decided as noted in the Board resolutions of 8 December 2011, (<http://www.icann.org/en/groups/board/documents/resolutions-08dec11-en.htm#1.2>), and 28 Mar 2012 (<http://www.icann.org/en/groups/board/documents/resolutions-28mar12-en.htm>).

The Board decided that a "secondary time stamp" should be used for purposes of determining the application processing order, in the event that gTLD applications need to be processed in batches. A "secondary time stamp" would require applicants who are interested in participating in early batches to obtain a time-stamp through a designated process following the close of the application submission period.

The Board also found that it could not approve a system that would include a random selection process for determining the development of batches.

The Rationale for the Board Resolution includes the reaffirmation of the Board's commitment to the secondary timestamp/digital archery, taken after a review of

alternate proposals for batching processes considered after hearing the community's comments and concerns as raised at the ICANN meeting in Costa Rica. A small group of Board members intensively looked at the secondary time stamp solution, as well as a potential auction solution, and considered the prioritization comments provided by the community.

For the current application round, affirming the secondary time stamp process was deemed the fairest way to achieve a non-random batching solution. It includes a feature that accounts for diversity by using a proportional model to ensure equal geographic representation in the batches, as well as reflecting the results of the secondary timestamp process. The complete Board rationale is available at <http://www.icann.org/en/groups/board/documents/resolutions-28mar12-en.htm>

Operational details for the batching process have been developed. For more information, please see <http://newgtlds.icann.org/en/applicants/tas/batching-basics>. We are still working on an informational video.

5. **(Batching) Will there be public comment on the process?**

Answer: There will be no further public comment on the form of batching process, as the Board has decided that the secondary time stamp model will be used for the first round. Public sessions in Dakar and Costa Rica provided advice that served to refine the model. Experiences and public comment will inform the creation of a batching model for future rounds.

The work remaining at this stage lies in the process mechanics; depending on when this is read, that work is underway or finished as the batching process will be utilized shortly. There is a forum for applicants to ask questions and request clarification on the batching process.

6. **(Batching and EW) If batches are established, does the GAC Early Warning process apply to batches, or to all the applications? Will the batch timelines overlap/coincide with the 60 days currently in the AGB?**

See Response to No. 7 below.

7. **(Batching) Slide says that there would be "flexibility" with regard to GAC timelines for Early Warning – whose position is this (i.e., identify the "we" in the slide)? Is this a formal position of ICANN management or of the board? What does "flexibility" mean exactly? How is this "flexibility" going to be matched with the clear Early Warning deadline included in the Applicant Guidebook?**

Answer: This is an ICANN position, as stated in the Applicant Guidebook: "This [Early

Warning] period is subject to extension, should the volume of applications or other circumstances require.” Thus, the flexibility is built into the process.

ICANN is committed to ensuring that the GAC has sufficient time to provide thoughtful Early Warnings as needed. How that flexibility works in practice is at the discretion of the GAC.

As this is a new process, it is difficult to predict (or limit) the time necessary for the GAC to review applications for potential Early Warnings. Nor do we know how many potentially sensitive TLD applications will occur.

To best serve the interest of applicants, Early Warning should be made as soon as practicable. Also, applicants are more likely to heed an Early Warning received sooner rather than later because their investment grows over time.

A commonly discussed model might have the GAC reviewing batches of 500 applications in 60 days. We know now that there will be approximately 2000 applications (presumably four batches). In this model, all applicants would be notified within 240 days.

Alternatively, the GAC might scan through all applications and eliminate from further scrutiny those that are clearly not controversial or sensitive (remembering that the Early Warning process is intended to be a lightweight process to avoid the need for GAC Advice). In that way, the GAC might reduce the number of applications that require longer review.

The GAC can consider other options. ICANN staff members will provide analysis and support as needed.

**8. (Applicant Support) Is there a foundation to be established, and how will funds be managed? When will these details be available?**

Answer: ICANN will segregate the Applicant Support funds to ensure that there are separate tracking controls for those funds and that they are not commingled with ICANN’s operating fund. Nothing more is required to manage the current funds (the \$2,000,000 Board contribution) earmarked for Applicant Support. ICANN is, however, in the process of determining if any structures or mechanisms need to be established for receipt of other funds; the decision could be made after determining the number of applicants requesting support in the initial round.

**9. (Applicant Support) What additional outreach is planned or can be done in the next few weeks to developing regions?**

Answer: The effort to raise awareness of the Applicant Support Program has been underway for many weeks, as detailed to the JAS WG in a 23 February 2012 report from the Communications Department (attached).

In the final weeks up to and during the application submission period, we worked with the community (most notably At-Large) on grassroots efforts to add an extra push to the more traditional methods already in play, providing tools for them to use in personal outreach. These include:

- Pages on the ICANN New gTLDs microsite [describing and explaining](#) the Applicant Support Program
- An episode of ICANN's [audio podcast](#), *ICANN Start*, dedicated to the ASP. A question-and-answer session with ASP Program Manager Dennis Chang clarifies many aspects of the program.
- Outreach materials being made available to the community include an [ASP factsheet](#) in the six UN languages (being distributed at ICANN 43 in English and Spanish) and an overview presentation.
- ASP social media campaign. This "[Spread the Word](#)" effort, created in collaboration with the At-Large New gTLD WG, features two components.
- A twibbon campaign to assist the community in spreading the word about the ASP. A twibbon is a graphic symbol that can be attached to social media profile pictures to show support for a cause. By using Twitter and Facebook to point to the ASP page on ICANN's website, community members can demonstrate their support for the program to their followers.
- A Quick Reference (QR) code. This code, which can be found on the microsite, is scanned with a smart phone - a quick way to direct someone straight to the Applicant Support webpages. The QR code also enables those who can read English, but may not have an English keyboard, to access the ASP page without having to memorize, spell, or type a Western URL. This idea came from At-Large volunteers.

**10. (Early Warning) Can translations of the strings be provided?**

Answer: IDN applicants are asked to provide the meaning or restatement of the string, in English, and this will be available in the application. Translations of strings will not be provided by ICANN. Information on the envisioned context and meaning of the TLD string is best provided by applicants, not by ICANN or a third-party translator. It is likely that the published portions of the application will make clear the envisioned meaning of the string.

**11. (Early Warning) Which kind of information on applicants will be made available to the GAC? In particular, will information from the due diligence/background checks be available to the GAC to take into account for their advice?**

Answer: The GAC will have access to all publicly available portions of the application. The Guidebook states: "Due to the potential sensitive nature of the material, applicant background screening reports will not be published." Note that in the case where an application did not pass the background screening, it would fail and there would be no need for the GAC to provide advice on the application.

**12. (Cross-ownership) When will the procedure for removal of restrictions (for existing registries for TLDs they operate) be available?**

Answer: ICANN is posting the draft procedure for removal of this last set of restrictions at about the time of this writing. Board consideration will follow promptly after the close of the public comment and reply period.

**13. (Cross-ownership) Competition authorities are not bound to the 90 days period (at the end of which ICANN may decide to proceed with removing cross-ownership restrictions to existing registries). Should not this be clarified to stakeholders, to avoid misunderstandings?**

Answer: This has been clarified with the posting of the process discussed in response to question No. 12, indicating that ICANN's deadlines for its internal process have no bearing on what competition authorities are entitled or authorized to do on their own.

**14. (Second application round) When will the work plan be available? What will it cover (e.g., what conditions formally close the first round, the Affirmation of Commitments reviews, the reviews agreed upon with the GAC, how this is impacted by batches, when the date of the second round will be determined)?**

Answer: The work plan will be available in draft form prior to the meeting in Prague. It will include actions to address the assessments of trademark protections and root zone stability. ICANN committed to those assessments in its discussions with the GAC. In addition, the work plan will provide for compilation and analysis of the results of these

reviews, and consideration of actions to be taken regarding lessons learned from the first round. There will be a consultation to determine whether the Affirmation of Commitments obligations were intended to be a pre-requisite to continuation of the program beyond the second round. While final disposition of every first-round application is not a prerequisite to a second round, clearance of all applications through the evaluation process is also a prerequisite.

**15. (Trademark Clearinghouse) What plans are in place for outreach and communications around the launch of the Clearinghouse?**

Answer: This was discussed with candidate service providers. Communications and outreach are built into the project plan and may include such activities as presentations at events, online materials, publication of articles and/or advertisements, and press releases. The project plan also anticipates a testing phase prior to launch, where rights holders can submit test data to become familiar with the systems and processes, and this will also create an opportunity to promote the opening of the Clearinghouse and build awareness around the world.

**16. (Trademark Clearinghouse) What steps are being taken to ensure the neutrality of the Clearinghouse provider?**

Answer: This is an important question. The RFI for service providers indicated: ICANN takes the issue of conflict of interest very seriously. As such, ICANN must give utmost consideration to a respondent's relationships, businesses, and intentions that have the potential to create a conflict with any of the roles of the TMCH operator.

All respondents should disclose relationships that may present a real or perceived conflict with the mission of the clearinghouse. This includes respondents that have a direct contractual relationship with ICANN to provide registry or registrar services, and those that provide services to any gTLD registry or registrar. In the case of a disclosure of a potential conflict of interest, each Respondent must submit their proposal with a specific Conflict of Interest (COI) plan. This plan should outline the mechanisms that will be used to ensure that there are no perceived or actual conflicts of interest between the responding organization's role in this capacity and ensuring that the interests of trademark holders, registry and registrar service providers, and individual Internet users are not being compromised. ICANN reserves the right, at its sole discretion, to exclude a respondent's proposal on the basis of any conflict of interest.

As such, all respondents were required to answer the following:

1. Indicate whether you are an affiliate of any ICANN accredited registrar, registry or other contracted party or have any ownership interest in any ICANN accredited registrar, registry or other contracted party with ICANN;
2. Indicate whether you provide any advisory or consulting services to prospective applicants interested in applying for new gTLDs. If yes, please detail the nature of those services and any potential areas of conflict;
3. Identify any financial or other interest that would create a source of potential conflict with trademark holders or interfere with the fair and impartial treatment of clearinghouse data.

This topic was discussed with each of the shortlist of candidate service providers, and is being addressed on an ongoing basis in negotiations and implementation.

**17. (Trademark Clearinghouse) Request for a paper to the GAC chair concerning the operational model.**

Answer: After the completion of a series of teleconferences by the Implementation Assistance Group, documentation on the operational model was published on 13 April 2012. This can be found at <https://community.icann.org/display/cctrdmrklrnhgsiag/Home>. Additional forms of information can be provided to the GAC as requested.

**18. (Applicant Support Program) What outreach about the SARP has been conducted to ensure that it can be taken advantage of in the first round? What if no applications are received – what happens to the funds?**

Answer: We have been raising awareness about the Applicant Support Program throughout the new gTLD communications campaign.

We have conducted an online Google ad campaign in 145 developing countries, 35 of which were defined as lowest income; that effort achieved over 5.5 million impressions and over 36,000 clicks to the microsite to learn more. About 3000 organizations around the world have received information about the program. Fifty-nine events were held in 40 countries in all five geographic regions, 20 in developing countries.

Visitors from 195 countries have visited the microsite, with over 446,000 page views; we have 45,000 Twitter followers from all over the world



We've had over 10,000 news articles written about the program; over 2,400 from developing economies.

The number of applicants, or how many may be applying for support, is not yet known. However, we note that the [Applicant Support Directory](#) currently includes 20 organizations requesting pro bono services.

If there are funds remaining, it is presumed that they will be left for a subsequent round, although if the a portion of the \$2MM contributed by the Board remains, it is the province of the Board to decide whether to aid applicants in other ways or redirect funds in another way. Disposition of the funds might also depend on the formation of a fund that has certain legal and accounting requirements.

**19. There are some 31 countries that have foreign exchange controls. These countries are mostly developing countries, where the typical procedures require that an invoice in order to have funds released and paid in foreign currency. However, the application process requires one to pay before receiving the first invoice. This poses an obvious difficulty for applicants.**

Answer: While there are sound accounting reasons why ICANN originally did not include invoices in the application process, ICANN is addressing each applicant concern on a case-by-case basis. For example, ICANN has indicated that a "Remittance" form is included on the TAS website. That has met the needs of some applicants requesting an invoice. In other cases, ICANN has signed documentation furnished by applicants in order to meet their requirements. ICANN continues to work with applicants to ensure that typical procedures do not block or delay applications within all legal requirements.