



New gTLD Program Explanatory Memorandum

Discussion Draft: Community gTLD change request handling

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Background – New gTLD Program

Since ICANN was founded ten years ago as a not-for-profit, multi-stakeholder organization dedicated to coordinating the Internet's addressing system, one of its foundational principles, recognized by the United States and other governments, has been to promote competition in the domain-name marketplace while ensuring Internet security and stability. The expansion of the generic top-level domains (gTLDs) will allow for more innovation, choice and change to the Internet's addressing system, now represented by 21 gTLDs.

The decision to introduce new gTLDs followed a detailed and lengthy consultation process with all constituencies of the global Internet community represented by a wide variety of stakeholders – governments, individuals, civil society, business and intellectual property constituencies, and the technology community. Also contributing were ICANN's Governmental Advisory Committee (GAC), At-Large Advisory Committee (ALAC), Country Code Names Supporting Organization (ccNSO), and Security and Stability Advisory Committee (SSAC). The consultation process resulted in a policy on the introduction of New gTLDs completed by the Generic Names Supporting Organization (GNSO) in 2007, and adopted by ICANN's Board in June, 2008.

This explanatory memorandum is part of a series of documents published by ICANN to assist the global Internet community in understanding the requirements and processes presented in the Applicant Guidebook, currently in draft form. Since late 2008, ICANN staff has been sharing the program development progress with the Internet community through a series of public comment fora on the applicant guidebook drafts and supporting documents. To date, there have been over 250 consultation days on critical program materials. The comments received continue to be carefully evaluated and used to further refine the program and inform development of the final version of the Applicant Guidebook.

For current information, timelines and activities related to the New gTLD Program please go to <http://www.icann.org/en/topics/new-gtld-program.htm>.

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

Summary of Key Points in this Paper

- **Process for Consideration of a Proposed Community gTLD Change:**
 - **Community TLDs may request a change in their charter of registration restrictions due to changing conditions.**
 - **Under what conditions should these change requests be approved?**
 - **The Board requested preparation of a briefing paper for GNSO on this issue.**

Introduction

Background

Over time, gTLDs launched as a result of community-based applications submitted in the New gTLD process can realistically be expected to wish to change some community-related aspects in their approach. To the extent that such changes would affect the TLD operator's registry agreement with ICANN, they would be subject to ICANN approval. Accordingly, a pre-established procedure is required for ICANN to handle change requests of this nature. Under what conditions can a community TLD change its charter, registration restrictions, or obligations to its sponsoring community?

Current experience with change requests from existing sponsored and restricted gTLDs, although of a formally different structure than community-based gTLDs, would indicate both that community gTLD change requests may become common in the future and that they would require a clear and efficient procedure for handling by ICANN.

The procedure outlined below has been drafted as a suggestion in response to that foreseeable need. The ICANN Board directed the formulation of a briefing

paper on this topic for the GNSO.¹ What follows is a straw-man procedure developed to encourage broader discussion. Based on the implementation work that has been done to develop the Community Priority Evaluation model, it could be a useful approach to adapt aspects of this model to a context for considering later requests. This would provide consistency across the new gTLD evaluation criteria and the registry operations.

Since this thinking had taken place and the model had been constructed prior to the Board resolution, it was decided to use the model as the gist for a briefing paper. The model can be used as a basis for GNSO discussion.

1. Definitions

1.1 A Community gTLD is defined as a gTLD that:

- a) has been delegated as a result of a successful gTLD application that was designated as community-based at the time of the application; and
- b) has a Registry Agreement with ICANN that includes community-related aspects, e.g. registration restrictions or obligations to an identified community.

1.2 A Community gTLD Change is defined as a change of any community-related aspect in the Community gTLD's Registry Agreement with ICANN or a change that would materially affect any such aspect.

1.3 A Relevant Community is defined as the community/ies explicitly or implicitly identified in a Community gTLD's Registry Agreement.

¹ In the context of Reconsideration Request 10-2, the Board Governance Committee noted that: "The BGC also thinks that the Board should address the need for a process to evaluate amendments that may have the effect of changing, or seeking to change, an sTLD Charter or Stated Purpose of a sponsored, restricted or community-based TLD. Because such a process may impact gTLDs greatly and is a policy issue, the GNSO is the natural starting point for evaluating such a process. We therefore further recommend that the Board direct the CEO to create a briefing paper for the GNSO to consider on this matter, and for the GNSO to determine whether a policy development process should be commenced." (See <http://www.icann.org/en/committees/reconsideration/bgc-recommendation-09dec10-en.pdf> and <http://icann.org/en/minutes/resolutions-10dec10-en.htm#8>)

2. Process for Consideration of a Proposed Community gTLD Change

2.1 Registry Operator proposes a Community gTLD Change

A Community gTLD registry operator may at any time propose a Community gTLD Change. Such a proposal shall be made in writing to ICANN and include documentation of support for the Community gTLD Change by the Relevant Community (including by entities representing any proposed extension of the Relevant Community, if applicable), as well as by the relevant governments, if applicable.

2.2 ICANN preliminary review of the proposed Community gTLD Change

2.2.1 Upon receipt of the proposal, ICANN will verify its formal completeness and notify the registry operator in writing of any deficiencies in that respect within 15 days. The registry operator may resubmit a completed proposal to ICANN at any time for renewed handling.

2.2.2 Once ICANN has found the proposal formally complete, ICANN will verify whether the documentation of support is consistent with the proposed Community gTLD Change. If this is not the case, the proposal is rejected by ICANN and the registry operator notified thereof in writing, with the reason for rejection clearly stated.

2.2.3 Provided the documentation of support has been found to be consistent with the proposed Community gTLD Change, ICANN will post the proposal for public comments on the ICANN website for 30 days. The proposal, together with any public comments received, will then proceed to the detailed review stage, see section 2.3.

2.2.4 All Community gTLD Changes will undergo review according to the [Registry Service Evaluation Procedure](#). This procedure provides a threshold examination for root zone stability and security issues as well as for competition issues.

2.3 ICANN detailed review

The detailed review of the Community gTLD Change proposal consists of applying aspects of the Community Priority Evaluation (CPE, see [Module 4 of the New gTLD Applicant Guidebook](#)) scoring system for determining if the proposal would imply any changes in score in relation to status quo (i.e. what an unchanged agreement would entail). Such an assessment is done for the first three CPE criteria:

1. Community Establishment
 - A. Delineation
 - B. Extension
2. Nexus
 - A. Nexus
 - (B. Uniqueness - irrelevant in the context since string cannot change)
3. Registration Policies
 - A. Eligibility
 - B. Name selection
 - C. Content and use
 - D. Enforcement

For each sub-criterion, except 2B, it will be noted whether the proposed change would lead to a positive or negative change of the score, or not affect the score. In addition public comments will be reviewed for any opposition to the Community gTLD Change proposal and noted if relevant and coming from any group of non-negligible size, using the standards detailed in the last CPE Criteria, Community Endorsement/Opposition. The assessment is performed by a CPE Panel, providing a reasoned and detailed outcome in writing, including an overall recommendation. If the sum of all identified score changes for the first three CPE criteria is zero or positive, the recommendation would be to accept the proposal, regardless of any relevant opposition identified. If the sum is minus one, the recommendation would be to accept the proposal, unless there is relevant opposition from a group of non-negligible size, in which case the recommendation would be to reject the proposal. If the sum is minus two or lower, the recommendation would be to reject the proposal. The proposal, the detailed assessment from the CPE panel and the panel's recommendation will then proceed to the ICANN Board Approval stage, see section 3.

3. ICANN Board Approval

Based on the documentation provided from the previous step and, if applicable, any RSEP procedure outcome, while also considering the history of previous Community gTLD Changes for the gTLD in question, the ICANN Board may accept or reject the proposal. In case the Board decision deviates from the CPE panel's recommendation, the reasons shall be clearly stated. The registry operator shall be notified in writing about the outcome within five days from the Board decision and may, if the proposal is accepted, implement the change upon receipt of this notification.

4. Reconsideration

gTLD registry operators or other parties affected by an ICANN decision may use the existing Reconsideration processes in the ICANN bylaws.

The authoritative source for information on the Reconsideration process is the ICANN bylaws (see Article IV: Section 2 <http://www.icann.org/general/bylaws.htm#IV>). The reconsideration applies to staff actions that contradict an ICANN policy, or to an ICANN Board action taken without consideration of material information. Information on past reconsideration processes is available at <http://www.icann.org/committees/reconsideration>.

Example

The registry operator of .SUGAR, a Community gTLD launched in support of the American Sugar Producers Association (ASPA), requests a Community gTLD Change to modify their registration policies to allow registration for all entities that are members of associations belonging to the newly established Global Sugar Association (GSA), having most of the world's national sugar producer associations as members, including ASPA. Supporting documentation for this change is provided from both ASPA and GSA.

The first review just notes that the required supporting documentation is at hand and the application is posted for public comments. No registry service change is involved, so no RSEP treatment.

The public comments end with a lot of spam, plus one contribution by the European Sugar Beet Growers Association, ESBGA, claiming that the change would allow European sugar producers to register under this gTLD while not allowing ESBGA members to register, increasing the exposure and market power of the sugar producers to the detriment of the sugar beet growers, already being under pressure by the producers.

In the detailed review, the change is considered as follows, per sub-criterion:

1. Community Establishment
 - A. Delineation - wider community, an aggregate of well-established associations, similar to ASPA, as delineated, organized and pre-existing, so no change, DELTA=0
 - B. Extension - wider community, now global from being national, positive change, DELTA= +1

2. Nexus
 - A. Nexus - although the wider community can be seen as a positive change, the string has a far wider meaning than only identifying sugar producers, so slightly positive, but not to the extent that the change would affect the score, DELTA=0
3. Registration Policies
 - A. Eligibility - still restricted to community members, albeit in a wider community, no change, DELTA =0
 - B. Name selection - the change does not affect this sub-criterion, DELTA = 0
 - C. Content and use - the change does not affect this sub-criterion, DELTA = 0
 - D. Enforcement - the change does not affect this sub-criterion, DELTA = 0

The sum of the DELTAs is +1, the recommendation is to approve the change proposal. The opposition may potentially be considered relevant and by a group of non-negligible size. However, that's immaterial since it only plays a role in a case when the sum of the DELTAs is -1.