

Translations: If translations will be provided please indicate the languages below:										

Report of Public Comments

Title:	New gTLD Applicant Support Program: Financial Assistance																																							
Publication Date:	16 February 2012																																							
Prepared By:	Dennis Chang																																							
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Section I: General Overview and Next Steps																																								
<p>The purpose of this comment period was to gather feedback from community on Applicant Support Program implementation plans, specifically criteria and process to be used. The Applicant Support Program Handbook was revised before publication in early January to reflect the comments received. ICANN will begin recruiting Support Applicant Review Panel (SARP) members in early 2012.</p>																																								
Section II: Contributors																																								
<p><i>At the time this report was prepared, a total of 16 community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.</i></p>																																								
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<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 45%;">Name</th> <th style="width: 30%;">Submitted by</th> <th style="width: 25%;">Initials</th> </tr> </thead> <tbody> <tr> <td>At-Large Advisory Committee</td> <td>Avri Doria</td> <td>ALAC</td> </tr> <tr> <td>Lewis and Roca, LLP</td> <td>Anne Aikman-Scalese</td> <td>AA</td> </tr> <tr> <td>.HIV</td> <td>Carolyn Silbernag</td> <td>.HIV</td> </tr> <tr> <td>Intellectual Property Constituency</td> <td>Steven Metalitz</td> <td>IPC</td> </tr> <tr> <td>Urdu Internet Society</td> <td>Imran Ahmed Shah</td> <td>UISoc</td> </tr> <tr> <td>Joint Applicant Support Working Group</td> <td>Carlton Samuels</td> <td>JAS WG</td> </tr> <tr> <td>International Trademark Association</td> <td>Claudio Di Gangi</td> <td>INTA</td> </tr> <tr> <td>Association for Progressive Communication</td> <td>Joy Liddicoat</td> <td>APC</td> </tr> <tr> <td>Intelligent Use Task Force</td> <td>IUTF Secretariat</td> <td>IUTF</td> </tr> </tbody> </table>											Name	Submitted by	Initials	At-Large Advisory Committee	Avri Doria	ALAC	Lewis and Roca, LLP	Anne Aikman-Scalese	AA	.HIV	Carolyn Silbernag	.HIV	Intellectual Property Constituency	Steven Metalitz	IPC	Urdu Internet Society	Imran Ahmed Shah	UISoc	Joint Applicant Support Working Group	Carlton Samuels	JAS WG	International Trademark Association	Claudio Di Gangi	INTA	Association for Progressive Communication	Joy Liddicoat	APC	Intelligent Use Task Force	IUTF Secretariat	IUTF
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<u>Individuals:</u>																																								

Name	Affiliation (if provided)	Initials
Mary Wong		MW

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

The most comments received were on the issues of evaluation of fee refunds and trademark holder eligibility. Comments are summarized according to topic below.

Evaluation Fee Refunds [financial]

ALAC, .HIV, INTA, JAS WG, MW and UISoc shared concerns about the program’s no refund policy. “Applicants should not be punished by losing their evaluation fee if they do not meet the financial need criteria,” wrote ALAC. “We sincerely urge ICANN not to reject applicants who do not meet all of the criteria. This puts needy applicants at risk,” wrote .HIV.

Trademark Holder Eligibility

AA, ALAC, INTA, JAS WG, and UISoc requested that the Applicant Support Program criteria be changed so that applications for names of communities or other non-governmental entities are not necessarily disqualified from receiving support just because they are subject to legal trademark protection. “Ownership of a ‘trademark brand’ was not intended to be a disqualifier to organizations, such as Native American tribes, that have registered trademarks in the names of their tribes,” commented AA.

Outreach

ALAC, APC, JAS WG and UISoc note the need for raising awareness of the New gTLD Program and the Applicant Support program in developing countries. “The overall Outreach Programme and related strategy needs to be clearer,” wrote APC. The “Global Outreach Program regarding new gTLDs is still not activated in many countries,” wrote UISoc. “New gTLD Outreach activities have redlined certain areas of the world where that outreach is even more desirable,” wrote JAS WG. “Members of the ICANN community with deep ties in...developing countries...can be of great assistance to ICANN,”

wrote MW.

Charitable Foundation

ALAC, APC and JAS WG note that the JAS WG recommendation to form a charitable foundation for fund-raising purposes has not been implemented.

SARP Composition

JAS WG states “more clarity is required on the composition of the Support Application Review Panel.” ALAC and APC agree. From APC: “the composition of the Support Application Review Panel will be viewed critically by those from developing countries. To be credible the Panel must have community and experts external to ICANN who are highly regarded, including for their knowledge of diverse developing country contexts, and who come from the diversity of global regions.”

Allocation of Funds

ALAC, APC and JAS WG note their support for the initial JAS WG recommendation that the USD 2,000,000 would be used not for fee reduction but to fund Registry capacity building in developing economies.

More Specific Criteria and Scoring Mechanism

APC notes “the vagueness of the financial need criteria demonstrates a problematic lack of transparency for support applicants. Applicants in developing countries must have clarity about the criteria against which their applications will be judged.” The UISoc pointed out that “some criterion...is either complicated” or subjective. JAS WG requests “greater specificity and clarity for financial criteria.” This was also raised by ALAC as one of their issues.

Appeal Process

UISoc requests a mechanism for appeal at least within ICANN to hear the complaints of the applicants.” JAS WG called out for an appeal process especially in regard to any forfeiture of evaluation fees.

Timing

“Applications should be proceeded right after the final award announcement, latest in December 2012. Because of ongoing operational costs, further delays are especially hard to bear for socially driven applications who have difficulties in financing their application,” states .HIV. UISoc suggests that the registration and application period be extended from three months to six months for developing economies.

Defined Social Need and Community-Targeted Applicants

.HIV suggested that ICANN amend the definition of “public interest benefit to cultural, linguistic or ethnic communities,” to “public interest benefit to cultural, linguistic or ethnic communities as well as communities with a defined social need.” UISoc asks that “dispersed and isolated” communities that

want to “apply for a gTLD using name of their community area or as geographical names” should also be granted support and should be eligible for Applicant Support Program.

Next Round Eligibility

UISoc proposes that applicant who meet the threshold but do not receive support be issued a “Certificate of Eligibility for next-round of New gTLD Program.”

Short Turnaround Time for Public Comment Period

The IPC questioned the relevancy of the public comment period since it was conducted within two days of applications being accepted.

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

ICANN appreciates the community’s extraordinary efforts to provide comments quickly in order to launch the Applicant Support Program by the opening of the New gTLD Program application window.

The most comments were made on the Applicant Support Program’s no refund policy, and reflecting these comments, the Handbook was updated on 12 January 2012 to allow refunds of the USD 42,000 evaluation fee, even if the financial aid applicant does not meet the threshold criteria, unless the SARP reasonably believes there was willful gaming.

Five organizations requested that the program criteria be modified to make communities or non-governmental organizations that are trademark holders eligible. The Handbook was updated to reflect this change.

The New gTLD Outreach Campaign has included the Applicant Support Program in its outreach activities. Many more Applicant Support Program awareness activities are currently in progress. Support from the ICANN community will be crucial in raising global awareness of the program, particularly in developing countries.

ICANN is evaluating possible structures to facilitate donations for the program. Details about fundraising will be made available in the near future. ICANN encourages community participation in this endeavor.

A team consisting of ICANN Board and JAS WG members was asked to review and comment on the draft solicitation for Support Application Review Panel (SARP). The draft used as a foundation the recommendations from the JAS WG Final Report.

Regarding the allocation of the USD 2,000,000, ICANN stipulates that it will be used for reduction of evaluation fees. Any additional monies generated through fund-raising efforts will supplement ICANN's initial allocation of USD 2,000,000.

The criteria and scoring mechanisms were designed to allow the SARP flexibility to evaluate each application on its own merits. However, ICANN has amended the process to refund most of the USD 47,000 evaluation fee if a candidate does not meet threshold criteria unless SARP reasonably believes there was willful gaming.

Several comments called for an appeal process. Various appeal processes were considered. It should be noted that one of the concerns of the JAS WG was to ensure that funds would be received by those with legitimate need, and that Applicant Support mechanisms could not be misused by others to gain a financial advantages. Appeals would cost and divert funds as well as delay final decision. Also, appeal would not necessarily give better results. It could be noted that this is not a case where a party has an existing right that would need to be protected, but instead applicant is seeking a benefit and therefore a more lightweight mechanism is appropriate.

Regarding the issue of processing applications immediately after the final award announcement, it has been determined that applicants will be placed in the last batch, unless promoted to an earlier batch due to string contention.

The threshold criteria were updated to include communities with a defined social need and community-targeted applicants.

It was proposed that applicants who have obtained a threshold score but not received funding should be issued a Certificate of Eligibility for the next round. ICANN does not plan to incorporate this change at this time. ICANN intends to review the Applicant Support Program after the first round to determine whether adjustments should be made to the process or criteria. Additional fund-raising activities are being undertaken to support as many applicants as possible. In the event that the number of qualified applicants exceeds the available funding, it is not the intention to issue certificates since the procedures in future application rounds may vary. ICANN wishes to preserve the flexibility to make adjustments to the applicant support mechanisms accordingly.

Finally, ICANN acknowledges the observation that this is a fast-developing project. It was important that the Applicant Support Program launch at the same time with the New gTLD Program to accommodate the applicants who are seeking financial assistance. ICANN thanks the community for its efforts to comment.