

Performing the function of the vendor in charge of the CPE in the new gTLD's programme is a very delicate task, that requires a lot of knowledge and expertise in many different fields. So it is important to keep in account a lot of factors and to rely on various competent bodies external to ICANN.

- 1) The vendor has to duty to approach relevant existing bodies among international organizations that have the authority to confirm or not the representativeness of the applicants in CPE, because no vendor in the world could have 360 degrees expertise on all kind of communities that exist in the world;

In gTLD round 2012 the Olympic Committee was not approached to confirm the nexus between a sport federation applying for a name and its community; similarly was not approached the World Council of Churches for the applications related to religions (dot.catholic) ; nor the Human Rights Council about possible implications related to application such dot.gay. So in page 6, in the ROLE OF VENDOR definition, would be appropriate to insert that it has not only to cooperate with ICANN, but also with all the other international organization that could be relevant for the identification of a community (UNESCO for community representing indigenous languages; WIPO for community build around brands, IOC for sport federations and so on). So in page 7 would be better modify the current phrase: "This can include consulting relevant experts on specialized or localized communities." into "Is **highly recommended** consulting relevant experts on specialized or localized communities **according to an established list of resources established by ICANN**"

- 2) The vendor has the obligation not only to apply, but also to interpret the norms of the guidebook.

There are enormous differences among economic based communities (95% of the communities recognized in the gTLD's round 2012 belong to this category : dot.bank, dot.insurance, dot.radio, ...). The AGB rules for community have been conceived for that category and are very difficult to be fulfilled by non-economic community. The classic example was dot.music, that despite it was supported by all kind of associations from all over the word, didn't was recognized as such, because there was not only one single entity representing all of them.

There are community that could never obtain the global recognition, because the link that keep them together is something that is not socially accepted or even legally possible in a certain number of countries. Let's think to an application for dot.democracy that cannot get support in the authoritarian ruled countries or to dot.gay in countries where such practices are considered criminals.

In the AGB 2026 there are some significant progress compared to the previous one (such as p. 13 "However, the panel should take into account different types of communities in evaluating this sub-criterion ..." or p. 16 "The panel should keep in mind that longevity may differ based on the nature of the identified community For example, in some countries or regions, the continued existence

of certain communities may be threatened by national or international policies, and the panel should consider that longevity would be measured differently for such a community")

But this concept is not really taken till the extreme but logical consequences. If "democracy" is not an accepted concept, let's say in 100 countries of the world, how many of the 6 points for "Community establishment" will be attributed to an application that is present in "only" the remaining 97 countries of the world? 2 out of 6 because that concept is banned in 55 of the UN country members? or 6 out of 6, because it covers 100% of the countries where this form of government is accepted? The point at page 9 on CONSISTENCY needs then to be revised: "Consistency: Apply scoring evenly across all applications."

- 3) The vendor has to install a dialogue with the applicant and not only proceed by "tabula".

In the 2012 CPE process, the contacts between the applicants and the vendor in charge of CPE were initially forbidden. The only communication possible was through documents sent without receiving any feedback, even without knowing if we were exactly what the vendor was asking for. Only after many months some sort of relations were established. If this contact would have been established since the earliest days, many misunderstandings could have been avoided. So at page 7 first paragraph, could be good to explicitly mention that the Vendor could approach the applicant for clarifications before to conduct limited independent research, because this dialogue could allow to better define the researches to be made or, in some case, make those superfluous.

- 4) The abusive objections are not penalized and remain possible in the current procedure, but could be very damaging for community applicants and, more in general, for ICANN impartiality and credibility.

The experience of the previous round showed that some of the objections raised were absolutely unfounded and were solicited by other non-community applicants for the only scope to torpedo the community applications. This abusive and anticompetitive behaviours have to be discouraged and sanctioned. The vendor -in case will detect one of these cases- needs to alert the GAC staff and eventually the Ombudsman in order to apply sanctions against these activities. See page 22, table IV COMMUNITY ENDORSEMENT.

Here again the guidelines need to be clearer in the consequences of abusive oppositions on the score about COMMUNITY ENDORSEMENT. In case of oppositions recognized as abusive or not founded or submitted for filibustering purposes, this has not to be taken in consideration when points will be attributed and the whole 4 points could be attributed. In 2012 some final evaluations -even if CPE recognized the objections were unfounded or raised by minor entities- one or two points were not attributed, simply because there had been objections. Now the case is clearly evoked at page 24 CONSIDERATIONS FOR CRITERION 4, thanks to the previous discussions had during the preparation phase, but unfortunately there is no mention of sanctions.

- 5) The timeline of the CPE is also very important for community applicants. But in this new version of the Guide for the Vendor, this problem is substantially ignored and neglected. At page 7 it is written: "Evaluation Panel Activities ICANN anticipates that the CPE process will take approximately 90-180 days from the time that the CPE panel begins its evaluation until the publication of evaluation determination, depending on the complexity of the evaluation."

Who wrote that text, forgot (or simply preferred to forget) that the average duration of many CPE processes was much longer than that. Some of the cases lasted 4 years. It's understandable that ICANN tends to forget the mistakes of the past, but this will bring inevitably to repeat it again. The cases that lasted longer where those were there were richer and more powerful groups interested to the same strings that some communities wanted for their own members. The main technique adopted by the more powerful groups was to prolong indefinitely the process, in order to multiply the expenses (legal expenses, participations to ICANN meetings across the world, expert's fees, and so on). Some of the community applicants simply ended their resources and have to negotiate a way to recover some of their expenses, before to surrender to their richer competitors. This happened simply because ICANN process was not able to put real boundaries to duration of the various recourses. A first objection, then a second, then a third, then a new community representative appearing from nowhere contesting the legitimacy of the Community endorsement, then a recourse to the Ombudsman, then something else. If somebody would have a look at what happened in 2012 CPE, could find plenty of examples. And this time again, no provision is taken to prevent that the same will happen again. The richer applicants could imagine (like in 2012) that could be possible to drag their feet until the poorer community representatives will give up. It's not easy to imagine how to avoid this, but some solutions were proposed after 2012, but have not been taken in consideration. One, for instance, was to establish a clear calendar for each step of the process, without possibility of additional recourses or objections. Another one would be to set up some money for legal assistance for community applicants that finish victim of a prolonged challenge to their application, to avoid that -has happened in 2012- they shall give up simply because they finished their resources before the end of the process.

- 6) The public general interest has to be the main guidance criteria for the whole exercise of the evaluation of Community application. In case of doubts, because ICANN recognized the COMMUNITY applications as a special category necessitating of a special treatment, this has to be the North Star guiding principle for the Vendor in charge of the CPE.

This could avoid some of the main problems that occurred in the gTLD last round. Would have been more important to attribute dot.Africa to a private company or to the African Union ? and dot.spa to the inhabitants of the homonymous Belgium town or to a company selling TLD to thermal baths ? Unfortunately, this general principle and criteria is not stated anywhere in the vendor evaluation guide, and so the North Star seems to

be again only the money making, even if the AGB officially recognizes and praises the special role of the community TLDs.

- 7) The role of the vendor could also be pro-active during the CPE process in order to facilitate cooperation among various competitors for the same string as community. Currently the only solution proposed in case of more community applicants competing for the same string, is to auction. This would be good for the ICANN treasurer, but would a defeat for the community ideal that ICANN intend to preserve

Consider for instance the “romanch” language community in the Alps. There are at least 6 main variants of this language recognized only in Switzerland, and the same exists in the Italian side of the same mountains called “ladino” and in other valleys around. Let’s imagine that more communities of this same group would apply, and all of them having more or less the same characteristic (size, numbers, official recognitions, etc.) the Vendor could or to reject all of them (because none of the prevails under the profile of Community establishment and Community endorsement) or bring all of them to the auction.

On the contrary, an ICANN that really cherish communities (according to its own principles) could play a proactive role, asking these competing applications to find an agreement and cooperate together. But no trace of such pro-active role exists in the current Guide.