

To: Cherine Chalaby  
Chair, Internet Corporation for Assigned Names and Numbers (via email)

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15 May 2018

Dear Cherine,

### **New gTLDs, New Measures**

At ICANN61 it was refreshing to hear from the variety of registry operators that have been working hard to make a success of their new gTLDs. In the Cross-Community session "A Walk in the Shoes of a New gTLD Registry Operator"<sup>1</sup> the measures of success demonstrated by the different registries were noticeably different to those of legacy TLDs, which often focus on a very narrow measure; the volume of domains under management.

Many of the new registries launched from the 2012 application round are not driven primarily, if at all, by the number of domain names they manage. Instead, they have a stronger focus towards registering domains for purposeful and positive needs. Examples covered during the ICANN61 cross-community sessions highlighted the following:

- Brand TLD (dotBrand) registries do not have a revenue-based motive for operating a registry; it is a cost borne by the business to provide a stronger platform to manage their online presence, communications and business operations. It is a trusted space that is controlled and operated from the registry operator at the root of the Internet all the way through to delivery to Internet users.
- Highly-restricted TLDs, such as .bank and .pharmacy, apply strict controls from verification of registrants through to higher standards of operation within the Top Level Domain environment, providing assurances to users and confidence that they are dealing with legitimate organisations. These communities self-regulate their registry, applying levels of controls far in excess of the minimal requirements you find in open, commercial TLD registries.
- Geographic TLDs, particularly capital cities, such as dotBerlin, have developed TLDs with a strong sense of community and purpose, something shared by other generic-termed TLDs, such as .art and .design.

### **Zero-abuse**

Importantly, we also heard how the ability to operate a registry with strict controls over who can register domains and how they can use the domains has a positive effect for Internet users by minimising abuse and confusion. Significantly, no domain name abuse or domain name infringements have occurred within dotBrand and highly-restricted registries, something that should not be overlooked or disregarded as a measure of success for New gTLDs.

This "zero-abuse" is an important factor for the domain industry as it moves into an active GDPR environment in May 2018. Concerns raised by governments, law enforcement, intellectual property protectors and security organisations, in the context of investigating and responding to domain abuse and infringements, become irrelevant where a registry operates without any abuse.

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<sup>1</sup> <https://61.schedule.icann.org/meetings/647616>

## **Quality not quantity**

Domain names have long been treated as a commodity, providing low-cost and low-risk opportunities for acquiring domain names, absent of any need for a purpose or intention of use. Whilst many domains exist in legacy TLDs and ccTLDs are registered for a valid purpose and intent, they share rent with thousands of other domains that are registered with the desire to mislead, confuse or defraud Internet users. In response to these negative behaviours, volumes of domains have expanded, unsurprisingly, for protective purposes to counter trademark infringements and abuse across gTLD and ccTLD extensions.

Volume, therefore, is not necessarily a reasonable measure of success. Context and the scope of use is also an important factor.

A registry operated as a dotBrand may have a handful of domains registered but these could support a global organisation's online business, communications and much more, serving millions of Internet users. A highly-restricted registry, such as .bank, may have a few hundred registrations, with verified registrants and stringent security controls associated with using a their .bank domains. Both examples are of registries that have a sense of purpose, a backbone, that ultimately provides safe and trusted environments for online users. They do not need high volumes of domain names to provide these benefits or to sustain their registry.

## **Long-term aims, not short-term gains**

These successes highlighted in the cross-community session should not be a surprise, the intention of the New gTLD Program was to promote choice, competition and innovation. We are now witnessing the positive effect of these new registries that are performing effectively and with a sense of purpose. This is not by accident, but derived from long-term strategies and delivered with enthusiasm and commitment of these registry operators.

Regrettably, we often hear of complaints of the New gTLD program being slow to gain traction. But this ignores the introduction of different models, models that have different ambitions than simply replicating what we have seen before, models that compete in different ways, models that safeguard Internet users (not just registrants) and models that will unlock further innovation in the DNS.

## **Next opportunity for New gTLDs**

Despite the promise of launching "subsequent gTLD application rounds as quickly as possible" after the 2012 round was launched and "within one year of the close of the application submission period", there is no clear indication from ICANN when the next opportunity to apply will begin, with six years having already passed.

Organisations that did not apply in 2012 in the anticipation that they could apply 12-24 months after, have been misled by ICANN's intent. Before risking further loss of faith from prospective applicants, ICANN should set a deadline for the next application window to start. ICANN should be more proactive in meeting its commitments and allow new applications to commence within a reasonable published timeframe.

Notwithstanding the incredible efforts of the community to conduct New gTLD reviews and policy improvement programs, six years is already a significant and embarrassing gap between application rounds, a gap that continues to grow. No doubt there are some complex issues involved, derived from the experiences of the 2012 round. However, for the majority of applications there were few or no issues, or those issues were resolved as part of the post-application process and prior to delegation. On this basis, it should be reasonable for ICANN to move forward and prepare for a new application round.

Even if ICANN limited the next round to certain types of applicants this would help ICANN to continue to promote choice, competition and innovation, following the years of delay. The crite-

ria could, for example, be limited to the types of registries considered to be low in risk of domain abuse and infringements, thereby safeguarding users. In other words, these types of registries could be regarded as “in the public interest”.

However ICANN chooses to progress to the next round, the application window needs to be sooner rather than later. The demand exists but may wane if ICANN does not deliver on its commitment.

### **ICANN Budget & Reserves**

Recognising the years of work that have already been consumed in relation to New gTLD reviews and policy development, it was alarming to hear that the ICANN budget drafted for FY19 was absent of any funding to support preliminary implementation work for the next application window, even though the GNSO Subsequent Procedures PDP work should be completed before the financial year concludes.

This oversight may have been caused by the budget constraints in response to runaway costs over the preceding few years that has affected the level of reserves, but it is also short-sighted. With demand for more TLDs, ICANN could drive forward the next application window in a reasonable timeframe, providing new revenue streams to support the organisation longer term. At the very least, this should be signalled by ICANN by way of anticipating implementation work to begin during FY19, along with a suitable budget.

### **A positive reflection, time to do more**

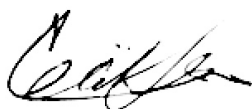
The Brand Registry Group (BRG) hopes that you and your Board colleagues are encouraged by the examples of different New gTLD operators that were presented during the ICANN 61 cross-community session, and acknowledge their different perspectives of success. It is important that the Board is aware of these different models and how they can have a positive influence on the domain industry.

We also hope the Board can leverage these use cases and their benefits to be more confident in driving forward with the next application round. The continuing absence of a target date strongly indicates a lack of commitment and confidence from the Board to deliver against the intention of the Applicant Guidebook. To this point, the BRG would encourage the Board to take the initiative and set a target date for the community and potential applicants to work towards.

The BRG is aware of and continues to participate within various policy development activities to help improve the application process in future. We also appreciate that the next round requires planning and implementation work that will, in part, be directed or influenced by the outcome of these community work activities. Nevertheless, this should not prevent ICANN from planning and developing the implementation work based on previous practical experience, input from the community during the GNSO PDP Subsequent Procedures PDP, and, where necessary, predicting the likely outcome of these discussions. This should be supported with appropriate resources and budget and commence at the earliest opportunity.

The time to do more is long overdue.

Yours sincerely,



**Cecilia Smith**  
President, Brand Registry Group