

Getting Ready:

Understanding the Applicant Guidebook Questionnaire

Fred Felman: I'm Fred Felman. I'm the Chief Marketing Officer of MarkMonitor, and today we'll be covering "Getting Ready: Understanding the Applicant Guidebook and Questionnaire."

We've got a great set of panelists and just before we get into introducing them, let's talk a little bit about the program today and also the agenda, and then we'll introduce the rest of the panelists. First of all, setting this in context we've got a launch date, there's a stable Guidebook according to the staff – it's not going to change much between now and the launch date, and we've got an administrative and technical backend that's ready to go at this point.

So now it's time to start getting ready to actually launch the program and make things happen, so our purpose today is to familiarize ourselves with the questionnaire that's included in the Guidebook. Now, because it's a very long document we probably won't get into every detail of it. In fact, we could probably spend hours on individual topics but we'll familiarize ourselves with it. We'll consider the purpose of the questions and we'll discuss the

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NAME OF SESSION IN THE CORRESPONDING LANGUAGE

implications of the applicant's answers in the context of the Guidebook.

So just before we get to introducing folks, let's think a little bit about what the purpose of the questionnaire is in fact. Really primarily it's there to assert the suitability of an organization to be able to manage a part of the DNS. Secondly you may find it's helpful in terms of enumerating the benefits and possible risks that your TLD might face.

Another piece that's important to understand with the Guidebook is that it's divided into a public section and a non-public section, and we'll get into that in a little bit more detail. But it's important to understand that this piece that's public facing is an opportunity for you to market to the community as well, so you'll have a chance to actually tell people what your TLD is and what advantage it provides. Now, additionally it's an opportunity for you to think about what contention and what objections you might face, and also scope yourself around the potential objections and contention.

Let's get a little bit of housekeeping out of the way. The session's being recorded and it's going to be carried on the ICANN website,

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so we're going to take the questions at the end of the session. So if you have a piece of paper grab it and make sure that you write down any questions that you might have. We'll take questions at the end of the session, and we'll be dividing questions between here in the room and also those that are online with the help of Carole and staff, so thanks very much for that.

So let's talk about our agenda. First we'll do the panelist introductions. We'll do a brief discussion of the structure of the Guidebook and then we'll go through each one of the sections with each one of the panelists leading some of the aspects of the discussion of the sections of the Guidebook itself.

So with that I'd like to start directly to my left with Tom Barrett and give him a chance to introduce himself.

Tom Barrett:

Hi, I'm Tom Barrett, the President of EnCirca. We're an ICANN-accredited registrar and plan to be a registrar with the new TLDs as well.

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Sarah Langstone: Thanks, Tom. My name is Sarah Langstone. I'm the Director of Product Management at Verisign. I've been working at Verisign for nearly 11 years and in that time I've managed ccTLDs, gTLDs, sponsored TLDs; and I'm now working in the New gTLD Program.

John Matson: Hi, my name is John Matson. I'm COO of Architelos. Through the last two years, prior to Architelos, I was part of a consulting group that pursued the panel evaluation process for ICANN, supported the process of benchmarking registries as well as evaluating the criteria used here in the technical and financial questions.

Mike Rodenbaugh: I'm Mike Rodenbaugh. I run a small law firm called Rodenbaugh Law in California. Background around here is I was on the GNSO Council that adopted the initial policy recommendations that were approved by the Board and I have participated in just about every working group it seems like related to the new TLDs since then.

Chris Wright: Hi, my name is Chris Wright. I'm the CTO of AusRegistry International. We're a registry operator and we're providing registry services to various TLD applicants.

Fred Felman:

Alright, so let's talk a little bit about the structure of the Guidebook. First of all, before we get into some of the details of the questions and question sections there are a couple of slides that lead into this, and these are the slides that I refer to as the RTM pages – “read the manual.” Some people insert another letter in between the “T” and the “M” in technology.

So really it's important for you to understand that you must read this, and in front of me I have a lot of rich and interesting life. I actually read the Guidebook on my way over here from the US again, and some of it is enriched by the length of this. So it's important for you to actually look at the Guidebook itself and answering these questions is going to be helped by actually looking at how it is in context.

With respect to the questionnaire itself, it's in Section 2. It's an attachment to that section, it's about 50 pages long and it's very helpful in that it gives you the question, it tells you whether it's going to be included in the public or private sections of the posting. It gives you notes on how to answer; it explains how you might be scored; the criteria and it also gives you some of the scoring details. And it's in a table that's pretty easy to understand. It's not very helpful unless you do read Section 2 of the Guidebook

where it explains how these questions will be evaluated by who and in what part during the process.

So with respect to what ICANN is looking for, they've provided this slide. They're looking for the fact that the answer meets their minimum requirements, that the applicant shows a demonstrated capability and knowledge of the minimum requirements, and the answers are clear, relevant and within the space limits. And that's important – they recommend the space and they also give you outlines in a lot of cases of what you must do to answer.

And just before we get into it, so the meat of it again – the first questions, 1 through 30 are focused on who you are, the registry service and the type of strings, and these are public-facing. And then the second set are internally facing. This is where you get into the technical details, the operational details, the financial details of your registry. And it's no small task. I mean there are nearly 50 pages. There are five pages alone on certain sections. I think there are 20 some odd pages with respect to the technical requirements. So it's actually a complex document and there's sub-questions – it's not just a yes or no kind of thing.

So now let's start to think about this in a little more detail, and I'd like to start with questions 1 through 12. This is where you'll be providing applicant information, contact data, legal establishment, background and evaluation fee. And it's still complex and there's some strategy involved with respect to how you answer these questions. And aside from avoiding the risk that the applicant has no pulse or can't read, John, what are the considerations that somebody might think about as they go to answer these questions?

John Matson:

Well, they do need to have a pulse and they also do need to be a corporation or legal entity that represents such. You cannot apply as an individual alone or a sole proprietor. The process – so on January 12th the application window will open, and what you'll do is there's the application system TAS that you'll need to register in as your entity. And you'll also need to pay \$5000. Now, it may take a week, a week and a half or more for you then to get a login that will now allow you to access the system.

From that, you'll need to enter in the answers to all your questions, but you need to realize it may take a long time to answer these questions. And so with a three-month window you definitely don't want to wait till the end in order to start this process. We would encourage you to start it as soon as possible. Other parts that you will need to identify your executives, your officers, anyone who is

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a shareholder or an equity holder in the company because they'll need to do background checks. And so personal information will be needed. It won't be disclosed but you'll need to identify it, and Mike will talk a little bit more about that later.

The other part is that if you make any material changes to the information that you put in your application, you must let ICANN know about that. But the main thing is get in early, reserve your spot, and start filling in the application.

Fred Felman:

Mike, crime and criminality are one of the bigger potential risks associated with running part of the domain naming system, and there have been some incidences where people have abused the system rather profoundly. And so ICANN's sort of scoped the background check process into this. Can you tell us a little bit about that and what types of activity might render an organization ineligible?

Mike Rodenbaugh:

Sure. It's a bit of a long list. It's in Section 1.2 of the Guidebook but essentially it's at two levels. ICANN will do background

screening both of your entity in the event that it is not listed on one of the 25 largest stock exchanges in the world. If it is you passed the background screening at the entity level. And also for the individuals involved as John said, it's directors, officers, partners, any shareholders with 15% or more of the shares.

And the idea is to prevent people from running a registry who have been convicted of a crime of trust or who have some sort of criminal history in that regard. The standard is taken from the banking industry in a lot of respects but it's also broader than that. So but for financial crimes, if that was done within the past ten years by any of those designated officers then you're going to fail the application, where there's also additional provisions that say if you've ever been convicted of any crime involving the use of computers, telephony systems, telecommunications or the internet then you're barred ever, including also any violent crime ever – then you're barred.

So it's pretty stringent requirements as far as the criminal history goes, as well it probably should be. In addition to crimes you also will be barred if you have a history of cybersquatting behavior, meaning a pattern of final decisions is the standard so it's a little amorphous – we don't know exactly what that means. But it does give the example that if you've had three or more adverse final

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cybersquatting decisions or also reverse domain name hijacking decisions against you, and one of those was in the last four years, then presumably you're going to fail this aspect.

Fred Felman:

Excellent, and so you mentioned actually, Mike, just as a follow-up, that if you're a public entity and you're traded on the top 25 exchanges that you're exempt from this. Some people have talked about potentially forming separate entities for this and I guess that's sort of a balance. Do you stick with your existing entity that has listing status on this exchange or do you actually form a new one for other legal reasons?

Mike Rodenbaugh:

Well, if you have convicts on your board then that certainly becomes an issue. But no, it's a huge issue to decide what sort of entity should be the registry operator, where that entity should be located and of course who specifically you're going to put forward as the individuals operating that entity.

So with that, I guess just underscoring what Mike said is be very careful. Watch who is on your management team because it could actually make it so that you are in fact ineligible if there's someone who is not eligible. So you should make sure that actually you potentially think about running a background check on everyone just to make sure there aren't any nasty surprises when you get to this point because \$185,000 is a lot of money to lose in this.

So, with respect to questions 13 through 17, naming the baby is one of the hardest tasks if you're starting a family, and if you look at the TLD process it's a bit of a family process I'd say. And I'm sure there are a lot of spirited discussions going on in the hallways here about what people might call their TLDs. And another very interesting thing about this, and I know that we have a lot of international participants here in Singapore, is that with this round of TLDs there's also the possibility of international domain names. And with the growth of internet usage occurring mostly in places that don't use the Latin script, that's a pretty important growth area.

And I was sort of hoping that Sarah might talk to us about some of the requirements for IDNs and thinking about how someone would choose an IDN and that process.

Sarah Langstone:

Yes, thank you, Fred. Well obviously the introduction of IDN new gTLDs represents a huge opportunity, and it expands global accessibility for internet users as well as providing a wide range of opportunities for registrars and registrants. And I thought that I would highlight some of the issues using Verisign's own experiences as we've been going through some of the thought processes in preparing for potential IDN/IDN applications.

Now, obviously Verisign has been offering IDN at the left of the dot for a number of years but of course it's not a truly international experience yet because everything to the right of the dot is still in ASCII. So Verisign decided after much thought that it didn't make much sense for us just to do a translation of .com in different languages and scripts. In most cases it wouldn't make sense for us to do that. So we actually decided that what made more sense for us was to look at phonetic transliterations of .com and .net at the first level, so it's really more about how it sounds.

But, even after we'd selected that strategy there can be issues with a blanket approach. So to give you an example – in the Russian market, the phonetic transliteration of .net is .nyet, which means

“no.” So clearly that’s not a good choice for us, and I think my point here is that even once you have decided upon an IDN strategy there’s no size-that-fits-all kind of approach, and you have to give it careful consideration.

You’ll also notice, for those of you that are interested in applying for an IDN gTLD that there is a lot of references to things called A-labels, U-labels, and Punycode conversion tables. And I think in just starting to explain that, first off you need to understand that the DNS it only supports ASCII, the A-label. It does not support the IDN or the Unicode U version. And so what you need is you need a conversion tool, which is a Punycode conversion tool, which will basically convert the IDN component into something that the DNS can understand. Now, it’s a tremendously complex and technical issue. You really need to know what you’re submitting and why. You need to ensure compliance and of course you need to remember that one size doesn’t necessarily fit all cases.

Just real quickly as well, IDN variants are not currently supported in this release and I’ll just give you a quick example of that. Within ASCII character sets, lower case “a” maps exactly to upper case “A” – they’re interchangeable. But not so with all scripts. And so the community is working on a solution for this issue, and

until a solution for this issue has been found then there are no IDN variants supported within the first round of the new gTLD application.

Fred Felman:

That's great. And also by the way there is a question regarding variants. You must actually enumerate the potential variants for your strings. But let's get a little bit more into sort of the technical and practical considerations of selecting a string. This is an interesting environment. There's a lot of change occurring within the internet itself at this point, and some of the changes we're seeing are the increased reliance on social; we're seeing the fact that an increasing number of people carry things like smartphones these days – in fact, about a third of the people who carry phone contracts in the US actually have smartphones. So those are some of the potential considerations.

But Chris, I was hoping you could spend a little time and tell us what in your opinion you think some of the technical and practical considerations are of the new naming system.

Chris Wright:

Sure. Technically the considerations for a string are relatively easy to understand. They're spelled out in the Guidebook fairly straightforward for us: 3 to 63 characters in length, so no shorter or no longer than that; no numbers or symbols; and if we are going to get into the IDN space it needs to be valid based on the IDN rules. It is a little bit more difficult to understand those ones – you need something like the Unicode NFC form so you're going to need someone who understands that and can explain that to you.

You need to find what sort of script you're going to use there in your IDN and you're only allowed to build your TLD string out of the characters or the representation of characters in the one script. So you can't mix Chinese and Arabic characters together for example, and that just makes sense. You also need to make sure that all the characters in your string come from a script that are written in the same direction, so you can't mix left-to-right with right-to-left characters, or Arabic with English characters for example, or Latin I should call them.

Another important thing to understand is that technically your string may not work in many applications out there on the internet, especially initially. And the registries that applied for .info and .biz for example last time around can attest to this – there are, and there still exist, many applications out there on the internet that

assume that a domain name must end with .com or .net and if it doesn't then it can't be a valid domain name. Now, those applications are starting to disappear. The previous round of TLD applications sort of started off that effort of getting rid of those but there are still many applications out there that make that assumption. So you just need to be aware of that, that it is going to take some time before all those applications are eliminated.

It's also important to understand that IDNs as Sarah was alluding to are new. It's almost impossible to get an IDN email successfully sent at the moment. There are many issues with using IDNs in various applications. You just need to jump into any of the IDN Working Groups that exist within ICANN to start to understand a lot of those issues – domain names not being displayed correctly in browsers, not being able to be used in various places on webpages and around the internet and so forth. So IDNs, whilst you will have the TLD effectively forever as long as you comply with the requirements for ICANN, but just initially it's not going to necessarily be as usable as you may think and you just need to be aware of that.

Another thing to consider is devices – I think Fred alluded to this before as well. Those of you who have an iPhone will notice that there's a “.com” button on the iPhone – that's an interesting thing

to think about and what that actually means from an end user's perspective. So those are some of the technical things to think about.

Practically I've broken them down into sort of three main areas: that's risk, usability and purpose. So risk – you need to think about the similarity of your string to other potential applicants. You don't want to end up in a contention set, and I believe there's conversation later on about what that means. You don't really want to go for a string that's going to infringe someone else's trademark or a geographic term. There are restrictions on applying for geographic terms as well so it's important to be aware of those. And effectively, just remember that there are only limited cases where you can get a refund so if you put in a string that happens to conflict with somebody else's trademark and you allow that to get all the way through till the end of the process, and then that trademark holder somehow objects and wins the objection, you don't necessarily get a refund. So you need to be sure about what you're doing.

Also, you need to be careful that when you choose a string, words can mean things in other languages that you don't necessarily intend them to mean, and that is potentially a case for other entities to object. Now, whether they would win that objection or not is

completely unknown – it depends on the case that they make. But there are words written, particularly English words, that when you pronounce them in other languages they mean other things. And the internet is global and these strings are going to be used all over the world, so you need to be aware of that.

Another thing to do with risk – think about the lifetime of the string that you're applying for. Potentially applying for .mp3 might not be a good idea because in ten years' time mp3s might not exist. We might have moved on to some new wonderful audio technology that's 100 times better, so think about the lifetime of your string. You're getting this string forever. It's not just for tomorrow, it's not just for next week – it's forever, so you want to make sure that it's usable forever.

Usability – think about pronunciation of your string. Your string's not always going to be written down. I mean obviously all of these things depend on what your business model is but your string is not always going to be written down. It's going to be spoken, people are going to talk about it if it's easy to talk about. You also need to make sure that your string's going to work with the potential domains that you think are going to be registered underneath it.

Purpose – you need to understand what your target audience is, so you need to make sure that your string's fit for your target audience. You need to make sure that it's unique but it still has some sort of established identity or meaning and in what will potentially be a large landscape of competition – there could potentially be thousands of new TLDs. You have to make sure that your one is going to beat out the other ones, so you need to make sure of that assuming that's the purpose of your TLD.

Fred Felman:

This is a pretty meaty topic and I think we'll probably end up spending a bunch of time on it, I mean because we've just explored a bunch of really important issues – contention, objections, the fact that actually strings might not work. In fact, I think it's Section 1.2.4 in the Guidebook that ICANN itself says “Be careful because the string that you might choose might not work in applications, it might not work in the middleware that sits on the web and that sort of thing.” So make sure you've vetted that rather well before you proceed.

Because we've mentioned so much in that area and because I think that naming the baby, as I said, is the hardest task, I was just wondering is there anybody who would like to actually comment on this? I see Mike would like to say something.

Mike Rodenbaugh:

Well yeah. Chris alluded to legal rights objections from potential trademark holders to what's called a "limited public interest objection" for potentially immoral terms, bad words. You really need to do very intelligent and in-depth clearance searching on your string, I think, to try to understand what the risk of that is, and maybe that pushes you into another direction. It's really critical, and it's not just your basic \$500 trademark search of the United States. You've got to consider where are your target markets, and essentially it's impossible to do a global perfect search but you've got to do as best as you possibly can.

Tom Barrett:

I just wanted to mention that there's really two types of objections that can be raised for your string: first the GAC itself can object to any application that is sent to ICANN that might violate national law or local sensitivities, and we've seen how they still have issues with the Applicant Guidebook today so I'm sure they'll stay active. But also there's a formal objection process that can be submitted by anyone in the public and there's basically four types of reasons why they might object to an application – not only can the string be confusing, that includes translations into different languages;

but also legal rights, morality and public order, and community, which we'll talk about later.

Fred Felman: Excellent. Anyone else?

Mike Rodenbaugh: Well just to cap it, any of these objections is going to take you out of the normal flow. And assuming that there's hundreds of applications, which I think is an extremely conservative estimate, there's really time to market issues that you've got to consider. And any objection is going to take you out for a good six, eight months minimum.

Fred Felman: Well let's go on and let's discuss some other issues. There's kind of an existential section of the Guidebook which is the mission and purpose, Section 18. And it's where you have a chance to actually answer some important questions about your selection and what kind of business you intend to run. And in fact, the 20th question gives you a chance to designate yourself as a community or not

and there are a lot of advantages and disadvantages of potentially designating yourself as a community application.

And so I guess what I think I'd like to frame this, just before we get started – the Affirmation of Commitments sort of talks about this program as being able to extend competition and consumer trust and choice, and this is really an opportunity for you to be able to demonstrate how your application would actually deliver on that promise. And because it's one of the key areas that will help you market your TLD, and it's going to help you avoid objections and general contention, I guess what are your recommendations for strategies for answering this question, and how do you foresee the response being used, John?

John Matson:

Thanks, Fred. Well now we get to the fun questions. This is hands down the most important question you will answer.

Fred Felman:

Of course, because you're answering it as well.

John Matson:

I've spent a lot of time thinking about this and in deference to my colleagues. But this is really what you have to set up the whole evaluation process and get your evaluators to understand. There's five groups that are really going to look at this question and see how you've answered it: number one is the evaluators, two is ICANN, three is your target market – who are you trying to secure as your registrants and why? Then it's going to be governments and finally it's going to be the press, because on May 1st, roughly two weeks after the application window closes the public sections of the application are going to be posted.

And so you can imagine a list of 500... Well, people are immediately going to go “Well, what are the top ten and what are the bottom ten?” So immediately you're going to get buzz around your application when that gets posted, and this is the question that people are going to read to understand what you say you're going to do. This is also the question that the evaluators are going to look at and try to understand what are you doing and how do your technical and financial responses relate to each other? So this is context – it's really critical. You'll win or lose from this sort of answer.

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The other part of it is the things that were added in the last Guidebook revision which really responded to the economic issues associated with your TLD. What's the social cost or benefit of what you have? If you want to head off objections you want to address potential communities and why your TLD is beneficial to them. You want to make sure that you have the opportunity to provide good information. Now, there's only going to be a limited amount of space so you've got to write it very carefully but again, I really feel that this is the most important question. It's the heart of your application that everything has to build upon.

Fred Felman:

It's funny you said that. I worked for a marketing guy who said "Well, if I had a little more time I'd write a shorter answer." You can be more succinct and more clear if you've got lots more time. You know, it is an important area and it is an important area with respect to marketing your TLD and presenting yourself to the market. I'm just wondering, does anyone else have anything that they want to share in this section before we get on to discussing community, which I think will be something that we'll talk about for a little while?

Sarah Langstone: I was just going to say that I always think that the answers to these questions are really going to help ICANN in round two determine what are innovative business models and really which TLDs have spread the benefits across the different communities.

Chris Wright: I just wanted to point out that it is really interesting, this particular question, that even though it does set up the context for your answering all the other questions in the Guidebook, this question is actually not scored. So this question has very little impact on your overall score for your application except that it helps set up the context for the rest of the answers throughout the application.

John Matson: And although it is not scored it will be looked at for completeness, and your application can be rejected if you do not answer the questions fully and completely. So there are subsections in this question that are difficult to answer, such as “What are the social costs and benefits associated with your application?” There are resources out there, the economic studies that have been performed – you need to look at. Minds and Machines did a very good study on the costs of disputes. There are other benchmarking studies out there that you need to look at in order to assess things.

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You want to look at what are the behaviors you're trying to cause in your target market because you're going to have the behaviors of speculation, the behaviors of choice, the behaviors of defense and those that really focus on building new content. But those are some things you can use to try to quantify things, because it asks for you to quantify those costs.

Mike Rodenbaugh:

And also, even though it's not scored I echo everyone's sentiments up here – it's absolutely critical because you are going to be bound by what you say whether it's scored or not. These operating rules you need to provide some serious details around and then live with them forever, so you need to be extremely careful.

Fred Felman:

And just before we move on to discussing community, there are a lot of hot button issues exposed by this question in some of the subsections – for example, privacy is exposed and that's something that you're going to have to describe, how you're going to protect your registrants' and others' privacy in the operation of the TLD.

So is there anything anyone else wants to add before we go on to talking about community? Okay. Then let's talk about community because this is one of the goals of the program, was to actually open up the domain naming system so it actually supported more types of communities; and this is a great opportunity to present that chance to communities to be more active on the web and have different applications. It's a very exciting moment. And there are some great advantages to actually electing to be a community and there are also some responsibilities, and so these Sections 19 and 20 allow you to designate and also get a little more specific about it.

I guess, Tom, what are the considerations over why you might apply for a community application or not?

Tom Barrett:

Well, in an ideal world everyone applying for a TLD will get one. And I hope you all do. But clearly there are some strings that are going to be more popular and have multiple applicants, and if they're both simply generic they'll go to auction. But ICANN has also identified this community preference as a way of you demonstrating you have support for your special interest group for that very popular string.

It's not a step to take lightly. It's something that if you're planning to apply in January as a community you should have lined up support by now from members of that community, and the Applicant Guidebook is very detailed in terms of how you can demonstrate that level of commitment. Interestingly, because you are given preference in how they weight the application it could well be the biggest potential area for gaming in the sense that people are trying to claim community when in fact they haven't lined up the support of a community. So it also will likely be one of the biggest areas of disputes.

We've seen disputes just recently with .xxx and .jobs, which are really community-based disputes, so I think you'll see a lot of community-based disputes. And it could happen to any application but the likelihood is raised if you're claiming a community preference.

Fred Felman:

It is a very interesting topic. Some of the things that are kind of interesting to me is when I look at the questionnaire it asks you "Well, how is that community delineated and is it clearly delineated?" It's a scale because you look at some communities

and they aren't very well defined. "How are they structured? How will you vet the registrants so that they actually will fit into that community?" So there's some complexity here, and I was just curious is there anyone who wanted to comment more on community before we sort of talk about the relationship of the community? And Mike, is there anything anyone else would like to add?

Mike Rodenbaugh:

It's going to be very difficult I think, very difficult suffice to say to prove that you're a community-based application, particularly if you're going for a more generic word. In fact, the Guidebook specifically cautions against it. It says "Community-based applications are intended to be a narrow category." It has the whole guidelines and there's ten pages of scoring guidelines as to whether or not you're a community. You have to get 14 of 16 points and they're designed to eliminate false positives, meaning referring to a community construed merely to get a sought after generic word as a gTLD string.

I mean ICANN is specifically cautioning against this, and if you really get into the weeds with the evaluation criteria it's going to be very difficult to show. The bottom line – you will lose two points, meaning you have to have absolutely perfect the remaining

14 points, if two or more non-negligible groups oppose your application. You will also lose one point, so therefore your application is now dead, if two non-negligible groups oppose you and your string has some sort of alternate meaning; in other words, as a generic word. So it seems to me that generic vertical words are simply not likely to qualify under almost any circumstances.

The only other thing that I would add about it is you also have to show your dedicated use policies, your security verification policies. It's really intended to try to limit your audience rather than allow you to have an extremely large audience, and you have to live with these rules again for the life of the term. It's going to be very, very difficult for a community-based applicant to change those rules later.

Fred Felman:

I see that John has a comment.

John Matson:

Yeah, just additionally you need to realize that administering those policies have a cost, and so make sure that your application hangs together from section to section; and it's clear if you are a

community then your cost structures have to reflect the additional administration of those policies.

Sarah Langstone:

I just wanted to make sure that everybody that was aware, who are thinking of applying as a community – sometimes I hear people get confused and they think that if they opt for a community priority evaluation that it means they're not going to have to go to auction. And they don't realize sometimes that more than one party can receive more than 14 of the 16 points and that you could still end up in an auction situation and have the costs of managing the more narrow registrant base and the more extensive eligibility policies, really just picking up on John's point there.

Fred Felman:

Anything else? I guess there also are fees associated with a community priority evaluation as well which you must pay, so there's also a cost consideration. So you should be certain of it before you actually incur those fees. Anything else? Chris, others? Okay.

Then let's talk about geographics just really briefly, because one of the areas that we've heard a lot of interest in is city names, regions, countries. And this is a chance for people to rally around their own flags and create geographic names and get registrations around geographic top level domains. And so there have been names proposed from Berlin to New York, so how would an applicant establish their eligibility for a geographic name and is there risks like communities for objection and contention?

Tom Barrett:

Yes. I think the issue was that the GAC again has insisted on reserving geographic names – not reserving them but special allocation rules for geographic names. That includes a bunch of ISO standards for their long form, their short form; also commonly known as and etc. So there is an opportunity for you to apply for a geo name but you need to get the support of the governments affected by that geographic area and you should not underestimate the effort required to get the support of a government for a geo name. So this is not a step to take lightly. In fact, as we've seen with the GAC, sometimes governments simply don't make decisions. So ideally you get a letter of support and non-objection but you may in fact get silence, and it's at your risk if you decide to proceed without formal government support.

I wanted to also mention a geo name-related risk for other applicants, which is that you need to make sure the string you're applying for, even if it's generic to you, is not a translation of a geo name because that is a possible objection that can be raised if in fact your string is a translation of a geo name in another language, any language.

Fred Felman:

It's interesting because there are a lot of technology product names that actually have adopted cultural or linguistic or geographic designations as their product names, and I can think of languages and support platforms for online environments that all fall into this sort of category. And I guess that's where contention really comes into play here. That's a really good observation and that was my mistake – that question was supposed to be directed at Tom, so I apologize, John, for that.

The next sort of section that I think we should discuss is registry services, and this is sort of at the heart of how your TLD will be operated from a technical background perspective; and the answers to Question 23 and some of the following questions define what services will be offered. And one of the things I think that's kind of difficult for a lot of businesspeople who are considering offering a top level domain is how will they answer these questions and

how will they prepare themselves to do this; and will they need to use an external registry provider? And I think that's probably a good question, these next questions to sort of direct toward Sarah and Chris. But let's start with Sarah on this one.

Sarah Langstone:

Thanks, Fred. So the answer to Question 23 is where you need to describe your registry services, so let's start with a very high definition of what a registry services is. It's the data that's passed between registrars and registries regarding registrations. It's things like the dissemination of zone files and the security involved in that, and it's really any service that only the registry operator is capable of providing by reason of its designation. And to go back to one of Chris' points earlier on, this question is not scored but I can't emphasize the importance of taking the time to complete it. It's critical because it really forms the basis for the rest of the answers in the technical and operational capabilities section.

So it's essential to comply with the security components that are required to protect the data between the registry and the registrar, and to protect that data from unauthorized access and any tampering. It's very important to give a thorough description of what your registry services is, and here I would say don't focus so much on the "what" but really focus on the "how." So my

recommendation for anybody who's completing the answer to this question is to list each of your registry services, list the technical components, the business components, the risks associated with them, how you're going to mitigate them; and then use that as a framework when you're completing the rest of the questions throughout the technical section.

Now, to pick on something that John actually said, if any of your registry services require a further analysis then they're going to be considered by the Registry Services Technical Evaluation Panel, or RSTEP. This isn't just for new TLDs – I mean existing registry operators have to go through this process as well with regard to any new registry services. To give you some examples of registry services that Verisign has submitted, you have registrar lock which is requiring additional authorizations for changes to be made to the second level domain name; obviously when we went for DNSSEC, to DNSSEC-enabled .com and .net – another example of a registry service.

So this isn't just something that happens for new gTLDs – it happens for existing TLDs as well. So ICANN is really looking to make sure that you comply with all of the RFCs that you need to and that you comply with all of the industry standards. And if you have any risks or any thoughts that there's risks about you not

being able to do that then you really should consider talking to a registry services provider.

Now, it's obviously up to you as the applicant to know the questions, know your answers, know the score and then do a risk analysis of an in-house registry versus using the services of a technical provider. I would recommend that you speak to registries, you get their pricing; you understand the difference between the service that you're going to be able to provide versus theirs and the impact to the potential scores. Then you do a cost/benefit analysis of working out "Do I do it in-house? Do I do it outside, do I outsource it?" and look at that with the risks, and really think about your major cost items.

So your major cost items are going to be things like your provisioning systems, the SRS – shared registration system; the WHOIS, the ability to technically comply with all of the requirements of IPv6, of DNSSEC; the redundancy that you have to have in place, the monitoring, the reporting and all of the things that you need to do to ensure compliance with escrow. So really, at this stage Fred, I would just say do the risk analysis, speak to registries, do a cost/benefit analysis; and if you do it properly then that will lead you to the right decision for your own TLD application.

Fred Felman: And my guess is there are very few organizations that have the wherewithal to actually do the technical services themselves; that most will be relying on third parties with very few exceptions. I think Tom wanted to say something.

Tom Barrett: Well, I think one consideration applicants have here is not only identifying their registry services but deciding how much of their future roadmap they want to reveal as well, because if they don't reveal it all now they'll have to come back and go through an RSTEP process with ICANN. And you only need to look at ICANN's website to understand that that can sometimes be a lengthy process and can somehow disrupt your business plans. So you need to consider how much you want to reveal upfront that could perhaps eliminate that RSTEP later on.

Fred Felman: Alright then, Questions 24 through 44 – on to some more technical and operational issues. And really it seems like choosing a partner to provide registry services will be really important to avoid an

extended evaluation in the application process and in operating a gTLD. What are the considerations in choosing a registry provider, Chris?

Chris Wright:

In no particular order there are a number of different things that you should be thinking about when you're talking to a registry services partner. Obviously experience is going to be very important; someone who's going to be trusted with the running of your TLD and effectively something that you just paid at least \$185,000 to obtain, and I say "at least" because you're definitely going to spend more than that. You need to make sure that they know what they're doing. You need to make sure that all those complex technical processes that were just described are going to be adhered to and that the system is going to be performing and behaving as expected.

ICANN has provisions in the current registry contract that say that if you don't comply with those services and you're unable to comply with them in a reasonable timeframe that they can then take the TLD back off you regardless of any amount of money that you've paid or anything like that. If you are not able to comply with all of the requirements that ICANN sets out then ICANN can come in and take your TLD back from you. Now I'm sure it's

going to be a lot more complicated than that but it does say that in there.

Navigating the ICANN landscape can also be a pretty daunting task, so you want to make sure that your registry services provider is familiar with the ICANN landscape, familiar with for example the RSTEP process that was just described, and familiar with what needs to be done in order to comply with ICANN policies and just generally keep ICANN happy.

Stability is also important. Obviously this is a pretty important asset that you're trusting the running of to somebody, so you want to make sure that person or that partner is going to be around for the long term. Taking your TLD and moving it from provider to provider is generally not going to provide a good experience to your customers or to your end users. Registrars will get particularly frustrated at constantly having to connect to different registries and so forth and that's going to have a detrimental effect on your channel, so you want to make sure that the provider that you choose is around for the long term.

Flexibility is also important. With all the different TLDs coming out there's going to be various different business models and

various different ways that people are going to try and differentiate themselves. So you need to make sure that your registry services provider is prepared to be flexible and work with you on your different business models, and make sure that you are able to innovate and compete effectively.

There are many other things: focus, having the resources available, being committed, making sure you're dealing with an organization that is a registry service provider – that's its core business, that's what it does; it's not just something that it started on the side to try and become part of the TLD process. Essentially you just want to choose a partner that has a proven track record for dealing with TLDs and can help you navigate this complex landscape. Many other things to go on but I think we're going to run out of time.

Fred Felman:

Let's actually do this next question and then we'll sort of skip maybe a couple so we can get on to some meatier topics. But first of all, abuse prevention has been a very hotly debated topic all along the process especially with respect to rights protection mechanisms. In fact, I think there were two or three groups created, the STI and the IRT and some others to even address some of these topics, and certainly the GAC has been active.

So given that, what are the minimum requirements for rights protection mechanisms and how would an organization decide what to implement and how, Tom?

Tom Barrett:

So with the recent Guidebook, all TLDs are required to offer both a sunrise period and a trademark claims prelaunch service. They're all required to have a single point of contact for potential abuse. But this is an opportunity for you to go beyond that, be more innovative and offer some other rights protection mechanisms. You do get extra points if you have a way of promoting WHOIS accuracy and making rights protection one of your core objectives.

I do want to point out what's very important here is when you do your budgeting, ICANN has declared that the trademark clearinghouse, the cost of that will be shared not only by trademark owners but also by registries and registrars. So don't forget to include at least a placeholder in your budget and at this point that's all it can be because there is no defined cost yet to the registries for the trademark clearinghouse, but you need to make sure that you

put something in your budget so you're not blindsided once those costs are known.

Fred Felman:

Alright, and Mike, would you like to add something to that?

Mike Rodenbaugh:

I probably would be remiss if I didn't speak on this topic I think. Yeah, like Tom said, this is really an opportunity for applicants to go above and beyond and score some extra points in the Guidebook, not to mention posit themselves as being a safer, more secure registry which would be attractive I think to a lot of registrants. You can do things like WHOIS verification upfront; you can provide searchable WHOIS functionality which in itself will give you an extra point. You could have an anti-phishing and –malware policy, so you have to implement what's called the uniform rapid suspension process that's been developed for trademark issues.

But you can also, and I would highly recommend also having a policy in place to deal with fraudulent use of domain names. And then the final category in general would be content restrictions,

particularly if you're a community TLD but even if you're a vertical generic TLD – you probably want to have some rules around the content in your TLD so that it doesn't become a .com, it doesn't have a lot of speculation from outside the industry. You may not want pay-per-click pages in your TLD. These are all rules that you need to consider in advance.

Fred Felman:

Excellent, well thanks, Mike. The next sort of question is with respect to security and there have been a lot of sessions on security. In fact there was a DNSSEC session earlier today, and it's a very important topic but I think it's one we probably can't do justice to in this time period so we're going to pass by that. After that there's a technical overview of the proposed registry which is Question 31. It sort of tells the high-level story of the technical and operational aspects and outsourcing plans and things like that.

We're also going to move on from that as well because I kind of wanted to spend a lot of time on this sort of amorphous section which is the financial capabilities. This is really sort of a power packed section of the Guidebook because really you know, the fact that you have audited balance sheets and income statements, and cash flows and all of that – that's one aspect, but that really implies that you've spent a lot of time thinking about the business and sort

of what's behind it. And I was hoping that perhaps John, you could talk a little bit about the business planning process behind getting a TLD started up.

John Matson:

So just a little context on the financial questions first, so you can get a sense as to what the evaluators are thinking or why these questions are structured the way they are. Question 45 starts out and says "What's your entity financials?" – the one that's applying, so just to get a sense of what is the financial capability of the entity that is applying. But then #46 is the actual registry pro forma itself, so those are two very different things – just making that clear.

Then #47, #48, and #49 are breaking down the registry financials in #46 and saying "How well do you understand your costs? How well do you understand your funding and revenue?" and then finally "How well do you understand your contingencies?" And so the evaluators are looking to understand do you competently know and can you forecast and plan for a conservative financial position? And really the encouragement for you is conservative, because when you read the notes and the criteria it says "Is there funding in specified accounts or are you relying on revenue from operations to run your business in out years?"

And I can tell you that if you're running on a low-cost model that then says "In year two or three I am going to be relying on the revenue from the name sales of my business," that is going to be viewed in a less-favorable light than someone who says "I have the full funding for all three years and the revenue that I will generate is in addition to that."

Also, just back on Question 18, you want to be clear that Question 18 in your mission and vision is not asking you to disclose your revenue plan or how you're going to make money. That's what you do here. And also, when you look at how your volumes and forecasts of the names you're going to sell, how do they compare to prior launches? Now, the benchmark study that I did before looked at those prior TLDs and that benchmark study is available on the ICANN website as well as the Architelos website.

And you want to look at that and see how did prior gTLDs achieve their name volumes over time, and compare your projections against what those showed; or have other market studies that explain why your projections are valid, because the evaluators are going to look and see "Does this financial story hang together?"

Fred Felman:

That's a great answer to the question. I guess I've heard a lot of discussions about distribution models and there was some talk about that sort of coming into this. And I was just curious, would anyone sort of like to talk about how you might think about the marketplace and how you bring your TLD to marketplace, and what you have to worry about there? Tom?

Tom Barrett:

Sure. I think a key part obviously is your distribution channel. You're required to use ICANN registrars but that doesn't mean they're actually your sales channel, so you need to think that through carefully. Registrars are going to be overwhelmed with the number of new TLDs, and so shelf space is going to be very scarce at the registrars out there. You may decide just to work with a few of them who are willing to work with you. You may decide with the vertical integrations of reality that you can become your own registrar and try to forge your own channel that way, but I think that's a huge consideration. And it's worth looking at past TLDs again to see which ones were able to utilize the ICANN registrar channel effectively and which ones could not.

John Matson:

Just additionally, when you look at the scoring, you need to score eight points in this section and there are six questions. So that means you must get a 2 on #47, #48, #49 or get a 3 on #50. I think Sarah may address some things around #50 but you need to think about how aggressive your business plan is or conservative. And you'll see in there, there is a "most likely" case and we ask you for ranges or the evaluators have to look at ranges of your contingencies and how you're going to plan for that. So you need to do some very robust financial modeling of upside and downside.

Also, the new DAG asks for confidence that the information you're sharing is the same information that you shared with your investors because they want to make sure that they're getting the same story that you have committed to in your investment discussions. So there's no two sets of books in this application process and just the same sort of transparency that's required of ICANN in this whole process that we work within, ICANN is expecting transparency in this application process.

Fred Felman:

If you look at this whole process it involves a substantial financial commitment by individuals as well as a commitment from a planning perspective. So what exactly will people have to do to

demonstrate their financial commitment to ICANN, Chris, as they start to apply?

Chris Wright:

So there's a number of business considerations to think about with respect to the financial commitment. Obviously the answer to Question #18 comes into this a bit, as in what your TLD's all about, who your target audience is and what your policy is. What is the potential number of people that can register in your name space and then how many of those people do you think you'll actually convert? And that sort of comes back to the value of your name space and so forth.

Clearly there's a big technical cost, there's a big technical commitment, and that sort of comes back to what we were talking about before in terms of outsourcing or taking that in-house and doing it yourself. Channel, as was also touched on – so how are you going to get these out to market? How are you going to compete for that shelf space at registrars and how much money are you going to throw at that? How much of your resources is it going to take to get your TLD to be the one that the registrars are selling or get the registrars onboard?

Marketing – how are you going to make the end users buy your TLD as opposed to somebody else? So there's obviously a financial commitment there. Something that we haven't talked about – contention, so if you're not the only one that's applying for this TLD and you end up going off to auction, there's going to be a potentially significant amount of funds required for that so you definitely need to make sure that you've considered that.

Obviously describing all of these to ICANN is going to be inherently difficult so potentially you need to consider just what are the financial costs involved with applying. We all know it's \$185,000 for the application fee to ICANN but there is a substantial cost in actually developing your application and then potentially engaging the services of various other organizations to do trademark checks, background checks, checks for if your string conflicts with something; or talking to registry service providers about getting registry services, or marketing dollars; or helping you write all this up and present it to ICANN in a way that's going to pass. So there's potentially a spend there.

And then obviously you just need to consider all the typical things that you consider when you write a business plan – what's your long-term goals, when are you expecting to get a return; have you been realistic with your projections, what's your best case, your

worst case, etc.? So there is a pretty substantial financial commitment here that needs to be made and you do need to make sure you understand it's a lot more than just \$185,000. And if that \$185,000 is scaring you, you don't even want to look under the covers at what the rest of the money is you're going to need. Thanks.

Fred Felman:

And in fact, you actually have to put an irrevocable line of credit or a deposit down for three years of operations. So they're going to look at your financials and they're going to make sure you have the wherewithal to actually make it through those three years. And you're going to put your money where your mouth is proverbially.

So now are there any other things that people would like to add to with respect to this before we move on to the next section? Alright. Then lastly, the last question before we get on to your questions is the technical operations, the critical registry operations – sort of the nuts and bolts of any registry. So what's the best approach for answering Question #50, Sarah?

Sarah Langstone:

So, I'm going to be brief here because we don't have a lot of time, but really this covers the five critical areas of registry operation: your DNS resolution, the operation of your provisioning service and your WHOIS, the registry data escrow reports, the maintenance of the properly signed zone in accordance with all of the DNSSEC requirements – essential. It all maps back to how secure your registry and its operations are going to be for your registrars and for your registrants.

It's really important because you get 3 points here, and as Fred talked to, you need to be able to provide a letter of credit or an irrevocable cash escrow for three years' worth of operating these five critical areas. If there's one point that I could make here, I have to stress you can't mess with this stuff. If any of these go wrong once your award has been made, then it puts your registry operator designation at risk. It's got to go beyond just getting the TLD awarded; you have to be able to operate these five critical areas. That's it.

Fred Felman:

Alright. It's now the time to take your questions so there are microphones at the front of the room, and so if you'd like to come forward and ask a question I'd welcome you to come forward at this time. Or if we also have questions on the online system,

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Carole I think might have an opportunity to read them. So we'll start with online and then we'll move on from there.

Carole Cornell:

Thank you. The first is from Danny Younger. "The Guidebook advises that an intergovernmental organization – IGO – is eligible to file a legal rights objection if it meets the criteria for registration of a .int domain name. Are applicants being provided with an authoritative list of the IGO acronyms/abbreviations that are protected under Article Six of the Paris Convention for the Protection of Industrial Property?"

Mike Rodenbaugh:

There's definitely a section of the Guidebook that links to the various lists that compose the overall pool of reserve names. I'm not sure about Danny's specific reference to the IGO list but I'm sure there's at least a link there.

Fred Felman:

Yes, sir? Please state your name and your affiliation.

Dirk Krischenowski: Dirk Kirschenowski from .berlin. There are quite a lot of companies still out there which might apply for a .brand or a .trademark, or a .companyname, and they still have a problem to figure out if the application might be a standard application or a community-based application. There are some brands which are obviously worldwide on the market; there are some very local ones. You have big companies which are obviously a community with a few hundred thousand people; or small companies with five people or so. That's a question which is not answered by the Guidebook, and even very big large companies hassle with this question.

John Barrett: Yeah, my initial impression is there's no reason they need to do the community route. If they own a trademark on that brand then it won't be contested, and there's no advantage claiming a community of people that use Cannon cameras for example, or IBM computers.

Dirk Krischenowski: But still there's a question we have already discussed in the last couple of years – competing applications like .sun and .son or

whatever, and that might be an advantage to an application of a company if they have a community application.

John Barrett:

Right, so they'd be arguing they're a community of people who buy Sun computers, whatever their product is.

Fred Felman:

Or a user of a technical product potentially. There's a specification actually within the questionnaire, and I'm just sort of trying to paw through it until I find it, but I wrote some notes which is how is the community delineated specifically? That actually is required, so you must specify what attributes make up the individuals in that community. You must demonstrate actually it's structured. You must demonstrate your relationship with that community, and it asks for a verbal answer to that – how you'll actually identify the registrants of that community and make sure that registrations will occur within it, and how you'll maintain your accountability to that community. Those are sort of the questions that are asked in the Guidebook with respect to identifying how you are in fact a member of that community.

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Mike Rodenbaugh:

I could just add one thing on there. You do have to elect whether you're going to go as a standard or a community-based application, and Dirk raises some good points. There very well may be some advantages particularly if you know that you have a likelihood of contention. It just goes to trying to clear and figure that out and strategize upfront as soon as possible, but for .brands there's also the notion of being a single registrant TLD which has finally been defined in the latest iteration of the Guidebook.

It essentially allows you to, so long as you're going to register all of the names to yourself or to your company or your business partners, then you for example do not need to use ICANN-accredited registrars and you have some relief from some of the other obligations in the Guidebook. So it's yet another option that .brands can explore.

Carole Cornell:

The next question is "What happens if a new company applies without any financial history?"

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John Matson: That is contemplated and it's expected that there will be companies that do apply without, you know, they've just been formed. They just have to provide that information in their application, clearly stating what the condition is, how they were formed.

Carole Cornell: The follow-on to that is "What if the ownership structure state changes post the evaluation phase? I know we will have to inform ICANN but does it negatively impact the application?"

John Matson: That one would be difficult to comment on, that's why ICANN is asking you to provide the information. Obviously if after the application a decision is made before going to auction, two parties may decide to come together and change the formal ownership structure. Again, background checks would have to be done; there are all kinds of things that would happen in that material change that would have to be evaluated. So it could have a significant impact.

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Fred Felman: And it seems to me if I recall correctly, shell companies are also specifically discouraged as well in the application process. Was there another question?

Carole Cornell: I just have one and this has to be the last question because of the time.

Fred Felman: Perfect.

Carole Cornell: It says “Can you provide an estimate of how much on top of the \$185,000 fee will be required for a new gTLD?”

Fred Felman: Does anyone want to answer that?

Mike Rodenbaugh: I'll answer it with a quintessential lawyer's answer – it depends obviously on your business model and a lot of other factors, not only yours but the business models of others in your industry; whether you're likely to fall into a contention set. There's simply all sorts of answers but the safest bet is it's going to be at least 2x that number and considerably more in many cases.

Fred Felman: And yes, I've heard a lot of numbers in association. I mean if you go ahead and you create your financial statements you're going to look at that and you're going to have to at least come up with three times the amount of your annual operating budget for continuity's perspective.

Well, I wanted to thank everyone and sort of wrap this up at this point, especially as we're transitioning to the next section which is the Open Forum. First of all thanks to my panelists who have done an excellent job. Thanks to ICANN for arranging this session, and staff, including Carole and Karla; and also to the scribes and translators and also to the audience. I really appreciate you coming out during lunch today, so thank you.

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