[GeoTLDs]

Mr. Fadi Chehadé, ICANN CEO
Mr. Steve Crocker, ICANN Board Chair
Mr. Cherine Chalaby, NGPC Chair
Ms. Heather Dryden, GAC Chair

Re: Launch and Eligibility Plans for Geographic gTLDs

Dear Mr. Chehadé, Mr. Crocker, Mr. Chalaby, and Ms. Dryden,

The undersigned Geographic gTLD applicants write to raise for your attention several issues that have emerged as we approach delegation and launch of our new gTLDs.

Geographic Top-Level Domains (GeoTLDs) have special responsibilities to the communities they serve, as articulated by the relevant governmental authorities. Many functions of government, including emergency services, e-government initiatives, transport, economic development, tourism and other core areas of administration are impacted by a TLD identified with a city, region or continent. In order to accommodate these important and legitimate needs, we believe ICANN should allow flexibility in its allocation rules. The flexibility needed is relatively minor and we do not foresee that it will raise any objections from other stakeholders. We therefore request your support in making it possible for GeoTLDs to properly serve their geographic area, as set forth below.

As part of the new gTLD application process, Geographic applicants, who in some cases are the relevant government authority, were required to obtain documented government approval to be submitted together with their applications. In many cases, obtaining such supporting documentation required the applicant to make representations as to rules for allocation of domain names to relevant stakeholders such as public authorities (institutions, municipalities, public transportation authorities, police and fire services, airports, etc.) and local businesses (which be global businesses with a local footprint and roots). Geographic applicants want to continue with their original plans to make sure that they can (i) prioritize and allocate names to appropriate organizations and individuals in a manner that promotes the GeoTLD while protecting the rights of locals and meeting commitments mandated by the supporting government, and (ii) launch the GeoTLD in a way that best promotes its adoption and ensures its success.

In combination however, ICANN's Registry Agreement, Specifications, and recently-introduced draft "RPM Requirements" document, cast doubt on GeoTLDs' ability to meet their commitments to the supporting government while managing a successful TLD. This doubt arises primarily from ambiguity as to ICANN's intentions with respect to allowing GeoTLDs to implement certain (localised) processes that will help them achieve their goals while meeting the requirements of the Registry Agreement.

Below we outline the challenges we face and proposed solutions that would allow GeoTLDs to meet their objectives while remaining within the spirit of ICANN's requirements. We also submit these proposed solutions as a single geographic applicant group and look for ICANN to accept these across all geographic applications, including those for which the applicant is a local government authority.

We believe that this joint approach avoids resource-intensive individual negotiations, and is far more efficient for both applicants and ICANN.

(i) Prioritization and allocation of names

Names associated with local areas, public services, authorities, landmarks, and other iconic local names

GeoTLDs must have the ability, without undue restriction, to allocate names to certain organizations that serve their respective geographical region. There may be instances where these names may conflict with a trademark right, including a name that might be in the TMCH. These names would have well-established public definitions and an expectation from the user community within the relevant geographic area that they are accessing the site intended. Examples include police.GeoTLD, borough.GeoTLD, landmark.GeoTLD, metro.GeoTLD, tourism.GeoTLD and so on. An organization not associated with the geographic region attempting to secure one of these names, including an attempt to secure such a name during Sunrise, would be problematic.

Proposed solution: GeoTLDs should have the ability to create and reserve a list of names (Reserve Name List) or create criteria by which names would fall under this category (in the event that a name is inadvertently left off their initial list) and not have these names be subject to the Sunrise period, as required in the Registry Agreement. In other words names on a Reserved Name List would trump names applied for during Sunrise.

These names could then be available to be either:
   a) reserved by the registry;
   b) registered by the registry; or
   c) registered by the eligible third parties through an "early adoption" phase with strict eligibility criteria – see below for more details

Priority given to individuals or organizations having a nexus with the GeoTLD

GeoTLDs must have an ability to implement an approach that gives priority to organizations or individuals with a nexus to the GeoTLD. In many cases a condition of securing support from a government was that local businesses and individuals are not put at a disadvantage when attempting to secure a name. One of core objectives of GeoTLDs is to promote and build a digital community for that specific geographic region. Allowing outside organizations with no discernible connection to the area to be given priority (particularly in the case of defensive registrations) would defeat this objective, would weaken the integrity of the GeoTLD, and would cause a public relations problem for many supporting governments, potentially resulting in low adoption of the GeoTLD.

In addition, many applicants expect that significant numbers of registrants will be specific only to their TLD. For example, small and medium-sized enterprises (SMEs) conducting business only in the hypothetical "Capital City TLD" will only desire a registration in the hypothetical .CAPITALCITY new gTLD. (This of course presumes that such SMEs have a registered trademark in the first place; the reality is that many small local businesses do not.) Thus, that SME will not have any need to deposit its mark in the TMCH except to obtain a .CAPITALCITY registration. In other words, SMEs interested in a single relevant TLD could face a $150 fee to validate their mark for a single domain. This is

clearly undesirable. This will effectively turn intended registrants away from the TLD, and could undermine the success of Geo gTLDs.

For these reasons, we believe that allowing TMCH-validated trademarks to have priority over local businesses, stakeholders and individuals regardless of their nexus to the GeoTLD would be problematic.

Proposed solution:

A. GeoTLDs should be allowed to include criteria based upon a sufficiently tailored "nexus" to the city/region during their Sunrise.

B. GeoTLD applicants should be allowed to run their own parallel (concurrent) validation process to enable local businesses, with or without a registered trademark, to participate in the Sunrise in a more cost effective and efficient manner. This process could adopt eligibility standards in line with TMCH criteria but which would be less costly to small local businesses.

ii) Launching the TLD

Early Adoption Phase

Currently, ICANN's rules require that all TLDs have as their first launch phase a Sunrise for at least 30 days after delegation. Not being able to have "early adoption" phases in advance of this period is problematic for GeoTLDs and could severely impact the overall success of GeoTLDs.

Many GeoTLDs have been working on an "early adoption" phase whereby certain "anchor tenant" representative organizations in the geographic region are invited to secure their brand or business name. This phase will be very tightly controlled, as the GeoTLD would be seeking to work with specific organizations with an established reputation in their particular geographic region. The main purpose of the early adoption phase is promote and raise awareness of the GeoTLD prior to names becoming available to the general public (i.e., creating demand, establishing demonstrable use) and will also help to define and differentiate the GeoTLD from other generic TLDs. Earlier adopters may be undertaking significant marketing efforts to rebrand themselves using their new GeoTLD name. Early adoption is important to these organizations and to the GeoTLD and a Sunrise preceding and trumping this phase could cause some of these organizations to reconsider their efforts.

In addition, the delegation of a GeoTLD is an important and visible event that will generate significant publicity within its region. Early adopter names, that are immediately delegated and available for the public to access, help to demonstrate the value of the GeoTLD and promote it to its community.

We understand that there is a perceived risk that such priority rules, if applied pre-Sunrise, could be the basis of gaming. We want to be clear that we fully appreciate the concerns raised by trademark interests that such priority rules should not lead to trademark-abusive registrations.

Proposed solution: Allow GeoTLDs to implement and launch tightly controlled "early adoption" phase prior to the Sunrise. Participants could be limited to securing certain names such as their brand, business or organization name, as well as key generic terms related to their field of

intervention. The GeoTLD may leverage the TMCH or their own parallel validation process to determine eligibility and priority.

We also recognize that it is appropriate that any names allocated under such a priority program would be subject to Trademark Claims, irrespective of when they are allocated.

Rules restricting subsequent launch phases

Pursuant to the "RPM Requirements" draft document, registration rules must be consistent through all launch phases. We believe this may not necessarily serve its intended purpose as it relates to GeoTLDs.

As explained above, for many GeoTLD applicants, there is a necessity to prioritize and allocate names during early launch phases. The purposes of this are clear: to ensure that names are allocated to the relevant organizations or individuals with a nexus to the geographic area and to promote the GeoTLD and help ensure broad acceptance as it readies for general availability.

Proposed solution: GeoTLDs should be allowed to have restricted and open registration periods with different eligibility criteria. Restricted registration periods (early adoption, Sunrise, and additional limited registrations) would be in place to ensure that local businesses, stakeholders and individuals have a priority. The open registration period(s) (landrush and general availability) could then have the same eligibility criteria as the restricted period or no eligibility criteria, depending on individual GeoTLDs' needs. i.e., the choice should be left to the GeoTLD. The GeoTLD may want to continue to restrict registrations or alternatively promote its region to the rest of the world.

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We do not believe that ICANN wishes to impose restrictions that have a detrimental effect on the success of GeoTLDs. Unfortunately however, if the above areas are not adequately addressed, then GeoTLDs will be negatively impacted and our sponsoring governments will not receive the benefits intended when they chose to provide their support for a Geographic TLD.

We are happy to meet with governments, and ICANN Staff and Constituencies to discuss a mutually agreeable solution to the concerns raised, and solution proposed herein. We are keen to resolve these issues as soon as possible so that contracting can begin/continue smoothly and in a timely fashion.

Thank you for considering our views and concerns. We are very pleased to be part of ICANN's New gTLD Program and the innovation and opportunities that will emerge over the coming years.

Yours sincerely,

Fabien Betremieux, AFNIC (.BZH, .ALSACE)
Philip Du Bois, General Manager DNS Belgium (.BRUSSELS, .VLANDEREN)
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Mathieu Weill, CEO, AFNIC (Registry service provider to 5 French GeoTLDs)

cc: Karen Lentz, ICANN
     Amadeu Abril, RPM Working Team