

CLIENT ALERT

New gTLD Applicants Submit Public Interest Commitments for 499 Applications in Response to ICANN's Invitation

March 7, 2013

Background

On February 5, 2012, ICANN invited new gTLD applicants to submit "[Public Interest Commitments](#)" (PICs) that would later be incorporated in their Registry Agreement as binding obligations, to be enforced through a new PIC Dispute Resolution Process.

Applicants were invited to submit both PICs that incorporated either specific commitments from their application and PICs that identified additional commitments the applicant intends to fulfill.

The PICs mechanism is ICANN's response to the Governmental Advisory Committee's (GAC) direction in the Toronto Communiqué that the ICANN board find a mechanism to ensure that commitments made in applications were transformed into "binding contractual arrangements, subject to compliance and oversight." Additionally, ICANN invited applicants to use PICs to address specific concerns that the GAC or individual countries have raised about their applications.

Additionally, all applicants will be required to agree to a PIC requiring the use of only registrars that agree to the new Registrar Accreditation Agreement, which ICANN is currently negotiating; applicants need not take any action on this PIC at this time.

On the March 5 deadline for submitting PICs, hundreds were submitted, and all are now [posted on ICANN's website](#). Of those, approximately 85 sets of PICs related to applications for which the GAC has issued an Early Warning. It seems likely that these PICs were submitted in an attempt to resolve the GAC's concerns. And approximately 273 sets of PICs were submitted for applications that are involved in contention sets.

Our view

All applicants that have decided to file PICs have done so despite the uncertainty regarding the implementation of these additional obligations. Successful applicants may want to consider further negotiating some of the details involved in the implementation should the applicant reach the registry agreement stage. ICANN has expressly assured applicants that submitted PICs are current expressions of intent, and are still subject to executing a final agreement.

Anyone who wishes to comment regarding any of the submitted PICs may do so through [ICANN's Applicant Comment Forum](#), but, interestingly, ICANN has made no commitment that those comments will be reviewed or addressed. The public comment forum for ICANN's PICs policy more generally also remains open through March 20.

Of course, the objection period remains open until March 13, so anyone with a serious concern about any of the PICs can still consider filing an objection.

Additionally, although ICANN requested that PICs be submitted by March 5, applicants may still submit new or amended PICs, but such submissions may result in delays in processing the application. Nonetheless, an applicant who believes that its application is likely to be disadvantaged by the PICs submitted by a competing applicant should still consider whether late submission of PICs may strengthen the chances of success despite the potential delays.

The GAC is expected to review the recently-submitted PICs in some detail before issuing their formal Advice shortly after the upcoming ICANN meetings in Beijing, China in early April.

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If you want more information on this topic or any other subject, please do not hesitate to contact us. We are available to assist you in assessing potential influences on your application and in responding to ICANN's decision.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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