

Analysis of Comments Made to ICANN on the Draft Expressions of Interest/Pre-Registrations Model

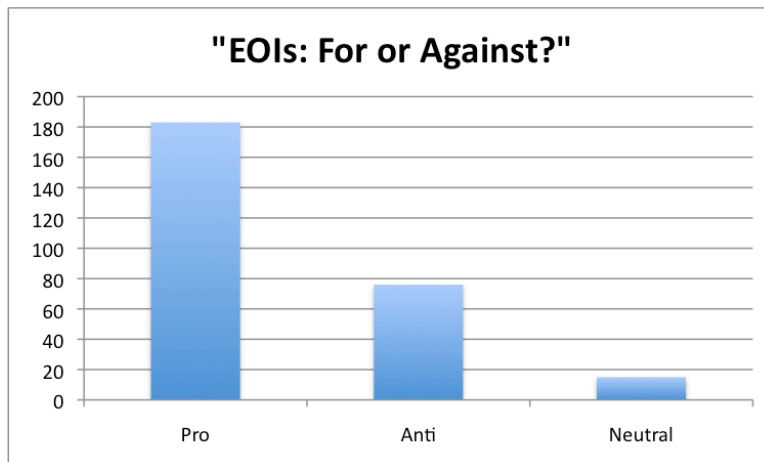
by Minds + Machines
February 13, 2010

The following is a quantitative analysis of the ICANN public comment for the New gTLD Program – Draft Expressions of Interest/Pre-Registrations Model. The full text of comments can be found at <http://forum.icann.org/lists/draft-eoi-model/>

I. Overall Findings

The ICANN public comment for the New gTLD Program – Draft Expressions of Interest/Pre-Registrations Model closed on February 7, 2010. A total of 274 separate comments were received (several commenters made multiple comments). 183 comments (67 percent) supported EOIs, and a majority of those favored the Draft Model. 76 comments (28 percent) were opposed to EOIs. 15 comments (5 percent) were neither for nor against.

Figure 1: EOIs: For or Against?



II. Arguments Made for EOIs

The comments in favor of EOIs can be divided into the following categories:

1. Prospective Applicants for new gTLDs
2. Individuals connected to prospective applicants
3. The ICANN At-Large Advisory Committee
4. The ICANN ISP Constituency
5. The ICANN GNSO
6. Independent small and medium-sized businesses
7. Independent individuals

8. Independent not-for-profit membership organizations
9. Independent not-for-profit charities
10. Existing gTLD registries
11. Existing ccTLD registries
12. ICANN-accredited gTLD registrars
13. Law firms

Comments of the respondents in favor of EOIs were for the most part in full agreement with the staff proposal. Some, however, had additional thoughts or reservations:

- **Timetable** – the delay in the introduction of gTLDs hurts legitimate applicants who relied on ICANN’s announced timetables.
- **Begin the process** - The gTLD process needs to get started, EOIs are a welcome first step.
- **Predictability** – EOIs are welcome because they will help set a predictable timetable for the introduction of new gTLDs.
- **Participation** – Prospective applicants are an important for making policy for new gTLDs, they have should have some official representation at ICANN.
- **Anti-Trademark** - trademark interests have been given too much already, should not be allowed to derail the process.
- **Anti-Monopoly** – vested interests have too much power; ICANN should introduce competition.
- **Security** – new gTLDs are an opportunity to make the Internet more secure.
- **Contention** – EOIs will allow contending parties to make arrangements between themselves to prevent auctions.
- **“Slot” Trading** – ICANN should take care about EOI “slots” becoming a speculative marketplace.
- **Mandatory** – Several supporters of EOIs believed they should not be mandatory.
- **Confidentiality** – Several supporters were concerned that too much information was being collected in the EOI; others thought not enough was being asked.
- **Price** – the proposed filing fee for EOIs was seen by some as appropriately high, others as too expensive.

The commenters in favor are shown below. Some commenters made multiple comments, shown in parentheses. The “comments” column attempts to capture the tenor of the comment, they are not meant to represent the full import of the comment:

Table 1: Companies and Groups in favor of EOIs (86).

Date	Name	Comments
Dec 29	Minds + Machines (3)	Fully supports
Jan 3	Interlink	Supports.
Jan 5	Interlink	Supports.

Date	Name	Comments
Jan 8	Focused Labs	Supports.
Jan 8	Everything Long Beach	Necessary. Supports.
Jan 11	Dot Eco, LLC	Fully supports.
Jan 11	Anderson Strudwick	Supports. Congrats.
Jan 11	Felly Media	Lower fees.
Jan 12	Minds + Machines	Re: INTA
Jan 14	Dot Horse	Supports.
Jan 14	Society of Silence	I support Expressions of Interest
Jan 14	Anouk Boots	Supports.
Jan 14	MNX Global	Supports.
Jan 14	Sierra Club	"We strongly support the following points as presented by ICANN."
Jan 14	SM Group	"SM Group strongly supports the EOI program"
Jan 14	Security Label	Supports.
Jan 15	Filmaka	Supports.
Jan 15	2 Point	Supports.
Jan 15	City Mommy	Supports.
Jan 15	WJM Productions	Supports.
Jan 16	Dot SFO	"EOIs seem to be the smartest way for ICANN to begin the process in a prepared and educated manner."
Jan 16	Larsen Data ApS	"I support Expressions of Interest"
Jan 17	Dolphin Secure	Opp. to make more secure.
Jan 17	Hashtag Media	"Why the glacial pace? This is the Internet! This initiative is a good idea to get things moving. "
Jan 18	GreenWorld 365	"I am strongly in favor of ICANN's proposed plan."
Jan 18	Mailclub	Supports.
Jan 19	Beyond Shelter Nonprofit	"This seems like the logical step to help ICANN prepare and measure the depth of the water before jumping in."
Jan 19	Wasserman Media	Supports.
Jan 19	Olga Design	Supports.
Jan 19	Contemporism	Supports.
Jan 19	EPAG	Supports.
Jan 19	Neue Bioskop	Supports. Move forward.
Jan 19	Kerman & Co., LLP	"Kerman & Co LLP, solicitors in London, England, strongly believe that the current proposed procedure is in the best interests of ICANN and also the charities and other organisations which wish to submit expressions of interest in respect of new TLDs."
Jan 19	PEG PR	Supports.

Date	Name	Comments
Jan 20	Dot Gay	Supports.
Jan 20	Dot Zulu	Supports.
Jan 20	2 Degrees	Supports.
Jan 20	Castellan Ltd.	Supports.
Jan 20	Beadazzle	Supports.
Jan 21	Roma TLD	"I support Expressions of Interest"
Jan 21	Flo Plettenberg Gallery	Supports.
Jan 22	Oleber Event	Supports
Jan 22	Hardenberg	Supports.
Jan 24	Arcs Business Solutions	Supports.
Jan 24	Simply Teeth	Full support.
Jan 25	Dot Fam	"This could help in organization and logistics to launch the new gTLDs program as soon as possible."
Jan 25	Dot Bayern	Supports.
Jan 25	Repair Stem cell Institute	Supports. Start now.
Jan 25	Amira Partners	Support. Move forward.
Jan 25	Smart call	Support. Contention options.
Jan 25	Dahler & Company	Supports.
Jan 26	.Bayern	Full Support
Jan 26	Bayern Connect	Full Support.
Jan 26	BRS Media	Full Support.
Jan 26	Altenrode Liedenburg	Supports.
Jan 27	Dot Koeln	"This will pave the way for concrete deadlines and application rules for new gTLDs."
Jan 27	.GMBH TLD	"EOI should be priority for ICANN to finally gather valid information."
Jan 27	City of Paris	Supports. Should not lead to delays.
Jan 27	Dot Green	"The EOI concept could move the new gTLD process forward by allowing for more transparent and relevant discussion for completing the DAG."
Jan 27	Big Room	Support. Caution w/transfers
Jan 27	GMO Registry	Supports.
Jan 27	EuroDNS	Supports
Jan 27	TLD Consulting	"I think that we must respect the views and concerns of this industry, but we should not grant these industry the right to prevent further Internet developments in the name space."
Jan 28	Armenian Society	"The Armenian Society is looking forward to the EOI programme being accepted and activated promptly."
Jan 28	.Gal	Supports. Urge to move forward
Jan 28	Music.us	"Let's all come to terms, move

Date	Name	Comments
		forward and pave the way to secure and innovate on the web with new TLDs.”
Jan 28	Dot Hamburg	Supports. Move forward.
Jan 28	Dot Hotel	“we urge ICANN to complete the gTLD process as quickly as possible!”
Jan 28	Unite Berlin (3)	Full support.
Jan 28	ICANN ISP Constituency	Supportive. Useful tool.
Jan 28	ICANN At Large Advisory Committee	Supportive. Move forward.
Jan 28	ICANN GNSO	“We believe that the proposed model correctly honors the intent of the GNSO”
Jan 28	Newman & Newman	Full support.
Jan 28	Eco Registrar	Supports.
Jan 28	Domain Dimensions	Supports Draft Model
Jan 28	Blacknight	Supports. Move forward.
Jan 28	EPAG	“The EoI proposal will not launch new TLDs - but, if the EoI comes, it proves that ICANN is able to make decisions that lead into real action in this process.”
Jan 28	JDNIC (2)	Full support.
Jan 28	Internetwire Comm.	Supports. Priority for ICANN
Jan 29	.Music Initiative	“The overarching issues should be carried out in parallel with the EOI”
Jan 30	Afilias	“A mandatory EoI with a fee set at a reasonably high, but not prohibitive level, is appropriate to ensure useful data about the number of applicants and the proposed strings.”

A number of individuals supported EOIs. Some of them are affiliated with ICANN groups of companies. Where the affiliation is known, it is noted in parentheses.

Table 2: Individuals supporting EOIs (97)

Date	Name	Comments
Jan 4	Stephen Ruskowski	Supports.
Jan 8	Bruce Lampcov (2)	Supports.
Jan 11	Catherine Park	“The lawyers against top level domains do not represent the interests of Internet users in general.”
Jan 11	Jean Michel Hannoun	Anti-trademark.
Jan 11	Minor Childers (Dot Eco)	“Kudos to ICANN for seeing through the self-serving obfuscation and delay, and for taking positive, tangible, sensible steps to get this

Date	Name	Comments
		process moving”
Jan 11	Eric Clawson	Supports.
Jan 11	Philip Eytan	Anti-monopoly.
Jan 12	Andrew Alleman	Price tag comment.
Jan 12	Laura Wasser	Supports.
Jan 13	Yuir Zyabin	Supports.
Jan 14	Jim Willenborg	Supports. Anti-trademark.
Jan 15	Jim Dufour	Supports.
Jan 15	James Lonsdale Hands	Supports.
Jan 15	Liese Lotte Peter	“FORTIS Watches Ltd supports ICANN's EOI model”
Jan 16	Jennifer Ziegler	Supports.
Jan 16	Brian Read	Supports.
Jan 16	Evan Riflin	“I support Expressions of Interest”
Jan 16	Ashlee Harlin	Supports.
Jan 16	BA Rich	“I congratulate ICANN on the Draft.”
Jan 16	Amy Wills	Supports. Congrats.
Jan 16	Richard Gati	Stop the monopolies.
Jan 16	Dylan Russell	Supports all points.
Jan 16	Jessica Mazur	“I think that the world needs new gTLDs and the EOI process is the way.”
Jan 16	CU Oliver	Supports.
Jan 17	Ryan Carl	Supports.
Jan 17	Levente Ferencz (M+M)	Supports.
Jan 17	Hugh Haggerty	Supports.
Jan 17	Constantin Fehling	Good for economy.
Jan 17	Ting Jen Hwang	“So that individual users such as myself that are not commercial interests will no longer be held hostage by the dot com monopoly.”
Jan 17	Maximilian Papp	“I support the EOI.”
Jan 17	John Mahtani (2)	Supports.
Jan 17	Vania Sitruk	Supports.
Jan 17	Susan Barkan	“I support Expressions of Interest”
Jan 18	Johnnie Raines	“Please implement these points and make this process a reality.”
Jan 18	Kerri Jablonski	Supports.
Jan 18	Lindsey Phelps	Supports.
Jan 18	R Culver	“I would not change anything. However, I would suggest that its fate not rest in the satisfaction of those who represent trademark interests”
Jan 18	Belinda Egan	Supports.
Jan 18	Teresa Oettingen	Supports. Transparency.
Jan 18	Morvarid Sahafi	Supports.
Jan 18	Alexander Wolfersdorff	Supports.
Jan 18	Favian von Schiler	Supports.
Jan 18	Julie Elkeshen	“I support Expressions of Interest”
Jan 18	Jessica Covington	Supports.
Jan 18	Donna Salas	Supports.

Date	Name	Comments
Jan 18	Hepzaba Veenstra	Supports.
Jan 18	Marisa Kochnover	Supports.
Jan 18	Lisa Vitovich	"I support EOI."
Jan 19	Brian Ross	Supports.
Jan 19	Amanda Taylor	"I support your draft and wish to applaud you on the good work ICANN has done over the last months since hiring a new CEO."
Jan 19	Mark Griffin	Supports.
Jan 19	Patricia Dao	Supports.
Jan 19	Dinah Maric	Supports.
Jan 19	Tom Demko	"Thank you for creating a solid plan"
Jan 19	Paul Keith IV	Supports.
Jan 19	Evan Wender	Supports.
Jan 19	Jennifer Linneman	Supports. Anti-trademark.
Jan 19	Sarah Bodenbender	Supports.
Jan 19	Constantin Nagel	Supports. ASAP.
Jan 20	Marion Hack	Supports.
Jan 20	Terri Durbin	Supports.
Jan 20	Sandra Lopez Tartonne	Supports.
Jan 20	Anand Panjabi	Supports.
Jan 20	Russell Chweidan	Supports.
Jan 20	DFH	Supports
Jan 20	Katrin K	Supports.
Jan 20	Lisa Rockas	Supports.
Jan 20	Bianca Botes	"I strongly support the "Expressions of Interest""
Jan 20	Steffi Weber	"I wish to express my enthusiastic support for EOIs and new TLDs! Germany wants her own TLDs!"
Jan 20	Frauke Lorenz	Supports.
Jan 20	Janina Mazur	"Thank you for efficiency in developing this"
Jan 21	Tim Baker	Supports.
Jan 21	Daiquiri Adkins	Supports.
Jan 21	T Walters	Supports.
Jan 21	Matthieu Credou (2)	"Every step forward the introduction of new gTLD, every attempt to enhance the application process should be praised"
Jan 21	Svenja Hartmann	Supports.
Jan 24	Noemi Nemes	Anti-trademark.
Jan 25	Conradin Castell	Full Support
Jan 26	Robert Becker	Supports. Kudos.
Jan 27	Clark Landry (M+M)	Supports.
Jan 27	Helen Laverty	Supports.
Jan 27	Thomas Gilles	Supports.
Jan 27	Rahman Khan	Supports.
Jan 27	Paige Frakes	Supports

Date	Name	Comments
Jan 28	Jothan Frakes (M+M)	Full support. Mandatory.
Jan 28	Bertrand de la Chapelle (GAC) (2)	"Not only is an EOI mechanism based on the strings perfectly viable and useful*, but it helps actors themselves shape their projects and make the process much more transparent."
Jan 28	Werner Staub (CORE) (3)	"If ICANN goes ahead with EOI, then it must at the same time announce a firm timeline for the EOI process."
Jan 28	Elaine Pruis (M+M)	Full support.
Jan 28	Fred Krueger (M+M)	Supports. Resp. to Palage.
Jan 29	Paul Stahura	Full support. EOI Mandatory.
Jan 29	Richard Tindal	Full support.

III. Minds + Machines Comment Form

Minds + Machines put together an online form that outlined the rather complicated arguments for and against EOIs as a way to encourage comments from those for whom the prospect of writing an extended argument might be daunting. The form can be found here: <http://www.mindsandmachines.com/2010/01/let-icann-know-your-position-on-expressions-of-interest/>. We further encouraged commenters both for and against EOIs to use the comment form.

Most commenters using this form, but by no means all, sent in comments favorable to EOIs.

III. Arguments made against EOIs

The commenters against EOIs can be divided into the following categories:

1. Large brand owners
2. Registrars providing domain name services to brand owners
3. Trademark and intellectual property associations
4. ICANN's Intellectual Property Constituency
5. Large charitable not-for-profits
6. Members of the International Trademark Association (see section IV below).
7. Sports organizations
8. Independent individuals
9. Eric Brunner-Williams

The following are the primary concerns found in the comments opposed to EOIs:

- **Resolution of overarching issues** - The "overarching issues" need to be resolved before any new gTLDs.
- **DAG** - The Final DAG needs to be published before an EOI.

- **Speculation** - EOIs will promote speculative behavior including “slot” trading.
- **Time** - The process is moving too quickly for proper response and consideration.
- **Price** - \$55,000 is too much for nonprofits, developing countries and for others who cannot afford it.
- **No gTLDs** - Any new gTLDs are a bad idea.

The large majority of commenters opposing the Draft Model represented the concerns of trademark holders: trademark associations or groups (23); trademark attorneys (21); or the legal departments of companies (15) account for more than 80 percent of those in opposition of the Draft Model.

Table 3: Trademark Groups Opposed to EOIs (23)

Date	Name	Comments
27-Jan	USCIB	“Most importantly, the EOI does not adequately recognize the need to have established rules in place in order for potential applicants to adequately assess their business strategies for any potential new gTLD application.”
27-Jan	COA	Speculation. Litigation.
27-Jan	ASIPI	“In conclusion, the Committee considers that it is not necessary to rush into the opening of new gTLDs to justify the economic demand for new gTLDs.”
27-Jan	CADNA	Complete DAG
27-Jan	Marques /ECTA	“In the current economic climate, it would be very hard for a corporation – especially one that is publicly-owned -- to commit to pay a substantial sum to participate in an EOI..”
18-Jan	Mark Monitor	Not fair, does not demo demand
28-Jan	Lovells, LLP	Overarching issues. Not useful
28-Jan	ICANN IP Constituency	Threatens IP rights
28-Jan	INTA	“Since a poorly conceived and ill-timed EOI process may lead to significant public harm, INTA recommends that ICANN fully consult with the community so it can be informed of the potential benefits and harms that may result from any particular EOI process.”
21-Jan	European Brands Assoc.	Rejects all points.
20-Jan	Michael Palage (PPF)	GAC. “Slot trading.”
27-Jan	FICPI	Not desirable. Overarching issues.
26-Jan	IACC	Reject new step in process.
6-Feb	Sports Orgs.	“Allowing EOI applicants to freely

Date	Name	Comments
		transfer their new gTLD application round slots will almost certainly result in unregulated secondary market”
27-Jan	Auto makers	Violates AOC.
21-Jan	British Brands Group	“We wish to echo the submission of AIM (the European Brands Association)”
27-Jan	Intl. COC	Affirmation reviews. Too soon.
22-Jan	Financial Planning Standards (2)	Overarching issues. DAG Completion. Too soon.
26-Jan	Com Laude (Nick Wood)	Overarching issues.
27-Jan	Association of American Medical Colleges	Outstanding issues. Too expensive
27-Jan	National Cable & Telecom Assoc.	Premature
27-Jan	AFNIC	“18 months seem a disproportionate amount of time if the goal of the EOI is for ICANN to ready a plan which have been under development for several years.”

Table 4: Individual Companies Opposed to EOIs (15)

Date	Name	Concerns
27-Jan	Microsoft	Overarching issues. Public comment.
27-Jan	Ikea	Outstanding issues. Security.
27-Jan	Philip Morris	Reject all draft points.
27-Jan	Time Warner	“At best, it is entirely premature to set an expressions of interest (EOI) phase in the new gTLD process.”
27-Jan	Coke	Infringement risks. Too fast.
6-Feb	IBM/MS	Complete DAG.
26-Jan	UBS	Demand. Security.
13-Jan	Costco Wholesale	“...when the proposal to create new gTLDs was first publicized the world' was different.”
11-Jan	Lockheed Martin Corp.	Generally opposes.
12-Jan	Siemens water	No gTLDs.
22-Jan	Adobe Systems	Overarching issues.
26-Jan	US Olympic Committee (2)	No gTLDs.
28-Jan	Sunkist	
26-Jan	Verizon	“ICANN, as a not-for-profit entity, must be careful to avoid even the appearance of impropriety, when issues, like the EOI, are directly tied to policy decisions that favor its own self interest.”
27-Jan	Lego	Overarching issues.

Table 5: Comments by Individuals Opposed to EOIs (17)

Date	Name	Concerns
27-Jan	Eric Brunner-Williams (CORE) (4)	Security. Expensive.
28-Dec	Kieren McCarthy	Not fair or equitable.
3-Jan	Avri Doria (2)	Putting any cost on the Eoi will constitute a further barrier to entry to Applicants from development regions.
18-Jan	Jim Davies	Premature.
18-Jan	Grant McHerron	N/A
17-Jan	Alan Batie	Promotes phishing.
27-Jan	Mary Iqbal	"ICANN should skip the Expression of Interest phase entirely, and should open up the application process earlier."
26-Jan	Janis Karklins (GAC)	Too early. GAC not consulted properly.
26-Jan	Khaled Fattal	"ICANN must ensure all have an equal opportunity. They may not all have equal ability, but equal opportunity they all must have..."
24-Jan	George Kirikos (2)	Premature.
22-Jan	Michael Clemens	N/A

IV. INTA Submissions

On January 12, INTA, the International Trademark Association (INTA) sent out an anti-EOI message to its membership (full text below), exhorting them to comment, suggesting that merely registering their opinion would be sufficient as a comment.

Dear INTA Members,

The following notice is to bring to your attention two Internet domain name system developments that warrant your consideration and potential action.

1. ICANN is Soliciting Input: Should it Proceed with Pre-Registrations for New gTLDs?

The Internet Corporation for Assigned Names and Numbers (ICANN) is seeking community views, including input from trademark owners and their representatives, on whether it should begin accepting "pre-registrations" for new generic Top Level Domains (gTLDs). Please click here for the ICANN announcement.

INTA's Internet Committee will submit comments opposing pre-registration, but it is important that ICANN also hear from trademark owners directly.

This letter was followed by comments from INTA members that were brief and did not include a reason for opposing EOIs:*

Table 6: Brief letters from INTA members opposing EOIs (21)

Date	Name	Occupation
12-Jan	Christie Sussman	Trademark Atty, Jack Daniels
12-Jan	Diane Duhaime	Trademark Attorney
12-Jan	Andres Wyld	Trademark Attorney
12-Jan	James Henricks	Trademark Attorney
12-Jan	Lisbet Andersen	Trademark Attorney
12-Jan	Panagiotis Perysinikis	Trademark Attorney
12-Jan	Sabrina Hudson	Attorney, HJ Heinz
12-Jan	William Borchard	Trademark Attorney
13-Jan	Max Menius	Trademark Attorney
13-Jan	Katia Grabienski	Trademark Attorney
13-Jan	Corey Cho	Trademark Attorney
14-Jan	Tiki Dare	Attorney, Sun Micro
14-Jan	Kay Uwe Jonas	Trademark Attorney
14-Jan	Hanna Karin Held	Trademark Attorney
14-Jan	Ugur Aktekin	Trademark Attorney
11-Jan	Susan Blasco	Trademark Attorney
21-Jan	Clare Speed	Trademark Attorney
21-Jan	Deborah Greaves	Trademark Attorney
20-Jan	John Macaluso	Trademark Attorney
26-Jan	Adebola Akikugbe	Trademark Attorney
27-Jan	Deb Hughes	Trademark Attorney

* The following is an example of a statement made in response to the INTA message.

To: <draft-eoi-model@xxxxxxxx>
 Subject: Pre-registrations for new gTLDs
 From: "Lisbet Andersen" <lan@xxxxxxxxxxxx>
 Date: Tue, 12 Jan 2010 10:48:57 +0100

As an INTA member I have been encouraged to give my opinion on the pre-registration issue. This is to inform you that I do not support ICANN accepting pre-registrations for new gTLDs.

Kind regards
 Lisbet Andersen

V. Conclusion

The majority of the comments in favor of the Draft Model supported all of the proposed points in the Draft Model, with some concerns about price and whether EOIs should be mandatory. Strongly, they urged ICANN to move forward expeditiously and to provide a clear and predictable timeline.

The comments against the Draft Model were for the most part opposed to EOIs and new gTLDs in general. The comments from the 21 INTA members were very short comments

opposing EOIs. Some of the arguments by large brand holders were longer and did not comment on the staff proposal so much as offer their concerns about EOIs and new gTLDs. The primary concern among companies providing an explanation for their opposition was the resolution of the “overarching issues.” Security was the second greatest concern.

VI. Comments and Corrections

Any corrections or comments should be sent to minds@mindsandmachines.com.