

5th December 2015

To,

The Economist Intelligence Unit, ICANN Community Priority Evaluation Panel

Re: Commercial Connect LLC's application for .Shop

Comment to Community Priority Evaluation

Respected Panel,

This letter is meant to provide inputs to evaluate Commercial Connect LLC's ("CCL") application for .Shop (Application ID: 1-1830-1672). CCL was invited to participate in CPE on 26th November 2014 (see: <http://newgtlds.icann.org/en/applicants/cpe>)

We make this submission on behalf of Dot Shop Inc., which is also an applicant for .Shop. We understand that this letter and comment will be published on ICANN's official correspondence page, <https://www.icann.org/resources/pages/correspondence-2012-09-24-en>, where it will be available for consideration.

Thank you for your consideration.

Commercial Connect LLC's Application for .Shop

Comment to the Community Evaluation Panel

AGB Criteria

The CPE is comprised of four criteria, each of them divided into sub-sections that are individually evaluated. They are:

- + Community Establishment
- + Nexus between Proposed String and Community
- + Registration Policies
- + Community Endorsement¹

Each of the sub-sections is scored on a basis from 0–4 points, allowing the possibility of scoring a maximum of 16 points overall. 14 points are required to successfully pass CPE.

Introduction

- This evaluation of the Commercial Connect LLC's ("CCL") community application for .shop (Application ID: 1-1830-1672) is offered to the Community Priority Evaluation (CPE) Panel in the hope that it will be of use.
- Although this evaluation is offered by a party with vested business interests in this discussion, it is offered in the spirit of the multi-stakeholder model. It must be insisted upon that all CPE Panels rely solely on the rigorous criteria put forth in the AGB.
- The AGB is a document created by the ICANN multi-stakeholder community over many years of drafts and conversations. The AGB as it stands was agreed to by all applicants by virtue of their applications and must be adhered to.
- Due to the fact that a successfully rated Community Application achieves supremacy over other applications for the same string, strict interpretation of AGB is required by the Community Priority Evaluation panel.

¹ AGB §4.2.3

- CCL could have chosen a unique string such as .ecommerceoperators or .commercialconnect. Instead, it applied for the easier to find, more globally used and generic term: .shop – a good decision from a business standpoint but sacrificing nexus and uniqueness in order to obtain that name.
- Furthermore, CCL has tried to manufacture a community where none existed and use the community priority process to circumvent the appropriate contention set resolution process defined by ICANN.
- From the AGB §4.2.3
 - It should be noted that “a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application.”
 - The scoring process is conceived to identify qualified community-based applications, while preventing “false positives” (awarding undue priority to an application that refers to a “community” construed merely to get a sought-after generic word as a gTLD string).
 - “The threshold for winning is intentionally set with a view to prevent gaming attempts and identifying true Community applications. The risk for "false negatives" in the scoring can be moderated by a lowering of the threshold, but this has to be balanced against an increased risk for "false positives". In cases of generic words submitted as Community based strings, test runs by [ICANN] staff have also shown that the threshold is difficult to attain...”²
- This is not to say that the CCL application is poor, it is not. We are just saying that the CCL application does not approach meeting the criteria for a community TLD. The generically worded TLD name, .shop, does not clearly identify a community, nor does a cohesive “e-commerce operators” community exist. “[A] finding by the panel that an application does not meet the scoring threshold to prevail in a community priority evaluation is not necessarily an indication the community itself is in some way inadequate or invalid.”³

² <http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf>

³ Applicant Guidebook §4.2.3

- .shop is a generic word. ICANN specifically states that the community process should not be abused by applicants to get a sought-after generic word as a gTLD string. The scoring is set to be rigorous to prevent gaming and abuses.⁴
- CCL is manufacturing the existence of a “e-commerce operators community” so that they may get priority. This is a rational act on the part of CCL, a low cost gamble with a great benefit if it succeeds.

⁴ <http://www.icann.org/en/topics/new-gtlds/summary-analysis-proposed-final-guidebook-21feb11-en.pdf>, p.117

Section A: The CCL application does not meet the required criteria, starting with the fact that there is no such thing as a “e-commerce Operators community”

Introduction

- The “community” identified by CCL in their application for .shop is the “e-commerce Operators community”. CCL claims there is a single global “e-commerce Operators community”
- We submit –
 - There is no “community” called the “e-commerce Operators community”
 - E-commerce is a sector or an industry but it is NOT a community
 - The CCL application continually refers to the ‘e-commerce’ community and the “e-commerce Operators community”, not the ‘shop’ community. CCL has not been consistent or rigorous in the usage of their own terminology for their purported community. While this application would fall short of the CPE criteria in any case, CCL might have come closer to meeting those criteria if it had chosen .ecommerceoperators instead of .shop.

Analysis

1. AGB Section 4.2.3 - definition of community

- The ICANN test for what constitutes a community is well defined in the AGB and must be strictly interpreted.
- From Section 4.2.3 in the AGB under criterion 1 Definitions
 - Definition of “Community”: Usage of the expression “community” has evolved considerably from its Latin origin – “communitas” meaning “fellowship” – while still implying more of cohesion than a mere commonality of interest. Notably, as “community” is used throughout the application, there should be: (a) an awareness and recognition of a community among its members; (b) some understanding of the community’s existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.

1.1 Cohesion

- Evident from the above, ICANN intended for a “community” to imply “more of cohesion” than a “mere commonality of interest”
- “Cohesion” is defined in the dictionary as “the act or state of cohering; tendency to unite; 1670s, from L. cohæsus, pp. of cohærere "to stick together"
- By this definition, according to ICANN, there would be a global or world “e-commerce Operators community” if all e-commerce Operators around the world cohere or tend to unite or stick together.
- The Panel should note that CCL’s application does not assert or demonstrate any “cohesion” between any e-commerce Operators around the world, let alone every single e-commerce Operator in the world.
- E-commerce Operators may have common interests, but they do not “tend to stick together”.

1.2 Awareness and Recognition

- To prove that the alleged global “e-commerce Operators community” is a “community”, there needs to be “an awareness and recognition of a community” among its “members”.
- Firstly the definition presupposes the existence of “members”. The dictionary definition of the word “member” states - “A distinct part of a whole”
- Hence an “e-commerce Operator” would qualify as a “member” of an alleged global “e-commerce Operators community” if it was a “distinct part” of such a community
- CCL defines the community as “ecommerce Operators that directly sell to the public on the internet” and also “basically a B2C site that utilizes credit card processing requiring them to abide by PCI DSS (Payment Card Industry Data Security Standards) to operate”.
- Just being an e-commerce Operator that sells to the public on the internet does not make these entities “member/s” of an alleged “community”.
- Similarly the decision to “utilize credit card processing” on one’s website does not make the decision maker or the decision making entity a “member” of an alleged “community”.
- If this were the case then by extension of this logic one could argue that every decision to carry out a certain business creates a community –

- For eg: can everyone in the world who provides consulting services be construed to be a “member” of a “global consulting community”
- OR can every company in the world that provides janitorial services be construed to be a “members” of a “global janitors community”
- A mere decision by an entity to undertake a certain activity does not make it a member of a community.
- Additionally, CCL has misstated its definition of the community by representing that all B2C sites that utilize credit card processing are required to abide by PCI DSS, which could have been looked upon as a common characteristic that applies to all the purported members of the alleged community. However this is not the case. For example, in Washington, e-commerce Operators are not required to be compliant with PCI DSS, but compliant entities are shielded from liability in the event of a data breach.⁵
- Additionally ICANN states that - for there to exist a global “e-commerce Operators community” there must exist among global e-commerce Operators, an awareness and recognition of such a community (i.e. an awareness of cohesion)
- There is no evidence existing or presented by CCL of any such “awareness and recognition” amongst any e-commerce Operators, let alone amongst all the e-commerce Operators in the world, of the existence of a global “e-commerce Operators community” of which they are “members”.
- CCL itself has used the words “e-commerce industry” and “e-commerce community” interchangeably throughout its application. The existence of an e-commerce industry does not connote that there exists a global “e-commerce community”.
- E-commerce Operators merely share a common attribute i.e. selling on the internet. Sharing a common attribute does not make them a community.

1.3 Existence prior to 2007

- To prove that the alleged global “e-commerce Operators community” is a “community”, there needs to be “some understanding of the COMMUNITY’s existence prior to September 2007”.

⁵ <http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session%20Laws/House/1149-S2.SL.pdf> See Page 2, line no. 37.

- CCL has not provided any evidence of the existence of a “global e-commerce COMMUNITY” prior to 2007, or ever for that matter.

2. AGB Section 3.5.4 – clearly delineated community

- Section 3.5.4 of the AGB covers the guidance ICANN offers to an objection review panel to determine if an invoked community exists as a delineated community. The section offers 5 factors. We draw your attention to four (4) of those –
 - The level of public recognition of the group as a community at a local and/or global level;
 - The level of formal boundaries around the community and what persons or entities are considered to form the community;
 - The length of time the community has been in existence;
 - The number of people or entities that make up the community.
- We submit that there is no public recognition of a global “e-commerce Operators community” at large
 - We submit that there is such a thing as a global “e-commerce industry” but that does not make a community
 - A google search for the term “e-commerce Operators community” does not bring up any single website that mentions the existence of an “e-commerce Operators community”
 - However a search of the terms “e-commerce industry” and “e-commerce sector” provide many relevant results that describe e-commerce as an industry or sector
 - This demonstrates that there is no public recognition of an alleged global “e-commerce Operators community”
 - As such CCL has failed to provide any evidence of such public recognition at a global level of the existence of a “e-commerce Operators community”
- There aren’t consistent formal boundaries as to what persons or entities are considered to be e-commerce Operators -
 - There are no regulations, licensing processes, guidelines and laws around the activity of simply selling on the internet (e-commerce).

- For instance, anyone wishing to sell any product or service only can set up a website and start selling within hours of making the decision to do so. Furthermore, websites such as eBay enable any individual anywhere in the world to sell anything within minutes. It is extremely debatable whether such “sellers on the internet” qualify as a member of the purported “e-commerce Operators industry”.
- Given the lack of any formal boundaries around the purported community and the ambiguity inherent in identifying what entities or persons are considered to form the purported community, there is no consistency with respect to what entities are considered as e-commerce Operators.
- With respect to the length of time the purported community has been in existence, we submit that the purported community has never existed –
 - In Question 20(a) of the application ICANN asks the applicant to provide the following description in their response
 - How the community is structured and organized. For a community consisting of an alliance of groups, details about the constituent parts are required.
 - When the community was established, including the date(s) of formal organization, if any, as well as a description of community activities to date.
 - The current estimated size of the community, both as to membership and geographic extent⁶
- We respectfully draw the panel’s attention to the answer to Question 20(a) in the CCL application which does not answer any of the above 3 questions in its application. While in their responses to all other questions CCL has explicitly called out in its headings and sections the specific questions asked by ICANN, in their response to Q 20(a) they have not called out any of the above.
- Community structure
 - CCL does not describe the structure of the purported global “e-commerce Operators community”. Is it one community? Does it comprise of an alliance of groups? What are its constituent parts?
 - CCL simply states that the alleged “community is easily identified as websites that have shopping cart programs that utilize SSL (Secured Socket Layer) certificates (required

⁶ Q20 (a) as detailed in the AGB at Page 108

under PCI DSS) to process their transactions.” However we have already provided evidence that compliance with PCI DSS itself is not a requirement for all e-commerce websites globally.

- Additionally, individuals who simply list and sell their products and services on 3rd party websites (often called online market places) also “sell on the internet”, but are not subject to any standards, let alone any form of regulation or compliance.
- However CCL does not document any alliance between these entities (or individuals) or any single global “e-commerce Operators community” and its “constituents”
- Community Establishment date
 - The ICANN AGB clearly asks for an explicit “date” when the community was established, including the date(s) of formal organization, as well as a description of community activities to date
 - CCL simply states that they have engaged with the alleged community since the last 12 years, which has nothing to do with when the purported “e-commerce Operators community” was established, or even when e-commerce operations began.
 - In fact CCL cannot even bring itself to state in its application a statement to the effect of – “The global e-commerce Operators community began in <date>”
- Community size
 - CCL does not in its answer provide any of the following for the alleged “global e-commerce Operators community” –
 - Number of members
 - Geographic spread of members
 - CCL simply states that they have received over 1,100 personal recommendations from e-commerce Operators “representing in excess of \$667 Trillion USD in annual sales last year alone”. We submit that 1,100 personal recommendations is not even close to establishing the size or number of purported members of the purported “e-commerce Operators community”. And the figure of “\$667 Trillion USD in annual sales” is entirely irrelevant given that the global e-commerce industry is expected to reach a milestone of \$1.5 trillion USD only in 2014⁷. Clearly the annual sales figure that CCL is referring to is

⁷ <http://www.thepayers.com/e-commerce/2014-global-b2c-e-commerce-sales-to-reach-usd-1-5-trillion/753927-25>

not limited to sales on the internet, and is therefore irrelevant to the purported “e-commerce Operators community”.

- CCL cannot even bring itself to state in its application a statement to the effect of – “The global e-commerce Operators community comprises of XXX members located in YYY countries”
- Last but not the least, it would be useful for the Panel to note that the AGB provides for a process called a “community objection” process wherein a particular application could be objected against by a legitimate community, and could succeed based on its merits. One key premise within that process is to prove that the objector has an ongoing relationship with a “clearly delineated community”. One such objection was brought against an applicant for .Shop, and failed. Please note the finding of the Expert Panel appointed by the International Chamber of Commerce (the Dispute Resolution Service Provider for community objections) in this case, “The community for <.shop> is difficult to define. It would include not only shop owners, retailers, manufacturers, suppliers of goods and services, but also consumers, chambers of commerce, governmental entities which supervise and which may tax such goods and services, etc. Such an amalgam of interests could not serve as a delineated community.”⁸

3. Summary

- We do not believe that CCL has established the existence of a global “e-commerce Operators community”. In order to demonstrate the existence of a global “e-commerce Operators community”, as per the AGB, CCL must demonstrate:
 - Cohesion amongst all the e-commerce Operators in the world and evidence that they tend to unite and stick together for a common cause world over
 - Awareness and recognition amongst e-commerce Operators that they are actually members of such an alleged “community”
 - Recognition locally and globally amongst the public at large of the existence of a global “e-commerce Operators community”
- CCL has not provided any evidence to prove the above

⁸ See http://www.iccwbo.org/Data/Documents/Buisness-Services/Dispute-Resolution-Services/Expertise/ICANN-New-gTLD-Dispute-Resolution/EXP_450_ICANN_67_Expert-Determination/, p 16, point 72.

- CCL itself cannot state in its own application a start date of the community or its membership count, size etc.
- We submit that as per the AGB there is no global “e-commerce Operators community”

Section B: Criterion 1 - Delineation (2 points)

Introduction

The CCL application should receive a score of zero for the criteria. The purported “e-commerce Operators community” is not one with clear boundaries, is not globally organized and is not “pre-existing” as it was invented as a matter of convenience for this application with the intent to gain a preference over other applicants.

From Section 4.2.3 of the AGB, Delineation is scored as follows

- For a score of 2: *Clearly delineated*, *organized*, and *pre-existing* community.
- For a score of 1: Clearly delineated and pre-existing community, but not fulfilling the requirements for a score of 2
- For a score of 0: Insufficient delineation and pre-existence for a score of 1

Analysis

1. Clearly Delineated

- The purported “global e-commerce Operators community is not “clearly delineated”
- The AGB states: "Delineation" relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low.
- The application needs to prove that there is “a clear and straight-forward membership definition” to be considered as a member of the alleged global “e-commerce Operators community”.
- Quoting from CCL’ application –
 - In Q 20a of the application, membership of the alleged community is first defined as “eCommerce operators that directly sell to the general public on the internet”.
 - We submit that this definition includes individuals selling absolutely anything on websites such as eBay and other online market places.

- Within the same answer to Q 20a, the application later states that “This community is basically a B2C site that utilizes credit card processing requiring them to abide by PCI DSS (Payment Card Industry Data Security Standards) to operate”
 - We submit that this definition excludes any B2B site, and also any B2C site that utilizes payment modes other than credit cards, such as debit cards, netcommerce Operatoring, e-wallets, or even those that offer the option of “cash on delivery”.
 - Additionally, not every site that utilizes credit card processing is required to abide by PCI DSS to operate.⁹
- Within the same answer to Q 20a, the application then states, “This community is easily identified as websites that have shopping cart programs that utilize SSL (Secured Socket Layer) certificates (required under PCI DSS) to process their transactions. Studies have been performed to help identify these website operators and we have a 95% confidence that we have a clear and defined subset of the internet.”
 - We submit that since PCI DSS itself is not a mandatory requirement for websites, any requirements to comply with PCI DSS (such as utilization of SSL certificates) are not applicable to the entire universe of e-commerce Operators.
 - By CCL’s own admission, they are not entirely certain about identifying the purported members of this alleged community.
- Within the same answer to Q 20a, the application goes on to state, “the definition of eCommerce will continue to expand and involve more participants.”
 - While it would be fair to say that new e-commerce websites spring up every day, the very “definition” of the constituent parts i.e. membership definition of the purported community must not “continue to expand” for the purpose of having a “clear and straight-forward membership definition”
- In Q 20e of the application then states, “The registration of a domain name is available to businesses.”
 - This statement opens up the limitless possibility of absolutely any business to be considered a member of the alleged global “e-commerce Operators community”.

⁹ <http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session%20Laws/House/1149-S2.SL.pdf> See Page 2, line no. 37.

- Undoubtedly, these five (5) sentences which attempt to define the alleged community membership are far from clear, and represent a grossly “unclear” definition of the membership of the alleged community.

2. Organized

- The purported global “e-commerce Operators” community is not “organized”
- The AGB states: "Organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.
- The community invoked is an alleged global “e-commerce Operators community”. Thus CCL must prove the existence of at least one entity mainly dedicated to the entire global “e-commerce Operators community”
- The only entity mentioned in the application for this purpose is “eCommerce World Retailers”, aka www.ecwr.net.
 - This entity was set up by CCL itself, as is clearly stated at <http://www.ecwr.net/About.php>
 - It was clearly set up for the purpose of promoting CCL’s application for .Shop, as is clearly visible on their Home Page (<http://www.ecwr.net/Home.php>) where one paragraph of information about the entity is followed by a promotion of CCL’s application for .Shop.
 - While a comprehensive list of members is not available, interestingly, the membership of “eCommerce World Retailers” is not restricted to e-commerce Operators, as the home states, “We also invite potential and interested parties to also join...”¹⁰
 - It is not a coincidence that the registered address for “eCommerce World Retailers” visible at the same link (<http://www.ecwr.net/About.php>) is “1418 South Third Street, Louisville, KY 40208”, and this is the exact same address for CCL in their application.
 - Needless to say, there is absolutely no “documented evidence” of “community activities”.

¹⁰ <http://www.ecwr.net/Home.php>

- There is no entity mentioned in the application or existing which is mainly dedicated to the alleged global “e-commerce Operators community”, with “documented evidence of community activities”.

3. Pre-Existing

- The purported global “e-commerce Operators community” is not “pre-existing;” it was invented as a convenience for this application.
- The AGB states: "Pre-existing" means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007.
- The application only provides information about CCL having applied for the .shop extension in the 2000 round, and having engaged with ecommerce operators since the last 12 years, but this does not evidence the existence of a global “ecommerce Operators community” since the last 12 years, or ever for that matter.
- There is no evidence submitted by CCL to show that the alleged global “e-commerce Operators community” has existed prior to 2007, or ever for that matter.
- We concede that “e-commerce Operators” have been around for years; however, as discussed earlier, a clearly delineated, organized global “e-commerce Operators community” as defined by CCL has not existed before 2007, or ever.

4. Summary

- CCL has failed to prove the existence of a global “e-commerce Operators community”
- That is, CCL has not provided any evidence that the alleged global “e-commerce Operators community” is clearly delineated, organized and pre-existing.
- The “e-commerce Operator” community was invented as a matter of convenience for this application.
- Thus the application should receive a zero (0) score for the sub-criteria of Delineation.

Section C: Criterion 1 – Extension (2 points)

Introduction

Since the application does not provide size and longevity information on the global ecommerce industry or the purported global “ecommerce Operators community”, (which was created specifically for purposes of this process,) the application fails to meet the size and longevity criteria of community. The applicant’s definition of membership does not enable the definition of size nor longevity. The inability to quantify the size of the alleged community stems from the incapability to define the “membership” of the alleged community clearly.

From Section 4.2.3 of the AGB, Extension is scored as follows

- For a score of 2: Community of considerable size and longevity
- For a score of 1: Community of either considerable size or longevity, but not fulfilling the requirements for a score of 2
- For a score of 0: Community of neither considerable size nor longevity

Analysis

1. Size

- The purported global ecommerce Operators “community” lacks considerable size
- The AGB states: "Size" relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers - a geographic location community may count millions of members in a limited location, a language community may have a million members with some spread over the globe, a community of service providers may have "only" some hundred members although well spread over the globe, just to mention some examples - all these can be regarded as of "considerable size."
- The application does not demonstrate the size of the ecommerce sector or industry; neither does it demonstrate the “size” parameter of the purported community.

- The application provides statistics of the number of personal recommendations CCL has received supporting their application (over 1,100), but this does not relate even remotely to the actual size of the ecommerce industry or the purported global “ecommerce Operators community”.
- Therefore, it does not demonstrate the size of the alleged global “ecommerce Operators community”.
- This inability to quantify the size of the alleged community stems from the incapability to define the “membership” of the alleged community clearly, and is therefore not surprising.

2. Longevity

- The purported global ecommerce Operators “community” lacks longevity
- This “community” was invented for the convenience of this application: to take advantage of the CPE to gain a preference.
- The AGB states: “Longevity” means that the pursuits of a community are of a lasting, non-transient nature.
- The application does not demonstrate this criterion either. In fact the application is entirely silent on what the “pursuits” of the purported community are, and whether they are of a lasting nature.

Summary

- CCL has failed to prove that the purported community demonstrates considerable size and longevity
- Thus the application should receive zero (0) score for the sub-criteria of Extension

Section D: Criterion 2 - Nexus (3 points)

Introduction

The CCL application should score zero points for Nexus criteria as defined in the Guidebook. There are many meanings to the word “shop”. Even CCL purports to represent the “e-commerce Operators” community, and not the “shop” community. CCL could have selected a name with greater nexus to its purported community or one approaching uniqueness, such as .ecommerceoperators but made the business decision to sacrifice nexus and uniqueness in order to obtain an easier to find business name on the Internet.

From Section 4.2.3 of the AGB, Nexus is scored as follows

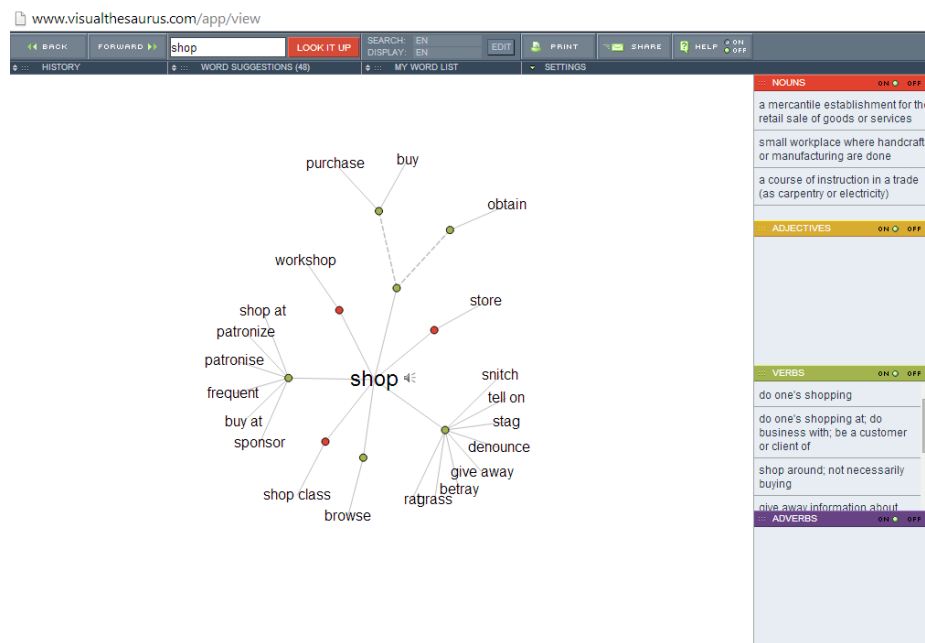
- For a score of 3: The string matches the name of the community or is a well-known short-form or abbreviation of the community name
- For a score of 2: String identifies the community, but does not qualify for a score of 3
- For a score of 0: String nexus does not fulfill the requirements for a score of 2

Analysis

- Nexus is the one criterion where CCL’s application is the weakest. ICANN’s AGB provides very clear and unambiguous guidelines on how Nexus is to be scored
- With respect to Nexus, an application would score three (3) points if the string, i.e. “shop” MATCHES the name of the alleged community, i.e. the global “ecommerce Operators community”. Obviously the string does not match the name of the alleged community.
- There is no “well-known short-form” for the purported global “ecommerce Operators community”. And it is definitely not “shop”.
- The word “shop” is also not an “abbreviation” of the purported global “ecommerce Operators community”.
- The AGB defines: With respect to “Nexus,” for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification / name of the community.

- The AGB states: "Name" of the community means the established name by which the community is commonly known by others.
- In other words, CCL needs to prove that the string "shop" is "commonly known by others" as the "established name" for the purported global "ecommerce Operators community".
- The word "shop" does not commonly mean the global "e-commerce Operators community"
- Even CCL never claims to be part of a global "shop" community; they purport to represent the "ecommerce Operators" community. While this application would fall short of the CPE criteria in any case, CCL might have come closer to meeting those criteria if it had chosen .ecommerceoperators instead of .shop.
- Additionally the string "Shop" has the following meanings in the Merriam-Webster dictionary¹¹:
 - a building or room where goods and services are sold
 - the place where a specified kind of worker works : a worker's place of business
 - a place for making or repairing goods, machinery, vehicles, etc.
 - a handicraft establishment
 - a building or room stocked with merchandise for sale
 - a commercial establishment for the making or repair of goods or machinery
 - a business establishment
 - to visit places where goods are sold in order to look at and buy things
 - to try to get a company to publish or produce (something)
 - to give information about the secret or criminal activity of (someone) to an authority (such as the police)
- Also see below a visual depiction of the various connotations of the word "Shop":

¹¹ <http://www.merriam-webster.com/dictionary/shop>



- The word “Shop” clearly does not “match” a community. No definition provided by Merriam Webster refers to any community.
- Shop is not a “well-known short form” for the purported “e-commerce Operators community”.
- Also see <http://dictionary.reference.com/browse/shop?s=t> for more sources showing the various meanings of the word “Shop”.
- Evident from the above, NONE of the above definitions and connotations suggests that the string “Shop” stands for or is commonly known as a global “ecommerce Operators community”.
- The AGB states: With respect to “Nexus,” for a score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.
- This means that the application would score 2 on this criterion if the string “Shop” closely describes the global “ecommerce Operators community” or the “members” of the global “ecommerce Operators community”, without “over-reaching substantially beyond the global e-commerce Operators community”.
- We submit that evident from all the above-stated definitions, the string “Shop” does NOT describe the global “ecommerce Operators community” at all, let alone “closely describe” it.
- Also note the inclusion of the words “without over-reaching substantially beyond the community”.

- As evidenced from the definitions and connotations above, the string “Shop” has several meanings and connotations under various contexts. Consequently it obviously over-reaches substantially beyond the purported global “ecommerce Operators community”.
- CCL’s contention that “Shop” signifies the global “ecommerce Operators community” is substantially over-reaching

4. Summary

- It is clear that the string “Shop” does not mean global “ecommerce Operators community”
- CCL could have selected a name with greater nexus to its purported community or one approaching uniqueness, such as .ecommerceoperators, but made the business decision to sacrifice nexus and uniqueness in order to obtain an easier to find business name on the Internet.
- Thus the application should score zero (0) for Nexus.

Section E: Criterion 2 – Uniqueness (1 point)

Introduction

CCL's application should score zero points for Uniqueness criteria as defined in the Guidebook. There are many meanings to the word "Shop." Even CCL purports to represent the "e-commerce Operators" community, and not the "Shop" community. The application is neither consistent nor rigorous in the use of "shop" and "e-commerce Operators" terminology further reinforcing that "Shop" is not unique.

From Section 4.2.3 of the AGB Criterion 2, Uniqueness is scored as follows:

- For a score of 1: String has no other significant meaning beyond identifying the community described in the application
- For a score of 0: String does not fulfill the requirement for a score of 1

"There is merit in considering uniqueness in the nexus between string and community as a main factor for achieving a high score. To be an unambiguous identifier, the "ideal" string would have no other associations than to the community in question. This can arguably be achieved by using the community institution abbreviation as string, but there are other possibilities, for example by putting a prefix or suffix on a generic string to make it distinctly and uniquely associated with the relevant community (for example, prefixing "boy" to "scouts" for the community of boy scout organizations, or suffixing "growers" to "apple" for the associations of apple growers)."¹²

"'Uniqueness' relates to the meaning of the string."¹³ Therefore, the analysis must focus on the meaning (more accurately, meanings) of the word "Shop."

Analysis

- The purported global "e-commerce Operators community" does not meet the "Uniqueness" criterion requirements.

¹² See, <http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf>, p.103.

¹³ See, <http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf>, p65

- As per the AGB for a score of 1 the string should have “no other significant meaning beyond identifying the community described in the application”
- The AGB states: "Uniqueness" will be scored both with regard to the community context and from a general point of view. For example, a string for a particular geographic location community may seem unique from a general perspective, but would not score a 1 for uniqueness if it carries another significant meaning in the common language used in the relevant community location.”
- Based on the explanation provided for “Nexus” in Section D, it is evident that the string “Shop” does not identify the alleged global “e-commerce Operators community” at all.
- Further, it has several meanings beyond the purported meaning implied in CCL’s application.
- Evidently, “shop” could mean any of the following:
 - a building or room where goods and services are sold
 - the place where a specified kind of worker works : a worker's place of business
 - a place for making or repairing goods, machinery, vehicles, etc.
 - a handcraft establishment
 - a building or room stocked with merchandise for sale
 - a commercial establishment for the making or repair of goods or machinery
 - a business establishment
 - to visit places where goods are sold in order to look at and buy things
 - to try to get a company to publish or produce (something)
 - to give information about the secret or criminal activity of (someone) to an authority (such as the police)
- We do not believe that the CCL application can score a 2 or a 3 for Nexus, hence it cannot score a 1 for “Uniqueness”.
- CCL could have scored one point here if it had chosen a unique string such as .ecommerceoperators. Instead, it applied for the easier to find, more globally used .shop– a good decision from a business standpoint but sacrificing nexus and uniqueness in order to obtain that name.
- However, even if CCL were to score any points for Nexus, the application should score zero (0) for Uniqueness for all the points identified above.
- CCL has not answered the sub-question under Q20 d “Any connotations the string may have beyond the community?”. They have failed to quote the standard definitions of the word “shop”

and the varied meanings it possesses. Based on all the definitions and connotations of the string “Shop”, it is inconceivable to find that it is unique to the purported community of “e-commerce Operators”.

Summary

Given that the purported global “e-commerce Operators community” does not meet the requirements, the application should score zero (0) for Uniqueness.

Section F: Criterion 3 – Registration Policies (4 points)

Introduction

- CCL has this huge caveat in their application: “Commercial Connect reserves the right to modify or amend these policies and any other policies regarding .SHOP at any time.” within their answer to Q 18(b) under the sub-heading “.Shop Domain Names Registration Policies”. This leaves all of CCL’s registration policies and rules completely open and without limitation at its own discretion.
- CCL does not provide registration policies consistent with “the development of a safer, cheaper, and more secure platform for eCommerce, providing for a better online shopping experience”¹⁴ as it leaves a wide open opportunity for the sale of names with no eligibility restrictions or oversight after the “initial” period passes.¹⁵
- The CCL application does not have clearly defined eligibility requirements due to the 5 conflicting definitions / descriptions of the purported community used in its answer to Q20 and detailed in Section B: Delineation above.
- CCL’s application does not provide name selection, content and use rules, and enforcement measures that are consistent with the community based purpose of .Shop.

The CCL application does not meet the criteria defined in Registration Policies.

Eligibility

Introduction

From Section 4.2.3 of the AGB, Eligibility is scored as follows

- For a score of 1: Eligibility restricted to community members
- For a score of 0: Largely unrestricted approach to eligibility

¹⁴ Q 20(c) of the CCL application

¹⁵ “Requirements for the applicant **initially** will be an agreement that the website will be offering goods and/or services under a secured socket layer (SSL) trusted connection.”, Q 20(e) of the CCL application

“Registration policy is a criterion where a balance is needed between what is reasonably the most appropriate registration policy for a community and the risk for gaming of the process by an "open" application declaring itself as "community-based" to get an advantage in a contention situation. The approach taken is conservative in this respect, with the high score reserved for a registration policy only permitting members of the community to register. A widening has been considered, but it appears reasonable to maintain the chosen approach...”¹⁶

Analysis

- The CCL application does not meet the Eligibility criterion requirements.
- The AGB states: "Eligibility" means the qualifications that entities or individuals must have in order to be allowed as registrants by the registry.
- In order to score “1”, CCL must confirm that the qualifications that entities or individuals must have in order to be allowed to register a .shop domain must be restricted to community members only
- There are various statements in the application to prove that CCL will not restrict eligibility to only members of the alleged global “e-commerce Operators community”. A lack of policies and procedures relevant to the scope and nature of the foreseen community TLD must result in a lower score.¹⁷
- Though CCL does refer to a patent pending verification process vaguely in its application, there is no mention of any specific requirements that a potential registrant would have to fulfill in order to be “eligible” to register a name in .Shop. The application only states:
 - “In this process we use bank information already collected on an applicant to match against the registration data. If we verify that the information submitted to us matches the registrants bank account information whereby they had to provide photo identifications locally to their bank along with appropriate corporation and/or business articles, then we can feel more confident that the applicant is who they claim to be.”

¹⁶ <http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf>, p.103

¹⁷ <http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf>

- CCL only describes using “bank information” to match against the registration data. Note that there is no eligibility criteria requiring the registrant to actually be the representative of an “e-commerce Operator”.
- Additionally, all banks may not require photo identifications or have up to date records of their clients. Banks typically do not require “appropriate corporation and / or business articles” in order to open a personal bank account.
- Next CCL’s application states in Q 20(e), “In order for an applicant to be considered “qualified” to purchase a .SHOP top-level domain name, they must go through a strict verification process where Commercial Connect researches the identity of that applicant and his business using semi-automated process patent pending processes. Once the registrant is “verified,” they are assigned a contact ID which will, then, allow them to register a .SHOP domain name.”
- CCL’s application fails to detail what kind of research CCL will carry out into the “identity” of the applicant. What would the criteria be for “qualifying” to be a .Shop registrant? There appear to be none.
- Next CCL’s application states in Q 27, “New Registration: Once an owner is “verified” they can continue the process of registering one or more .SHOP domain names.”
 - CCL does not apply any name selection rules here, so a “verified” owner could buy thousands of names that are entirely irrelevant to him or his/her business.
 - CLL does not even consider what would happen if an “eligible” registrant buys a .shop domain name, but sells it to someone ineligible. In the absence of information, it can only be assumed that there would be no restriction on such activity.
- In Q 28, CCL has printed a copy of its “anticipated RRA”. Note that there is:
 - No explicit or even implied obligation for registrar to verify that the domain registrant is actually a business (like a license to do business), and that the registrant represents that business, and that the domain name being registered matches the name of the business (name selection).
 - No content and use policies commensurate with the community based purposed of the TLD.
 - No restriction on registrants to sell their domain names.
 - No restrictions on proxy registrations – beating the purpose of making it a “transparent TLD for the benefit of the community.”

- CCL also intends to reserve and auction Premium Domain names in .Shop.¹⁸ Their registration policies for these Premium Domain names do not adhere to the requirement of restricting registration in .Shop to community members.
- It also appears that CCL intends to have “open registration” in .Shop as noted in this sentence in its answer to Q 27, “After the premium registration and open period of registration will begin.”
- Furthermore, in Q 20(e), CCL states, “The registration of a domain name is available to businesses.” Clearly, every business in the world cannot be considered as a member of the “e-commerce Operators community”, and therefore it is evident that CCL does not intend to restrict registration of domain names in .Shop only to members of the purported community.
- CCL also has this huge caveat in their application: “Commercial Connect reserves the right to modify or amend these policies and any other policies regarding .SHOP at any time.” within their answer to Q 18(b) under the sub-heading “.Shop Domain Names Registration Policies”. This leaves all of CCL’s already weak eligibility rules completely open and without limitation at its own discretion.
- Consequent to the above AGB guidance and statements from the application, this application must score zero (0) on the Eligibility criterion.

Name Selection

Introduction

From Section 4.2.3 of the AGB, Name Selection is scored as follows

- For a score of 1: Policies include name selection rules consistent with the articulated community-based purpose of the applied-for gTLD
- For a score of 0: Policies do not fulfill the requirements for a score of 1

¹⁸ “Commercial Connect, LLC. expects to reserve certain premium domain names to be made available for auction sometime in the second year of operations.” Application Q 27

Analysis

- The CCL application does not meet the Name Selection criterion requirements.
- The AGB states: "Name selection" means the conditions that must be fulfilled for any second-level domain name to be deemed acceptable by the registry.
- Evident from the AGB guidance, the application would score one (1) if the name selection rules are consistent with the articulated community-based purpose of .Shop.
- As per the application question 20 (c): Provide a description of the community-based purpose of the applied for gTLD, the answer states, "the development of a safer, cheaper, and more secure platform for eCommerce, providing for a better online shopping experience".
- Statements made in the application show that the name selection rules are not consistent with the above stated community-based purpose of .Shop.
- The CCL application contains the following statements under the pretext of name selection rules:
 - Naming Restrictions: The minimum character length for a domain name is one character, excluding the .SHOP extension. The maximum character length for a domain name is 63 characters excluding the extension. A domain name must not begin with a dash "-" or dot "." and must not begin with the following sequence: "alphanumeric_alphanumeric_dash ("-")_dash ("-")".
 - Each character in the domain name, excluding the dots (".")s must be a letter, digit, or dash ("-"). The last character must be a digit or letter. It cannot be a dash ("-").
- In other words, there are absolutely no rules as to the actual domain name that a supposedly "eligible" registrant would be able to register. Any "eligible" registrant would be free to register any domain name of his/ her choice within .Shop, it needn't match the name of their business or brand. Needless to say, this is not consistent with the community-based purpose of .Shop.
- Additional evidence for this lies in the fact that the application states that CCL intends to reserve and auction premium domain names in its second year of operations. There is no mention of these domain names complying with any rules at all, let alone name selection rules.
- Consequently, the application should score zero (0) on the Name Selection criterion.

Content and Use

Introduction

From Section 4.2.3 of the AGB, Content and Use is scored as follows

- For a score of 1: Policies include rules for content and use restrictions consistent with the articulated community-based purpose of the applied-for gTLD
- For a score of 0: Policies do not fulfill the requirements for a score of 1

Analysis

- The CCL application does not meet the Content and Use criterion requirements.
- The AGB states: "Content and use" means the restrictions stipulated by the registry as to the content provided in and the use of any second-level domain name in the registry.
- In other words, the application needs to impose content and use restrictions which are consistent with "the development of a safer, cheaper, and more secure platform for eCommerce, providing for a better online shopping experience" in order to score one (1) for this criterion.
- The CCL application states in its answer to Q 20(e), "Requirements for the applicant initially will be an agreement that the website will be offering goods and/or services under a secured socket layer (SSL) trusted connection." Note the usage of the word "initially", indicating that after this initial period, this minimalistic "content and use" requirement will also not apply.
- CCL also has this huge caveat in their application: "Commercial Connect reserves the right to modify or amend these policies and any other policies regarding .SHOP at any time." within their answer to Q 18(b) under the sub-heading ".Shop Domain Names Registration Policies". This leaves all of CCL's already weak "content and use" rules completely open and without limitation at its own discretion.
- Evident from the application statements, these Content and Use restrictions are not consistent with the community based purpose of .Shop.
- Thus the application should score zero (0) on the Content and Use criterion.

Enforcement

Introduction

From Section 4.2.3 of the AGB, Enforcement is scored as follows

- For a score of 1: Policies include specific enforcement measures (e.g. investigation practices, penalties, takedown procedures) constituting a coherent set with appropriate appeal mechanisms
- For a score of 0: Policies do not fulfill the requirements for a score of 1

Analysis

- The CCL application does not meet the Enforcement criterion requirements.
- The AGB states: "Enforcement" means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.
- In other words, the application would score one (1) if it contained
 - SPECIFIC tools and provisions which constitute a coherent (synonyms of coherent: logical, rational) set
 - APPROPRIATE appeal mechanisms
- CCL's application states, "Commercial Connect, LLC may, in its sole discretion, suspend or terminate a user's service for violation of any of the requirements or provisions of the United States government on receipt of a complaint if Commercial Connect LLC believes suspension or termination is necessary to comply with the law, protect the public interest, prevent unlawful activity or protect the health, safety, or privacy of an individual."
- Note that CCL has only proposed to suspend or terminate a user's "service", rather than suspend or takedown domain names that breach any of the registry requirements.
- Additionally, according to CCL, only violations of the provisions of the United States government merits some action against the registrant, the provisions of the governments of every other country in the world are simply ignored.
- Surely this cannot be construed as "specific enforcement measures" that constitute a logical set.

- The only mention of an “appeal mechanism” comes in Q28, where CCL states, “Two Warning will be sent and an appeal process will be available before action is taken to suspend a .SHOP TLD.” Surely this cannot be construed as describing “an appropriate appeals mechanism”.
- Evident from the above stated facts, the application neither has specific enforcement measures, nor appropriate appeal mechanisms.
- Consequently the application should score zero (0) for the Enforcement criterion.

Summary

- The CCL application does not have clearly defined eligibility requirements.
- CCL does not provide any name selection rules, let alone those that are consistent with the community based purpose of .Shop.
- CCL does not have content and use requirements that are consistent with the community based purpose of .Shop.
- CCL’s application neither provides specific enforcement measures, nor appropriate appeal mechanisms.
- The CCL application does not meet the criteria defined in Registration Policies and should score zero (0) for this criterion.

Section G: Criterion 4 – Support (2 points)

Introduction

The CCL application does not enjoy the level of support necessary for a score of one or two. CCL has gleaned support from only a small minority of the purported community. Worse, CCL considers letters written over the last 14 years (since 2000) to be “relevant” support.

From Section 4.2.3 of the AGB, Support is scored as follows

- For a score of 2: Applicant is, or has documented support from, the recognized community institution(s)/member organization(s) or has otherwise documented authority to represent the community
- For a score of 1: Documented support from at least one group with relevance, but insufficient support for a score of 2
- For a score of 0: Insufficient proof of support for a score of 1

Analysis for a Score of 2

- The Panel should note that CCL needs to meet any one of the following criteria to be eligible for a score of 2
 - It needs to BE the “recognized community institution(s)/member organization(s)”.
 - It needs to have “documented support from, the recognized community institution(s)/member organization(s) or has otherwise documented authority to represent the community”.
- Clearly CCL is NOT the global “e-commerce Operators community”
- The AGB offers the following definitions and guidance for scoring Support:
 - "Recognized" means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community.
 - With respect to “Support,” it follows that documented support from, for example, the only national association relevant to a particular community on a national level would

score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations.

- Also with respect to “Support,” the plurals in brackets for a score of 2, relate to cases of multiple institutions/organizations. *In such cases there must be documented support from institutions/organizations representing a MAJORITY of the overall community addressed* in order to score 2.
- The CCL application states under section 20 (a): “Over the past twelve (12) years we feel confident that we have been engaged and have acquired the support required to represent this community. With an excess 1000+ physical contact affirmations and letters of support from companies that represent in excess of \$667 trillion USD in sales annually.”
- Needless to say, there are three major red flags within this statement itself:
 - Amongst the earliest letters attached by CCL are those that are dated in the year 2000. The “support” that CCL claims to have has been “collected” over the last 14 years, during which time it is highly plausible for organizations / personnel representing those organization to have changed and/or changed their views. We are confident that the effort that the CPE Panel will undertake in verifying these letters of support will reveal how these letters are no longer valid or relevant.
 - Although CCL claims to have 1000+ letters of support, they have attached letters from only 18 of these organizations, a large majority of which appear to be from politicians and other companies unrelated to the purported community. Consequently such letters cannot be considered “relevant”.
 - The figure of “\$667 Trillion USD in sales annually” is entirely irrelevant given that the global e-commerce industry is expected to reach a milestone of \$1.5 trillion USD only in 2014¹⁹. Clearly the annual sales figure that CCL is referring to is not limited to sales on the internet, and is therefore irrelevant to the purported “e-commerce Operators community”.
- CCL has shown support from 18 individual organizations
 - A large chunk of these letters comes from within Kentucky, which would have been sufficient had the purported community been named as the “Kentucky e-commerce Operators community”. But on a global scale, these letters would not suffice to

¹⁹ <http://www.thepayers.com/e-commerce/2014-global-b2c-e-commerce-sales-to-reach-usd-1-5-trillion/753927-25>

demonstrate support from “institutions/organizations representing a MAJORITY of the overall community addressed.”

- Additionally, letters from politicians form a large part of the letters of support. Clearly, politicians cannot be considered as institutions/organizations that represent the purported “e-commerce Operators community”.
- It is also interesting to note CCL’s language within the answer to Q 20 (b), “CC has been working with the above community to establish its relationship and representation in that community.” It is clear from this sentence that relationships with the purported community were built solely for the purpose of establishing “representation” for the new gTLD round.
- There is no documented evidence that the 1000+ letters of support are representative of the alleged global “e-commerce Operators community”
- CCL offers no computation in their application to demonstrate how their support endorsements constitute a MAJORITY of the overall community addressed
- CCL offers no “documented authority to represent” the global “e-commerce Operators community”.

Analysis for a Score of 1

- The AGB states For a score of 1 the applicant must have “Documented support from at least one group with relevance”
- It further clarifies – “To be taken into account as relevant support, such documentation must contain a description of the process and rationale used in arriving at the expression of support. Consideration of support is not based merely on the number of comments or expressions of support received.”
- The above clarification is immensely important. Mere letters of support from a number of organizations are not adequate. Each support letter / endorsement must contain “a description of the process and rationale used” in arriving at the expression of support. It is important for the letter to identify the process used by them to arrive at the expression of support.
- Reading through all the expressions of support indicates that none of the letters “contain a description of the process” and /or contain “rationale used in arriving at the expression of support”.

- The letters do not provide clear documentation of the process that the organization followed to determine support.
- In all cases, the statements of support fail the criteria test of “relevant support” and should be disregarded.

Summary

- CCL has failed to prove support from a majority of the institutions / associations that represent the alleged global “e-commerce Operators community”.
- None of them contain a “description of the process” used to arrive at the expression of support, thus failing the criteria for “relevant support”.
- Based on this, the application should score zero (0) for the Support criterion.

Section H: Criterion 4 – Opposition (2 points)

Introduction

From Section 4.2.3 of the AGB, Support is scored as follows

- For a score of 2: No opposition of relevance
- For a score of 1: Relevant opposition from one group of non-negligible size
- For a score of 0: Relevant opposition from two or more groups of non-negligible size

Analysis

- Since there appears to be no “relevant” opposition to the CCL application, it qualifies for a score of 2 on the Opposition criterion.

Summary

- Overall the CCL application is qualified to achieve a score of two (2) points out of the 16 possible points.