



# New gTLD Subsequent Procedures – WG Sessions

ICANN56 | Wednesday, 29 June 2016 from 1045-1500

# Agenda

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Session 1:  
Discussion of  
overarching issues  
and input received

2

Break/Gap from  
1200-1330

3

Session 2: work  
tracks, questions for  
consideration, and  
logistics

# Introductions





**Face to Face – Session 1**  
**Discussion of Overarching Issues and**  
**Input Received**

- Questions sent to community organizations on 11 June, requesting response by 25 July
  - Is there any early feedback available?
- Topics:
  - Additional new gTLDs in the future.
  - Categorization or differentiation of gTLDs (for example brand, geographical, or supported/community) in ongoing new gTLD mechanisms.
  - Future new gTLDs assessed in “rounds.”
  - Predictability should be maintained or enhanced without sacrificing flexibility. In the event changes must be introduced into the new gTLD Application process, the disruptive effect to all parties should be minimized.
  - Community engagement in new gTLD application processes.
  - Limiting applications in total and/or per entity during an application window.

# 1. Additional new gTLDs in the future.

1.a: The 2007 consensus policy above expressed the commitment to an ongoing mechanism for the introduction of new gTLDs. Are there any facts and/or circumstances that have changed such that you believe this should no longer be the policy? Please explain.

1.b: Would the absence of an ongoing mechanism have an anti-competitive effect for potential applicants?

1.c: Are ongoing mechanisms for the introduction of additional new gTLDs necessary to achieving sufficient diversity (e.g., choice and trust) in terms of domain extensions? Please explain.

1.d: Is it too early in the review cycle of the previous round to determine the full range of benefits of the 2012 round of new gTLDs? Should that impact the decision to introduce additional new gTLDs and/or the timing of ongoing mechanisms for new gTLDs?

1.e: What additional considerations should be taken into account before deciding on ongoing mechanisms for new gTLDs (e.g., to cancel ongoing mechanisms for new gTLDs via policy changes)?

1.f: Any other issues related to this overarching subject.

## 2. Categorization or differentiation of gTLDs in ongoing new gTLD mechanisms.

2.a: Should subsequent procedures be structured to account for different categories of gTLDs?

Note, several possible categories have been suggested by PDP WG members, including:

Open Registries

Geographic

Brand (Specification 13)

Intergovernmental Organization

Community

Validated - Restricted Registries with qualification criteria that must be verified

Not-for-profit or non-profit gTLDs, NGOs

Highly Regulated or 'Sensitive' TLDs

Exclusive Use Registries (Keyword Registry limited to one registrant & affiliates) or

Closed Generics

TLD with applicant self-validated restrictions and enforcement via Charter Eligibility Dispute Resolution Policy, e.g. .name and .biz

## 2. Categorization or differentiation of gTLDs in ongoing new gTLD mechanisms, cont.

*The following questions refer to this list of possible categories:*

2.b: Are additional categories missing from the list? If so, what categories should be added?

2.c: Do all categories identified by the PDP WG members belong in the list?

2.d: If categories are recognized, in what areas of the application, evaluation, contention resolution and/or contracting processes would the introduction of categories have a likely impact?

2.e: If different categories of gTLD are defined, should all types be offered in each application window?

Is it acceptable for an application window to open for only one or a limited subset of categories of gTLDs (e.g. a .Brands only application window)

2.f: Any other issues related to this overarching subject:

Specification 13 to the Registry Agreement (RA) provides certain modifications to to the RA for applicants that qualify as a .Brand TLD. For additional information, please see the Specification 13 section here: <https://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting>



### 3. Future new gTLDs assessed in “rounds.”

3.a: Should we continue to assess applications for new gTLDs in “rounds.” If not, how could you structure an alternative application window for accepting and assessing applications while at the same time taking into consideration public comments, objections, evaluation, contention resolution, etc.?

3.b: How would the assessment of applications in a method other than in “rounds” impact rights holders, if at all?

3.c: Does restricting applications to “rounds” or other cyclical application models lead to more consistent treatment of applicants?

3.d: Should “rounds” or other cyclical application models be used to facilitate reviews and process improvement?

3.e Do “rounds” lead to greater predictability for applicants and other interested parties?

3.f: Do “rounds” add latency to the evaluation and approval of an application, leading to longer times to market?

3.g: Do “rounds” create artificial demand and/or artificial scarcity?

3.h: Does time between “rounds” lead to pent up demand?

3.i: What is an ideal interval between “rounds?” Please explain.

3.j: Any other issues related to this overarching subject:

## 4. Predictability

4.a: Was the round of 2012 sufficiently predictable given external factors, while balancing the need to be flexible? Please explain.

4.b: Do the changes implemented as a result of the establishment of Cross Community Working Groups and the adoption of the principles and processes from the Policy and Implementation Working Group suffice to maintain predictability of the application process while at the same time provide for the needed flexibility to address changes of circumstances?

4.c: What are the impacts on applicants, users and related parties from a process that lacks predictability?

4.d: Any other issues related to this overarching subject:

## 5. Community engagement in new gTLD application processes

5.a: Are there circumstances in which the application window should be frozen while unforeseen policy issues are considered and resolved? If so, should there be a threshold or standard that must be reached before considering freezing an application window?

5.b: If the Board is faced with questions that cannot be addressed by the policy recommendations they were sent, must the Board bring the issue back to the GNSO and PDP process (e.g., the GNSO Expedited PDP or GNSO Guidance Process)?

5.c: Should a standard be established to discriminate between issues that must be solved during an open application window and those that can be postponed until a subsequent application window? Please give an example.

5.d: Any other issues related to this overarching subject.

## 6. Limiting applications

6.a: Should a limit for the total number of applications for an application window and/or from a single entity be established? If so, what should be the limiting factor (e.g., total application, total number of strings, etc.) and why?

6.b: If a limit for the total number of applications for an application window and/or from a single entity is established, how would the appropriate amount of applications be set to establish this limit?

6.c: If a limit for the total number of applications for an application window and/or from a single entity is established, what mechanism(s) could be used to enforce limit(s)?

6.d: How would a limit on the total number of applications for an application window and/or from a single entity impact fees?

6.e: Would limits to the total number of applications for an application window and/or from a single entity be considered anti-competitive? Please explain.

6.f: Do limits to the total number of applications for an application window and/or from a single entity favor “insiders”?

6.g: Any other issues related to this overarching subject:




1. Are there further overarching issues or considerations that should be discussed in the New gTLDs Subsequent Procedures PDP WG ?
2. Are there additional steps the PDP WG should take during the PDP process to better enable community engagement?

# Discussion of input from cross community session

- Update – Cross Community Working Group on the Use of Country and Territory Names
- Update – Competition, Consumer Trust & Consumer Choice Review Team
- Promoting applications from underserved regions/developing countries
- Community applications
- Geographic Names and other Names of public interest
- Safeguards / PICs

## Topics Not Covered During Session

- **How can implementation work proceed in parallel with policy development?**
- **Streamlining the .Brand process (time-permitting)?**



**Face to Face – Session 2**  
**Work Tracks, Questions for**  
**Consideration, and Logistics**

# Overarching Subjects for which the WG is seeking community comment

- Additional gTLDs in the Future: Should there in fact be new gTLD subsequent procedures and if not, what are the justifications for and ramifications of discontinuing the program?
- TLD Differentiation: e.g. Brands, Geos, Communities – Does one size fit all? How to account for different categories?
- Assessing Future gTLDs in “Rounds” depending on Scale of Demand: What are the metrics, methods and implications?
- Predictability: Does community agree with WG’s assessment that this does not require policy development work? Regardless, are there unforeseen circumstances that would require policy work?
- Community Engagement: Does community agree with WG’s assessment that this does not require policy development work?
- Limiting applications in total and/or per entity during an application window: Not foreseen in 2007 policy – what requirements and assessment/enforcement mechanisms might be needed?
- Others: How can the WG better enable community engagement during the PDP?



# Proposed Work Track 1: Process / Support / Outreach

- Applicant Guidebook (AGB): Is the AGB the right implementation of the GNSO recommendations for all parties (ROs, RSPs, Escrow Providers)?
- Clarity of Application Process: How can the application process avoid developing processes on an as-needed basis (e.g., clarifying question process, change request process, customer support, etc.)
- Applications Processing? Rounds? FCFS? Other window methodology?
- Accreditation Programs: As there appears to be a limited set of technical service and Escrow providers, would the program benefit from an accreditation program for third party service providers? If so, would this simplify the application process with a set of pre-qualified providers to choose from?
- Systems: How can the systems used to support the New gTLD Program, such as TAS, Centralized Zone Data Service, Portal, etc. be made more robust, user friendly, and better integrated?
- Application Fees: Evaluate accuracy of cost estimates and/or review the methodology to develop the cost model.
- Support for Applicants From Developing Countries

## Proposed Work Track 2: Legal / Regulatory

- Reserved Names List and Mechanism for Release
- Base Registry Agreement / Differentiation?
- PICs? Is this the right way to implement restrictions?
- Registrant Protections
- Contractual Compliance
- Registry/Registrar Separation
- Registrar Non-Discrimination
- TLD Rollout
- 2<sup>nd</sup> Level RPCs
- Global Public Interest / GAC Advice / Safeguards
- IGO / INGO Protections
- Closed Generics

## Proposed Work Track 3: String Contention / Objections & Disputes

- Freedom of Expression vs. GAC Advice, community processes and reserved names
- String Similarity Evaluations (Effective? Fair? Efficient?)
- Objections – Review rules around standing, fees, consolidation, consistency of outcomes? Appeals? Oversight over Process/
- Role of Independent Objector
- Accountability Mechanisms
- Community Applications and Community Priority Evaluations

- Internationalized Domain Names and Universal Acceptance: Consider how to encourage adoption of gTLDs. Evaluate whether rules around IDNs properly accounted for recommendations from IDN WG. Determine and address policy guidance needed for the implementation of IDN variant TLDs.
- Security and Stability: Were the proper questions asked to minimize the risk to the DNS and ensure that applicants will be able to meet their obligations in the registry agreement?
- Should there be non-scored questions and if so, how should they be presented?
- Were the proper criteria established to avoid causing technical instability?
- Applicant Reviews: Technical/Operational and Financial: Were Financial and Technical criteria designed properly to allow applicants to demonstrate their capabilities while allowing evaluators to validate their capabilities?
- Name Collision: What measures may be needed to manage risks for 2012-round gTLDs beyond their 2 year anniversary of delegation, or gTLDs delegated prior to the 2012 round?



# Proposed Work Track 5: Operational Implementation Guidance

- Subjects TBD – identify subjects that do not require policy development and where implementation guidance could be provided before PDP is complete.
- Question: Is there support for a work track such as this, which could be added to as new subjects are determined to not require policy recommendations, but would benefit from implementation guidance?

# Proposed Questions

- Are the subjects categorized in a logical manner?
- Should any subjects be shifted to another track?
- Is there meaningful overlap between subjects or between work tracks?
- Are there dependencies amongst subjects that should be considered when sequencing the WG reviews?
- Are there certain subjects that can be determined even now to not likely require policy development?
- With work being managed by sub teams, how will all of the work tracks and subjects be considered holistically?
- Are there data gathering needs foreseen in the near future?
- Is there value in having WG members review the Applicant Guidebook to determine where:
  - The implementation was not a result of policy recommendations
  - The implementation did not follow policy recommendations
  - The policy recommendations requires changes
- Is there value in attempting to determine which topics are most important to resolve (e.g., assign level of importance to topics)?

- When should sub groups begin operations?
- What resources are needed?
  - Mailing lists, Wiki pages, **volunteers for leadership positions**, signup for subgroups, etc.
- How will volunteers be collected? Sign up pages on the Wiki?
- How often should the sub group meetings be held in order to allow for volunteers to participate adequately?

- ⦿ PDP WG Wiki: <https://community.icann.org/x/RgV1Aw>
- ⦿ PDP WG Charter: <https://community.icann.org/x/KAp1Aw>
- ⦿ PDP Work Plan: <https://community.icann.org/x/NAp1Aw>



## **Annex A**

Existing policy recommendations from 2007  
Final Report on the Introduction of New gTLDs

# 2007 GNSO Policy Recommendations: 7 Principles

PRINCIPLES	MISSION & CORE VALUES
<b>A</b>	New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.
<b>B</b>	Some new generic top-level domains should be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.
<b>C</b>	The reasons for introducing new top-level domains include that there is demand from potential applicants for new top-level domains in both ASCII and IDN formats. In addition the introduction of new top-level domain application process has the potential to promote competition in the provision of registry services, to add to consumer choice, market differentiation and geographical and service-provider diversity.
<b>D</b>	A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.
<b>E</b>	A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meets its obligations under the terms of ICANN's registry agreement.
<b>F</b>	A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.
<b>G</b>	The string evaluation process must not infringe the applicant's freedom of expression rights that are protected under internationally recognized principles of law.



## 19 Recommendations (1/3)

1	<p>ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination.</p> <p>All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.</p>
2	<p>Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.</p>
3	<p>Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law. Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industry Property (in particular trademark rights), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) (in particular freedom of expression rights).</p>
4	<p>Strings must not cause any technical instability.</p>
5	<p>Strings must not be a Reserved Word.</p>

## 19 Recommendations (2/3)

6	Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law. Examples of such principles of law include, but are not limited to, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination, intellectual property treaties administered by the World Intellectual Property Organisation (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).
7	Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.
8	Applicants must be able to demonstrate their financial and organisational operational capability.
9	There must be a clear and pre-published application process using objective and measurable criteria.
10	There must be a base contract provided to applicants at the beginning of the application process.
11	[Replaced with Recommendation 20 and Implementation Guideline P and inserted into Term of Reference 3 Allocation Methods section]

## 19 Recommendations (3/3)

12	Dispute resolution and challenge processes must be established prior to the start of the process.
13	Applications must initially be assessed in rounds until the scale of demand is clear.
14	The initial registry agreement term must be of a commercially reasonable length.
15	There must be renewal expectancy.
16	Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved.
17	A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.
18	If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed.
19	Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars.
20	An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.

# Implementation Guidelines (1/5)

	<b>MISSION &amp; CORE VALUES</b>
IG A	The application process will provide a pre-defined roadmap for applicants that encourages the submission of applications for new top-level domains.
IG B	Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process. Application fees may differ for applicants.
IG C	ICANN will provide frequent communications with applicants and the public including comment forums.
IG D	A first come first served processing schedule within the application round will be implemented and will continue for an ongoing process, if necessary. Applications will be time and date stamped on receipt.
IG E	The application submission date will be at least four months after the issue of the Request for Proposal and ICANN will promote the opening of the application round.
IG F	If there is contention for strings, applicants may: i) resolve contention between them within a pre-established timeframe ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and; iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.

## Implementation Guidelines (2/5)

IG G	<p>Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exceptions:</p> <ul style="list-style-type: none"><li>(i) the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application; and</li><li>(ii) a formal objection process is initiated.</li></ul> <p>Under these exceptions, Staff Evaluators will devise criteria and procedures to investigate the claim.</p> <p>Under exception (ii), an expert panel will apply the process, guidelines, and definitions set forth in IG P.</p>
IG H	<p>External dispute providers will give decisions on objections.</p>
IG I	<p>An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process.</p>
IG J	<p>The base contract should balance market certainty and flexibility for ICANN to accommodate a rapidly changing market place.</p>

## Implementation Guidelines (3/5)

IG K	ICANN should take a consistent approach to the establishment of registry fees.	
IG L	The use of personal data must be limited to the purpose for which it is collected.	
IG M	ICANN may establish a capacity building and support mechanism aiming at facilitating effective communication on important and technical Internet governance functions in a way that no longer requires all participants in the conversation to be able to read and write English.	
IG N	ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.	
IG O	ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations.	



IG P	<p>The following process, definitions and guidelines refer to Recommendation 20.</p> <p><b>Process</b> Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The objector must provide verifiable evidence that it is an established institution of the community (perhaps like the RSTEP pool of panelists from which a small panel would be constituted for each objection).</p> <p><b>Guidelines</b> The task of the panel is the determination of substantial opposition.</p> <ul style="list-style-type: none"><li>a) substantial</li><li>b) significant portion</li><li>c) community</li><li>d) explicitly targeting</li><li>e) implicitly targeting<ul style="list-style-type: none"><li>f) established institution</li></ul></li><li>g) formal existence</li><li>h) detriment</li></ul> <p>The following ICANN organizations are defined as established institutions: GAC, ALAC, GNSO, ccNSO, ASO.</p>
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IG Q	ICANN staff will provide an automatic reply to all those who submit public comments that will explain the objection procedure.	
IG R	Once formal objections or disputes are accepted for review there will be a cooling off period to allow parties to resolve the dispute or objection before review by the panel is initiated.	