

Cross-Community Session: New gTLD Subsequent Procedures

ICANN56 | Tuesday, 28 June 2016 from 1700-1830

Agenda

1

Introductions

2

Status update on the
PDP Working Group

3

Discussion: Topics of
Broad Community
Interest

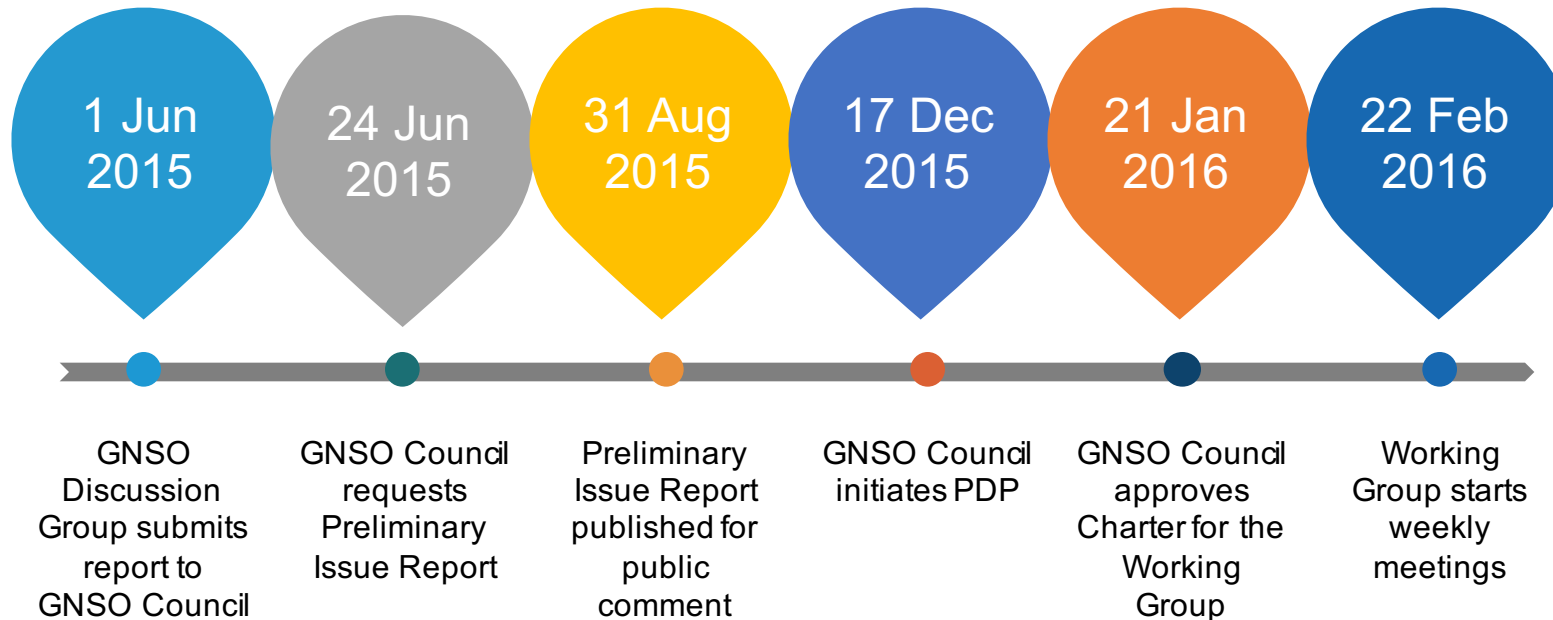
4

Next Steps

Introductions

Status update on the PDP Working Group

Timeline: Path to the Current PDP on New gTLD Subsequent Procedures



Notes:

- Discussion Group (DG) developed an Issue Matrix (based on experiences from the 2012 New gTLD Program round) and mapped the issues to the original 2007 GNSO Policy Principles, Recommendations & Implementation Guidance
- DG also developed a draft Charter with suggested groupings for the issues, with potential questions for each issue – intended as starting point for the eventual PDP and basis of the Staff Issue Report

What is the Purpose of the New gtLD Subsequent Procedures PDP?

- ⊙ PDP will determine what, if any, changes may need to be made to the existing *Introduction of New Generic Top-Level Domains* policy recommendations from 2007
 - ⊙ *Original policy recommendations as adopted by the GNSO Council and ICANN Board were “designed to produce a systemized and ongoing mechanisms for applicants to propose new top-level domains”*
 - ⊙ *They will remain in place for subsequent application processes unless the GNSO Council adopts changes as a result of this PDP*
- ⊙ Potential changes may include:
 - ⊙ *Clarifying, amending or overriding existing policy principles, recommendations, and implementation guidance;*
 - ⊙ *Developing new policy recommendations;*
 - ⊙ *Supplementing or developing new implementation guidance*

Notes:

- Principles, recommendations, and implementation guidance from the GNSO’s 2007 Final Report on the Introduction of New gTLDs are available in Annex B

Status of work and the methodology adopted by the PDP Working Group

1

What is the WG currently working on?

A total of 38 subjects in the WG's charter and 6 have been identified as high-level, overarching subjects. Preliminary discussions have taken place and community input has been sought on these subjects

2

When will the other 32 subjects be addressed?

WG expects to divide into a series of sub teams to conduct preliminary discussions and again, seek community input on the remaining subjects

3

How will the WG conduct its work?

WG will conduct preliminary discussions, seek input from community, integrate work from other efforts, and only then will it reach conclusions (e.g., recommendations)

What are the other concurrent efforts that may impact this PDP?

Competition, Consumer Trust & Consumer Choice Review Team

CWG on Use of Country and Territory Names

GNSO PDP on Review of All RPMs in all gTLDs

Work in the GAC, ALAC, SSAC, etc.

Completion of work on protection for IGO-INGO names and acronyms

How will concurrent efforts affect the PDP?

For example...

1

CCT-RT

The PDP WG may delay consideration and development of policy recommendations until data, analysis, and recommendations on topics of high interest to the CCT-RT are complete

2

Geographic Names and Culturally Significant Names

Receiving feedback from CWG-UCTN, for instance, could lead to policy development, possibly as part of New gTLD Subsequent Procedures

3

IGO/INGO

Will need to account for and integrate Board approved recommendations/implementation elements related to Reserved Names and TLD startup (claims notifications)

Work Tracks

1

Overarching Subjects

Continuing new gTLDs, different TLD categories, predictability, application limits, etc.

4

WT3: String Contention, Objections, Dispute Resolution

String similarity, objections, community applications, accountability/challenge mechanisms, etc.

2

WT1: Process/Support/Outreach

Applications from underserved regions, accreditation programs, AGB, etc.

5

WT4: IDNs, Technical & Operational

IDNs, security & stability, applicant reviews, name collisions, etc.

3

WT2: Legal/Regulatory

Reserved names, base registry agreement, registrar non-discrimination, PICs, global public interest, etc.

6

WT5: Operational Implementation Guidance

Subjects TBD – consider if certain areas may not require policy development and guidance could be provided before PDP completes

Notes:

- Full list of subjects available in Annex A

PDP WG High Level Work Plan

Overarching Issues

Review

Seek Input

Recommendations

Work Track 1: Sub-team

Review

Seek Input

Recommendations

Possibly Q3 2017

Work Track ... Sub-teams

Review

Seek Input

Recommendations

Work Track 5: Sub-team

Review

Seek Input

Recommendations

Initial Report (PC)

Possibly End of 2017

Final Report

- Subjects in each work track will be sequenced
- Must consider other New gTLD related efforts, work plan will be designed accordingly if there are dependencies in completing aspects of the PDP WG's work

Topics of broad community interest

**CWG – Use of
Country and
Territory Names**

**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

How can
implementation
work proceed in
parallel with policy
development?

Streamling the
.Brand process




Cross Community Working Group on the Use of Country and Territory Names – Heather Forrest



Competition, Consumer Trust & Consumer Choice Review Team – Jonathan Zuck

Community applications – Mark Carvell




Promoting applications from underserved regions/developing countries – Cheryl Langdon-Orr



Geographic names and other names of public interest – Susan Payne



Safeguards / Public Interest Commitments (PICs) – Alan Greenberg



**How can implementation work
proceed in parallel with policy
development? – Jeff Neuman**



Streamlining the .Brand process – Jeff Neuman

Next Steps

- ⦿ PDP WG open face-to-face sessions:
 - ⦿ Wednesday, 1045-1200 (<http://sched.co/7JMo>) and 1330-1500 (<http://sched.co/7Tvz>) in Hall B
 - ⦿ Expected topics: current work and input received (including from this session), work plan for future work
- ⦿ 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

Subjects from WG Charter – Divided into
work tracks

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?
- 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 rights way to implement restrictions?
- Registrant Protections
- Contractual Compliance
- Registry/Registrar Separation
- Registrar Non-Discrimination
- TLD Rollout
- 2nd 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?

- Subjects TBD – identify subjects that do not require policy development and where implementation guidance could be provided before PDP is complete.



Annex B

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

2007 GNSO Policy Recommendations: 7 Principles

PRINCIPLES	MISSION & CORE VALUES
A	New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.
B	Some new generic top-level domains should be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.
C	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.
D	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.
E	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.
F	A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.
G	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)

	MISSION & CORE VALUES
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">(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(ii) a formal objection process is initiated. <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>Process 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>Guidelines The task of the panel is the determination of substantial opposition.</p> <ul style="list-style-type: none">a) substantialb) significant portionc) communityd) explicitly targetinge) implicitly targeting<ul style="list-style-type: none">f) established institutiong) formal existenceh) detriment <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.	