

ICANN BOARD PAPER NO. 2024.06.08.1a

TITLE: Security and Stability Advisory Committee (SSAC)
Member Appointments

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

The Chair of the Security and Stability Advisory Committee (SSAC) respectfully requests the appointment of Hadia Elminiawi as a new Committee member.

COMMITTEE RECOMMENDATION:

The Committee recommends the ICANN Board appoint Hadia Elminiawi to the SSAC.

PROPOSED RESOLUTION:

Whereas, the Board, at Resolution 2010.08.05.07 approved Bylaws revisions that created three-year terms for SSAC members, required staggering of terms, and obligated the SSAC Chair to recommend the reappointment of all current SSAC members to full or partial terms to implement the Bylaws revisions.

Whereas, in January 2024, the SSAC Membership Committee initiated an annual recruitment cycle and submitted to the SSAC its recommendation for a new member appointment on 02 April 2024.

Whereas, on 09 April 2024, the SSAC approved the new member recommendation.

Whereas, the SSAC Membership Committee, on behalf of the SSAC, requests that the Board should appoint Hadia Elminiawi to the SSAC for terms beginning immediately upon approval of the Board and ending on 31 December 2026.

Resolved (2024.06.08.xx), the Board appoints Hadia Elminiawi to the SSAC for terms beginning immediately upon approval of the Board and ending on 31 December 2026.

PROPOSED RATIONALE:

The SSAC is a diverse group of individuals whose expertise in specific subject matters enables the SSAC to fulfill its role and execute its mission. Since its inception, the SSAC has invited to

its membership individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems.

The SSAC's continued operation as a competent body is dependent on the accumulation of talented subject matter experts who have consented to volunteer their time and energies to the execution of the SSAC mission.

Hadia Elminiawi is currently the Chief Expert on International Policies at Egypt's National Telecom Regulatory Authority (NTRA). Previously, she managed operations and foreign relations for the Egyptian ccTLD (.eg) for 14 years. She has been an active member of group 5 (industry 4.0) of the Egypt Internet of Things forum representing NTRA since January 2023. Hadia currently chairs the African Regional At-Large Organization (AFRALO) and holds leadership roles in related organizations. Hadia holds a Master of Science in Leadership and Management from St. Istvan University in Hungary, a Bachelor of Science in Electronics and Communications from the Faculty of Engineering, Cairo University, and has completed post-graduate studies in Computer Science at the Faculty of Engineering, Cairo University.

This resolution is an organizational administrative function for which no public comment is required. The appointment of SSAC members is in the public interest and in furtherance of ICANN's mission as it contributes to the commitment of the ICANN to strengthen the security, stability, and resiliency of the DNS.

Signature Block:

Submitted by:	James Galvin
Position:	Liaison to the ICANN Board from the Security and Stability Advisory Committee
Date Noted:	23 May 2024
Email:	james.galvin@board.icann.org

ICANN BOARD SUBMISSION No. 2024.06.08.1b

TITLE: **June 2025 ICANN Meeting Venue Contracting**

PROPOSED ACTION: **For Board Consideration and Action**

EXECUTIVE SUMMARY:

The Board is being asked to authorize ICANN organization to take all steps necessary to complete contracting for the host venue and hotel in Prague, Czechia for the June 2025 ICANN Public Meeting. While it is the organization's responsibility to identify and select sites for ICANN Public Meetings, per the [ICANN Contracting and Disbursement policy](#) the Board must approve any expenditures that will exceed US\$500,000, as this will. The Reference Materials for this paper summarize the steps taken to locate a site for the June 2025 Public Meeting and outline the facility costs.

ICANN ORGANIZATION RECOMMENDATION:

ICANN organization recommends that the Board authorize the Interim President and CEO, or her designee(s), to engage in and facilitate all necessary contracting and disbursement for the host venue and hotels for the June 2025 ICANN Public Meeting in Prague, Czechia in an amount not to exceed ^{Confidential Negotiation Information}

BOARD FINANCE COMMITTEE (BFC) RECOMMENDATION (*Subject to BFC Approval*):

The BFC recommends that the Board authorize the Interim President and CEO, or her designee(s), to take all actions necessary to enter into contract(s), and make expense disbursements pursuant to the contract(s), for the host venue and hotels in Prague, Czechia where ICANN will hold its June 2025 Public Meeting in an amount not to exceed ^{Confidential Negotiation Information}

PROPOSED RESOLUTION:

Whereas, ICANN intends to hold its second Public Meeting of 2025 in the Europe region.

Whereas, selection of the Prague, Czechia location adheres to the geographic rotation guidelines established by the Meeting Strategy Working Group.

Whereas, ICANN organization has completed a thorough review of the venue and finds the one in Prague, Czechia to be suitable.

Whereas, both ICANN organization and the Board Finance Committee have recommended that the Board authorize the Interim President and CEO, or her designee(s), to enter into and make disbursement in furtherance of contracts for the June 2025 ICANN Public Meeting in Prague, Czechia.

Resolved (2024.06.08.xx), the Board authorizes the Interim President and CEO, or her designee(s), to engage in and facilitate all necessary contracting and disbursements for the host venue and hotel for the June 2025 ICANN Public Meeting in Prague, Czechia in an amount not to exceed ^{Confidential Negotiation Information}

Resolved (2024.06.08.xx), specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article 3, section 3.5(b) of the ICANN Bylaws until the President and CEO determines that the confidential information may be released.

PROPOSED RATIONALE:

As part of ICANN's Public Meeting strategy, ICANN seeks to host a meeting in a different geographic region (as defined in the ICANN Bylaws) three times a year. ICANN83 is scheduled for 9-12 June 2025. Following a search and evaluation of available venues, the organization identified Prague, Czechia as a suitable location for the ICANN Public Meeting.

The organization performed a thorough analysis of the available locations that met the Meeting Location Selection Criteria (see <http://meetings.icann.org/location-selection-criteria>). Based on the proposals and analysis, ICANN has identified Prague, Czechia as the location for ICANN83. Selection of this Europe location adheres to the geographic rotation guidelines established by the Meeting Strategy Working Group.

The Board Finance Committee (BFC) has carried out its standard due diligence in reviewing the proposed Board decision to recommend approval to the Board. As part of this diligence, the BFC has reviewed the financial risks associated with the proposed decision and the information provided by the org on the measures in place to mitigate those risks. The BFC has found these financial risks and the mitigation in place reasonable and acceptable.

The Board has reviewed the organization's briefing for the costs of hosting the meeting in Prague, Czechia and agrees with the BFC's recommendation that the proposal met the significant factors of the Meeting Location Selection Criteria, as well as the related costs for the facilities selected, for the June 2025 ICANN Public Meeting.

The costs of an ICANN public meeting include the ICANN-paid fraction of the contracts that the Board has authorized the Interim President and CEO, or her designee(s), to enter into and other costs such as airfare and meetings support that do not require Board authorization since the value of these costs are below the threshold requiring Board approval in the [ICANN Contracting and Disbursement Policy](#).

Prior to the BFC's consideration, the Board received a briefing from ICANN org regarding the range of factors that support the selection of Prague, Czechia for this meeting, including ICANN org's health, safety and security assessment, and mitigation plans for ICANN meeting participants in each of these areas.

ICANN conducts Public Meetings in support of its mission to ensure the stable and secure operation of the Internet's unique identifier systems and acts in the public interest by providing free and open access to anyone wishing to participate, either in person or remotely, in open, transparent, and bottom-up, multistakeholder policy development processes.

There will be a financial impact to ICANN in hosting the meeting and providing travel support as necessary, as well as to the community in incurring costs to travel to the meeting. However, such impact would be faced regardless of the location and venue of the meeting.

This action will have no impact on the security or the stability of the Domain Name System.

This is an Organizational Administrative function that does not require public comment.

Submitted by:	Sally Costerton
Position:	Sr Advisor to President and SVP, Global Stakeholder Engagement & Interim President and CEO
Date Noted:	8 May 2024
Email:	sally.costerton@icann.org

ICANN BOARD PAPER NO. 2024.06.08.2a

TITLE: Phase 1 Final Report on the Internationalized Domain Names Expedited Policy Development Process

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

The Board is being asked to adopt fifty-two (52) of the fifty-eight (58) recommendations from the Phase 1 Final Report on the Internationalized Domain Names Expedited Policy Development Process as noted in the supplemental Scorecard. As six (6) of the final recommendations are directly related to the ongoing fee structure work for the New gTLD Program: Next Round, the draft Board resolution proposes to defer action on them and has direct ICANN org to take into account the EPDP team's fee-related recommendations in the comprehensive fee structure analysis. The Board's adoption of the recommendations will allow for the commencement of the implementation work, including areas that are required for the launch of the New gTLD Program: Next Round.

The GNSO Council initiated an Expedited Policy Development Process (EPDP) on Internationalized Domain Names (IDNs) (hereafter "EPDP-IDNs") in May 2021 to i) Determine the approach for a consistent definition of all Generic Top-level Domains (gTLDs); and ii) Develop policy recommendations, building on the existing Subsequent Procedures PDP WG recommendations, that will eventually allow for the introduction of variant gTLDs at the top-level. In November 2022, the Council approved an EPDP Team request to divide its work into two phases, with Phase 1 covering topics related to top-level gTLD definition and variant management, and Phase 2 covering topics related to second-level variant management issues.

The EPDP Team published its Phase 1 Initial Report for Public Comment in April 2023 and conducted a thorough review of all the public comments received. In November 2023, the EPDP Team finalized its recommendations and submitted its Phase 1 Final Report to the GNSO Council, who approved all fifty-eight (58) policy recommendations.

RECOMMENDATIONS:

The Board IDN UA Working Group (BIUWG) recommends:

- The Board adopt the fifty-two (52) recommendations.
- The Board integrate the EPDP team’s six (6) fee-related recommendations into the ongoing New gTLD Program: Next Round fee structure analysis.
- The Board direct ICANN org to commence implementation work and instruct the org to create an EPDP-IDNs Implementation Review Team (IRT) as a sub-track of the existing Subsequent Procedures (SubPro) IRT as soon as practicable.

In accordance with the prior [Board Resolution 2019.03.14.09](#), the Board has reviewed the IDNs EPDP Phase 1 recommendations alongside the recommendations detailed in the ccPDP4 [Final Report](#) on (de-selection) of IDN ccTLDs to ensure that a consistent solution on variant TLDs is being developed. The Board did not identify any issues in proceeding with these recommendations.

PROPOSED RESOLUTION:

Whereas, on 14 March 2019, the ICANN Board [approved](#) staff recommendations on allocating IDN variant TLD labels and requested that the GNSO and ccNSO consider the recommendations while developing their respective policies; and in October 2020, the GNSO Council established a

Drafting Team to develop a draft charter and an Initiation Request for an Expedited Policy Development Process on Internationalized Domain Names (EPDP-IDNs), incorporating IDN-related recommendations from the New gTLD Subsequent Procedures PDP WG's Final Report.

Whereas, on 20 May 2021, the GNSO Council [voted](#) to approve the aforementioned [Initiation Request](#) and adopt the [charter](#) to initiate the EPDP-IDNs that was tasked to determine the approach for a consistent definition of all gTLDs; and develop additional policy recommendations that will eventually allow for the introduction of variant gTLDs at the top-level.

Whereas, on 07 November 2022, the Council approved the EPDP-IDNs team [request](#) to divide its work into two phases, with Phase 1 covering topics related to top-level gTLD definition and variant management and Phase 2 issues pertaining to second-level variant management.

Whereas, the EPDP-IDNs team has followed all the necessary steps and processes required by the ICANN Bylaws, the GNSO PDP Manual and the GNSO Working Group Guidelines, including the publication of an [Initial Report](#) for [Public Comment](#) (on 24 April 2023) and consideration of the public comments received thereto.

Whereas, the EPDP-IDNs team has reached “full consensus” support on the fifty-eight (58) final recommendations documented in the Phase 1 Final Report.

Whereas, on 08 November 2023, the EPDP-IDNs team submitted its Phase 1 [Final Report](#) to the GNSO Council for its review and action.

Whereas, on 21 December 2023, the GNSO Council [approved](#), and recommended that the ICANN Board adopt, all fifty-eight (58) final recommendations as documented in the IDNs EPDP Phase 1 Final Report.

Whereas, on 18 January 2024, the GNSO Council transmitted its [Recommendations Report](#) to the ICANN Board to review and consider the outputs contained in the Phase 1 Final Report, followed by a period of Public Comment to gather community input that opened on 23 January 2024 and closed on 12 March 2024, with the resulting [Staff Report](#) published on 26 March 2024.

Whereas, the Board recognizes many of the recommendations in the Phase 1 Final Report have a dependency on the launch of the New gTLD Program: Next Round, requiring implementation to begin in a timely manner to be incorporated into the New gTLD Program: Next Round timeline prior to the publication of the Applicant Guidebook.

Whereas, the Board developed a Scorecard to facilitate its consideration of the Outputs titled [\[Scorecard: IDN EPDP Phase 1 Recommendations\]](#).

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Whereas, the Board notes the Phase 1 Final Report's affirmation of the introduction of new gTLDs in rounds, per SubPro Affirmation with Modification 3.1, which the Board accepted in September 2023 in light of the GNSO's commitment to engagement on a shared vision for the long-term evolution of the program, and expects that the IDN EPDP Phase 1 recommendations relating to procedures beyond the next application round of the New gTLD Program would be an important part of this conversation.

Resolved (2024.06.08.xx), the ICANN Board adopts the [\[Scorecard\[link\]\]](#) in full. **Section A of the Scorecard** identifies the Outputs that the Board adopts. **Section B** identifies the Outputs that the Board designates as pending.

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Resolved (2024.06.08.xx), the Board directs the ICANN Interim President and CEO, or her designee(s), to create an EPDP-IDNs Implementation Review Team (IRT) as a sub-track of the

existing Subsequent Procedures (SubPro) IRT as soon as practicable, to commence the process of implementing the recommendations adopted in Section A of the Scorecard.

Resolved (2024.06.08.xx), for recommendations that call for specific changes to the Applicant Guidebook and/or the Base Registry Agreement, the Board directs the ICANN Interim President and CEO, or her designee(s), to incorporate the implementation of these recommendations into the work on updates to the Next Round Applicant Guidebook expeditiously, as the Phase 1 recommendations are a dependency for the opening of the Next Round of New gTLDs.

Resolved (2024.06.08.xx), the Board acknowledges and appreciates the dedication of the EPDP-IDNs team members for their commitment and nearly three years of work to complete Phase 1 of the EPDP-IDNs. Their efforts led to the development of fifty-eight (58) recommendations enabling the introduction of variant gTLDs at the top-level. Additionally, the Board expresses gratitude to the community for investing considerable time and resources in formulating the recommendations that are being acted upon today. Special recognition is extended to the community leadership, members of the EPDP-IDNs team, and org staff who supported their endeavors, ultimately resulting in the publication of the Phase 1 Final Report. The joint effort has paved the way for this significant step forward towards creating a more linguistically inclusive and user-friendly Internet, where web users globally can access digital content entirely in their native languages, thereby increasing digital inclusivity. Continued collaboration will be essential throughout the upcoming implementation phase.

Rationale for Resolutions 2024.06.08.xx – 2024.06.08.xx

Why is the Board addressing the issue?

On 22 December 2023, the GNSO Council voted with a GNSO Supermajority to [approve](#) all fifty-eight (58) recommendations outlined in the IDNs EPDP Phase 1 Final Report. Following

this, on 18 January 2024, the GNSO Council submitted its [Recommendations Report](#), as mandated by the Bylaws, to the ICANN Board of Directors. The report recommended the adoption of all final recommendations by the ICANN Board. In accordance with Annex A-1 of the ICANN Bylaws, the EPDP-IDNs recommendations are now being forwarded to the Board for its review and action.

As required by Article 3, Section 6.(a)(iii) of the ICANN Bylaws, the approved recommendations were posted for [Public Comment](#) to inform Board action on the final recommendations. Additionally, according to Section 11.3(i)(x) of the ICANN Bylaws, the GNSO Council's support for these recommendations, surpassing the Supermajority threshold, obligates the Board to adopt the recommendations unless, by a vote of more than two-thirds, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

The Board acknowledges the GNSO Council resolution referencing “sixty-nine (69) Full Consensus recommendations.” However, it should be noted that 58 of these Outputs are Consensus Policy recommendations, while the remaining 11 are categorized as Implementation Guidance.

What is the proposal being considered?

In May 2021, the GNSO Council initiated an EPDP on IDNs to:

- i) Determine the approach for a consistent definition of all gTLDs; and
- ii) Develop policy recommendations that will eventually allow for the introduction of variant gTLDs at the top-level.

In November 2022, the Council approved an EPDP Team request to divide its work into two phases, with Phase 1 covering topics related to top-level gTLD definition and variant management, and Phase 2 covering topics related to second-level variant management issues.

The EPDP Team published its Phase 1 Initial Report for Public Comment in April 2023. Following its review of all the public comments received, the EPDP Team finalized its recommendations and submitted its Phase 1 Final Report to the GNSO Council in November 2023. The Council approved the Final Report, including all fifty-eight (58) Consensus Policy recommendations. The Board is now considering the proposed set of recommendations, which cover the following topics: the consistent definition and technical utilization of RZ-LGR; “Same entity” at the top-level; adjustments in registry agreement, registry service, registry transition process, and other processes/procedures related to the domain name lifecycle; and adjustments to string similarity review, objection process, string contention resolution, reserved strings, and other policies and procedures.

Which stakeholders or others were consulted?

In accordance with the GNSO’s PDP Manual, in August 2021, the EPDP-IDNs Team reached out to all ICANN Supporting Organizations and Advisory Committees as well as all GNSO Stakeholder Groups and Constituencies with requests for input at the start of its deliberations. In response, [statements](#) were received from the: Registries Stakeholder Group (RySG), Security and Stability Advisory Committee (SSAC), and Country Code Names Supporting Organization (ccNSO) (specifically its ccPDP4 Variant Management Subgroup). The input received was incorporated into the EPDP Team’s deliberations as each topic was discussed. Where groups that provided written input also had representative members on the EPDP Team, those members were well-positioned to respond to questions from other members requesting clarity about the written input during the Team’s consideration of the topic.

While the Security and Stability Advisory Committee (SSAC) did not appoint members to the EPDP Team, its subject matter experts on IDNs met with the EPDP Team during two engagement sessions to discuss their views on specific charter questions and preliminary recommendations. Some of the SSAC inputs were recorded in [SAC120](#), which was published in April 2022. In addition, the EPDP Team conducted an [outreach webinar](#) for the Governmental Advisory Committee (GAC) in February 2023, briefing the GAC on issues regarding variants and explaining the significance of the EPDP Team’s work.

Community input was also sought through Public Comment on the EPDP Team’s Phase 1 Initial Report from 24 April to 19 June 2023.

In May 2023, the EPDP Team held a [community webinar](#) to raise awareness of its Phase 1 Initial Report and encourage community input. By the Public Comment closure date, the EPDP Team received input from twelve (12) submissions. Following a thorough review of the submissions, the EPDP Team finalized its recommendations and implementation guidance. The EPDP Team delivered its Phase 1 [Final Report](#) to the GNSO Council on 08 November 2023.

Following the GNSO Council’s approval, the ICANN Board sought the community’s input on the Phase 1 Final Recommendations of the EPDP on IDNs. A period of [Public Comment](#) on the Final Report was opened from 23 January to 12 March 2024, and input was received from the community and other interested parties on the Final Report.

What concerns or issues were raised by the community?

The EPDP-IDNs Team thoroughly reviewed the Public Comment submissions concerning the Phase 1 Initial Report and incorporated numerous suggestions, where necessary, to the final recommendations.

During the review, the EPDP Team noted concerns raised by some commenters that several recommendations did not align with the conservatism principle (e.g., Final Recommendations 3.11, 3.12, and 8.1). After extensive discussion, the EPDP Team agreed not to change those recommendations, but did agree to enhance other recommendations concerning the evaluation of variant gTLD applications (e.g., Final Recommendation 3.5, Implementation Guidance 3.6 and 3.9). This approach was intended to strike a balance between encouraging and supporting the introduction of variant gTLDs while also promoting the security and stability of the Domain Name System.

What significant materials did the Board review?

To help facilitate the Board's determination of whether the Outputs are in the best interest of the ICANN community and ICANN, the Board considered the following materials to be significant:

- The 31 January 2012 [SAC052](#) Report: SSAC Advisory on Delegation of Single-Character Internationalized Domain Name Top-Level Domains.
- The 23 July 2013 [SAC060](#) Report: SSAC Comment on Examining the User Experience Implications of Active Variant TLDs Report.
- The 25 January 2019 IDN Variant TLD Management [paper](#) developed by ICANN org.
- The 7 October 2019 [Recommendations](#) for the Technical Utilization of the Root Zone Label Generation Rules (RZ-LGR).
- IDN-related Outputs under Topic 25 in the SubPro PDP [Final Report](#) published 2 February 2021.
- The 24 April 2023 Phase 1 [Initial Report](#) of the Expedited Policy Development Process (EPDP) for Internationalized Domain Names (IDNs).
- The 8 November 2023 Phase 1 [Final Report](#) of the Expedited Policy Development Process (EPDP) for Internationalized Domain Names (IDNs).

- The 21 December 2023 GNSO Council [resolution](#) of the IDNs EPDP Phase 1 Final Report recommendations.
- The 18 January 2024 GNSO Council [Recommendations Report](#) to the ICANN Board Regarding Adoption of the Phase 1 Final Recommendations from the GNSO Expedited Policy Development Process (EPDP) on Internationalized Domain Names (IDNs)

Are there positive or negative community impacts?

Adopting the final recommendations will positively impact ICANN as upholding the pivotal role of IDNs in enabling global access to domain names in native languages and scripts. These recommendations allow for implementing variant TLDs effectively, making IDNs more usable across communities. More generally, IDNs not only foster a more linguistically diverse Internet but also facilitate broader engagement for organizations, governments, and businesses with audiences in their preferred language or script. The secure and stable use of IDNs is essential for enhancing digital inclusivity and is a priority for ICANN.

Additionally, in its March 2019 [rationale](#), the Board requested the GNSO and ccNSO to coordinate their respective areas of IDN policy work to help ensure a consistent solution based on the variant TLD Recommendations for IDN variant ccTLDs and IDN variant gTLDs. The Board anticipates that the success of this coordinated effort will also generate significant benefits for the global community, and reinforces the importance of collaboration and the critical role of the multistakeholder model.

The Board also discussed a potential fiscal impact on applicants as the IDN-EPDP Team’s fee-related recommendations would be absorbed across all applicants.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

In developing the Phase 1 Final Report outputs, the EPDP Team recognized that the cost recovery principle as published in the SubPro PDP Working Group’s Affirmation with Modification 15.4, applies to the overall New gTLD Program, and the costs of running the program would be borne by all applicants collectively. As noted in the EPDP Team’s Final Recommendation 3.10: “The fee structure associated with future applications that include variant label(s), and variant label applications from registry operators of existing gTLDs, must be consistent with the principle of cost recovery reflected in the 2012 Applicant Guidebook and affirmed by the New gTLD Subsequent Procedures PDP.”

The Board notes that the EPDP-IDNs team considered the fiscal impact on the community in developing its fee-related recommendations as can be seen in Final Recommendations noted in Charter Question D1b of the Phase 1 Final Report. In drafting the fee-related recommendations, the EPDP-IDNs team examined the processes for existing registry operators to apply for or be allocated variants of their current gTLDs, as well as for new IDN gTLD applicants to seek and obtain allocatable variants. It also assessed the associated fees, including application and annual registration fees for variant TLDs, and explored whether specific implementation guidance should be provided.

The Board also notes, in relation to the recommendations concerning application rounds, that these rounds require reiterative financial investments by both Org and the community, and looks forward to engaging on the longer-term evolution of the New gTLD Program.

As noted in the Scorecard, the Board is continuing to discuss a set of recommendations that relate to fees and fee structures.

Are there any security, stability or resiliency issues relating to the DNS?

In December 2010, the Board [directed](#) ICANN “to develop an issues report identifying what needs to be done with the evaluation, possible delegation, allocation and operation of IDN variant TLDs.” As a result, ICANN drafted an [Integrated Issues Report](#) in February 2012 which defined milestones that must be completed to manage the implementation of IDN variant TLDs. Since then, ICANN developed a set of recommendations and supporting documentation on mechanisms for implementing IDN variant TLDs and published an [IDN Variant TLD Management paper](#) in January 2019. The documents were finalized after a standard public comment period and were [approved](#) by the Board in March 2019 who requested that the GNSO and ccNSO considers them while developing their respective policies to define and manage variant TLDs for the current TLDs and future TLD applications.

In drafting its charter and conducting its work, the EPDP-IDNs Team thoroughly considered ICANN org’s previous reports and recommendations. In its work, the EPDP Team reinforced the “conservatism principle,” which advocates for the adoption of a more cautious approach as a way to limit any potential security and stability risks associated with the variant label delegation in the absence of data or information in support of a more liberal approach.

As noted above, in preparation for the Board’s consideration of the IDN EPDP Team’s Phase 1 Final Report, ICANN org, in collaboration with the community and various stakeholders, has been conducting research and preparing extensively to ensure that variant TLDs can be added in a secure and stable way considering the IDN variant TLD Recommendations.

Is this decision in the public interest and within ICANN’s mission?

This action is within ICANN's mission and mandate and in the public interest as set forth in the ICANN Bylaws. The multistakeholder policy development process of bottom-up, consensus policies and guidelines helps advance the stable and secure operation of the Internet's unique identifier systems. Enabling the secure and stable use of IDNs will empower citizens, businesses,

and communities to fully benefit from the Internet, enhancing accessibility and fostering greater participation in the digital world.

Is this either a defined policy process within ICANN’s Supporting Organizations or ICANN’s Organizational Administrative Function decision requiring public comment or not requiring public comment?

As required by the ICANN Bylaws and the GNSO’s policy procedures, the recommendations were the subject of [Public Comment](#) as discussed above, and the Final Report was developed in collaboration with the ICANN community, in accordance with the GNSO PDP Manual.

Signature Block:

Submitted by:

Position:

Date Noted:

Email:

Scorecard: IDN EPDP Phase 1 Recommendations

This document provides an overview of the IDN EPDP Phase 1 Recommendations and the Board’s action on each Recommendation to support the Board’s discussion and action on the IDNs EPDP Phase 1 Final Report.

A. Recommendations That the Board Adopts

The Board adopts the Outputs in this section pursuant to Resolutions [2024.xx]

Recommendation #	Recommendation Text	Board Action
1.1	The RZ-LGR must be the sole source to calculate the variant labels and disposition values for all existing gTLDs.	Adopt Recommendation
2.1	Any allocatable variant label of an existing gTLD, as calculated by the RZ-LGR, can only be allocated to the same registry operator or withheld for possible allocation only to that registry operator.	Adopt Recommendation
3.1	An application for an allocatable variant label cannot precede an application for that variant label’s primary gTLD string.	Adopt Recommendation
3.2	A future registry operator who wishes to apply for an allocatable variant label of its existing gTLD must submit an application during an application round.	<p style="text-align: center;">Adopt Recommendation</p> <p>With regard to rounds, the Board notes in this context its action on the SubPro Final Report recommendations, with the GNSO Council clarification that “The SubPro Final Report recommendation envisions that ‘the next application procedure should be processed in the form of a ‘round’ and ‘Application procedures must take place at predictable, regularly occurring intervals without indeterminable periods of review’ . However,</p>

Recommendation #	Recommendation Text	Board Action
		<p>the GNSO Council confirms its willingness to engage with the ICANN Board to explore a shared vision for the long-term evolution of the program, which could be materially different than what is envisioned for the next round of the New gTLD Program in the Topic 3 recommendations.”</p> <p>The Board agrees that, through Board-GNSO Council engagement, a shared vision can be identified, and expresses its interest in beginning this engagement as soon as practicable.</p>
3.3	Applications for allocatable variant labels of existing gTLDs can be submitted during the immediate next application round of the New gTLD Program and any subsequent rounds.	<p>Adopt Recommendation</p> <p>See Board Action for Recommendation 3.2 above.</p>
3.4	A future applicant applying for a primary gTLD string together with its allocatable variant label(s) in the same round is required to submit one application for the primary gTLD string and the variant label(s).	<p>Adopt Recommendation</p> <p>See Board Action for Recommendation 3.2 above.</p>
3.25	After submission of an application, the applicant is allowed to withdraw an applied-for variant label from that application, but is not allowed to add any other variant label that was not originally applied-for in that application. Only an applicant for a .Brand TLD string whose applied-for primary gTLD string is placed in a contention set is allowed to change its applied-for primary string and allocatable variant label(s) under the condition set out in SubPro PDP Recommendation 20.8.	<p>Adopt Recommendation</p>
3.5	<p>In addition to explaining the mission and purpose of the applied for primary gTLD string or existing gTLD, the applicant seeking one or more gTLD variant labels will describe the justification of such need. The justification given by the applicant shall at minimum provide the following information:</p> <p>3.5.1 The meaning or intended meaning (for non-dictionary words) of each of the applied-for variant label(s), including sources;</p> <p>3.5.2 Explanation of how the primary and variant labels are considered the same;</p>	<p>Adopt Recommendation</p>

Recommendation #	Recommendation Text	Board Action
	<p>3.5.3 Explain the benefits and the user communities who will benefit from the introduction of the applied-for variant label(s); and</p> <p>3.5.4 A description of the steps that the applicant will take to minimize the operational and management complexities of variant gTLDs and variant domain names that impact registrars, resellers and/or registrants.</p>	
3.7	<p>A future applicant must be required to demonstrate its ability to manage the applied-for primary gTLD string and applied-for allocatable variant label(s) from both a technical and operational perspective. The same requirement applies to registry operators who wish to apply for allocatable variant label(s) of their existing gTLDs.</p>	Adopt Recommendation
3.10	<p>The fee structure associated with future applications that include variant label(s), and variant label applications from registry operators of existing gTLDs , must be consistent with the principle of cost recovery reflected in the 2012 Applicant Guidebook and affirmed by the New gTLD Subsequent Procedures PDP.</p>	Adopt Recommendation
3.15	<p>As a one-time exception for the immediate next application round, applications for allocatable variant labels of existing IDN gTLDs from the 2012 round must receive priority in processing order ahead of all other new gTLD applicants, including the IDN applicants that elect to participate in the prioritization draw.</p>	Adopt Recommendation
3.16	<p>An applied-for allocatable variant label must be subject to the same application requirements and evaluation criteria as the associated primary gTLD string. Specifically, the same documentation requirements apply to both the primary gTLD string and its applied-for allocatable variant label(s). With respect to the three non-standard application types of gTLDs as identified by the SubPro PDP, this means that:</p> <ul style="list-style-type: none"> - 3.16.1 An applicant for a Community-based TLD string and its allocatable variant label(s) is required to submit a written endorsement of its applied-for primary gTLD string and applied-for allocatable variant label(s) from established institution(s) representing the community that the applicant has named. - 3.16.2 An applicant for a Geographic Name TLD string and its allocatable variant label(s) is required to submit documentation of support or non-objection to its applied-for primary gTLD string and applied-for allocatable variant label(s) from relevant governments or public 	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
	<p>authorities.</p> <ul style="list-style-type: none"> - 3.16.3 An applicant for a .Brand TLD string and its allocatable variant label(s) is required to submit proof that its applied-for primary gTLD string and applied-for allocatable variant label(s) are identical to registered trademarks owned and used by the registry operator or its affiliate. 	
3.17	<p>The EPDP Team affirmed the Recommendation 25.4 in the SubPro PDP Final Report that single-character gTLDs may only be allowed for limited scripts and languages where a character is an ideograph. At the time of the EPDP Team’s deliberations, the only script that meets the criteria is the Han script, which is used in the Chinese, Japanese, and Korean languages. Nevertheless, applications for single-character gTLDs that are ideographs must not be accepted until relevant guidelines from the Chinese, Japanese, and Korean Generation Panels are developed, finalized after Public Comment, and implemented in the New gTLD Program. In the event that the Generation Panels determine such additional guidelines beyond the analysis already provided in the RZ-LGR unnecessary, applications for single-character gTLDs in the Han script shall be accepted.</p>	Adopt Recommendation
3.18	<p>The New gTLD Program Reserved Names list must not be expanded to include variant labels.</p>	Adopt Recommendation
3.19	<p>No application for a variant label of a New gTLD Program Reserved Name is allowed.</p>	Adopt Recommendation
3.20	<p>The list of Strings Ineligible for Delegation must not be expanded to include variant labels.</p>	Adopt Recommendation
3.21	<p>Only the protected organizations on the list of Strings Ineligible for Delegation are allowed to apply for the allocatable variant label(s) of their protected string(s) at the top-level. Consistent with Final Recommendation 3.1, an application for an allocatable variant label of a protected string cannot precede an application for the protected string, which serves as the primary label for generating the variant label.</p>	Adopt Recommendation
3.22	<p>Only an applied-for gTLD string that conforms to the mandatory string requirements, including IDNA 2008 for IDN strings, as well as the RZ-LGR, can be submitted through the new gTLD application submission system.</p>	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
	<p>Where the initial algorithmic check deems an applied-for gTLD string as “invalid” or “blocked” (where the applied-for string is a variant label), such application for a non-conforming string may be accepted but the applicant must be warned of its potential disqualification.</p> <p>If the DNS Stability Panel (DSP) subsequently confirms the applied-for string as “invalid” or “blocked” per the RZ-LGR and disqualifies the application for the non-conforming string, the applicant may invoke a limited challenge mechanism for DNS Stability Review to seek a reassessment of the disqualification.</p> <p>However, the applicant’s ground to challenge is limited to a belief that its applied-for gTLD string is valid and allocatable as per the RZ-LGR and that the disqualification by the DSP was due to an incorrect assessment of the technical implementation of the RZ-LGR.</p>	
3.24	<p>An applied-for gTLD string that has been accepted through the new gTLD submission system and correctly assessed by the DNS Stability Panel as “invalid” or “blocked” (where the applied-for string is a variant label) is disqualified unless and until such a string is deemed valid and allocatable in a future version of the RZ-LGR, if any.</p>	Adopt Recommendation
4.1	<p>The String Similarity Review must be modified to compare an applied-for primary gTLD string (no matter whether it is an ASCII string or an IDN string) and all of its allocatable variant label(s) against the following:</p> <ul style="list-style-type: none"> - 4.1.1 Existing gTLDs and all of their allocatable and blocked variant labels; and - 4.1.2 Existing ccTLDs and all of their allocatable and blocked variant labels; and - 4.1.3 Strings requested as IDN ccTLDs and all of their allocatable and blocked variant labels; and - 4.1.4 Other applied-for gTLD strings and all of their allocatable and blocked variant labels; and - 4.1.5 All strings on the New gTLD Program Reserved Names list and all of their allocatable and blocked variant labels; and - 4.1.6 Any other two-character ASCII strings and all of their allocatable and blocked variant labels. <p>In addition, the blocked variant label(s) of an applied-for primary gTLD string must also be compared</p>	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
	<p>against the following:</p> <ul style="list-style-type: none"> - 4.1.7 Existing gTLDs and all of their allocatable variant labels; and - 4.1.8 Existing ccTLDs and all of their allocatable variant labels; and - 4.1.9 Strings requested as IDN ccTLDs and all of their allocatable variant labels; and - 4.1.10 Other applied-for gTLD strings and all of their allocatable variant labels; and - 4.1.11 All strings on the New gTLD Program Reserved Names list and all of their allocatable variant labels; and - 4.1.12 Any other two-character ASCII strings and all of their allocatable variant labels. 	
4.2	<p>As an exception to the proposed modification to the String Similarity Review in accordance with Final Recommendation 4.1, the String Similarity Review Panel may decide whether and what blocked variant labels to omit when conducting a comparison. Any such decision by the String Similarity Review Panel must be based on guidelines and/or criteria that justify such an omission on the basis of a manifestly low level of confusability between the scripts of labels being compared.</p>	Adopt Recommendation
4.3	<p>During implementation, the guidelines and/or criteria must be developed for use by the String Similarity Review Panel to decide on the omission of blocked variant labels when conducting a comparison.</p>	Adopt Recommendation
4.4	<p>All labels from a variant label set, comprising the primary gTLD string and all of its allocatable and blocked variant labels, must share the same outcome out of the String Similarity Review. This means the String Similarity Review, in accordance with Final Recommendations 4.1-4.3, determines that:</p> <ul style="list-style-type: none"> - 4.4.1 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to an existing gTLD, an existing ccTLD, a New gTLD Program Reserved Name, a two-character ASCII string, or any of the variant label(s) of the aforementioned categories of strings, the entire variant label set of the applied-for primary gTLD string will be ineligible to proceed in the application process; or - 4.4.2 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to another applied-for primary gTLD string or any of its variant label(s), the entire variant label sets of the two applied-for primary gTLD strings will be placed in a contention set. Upon the resolution of the contention set, the application that prevails can proceed to the next stage of the application process. 	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
	<ul style="list-style-type: none"> - 4.4.3 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to a requested primary IDN ccTLD string or any of its variant label(s), ICANN org is expected to take the following approach to resolve the conflict: <ul style="list-style-type: none"> - 4.4.3.1 If one of the applied-for primary TLD strings has completed its respective process before the other is lodged, that primary TLD string (and its approved variant label(s), if applicable) will be delegated. <ul style="list-style-type: none"> - 4.4.3.1.1 An applied-for primary gTLD string that has successfully completed all relevant evaluation stages, including dispute resolution and string contention, if applicable, and is eligible for entry into a registry agreement will be considered complete, and therefore that gTLD application (primary gTLD string and applied-for variant label(s), if applicable) would not be disqualified by a newly-filed IDN ccTLD request. - 4.4.3.1.2 A requested primary IDN ccTLD that is validated will be considered complete and therefore that IDN ccTLD request (primary IDN ccTLD string and requested variant label(s), if applicable) would not be disqualified by a newly-filed gTLD application. - 4.4.3.2 In the case where neither application has completed its respective process, the gTLD application (including the applied-for variant label(s), if applicable) will be put on hold while the IDN ccTLD request (including the requested variant label(s), if applicable) is undergoing evaluation. <ul style="list-style-type: none"> - 4.4.3.2.1 Where the gTLD application (including the applied-for variant label(s), if applicable) does not have the support or non-objection, when required, from the relevant government or public authority, the validated IDN ccTLD request (including the requested variant label(s), if applicable) will prevail and the gTLD application is not eligible to proceed in the application process. - 4.4.3.2.2 Where the IDN ccTLD request (including the requested variant label(s), if applicable) is withdrawn or fails evaluation, the gTLD application (including the applied-for variant label(s), if applicable) is eligible to proceed in the application process. - 4.4.3.3 In the case where the gTLD application (including the applied-for variant 	

Recommendation #	Recommendation Text	Board Action
	<p>label(s), if applicable) has obtained the support or non-objection of the relevant government or public authority, but is ineligible to proceed due to conflict with an IDN ccTLD request, a full refund of the evaluation fee is available to the gTLD applicant if its application was submitted prior to the publication of the IDN ccTLD request.</p> <ul style="list-style-type: none"> - 4.4.4 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to an applied-for primary gTLD string or any of its variant label(s) that has been held over from a previous application round and still in progress, the newly submitted application will be put on hold until the outcome of the application from the previous round has been determined. <ul style="list-style-type: none"> - 4.4.4.1 If the application from a previous round successfully completes evaluation and is eligible for entry into a registry agreement, the entire variant label set of the newly applied-for primary gTLD string is ineligible to proceed in the application process. - 4.4.4.2 If the application from a previous round is withdrawn or fails evaluation, the newly submitted application is eligible to proceed to the next stage of the application process. 	
5.1	All applied-for allocatable gTLD variant labels must be subject to the objection processes.	Adopt Recommendation
5.2	<p>A String Confusion Objection may be filed based on confusing similarity between combinations of applied-for primary gTLD strings and their variant labels established by Final Recommendations 4.1-4.2. The possible combinations are as follows:</p> <ul style="list-style-type: none"> - 5.2.1 Applied-for primary gTLD string is confusingly similar to the primary string of an existing gTLD/ccTLD or another applied-for primary gTLD string - 5.2.2 Applied-for primary gTLD string is confusingly similar to an allocatable variant label of an existing gTLD/ccTLD or another applied-for primary gTLD string - 5.2.3 Applied-for primary gTLD string is confusingly similar to a blocked variant label of an existing gTLD/ccTLD or another applied-for primary gTLD string - 5.2.4 An allocatable variant label of an applied-for primary gTLD string is confusingly similar to the primary string of an existing gTLD/ccTLD or another applied-for primary gTLD string - 5.2.5 An allocatable variant label of an applied-for primary gTLD string is confusingly similar to an allocatable variant label of an existing gTLD/ccTLD or another applied-for primary gTLD string 	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
	<ul style="list-style-type: none"> - 5.2.6 An allocatable variant label of an applied-for primary gTLD string is confusingly similar to a blocked variant label of an existing gTLD/ccTLD or another applied-for primary gTLD string - 5.2.7 A blocked variant label of an applied-for primary gTLD string is confusingly similar to the primary string of an existing gTLD/ccTLD or another applied-for primary gTLD string - 5.2.8 A blocked variant label of an applied-for primary gTLD string is confusingly similar to an allocatable variant label of an existing gTLD/ccTLD or another applied-for primary gTLD string. <p>The only combination of strings that cannot form the basis of a String Confusion Objection is that of a blocked variant label of an applied-for primary gTLD string being claimed as confusingly similar to the blocked variant label of an existing gTLD/ccTLD or another applied for primary gTLD string. In its objection, the objector must specify the confusing similarity between the combination of strings within the limits of String Similarity Review in accordance with Final Recommendations 4.1-4.2.</p>	
5.3	<p>The outcomes of the String Confusion Objection are consistent with the 2012 Applicant Guidebook. Specifically:</p> <ul style="list-style-type: none"> - 5.3.1 If the objection prevails and where the objector is an existing TLD registry operator, then that entire application is ineligible to proceed to the next stage of the application process; or - 5.3.2 If the objection prevails and where the objector is another applicant, then the entire variant label sets in both that application and the objector’s application must be placed in a contention set. - 5.3.3 If the objection does not prevail, then that entire application may proceed to the next stage of the application process. 	Adopt Recommendation
5.4	<p>With respect to the Limited Public Interest Objection, Legal Rights Objection, and Community Objection, an objection may be filed against only the applied-for primary gTLD strings and/or the applied-for allocatable variant labels. For avoidance of doubt, the objection cannot be filed against non-applied-for allocatable variant labels or blocked variant labels. Specifically, the objection can be filed against one of the following options: 5.4.1 Only the applied-for primary gTLD string, or 5.4.2 One or more of the applied-for allocatable variant label(s), or 5.4.3 A combination of the applied-for primary gTLD string and one or more applied for allocatable variant label(s)</p>	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
5.5	<p>With respect to the Limited Public Interest Objection, Legal Rights Objection, and Community Objection, the possible outcomes are as follows:</p> <ul style="list-style-type: none"> - 5.5.1 If an objection against an applied-for primary gTLD string prevails, then that entire application is ineligible to proceed to the next stage of the application process. - 5.5.2 If an objection against only one or more applied-for allocatable variant label(s) prevails, then that application for the applied-for primary gTLD string and other unaffected applied-for allocatable variant label(s) may proceed to the next stage of the application process without the applied-for allocatable variant label(s) which are rendered ineligible by the objection. - 5.5.3 If the objection does not prevail, then that entire application may proceed to the next stage of the application process. 	Adopt Recommendation
6.1	An applied-for primary gTLD string that is also a variant label of another applied-for primary gTLD string, as calculated by the RZ-LGR, must be placed in a contention set.	Adopt Recommendation
6.2	If an applied-for primary gTLD string or its variant label is found to be confusingly similar to another applied-for primary gTLD string or its variant label, the entire variant label sets in the affected applications shall be placed in a contention set together. This applies no matter whether the primary gTLD string is an ASCII string or an IDN string.	Adopt Recommendation
7.1	Any future gTLD along with its variant labels (if any) must be subject to one Registry Agreement with each variant label having the same service level agreements (SLAs) and other operational requirements.	Adopt Recommendation
7.3	Any existing registry operator that is successful in its future application for its variant label(s) must be required to adopt contractual terms to accommodate the newly approved variant label(s) by way of a new Specification to its existing Registry Agreement.	Adopt Recommendation
7.6	The registry service provider for each one of the Critical Functions as defined in the Base Registry Agreement for an existing gTLD must be the same as for its delegated variant labels. The Critical Functions are: DNS Service, DNSSEC proper resolution, EPP, RDDS, and Data Escrow.	Adopt Recommendation
7.7	If the registry operator changes its gTLD's registry service provider for any one of the Critical Functions, the variant label(s) of that gTLD must simultaneously transition to the same registry service provider for that Critical Function.	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
7.8	In the event a Registry Transition or Change of Control process is initiated for a gTLD, the process must encompass the gTLD and all its allocated and delegated variant label(s), if any, at the same time.	Adopt Recommendation
7.9	After the Registry Transition Process or Change of Control process is completed for a gTLD and its allocated and delegated variant label(s), the successor registry operator can apply for the other non-delegated, allocatable variant label(s) of that gTLD in accordance with the “same entity” principle pursuant to Final Recommendation 2.1.	Adopt Recommendation
7.10	Emergency transition of a gTLD to an EBERO provider must include the allocated and delegated variant label(s) of that gTLD, if any. All these labels must be transitioned to the same EBERO provider at the same time.	Adopt Recommendation
7.11	In the event a gTLD is reassigned as a result of a TM-PDDRP determination, that reassignment must include all allocated and delegated variant label(s) of the gTLD, if any, at the same time.	Adopt Recommendation
7.12	The same data escrow provider must be contracted for the gTLD and its allocated and delegated variant label(s).	Adopt Recommendation
7.14	The applied-for primary gTLD string and any allocatable variant label sought by the applicant must be bound by the same restrictions, which will become contractual requirements upon execution of the Registry Agreement. Similarly, any allocatable variant label sought by an existing registry operator will be bound by the same restrictions as the existing gTLD upon execution of the new Specification to its existing Registry Agreement for the newly approved variant label(s). The restrictions in this recommendation refer to the differential treatment and requirements applied to non-standard types of gTLDs, which are Community-based TLDs, Brand TLDs, Geographic Name TLDs, as well as TLDs subject to Category 1 Safeguards.	Adopt Recommendation
8.1	No ceiling value for delegated top-level variant labels from a variant label set is necessary as existing measures in the RZ-LGR to reduce the number of allocatable top-level variant labels, as well as economic, operational, and other factors that may impact the decision to apply for variant labels, will keep the number of delegated toplevel variant labels conservative.	Adopt Recommendation
8.2	In order to encourage a positive and predictable registrant experience, ICANN org must, during implementation, create a framework for developing non-binding guidelines for the management of gTLDs and their variant labels at the top-level by registries and registrars.	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
8.4	Applicants for a primary gTLD string and its applied-for allocatable variant label(s) that pass evaluation must be subject to the terms and conditions, as recommended by the SubPro PDP, in respect of the timeframe for delegation, including the ability to apply for an extension of time for delegation.	Adopt Recommendation
8.5	The sequence for delegating the applied-for primary gTLD string and the applied-for allocatable variant label(s) that pass evaluation should be determined by the registry operator.	Adopt Recommendation
8.6	Any delegated gTLDs and their delegated and allocated variant labels (if any) not validated by a proposed RZ-LGR update must be grandfathered. In other words, the proposed update will apply to future new gTLDs and their variant labels and will not be retroactive; there will be no change to the contractual and delegation state of the delegated gTLDs and their delegated and allocated variant labels (if any), which predate the proposed RZ-LGR update and are subject to the version of RZ-LGR when those gTLDs and variant labels were initially applied for upon the finalization of the application process.	Adopt Recommendation
8.7	For all future versions of the RZ-LGR, Generation Panels (GPs) and the Integration Panel (IP) should follow the stability principle in the LGR Procedure and make best efforts to retain full backward compatibility with delegated gTLDs and their delegated and allocated variant labels (if any). The LGR Procedure must be updated to specify the exceptional circumstances, to the extent known to the GPs and IP, that could result in a proposed update to the RZ-LGR not being able to retain full backward compatibility.	Adopt Recommendation
8.8	In the unexpected event where a proposed update to the RZ-LGR is unable to retain full backward compatibility for validating any delegated gTLDs as well as their delegated and allocated variant labels (if any), the relevant GP must call out the exception during a Public Comment period and explain the reasons for such exception. The Public Comment period should also include the elements in the following Implementation Guidance.	Adopt Recommendation
8.10	A primary gTLD that is removed from the root zone, either voluntarily or involuntarily, must also require the removal of its delegated variant label(s) from the root zone.	Adopt Recommendation
8.11	A delegated variant label that is voluntarily removed from the root zone will not require the removal of the associated primary gTLD or its other delegated variant label(s).	Adopt Recommendation

Recommendation #	Recommendation Text	Board Action
8.13	In the event that a gTLD is removed from the root zone as a consequence of its registry operator's breach of the Registry Agreement, the rest of its variant label set, if any, must also be removed from the root zone.	Adopt Recommendation
9.1	A given variant label must have one of the following label states at any one time: delegated, allocated, withheld-same-entity, blocked, or rejected. ¹⁵⁸ If the same terminology is used for certain label states and new gTLD application states, their respective definitions must be consistent.	Adopt Recommendation
9.3	<p>A variant label may go through the following transitions:</p> <ol style="list-style-type: none"> 1. from "blocked" to "withheld-same-entity"; 2. from "withheld-same-entity" to "blocked"; 3. from "rejected" to "withheld-same-entity". 4. from "withheld-same-entity" to "allocated"; 5. from "allocated" to "withheld-same-entity"; 6. from "allocated" to "delegated"; and 7. from "delegated" to "allocated" 	Adopt Recommendation

B. Outputs That the Board Is Still Discussing (“Pending”)

All Outputs in this section are “pending”, as adopted in Resolutions [2024.xx]

Recommendation #	Recommendation Text	Board Action
3.11	A future applicant applying for a primary gTLD string and up to four (4) of that string’s allocatable variant labels during an application round must incur the same base application fee as any other gTLD applicant who does not apply for variant labels in that round.	The Board recognizes the interdependence between this recommendation and the current fee structure work for the New gTLD Program: Next Round. The Board is continuing to review and discuss the analysis in progress prior to taking action on this recommendation.
3.12	Any applicant applying for more than four (4) allocatable variant labels of a primary gTLD string in an application round may incur additional fees that ICANN org considers to be proportionate to any additional costs associated with evaluating the application and consistent with the cost recovery principle.	See Board Action for Recommendation 3.11 above.

Recommendation #	Recommendation Text	Board Action
3.13	<p>A future registry operator applying only for allocatable variant label(s) of its delegated primary gTLD must incur a discounted base application fee. ICANN org will decide on the discount based on what it considers to be proportionate to any costs associated with evaluating the application and consistent with the cost recovery principle.</p>	See Board Action for Recommendation 3.11 above.
3.14	<p>If a registry operator from the 2012 round applies for up to four (4) allocatable variant labels of its existing IDN gTLD:</p> <ul style="list-style-type: none"> - 3.14.1 in the immediate next application round, the base application fee will be waived for that application as a one-time exception; or - 3.14.2 in any application round subsequent to the immediate next application round, that application must incur a discounted base application fee as set out in Final Recommendation 3.13. <p>If a registry operator from the 2012 round applies for more than four (4) allocatable variant labels of its existing IDN gTLD:</p> <ul style="list-style-type: none"> - 3.14.3 in the immediate next application round, that application may incur additional fees as set out in Final Recommendation 3.12; or - 3.14.4 in any application round subsequent to the immediate next application round, that application must incur a discounted base application fee as set out in Final Recommendation 3.13 AND may incur additional fees as set out in Final Recommendation 3.12. 	See Board Action for Recommendation 3.11 above.

Recommendation #	Recommendation Text	Board Action
7.4	The registry fixed fee for a gTLD registry operator that operates the delegated gTLD label(s) from a variant label set must be the same as a gTLD registry operator of a single gTLD.	See Board Action for Recommendation 3.11 above.
7.5	The calculation of the registry-level transaction fee must be based on the cumulative number of domain name registrations of the combined delegated gTLD label(s) from a variant label set.	See Board Action for Recommendation 3.11 above.

ICANN BOARD PAPER NO. 2024.06.08.2b

TITLE: **Approach for Handling Content-Restrictive
Commitments in Next Round Registry
Agreements**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

In October 2023, the ICANN Board [adopted](#) a subset of Generic Names Supporting Organization (“GNSO”) New gTLD Subsequent Procedures (“SubPro”) Policy Development Process (“PDP”) recommendations, which envision that applicants will be permitted to enter into Next Round Registry Agreements (“RAs”) containing Registry Voluntary Commitments (“RVCs”). The Board raised concerns about ICANN's ability to enter into and enforce such commitments consistent with the ICANN Bylaws to the extent that they may obligate registry operators to restrict content in gTLDs.

From November 2023 to April 2024, the Board directed ICANN org to conduct a [Board-community consultation](#) (“Consultation”) regarding the implementation of RVCs in the New gTLD Program: Next Round. The Consultation focused on how to ensure Next Round RAs include only registry commitments which are enforceable as a practicable matter and within the scope of ICANN’s Mission.

During its May 2024 workshop, the Board reviewed [Consultation inputs](#), including those shared during the [ICANN79 Plenary Session](#), revisited the Bylaws issues which were explored in the Consultation, and considered mitigation options for any RA commitments that restrict content in gTLDs (“content-restrictive commitments”). The Board concluded that ICANN should not accept content-restrictive commitments in Next Round RAs.

The Board is being asked to take action on the high-level implementation approach for RVCs and other comparable RA commitments that could be proposed to restrict content

in gTLDs in the New gTLD Program: Next Round, based on its conclusion in the May 2024 workshop.

ICANN ORG RECOMMENDATION:

ICANN org recommends that the Board instruct ICANN org to exclude from inclusion in Next Round RAs any and all registry commitments, including RVCs and other comparable registry commitments, in which applicants propose to restrict content in gTLDs. This approach takes into account Consultation inputs, the Bylaws issues which were explored in the Consultation, and evaluation and community inputs concerning a “third party monitor” risk-mitigation approach proposed by the SubPro PDP Working Group. The Board action will enable ICANN org to proceed with designing and implementing registry commitment evaluation criteria and processes that are consistent with the Bylaws, thereby reducing the risk of future challenges based on assertions that such commitments exceed the scope of ICANN’s Mission.

PROPOSED RESOLUTION:

Whereas, the [ICANN Bylaws](#), as amended in 2016, state that “ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet’s unique identifiers or the content that such services carry or provide...[.]”

Whereas, Recommendations 9.9, 9.10, 9.12, and 9.13 of the Generic Names Supporting Organization (“GNSO”) New gTLD Subsequent Procedures (“SubPro”) Policy Development Process (“PDP”) envision that applicants will be permitted to enter into Next Round Registry Agreements (“RAs”) containing Registry Voluntary Commitments (“RVCs”) that could include restrictions on the content in gTLDs.

Whereas, the Board raised concerns – [during](#) the SubPro PDP deliberation and when the SubPro recommendations were [pending Board consideration](#) – regarding Recommendations 9.9, 9.10, 9.12, and 9.13, cautioning that there are limits to ICANN’s ability to enter into and enforce such commitments in accordance with the ICANN Bylaws.

Whereas, the SubPro PDP Working Group did not revise its recommendations in light of these concerns, and in its Final Report, which the GNSO Council adopted on 18 February 2021, expressed a [view](#) that “having these commitments reflected in Registry Agreements even if they fall outside of ICANN’s core mission is consistent with the Bylaws where neither ICANN itself nor any third party under ICANN’s control is required to pass judgment on ‘content’.”

Whereas, on 21 October 2023, the GNSO Council transmitted its [second Clarifying Statement](#) to the Board, containing a proposed path forward for SubPro Recommendations 9.9, 9.10, 9.12, and 9.13, after taking into account the Board input to address concerns that led the Board to place these recommendations in a “pending” status.

Whereas, on 26 October 2023, the Board [adopted](#) SubPro Recommendations 9.9, 9.10, 9.12, and 9.13 based on the GNSO Council’s second Clarifying Statement that “Registry Voluntary Commitments (RVCs) must be enforceable under the ICANN Bylaws and as a practicable matter.”

Whereas, on 26 October 2023, the Board directed ICANN org to facilitate a [Board-community consultation](#) (“Consultation”) concerning the RVC implementation to ensure that the framework for implementing these SubPro recommendations is consistent with the ICANN Bylaws.

Whereas, in requesting inputs to the Consultation, the Board [stated](#) that, “In order for ICANN to have the ability to enter into the content-related commitments recommended by the GNSO for the New gTLD Program: Next Round, a Bylaws amendment appears to be required.”

Whereas, after the Consultation concluded on 12 April 2024, the Board reviewed the [inputs](#) received, revisited the ICANN Bylaws issues which were explored in the Consultation, and evaluated the extent to which the “third party monitor” risk-mitigation approach proposed by the SubPro PDP Working Group would reduce legal

risks associated with ICANN’s enforcement of RA commitments to restrict content in gTLDs (“content-restrictive commitments”).

Whereas, the Consultation demonstrated that for varied reasons the community generally does not support amending the ICANN Bylaws to clarify the scope of ICANN’s Mission as it relates to content-restrictive commitments in Next Round RAs.

Whereas, during its May 2024 workshop, the Board identified that granting monitoring and assessment responsibilities to a third party regarding a registry operator's compliance with content-restrictive RA commitments could nevertheless constitute regulation of content by ICANN, as ultimately, it would be ICANN, and not the third party, that would take enforcement action based on the registry operator's failure to remedy the violation of such a commitment.

Whereas, during its May 2024 workshop, the Board identified that permitting content-restrictive commitments in Next Round RAs does not appear to be aligned with the ICANN Bylaws, and found no satisfactory mitigation alternatives to support the stable, secure, and predictable operation of future new gTLDs if ICANN were to include such commitments in Next Round RAs.

Resolved (2024.06.08.xx), the ICANN Board determines that ICANN should exclude from the Next Round RAs any RVCs and other comparable registry commitments that restrict content in gTLDs.

Resolved (2024.06.08.xx), the Board directs the ICANN Interim President and CEO, or her designee(s), to commence the implementation of the SubPro recommendations related to RVCs and other comparable RA commitments, including the design and implementation of evaluation criteria and processes to effectuate this exclusion.

Resolved (2024.06.08.xx), the Board extends its appreciation to the community for engaging in the Consultation process and providing valuable input that informed the Board’s deliberation on the registry commitments implementation approach in the New gTLD Program: Next Round.

Rationale for Resolutions 2024.06.13.xx – 2024.06.13.xx

Why is the Board addressing the issue?

The actions taken by the Board are in response to inputs received during the [Board-community consultation](#) (“Consultation”) as well as in-depth consideration of the Bylaws issues with respect to Registry Voluntary Commitments (“RVCs”) and other comparable Registry Agreement (“RA”) commitments that could be proposed to restrict content in gTLDs in the New gTLD Program: Next Round. Such RVCs are envisioned in Generic Names Supporting Organization (“GNSO”) New gTLD Subsequent Procedures (“SubPro”) Policy Development Process (“PDP”) Recommendations 9.9, 9.10, 9.12, and 9.13.

Over the course of its deliberation concerning these RA commitments, the Board has recognized a fundamental issue. The Bylaws recognize that ICANN has a limited technical Mission and state that ICANN shall not act outside of that Mission. Section 1.1(c) of the Bylaws states that “ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet's unique identifiers or the content that such services carry or provide...[.]” As such, if ICANN enters into Next Round RAs that include content-restrictive commitments, this action could be inconsistent with the Bylaws.

The Board raised this concern to the GNSO [during](#) the SubPro PDP, when the SubPro recommendations were [pending Board consideration](#), when the Board [adopted](#) the recommendations concerning RVCs, and [leading up to](#) and during the Consultation. The GNSO did not revise its recommendations in light of this concern. In its [Final Report](#), the SubPro PDP Working Group expressed a [view](#) that including commitments in Next Round RAs to restrict content is consistent with the Bylaws where neither ICANN itself nor any third party under ICANN’s control is required to pass judgment on “content”.

In adopting these recommendations, the Board cited the GNSO Council's [second Clarifying Statement](#) to the effect that ICANN and the applicant both must agree that a proffered commitment is clear, detailed, mutually understood, and sufficiently objective and measurable so as to be enforceable, as a practicable matter and under the Bylaws.

After analyzing all the Consultation [inputs](#) as well as considering the Bylaws issues which were explored in the Consultation and mitigation options, the Board is finalizing its decision on prohibiting content-restrictive commitments in Next Round RAs.

The Board's decision on this fundamental issue means that ICANN org can proceed with designing and implementing registry commitment evaluation criteria and processes that are consistent with the Bylaws, thereby reducing the risk of future challenges based on assertions that such commitments exceed the scope of ICANN's Mission. This Board action also provides the community with clarity on the Board's interpretation of what the ICANN Bylaws permit for RVCs and other comparable RA commitments.

What is the proposal being considered?

The Board is taking action to adopt a high-level approach for registry commitments in the New gTLD Program: Next Round to specifically exclude content-restrictive commitments from inclusion in Next Round RAs.

Which stakeholders or others were consulted?

On 26 October 2023, the Board directed ICANN org to initiate and facilitate a [Consultation](#) regarding the implementation of RVCs in the New gTLD Program: Next Round. The purpose of the Consultation was "to ensure that the framework for implementing these [SubPro PDP] recommendations [pertaining to RVCs] remains consistent with the ICANN Bylaws."

The Consultation had three key components: 1) community review and input to a proposed [implementation framework](#); 2) a [webinar](#) to provide an overview of the proposed framework and an opportunity for initial community questions; and 3) a

[plenary session](#) at ICANN79 to focus discussion on hypothetical examples about the practical implications of RVCs related to content in gTLDs (please refer to the ICANN79 Policy Outcomes Report for the [session recap](#)).

In requesting inputs to the Consultation, the Board stated that, “In order for ICANN to have the ability to enter into the content-related commitments recommended by the GNSO for the New gTLD Program: Next Round, a Bylaws amendment appears to be required.”

[Inputs](#) to the Consultation were submitted by the following groups: At-Large Advisory Committee (“ALAC”), Governmental Advisory Committee (“GAC”), and the GNSO’s Business Constituency, Intellectual Property Constituency, Internet Service Providers and Connectivity Providers Constituency, Noncommercial Stakeholder Group, Registrar Stakeholder Group, and Registries Stakeholder Group.

While the Board encouraged inputs from all stakeholders and provided a deadline extension to community groups outside of ALAC, GAC, and GNSO to submit input by 12 April 2024, they affirmatively declined to participate in the Consultation.

What concerns or issues were raised by the community?

The Consultation showed that the community generally does not support amending the Bylaws to clarify the scope of ICANN’s Mission as it relates to content-restrictive RA commitments. The community groups that provided Consultation inputs expressed varied reasons for not supporting a Bylaws amendment. Some groups believe that ICANN should not accept any content-restrictive RA commitments and, as a result, no Bylaws amendment is needed. Others believe that the Bylaws are clear that accepting and enforcing such commitments does not equate to ICANN regulating content, so a Bylaws amendment is unnecessary. The Consultation inputs also showed that there is no community consensus on reliance on a “third party monitor” risk-mitigation approach proposed by the SubPro PDP Working Group to evaluate content-related issues to inform ICANN contractual enforcement. For additional concerns and issues

raised in the Consultation, please refer to the ICANN org-produced [overview](#) of inputs received.

What significant materials did the Board review?

The Board took into account: [Consultation inputs](#) received to the [proposed implementation framework](#) for RVCs; community conversations during the [ICANN79 Plenary Session](#); GAC’s Issues of Importance with respect to RVCs in the [ICANN77 Washington Communiqué](#) and [ICANN79 San Juan Communiqué](#); and materials as detailed in the [October 2024](#) resolution, including the [SubPro Final Report](#) and GNSO Council’s [second Clarifying Statement](#). Furthermore, the Board revisited the Bylaws issues which were explored in the Consultation and considered mitigation options such as the “third party monitor” risk-mitigation approach proposed by the SubPro PDP Working Group to evaluate any content-restrictive RA commitments.

What factors did the Board find to be significant?

The Board’s deliberations centered on two issues:

- 1) the risks of permitting content-restrictive commitments in Next Round RAs in light of updates concerning the scope of ICANN’s Mission that have been made to the Bylaws since the 2012 round of the New gTLD Program; and
- 2) whether any mitigation measure, such as a “third party monitor” risk-mitigation approach [proposed by the SubPro PDP Working Group](#) and explored in the Consultation, would eliminate such risks.

The Board believes that if ICANN were to permit content-restrictive commitments to be included in Next Round RAs, there would be significant potential for ICANN’s ability to negotiate and enforce those commitments to be challenged as beyond ICANN’s Mission. If this type of challenge was successful, this would create far-reaching negative impacts on other RAs entered into within the Next Round.

Issues With Content-Restrictive RA Commitments Under ICANN Bylaws

The [ICANN Bylaws](#) recognize that ICANN has a limited technical Mission and state that ICANN shall not act outside of that Mission. Section 1.1(c) of the Bylaws states: “ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet's unique identifiers or the content that such services carry or provide, outside the express scope of Section 1.1(a).”

On its face, Section 1.1(c) of the Bylaws only permits the regulation of content if such regulation is within the express scope of ICANN’s Mission set forth in Section 1.1(a), which is to “ensure the stable and secure operation of the Internet’s unique identifier systems....”

Section 1.1(a) also recognizes that, as part of its Mission, ICANN:

Coordinates the allocation and assignment of names in the root zone of the Domain Name System (DNS) and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains. In this role, ICANN’s scope is to coordinate the development and implementation of policies:

- For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS including, with respect to gTLD registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and
- That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems.

The issues, policies, procedures, and principles addressed in Annex G-1 and Annex G-2 with respect to gTLD registrars and registries shall be deemed to be within ICANN's Mission (please refer to Bylaws Article 1, Section 1.1(a)(i) for details).

Some have argued that the reference to Section 1.1(a) in Section 1.1(c) of the Bylaws means that a content-restrictive RVC *could* be in support of ICANN’s Mission and therefore enforceable. However, an opposing argument has been raised that the

reference to Section 1.1(a) in this “content regulation” clause was included to reflect the community’s emphasis on the new, more limited expression of ICANN’s Mission that was incorporated into the Bylaws, including the incorporation of topics available for consensus policies for ICANN’s contracted parties. Because the Bylaws are not clear on whether this provision supports ICANN including and enforcing content-restrictive RVCs, the scope of ICANN’s ability to “regulate” content is most appropriately considered in a manner that is very narrowly tailored to ICANN’s Mission of securing the stable and secure operation of the Internet. Under this test, it would be difficult to argue that wide-ranging content-restrictive RA commitments are in support of ICANN’s Mission and within the Bylaws.

Leading up to and during the Consultation, various stakeholders have asserted that Section 1.1(d) of the ICANN Bylaws could protect ICANN from being challenged on the basis of including content-restrictive RA commitments in future agreements. Two different clauses in Section 1.1(d) have been cited to support this assertion.

The first clause, Section 1.1(d)(ii)(A)(2) of the Bylaws, provides that a registry agreement or registrar accreditation agreement “to the extent its terms do not vary materially from the form of registry agreement or registrar accreditation agreement that existed on 1 October 2016” may not be challenged by any person “on the basis that such terms and conditions conflict with or are in violation of, ICANN’s Mission or otherwise exceed the scope of ICANN’s authority or powers pursuant to these Bylaws.”

However, it is highly likely that many proposed future content-restrictive RA commitments would be specific and individual to the specific gTLD. As a result, any such “new” content-restrictive RA commitment would, on its face, “vary materially” from the terms of the RA and RAA that existed in October 2016. In addition, the Next Round RAs are likely to differ in material ways from the form of RA in place on 1 October 2016. Both of these issues are reasons why the clause at Section 1.1(d)(ii)(A)(2) of the Bylaws cannot be relied upon to shield ICANN from challenge on the basis of the Bylaws.

The second clause that has been cited as a potential basis for ICANN to enter into Next Round RAs that include content-restrictive commitments is Article 1, Section 1.1(d)(iv) of the Bylaws. Section 1.1(d)(iv) provides that, notwithstanding the rest of Section 1.1, ICANN “has the ability to negotiate, enter into and enforce agreements, including public interest commitments, with any party in service of its Mission.” However, the mere ability to enter into and enforce agreements does not shield ICANN from needing to critically evaluate the substance and impact of those agreements to ensure that the obligations contained in such agreements are reasonably necessary to enable ICANN to pursue its Mission of ensuring the stable and secure operation of the Internet’s unique identifier systems.

Public interest commitments can take a variety of forms, many of which would not involve the regulation of content. While this provision allows ICANN to enter into agreements with public interest commitments (likely including some RVCs), it does not expressly authorize ICANN to enter into public interest commitments if their enforcement would constitute the regulation of content. In order to enter into any agreement, ICANN must believe that the proposed terms (including any public interest commitments) are being entered into in service of ICANN’s Mission, which is to ensure the stable and secure operation of the Internet’s unique identifier systems. As noted above, it is unlikely that ICANN’s enforcement of a content-restrictive RA commitment would, by itself, be considered necessary to support ICANN’s Mission.

GNSO-Proposed “Third Party Monitor” Model

The SubPro PDP Working Group suggested that ICANN could address any Bylaws concerns related to content-restrictive RA commitments through the appointment of a third party to monitor and evaluate the registry operator’s compliance with a commitment to limit permissible content in second level registrations. In this scenario, the registry operator would commit to remedy any violations of content-restrictive RA commitments identified by the third party monitor and ICANN would retain enforcement rights with respect to registry operator’s failure to comply with the third party’s directions to remedy a content-related breach.

While such a model could reduce ICANN's administrative burden in overseeing a content-restrictive RA commitment, the Board is not persuaded that granting monitoring and assessment responsibilities to a third party would adequately address the Bylaws issues. In such cases, the third party would serve as a finder of fact regarding the existence of a breach, but ultimately it would be ICANN - and not the third party - that would take enforcement action based on the registry operator's failure to remedy the violation of a content-restrictive RA commitment.

Section 1.1(c) of the Bylaws prohibits ICANN from regulating content, not merely enforcing content restrictions. The Bylaws provision also makes clear that "regulating" includes the imposition of rules or restrictions addressing content. If ICANN were to enter into an RA with a content-restrictive commitment, for which compliance with the commitment is monitored and assessed by a third party, it is likely that ICANN would still be considered to have imposed rules and restrictions on content by entering such a commitment into the applicable agreement. Further, if ICANN itself takes any enforcement steps against a registry operator as a result of its non-compliance with a content-restrictive RA commitment, then ICANN is back in a content-based enforcement role that does not appear aligned with the Bylaws.

In considering the feasibility of ICANN relying on third party monitoring and enforcement, the Board was provided with information on analogous situations, including situations involving censorship under the [First Amendment](#) in the U.S. Constitution regarding the freedom of speech. The prevailing learning is that the government cannot effect censorship that would be unlawful if the U.S. government did it directly merely by creating a regulatory environment that encourages private parties to censor that same content. While ICANN is not a government, and the ICANN Bylaws make clear that "ICANN does not hold any governmentally authorized regulatory authority", First Amendment case law has clear parallels to this analysis given the similarities between the First Amendment and the restriction on ICANN content regulation in the ICANN Bylaws.

By analogy here, ICANN cannot avoid the Bylaws restriction on regulating content by outsourcing compliance monitoring to a third party. In that case, ICANN would be harnessing the energy of private third parties to do what it cannot permissibly do itself.

Board Conclusions

The Board is not persuaded that the Bylaws provide any differentiation between who is empowered to monitor or evaluate whether a registry operator violated a content-restrictive RA commitment when the ultimate enforcement of that contractual provision is still only possible through ICANN.

In light of the issues that have been identified under the Bylaws and the Consultation inputs, the Board determines that permitting content-restrictive commitments in Next Round RAs does not appear to be aligned with the Bylaws, and there are no satisfactory risk mitigation alternatives to support the stable, secure, and predictable operation of future new gTLDs if ICANN were to include such commitments in Next Round RAs.

Are there positive or negative community impacts?

Excluding content-restrictive commitments in Next Round RAs is in the best interest of the ICANN community and ICANN. The reason is that this approach will enable ICANN org to proceed with designing and implementing registry commitment evaluation criteria and processes that are consistent with the Bylaws, thereby reducing the risk of future challenges based on assertions that such commitments exceed the scope of ICANN's Mission.

This approach may limit the types of acceptable registry commitments, and in turn narrow applicants' options for addressing third party concerns that arise from Objections, Advice, or comments with respect to their applied-for gTLD strings. Nevertheless, this approach will not impact any applicant's ability to address third party concerns via other avenues, such as forming its own registration policies or making commitments about the content in their applied-for gTLDs outside of ICANN's agreement.

Because the introduction of Public Interest Commitments (“PICs”) (including voluntary PICs in the 2012 round of the New gTLD Program that are comparable to the RVCs that will be implemented in the Next Round) was in response to GAC Advice concerning the 2012 round of the New gTLD Program, consideration has been given to whether the Board’s action today would be contradictory to any prior GAC Advice.

The GAC has never issued Advice that ICANN must accept and enter into agreements containing PICs, RVCs, or any other type of RA commitments that restrict content in gTLDs or that ICANN must accept any specific registry commitments in future RAs other than the mandatory PICs and safeguard PICs identified in the [ICANN46 Beijing Communiqué](#). The prior GAC Advice concerning mandatory and safeguard PICs will continue to be followed in the Next Round per the SubPro recommendations. The prior GAC Advice concerning specific applied-for strings was application-specific, and has no direct applicability to evaluation of future applications for new gTLDs. However, the prior GAC Advice could help ICANN org and applicants to anticipate the types of applications that may be the subject of GAC Advice in the Next Round.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

This approach will keep ICANN org out of the complexity of monitoring and enforcing content-restrictive RA commitments, reducing the related financial impact. Similarly, this approach is designed to support ICANN acting consistently with its Bylaws. Creation of a bright-line prohibition on content-restrictive commitments in Next Round RAs should reduce a risk of challenges, and their associated legal costs, to ICANN’s implementation of such commitments based on the grounds that ICANN violated its Mission through the imposition of rules or restrictions on website content.

Nevertheless, this approach will also require ICANN org to conduct an evaluation for each proposed registry commitment based on defined criteria and established processes to exclude content-restrictive RA commitments from approval. During its May 2024 workshop, the Board aligned on the view that RA commitments to restrict registration eligibility, for example, should not be considered to be “content restrictive.” Provided

the Board proceeds to direct ICANN org to take this implementation approach, ICANN org will develop a review mechanism to distinguish between permitted registry commitments and content-restrictive registry commitments that will not be accepted for inclusion in Next Round RAs. Such a potential review mechanism may incur costs to both ICANN and applicants.

Are there any security, stability or resiliency issues relating to the DNS?

There are no anticipated security, stability or resiliency issues relating to the DNS as a result of today's Board action to adopt the high-level approach for RVCs and other comparable RA commitments in the New gTLD Program: Next Round.

Is this decision in the public interest and within ICANN's mission?

This Board action is within ICANN's Mission and is in the public interest as it is important to ensure that, in carrying out its Mission, ICANN's decisions and actions are guided by the following Core Values: "where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment in the DNS market" and "[i]ntroduc[e] and promot[e] competition in the registration of domain names where practicable and beneficial to the public interest as identified through the bottom-up, multistakeholder policy development process." (See ICANN Bylaws at Section 1.2(b)(iv)).

This Board action is also consistent with Section 1.1(c) of the ICANN Bylaws, which states that "ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet's unique identifiers or the content that use services carry or provide, outside the express scope of Section 1.1(a)."

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?

This action by the Board fits under its fiduciary duty and oversight role of the organization, and is a necessary step in carrying out the Board's previous commitment

to ensure Next Round RAs include only commitments which are enforceable as a practicable matter and within the scope of ICANN's Mission, in recognition of GNSO Council's [second Clarifying Statement](#). It should be noted that the Board encouraged input from all community groups throughout the Consultation process, and took its action of adopting the high-level approach after considering all inputs received from the ICANN multistakeholder community.

Signature Block:

Submitted by:

Position:

Date Noted:

Email:

Pages 51 – 74 removed. Privileged and Confidential.

ICANN BOARD PAPER NO. 2024.06.08.2c

TITLE: Supplemental Recommendations on the new gTLD Subsequent Procedures Policy Development Process

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

In [March](#), [September](#) and [October](#) 2023, the ICANN Board adopted three iterations of the Scorecard: Subsequent Procedures (SubPro PDP) (the [March](#), [September](#) and [October](#) 2023 Scorecards), documenting its actions on the Outputs in the “[Final Report on the New gTLD Subsequent Procedures Policy Development Process](#)” (SubPro Final Report).

The Board did not adopt ten Recommendations, relating to Topic 9: Registry Voluntary Commitments/Public Interest Commitments, Topic 17: Applicant Support, Topic 18: Terms & Conditions, and Topic 32: Limited Challenge/Appeal Mechanism of the Final Report, thus initiating the process described in Annex A, Section 9d of the [ICANN Bylaws](#).

The GNSO Council convened a [Small Team Plus](#), which included liaisons from the ICANN Board and participants from the GAC and ALAC, to develop Supplemental Recommendations for the non-adopted Recommendations, per Annex A, Section 9 of the Bylaws. The finalized [Supplemental Recommendations](#) were [approved](#) by the GNSO Council on 18 April 2024.

At this time, the Board is being asked, per Annex A, Section 9d of the Bylaws, to consider taking action on the Supplemental Recommendations. By adopting the [Supplemental Recommendations Scorecard](#), the Board would adopt Supplemental Recommendations 17.2, 32.1, 32.2, and 32.10; and the Board would not adopt Supplemental Recommendations 9.2, 18.1, and 18.3.

STAFF RECOMMENDATIONS:

ICANN org recommends:

- The Board adopts the Supplemental Recommendation Scorecard in full.
 - Section A details the Supplemental Recommendations that the Board adopts.

- Section B details the Supplemental Recommendations that the Board does not adopt, including a rationale.
- The Board directs ICANN org to commence the implementation of the adopted Supplemental Recommendations.

PROPOSED RESOLUTION:

Whereas, on 16 March 2023, the Board [adopted](#) the [Scorecard: Subsequent Procedures \(SubPro PDP\)](#) (the "March 2023 Scorecard") to respond to the recommendations, affirmations, affirmations with modification, and implementation guidance (collectively "Outputs") contained in the "Final Report on the New gTLD Subsequent Procedures Policy Development Process" (the "SubPro Final Report"). At that time, the Board designated a number of outputs as "pending."

Whereas, on [10 September 2023](#) and on [26 October 2023](#), the Board adopted other iterations of the Scorecard (the "[September 2023 Scorecard](#)" and the "[October 2023 Scorecard](#)") to respond to all pending Outputs, including Board statements pursuant to Bylaws Annex A, Section 9, with a rationale for why the Board believes that Recommendations 9.2, 17.2, 18.1, 18.3, 22.7, 24.3, 24.5, 32.1, 32.2, and 32.10 are not in the best interests of the ICANN community or ICANN.

Whereas, the [ICANN Bylaws](#), Annex A, Section 9d, foresee that in the event of non-adoption, "the Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement".

Whereas, the GNSO Council convened a Small Team Plus, which included liaisons from the ICANN Board and participants from the GAC and ALAC, to develop Supplemental Recommendations for the non-adopted Recommendations.

Whereas, on 18 April 2024, the GNSO Council [approved](#) the [Supplemental Recommendations](#) for the non-adopted Recommendations developed by the Small Team Plus and instructed the GNSO Secretariat to transmit them to the ICANN Board.

Resolved, (2024.06.08.xx), the Board adopts the June 2024 Scorecard: Subsequent Procedures Supplemental Recommendations, dated 13 June 2024 (Supplemental Recommendations Scorecard), consisting of:

- Section A, which details the Supplemental Recommendations that the Board adopts.
- Section B, which details the Supplemental Recommendations that the Board does not adopt, including a rationale.

Resolved (2024.06.08.xx), the Board directs the Interim President and CEO, or her designee(s), to commence the implementation work related to the Supplemental Recommendations adopted by the Board in Section A of the June 2024 Scorecard, taking into account the noted Board input.

Resolved (2024.06.08.xx), the Board finds that the Supplemental Recommendations identified in Section B of the June 2024 Scorecard are not in the best interests of the ICANN community or ICANN, and therefore does not adopt these Supplemental Recommendations, having determined that its rationale for not adopting the original Recommendations, as detailed in the [September 2023 Scorecard](#), still holds true.

Resolved (2024.06.08.xx), the Board extends its great appreciation to the Small Team Plus which has invested considerable time and resources to draft the Supplemental Recommendations.

Rationale for Resolutions 2024.06.08.xx – 2024.06.08.xx

Why is the Board addressing the issue?

The Board is addressing this issue following the GNSO Council’s approval and subsequent [submission](#) of the Supplemental Recommendation.

What are the proposals being considered?

The Board is asked to consider supplemental recommendations pertaining to Topics 9, 17, 18 and 32 of the [Final Report on the new gTLD Subsequent Procedures Policy Development Process](#). Specifically, the Board is considering to adopt supplemental recommendations 17.2, 32.1, 32.2, and 32.10 and not to adopt supplemental recommendations 9.2, 18.1, and 18.3.

Which stakeholders or others were consulted?

Through its liaisons the Board has actively observed the GNSO Council’s Small Team Plus. During ICANN79, the Small Team Plus consulted with the community and sought feedback on its draft supplemental recommendations.

What concerns or issues were raised by the community?

No issues were raised during the consultation.

What significant materials did the Board review?

The Board reviewed the supplemental recommendations, the GNSO Council transmission letter, and the rationale that led to the Board’s non-adoption of the original Final Report recommendations.

Are there positive or negative community impacts?

The GNSO Council-approved supplemental recommendations 17.2, 32.1, 32.2, and 32.10 address the concerns the Board had previously raised for why the original recommendations were not in the best interest of the ICANN community or ICANN. The amendments to the recommendations mean that these supplemental recommendations will be adopted and

implemented in time for inclusion into the forthcoming Applicant Guidebook and help inform the next round of new gTLDs. The Board believes that the impact of adopting these recommendations will be positive on the community as they provide additional recommendations for the Applicant Support Program and provide mechanisms for future applicants to either ask for an extended evaluation - where available - or rely on limited challenges and appeals processes.

Non-adoption of supplemental recommendations 9.2, 18.1 and 18.3 is in the best interest of the ICANN community and ICANN. While the Council approved some amendments to the original recommendations, the supplemental recommendations do not address the concerns previously raised by the Board when it resolved to not adopt the original versions. The Board believes that not adopting these recommendations will also have a positive impact as it will ensure consistent use of Spec 11 across the gTLD landscape and provide the Board with the required authority to act during the next round of new gTLDs.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

This decision will have no direct fiscal impact or ramification on ICANN, the community or the public.

Are there any security, stability or resiliency issues relating to the DNS?

There are no anticipated security, stability or resiliency issues relating to the DNS as a result of today's Board action.

Is this decision in the public interest and within ICANN's mission?

This Board action is within ICANN's Mission and is in the public interest, as per Annex A of the Bylaws, the Board needs to weigh whether GNSO-developed recommendations are in the best interest of the ICANN community or ICANN before adopting them.

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?

This process does not require public comment.

Signature Block:

Submitted by:

Position:

Date Noted:

Email:

June 2024 Scorecard: Subsequent Procedures Supplemental Recommendations

Board Action - 8 June 2024

This June 2024 Scorecard: Subsequent Procedures (SubPro PDP) Supplemental Recommendations (Supplemental Recommendations Scorecard) is intended to facilitate the Board's consideration of the [GNSO Council-approved Supplemental Recommendations](#), per the procedure detailed in Annex A, Section 9d of the Bylaws.

- Section A of this Supplemental Recommendations Scorecard details the Supplemental Recommendations that the Board adopts.
- Section B of this Supplemental Recommendations Scorecard details the Supplemental Recommendations that the Board does not adopt, including a rationale.

General Note

Footnotes in the text of the Supplemental Recommendations were embedded in the Council-approved Supplemental Recommendations, but the footnote numbers in this Supplemental Recommendations Scorecard may differ from the footnote numbering in the Council-approved document.

Table of Contents

A. Supplemental Recommendations That the Board Adopts	3
Topic 17: Applicant Support	3
Topic 32: Limited Challenges and Appeals	3
B. Supplemental Recommendations That the Board Does Not Adopt	5
Topic 9: Registry Voluntary Commitments / Public Interest Commitments	5
Topic 18: Terms and Conditions	6

A. Supplemental Recommendations That the Board Adopts

The Board adopts the Outputs in this section pursuant to Resolutions 2024.06.08.xx - 2024.06.08.xx

Output	Board Input Regarding the Implementation Process
Topic 17: Applicant Support	
<p>Supplemental Recommendation 17.2: The GNSO Council recommends expanding the scope of Applicant Support provided to Applicant Support Program beneficiaries beyond the application fee to provide access to an array of resources useful for the capacity building, planning, application, evaluation, pre-delegation and post-delegation phases of the lifecycle of the application. For the avoidance of doubt, this recommendation does not obligate ICANN to provide support for all phases of the lifecycle of the application process as well as the registry.</p>	<p>The Board adopts this recommendation with the understanding that the services listed are examples. Implementing this recommendation requires providing additional services beyond a reduction to the application fee but do not have to cover all phases of an application's lifecycle.</p>
Topic 32: Limited Challenges and Appeals	
<p>Supplemental Recommendation 32.1: The GNSO Council recommends that as set forth in Annex F¹, where feasible and implementable, ICANN establish a mechanism that allows specific parties² to, on a limited and one-time basis: (i) challenge evaluation results for which Extended Evaluation is unavailable, or (ii) appeal formal objection results, where such evaluation results or dispute resolution results appear to be inconsistent with the Applicant Guidebook. The new substantive challenge/appeal mechanism is not a substitute or replacement for the accountability mechanisms in the ICANN Bylaws that may be invoked to determine whether ICANN staff or Board violated the Bylaws by making or not making a certain decision. Implementation of this mechanism must not</p>	<p>The Board adopts this recommendation with the understanding that the evaluations identified may be excluded if Extended Evaluation is available. Therefore, the topics in Annex F of the Final Report should be considered excluded and that other topics for which Extended Evaluation is available also will not require additional challenges/appeal mechanisms.</p>

¹ As a result of limiting the challenge mechanism to only evaluation elements where Extended Evaluation is unavailable, Annex F should be considered to exclude these specific evaluation areas: Geographic Names, Technical & Operations, Financial, Registry Services, and RSP Pre-Evaluation.

² In Annex F, “specific parties” refers to the column titled “Parties with standing”.

Output	Board Input Regarding the Implementation Process
conflict with, be inconsistent with, or impinge access to accountability mechanisms under the ICANN Bylaws.	
Supplemental Recommendation 32.2: In support of transparency, clear procedures and rules must be established for challenge/appeal processes generally aligned with the principles in the implementation guidance below.	
Supplemental Recommendation 32.10: The limited challenge/appeal process must be designed in a manner that does not cause excessive, unnecessary costs or delays in the application process, generally aligned with the principles in the implementation guidance below.	

B. Supplemental Recommendations That the Board Does Not Adopt

The Board does not adopt these Supplemental Recommendations pursuant to Resolutions 2024.06.08.xx - 2024.06.08.xx

Output	Board Rationale
Topic 9: Registry Voluntary Commitments / Public Interest Commitments	
<p>Supplemental Recommendation 9.2: TLDs that have exemptions from the Code of Conduct (Specification 9), including .Brand TLDs qualified for specification 13, may be granted, upon a successful application for a waiver, an exemptions from either or both the mandatory PICs included in Specification 11 3(a) and Specification 11 3(b), provided that (i) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator, or its Affiliates, for the exclusive use of Registry Operator or its Affiliates, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate or Registry Operator, and (iii) in the case of Spec 11 (3)(b), Registry Operator demonstrates that it takes or will take other effective steps to identify and mitigate domains in the TLD perpetrating DNS Abuse, but which may not constitute periodical technical analysis as envisaged under the Registry Agreement.</p>	<p>The Board has reviewed the Supplemental Recommendation and appreciates the Council’s work. However, the Board continues to believe that Spec 11 should apply to all registries and is concerned that creating bespoke steps to address DNS Abuse, as detailed in the Supplemental Recommendation, may lead to inconsistencies across the gTLD space.</p> <p>If implemented, Recommendation 9.2 could lead to DNS abuse for second-level registrations in a single-registrant TLD going undeterred, unobserved, and unmitigated. While DNS abuse in many single-registrant TLDs may be unlikely to impact users beyond the registrant, this may not always be the case. In circumstances in which parties other than the registrant use the TLD in some fashion, waivers to mandatory PICs included in Specification 11, Section 3(a) and Specification 11, Section 3 (b) could expose those users to undetected and unmitigated DNS abuse.</p> <p>Therefore, the Board has determined that its rationale for not adopting the original Recommendation 9.2, further detailed in the September 2023 Scorecard: Subsequent Procedures, still holds true, and the Board has determined that its adoption of this Recommendation would not be in the best interests of the ICANN community or ICANN.</p>

Output	Board Rationale
Topic 18: Terms and Conditions	
<p>Supplemental Recommendation 18.1: ICANN may only reject an application in accordance with the Applicant Guidebook, ICANN Board members’ fiduciary duties, the ICANN Bylaws, or applicable laws. In the event an application is rejected, ICANN org must cite with specificity the reason(s) in accordance with the above for not allowing an application to proceed. This recommendation constitutes a revision to Section 3 of the Terms and Conditions from the 2012 round.</p>	<p>The Board has reviewed the Supplemental Recommendation and appreciates the Council’s work. However, the Board continues to believe that this Recommendation may unduly restrict ICANN’s discretion to reject an application in circumstances that fall outside the specific grounds set out in the recommendation.</p> <p>In the SubPro Final Report, the Working Group provided its rationale supporting Recommendation 18.1. The Working Group said, “...it must be clear to the applicant why an application was rejected and that any rejection must be justified under provisions of the Applicant Guidebook unless required by specific laws, ICANN Board members’ fiduciary duties, or the ICANN Bylaws.”</p> <p>As stated in the Working Group’s rationale, “[t]he purpose of this recommendation is to guard against arbitrary rejection of an application and ensure that there is transparency when rejections occur.” The Board takes note of the Working Group’s rationale and notes that these concerns are already addressed by the Bylaws. Article 3, Section 3.1 of the Bylaws requires that, “ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness...,” and that, “ICANN shall also implement procedures for the documentation and public disclosure of the rationale for decisions made by the Board and ICANN’s constituent bodies (including the detailed explanations discussed above).” Additionally, Article 2, Section 2.3 mandates that, “ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified</p>

Output	Board Rationale
	<p>by substantial and reasonable cause, such as the promotion of effective competition.”</p> <p>The Bylaws already seem to address the concerns noted by the Working Group, and the Board remains concerned that if it adopts Recommendation 18.1, it may unduly limit ICANN’s discretion to reject an application in yet-to-be-identified future circumstance(s).</p> <p>Therefore, the Board has determined that its rationale for not adopting the original Recommendation 18.1, further detailed in the September 2023 Scorecard: Subsequent Procedures, still holds true, and the Board has determined that its adoption of this Recommendation would not be in the best interests of the ICANN community or ICANN.</p>
<p>Supplemental Recommendation 18.3 In subsequent rounds, there must be mechanisms in place whereby Applicants have the ability to have evaluation decisions and objection decisions substantively reviewed. This may be satisfied by implementing challenge and appeal mechanisms described generally under Topic 32. If there are challenge and appeal mechanisms or other processes whereby those decisions can be substantively reviewed, ICANN may continue to have Terms and Conditions that contain a covenant not to sue. This recommendation is in reference to Section 6 of the Terms and Conditions from the 2012 round.</p>	<p>The Board has reviewed the Supplemental Recommendation and appreciates the Council’s work. However, the Board continues to believe that it may cause undue legal exposure should it be adopted. If adopted, Recommendation 18.3 could weaken the covenant not to sue by placing conditions on whether it could be included in the Program. This would lead to a level of risk that the Board is unwilling to accept. Additionally, providing funds for these increased legal risks would have an impact on application fees for the next round, which would not be consistent with the intent of this recommendation.</p> <p>Therefore, the Board has determined that its rationale for not adopting the original Recommendation 18.3, as detailed in the September 2023 Scorecard: Subsequent Procedures, still holds true, and the Board has determined that its adoption of this Recommendation would not be in the best interests of the ICANN</p>

Output	Board Rationale
	<p>community or ICANN.</p> <p>Although the Board has determined that the adoption of this recommendation is not in the best interest of the ICANN community or ICANN, it has adopted (with this scorecard) Recommendations 32.1, which recommends that “The GNSO Council recommends that as set forth in Annex F³, where feasible and implementable, ICANN establish a mechanism that allows specific parties⁴ to, on a limited and one-time basis: (i) challenge evaluation results for which Extended Evaluation is unavailable, or (ii) appeal formal objection results, where such evaluation results or dispute resolution results appear to be inconsistent with the Applicant Guidebook. The new substantive challenge/appeal mechanism is not a substitute or replacement for the accountability mechanisms in the ICANN Bylaws that may be invoked to determine whether ICANN staff or Board violated the Bylaws by making or not making a certain decision. Implementation of this mechanism must not conflict with, be inconsistent with, or impinge access to accountability mechanisms under the ICANN Bylaws.”</p>

³ As a result of limiting the challenge mechanism to only evaluation elements where Extended Evaluation is unavailable, Annex F should be considered to exclude these specific evaluation areas: Geographic Names, Technical & Operations, Financial, Registry Services, and RSP Pre-Evaluation.

⁴ In Annex F, “specific parties” refers to the column titled “Parties with standing”.

ICANN BOARD PAPER NO. 2024.06.08.2d

TITLE: **GAC Advice regarding Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets: Washington, D.C. Communiqué (June 2023)**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Governmental Advisory Committee (GAC) delivered advice to the ICANN Board in its [Washington, D.C. Communiqué](#) issued 20 June 2023. Among other things, the GAC issued Consensus Advice on auctions of last resort between commercial and noncommercial applications (“GAC Consensus Advice item 4.a.i”). Specifically, the GAC advised the Board “to take steps to avoid the use of auctions” between these types of applications and that “alternative means for the resolution of such contention sets, such as drawing lots, may be explored.” This GAC Consensus Advice relates to the Generic Names Supporting Organization (“GNSO”) New gTLD Subsequent Procedures (“SubPro”) Policy Development Process [recommendations](#) on Topic 35: Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets.

This Board briefing focuses on GAC Consensus Advice item 4.a.i; the other elements of GAC advice will be (or [have been](#)) addressed separately.

The Washington, D.C. Communiqué was the subject of an [exchange](#) between the Board and the GAC on 28 July 2023. The purpose of the exchange was to ensure common understanding of GAC advice provided in the Communiqué. The Board noted in the [Clarifying Questions scorecard](#) that it expected challenges with identifying commercial vs. noncommercial applications as well as noted concerns regarding potential legal prohibitions to “drawing lots.” Based on the interaction, the Board understood that the GAC’s distinction between commercial and noncommercial applications is regarding features of the application, including the applicant’s business plan, rather than the applicant’s legal entity.

In its [resolution](#) on the Washington, D.C. Communiqué advice, the Board noted in the [scorecard](#) that it would defer action on GAC Consensus Advice item 4.a.i until it had completed deliberations on the relevant SubPro recommendations. At its [10 September 2023](#) meeting, the Board considered and [adopted](#) the relevant SubPro recommendations.

Currently, the Board is considering to reject GAC Consensus Advice item 4.a.i regarding commercial/noncommercial applications. This decision is largely due to concerns related to the implementability of this piece of GAC Consensus Advice, both from a practical and legal standpoint. Additionally, the Board believes that GAC Consensus Advice item 4.a.i to use alternative means for resolving contention is not supported by the SubPro recommendations, which call for the continued use of ICANN Auctions of Last Resort as a contention resolution mechanism. As called for in [ICANN Bylaws Section 12.2\(a\)\(x\)](#), before it takes an action that is not consistent with GAC Consensus Advice, the Board must inform the GAC, state the reasons why it decided not to follow the advice, and seek to find a mutually acceptable solution via the Board-GAC Consultation [Process](#). The Board also believes that it may benefit from additional clarification from the GAC on GAC Consensus Advice item 4.a.i that could be achieved via the Board-GAC Consultation Process.

ICANN ORG RECOMMENDATION:

ICANN org recommends that the Board initiate the Board-GAC Bylaws Consultation Process required by the ICANN Bylaws through an indication that the Board intends to act inconsistently with GAC Consensus Advice item 4.a.i.

PROPOSED RESOLUTION:

Whereas, the Generic Names Supporting Organization issued the [Final Report](#) on New gTLD Subsequent Procedures (“SubPro”) Policy Development Process, which included recommendations related to Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets (“Topic 35”).

Whereas, the Governmental Advisory Committee (GAC) met during the ICANN77

meeting in Washington, D.C and issued advice to the ICANN Board in a [Communiqué](#) on 20 June 2023 (“Washington, D.C. Communiqué”).

Whereas, the Washington, D.C. Communiqué includes advice concerning Topic 35, and, specifically, the use of auctions between commercial and noncommercial applications (“GAC Consensus Advice item 4.a.i”).

Whereas, the Washington, D.C. Communiqué was the subject of an [exchange](#) between the Board and the GAC on 28 July 2023.

Whereas, on [10 September 2023](#), the Board [deferred action](#) on GAC Consensus Advice item 4.a.i pending deliberations on SubPro recommendations related to Topic 35.

Whereas, on [10 September 2023](#), the Board [adopted](#) the SubPro recommendations related to Topic 35.

Whereas, the Board has identified concerns with GAC Consensus Advice item 4.a.i including concerns regarding the feasibility of implementation from both a practical and legal standpoint.

Whereas, the Board has noted that GAC Consensus Advice item 4.a.i does not align with the relevant SubPro recommendations related to Topic 35, which call for the continued use of ICANN Auctions of Last Resort as a contention resolution mechanism.

Whereas, the Bylaws require that “[i]n the event that the Board determines to take an action that is not consistent with Governmental Advisory Committee advice, it shall so inform the Governmental Advisory Committee and state the reasons why it decided not to follow that advice” and the Board and GAC are required to enter into a Bylaws Consultation process.

Resolved (2024.06.08.xx), the Board has determined that it intends to take an action that is not consistent or may not be consistent with GAC Consensus Advice item

4.a.i. in the Washington, D.C. Communiqué concerning Auctions: Mechanism of Last Resort/Private Resolution of Contention Sets, and hereby initiates the required Board-GAC Bylaws Consultation Process. The Board will provide written notice to the GAC to initiate the process as required by the Bylaws Consultation Process.

PROPOSED RATIONALE FOR RESOLUTION 2024.06.xx.xx

Why is the Board addressing the issue?

Article 12, Section 12.2(a)(ix) of the ICANN Bylaws permits the GAC to “put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.” In its Washington, D.C. Communiqué (20 June 2023), the GAC issued advice to the Board on various matters including Auctions: Mechanism of Last Resort/Private Resolution of Contention Sets (“GAC Consensus Advice item 4.a.i”), which is related to Topic 35 of the Generic Names Supporting Organization (“GNSO”) New gTLD Subsequent Procedures (“SubPro”) Policy Development Process Final Report.

The ICANN Bylaws require the Board to take into account the GAC’s advice on public policy matters in the formulation and adoption of the polices. At this time, the Board’s current thinking and approach to implementing the SubPro recommendations related to Topic 35 is inconsistent or could be viewed as inconsistent with item 4.a.i of the GAC’s advice in the Washington, D.C. Communiqué. Specifically, the Board notes concerns with the feasibility of implementing the GAC’s advice. The GAC clarified in the Board-GAC exchange of 28 July 2023 that the advice is regarding features of the application, including the applicant’s business plan, rather than the applicant’s legal entity (e.g., a for-profit vs. non-profit status). However, the Board notes that ICANN org does not review business plans as part of the gTLD application process and that there would be numerous challenges in establishing a method for evaluating such plans for a commercial vs. noncommercial status. Additionally, the Board notes concerns related to potential legal prohibitions against the use of “drawing lots” as a method of resolving contention, as such methods for choosing “winners” may not be within the bounds of California law. Finally, the Board notes that the use of “drawing lots” is also not supported by or consistent with the SubPro recommendations and therefore the current plans for implementation of these

recommendations may not be consistent with the GAC’s advice.

What is the proposal being considered?

The Board is anticipating that, unless a mutually agreeable resolution can be found, the Board will reject the GAC Consensus Advice on Auctions. As part of the Board’s obligation when considering GAC Consensus Advice, the Board must initiate a dialogue with the GAC in order to see if a mutually agreeable decision can be reached. As a result, the Board is taking this action in order to inform the GAC of this intention.

Given this, the Board is taking action at this time to initiate the required Bylaws Consultation Process. As part of the Board-Consultation process, the Board will provide required written notice to the GAC stating, in reasonable detail, the GAC Consensus Advice the Board determines not to follow, and the reasons why such GAC advice may not be followed. The Board looks forward to engaging in good faith with the GAC to see if a mutually acceptable solution can be reached that would preclude the need for the Board to act inconsistently with advice from the GAC.

What significant materials did the Board Review?

In taking this action, the Board reviewed various materials, including, but not limited to, the following:

- Washington, D.C. Communiqué
(https://gac.icann.org/contentMigrated/icann77-washington-d-c-communicue?language_id=1)
- Generic Names Supporting Organization (“GNSO”) New gTLD Subsequent Procedures (“SubPro”) Policy Development Process Final Report
(<https://gns0.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf>)
- Board-GAC exchange regarding Clarifying Questions
(<https://gac.icann.org/minutes/public/gac-board-communicue-icann77-clarification-notes-28jul23.pdf?time=1702857600020>)
- Process for Consultations between the ICANN Board of Directors and the

Governmental Advisory Committee

<https://gac.icann.org/contentMigrated/2013-process-for-consultations-between-icann-and-gac>)

Are there positive or negative community impacts?

Taking this action will have a positive impact on the community because it will assist with resolving the advice from the GAC concerning Auctions: Mechanism of Last Resort/Private Resolution of Contention Sets. Entering into a dialogue with the GAC is also positive, as this demonstrates ICANN's commitment to the unique role of the GAC and GAC Consensus Advice, as well as the Board's commitment to good faith dialogue with the GAC to explore areas of mutual agreement.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

There are no foreseen fiscal impacts associated with the adoption of this resolution as the consultation process is anticipated to be conducted telephonically.

Are there any security, stability or resiliency issues relating to the DNS?

Approval of the resolution will not impact security, stability or resiliency issues relating to the DNS.

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?

This is an Organizational Administrative function that does not require public comment.

Is this decision in the public interest and within ICANN's mission?

This action is in support of the public interest and ICANN's mission as it will assist in ensuring that public policy considerations are appropriately taken into account in proposed actions by the ICANN Board concerning Auctions: Mechanism of Last Resort/Private Resolution of Contention Sets.

Signature Block:

Submitted by:

Position:

Date Noted:

Email:

ICANN BOARD PAPER NO. 2024.06.08.2e

TITLE: **GNSO Guidance Process (GGP) for Applicant Support
Guidance Recommendations**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

On 22 December 2023, the GNSO Council [voted](#) to approve, by a GNSO Supermajority, all nine (9) final consensus recommendations contained in the [Final Report](#) of the GNSO Guidance Process (GGP) for Applicant Support. Subsequently, on 18 January 2024, pursuant to the ICANN [Bylaws](#), the GNSO Council submitted its [Recommendations Report](#) to the ICANN Board of Directors for its review of the recommendations approved by the GNSO Council, which the GNSO Council recommends be adopted by the ICANN Board. The next step under the Bylaws is for the Board to consider the GGP recommendations. Under the ICANN Bylaws, a Supermajority vote by the GNSO Council for the GGP recommendations obligates the Board to adopt the recommendations unless, by a vote of more than two-thirds, the Board determines that such guidance is not in the best interests of the ICANN community or ICANN. In this case, the GNSO Council approved all 9 recommendations and exceeded the Supermajority threshold.

BACKGROUND

During its meeting on 25 August 2022, the GNSO Council [approved](#) the GGP [Initiation Request](#) to provide additional guidance to support the eventual implementation efforts relating to the Applicant Support Program, as recommended in the New generic Top-Level Domain (gTLD) Subsequent Procedures (SubPro) Final Report. Note that per the GGP Manual, the GGP “is not expected to create new “Consensus Policy” recommendations including, but not limited to, any new contractual obligations for contracted parties (in which case a Policy Development Process

(PDP) would need to be initiated). However, the GGP may provide interpretation or assist in providing clarity with regards to the implementation of GNSO policy recommendations.”

The GGP Team posted its [Guidance Recommendation Initial Report](#) for [Public Comment](#). The GGP Team deliberated as appropriate to properly evaluate and address comments received during the public comment period. Following the review of the comments received and additional deliberations, the GGP Team produced its GGP for Applicant Support Guidance Recommendation [Final Report](#) for transmission to the GNSO Council. The Final Report provides recommendations relating to the identification and prioritization of metrics, indicators of success, as well as financing the program when qualified applicants exceed allocated funds. The GGP Team’s guidance recommendations are based on the final recommendations of the New gTLD Subsequent Procedures PDP Final Report, specifically [Topic 17: Applicant Support](#).

Due to the narrow scope of the GGP’s remit, the GGP Team’s guidance recommendations are necessarily limited to the subject of its assigned tasks, namely identification and prioritization of metrics, including indicators of success and those relating to financing the program when qualified applicants exceed allocated funds.

The nine (9) guidance recommendations attained Full Consensus within the GGP Team and are intended to be interdependent (as described in Section 8 of the GNSO’s GGP Manual).¹

**ICANN BOARD OF DIRECTORS NEW GTLD SUBSEQUENT PROCEDURES
(SUBPRO) CAUCUS RECOMMENDATION:**

Having been tasked to review the GGP for Applicant Support Final Report issued by the GGP Team, ICANN’s Board Subpro Caucus recommends that the ICANN Board adopt the final guidance recommendations as documented in the GGP Team’s Final Report and approved by the

¹ See the GNSO Guidance Process Manual at: <https://gns0.icann.org/sites/default/files/file/field-file-attach/annex-5-ggp-manual-15mar23-en.pdf>

GNSO Council on 22 December 2023. ICANN's Board SubPro Caucus recommends that the ICANN Board directs ICANN org to incorporate the guidance recommendations into the work plan for the [Implementation Review Team \(IRT\)](#) already established for the [Next Round](#) based on timing, staffing, and resourcing needed for implementation of the Application Support Program.

PROPOSED RESOLUTION:

Whereas, during its meeting on 25 August 2022, the GNSO Council [approved](#) the GNSO Guidance Process (GGP) [Initiation Request](#) to provide additional guidance to support the eventual implementation efforts relating to the Applicant Support Program, as recommended in the New generic Top-Level Domain (gTLD) Subsequent Procedures (SubPro) Final Report.

Whereas, the GGP did not create new “Consensus Policy” recommendations including, but not limited to, any new contractual obligations for contracted parties (in which case a Policy Development Process (PDP) would need to be initiated).

Whereas, the GGP Team has followed all the necessary steps and processes required by the ICANN Bylaws, the GNSO Guidance Process Manual and the GNSO Working Group Guidelines, including posting its [Guidance Recommendation Initial Report](#) for [Public Comment](#) on 31 July 2023 and consideration of the public comments received thereto.

Whereas, all nine (9) guidance recommendations attained Full Consensus within the GGP Team and are intended to be interdependent (as described in Section 8 of the GNSO’s GGP Manual).

Whereas, on 12 December 2023, the GGP Team submitted its [Final Report](#) to the GNSO Council for its review and action.

Whereas, on 22 December 2023, the GNSO Council [voted](#) to approve, by a GNSO Supermajority, all nine (9) final consensus recommendations contained in the Final Report.

Whereas, on 18 January 2024, pursuant to the ICANN [Bylaws](#), the GNSO Council submitted its [Recommendations Report](#) to the ICANN Board for its review of the guidance recommendations approved by the GNSO Council, which the GNSO Council recommends be adopted by the ICANN Board.

Whereas, ICANN Org estimates that full implementation of these guidance recommendations can be addressed in the SubPro Implementation Plan.

Resolved (2024.06.08.xx), the Board thanks the members of the GGP Team for Applicant Support for their dedication and work over the past year in developing the nine (9) guidance recommendations.

Resolved (2024.06.08.xx), the ICANN Board adopts all nine (9) guidance recommendations as documented in the GGP for Applicant Support Final Report.

Resolved (2024.06.08.xx), the ICANN Board directs ICANN's Interim President and CEO, or her designee(s), to proceed with the implementation for all (9) guidance recommendations.

PROPOSED RATIONALE:

Why is the Board addressing the issue?

On August 2022 the GNSO Council adopted an [Initiation Request](#) for a GGP to provide additional guidance for the development of the implementation elements of the Applicant Support Program, as recommended by the SubPro Final Report.

On 22 December 2023, the GNSO Council [voted](#) to approve, by a GNSO Supermajority, all nine (9) final consensus recommendations contained in the [Final Report](#) of the GGP for Applicant Support.

On 18 January 2024, pursuant to the ICANN [Bylaws](#), the GNSO Council submitted its [Recommendations Report](#) to the ICANN Board for its review of the recommendations approved by the GNSO Council, which the GNSO Council recommends be adopted by the ICANN Board.

Under the ICANN Bylaws, a Supermajority vote by the GNSO Council for the GGP recommendations obligates the Board to adopt the recommendations unless, by a vote of more than two-thirds, the Board determines that the guidance is not in the best interests of the ICANN community or ICANN. In this case, the GNSO Council approved all 9 recommendations, exceeding the Supermajority threshold.

What is the proposal being considered?

In the GNSO Council's 16 August 2022 [Initiation Request](#), it notes that the, "...New gTLD Subsequent Procedures (SubPro) Final Report envisioned some levels of substantive work taking place during the Implementation Review Team (IRT) phase of the work, after ICANN Board adoption of the recommendations. For instance, in Topic 17: Applicant Support, Implementation Guidance 17.5, the report suggests the creation of a dedicated IRT and it be charged 'with developing implementation elements of the Applicant Support Program.' ... This dedicated IRT was to be charged with making substantive decisions on outreach activities and allocation of scarce resources (e.g., when there are more qualified applicants than available funds), among other activities." Rather than establishing a dedicated IRT, the GNSO Council instead, in its Initiation Request, "committed to providing guidance on select topics where additional substantive work was envisaged by the recommendations and implementation guidance contained in the Final Report." The Council further determined "that the provision of guidance is best accomplished via the GNSO Guidance Process (GGP). This would accomplish the twin goals of pulling the work forward to avoid becoming the "tall pole" in the next round launch and providing sufficient time and the correct resources to devise an Applicant Support program that would expand the regional and language diversity of the new gTLD Program."

It is important to note that the GGP did not create new "Consensus Policy" recommendations including, but not limited to, any new contractual obligations for contracted parties (in which case a Policy Development Process (PDP) would need to be initiated).

The guidance recommendations produced by the GGP Team in its [Final Report](#) are in response to the set of six (6) tasks contained in the GGP initiation request, which focus on the

identification and prioritization of metrics, indicators of success, as well as financing the program when qualified applicants exceed allocated funds.

Which stakeholders or others were consulted?

The GGP Team did not use external advisors to develop its recommendations. However, in accordance with the GNSO Guidance Process Manual, the team sought written input on the appropriate subject matter experts to join the working group from each Supporting Organization, Advisory Committee and GNSO Stakeholder Group / Constituency. The resulting suggestions for subject matter experts joined as members of the GGP Team and in particular, the Team’s deliberations on Tasks 3, 4, 5, and 6 relating to metrics and funding.

In addition, to help support a smooth transition from guidance development to eventual implementation of GNSO Council-adopted and ICANN Board-approved GGP recommendations, the GGP Team was supported by early and ongoing engagement with ICANN org subject matter experts. A liaison from ICANN org’s Global Domains and Strategy (GDS) regularly attended working group calls, providing input, and responding to questions where it was possible to do so in real time. The liaison acted as a conduit for GGP Team questions to ICANN org that required additional research or input. The liaison also facilitated early review of GGP Team draft outputs by ICANN org subject matter experts.

The GGP Team has followed all the necessary steps and processes required by the ICANN Bylaws, the GNSO Guidance Process Manual and the GNSO Working Group Guidelines, including posting its [Guidance Recommendation Initial Report](#) for [Public Comment](#) (opening on 31 July 2023 and closing on 11 September 2023) and consideration of the public comments received thereto. Following a careful review of all public comments received from ten (10) contributors as well as extensive discussions over suggestions for minor revisions to the guidance recommendations developed as a result of the public comment review, the GGP Team finalized its recommendations and delivered its [Final Report](#) to the GNSO Council in December 2023.

What concerns or issues were raised by the community?

The community provided feedback through Public Comments on the Initial Report. As documented in the Final Report, the GGP Team agreed to amend two of its preliminary guidance recommendations as a result of its review of the input it received through the Public Comment Forum. Specifically, following the public comment review, the GGP Team agreed to compromise language combining suggestions from Com Laude and the Governmental Advisory Committee (GAC) to specifically not exclude private sector entities as a balance to maintain the intent of the original Guidance Recommendation 1 while providing further clarity. In addition, for Guidance Recommendation 5, following the public comment review, the GGP Team agreed to language that, “This should be considered a floor, not a ceiling, and ICANN should strive to exceed this minimum.” Furthermore, it agreed to add to the rationale that adequate resources should be made available if the number of qualified applicants exceeds or greatly exceeds the indicator of success, since the indicator of success should be seen as a floor, not a ceiling. The GGP Team agreed that this change captures the intent that ICANN should strive to exceed the minimum number while addressing the concern that a stretch goal could result in failure or a lack of adequate resources.

What significant materials did the Board review?

The Board reviewed the following materials:

- The 16 August 2022 [Initiation Request](#) for the GGP for Applicant Support.
- The 31 July 2023 its [Guidance Recommendation Initial Report](#) of the GGP for Applicant Support.
- The 22 December 2023 GGP for Applicant Support [Final Report](#) and the [resolution](#) adopting the guidance recommendations
- The 18 January 2024 GNSO Council [Recommendations Report](#).

- The 25 September 2023 Staff [Report](#) of Public Comment Proceeding on the Guidance Recommendation Initial Report of the GGP for Applicant Support.

What factors did the Board find to be significant?

On 16 May 2024 ICANN org briefed the SubPro Board Caucus and the Board Finance Committee on the GGP for Applicant Support guidance recommendations and the Board found no significant factors.

Are there positive or negative community impacts?

Adopting the final recommendations will have a positive impact on ICANN. As noted above, the Council further determined “that the provision of guidance is best accomplished via the GNSO Guidance Process (GGP). This would accomplish the twin goals of pulling the work forward to avoid becoming the “tall pole” in the next round launch and providing sufficient time and the correct resources to devise an Applicant Support program that would expand the regional and language diversity of the new gTLD Program.” Specifically, the GGP’s recommendations provide implementation guidance to the SubPro IRT on the identification and prioritization of metrics, including indicators of success and those relating to financing the program when qualified applicants exceed allocated funds. Guidance on these issues is expected to improve the implementation of the Applicant Support Program.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

There are no fiscal or other impacts arising directly from the guidance recommendations as they are intended to only provide additional guidance to SubPro recommendations. In its Operational Design Assessment on the financial aspects of the Applicant Support Program, ICANN org noted, “The Applicant Support Program (ASP) will offer a reduction in ICANN fees related to the New gTLD Program to qualified applicants with demonstrated financial need. ICANN org analysis has shown that the ASP-related policy recommendations and implementation guidance

seem possible to implement. However, some outstanding questions and concerns remain with some aspects of the outputs, such as recommendations for financial support beyond an application fee reduction, the enlisting of external funding partners, and the use of a community-based panel for applicant evaluation. Other recommendations, such as improving communications, outreach, and engagement, offer clear direction.” It is these other recommendations that are addressed by the GGP guidance recommendations, hereby providing additional guidance to aid in the implementation of the SubPro recommendations.

Are there any security, stability or resiliency issues relating to the DNS?

None at this time.

Is this decision in the public interest and within ICANN’s mission?

This action is within ICANN's Mission and mandate and in the public interest as set forth in the ICANN Bylaws. The multistakeholder policy development process of bottom-up, consensus policies and guidelines helps advance the stable and secure operation of the Internet's unique identifier systems.

Is this either a defined policy process within ICANN’s Supporting Organizations or ICANN’s Organizational Administrative Function decision requiring public comment or not requiring public comment?

The GGP Team has followed all the necessary steps and processes required by the ICANN Bylaws, the GGP Manual and the GNSO Working Group Guidelines, including posting its GNSO Guidance Recommendation Initial Report for [Public Comment](#) on 31 July 2023 and consideration of the public comments received thereto.

Signature Block:

Submitted by:

Position:

Date Noted:

**ANNEX A: GNSO GUIDANCE PROCESS (GGP) FOR APPLICANT SUPPORT GUIDANCE
RECOMMENDATIONS**

LIFE CYCLE ELEMENTS:

1. COMMUNICATIONS And OUTREACH/AWARENESS

Guidance Recommendation 1: Increase awareness of the Applicant Support Program of the next round of gTLD applications among those who may need and could qualify for support.

Implementation Guidance: Target potential applicants from the not-for-profit sector, social enterprises and/or community organizations from under-served² and developing regions and countries. This should not exclude any entities from outreach efforts, such as private sector entities from underserved and developing regions and countries, recognizing the goal is to get as many qualifying applicants as possible.

Indicators of Success:

Quantitative: Conversion rates proportionate with industry standards for online campaigns and in-person events, with specific metrics and pre-agreed to be determined in consultation with ICANN org Communications and applicable contractor(s).

Qualitative: Survey results about quality and clarity of information that are proportionate with industry standards, with specific metrics to be determined and pre-agreed in consultation with ICANN org Communications and applicable contractor(s).

Data/Metrics to Measure Success: Click-throughs, inquiries, registrations to get more information, etc.

Qualitative Measurements: Results of the surveys about the quality of the information provided – whether the recipient understood the information, made an informed decision to consider pursuing further or walk away.

2. "BUSINESS CASE" ALSO KNOWN AS APPLICANT UNDERSTANDING AND DETERMINING NEED/OPPORTUNITY AND DEVELOPING APPLICATION

Guidance Recommendation 2: That the Applicant Support Program has cultivated pro bono services as well as ICANN-provided information and services to be available for supported applicants to inform their gTLD applications; that ICANN will communicate the availability of pro bono services and the parameters in which they are offered to potential supported applicants; and that supported applicants report that they found the information and services offered by pro bono providers to be useful.

Indicators of Success:

² The working group agreed to cite from the Initial Report the GAC's definition of under-served: <https://gac.icann.org/working-group/gac-working-group-on-underserved-regions-usrwg>, specifically: "An under-served region is defined as one that: Does not have a well developed DNS and/or associated industry or economy..."

Quantitative: A majority of Applicant Support Program applicants that access pro bono services indicate moderate to high satisfaction with those pro bono services and information.

Qualitative: A majority of Applicant Support Program applicants that are surveyed about quality and usefulness of services, such as pro bono services, indicate how and why those services were useful to their application.

Data/Metrics to Measure Success: A majority of respondents that are surveyed about pro bono services indicated that the services and information that they received was useful to informing their gTLD application and/or assisting them through the application process.

3. ICANN ORG SET UP OF APPLICANT SUPPORT PROGRAM FOR SUCCESS (IN OPERATIONAL TERMS)

Guidance Recommendation 3: That the Applicant Support Program has the necessary resources to achieve its goals based on the GGP Guidance Recommendation Report.

Indicators of Success:

Qualitative: Survey results from event attendees, potential Applicant Support Program applicants, and actual Applicant Support Program applicants indicate a high degree of understanding about the Applicant Support Program and the gTLD Program application requirements.

Data/Metrics to Measure Success: “mentions”, the quality of the coverage (e.g., reach, correct messaging, positive tone, appropriate outlet), and the geographic distribution of the coverage. Additional communications metrics that can be considered include social media statistics, website traffic, and event attendance (physical and online), inquiries, event registrations indicate awareness and have cultivated interest among potential applicants to get more information about the Applicant Support Program.

Qualitative Measurements: Results of the ongoing surveys about the quality, accessibility, and usefulness of the information and events provided about the Applicant Support Program.

4. APPLICATION SUBMISSION AND EVALUATION

Guidance Recommendation 4: Make application materials and the application process timely and accessible to diverse potential applicants, with the aim of facilitating successful applications in the Applicant Support Program among those who may need and could qualify for support.

Indicators of Success:

ICANN Learn module/survey results show that a majority of applicants had a strong understanding of the application requirements and evaluation process.

Data/Metrics to Measure Success: Percentage of applicants that applied that indicated via survey or ICANN Learn module that they had a strong understanding of the Applicant Support Program application requirements and evaluation process.

Qualitative Measurements: Results of surveys about whether the applicant was successful or made an informed decision not to submit an application (noting that survey response rates from entities that ultimately chose not to submit an application may be quite low and difficult to measure).

5. CONTRACTING/DELEGATION

Guidance Recommendation 5: Of all successfully delegated gTLD applications, the goal is that a certain percentage of them should be from supported applicants.

Indicators of Success:

No fewer than 10, or 0.5 percent (.005), of all successfully delegated gTLD applications were from supported applicants. This should be considered a floor, not a ceiling, and ICANN should strive to exceed this minimum.

Data/Metrics to Measure Success: 0.5 percent (.005) of successfully delegated gTLD applications are from supported applicants. Note that this percentage is not in relation to the number of strings applied for, rather the number of applications.

6. ONGOING OPERATIONS OF THE GTLD

Guidance Recommendation 6: ICANN org to investigate the extent to which supported applicants that were awarded a gTLD are still in business as a registry operator after three years.

Implementation Guidance:

1. If supported applicants that were awarded a gTLD are *not* still in business as a registry operator after three years, ICANN org should investigate barriers/challenges that failed registry operators experienced to help inform future aspects of Applicant Support Program and/or other capacity development new registry program.
2. Following completion of a new gTLD round, ICANN org should collect data on the number of supported applications that resulted in a delegated TLD by region, and those that did not; track operations of those delegated TLDs for three years; and conduct of survey of the successful and unsuccessful supported applicants to determine which elements of the program they found useful or not.

Indicators of Success:

Number of supported applications that result in a delegated TLD and track operations over a designated time period, for example three years.

Data/Metrics to Measure Success:

- The number of registrants of domain names registered in "regional" TLDs (e.g., TLDs focusing mainly on a local, limited market), keeping in mind that there are other barriers for registrants in developing countries to access domain names, such as inability to access online payment services and a lack of local registrars.
- The number of domain names registered in "regional" new gTLDs compared to the number of Internet users in such regions. These numbers could be compared with the same numbers for Internet users and "regional" new gTLDs in developed regions such as Europe and North America.

Guidance Recommendation 7: In the scenario that there is inadequate funding for all qualified applicants in the Applicant Support Program, the recommended methodology for allocating financial support should be for ICANN org to allocate limited funding by way of fee reduction equally across all qualified applicants, while not hindering the efficiency of the process. In this context the working group agreed to assume, for the sake of equity, that one application equaled one string. This recommendation is made in the context of no additional funding being made available. However, the group recommends that ICANN org give high priority to and make every effort to provide additional funding so that all successful applicants are supported.

Guidance Recommendation 8: To mitigate the risk that the allocation of support under the Applicant Support Program could be diluted to the point of being unhelpful, ICANN org should designate a minimum level of support each qualified applicant must receive, and develop a plan if funding drops below that level.

Guidance Recommendation 9: ICANN org should develop a flexible, predictable, and responsive Applicant Support Program in order to communicate the results of evaluation process and allow applicants to know their range of support allocations as early as possible in a transparent manner.

ICANN BOARD SUBMISSION No. 2024.06.08.2f

TITLE: **Next Round Funding**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Board is being asked to approve the use of the New gTLD Program: 2012 Round Application Fees (Application Fees) for the next tranche (tranche #3) of funding for the implementation of the “New gTLD Program: Next Round” in the amount of US\$23 million through 31 March 2025.

Utilization of the Application Fees is appropriate as these funds are part of the New gTLD Program. As of 30 April 2024, the remaining balance of Application Fees was US\$49 million. The fund usage recommendation is US\$23 million for the next round and US\$26 million preserved for ongoing 2012 round expenses. The funding for this effort is being requested through the Application Fees since it requires additional effort and resources above and beyond the annual plan and budget.

On 27 July 2023, ICANN org delivered a comprehensive [implementation plan](#) (the Implementation Plan) containing a work plan that includes relevant information for infrastructure development, timelines, and anticipated resource requirements for implementation of the next round of the New gTLD Program. To help deliver the Implementation Plan, the Board is being asked to approve US\$23 million funding from the New gTLD Program: 2012 Round Application Fees to cover further implementation work on the New gTLD Program Next Round through 31 March 2025.

**ICANN ORGANIZATION AND BOARD FINANCE COMMITTEE (BFC)
RECOMMENDATIONS: *(Subject to BFC Approval)***

Both ICANN organization and the BFC recommend that the Board approves the use of the New gTLD Program: 2012 Round Application Fees to further implementation efforts for the next round of the New gTLD Program through 31 March 2025 in the amount of US\$23 million.

PROPOSED RESOLUTION:

Whereas, on 27 July 2023, ICANN organization (org) delivered the [implementation plan](#) for the New gTLD Program Next Round to the ICANN Board. The Board acknowledged receipt of the plan in a [resolution](#) and directed ICANN org to provide the

Board with periodic updates on its progress, as well as to continue to prepare information to coordinate with the Board Finance Committee (BFC) on periodic requests for implementation funding as work progresses.

Whereas, the BFC has recommended that the Board approve funding from the New gTLD Program: 2012 Round Application Fees of up to US\$23 million to cover further implementation costs for the New gTLD Program Next Round through 31 March 2025.

Resolved (2024.06.08.xx), the Board authorizes the ICANN Interim President and CEO, or her designee(s), to spend up to US\$23 million from the New gTLD Program: 2012 Round Application Fees to fund the implementation work of the New gTLD Program Next Round through 31 March 2025.

Resolved (2024.06.08.xx), the Board directs the ICANN Interim President and CEO, or her designee(s), to ensure that any request for implementation funding beyond 31 March 2025 is submitted to the BFC in a timely manner, so that the committee can make a recommendation to the Board for consideration at or before the ICANN82 Public Meeting.

PROPOSED RATIONALE:

On 27 July 2023, ICANN org delivered to the Board a comprehensive [implementation plan](#) (Implementation Plan) containing a work plan that includes relevant information for infrastructure development, timelines, and anticipated resource requirements for implementation of the next round of the New gTLD Program. Execution of the Implementation Plan has and will continue to require significant resources to develop and construct the essential program infrastructure, including IT systems, operational processes, and applicant procedures required to ensure the successful launch of the New gTLD Program Next Round and its continued operability.

As of April 2024, ICANN org has spent US\$17 million of the previously Board-approved US\$22 million implementation and estimates the remaining US\$5 million of approved funds will be utilized by 31 July 2024. For ICANN org to continue implementation work as directed by the Board, ICANN org has requested, and the Board Finance Committee (BFC) has recommended that the Board approve an additional US\$23 million of funding through 31 March 2025.

The table below shows a breakdown of the estimated implementation costs from 1 July 2024 through 31 March 2025.

Next Round Implementation Costs	July 2024 - March 2025 (in millions)	Notes
Personnel / Contractors	US\$12.0	ICANN org staff costs for implementation, IT Systems, research, community engagement, applicant guidebooks
External Costs	US\$5.7	Vendor costs: IT System Development, research, process design, Communications Outreach
ICANN org Shared Services & Support	US\$2.3	Ongoing communal services that support the next round (IT support, office infrastructure, payroll, accounts payable, etc.)
Contingency	US\$3.0	Placeholder for unknown and hard to predict costs
Total	US\$23.0	

The funding for this stage of implementation of the next round is being requested through the New gTLD Program: 2012 Round Application Fees. The recommendation is US\$23 million for the next round and US\$26 million preserved for ongoing 2012 round expenses.

This action is within ICANN's Mission and is in the public interest as it is important to ensure that, in carrying out its Mission, ICANN utilizes available funding in the most effective and efficient manner so as to be in the best interests of ICANN and the global Internet community.

This action will not have a negative financial impact on ICANN, as funding is available from the New gTLD Program 2012 Round Application Fees. In addition, this action is intended to have a positive impact on the security, stability, or resiliency of the domain name system.

This is an Organizational Administrative Function that does not require public comment.

Submitted by: Xavier Calvez
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