# Predictability Framework

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1. Overview of the Predictability Framework

ICANN org maintains operational processes to receive, process, and close out applications [to the Next Round of the new gTLD Program] in an efficient, consistent, and transparent manner. The purpose of this Predictability Framework (Framework) is a transparent procedure for ICANN org to utilize when unanticipated issues arise during the course of the New gTLD Program (Program) that require changes to ICANN org’s operations of the Program or otherwise affect new gTLD applicants. Subject to the type of change required, ICANN org will work with the Standing Predictability Implementation Review Team (SPIRT): if changes have a material impact on applicants, ICANN org and the SPIRT have to agree on a permanent solution; if the proposed changes do not have a material impact, ICANN org is not required to consult with the SPIRT.¹

The Framework is not a mechanism to develop solutions to such issues. It also does not impact the role of the ICANN Board to take actions that may impact the Program. Similarly, the Framework does not affect the GNSO Council’s ability (see ICANN Bylaws Annexes A, A-1, A-2) to launch policy development or guidance processes that may relate to the Program. Finally, the Framework does not affect the Government Advisory Committee’s (GAC), nor any other ICANN advisory committee’s, ability to issue advice in accordance with ICANN’s Bylaws Article 12.

ICANN org will document all changes to the Program in a publicly available Change Log. In addition, for non-minor changes, ICANN org will inform all applicants directly.

2. Parties Involved in the Framework

The following parties are involved in the administration of this Framework and their roles and responsibilities listed here pertain only to this Framework.

1. **Applicants**: All entities who applied for a new gTLD during the ongoing round of the program.
2. **GNSO Council**: The GNSO Council is the chartering entity of the SPIRT and is consulted as described below.
3. **ICANN org**: ICANN org is the Program operator and must make all reasonable efforts to ensure the Program’s continued operation.
4. **ICANN Board**: The Board’s roles and responsibilities are detailed in the Bylaws.

¹ ICANN org will notify applicants if material changes made to the program have an impact on applicants.
5. **SPIRT**: As a standing implementation review team, the SPIRT will collaborate with ICANN org on all non-minor changes to the Program (including policy changes).

### 3. Description of Changes

For the purpose of this Framework, changes to the Program are classified as follows:

- A **minor operational change** refers to any change during the ongoing round of the program that does not have a material impact on applicants. The SPIRT is not involved in these changes.

- A **non-minor operational change** is a change during the ongoing round of the program that has a material impact on applicants. ICANN org will consult with the SPIRT when designing a solution, and ICANN org and the SPIRT need to agree on a solution before a change can be implemented permanently.

- A **policy change** is a change during the ongoing round of the program that, if implemented, would be inconsistent with existing policy recommendations. Therefore, policy changes for ongoing rounds would only occur in extraordinary circumstances where the continuation of the program is at risk if the change were not executed. If a policy change is necessary the Board, ICANN org, GNSO Council and the SPIRT will collaborate to identify an appropriate solution to secure the continuation of the program as well as an appropriate process to implement it.

### 4. Procedural Steps to Initiate and Execute a Change

#### 4.1 Change Request

The change request flow chart outlines the procedural steps the Advisory Committee (AC), GNSO Council, ICANN Board, and ICANN org take if they determine a change to the Program is required.

1. **GNSO Council or AC approve and submit guidance or advice** to the ICANN Board, and the ICANN Board, *after its consideration, adopts the guidance or advice*. The ICANN Board *directs ICANN org* to implement the change. If implementation requires a

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2 Policy recommendations and affirmations are the Board approved recommendations contained in the 2007 Introduction of New Generic Top-Level Domains and 2021 New gTLD Subsequent Procedures Policy Development Process Final Reports.

3 This is separate from any policy development the Council would like to undertake for future rounds whether based on the circumstances above or for any other reason.
change to the ongoing round of the program, ICANN org applies the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.

2. SPIRT determines a change to the ongoing round is required, the SPIRT collaborates with the GNSO Council to inform ICANN org. If ICANN org determines a change to the ongoing round is needed, ICANN org applies the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart. If ICANN org determines, contrary to the SPIRT, that no change is required to the ongoing round, the SPIRT confers with the GNSO Council. If the GNSO Council determines a change to the ongoing round is required, the GNSO Council engages with the ICANN Board. If the ICANN Board determines a change to the ongoing round is needed, the ICANN Board directs ICANN org to apply the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.

3. The ICANN Board determines a change to the ongoing round of the Program is required. The ICANN Board directs ICANN org to implement the change. If implementation requires a change to the ongoing round of the program, ICANN org applies the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.

4. ICANN org determines a change is required to the Program, ICANN org applies the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.
TOPIC 2 Predictability Framework Change Request

Org determines that a change is required to the ongoing round of the Program

Board determines that a change is required to the ongoing round of the Program

The SPRIT determines that a change to the ongoing round of the Program is required, including rationale

GNSO issues guidance or advice in accordance with Annex A-2 of bylaws or AC provides advice in accordance with Article 12 of bylaws

The Board directs org to implement a change to the ongoing round of the Program

The SPRIT provides its rationale to the GNSO Council

Board considers guidance or advice in accordance with procedures (GDP, SP, ARR)

The SPRIT informs org that a change to the ongoing round of the Program may be required (including rationale)

Does the Board adopt the guidance or advice?

Yes

No

Does org determine that a change to the ongoing round of the Program is indeed required?

Yes

No

The GNSO Council engages with the Board (communication methods listed)

Does the GNSO Council determine that a change to the ongoing round of the Program is required?

Yes

No

Does the Board determine that a change to the ongoing round of the Program is required?

Yes

No

Org triages which path to follow; see Flowchart x.x

The predictability framework is applied

The change process is not initiated
4.2 Change Execution

The Change Execution flow chart outlines the procedural steps to take once the change process has been initiated, depending on the initial determination of ICANN org on the type and impact of the required change to the Program.

1. ICANN org determines that the required change during the ongoing round of the Program can be implemented in alignment with the existing policy recommendations, and will not have a material impact on applicants.\(^4\) Such a change is considered as 'minor operational change' and the subsequent steps in the change execution flow chart will be followed.

2. ICANN org determines that the required change during the ongoing round of the Program can be implemented in alignment with the existing policy recommendations, and will have a material impact on applicants. ICANN org subsequently informs the SPIRT and the change is considered a 'non-minor operational change' the subsequent steps in the change execution flow chart will be followed. Once implemented, ICANN org will inform applicants about any non-minor changes.

3. ICANN org determines that the required change during the ongoing round of the Program cannot be implemented in alignment with the existing policy recommendations. ICANN org informs the SPIRT and in accordance with its Charter, the SPIRT confers with the GNSO Council. Should the GNSO Council determine that an alternative change, which does not require a change of existing policy cannot be found, the change is considered a 'policy change' and the subsequent steps in the change execution flow chart will be followed.\(^5\)

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\(^4\) For reference, the definition of a non-material change or material change is defined in section [cross-reference].

Note: additional context and definition regarding material changes will be added following IRT discussion on Topic 18 Terms and conditions.

\(^5\) N.B. Under extraordinary circumstances, there could be a recommendation that the New gTLD Program be halted for a communicated amount of time. In such a case, the triggering mechanism and rationale for recommending this extraordinary action must be provided to the GNSO Council for its consideration.
TOPIC 2 Predictability Framework Change Execution

ICANN org determines that the required change to the ongoing program:

1. Can be implemented in alignment with the existing policy recommendations, and
2. Will not have a material impact on applicants and/or other community members

Minor operational change

ICANN org formulates and implements a solution and adds it to the Change Log.

ICANN org informs the SPIRT.

Does the SPIRT need to confer with the GNSO Council?

Yes

The SPIRT confers with the GNSO Council.

No

The SPIRT and ICANN org to agree on a solution.

If no agreement is reached within 30 calendar days, or as otherwise required to maintain the operation of the Program, ICANN org and the SPIRT will continue to collaborate until a permanent solution is agreed. Until then...

Non-major operational change

ICANN org develops a solution; the SPIRT has the opportunity to collaborate with ICANN org in doing so.

ICANN org develops a solution; the SPIRT has the opportunity to collaborate with ICANN org in doing so.

The SPIRT and ICANN org to agree on a solution.

If no agreement is reached within 30 calendar days, or as otherwise required to maintain the operation of the Program, ICANN org and the SPIRT will continue to collaborate until a permanent solution is agreed. Until then...

Policy change

In collaboration with the SPIRT, ICANN org, GNSO Council and ICANN Board develop a solution in variance of or exception to the policy for the existing round.

The GNSO Council decides which mechanism to use (amend existing or develop new policies) to apply to future rounds.

Does the GNSO Council determine that the proposed change cannot be implemented in alignment with existing policy recommendations?

Yes

Can an alternative change be found not requiring a change to existing or development of new policies?

No

The change to the ongoing round of the program is implemented.

The change is logged in the Change Log.

The temporary solution is implemented.

The temporary solution is logged in the Change Log.

The temporary solution is implemented.

The temporary solution is logged in the Change Log.

The change to the ongoing round of the program is implemented.

The change is logged in the Change Log.
Annex - Relevant Recommendations

**Recommendation 2.1**: ICANN must establish predictable, transparent, and fair processes and procedures for managing issues that arise in the New gTLD Program after the Applicant Guidebook is approved which may result in changes to the Program and its supporting processes. The Working Group recommends that ICANN org use the Predictability Framework detailed in Annex E of this Report as its guidance during implementation to achieve the goal of predictability in mitigating issues.

The Predictability Framework is principally:

- A framework for analyzing the type/scope/context of an issue and if already known, the proposed or required Program change, to assist in determining the impact of the change and the process/mechanism that should be followed to address the issue. The framework is therefore a tool to help the community understand how an issue should be addressed as opposed to determining what the solution to the issue should be; the framework is not a mechanism to develop policy.

The Framework is not intended to identify the solution to an issue but rather, to identify the proper mechanism to reach a solution in a consistent and procedurally sound manner. Therefore, this Framework complements the existing GNSO processes and procedures. It is not intended to be a substitute or replacement for those, nor should the Framework be seen as supplanting the GNSO Council’s decision-making authority. In fact, the GNSO processes and procedures are incorporated into the Predictability Framework explicitly. In the event of a conflict, existing GNSO processes and procedures, including the GNSO Input Process, GNSO Guidance Process, and EPDP as contained in the Annexes to the GNSO Operating Procedures take precedence.

Additionally, the Working Group recommends the formation of a Standing Predictability Implementation Review Team (“SPIRT”) (Pronounced “spirit”) to serve as the body responsible for reviewing potential issues related to the Program, to conduct analysis utilizing the framework, and to recommend the process/mechanism that should be followed to address the issue (i.e., utilize the Predictability Framework). The GNSO Council shall be responsible for oversight of the SPIRT and may review all recommendations of the SPIRT in accordance with the procedures outlined in the GNSO Operating Procedures and Annexes thereto.

**Recommendation 2.7**: In the event significant issues arise that require resolution via the Predictability Framework, applicants should be afforded the opportunity to withdraw their application from the process and receive an appropriate refund consistent with the standard schedule of refunds.