

Staff Report of Public Comment Proceeding

GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration			
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Section I: General Overview and Next Steps			
<p>This Public Comment proceeding sought to obtain community input prior to ICANN Board action on the final Affirmations, Recommendations, and Implementation Guidance (collectively referred to as "Outputs") that were determined to have received either Full Consensus or Consensus designations by the New Generic Top-Level Domain (gTLD) Subsequent Procedures Policy Development Process (PDP) Working Group. The Outputs that the Generic Names Supporting Organization (GNSO) Council elected to vote on were approved by a supermajority margin.</p> <p>ICANN org has prepared a summary of the submissions received, and this report, along with the full text of the comments received. These materials will be transmitted to the ICANN Board for its consideration. It should be noted, however, that the The GNSO Council has requested that the ICANN Board initiate an Operational Design Phase (ODP) on the Final Report of the Subsequent Procedures PDP Working Group and its approved Outputs. If the Board initiates an ODP, the ICANN Board will consider the final GNSO Council-approved Outputs following the ODP.</p>			
Section II: Contributors			

At the time this report was prepared, a total of fourteen (14) community submissions had been posted to the forum. The contributors are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
The Middle East Space	Tijani Ben Jemaa	MES
Right of the Dot	Monte Cahn	ROTD
Intellectual Property Constituency	Flip Petillion	IPC
Governmental Advisory Committee	Benedetta Rossi (ICANN Org)	GAC
Business Constituency	Steve DelBianco	BC
International Trademark Association	Lori Schulman	INTA
Brand Registry Group	Martin Sutton	BRG
Article 19	Ephraim Percy Kenyanito	A19
Michael Karanicolas et al.	Michael Karanicolas	Karanicolas et al.
Asian, Australasian and Pacific Islands Regional At-Large Organization	Support Staff (ICANN Org)	APRALO
Registries Stakeholder Group (RySG) and Registrar Stakeholder Group (RrSG)	Beth Bacon	CPH
Authentic Web Inc.	Peter LaMantia	AW
Com Laude	Susan Payne	CL
Uni Naming & Registry	Amr Elsadr	UNR

Section III: Summary of Comments

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this Public Comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

OVERARCHING COMMENTS

A number of submissions provide broad commentary on the PDP's process and outputs, as well as the future of the New gTLD Program.

Several comments note the importance of the multi-stakeholder process and the necessity of respecting Outputs of this process. The CPH and IPC view the Working Group Outputs as an example of the success of the bottom-up multistakeholder process. The BRG and AW state that the outcomes of the multistakeholder process must be respected. The CPH, IPC, BRG, and AW emphasize the thorough nature of the PDP, noting that significant efforts were made to be inclusive, take diverse viewpoints into account, and engage with different stakeholders, including ICANN's Advisory Committees.

In light of the above points, several commenters encourage the Board to adopt the package of Council-approved Outputs as submitted. The CPH states that "Considering the thorough

and conscientious work completed by the ICANN community on the SubPro Outputs, the RySG and RrSG support the ICANN Board adopting the Council-approved SubPro Outputs and moving forward with an Operational Design Phase for their implementation.” The IPC notes that “Although the SubPro Outputs are not in all cases the ideal outcomes the IPC would have wanted, the IPC strongly encourages the Board to adopt the SubPro Outputs . . . The Board should trust the multi-stakeholder community consensus, and the ODP and IRT, to ensure the SubPro recommendations are faithfully implemented and avoid additional unnecessary delays to reaching a subsequent application window now that policy changes have been set out.” The BRG states that “The Board should now be confident to move forward and instruct ICANN Org to begin all the necessary steps to support the Board’s decision-making process.” AW states: “We are requesting the Board approve and instruct ICANN Org to move forward with actions necessary to open a subsequent application window without delay and where necessary initiate activities such as Operational Design Phase in parallel to other activities to shorten timelines.”

Other commenters, such as the BC, INTA, and UNR, expressed general support for the Working Group Outputs, but also provided specific commentary on Topics in their submissions. Please see below for additional details.

Several comments emphasize the importance of implementing subsequent procedures in a timely manner with an emphasis on the benefits of doing so and the costs of delay. AW notes that “After a full decade, further delays may materially compromise the confidence, trust, and integrity in ICANN itself.” The BRG states: “Moving this effort forward efficiently will provide the global community greater confidence that ICANN is able to deliver the next round and respect and support the multi-stakeholder process.” CL states “Here in Japan, we hope that ICANN will press ahead with implementation of the Subsequent Procedures recommendations and open up the applications for Round Two as soon as possible.” The BRG, CL, and AW emphasize that significant demand exists for New gTLDs, although they note that brand and other category TLD applicants are unlikely to announce plans to apply in advance, and therefore this information may not be publicly available.

Some commenters provide observations and suggestions about how to implement subsequent rounds efficiently. AW and the BRG note that work from the 2012 round can be leveraged to support execution of subsequent application rounds. BRG encourages the Board to draw on lessons learned and “avoid duplicating previous efforts.” To support timely launch of the next round, AW also advises the Board to “direct ICANN Org to hire an external third-party expert leader” focused on this task.

Some responses provide comments on what respondents view as dependencies for future New gTLD application rounds. Specifically, the GAC and INTA note that additional work needs to be completed before the next round of gTLDs is launched:

- The GAC states: “The GAC supports the multistakeholder process, and does not object to the introduction of new gTLDs. However, as specified in previous GAC advice, the GAC asks the Board to ensure that all the necessary steps and reviews take place before a new round of gTLDs, inter alia, the Competition, Consumer Trust and Consumer Choice Review Team (CCT-RT) review and Second Security, Stability, and Resiliency (SSR2) recommendations. The GAC notes that the Security and Stability Advisory Committee (SSAC) recommendation that the ICANN Board initiate a

fundamental review to determine whether continuing to increase the number of gTLDs is consistent with ICANN's strategic objective is aligned with GAC Montreal and Helsinki consensus advice and At-Large Advisory Committee (ALAC) Advice." In addition, the GAC believes that DNS Abuse should be addressed prior to the launch of subsequent rounds (see GAC comments regarding DNS Abuse under Topic 9 below for additional details). The GAC further states ". . . the GAC is looking forward to receiving an *objective and independent analysis of costs and benefits [...], drawing on experience with and outcomes from the* 2012 round of new gTLDs as called for in the GAC Helsinki Communiqué (30 June 2016) and reiterated in the GAC Kobe Communiqué (14 March 2019)." The GAC concludes that, ". . . the GAC calls upon the ICANN Board to provide a comprehensive overview and periodic updates of all issues that need to be addressed before the next round of new gTLDs, and to provide a clear path as to how the Board intends to either resolve these issues or foster their resolution (for issues outside Board's remit)."

- INTA states ". . . INTA does not support launching new gTLD rounds until by-laws mandated reviews are completed (including implementation of approved recommendations) including, in particular, the Competition, Consumer Choice, and Consumer Trust (CCT) review and Security, Stability, and Resiliency (SSR) review, and open issues regarding access to domain name registration information are resolved. . . the open issues cited above create an atmosphere of uncertainty when it comes to providing appropriate tools for managing issues related to cybersecurity, law enforcement, and rights protection within the DNS."

As an overarching consideration, A19 states that: "For ICANN to be effective in its operations and in delegating the next round of domain names, it needs to take into consideration the recent Workstream 2 Recommendations, especially those on human rights."

COMMENTS ON SPECIFIC TOPICS IN THE FINAL REPORT

This summary highlights a selection of the feedback received on specific Topics and Outputs with a focus on areas where multiple comments were received in order to highlight Topics where there is particular interest or concern among different respondents. The summary does not include every Topic, nor does it include every statement received on the Topics listed. Please see the full text of the comments for a complete record of input received.

Topic 2: Predictability

- The BC states that "The Board should instruct ICANN staff to monitor and publish regular reports on the composition and participation of SPIRT members on specific issues it handles within the Predictability Framework, much the same as ICANN staff currently do for GNSO Working Groups."
- The GAC expresses appreciation for efforts to create a Predictability Framework but notes that some GAC members have "doubts on its added-value" and concerns about the implementation of the SPIRT, particularly with respect to GAC Consensus Advice. GAC members seek clarification on the role the GAC will play in the SPIRT, ". . . especially in light of Implementation Guidance 2.3 suggesting direct dialogue between the SPIRT, ICANN org and the ICANN Board on GAC Consensus Advice, in which the

GAC expects to be included as well.” The GAC further seeks “. . . equitable participation on an equal footing on the SPIRT by all interested ICANN communities.”

- A19 welcomes the fact that the SPIRT will be reviewed and recommends that reviews are conducted annually with results made publicly available. According to A19, “This would ensure that any future policy changes to the program are informed by clear metrics.”

Topic 6: Registry Service Provider Pre-Evaluation

- A19 proposes a process whereby RSPs who are denied pre-evaluation status can request that the decision is reconsidered, noting that “. . . a clear appeals mechanism further supports implementation of Workstream 2 Recommendations. . .”
- UNR supports Recommendation 6.9, which provides that a list of pre-evaluated RSPs must be published on ICANN’s website with adequate lead time. UNR emphasizes that the Pre-Evaluation Process should be initiated without delay, as “. . . newcomers will need a lot more time to prepare and be ready, putting them at a significant disadvantage over incumbent Registries.”

Topic 9: Registry Voluntary Commitments/ Public Interest Commitments

Comments from the IPC, BC, INTA, GAC, and A19 provide input on the topic of DNS Abuse, with several comments recommending initiation of policy development work on this topic:

- The IPC, BC, and INTA recommend that the Board request that the GNSO Council scope and initiate a PDP or EPDP to develop recommendations for enhanced standardized anti-abuse measures for contracted parties in service of ICANN’s Mission to ensure the security, stability, and resiliency of the DNS, applicable to all existing and future gTLDs. In addition, the BC recommends “. . . that the Board initiate new negotiations of the Registry Agreement and Registrar Accreditation Agreement to address the important topic of DNS Abuse pursuant to Sections 7.7 and 7.4 respectively, with full input from, and transparency to, interested community stakeholders.”
- Recalling language in the ICANN66 Montreal Communiqué and ICANN70 Communiqué, the GAC expresses concerns regarding the absence of policy recommendations on DNS Abuse Mitigation in the Final Report and states that it “. . . expects swift action from the GNSO Council in triggering a holistic effort. . .” on this topic covering both existing and new gTLDs. Noting that the GAC “. . . does not intend nor wish to unnecessarily delay the process to prepare for a future round of new domain names . . .” it emphasizes that DNS abuse needs to be addressed.
- A19 states that the Working Group recommendations should be redrafted to recommend that any process to develop a working definition of DNS abuse must be conducted using an inclusive, multi-stakeholder process.

Comments from the GAC, Karanicolas et al., and A19 address the topic of PICs/RVCs and raise concerns about the implementation of PICs/RVCs in the New gTLD Program:

- The GAC supports the opportunity to introduce additional mandatory and voluntary PICs and raises considerations regarding the enforceability of PICs. The GAC states: “Consistent with the GAC Montreal Communiqué, the GAC further notes that any

future voluntary and mandatory PICs need to be enforceable through clear contractual obligations, and consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties. Additional mandatory and voluntary PICs should remain possible in order to address emerging public policy concerns.”

- Karanicolas et al. express concern about the Working Group’s Outputs on this topic, particularly with regard to “. . . ICANN’s quiet drift into the politically charged world of content moderation.” They warn about the “. . . lack of proper action to address the dangers posed by Registry Voluntary Commitments (RVCs), which represent a significant challenge not only to the integrity of the Final Report, but to ICANN’s mission as a whole.” Karanicolas et al. state that “The lack of clear definitions around the appropriate scope of Registry Voluntary Commitments poses a danger to [ICANN’s] function, insofar as it places ICANN as an enforcer over rules which have the potential to drag the organization into any number of controversial political areas.” They further specify that “Delegating the decision-making to a third-party arbiter would not absolve ICANN over responsibility for the outcomes of these decisions. . .” Karanicolas et al urge the Board to “. . . create proper scope for what you will accept and enforce as future Registry Voluntary Commitments.”
- A19 suggests updating Recommendation 9.1 and 9.2 to “. . . mandate that all RVCs must be in line with international human rights best practices by requiring registries and registrars to use tools such as human rights impact assessments (HRIAs) to document and justify the balance of legitimate interests . . .”

Topic 11: Universal Acceptance

- APRALO advocates for “. . . [the] ICANN Board’s direct support for the UAI as well as ICANN Org’s efforts complementary to those undertaken by the UASG.”
- The BC emphasizes the importance of ICANN providing sufficient resources to support work on Universal Acceptance.
- A19 recommends that registries and registrars should be compelled to regularly publish metrics to measure UA adoption and that policies should be publicly disclosed.

Topic 13: Communications

- MES supports the Outputs under this Topic but expresses that the minimum Communications Period of 6-months specified in Implementation Guidance 13.3 may be insufficient for the MEAC region. With respect to Implementation Guidance 13.5, MES supports leveraging ICANN’s Global Stakeholder Engagement (GSE) Team to promote awareness of the New gTLD Program but notes that, “. . . this [work] need not be limited to the formal Communication Period. . .”
- APRALO states that outreach and communications must be well-resourced must take place over a long enough period to “. . . facilitate the necessary awareness, education and preparedness to achieve a significant increase in applications from the “Global South. . .”
- BRG: “To support education, awareness and outreach efforts, the BRG recommends the Board instructs ICANN Org to issue an early draft revised version of the Applicant Guidebook (AGB) based on the 2012 final version.”

Topic 15: Application Fees

- INTA provides feedback regarding Recommendation 15.7, which addresses use of excess application fees: “INTA recommends that excess application fees in future new gTLD rounds be refunded back to applicants or applied to initiatives **that would improve trust in the DNS**, particularly around security threats, malware, fraud, and intellectual property infringement rather than promoting new gTLDs generally.”
- A19 requests that the Working Group propose exact application fees and provide “. . . exceptions or very affordable fees especially for strings that are for non-commercial exercise of freedom of expression.”

Topic 17: Applicant Support

- MES supports the Outputs under this Topic and notes the importance of early outreach related to the Applicant Support Program (ASP), consistent with Implementation Guidance 17.4.
- APRALO emphasizes the impact that the Applicant Support Program will have on encouraging more potential New gTLD applicants from the APAC region.
- The GAC states that it “The GAC generally supports the final recommendations on applicant support, noting the importance of extending the scope of the program beyond only economies classified by the UN as least developed and also considering the “middle applicant.” GAC members note the “. . . importance of fostering gTLD applications from a diverse array of applicants, which could, inter alia, include regional and local authorities, from all regions . . .” The GAC supports ALAC Advice to the Board on this Topic, “. . . noting that while the SubPro PDP WG has made some recommendations to improve the Applicant Support Program, the lack of specific goals for the program hinders proper evaluation of program objectives and performance.” The GAC would like the Board to brief the GAC on the Applicant Support Program at least 18 months prior to the launch of the next application window.
- The GAC supports proposals to reduce or eliminate ongoing ICANN registry fees as part of the Applicant Support Program. Such proposals were discussed by the Working Group but not included in the final recommendations. The BC, in contrast, notes that it opposes reduction or elimination of ongoing ICANN registry fees as part of ASP.

Topic 21: Reserved Names

- INTA does not support Recommendation 21.4, which recommends reserving as unavailable for delegation the acronym associated with Public Technical Identifiers, “PTI,” citing lack of evidence that such a reservation is necessary. INTA states: “There are other entities who legitimately may wish to apply for this string, such as owners of brands corresponding to the acronym “PTI”.”
- A19 states that “This topic merits further discussion to ensure that restrictions are narrow and not as broadly worded as in the 2012 Policy to prevent any undue limitations on the choices available to generic Top Level Domain (gTLD) string applicants.”

Topic 23: Closed Generics (also known as Exclusive Generics)

The Working Group produced a single Output on this Topic, which notes that no agreement could be reached on a path forward. The GNSO Council did not adopt this Output for Board consideration.

The BC and the GAC provide comments on the path forward for addressing Closed Generics from a procedural perspective:

- The BC notes that “. . . resolution of issues surrounding closed generic TLDs are integral to subsequent new gTLD procedures.” The BC recommends that the ICANN Board request an Issue Report to commence a dedicated PDP on this topic.
- The GAC reiterates advice contained in the GAC Beijing Communique and encourages the Board to start “. . . outcome-oriented community discussions to identify criteria as to how to assess “public interest” within closed generic TLDs.” With respect to the preferred approach in the interim, the GAC states: “GAC Members support the proposed suspension of Closed Generic TLD applications until policy recommendations and/or a framework on the delegation of closed generics, which serve a public interest are developed by consensus, as per the ALAC minority statement and subsequent ALAC Advice to the ICANN Board.”

The GAC, BC, and A19 express views on the substance of the issue, offering positions on the way the Topic should ultimately be addressed with a focus on proposals considered in the Working Group. Please see the Final Report for details about these proposals:

- The GAC continues to support the retention of the advice contained in the GAC Beijing Communique whereby “exclusive registry access should serve the public interest goal” and that adequate means and processes are defined to ensure that public interest goals are met. Regarding proposals that were discussed but not adopted as recommendations by the Working Group, the GAC encourages continued consideration of “Proposal for Public Interest Closed Generic gTLDs” and the “Closed Generics Proposal.”
- A19 and BC support the “Proposal for Public Interest Closed Generic gTLDs” discussed in Working Group deliberations.

Topic 24: String Similarity Evaluations

- INTA does not support applying an intended meaning test to determine whether strings are similar, as specified in Recommendations 24.3 and 24.5. INTA states that, “The [string similarity] test should be purely based on the visual appearance of the string, as the goal is to prevent Internet user confusion and misdirection in the visually oriented DNS format where intended meaning can only be determined in such contexts from an analysis of content associated with a particular domain name.”
- A19 states that “. . . all restrictions governing string similarity should not extend to other scripts or languages as this would not be excessive as the strings might have different meaning or application in the other scripts or languages.”

Topic 25: Internationalized Domain Names (IDNs)

- MES supports the Outputs under this Topic but expresses concern about Recommendation 25.2 and Implementation Guidance 25.3. Implementation Guidance

25.3 allows applicants to apply for strings in scripts not yet integrated into the Root Zone Label Generation Rules (RZ-LGR). Such applications would be processed up to but not including contracting and then held for an indeterminate amount of time pending integration of the script into the RZ-LGR. MES notes that this provision does “. . . not provide the same level of predictability and certainty to a potential minority of new gTLD applicants. . .” relative to other applicants.

- APRALO expresses disappointment that Outputs do not fully prioritize IDNs in application processing but welcomes partial prioritization of these strings as specified in Recommendation 19.3. APRALO recommends that “. . . prioritisation should be given to IDNs in all outreach and engagement regarding any program(s) as well as preference/ prioritisation to successful applicants proposing IDNs.”
- A19 states that “. . . Recommendation 25.2 and Implementation Guidance 25.3 on automation of the RZ-LGR in the evaluation processes should be implemented with caution, so as not to restrict freedom of expression and information.”

Topic 29: Name Collisions

- The GAC states: “The GAC highlights the importance, also expressed by ALAC in its Advice to the Board, of ensuring an effective framework for measuring and tackling name collision in further rounds of new gTLDs, taking into account the work on name collisions carried out so far by the Name Collision Analysis Project (NCAP).” Recalling SSR2 Recommendation 17, “. . .The GAC therefore calls upon the Board to take due consideration of the Final report’s implementation guidelines 29 (and 29.3 and 29.4 in particular).”
- According to A19, “At this time, we do not support the replacement of the [New gTLD Collision Occurrence Management] framework by a new Board approved framework that may result from the Name Collision Analysis Project (NCAP) Studies I, II and III. Any proposal for a new mitigation framework would be premature, given the work of the NCAP studies group is yet to be completed.”

Topic 30: GAC Consensus Advice and GAC Early Warning

- The GAC notes that is open to increasing transparency and fairness of processes and therefore “. . . sees value in the recommendations regarding specified time periods for early warnings, direct dialogue between the early warning issuing government and the applicant, and the opportunity for the applicant to amend its applications based on those consultations.” However, the GAC does not think that the PDP should make recommendations on “. . .GAC activities which are carried out in accordance with the ICANN Bylaws and the GAC’s internal procedures. . .” and therefore does not support Implementation Guidance 30.2 regarding the timing of GAC Consensus Advice on future categories of TLDs and particular applications. The GAC further states: “Regarding Recommendation 30.6, the GAC agrees with the PDP WG notion that a GAC Early Warning should be explained. . .” but the GAC favors amended text for the Recommendation to clarify that “. . . applications may not always be able to be remedied in the opinion of the Government(s) issuing a GAC Early Warning.” GAC members have different views on Recommendation 30.4, which recommends removing from the Applicant Guidebook text stating that GAC Consensus Advice “will create a strong presumption for the ICANN Board that the application should not be approved.”

- A19 recommends providing a mechanism to allow applicants to appeal GAC Early Warnings and/or GAC Consensus Advice.

Topic 31: Objections

- APRALO supports the ALAC's recommendation that the ALAC should be granted automatic standing to file Community Objections in future rounds of the New gTLD Program, stating: "A dismissal on the basis of lack of standing precludes a consideration of the merits of an objection and would amount to a waste of the resources (which would be) expended in getting the objection filed."
- A19 reiterates the recommendations should propose exact fees with ". . . exceptions or concessions, especially strings that are for non commercial exercise of freedom of expression."

Topic 34: Community Applications

- APRALO notes that the Applicant Support Program and Community Priority Evaluation (CPE) can increase the number of applications from the APAC region, and improve applicants' ". . . chances of securing the strings of their choice, including and especially ones vying for community and/or niche TLDs."
- The GAC states that it ". . . supports the recommendations to improve the community priority evaluation process, particularly with regard to predictability and transparency . . ." The GAC favors ". . . providing support for non-profit community-based applications, which is not included in the final recommendations."
- A19 recommends updating CPE Guidelines to make the term "community" apply more broadly, and especially to those subject to systemic marginalisation. A19 does not believe that size, registration or longevity of a community should be reasons to deny a Community Application. A19 suggests that CPEs should be conducted by "experts in the community's specific/relevant field or by a relevant subject matter or community expert of regional or international standing." A19 recommends making public the following documents associated with CPE: Clarifying Questions (CQs), responses to CQs, letters of opposition to a Community Application and the documented support for the application.
- The BC recalls the comments it previously submitted on draft PDP Outputs that there should be ". . . increased clarity around the definition of community in a community application."

Topic 35: Auctions: Mechanisms of Last Resort / Private Resolution of Contention Sets

While most of the Working Group Outputs on this Topic received consensus support from the Working Group, there were two exceptions. Recommendation 35.2, which addresses private resolution of contention sets, and Recommendation 35.4, which addresses the method of conducting Auctions of Last Resort, received a designation of "strong support but significant opposition" and were not adopted by the GNSO Council.

Several comments focus on the use of private auctions in the New gTLD Program:

- The BC, APRALO, and A19 support banning private auctions. APRALO cites a clear risk of gaming the New gTLD Program for profit.

- The GAC states that private auctions should be strongly disincentivized. The GAC further states that it sees value in the ALAC’s view expressed in advice to the Board. The ALAC advice states that there “. . . should be a ban on private auctions. Also, by mandating ICANN only auctions, the proceeds of any such ICANN auctions can at least be directed for uses in pursuit of public interest, such as was determined through the CCWG on Auction Proceeds.”

ROTD commented on private resolution of contention more broadly, noting that it supports the ability of applicants to “. . . work out arrangements amongst themselves to resolve the contention sets, including the ability to create joint ventures. . . .”

Additional comments provide input on ICANN Auctions of Last Resort:

- The BC and ROTD support Auctions of Last Resort in the form of a second-price auction using sealed bids.
- The BC notes, however, that contention sets involving .Brand TLD applications should be exempt from any “sealed bid” auction types.
- The GAC states that Auctions of Last Resort “. . . should not be used in contentions between commercial and non-commercial applications.”

Several comments offer different perspectives on “bona fide” provisions and transparency requirements recommended by the Working Group. These recommendations received a designation of “consensus” and were adopted by the GNSO Council:

- The GAC acknowledges the intent of “bona fide” provisions described in Recommendation 35.3 but expresses concerns on the implementation these provisions and notes that punitive measures for non compliance or submission of a “bona fide” intention are not sufficiently defined. Similarly, the BC raises concerns about these provisions and notes that proposed criteria against which “bona fide” intentions may be measured call for subjective interpretation and could be gamed. In the same vein, A19 states that “The standard that applicants submit “...bona fide (“good faith”) intentions...” is too vague to ensure that all applicants regulate their conduct in a precise manner.”
- ROTD supports the notion that all applications be submitted in good faith with an intent to operate the gTLD, as well as the Working Group’s recommendations regarding transparency of processes.

Topic 36: Base Registry Agreement

- With respect to Recommendation 36.4, which states: “ICANN must add a contractual provision stating that the registry operator will not engage in fraudulent or deceptive practices,” the BC supports leveraging the PICDRP to implement this recommendation, “unless ICANN can substantively demonstrate improvement in its compliance and enforcement capabilities.”
- A19 expresses that Recommendation 36.4 is too broad in stating that that “. . . ICANN must add a contractual provision stating that the registry operator will not engage in fraudulent or deceptive practices. . . .” A19 suggests amending this text to “. . .the registry operator will not engage in breaking the law in their country of registration. . . .” According to A19, “This revision would provide certainty for registrars that they are not compelled under their agreements to monitor each registrant under them.”

ADDITIONAL COMMENTS

APRALO fully endorses the ratified ALAC Advice on Subsequent Procedures of 16 April 2021.

Section IV: Analysis of Comments

General Disclaimer: This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.

The CPH, IPC, GAC, BRG, INTA, AW, and CL provide broad comments on the Board's consideration of the PDP Outputs and implementation of the next round of the New gTLD Program. The CPH, IPC, BRG, and AW encourage the Board to proceed with next steps on adopting and implementing the Council-approved Outputs. These comments encourage the Board to respect and support the multistakeholder process, which they believe was conducted in a thorough and inclusive manner. The BRG, CL, AW additionally comment on the benefits of moving expeditiously to implement subsequent application rounds and the consequences of failing to do so.

While some comments support opening future application rounds as soon as possible, the GAC and INTA caution that additional work must be completed before the next round of the New gTLD Program can be launched. They highlight, among others, the implementation of CCT-RT and SSR2 recommendations as dependencies. Please see the full comments for details about items that GAC and INTA believe need to be resolved prior to opening future application rounds.

A number of comments provide input on specific Topic areas included in the Final Report. While some comments simply state the commenters' position on a particular Output or issue, others provide recommendations to the Board for further action on the specific Topic. On the whole, comments were concentrated around Topics that have previously been identified as "high interest" by the Working Group, the GNSO Council, and other parts of the community, for example:

- PICs/RVCs
- DNS Abuse
- Closed Generics
- Auctions

As noted in the comment summary, Closed Generics and Auctions are the two Topics which contained Outputs that were not approved by the GNSO Council. As the Board considers the path forward on these Topics, it may take into account comments in this proceeding along with other relevant inputs.

The full text of the comments received, along with this summary, will be transmitted to the ICANN Board for its consideration.