Staff Report of Public Comment Proceeding

Supplemental Initial Report on the New gTLD Subsequent Procedures Policy Development Process (Overarching Issues & Work Tracks 1-4)	
Publication Date:	29 January 2019
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Public Comment Proceeding		**Important Information Links**
Open Date:	30 October 2018	Announcement
Close Date:	12 December 2018 Extended to 21 December 2018	Public Comment Proceeding
Staff Report Due Date:	12 January 2019 Extended to 21 January 2019	View Comments Submitted

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Section I: General Overview and Next Steps

This public comment proceeding was opened in order to obtain input on the Supplemental Initial Report of the New generic Top-Level Domain (gTLD) Subsequent Procedures Policy Development Process Working Group, which is chartered to evaluate what changes or additions need to be made to existing new gTLD policy recommendations. The Working Group issued its first Initial Report, containing the output of the Working Group on the Overarching Issues as well as preliminary recommendations and questions for community feedback from Work Tracks 1-4, on 3 July 2018. This Supplemental Report contains additional issues that were deemed to warrant additional deliberations by the Working Group.

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, both individuals and organizations/groups, 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
Dotgay LLC	Jamie Baxter	DG
ICANN Board of Directors	Michelle Bright	IB
Governmental Advisory Committee	Tom Dale	GAC
.IN Registry	Registry@nixi.in	IN
Brand Registry Group	Martin Sutton	BRG
At-Large Advisory Committee	At-Large Policy Staff	ALAC
Business Constituency	Steve DelBianco	BC
Registries Stakeholder Group	Samantha Demetriou	RySG
Registrars Stakeholder Group	Zoe Bonython	RrSG
Intellectual Property Constituency	Susan Payne	IPC
Neustar Inc.	Donna Austin	NS
ICANN Org	Nanig Mehranian	ICANN
Non-Commercial Stakeholder Group	Rafik Dammak	NCSG

Individuals:		
Name	**Affiliation (if provided)**	**Initials**
José Alberto Barrueto Rodríguez		JABR

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).

The New gTLD Subsequent Procedures PDP WG sought community input on five (5) subjects/topics, which generated over 50 preliminary recommendations, options, and questions for input. The PDP WG is appreciative of the input received.

This public comment summary and analysis will seek to identify areas where a substantial amount of input was received, and should not be considered an exhaustive record of feedback; the summary and analysis may be better considered as a sampling of high interest areas, which means that not all areas of discussion or themes are included in this document. The identification of any topics within this report, or the omission of any topic, is not intended to make a value judgement on the importance of any particular topic or comments made. The PDP WG is committed to reviewing each and every comment and it is their responsibility to determine the level of impact, if any, on any final recommendations and/or Final Report.

For an exhaustive view of the public comment received, organized per topic and further per recommendation/option/question, please consult the PDP WG's working document here: https://docs.google.com/spreadsheets/d/1Ea-CjtL-heQjEwTesr7MYC_8gFEvmhY8XBCWTvoan6g/edit?usp=sharing

Some high interest topics and major trends/themes in the public comment

2.1 – Auctions: Mechanism of Last Resort

There was a mixture of input received on whether or not auctions, as a mechanism of last resort to resolve string contention, should be maintained. However, there was a fair amount of support for enhancing or expanding the ways in which string contention could be resolved prior to reaching an ICANN auction. There was a mixture of input received regarding alternatives to the auction model employed by ICANN, with the alternatives including a sealed-bid auction process (e.g., Vickrey auction), a request for proposal process, and random draw. However, there was broad opposition to a system of graduated fees, where applicants pay more and more for successive applications submitted.

2.2 – Private Resolution of Contention Sets

There were diverging views on whether private resolution is problematic, particularly where a party who withdraws from a contention set (e.g., losing in a private auction) is able to benefit financially. There were several commenters that believed that ICANN should not interfere in

applicants' negotiations, while others felt that the practice should be disallowed, potentially through contractual provisions and/or additions to the terms and conditions. While some recognized that some forms of private resolution (e.g., where the losing applicant benefits financially) can be problematic, they expressed concerns about there being effective measures to prevent the practice.

2.3 – Role of Application Comment

There was broad support to improve the transparency of the application comment system and to ensure that comments are easily filtered/sorted. There was also broad support to improve the clarity around how application comment will be taken into account for various application processes.

There were diverging views on allowing for different application comment period lengths (e.g., for community-based applications). There were also diverging views around whether or not applicants should be given a period to respond to application comments.

2.4 – Change Requests

There was broad support to make incremental improvements to the change request process, which includes providing clearer guidance on what types of changes would be allowed or disallowed, what requires public comment, and what might require re-evaluation (and thus incur costs). There were several comments related to two types of application changes, connected to the resolution of string contention, that the WG sought input specifically, 1) whether applicants should be able to create joint ventures and 2) whether there should be a limited ability to select a different string. There were diverging opinions on both areas.

2.5 – Registrar Support for New gTLDs

There were only a few comments received for this section of the report. The WG provided several options for the community to consider to potentially assist TLDs with seemingly a limited market interest, which includes ICANN creating a "last-resort" wholesale registrar, ICANN providing a payment "clearinghouse" to simplify payments between registries/registrars in different currencies, increasing the number of registered names, etc. There were limited, but diverging positions on many of these options.

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 PDP WG intends to review each comment received to determine what effect it may have, if any, on final recommendations and the Final Report. For the areas of the Supplemental Initial Report where the PDP WG was able to achieve preliminary recommendations, there was generally a fair amount of support from commenters. Where the PDP WG was unable to achieve preliminary recommendations, the topics were generally the most contentious during deliberations. These topics also garnered divergent views from commenters, which will

provide valuable input for the PDP WG to consider as it seeks to reach final recommendations.

This summary and analysis does not seek to draw any conclusions from the public comment as that is the sole remit of the PDP WG. WG members will have to assess the arguments brought forward and integrate them into their Final Report as appropriate.

As noted in Section III, the PDP WG will consider each and every comment and complete its public comment working document, available below. The PDP WG will consider whether the comment expresses concerns, divergence, agreement, and/or new ideas and accordingly, determine what effect the comment will have.

Public Comment Review Tool – Working Document:
https://docs.google.com/spreadsheets/d/1Ea-CjtL-heQjEwTesr7MYC_8gFEvmhY8XBCWTvoan6g/edit?usp=sharing