

# Staff Report of Public Comment Proceeding

## Draft Procedure for Community gTLD Change Requests

<b>Publication Date:</b>	20 April 2018								
<b>Prepared By:</b>	The ICANN organization								
<table border="1"><tr><td colspan="2"><b>Public Comment Proceeding</b></td></tr><tr><td>Open Date:</td><td>14 February 2018</td></tr><tr><td>Close Date:</td><td>2 April 2018</td></tr><tr><td>Staff Report Due Date:</td><td>20 April 2018</td></tr></table>		<b>Public Comment Proceeding</b>		Open Date:	14 February 2018	Close Date:	2 April 2018	Staff Report Due Date:	20 April 2018
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### Section I: General Overview and Next Steps

**General Overview**

From 14 February to 2 April 2018, the ICANN organization posted for public comment the draft procedure for ICANN to consider changes to Specification 12 of Community generic Top-Level Domain (gTLD) Registry Agreements requested by community gTLD registry operators. The guiding principles of the procedure would permit a community gTLD registry operator to seek modifications to its unique Specification 12 without removing the Community Registration Policies, excessively broadening or narrowing registrant eligibility and/or name selection requirements or resulting in significant negative impact to the TLD Community. This draft procedure is the result of collaboration between the Community gTLD Change Request Process Working Group and the ICANN org, with input provided by members of the Registries Stakeholder Group.

A community gTLD's Registry Agreement includes language in Section 2.19 that requires a registry operator to "operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD." Furthermore, the [2012 Applicant Guidebook](#) highlights the importance of an applicant's accountability to the community it intends to represent. At the same time, the Applicant Guidebook, now six years old, states that "material changes to the contract, including changes to the community-based nature of the gTLD and any associated provisions, may only be made with ICANN's approval" and that "proposed criteria for approving such changes are the subject of policy discussions."

No discussions or subsequent work on this topic resulted in a process by which ICANN org could approve or deny change requests to Specification 12 of the Registry Agreement. Therefore, the ICANN org encouraged the working group to seek clarity from the GNSO Council on whether this work needed additional policy guidance or could proceed as an implementation matter. Accordingly, the working group presented to the GNSO Council on [20 September](#) and [12 October 2017](#). This public comment proceeding follows [guidance](#) from the GNSO Council during its meeting on 1 November 2017 in which the Council guided the Community gTLD Change Request Process Working Group to address comments from the ICANN org on a previous draft and to solicit public comments on the revised draft procedure. From the Council's guidance, "in the event that comments are received indicating the process is not consistent with existing policy the Council will reconsider the matter. Absent such comments the process will be understood as this being an implementation matter."

## Next Steps

After consideration of comments received, the ICANN org and the Community gTLD Change Request Working Group concluded that comments did not indicate the procedure is in conflict with existing policy. The ICANN org has submitted this conclusion along with this summary and analysis report to the GNSO Council. Accordingly, barring feedback to the contrary from the Council, the ICANN org concludes this can continue to be handled as an implementation matter.

The comments received focused on suggested modifications to procedural elements or requests for clarification. The ICANN org and the working group discussed updates to the draft procedure based on the comments and are working to finalize an updated version to implement and post on ICANN.org. These modifications are outlined in greater detail in the analysis section. Following the production of an updated version and the consultation with the GNSO Council as outlined above, the ICANN org will initiate the required activities to prepare to offer this service for community gTLD registry operators.

## Section II: Contributors

*At the time this report was prepared, a total of seven (7) 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
fTLD Registry Services	Craig Schwartz	fTLD
.eco Registry	Jacob Malthouse-Ogilvie	ECO
National Association of Boards of Pharmacy	Gertrude Levine	NABP
Registries Stakeholder Group	Paul Diaz	RySG
Business Constituency	Steve DelBianco	BC
At-Large Advisory Committee	ICANN Policy Staff in support of the At-Large Community	ALAC

### Individuals:

Name	Affiliation (if provided)	Initials
Thomas Lowenhaupt	Connecting.nyc Inc.	TL

## 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 ICANN org received seven (7) comments from the community regarding the Draft Procedure for Community gTLD Change Requests. One comment was received from TL requesting information on the origin of the change request, specifically why this has been put forward for public comment. In response, the ICANN org [published](#) an explanation via the public comment forum and encouraged TL to review the details provided in the Public Comment proceeding.

The remaining six (6) comments generally fall into the following categories, which are summarized below in further detail:

1. Comments in support of the procedure

2. Comments suggesting modifications or additions to elements of the draft procedure, divided into two sections:
  - a. Modifications or clarifications to operational aspects of the procedure
  - b. Suggested changes to Annex A, Community gTLD Change Request Form
3. Comments requesting additional clarification of elements of the draft procedure
4. Comments on the time it took to develop such a procedure
5. Comments regarding the Registry Agreement renewals of Sponsored TLDs

As an additional note, the ICANN org received an extension request from the ALAC. In response, the ALAC was provided an extension of 5 days.

### **(1) Comments in support of the procedure**

The ICANN org received six (6) comments in support of the procedure and implementation.

- fTLD, who has coordinated efforts to develop the draft procedure “on behalf of and in concert with other community gTLDs,” expressed its support for the draft procedure. fTLD also notes that it “hopes the ICANN organization will move forward in a timely manner following this public comment period to provide business predictability to Registry Operators seeking to introduce innovation and choice to their respective communities.”
- ECO’s comment indicated that it supports the process and “is pleased to see progress towards full implementation of the process envisioned in the Applicant Guidebook for ongoing accountability to our community.” ECO also highlighted section 4.2.3 of the Applicant Guidebook (AGB) that states “The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.” In ECO’s comment, it noted that “a critical aspect of demonstrating ongoing accountability is a means to respond to requests from the community to align the registration policies of a registry with the community, especially when those requests are driven by the community served by that TLD.” Furthermore, ECO noted the AGB and particularly section 2.19 of the Registry Agreement make it clear that “implementation of this Change Request Procedure [...] is a matter that was agreed on by the ICANN Board when the AGB was adopted in June 2012.”
- NAPB supports the draft procedure as it would “allow Community registry operators to keep pace with the evolving needs of the communities they serve” while “any such changes should remain consistent with the original scope and mission of the community gTLD.” Furthermore, NAPB indicates a procedure “should not release the Registry Operator from its commitment to the community it represents” and that “the draft policy appropriately takes these considerations into account and offers a clear and fair path forward.” NAPB also indicates its support for documentation of support by the TLD Community and representative governing bodies within section 2.1 of the draft procedure, the “clearly delineated criteria for evaluating change requests” in section 3.1, and alignment “with ICANN’s multistakeholder model of governance by including an opportunity for comments on the change request from the broader internet community.”
- The RySG “supports the Procedure as written and believes it represents a fair and reasonable approach for a Registry Operator to amend Specification 12 to its Registry Agreement.” The RySG also “encourage[s] ICANN to expedite development of the implementation plan to support the Procedure to avoid further delay of its availability to Registry Operators.”
- The BC agrees there may be instances where a community gTLD registry operator may want to modify its Specification 12 per the eligibility requirements of the draft procedure. To provide

for those instances, “we need a transparent and standardized process to evaluate community gTLD change requests.”

- The ALAC is generally supportive of the Draft Procedure and the Change Request Form subject to a set of suggested changes described below. The ALAC is also “supportive of the guiding principles for a procedure which is consistent with Section 2.19 of Community gTLD Registry Agreements” and that prevents modifications “that would remove those Community Registration Policies, excessively broaden or narrow registrant eligibility and/or name selection requirements, or result in significant negative impact to the TLD Community.”

## **(2) Comments suggesting modifications or additions to elements of the draft procedure**

The BC and ALAC offered suggested modifications or additions to elements of the draft procedure. These are detailed in the sections below organized as (a) modifications or clarifications to operational aspects of the procedure or (b) changes to Annex A.

2(a) Several comments focused on modifications or clarifications to operational aspects of the procedure.

- The BC highlights a need for clarification on timing of steps in Sections 2.2 and 2.3 and noted that Section 2.3 seems to contradict Section 2.2 by failing to mention the preliminary review. The BC suggested changing Section 2.3 to: "After an acceptable preliminary review of the Request, ICANN will post the Request and draft Amendment for a comment period of 30 days."
- The BC noted the need for more clarity in the timing of the registry operator's response to concerns raised during the comment period in Section 3.1(d), specifically that “it is unclear whether a response is required 15 days after the end of the comment period or 15 days after a response is requested by ICANN or even whether ICANN will initiate consultation with the Registry Operator within 15 days of the end of comment period.”
- The BC expressed concern about the impact of a Change Request on the members of the TLD community and therefore suggests requiring evidence of community support and consultation for the change request: “there should be an explicit request for the [Community Registry Operator] to provide its assessment of documentation and evidence that shows the TLD community actually supports the requested change.”
- In Section 3.2.1, Approval, the BC believes "that all gTLD community request approvals within the initial term of 10 years be timely made by the ICANN Board and, subsequently made by ICANN Staff after the expiration of the Initial Term." If this is not possible, the BC believes the ICANN Board should review and approve Change Requests from Community gTLDs that went through CPE or the objection process.
- The ALAC recommended modifying Section 2.3 to be specified as a “formal ICANN Public Comment which follows the regular ICANN Operational Consultations process.”
- In Sections 3.2.1 and 3.2.2, the ALAC suggested making the timing of ICANN’s determination clearer by modifying each section to state ICANN shall provide approval or rejection “to the Registry Operator within 30 days of the determination or shall provide written explanation and indication of the new deadline in case of delay.”

2(b) A number of comments suggested changes to Annex A, Community gTLD Change Request Form:

- The BC suggested asking the registry operator to clarify if they are adding or removing members from the TLD community and to provide rationale within their explanation for the change request. When new members are being added to the TLD community, "additional information should be sought as to whether this new group has been consulted about a Change Request (and whether there is support in favor of such a change)." If members are being removed, then additional information should be provided indicating the rationale for this elimination and the agreement (or disagreement) of the removed group with such change."
- Specifically for question 1.6, the BC suggested requiring the Registry Operator to disclose "any potential narrowing or broadening of the community eligibility requirements" rather than focus on whether the change would *excessively* broaden or narrow the eligibility requirements.
- The BC suggested asking the registry operator to explain the impact of the Change Request on specific groups within the existing TLD community and clearly identify if there is any potential harm: "to the extent there are multiple groups or classes within a community, additional information should be sought as to whether there are some groups that might be negatively impacted by the Change Request while others are not." The BC also states, "in particular, question 1.4 should request specific impact on existing registrants in that TLD who invested time and money to tie their brand to the community TLD upon reliance that the community would be restricted as-described in the registry's original application."
- As part of the registry operator's consultation of the TLD Community, the BC suggested encouraging "expert and professional consultations prior to the submission of a Change Request." If the Change Request adds new members, the BC suggests providing results of surveying the new members.
- In question 2.2, the BC suggested requesting more description of a community registry operator's policies to understand "any policies or procedures that govern the ability for the community TLD to potentially make a change to its bylaws or charter." As a result, the BC suggested adding the following questions: "i) does the Community TLD have rules or standards (bylaws or charter) that governs these types of changes? ii) were those rules or standards followed? iii) if no defined rules or standards exist, then what percentage of the community needs to be on board in order for a change to be triggered?"
- In question 6.3, the BC suggested requesting a more detailed response from the registry operator relating to possible changes to a third party's contractual obligation: "to the extent a Change Request will materially impact a third party's contractual obligation, then the community registry should be required to describe with specificity the contractual obligation and third party affected by this Change Request."

### **(3) Comments requesting additional clarification of elements of the draft procedure**

- The BC requested clarity on which TLDs qualify for this procedure, specifically if ".MUSEUM and other formerly "Sponsored TLDs" are considered to be in their initial term when they renew using the new gTLD Registry Agreement."
- The BC requested clarity on whether the procedure applies only to the initial term of the Registry Agreement and expressed its belief "that the draft procedure should apply to *all* terms of a community TLD registry agreement - not just the initial term of the agreement."
- In reference to Section 3.1(d) under ICANN Review and Determination, the BC suggested further defining a registry operator's "adequate response to concerns raised during the comment period." The BC offered that "evidence and supporting data might include information that demonstrates that: i) there will be no reputational damage to the community; ii) there is no

interference with the core activities of the community; and iii) there is no economic damage to the community.”

- Pertaining to Section 2.1 of the procedure, the ALAC requested that the RO be required to explain any departure from the description of the TLD Community in the original Specification 12: “we would like to clarify that under section 2.1 of the Draft Procedure, where there has been a departure in the description of the TLD Community originally provided for by the Community gTLD Registry Operator in their Specification 12, the nature and reason(s) for this departure must clearly be included in the Community gTLD Change Request submitted by the Community gTLD Registry Operator.”
- The BC asked for clarity on the appropriate mechanism for community members or the registry operator to appeal an ICANN determination regarding a Community gTLD Change Request.

#### **(4) Comments on the time it took to develop such a procedure**

- fTLD noted its “concerns about the prolonged process that has led to this Procedure and the negative impacts to business predictability for community gTLDs.” While there is no process for a community registry operator to request changes to its Specification 12, fTLD noted that the ICANN org provided an opportunity for registry operators to request changes prior to the original execution of the Registry Agreement with the [New gTLD Application Change Request Process and Criteria](#), a process that fTLD used for .INSURANCE. However, the ICANN org denied fTLD’s proposed changes in 2016 “despite Section 2.19 of our Registry Agreements that empowers fTLD to “operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD.””
- The RySG noted that “though several members of the RySG expressed concern that modifications to Specification 12 should be addressed as a contract matter between the Registry Operator and ICANN, and that Section 2.19 of a Community-based Registry Agreement explicitly provides for such “modifications to policies and practices for the TLD”, ICANN chose not to respect this contractual right.”

#### **(5) Comments regarding the Registry Agreement renewals of Sponsored TLDs**

- fTLD commented on the renewals of several Registry Agreement from TLDs launched in the 2004 sponsored TLD application round and that the ICANN org accepted “modifications to their new Specification 12 to enable them to make necessary business changes.” fTLD also noted that “in one instance ICANN permitted the removal of Sponsor/Community requirements by not requiring a Specification 12 in the new Registry Agreement.”
- The BC noted its concerns about .MUSEUM becoming an open TLD as a result of the changes made during the .museum Registry Agreement renewal process: “anyone could register a .MUSEUM domain since there is no requirement to document “interest” or actual “use” of museums, and there would not be any practical means of verification.” BC argued this decision “should have been deferred until the draft procedure for change requests was developed and approved.”

### **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 ICANN org appreciates all the comments and suggestions submitted to the public forum for the Draft Procedure for Community gTLD Change Requests. The analysis of comments is grouped into the same sections as in the summary of comments above with the addition of the Conclusion and Next Steps section:

1. Analysis of comments in support of the procedure
2. Analysis of comments suggesting modifications or additions to elements of the draft procedure, organized into the following sections:
  - a. Modifications or clarifications to operational aspects of the procedure
  - b. Suggested changes to Annex A, Community gTLD Change Request Form
3. Analysis of comments requesting additional clarification of elements of the draft procedure
4. Analysis of comments on the time it took to develop such a procedure
5. Analysis of comments regarding the Registry Agreement renewals of Sponsored TLDs
6. Conclusion and Next Steps

For the analysis of items 2 and 3, the ICANN org and the working group collaborated to determine whether modifications to the draft procedure should be made. The outcome is indicated in the analysis below.

### **(1) Analysis of comments in support of the procedure**

The ICANN org acknowledges the support received on the need for a procedure for Community gTLD change requests. Furthermore, the ICANN org thanks the working group and community members who volunteered to assist in the development of the procedure and to review and comment on the draft procedure during the Public Comment forum. These collaborative efforts are essential to the ICANN org and the ICANN community as a whole. The ICANN org also acknowledges the level of support received within the comments from the registry operator community.

### **(2) Analysis of comments suggesting modifications or additions to elements of the draft procedure**

After considering the suggested modifications or additions to elements of the draft procedure by the BC and the ALAC, the ICANN org and the working group accepted certain changes or provided rationale if the suggestion was not accepted. These responses are detailed in the sections below, organized by (a) modifications or clarifications to operational aspects of the procedure or (b) changes to Annex A.

#### **2(a) Comments focused on modifications or clarifications to operational aspects of the procedure.**

- The BC requested clarification on timing of steps in Sections 2.2 and 2.3. The ICANN org and the working group agreed with this comment and modified the section to “After ICANN’s preliminary review of the Request, ICANN will post the Request and draft amendment for a comment period of 30 days.”
- The BC notes the need for more clarity on the timing of the registry operator’s response to concerns raised during the comment period in Section 3.1(d). As a result, the ICANN org and the working group agreed to the following change: “In the event questions are raised about the Request during the comment period, ICANN will initiate a consultation period with the Registry Operator and request their response to comments received within 15 days from ICANN’s request.”
- In response to the BC request for the registry operator to provide evidence that a TLD Community supports the requested change, the ICANN org and working group note the requirement for evidence of TLD Community support in Sections 2.1 and 3.1 of the procedure.

Nonetheless, the ICANN org and working group agreed to clarify this requirement by modifying Annex A to specifically request documentation of (1) TLD community support for the requested change and (2) consultation with the TLD community.

- The BC requests the ICANN Board's involvement in the approval or rejection of Change Requests in section 3.2.1 of the procedure. In response to this request, the ICANN org points to the consultation with the GNSO Council which sought clarity on the proper role for the ICANN org in this matter: whether criteria to process proposed changes are a matter of policy discussions (in the GNSO's remit) or implementation (in the ICANN org's remit). The GNSO Council provided [guidance](#) in November 2017 that this draft procedure is within the remit of the ICANN org absent any policy concerns raised during the public comment period. From the Council's guidance, "in the event that comments are received indicating the process is not consistent with existing policy the Council will reconsider the matter. Absent such comments the process will be understood as this being an implementation matter."

After consideration of comments received, the ICANN org and the Community gTLD Change Request Working Group concluded that comments did not indicate the procedure is in conflict with existing policy. Barring feedback to the contrary from the Council, the ICANN org would handle the procedure as an implementation matter, which places this procedure within the remit of the ICANN org. The ICANN Board approved the 2012 Applicant Guidebook and the Registry Agreement, both of which imply community TLDs would be able to modify their community policies subject to ICANN's discretion. According to [ICANN's Delegation of Authority Guidelines](#) from 8 November 2016, it is within the ICANN CEO and Senior Management Key Roles to "Implement the decisions of the Board, including implementation of policies approved by the Board and review recommendations approved by the Board."

If it isn't possible for the ICANN Board to review all requests, the BC expressed its belief that the ICANN Board should at least review and approve Change Requests from Community gTLDs where an application previously went through Community Priority Evaluation or the objection process. The ICANN org and the working group considered whether change requests from Community gTLDs that were the subject of a CPE or Community Objection should be treated differently. In addition to the rationale provided above, the Community gTLD Registry Agreement does not treat these community gTLD registry operators differently from those who did not. As mentioned in the Public Comment announcement, the ICANN org highlighted concerns that a process with multiple decision points that trigger specific reviews dependent upon whether a community gTLD went through CPE or won objections would add time, complexity, and opportunities for disputes or disagreements (either by the registry operator or others in the ICANN community). Because of this, no changes are proposed to the procedure to differentiate between community gTLDs that went through CPE or the objection process and those that did not. However, to mitigate against the potential for "gaming" where an applicant prevailed through contention resolution then seeks to drastically change the nature of the TLD, the working group and the ICANN org deliberately limited the scope of this procedure. As stated in the procedure, the changes must not remove the Community Registration Policies, excessively broaden or narrow registrant eligibility and/or name selection requirements or result in significant negative impact to the TLD Community.

- In response to the ALAC recommendation that Section 2.3 should be specified as a "formal ICANN Public Comment," the ICANN org notes that this procedure follows similar processes that allow for a comment period without causing an impractical level of added work on the larger ICANN community and the ICANN org in establishing an official Public Comment period. This is similar to the procedures for [Applications for Specification 13](#), [Code of Conduct Exemption Requests](#), and [Registry Agreement terminations](#). As an output of the 30-day comment period, the ICANN org will publish its determination and rationale inclusive of an analysis of any comments received.

- In Sections 3.2.1 and 3.2.2, the ALAC suggested clarification on the timing of ICANN's determination. In response to this, the ICANN org and the working group agreed to update the sections to clarify that the timing of ICANN's determination would be 30 days from the close of the comment period or from the time of the registry operator's response to any concerns raised during the comment period.
- As an additional note for transparency, the ICANN org suggested modifications for implementation practicality. As a result, the ICANN org and the working group agreed to:
  - Modify Annex A, "Community gTLD Change Request Form," to "Community gTLD Change Request Questionnaire."
  - Remove the reference to the Naming Services Portal.
  - Remove the footnote in the first paragraph because the [.BERLIN](#) and [.WIEN](#) Registry Agreements were amended in 2017 to include Section 2.19.
  - Remove "draft" and update the date to April 2018.

2(b) Comments suggesting changes to Annex A, Community gTLD Change Request Form:

- In response to the BC suggestion that the registry operator should clarify if it is adding or removing members from the TLD community and provide rationale, ICANN and the working group believe the rationale and description of changes to eligibility requirements in Section 1 of Annex A asks the registry operator to describe whether the Request includes any changes in membership. This will be further supported by the documentation of support and consultation supplied by the registry operator. Furthermore, the ICANN org and the working group agreed to modify question 1.2 of Annex A to ask the registry operator to explain "the motivation and rationale for this Change Request" rather than whether the change was requested by the TLD Community. This modification broadens the question to gather a better understanding of the reason for the change request.
- The BC requested modification of question 1.6 to require the registry operator to explain any potential narrowing or broadening of the community eligibility requirements of the community TLD. As a result, the ICANN org and the working group agreed to modify the question as follows: "Explain if this Community TLD Change will broaden or narrow the eligibility requirements. Explain why you believe this Community TLD Change will not excessively broaden or narrow current eligibility requirements."
- In response to the BC's request for the RO to explain the specific impact on certain groups of the TLD community in question 1.4, the ICANN org and working group believe this is adequately covered in the question. However, the procedure has been revised slightly to encourage additional clarity in the expected response. The question is updated as follows: "What potential detriment would there be to the existing TLD Community as a result of the Community gTLD Change? If any, identify the group and explain what measures would be adopted to minimize the potential detriment."
- The BC suggested encouraging "expert and professional consultations prior to the submission of a Change Request." The ICANN org and the working group agreed to make no modification based on this suggestion as there is no prescribed definition of an expert for community gTLDs. As part of this procedure, community gTLD registry operators are already tasked with conducting their own analysis and consultations with the TLD community in addition to providing this evidence of support and rationale. Furthermore, nothing in a community TLD's Registry Agreement requires this additional obligation. However, if such information is provided it may be considered as part of the Change Request.

- In question 2.2, the BC suggests requesting more description of a community gTLD registry operator's policies and procedures as they relate to change requests. Due to the varying nature of community gTLDs, the ICANN org and the working group agreed the suggested additions from the BC would be too specific for the range of community TLDs. Nonetheless, in response to the BC's suggestion, the ICANN org and the working group agreed to modify question 2.2 of Annex A to request a description of the rules/standards that govern the community gTLD, if applicable.
- In question 6.3, the registry operator is asked to describe whether an approved change request will require updates to any other contractual or policy obligations in order to implement the change. The BC suggested "going one step further" to describe if a third party's contractual obligations will be materially impacted. In response to this suggestion, the ICANN org and the working group agreed to make no change. The intended purpose of this question is to identify if any other contractual obligations are impacted if the Change Request is approved in order to prepare for those required changes. The suggested modification could result in an examination of some of the registry operator's business practices that are beyond the scope of ICANN's requirements and add unnecessary burden on Community gTLD registry operators for the purpose of this procedure.

### **(3) Analysis of comments requesting additional clarification of elements of the draft procedure**

In consideration of the requests for additional clarification, the ICANN org and the working group agreed to the following responses.

- The BC requested clarification of which TLDs qualify for this procedure. The ICANN org and the working group agreed to a modification of the definition of a Community gTLD to specify those Registration Agreements where the section title of Specification 12 is either "Community Registration Policies" or "TLD Policies." Ultimately, this includes new gTLDs containing Specification 12 in their Registry Agreement as well as previously Sponsored TLDs that have adopted Specification 12 as "Community Registration Policies" or "TLD Policies."
- The BC recommended the procedure apply to all terms of a community TLD registry agreement rather than the "initial term" only as originally stated in the first paragraph of the draft procedure. The ICANN org and the working group agreed to this modification (by removing "initial term") based on the concept that the procedure should apply to any Community gTLD as long as it fits the eligibility definitions of the procedure.

The BC also asked for clarity on whether a Sponsored TLD is in its initial term of the contract if it renews to a Community gTLD Registry Agreement. Based on the ICANN org and the working group's agreement to remove the reference to "initial term" in the first paragraph of the draft procedure, the question of the term of a Registry Agreement is no longer relevant as it pertains to this draft procedure.

- In reference to Section 3.1(d), the BC suggested further defining a registry operator's "adequate response" to concerns raised during the comment period. In the event concerns were raised during the comment period, the ICANN org expects to work with the unique situation of each registry operator to determine whether these concerns are alleviated by the registry operator's response and from their responses to questions in Annex A. Due to the varying nature of each Community gTLD and TLD community, ICANN org and the working group agreed not to further define "adequate response" in Section 3.1(d), but added the BC's suggestions for supporting evidence as possible methods for the registry operator to provide an adequate response.
- In Section 2.1 of the procedure, the ALAC requested adding a requirement for the registry operator to explain any departure from the description of the TLD Community in the original

Specification 12. The ICANN org and the working group believe these responses are already required by Annex A and, therefore, there is no update required to the draft procedure. The clear expectation is that the registry operator must describe its current Community TLD eligibility requirements and how they are impacted by the Change Request.

- The BC requested clarity on the appropriate mechanism for community members or the registry operator to appeal an ICANN determination regarding a community change request. ICANN's accountability mechanisms are available for community use, specifically a [Request for Reconsideration](#). The [ICANN Complaints Office](#) is another available mechanism.

#### **(4) Analysis of comments on the time it took to develop such a procedure**

The ICANN org appreciates the concerns raised by fTLD over the prolonged process to reach this point and the lack of business predictability for community gTLDs as a result.

The ICANN org acknowledges that it has deferred several registry operator requests for changes to Specification 12 of the Registry Agreement due to the lack of clear guidance about whether criteria to process proposed changes are a matter of policy discussions or implementation. Ultimately, the ICANN org understood the need for a process and criteria to enable community gTLD registry operators to evolve their registration policies with the changing needs of a TLD community thanks to the push from the Community gTLD Change Request Process Working Group. The working group and the ICANN org sought a pathway to ensure no policy concerns were raised by initiating a public comment proceeding of the draft procedure and communicating with the GNSO Council prior to and after completion of the analysis of comments from the Public Comment proceeding.

Following the guidance from the GNSO Council, the ICANN org has submitted the summary and analysis of comments to the GNSO Council accompanied by a cover note offering its conclusion that comments did not indicate the procedure is in conflict with existing policy. Based on the results of the public comment proceeding, the ICANN org suggests moving toward implementation unless any additional concerns are raised by the GNSO Council.

#### **(5) Analysis of comments regarding the Registry Agreement renewals of Sponsored TLDs**

The ICANN org appreciates the concerns raised by fTLD and the BC regarding the renewals of previously Sponsored TLDs. The Registry Agreement renewal process is a separate process from this draft procedure during which the registry operator and the ICANN org may discuss and negotiate changes to the contract. It is not within scope of this draft procedure for Community gTLD Change Requests.

The BC suggested the renewal of the .MUSEUM Registry Agreement (RA) "should have been deferred until the draft procedure for change requests was developed and approved." However, the Draft Community gTLD Change Request Procedure would not apply to Registry Agreement renewals nor to a TLD without Specification 12 per the definition of a Community gTLD within the draft procedure. Therefore, the renewal process for .MUSEUM could not have used this procedure even if it had been in place at the time.

Based on the ICANN org and working group's agreement to remove "initial term" from the draft procedure's description, this procedure would apply to all Community gTLDs that meet the description within the procedure regardless of the term of the contract. Furthermore, it would not serve as a mechanism for any Community gTLD registry operator to remove its Specification 12. As a reminder, the guiding principles state the Draft Procedure for Community gTLD Change Requests "is the procedure for a Community gTLD Registry Operator to seek approval from ICANN to modify the Community Registration Policies enumerated in Specification 12 to its Registry Agreement." At the same time, the Community gTLD registry operator "may not seek changes that would remove the

Community Registration Policies, excessively broaden or narrow registrant eligibility and/or name selection requirements, or result in significant negative impact to the TLD Community.”

For information regarding the renewal of .MUSEUM, please see the Proposed Renewal of .MUSEUM Sponsored Registry Agreement [public comment webpage](#) and the [Report of Comments](#).

### **Conclusion and Next Steps**

After consideration of comments received, the ICANN org and the Community gTLD Change Request Working Group concluded that comments did not indicate the procedure is in conflict with existing policy. The ICANN org has submitted this summary and analysis report to the GNSO Council. Barring feedback to the contrary from the Council, the ICANN org will handle the procedure as an implementation matter.

The comments received focused on suggested modifications to procedural elements or requests for clarification. The ICANN org and the working group discussed updates to the draft procedure based on the comments and are working to finalize an updated version to implement and post on ICANN.org. Following the production of an updated version, the ICANN org will initiate the required activities to prepare to offer this service for community gTLD registry operators.