



Public comment on the Draft Evaluation Guide for Community Priority Evaluation (CPE)

Introduction

The Intellectual Property Constituency (IPC) is one of the constituencies within the Commercial Stakeholder Group (CSG) of the Generic Names Supporting Organization (GNSO) at the Internet Corporation for Assigned Names and Numbers (ICANN). It is responsible for advising the ICANN Board, the ICANN Organization, and other stakeholders on policy issues related to the management of the Domain Name System (DNS), particularly matters concerning intellectual property and consumer protection. The IPC represents the views and interests of intellectual property owners worldwide, with a particular emphasis on trademark, copyright, and related intellectual property rights and their impact on and interaction with the DNS.

We also represent the interests and concerns of consumers who depend on strong intellectual property protections as an essential element of consumer confidence, consumer trust and consumer protection. Our members include individuals, companies, law firms, and intellectual property organizations from around the world.

On 24 March 2026, ICANN published for public comment the [Draft Evaluation Guide for Community Priority Evaluation \(CPE\)](#) (hereinafter the "**Draft**"). CPE is an independent analysis conducted by a third-party expert panel for determining whether a Community Application filed in the course of ICANN's [New gTLD Program: 2026 Round](#) fulfils the criteria laid out in Section 5.4. of the Applicant Guidebook (AGB) and should receive priority in a contention set. The Draft provides an overview of the CPE process, defines the roles of the panel and ICANN, lays out the panel's activities and timeline for evaluation, and provides guidance by criterion for the panel to consider as it conducts its evaluation.

Suggested next steps within ICANN

The IPC suggests that the Draft be revised, *particularly*, with regard to the CPE Evaluation Criterion of "**Community Establishment**" (Criterion 1) and to raise the threshold for what constitutes *an established and recognized community with longevity*.

The IPC considers it also necessary to introduce a meaningful differentiation in the scoring system between applicants satisfying the CPE Evaluation criteria to a greater extent than others. Appropriate measures should be taken that a Community Application reaching, e.g., 16 out of 16 points prevails in a contention set with a Community Application reaching only 12 out

of 16 points and does not have to proceed to auction. Community applications are the one area where ICANN has decided to weigh in on who would be the best applicant to run a particular TLD. The reward for being selected is being released from ICANN's auction of last resort in the event the applied-for string is in a contention set. Since ICANN has already decided that it will choose one applicant over another base upon scoring criteria, it should follow that to its logical conclusion and pick the highest scoring applicant which, if the scoring criteria is suitable, will naturally lead ICANN to determine which community base applicant is the best representative of communities in relationship to the applied-for string. This ensures that the applicant that best represents a community isn't forced out of the DNS by a less-qualified community applicant that simply has more money to participate in an ICANN auction.

With regard to the Specification 12 of the Registry Agreement, the IPC advocates including a specific reference to the results of the Subsequent Procedures (SubPro) Policy Development Process (PDP) according to which applicants for Community Applications are required to commit to the requirements laid out in this Specification 12 already at the time of filing of the Community Application.

Specific comments on Draft Guide

The IPC notes at the outset of this comment that its membership does not hold a uniform view on CPE as a policy instrument as laid down in Section 5.4. of the AGB. There is a group of members that considers the current CPE framework fundamentally problematic and questions whether it should be retained at all, citing concerns about the susceptibility of the current scoring system to manipulation and the availability of Applicant Support as an alternative mechanism. Another group of members believes that no changes at all should be made to CPE, referring to the fact that these concerns had sufficiently been addressed by the SubPro PDP as well as to the legitimate trust placed by applicants in the CPE framework laid down in the AGB as published by ICANN in December 2025. The IPC acknowledges these concerns as legitimate and reflective of a long-standing debate within the ICANN community.

The basis for this comment shall be the majority position within the IPC which appears to be mediating both approaches. The IPC acknowledges that the general framework for CPE was duly approved through the SubPro PDP and subsequently endorsed by the GNSO Council and the ICANN Board. Applicants should be entitled to rely on the validity of the general CPE framework as laid down in Section 5.4. of the AGB. The IPC sees it inappropriate for this comment to serve as a vehicle to relitigate outcomes that were thoroughly vetted in the prior PDP. This would unnecessarily challenge the credibility of ICANN's multistakeholder model and its policy development process in general.

This comment shall address only issues raised by the Draft itself with a particular focus on one overriding concern: The criteria and their application must be sufficiently rigorous to ensure that CPE achieves its intended purpose — namely, to provide a meaningful priority mechanism for genuine, established communities — while remaining resistant to opportunistic or bad-faith applications. Without sufficiently significant and tailored restrictions CPE would lose its legitimacy as it could be claimed by any group with even a loose communal identity.

Specifically, the IPC urges ICANN to review the guidelines provided for the Criterion of **"Community Establishment"** (Criterion 1), *in particular*, the interpretation of what is considered an established, recognized community. A high threshold should apply when assessing whether an applicant constitutes a genuine, pre-existing community. While there is no doubt that CPE constitutes an added value for real communities (such as, *e.g.*, the Cherokee Nation) a loose or self-defined communal identity should under no circumstances be sufficient. There is a realistic risk that a well-resourced applicant could construct a plausible-looking community claim, *inter alia*, for the purposes of blocking a competing application. Such scenario must be actively guarded against. This applies even more when considering that neither the AGB nor the Draft seem to make a difference between two Community Applications one of which is allocated 16 out of 16 possible points (the "perfectly" established and recognized community so-to-speak) while another one only reaches 12 out of 16 possible points (the "barely" established and recognized community so-to-speak). In such scenario both Community Applications would proceed to an ICANN New gTLD Auction - even though one applicant may be seen as "the" Community while the other barely satisfies the necessary requirements and potentially even has malicious intents.

Under no circumstances, the existing standards should be lowered. The Draft must not, whether explicitly or in its practical effect, reduce the bar set by the AGB. Any interpretive guidance provided to the panel should reinforce, not dilute, the criteria already established. Given the significant costs associated with the CPE process, applicants are entitled to be part of a clear and predictable process. The guide should provide sufficient guidance for applicants to understand how the panel will assess each criterion, without creating new uncertainties that were not presented in the AGB.

Furthermore, the IPC notes that the requirement of applicants for Community Applications first having to satisfy all Registry Voluntary Commitments under Specification 12 of the Registry Agreement is not reflected in the Draft. This requirement was one of the outcomes of the SubPro PDP and should, therefore, be reflected and duly highlighted in the draft. We believe that this was merely a drafting oversight by Staff, and now is the time to correct that.

The IPC reiterates that this comment does not seek to reopen or revisit the policy decisions made during the SubPro PDP. It is offered in the spirit of ensuring that the evaluation guide faithfully implements those decisions in a manner that is fair, rigorous, and resistant to manipulation. In other words, we want the community application process to actually serve the purpose for which it was intended.

Conclusion

In conclusion, the IPC's position reflects a balance between three equally important imperatives among IPC membership. While it is important respecting the integrity of ICANN's policy development process there is a legitimate need for a CPE framework that is genuinely robust and resistant to abuse - which may be questioned under the current CPE framework laid out in the AGB and specified by the Draft subject to this comment.

The IPC recognises that CPE, when properly developed and applied, serves a valuable purpose in protecting the interests of genuine, established communities and ensuring that the new round

of gTLDs delivers meaningful benefits to those communities it was also designed to protect. However, this value largely depends on how well the criteria for CPE are defined and how they are applied by the expert panel. A CPE framework that can be exploited by loosely organised groups or bad actors is not merely ineffective — it is counterproductive and risks discrediting the new gTLD program as much as it endangers the communities that it serves to protect.

The IPC therefore calls upon ICANN to ensure that the Draft review addresses the concerns raised in this comment, *in particular*, with respect to the interpretation of community identity under Criterion 1, the absence of any reference to the Specification 12 pre-condition, and the risk posed by the current scoring system's failure to distinguish meaningfully between strong and marginal community applications.

The IPC stands ready to engage constructively with ICANN and other stakeholder groups in refining the evaluation guide and remains committed to a New gTLD Program that is fair, transparent and credible all participants, including for applicants of dotbrand (.brand) domains and for applicants of community applications.