

Report of Board Actions and Responses to Policy Recommendations concerning the New gTLD Program: Next Round

January 2025

General Note

This document includes the final status of the [Final Report on the new gTLD Subsequent Procedures Policy Development Process](#) (Final Report) outputs from the [March 2023](#), [September 2023](#), [October 2023](#), and [June 2024](#) scorecards, and incorporates the [Board's Resolution](#) from November 2024.

This document contains only those topics that contained recommendations that were considered by the Board. E.g., Topic 1 in the Final Report did not contain any such recommendations.

This document is provided for reference and is intended to compile the ICANN Board's actions and response to the policy recommendations in the Final Report for ease of reference. In the event of inconsistencies with the original scorecards or Board Resolution, the original scorecards or Board Resolution will be considered authoritative.

Please note that the footnote numbers in this scorecard may differ from those embedded in the Final Report.

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Topic 2: Predictability			
<p>Recommendation 2.1: ICANN must establish predictable, transparent, and fair processes and procedures for managing issues that arise in the New gTLD Program after the Applicant Guidebook is approved which may result in changes to the Program and its supporting processes. The Working Group recommends that ICANN org use the Predictability Framework detailed in Annex E of this Report as its guidance during implementation to achieve the goal of predictability in mitigating issues.</p> <p>The Predictability Framework is principally:</p> <ul style="list-style-type: none"> • A framework for analyzing the type/scope/context of an issue and if already known, the proposed or required Program change, to assist in determining the impact of the change and the process/mechanism that should be followed to address the issue. The framework is therefore a tool to help the community understand how an issue should be addressed as opposed to determining what the 			<p>Adopted in March 2023</p>

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<p>solution to the issue should be; the framework is not a mechanism to develop policy.</p> <p>The Framework is not intended to identify the solution to an issue but rather, to identify the proper mechanism to reach a solution in a consistent and procedurally sound manner. Therefore, this Framework complements the existing GNSO processes and procedures. It is not intended to be a substitute or replacement for those, nor should the Framework be seen as supplanting the GNSO Council’s decision-making authority. In fact, the GNSO processes and procedures are incorporated into the Predictability Framework explicitly. In the event of a conflict, existing GNSO processes and procedures, including the GNSO Input Process, GNSO Guidance Process, and EPDP as contained in the Annexes to the GNSO Operating Procedures take precedence.</p> <p>Additionally, the Working Group recommends the formation of a Standing Predictability Implementation Review Team (“SPIRT”) (Pronounced “spirit”) to serve as the body responsible for reviewing potential issues related to the Program, to conduct analysis utilizing the framework, and to recommend the process/mechanism</p>			

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that should be followed to address the issue (i.e., utilize the Predictability Framework). The GNSO Council shall be responsible for oversight of the SPIRT and may review all recommendations of the SPIRT in accordance with the procedures outlined in the GNSO Operating Procedures and Annexes thereto.			
Recommendation 2.7: In the event significant issues arise that require resolution via the Predictability Framework, applicants should be afforded the opportunity to withdraw their application from the process and receive an appropriate refund consistent with the standard schedule of refunds.			Adopted in March 2023
Topic 3: Applications Assessed in Rounds			
Affirmation with Modification 3.1: The Working Group affirms Recommendation 13 from the 2007 policy, which states: “Applications must initially be assessed in rounds until the scale of demand is clear.” However, the Working Group believes that the recommendation should be revised to simply read, “Applications must be assessed in rounds.”	The SubPro Final Report recommendation envisions that “the next application procedure should be processed in the form of a round” and “Application procedures must take place at predictable, regularly occurring intervals without indeterminable periods of review”. However, the GNSO Council confirms its willingness to engage with the ICANN Board to explore a shared vision for the long-term evolution of the program, which could be materially different than what is envisioned for the		Adopted with GNSO-Council Approved Clarification in September 2023
Recommendation 3.2: Upon the			Adopted with

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<p>commencement of the next application submission period, there must be clarity around the timing and/or criteria for initiating subsequent procedures from that point forth. More specifically, prior to the commencement of the next application submission period, ICANN must publish either (a) the date in which the next subsequent round of new gTLDs will take place or (b) the specific set of criteria and/or events that must occur prior to the opening up of the next subsequent round.</p>	<p>next round of the New gTLD Program in the Topic 3 recommendations.</p>		<p>GNSO-Council Approved Clarification in September 2023</p>
<p>Recommendation 3.5: Absent extraordinary circumstances application procedures must take place at predictable, regularly occurring intervals without indeterminable periods of review unless the GNSO Council recommends pausing the program and such recommendation is approved by the Board. Such extraordinary circumstances must be subject to the Predictability Framework under Topic 2 of this Report. Unless and until other procedures are recommended by the GNSO Council and approved by the ICANN Board, ICANN must only use “rounds” to administer the New gTLD Program.</p>			<p>Adopted with GNSO-Council Approved Clarification in September 2023</p>
<p>Recommendation 3.6: Absent extraordinary circumstances, future reviews and/or policy development</p>			<p>Adopted with GNSO-Council Approved</p>

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processes, including the next Competition, Consumer Choice & Consumer Trust (CCT) Review, should take place concurrently with subsequent application rounds. In other words, future reviews and/or policy development processes must not stop or delay subsequent new gTLD rounds.			Clarification in September 2023
Recommendation 3.7: If the outputs of any reviews and/or policy development processes has, or could reasonably have, a material impact on the manner in which application procedures are conducted, such changes must only apply to the opening of the application procedure subsequent to the adoption of the relevant recommendations by the ICANN Board.			Adopted with GNSO-Council Approved Clarification in September 2023
Topic 4: Different TLD Types			
Recommendation 4.1: The Working Group recommends differential treatment for certain applications based on either the application type, the string type, or the applicant type. Such differential treatment may apply in one or more of the following elements of the New gTLD Program: Applicant eligibility ¹ ; Application			Adopted in March 2023

¹ See section 1.2.1 of the 2012 Applicant Guidebook.

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<p>evaluation process/requirements²; Order of processing; String contention³; Objections⁴; Contractual provisions.</p> <ul style="list-style-type: none"> ● Different application types: <ul style="list-style-type: none"> ○ Standard ○ Community-Based (for different application questions, Community Priority Evaluation, and contractual requirements)⁵ ○ Geographic Names (for different application questions)⁶ ○ Specification 13 (.Brand TLDs) (for different application questions and contractual requirements)⁷ ● Different string types: <ul style="list-style-type: none"> ○ Geographic Names (for different application questions)⁸ ○ IDN TLDs (priority in 			

² See Module 2 of the 2012 Applicant Guidebook.

³ See Module 4 of the 2012 Applicant Guidebook.

⁴ See Module 3 of the 2012 Applicant Guidebook.

⁵ As defined under Topic 34: Community Applications.

⁶ As defined in Annex J: Final Report of Work Track 5 on Geographic Names at the Top Level.

⁷ See Topic 22: Registrant Protections, Topic 9: Registry Voluntary Commitments / Public Interest Commitments, and Topic 20: Application Change Requests for recommendations impacting .Brand applicants.

⁸ As defined in Annex J: Final Report of Work Track 5 on Geographic Names at the Top Level.

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<ul style="list-style-type: none"> ○ order of processing)⁹ ○ Variant TLDs¹⁰ ○ Strings subject to Category 1 Safeguards¹¹ ● Different Applicant Types: <ul style="list-style-type: none"> ○ Intergovernmental organizations or governmental entities (for different contractual requirements) ○ Applicants eligible for Applicant Support¹² 			
<p>Recommendation 4.2: Other than the types¹³ listed in Recommendation 4.1, creating additional application types must only be done under exceptional circumstances.¹⁴ Creating additional application types, string types, or applicant</p>			Adopted in March 2023

⁹ As defined under Topic 19: Application Queuing.

¹⁰ As defined under Topic 25: IDNs.

¹¹ As defined under Topic 9: Registry Voluntary Commitments / Public Interest Commitments.

¹² As identified under Topic 17: Applicant Support.

¹³ In the 2012 round, there were only two types of applications, standard and community-based. Per the 2012 AGB, it stated that, “A standard gTLD can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. A standard applicant may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions. Standard simply means here that the applicant has not designated the application as community-based.” The WG believes that there is a difference between the type of application versus the type of string, and they are not necessarily dependent upon one another. For instance, a standard application can apply for a geographic names string. In addition, the type of applicant may have additional impacts on the process or contracting.

¹⁴ The Working Group notes that the so-called ‘Closed Generic’ application type is a separate type of application treated under Topic 23 of this report. The recommendation and implementation guidance provided under this topic is not intended to apply to Closed Generics, as that subject needs further policy work.

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types must be done solely when differential treatment is warranted and is NOT intended to validate or invalidate any other differences in applications.			
Topic 6: Registry Service Provider Pre-Evaluation			
Recommendation 6.2: The Working Group recommends establishing a program in which registry service providers (“RSPs”) ¹⁵ may receive pre-evaluation by ICANN if they pass the required technical evaluation and testing conducted by ICANN, or their selected third party provider. The only difference between a pre-evaluated RSP and one that is evaluated during the application evaluation process is the timing of when the evaluation and testing takes place; Therefore, all criteria for evaluation and testing must be the same.			Adopted in March 2023
Recommendation 6.3: Participation in the RSP pre-evaluation process must be voluntary and the existence of the process shall not preclude an applicant from providing its own registry services or providing registry services to other new gTLD registry operators, provided that the			Adopted in March 2023

¹⁵ The term “Registry Services Provider” or “RSP” refers to the entity that performs the critical registry services on behalf of a registry operator. In some cases, this may be the same entity as the registry operator itself; in other cases, this may be a third party to whom the registry operator subcontracts those services.

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applicant passes technical evaluation and testing during the standard application process.			
Recommendation 6.4: The RSP pre-evaluation process shall be open to all entities seeking such evaluation, including both new and incumbent RSPs. For the initial RSP pre-evaluation process, both the evaluation criteria and testing requirements shall be the same regardless of whether the RSP applying for evaluation is a new RSP or an incumbent RSP.			Adopted in March 2023
Recommendation 6.5: Pre-evaluation occurs prior to each application round and only applies to that specific round. Reassessment must occur prior to each subsequent application round.			Adopted in March 2023
Recommendation 6.8: The RSP pre-evaluation program must be funded by those seeking pre-evaluation on a cost-recovery basis. Costs of the program should be established during the implementation phase by the Implementation Review Team in collaboration with ICANN org	The GNSO Council confirms its understanding of the Implementation Review Team (IRT) Principles & Guidelines that state that, “the IRT is convened to assist staff in developing the implementation details for the policy to ensure that the implementation conforms to the intent of the policy recommendations.” The Council therefore recognizes that ICANN org will be responsible for establishing the fees charged for the RSP pre-evaluation program, in consultation with the IRT, as is consistent		Adopted with GNSO-Council Approved Clarification in September 2023

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	with the roles and responsibilities captured in the IRT Principles & Guidelines. The language used in Recommendation 6.8 is not intended to alter the respective roles and responsibilities of staff and the IRT.		
Recommendation 6.9: A list of pre-evaluated RSPs must be published on ICANN’s website with all of the other new gTLD materials and must be available to be used by potential applicants with an adequate amount of time to determine if they wish to apply for a gTLD using a pre-evaluated RSP.			Adopted in March 2023
Topic 7: Metrics and Monitoring			
Recommendation 7.1: Meaningful metrics must be identified to understand the impact of the New gTLD Program. To review metrics, data must be collected at a logical time to create a basis against which future data can be compared.			Adopted in March 2023
Recommendation 7.3: ICANN org must establish metrics and service level requirements for each phase of the application process including each during the review, evaluation, contracting and transition to delegation stages. ICANN must report on a monthly basis on its			Adopted in March 2023

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performance with respect to these key performance indicators.			
Recommendation 7.4: ICANN org must further develop its Service Level Agreement (SLA) monitoring to allow for more robust ongoing monitoring of TLD operations.			Adopted in March 2023
Recommendation 7.5: ICANN org must publish anonymized, aggregate SLA monitoring data on a regular basis.			Adopted in March 2023
Topic 8: Conflicts of Interest			
Recommendation 8.1: ICANN must develop a transparent process to ensure that dispute resolution service provider panelists, Independent Objectors, and application evaluators are free from conflicts of interest. This process must serve as a supplement to the existing Code of Conduct Guidelines for Panelists, Conflict of Interest Guidelines for Panelists, and ICANN Board Conflicts of Interest Policy. ¹⁶			Adopted in March 2023
Topic 9: Registry Voluntary Commitments / Public Interest Commitments			

¹⁶ <https://www.icann.org/resources/pages/governance/coi-en#>

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<p>Recommendation 9.1: Mandatory Public Interest Commitments (PICs) currently captured in Specification 11 3(a)-(d) of the Registry Agreement ¹⁷ must continue to be included in Registry Agreements for gTLDs in subsequent procedures. Noting that mandatory PICs were not included in the 2007 recommendations, this recommendation puts existing practice into policy. One adjustment to the 2012 implementation is included in the following</p>	<p>The GNSO Council confirms that any new Public Interest Commitments (PICs) or Registry Voluntary Commitments (RVCs) must be enforceable under the ICANN Bylaws and as a practicable matter. In respect of RVCs, both ICANN org and the applicant must agree that a proffered commitment is clear, detailed, mutually understood, and sufficiently objective and measurable as to be enforceable. And further, the Council observes that among the</p>	<p><u>Board Input regarding the Implementation Process:</u> The Board directs the ICANN Interim President and CEO, or her designee(s), to initiate and facilitate a Board-level community consultation before starting the implementation process. The purpose of this consultation is to ensure that the framework for implementing these recommendations remains consistent with the ICANN Bylaws. The Board encourages this consultation to be completed no later</p>	<p>Adopted with GNSO-Council Approved Clarification in October 2023</p>

¹⁷ The relevant sections are as follows: 3. Registry Operator agrees to perform the following specific public interest commitments, which commitments shall be enforceable by ICANN and through the Public Interest Commitment Dispute Resolution Process established by ICANN (posted at <http://www.icann.org/en/resources/registries/picdrp>), which may be revised in immaterial respects by ICANN from time to time (the “PICDRP”). Registry Operator shall comply with the PICDRP. Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Agreement) following a determination by any PICDRP panel and to be bound by any such determination. Registry Operator will include a provision in its Registry-Registrar Agreement that requires Registrars to include in their Registration Agreements a provision prohibiting Registered Name Holders from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name. Registry Operator will periodically conduct a technical analysis to assess whether domains in the TLD are being used to perpetrate security threats, such as pharming, phishing, malware, and botnets. Registry Operator will maintain statistical reports on the number of security threats identified and the actions taken as a result of the periodic security checks. Registry Operator will maintain these reports for the term of the Agreement unless a shorter period is required by law or approved by ICANN, and will provide them to ICANN upon request. Registry Operator will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies. Registry Operator of a “Generic String” TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person’s or entity’s “Affiliates” (as defined in Section 2.9(c) of the Registry Agreement). “Generic String” means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others. For full detail, see the 31 June 2017 Registry Agreement here: <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jull17-en.pdf>.

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recommendation (Recommendation 9.2). ¹⁸	purposes of PICs / RVCs is to address public comments, in addressing strings deemed highly sensitive or related to regulated industries, objections (whether formal or informal), GAC Early Warnings, and/or GAC Consensus Advice. This GNSO-Council Approved Clarification is made with the understanding that the ICANN Board will have a community-wide conversation on PICs/RVCs.	than ICANN79 so as to not impact the overall implementation timeline for the next round of new gTLDs. This community consultation is expected to inform and aid the work of ICANN org with the SubPro Implementation Review Team on developing the Applicant Guidebook.	
Recommendation 9.2: Provide single-registrant TLDs with exemptions and/or waivers to mandatory PICs included in Specification 11 3(a) and Specification 11 3(b). ¹⁹		<u>Issue Synopsys:</u> The Board expressed its concern in the Scorecard: Subsequent Procedures (SubPro PDP), adopted 16 March 2023 , that a waiver to Spec 11 Section 3 (a) and 3 (b) could lead to DNS abuse for second level registrations in a single registrant TLD going undeterred, unobserved and therefore unmitigated. The Board is also concerned that a waiver to Spec 11 Section 3 (a) and 3 (b) could require a change to the Registry Agreement's Specification 13, which would introduce significant implementation efforts to harmonize current 2012 agreements with future rounds if ICANN org elected to leverage the current agreement for the future	Not adopted in September 2024

¹⁸ In addition to the existing mandatory PICs discussed under this topic, Topic 24: String Similarity Evaluations includes a recommendation to introduce a new mandatory PIC that would be required in cases where two applications are submitted during the same application window for strings that create the probability of a user assuming that they are single and plural versions of the same word, but the applicants intend to use the strings in connection with two different meanings. The applicants would commit to the use stated in the application via a mandatory PIC.

¹⁹ For the sake of clarity, this recommendation and the exemption do NOT apply to Specification 11 3(c) or 11 3(d).

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		<p>rounds.</p> <p><u>Board Action and Rationale:</u> Specification 11, Section 3(a) of the Registry Agreement requires registry operators to include a provision in its Registry-Registrar Agreement that requires Registrars to include in their Registration Agreements a provision prohibiting registrants from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name. Further, domain names can be compromised and become a source for DNS abuse in single-registrant TLDs just as they can in TLDs where domain names can be registered to a registrant other than the registry operator.</p>	
<p>Supplemental Recommendation 9.2: TLDs that have exemptions from the Code of Conduct (Specification 9), including .Brand TLDs qualified for specification 13, may be granted, upon a successful</p>		<p><u>Board Rationale:</u> The Board has reviewed the Supplemental Recommendation and appreciates the Council’s work. However, the Board continues to believe that Spec 11 should apply to all registries and is</p>	<p>Not adopted in June 2024</p>

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<p>application for a waiver, an exemptions from either or both the mandatory PICs included in Specification 11 3(a) and Specification 11 3(b), provided that (i) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator, or its Affiliates, for the exclusive use of Registry Operator or its Affiliates, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate or Registry Operator, and (iii) in the case of Spec 11 (3)(b), Registry Operator demonstrates that it takes or will take other effective steps to identify and mitigate domains in the TLD perpetrating DNS Abuse, but which may not constitute periodical technical analysis as envisaged under the Registry Agreement.</p>		<p>concerned that creating bespoke steps to address DNS Abuse, as detailed in the Supplemental Recommendation, may lead to inconsistencies across the gTLD space. If implemented, Recommendation 9.2 could lead to DNS abuse for second-level registrations in a single-registrant TLD going undeterred, unobserved, and unmitigated. While DNS abuse in many single-registrant TLDs may be unlikely to impact users beyond the registrant, this may not always be the case. In circumstances in which parties other than the registrant use the TLD in some fashion, waivers to mandatory PICs included in Specification 11, Section 3(a) and Specification 11, Section 3 (b) could expose those users to undetected and unmitigated DNS abuse. Therefore, the Board has determined that its rationale for not adopting the original Recommendation 9.2, further detailed in the September 2023 Scorecard: Subsequent Procedures, still holds true, and the Board has determined that its adoption of this Recommendation would not be in the best interests of the ICANN community or ICANN.</p> <p>Section3 (b) requires registry operators to periodically conduct a technical analysis to assess whether domains in the TLD are being used to perpetrate security threats and to maintain statistical reports on the number</p>	

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		<p>of security threats identified and the actions taken as a result of the periodic security checks.</p> <p>The Board concludes that Recommendation 9.2, if implemented, could lead to DNS abuse for second - level registrations in a single - registrant TLD going undeterred , unobserved , and unmitigated. While DNS abuse in many single - registrant TLDs may be unlikely to impact users beyond the registrant , this may not always be the case. In circumstances in which parties other than the registrant use the TLD in some fashion, waivers to mandatory PICs included in Specification 11 , Section 3 (a) and Specification 11 , Section 3 (b) could expose those users to undetected and unmitigated DNS abuse. For these reasons, the Board has determined that its adoption of this Recommendation would not be in the best interests of the ICANN community or ICANN.</p>	
<p>Recommendation 9.4: The Working Group recommends establishing a process to determine if an applied-for string falls into one of four groups defined by the NGPC framework for new gTLD strings deemed to be applicable to highly sensitive or regulated industries. This process must be included in the Applicant Guidebook</p>	See Recommendation 9.1	See Recommendation 9.1	Adopted with GNSO-Council Approved Clarification in October 2023

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along with information about the ramifications of a string being found to fall into one of the four groups.			
Recommendation 9.8: If an applied-for string is determined to fall into one of the four groups of strings applicable to highly sensitive or regulated industries, the relevant Category 1 Safeguards must be integrated into the Registry Agreement as mandatory Public Interest Commitments.	See Recommendation 9.1	See Recommendation 9.1	Adopted with GNSO-Council Approved Clarification in October 2023
Recommendation 9.9: ICANN must allow applicants to submit Registry Voluntary Commitments (RVCs) (previously called voluntary PICs) in subsequent rounds in their applications or to respond to public comments, objections, whether formal or informal, GAC Early Warnings, GAC Consensus Advice, and/or other comments from the GAC. Applicants must be able to submit RVCs at any time prior to the execution of a Registry Agreement; provided, however, that all RVCs submitted after the application submission date shall be considered Application Changes and be subject to the recommendation set forth under topic 20: Application Changes Requests, including, but not limited to, an operational comment period ²⁰ in	See Recommendation 9.1	See Recommendation 9.1	Adopted with GNSO-Council Approved Clarification in October 2023

²⁰ a 30-day comment period giving the public the opportunity to comment on any change to a public part of an application

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accordance with ICANN’s standard procedures and timeframes.			
Recommendation 9.10: RVCs must continue to be included in the applicant’s Registry Agreement	See Recommendation 9.1	See Recommendation 9.1	Adopted with GNSO-Council Approved Clarification in October 2023
Recommendation 9.12: At the time an RVC is made, the applicant must set forth whether such commitment is limited in time, duration and/or scope. Further, an applicant must include its reasons and purposes for making such RVCs such that the commitments can adequately be considered by any entity or panel (e.g., a party providing a relevant public comment (if applicable), an existing objector (if applicable) and/or the GAC (if the RVC was in response to a GAC Early Warning, GAC Consensus Advice, or other comments from the GAC)) to understand if the RVC addresses the underlying concern(s).	See Recommendation 9.1	See Recommendation 9.1	Adopted with GNSO-Council Approved Clarification in October 2023
Recommendation 9.13: In support of the principle of transparency, RVCs must be readily accessible and presented in a manner that is usable, as further described in the implementation guidance below.	See Recommendation 9.1	See Recommendation 9.1	Adopted with GNSO-Council Approved Clarification in October 2023

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<p>Recommendation 9.15: The Working Group acknowledges ongoing important work in the community on the topic of DNS abuse²¹ and believes that a holistic solution is needed to account for DNS abuse in all gTLDs as opposed to dealing with these recommendations with respect to only the introduction of subsequent new gTLDs. In addition, recommending new requirements that would only apply to the new gTLDs added to the root in subsequent rounds could result in singling out those new gTLDs for disparate treatment in contravention of the ICANN Bylaws. Therefore, this PDP Working Group is not making any recommendations with respect to mitigating domain name abuse other than stating that any such future effort must apply to both existing and new gTLDs (and potentially ccTLDs). The Working Group has reached this conclusion after duly considering the DNS abuse related CCT-RT Recommendations, which</p>	<p>The GNSO Council confirms that this recommendation does not require any implementation nor create any dependencies for the Next Round of the New gTLD Program.</p>		<p>Adopted with GNSO-Council Approved Clarification in September 2023</p>

²¹ The Working Group did not attempt to define the term “DNS abuse” in the course of its discussions and is not endorsing any particular definition of this term. The Working Group notes, however, that the CCT-RT used the following definition to support its work: “Intentionally deceptive, conniving, or unsolicited activities that actively make use of the DNS and/or the procedures used to register domain names.” See p. 3 of the “New gTLD Program Safeguards Against DNS Abuse: Revised Report” (2016) for additional context on this definition: <https://www.icann.org/news/announcement-2016-07-18-en>. The CCT-RT used the term “DNS Security Abuse” in its Final Report to refer to specific, technical forms of abusive behavior: spam, phishing, and malware distribution in the DNS. The CCT-RT also drew on the Registration Abuse Policies Working Group’s Final Report, which provides additional detail about how abuse has been characterized by the ICANN Community: https://gns0.icann.org/sites/default/files/filefield_12530/rap-wg-final-report-29may10-en.pdf

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includes 14, ²² 15, ²³ and 16 ²⁴ . Note, however, that at the time of the drafting of this report, the ICANN Board only approved Recommendation 16. Recommendations 14 and 15 remain in a “Pending” status. ²⁵			
Topic 11: Universal Acceptance			
Recommendation 11.3: Applicants should be made aware of Universal Acceptance challenges in ASCII and IDN TLDs. Applicants must be given access to all			Adopted in March 2023

²² CCT-RT Recommendation 14 states: “Consider directing ICANN org, in its discussions with registries, to negotiate amendments to existing Registry Agreements, or in consideration of new Registry Agreements associated with subsequent rounds of new gTLDs, to include provisions in the agreements to provide incentives, including financial incentives, for registries, especially open registries, to adopt proactive anti-abuse measures.”

²³ CCT-RT Recommendation 15 states: “ICANN Org should, in its discussions with registrars and registries, negotiate amendments to the Registrar Accreditation Agreement and Registry Agreements to include provisions aimed at preventing systemic use of specific registrars or registries for DNS Security Abuse. With a view to implementing this recommendation as early as possible, and provided this can be done, then this could be brought into effect by a contractual amendment through the bilateral review of the Agreements. In particular, ICANN should establish thresholds of abuse at which compliance inquiries are automatically triggered, with a higher threshold at which registrars and registries are presumed to be in default of their agreements. If the community determines that ICANN org itself is ill-suited or unable to enforce such provisions, a DNS Abuse Dispute Resolution Policy (DADRP) should be considered as an additional means to enforce policies and deter against DNS Security Abuse. Furthermore, defining and identifying DNS Security Abuse is inherently complex and would benefit from analysis by the community, and thus we specifically recommend that the ICANN Board prioritize and support community work in this area to enhance safeguards and trust due to the negative impact of DNS Security Abuse on consumers and other users of the Internet.”

²⁴ CCT-RT Recommendation 16 states: “Further study the relationship between specific registry operators, registrars and technical DNS abuse by commissioning ongoing data collection, including but not limited to, ICANN Domain Abuse Activity Reporting (DAAR) initiatives. For transparency purposes, this information should be regularly published, ideally quarterly and no less than annually, in order to be able to identify registries and registrars that need to come under greater scrutiny, investigation, and potential enforcement action by ICANN org. Upon identifying abuse phenomena, ICANN should put in place an action plan to respond to such studies, remediate problems identified, and define future ongoing data collection.”

²⁵ See relevant Board scorecards here: <https://www.icann.org/en/system/files/files/resolutions-final-cctrecs-scorecard-01mar19-en.pdf> and here: <https://www.icann.org/en/system/files/files/cct-pending-recsboard-action-22oct20-en.pdf>

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applicable information about Universal Acceptance currently maintained on ICANN’s Universal Acceptance Initiative page, through the Universal Acceptance Steering Group, as well as future efforts.			
Topic 12: Applicant Guidebook			
Recommendation 12.4: The Working Group recommends focusing on the user when drafting future versions of the Applicant Guidebook (AGB) and prioritizing usability, clarity, and practicality in developing the AGB for future new gTLD processes. The AGB should effectively address the needs of new applicants as well as those already familiar with the application process. It should also effectively serve those who do not speak English as a first language in addition to native English speakers.			Adopted in March 2023
Recommendation 12.8: The English version of the Applicant Guidebook must be issued at least four (4) months prior to the commencement of the applicant submission period.			Adopted in March 2023
Recommendation 12.9: All other translated versions of the Applicant Guidebook, including in the 6 UN			Adopted in March 2023

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languages, must be available no later than two (2) months prior to the commencement of the application submission period.			
Recommendation 12.11: Application fees for each application must be published in that round’s Applicant Guidebook.			Adopted in March 2023
Topic 13: Communications			
Recommendation 13.2: The Working Group believes that an effective communications strategy and plan is needed to support the goals of the program referenced in Affirmation 6.1. Accordingly, the Working Group recommends that the New gTLD communications plan must be developed with timeliness, broad outreach and accessibility as key priorities. The communications plan must be targeted to achieve the goals of the New gTLD Program as articulated. The plan must include a Communications Period commensurate in length to achieve those goals.			Adopted in March 2023
Topic 14: Systems			
Recommendation 14.2: The design, development, and deployment of applicant-facing systems must prioritize			Adopted in March 2023

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security, stability, usability, and a positive user experience following industry best practices.			
Recommendation 14.8: The principles of predictability and transparency must be observed in the deployment and operation of applicant-facing systems.			Adopted in March 2023
Recommendation 14.11: With respect to its operation and administration of the systems, ICANN must retain the ability to act in emergency situations, including those where immediate action is necessary to remedy any service interruption, interference, service obstruction or other imminent threat to the systems, provided that ICANN gives notice to all impacted users of the affected system(s) as soon as reasonably practicable after such action has been taken. If such action involves any downtime to the system(s), ICANN shall provide updates to impacted users as to the root cause of the downtime, the impact of the downtime event on users of the system(s), and when normal service can be restored.			Adopted in March 2023
Topic 15: Application Fees			
Recommendation 15.7: In the event that			Adopted in

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<p>an application fee floor is used to determine the application fee, excess fees received by ICANN must be used to benefit the New gTLD Program and not any other ICANN program or purpose; that includes one or more of the following elements of the New gTLD Program:</p> <ul style="list-style-type: none"> a. a global communication and awareness campaign about the introduction and availability of new gTLDs; b. long-term program needs such as system upgrades, fixed assets, etc.; c. Applicant Support Program; d. top-up of any shortfall in the segregated fund as described below; or e. other purpose(s) that benefits the New gTLD Program. 			March 2023
Topic 16: Application Submission Period			
<p>Recommendation 16.1: The Working Group recommends that for the next application window and subsequent application windows, absent “extenuating or extraordinary” circumstances, the application submission period must be a minimum of 12 and a maximum of 15 weeks in length</p>		<p><u>Board Input Regarding the Implementation Process:</u> At this time, the Board does not have specific input about this recommendation regarding the implementation process.</p>	<p>Adopted in September 2023</p>

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Topic 17: Applicant Support			
<p>Recommendation 17.1: Implementation Guideline N from 2007 states: “ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.” The Working Group recommends that as was the case in the 2012 round, fee reduction must be available for select applicants who meet evaluation criteria through the Applicant Support Program. The Working Group further recommends new types of financial support for subsequent procedures that were not part of the Program in 2012, specifically, coverage of additional application fees (see Recommendation 17.2) and a bid credit, multiplier, or other similar mechanism that applies to a bid submitted by an applicant qualified for Applicant Support who participates in an ICANN Auction of Last Resort (see Recommendation 17.15 and Implementation Guidance 17.16 and 17.17). In addition, the Working Group recommends that ICANN facilitate non-financial assistance including the provision of pro-bono assistance to applicants in need. Further, ICANN must conduct outreach and awareness-raising activities during the Communications Period to both potential applicants and</p>			<p>Adopted in March 2023</p>

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<p>prospective pro-bono service providers.²⁶ The Working Group believes that the high-level goals and eligibility requirements for the Applicant Support Program remain appropriate. The Working Group notes, however, that the Applicant Support Program was not limited to least developed countries in the 2012 round and believes that the Program should continue to be open to applicants regardless of their location as long as they meet other program criteria. Therefore, the Working Group recommends the following language in place of Implementation Guideline N: “ICANN must retain the Applicant Support Program, which includes fee reduction for eligible applicants and facilitate the provision of pro-bono non-financial assistance to applicants in need.” The revised language updates the original Implementation Guideline to:</p> <ul style="list-style-type: none"> ● acknowledge that the Applicant Support Program was in place in the 2012 round ● include reference to pro-bono non-financial assistance in addition to fee reduction ● eliminate the reference to economies classified by the UN as least developed, as the Program is 			

²⁶ In the 2012 round, the pro-bono assistance program was implemented through the Applicant Support Directory: <https://newgtlds.icann.org/en/applicants/candidate-support/non-financial-support>.

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not limited to these applicants.			
<p>Recommendation 17.2: The Working Group recommends expanding the scope of financial support provided to Applicant Support Program beneficiaries beyond the application fee to also cover costs such as application writing fees and attorney fees related to the application process.</p>		<p><u>Issue Synopsys:</u> The Board remains concerned, as previously voiced as part of its comment on the Draft Final Report, over the open-ended nature of these fees as affirmative payments of costs beyond application fees could raise fiduciary concerns for the Board.</p> <p>Note, this concern does not extend to facilitation of <i>pro bono</i> services.</p> <p><u>Board Action and Rationale:</u> The Board reiterates its previous concerns about Recommendation 17.2, which calls for ICANN to “expand the scope of financial support provided to Applicant Support Program beneficiaries beyond the application fee to also cover costs such as application writing fees and attorney fees related to the application process.” As previously noted, the Board is concerned that the expansion of applicant support to affirmative payments of costs beyond application fees could raise fiduciary concerns for the Board. For example, such expansion of support could raise the possibility of inappropriate use of resources (e.g. inflated expenses, private benefit concerns, and other legal or regulatory concerns). For these reasons, the Board has</p>	Not adopted in September 2023

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		<p>determined that its adoption of this Recommendation would not be in the best interests of the ICANN community or ICANN.</p> <p>The Board recognizes and appreciates, however, that some potential gTLD applicants may need or benefit from these other types of financial assistance. As a result, the Board is conducting ongoing work relating to expanding the scope of financial support.</p>	
<p>Supplemental Recommendation 17.2: The GNSO Council recommends expanding the scope of Applicant Support provided to Applicant Support Program beneficiaries beyond the application fee to provide access to an array of resources useful for the capacity building, planning, application, evaluation, pre-delegation and post-delegation phases of the lifecycle of the application. For the avoidance of doubt, this recommendation does not obligate ICANN to provide support for all phases of the lifecycle of the application process as well as the registry.</p>			Adopted in June 2024
<p>Recommendation 17.3: The Working Group recommends that ICANN improve</p>			Adopted in March 2023

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outreach, awareness-raising, application evaluation, and program evaluation elements of the Applicant Support Program, as well as usability of the Program.			
Recommendation 17.11: The Working Group supports Recommendation 6.1.a in the Program Implementation Review Report, which states: “Consider leveraging the same procedural practices used for other panels, including the publication of process documents and documentation of rationale.” ²⁷			Adopted in March 2023
Recommendation 17.12: ICANN org must develop a plan for funding the Applicant Support Program, as detailed in the Implementation Guidelines below.			Adopted in March 2023
Recommendation 17.15: If an applicant qualifies for Applicant Support and is part of a contention set that is resolved through an ICANN Auction of Last Resort, a bid credit, multiplier, or other similar mechanism must apply to the bid submitted by that applicant.			Adopted in March 2023

²⁷ The detailed description of this recommendation in the PIRR states: “Regarding execution of the program, in this round, the SARP was an independent panel that defined its own processes, procedures, and final reports. The SARP’s work was performed earlier than the other New gTLD Program evaluation panels, and based on lessons learned from the implementation of other panels, ICANN should consider whether additional guidance should be provided to the SARP regarding publication of their processes, final report format, and documentation of rationale.”

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<p>Recommendation 17.18: Unless the Support Applicant Review Panel (SARP) reasonably believes there was willful gaming, applicants who are not awarded Applicant Support (whether “Qualified” or “Disqualified”²⁸) must have the option to pay the balance of the full standard application fee and transfer to the standard application process. Applicants must be given a limited period of time to provide any additional information that would be necessary to convert the application into one that would meet the standard criteria (e.g., showing how the applicant for financial and other support could acquire the requisite financial backing and other support services to pass the applicable evaluation criteria). That said, this limited period of time should not cause unreasonable delay to the other elements of the New gTLD Program or to any other applicants for a string in which its application may be in a contention set.</p>			Adopted in March 2023
<p>Recommendation 17.19: The Financial Assistance Handbook²⁹ or its successor, subject to the changes included in the above recommendations, must be incorporated into the Applicant Guidebook</p>			Adopted in March 2023

²⁸ See <https://newgtlds.icann.org/en/applicants/candidate-support/financial-assistance-handbook-11jan12-en.pdf>.

²⁹ The Financial Assistance Handbook from the 2012 round is available at: <https://newgtlds.icann.org/en/applicants/candidate-support/financial-assistance-handbook-11jan12-en.pdf>.

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for subsequent rounds.			
Topic 18: Terms & Conditions			
<p>Recommendation 18.1: Unless required by specific laws, ICANN Board members’ fiduciary duties, or the ICANN Bylaws, ICANN must only reject an application if done so in accordance with the provisions of the Applicant Guidebook. In the event an application is rejected, ICANN org must cite with specificity the reason in accordance with the Applicant Guidebook, or if applicable, the specific law and/or ICANN Bylaws for not allowing an application to proceed. This recommendation constitutes a revision to Section 3 of the Terms and Conditions from the 2012 round.</p>		<p><u>Issue Synopsys:</u> The Board remains concerned, as previously voiced as part of its comment on the Draft Final Report and in the Scorecard: Subsequent Procedures (SubPro PDP), adopted 16 March 2023, over this recommendation unduly restricting ICANN’s discretion to reject an application in circumstances that fall outside the specific grounds set out in the recommendation.</p> <p><u>Board Action and Rationale:</u> Recommendation 18.1 states that it constitutes a revision to Section 3 of the Terms and Conditions from the 2012 Applicant Guidebook. Section 3 of the Terms and Conditions in the 2012 Application Guidebook provides that, “Applicant acknowledges and agrees that ICANN has the right to determine not to proceed with any and all applications for new gTLDs, and that there is no assurance that any additional gTLDs will be created. The decision to review, consider and approve an application to establish one or more gTLDs and to delegate new gTLDs after such approval is entirely at ICANN’s discretion. ICANN reserves the right to</p>	Not adopted in September 2023

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		<p>reject any application that ICANN is prohibited from considering under applicable law or policy, in which case any fees submitted in connection with such application will be returned to the applicant.”</p> <p>In the Board’s comment on the Draft Final Report, the Board expressed its concern that Recommendation 18.1 may limit the Board’s authority to act as needed, including in unforeseen circumstances. The Board explained that the revision proposed by the PDP WG could bind the Board unless one of the specific conditions is met, and such limitations could lead to unforeseen challenges. In its comment, the Board stated that it would like to understand what problems the PDP Working Group identified 19 with regard to Section 3 of the Terms and Conditions.</p> <p>The language in the SubPro Final Report regarding Recommendation 18.1 does not differ from what was proposed in the Draft Final Report. In the SubPro Final Report, the Working Group provided its rationale supporting Recommendation 18.1. The Working Group said, “...it must be clear to the applicant why an application was rejected and that any rejection must be justified under provisions of the Applicant Guidebook unless required by specific laws,</p>	

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		<p>ICANN Board members’ fiduciary duties, or the ICANN Bylaws. The purpose of this recommendation is to guard against arbitrary rejection of an application and ensure that there is transparency when rejections occur. To protect the privacy of applicants, the Working Group believes that ICANN should not publish the detailed reason for rejecting an application if that reason is based on confidential information submitted by the applicant.”</p> <p>As stated in the Working Group’s rationale, “[t]he purpose of this recommendation is to guard against arbitrary rejection of an application and ensure that there is transparency when rejections occur.” The Board takes note of the Working Group’s rationale and notes that these concerns are already addressed by the Bylaws. Article 3, 20 Section 3.1 of the Bylaws requires that, “ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness...,” and that, “ICANN shall also implement procedures for the documentation and public disclosure of the rationale for decisions made by the Board and ICANN’s constituent bodies (including the detailed explanations discussed above).” Additionally, Article 2, Section 2.3 mandates that, “ICANN shall not apply its</p>	

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		<p>standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition.”</p> <p>ICANN’s Board of Directors has ultimate responsibility for the New gTLD Program. Section 2.1 of the Bylaws establishes that “... the powers of ICANN shall be exercised by, and its property controlled and its business and affairs conducted by or under the direction of, the Board (as defined in Section 7.1).” As discussed above, the Bylaws already seem to address the concerns noted by the Working Group, and the Board remains concerned that if it adopts Recommendation 18.1, it may unduly limit ICANN’s discretion to reject an application in yet-to-be-identified future circumstance(s), and it may constrain ICANN from acting on 21 an application unless one of the specific conditions is met. Given these reasons, the Board has determined that adoption of Recommendation 18.1 would not be in the best interests of the ICANN community or ICANN.</p>	
<p>Supplemental Recommendation 18.1: ICANN may only reject an application in accordance with the Applicant Guidebook,</p>		<p><u>Board Rationale:</u> The Board has reviewed the Supplemental Recommendation and appreciates the Council’s work. However,</p>	<p>Not adopted in June 2024</p>

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<p>ICANN Board members' fiduciary duties, the ICANN Bylaws, or applicable laws. In the event an application is rejected, ICANN org must cite with specificity the reason(s) in accordance with the above for not allowing an application to proceed. This recommendation constitutes a revision to Section 3 of the Terms and Conditions from the 2012 round.</p>		<p>the Board continues to believe that this Recommendation may unduly restrict ICANN's discretion to reject an application in circumstances that fall outside the specific grounds set out in the recommendation. In the SubPro Final Report, the Working Group provided its rationale supporting Recommendation 18.1. The Working Group said, "...it must be clear to the applicant why an application was rejected and that any rejection must be justified under provisions of the Applicant Guidebook unless required by specific laws, ICANN Board members' fiduciary duties, or the ICANN Bylaws." As stated in the Working Group's rationale, "[t]he purpose of this recommendation is to guard against arbitrary rejection of an application and ensure that there is transparency when rejections occur." The Board takes note of the Working Group's rationale and notes that these concerns are already addressed by the Bylaws. Article 3, Section 3.1 of the Bylaws requires that, "ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness..." and that, "ICANN shall also implement procedures for the documentation and public disclosure of the rationale for decisions made by the Board and ICANN's constituent bodies (including the detailed explanations</p>	

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		<p>discussed above).” Additionally, Article 2, Section 2.3 mandates that, “ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition.”</p> <p>The Bylaws already seem to address the concerns noted by the Working Group, and the Board remains concerned that if it adopts Recommendation 18.1, it may unduly limit ICANN’s discretion to reject an application in yet-to-be-identified future circumstance(s). Therefore, the Board has determined that its rationale for not adopting the original Recommendation 18.1, further detailed in the September 2023 Scorecard: Subsequent Procedures, still holds true, and the Board has determined that its adoption of this Recommendation would not be in the best interests of the ICANN community or ICANN.</p>	
<p>Recommendation 18.3: In subsequent rounds, the Terms of Use must only contain a covenant not to sue if, and only if, the appeals/challenge mechanisms set forth under Topic 32 of this report are introduced into the program (in addition to the accountability mechanisms set forth in the current ICANN Bylaws). This</p>		<p><u>Issue Synopsys</u>: The Board noted in its Scorecard: Subsequent Procedures (SubPro PDP), adopted 16 March 2023 its concern, as previously voiced as part of its comment on the Draft Final Report, over undue legal exposure that would be created by its adoption of this Recommendation.</p>	<p>Not adopted in September 2023</p>

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<p>recommendation is in reference to Section 6 of the Terms and Conditions from the 2012 round.</p>		<p>The Recommendation notes that a covenant not to sue must only be included in the Terms of Use “if, and only if, the appeals/challenge mechanisms set forth under Topic 32 of this report are introduced into the program...[.]” The linkage between the covenant not to sue and the implementation of the appeals/challenge mechanisms set forth in Topic 32 would create a risk of challenges.</p> <p>The Board notes that the Topic 32 recommendations remain pending based on its conclusion that the appeals/challenge mechanisms, as recommended in Topic 32, would unduly complicate, extend, and increase the costs associated with the Next Round of the New gTLDs Program.</p> <p>This Recommendation is inextricably linked to the appeals/challenge mechanism recommended in Topic 32. While the Recommendations in Topic 32 remain pending, they are unlikely to be adopted in their current form.</p> <p><u>Board Rationale and Action:</u> The Board’s adoption of this Recommendation would mean that the covenant not to sue could not be included in the Terms of Use unless the Board adopts and ICANN org “introduces” the recommended appeals/challenge mechanism “as set forth” in Topic 32.</p>	

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		<p>During the 2012 round of the New gTLD Program, one of the guiding principles in developing the Applicant Guidebook was to address and mitigate risks and costs of ICANN and the global Internet community. (See https://archive.icann.org/en/topics/new-gtlds/gac-board-legal-recourse-21feb11-en.pdf). The same is true for the next round. The Board remains cognizant that as a non-profit public benefit organization, ICANN lacks the resources to defend against potentially numerous lawsuits in jurisdictions all over the world that might be initiated by applicants that might want to challenge the results of the community-designed next round of the New gTLD Program. The “covenant not to sue” included in the Terms and Conditions of the 2012 Applicant Guidebook was one element designed to protect the New gTLD Program from such judicial challenges.</p> <p>In the Board’s comment on the Draft Final Report, the Board stated that it understood the intent behind Recommendation 18.3, but expressed its concern that “dissatisfied applicants or objectors might argue based on this policy recommendation that the covenant not to sue is not valid because they did not like the way the appeals/challenge mechanism was built or operated.”</p>	

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		<p>The Board notes that the language in the SubPro Final Report regarding Recommendation 18.3 does not differ from what was proposed in the Draft Final Report. As explained in the Board’s rationale for Recommendation 18.1, ICANN’s Board of Directors has ultimate responsibility for the New gTLD Program. If adopted, Recommendation 18.3 could weaken the covenant not to sue by placing conditions on whether it could be included in the Program. This would lead to a level of risk that the Board is unwilling to accept. Additionally, providing funds for these increased legal risks would have an impact on application fees for the next round, which would not be consistent with the intent of this recommendation.</p> <p>The Board has considered Recommendation 18.3 and its implications more broadly on the Program and determined that the condition attached to the inclusion of the covenant not to sue in the Program’s Terms of Use creates legal risks that are not in the best interest of the ICANN community or ICANN.</p>	
<p>Supplemental Recommendation 18.3: In subsequent rounds, there must be mechanisms in place whereby Applicants have the ability to have evaluation</p>		<p><u>Board Rationale:</u> The Board has reviewed the Supplemental Recommendation and appreciates the Council’s work. However, the Board continues to believe that it may</p>	<p>Not adopted in September 2023</p>

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<p>decisions and objection decisions substantively reviewed. This may be satisfied by implementing challenge and appeal mechanisms described generally under Topic 32. If there are challenge and appeal mechanisms or other processes whereby those decisions can be substantively reviewed, ICANN may continue to have Terms and Conditions that contain a covenant not to sue. This recommendation is in reference to Section 6 of the Terms and Conditions from the 2012 round.</p>		<p>cause undue legal exposure should it be adopted. If adopted, Recommendation 18.3 could weaken the covenant not to sue by placing conditions on whether it could be included in the Program. This would lead to a level of risk that the Board is unwilling to accept. Additionally, providing funds for these increased legal risks would have an impact on application fees for the next round, which would not be consistent with the intent of this recommendation. Therefore, the Board has determined that its rationale for not adopting the original Recommendation 18.3, as detailed in the September 2023 Scorecard: Subsequent Procedures, still holds true, and the Board has determined that its adoption of this Recommendation would not be in the best interests of the ICANN community or ICANN. Although the Board has determined that the adoption of this recommendation is not in the best interest of the ICANN community or ICANN, it has adopted (with this scorecard) Recommendations 32.1, which recommends that “The GNSO Council recommends that as set forth in Annex F³⁰, where feasible and implementable, ICANN establish a mechanism that allows specific parties³¹ to,</p>	

³⁰ As a result of limiting the challenge mechanism to only evaluation elements where Extended Evaluation is unavailable, Annex F should be considered to exclude these specific evaluation areas: Geographic Names, Technical & Operations, Financial, Registry Services, and RSP Pre-Evaluation.

³¹ In Annex F, “specific parties” refers to the column titled “Parties with standing”.

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		on a limited and one-time basis: (i) challenge evaluation results for which Extended Evaluation is unavailable, or (ii) appeal formal objection results, where such evaluation results or dispute resolution results appear to be inconsistent with the Applicant Guidebook. The new substantive challenge/appeal mechanism is not a substitute or replacement for the accountability mechanisms in the ICANN Bylaws that may be invoked to determine whether ICANN staff or Board violated the Bylaws by making or not making a certain decision. Implementation of this mechanism must not conflict with, be inconsistent with, or impinge access to accountability mechanisms under the ICANN Bylaws.”	
Recommendation 18.4: Applicants must be allowed some type of refund if they decide to withdraw an application because substantive changes are made to the Applicant Guidebook or program processes and such changes have, or are reasonably likely to have, a material impact on applicants.		<u>Board Input Regarding the Implementation Process:</u> After consultation with the GNSO Council, the Board instructs ICANN org to provide, during implementation, details of how the terms ‘substantive change’ and ‘material impact’ are defined in the context of this recommendation. In doing so, ICANN org should consult with the SubPro Implementation Review Team (IRT) as needed, in accordance with the Consensus Policy Implementation Framework , and the IRT Principles and Guidelines .	Adopted in September 2023
Recommendation 18.6: Access to			Adopted in

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confidential parts of the application should be appropriately limited, as detailed in the following implementation guidance.			March 2023
Topic 19: Application Queuing			
<p>Affirmation 19.1: The Working Group supports the approach ultimately taken to application queuing during the 2012 round, in which ICANN conducted drawings to randomize the order of processing applications within an application window, and therefore At this time, the Board does not have specific input about this recommendation regarding the implementation process. 3 Output Board Input Regarding the Implementation Process affirms the use of a “prioritization draw” for subsequent procedures. The Working Group acknowledges that there may be possible adjustments or alternatives to the logistics of the prioritization draw used in the 2012 round that either would improve on existing processes or be necessitated under applicable law. 1 The Working Group supports such improvements and provides some examples in Implementation Guidance 19.2. The Working Group notes that in the 2012 round, the implementation of drawings included prioritization of IDN applications. This Affirmation does not address the</p>		<p><u>Board Input Regarding the Implementation Process:</u> At this time, the Board does not have specific input about this recommendation regarding the implementation process.</p>	<p>Adopted in September 2023</p>

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<p>prioritization of IDNs. Please see below for additional information on this issue. The Working Group acknowledges that continuing to use the randomized drawing approach is contingent upon local law and the ability of ICANN to obtain the necessary license to conduct such drawings, but advises that ICANN must not under any circumstances attempt to create a “skills-based” system like “digital archery” to determine the processing order of applications in subsequent procedures. This affirmation updates and replaces Implementation Guideline D from 2007 which recommended a first-come first served method of processing applications. 32</p>			
<p>Recommendation 19.3: All applications must be processed on a rolling basis, based on assigned priority numbers. While the 2012 AGB prescribed batches of 500 applications, ICANN org noticed during that round that moving through the priority list without splitting the applications into batches was more efficient. The Working Group affirms that approach by not recommending batches. However, if the volume of Internationalized Domain Names (IDN) applications received equals</p>		<p><u>Board Input Regarding the Implementation Process:</u> At this time, the Board does not have specific input about this recommendation regarding the implementation process.</p>	<p>Adopted in September 2023</p>

³² Implementation Guideline D from 2007 stated: “A first come first served processing schedule within the application round will be implemented and will continue for an ongoing process, if necessary. Applications will be time and date stamped on receipt.”

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<p>or exceeds 125, applications will be assigned priority numbers consistent with the formula below.</p> <p>The Working Group recommends that the following formula must be used with respect to giving priority to IDN applications:</p> <ul style="list-style-type: none"> • <u>First 500 applications</u> <ul style="list-style-type: none"> ○ If there are 125 applications or more for IDN strings that elect to participate in the prioritization draw, the first 25% of applications assigned priority numbers in the first group shall be those applications for IDN strings that elect to participate in the prioritization draw. The remaining 75% of applications in the group shall consist of both IDN and non-IDN applications that elect to participate in the prioritization draw. ○ If there are less than 125 applications for IDN strings that elect to participate in the prioritization draw, then all 			

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<p>such applications shall be assigned priority numbers prior to any non-IDN application.</p> <ul style="list-style-type: none"> ● <u>Each subsequent group of those electing to participate in the prioritization draw</u> <ul style="list-style-type: none"> ○ For each subsequent group, the first 10% of each group of applications must consist of IDN applications until there are no more IDN applications. ○ The remaining applications in each group shall be selected at random out of the pool of IDN and non-IDN applications that remain. ● <u>Processing of applications which do not elect to participate in the prioritization draw</u> <ul style="list-style-type: none"> ○ When all of the applications that have elected to participate in the prioritization draw have been assigned priority numbers, ICANN shall assign priority numbers to the remaining applications in groups of 500 			

	GNSO Council-Approved Clarification	Board Input/Rationale	Status
<p>applications.</p> <ul style="list-style-type: none"> ○ The first 10% of each group of applications must consist of IDN applications until there are no more IDN applications. ○ The remaining applications in each group shall be selected at random out of the pool of IDN and non-IDN applications that remain. 			
<p>Recommendation 19.4: Any processes put into place for application queuing should be clear, predictable, finalized and published in the Applicant Guidebook. The recommendation to establish processes in advance is consistent with Recommendation 1.2.a in the Program Implementation Review Report, which states: “Assign priority numbers to applications prior to commencement of application processing.”</p>			Adopted in March 2023
Topic 20: Application Change Request			
<p>Recommendation 20.4: ICANN org must document the types of changes which are required to be posted for an operational</p>			Adopted in March 2023

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<p>comment period³³ and which are not required to be posted for an operational comment period. The following is a non-exhaustive list of changes that must require an operational comment period:</p> <ul style="list-style-type: none"> ● The addition of Registry Voluntary Commitments in response to public comments, objections, whether formal or informal, GAC Consensus Advice, GAC Early Warnings, or other comments from the GAC ● Changes to Registry Voluntary Commitments in response to public comments, objections, whether formal or informal, GAC Consensus Advice, GAC Early Warnings, or other comments from the GAC ● Changes associated with the formation of joint ventures established to resolve string contention (see Recommendation 20.6 below) ● Changes to the applied-for string (see Recommendation 20.8 below) <p>In the 2012 round, an operational comment period was not required for certain types of application changes.³⁴ The Working Group</p>			

³³ A 30-day comment period giving the public the opportunity to comment on any change to a public part of an application, including PICs.

³⁴ Please see <https://newgtlds.icann.org/en/applicants/global-support/change-requests#change-requests-comment>.

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believes that an operational comment period continues to be unnecessary for these types of changes in subsequent rounds.			
Recommendation 20.6: The Working Group recommends allowing application changes to support the settling of contention sets through business combinations or other forms of joint ventures. In the event of such a combination or joint venture, ICANN org may require that re-evaluation is needed to ensure that the new combined venture or entity still meets the requirements of the program. The applicant must be responsible for additional, material costs incurred by ICANN due to re-evaluation and the application could be subject to delays.			Not adopted in November 2024
Recommendation 20.8: The Working Group recommends allowing .Brand TLDs to change the applied-for string as a result of a contention set where (a) the change adds descriptive word to the string, (b) the descriptive word is in the description of goods and services of the Trademark Registration, (c) such a change does not create a new contention set or expand an existing contention set, (d) the change triggers a new operational comment period			Adopted in March 2023

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<p>and opportunity for objection and, (e) the new string complies with all New gTLD Program requirements. When the .Brand applicant changes the applied-for string, the new string will also be considered a .Brand. The Working Group recognizes that an exception or a modification to Specification 13 will be needed to implement this recommendation. The Working Group further recognizes that in order to implement this recommendation, applications seeking to change their applied-for string will need to be evaluated for eligibility as a .brand before the string change request can be accepted. This may occur either by ICANN specifically evaluating those individual applications during Initial Evaluation or by evaluating all applicants that elect to be .brands during Initial Evaluation.</p>			
Topic 21: Reserved Names			
<p>Affirmation 21.1: The Working Group affirms Recommendation 5 from the 2007 policy, which states: “Strings must not be a Reserved Word.”</p>			Adopted in March 2023
<p>Recommendation 21.4: The Working Group recommends reserving as unavailable for delegation at the top level the acronym associated with Public</p>			Adopted in March 2023

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Technical Identifiers, “PTI”.			
Recommendation 21.6: The Working Group recommends updating Specification 5 of the Registry Agreement (Schedule of Reserved Names) to include the measures for second-level Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes adopted by the ICANN Board on 8 November 2016. ³⁵			Adopted in March 2023
Topic 21.1 - Work Track 5: Geographic Names (see Annex J of the Final Report)³⁶			
Recommendation 1: Consistent with Section 2.2.1.3.2 String Requirements, Part III, 3.1 of the 2012 Applicant Guidebook, continue to reserve all two-character ³⁷ letter-letter ASCII combinations at the top level for existing and future country codes. ³⁸ This recommendation is consistent with the			Adopted in March 2023

³⁵ The Working Group notes that discussions on this topic are ongoing, and this recommendation is subject to the outcomes of related discussions.

³⁶ Please note that Annex J of the Final Report contains the recommendations from the PDP WG’s “Work Track 5 on Geographic Names at the Top Level”; for ease of reference we have maintained in this scorecard the same numbering as in Annex J: recommendation 1, 2, and 3.

³⁷ The term “character” refers to either a single letter (for example “a”) or a single digit (for example “1”).

³⁸ Note that Section 2.2.1.3.2 String Requirements, Part III, 3.1 of the 2012 Applicant Guidebook addresses all 2-character strings. It states, “Applied-for gTLD strings in ASCII must be composed of three or more visually distinct characters. Two-character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.” Work Track 5’s recommendation specifically addresses letter-letter combinations, a subset of the strings that this provision addresses, because Work Track considers only letter-letter combinations to be within WT5’s scope (geographic names at the top level).

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GNSO policy contained in the Introduction of New Generic Top-Level Domains policy recommendations from 8 August 2007.			
<p>Recommendation 2: Maintain provisions included in the 2012 Application Guidebook section 2.2.1.4.1 Treatment of Country and Territory Names,³⁹ with the following clarification regarding section 2.2.1.4.1.vi:</p> <p>Permutations and transpositions of the following strings are reserved and unavailable for delegation:</p> <ul style="list-style-type: none"> • long-form name listed in the ISO 3166-1 standard. • short-form name listed in the ISO 3166-1 standard. • short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency. • separable component of a country name designated on the “Separable Country Names List.” <p>Strings resulting from permutations and transpositions of alpha-3 codes listed in the ISO 3166-1 standard are available for</p>			Adopted in March 2023

³⁹ See page 3 of this report for a summary of the rules contained in section 2.2.1.4.1.

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<p>delegation, unless the strings resulting from permutations and transpositions are themselves on that list.</p> <p>The 2012 Applicant Guidebook provisions contained in section 2.2.1.4.1 are inconsistent with the GNSO policy recommendations contained in the Introduction of New Generic Top Level Domains from 8 August 2007. This recommendation would make the policy consistent with the 2012 Applicant Guidebook, and therefore represents a change to the existing policy recommendation.</p>			
<p>Recommendation 3: Maintain provisions included in the 2012 Application Guidebook section 2.2.1.4.2 Geographic Names Requiring Government Support,⁴⁰ with the following update regarding section 2.2.1.4.2.4:</p> <p>The “Composition of macro geographical (continental) regions, geographical subregions, and selected economic and other groupings” list is more appropriately called the “Standard country or area codes for statistical use (M49).” The current link for this resource is https://unstats.un.org/unsd/methodology/m</p>			Adopted in March 2023

⁴⁰ See page 3 of this report for a summary of the rules contained in section 2.2.1.4.2.

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<p>49.⁴¹</p> <p>The 2012 Applicant Guidebook provisions contained in section 2.2.1.4.2 are inconsistent with the GNSO policy recommendations contained in the Introduction of New Generic Top Level Domains from 8 August 2007. This recommendation would make the policy consistent with the 2012 Applicant Guidebook, and therefore represents a change to the existing policy recommendation.</p>			
Topic 22: Registrant Protection			
<p>Recommendation 22.4: The Working Group supports recommendation 2.2.b. in the Program Implementation Review Report, which states: “Consider whether the background screening procedures and criteria could be adjusted to account for a meaningful review in a variety of cases (e.g., newly formed entities, publicly traded companies, companies in jurisdictions that do not provide readily available information).”</p>			Adopted in March 2023
<p>Recommendation 22.5: The Working Group supports recommendation 7.1.a. in</p>			Adopted in March 2023

⁴¹ This information has been confirmed by the Statistical Services Branch of the UN Statistics Division.

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the Program Implementation Review Report, which states: “Explore whether there are more effective and efficient ways to fund emergency back-end registry operator in the event of a TLD failure [other than requiring Continuing Operations Instruments].”			
Recommendation 22.7: TLDs that have exemptions from the Code of Conduct (Specification 9), including .Brand TLDs qualified for Specification 13, must also receive an exemption from Continued Operations Instrument (COI) requirements or requirements for the successor to the COI.		<p><u>Issue synopsis:</u> As noted in its Scorecard: Subsequent Procedures (SubPro PDP), adopted 16 March 2023, the Board is concerned that an exemption from an COI for Spec 9 applications would have financial impact on ICANN since there would be no fund to draw from if such a registry went into EBERO. Further, not moving a Brand TLD into EBERO might have a security and stability impact, especially if Brands allocate second-level TLDs to customers, partners, or suppliers, such as a car manufacturer providing a second level registration for their cars. The Board also believes that exempting .brand TLDs from a not-yet-known future replacement for the COI is not in the best interest of the ICANN community or ICANN. The mechanics of any successor to the COI should be known before any waivers to it can be considered.</p> <p><u>Rationale:</u> As noted in the issue synopsis, the Board believes that there are scenarios in which .Brand TLDs may have to be moved</p>	Not adopted in September 2023

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		into EBERO. The Board also believes that it cannot accept a recommendation about a potential successor to the COI without a clear understanding of what that successor looks like, its purpose and its mechanics. Therefore, the Board concludes that the concerns listed in the ‘issue synopsis’ mean that adopting Recommendation 22.7 is not in the best interests of the ICANN community or ICANN.	
Topic 24: String Similarity Evaluations			
Affirmation 24.1: The Working Group affirms Recommendation 2 from the 2007 policy, which states “Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.”			Adopted in March 2023
Recommendation 24.3: The Working Group recommends updating the standards of both (a) confusing similarity to an existing top-level domain or a Reserved Name, and (b) similarity for purposes of determining string contention, to address singular and plural versions of the same word, noting that this was an area where there was insufficient clarity in the 2012 round. Specifically, the Working Group recommends prohibiting plurals and singulars of the same word within the same language/script in order to reduce the risk		<u>Issue Synopsis:</u> The Board remains concerned, as previously voiced as part of its comment on the Draft Final Report, over the wording in section (a) and (c) of this Recommendation as they stipulate ‘intended use’ of a gTLD, which implies that ICANN will have to enforce the ‘intended use’ post delegation, which could be challenged as acting outside its mission. In addition, it is the view of the Board that an across-the-board prohibition of singulars / plurals of the same word in the same language or script is not in the best interest	Not adopted in September 2023

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<p>of consumer confusion. For example, the TLDs .EXAMPLE⁴² and .EXAMPLES may not both be delegated because they are considered confusingly similar. This expands the scope of the String Similarity Review to encompass singulars/plurals of TLDs on a per-language/script basis.</p> <ul style="list-style-type: none"> • An application for a single/plural variation of an existing TLD or Reserved Name will not be permitted if the intended use of the applied-for string is the single/plural version of the existing TLD or Reserved Name. For example, if there is an existing TLD .SPRINGS that is used in connection with elastic objects and a new application for .SPRING that is also intended to be used in connection with elastic objects .SPRING will not be permitted. • If there is an application for the singular version of a word and an application for a plural version of the same word in the same language / script during the same application window, these applications will be placed in a contention set, because they are 		<p>of the ICANN community or ICANN.</p> <p><u>Board Action and Rationale:</u> Recommendations 24.3 and 24.5 extend the Program’s string similarity review to the following three aspects: a visual similarity check; a singular/plural check; an intended use check as relevant for identifying exemptions to the singular/plural check.</p> <p>Based on this, the ICANN Board has identified the following concerns with regard to recommendations 24.3 and 24.5:</p> <ul style="list-style-type: none"> - Not all applied for strings will be lexical words: .mouse/.mice would not be permitted under this recommendation, but .tld and .tlds would be, as the latter is not in a dictionary. - Determining singular/plural forms of words across languages cannot be done predictably nor consistently by a reader: is “bats” plural for “bat” or a declined form of the french verb ‘battre’ (to fight/battle). - Though a gTLD applicant can arbitrarily set the language of a TLD during an application round, a registrant and end-user can only see the script of the TLD string in its 	

⁴² .EXAMPLE is used here for illustrative purposes only. The Working Group is aware that technically .EXAMPLE cannot be delegated at all because it is one of the names already reserved from delegation as a Special Use name.

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<p>confusingly similar.</p> <ul style="list-style-type: none"> Applications will not automatically be placed in the same contention set because they appear visually to be a single and plural of one another but have different intended uses. For example, .SPRING and .SPRINGS could both be allowed if one refers to the season and the other refers to elastic objects, because they are not singular and plural versions of the same word. However, if both are intended to be used in connection with the elastic object, then they will be placed into the same contention set. Similarly, if an existing TLD .SPRING is used in connection with the season and a new application for .SPRINGS is intended to be used in connection with elastic objects, the new application will not be automatically disqualified. <p>The Working Group recommends using a dictionary to determine the singular and plural version of the string for the specific language. The Working Group recognizes that singulars and plurals may not visually resemble each other in multiple languages and scripts globally. Nonetheless, if by using a dictionary, two strings are</p>		<p>practical usage. So the singular/plural determination by the gTLD applicant does not carry onward to the registrant and end user. “auto” can be interpreted as a vehicle or a short form for automatic; “cat” can be read the short of Catalan but also the English-language name for an animal.</p> <ul style="list-style-type: none"> - Even if the intended use is fixed for a registry separately from the singular/plural form, there is no mechanism to determine the intent of the content of a website and thus restrict a registrant to publishing certain content based on such intent. <p>Restricting the use and potentially the content of strings registered in TLDs based on the intended use therefore raises concerns for the Board in light of ICANN’s Bylaws Section 1.1 (c).</p> <p>String similarity evaluation is part of the new gTLD program to protect consumers. The Board believes that this goal continues to be achieved best via the standard of ‘visually confusingly similar’. For any broader perceived similarity issues, string similarity objections can still be used. Therefore, the Board agrees that extending the standard for assessing string similarity</p>	

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determined to be the singular or plural of each other, and their intended use is substantially similar, then both should not be eligible for delegation.		beyond visual similarity, as well as the recommended exception with regard to intended use of a TLD is not within the best interest of the ICANN community or ICANN.	
<p>Supplemental Recommendation 24.3: The Working Group recommends updating the standards of both (a) confusing similarity to an existing top-level domain or a Reserved Name, and (b) similarity for purposes of determining string contention, to address singular and plural versions of the same word, noting that this was an area where there was insufficient clarity in the 2012 round. Specifically, the Working Group recommends prohibiting plurals and singulars of the same word within the same language/script in order to reduce the risk of consumer confusion. For example, the TLDs .EXAMPLE⁴³ and .EXAMPLES may not both be delegated because they are considered confusingly similar. This expands the scope of the String Similarity Review to encompass singulars/plurals of TLDs on a per-language/script basis.</p> <ul style="list-style-type: none"> An application for a single/plural variation of an existing TLD or Reserved Name will not be 			Adopted in November 2024

⁴³ .EXAMPLE is used here for illustrative purposes only. The Working Group is aware that technically .EXAMPLE cannot be delegated at all because it is one of the names already reserved from delegation as a Special Use name.

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<p>permitted if the intended use of the applied-for string is the single/plural version of the existing TLD or Reserved Name. For example, if there is an existing TLD .SPRINGS that is used in connection with elastic objects and a new application for .SPRING that is also intended to be used in connection with elastic objects, .SPRING will not be permitted.</p> <ul style="list-style-type: none"> • If there is an application for the singular version of a word and an application for a plural version of the same word in the same language/script during the same application window, these applications will be placed in a contention set, because they are confusingly similar. • Applications will not automatically be placed in the same contention set because they appear visually to be a single and plural of one another but have different intended uses. For example, .SPRING and .SPRINGS could both be allowed if one refers to the season and the other refers to elastic objects, because they are not singular and plural versions of the same word. However, if both are intended to be used in connection with the elastic 			

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<p>object, then they will be placed into the same contention set. Similarly, if an existing TLD .SPRING is used in connection with the season and a new application for .SPRINGS is intended to be used in connection with elastic objects, the new application will not be automatically disqualified.</p> <p>The Working Group recommends using a dictionary to determine the singular and plural version of the string for the specific language. The Working Group recognizes that singulars and plurals may not visually resemble each other in multiple languages and scripts globally. Nonetheless, if by using a dictionary, two strings are determined to be the singular or plural of each other, and their intended use is substantially similar, then both should not be eligible for delegation.</p>			
<p>Recommendation 24.5: If two applications are submitted during the same application window for strings that create the probability of a user assuming that they are single and plural versions of the same word, but the applicants intend to use the strings in connection with two different meanings, [As an example, if the two</p>		<p><u>Issue synopsis:</u> The Board remains concerned, as previously voiced as part of its comment on the Draft Final Report, over the wording in section (a) and (c) of this Recommendation as they stipulate ‘intended use’ of a gTLD, which implies that ICANN will have to enforce the ‘intended use’ post delegation, which could be challenged as</p>	<p>Not adopted in September 2023</p>

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<p>applicants applied for .SPRING and .SPRINGS, one might intend to use the TLD .SPRING in connection with the season and the other might intend to use the TLD .SPRINGS in connection with the elastic object.] the applications will only be able to proceed if each of the applicants agrees to the inclusion of a mandatory Public Interest Commitment (PIC) in its Registry Agreement. The mandatory PIC must include a commitment by the registry to use the TLD in line with the intended use presented in the application, and must also include a commitment by the registry that it will require registrants to use domains under the TLD in line with the intended use stated in the application.</p>		<p>acting outside its mission. In addition, it is the view of the Board that an across-the-board prohibition of singulars/plurals of the same word in the same language or script is not in the best interest of the ICANN community or ICANN.</p> <p><u>Board Action and Rationale:</u> Recommendations 24.3 and 24.5 extend the Program’s string similarity review to the following three aspects: a visual similarity check; a singular/plural check; an intended use check as relevant for identifying exemptions to the singular/plural check. Based on this, the ICANN Board has identified the following concerns with regard to recommendations 24.3 and 24.5: - Not all applied for strings will be lexical words: .mouse/.mice would not be permitted under this recommendation, but .tld and .tlds would be, as the latter is not in a dictionary. - Determining singular/plural forms of words across languages cannot be done predictably nor consistently by a reader: is “bats” plural for “bat” or a declined form of the french verb ‘battre’ (to fight/battle). - Though a gTLD applicant can arbitrarily set the language of a TLD during an application round, a registrant and end-user can only see the script of the TLD string in its practical usage. So the singular/plural determination by the gTLD applicant does not carry</p>	

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		<p>onward to the registrant and end user. “auto” can be interpreted as a vehicle or a short form for automatic; “cat” can be read the short of Catalan but also the english - language name for an animal. - Even if the intended use is fixed for a registry separately from the singular/plural form, there is no mechanism to determine the intent of the content of a website and thus restrict a registrant to publishing certain content based on such intent. Restricting the use and potentially the content of strings registered in TLDs based on the intended use therefore raises concerns for the Board in light of ICANN’s Bylaws Section 1.1 (c). String similarity evaluation is part of the new gTLD program to protect consumers. The Board believes that this goal continues to be achieved best via the standard of ‘visually confusingly similar’. For any broader perceived similarity issues, string similarity objections can still be used. Therefore, the Board agrees that extending the standard for assessing string similarity beyond visual similarity, as well as the recommended exception with regard to intended use of a TLD is not within the best interest of the ICANN community or ICANN.</p>	
<p>Recommendation 24.6: Eliminate the use of the SWORD tool in subsequent</p>			<p>Adopted in March 2023</p>

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procedures.			
Recommendation 24.7: The deadline for filing a String Confusion Objection must be no less than thirty (30) days after the release of the String Similarity Evaluation results. This recommendation is consistent with Program Implementation Review Report recommendation 2.3.a. ⁴⁴			Adopted in March 2023
Topic 25: IDNs			
Recommendation 25.2: Compliance with Root Zone Label Generation Rules (RZ-LGR, RZ-LGR-2, and any future RZ-LGR ⁴⁵ rules sets) must be required for the generation of TLDs and variants ⁴⁶ labels, including the determination of whether the label is blocked or allocatable. IDN TLDs must comply with IDNA2008 (RFCs 5890-5895) or its successor(s). To the extent possible, and consistent with Implementation Guidance 26.10, algorithmic checking of TLDs should be utilized.			Adopted in March 2023

⁴⁴ PIRR Recommendation 2.3.a states: “Review the relative timing of the String Similarity evaluation and the Objections process.”

⁴⁵ To see the current versions of RZ-LGRs, see: <https://www.icann.org/resources/pages/generation-panel-2015-06-21-en>.

⁴⁶ For more information about the definition of IDN variants as well as examples, please see section 2 of IDN Variant TLD Implementation: Motivation, Premises and Framework, available at <https://www.icann.org/en/system/files/files/idn-variant-tld-motivation-premises-framework-25jan19-en.pdf>.

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<p>Recommendation 25.4: Single character⁴⁷ gTLDs may be allowed for limited script/language combinations where a character is an ideograph (or ideogram) and do not introduce confusion risks that rise above commonplace similarities, consistent with SSAC⁴⁸ and Joint ccNSO-GNSO IDN Workgroup (JIG)⁴⁹ reports.</p>			Adopted in March 2023
<p>Recommendation 25.5: IDN gTLDs identified as variant TLDs of already existing or applied for gTLDs will be allowed only if labels are allocated to the same entity and, when delegated, only if they have the same back-end registry service provider. This policy must be captured in relevant Registry Agreements.⁵⁰</p>			Adopted in March 2023
<p>Recommendation 25.6: A given second-level label under any allocated variant TLD must only be allocated to the same entity/registrar, or else withheld for possible allocation only to that entity (e.g., s1 under {t1, t1v1, ...}, e.g., s1.t1 and s1.t1v1).</p>			Adopted in March 2023

⁴⁷ Meaning a character in a U-label.

⁴⁸ See report here: <https://www.icann.org/en/system/files/files/sac-052-en.pdf>.

⁴⁹ See report here: https://cns0.icann.org/sites/default/files/filefield_22667/jig-final-report-single-character-idns-08mar11-en.pdf.

⁵⁰ The Working Group did not discuss the process by which an existing registry operator could apply for, or be given, a variant for its existing gTLD. Nor has it discussed the process by which an applicant applying for a new IDN gTLD could seek and obtain any allocatable variant(s).

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Recommendation 25.7: For second-level variant labels that arise from a registration based on a second-level IDN table, all allocatable variant labels in the set must only be allocated to the same entity or withheld for possible allocation only to that entity (e.g., all allocatable second-level labels {s1, s1v1, ...} under all allocated variant TLD labels {t1, t1v1, ...}).			Adopted in March 2023
Recommendation 25.8: Second-level labels derived from Recommendation 25.6 or Recommendation 25.7 are not required to act, behave, or be perceived as identical.			Adopted in March 2023
Topic 26: Security and Stability			
Affirmation 26.1: The Working Group affirms Recommendation 4 from the 2007 policy, which states: “Strings must not cause any technical instability.”			Adopted in March 2023
Recommendation 26.2: ICANN must honor and review the principle of conservatism when adding new gTLDs to the root zone.			Adopted in March 2023
Recommendation 26.3: ICANN must focus on the rate of change for the root zone over smaller periods of time (e.g., monthly) rather than the total number of			Adopted in March 2023

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delegated strings for a given calendar year.			
Recommendation 26.9: In connection to the affirmation of Recommendation 4 from the 2007 policy, Emoji in domain names, at any level, must not be allowed.	The GNSO Council confirms that the “any level” language referenced in the recommendation should be interpreted to only be in respect of domain names that are allocated by the registry operator.		Adopted with GNSO-Council Approved Clarification in September 2023
Topic 27: Applicant Reviews: Technical/Operational, Financial and Registry Services			
<p>Affirmation 27.1: The Working Group affirms several Principles and Recommendations from the 2007 policy relative to Applicant Reviews:</p> <ul style="list-style-type: none"> • Principle D: “A set of technical criteria must be used for assessing a new gTLD registry applicant to minimize the risk of harming the operational stability, security and global interoperability of the Internet.” • Principle E: “A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN’s registry agreement.” • Recommendation 1: “ICANN must implement a process that allows 			Adopted in March 2023

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<p>the introduction of new top-level domains. The evaluation and selection procedures for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.”</p> <ul style="list-style-type: none"> • <u>Recommendation 9</u>: “There must be a clear and pre-published application process using objective and measurable criteria.” • <u>Recommendation 18</u> (with slight modification): “If an applicant offers an IDN service, then ICANN’s then current IDN guidelines must be followed.” 			
<p>Recommendation 27.2: Evaluation scores on all questions should be limited to a pass/fail scale (0-1 points only).</p>			Adopted in March 2023
<p>Recommendation 27.3: All application evaluation questions and any accompanying guidance must be written</p>			Adopted in March 2023

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such that it maximizes predictability and minimizes the likelihood of Clarifying Questions (CQs).			
Recommendation 27.5: ICANN org must publish CQs and CQ responses related to public questions. ICANN org may redact certain parts of the CQ and CQ response if there is nonpublic information directly contained in these materials or if publication in full is likely to allow the inference of nonpublic or confidential information.			Adopted in March 2023
Affirmation with Modification 27.6: The Working Group affirms recommendation 7 from the 2007 policy with the following proposed additional text in italics: “Applicants must be able to demonstrate their technical and operational capability to run a registry operation for the purpose that the applicant sets out, either by submitting it to evaluation at application time or agreeing to use an RSP that has successfully completed pre-evaluation as part of the RSP pre-evaluation program.” ⁵¹			Adopted in March 2023
Recommendation 27.9: The technical and operational evaluation must be done in an efficient manner as described in the			Adopted in March 2023

⁵¹ Please see Topic 6 of this report for additional information about the RSP pre-evaluation program.

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implementation guidance below.			
Recommendation 27.11: Consistent with Implementation Guidance 39.6 under Topic 39: Registry System Testing, the technical and operational evaluation must emphasize evaluation of elements that are specific to the application and/or applied-for TLD and should avoid evaluating elements that have already been thoroughly considered either as part of the RSP pre-evaluation program or previously in connection with another application and/or applied-for TLD.			Adopted in March 2023
Recommendation 27.13: When responding to questions, applicants must identify which services are being outsourced to be performed by third parties.			Adopted in March 2023
Recommendation 27.14: The technical and operational evaluation must also consider the total number of TLDs and expected registrations for an applicant's given RSP.			Adopted in March 2023
Recommendation 27.15: The Working Group recommends that the financial evaluation must focus on ensuring that an applicant is able to demonstrate financial wherewithal and assure long-term			Adopted in March 2023

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<p>survivability of the registry, thus reducing the security and stability risk to the DNS. The Working Group believes that the following implementation guidance will simplify the process but still allow for meaningful assurance of an applicant’s financial capabilities, while duly taking into account how the applicant will operate its registry.</p>			
<p>Affirmation with Modification 27.19: The Working Group affirms Recommendation 8 from the 2007 policy with the following proposed additional text in italics: “Applicants must be able to demonstrate their financial and organizational operational capability in tandem for all currently-owned and applied-for TLDs that would become part of a single registry family.”</p> <p>Therefore, applicants must identify whether the financial statements in its application apply to all of its applications, a subset of them or a single application (where that applicant and/or its affiliates have multiple applications).</p>			<p>Adopted in March 2023</p>
<p>Recommendation 27.21: A certain set of optional pre-approved additional registry services will not require registry services evaluation and those selected by the</p>			<p>Adopted in March 2023</p>

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applicant at the time application submission will automatically be included in the applicant's Exhibit A upon contract execution. That list will include those that are included in the base Registry Agreement and on the <i>Fast Track RSEP Process and Standard Authorization Language</i> ⁵² page as of the drafting of this report and as updated from time to time.			
Recommendation 27.22: Any additional optional registry services not included on the pre-approved list must be reviewed in a timely manner to determine if they might raise significant stability or security issues. Criteria used to evaluate those non-pre-approved registry services must be consistent with the criteria applied to existing registries that propose new registry services and should not result in additional fees. However, if that initial assessment determines that the proposed registry services might raise significant stability or security issues, the application will be subject to extended review by the Registry Services Technical Evaluation Panel (RSTEP). Applicants will be subject to additional fees under this circumstance.			Adopted in March 2023

⁵² These optional additional services include Bulk Transfer After Partial Portfolio Acquisition (BTAPPA), Registry Lock, Block Services, and/or validation services as examples. See page here: <https://www.icann.org/resources/pages/fast-track-rsep-process-authorization-language-2019-06-14-en>.

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Topic 28: Role of Application Comment			
Recommendation 28.3: For purposes of transparency and to reduce the possibility of gaming, there must be clear and accurate information available about the identity of a person commenting on an application as described in the implementation guidance below.			Adopted in March 2023
Recommendation 28.6: Systems supporting application comment must emphasize usability for those submitting comments and those reviewing the comments submitted. This recommendation is consistent with Program Implementation Review Report recommendation 1.3.a, which states: “Explore implementing additional functionality that will improve the usability of the Application Comment Forum.”			Adopted in March 2023
Recommendation 28.9: The New gTLD Program must be clear and transparent about the role of application comment in the evaluation of applications.			Adopted in March 2023
Recommendation 28.11: Applicants must have a clear, consistent, and fair opportunity to respond to the public comments on their application prior to the			Adopted in March 2023

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consideration of those comments in the evaluation process.			
Recommendation 28.13: ICANN must create a mechanism for third-parties to submit information related to confidential portions of the application, which may not be appropriate to submit through public comment. At a minimum, ICANN must confirm receipt and that the information is being reviewed. The applicant must be fully informed of the submitted information and be able to respond through the same mechanism.			Adopted in March 2023
Recommendation 28.14: A single Application Comment Period must apply to both standard and community-based applications. To the extent that third-parties submit expressions of support for or opposition to a community-based application, these comments must be submitted during the Application Comment Period if they are to be considered during Community Priority Evaluation.			Adopted in March 2023
Topic 29: Name Collision			
Recommendation 29.1: ICANN must have ready prior to the opening of the application submission period a mechanism	The GNSO Council believes that Recommendation 29.1 can be adopted by the Board on the understanding that it does		Adopted with GNSO-Council Approved

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to evaluate the risk of name collisions in the New gTLD evaluation process as well as during the transition to delegation phase	not need to be acted on until such time any next steps for mitigating name collision risks are better understood out of the Name Collision Analysis Project (NCAP) Study 2.		Clarification in September 2023
Topic 30: GAC Consensus Advice and GAC Early Warning			
Recommendation 30.3: As stated in the ICANN Bylaws, GAC Consensus Advice must include a clearly articulated rationale. ⁵³ The Working Group recommends that GAC Consensus Advice be limited to the scope set out in the applicable Bylaws provisions and elaborate on any “interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues.” ⁵⁴			Adopted in March 2023
Recommendation 30.4: Section 3.1 of the 2012 Applicant Guidebook states that GAC Consensus Advice “will create a strong presumption for the ICANN Board that the application should not be approved.” Noting that this language does not have a		<u>Board Input Regarding the Implementation Process:</u> The Board has noted and reviewed the concerns voiced by some GAC members in the ICANN77 GAC Communique . The Board notes the GAC that Bylaws Section 12.2 (a) details all relevant procedures	Adopted in September 2023

⁵³ Section 12.3. PROCEDURES of the ICANN Bylaws states: “. . .each Advisory Committee shall ensure that the advice provided to the Board by such Advisory Committee is communicated in a clear and unambiguous written statement, including the rationale for such advice.” See <https://www.icann.org/resources/pages/governance/bylaws-en>.

⁵⁴ Section 12.2(a)(i) of the ICANN Bylaws states: “The Governmental Advisory Committee should consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues.” See <https://www.icann.org/resources/pages/governance/bylaws-en>.

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<p>basis in the current version of the ICANN Bylaws, the Working Group recommends omitting this language in future versions of the Applicant Guidebook to bring the Applicant Guidebook in line with the Bylaws language. The Working Group further notes that the language may have the unintended consequence of hampering the ability of the Board to facilitate a solution that mitigates concerns and is mutually acceptable to the applicant and the GAC as described in the relevant Bylaws language. Such a solution could allow an application to proceed. In place of the omitted language, the Working Group recommends including in the Applicant Guidebook a reference to applicable Bylaws provisions that describe the voting threshold for the ICANN Board to reject GAC Consensus Advice.</p>		<p>concerning GAC Consensus Advice and that this Bylaws Section, not language in a future Applicant Guidebook, determines how the Board engages with GAC Consensus Advice - regardless of whether it is issued with regard to the Next Round or any other issue.</p> <p>Accordingly, the Board’s adoption of this recommendation does not in any way prejudice or otherwise impact the processes regarding Board consideration of GAC Consensus Advice detailed in the Bylaws Section 12.2 (a).</p>	
<p>Recommendation 30.5: The Working Group recommends that GAC Early Warnings are issued during a period that is concurrent with the Application Comment Period. To the extent that there is a longer period given for the GAC to provide Early Warnings (above and beyond the Application Comment Period), the Applicant Guidebook must define a specific time period during which GAC Early Warnings can be issued.</p>		<p><u>Board Input Regarding the Implementation Process:</u> At this time, the Board does not have specific input about this recommendation regarding the implementation process.</p>	<p>Adopted in September 2023</p>

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<p>Recommendation 30.6: Government(s) issuing Early Warning(s) must include a written explanation describing why the Early Warning was submitted and how the applicant may address the GAC member’s concerns.</p>		<p><u>Board Input Regarding the Implementation Process:</u> The Board has noted the concerns that the GAC has previously raised on this recommendation, most recently as an issue of concern in the ICANN77 GAC Communiqué.</p> <p>The Board instructs ICANN org to make clear in the Applicant Guidebook that as part of an Early Warning, a GAC member may indicate that its concern can only be addressed by the applicant withdrawing its application.</p> <p>In doing so, ICANN org should consult with the IRT as needed, in accordance with the Consensus Policy Implementation Framework, and the IRT Principles and Guidelines.</p>	<p>Adopted in September 2023</p>
<p>Recommendation 30.7: Applicants must be allowed to change their applications, including the addition or modification of Registry Voluntary Commitments (RVCs, formerly voluntary PICs), to address GAC Early Warnings, GAC Consensus Advice, and/or other comments from the GAC. ⁵⁵ Relevant GAC members are strongly encouraged to make themselves available</p>	<p>See Recommendation 9.1</p>	<p>See Recommendation 9.1</p>	<p>Adopted with GNSO-Council Approved Clarification in October 2023</p>

⁵⁵ The addition or modification of RVCs submitted after the application submission date shall be considered Application Changes and be subject to the recommendations set forth under Topic 20: Application Change Requests including, but not limited to, an operational comment period in accordance with ICANN’s standard procedures and timeframes.

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during a specified period of time for direct dialogue 63 with applicants impacted by GAC Early Warnings, GAC Consensus Advice, or comments to determine if a mutually acceptable solution can be found			
Topic 31: Objections			
<p>Affirmation 31.1: Subject to the recommendations/implementation guidance below, The Working Group affirms the following recommendations and implementation guidance from 2007:</p> <ul style="list-style-type: none"> • Recommendation 6: “Strings must not be contrary to generally accepted legal norms relating to morality and public order that are enforceable under generally accepted and internationally recognized principles of law. Examples of such limitations that are internationally recognized include, but are not limited to, restrictions defined in the Paris Convention for the Protection of Industrial Property (in particular restrictions on the use of some strings as trademarks), and the Universal Declaration of Human Rights (in particular, limitations to freedom of speech rights).” 			Adopted in March 2023

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<ul style="list-style-type: none"> • Recommendation 20: “An application will be rejected if it is determined, based on public comments or otherwise, that there is substantial opposition to it from among significant established institutions of the economic sector, or cultural or language community, to which it is targeted or which it is intended to support.” • Implementation Guideline H: “External dispute providers will give decisions on objections.” • Implementation Guideline P (IG P, including subheadings on process and guidelines, refers specifically to the Community Objection): “The following process, definitions and guidelines refer to Recommendation 20. <p>Process</p> <p>Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose.</p> <p>The objector must provide verifiable evidence that it is an established institution of the community (perhaps like the RSTEP pool of panelists from which a small panel would be constituted for each objection).</p>			

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<p>Guidelines</p> <p>The task of the panel is the determination of substantial opposition.</p> <ul style="list-style-type: none"> a. substantial – in determining substantial the panel will assess the following: signification portion, community, explicitly targeting, implicitly targeting, established institution, formal existence, detriment b. significant portion – in determining significant portion the panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting. c. community – community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community. It may be a closely related community which believes it is impacted. d. explicitly targeting – explicitly 			

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<p>targeting means there is a description of the intended use of the TLD in the application.</p> <p>e. implicitly targeting – implicitly targeting means that the objector makes an assumption of targeting or that the objector believes there may be confusion by users over its intended use.</p> <p>f. established institution – an institution that has been in formal existence for at least 5 years. In exceptional cases, standing may be granted to an institution that has been in existence for fewer than 5 years.</p> <p>Exceptional circumstances include but are not limited to a reorganization, merger or an inherently younger community. The following ICANN organizations are defined as established institutions: GAC, ALAC, GNSO, ccNSO, ASO.</p> <p>g. formal existence – formal existence may be demonstrated by appropriate public registration, public historical evidence, validation by a government, intergovernmental organization, international treaty organization or similar.</p> <p>h. detriment – the objector must</p>			

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<p>provide sufficient evidence to allow the panel to determine that there would be a likelihood of detriment to the rights or legitimate interests of the community or to users more widely.”</p> <ul style="list-style-type: none"> • Implementation Guideline Q: “ICANN staff will provide an automatic reply to all those who submit public comments that will explain the objection procedure.” 			
<p>Affirmation with Modification 31.2: Recommendation 12 from 2007 states: “Dispute resolution and challenge processes must be established prior to the start of the process.” Consistent with Implementation Guidance 31.12 below, the Working Group affirms Recommendation 12 with the following modification in italicized text: “Dispute resolution and challenge processes must be established prior to the start of the process, <i>the details of which must be published in the Applicant Guidebook.</i>”</p>			Adopted in March 2023
<p>Recommendation 31.10: For all types of formal objections, the parties to a proceeding must be given the opportunity to mutually agree upon a single panelist or a three-person panel, bearing the costs</p>			Adopted in March 2023

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accordingly. Following the model of the Limited Public Interest Objection in the 2012 round, absent agreement from all parties to have a three-expert panel, the default will be a one-expert panel.			
Recommendation 31.11: ICANN must provide transparency and clarity in the processes used to handle the filing and processing of formal objections, including the resources and supplemental guidance used by dispute resolution provider panelists to arrive at a decision, expert panelist selection criteria and processes, and filing deadlines. The following implementation guidance provides additional direction in this regard.			Adopted in March 2023
Recommendation 31.15: The “quick look” mechanism, which applied to only the Limited Public Interest Objection in the 2012 round, must be developed by the Implementation Review Team for all formal objection types. The “quick look” is designed to identify and eliminate frivolous and/or abusive objections. ⁵⁶			Adopted in March 2023
Recommendation 31.16: Applicants must	See Recommendation 9.1	See Recommendation 9.1	Adopted with

⁵⁶ The Working Group expects the Implementation Review Team to determine in greater detail how the quick look mechanism will identify and eliminate frivolous and/or abusive objections for each objection type. The Working Group anticipates that standing will be one of issues that the quick look mechanism will review, where applicable.

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<p>have the opportunity to amend an application or add Registry Voluntary Commitments (RVCs) in response to concerns raised in a formal objection. All these amendments and RVCs submitted after the application submission date shall be considered Application Changes and be subject to the recommendations set forth under Topic 20: Application Change Requests including, but not limited to, an operational comment period in accordance with ICANN’s standard procedures and timeframes.</p>			<p>GNSO-Council Approved Clarification in October 2023</p>
<p>Recommendation 31.17: To the extent that RVCs are used to resolve a formal objection either (a) as a settlement between the objector(s) and the applicant(s) or (b) as a remedy ordered by an applicable dispute panelist, those RVCs must be included in the applicable applicant(s) Registry Agreement(s) as binding contractual commitments enforceable by ICANN through the PICDRP.</p>	<p>See Recommendation 9.1</p>	<p>See Recommendation 9.1</p>	<p>Adopted with GNSO-Council Approved Clarification in October 2023</p>
<p>Recommendation 31.18: ICANN must reduce the risk of inconsistent outcomes in the String Confusion Objection Process, especially where an objector seeks to object to multiple applications for the same string. The following implementation guidance provides additional direction in</p>			<p>Adopted in March 2023</p>

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this regard.			
Topic 32: Limited Challenge/Appeal Mechanism			
<p>Recommendation 32.1: The Working Group recommends that ICANN establish a mechanism that allows specific parties to challenge or appeal certain types of actions or inactions that appear to be inconsistent with the Applicant Guidebook. The new substantive challenge/appeal mechanism is not a substitute or replacement for the accountability mechanisms in the ICANN Bylaws that may be invoked to determine whether ICANN staff or Board violated the Bylaws by making or not making a certain decision.</p>		<p><u>Issue Synopsis:</u> The Board is concerned regarding this recommendation as set out in Operational Design Assessment, at topic 32 (pp. 169-176). In sum, it is not clear that a challenge/appeal mechanism applicable to Initial/Extended Evaluation decisions made by ICANN or third-party providers or challenges concerning conflict of interest of panelists could be designed in a way that does not cause excessive, unnecessary costs or delays in the application process.</p> <p><u>Board Action and Rationale:</u> The policy recommendations in Topic 32 (32.1, 32.2, and 32.10) call for ICANN to establish a mechanism that allows specific parties to challenge or appeal certain types of actions or inactions that appear to be inconsistent with the Applicant Guidebook, to establish clear procedures and rules for a challenge/appeal mechanism(s), and to design a limited challenge/appeal mechanism(s) in a manner that does not cause excessive, unnecessary costs or delays in the application process.</p> <p>As discussed in the March 2023 iteration of the <u>scorecard</u>, the Board noted its concerns</p>	<p>Recommendation not adopted in October 2023</p>

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		<p>regarding the limited challenge/appeal mechanism(s) proposed in the policy recommendations. Overall, the Board is concerned that such a challenge/appeal mechanism(s) would likely result in excessive, unnecessary costs or delays in the application process.</p> <p>During the Operational Design Phase, ICANN org documented several concerns in the New Generic Top -Level Domain (gTLD) Subsequent Procedures Operational Design Assessment (ODA) about implementing a challenge/appeals mechanism(s) as proposed. (See pp. 169 -176.) The challenges highlighted at that time included, but were not limited to the broad scope of the Initial Evaluation reviews, parties who would have standing to file a challenge/appeal, and the proposed arbiters to hear a challenge/appeal. The highlighted areas of concern in the Operational Design Assessment are indications of a more foundational issue - namely, that the recommendations present the potential for open - ended challenge/appeal mechanism(s) which could not be designed in a manner that does not cause excessive, unnecessary costs or delays in the application process. The Board has concerns that while the recommendations could lead to challenge/appeal procedures in theory, they are not feasible to implement</p>	

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		<p>without identifying specific mechanisms for corresponding challenges to evaluations and formal objection decisions. The risks of moving forward with implementation based on the current recommendations for all of the identified types of evaluations and formal objections decisions might open up the New gTLD Program to claims that ICANN did not implement the community-developed policy as recommended.</p> <p>Given this, the Board cannot evaluate in the abstract whether implementing a challenge/appeal mechanism(s) as proposed in the Final Report would be in the best interest of ICANN or the ICANN community. The Board acknowledges, however, that there could be value in having a well-crafted, tightly-scoped challenge/appeal process(es) as part of the New gTLD Program and is willing to consider specific mechanisms in specific cases.</p> <p><u>Board comment on possible Supplemental Recommendations, per Bylaws Annex A, Section 9d:</u> As per the Bylaws Annex A, Section 9d, "...the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation." Should the Council decide to develop such</p>	

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		Supplemental Recommendations, the Board recommends that the Council works with ICANN org, either via the Small Team or any other means, to receive feedback on implementation practicalities which may help with the subsequent Board consideration of any such Supplemental Recommendations that the Council may adopt.	
<p>Supplemental Recommendation 32.1: The GNSO Council recommends that as set forth in Annex F ⁵⁷, where feasible and implementable, ICANN establish a mechanism that allows specific parties⁵⁸ to, on a limited and one-time basis: (i) challenge evaluation results for which Extended Evaluation is unavailable, or (ii) appeal formal objection results, where such evaluation results or dispute resolution results appear to be inconsistent with the Applicant Guidebook. The new substantive challenge/appeal mechanism is not a substitute or replacement for the accountability mechanisms in the ICANN Bylaws that may be invoked to determine whether ICANN staff or Board violated the Bylaws by making or not making a certain decision. Implementation of this</p>			Adopted in June 2024

⁵⁷ As a result of limiting the challenge mechanism to only evaluation elements where Extended Evaluation is unavailable, Annex F should be considered to exclude these specific evaluation areas: Geographic Names, Technical & Operations, Financial, Registry Services, and RSP Pre-Evaluation

⁵⁸ In Annex F, “specific parties” refers to the column titled “Parties with standing”.

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mechanism must not conflict with, be inconsistent with, or impinge access to accountability mechanisms under the ICANN Bylaws.			
Recommendation 32.2: In support of transparency, clear procedures and rules must be established for challenge/appeal processes as described in the implementation guidance below.		See recommendation 32.1	Not adopted in October 2023
Supplemental Recommendation 32.2: In support of transparency, clear procedures and rules must be established for challenge/appeal processes generally aligned with the principles in the implementation guidance below.			Adopted in June 2024
Recommendation 32.10: The limited challenge/appeal process must be designed in a manner that does not cause excessive, unnecessary costs or delays in the application process, as described in the implementation guidance below.		See recommendation 32.1	Not adopted in October 2023
Supplemental Recommendation 32.10: The limited challenge/appeal process must be designed in a manner that does not cause excessive, unnecessary costs or delays in the application process, generally aligned with the principles in the			Adopted in June 2024

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implementation guidance below.			
Topic 33: Dispute Resolution Procedures After Delegation			
Recommendation 33.2: For the Public Interest Commitment Dispute Resolution Procedure (PICDRP) and the Registration Restrictions Dispute Resolution Procedure (RRDRP), clearer, more detailed, and better-defined guidance on the scope of the procedure, the role of all parties, and the adjudication process must be publicly available.			Adopted in March 2023
Topic 34: Community Applications			
Recommendation 34.12: The process to develop evaluation and selection criteria that will be used to choose a Community Priority Evaluation Provider (CPE Provider) must include mechanisms to ensure appropriate feedback from the ICANN community. In addition, any terms included in the contract between ICANN org and the CPE Provider regarding the CPE process must be subject to public comment.	The GNSO Council confirms its recommendation that terms included in the contract between ICANN org and the CPE Provider regarding the CPE process must be subject to public comment. This recommendation however is not intended to require ICANN org to disclose any confidential terms of the agreement between ICANN org and the CPE Provider.		Adopted with GNSO-Council Approved Clarification in September 2023
Recommendation 34.13: The Community Priority Evaluation (CPE) process must be			Adopted in March 2023

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efficient, transparent and predictable.			
Recommendation 34.16: All Community Priority Evaluation procedures (including any supplemental dispute provider rules) must be developed and published before the opening of the application submission period and must be readily and publicly available.			Adopted in March 2023
Recommendation 34.17: Evaluators must continue to be able to send Clarifying Questions to CPE applicants but further, must be able to engage in written dialogue with them as well.			Adopted in March 2023
Recommendation 34.18: Evaluators must be able to issue Clarifying Questions, or utilize similar methods to address potential issues, to those who submit letters of opposition to community-based applications.			Adopted in March 2023
Recommendation 34.19: Letters of opposition to a community-based application, if any, must be considered in balance with documented support for the application.			Adopted in March 2023
Recommendation 34.21: If the Community Priority Evaluation Panel			Adopted in March 2023

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<p>conducts independent research while evaluating an application, limitations on this research and additional requirements must apply. The Working Group recommends including the following text in the Applicant Guidebook: “The Community Priority Evaluation Panel may perform independent research deemed necessary to evaluate the application (the “Limited Research”), provided, however, that the evaluator shall disclose the results of such Limited Research to the applicant and the applicant shall have an opportunity to respond. The applicant shall be provided 30 days to respond before the evaluation decision is rendered. When conducting any such Limited Research, panelists are cautioned not to assume an advocacy role either for or against the applicant or application.”</p>			
<p>Topic 35: Auctions: Mechanisms of Last Resort / Private Resolution of Contention Sets</p>			
<p>Affirmation 35.1: Implementation Guideline F from 2007 states: “If there is contention for strings, applicants may: i) resolve contention between them within a pre-established timeframe ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a</p>			<p>Adopted in March 2023</p>

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<p>process will be put in place to enable efficient resolution of contention and; iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.”</p> <p>The Working Group affirms this Implementation Guideline with the following changes in italicized text: “If there is contention for strings, applicants may: i) resolve contention between them within a pre-established timeframe in accordance with the Applicant Guidebook and supporting documents ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement, contention will be resolved through an ICANN Auction of Last Resort and; iii) Expert panels may be used to make Community Priority Evaluation determinations.” The revision to part i) specifies that any private resolution of contention must be in accordance with the Application Guidebook and supporting documents, including the Application Change request process and Terms and Conditions. Adjustments in the text of ii) and iii) describe in greater specificity program elements as they were implemented in the 2012 round, which will carry over into subsequent rounds.</p>			

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<p>Recommendation 35.3: Applications must be submitted with a bona fide (“good faith”) intention to operate the gTLD. Applicants must affirmatively attest to a bona fide intention to operate the gTLD clause for all applications that they submit.</p> <ul style="list-style-type: none"> • Evaluators and ICANN must be able to ask clarifying questions to any applicant it believes may not be submitting an application with a bona fide intention. Evaluators and ICANN shall use, but are not limited to, the “Factors” described below in their consideration of whether an application was submitted absent bona fide intention. These “Factors” will be taken into consideration and weighed against all of the other facts and circumstances surrounding the impacted applicants and applications. The existence of any one or all of the “Factors” may not themselves be conclusive of an application made lacking a bona fide use intent. • Applicants may mark portions of any such responses as “confidential” if the responses include proprietary business information. <p>The Working Group discussed the following potential non-exhaustive list of</p>	<p>The GNSO Council confirms that the references to private auctions in Recommendations 35.3 and 35.5 merely acknowledge the existence of private auctions in 2012 and should NOT be seen as an endorsement or prohibition of their continued practice in future rounds of the New gTLD Program. The Council notes that there were extensive discussions on the use of private auctions in the SubPro working group. To the extent that draft recommendations were developed as to private auctions, these did not receive consensus support in the working group but did receive strong support with significant opposition.</p>		<p>Adopted with GNSO-Council Approved Clarification in September 2023</p>

	GNSO Council-Approved Clarification	Board Input/Rationale	Status
<p>“Factors” that ICANN may consider in determining whether an application was submitted with a bona fide (“good faith”) intention to operate the gTLD. Note that potential alternatives and additional language suggested by some Working Group members are included in brackets:</p> <ul style="list-style-type: none"> ● If an Applicant applies for [four] [five] or more strings that are within contention sets and participates in private auctions for more than 50 percent (50%) of those strings for which the losing bidder(s) receive the proceeds from the successful bidder, and the applicant loses each of the private auctions, this may be a factor considered by ICANN in determining lack of bona fide intention to operate the gTLD for each of those applications. ● Possible alternatives to the above bullet point: <ul style="list-style-type: none"> ○ [If an applicant participates in six or more private auctions and fifty percent (50%) or greater of its contention strings produce a financial windfall from losing.] ○ [If an applicant receives financial proceeds from losing greater than 49% of 			

	GNSO Council-Approved Clarification	Board Input/Rationale	Status
<p>its total number of contention set applications that are resolved through private auctions.]</p> <ul style="list-style-type: none"> ○ [If an applicant: a. Has six or more applications in contention sets; and b. 50% or more of the contention sets are resolved in private auctions; and c. 50% or more of the private auctions produce a financial windfall to the applicant.] ○ [If an applicant applies for 5 or more strings that are within contention sets and participated in 3 private auctions for which the applicant is the losing bidder it MUST send to the evaluators a detailed reconciliation statement of its auction fund receipts and expenditure immediately on completion of its final contention set resolution. In addition this may be considered a factor by the evaluators and ICANN in determining lack of bone 			

	GNSO Council-Approved Clarification	Board Input/Rationale	Status
<p>fide intention to operate the gTLD for all of its applications and in doing so might stop all its applications from continuing to delegation.]</p> <ul style="list-style-type: none"> • If an applicant’s string is not delegated into the root within two (2) years of the Effective Date of the Registry Agreement, this may be a factor considered by ICANN for that applicant. • If an applicant is awarded a top-level domain and [sells or assigns] [attempts to sell] the TLD (separate and apart from a sale of all or substantially all of its non-TLD related assets) within (1) year, this may be a factor considered by ICANN in determining lack of bona fide intention to operate the gTLD for that applicant. • [If an applicant with multiple applications resolves contention sets by means other than private auctions and does not win any TLDs.] <p>Consideration of whether an application was submitted with a bona fide intention to operate the gTDL must be determined by considering all of the facts and</p>			

	GNSO Council-Approved Clarification	Board Input/Rationale	Status
circumstances surrounding the impacted application.			
<p>Recommendation 35.5: Applicants resolving string contention must adhere to the Contention Resolution Transparency Requirements as detailed below. Applicants disclosing relevant information will be subject to the Protections for Disclosing Applicants as detailed below.</p> <p><u>Contention Resolution Transparency Requirements</u></p> <ul style="list-style-type: none"> ● For Private Auction or Bidding Process / ICANN Auction of Last Resort: In the case of a private auction or an ICANN Auction of Last Resort, all parties in interest ⁵⁹ to any agreements relating to participation of the applicant in the private auction or ICANN Auction of Last Resort must be disclosed to ICANN within 72 hours of resolution and ICANN must, in turn, publish the same within 72 hours of receipt. This includes: <ul style="list-style-type: none"> ○ A list of the real party or parties in interest in each applicant or application, 			Adopted with GNSO-Council Approved Clarification in September 2023

⁵⁹ A party in interest is a person or entity who will benefit from the transaction even if the one participating in the transaction is someone else. This includes, but is not limited to any person or entity that has more than a de minimus ownership interest in an applicant, or who will be in a position to actually or potentially control the operation of an applicant.

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<p>including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;</p> <ul style="list-style-type: none"> ○ List the names and contact information ⁶⁰ of any party holding 15% or more direct or indirect ownership of each applicant or application, whether voting or nonvoting, including the specific amount of the interest or percentage held; ○ List the names and contact information ⁶¹ of all officers, directors, and other controlling interests in the applicant and/or the application; ○ The amount paid (or payable) by the winner of the auction; ○ The beneficiary(ies) of the proceeds of the bidding process and the respective distribution amounts; 			

⁶⁰ Contact Information will be subject to the same publication rules as contact information is treated in the application process.

⁶¹ Same as above.

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<ul style="list-style-type: none"> ○ The beneficiary(ies) of the proceeds of the bidding process; and applicable. ⁶² ● <u>For Other Forms of Private Resolution</u>: Where contention sets are privately resolved through a mechanism other than a private auction, the following must be disclosed: <ul style="list-style-type: none"> ○ The fact that the contention set (or part of a contention set), has been resolved privately (and the names of the parties involved); ○ Which applications are being withdrawn (if applicable); ○ Which applications are being maintained (if applicable); ○ If there will be a change in ownership of the applicant, or any changes to the officers, directors, key personnel, etc., along with the corresponding information; 			

⁶² We assume that Applicant Support bidding credits or multipliers would only be used in cases where the resolution sets were decided by an ICANN Auction of Last Resort, however, we note that it is theoretically possible that such credits or multipliers could be used during a private auction if all parties in the private auction agreed.

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<ul style="list-style-type: none"> ○ All material information regarding any changes to information contained in ○ The value of the Applicant Support bidding credits or multiplier used, if the original application(s)(if any). <p>In the event that any arrangements to resolve string contention results in any material changes to the surviving application, such changes must be submitted through the Application Change process set forth under Topic 20: Application Change Requests.</p> <p><u>Protections for Disclosing Applicants</u></p> <ul style="list-style-type: none"> ● Except as otherwise set forth in the transparency requirements above, no participant in any private resolution process shall be required to disclose any proprietary information such as trade secrets, business plans, financial records, or personal information of officers and directors unless such information is otherwise required as part of a normal TLD application. ● The information obtained from the contention resolution process may not be used by ICANN for any 			

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purpose other than as necessary to evaluate the application, evaluate the New gTLD Program, or to otherwise comply with applicable law.			
Topic 36: Base Registry Agreement			
<p>Affirmation 36.1: The Working Group affirms the following recommendations and implementation guidelines from the 2007:</p> <ul style="list-style-type: none"> • Principle F: “A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.” • Recommendation 10: “There must be a base contract provided to applicants at the beginning of the application process.” • Recommendation 14: “The initial registry agreement term must be of a commercially reasonable length.” • Recommendation 15: “There must be a renewal expectancy.” • Recommendation 16: “Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved.” • Implementation Guideline J: “The base contract should balance market certainty and flexibility for 			Adopted in March 2023

	GNSO Council-Approved Clarification	Board Input/Rationale	Status
<p>ICANN to accommodate a rapidly changing marketplace.”</p> <ul style="list-style-type: none"> ● Implementation Guideline K: “ICANN should take a consistent approach to the establishment of registry fees.” 			
<p>Recommendation 36.3: There must be a clearer, structured, and efficient method to apply for, negotiate, and obtain exemptions to certain provisions of the base Registry Agreement, subject to public notice and comment. A clear rationale must be included with any exemption request. This allows ICANN org to consider unique aspects of registry operators and TLD strings, as well as provides ICANN org the ability to accommodate a rapidly changing marketplace. The Working Group notes that consensus policy must not be the subject of individual Registry Agreement negotiations.</p>			Adopted in March 2023
<p>Recommendation 36.4: ICANN must add a contractual provision stating that the registry operator will not engage in fraudulent or deceptive practices. In the event that ICANN receives an order from a court that a registry has engaged in fraudulent or deceptive practices, ICANN may issue a notice of breach for such practices and allow the registry to cure</p>			Adopted in March 2023

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<p>such breach in accordance with the Registry Agreement. Further, in the event that there is a credible allegation by any third party of fraudulent or deceptive practices, other than as set forth in above, ICANN may, at its discretion, either commence dispute resolution actions under the Registry Agreement (Currently Article 5 of the Registry Agreement), or appoint a panel under the PICDRP. For the purposes of a credible claim of fraudulent or deceptive practices the reporter (as defined by the PICDRP) must only specifically state the grounds of the alleged non-compliance, but not that it personally has been harmed as a result of the registry operator's act or omission.</p>			
<p>Topic 37: Registrar Non-Discrimination / Registry/Registrar Standardization</p>			

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<p>Recommendation 37.1: Recommendation 19 in the 2007 policy states: “Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars.” The Working Group recommends updating Recommendation 19 to state: “Registries must use only ICANN accredited registrars in registering domain names, and may not discriminate among such accredited registrars unless an exemption to the Registry Code of Conduct is granted as stated therein,⁶³ provided, however, that no such exemptions shall be granted without public comment.”</p>			Adopted in March 2023
Topic 39: Registry System Testing			
<p>Recommendation 39.1: ICANN must develop a set of Registry System tests⁶⁴ designed to demonstrate the technical capabilities of the registry operator.</p>			Adopted in March 2023
<p>Recommendation 39.4: Registry System Testing (RST) must be efficient.</p>			Adopted in March 2023

⁶³ See Specification 9 - Registry Operator Code of Conduct for additional information about Code of Conduct exemptions: <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.html#specification9>.

⁶⁴ Note that there is an important distinction between “evaluation” and “testing.” Evaluation includes review of an applicant’s responses to written questions regarding capabilities that cannot be demonstrated until the registry is operational. Testing refers to ICANN org’s assessment of a registry’s capabilities through the tests it conducts.

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Topic 41: Contractual Compliance			
Affirmation 41.1: The Working Group affirms Recommendation 17 from the 2007 policy, which states: “A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.”			Adopted in March 2023
Recommendation 41.2: ICANN’s Contractual Compliance Department should publish more detailed data on the activities of the department and the nature of the complaints handled; provided however, that ICANN should not publish specific information about any compliance action against a registry operator unless the alleged violation amounts to a clear breach of contract. To date, ICANN compliance provides summary statistics on the number of cases opened, generalized type of case, and whether and how long it takes to close. More information must be published on: (a) the context of the compliance action and whether it was closed due to action taken by the registry operator, or whether it was closed due to a finding that the registry operator was never out of compliance, and (b) standards and/or thresholds ICANN applies in assessing, and accepting each complaint for further action.			Adopted in March 2023