



Working Group (WG) Charter

WG Name:		New gTLD Subsequent Procedures	
Section I: Working Group Identification			
Chartering Organization(s):	GNSO Council		
Charter Approval Date:	21 January 2016		
Name of WG Chair:	TBD		
Name(s) of Appointed Liaison(s):	Paul McGrady		
WG Workspace URL:	https://community.icann.org/display/NGSPP/New+gTLD+Subsequent+Procedures+PDP+Home		
WG Mailing List:	TBD		
GNSO Council Resolution:	Title:	Approval of the charter for the PDP WG on New gTLD Subsequent Procedures	
	Ref # & Link:	http://gnso.icann.org/en/council/resolutions#20160121-2	
Important Document Links:	<ul style="list-style-type: none"> GNSO Policy Development Process Manual - http://gnso.icann.org/en/council/annex-2-pdp-manual-16may13-en.pdf Annex A of the ICANN Bylaws - https://www.icann.org/resources/pages/governance/bylaws-en#AnnexA Final Report – Introduction of New Generic Top-Level Domains - http://gnso.icann.org/en/issues/new-gtlds/pdp-dec05-fr-part-a-08aug07.htm 		
Section II: Mission, Purpose, and Deliverables			
Mission & Scope:			
The New gTLD Subsequent Procedures PDP Working Group (WG) is tasked with calling upon the			

community's collective experiences from the 2012 New gTLD Program round to determine what, if any changes may need to be made to the existing *Introduction of New Generic Top-Level Domains* policy recommendations from 8 August 2007¹. As the original policy recommendations as adopted by the GNSO Council and ICANN Board have "been designed to produce a systemized and ongoing mechanisms for applicants to propose new top-level domains", those policy recommendations remain in place for subsequent rounds of the New gTLD Program unless the GNSO Council would decide to modify those policy recommendations via a policy development process. The work of this WG follows the efforts of the New gTLD Subsequent Procedures Discussion Group (DG), which identified a set of issues for a future PDP-WG to consider in their deliberations. The DG saw the issues to address in this Working Group as:

- Clarifying, amending or overriding existing policy principles, recommendations, and implementation guidance;
- Developing new policy recommendations;
- Supplementing or developing new implementation guidance

In addition to the work of the DG, a number of review efforts are underway which may have an impact on the future work of this WG. Therefore, this WG should not be limited to the issues identified by the DG and should take into account the findings from the parallel efforts external to the WG.

As part of the WG deliberations, the WG should consider at a minimum, the elements below, which are found in further detail in the Final Issue Report. These elements have been organized in groupings suggested by the DG that may facilitate establishing teams to undertake the work. However, additional work methods, such as those described in the Final Issue Report, or other methods identified by the WG may be more appropriate to undertake the work. The list below in this charter is a starting point, and a suggested method of organization, but it is not intended to be exhaustive or impose constraints on this WG on how it operates or the issues it discusses, provided that the issues are directly related to new gTLD subsequent procedures. This WG may need to supplement this list, or reorganize it, to meet the needs of the WG as it moves deeper into the substantive policy discussions. If additional materials topics are identified, the WG should inform the GNSO Council, especially if amendment of this Charter is required. The fact that some issues are listed in the Final Issue Report and Appendices to the outputs of the DG, as opposed to inside the text of this Charter, is not intended to elevate some issues over others; the high-level issues below are simply to provide an illustrative guide to the issues that this Working Group will consider.

- **Group 1: Overall Process / Support / Outreach: Principles A and C; Recommendations 1, 9, 10, 12 and 13; Implementation Guidance A, B, C, D, E, M, N, O and Q; New Topics "Different TLD Types", "Application Submission Limits" and "Variable Fees"**
 - Cancelling Subsequent Procedures: Should there in fact be new gTLD subsequent procedures and if not, what are the justifications for and ramifications of discontinuing the program?

¹ <http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

- Predictability: How can changes to the program introduced after launch (e.g., digital archery/prioritization issues, name collision, registry agreement changes, public interest commitments (PICs), etc.) be avoided?
- Competition, Consumer Trust, and Consumer Choice: Did the implementation meet or discourage these goals?
 - *Note that per Section 9.3 of the Affirmation of Commitments, there is to be a community driven review of the New gTLD Program's impact on Competition, Consumer Trust, and Consumer Choice, taking into account the recommended metrics as identified by the Implementation Advisory Group for Competition, Consumer Trust, and Consumer Choice (IAG-CCT).*
- Community Engagement: How can participation from the community be better encouraged and integrated during the policy development process, implementation, and execution?
- Applicant Guidebook (AGB): Is the AGB the right implementation of the GNSO recommendations? If so, how can it be improved to ensure that it meets the needs of multiple audiences (e.g., applicants, those monitoring the policy implementation, registry service providers, escrow providers, etc.)
- Clarity of Application Process: How can the application process avoid developing processes on an as-needed basis (e.g., clarifying question process, change request process, customer support, etc.)
- Applications Assessed in Rounds: Has the scale of demand been made clear? Does the concept of rounds affect market behavior and should factors beyond demand affect the type of application acceptance mechanism?
- Accreditation Programs: As there appears to be a limited set of technical service and Escrow providers, would the program benefit from an accreditation program for third party service providers? If so, would this simplify the application process with a set of pre-qualified providers to choose from? Are there other impacts that an accreditation program may have on the application process?
- Systems: How can the systems used to support the New gTLD Program, such as TAS, Centralized Zone Data Service, Portal, etc. be made more robust, user friendly, and better integrated?
- Application Fees: Evaluate accuracy of cost estimates and/or review the methodology to develop the cost model, while still adhering to the principle of cost recovery. Examine how payment processing can be improved.
- Communications: Examine access to and content within knowledge base as well as communication methods between ICANN and the community.
- Application Queuing: Review whether first come first served guidance remains relevant and if not, whether another mechanism is more appropriate.
- Application Submission Period: Is three months the proper amount of time? Is the concept of a fixed period of time for accepting applications the right approach?
- Support for Applicants From Developing Countries: Evaluate effectiveness of Applicant Support program to assess if the criteria were properly designed, outreach sufficient, monetary support sufficient, etc. In particular, was there enough outreach in developing economies to 1) contribute to the design and nature of the process and 2)

to ensure awareness of the opportunity afforded?

- Different TLD Types: Does the one-size-fits-all application and review process hamper innovation? Should things such as the application process, requirements, annual fees, contractual requirements, etc. be variable based on the TLD type? For instance, should an existing Registry Operator, that is fulfilling the requirements of its Registry Agreement, be subject to a different, more streamlined, application process?
- Application Submission Limits: Should there be limits to the number of applications from a single applicant/group? Consider if the round could be restricted to a certain applicant type(s) (e.g., from least-developed countries) or other limiting factor.
- Variable Fees: Should the New gTLD application fee be variable based on such factors as application type (e.g., open or closed registries), multiple identical applications, or other factor?
- **Group 2: Legal / Regulatory: Recommendations 5, 10, 14, 15, 16, 17 and 19; Implementation Guidance I, J, K and L; New Topics “Second-level Rights Protection Mechanisms”, “Registry/Registrar Standardization”, “Global Public Interest” and “IGO/INGO Protections”**
 - Reserved Names: Review the composition of the reserved names list to determine if additions, modifications, or subtractions are needed (e.g., single letter, two letters, special characters, etc.). Evaluate if the implementation matched expectations (e.g., recommendations of the Reserved Names Working Group). Review whether geographic names requirements are appropriate.
 - *Note, the GNSO/ccNSO-chartered Cross Community Working Group on the Use of Country and Territory Names as Top-Level Domains is focused on a policy framework for country and territory names and efforts should be made to avoid duplicative work. In addition, capital city names, city names, etc. may also warrant discussion.*
 - Base agreement: Perform comprehensive review of the base agreement, including investigating how and why it was amended after program launch, whether a single base agreement is appropriate, whether Public Interest Commitments (PICs) are the right mechanism to protect the public interest, etc. Should the Article 7.7 review process be amended to allow for customized reviews by different registry types?
 - Registrant Protections. The original PDP assumed there would always be registrants and they would need protecting from the consequences of Registry failure, although it may not make sense to impose registrant protection obligations such as EBERO and the LOC when there are no registrants to protect, such as in a closed registry. Should more relevant rules be established for certain specific cases?
 - Contractual Compliance: While no specific issues were identified, contractual compliance as it relates to New gTLDs may be considered in scope for discussion, though the role of contractual compliance (i.e., enforcing agreements) would not be considered within scope.
 - Registrar Non-Discrimination: Are registrar requirements for registries still appropriate?
 - *Note, the development and implementation of Specification 13 for .brands was agreed to by the GNSO Council but deemed to be inconsistent with the historic Recommendation 19 because brands had not been considered in the original*

PDP.

- TLD Rollout: Was adequate time allowed for rollout of TLD? When should recurring fees due to ICANN begin?
- Second-Level Rights Protection Mechanisms: Proposing recommendations directly related to RPMs is beyond the remit of this PDP. There is an anticipated PDP on the "current state of all rights protection mechanisms (RPMs) implemented for both existing and new gTLDs, including but not limited to the UDRP and the URS...". Duplication or conflicting work between the New gTLD Subsequent Procedures PDP and the PDP on RPMs must be avoided. If topics related to RPMs are uncovered and discussed in the deliberations of this PDP, those topics should be relayed to the PDP on RPMs for resolution. To assure effective coordination between the two groups, a community liaison, who is a member of both Groups, is to be appointed jointly by both Groups and confirmed by the GNSO Council.
- Registry/Registrar Standardization: Consider whether the registry/registrar relationship should have additional standardization and regulation.
- Global Public Interest: Existing policy advice does not define the application of "Public Interest" analysis as a guideline for evaluation determinations. Consider issues identified in GAC Advice on safeguards, public interest commitments (PICs), and associated questions of contractual commitment and enforcement. It may be useful to consider the global public interest in the context of ICANN's limited technical coordination role, mission and core values and how it applies specifically to the New gTLD Program.
- IGO/INGO Protections: The PDP for Protection of IGO and INGO Identifiers in All gTLDs and PDP for IGO-INGO Access to Curative Rights Protection Mechanisms are expected to address a number of issues. While no additional work is envisioned, if there are any remaining or new issues for discussion, they could be deliberated in the context of this PDP.
- Closed Generics: Should there be restrictions around exclusive use of generics TLDs?
- **Group 3: String Contention / Objections & Disputes: Principle G; Recommendations 2, 3, 6, 12 and 20; Implementation Guidance F, H, P and R**
 - Applicant's Freedom of Expression: Examine whether GAC Advice, community processes, and reserved names impacted this goal.
 - String Similarity: Were string contention evaluation results consistent and effective in preventing user confusion? Were the string contention resolution mechanisms fair and efficient?
 - Objections: Review rules around standing, fees, objection consolidation, consistency of proceedings and outcomes. Review functions and role of the independent objector. Consider oversight of process and appeal mechanisms.
 - Accountability Mechanisms: Examine whether dispute resolution and challenge processes provide adequate redress options or if additional redress options specific to the program are needed.
 - *Note that the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) is comprehensively reviewing accountability mechanisms, so a portion of this topic may be beyond the scope*

of the New gTLD Subsequent Procedures PDP

- Community Applications: Was the overall approach to communities consistent with recommendations and implementation guidance? Did the Community Priority Evaluation process achieve its purpose and result in anticipated outcomes? Were the recommendations adequate for community protection?
- **Group 4: Internationalized Domain Names: Principle B; Recommendation 18**
 - Internationalized Domain Names and Universal Acceptance: Consider how to encourage adoption of gTLDs. Evaluate whether rules around IDNs properly accounted for recommendations from IDN WG. Determine and address policy guidance needed for the implementation of IDN variant TLDs.
 - *Note that the Universal Acceptance Steering Group has community support to lead the Universal Acceptance efforts and that conflicting effort and outcomes should be avoided.*
- **Group 5: Technical and Operations: Principles D, E and F; Recommendations 4, 7, and 8; New Topic “Name Collisions”**
 - Security and Stability: Were the proper questions asked to minimize the risk to the DNS and ensure that applicants will be able to meet their obligations in the registry agreement? Should there be non-scored questions and if so, how should they be presented? Were the proper criteria established to avoid causing technical instability? Is the impact to the DNS from new gTLDs fully understood?
 - Applicant Reviews: Technical/Operational and Financial: Were Financial and Technical criteria designed properly to allow applicants to demonstrate their capabilities while allowing evaluators to validate their capabilities? How can the criteria be streamlined and made clearer?
 - Name collisions: How should name collisions be incorporated into future new gTLD rounds? What measures may be needed to manage risks for 2012-round gTLDs beyond their 2 year anniversary of delegation, or gTLDs delegated prior to the 2012 round?

The WG, during its deliberations, should keep in mind that making substantive changes to the New gTLD Program may result in significant differences between registries from the 2012 round and future rounds. Where significant differences are identified, the WG should discuss the benefits to be realized from recommended changes against any possible negative impacts, such as creating an uneven playing field. As outlined in the PDP Manual, recommendations may take different forms including, for example, recommendations for consensus policies, best practices and/or implementation guidelines. The PDP WG is required to follow the steps and processes as outlined in Annex A of the ICANN Bylaws and the PDP Manual.

Objectives & Goals:

To develop an Initial Report and a Final Report addressing the issue of New gTLD Subsequent Procedures to be delivered to the GNSO Council, following the processes described in Annex A of the ICANN Bylaws and the PDP Manual.

Deliverables & Timeframes:

The WG shall respect the timelines and deliverables as outlined in Annex A of the ICANN Bylaws and the PDP Manual. As per the GNSO Working Group Guidelines, the WG shall develop a work plan that outlines the necessary steps and expected timing in order to achieve the milestones of the PDP as set out in Annex A of the ICANN Bylaws and the PDP Manual and submit this to the GNSO Council.

Section III: Formation, Staffing, and Organization

Membership Criteria:

The Working Group will be open to all interested in participating. New members who join after work has been completed will need to review previous documents and meeting transcripts.

Group Formation, Dependencies, & Dissolution:

This WG shall be a standard GNSO PDP Working Group. The GNSO Secretariat should circulate a 'Call For Volunteers' as widely as possible in order to ensure broad representation and participation in the Working Group, including:

- Publication of announcement on relevant ICANN web sites including but not limited to the GNSO and other Supporting Organizations and Advisory Committee web pages; and
- Distribution of the announcement to GNSO Stakeholder Groups, Constituencies and other ICANN Supporting Organizations and Advisory Committees

Working Group Roles, Functions, & Duties:

The ICANN Staff assigned to the WG will fully support the work of the Working Group as requested by the Chair including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate.

Staff assignments to the Working Group:

- GNSO Secretariat
- 2 ICANN policy staff members (Steve Chan, Julie Hedlund)

The standard WG roles, functions & duties shall be applicable as specified in Section 2.2 of the Working Group Guidelines.

Statements of Interest (SOI) Guidelines:

Each member of the Working Group is required to submit an SOI in accordance with Section 5 of the GNSO Operating Procedures.

Section IV: Rules of Engagement

Decision-Making Methodologies:

{Note: The following material was extracted from the Working Group Guidelines, Section 3.6. If a Chartering Organization wishes to deviate from the standard methodology for making decisions or empower the WG to decide its own decision-making methodology, this section should be amended as appropriate}.

The Chair will be responsible for designating each position as having one of the following designations:

- **Full consensus** - when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as **Unanimous Consensus**.

- **Consensus** - a position where only a small minority disagrees, but most agree. *[Note: For those that are unfamiliar with ICANN usage, you may associate the definition of 'Consensus' with other definitions and terms of art such as rough consensus or near consensus. It should be noted, however, that in the case of a GNSO PDP originated Working Group, all reports, especially Final Reports, must restrict themselves to the term 'Consensus' as this may have legal implications.]*
- **Strong support but significant opposition** - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it.
- **Divergence** (also referred to as **No Consensus**) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.
- **Minority View** - refers to a proposal where a small number of people support the recommendation. This can happen in response to a **Consensus**, **Strong support but significant opposition**, and **No Consensus**; or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

In cases of **Consensus**, **Strong support but significant opposition**, and **No Consensus**, an effort should be made to document that variance in viewpoint and to present any **Minority View** recommendations that may have been made. Documentation of **Minority View** recommendations normally depends on text offered by the proponent(s). In all cases of **Divergence**, the WG Chair should encourage the submission of minority viewpoint(s).

The recommended method for discovering the consensus level designation on recommendations should work as follows:

- After the group has discussed an issue long enough for all issues to have been raised, understood and discussed, the Chair, or Co-Chairs, make an evaluation of the designation and publish it for the group to review.
- After the group has discussed the Chair's estimation of designation, the Chair, or Co-Chairs, should reevaluate and publish an updated evaluation.
- Steps (i) and (ii) should continue until the Chair/Co-Chairs make an evaluation that is accepted by the group.
- In rare case, a Chair may decide that the use of polls is reasonable. Some of the reasons for this might be:
 - A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.
 - It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between **Consensus** and **Strong support but Significant Opposition** or between **Strong support but Significant Opposition** and **Divergence**.

Care should be taken in using polls that they do not become votes. A liability with the use of polls is

that, in situations where there is **Divergence** or **Strong Opposition**, there are often disagreements about the meanings of the poll questions or of the poll results.

Based upon the WG's needs, the Chair may direct that WG participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position. However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls were taken.

Consensus calls should always involve the entire Working Group and, for this reason, should take place on the designated mailing list to ensure that all Working Group members have the opportunity to fully participate in the consensus process. It is the role of the Chair to designate which level of consensus is reached and announce this designation to the Working Group. Member(s) of the Working Group should be able to challenge the designation of the Chair as part of the Working Group discussion. However, if disagreement persists, members of the WG may use the process set forth below to challenge the designation.

If several participants (see Note 1 below) in a WG disagree with the designation given to a position by the Chair or any other consensus call, they may follow these steps sequentially:

1. Send email to the Chair, copying the WG explaining why the decision is believed to be in error.
2. If the Chair still disagrees with the complainants, the Chair will forward the appeal to the CO liaison(s). The Chair must explain his or her reasoning in the response to the complainants and in the submission to the liaison. If the liaison(s) supports the Chair's position, the liaison(s) will provide their response to the complainants. The liaison(s) must explain their reasoning in the response. If the CO liaison disagrees with the Chair, the liaison will forward the appeal to the CO. Should the complainants disagree with the liaison support of the Chair's determination, the complainants may appeal to the Chair of the CO or their designated representative. If the CO agrees with the complainants' position, the CO should recommend remedial action to the Chair.
3. In the event of any appeal, the CO will attach a statement of the appeal to the WG and/or Board report. This statement should include all of the documentation from all steps in the appeals process and should include a statement from the CO (see Note 2 below).

Note 1: Any Working Group member may raise an issue for reconsideration; however, a formal appeal will require that that a single member demonstrates a sufficient amount of support before a formal appeal process can be invoked. In those cases where a single Working Group member is seeking reconsideration, the member will advise the Chair and/or Liaison of their issue and the Chair and/or Liaison will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial a formal appeal process.

Note 2: It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process.

Status Reporting:

As requested by the GNSO Council, taking into account the recommendation of the Council liaison to this group.

Problem/Issue Escalation & Resolution Processes:

{Note: the following material was extracted from Sections 3.4, 3.5, and 3.7 of the Working Group Guidelines and may be modified by the Chartering Organization at its discretion}

The WG will adhere to [ICANN’s Expected Standards of Behavior](#) as documented in Section F of the ICANN Accountability and Transparency Frameworks and Principles, January 2008.

If a WG member feels that these standards are being abused, the affected party should appeal first to the Chair and Liaison and, if unsatisfactorily resolved, to the Chair of the Chartering Organization or their designated representative. It is important to emphasize that expressed disagreement is not, by itself, grounds for abusive behavior. It should also be taken into account that as a result of cultural differences and language barriers, statements may appear disrespectful or inappropriate to some but are not necessarily intended as such. However, it is expected that WG members make every effort to respect the principles outlined in ICANN’s Expected Standards of Behavior as referenced above.

The Chair, in consultation with the Chartering Organization liaison(s), is empowered to restrict the participation of someone who seriously disrupts the Working Group. Any such restriction will be reviewed by the Chartering Organization. Generally, the participant should first be warned privately, and then warned publicly before such a restriction is put into place. In extreme circumstances, this requirement may be bypassed.

Any WG member that believes that his/her contributions are being systematically ignored or discounted or wants to appeal a decision of the WG or CO should first discuss the circumstances with the WG Chair. In the event that the matter cannot be resolved satisfactorily, the WG member should request an opportunity to discuss the situation with the Chair of the Chartering Organization or their designated representative.

In addition, if any member of the WG is of the opinion that someone is not performing their role according to the criteria outlined in this Charter, the same appeals process may be invoked.

Closure & Working Group Self-Assessment:

The WG will close upon the delivery of the Final Report, unless assigned additional tasks or follow-up by the GNSO Council.

Section V: Charter Document History

Version	Date	Description
1.0	21 January 2016	Adopted by GNSO Council

Staff Contact:

Steve Chan

Email:Policy-Staff@icann.org

