

Annex H – Summary of Changes Since the Initial Report and Questions for Public Comment

| Section | Topic | Substantive Difference Since Initial Report? | Description of Difference |
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| Overarching Issues | Topic 1: Continuing Subsequent Procedures | No | - Affirmed purposes for introducing gTLDs. |
| Overarching Issues | Topic 2: Predictability | Yes | - Added details to the Initial Report’s conceptual Predictability Framework, including defining different "buckets" of changes, clarifying which parties can raise issues, and explaining in more detail the jurisdiction of the Framework/SPIRT. - Added specific details to the structure of the SPIRT, governance model and operating procedures. |
| Overarching Issues | Topic 3: Applications Assessed in Rounds | Yes | - Simplified recommendation to make it clear that the New gTLD Program would be conducted in rounds. - Added recommendations on when future rounds can be initiated (even if applications may still be pending from the previous round). - Added clarity on the circumstances when a new application may be submitted for a string that was not delegated in the previous round. - Added recommendations on the need for a predictable cadence of future rounds and that future reviews of the program should be conducted concurrently with the program. - Added recommendation that material changes from reviews/policy development should apply only to the next subsequent round. |

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| Overarching Issues | Topic 4: Different TLD Types | Yes | <ul style="list-style-type: none"> - More detail provided on different categories of TLD applications and how those are treated (e.g., how the type of application, string, or applicant will result in differential treatment during the application evaluation process). - Added Category 1 - GAC Safeguards, IGO and governments, and Applicant Support as different TLD Types. - Added recommendation that creating types should be exceptional and need-based, but that there should be a predictable process to have potential changes considered by the community. |
| Overarching Issues | Topic 5: Application Submission Limits | No | |
| Overarching Issues | Topic 6: RSP Pre-Evaluation | Yes | <ul style="list-style-type: none"> - Renamed the service to better align with its function (RSP Pre-Evaluation). Clarified that substantively, the program is more about timing of the review rather than introducing new evaluation requirements. - Confirmed that new and existing RSPs are eligible for pre-evaluation (no automatic approval for existing RSPs). - Provided guidance on timing and applicability of pre-evaluation (only applies to the specific round and that in the future, streamlining the process may be appropriate). - Confirmed that pre-evaluated RSPs are not “contracted parties” for purposes of the GNSO Structure. - Recommended that for usability, a list of pre-evaluated RSPs must be made available well enough in advance of the application submission window, so as to be useful for prospective applicants. |

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| Overarching Issues | Topic 7: Metrics and Monitoring | No | - The section itself is new, but the content is not. This new section simply aggregates the metrics and monitoring recommendations from various sections. |
| Overarching Issues | Topic 8: Conflicts of Interest | No | - The section itself is new, but the content is not. This concept was originally captured in Objections, but the WG deemed it to be broadly applicable to all vendors that support the program (e.g., evaluators, objections providers). |
| Foundational Issues | Topic 9: Registry Voluntary Commitments / Public Interest Commitments | Yes | <ul style="list-style-type: none"> - Added specificity to mandatory PICs (i.e., reference to specification 11 3(a)-(d)). - Added a recommendation to allow for single-registrant TLDs to obtain waivers for 11 3(a) and 3(b) - Added specificity to voluntary PICs (which were renamed Registry Voluntary Commitments, or RVCs), including when and for what reasons they may be added and that they be treated as application change requests (to allow for public consideration). Recommended that the PICDRP be updated to account for name change. - Added a recommendation to improve access for being able to review RVCs, in line with CCT-RT recommendation 25. - Added a set of recommendations for Category 1 Safeguards, which affirms the NGPC framework and suggests that strings be evaluated as an evaluation element, to determine if they fall into any of the NGPC framework groupings. - Added a recommendation that DNS Abuse should be addressed holistically, instead of just in the context of future new gTLDs. |
| Foundational Issues | Topic 10: Applicant Freedom of Expression | No | |

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| Foundational Issues | Topic 11: Universal Acceptance | No | |
| Pre-Launch Activities | Topic 12: Applicant Guidebook | No | - Emphasis was placed on the need for enhancing language support in the 6 UN languages |
| Pre-Launch Activities | Topic 13: Communications | No | |
| Pre-Launch Activities | Topic 14: Systems | No | |
| Application Submission | Topic 15: Application Fees | Yes | <ul style="list-style-type: none"> - Combined the Application Fees and Variable Fees section. - Clarified that applicants utilizing a pre-evaluated RSP would not incur costs for the technical/operational evaluation element and that applicants qualifying for Applicant Support would necessarily be subject to a different fee structure. |
| Application Submission | Topic 16: Application Submission Period | No | |
| Application Submission | Topic 17: Applicant Support | Yes | - For the recommendation related to support beyond the application fee, financial support for ongoing registry fees were removed. |

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| | | | <ul style="list-style-type: none"> - Suggested that a dedicated Implementation Review Team (IRT) (ASP) may be warranted for this topic alone and be constituted of experts in this area. - Added greater detail on outreach and collaboration with local partners to achieve outreach plan. - Added recommendation that the dedicated IRT establish metrics for success (with a non-exhaustive list of potential metrics included). - Added Implementation Guidance that the dedicated IRT consider how to allocate support if the number of qualified applicants exceeds funds. - Added recommendation that ICANN develop a plan for funding the ASP and potentially seek funding partners. <p>Question for Community Input: Recommendation 17.2 states: "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." Should the Applicant Support Program also include the reduction or elimination for eligible candidates of ongoing registry fees specified in Article 6 of the Registry Agreement? If so, how should the financial impact to ICANN be accounted for?</p> |
| Application Submission | Topic 18: Terms & Conditions | No | - Added recommendation about treatment of confidential elements of applications. |
| Application Submission | Topic 19: Application Queuing | Yes | - Added recommendation to equitably prioritize IDN applications, including a detailed formula if relatively high volumes of IDN applications are received. |

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| Application Submission | Topic 20: Application Change Requests | No | - Recommends allowance of resolving string contention 1) through business combinations and 2) through string change for .Brand TLDs in limited circumstances. |
| Application Evaluation/Criteria | Topic 21: Reserved Names | No | - For consistency with other top-level Reserved Names, the WG altered the recommendation related to Public Technical Identifiers to only reserve the PTI acronym, not the full names. |
| Application Evaluation/Criteria | Topic 21.1: Geographic Names | No | |
| Application Evaluation/Criteria | Topic 22: Registrant Protections | No | - The Initial Report provided options to consider as alternatives to the Continuing Operations Instrument. Although the WG did not agree on a specific alternative, the WG did add a recommendation that alternatives be explored during implementation. |
| Application Evaluation/Criteria | Topic 23: Closed Generics | Yes | - For the purposes of the draft Final Report, the WG designated the status as No Agreement and continued to make no recommendations with respect to either allowing or disallowing Closed Generics. However, with widely diverging viewpoints, the WG asked WG members to contribute proposals for consideration, to help identify circumstances when a closed generic may be permitted. These proposals were not thoroughly vetted by the WG and therefore none of the proposals at this point in time have any agreement within the WG to pursue. However, the WG is very interested in community feedback regarding the three proposals received, in regards to both the high level principles and the details (where provided). Thus, any feedback is appreciated. |

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| | | | <p>Questions for Community Input: Please review the following proposals:</p> <ul style="list-style-type: none"> • A Proposal for Public Interest Closed Generic gTLDs (PICG TLDs), submitted by Alan Greenberg, Kathy Kleiman, George Sadowsky, and Greg Shatan. • The Case for Delegating Closed Generics, submitted by Kurt Pritz, Marc Trachtenberg, Mike Rodenbaugh. • Closed Generics Proposal, submitted by Jeff Neuman in his individual capacity. <p>Which, if any, do you believe warrant further consideration by the WG, and why? Are there elements or high-level principles in any of the proposals that you believe are critical to permitting closed generics even if you may disagree with some of the details? If so, please explain.</p> |
| Application Evaluation/Criteria | Topic 24: String Similarity | Yes | <ul style="list-style-type: none"> - The WG added detail and precision around its recommendations, especially around singular/plurals. - The concept of “intended usage” was integrated into the singular/plural standard, meaning that in circumstances where string combinations that <u>could</u> be considered singular/plural, but where the applicants intend to use the strings in connection with <u>different meanings</u>, both can possibly be delegated. In this case, applicants must agree to mandatory PICs to use the string in line with their intended usage as described in the application. |
| Application Evaluation/Criteria | Topic 25: IDNs | Yes | <ul style="list-style-type: none"> - Added Implementation Guidance to allow applicants to apply for a string in a script that is not yet part of RZ-LGR, though it will not be allowed to proceed to contracting. - Added additional recommendations/detail around same entity requirements for IDN variants at the top and second levels. |

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| | | | - Added recommendation that second-level IDN variants are not required to behave identically. |
| Application Evaluation/Criteria | Topic 26: Security and Stability | Yes | <ul style="list-style-type: none"> - Refined recommendations related to root zone scaling, focusing on the rate of change for the root zone for a shorter period of time (e.g. monthly basis) rather than on a yearly basis. - Added Implementation Guidance intended to promote the conservative expansion of the DNS. - While previously discussed, formalized as a recommendation that emojis should not be allowed at any level in gTLDs. |
| Application Evaluation/Criteria | Topic 27: Applicant Reviews: Technical/Operational, Financial and Registry Services | No | - Structural and grammatical changes made for ease of understanding. |
| Application Evaluation/Criteria | Topic 28: Role of Application Comment | No | - Recommendations are better aligned and consistent with what occurred in the 2012 round, resulting in some recommendations being converted to affirmations instead. With more detail and precision overall, several recommendations were broken into discrete elements, expanding the number of overall recommendations in this section. |
| Application Evaluation/Criteria | Topic 29: Name Collisions | Yes | <ul style="list-style-type: none"> - Affirmed the use of the New gTLD Collision Occurrence Management framework, unless it is replaced by a new Board approved framework (e.g., as a result of the NCAP studies) - Focused recommendations more on criteria for assessing name collision risk, relying less so on prescribed lists (e.g., High, Aggravated, Low). |

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| Dispute Proceedings | Topic 30: GAC Consensus Advice and GAC Early Warning | Yes | <ul style="list-style-type: none"> - Created this separate section on GAC Early Warning and GAC Consensus Advice, apart from Objections - In recognition of the GAC's role under the ICANN Bylaws, the recommendations were made consistent with the GAC's role. The WG expressed its preference for certain outcomes (e.g., providing GAC Consensus Advice on TLD types ahead of program launch), but acknowledged that it is unable to impose such requirements on the GAC. - The WG solidified its proposal to remove the language in the AGB that creates a "strong presumption for the ICANN Board that the application should not be approved," which the WG believes is consistent with the GAC's role under the ICANN Bylaws and encourages mutually beneficial outcomes rather than creating a presumption of rejected applications. - Clarified that GAC Early Warnings must also include rationale for the warning, which should also promote mutually beneficial outcomes. - Converted potential guidance in the Initial Report to a recommendation: RVCs should be allowed as a mechanism to address or mitigate concerns in GAC Early Warning or GAC Consensus Advice. |
| Dispute Proceedings | Topic 31: Objections | Yes | <ul style="list-style-type: none"> - Added Implementation Guidance aimed at improving accessibility to objections (e.g., reducing costs, timing requirements). - Added recommendation to allow parties to mutually agree to one or three-expert panels. - Added a recommendation and Implementation Guidance aimed at improving clarity in the process and transparency of outcomes (e.g., criteria and/or processes and fees/refunds should be available ahead of program launch and in the Applicant Guidebook; any additional panel requirements should be available in a central location). |
| Dispute Proceedings | Topic 32: Limited Challenge/Appeal Mechanism | Yes | <ul style="list-style-type: none"> - The draft Final Report now includes a substantial amount of additional detail regarding challenges and appeals. - The recommendations identify which evaluation mechanisms can be challenged and which objection decisions can be appealed. An Annex is included, which provides clarity |

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| | | | <p>around standing, the arbiter of the challenge/appeal, who is responsible for costs, standard for appeal ("clearly erroneous" for everything but conflicts of interests), and remedies.</p> <ul style="list-style-type: none"> - The recommendations seek to limit the impact that challenges/appeals may have on program timing and costs. |
| Dispute Proceedings | Topic 33: Dispute Resolution Procedures After Delegation | No | |
| String Contention Resolution | Topic 34: Community Applications | Yes | <ul style="list-style-type: none"> - Added recommendation that letters of opposition should be considered in balance with letters of support. - Added recommendation intending to clarify the scope of additional research done in performing CPE, and noting that any research impacting the decision should be disclosed to the applicant. <p>Question for Community Input: Implementation Guideline 34.3 states: "To support predictability, the CPE guidelines, or as amended, should be considered a part of the policy adopted by the Working Group." In deliberations, the Working Group considered proposals for specific changes to the Community Priority Evaluation (CPE) Guidelines from 2012, but did not ultimately recommend any specific changes to the text of the Guidelines (see proposals at https://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf). Do you support any of the proposed changes? Please explain. Are there other changes to the Guidelines that you believe the Working Group should recommend?</p> |
| String Contention | Topic 35: Auctions: | Yes | <ul style="list-style-type: none"> - Selected the second price sealed-bid mechanism for the ICANN Auctions of Last Resort, which was previously one of several options under consideration. The Working Group |

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| Resolution | Mechanisms of Last Resort/ Private Resolution of Contention Sets (including Private Auctions) | | <p>added procedural details, such as when bids should be submitted, confirmed that program evaluation elements should remain largely unchanged, how the ICANN Auction of Last Resort should be conducted, among other elements.</p> <p>- The Working Group had previously been trending towards disallowing private resolution where a party is paid to withdraw, but is now focusing instead on seeking to ensure that applications are submitted with a bona fide (“good faith”) intentions, while also allowing private resolution (including private auctions). Contentions sets resolved via private resolution have information disclosure requirements (i.e., Contention Resolution Transparency Requirements).</p> <p>Question for Community Input: Recommendation 35.3 requires that, “Applications must be submitted with a bona fide (“good faith”) intention to operate the gTLD.” The Working Group discussed examples of what would constitute a lack of bona fide intent and included a non-exhaustive list of indicative “Factors,” though it believes analysis of the included examples and identification of additional examples is helpful. What do you believe are appropriate “Factors” to consider when determining if an application was submitted with a bona fide intention, and why?</p> <p>Question for Community Input: Also related to Recommendation 35.3, the Working Group discussed what the punitive measures should be if an application is found to have been submitted lacking a bona fide intention, in respect of the “Factors.” Some of the ideas discussed include the potential loss of the registry, barring participation in any future rounds (both for the individuals as well as the entities (and their affiliates) involved), or financial penalties. In this respect, the Working Group discussed the timing of when such “Factors” may be identified (e.g., likely after private auctions have already taken place) and how that may impact potential punitive measures. What do you believe are appropriate punitive measures for applications that were submitted lacking a bona fide intention, and why?</p> |

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| Contracting | Topic 36: Base Registry Agreement | No | <p>- The WG is converting questions in the Initial Report to recommendations.</p> <p>Question for Community Input: Recommendation 36.4 states: "ICANN must add a contractual provision stating that the registry operator will not engage in fraudulent or deceptive practices." The Working Group discussed two options for implementing the recommendation: the addition of a PIC or a provision in the Registry Agreement. A new PIC would allow third parties to file a complaint regarding fraudulent and deceptive practices. ICANN would then have the discretion to initiate a PICDRP using the third-party complaint. If a provision regarding fraudulent and deceptive practices would be included in the RA, enforcement would take place through ICANN exclusively. Which option is preferable and why?</p> |
| Contracting | Topic 37: Registrar Non-Discrimination / Registry/Registrar Standardization | No | <p>Question for Community Input: the Working Group discussed specific circumstances in which it may be appropriate for ICANN to grant Code of Conduct exemptions. In particular the Working Group considered a proposal that if a registry makes a good faith effort to get registrars to carry a TLD, but is unable to do so after a given period of time, the registry should have the opportunity to seek a Code of Conduct exemption so that it can be its own registrar without needing to maintain separate books and records and legally separate entities. What standard should be followed or what evidence should be required of the registry in evaluating if a "good faith effort" has been made? Is a Code of Conduct exemption as it currently exists the right mechanism for a registry that lacks registrar support for its gTLD, considering that the Code of Conduct is primarily focused on registrant protections?</p> |
| Contracting | Topic 38: Registrar Support for New gTLDs | No | |

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| Pre-Delegation | Topic 39: Registry System Testing | No | - Structural and grammatical changes made for ease of understanding. |
| Post-Delegation | Topic 40: TLD Rollout | No | |
| Post-Delegation | Topic 41: Contractual Compliance | No | |