

GNSO new TLDs Committee

Part A: Final Report

Introduction of New Generic Top-Level Domains

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GLOSSARY¹

TERM	ACRONYM & EXPLANATION
ASCII Compatible Encoding	ACE ACE is a system for encoding Unicode so each character can be transmitted using only the letters a-z, 0-9 and hyphens. Refer also to http://www.ietf.org/rfc/rfc3467.txt?number=3467
American Standard Code for Information Exchange	ASCII ASCII is a common numerical code for computers and other devices that work with text. Computers can only understand numbers, so an ASCII code is the numerical representation of a character such as 'a' or '@'. See above referenced RFC for more information.
Advanced Research Projects Agency	ARPA http://www.darpa.mil/body/arpa_darpa.html
Commercial & Business Users Constituency	CBUC http://www.bizconst.org/
Consensus Policy	A defined term in all ICANN registry contracts usually found in Article 3 (Covenants). See, for example, http://www.icann.org/tlds/agreements/biz/registry-agmt-08dec06.htm
Country Code Names Supporting Organization	ccNSO http://ccnso.icann.org/
Country Code Top Level Domain	ccTLD Two letter domains, such as .uk (United Kingdom), .de (Germany) and .jp (Japan) (for example), are called country code top level domains (ccTLDs) and correspond to a country, territory, or other geographic location. The rules and policies for registering domain names in the ccTLDs vary significantly and ccTLD registries limit use of the ccTLD to citizens of the corresponding country. Some ICANN-accredited registrars provide registration services in the ccTLDs in addition to registering names in .biz, .com, .info, .name, .net and .org, however, ICANN does not specifically accredit registrars to provide ccTLD registration services. For more information regarding registering names in ccTLDs, including a complete database of designated ccTLDs and managers, please refer to http://www.iana.org/cctld/cctld.htm .

¹ This glossary has been developed over the course of the policy development process. Refer here to ICANN's glossary of terms <http://www.icann.org/general/glossary.htm> for further information.

Domain Names	<p>The term domain name has multiple related meanings: A name that identifies a computer or computers on the internet. These names appear as a component of a Web site's URL, e.g. www.wikipedia.org. This type of domain name is also called a hostname.</p> <p>The product that Domain name registrars provide to their customers. These names are often called registered domain names.</p> <p>Names used for other purposes in the Domain Name System (DNS), for example the special name which follows the @ sign in an email address, or the Top-level domains like .com, or the names used by the Session Initiation Protocol (VoIP), or DomainKeys.</p> <p>http://en.wikipedia.org/wiki/Domain_names</p>
Domain Name System	<p>The Domain Name System (DNS) helps users to find their way around the Internet. Every computer on the Internet has a unique address - just like a telephone number - which is a rather complicated string of numbers. It is called its "IP address" (IP stands for "Internet Protocol"). IP Addresses are hard to remember. The DNS makes using the Internet easier by allowing a familiar string of letters (the "domain name") to be used instead of the arcane IP address. So instead of typing 207.151.159.3, you can type www.internic.net. It is a "mnemonic" device that makes addresses easier to remember.</p>
Generic Top Level Domain	<p>gTLD</p> <p>Most TLDs with three or more characters are referred to as "generic" TLDs, or "gTLDs". They can be subdivided into two types, "sponsored" TLDs (sTLDs) and "unsponsored TLDs (uTLDs), as described in more detail below.</p> <p>In the 1980s, seven gTLDs (.com, .edu, .gov, .int, .mil, .net, and .org) were created. Domain names may be registered in three of these (.com, .net, and .org) without restriction; the other four have limited purposes.</p> <p>In 2001 & 2002 four new unsponsored TLDs (.biz, .info, .name, and .pro) were introduced. The other three new TLDs (.aero, .coop, and .museum) were sponsored.</p> <p>Generally speaking, an unsponsored TLD operates under policies established by the global Internet community directly through the ICANN process, while a sponsored TLD is a specialized TLD that has a sponsor representing the narrower community that is most affected by the TLD. The sponsor thus carries out delegated policy-formulation responsibilities over many matters concerning the TLD.</p>
Governmental Advisory Committee	<p>GAC</p> <p>http://gac.icann.org/web/index.shtml http://gac.icann.org/web/index.shtml</p>
Intellectual Property Constituency	<p>IPC</p> <p>http://www.ipconstituency.org/</p>
Internet Service &	<p>ISPCP</p>

Connection Providers Constituency	
Internationalized Domain Names	<p>IDNs</p> <p>IDNs are domain names represented by local language characters. These domain names may contain characters with diacritical marks (required by many European languages) or characters from non-Latin scripts like Arabic or Chinese.</p>
Internationalized Domain Names in Application	<p>IDNA</p> <p>IDNA is a protocol that makes it possible for applications to handle domain names with non-ASCII characters. IDNA converts domain names with non-ASCII characters to ASCII labels that the DNS can accurately understand. These standards are developed within the IETF (http://www.ietf.org)</p>
Internationalized Domain Names – Labels	<p>IDN A Label</p> <p>The A-label is what is transmitted in the DNS protocol and this is the ASCII-compatible ACE) form of an IDN A string. For example “xn-1lq90”.</p> <p>IDN U Label</p> <p>The U-label is what should be displayed to the user and is the representation of the IDN in Unicode. For example “北京” (“Beijing” in Chinese).</p> <p>LDH Label</p> <p>The LDH-label strictly refers to an all-ASCII label that obeys the “hostname” (LDH) conventions and that is not an IDN; for example “icann” in the domain name “icann.org”</p>
Internationalized Domain Names Working Group	<p>IDN-WG</p> <p>http://forum.icann.org/lists/gnso-idn-wg/</p>
Letter Digit Hyphen	<p>LDH</p> <p>The hostname convention used by domain names before internationalization. This meant that domain names could only practically contain the letters a-z, digits 0-9 and the hyphen “-“. The term “LDH code points” refers to this subset. With the introduction of IDNs this rule is no longer relevant for all domain names.</p>
Nominating Committee	<p>NomCom</p> <p>http://nomcom.icann.org/</p>
Non-Commercial Users Constituency	<p>NCUC</p> <p>http://www.ncdnhc.org/</p>
Policy Development Process	<p>PDP</p> <p>See http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA</p>
Protecting the Rights of Others Working Group	<p>PRO-WG</p> <p>See the mailing list archive at http://forum.icann.org/lists/gnso-pro-wg/</p>

Punycode	Punycode is the ASCII-compatible encoding algorithm described in Internet standard [RFC3492]. This is the method that will encode IDNs into sequences of ASCII characters in order for the Domain Name System (DNS) to understand and manage the names. The intention is that domain name registrants and users will never see this encoded form of a domain name. The sole purpose is for the DNS to be able to resolve for example a web-address containing local characters.
Registrar	<p>Domain names ending with .aero, .biz, .com, .coop, .info, .museum, .name, .net, .org, and .pro can be registered through many different companies (known as "registrars") that compete with one another. A listing of these companies appears in the Accredited Registrar Directory.</p> <p>The registrar asks registrants to provide various contact and technical information that makes up the domain name registration. The registrar keeps records of the contact information and submits the technical information to a central directory known as the "registry."</p>
Registrar Constituency	<p>RC</p> <p>http://www.icann-registrars.org/</p>
Registry	A registry is the authoritative, master database of all domain names registered in each Top Level Domain. The registry operator keeps the master database and also generates the "zone file" which allows computers to route Internet traffic to and from top-level domains anywhere in the world. Internet users don't interact directly with the registry operator. Users can register names in TLDs including .biz, .com, .info, .net, .name, .org by using an ICANN-Accredited Registrar.
Registry Constituency	<p>RyC</p> <p>http://www.gtldregistries.org/</p>
<p>Request for Comment</p> <p>A full list of all Requests for Comment http://www.rfc-editor.org/rfcxx00.html</p> <p>Specific references used in this report are shown in the next column.</p> <p>This document uses language, for example, "should", "must" and "may", consistent with RFC2119.</p>	<p>RFC</p> <p>ftp://ftp.rfc-editor.org/in-notes/rfc1591.txt</p> <p>ftp://ftp.rfc-editor.org/in-notes/rfc2119.txt</p> <p>ftp://ftp.rfc-editor.org/in-notes/rfc2606.txt</p>
Reserved Names Working Group	<p>RN-WG</p> <p>See the mailing list archive at http://forum.icann.org/lists/gnso-rn-wg/</p>
Root server	A root nameserver is a DNS server that answers requests for the root namespace domain, and redirects requests for a particular top-level domain to that TLD's nameservers. Although any local implementation of DNS can implement its

	<p>own private root nameservers, the term "root nameserver" is generally used to describe the thirteen well-known root nameservers that implement the root namespace domain for the Internet's official global implementation of the Domain Name System.</p> <p>All domain names on the Internet can be regarded as ending in a full stop character e.g. "en.wikipedia.org.". This final dot is generally implied rather than explicit, as modern DNS software does not actually require that the final dot be included when attempting to translate a domain name to an IP address. The empty string after the final dot is called the root domain, and all other domains (i.e. .com, .org, .net, etc.) are contained within the root domain. http://en.wikipedia.org/wiki/Root_server</p>
Sponsored Top Level Domain	<p>sTLD</p> <p>A Sponsor is an organization to which some policy making is delegated from ICANN. The sponsored TLD has a Charter, which defines the purpose for which the sponsored TLD has been created and will be operated. The Sponsor is responsible for developing policies on the delegated topics so that the TLD is operated for the benefit of a defined group of stakeholders, known as the Sponsored TLD Community, that are most directly interested in the operation of the TLD. The Sponsor also is responsible for selecting the registry operator and to varying degrees for establishing the roles played by registrars and their relationship with the registry operator. The Sponsor must exercise its delegated authority according to fairness standards and in a manner that is representative of the Sponsored TLD Community.</p>
Unicode Consortium	<p>A not-for-profit organization found to develop, extend and promote use of the Unicode standard. See http://www.unicode.org</p>
Unicode	<p>Unicode is a commonly used single encoding scheme that provides a unique number for each character across a wide variety of languages and scripts. The Unicode standard contains tables that list the code points for each local character identified. These tables continue to expand as more characters are digitalized.</p>

EXECUTIVE SUMMARY

1. The Internet Corporation for Assigned Names and Numbers (ICANN) is responsible for the overall coordination of “the global Internet's system of unique identifiers” and ensuring the “stable and secure operation of the Internet's unique identifier systems. In particular, ICANN coordinates the “allocation and assignment of the three sets of unique identifiers for the Internet”. These are “domain names”(forming a system called the DNS); Internet protocol (IP) addresses and autonomous system (AS) numbers and Protocol port and parameter numbers”. ICANN is also responsible for the “operation and evolution of the DNS root name server system and policy development reasonably and appropriately related to these technical functions”. These elements are all contained in ICANN's Mission and Core Values². This *Report* reflects a comprehensive policy development exercise about the introduction of new top-level domains that is central to ICANN's Mission and Core Values. The policy development process (PDP) is part of the Generic Names Supporting Organisation's (GNSO) mandate within the ICANN structure. The conduct of the PDP has followed the policy development guidelines³ set down within ICANN's Bylaws. The consultations and negotiations have included a wide range of interested stakeholders from within and outside the ICANN community⁴.
2. This document is Part A of the draft *Final Report*⁵ of the GNSO Committee on the Introduction of New Top-Level Domains. Part B of the *Final Report* contains a wide range of supplementary materials which have been used in the policy development process including Constituency Impact

² <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#I>

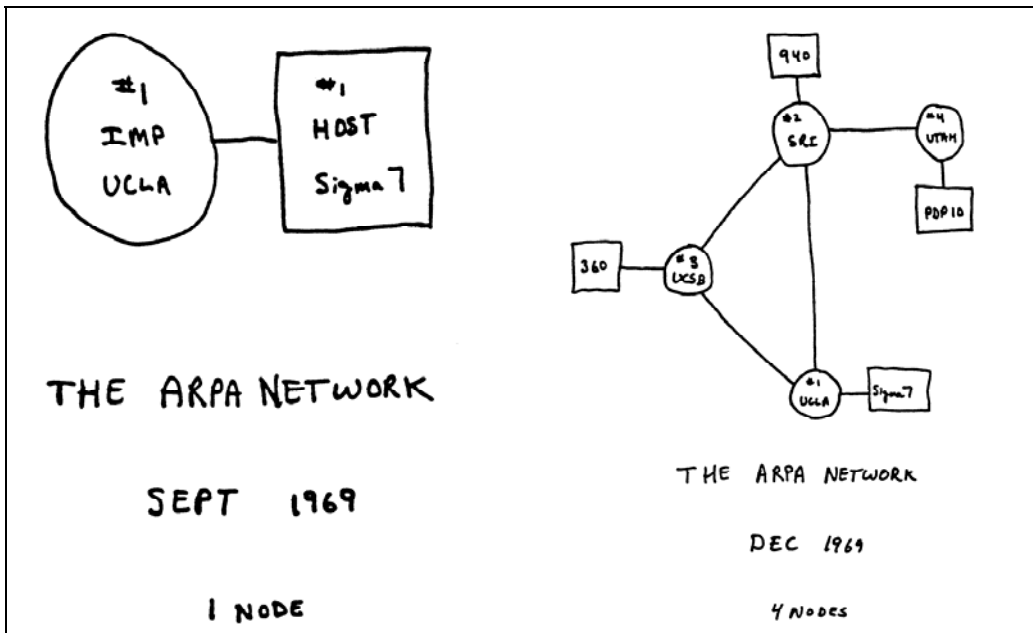
³ <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#X>

⁴ The ICANN “community” is a complex matrix of intersecting organizations and which are represented graphically here. <http://www.icann.org/structure/>

⁵ The *Final Report* is Step 9 in the GNSO's policy development process which is set out in full at <http://www.icann.org/general/archive-bylaws/bylaws-28feb06.htm#AnnexA>.

Statements (CIS), a series of Working Group Reports on important sub-elements of the Committee's deliberations, a collection of external reference materials, and the procedural documentation of the policy development process⁶.

3. The 1969 ARPANET diagram shows the initial design of a network that is now global in its reach and an integral part of many lives and businesses. The policy recommendations found here illustrate the complexity of the Internet of 2007 and, as a package, propose a system to expand the Domain Name System (DNS) in an orderly and transparent way. The ICANN Staff updated *Discussion Points* document provides a detailed response to the recommendation package for the Committee to consider.



⁶ Found here <http://gnso.icann.org/issues/new-gtlds/>.

4. The majority of the early work on the introduction of new top level domains is found in the IETF's Request for Comment series. RFC 1034⁷ is a fundamental resource that explains key concepts of the naming system. Read in conjunction with RFC920⁸, an historical picture emerges of how and why the domain name system hierarchy has been organised. Postel & Reynolds set out in their RFC920 introduction about the "General Purpose Domains" that ... "While the initial domain name "ARPA" arises from the history of the development of this system and environment, in the future most of the top level names will be very general categories like "government", "education", or "commercial". The motivation is to provide an organization name that is free of undesirable semantics."

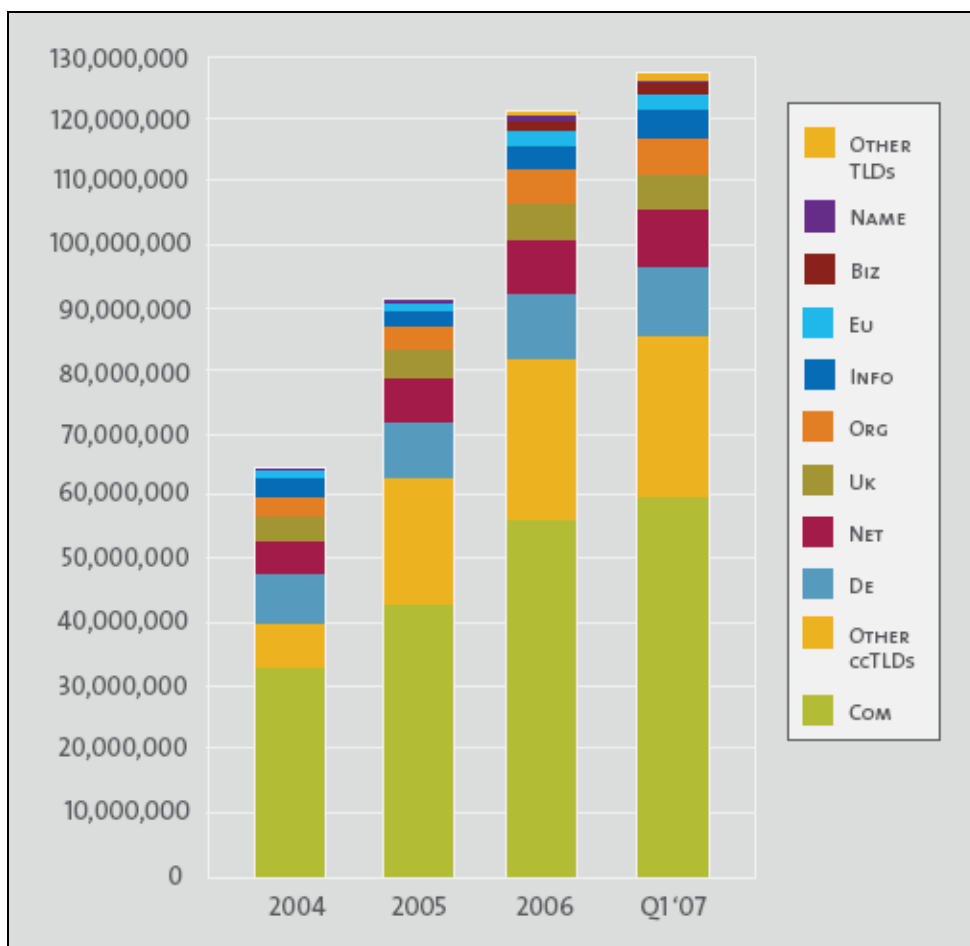
5. In 2007, the Internet is multi-dimensional and its development is driven by widespread access to inexpensive communications technologies in many parts of the world. In addition, global travel is now relatively inexpensive, efficient and readily available to a diverse range of travellers. As a consequence, citizens no longer automatically associate themselves with countries but with international communities of linguistic, cultural or professional interests independent of physical location. Many people now exercise multiple citizenship rights, speak many different languages and quite often live far from where they were born or educated. The 2007 OECD *Factbook*⁹ provides comprehensive statistics about the impact of migration on OECD member countries. In essence, many populations are fluid and changing due in part to easing of labour movement restrictions but also because technology enables workers to live in one place and work in another relatively easily. As a result, companies and organizations

⁷ Authored in 1987 by Paul Mockapetris and found at <http://www.ietf.org/rfc/rfc1034>

⁸ Authored in October 1984 by Jon Postel and J Reynolds and found at <http://www.ietf.org/rfc/rfc920>

⁹ Found at <http://www.oecd.org/dataoecd/15/37/38336539.pdf>

are now global and operate across many geographic borders and jurisdictions. The following illustration¹⁰ shows how rapidly the number of domain names under registration has increased and one could expect that trend to continue with the introduction of new top-level domains.



6. A key driver of change has been the introduction of competition in the registration of domain names through ICANN Accredited Registrars¹¹. In June 2007, there are more than 800 accredited registrars who register

¹⁰ From Verisign's June 2007 *Domain Name Industry Brief*.

¹¹ The full list is available here <http://www.icann.org/registrars/accredited-list.html>

names for end users with ongoing downward pressure on the prices end-users pay for domain name registration.

7. ICANN's work on the introduction of new top-level domains has been underway since 1999. The arguments for and against the introduction of new TLDs have been fairly consistent since that time. The early work included the 2000 Working Group C Report¹² that also asked the question of "whether there should be new TLDs". By mid-1999, the Working Group had quickly reached consensus on two issues, namely that "...ICANN should add new gTLDs to the root. The second is that ICANN should begin the deployment of new gTLDs with an initial rollout of six to ten new gTLDs, followed by an evaluation period". This work was undertaken throughout 2000 and saw the introduction of, for example, .coop, .aero and .biz.
8. After an evaluation period, a further round of sponsored TLDs was introduced during 2003 and 2004 which included, amongst others, .mobi and .travel¹³.
9. The 4 February 2007 zone file survey statistics from www.registrarstats.com¹⁴ shows that there are slightly more than 87,000,000 top level domains registered across a selection of seven top-level domains including .com (64,571,578), .net (9,373,638) and .info (4,227,815). Evidence from potential new applicants provides more impetus to implement a system which enables the ongoing introduction of new top level domains¹⁵.
10. In summary, the Committee has arrived at its recommendations by reviewing and analysing a wide variety of materials including Working Group C's findings, the evaluation reports from the 2003 & 2004 round of

¹² Found at <http://www.icann.org/dns/wgc-report-21mar00.htm>

¹³ Found at <http://www.icann.org/announcements/announcement-31aug04.htm>

¹⁴ <http://www.registrarstats.com/Public/ZoneFileSurvey.aspx>

¹⁵ Verisign produce a regular report on the domain name industry.

http://www.verisign.com/Resources/Naming_Services_Resources/Domain_Name_Industry_Brief/index.html

sponsored top-level domains and a full range of other historic materials¹⁶.

In the past, a number of different approaches to new top level domains have been considered including the formulation of a structured taxonomy¹⁷ of names, for example, .auto, .books, .travel and .music. The Committee has opted to let the community self-select strings that are either the most appropriate for their users or most lucrative for their proposers. For example, .travel for the travel industry and .cat for the Catalan community whilst leaving generic space available for anyone to use.

11. The Committee considered the responses to a Call for Expert Papers issued at the beginning of the policy development process¹⁸, and which was augmented a full set of GNSO Constituency Statements¹⁹. These are all found in Part B of the *Final Report* and should be read in conjunction with this document.

12. The Committee has confirmed its rationale for recommending that ICANN introduce new top-level domains through a series of consultations at ICANN meetings and inter-sessional working meetings. Five key threads have emerged which drive the decision to proceed with developing a process to enable the orderly introduction, over the long term, of new top level domains:

- It is consistent with the reasons articulated in 1999 when the first proof-of-concept round was initiated.
- There are no technical impediments to the introduction of new top-level domains as evidenced by the two previous rounds.

¹⁶ <http://gnso.icann.org/issues/new-gtlds/>

¹⁷ For example, see the GA List discussion thread found at <http://gnso.icann.org/mailing-lists/archives/ga/msg03337.html> & earlier discussion on IANA lists <http://www.iana.org/comments/26sep1998-02oct1998/msg00016.html>. The 13 June 2002 paper regarding a taxonomy for non-ASCII TLDs is also illuminating <http://www.icann.org/committees/idn/registry-selection-paper-13jun02.htm>

¹⁸ The announcement is here <http://icann.org/announcements/announcement-03jan06.htm> and the results are here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

¹⁹ Found here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

- Expanding the domain name space to accommodate the introduction of both new ASC-II and internationalised domain name (IDN) top-level domains will give end users more choice about the nature of their presence on the Internet. In addition, users will be able to communicate in their language of choice and in a way that meets community needs.
- There is demand for additional top-level domains as a business opportunity. The GNSO Committee hopes that this business opportunity will stimulate competition at the registry service level which is consistent with ICANN's Core Value 6.
- No compelling reason has been articulated to not proceed with accepting applications for new top-level domains.

13. The remainder of this Report is structured around the four *Terms of Reference*. This includes an explanation of the Principles that have guided the work taking into account the Governmental Advisory Committee's March 2007 *Public Policy Principles for New gTLDs*²⁰; a comprehensive set of Recommendations which have majority Committee support and a set of Implementation Guidelines which have been discussed in great detail with the ICANN Staff Implementation Team. The Implementation Team has released, in conjunction with this report, an updated version of the November 2006 ICANN Staff Discussion Points. Version 2 provides detailed analysis of the proposed recommendations from an implementation standpoint and provides suggestions about the way in which the implementation plan may come together. The ICANN Board will make the final decision about the actual structure of the application and evaluation process.

14. In each of the sections below the Committee's recommendations are discussed in more detail with an explanation of the rationale for the decisions. The recommendations have been the subject of numerous public comment periods and intensive discussion across a range of stakeholders including

²⁰ Found here http://gac.icann.org/web/home/gTLD_principles.pdf

ICANN's GNSO Constituencies, ICANN Supporting Organisations and Advisory Committees and members of the broader Internet-using public that is interested in ICANN's work²¹. In particular, detailed work has been conducted through the Internationalised Domain Names Working Group (IDN-WG)²², the Reserved Names Working Group (RN-WG)²³ and the Protecting the Rights of Others (PRO-WG)²⁴. The Working Group Reports are found in full in Part B of the *Final Report* along with the March 2007 GAC Public Policy Principles for New Top-Level Domains as well as the recent Constituency Impact Statements.

²¹ A list of the working materials of the new TLDs Committee can be found at <http://gns0.icann.org/issues/new-gtlds/>.

²² The Outcomes Report for the IDN-WG is found <http://gns0.icann.org/drafts/idn-wg-fr-22mar07.htm>. A full set of resources which the WG is using is found at <http://gns0.icann.org/issues/idn-tlds/>.

²³ The Final Report of the RN-WG is found at <http://gns0.icann.org/drafts/rn-wg-fr19mar07.pdf>

²⁴ The Final Report of the PRO-WG is found at <http://gns0.icann.org/drafts/GNSO-PRO-WG-final-01Jun07.pdf>

SUMMARY: PRINCIPLES, RECOMMENDATIONS & IMPLEMENTATION GUIDELINES

1. This section sets out, in table form, the set of principles, proposed recommendations and guidelines that the Committee has derived through its work. The addition of new gTLDs will be done in accordance with ICANN's primary mission which is to ensure the security and stability of the DNS and, in particular, the Internet's root server system²⁵.
2. The principles are a combination of GNSO Committee priorities; ICANN staff implementation principles developed in tandem with the Committee and the March 2007 GAC Public Policy Principles on New Top-Level Domains.
3. ICANN's Mission and Core Values were key reference points for the development of the Committee's Principles, Recommendations and Implementation Guidelines. These are referenced in the right-hand column of the tables below.

²⁵ The root server system is explained here <http://en.wikipedia.org/wiki/Rootserver>

NUMBER	PRINCIPLE	MISSION & CORE VALUES
A	New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.	M1 & CV1 & 2, 4-10
B	Some new generic top-level domains should be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.	M1-3 & CV 1, 4 & 6
C	The reasons for introducing new top-level domains include that there is demand from potential applicants for new top-level domains in both ASCII and IDN formats. In addition the introduction of new top-level domain application process has the potential to promote competition in the provision of registry services, to add to consumer choice, market differentiation and geographical and service-provider diversity.	M3 & CV 4-10
D	A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.	M1-3 & CV 1
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.	M1-3 & CV 1
F	A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.	M1-3 & CV 1

Table 0-1: new gTLDs principles

NUMBER	RECOMMENDATION ²⁶	MISSION & CORE VALUES
1	<p>ICANN must implement a process that allows the introduction of new top-level domains.</p> <p>The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination.</p> <p>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>	M1-3 & CV1-11
2	Strings must not be confusingly similar to an existing top-level domain.	M1-3 & C1-6-11
3	<p>Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.</p> <p>Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industrial Property (in particular trademark rights), the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (in particular freedom of speech rights).</p>	CV3
4	Strings must not cause any technical instability.	M1-3 & CV 1
5	Strings must not be a Reserved Word.	M1-3 & CV 1 & 3

²⁶ Note the updated recommendation text sent to the gtld-council list after the 7 June meeting. <http://forum.icann.org/lists/gtld-council/msg00520.html>

6	<p>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.</p> <p>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).</p>	M3 & CV 4
7	Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.	M1-3 & CV1
8	Applicants must be able to demonstrate their financial and organisational operational capability.	M1-3 & CV1
9	There must be a clear and pre-published application process using objective and measurable criteria.	M3 & CV6-9
10	There must be a base contract provided to applicants at the beginning of the application process.	CV7-9
11	[deleted – intentionally blank]	
12	Dispute resolution and challenge processes must be established prior to the start of the process.	CV7-9
13	Applications must initially be assessed in rounds until the scale of demand is clear.	CV7-9
14	The initial registry agreement term must be of a commercially reasonable length.	CV5-9
15	There must be renewal expectancy.	CV5-9
16	Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved.	CV5-9

17	A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.	M1 & CV1
18	If an applicant offers an IDN service, then ICANN's IDN guidelines ²⁷ must be followed.	M1 & CV1
19	Registries must use ICANN accredited registrars.	M1 & CV1
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.	

Table 0-2: new gTLDs recommendations

²⁷ <http://www.icann.org/general/idn-guidelines-22feb06.htm>

NUMBER	IMPLEMENTATION GUIDELINE	MISSION & CORE VALUES
IG A	The application process will provide a pre-defined roadmap for applicants that encourages the submission of applications for new top-level domains.	CV 2, 5, 6, 8 & 9
IG B	Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process. Application fees may differ for applicants.	CV 5, 6, 8 & 9
IG C	ICANN will provide frequent communications with applicants and the public including comment forums which will be used to inform evaluation panels.	CV 9 & 10
IG D	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.	CV 8-10
IG E	The application submission date will be at least four months after the issue of the Request for Proposal and ICANN will promote the opening of the application round.	CV 9 & 10
IG F	If there is contention for strings, applicants may ²⁸ : <ul style="list-style-type: none"> 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, 	CV 7-10

²⁸ The Implementation Team sought advice from a number of auction specialists and examined other industries in which auctions were used to make clear and binding decisions. Further expert advice will be used in developing the implementation of the application process to ensure the fairest and most appropriate method of resolving contention for strings. This current draft needs further work and reference to the updated Implementation Flowchart is required.

	<p>and no mutual agreement a process will be put in place to enable efficient resolution of contention and:</p> <p>iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.</p>	
IG G	<p>Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exception:</p> <p>i) the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application</p> <p>Under this exception, Staff Evaluators will devise criteria and procedures to investigate the claim.</p>	CV 7 - 10
IG H	External dispute providers will give decisions on complaints.	CV 10
IG I	An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process.	CV 10
IG J	The base contract should balance market certainty and flexibility for ICANN to accommodate a rapidly changing market place.	CV 4-10
IG K	ICANN should take a consistent approach to the establishment of registry fees.	CV 5
IG L	The use of personal data must be limited to the purpose for which it is collected.	CV 8
IG M	ICANN may establish a capacity building and support mechanism aiming at facilitating effective communication on important and technical Internet governance functions in a way that no longer requires all participants in the conversation to be able to read and write English ²⁹ .	CV 3 - 7
IG N	ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by	CV 3 - 7

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²⁹ Detailed work is being undertaken, lead by the Corporate Affairs Department, on establishing a translation framework for ICANN documentation. This element of the Implementation Guidelines may be addressed separately.

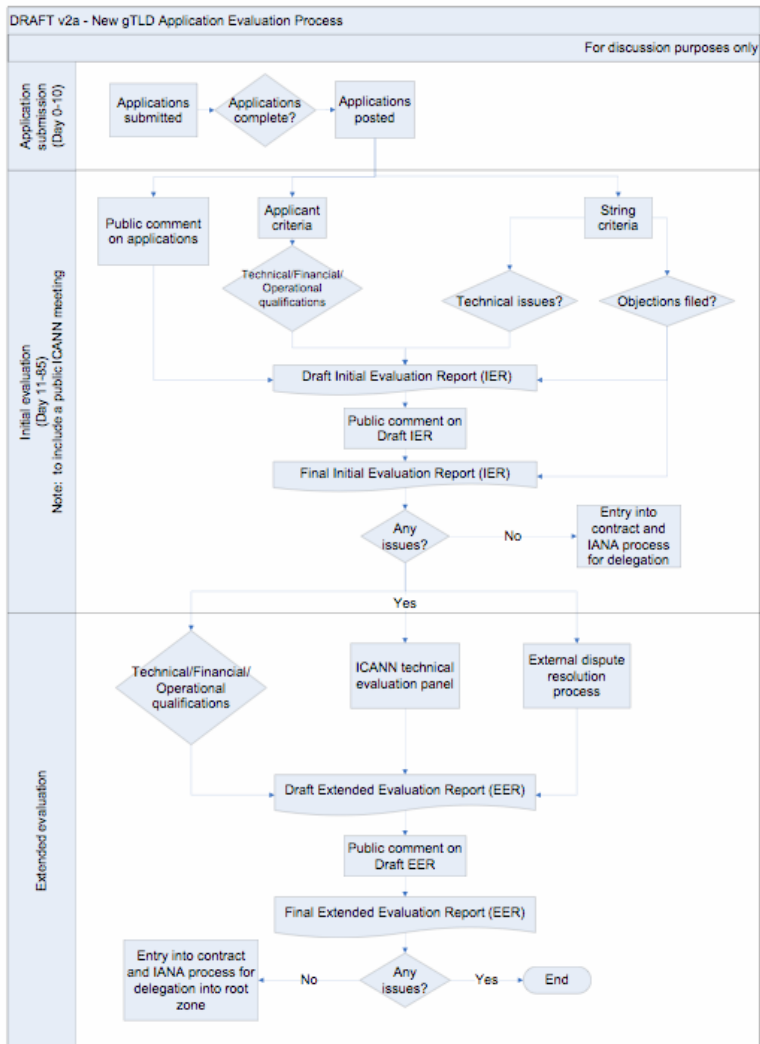
	the UN as least developed.	
IG O	ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations.	CV 8 -10

Table 0-3: new gTLDs implementation guidelines

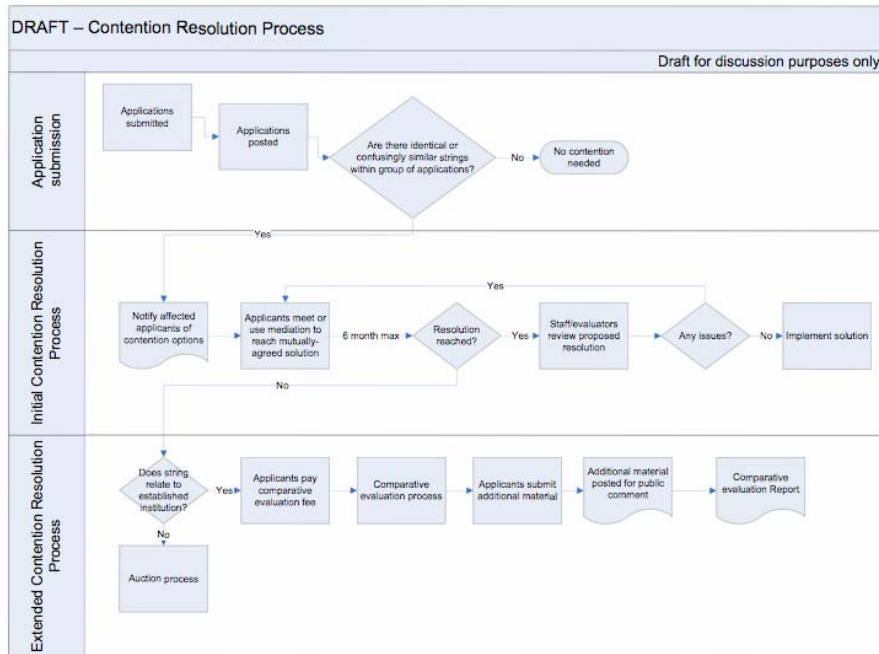
1. This set of implementation guidelines is the result of detailed discussion, particularly with respect to the *ICANN Staff Discussion Points*³⁰ document which was prepared to facilitate consultation with the GNSO Committee prior to the 2006 Sao Paulo meeting and used again at the February 2007 Los Angeles meeting.
2. Since that meeting, the ICANN Implementation Staff has met regularly to discuss ongoing implementation planning and they have had further consultations with members of the Committee. A second version of the November 2006 *ICANN Staff Discussion Points* has been released in tandem with this report.
3. The draft flowchart below shows the proposed Application Evaluation Process. This chart was presented to the Committee at its February 2007 meetings and has been further refined at subsequent Committee consultations. It has been used in the ongoing internal implementation discussions that have focused on ensuring that draft recommendations proposed by the Committee are implementable in an efficient and transparent manner³¹. The flowchart setting out the proposed Contention Evaluation Process is a more detailed component within the Application Evaluation Process and is not yet final. Detailed discussion of both elements will take place at the June 2007 Puerto Rico meetings.

³⁰ <http://gns0.icann.org/drafts/GNSO-PDP-Dec05-StaffMemo-14Nov06.pdf>

³¹ Consistent with ICANN's commitments to accountability and transparency found at <http://www.icann.org/announcements/announcement-26jan07b.htm>



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- The initial application round will be evaluated by the new TLDs Project Office to assess the effectiveness of the application system. Success metrics will be developed and any necessary adjustments made to the process for subsequent rounds.

TERM OF REFERENCE ONE – DISCUSSION

1. The GNSO Committee was asked to answer the question of whether to introduce new top-level domains. The Committee recommends that ICANN should implement a process that allows the introduction of new top level domains and that work should proceed to develop policies that will enable the introduction of new generic top-level domains, taking into account the recommendations found in the latter sections of the *Report* concerning Selection Criteria (Term of Reference 2), Allocation Methods (Term of Reference 3) and Policies for Contractual Conditions (Term of Reference 4).
2. ICANN's work on the introduction of new top-level domains has been ongoing since 1999. The early work included the 2000 Working Group C Report³² that also asked the question of "whether there should be new TLDs". By mid-1999, the Working Group had quickly reached consensus on two issues, namely that "...ICANN should add new gTLDs to the root. The second is that ICANN should begin the deployment of new gTLDs with an initial rollout of six to ten new gTLDs, followed by an evaluation period". This work was undertaken throughout 2000 and saw the introduction of, for example, .coop, .aero and .biz.
3. After an evaluation period, a further round of sponsored TLDs was introduced during 2003 and 2004 which included, amongst others, .mobi and .travel.
4. In addressing Term of Reference One, the Committee arrived at its recommendation by reviewing and analysing a wide variety of materials including Working Group C's findings; the evaluation reports from the

³² Found at <http://www.icann.org/dns/wgc-report-21mar00.htm>

2003 & 2004 round of sponsored top-level domains and full range of other historic materials which are posted at

<http://gnso.icann.org/issues/new-gtlds/>

5. In addition, the Committee considered the responses to a Call for Expert Papers issued at the beginning of the policy development process³³. These papers augmented a full set of GNSO Constituency Statements³⁴ and a set of Constituency Impact Statements³⁵ that addressed specific elements of the Principles, Recommendations and Implementation Guidelines.
6. The Committee was asked, at its February 2007 Los Angeles meeting, to confirm its rationale for recommending that ICANN introduce new top-level domains. In summary, there are five threads which have emerged:
 - It is consistent with the reasons articulated in 1999 when the first proof-of-concept round was initiated
 - There are no technical impediments to the introduction of new top-level domains as evidenced by the two previous rounds
 - It is hoped that expanding the domain name space to accommodate the introduction of both new ASC-II and internationalised domain name (IDN) top-level domains will give end users more choice about the nature of their presence on the Internet. In addition, users will be able to communicate in their language of choice and in a way which meets community needs.
 - In addition, the introduction of a new top-level domain application process has the potential to promote competition in the provision of registry services, and to add to consumer choice, market

³³ The announcement is here <http://icann.org/announcements/announcement-03jan06.htm> and the results are here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

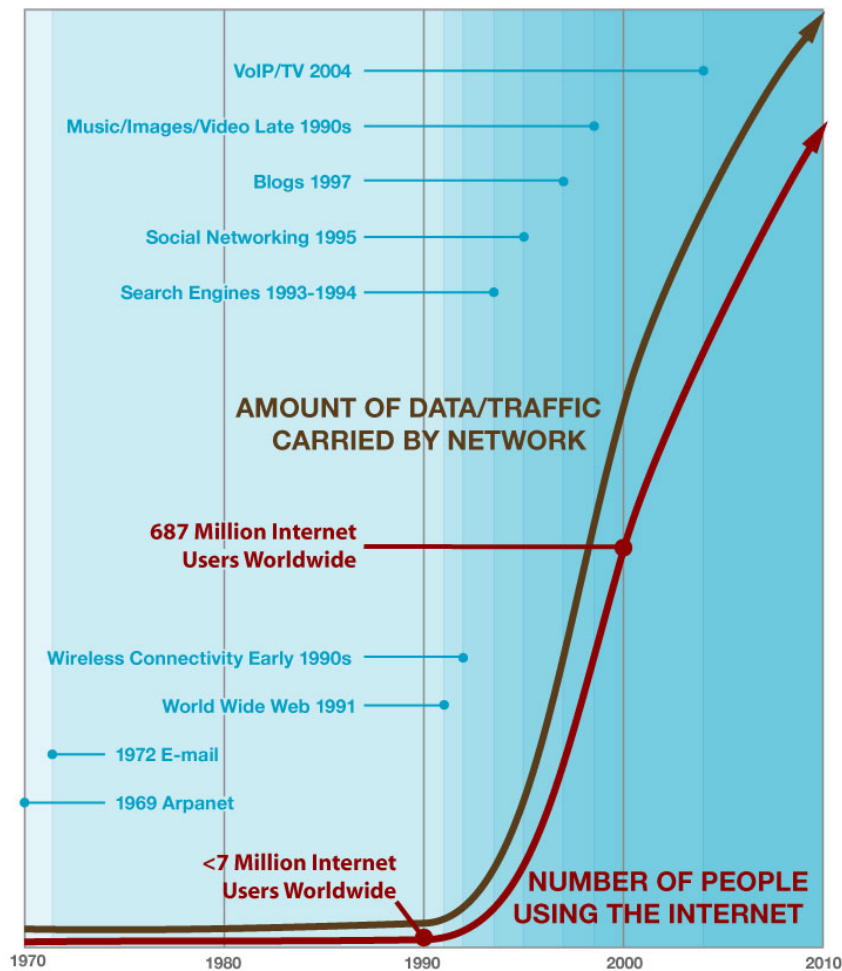
³⁴ Found here <http://gnso.icann.org/issues/new-gtlds/new-gtld-pdp-input.htm>

³⁵ Found here <http://forum.icann.org/lists/gtld-council/>

differentiation and geographic and service-provider diversity which is consistent with ICANN's Core Value 6.

- No compelling reason has been articulated to not proceed with accepting applications for new top-level domains.

7. The diagram below shows that, given the number of Internet users, the amount of Internet traffic and the variety of services and applications which use IP protocol, it would be reasonable to assume that there is demand for additional naming space.



7. Article X, Part 7, Section E of the GNSO's Policy Development Process requires the submission of "constituency impact statements" which reflect the potential implementation impact of

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policy recommendations. On 15 June 2007 there were 5 statements submitted to the gtld-council mailing list. Each of those impact statements is referred to throughout the next section³⁶ and found in full in Part B of the *Report*. Each of the Constituencies is supportive of the introduction of new TLDs, particularly if the application process is transparent and objective. For example, the ISPCP said that, "...the ISPCP is highly supportive of the principles defined in this section, especially with regards to the statement in [principle A] (A): New generic top-level domains must be introduced in an orderly, timely and predictable way. Network operators and ISPs must ensure their customers do not encounter problems in addressing their emails, and in their web searching and access activities, since this can cause customer dissatisfaction and overload help-desk complaints. Hence this principle is a vital component of any addition sequence to the gTLD namespace. The various criteria as defined in D, E and F, are also of great importance in contributing to minimise the risk of moving forward with any new gTLDs, and our constituency urges ICANN to ensure they are scrupulously observed during the applications evaluation process". In the Business Constituency's (BC) Impact Statement it said that "...If the outcome is the best possible there will be a beneficial impact on business users from: a reduction in the competitive concentration in the Registry sector; increased choice of domain names; lower fees for registration and ownership; increased opportunities for innovative on-line business models."

8. The Registry Constituency (RyC) said that "...Regarding increased competition, the RyC has consistently supported the introduction of new

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³⁶ Business Constituency <http://forum.icann.org/lists/gtld-council/msg00501.html>, Intellectual Property Constituency <http://forum.icann.org/lists/gtld-council/msg00514.html>, Internet Service Providers <http://forum.icann.org/lists/gtld-council/msg00500.html>, NCUC <http://forum.icann.org/lists/gtld-council/msg00530.html>, Registry Constituency <http://forum.icann.org/lists/gtld-council/msg00494.html>

gTLDs because we believe that: there is a clear demand for new TLDs; competition creates more choices for potential registrants; introducing new TLDs with different purposes increases the public benefit; new gTLDs will result in creativity and differentiation in the domain name industry; the total market for all TLDs, new and old, will be expanded.”In summary, the Committee recommended, “ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure 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”. Given that this recommendation has majority support from Committee members, the following sections set out the other Terms of Reference recommendations.

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TERM OF REFERENCE TWO -- DISCUSSION

1. The Committee was asked to develop policy recommendations about string criteria for new top-level domain applications. Three main elements have emerged in relation to string criteria -- “string” criteria, “applicant” criteria and “process” criteria. The following sections set out the justifications for the Committee’s recommendations and provide detailed background to support the Committee’s decisions. As with all the sections in the *Report*, they should be read in conjunction with the Implementation Team’s *Discussion Points* to analyse the implementation impact of the recommendations.
2. **Recommendation 2 Discussion** -- Strings must not be confusingly similar to an existing top-level domain.
 - i) This recommendation is supported by the majority of GNSO Constituencies.
 - ii) The list of existing top-level domains is maintained by IANA and is listed in full on ICANN’s website³⁷. Naturally, as the application process enables the operation of new top-level domains this list will get much longer and the test more complex. The RyC, in its Impact Statement, said that “...This recommendation is especially important to the RyC. ... It is of prime concern for the RyC that the introduction of new gTLDs results in a ubiquitous experience for Internet users that minimizes user confusion. gTLD registries will be impacted operationally and financially if new gTLDs are introduced that create confusion with currently existing gTLD strings or with strings that are introduced in the future. There is a strong possibility of significant impact on gTLD registries if IDN versions of existing ASCII gTLDs are introduced by registries different

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³⁷ <http://data.iana.org/TLD/tlds-alpha-by-domain.txt>

than the ASCII gTLD registries. Not only could there be user confusion in both email and web applications, but dispute resolution processes could be greatly complicated.” The ISPCP also stated that this recommendation was “especially important in the avoidance of any negative impact on network activities.”

iii) There are two other key concepts within this recommendation. The first is the issue of “confusingly similar”³⁸ and the second “likelihood of confusion”. There is extensive experience within the Committee with respect to trademark law and the issues found below have been discussed at length, both within the Committee and amongst the Implementation Team.

iv) In addition to the expertise within the Committee, the NCUC provided, as part of its Constituency Impact Statement expert outside advice³⁹ which said, in part, “...A determination about whether use of a mark by another is “confusingly similar” is simply a first step in the analysis of infringement. As the committee correctly notes, account will be taken of visual, phonetic and conceptual similarity. But this determination does not end the analysis. Delta Dental and Delta Airlines are confusingly similar, but are not like to cause confusion, and therefore do not infringe. ... In trademark law, where there is confusing similarity and the mark is used on similar goods or services, a likelihood of confusion will usually be found. European trademark law recognizes this point perhaps more readily than U.S. trademark law. As a result, sometimes “confusingly similar” is used as shorthand for “likelihood of confusion”. However, these concepts must remain distinct in

³⁸ See section 4A -- <http://www.icann.org/udrp/udrp-policy-24oct99.htm>.

³⁹ This section is from Professor Christine Haight Farley. Professor Jacqueline Lipton also provided expert advice which is found in full in the Constituency Impact Statement section in Part B of the *Report*.

domain name policy where there is no opportunity to consider how the mark is being used.”

v) The Committee used a wide variety of existing law and international treaty agreements and covenants to arrive at a common understanding that strings should not be confusingly similar either to existing top-level domains like .com and .net or to existing trademarks⁴⁰. For example, the Committee considered the World Trade Organisation’s TRIPS agreement, in particular Article 16 which discusses the rights which are conferred to a trademark owner.⁴¹ In particular, the Committee agreed upon an expectation that strings must avoid increasing opportunities for entities or individuals, who operate in bad faith and who wish to defraud consumers. The Committee also considered the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which address the “freedom of expression” element of the Committee’s deliberations.

vi) The Committee had access to a wide range of differing approaches to rights holder protection mechanisms including the United Kingdom, the USA, Jordan, Egypt and Australia⁴².

⁴⁰ In addition, advice was sought from experts within WIPO who continue to provide guidance on this and other elements of dispute resolution procedures.

⁴¹ Kristina Rosette provided the reference to the *Agreement on Trade-Related Aspects of Intellectual Property Rights* which is found online at http://www.wto.org/english/tratop_e/trips_e/t_agm1_e.htm

“...*Article 16 Rights Conferred* 1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use...”

⁴² Charles Sha'Ban provided a range of examples from Arabic speaking countries. For example, in Jordan, Article 7 Trademarks eligible for registration are 1- A trademark shall be registered if it is distinctive, as to words, letters, numbers, figures, colors, or other signs or

vii) The 1883 *Paris Convention on the Protection of Industrial Property*⁴³, describes the notion of confusion and describes creating confusion as “to create confusion by any means whatever” {Article 10bis (3) (1)} and, further, being “liable to mislead the public” {Article 10bis (3) (3)}. The treatment of confusingly similar is also contained in European Union law (currently covering twenty-seven countries) and is structured as

any combination thereof and visually perceptible. 2- For the purposes of this Article, "distinctive" shall mean applied in a manner which secures distinguishing the goods of the proprietor of the trademark from those of other persons. Article 8 Marks which may not be registered as trademarks. The following may not be registered as trademarks: 10- A mark identical with one belonging to a different proprietor which is already entered in the register in respect of the same goods or class of goods for which the mark is intended to be registered, or so closely resembling such trademark to the extent that it may lead to deceiving third parties.

12- The trademark which is identical or similar to, or constitutes a translation of, a well-known trademark for use on similar or identical goods to those for which that one is well-known for and whose use would cause confusion with the well-known mark, or for use of different goods in such a way as to prejudice the interests of the owner of the well-known mark and leads to believing that there is a connection between its owner and those goods as well as the marks which are similar or identical to the honorary badges, flags, and other insignia as well as the names and abbreviations relating to international or regional organizations or those that offend our Arab and Islamic age-old values.

In Oman for example, Article 2 of the Sultan Decree No. 38/2000 states:

“The following shall not be considered as trademarks and shall not be registered as such: If the mark is identical, similar to a degree which causes confusion, or a translation of a trademark or a commercial name known in the Sultanate of Oman with respect to identical or similar goods or services belonging to another business, or if it is known and registered in the Sultanate of Oman on goods and service which are neither identical nor similar to those for which the mark is sought to be registered provided that the usage of the mark on those goods or services in this last case will suggest a connection between those goods or services and the owner of the known trademark and such use will cause damage to the interests of the owner of the known trademark.”

Although the laws In Egypt do not have specific provisions regarding confusion they stress in great detail the importance of distinctiveness of a trade mark.

Article 63 in the IP Law of Egypt No.82 for the year 2002 states:

“A trademark is any sign distinguishing goods, whether products or services, and include is particular names represented in a distinctive manner, signatures, words, letters, numerals, design, symbols, signposts, stamps, seal, drawings, engravings, a combination of distinctly formed colors and any other combination of these elements if used, or meant to be used, to distinguish the precedents of a particular industry, agriculture, forest or mining venture or any goods, or to indicate the origin of products or goods or their quality, category, guarantee, preparation process, or to indicate the provision of any service. In all cases, a trademark shall be a sign that is recognizable by sight.”

43 Found at http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.ht with 171 contracting parties.

follows. "...because of its identity with or similarity to...there exists a likelihood of confusion on the part of the public...; the likelihood of confusion includes the likelihood of association..." {Article 4 (1) (b) of the 1988 EU Trade Mark directive 89/104/EEC}. Article 8 (1) (b) of the 1993 European Union Trade Mark regulation 40/94 is also relevant.

viii) In the United States, existing trade mark law states that "...to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive..." which is contained in Section 1051 (3) (d) of the US Trademark Act 2005 (found at <http://www.bitlaw.com/source/15usc/1051.html>.)

ix) In Australia, the Australian Trade Marks Act 1995 Section 10 says that "...For the purposes of this Act, a trade mark is taken to be deceptively similar to another trade mark if it so nearly resembles that other trade mark that it is likely to deceive or cause confusion" (found at http://www.ipaustralia.gov.au/resources/legislation_index.shtml)

x) A number of different trademark offices provide guidance on how to interpret confusion. For example, the European Union Trade Mark Office provides guidance on how to interpret confusion. *"...confusion may be visual, phonetic or conceptual. A mere aural similarity may create a likelihood of confusion. A mere visual similarity may create a likelihood of confusion. Confusion is based on the fact that the relevant public does not tend to analyse a word in detail but pays more attention to the distinctive and dominant components. Similarities are more significant than dissimilarities. The visual comparison is based on an analysis of*

the number and sequence of the letters, the number of words and the structure of the signs. Further particularities may be of relevance, such as the existence of special letters or accents that may be perceived as an indication of a specific language. For words, the visual comparison coincides with the phonetic comparison unless in the relevant language the word is not pronounced as it is written. It should be assumed that the relevant public is either unfamiliar with that foreign language, or even if it understands the meaning in that foreign language, will still tend to pronounce it in accordance with the phonetic rules of their native language. The length of a name may influence the effect of differences. The shorter a name, the more easily the public is able to perceive all its single elements. Thus, small differences may frequently lead in short words to a different overall impression. In contrast, the public is less aware of differences between long names. The overall phonetic impression is particularly influenced by the number and sequence of syllables.” (found at <http://oami.europa.eu/en/mark/marque/direc.htm>).

xi) An extract from the United Kingdom’s Trade Mark Office’s Examiner’s Guidance Manual is useful in explaining further the Committee’s approach to developing its Recommendation. *“For likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average consumer. Likelihood of association is not an alternative to likelihood of confusion, “but serves to define its scope”. Mere association, in the sense that the later mark brings the earlier mark to mind is insufficient to find a likelihood of confusion, unless the average consumer, in bringing the earlier mark to mind, is led to expect the goods or services of both marks to be under the control of one single trade source. “The risk that the public might believe that the goods/services in question come*

from the same undertaking or, as the case may be, from economically-linked undertakings, constitutes a likelihood of confusion...”. (found at <http://www.patent.gov.uk/tm/t-decisionmaking/t-law/t-law-manual.htm>)

- xii) The Committee also looked in detail at the existing provisions of ICANN’s Registrar Accreditation Agreement, particularly Section 3.7.7.9⁴⁴ which says that “...The Registered Name Holder shall represent that, to the best of the Registered Name Holder’s knowledge and belief, neither the registration of the Registered Name nor the manner in which it is directly or indirectly used infringes the legal rights of any third party.”
- xiii) The implications of the introduction of Internationalised Domain Names (IDNs) are, in the main, the same as for ASCII top-level domains. On 22 March 2007 the IDN-WG released its *Outcomes Report*⁴⁵, which set out the areas of agreement, which the Working Group presented to the GNSO Committee. The Working Group’s exploration of IDN-specific issues confirmed that the new TLD recommendations are valid for IDN TLDs. The full IDN WG Report is found in Part B of the *Report*. There were two areas, which need further explanation. The first of those is with respect to the geo-political impact of IDNs, which may necessitate further GAC consultation on the most appropriate way to account for the views of governments. Secondly, further work may be required on consultations with language communities who may have an interest in the preparation of authoritative language tables that would enable the use of IDNs at the top-level.
- xiv) The technical testing for IDNs at the top-level is not yet completed. Given this and given the need for language tables to

⁴⁴ Found at <http://www.icann.org/registrars/ra-agreement-17may01.htm#3>

⁴⁵ Found at <http://gns0.icann.org/drafts/idn-wg-fr-22mar07.htm>.

be developed, there are some critical factors that may impede the acceptance of new IDN TLD applications. The conditions under which those applications would be assessed would remain the same as for ASCII TLDs.

- xv) Detailed work continues on the preparation of an Implementation Plan that reflects both the Principles and the Recommendations. The proposed implementation plan deals with a comprehensive range of potentially controversial (for whatever reason) string applications which balances the need for reasonable protection of existing legal rights and the capacity to innovate with new uses for top level domains that may be attractive to a wide range of users⁴⁶.
- xvi) The draft Implementation Plan (included in the *Discussion Points* document), illustrates the flow of the application and evaluation process and includes a detailed dispute resolution and extended evaluation tracks designed to resolve objections to applicants or applications.
- xvii) There is clearly tension between those on the Committee who are concerned about the protection of existing TLD strings and those concerned with the protection of trademark and other rights as compared to those who wish, as far as possible, to preserve freedom of expression and creativity. The *Implementation Plan* sets out a series of tests to apply the recommendation during the application evaluation process.

3. Recommendation 3 Discussion -- Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law. Examples of these legal rights that are internationally recognized

⁴⁶ The 2003 correspondence between ICANN's then General Counsel and the then GAC Chairman is also useful <http://www.icann.org/correspondence/touton-letter-to-tarmizi-10feb03.htm>.

include, but are not limited to, rights defined in the Paris Convention⁴⁷ for the Protection of Industrial Property (in particular trademark rights)⁴⁸, the Universal Declaration of Human Rights⁴⁹ and the International Covenant on Civil and Political Rights⁵⁰ (in particular freedom of speech rights).

i. This recommendation was discussed in detail in the lead up to the Committee's 7 June 2007 conference call and it was agreed that further work would be beneficial.

ii. Prior to this, the Committee engaged in comprehensive discussion about this recommendation and took advice from a number of experts within the group⁵¹. The original text of the recommendation has been modified to recognise that an applicant will be bound by the laws of the country where they are located, and an applicant may be bound by another country that has jurisdiction over them.

iii. There is general agreement that the recommendation should be amended to include "freedom of expression" rather than "freedom of speech" terminology but that needs to be confirmed by the Committee.

iv. The IPC and the NCUC, in their respective Constituency Impact Statements (CIS), have differing views. The NCUC argue that "...there is no recognition that trade marks (and other legal rights have legal limits and *defenses*." The IPC says "agreed [to the recommendation], and, as stated before, appropriate

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47 As referenced above and found online here http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html.

48 A full list of the 171 countries, as at April 2007, who are contracting parties to the Paris Convention can be found here http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=2.

49 The full text of the UDHR can be found here <http://www.udhr.org/UDHR/default.htm>

50 The full text of the Covenant can be found here <http://www.ohchr.org/english/law/ccpr.htm>

51 For example, David Maher, Jon Bing, Steve Metalitz, Philip Shepherd and Michael Palage.

mechanisms must be in place conflicts that may arise between any proposed new string and the IP rights of others.”

- v. Other Constituencies did not address this recommendation in their CIS but further discussion of this element is expected at the Puerto Rico meeting in the Reserved Name Working Group presentation of its *Final Report*.

4. **Recommendation 4 Discussion** – Strings must not cause any technical instability.

- i. This recommendation is supported by all GNSO Constituencies.

ii. It was agreed by the Committee that the string should not cause any technical issues that threatened the stability and security of the Internet.

iii. In its CIS, the ISPCP stated that “...this is especially important in the avoidance of any negative impact on network activities...The ISPCP considers recommendations 7 and 8 to be fundamental. The technical, financial, organizational and operational capability of the applicant are the evaluators’ instruments for preventing potential negative impact on a new string on the activities of our sector (and indeed of many other sectors).” The IPC also agreed that “technical and operational stability are imperative to any new gTLD introduction.”

iv. The Security and Stability Committee (SSAC) has been involved in general discussions about new top level domains and will be consulted formally to confirm that the implementation of the recommendations will not cause any technical instability.

v. A reserved word list which includes strings which are reserved for technical reasons has been recommended by the RN-WG. The full list of proposed names is found in the RN-WG Report in Part B of the *Report*.

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5. **Recommendation 5 Discussion** -- Strings must not be a Reserved Word.⁵²

i. This recommendation is generally supported by GNSO Constituencies.

ii. The notion of Reserved Words has a specific meaning within the ICANN context. Each of the existing ICANN registry contracts has provisions within them that govern the use of reserved words. This recommendation was discussed in detailed by the RN-WG.

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iii. The RN-WG *Final Report*⁵³ developed a series of recommendations across a broad spectrum of reserved words. The *Report* is to be considered by the Committee at ICANN's Puerto Rico meeting before incorporation into the main body of recommendations.

iv. The RN WG developed a definition of "reserved word" in the context of new TLDs which said "...depending on the specific reserved name category as well as the type (ASCII or IDN), the reserved name requirements recommended may apply in any one or more of the following levels as indicated:

1. At the top level regarding gTLD string restrictions
2. At the second-level as contractual conditions
3. At the third-level as contractual conditions for any new gTLDs that offer domain name registrations at the third-level.

⁵² Reserved Word has a specific meaning in the ICANN context and includes, for example, the reserved word provisions in ICANN's existing registry contracts. See <http://www.icann.org/registries/agreements.htm>.

⁵³ Found online at <http://gns0.icann.org/issues/new-gtlds/final-report-rn-wg-23may07.htm> and in full in Part B of the *Report*.

v. Therefore, the final RN-WG reserved name recommendations fall into the following categories:

1. ICANN/IANA names
2. Single & two-character names, including the use of symbols
3. Tagged names
4. NIC, Whois and www
5. gTLD names at the second level (or third level if applicable).

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vi. In its work, the RN-WG also focused on the following categories of names:

1. Geographical and geopolitical names
2. Specific names reserved by particular gTLD registries at the second and third level
3. Controversial names

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vii. In the case of the second category, the lists of registry specific names were unique to particular gTLD registries rather than to all gTLDs and thus did not fit the focus of the group. In the case of geographical/geopolitical names and controversial names, it was very difficult, if not impossible, to define clear reservation requirements that could be applied for all new gTLDs; at the same time, the work completed by the group seemed to be very applicable to the processes developed as part of the New gTLD PDP, so recommendations are included in this report for consideration as part of those processes.”

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viii. The NCUC’s CIS states that “...We oppose any attempts to create lists of reserved names. Even examples are to be avoided as they can only become prescriptive. We are concerned that geographic names should not be fenced off from

the commons of language and rather should be free for the use of all...Moreover, the proposed recommendation does not make allowance for the duplication of geographic names outside the ccTLDs – where the real issues arise and the means of resolving competing use and fair and nominative use.”

ix. These views are being considered by the Implementation Team in conjunction with consultations with the GAC and the ccNSO. The GAC’s Public Policy Principle 2.2 states that “ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant government or public authorities.”

x. The Implementation Team has developed some suggestions about how this recommendation may be implemented. Those suggestions, and the process flow, have been incorporated into the *Discussion Points* document for further consultation with the Committee.

6. **Recommendation 6 Discussion** - 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).

i. This recommendation was discussed in the lead up to the Committee’s 7 June 2007 conference call and it was agreed that further work would be beneficial.

- ii. It is generally agreed, but needs to be confirmed, that the term “freedom of speech” should be replaced with the broader term “freedom of expression”.
- iii. The Committee have discussed this recommendation in great detail and have attempted to address the experiences of the most recent sTLD round and the complex issues surrounding the .xxx application. The Committee have also recognised the GAC’s Public Policy Principles, most notably Principle 2.1 a) and b) which refer to both freedom of expression and terms with significance in a variety of contexts. In addition, the Committee have recognised the tension respecting freedom of expression and being sensitive to the legitimate concerns others have about offensive terms. The NCUC’s CIS says “...we oppose any string criteria based on morality and public order”. Other Constituencies have not addressed this recommendation in their CISs. The Implementation Team has tried to balance these views with establishing an implementation plan that recognises the practical effect of opening a new top-level domain application system that will attract applications that some members of the community do not agree with. Whilst ICANN does have a technical co-ordination remit, it must also put in place a system of handling disputes, using pre-published criteria, about name strings or applicants which is fair and predictable.
- iv. In its consideration of public policy aspects of new top-level domains the Committee examined the approach taken in a wide variety of jurisdictions. It sought to be consistent with, for example, Article 3 (1) (f) of the 1988 European Union Trade Mark Directive 89/104/EEC and within Article 7 (1) (f) of the 1993 European Union Trade Mark Regulation 40/94. In addition, the phrasing “contrary to morality or public order and in particular of such a nature as to deceive the public” comes from Article

6quinques (B)(3) of the 1883 *Paris Convention*. The reference to the *Paris Convention* remains relevant to domain names even though, when it was drafted, domain names were completely unheard of.

- v. The concept of “morality” is captured in Article 19 United Nations Convention on Human Rights (<http://www.unhchr.ch/udhr/lang/eng.htm>) says “...Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Article 29 continues by saying that “...In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”.
- vi. The EU Trade Mark Office’s Examiner’s guidelines provides assistance on how to interpret morality and deceit. “...Contrary to morality or public order. Words or images which are offensive, such as swear words or racially derogatory images, or which are blasphemous are not acceptable. There is a dividing line between this and words which might be considered in poor taste. The latter do not offend against this provision.” The further element is deception of the public which is treated in the following way. “...Deceive the public. To deceive the public, is for instance as to the nature, quality or geographical origin. For example, a word may give rise to a real expectation of a particular locality which is untrue.” For more information, see Sections 8.7 and 8.8 at <http://oami.europa.eu/en/mark/marque/direc.htm>

vii. The UK Trade Mark office provides similar guidance in its Examiner's Guidance Manual. "Marks which offend fall broadly into three types: those with criminal connotations, those with religious connotations and explicit/taboo signs. Marks offending public policy are likely to offend accepted principles of morality, e.g. illegal drug terminology, although the question of public policy may not arise against marks offending accepted principles of morality, for example, taboo swear words. If a mark is merely distasteful, an objection is unlikely to be justified, whereas if it would cause outrage or would be likely significantly to undermine religious, family or social values, then an objection will be appropriate. Offence may be caused on matters of race, sex, religious belief or general matters of taste and decency. Care should be taken when words have a religious significance and which may provoke greater offence than mere distaste, or even outrage, if used to parody a religion or its values. Where a sign has a very sacred status to members of a religion, mere use may be enough to cause outrage." For more information, see <http://www.patent.gov.uk/tm/t-decisionmaking/t-law/t-law-manual.htm>)

viii. In summary, the development of selection criteria for new top-level domains has been the subject of intense discussion throughout the Committee's work. The work has been supported by detailed discussion within the GAC and through interactions between the GNSO Committee and the GAC.

7. Recommendation 7 Discussion - Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.

i. This recommendation is supported by the majority of GNSO Constituencies.

- ii. The Committee agreed that the technical requirements for applicants would include compliance with a minimum set of technical standards and that this requirement would be part of the new registry operator's contractual conditions included in the proposed base contract. The more detailed discussion about technical requirements has been moved to the contractual conditions section.
- iii. Reference was made numerous Requests for Comment (RFCs) and other technical standards which apply to existing registry operators. For example, Appendix 7 of the June 2005 .net agreement⁵⁴ provides a comprehensive listing of technical requirements in addition to other technical specifications in other parts of the agreement. These requirements are consistent with that which is expected of all current registry operators. These standards would form the basis of any new top-level domain operator requirements.
- iv. This recommendation is referred to in two CISs. "The ISPCP considers recommendations 7 and 8 to be fundamental. The technical, financial, organisational and operational capabilities of the applicant are the evaluators' instruments for preventing potential negative impact on a new string on the activities of our sector (and indeed of many other sectors)." The NCUC submitted "...we record that this must be limited to transparent, predictable and minimum technical requirements only. These must be published. They must then be adhered to neutrally, fairly and without discrimination."
- v. The GAC supported this direction in its Public Policy Principles 2.6, 2.10 and 2.11.

⁵⁴ <http://www.icann.org/tlds/agreements/net/appendix7.html>

8. **Recommendation 8 Discussion** - Applicants must be able to demonstrate their financial and organisational operational capability.

i. This recommendation is supported by the majority of GNSO Constituencies.

ii. The Committee discussed this requirement in detail and determined that it was reasonable to request this information from potential applicants. It was also consistent with past practices including the prior new TLD rounds; the .net and .org rebids and the conditions associated with ICANN registrar accreditation.

iii. This is also consistent with best practice procurement guidelines recommended by the World Bank (www.worldbank.org), the OECD (www.oecd.org) and the Asian Development Bank (www.adb.org) as well as a range of federal procurement agencies such as the UK telecommunications regulator, Ofcom; the US Federal Communications Commission and major public companies.

iv. The challenging aspect of this recommendation is to develop robust and objective criteria against which applicants can be measured, recognising a vast array of business conditions and models. This will be an important element of the ongoing development of the Implementation Plan.

v. The ISPCP discussed the importance of this recommendation in its CIS, as found in Recommendation 7 above.

vi. The NCUC's CIS addressed this recommendation by saying "...we support this recommendation to the extent that the criteria is truly limited to minimum financial and organizational operational capability...All criteria must be transparent, predictable and minimum. They must be published. They must then be adhered to neutrally, fairly and without discrimination."

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vii. The GAC echoed these views in its Public Policy Principle 2.5 that said "...the evaluation and selection procedure 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."

9. **Recommendation 9 Discussion** -- There must be a clear and pre-published process using objective and measurable criteria.

- i. This recommendation is supported by the majority of GNSO Constituencies and is consistent with ICANN's previous TLD rounds in 2000 and 2003/2004 and with its re-bid of both the .net and .org registry contracts.
- ii. It is also consistent with ICANN's Mission and Core Values especially 7, 8 and 9 which address openness in decision-making processes and the timeliness of those processes.
- iii. The Committee decided that the "process" criteria for introducing new top-level domains would follow a pre-published application system including the levying of an application fee to recover the costs of the application process. This is consistent with ICANN's approach to the introduction of new TLDs in the previous 2000 and 2004 round for new top-level domains.
- iv. The RyC reiterated its support for this recommendation in its CIS. It said that "...this Recommendation is of major importance to the RyC because the majority of constituency members incurred unnecessarily high costs in previous rounds of new gTLD introductions as a result of excessively long time periods from application submittal until they were able to start their

business. We believe that a significant part of the delays were related to selection criteria and processes that were too subjective and not very measurable. It is critical in our opinion that the process for the introduction of new gTLDs be predictable in terms of evaluation requirements and timeframes so that new applicants can properly scope their costs and develop reliable implementation plans.” The NCUC said that “...we strongly support this recommendation and again stress the need for all criteria to be limited to minimum operational, financial, and technical considerations. We all stress the need that all evaluation criteria be objective and measurable.”

10. Recommendation 10 Discussion - There must be a base contract provided to applicants at the beginning of the process.

- i. This recommendation is supported by all Constituencies.
- ii. The General Counsel's office has been involved in discussions about the provision of a base contract which would assist applicants both during the application process and in any contract negotiation phase.
- iii. Whilst a framework for this base contract has been developed, it would be prudent to complete the policy recommendations prior to the draft of the base contract being distributed.
- iv. This framework will be discussed at the Puerto Rico meeting within the context of the Implementation Plan. Completion of the policy recommendations will enable the completion of a base contract that would be available to applicants prior to the start of the application process opening.
- v. The RyC, in its CIS, said, “...like the comments for Recommendation 9, we believe that this recommendation will facilitate a more cost-effective and timely application process and thereby minimize the negative impacts of a process that is less

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well-defined and objective. Having a clear understanding of base contractual requirements is essential for a new gTLD applicant in developing a complete business plan.”

11. Recommendation 11 Discussion – (This recommendation has been removed and is left intentionally blank. The recommendations will be re-numbered after the Puerto Rico meeting).

12. Recommendation 12 Discussion -- Dispute resolution and challenge processes must be established prior to the start of the process.

- i. This recommendation is supported by the majority of GNSO Constituencies.
- ii. The Committee has provided clear direction on its expectations that all the dispute resolution and challenge process would be established prior to the opening of the application round. The full system will be published prior to an application round starting. However, the finalisation of this process is contingent upon a completed set of recommendations being agreed; a public comment period and the final agreement of the ICANN Board.

iii. The draft Implementation Plan in the Implementation Team *Discussion Points* document sets out the way in which the disputes between applicants and challenge processes may be handled.

- iv. Final input will be sought from ICANN’s other Supporting Organizations and Advisory Committees at the ICANN Puerto Rico meeting in June 2007. Adjustment to the proposals may need to be made to take into account the recommendations of, for example, the RN-WG and the PRO-WG and this work will also be finalised at the Puerto Rico meeting.

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TERM OF REFERENCE THREE -- DISCUSSION

13. Recommendation 13 Discussion – Applications must initially be assessed in rounds until the scale of demand is clear.

- i. This recommendation is supported by the majority of GNSO Constituencies and sets out the principal allocation methods for TLD applications.
- ii. An application round would be opened on Day 1 and closed on an agreed date in the future with an unspecified number of applications to be processed within that round.
- iii. This recommendation may be amended, after an evaluation period and report that may suggest modifications to this system. The development of objective “success metrics” is a necessary part of the evaluation process that could take place within the new TLDs Project Office.
- iv. The ISPCP expressed its support for this recommendation. Its CIS said that “...this is an essential element in the deployment of new gTLDs, as it enables any technical difficulties to be quickly identified and sorted out, working with reduced numbers of new strings at a time, rather than many all at once. Recommendation 18 on the use of IDNs is also important in preventing any negative impact on network operators and ISPs.”

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TERM OF REFERENCE FOUR -- DISCUSSION

14. Recommendation 14 Discussion – The initial registry agreement term must be of a commercially reasonable length.

i. The remainder of the recommendations address Term of Reference Four on policies for contractual conditions and should be read in conjunction with Recommendation 10 on the provision of a base contract prior to the opening of an application round.

ii. This recommendation is consistent with the existing registry contract provisions found in, for example, the .com and .biz agreements.

iii. These conditions would form the baseline conditions of term length for new TLD operators. It was determined that a term of ten years would reasonably balance the start up costs of registry operations with reasonable commercial terms.

iv. The RyC commented on this recommendation in its CIS saying that "...the members of the RyC have learned first hand that operating a registry in a secure and stable manner is a capital intensive venture. Extensive infrastructure is needed both for redundant registration systems and global domain name constellations. Even the most successful registries have taken many years to recoup their initial investment costs. The RyC is convinced that these two recommendations [14 & 15] will make it easier for new applicants to raise the initial capital necessary and to continue to make investments needed to ensure the level of service expected by registrants and users of their TLDs. These two recommendations will have a very positive impact on new gTLD registries and in turn on the quality of the service they will be able to provide to the Internet community."

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15. Recommendation 15 -- There must be renewal expectancy.

- i. This recommendation is consistent with the existing registry contract provisions found in, for example, the .com and .biz agreements and is supported by all Constituencies.
- ii. These conditions would form the baseline conditions of term length for new TLD operators. It was determined that a term of ten years would reasonably balance the start up costs of registry operations with reasonable commercial terms.
- iii. See the CIS comments from the RyC in the previous section.

16. Recommendation 16 -- Registries must apply existing Consensus Policies⁵⁵ and adopt new Consensus Policies as they are approved.

- i. This recommendation received majority Committee support after considerable discussion about Consensus Policies in the ICANN environment.
- ii. The full set of existing ICANN registry contracts can be found here <http://www.icann.org/registries/agreements.htm> and ICANN's seven current Consensus Policies are found <http://www.icann.org/general/consensus-policies.htm>.
- iii. ICANN develops binding Consensus Policies through its policy development processes, in this case, through the GNSO⁵⁶.

17. Recommendation 17 -- A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.

- i. Referring to the recommendations on contractual conditions above, this section sets out the discussion of the policies for contractual conditions for new top-level domain registry operators. The recommendations are consistent with the

⁵⁵ Consensus Policies has a particular meaning within the ICANN environment. Refer to <http://www.icann.org/general/consensus-policies.htm> for the full list of ICANN's Consensus Policies.

⁵⁶ <http://www.icann.org/general/bylaws.htm#AnnexA>

existing provisions for registry operators which were the subject of detailed community input throughout 2006⁵⁷.

- ii. The Committee developed its recommendations during the Brussels and Amsterdam face-to-face consultations, with particular assistance from the ICANN General Counsel's office. The Committee has focused on the key principles of consistency, openness and transparency. It was also determined that a scalable and predictable process is consistent with industry best practice standards for services procurement. The Committee referred in particular to standards within the broadcasting, telecommunications and Internet services industries to examine how regulatory agencies in those environments conducted, for example, spectrum auctions, broadcasting licence distribution and media ownership frameworks.
- iii. Since then ICANN has developed and published a new approach to its compliance activities. These are found on ICANN's website at <http://www.icann.org/compliance/> and will be part of the development of base contract materials.
- iv. The Committee found a number of expert reports⁵⁸ beneficial. In particular, the World Bank report on mobile licensing conditions provides some guidance on best practice principles for considering broader market investment conditions. "...A major challenge facing regulators in developed and developing countries alike is the need to strike the right balance between ensuring certainty for market players and preserving flexibility of the regulatory process to accommodate the rapidly changing market, technological and policy conditions. As much as possible, policy makers and regulators should strive to promote investors' confidence and give incentives for long-term

⁵⁷ <http://www.icann.org/registries/agreements.htm>

⁵⁸ The full list of reports is found in the Reference section at the end of the document.

investment. They can do this by favoring the principle of ‘renewal expectancy’, but also by promoting regulatory certainty and predictability through a fair, transparent and participatory renewal process. For example, by providing details for license renewal or reissue, clearly establishing what is the discretion offered to the licensing body, or ensuring sufficient lead-times and transitional arrangements in the event of non-renewal or changes in licensing conditions. Public consultation procedures and guaranteeing the right to appeal regulatory decisions maximizes the prospects for a successful renewal process. As technological changes and convergence and technologically neutral approaches gain importance, regulators and policy makers need to be ready to adapt and evolve licensing procedures and practices to the new environment.”

- v. The Recommendations which the Committee has developed with respect to the introduction of new TLDs are consistent with the World Bank principles.

18. Recommendation 18 Discussion -- If an applicant offers an IDN service, then ICANN’s IDN guidelines must be followed

- i. The introduction of internationalised domain names at the root presents ICANN with a series of implementation challenges. This recommendation would apply to any new gTLD (IDN or ASCII TLD) offering IDN services. The initial technical testing⁵⁹ has been completed and a series of live root tests will take place during the remainder of 2007.
- ii. The Committee recognises that there is ongoing work in other parts of the ICANN organisation that needs to be factored into the application process that will apply to IDN applications. The work includes the President’s Committee on IDNs, the GAC and

⁵⁹ <http://www.icann.org/announcements/announcement-4-07mar07.htm>

ccNSO joint working group on IDNs in addition to the GNSO IDN WG. Further consultation will take place at the upcoming ICANN meeting in Lisbon which will provide additional clarity on IDN related policy issues.

19. Recommendation 19 Discussion – Registries must use ICANN accredited registrars.

- i. There is a long history associated with the separation of registry and registrar operations for top-level domains. The structural separation of Verisign’s registry operations from Network Solutions registrar operations explains much of the ongoing policy to require the use of ICANN accredited registrars.
- ii. In order to facilitate the stable and secure operation of the DNS, the Committee agreed that it was prudent to continue the current requirement that registry operators be obliged to use ICANN accredited registrars.
- iii. ICANN’s Registrar Accreditation Agreement has been in place since 2001⁶⁰. Detailed information about the accreditation of registrars can be found on the ICANN website⁶¹. The accreditation process is under active discussion but the critical element of requiring the use of ICANN accredited registrars remains constant.
- iv. In its CIS, the RyC noted that “...the RyC has no problem with this recommendation for larger gTLDs; the requirement to use accredited registrars has worked well for them. But it has not always worked as well for very small, specialized gTLDs. The possible impact on the latter is that they can be at the mercy of registrars for whom there is no good business reason to devote resources. In the New gTLD PDP, it was noted that this

⁶⁰ Found at <http://www.icann.org/registrars/ra-agreement-17may01.htm>

⁶¹ Found at <http://www.icann.org/registrars/accreditation.htm>.

requirement would be less of a problem if the impacted registry would become a registrar for its own TLD, with appropriate controls in place. The RyC agrees with this line of reasoning but current registry agreements forbid registries from doing this. Dialog with the Registrars Constituency on this topic was initiated and is ongoing, the goal being to mutually agree on terms that could be presented for consideration and might provide a workable solution.”

20. Recommendation 20 Discussion – 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.

- i. This recommendation was developed during the preparations for the Committee’s 7 June 2007 conference call. The intention was to factor into the process the very likely possibility of objections to applications from a wide variety of stakeholders.
- ii. The language used here is relatively broad and the implementation impact of the proposed recommendation is discussed in detail in the Implementation Team’s *Discussion Points* document.
- iii. The NCUC’s response to this recommendation in its CIS says, in part, “...recommendation 20 swallows up any attempt to narrow the string criteria to technical, operational and financial evaluations. It asks for objections based on entirely subjective and unknowable criteria and for unlimited reasons and by unlimited parties.” This view has, in part, been addressed in the Implementation Team’s proposed plan but this requires further discussion and agreement by the Committee.