

New gTLD Subsequent Procedures Supplemental Recommendations

Background

On 10 September 2023, the ICANN Board resolved (see scorecard) to not adopt select recommendations from amongst five topics contained in the New gTLD Subsequent Procedures Final Report. On 26 October 2023, the ICANN Board resolved (see scorecard) to not adopt recommendations related to one additional topic. As indicated in the ICANN Bylaws, the Council, “shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation.”

The GNSO Council convened the Small Team Plus in April 2024 to draft Supplemental Recommendation(s) to address the Board’s concerns with the non-adopted New gTLD Subsequent Procedures (SubPro) PDP recommendation on Topic 24: String Similarity Evaluations. See the [motion](#). In particular, “[t]he Board remains concerned, as previously voiced as part of its comment on the Draft Final Report, over the wording in section (a) and (c) of this Recommendation as they stipulate ‘intended use’ of a gTLD, which implies that ICANN will have to enforce the ‘intended use’ post delegation, which could be challenged as acting outside its mission.”

Herein contained are the GNSO Council’s conclusions related to recommendations not adopted by the ICANN Board.

Supplemental Recommendation for Topic 24: String Similarity Evaluations

Supplemental Recommendation

Supplemental Recommendation 24.3: The GNSO Council recommends prohibiting the delegation of singulars and plurals of the same word in the same language in order to reduce the risk of end user confusion.

This prohibition applies in two distinct situations: 1) where an applied-for gTLD string is a singular or plural of an existing gTLD or those Blocked Names on Annex A and 2) where an applied-for gTLD string is a singular or plural of another applied-for gTLD string:

- 1) If ICANN org is informed by reference to a dictionary, and verifies by reference to a dictionary, that an application for a string that is the singular or plural version of the same

word in the same language during the same application window, of an existing gTLD or Blocked Name¹ has been submitted, such application will not be permitted to proceed. ICANN org will treat all other applications for the same strings in the same manner.

- 2) If ICANN org is informed by reference to a dictionary, and verifies by reference to a dictionary, that there is an application for the singular version of a word and an application for a plural version of the same word in the same language during the same application window, the relevant applications will be placed in a contention set. ICANN org will treat all other applications for the same strings in the same manner.

Explanation for Recommendation

The GNSO Council sought to address the concerns of the ICANN Board by making the following amendments to the original recommendation.

To assist in addressing the Board’s concerns, ICANN org developed a proposed text which provided a reporting mechanism for singulars and plurals of the same word in the same language but did not contain any exceptions. The Small Team Plus began with deliberations on this proposal and spent considerable time discussing various exception details, such as exceptions for trademark owners using Specification 13 for .brands and exceptions for non-profit and civil society organizations using registry voluntary commitments. After extensive deliberations, including suggesting that an evaluation for non-confusion could include an “intended registrant” or “eligible registrant” instead of the problematic “intended use”, the Small Team Plus agreed that it could not agree on the details of any exceptions process and instead chose to recommend to the GNSO Council that there should be no exceptions. In making this recommendation, the Small Team agreed that with respect to informing ICANN org of singulars and plurals of the same word in the same language, to the extent possible, existing mechanisms should be leveraged (e.g., the application comment system).

The GNSO Council recommends to prohibit new delegations of gTLDs consisting of singulars and plurals of the same word in the same language without exceptions. Nothing in this Supplemental Recommendation is meant to have any effects upon the rights of pre-existing gTLDs. The Council notes that non-adoption by the Board of this recommendation risks potentially reverting the policy to 2012 practice where singulars and plurals are allowed to coexist and applicants may use the string confusion objection process if concerned about consumer confusion.

¹ A “Blocked Name” (formerly the “Top-Level Reserved Names List”) as defined in the then-current Applicant Guidebook. For the avoidance of doubt, this does not include names other than those on the list in Annex A.

Minority Statements:

Two members have significant reservations regarding the majority Supplemental Recommendation. The Recommendation is overly broad. Such a broad approach is not consistent with the principles of (1) Applicant Freedom of Expression as confirmed by the Sub Pro Final Report, (2) promotion of competition, or with (3) Recommendation 24.3 from Sub Pro which was intended to moderate the effect of the proposed prohibition. The Small Team Plus worked hard to develop a Supplemental Recommendation based on verification of objective criteria substantiating restricted registrant eligibility clearly enforceable by ICANN such as meeting Spec 12 or Spec 13 commitments or licensing or other professional qualifications. These restrictions were viewed as too narrow by some and perhaps too broad by others. Full consensus was not achieved. Accordingly, the minority favors non-adoption of the total ban on singulars and plurals.

NCSG Plurality Statement:

A different minority had openness to exceptions, but only if they could be fair and balanced. The proponents of a .BRAND exception, however, insisted that no noncommercial exception could be properly bounded to avoid abuse while also maintaining that the requirements for .BRANDS would not pose risks of abuse. This was unbalanced given the minimal restrictions on .BRANDS in practice. Thus, the majority Supplemental Recommendation is superior to special treatment for .BRANDS, although balanced exceptions would have been preferable.

Annex A: LIMITED BLOCKED NAMES LIST

Top-Level Blocked Names List

AFRINIC	IANA-SERVERS	NRO	
ALAC	ICANN	RFC-EDITOR	
APNIC	IESG	RIPE	
ARIN	IETF	ROOT-SERVERS	
ASO	INTERNIC	RSSAC	
CCNSO	INVALID	SSAC	
EXAMPLE*	IRTF	TEST*	
GAC	ISTF	TLD	
GNSO	LACNIC	WHOIS	
GTLD-SERVERS	LOCAL	WWW	
IAB	LOCALHOST	INTERNAL**	ONION***
IANA	NIC	PTI****	

*Note that in addition to the above strings, ICANN will reserve translations of the terms “test” and “example” in multiple languages. The remainder of the strings are reserved only in the form included above.

**Per SAC113

***Per SubPro Affirmation 21.3

****Per SubPro Recommendation 21.4