# ICANN | GNSO
## Generic Names Supporting Organization

## GNSO Council Recommendations Report to the ICANN Board - Regarding Adoption of the Phase 2 Final Recommendations from the GNSO Expedited Policy Development Process on Internationalized Domain Names

09 December 2024

## Status of This Document

This is the GNSO Council Recommendations Report to the ICANN Board following the GNSO Council's approval of the Phase 2 Final Recommendations of the Expedited Policy Development Process (EPDP) on Internationalized Domain Names (IDNs).

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# 1. Executive Summary

*On 13 November 2024, the GNSO Council [voted](#) to approve, by a GNSO Supermajority, all final consensus recommendations contained in the [Phase 2 Final Report](#) of the Expedited Policy Development Process (EPDP) on Internationalized Domain Names (IDNs). This Recommendations Report is being sent to the ICANN Board for its review of the recommendations approved by the GNSO Council, which the GNSO Council recommends be adopted by the ICANN Board. Please see [Annex A](#) for an extract of the approved recommendations and related rationale, while the entirety of the Final Report should be taken into account for further details and context as needed.*

On 20 May 2021, the Expedited Policy Development Process (EPDP) on Internationalized Domain Names (IDNs) (hereafter "EPDP-IDNs" and the Team referred to as the "EPDP Team") was initially [chartered](#) to develop policy that would allow for the introduction and management of variants at the top-level and second-level of gTLDs. This work was intended to build on other policy work related to IDNs and fill any gaps, specifically the Outputs produced by the GNSO Council's New gTLD Subsequent Procedures (SubPro) Policy Development Process (PDP).

In November 2022, the Council approved an EPDP Team request to divide its work into two phases; Phase 1 covering topics related to top-level gTLD definition and variant management; and Phase 2 covering topics pertaining to second-level variant management. The two-phased approach was intended to allow the EPDP Team to focus on the charter questions that are most likely to impact the implementation of the Next Round of the new gTLDs and avoid potential delays. Phase 1 work, which produced sixty-nine (69) Outputs (fifty-eight [58] final recommendations and eleven [11] implementation guidance), was all approved by the GNSO Council on 21 December 2023, followed by the ICANN Board adopting fifty-six (56) of the fifty-eight (58) final recommendations by 7 September 2024.[1]

The Phase 2 [Initial Report](#) was published for Public Comment on 11 April 2024. After a comprehensive review of all the public comments received, the EPDP Team finalized its recommendations and submitted its Phase 2 [Final Report](#) to the GNSO Council on 07 October 2024. This Report contains twenty (20) Outputs, including fourteen (14) policy recommendations and six (6) implementation guidance.

The twenty (20) Outputs attained Full Consensus within the EPDP Team and are intended to be interdependent (as described in Section 13 of the GNSO's PDP Manual). Under the ICANN Bylaws, a supermajority vote by the GNSO Council for the policy recommendations obligates the Board to adopt the recommendations, unless, by a vote of more than two-thirds, the Board determines that the policy is not in the best interests of the ICANN community or ICANN. In this

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[1] On 8 June 2024, the ICANN Board took action to adopt fifty-two (52) recommendations from the Phase 1 Final Report and identified six (6) recommendations as pending. Four (4) of the pending recommendations were adopted on 7 September 2024, leaving two (2) pending recommendations as of the drafting of this Final Report. See the Board's approved resolutions here: https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-07-09-2024-en

case, the GNSO Council approved all twenty (20) Outputs, including the fourteen (14) policy recommendations, exceeding the supermajority threshold.

## 2.   GNSO Vote

*A clear statement of all positions held by Council members if a successful GNSO Vote was not reached. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the Constituency(ies) or Stakeholder Group(s) that held that position.*

The GNSO Council approved the EPDP Team's Phase 2 Final Report, exceeding the supermajority threshold. The vote results can be found here.

## 3.   Analysis of Affected Parties

*An analysis of how the issue(s) would affect each Constituency or Stakeholder Group, including any financial impact on the Constituency or Stakeholder Group.*

The EPDP Team's recommendations, for both Phase 1 and Phase 2, build upon the final recommendations of the New gTLD SubPro PDP Final Report, specifically Topic 25: Internationalized Domain Names (IDNs), acknowledging the implications of some core principles on the New gTLD Program and contractual requirements when variant labels are involved. For Phase 2, the EPDP Team primarily builds upon the "same entity" principle where allocation is only possible to the same registrant using the same sponsoring registrar. The EPDP Team did, however, issue recommendations that maintain the existing contractual and allocation status of existing domain names that do not conform to the "same entity" principle, and such existing domains will be exempted from this policy.

As such, the parties that are most impacted by the EPDP Team's Phase 2 recommendations are those that are applying for the allocation of future variant domain names at the second-level of gTLDs. Any potential registrant for a domain name and, in particular, the sponsoring registrar must ensure that their applied-for domain name and relevant variants comply with the "same entity" principle.

The recommendations related to topics such as IDN Table harmonization, the appropriate mechanism in response to a domain name query, and IDN Implementation Guidelines will have contractual and operational impact on those contractually obligated parties, specifically the gTLD registry operators and ICANN-accredited registrars, as well as ICANN org and potentially ccTLD registry operators (i.e., to best ensure consistent solutions between gTLD and ccTLD registry operators). The EPDP Team calls for a collaborative effort among the said parties in

order to ensure stability and security in the DNS. This will be a complex undertaking with details to be considered during the implementation stage.

## 4.   Period of Time Needed to Implement Recommendations

*An analysis of the period of time that would likely be necessary to implement the policy.*

Phase 1 recommendations are already underway for implementation through a sub-track of the existing SubPro Implementation Review Team (IRT) since they are required for the Next Round of new gTLDs. However, Phase 2 recommendations on second-level variant management are not a dependency for the launch of the New gTLD Program. Consequently, the implementation work of Phase 2 recommendations will be planned for, executed by ICANN org's Global Domains & Strategy (GDS) function, as resources are available. With respect to timing, the Council assumes that implementation may begin as soon as Q2 2025, after the ICANN Board considers the recommendations.

As described in the Consensus Policy Implementation Framework (CPIF), there must be an IRT available to aid ICANN org in implementing the recommendations in a manner that is consistent to the EPDP Team's intent.

## 5.   External Advice (if any)

*The advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and relevant experience; and (ii) potential conflicts of interest.*

The EPDP Team did not use external advisors to develop its recommendations. However, it consulted and relied on a set of background documents that were identified by the charter drafting team that preceded this EPDP. Rather, where ICANN org was in a position to collect and analyze relevant data, subject matter experts from ICANN org assisted the EPDP Team with these tasks.

In particular, the EPDP Team engaged with the GNSO Contracted Parties House (CPH) TechOps team to gather relevant data to prepare for deliberations on Phase 2. The EPDP Team also drew on a research report that it requested and received from ICANN org on the languages and scripts used in the Trademark Clearing House (TMCH).

In addition, the EPDP Team also availed itself of the expertise from the liaisons appointed by the ICANN Board, ICANN org's IDN and UA Program, and ICANN org's GDS function. The liaisons regularly attended the EPDP Team calls, providing input where necessary, while passing on any questions from the Team to ICANN org that required additional research or input.

Lastly, the EPDP Team continuously maintained communication with the ccPDP4, the PDP of the Country Code Names Supporting Organization (ccNSO), throughout Phase 2 to meet the ICANN Board's request that the GNSO and ccNSO keep each other informed of their respective progress. This interaction during Phase 2 shaped the recommendations for the IDN Implementation Guidelines, ultimately ensuring a consistent solution for variant gTLDs and variant ccTLDs when developing relevant policies and procedures.

## 6.  Final Report Submission

The EPDP Team's Phase 2 Final Report was submitted to the GNSO Council on 07 October 2024 and can be found here. The full text of all consensus recommendations and related rationales are included as Annex A to this Recommendations Report. *The Council reiterates, however, that the entirety of the Final Report should be taken into account when further details and context are needed*.

## 7.  Council Deliberations

*A copy of the minutes of the Council deliberation on the policy issue, including all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.*

The minutes from the GNSO Council's October 2024 meeting where it received a briefing on the EPDP recommendations can be found here. The slides for the briefing on the EPDP recommendations from the EPDP Chair can be found here.

The minutes from the Council's November 2024 meeting where it approved all the EPDP Outputs can be found here.

## 8.  Consultations Undertaken

The EPDP Team's consideration of all the input it received is documented on its wiki page, including its use of a Public Comment Review Tool: https://community.icann.org/display/epdpidn/Phase+2+Initial+Report+-+Public+Comment.

## 9.  Summary and Analysis of Public Comment Forum

*Summary and analysis of Public Comment Forum.*

The EPDP Team's Phase 2 Initial Report was published for Public Comment on 11 April 2024 and closed on 21 May 2024. A Public Comment Summary Report was published on 20 June 2024. As documented in the Phase 2 Final Report, the EPDP Team agreed to amend some of its preliminary recommendations as a result of its review of the input it received through the Public Comment Forum.

## 10. Impact/Implementation Considerations from ICANN Staff

With the EPDP Team's Phase 1 recommendations having been considered a dependency for the Next Round of new gTLDs, implementation of those recommendations was managed and timed appropriately by ICANN org. Specifically, a sub-track of the existing SubPro IRT was created to serve as the resources to implement these EPDP Team recommendations in coordination with the Next Round Work for the New gTLD Program.

The Phase 2 recommendations, on the other hand, are not a dependency for the Next Round timeline, as mentioned in Section 4 of this Report. Therefore, creating an IRT to aid ICANN org in implementing the recommendations in a manner that is consistent with the EPDP Team's intent will be most critical at this point, along with ensuring that proper ICANN org and community resources are available to support the work. The EPDP Team notes in the Final Report that the future implementation work will be complex and that this work will require a multi-layered approach to ensure maximum interoperability when determining a unified mechanism to respond to domain name queries and/or converging into one single model for IDN Table harmonization. While the EPDP Team recommends collaborative efforts among those parties involved, the details will be crystalized during implementation.

*\* Please note, the following text is copy and pasted from the EPDP on IDNs Phase 2 Final Report and there may be formatting issues present. Please consult the authoritative version [here](#) if any formatting issues arise.*

For Phase 2 of the EPDP-IDNs, the EPDP Team was tasked to provide the GNSO Council with recommendations on second-level variant management. In its current project plan, the EPDP Team identified the questions under the following topics in its charter to be addressed in Phase 2[2]:

- Topic C: "Same entity" at the second-level and IDN Table harmonization
  - Charter Questions C1, 2, 3, 3a, 4, 4a, 5, 6
- Topic D: Adjustments in registry agreement, registry service, registry transition process, and other processes/procedures related to the domain name lifecycle (Continuation of P1)
  - Charter Questions D4, 5, 6, 6a, 7, 7a, 8
- Topic F: Adjustments in registration dispute resolution procedures and trademark protection mechanisms
  - Charter Questions F1, 2
- Topic G: Process to update the IDN Implementation Guidelines
  - Charter Questions G1, 1a

Following consideration and deliberation of the Phase 2 charter questions, the EPDP Team published the Phase 2 Initial Report[3] containing preliminary Outputs for Public Comment. Substantive comments were received on a number of topics, including the automatic allocation and activation process, appropriate mechanism in response to a domain name query for the realization of the "same entity" rule, and the process involved to update the IDN Implementation Guidelines. ICANN org also recommended that the EPDP Team replace the term "grandfathered" with a less pejorative term; and the RySG recommended that registry operator(s) be changed to gTLD registry operator(s). Following careful consideration of all the comments received by the EPDP Team, a number of changes were made and they appear in the Final Report.

The EPDP Team finalized twenty (20) Outputs, including fourteen (14) recommendations and six (6) implementation guidance. The recommendations set forth in this Final Report are expected to be approved by the ICANN Board, requiring that the action must take place, while the implementation

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[2] EPDP Team's current project plan (November 2022 version): https://community.icann.org/download/attachments/181306993/EPDP_IDN_Project_Plan_20221107.pdf?version=1&modificationDate=1668662265000&api=v2
[3] See Phase 2 Initial Report here: https://gnso.icann.org/sites/default/files/policy/2024/draft/epdp-idns-phase2-initial-report-final-11apr24.pdf

guidance is a recommended action by the EPDP Team on how it should be implemented.[4] As also introduced in the Executive Summary, the recommendations and implementation guidance, together, are referred to as "Outputs" throughout this report.[5] The EPDP Team also determined that for certain charter questions (C3, C3a, C4a, C6, D5, D7, F1, G1a), no corresponding Output is necessary and a brief explanation from the EPDP Team is provided. See Annex C for the EPDP Team's responses to all Phase 2 charter questions.

This Phase 2 Final Report states the level of consensus within the EPDP Team achieved for the different Outputs. In summary, all of the twenty (20) Outputs, including fourteen (14) recommendations and six (6) implementation guidance, received "full consensus" support from the EPDP Team. Please see the 'Annex B: Consensus Designation' section of this Final Report for details.

The charter questions and the corresponding final Outputs move in the sequence of underlying principles that guided the EPDP Team's deliberations. Specifically in this Phase 2 Final Report, the numbering convention of the final Outputs generally aligns with the preliminary Outputs in the Initial Report. However, after the Public Comment process, Final Recommendation 6 and Implementation Guidance 7 were combined into one recommendation - Final Recommendation 6. To maintain continuity with the original numbering convention and so as not to confuse the EPDP Team and/or community that have matched each Output number with the corresponding topic, Implementation Guidance 7 remains without content. Moreover, Final Recommendation 20 was amended as a result of the Public Comment process to remove the ccNSO from the approval process; However, an additional implementation guidance (Implementation Guidance 21) is intended to provide a role for the ccNSO in the GNSO's consideration of any future versions of the IDN Implementation Guidelines.

Some underlying principles agreed upon by the EPDP Team and reflected in the final Outputs include the following:

- **Same entity**: A principle where at the domain name level, all allocatable variant domain names from the same variant domain set must be allocated or withheld for possible allocation only to the same registrant using the same sponsoring registrar. The goal of this principle is to minimize user confusion and security risks associated with variant domain names.

- **Integrity of the Set**: The relationship between a primary label and its allocatable and blocked variant labels shall not be infringed upon as long as the primary label exists.

- **Conservatism**: Adopt a more cautious approach in the gTLD policy development as a way to limit any potential security and stability risks associated with the variant label delegation.

- **Exempted**: There will be no change to the contractual and allocation status of existing variant domain names that do not conform to the "same entity" principle. In other words, such existing domains are exempted from this policy and will be referred to as "exempted" in the course of this document. This is a replacement for the term "grandfathered" that was used in the Phase 1 Final Report and the Phase 2 Initial Report. Other variations of "exempted" are presented as

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[4] The EPDP Team strongly recommends the stated action in the implementation guidance, with a strong presumption that it will be implemented, but recognizes that there may exist valid reasons in particular circumstances to not take the recommended action exactly as described.

[5] The types of outputs follow the details set out in the SubPro PDP Final Report. See here: https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=3

"exemption," "exemption period," and "excluded" based on the context throughout this document.[6]

The structure of the subsections that organize the final recommendations is as follows:

■ **Section 3.1:** Charter Questions with Final Outputs

■ **Section 3.2:** Charter Questions with No Final Outputs

Within the text of this document, the key words "MUST," "MUST NOT," "SHOULD," "SHOULD NOT," "SHALL," "SHALL NOT," "REQUIRED," and "MAY" are to be interpreted as described in RFC 2119.[7]

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[6] See more detailed explanation of these underlying principles in 'Section 4: Glossary' of this Final Report.
[7] RFC 2119: https://www.rfc-editor.org/rfc/rfc2119

## 3.1 Charter Questions with Final Outputs

### C1 Charter Question:

*Both the SubPro PDP and the Staff Paper recommend that: 1) a given second-level label beneath each allocated variant TLD must have the "same entity"; and 2) all allocatable second-level IDN variant labels that arise from a registration based on a second-level IDN table must have the "same entity."[8]*

*Should this recommendation be extended to existing second-level labels?*

### C1 Final Outputs:

**Final Recommendation 1:** The "same entity" principle applies to the allocation of future variant domain names at the second-level of gTLDs. This means that all allocatable variant domain names from a variant domain set must be allocated or withheld for possible allocation only to the same registrant. Additionally, all allocated domain names must be at the same sponsoring registrar.

**Implementation Guidance 2:** gTLD registry operators should take into account Recommendation 14 in SAC060, as well as language or script communities' widely acceptable practices among Internet users and established conventions, and consider:[9]

2.1 setting a maximum number of allocatable variant domain names that can be allocated to the same registrant of the source domain name; and

2.2 limiting automatic activation of variant domain names to the extent possible, including in instances where the language-script community believes automatic allocation and activation is needed.

**Final Recommendation 3:** Immediately prior to the policy effective date of the "same entity" principle as set out in Final Recommendation 1, the existing variant domain names that do not conform to the "same entity" principle must be exempted. This means that there will be no change to the contractual or allocation status of such existing variant domain names. The requirement of having the same registrant and the same sponsoring registrar will not be applied retroactively. gTLD registries must determine variant sets for each exempted label as if it is a source domain name and protect from registration all variant labels in all such variant sets in all variant gTLDs, as appropriate.

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[8] See Recommendation 25.6 in the SubPro PDP Final Report, p.116: https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=116; Recommendation 3 in the Staff Paper, p.3: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=3; Recommendation 25.7 in the SubPro PDP Final Report, p.116: https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=116; Recommendation 4 in the Staff Paper, p.4: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=4

[9] See Recommendation 14, SAC060, p.20: https://www.icann.org/en/system/files/files/sac-060-en.pdf#page=20

# C1 Rationale for Final Outputs:

**Rationale for Final Recommendation 1:** The EPDP Team deliberated charter questions C1 in conjunction with C2, as they both address the "same entity" principle at the second-level. The EPDP Team also reviewed the SubPro PDP Recommendations 25.6 and 25.7 relating to the "same entity" principle at the second-level that were adopted by the ICANN Board on 16 March 2023.[10] For consistency purposes as well as to minimize user confusion and security risks, the EPDP Team agreed to extend the SubPro PDP recommendations to existing domain names. This means that all of the allocatable variant domain names that arise from an existing domain name based on a harmonized IDN Table, as required by Final Recommendation 5, must be allocated or withheld for possible allocation only to the same registrant of the existing domain name. The EPDP Team noted that some gTLD registry operators already enforce the same registrant rule, even though this is not a policy requirement at present.

Furthermore, the EPDP Team expanded on the "same entity" principle by explicitly requiring that all of the allocatable variant domain names from a variant domain set may only be allocated by the same sponsoring registrar. The EPDP Team learned that validating the same registrant is extremely difficult or impossible across registrar boundaries, as different registrars assign different contact objects to identify registrants. Having the same sponsoring registrar for the variant domain set will help ensure that the same registrant can be verified. In addition, having the same registrar is compatible with the existing requirements for activating IDN variant labels, which stipulate that "variant IDNs may be activated when requested by the sponsoring Registrar of the canonical name as described in the IDN Tables and IDN Registration Rules."[11]

Final Recommendation 1 is consistent with Guidelines 11-12 of the ICANN Board deferred guidelines from IDN Implementation Guidelines version 4.0. Please see Section 5 of this Phase 2 Final Report for details.

**Rationale for Implementation Guidance 2:** The EPDP Team developed this implementation guidance following a review of Guideline 12 of the ICANN Board deferred guidelines from IDN Implementation Guidelines version 4.0, which states:

> *"…In exceptional cases, i) to support a widely acceptable practice within Internet users of a language or script community, or ii) to abide by language or script established conventions, a TLD Registry may opt to activate a limited number of IDN Variant Labels at its discretion, according to its policies. In such cases, the TLD Registry must have a mechanism to limit automatic activation of IDN Variant Labels to a minimum."*

The EPDP Team learned that automatic activation of variant domain names is an acceptable practice for certain registries that support domain names in the Chinese script. For example, if a registrant registers a simplified Chinese domain name under a given gTLD, the traditional variant label is activated by the gTLD registry operator for the same registrant automatically. Furthermore, the EPDP Team learned that Guideline 12 stems from Recommendation 14 in SAC060, which recommends applying a conservative

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[10] See ICANN Board resolution here: https://www.icann.org/en/board-activities-and-meetings/materials/approvedresolutions-regular-meeting-of-the-icann-board-16-03-2023-en
[11] See Section 2.2 in the "Standard Amendment Language, Add Internationalized Domain Names (IDNs) - May Activate Variants" here: https://www.icann.org/en/system/files/files/standard-amendment-language-add-idns-may-activate-variants-14jun19-en.pdf

approach in order to avoid the potential permutation issues of variant labels both at the top-level and with combinations of the top-level and the second-level.

As such, the EPDP Team put forward this implementation guidance, suggesting that gTLD registry operators take into account Recommendation 14 in SAC060, as well as language or script communities' widely acceptable practices among Internet users and established conventions, and consider setting an upper limit of allocatable variant domain names that can be allocated to the same registrant. In addition, a gTLD registry operator should seek to limit automatic activation of variant domain names, even in instances where the script community believes it may be beneficial. The rationale for suggesting that automatic activation be limited is that variant domain names may be a novel concept for many registrants. However, a registrant that explicitly requests the activation of a variant domain name is more likely to be aware of the implications and uses for a variant domain name. Nevertheless, the EPDP Team fully understood that the decision of whether automatic activation is supported and what the upper limit of variant domain names can be allocated is at the gTLD registry operator's discretion and in accordance with its policy.

**Rationale for Final Recommendation 3:** Before the "same entity" principle comes into effect, it is possible that certain existing variant domain names from the same variant domain set are allocated to different registrants and/or at different sponsoring registrars. Similarly, before the IDN Table harmonization requirement comes into effect, it is possible that certain existing variant domain names, based on one IDN Table of a given gTLD, are calculated as non-variant domain names by another IDN Table of the same gTLD. This may consequently result in domain names from the same variant domain set being allocated to different registrants and/or at different sponsoring registrars. While it would be helpful to understand how many existing domain names fall into such a category, the EPDP Team recognized the difficulty to obtain such data. The EPDP Team also noted that this is unlikely to be a serious problem, given there are only about 1.5 million IDNs at the second-level across all gTLDs and the EPDP Team has not been informed of or discovered any major confusability concerns for these existing IDNs.

To maintain stability and provide safeguards for the relevant Internet stakeholders, such as registrants, registrars, resellers, registry operators, and end-users, the EPDP Team agreed that all such existing variant domain names that do not conform to the "same entity" principle and predate these requirements must be exempted. "Exempted" in this instance means that there will be no change to the contractual and allocation status of such existing variant domain names. The requirement of having the same registrant and the same sponsoring registrar will not be applied retroactively. The EPDP Team recognized that enforcing the "same entity" principle by removing a variant domain from one existing registrant in favor of another would impinge on the existing rights of the affected registrants, potentially leading to legal issues, operational complexity, and beyond. Therefore, such existing domains are exempted from this policy and will be referred to as "exempted" in the course of this document. Together with this, Final Recommendations 3-4 went beyond the ICANN Board deferred Guidelines 11-12 from IDN Implementation Guidelines version 4.0, as presented in the rationale portion of Final Recommendation 1 and Implementation Guidance 2, especially in addressing the existing variant domain names that were registered prior to the future policy effective date of the "same entity" principle, which was not explicitly covered in Guidelines 11-12. Please see Section 5 of this Phase 2 Final Report for details.

# C1 Public Comment Review:

**Wording Change:** For <u>Final Recommendation 1</u>, the EPDP Team confirmed the assumption raised in the Public Comment, noting that the EPDP Team's recommendation only applies to the second-level and not the third-level. The EPDP Team agreed that there is a clearer way to specify the language so that the recommendation is only intended for the second-level, thus adding the phrase, "at the second-level of gTLDs." This detail has been added to the end of the first sentence.

**Significant Change:** As for the question on automatic activation and who decides on activating a variant domain name, language was updated within <u>Implementation Guidance 2</u> after the EPDP Team explored ways to suggest that automatic activation be driven by community needs, while still limiting it to the extent possible. The EPDP Team had already extensively discussed this topic when providing the original guidance but further discussed that an explicit guidance was necessary through the Output. In short, 2.2 was updated to: *"limiting automatic activation of variant domain names to the extent possible, including in instances where the language-script community believes automatic allocation and activation is needed."*

In addition, the EPDP Team accepted the suggestion to replace the term, "registry operator(s)," to "gTLD registry operator(s)" for <u>Implementation Guidance 2</u>. This replacement has been made throughout the report to avoid any confusion as to who is to implement the recommended policies, given that this is a GNSO sponsored PDP intended for gTLD registry operators.

**Wording Change:** The EPDP Team agreed to avoid using the term "grandfathered" in the report in response to concerns raised by ICANN org during the Public Comment period as explained in the Executive Summary. The EPDP Team updated each term to either "exempted" or "excluded" based on the context throughout this document. Here in <u>Final Recommendation 3</u>, the term has been updated to "exempted" for each case.

Meanwhile, the EPDP Team also agreed to add a sentence at the end of the recommendation to provide further clarity on how to move forward with those existing variant domain names that were registered prior to the future policy effective date of the "same entity" principle. The following additional sentence ensures that the scope of variant domain names exempt from the requirements of <u>Final Recommendation 1</u> is not expanded: *"gTLD Registries must determine variant sets for each grandfathered label as if it is a source domain name and protect from registration all variant labels in all such variant sets in all variant gTLDs, as appropriate."*

# C2 Charter Question:

*Currently Registry Operators may activate the IDN variant labels at the second-level when requested by the sponsoring Registrar of the canonical name as described in the IDN Tables and IDN Registration*

*Rules12. Both the SubPro PDP and the Staff Paper recommend that at the second-level, the same entity definition can be achieved by ensuring that the registrant is the same. [13]*

*Should this recommendation be extended to the already activated IDN variant labels at the second-level? How does the "same entity" requirement impact the current rules for Registry Operators for activating IDN variant labels?*

## C2 Final Outputs:

> **Final Recommendation 4:** Any allocatable variant domain names of exempted domain names pursuant to Final Recommendation 3 cannot be allocated unless and until only one registrant and one sponsoring registrar remain for the exempted domain name(s) from the relevant variant domain set.

## C2 Rationale for Final Outputs:

**Rationale for Final Recommendation 4:** The EPDP Team agreed that the exemption approach, as set out in Final Recommendation 3, is an exception to the rule and should be resolved as soon as possible. To minimize exceptions to the "same entity" principle, the EPDP Team agreed on no further allocation of any allocatable variant domain from the same variant domain set of an exempted domain. Further allocation is only allowed when one registrant and one sponsoring registrar remain for the variant domain set, which effectively marks the end of the exemption period.

By way of example, presume in a variant domain set there are four allocatable variant domain names, which are s1.T1, s1v1.T1, s1v2.T1, and s1v3.T1. The domain name s1.T1 is registered to Registrant A at Registrar X, and s1v1.T1 is registered to Registrant B at Registrar Y. In accordance with this recommendation, s1v2.T1 and s1v3.T1 must remain ineligible for allocation until only one registrant (i.e., either Registrant A or Registrant B, in this instance) and one corresponding sponsoring registrar remain for the variant domain set. One possible scenario is that Registrant B voluntarily transfers s1v1.T1 to Registrant A at Registrar X. As such, the "same entity" principle is achieved and the exemption situation is eliminated. Subsequently, Registrant A could request to allocate s1v2.T1 and/or s1v3.T1 at Registrar X at a later date. Another possible scenario is that the exemption situation is eliminated by the deletion of either s1.T1 or s1v1.T1. Consequently, the registrant of the remaining domain name could request allocation of s1v2.T1 and/or s1v3.T1 at the registrant's sponsoring registrar.

The EPDP Team agreed that as long as a variant domain set has more than one registrant and/or sponsoring registrar, permitting further allocation would perpetuate the exemption situation and constitute further violation of the "same entity" principle. It would also call into question who would adjudicate the rights regarding which registrant should get the additional allocatable variant domain, if there are competing registrants having variant domain names from the same variant domain set.

Other than restricting further allocation of additional allocatable variant domain names and preventing the enlargement of the total pool of variant domain names that would require exemption, the EPDP Team agreed not to prescribe any additional constraints that would potentially impinge on the existing rights of the registrants of exempted variant domain names. Therefore, the exempted variant domain

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[12] See footnote 41
[13] See Rationale for Recommendation 25.6-25.8 in the SubPro PDP Final Report, pp.117-118: https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=117; Section 3.2.1 in the Staff Paper, p.7: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=7

names are excluded from requirements pursuant to <u>Final Recommendations 8-10</u> below. The EPDP Team believe that the instances that would require exemption are likely minimal, and it would be best to leave it to the discretion of the registrars and registry operators to decide on their specific measures regarding the lifecycle management of the exempted variant domain names.

## C2 Public Comment Review:

**Wording Change:** As described in the Public Comment Review section for <u>Final Recommendation 3</u>, the EPDP Team agreed to avoid using the terms, "grandfathering" and "grandfathered," in the report and they have been updated to "exemption," "exempted," "exemption period" or "excluded" based on the context of <u>Final Recommendation 4</u> and its rationale.

## C4 Charter Question:

*A registry TLD[14] may offer registrations using different IDN tables to support different languages or scripts. In case multiple IDN tables are offered, IDN tables should produce a consistent set of second-level variant labels to help achieve the security and usability goals for managing variant labels in a stable manner, promoting a good user experience.[15] As such, the Staff Paper recommends that IDN tables of variant TLDs be mutually coherent, i.e., any two code points (or sequences) that are variants in TLD 't1' cannot be non-variants in variant TLD 't1v1'.[16] This recommendation also implies that any two code points (or sequences) that are variants in IDN Table A for TLD t2, which does not have any variant TLD, cannot be non-variants in another IDN Table B for the same TLD t2.[17]*

*Should the second-level IDN tables offered under a TLD, including IDN variant TLDs, be required to be mutually coherent? If yes, how should existing registrations which may not meet the "mutually coherent"[18] requirement of second-level IDN tables be addressed? Rationale must be clearly stated.*

## C4 Final Outputs:

> **Final Recommendation 5:** All of the existing and future IDN Tables for a given gTLD and its delegated gTLD variant label(s), if any, must be harmonized. This means that all of the IDN Tables for a gTLD and its delegated gTLD variant label(s) must produce a consistent variant domain set for a given second-level label registered under that gTLD or its delegated gTLD variant label(s).

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[14] Registry TLD refers to a single TLD in a RA, not the registry operator which may operate one or more TLDs.

[15] See "Motivation, Premises, and Framework" section of the Staff Paper: https://www.icann.org/en/system/files/files/idn-variant-%20tld-motivation-premises-framework-25jan19-en.pdf

[16] The intent of the recommendation is that a given TLD's IDN Tables be harmonized, not all of the registry operator's IDN Tables for all the TLDs it operates, but with exception of variant TLDs that the registry operator also operates. See Recommendation 5 in the Staff Paper, p.4: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-%2025jan19-en.pdf#page=4

[17] The Staff Paper does not explicitly make such a recommendation with respect to a given TLD that does not have variants, but the proposed IDN Implementation Guidelines 4.0 recommends such.

[18] Any two code points (or sequences) that are variants in TLD 't1' cannot be non-variants in variant TLD 't1v1'. See footnote 46 for more details.

# C4 Rationale for Final Outputs:

**Rationale for Final Recommendation 5:** To support its consideration of charter question C4, the EPDP Team received several background briefings on IDN Tables from ICANN org.[19] IDN Tables represent a registry operator's second-level rules under a gTLD for validating IDN labels for registration, as well as calculating their variant labels and determining disposition values. Second-level variant labels, as defined in a registry operator's IDN Tables and IDN Registration Rules, may be blocked or activated.[20] The EPDP Team understood that registry operators develop their IDN Tables and submit them to ICANN org for review of any significant security, stability, and competition issue considerations. A registry operator may use multiple IDN Tables covering a variety of languages and scripts for a gTLD it operates.

The EPDP Team had extensive discussion on the meaning and implication of IDN Table harmonization. The goal of harmonization is to ensure that all of the IDN Tables for a given gTLD must produce the consistent variant domain set that arises from a registration of the source domain name.[21] In other words, no matter which IDN Table for whatever language or script is used for a gTLD, the variant domain set produced for the source domain name must be consistent in all of the IDN Tables for that gTLD as well as its delegated gTLD variant label(s), if any.

The harmonization requirement is expected to avoid the situation where two (or more) domain names that are calculated as variant domain names using a certain IDN Table rule (e.g., IDN Table A) can be non-variants using another IDN Table rule (e.g., IDN Table B) under the same gTLD or its delegated variant label.

■ **Illustration 1:** This is a visual representation of how IDN Table harmonization works and its impact. TLD 1 has two IDN Tables X and Y. Code points "a" and "b" are variant code points in Table X, but not in Table Y. Without the harmonization requirement, second-level labels "aaa" and "bbb" will be calculated as variant labels based on Table X, but non-variant labels based on Table Y. If harmonization is required, one option is to update Table Y to identify "a" and "b" as variant code points. As a result, "aaa" and "bbb" will be consistently calculated as variant labels no matter which IDN Table is used.



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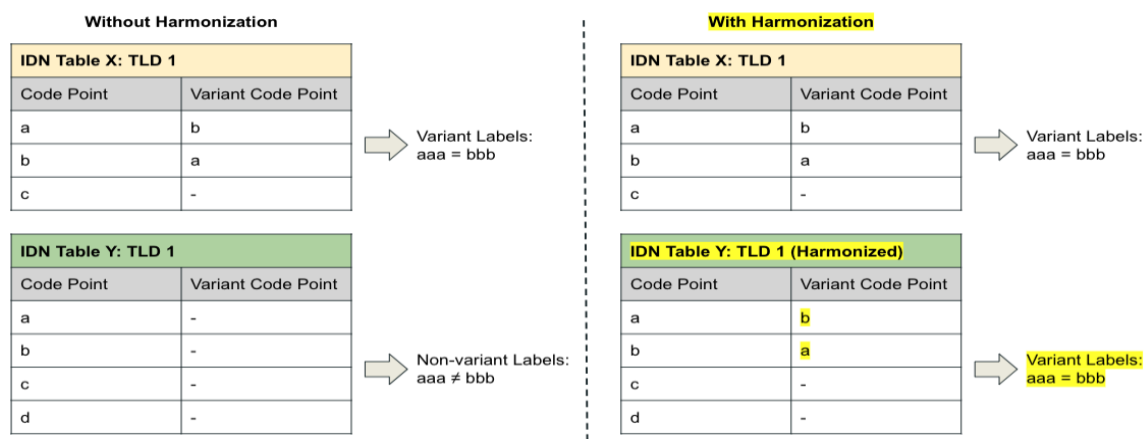
[19] The IDN Table briefings were conducted during the EPDP Team working session #2 during ICANN74 and its meetings #80 and #81.

[20] See Exhibit A of the Registry Agreement: https://www.icann.org/en/system/files/files/standard-amendment-language-add-idns-may-activate-variants-14jun19-en.pdf. See 'Section 4: Glossary' of this Final Report for the explanation of "activate."

[21] See 'Section 4: Glossary' of this Final Report for more details about the "source domain name."

To address the security concerns, the EPDP Team agreed that all of the IDN Tables for a gTLD and its delegated gTLD variant label(s), if any, must be harmonized. For consistency purposes, this requirement applies to both existing IDN Tables already implemented, as well as future IDN Tables to be submitted to ICANN org for review. As an implication of this requirement, ICANN org will review all of the existing and future IDN Tables for a gTLD and its delegated gTLD variant label(s) in a holistic manner, ensuring that the variant domain set is consistently produced. Nevertheless, the EPDP Team agreed not to mandate any specific mechanism for harmonization, but to leave it to gTLD registry operators to decide. See more details through the EPDP Team's deliberations on charter question C5.

## C4 Public Comment Review:

**Final Recommendation 5:** The EPDP Team received support from several commenters on this recommendation as written.

## C5 Charter Question:

*There is existing practice by registries to harmonize IDN tables, but there is no data on the various methods they may have used. The Staff Paper suggests maintaining a common set of harmonized second-level IDN tables for all IDN variant TLDs and then (a) choosing all these IDN tables to offer for all IDN variant TLDs, or (b) choosing a relevant different subset of IDN tables to offer for each different IDN variant TLD.[22]*

*The WG and the SubPro IRT to coordinate and consider the following question in order to develop a consistent solution: are the above suggested methods in the Staff Paper sufficient for IDN table harmonization purposes? Should any additional implementation guidance be provided for a registry?*

## C5 Final Outputs:

**Final Recommendation 6:** The baseline criteria for implementing IDNs at the second-level must be security and stability of the DNS. ICANN org and gTLD Registry operators shall be responsible for reaching mutual agreement on a minimum set of IDN variant deployment requirements, including, variant sets at the second-level. In developing the minimum set of IDN variant deployment requirements, ICANN org and the gTLD registry operators shall consult with other relevant stakeholders, including ICANN-accredited registrars and script communities.

**Implementation Guidance 7[23]:** N/A

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[22] See Section 3.5.1 in the Staff Paper, p.14: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-%20analysis-25jan19-en.pdf#page=14

[23] During the Public Comment process for the Initial Report, Final Recommendation 6 and Implementation Guidance 7 were combined into one recommendation - Final Recommendation 6. This process is described in the Public Comment Review portion for Final Recommendation 6. To maintain continuity with the original numbering convention and so as not to confuse the EPDP-

# C5 Rationale for Final Outputs:

**Rationale for Final Recommendation 6:**

The EPDP Team agreed not to recommend any specific mechanism to achieve harmonization for IDN Tables at a technical level. The EPDP Team understood that while there is currently no standard process for harmonizing IDN Tables, there is anecdotal evidence that gTLD registry operators as well as back-end registry service providers already harmonize IDN Tables.[24] In its preliminary deliberations, the EPDP Team agreed that how harmonization is achieved should be left to the gTLD registry operators to decide as the systems, platforms, and software used by gTLD registry operators vary and they will have to design appropriate technical solutions to meet the harmonization requirement. The EPDP Team considered the two proposals in the Staff Paper for harmonization mechanisms, and recognized these as viable options. The considerations included a discussion on how the transfer of TLDs from one gTLD registry operator to another would work if the gTLD registry operators have different mechanisms for harmonizing IDN Tables.

The EPDP Team also discussed whether an inconsistent approach to harmonization across gTLD registry operators at the second-level could increase security and stability risks to the DNS and considered whether minimum IDN variant deployment requirements should be developed. Some argued that these decisions should be left to the gTLD registry operator, which is consistent with the current practice of gTLD registry operators managing the second-level of their TLD and others argued that the existing work of the script communities should be utilized to help establish a baseline set of requirements that will mitigate potential security and stability risks of the DNS. Concerns were raised about relying on the variant code points identified in the Root Zone Label Generation Rules (RZ-LGR) for second-level IDN Tables when the RZ-LGR was created explicitly for TLDs and as such is conservative because of the low tolerance for risk at the top-level of the DNS.

The EPDP Leadership Team tasked its members from the RySG to work with ICANN org to find an appropriate balance between leaving harmonization to the discretion of gTLD registry operators versus requiring the inclusion of variant code points identified by the script communities for second-level IDN Tables.

The RySG members and ICANN org subsequently agreed that minimum IDN variant deployment requirements, including but not limited to variant sets, should be developed without prescribing at this time how that should be done. They agreed that adding a baseline requirement to the IDN Table harmonization requirement would provide common within-script and cross-script variant code point sets for all gTLDs, which will help mitigate DNS abuse and other security issues. They also agreed that while the RZ-LGR may not be appropriate to use at the second-level, the work of the script communities could be an important consideration in developing minimum IDN variant deployment requirements. In other words, further work is needed to establish the minimum IDN variant deployment requirements and this should be done collaboratively amongst ICANN org, gTLD registry operators, and other relevant parties. However, as stipulated in Final Recommendation 6, ICANN org and the gTLD registry operators

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IDNs Team and/or the community that have matched each Output number with the corresponding topic, Implementation Guidance 7 remains without content.

[24] The EPDP Team learned about the existing harmonization practice by TANGO Registry Services during its meeting #81. For each requested second-level label under a given gTLD, TANGO calculates its "canonical" name based on all active IDN Tables of that gTLD. If the canonical name is the same as that of an already registered second-level label, the requested label will be blocked. In the same meeting, the EPDP Team also learned about the development and update process of the Chinese IDN Tables created by the Chinese Domain Name Consortium (CDNC).

will be responsible for reaching mutual agreement on the minimum set of IDN variant deployment requirements, while other relevant stakeholders, including ICANN-accredited registrars and script communities, should also be consulted. This work should consider the appropriateness of the work undertaken by the script communities (i.e., reference LGRs, RZ-LGR), as well as other relevant sources of information, including but not limited to the IDNA200825, IDN Implementation Guidelines26, and any future versions of these two documents, during the collaborative process. Current registry operational practices could also be considered during this process.

To avoid any confusion during the implementation stage and ensure subsequent interoperability while responding further to charter questions C3 and C3a,[27] the EPDP Team agreed that the mechanism to identify the registrant as the "same entity" at the second-level for future and existing labels should be uniform, to the extent possible. In some instances, a Registry Agreement requires the use of the Repository Object Identifiers (ROIDs), such as RDS output, data escrow, bulk registration data access (BRDA), Extensible Provisioning Protocol (EPP), and Trademark Database List of Registered Domain Names. The EPDP Team does not support ROID as the sole and unified mechanism to satisfy the "same entity" requirement and remained firm on not prescribing any specific mechanism. Hence, in response to comments received about the lack of recommendations for charter questions C3 and C3a, the EPDP Team reaffirmed their agreement not to prescribe requirements as it is the responsibility of the gTLD registry operator and sponsoring registrar to decide how the same registrant is identified, verified, and enforced based on a mutually agreed method. For avoidance of doubt, this means that a unified mechanism will be determined during the implementation stage, to the extent possible, by the gTLD registry operators and the sponsoring registrars, not that each entity will have a method of its own choosing. Nevertheless, the appropriate mechanism was again left for the Implementation Review Team (IRT) to address during the implementation stage, noting that the future work will be complex and require a multi-layered approach to ensure maximum interoperability when converging into one single model.

## C5 Public Comment Review:

**Significant Change:** The EPDP Team recognized comments from the Registrar Stakeholder Group (RrSG) about the importance of this recommendation, especially when considering the security risks that can further harm the stability of DNS. The EPDP Team also recognized the comments supporting the collaborative process that is necessary to develop a minimum set of IDN variant deployment requirements at the second-level, which is to move in the direction of an interoperable model, while addressing remaining security concerns in a manner that prioritizes usability and adoption of IDNs and their variants. No significant concerns were raised during the Public Comment process except for requests to change the wording to be consistent between Preliminary Recommendation 6 and Implementation Guidance 7, so that the requirements (compulsory vs. optional) and the relevant stakeholders (registry operators vs. gTLD registry operators) are aligned, and to make the language clearer (i.e., variant sets).

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[25] See IDNA2008 Documents here: https://www.rfc-editor.org/rfc/rfc9233.html#name-idna2008-documents; IDNA2008 information can also be found in the EPDP Team's wiki space: https://community.icann.org/display/epdpidn/3.+Background+Documents

[26] See IDN Implementation Guidelines here: https://www.icann.org/resources/pages/implementation-guidelines-2012-02-25-en

[27] The EPDP Team did not provide Outputs for charter questions C3 and C3a but its response to the public comments is presented here. The EPDP Team's preliminary response to charter questions C3 and C3a can be found in 'Section 3.2: Charter Questions with No Final Outputs.'

As a result of the comments received, leadership proposed to combine Preliminary Recommendation 6 and Implementation Guidance 7 into one recommendation - Final Recommendation 6. In addition, the EPDP Team agreed to respond to public comments about charter questions C3 and C3a within the rationale portion of this recommendation. The EPDP Team did not agree to provide any specific guidance on how to uniquely identify a registrant to implement the "same entity" principle per the comments received.

Moreover, as described in the Public Comment Review section for Implementation Guidance 2, the EPDP Team agreed to replace the term "registry operator(s)" to "gTLD registry operator(s)."

Subsequent to the Public Comment review process, ICANN org requested that the recommendation related to the harmonization of IDN Tables be stabilized as soon as possible to assist with the launch of the Registry Service Provider (RSP) Program in November of 2024. The preparatory work for these recommendations would have served as an input for ICANN org for the RSP Evaluation Program to potentially help lay the groundwork for the Next Round of the New gTLD. The EPDP Team agreed to prioritize their discussions in order to stabilize the recommendation so that implementation could begin prior to the Phase 2 Final Report being considered by the GNSO Council and ICANN Board. However, the GNSO Council raised various concerns about taking such an unprecedented action, which concluded in ICANN org withdrawing the request.

## D4 Charter Question:

*Regarding second-level domain names, should a variant set behave as one unit, i.e., the behavior of one domain name is replicated across the other variant domain names? Or should each variant domain name have its own independent domain name lifecycle?[28] Consider the operational and legal impact of the "same entity" principle, if any, to all aspects of a domain name lifecycle, including but not limited to: ● Registration, including registration during the Sunrise Period, any Limited Registration Period, any Launch Program and during General Registration ● Update ● Renewal ● Transfer ● Lock ● Suspension ● Expiration ● Redemption ● Deletion.*

## D4 Final Outputs:

**Final Recommendation 8:** A registrant and its sponsoring registrar must jointly determine the source domain name, which must be registered, for calculating the variant domain set under a given gTLD and its delegated gTLD variant label(s), if any. The registrants and sponsoring registrars of the exempted variant domain names pursuant to Final Recommendation 3 are excluded from this requirement.

**Final Recommendation 9:** The "same entity" principle, as set out in Final Recommendation 1, must be adhered to in all stages of the domain name lifecycle of the allocated variant domain

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[28] One view is that if each variant allocation is simply a different domain name, it follows that names can be created and can expire at different times, despite the "same entity" rule. See Section 3.9.4 in the Staff Paper, p.22: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=22. Another view is that if each variant allocation is supposed to be the same domain name, it follows that names should expire at the same time, however some registry operators may implement it differently and consider them billable transactions instead.

> names in the same variant domain set. The exempted variant domain names pursuant to <u>Final Recommendation 3</u> are excluded from this requirement.

## D4 Rationale for Final Outputs:

**Rationale for Final Recommendation 8:**
Based on common understanding, a domain name must have at least two labels separated by a dot – a top-level label and a second-level label, e.g., example.tld, where "example" is the second level and "tld" is the top-level label. A domain name's status as a "variant" is determined by the source domain name. The source domain name is a registered domain name under a given gTLD that serves the essential role as the input for calculating the variant domain set under that gTLD and its delegated gTLD variant label(s), if any.

The variant domain set consists of variant label sets at both the second- and top-levels. The "set" at the second-level is enumerated from the second-level label of the source domain name, using the IDN Tables of the given gTLD. The "set" at the top-level is limited to the given gTLD and its delegated gTLD variant label(s), if any. To confirm, the composition of the second-level variant label set is the same under the given gTLD and its delegated gTLD variant label(s).

The variant domain names represent the combinations of variant labels at the second- and top-levels. The disposition values of variant domain names under a given gTLD are calculated by the IDN Table of the given gTLD based on the respective source domain name.[29]

The EPDP Team agreed that the source domain name must be identified between the registrant and the sponsoring registrar as a joint responsibility. The EPDP Team further agreed that the source domain name must be registered. Without the registration of the source domain name, it would be impossible to know which allocatable variant domain names, if any, can potentially be allocated.
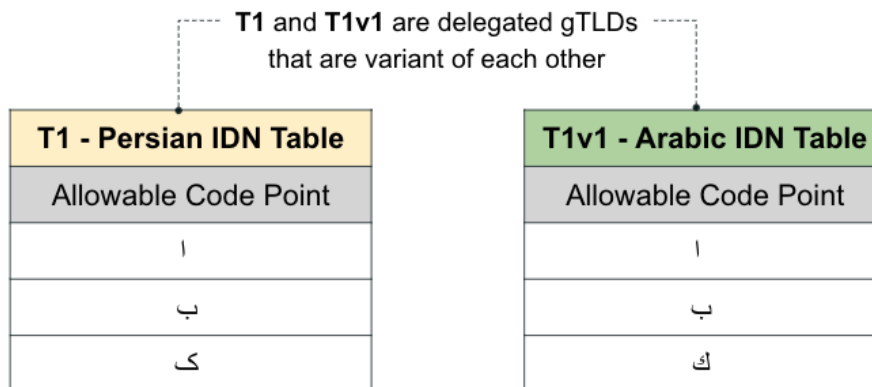
In addition, the EPDP Team emphasized that there should be one source domain name per gTLD, even when that gTLD has delegated variant label(s). The reason is that a given gTLD and its delegated gTLD variant label(s) may use different IDN Tables, and the calculation of disposition values of variant domain names may change. In other words, the disposition values of variant domain names under a gTLD variant label cannot be calculated only based on the source domain name under the primary gTLD. If a registrant wishes to allocate one or more variant domain name(s) under a delegated gTLD variant label, that registrant must also select and register a source domain name from the same variant domain set under that gTLD variant label.

In some cases, the second-level label of the source domain name identified under a given gTLD may be invalid under delegated gTLD variant label(s) because it may be supported by different IDN Table rules (see Illustration 2 below). Nevertheless, the composition of the variant domain set still derives from the source domain name under the given gTLD, but the variant domain names under the delegated gTLD variant label(s) may be marked as "out-of-repertoire" variants, which are essentially the same as blocked.[30]

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[29] See more detailed explanation of the source domain name, variant domain set, variant domain name, and disposition values (i.e., allocatable, blocked) in <u>'Section 4: Glossary'</u> of this Final Report.
[30] Learn more about the "out-of-repertoire" variants here: <u>https://www.icann.org/en/system/files/files/root-zone-lgr-repertoire-variants-25sep17-en.pdf</u>

- **Illustration 2:** Arabic label examples to explain why there should be one source domain name per gTLD

T1 and T1v1 are delegated gTLDs that are variant of each other

| T1 - Persian IDN Table |
| --- |
| Allowable Code Point |
| ا |
| ب |
| ک |

| T1v1 - Arabic IDN Table |
| --- |
| Allowable Code Point |
| ا |
| ب |
| ك |

Second level label ب ا ب = بب is valid under both T1 and T1v1

However, second level label ب ک ا = بکا is valid only under T1; ب ك ا = بكا is valid only under T1v1 as these TLDs have Persian and Arabic IDN Tables respectively.

Furthermore, the EPDP Team also agreed that the sponsoring registrars have discretion to decide on their specific implementation of this joint responsibility with registrants. In practice, the source domain may likely be determined as the allocatable variant domain name in a variant domain set that is first registered under a given gTLD, and is presumed to be the default source domain name. Noting this, the EPDP Team discussed the scenario that a registrant may want to purposefully choose a specific domain name as the source domain name dependent upon its intended use, leading the EPDP Team to recognize that ICANN org may need to undertake education and outreach efforts to help registrars, registrants, as well as gTLD registry operators understand the concept of source domain name and its implications, especially pertaining to the compliance with "same entity" requirement as set out in Final Recommendations 1, 9, and 10.

With respect to the exempted variant domain names pursuant to Final Recommendation 3, the EPDP Team agreed that it is not required for their registrants and sponsoring registrars to identify the source domain names. A purpose for identifying the source domain name is to calculate which variant domain names are allocatable for future allocation. Since no further allocation of variant domain names of an exempted domain name is allowed until the exemption situation is resolved, as set out in Final Recommendation 4, the identification of the source domain name would be unnecessary. It would also call into question who would adjudicate the "source domain name" status if two or more registrants have registered domain names from the same variant domain set. Nevertheless, once the exemption situation is rectified and only one registrant and one sponsoring registrar remain for the variant domain set, the source domain name identification requirement must come into effect.

The EPDP Team also had extensive discussion around whether the source domain name can be changed or deactivated. One member proposed that it should be possible to deactivate or change a source domain name as long as its allocated variant domain name(s) remain allocatable. The ultimate agreement among the EPDP team was not to prescribe any policy recommendation pertaining to this matter. The EPDP Team understood that the specific details in the domain name lifecycle management

are discretionary on part of registry operators and registrars, in accordance with their policies and practices. In addition, gTLD registry operators would not allow a situation where an allocated variant domain name becomes "blocked" due to the change or deactivation of the source domain name, as this would likely become a non-compliance issue with the IDN Table implementation. The exceptions to this statement from an operational standpoint will be pointed out below within the rationale for Final Recommendation 9.

**Rationale for Final Recommendation 9:** To support its consideration of charter question D4, the EPDP Team received a background briefing on the domain name lifecycle conducted by ICANN org during the ICANN77 Public Meeting.[31] The EPDP Team understood that from a technical standpoint, the domain name lifecycle concept is reflected in the EPP status codes, which indicate the specific status of a domain name.[32] The domain name lifecycle is generally summarized in five main stages, which are: 1) available, 2) active, 3) expiration, 4) redemption, and 5) pending deletion. In addition, a domain name, in its "active" stage, may experience one or more actions, including but not limited to renewal, update, transfer, lock, and suspension.

- ■ **Illustration 3:** General Stages of the Domain Name Lifecycle



**General Stages of Domain Name Lifecycle**

Note: the time limitation in each stage is not ICANN policy, but a reflection of common practice

To consider the core question of whether all of the variant domain names from the same variant domain set should move in lockstep throughout the domain name lifecycle, the EPDP Team examined each of the five main stages and the various actions a domain name may experience, following the illustration above (Illustration 3). The EPDP Team came to the conclusion that each allocated variant domain should be allowed to have its own domain name lifecycle, which is independent from that of another allocated variant domain from the same variant domain set. The only restriction is to ensure that the "same entity" principle, as set out in Final Recommendation 1, is adhered to at all times for the variant domain set.

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[31] See background briefing slides and recording during the ICANN77 EPDP Team working session #1.
[32] Learn more about the EPP status codes here: https://www.icann.org/resources/pages/epp-status-codes-2014-06-16-en

- **Illustration 4:** Chart on icann.org that illustrates the lifecycle of a typical gTLD domain name with additional details[33]
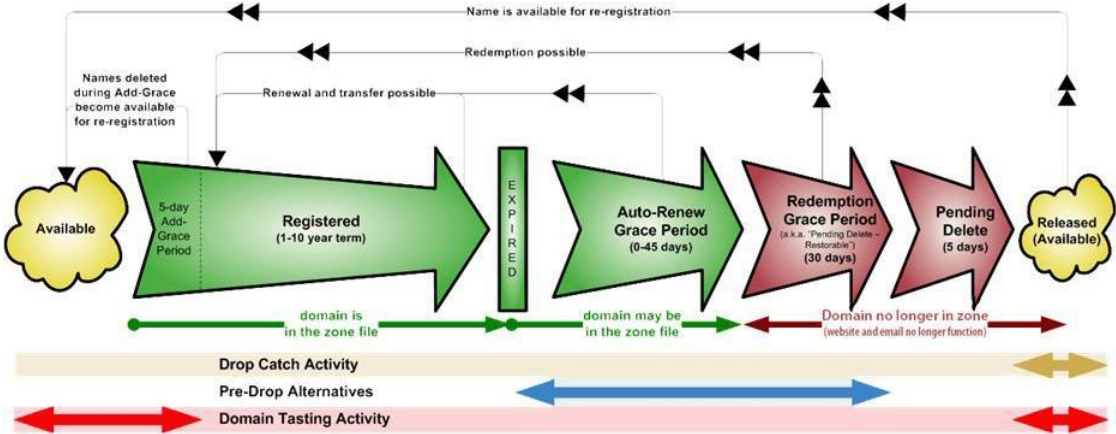


*(Some registrar activity post-expiration may not be reflected in the chart above)*

The EPDP Team further confirmed that the "same entity" principle is not about requiring the same EPP status across all of the variant domain names from the same variant domain set. It is about ensuring the same registrant and sponsoring registrar for the entire variant domain set. As far as policy is concerned, the EPDP Team believes that the "same entity" principle should suffice, and there is no need to further prescribe rules or constraints regarding domain name lifecycle management, with the exception of Final Recommendation 10 pertaining to the Transfer Policy and Final Recommendation 11 with respect to the transfer remedy of Uniform Domain Name Dispute Resolution Policy (UDRP). The EPDP Team also understood that the specific details in the lifecycle management are discretionary on the part of gTLD registry operators and registrars, in accordance with their policies and practices. There is a view that making further rules beyond the "same entity" principle may create undue operational complexity and the perception of overreach.

To help explain how this preliminary recommendation would work in the context of domain name lifecycle management, the EPDP Team agreed to include some examples with respect to the "same entity" principle's implications in the various stages. The EPDP Team also noted the caveat that the requirements from gTLD registry operators and registrars, as well as other external factors such as court orders and local law enforcements, will also impact the lifecycle of domain names. As such, the examples included below should not be interpreted as absolute outcomes.

- **Activation**: A registrant may activate allocatable variant domain names from the same variant domain set at different times. See more discussion about variant domain name activation in the EPDP Team response to charter question D5.

- **Renewal:** Renewal of one domain name does not necessarily mean the other allocated variant domain names from the same variant domain set must be renewed as well.

- **Update:** Asynchronous update of registration data of allocated variant domain names from the same variant domain set should be allowed, as long as the "same entity" principle is upheld.

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[33] Source: https://www.icann.org/resources/pages/gtld-lifecycle-2012-02-25-en

- **Transfer:** If one domain name is transferred to a different registrar, the other allocated variant domain names from the same variant domain set must be transferred together to the same gaining registrar. See more on Transfer in <u>Final Recommendation 10</u>.

- **Lock:** Lock placed on one domain name does not necessarily mean the other allocated variant domain names from the same variant domain set have to be locked at the same time. However, the lock will likely disable transfer of the affected variant domain set, as set out in <u>Final Recommendation 10</u>.

- **Suspension:** Suspension placed on one domain name does not necessarily mean the other allocated variant domain names from the same variant domain set have to be suspended as well.[34] However, suspension will likely disable transfer of the affected variant domain set, as set out in <u>Final Recommendation 10</u>.

- **Expiration:** Allocated variant domain names from the same variant domain set should be allowed to have different expiration dates based on the time of their activation. An expired domain name cannot be registered by a different entity while the registrant still has allocated variant domain name(s) from the same variant domain set.

- **Redemption:** When a domain name enters the redemption stage, it should not have an impact on the other allocated variant domain names from the same variant domain set.

- **Pending Deletion:** In the event where separate life cycles of variant domain names are allowed and a non-source variant domain name enters the pending deletion stage, it should not have an impact on the other allocated variant domain names from the same variant domain set.

- **Deactivation:** The EPDP Team agreed not to prescribe any policy recommendation pertaining to the deactivation of source domain names but to leave it to the discretion of gTLD registry operators and registrars in accordance with their policies and practices. The EPDP Team understood that registry operators would not allow a situation where the change or deactivation of the source domain name, if permitted, renders its allocated variant domain name(s) "blocked" due to compliance requirement of IDN Table implementation.

From an operational standpoint, there are two exceptions that must be pointed out and accounted for within the domain name lifecycle management. It may seem obvious but the exception is that, while each variant domain name can have its own domain name lifecycle, the end of "Pending Delete" for a source domain name does actually have a direct impact on all labels in its variant set in the gTLD for which it is the source domain name. Specifically, when a source domain name reaches the end of its "Pending Delete" and moves once again to being "Available," at that point in time all variant labels in its variant set in the gTLD in which it is the source domain name must also be deleted and move to being "Available." Further, when the Initial Source Domain Name reaches the end of its "Pending Delete," in addition to all variant labels in its variant set in the gTLD in which it is the source domain being deleted, all other variant labels in all other TLDs in the corresponding gTLD variant set (if appropriate) must also be deleted. However, as stated above within the "Deactivation" bullet as well as within the rationale of <u>Final Recommendation 8</u>, gTLD registry operators would generally not allow a situation where the change or deactivation of the initial source or source domain name allows for the allocated variant domain names to be "blocked" in reality, due to the complications that arise during implementation.

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[34] This is consistent with the EPDP Team's response to charter question D7.

With respect to the exempted variant domain names pursuant to Final Recommendation 3, the EPDP Team agreed that the "same entity" requirement does not apply to their lifecycle management, as these domain names have already been considered independent from one another and existing as such. The EPDP Team agreed not to impinge on the affected registrants' rights to manage their exempted variant domain names. The goal of not worsening the exemption situation seems to be managed by not allowing further allocation of their allocatable variant domain names until such a time when exemptions are resolved, as set out in Final Recommendation 4.

## D4 Public Comment Review:

**Wording Change and Rationale Update:** As described in the Public Comment Review section for Final Recommendation 3, the EPDP Team agreed to avoid using the terms, "grandfathering" and "grandfathered," in the report and they have been updated to either "exemption" or "exempted" based on the context of Final Recommendations 8-9 and their respective rationales.

The EPDP Team also agreed to reflect the exceptional operational use cases in the rationale of Final Recommendation 9. It now covers the general cases where the allocated variant domains have their own domain name lifecycles, but also pointing out those exceptional cases where the initial source and source domain name both affect the variant labels in its variant set of the gTLD at the end of its "Pending Delete." This is seldom practiced in reality.

## D6 Charter Question:

*To ensure that the "same entity" principle is followed, the transfer of a domain name registration to a new entity -- voluntary or involuntary, and inter-registrants or inter-registrars -- should result in transfer of all variant domain names (i.e., if s1.t1 is to be transferred, s1.t1, s1.t1v1, s1v1.t1 and s1v1.t1v should all be transferred).*

*The WG, the Transfer Policy PDP, and the RPM PDP Phase 2 to coordinate and consider the following questions in order to develop a consistent solution: to what extent should the Transfer Policy be updated to reflect domain name relationships due to variants and the "same entity" requirement?*

## D6 Final Outputs:

**Final Recommendation 10:** In the event an inter-registrar transfer process is initiated for a domain name, which is a member of a variant domain set, the process must encompass all of its allocated variant domain names, if any, together. The exempted variant domain names pursuant to Final Recommendation 3 are excluded from this requirement.

## D6 Rationale for Final Outputs:

**Rationale for Final Recommendation 10:** The EPDP Team understood that "transfer" traditionally refers to inter-registrar transfer, which involves the change of sponsoring registrar for a domain name (and the registrant may or may not be changed in the process), whereas inter-registrant transfer is considered an

"update" of the domain name registration data.[35] While the Final Recommendation 9 serves as an overarching requirement for complying with the "same entity" principle in the domain name lifecycle management, the EPDP Team agreed that transfer is an important step to consider with regard to the sponsorship of a variant domain set. Therefore, developing an explicit policy recommendation was considered appropriate.

The EPDP Team agreed that to the extent a domain name were to change hands at any point after allocation, the other allocated variant domain names from the same variant domain set, if any, must remain linked contractually to the same registrant and at the same sponsoring registrar, and this should be considered a persistent requirement. To that end, the EPDP Team recommends that in the event of the inter-registrar transfer being initiated for a domain name, all the other allocated variant domain names from the same variant domain set, if any, must be included in the same process and transition together to the same gaining registrar, as well as the same gaining registrant, if changed. In other words, the entire variant domain set must stay together in the event of transfer. This requirement applies to both a voluntary transfer initiated by a registrant, as well as an involuntary transfer stemming from factors such as UDRP determinations (see Final Recommendation 11), registrars losing accreditation, etc.

Similar to the approach as set out in Final Recommendation 9, the exempted variant domain names are exceptionally treated as independent domain names and they are excluded from this requirement.

With respect to involuntary transfer, the EPDP Team noted that there may be circumstances where the sponsoring registrar must deny an inter-registrar transfer per the requirements of the Transfer Policy, e.g., court order, pending UDRP proceeding, etc.[36] This may affect the registrar's ability to transfer all of the allocated variant domain name(s) together from the same variant domain set.

Meanwhile, as charter question D6 and Final Recommendation 10 directly and indirectly reference the Transfer Policy, the EPDP Team consulted with the Transfer Policy Review WG (hereafter "TPR WG")[37] on this recommendation, Final Recommendation 11, and Implementation Guidance 12. As a result, the TPR WG did not express any significant concerns with the Outputs as written, noting that they did not conflict with the TPR WG's recommendations. The TPR WG did acknowledge, though, that an update to the Transfer Policy as part of implementation may be required.

## D6 Public Comment Review:

**Wording Change and Examination of Relevant Policy:** As described in the Public Comment Review section for Final Recommendation 3, the EPDP Team agreed to avoid using the term, "grandfathered," in the report. The terms "grandfathered" and "exempted" here have been updated to either "exempted" or "excluded" based on the context of Final Recommendation 10 and its rationale.

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[35] Inter-registrant transfer refers to the change of sponsorship of a domain within the same registrar. Any material change to the registrant name, organization, email address, or administrative contact would constitute an inter-registrant transfer. See more details in the background briefing slides and recording during the ICANN77 EPDP Team working session #1.

[36] For further information, please see Section I.A.3 of the Transfer Policy: https://www.icann.org/resources/pages/transfer-policy-2016-06-01-en

[37] The TPR WG was formed in 2021 to review the existing Transfer Policy; The WG has been conducting policy development work on how to evolve and improve ICANN's Transfer Policy, covering a wide range of gTLD transfer-related topics while proposing a variety of changes to the current Transfer Policy. This work has been published in the form of an initial report on 31 July, 2024, which opened for Public Comment on 01 August, 2024.

In addition, taking the advice to examine relevant policies for the development of a consistent solution, the EPDP Team reached out to the TPR WG in order to seek assurance that Final Recommendation 10 will not have a negative impact or contradict the work of TPR WG. This effort made by the EPDP Team is described within the rationale.

## D6a Charter Question:

*Should transfers ordered by the Uniform Domain-Name Dispute-Resolution Policy (UDRP) or any other dispute resolution mechanisms be treated the same way to follow the "same entity" requirement?[38]*

## D6a Final Outputs:

> **Final Recommendation 11:** In the event a domain name is ordered to be transferred as a result of a Uniform Domain Name Dispute Resolution Policy (UDRP) administrative proceeding, the transfer process must include the domain name and all of its allocated variant domain names, if any, together. The exempted variant domain names pursuant to Final Recommendation 3 are excluded from this requirement.

## D6a Rationale for Final Outputs:

**Rationale for Final Recommendation 11:** The EPDP Team reviewed the background of the UDRP and recognized it to be the longest standing ICANN Consensus Policy that sets out the legal framework for the resolution of disputes between a domain name registrant and a third party over the abusive registration and use of a domain name in all gTLDs. The substantive ground for filing a UDRP administrative proceeding must meet the following criteria: (i) the disputed domain name registered by a domain name registrant is identical or confusingly similar to a trademark or service mark in which the complainant (the entity bringing the complaint) has rights; and (ii) the domain name registrant has no rights or legitimate interests in respect of the domain name in question; and (iii) the domain name has been registered and is being used in bad faith.39 If the complainant prevails, there will be two possible outcomes as a result of the UDRP administrative proceeding: 1) the domain name be transferred to the prevailing complainant; or 2) the domain name be canceled.

The EPDP Team agreed that the "same entity" requirement should also apply in the transfer remedy of a UDRP, consistent with Final Recommendation 10. In other words, all of the disputed domain name's allocated variant domain name(s), if any, must be transferred to the same prevailing complainant at the same sponsoring registrar of its choosing. Consistent with other final recommendations, the exempted variant domain names are exceptionally treated as independent domain names and are excluded from this requirement.

The EPDP Team noted that there may be circumstances affecting the registrar's ability to transfer all of the allocated variant domain name(s) together from the same variant domain set, such as court order.

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[38] See more details about the UDRP related discussions in Section 3.7 in the Staff Paper, pp.17-18: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=17
[39] See UDRP Section 4a: https://www.icann.org/resources/pages/policy-2012-02-25-en

In the case of UDRP, it is possible for a party to start a lawsuit before a proceeding is commenced, or after the proceeding is concluded, if it is not satisfied with the outcome. Theoretically, there could also be cases where two disputed domain names that belong to the same variant domain set are subject to two separate UDRP proceedings initiated by two different complainants. There may be complications in implementing the transfer remedy by following the "same entity" requirement if both complainants prevail. The EPDP Team recognized that the UDRP Policy and Rules currently do not account for variant domain names. Additional adjustments may be necessary to affect the "same entity" requirement in the transfer remedy as set out in Final Recommendation 11. Given these potential complications, the EPDP Team agreed that UDRP experts should be involved in the future IRT for implementing the EPDP-IDNs Phase 2 recommendations so as to review these issues and discuss whether and how the UDRP Policy and Rules should be adjusted to account for variant domain names.

As already mentioned above for Final Recommendation 10, the EPDP Team consulted with the TPR WG on Final Recommendations 10-11 and Implementation Guidance 12 to ensure that these Outputs would not contradict the work of the TPR WG and a consistent solution is developed for both Groups. Upon consultation, the WG did not express any significant concerns with the Outputs as written, noting that they did not conflict with the TPR WG's recommendations. The TPR WG did acknowledge, though, that an update to the Transfer Policy as part of implementation may be required.

## D6a Public Comment Review:

**Wording Change and Examination of Relevant Policy:** As described in the Public Comment Review section for Final Recommendation 3, the EPDP Team agreed to avoid using the term, "grandfathered," in the report. Here in Final Recommendation 11 and its rationale, "grandfathered" and "exempted" have been revised to either "exempted" or "excluded" based on the context.

In addition, taking the advice to examine relevant policies for the development of a consistent solution, the EPDP Team reached out to the TPR WG in order to seek assurance that Final Recommendation 11 will not have a negative impact or contradict the work of TPR WG. This effort made by the EPDP Team is described within the rationale portion of this recommendation.

## D7a Charter Question:

*Should the suspensions ordered by the Uniform Rapid Suspension System (URS) or any other dispute resolution mechanisms be treated the same way to follow the "same entity" requirement?*[40]

## D7a Final Outputs:

**Implementation Guidance 12:** A Uniform Rapid Suspension System (URS) complainant is responsible for deciding whether to include allocated variant domain names, if any, of a disputed domain name as part of their URS complaint.

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[40] See more details about the URS related discussions in Section 3.7 in the Staff Paper, p.18: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=18

## D7a Rationale for Final Outputs:

**Rationale for Implementation Guidance 12:** Note, Implementation Guidance 12 is independent of any Recommendation and accordingly, is not indented. The EPDP Team reviewed the background of the URS and understood it provides mark owners with a quick and low-cost process to act against the more clear-cut cases of intellectual property rights infringement. The URS complements the UDRP; the substantive grounds for filing a URS complaint are similar to the UDRP and include three standards: (i) the registered domain name is identical or confusingly similar to a word mark; (ii) the registrant has no legitimate right or interest to the domain name; and (iii) the domain was registered and is being used in bad faith.[41] The EPDP Team learned that a URS complaint may contain more than one disputed domain name, provided that the domain names are registered by the same registrant.[42] If the complainant prevails, the sole remedy is to suspend the disputed domain name(s) in question for the balance of the registration period. This means the website, email, and other services associated with the disputed domain name will stop working, and the domain name may resolve to an informational suspension page hosted by the registrar. However, the registrant remains unchanged during the suspension period. In addition, the complainant has the option to contact the registry operator and extend the suspension remedy for an additional year per URS Procedure.

The EPDP Team agreed that a URS complainant should take the variant domain set of a disputed domain name into full consideration when filing the URS complaint, given the "same entity" principle governing the allocation of future variant domain names, as set out in Final Recommendation 1. If a disputed domain name has other allocated variant domain names that belong to the same registrant, and those variant domain names may (or may not) be visually similar to the disputed domain name, the complainant should be aware of them and consider identifying any or all that satisfy the aforementioned three standards. Therefore, in making a URS complaint, the EPDP Team agreed that the onus should be on the complainant to decide whether to include any or all of the other allocated variant domain name(s) of a disputed domain name in a URS complaint. In addition, the EPDP Team also put forward Final Recommendation 13, requiring ICANN org to conduct outreach to various parties including mark owners to enhance their understanding of gTLD variant labels and variant domain names, in particular, their potential impact on the resolution proceeding.

The EPDP Team agreed that the URS suspension remedy should only apply to the disputed domain names against which the complainant specifically files a URS complaint and subsequently prevails. As noted in the rationale of Final Recommendation 9, the suspension of one domain name does not necessarily mean the other allocated variant domain names from the same variant domain set have to be suspended as well. The "same entity" principle does not equate to the same behavior or status across variant domain names from the same variant domain set. Furthermore, the standard of proof required to succeed in URS proceeding is high as the complainant must satisfy all three standards by demonstrating clear and convincing evidence against the disputed domain names.[43] If the complainant seeks suspension remedy for the other allocated variant domain names of a disputed domain name, it must include those in the complaint and provide clear and convincing evidence to substantiate its claim.

Nevertheless, the EPDP Team realized that the specific details in the domain name lifecycle management are discretionary on the part of registry operators and registrars, in accordance with their policies and practices. Hence, the EPDP Team decided that the details remain open for the contracted

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[41] See Section 8.1 in the URS: https://newgtlds.icann.org/sites/default/files/procedure-01mar13-en.pdf#page=7
[42] See URS Rules, Section 3(c): https://newgtlds.icann.org/sites/default/files/rules-28jun13-en.pdf
[43] See Section 8.1 in the URS: https://newgtlds.icann.org/sites/default/files/procedure-01mar13-en.pdf#page=7

parties to determine whether and how the suspension of one disputed domain name as a result of a URS proceeding would affect its other allocated variant domain names from the same variant domain set.

As also mentioned above, the EPDP Team consulted with the TPR WG on Final Recommendations 10-11 and Implementation Guidance 12 to ensure that these Outputs would not contradict the work of the TPR WG and a consistent solution is developed for both Groups. Upon consultation, the WG did not express any significant concerns with the Outputs as written, noting that they did not conflict with the TPR WG's recommendations. The TPR WG did acknowledge, though, that an update to the Transfer Policy as part of implementation may be required.

## D7a Public Comment Review:

**Examination of Relevant Policy:** The EPDP Team reached out to the TPR WG following a public comment suggestion to examine relevant policies for the development of a consistent solution. They were reassured that Implementation Guidance 12 would not have a negative impact or contradict the work of TPR WG. This effort made by the EPDP Team is described within the rationale.

## F2 Charter Question:

*In order to ensure that the "same entity" principle is maintained, what are the additional operational and legal impacts to the following RPMs that are not considered in the above charter questions, which mostly concern the outcomes or remedies of dispute resolution procedures or trademark protection mechanisms?*

- TMCH and its Sunrise and Trademark Claims services

- URS

- TM-PDDRP

- UDRP

## F2 Final Outputs:

> **Final Recommendation 13:** ICANN org must conduct outreach to dispute resolution providers, registries, registrars, registrants, and mark owners to enhance their understanding of gTLD variant labels and variant domain names, in particular, their potential impact on dispute resolution proceedings.

## F2 Rationale for Final Outputs:

**Rationale for Final Recommendation 13:** Following the EPDP Team's deliberation on the UDRP as well as all rights protection mechanisms applicable to the New gTLD Program 2012 Round, the EPDP Team adopted several recommendations that take into account variant domain names and the "same entity" principle that governs their domain name lifecycle, namely, Final Recommendation 11 and Implementation Guidance 12. In addition, in its Phase 1 Final Report, the EPDP Team put forward Final Recommendation 7.11 pertaining to the reassignment of a gTLD and its allocated and delegated variant

label(s) as a result of a Trademark Post-Delegation Dispute Resolution Procedure (TM-PDDRP) determination.[44]

The EPDP Team agreed that ICANN org must conduct outreach efforts to dispute resolution providers (e.g., UDRP, URS, and TM-PDDRP providers), registries, registrars, registrants, and mark owners to enhance their understanding of gTLD variant labels and variant domain names, as well as their potential impact on dispute resolution proceedings, particularly the remedies of UDRP and TM-PDDRP. If a disputed domain name has variant domain name(s) that are allocated to the same registrant, a complainant should take them into full consideration when filing a complaint. Providers, mark owners, registrants, registries, registrars, and other impacted parties should understand the consequence of the "same entity" principle and how it impacts the transfer of a disputed domain name or the reassignment of a gTLD, if the disputed domain name or the gTLD in question has other allocated variant label(s).

While the EPDP Team did not recommend any change to the matching rules of the TMCH and the criteria for the Sunrise and Trademark Claims services, it agreed that ICANN org's outreach efforts should also apply to the TMCH. One aspect of this outreach is to ensure that registries that have established variant policies, understand they have the option, as set out in Sections 2.4.2, 4.1.2, and 4.1.3 in the Trademark Clearinghouse Rights Protection Mechanism Requirements, to extend protection to the variant labels of verified marks.[45] Another aspect of this outreach is to encourage mark owners to take variant domain names into account when considering the use of existing mandatory RPMs to seek protections for their verified legal rights in the DNS, as well as seeking extended protections via additional marketplace RPMs.

## F2 Public Comment Review:

**Final Recommendation 13:** The EPDP Team received support from several commenters on this recommendation as written.

## D8 Charter Question:

*What additional updates to the Registry Agreement are necessary to ensure the labels under variant TLDs follow the "same entity" rule? For example, the Staff Paper recommends that the following requirements must be included in the Registry Agreement; some of the charter questions are also related to those topics:[46]*

■　Subordinate names allocated by the Registry Operator in the TLD be treated as an atomic set. This is true irrespective of whether any of the names is actually activated in the DNS, and whether any of the variants is actually registered. [related to questions c1, d4, d5]

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[44] EPDP Phase 1 Final Recommendation 7.11: In the event a gTLD is reassigned as a result of a TM-PDDRP determination, that reassignment must include all allocated and delegated variant label(s) of the gTLD, if any, at the same time. See pp.86-87 of the EPDP Phase 1 Final Report:
https://mm.icann.org/pipermail/council/attachments/20231108/fcbce142/Phase1FinalReportontheInternationalizedDomainNames ExpeditedPolicyDevelopmentProcess-0001.pdf#page=86
[45] See https://newgtlds.icann.org/sites/default/files/rpm-requirements-14may14-en.pdf
[46] Section 3.6 in the Staff Paper, p.16: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=16

- All the different IDN tables being used by the IDN gTLD and its variant gTLDs be harmonized. [related to questions c4, c5]

- All the IDN variant TLDs be implemented through the same registry service provider, to promote a consistent and stable implementation across all such variant TLDs. [related to questions b2, b4]

*Are there any additional updates that need to be considered that are not included in this list?*

## D8 Final Outputs:

**Final Recommendation 14:** To account for the "same entity" principle and its implications for variant domain names, gTLD registry operators should work with ICANN-accredited registrars to determine a mechanism to communicate between each other to facilitate the registration and management of variant domain names, including an indication of the source domain name(s) and initial source domain name of the variant domain set.

**Implementation Guidance 15:** In order to allow a requestor to discover the allocated variant domain names for a given domain name, corresponding sponsoring registrars should accept requests for disclosure of this information and unless there are data privacy concerns, the information should be granted. In considering whether to disclose the information, the corresponding sponsoring registrars should balance the interest of the requestor with those of the data subject, where such balancing is required by applicable law.

**Final Recommendation 16:** If two or more delegated gTLDs belong to the same variant label set in accordance with RZ-LGR calculation, the Root Zone Database on iana.org must denote, in a transparent manner, their variant relationship and indicate which one serves as the primary gTLD for calculating the variant label set.

**Implementation Guidance 17:** gTLD registry operators should publish policies, in a transparent manner, that reflect their implementation of the EPDP-IDNs Phase 2 recommendations. In particular, such policies should reflect the implementation of Final Recommendations 1, 3-6, 14 and Implementation Guidance 2.

## D8 Rationale for Final Outputs:

**Rationale for Final Recommendation 14 and Implementation Guidance 15:** The EPDP Team agreed that to account for the "same entity" principle and its implications for variant domain names, a mechanism must be established to discover the allocated variant domain names for a given domain name, including an indication of the source domain name(s) of the variant domain set. The EPDP Team believes that contracted parties must have visibility into all of the allocated domain names from the same variant domain set, in order to enable compliance with "same entity" requirements and their impact on the domain name lifecycle. Some also believe it is within the public interest for end users to have access to relevant and/or additional information, provided that the public disclosure of allocated variant domain names held by the same registrant would not cause any data privacy concerns. In particular, in light of its deliberations on the UDRP and URS (See Outputs; Final Recommendations 10-11 and Implementation Guidance 12), the EPDP Team agreed that it is essential for all interested parties to know whether a

disputed domain name has other allocated variant domain names, and if so, what they are, in order to consider their impact on the proceedings and potential outcomes.

The EPDP Team discussed this issue at length and agreed to separate Outputs with distinct purposes that take into account the potential interests, operational complexities, and data privacy risks. First, the contracted parties need a mechanism to communicate between themselves about the registration and management of variant domain names to ensure primarily that the "same entity" requirement is adhered to. Accordingly, Final Recommendation 14 requires the gTLD registry operators and the ICANN-accredited registrars to develop a communication mechanism and enable the returned response to include all allocated variant domain name(s) and the source domain name, if any, for the given domain. Secondly, a requestor (e.g., registrant, security researcher, an end user, etc.) that is seeking information about allocated variant domain names (e.g., interest in registering a domain name or filing a URS complaint) needs a mechanism to do this. Hence, Implementation Guidance 15 focuses on how the requestor can gain access to such information, without compromising the registrant's privacy. Specifically, the corresponding sponsoring registrars may need to conduct a balancing test when responding to a request to reduce the risks associated with processing personal data, while also determining the purpose and legitimacy of the request. This balancing test will inform whether to provide the requested information but if there are no data privacy concerns, the corresponding sponsoring registrars should accept the request and grant access to the requested information. The corresponding sponsoring registrars should be able to retrieve the requested information conveniently through the mechanism established in Final Recommendation 14. The overall intent of both Outputs is to enable access to technical data so the management of IDNs and variant domain names will be feasible when adhering to the "same entity" principle, especially for DNS managers.

Though it was noted through previous Team discussions that some contracted parties have already implemented practices to provide visibility into allocated variant domain names in their response,[47] the RrSG suggested in their Public Comment submission[48] that this could be achieved through a technical solution such as EPP. Through extensive discussions, the technical solution and its details were undetermined and left for the implementation stage. However, the EPDP Team did specifically oppose leveraging and/or enhancing RDDS as an option to this solution, due to its characteristics and service limits.

**Rationale for Final Recommendation 16:** The EPDP Team agreed that the Root Zone Database on iana.org, which represents the delegation details of top-level domains, must denote, in a transparent manner, the variant relationship between the delegated gTLDs if they belong to the same variant label set in accordance with RZ-LGR calculation.[49] In addition, the primary gTLD that calculates the variant label set must also be clearly indicated in the Root Zone Database. This requirement was developed in a similar vein as Final Recommendation 14, requiring visibility into the delegated gTLDs that have variant relationships with one another. Similarly, this requirement is to reflect and reinforce the "same entity" principle as well as the "integrity of the set" principle from the data transparency perspective.[50] In

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[47] Members demonstrated examples (domain name queries under .cat) from the CORE Association during the Day 1 PM sessions in the EPDP-IDNs F2F workshop on 6 Dec 2023. See recordings and notes here: https://community.icann.org/x/o4AJEQ

[48] See the Public Comment submission by RrSG here: https://www.icann.org/en/public-comment/proceeding/phase-2-initial-report-of-the-epdp-on-internationalized-domain-names-11-04-2024/submissions/wyld-sarah-21-05-2024

[49] See the Root Zone Database here: https://www.iana.org/domains/root/db

[50] See the explanations of "same entity" principle and the "integrity of the set" principle that governs the top-level variant labels in 'Section 3: Glossary' of the EPDP-IDNs Phase 1 Final Report here: https://gnso.icann.org/sites/default/files/policy/2023/correspondence/epdp-idns2-leadership-team-et-al-to-gnso-council-et-al-08nov23-en.pdf#page=13

addition, in light of EPDP-IDNs Phase 1 Final Recommendation 7.11 pertaining to the TM-PDDRP, it is essential for impacted parties to know if a gTLD subject to a TM-PDDRP proceeding also has the other allocated gTLD variant labels.

The EPDP Team agreed not to prescribe any specific manner for displaying the variant relationships between delegated gTLDs and indicating the primary gTLDs, but to leave it to IANA's discretion to implement this requirement.

**Rationale for Implementation Guidance 17:** For the sake of clarity, Implementation Guidance 17 is not subject to Final Recommendation 16; accordingly, Implementation Guidance 17 is not indented. The guidance is presented here as a response to the charter question D8 in relation to "additional updates that need to be considered." The EPDP Team developed this implementation guidance when reviewing the ICANN Board deferred guidelines from IDN Implementation Guidelines version 4.0. Specifically, Guideline 18 states the following:

> *"TLD Registries should publish IDN policies or guidance related to registration of IDN labels at publicly accessible location on the TLD Registry's website.*
> *In addition to general policies or guidance on IDN registrations, these should include the following:*
> *(a) A timeline related to resolution of transitional matters, if applicable*
> *(b) IDN Variant Label allocation policy, if applicable*
> *(c) IDN Variant Label automatic activation policy, if applicable*
> *(d) Policy for minimizing Whole-Script Confusables and data sources used, if applicable*
> *(e) IDN Table as per Guideline 6 above".*

At a high level, the EPDP Team agreed with Guideline 18 that gTLD registry operators should publish policies, in a transparent manner, that reflect their implementation of variant management at the second-level in accordance with the EPDP-IDNs Phase 2 Outputs. To align with elements in Guideline 18, the specific policies that EPDP Team agreed should be published are with respect to the "same entity" principle for the allocation of variant domain names [align with item (b)] and the automatic activation of variant domain names (if applicable) [align with item (c)]. The EPDP Team also agreed that the gTLD registry operators should publish additional policies reflecting the implementation of IDN Table harmonization, exempted variant domain name management (if applicable), and response to domain name query. Hence, Final Recommendations 1, 3-6, 14 and Implementation Guidance 2 are highlighted in this implementation guidance. The EPDP Team fully understood that the decision of whether and how to publish those policies is at the gTLD registry operator's discretion.

Since Guideline 18 was published in May 2018, EPDP-IDNs deliberations and Outputs have overtaken certain elements, namely item (e) with respect to "IDN Table as per Guideline 6." The EPDP Team agreed not to recommend the machine-readable XML format, as specified in RFC 7940, to be the required format for IDN Tables. This is contrary to the deferred guideline 6(a) in version 4.0. For more details, see EPDP Team response to charter question C6.

Finally, the EPDP Team noted that item (a) is related to Guidelines 3-4 and item (d) is related to Guideline 17 in versions 4.0 and 4.1.[51] Guidelines 3-4 and 17 have already been adopted by the ICANN Board and implementation effort is underway. Hence, the EPDP Team did not see the need to further deliberate on these items.

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[51] See details in version 4.1 here: https://www.icann.org/en/system/files/files/idn-guidelines-22sep22-en.pdf

## D8 Public Comment Review:

**Significant Change:** As a result of the Public Comment review process, the EPDP Team recognized the significant concerns raised by various groups on Preliminary Recommendation 14 and Implementation Guidance 15. Accordingly, the EPDP Team went through extensive deliberations to find a middle ground that balanced the interests of the stakeholders, complexities of the operations, the need for access to the appropriate information, and risks associated with data privacy. Specifically, as requested through the comments, leveraging and/or expansion of RDDS was removed by the EPDP Team. Other technical solutions remained undetermined. The EPDP Team also addressed privacy concerns when considering disclosure of variant domain names, having been cautioned by the Legal Function at ICANN org. As described in the rationale, the EPDP Team determined the future work development of contracted parties for the management of variant domain names, while also providing a mechanism in which the requestors could gain access to the necessary information.

During this process, the EPDP Team also acknowledged the importance of some practical questions raised by the RrSG for Preliminary Recommendation 1, which will need to be considered during the implementation stage. The entirety of the comment is as follows: "How does a registrar know that a domain is an IDN variant? How is a registrar to know that a source or variant domain is already registered with another registrar? When an IDN source or variant domain is registered, can the registrar access a list of other variants which are available at that time? These questions may all be answered with a technical solution such as an EPP extension."

Meanwhile, during the revision of the Outputs, the term "grandfathered" was removed from Final Recommendation 14.

**Final Recommendation 16:** The EPDP Team received support from several commenters on this recommendation as written.

**Wording Change for Implementation Guidance 17:** Implementation Guidance 17 is to include all those EPDP-IDNs Phase 2 policies that pertain to gTLD registry operators, especially those that need to be published on the registries' websites and implemented accordingly. While the inclusion of Final Recommendation 14 was debated during the Public Comment review process, it remains in the list as the recommendation pertains to the contracted parties, including the gTLD registry operators and the ICANN-accredited registrars. Further, Final Recommendation 6 was newly included through this process as it refers to the implementation of IDN Table harmonization, which clearly concerns the gTLD registry operators.

## G1 Charter Question:

What should be the proper vehicle to update the IDN Implementation Guidelines?[52]

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[52] The process to update the RDAP Profiles is being developed by the contracted parties and ICANN org as part of their ongoing contractual negotiations. A DT member suggested that once that is finalized, the EPDP WG may want to consider that as a model for updating the IDN Guidelines.

## G1 Final Outputs:

**Final Recommendation 18:** The existing process for developing and updating the IDN Implementation Guidelines, that includes establishing a working group of community experts and ICANN org staff, under the governance of ICANN Board, must be maintained.

The process for developing and updating the IDN Implementation Guidelines must be formalized and documented to enhance its predictability, transparency, rigor, efficiency, and effectiveness.

The ICANN Board will be responsible for documenting the process, in consultation with the ICANN community.

The documented process must be approved by the ICANN Board, in consultation with the GNSO Council and ccNSO Council.

**Implementation Guidance 19:** As part of documenting the process as set out in Final Recommendation 18, consideration should be given to establishing a formal charter or similar standalone document for subsequent IDN Implementation Guidelines Working Group that includes, but is not limited to the following:
19.1 Purpose and scope;
19.2 Membership including the structure and roles, required expertise, selection process, and lengths of membership term;
19.3 Working methods including the circumstance(s) that would lead to the convening of the working group, the type of outputs the working group is expected to produce, and checkpoints for awareness building and input gathering from affected parties.

**Final Recommendation 20:** Any future versions of the IDN Implementation Guidelines must be approved by the GNSO Council prior to consideration by the ICANN Board.

**Implementation Guidance 21:** The GNSO Council should consult with the ccNSO Council prior to taking action on any future versions of the IDN Implementation Guidelines.

## G1 Rationale for Final Outputs:

**Rationale for Final Recommendation 18:** The EPDP Team conducted a thorough background review of the IDN Implementation Guidelines (hereinafter referred to as "Guidelines").[53] The EPDP Team understood that the Guidelines serve as a mix of policy and technical standards for registries and registrars that deploy IDN registration policies. The Guidelines aim to minimize the risk of

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[53] For more details, see the recording and notes captured for the EPDP-IDNs F2F Workshop Day 2 AM and PM sessions here: https://community.icann.org/x/o4AJEQ

cybersquatting[54] and consumer confusion while respecting the interests of communities using local languages and scripts. From a security and stability standpoint, it contains a strong technical component that reflects protocol updates and technical requirements from the Internet Engineering Task Force (IETF). It also contains policy elements intended to provide a coordinated approach to registration practices and the usages of IDNs at the second-level under both gTLDs and ccTLDs. The EPDP Team agreed that the Guidelines serve an important purpose and are a crucial vehicle for consistent IDN deployment.

Since its inception, the Guidelines has been a compulsory document for the ICANN contracted parties (gTLD registries and registrars offering IDN registrations) to adhere to.[55] The contractual obligations were formalized as part of the 2012 New gTLD Program and memorialized in the 2013 version of the Registry Agreement and its subsequent versions, as well as the 2013 Registrar Accreditation Agreement.56 However, for ccTLD managers that deploy IDN registration policies, they are expected but not required to be guided by the IDN Implementation Guidelines.[57] The EPDP Team noted that calling the document "Guidelines" when it represents contractual obligations may be inappropriate but recognized that renaming the document may not be simple.

The EPDP Team reviewed all seven versions (versions 1.0, 2.0, 2.1, 2.2, 3.0, 4.0, and 4.1) of the Guidelines published between 2003 and 2022, and gained an understanding of the catalysts for updates and the WG mechanisms being used. The EPDP Team understood that a subset of the ICANN Board, formerly its Variant WG and currently the IDN-UA WG, provided governance and oversight in the development of the Guidelines. The Board engaged with the community and identified when updates were necessary. Some of the past triggers were related to changes to relevant technical protocols from the IETF as well as experience gained as IDN deployment proceeded.

For developing each version, the Board directed ICANN org to form a WG consisting of community experts. From versions 1.0 to 3.0, the community contributors were limited to a small number of gTLD and ccTLD registries with IDN experience, which was reflective of the DNS industry and IDN deployment landscape at the time. For developing version 4.0, the membership extended to the At-Large Advisory Committee (ALAC) and Security and Stability Advisory Committee (SSAC) in order to include additional expertise. A call for volunteers was issued, detailing member allocation from each group as well as

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[54] A form of misuse in which a party intentionally registers a domain name that coincides with a commercial trademark or the name of a well-known person. See more details here: https://www.icann.org/en/icann-acronyms-and-terms?page=1&search=cybersquatting

[55] When the IDN Implementation Guidelines v1.0 was published, there was a series of letters issued by ICANN org to registry operators, requiring their commitment to adhere to the guidelines. Example here: https://www.icann.org/resources/pages/twomey-to-karp-2004-01-20-en

[56] **Registry Agreement, Specification 6, Section 1.4:** "IDN. If the Registry Operator offers Internationalized Domain Names ("IDNs"), it shall comply with RFCs 5890, 5891, 5892, 5893 and their successors. Registry operator shall comply with the ICANN IDN Guidelines at <http://www.icann.org/en/topics/idn/implementation-guidelines.htm>, as they may be amended, modified, or superseded from time to time. Registry operator shall publish and keep updated its IDN Tables and IDN Registration Rules in the IANA Repository of IDN Practices as specified in the ICANN IDN Guidelines." **Registrar Accreditation Agreement, Additional Registrar Operation Specification, Clause 3**: "If the Registrar offers Internationalized Domain Name ("IDN") registrations, all new registrations must comply with RFCs 5890, 5891, 5892, 5893 and their successors. Registrar shall also comply with the IDN Guidelines at http://www.icann.org/en/topics/idn/implementation-guidelines.htm which may be amended, modified, or superseded from time to time. Registrar must use the IDN Tables published by the relevant registry."

[57] **IDN ccTLD Fast Track Process: "**...Commitments of [IDN ccTLD SO]. [IDN ccTLD SO] shall use its best endeavors to: c. Adherence to relevant IDN standards and guidelines: register IDN domain names in accordance with its publicly available registration policy which shall comply on an ongoing basis…with the IDN guidelines as updated and published from time to time on the ICANN website, all subject to and within the limits of relevant applicable national law and public policy. This includes, but is not limited to, adherence to RFCs 3490, 3491 3492, 3454 and their successors."

required expertise.[58] At the request from the GNSO Council, the final number of participants from the GNSO increased from three (3) to six (6).

While the ICANN Board, in consultation with ICANN org, initially identified areas of focus for each version update, the WG did not have a strict charter. The onus was on the WG members to conduct the scoping effort and establish a set of issues as a first step. The subsequent milestones in the process included the Public Comment proceeding on the draft version, and the Board consideration and adoption of the final version. Following the Board adoption, implementation of the latest version would fall on ICANN org. Typically, ICANN org would issue an implementation notice and identify an effective date with gTLD contracted parties, and coordinate with them through the implementation process.

The EPDP Team recognized that this process encountered challenges, particularly in version 4, which, in fact, served as the context of charter question G1. This update to the version was triggered by the significant experience accumulated on IDN implementation following the 2012 New gTLD Program, as well as new IETF technical requirements, development of the RZ-LGR and Reference LGR, and the publication of SAC60 focusing on variants. After three years of effort, the proposed final version 4.0 was published for Board consideration in May 2018. However, this version encountered pushback from the GNSO community, particularly the RySG. The GNSO Council requested the Board to defer the consideration of version 4.0, on the basis that some of the guidelines were policy requirements with significant contractual implications, and a PDP should have been the appropriate vehicle to develop these requirements. In May 2021, the GNSO Council chartered the EPDP-IDNs, which covers topics that overlap with the Guidelines version 4.0. After a series of correspondence between the GNSO Council and the ICANN Board, in September 2022, the ICANN Board approved the deferral of GNSO Council identified Guidelines 6a, 11, 12, 13, and 18 in version 4.0 until the completion of EPDP-IDNs, and adopted the remaining guidelines for implementation as version 4.1.[59]

In reviewing the challenges surrounding version 4.0, the EPDP Team discussed whether the existing process for updating the Guidelines should be replaced by something else, such as a GNSO PDP, a Cross Community Working Group (CCWG), an Expert Working Group (EWG), or direct contractual negotiation. The EPDP Team observed that the other options have serious drawbacks. While the GNSO PDP is a well-established mechanism for policy development and can be open and inclusive, its main purpose is to develop consensus policy recommendations for gTLD contracted parties and is under the management of GNSO Council. Considering that ccTLD registries are the other stakeholder that may be impacted by the Guidelines, it would be inappropriate to have future versions developed solely through a GNSO PDP. With respect to CCWGs, they are not mandated to develop policy requirements and have no operating principles or procedures documented in the ICANN Bylaws. An EWG seems to be an ad hoc setup with top-down direction, and the EPDP Team members recalled that the concept was not well-received by the community. Finally, contractual negotiations are effective for amending contractual requirements between gTLD contracted parties and ICANN org, but the need to also involve ccTLD registries would make this mechanism limiting.

Toward the end of this discussion, the EPDP Team agreed that the existing method for developing and updating the Guidelines, that includes establishing a WG of community experts and ICANN org staff, under the governance of ICANN Board IDN-UA WG (or its relevant successor in the future), for

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[58] See call for volunteers here: https://www.icann.org/en/announcements/details/call-for-community-experts-to-review-the-idn-implementation-guidelines-20-7-2015-en
[59] See details here: https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-22-09-2022-en#2.d

developing and updating the Guidelines should be maintained. This established process has worked for over two decades, and the EPDP Team did not believe there was a better alternative available. Nevertheless, the EPDP Team agreed that this process must be formalized and documented to enhance the predictability, transparency, rigor, efficiency, and effectiveness of the process.

However, in accordance with the Public Comment input, the EPDP Team decided that the ICANN Board overall will have the ultimate oversight responsibility and be charged with developing and updating the Guidelines, rather than through its subset or its relevant successor, in consultation with the ICANN community. The documented process must be conducted in consultation with the GNSO Council and the ccNSO Council, prior to the approval by the ICANN Board.

As directed by the ICANN Board, the EPDP Team sought input from the ccPDP4 WG60 as well as the ccNSO Council on this recommendation and Implementation Guidance 19. During the Initial Report stage, they did not express significant concerns about the ccNSO's obligation envisioned in the Outputs and provided input to help clarify the language. After the Public Comment review process, the ccNSO Council underlined that the documented process must be approved by the ICANN Board, after the GNSO Council and ccNSO Council have been consulted with respect to the process, which aligned with the EPDP Team's agreement.

**Rationale for Implementation Guidance 19:** With respect to specific enhancements, the EPDP Team observed that in the instance of version 4.0, the lack of rigorous scoping effort and charter development may have caused the group to extend beyond its remit and end up developing guidelines that should have been PDP recommendations. In addition, the fact that the back-and-forth between the GNSO Council and ICANN Board only came after the proposed final version 4.0 was ready for Board consideration seems to indicate the lack of adequate checkpoints with impacted parties where the potential issues could have been identified early on. As a result, the adoption of the non-deferred guidelines in version 4.0 was delayed for more than four years.

After referencing some of the best practices and lessons learned from GNSO PDPs, the EPDP Team agreed as part of documenting the process as set out in Final Recommendation 18, a consideration should be given to establishing a formal charter or similar standalone document that helps the subsequent IDN Implementation Guidelines WG focus on its remit and tackle the set of issues identified through issue scoping. The EPDP Team suggested that the charter of ICANN's Customer Standing Committee (CSC) may serve as a useful reference, but agreed not to prescribe any specific model that this charter should follow.[61] The charter or a similar standalone document should include, but not limited to the following elements:

1. **Purpose and scope**: This section will help the WG understand, in an early stage of the process, which elements may be within scope for guideline development (e.g., obligations tied to strict compliance to Internet Standards, such as those from the IETF), and which elements may be appropriate for policy development or contractual negotiation. An idea for clarifying the purpose and scope may be that ICANN org develops an 'issue report,' akin to a GNSO PDP Issue Report, to help narrow the scope for future version updates, and publishes it for Public Comment to solicit community feedback. The EPDP Team also envisioned that the purpose and scope does not necessarily need to include a detailed list of issues or tasks that the WG is

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[60] ccPDP4 refers to the Country Code Names Supporting Organization's PDP4 on the (de-)Selection of IDN ccTLD Strings. The ccPDP4 Working Group is conducting PDP on IDN ccTLDs, including in the area of variant management and string similarity review.
[61] See: https://www.icann.org/iana_imp_docs/41-csc-charter-v-v1

required to address for each version update to the Guidelines. This list can still be defined by the working group as part of its project plan development, in accordance with the purpose and scope as set out in the charter.

2. **Membership:** This section will clarify, among other elements, the membership structure and roles, required expertise for members, how members are selected, as well as their terms of service. The EPDP Team had additional discussion regarding the points below:
    a. With respect to the membership structure, the EPDP Team observed that the Governmental Advisory Committee (GAC), Root Server System Advisory Committee (RSSAC), and some other community groups have not participated in the past version development. Given the highly technical nature of the Guidelines, the membership structure may be widened to include relevant technical expertise from other community groups to support the work.
    b. Regarding the selection process, the call for volunteers should be tailored to clearly identify the required knowledge and expertise.[62] The EPDP Team also agreed that maintaining adequate representation from gTLD contracted parties and ccTLD registries is important, as they are the main impacted parties of the Guidelines.
    c. In terms of roles, the EPDP Team suggested liaison roles from the ICANN Board, GNSO Council, and ccNSO Council. Establishing liaisons has recently been a common practice among PDP working groups in both GNSO and ccNSO. Liaisons act as a conduit between their appointing organizations and the WG. They can provide input, raise issues, and contribute subject matter expertise via ongoing engagement. Given that this WG is under the governance of the ICANN Board and requires key participation from the GNSO and ccNSO, assigning liaisons from these groups seems beneficial.

3. **Working Method:** This section will specify, among other elements, the circumstance(s) that would lead to the convening of the WG, the type of outputs the WG is expected to produce, as well as the checkpoints for awareness building and input gathering for affected parties. The EPDP Team had additional discussion regarding the checkpoints:
    a. Throughout the development process of the Guidelines, the members and liaisons should have opportunities to check with their appointing organizations regarding the draft language of guidelines, raising issues proactively. This would be similar to the practice in many GNSO PDP WGs where members solicit input and feedback from their respective groups for draft policy recommendations before their inclusion in Initial Report and Final Report. Waiting until the Public Comment proceeding to gather input may be too late. The WG should consider establishing early and frequent checkpoints to address issues to the extent possible, and avoid surprises when the proposed final version is ready for Board consideration.

The EPDP Team believes these incremental enhancements will help improve the future update process of the Guidelines, enabling to preserve a stable and predictable contractual and procedural environment for impacted parties. Additional enhancements may also be considered during implementation.

**Rationale for Final Recommendation 20 and Implementation Guidance 21:** Though the ICANN Board has ownership of the documented process for developing and updating the Guidelines, as set out in Final Recommendation 18, the EPDP Team agreed that moving forward, any future versions of the Guidelines must be approved by the GNSO Council prior to consideration by the ICANN Board. This is a

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[62] GNSO PDP 3.0 Improvement #3 Working Group Member Skill Guide may be a helpful reference: https://gnso.icann.org/sites/default/files/file/field-file-attach/pdp-3-3-wg-member-skills-guide-10feb20-en.pdf

significant procedural change from the existing practice. As the Guidelines is a compulsory document for ICANN contracted parties (gTLD registries and registrars offering IDN registration) and contains contractual obligations, seeking GNSO Council's approval of any new future version prior to the ICANN Board consideration is of critical importance. This will also help mitigate the challenging situation that had incurred when the proposed final version 4.0 was published for Board consideration, as explained in the rationale for Final Recommendation 18.

Further, while ccTLD managers are not contractually required to adhere to the Guidelines, they are expected to be guided by it. Thus, seeking ccNSO Council's consideration during the approval process will also ensure that the other impacted party aligns with the proposed changes or updates in the future versions prior to Board consideration, ultimately ensuring consistency at the second-level. This determination resulted in the creation of a new Implementation Guidance 21.

The update to the Final Outputs (Final Recommendation 20 and Implementation Guidance 21) was also supported by the ccNSO Council. Recognizing that the ccTLDs that register IDNs at the second-level[63] will be affected by the Guidelines and are expected to abide by them, the ccNSO Council agreed that a consultation mechanism stipulated in Implementation Guidance 21 will ensure that the ccNSO Council is involved and the ccTLDs are informed throughout the whole process.


# G1 Public Comment Review:

**Wording Change:** For Final Recommendation 18, The EPDP Team took into account a suggestion raised through the Public Comment to remove the ICANN Board sub-structure, namely IDN-UA WG, as it is not a permanent structure of the ICANN Board. The EPDP Team made the change, aiming to sufficiently reflect the intent of the recommendation which was to have the Board oversight during the process.

In addition, the EPDP Team agreed to maintain a role for the ccNSO within the recommendations, but revising the language so that they are consulted throughout the whole process, both during the documentation and approval stages, prior to ICANN Board consideration. For avoidance of doubt, the language was updated so that the documented process would proceed in consultation with the GNSO Council and ccNSO Council, under the supervision of the ICANN Board. The argument was to follow ICANN Board's request that the GNSO and ccNSO need to keep each other informed of their respective progress in developing relevant policies and procedures, without the work dictating or limiting ccNSO's actions.

**Implementation Guidance 19:** The EPDP Team received support from several commenters on this guidance as written.
**Wording Change and an Addition of a new Output:** Though there was a request to remove Final Recommendation 20 because it was considered unnecessary, the EPDP Team decided to leave it as is, as this recommendation will provide guidance for the approval phase in the future, to be detailed in the procedural steps established via Final Recommendation 18. Instead, the ccNSO Council's role has been removed from the recommendation and determined in Implementation Guidance 21, following the EPDP Team's discussion with the ccNSO. The details are explained in the rationale of Final Recommendation 20 and Implementation Guidance 21.

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[63] ASCII (American Standard Code for Information Interchange) and IDN ccTLDs

## 3.2 Charter Questions with No Final Outputs

### C3 Charter Question:

*The WG and the SubPro IRT to coordinate and consider the following question in order to develop a consistent solution: what is the appropriate mechanism to identify the registrant as the "same entity" at the second-level for future and existing labels?*

*The Staff Paper recommends using ROID to ensure that the same label beneath all variant labels is allocated to the same entity.64 However, some registrars in practice may not reuse contact objects for different registrations by the same registrant, and there is no existing data on the number/percentage of ICANN accredited registrars that reuse contact ROID.[65]*

*Is ROID a reasonable mechanism to determine the same registrant at the second-level for both future and existing labels? If not, what mechanism/functional definition can be used to ensure the second-level variant labels are allocated to the same entity for both current and future TLDs? Consider this question by taking into account the data to be collected in the "Data and Metric Requirements" section of this charter.*

### C3 EPDP Team Response:

The EPDP Team agreed not to prescribe any specific mechanism to identify the same registrant in order to enforce the "same entity" principle as set out in <u>Final Recommendation 1</u>. The EPDP Team believed that how the same registrant is identified, verified, and enforced should be determined by the gTLD registry operator and the sponsoring registrar, based on the agreed method of their choosing.

The EPDP Team understood that the Staff Paper recommends ROID, a globally unique identifier assigned by a registry operator to a registry object (i.e., domain contact or host) at the time of its creation, and considered whether the ROID was a suitable mechanism to identify the same registrant.

The EPDP Team identified some specific drawbacks of ROID based on feedback from registry and registrar representatives. ROID seems to be a "throw-away" identifier that is not reusable. The Registry Agreement only requires unique-per-object ROID; different  ROIDs may be assigned to the same registrant across gTLDs managed by the gTLD registry operator, and the registrars may generate unique contact objects for different domain names of the same registrant. Furthermore, operators of 'thin registries' are not required to generate ROID, as they only include technical data sufficient to identify the sponsoring registrars, status of the registrations, and creation and expiration dates for each registration in its WHOIS data store.[66] In addition, ROID may be excluded from the minimum data set in accordance with registration

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[64] Besides ROID, the Staff Paper also includes additional options to achieve the "same entity" requirement: having all the registrant fields be the same (without considering the ROID) for both names; having a core subset of the registrant fields be the same (without considering the ROID) for both names; or requiring a cryptographic probe that both registrants are indeed the same. See Section 3.2.1 in the Staff Paper, p.7: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=7

[65] If a large portion of registrars do not reuse contact objects (ROID) for registrant, then changing the status quo would be a major development undertaking for a potentially small market for variants. Note that for interoperability virtually all registrars would need to support the same "glue" method to support inter-registrar transfers.

[66] More information: https://whois.icann.org/en/what-are-thick-and-thin-entries

data policy as a result of the General Data Protection Regulation (GDPR). The EPDP Team also noted that gTLD registry operators and registrars cannot be forced to uniformly use ROID for the purpose of identifying the same registrant.[67]

During its deliberation, the EPDP Team solicited input from ICANN Contracted Party House (CPH) TechOps group regarding possible alternative mechanisms to identify the same registrant, as there has been ongoing discussion about this topic in this group. During the EPDP Team's ICANN78 working session, members from TechOps shared two possible models they discussed:

- **Model 1 - registry and registrar enforce same registrant**: gTLD registry operator enforces that the registrar allocated a variant domain name for the same registrant of the source domain name. The registrant is defined by the gTLD registry operator's policy using mechanisms such as contact handle, registrant ROID, or other data value pre-determined by the gTLD registry operator.
- **Model 2 - registry and registrar split the responsibility**: gTLD registry operator enforces variant domain names are allocated by the same sponsoring registrar; in turn, the sponsoring registrar enforces the variant domain names are allocated to the same registrant. In other words, the gTLD registry operator will not enforce the same registrant, but will only enforce the same registrar. Registrar will enforce that a variant domain name is allocated to the same registrant defined by registrar policy.

After discussion of these possible models, the EPDP Team understood that many moving parts involving different parties make it hard to recommend a singular way to enforce the "same entity" principle. Consequently, the EPDP Team agreed to concentrate on the goal of "same entity," but leave the details to implementation by the gTLD registry operators and registrars.

## C3 Public Comment Review:

**No Final Outputs and Further Response Updated within the Rationale for Final Recommendation 6:**
The EPDP Team considered the public comment submissions requesting a detailed method on how to implement the "same entity" principle. However, no specific guidance was provided other than that the mechanism to identify the registrant as the "same entity" at the second-level should be uniform. The EPDP Team also noted that many layers need to be considered during implementation and that the suitable mechanism will be left for ICANN org and the IRT. A more detailed response to this can be seen in the rationale section of Final Recommendation 6.

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[67] For detailed discussions about ROID, check the recording of EPDP Team's meeting #84 and ICANN78 working sessions (1, 2).

## C3a Charter Question:

*If the Working Group determines to use ROID as the mechanism to identify the registrant as the "same entity" at the second-level, are there additional requirements to ensure the "same entity" principle is followed?[68]*

## C3a EPDP Team Response:

Since the EPDP Team agreed not to recommend ROID as the sole and uniform mechanism to identify the same registrant in order to enforce the "same entity" principle as set out in Final Recommendation 1, this conditional question is moot.

## C3a Public Comment Review:

**No Final Output and Further Response Updated within the Rationale for Final Recommendation 6:** As indicated earlier through the response presented in charter question C3, the EPDP Team decided not to prescribe any specific mechanism, leaving it to the gTLD registry operators and the sponsoring registrars to determine. The EPDP Team noted, though, that the mechanism should be uniform. Additionally, the EPDP Team did not support ROID as the sole and unified mechanism to satisfy the "same entity" requirement. A more detailed response is presented in the rationale section of Final Recommendation 6.

## C4a Charter Question:

*Notwithstanding that IDN tables need to be mutually coherent, the SubPro PDP and the Staff Paper recommend that the set of allocatable or activated second-level variant labels may not be identical across the activated IDN variant TLDs. Meaning, their behavior/disposition can be different.[69]*

*Under the conditions above, may the set of allocatable or activated second-level variant labels not behave identically under an individual TLD, which does not have any variant TLD label?*

## C4a EPDP Team Response:

The EPDP Team agreed that this question should not be a sub question under charter question C4 regarding IDN Table harmonization. Instead, it is closely linked to charter question D4 with regard to variant domain name lifecycle management.

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[68] If the same contact ROID or functional equivalent is used to identify registrants, no registrant metadata syncing is needed, as the registrant metadata is automatically the same for all registrants of every allocated variant based on ROID. This also means that issues around privacy and proxy services are addressed, because the privacy or proxy service must still generate a contact ROID (or its functional equivalent) for the registrant. However, the Staff Paper notes that if a registration system does not use contact objects, a requirement about registrant metadata syncing will be needed to ensure the "same entity" rule. See Section 3.9.1 in the Staff Paper, p.22: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=22

[69] See Recommendation 25.8 in the SubPro PDP Final Report, p.116: https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=116; Recommendation 6 in the Staff Paper, p.4: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=4

The EPDP Team noted that this charter question was developed to consider a possible gap in SubPro Recommendation 25.8 because it does not explicitly address the behavior of variant domain names under an individual gTLD, which does not have variant gTLD labels.

While the EPDP Team was not convinced that there is a gap in SubPro Recommendation 25.8, they considered there was value in addressing the concern. Consistent with SubPro Recommendation 25.8 that addressed the behavior of second-level domain names under variant gTLDs, the EPDP Team agreed that variant domain names under any gTLD should not be required to act, behave, or be perceived as identical. In other words, variant domain names under any individual gTLD are not required to act, behave, or be perceived as identical, no matter whether the gTLD, under which the variant domain names are allocated, has any top-level variant label(s) or not, or is itself a gTLD variant label.

This is also consistent with the EPDP Team's rationale for Final Recommendation 9 which supports the conclusion that each allocated variant domain should be allowed to have its own domain name lifecycle, which is independent from that of another allocated variant domain from the same variant domain set.

## C6 Charter Question:

*To facilitate the harmonization of IDN tables, the Staff Paper recommends that IDN tables for the second-level be formatted in the machine readable LGR format specified in RFC 7940, Representing Label Generation Rulesets Using XML.[70] However, each Registry Operator can harmonize the IDN tables today via software development solutions or are already in the process of doing so.*

*The WG and the SubPro IRT to coordinate and consider the following question in order to develop a consistent solution: should Registry Operators be required to use the machine readable LGR format as specified in RFC 7940 for their second-level IDN tables? Or should Registry Operators have the flexibility to resolve the harmonization issue so long as it can predictably and consistently produce the same variant labels, albeit with different disposition values, across the same-script IDN tables? Consider this question by taking into account the data to be collected in the "Data and Metric Requirements" section of this charter.*

## C6 EPDP Team Response:

The EPDP Team agreed to not recommend the machine-readable XML format, as specified in RFC 7940, as the required format for IDN Tables. Existing and future gTLD registry operators should have the flexibility to determine the appropriate format of their IDN Tables. The EPDP Team reviewed the evolution of IDN Table formats as recommended by relevant RFCs and

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[70] See RFC 7940 here: https://www.rfc-editor.org/info/rfc7940; Section 3.3.1 in the Staff Paper, pp.9-10: https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=9

understood that there are different ways to represent the second-level rules under gTLDs.[71] A published IDN Table is an artifact and a plain output exported by a gTLD registry operator to meet ICANN requirements. It does not necessarily drive the logic of the system, platform, and software that a gTLD registry operator uses to implement the second-level rules at a technical level.

The EPDP Team understood that the Staff Paper recommends the XML format in the context of the IDN Table harmonization mechanism. Some EPDP Team members remarked that such a machine-readable format may help gTLD registry operators, who use the XML format, to harmonize their IDN Tables via an automated process enabled by the LGR processing tools, leaving a smaller chance of misinterpretation.[72] However, since the EPDP Team had already agreed to not recommend any specific IDN Table harmonization mechanism, that also meant gTLD registry operators would be free to decide whether to use the XML format or not.

In addition, the EPDP Team noted that the vast majority of existing IDN Tables are not using the XML format.[73] If the XML format were required, it would mean that gTLD registry operators would have to build out technical solutions to export the IDN Tables in the XML format and parse the rules. These efforts will likely be a significant undertaking. Furthermore, it is not possible to conclude that using the XML format is a way to ensure IDN Table harmonization. The EPDP Team also understood the RFCs, as outputs from the IETF, are recommendations for standards. It is up to the businesses to decide whether to adopt these recommendations. Therefore, some members expressed concerns that considering adoption of the XML format as specified in the RFC 7940 may be outside the scope of the EPDP.

During its deliberation, the EPDP Team also reviewed the Board deferred guidelines from IDN Implementation Guidelines version 4.0. Specifically, Guideline 6a states the following:
> *"Except as applicable in 6(b) below, registries must use RFC 7940: Label Generation Ruleset (LGR) Using XML format to represent an IDN Table".*

As the EPDP Team agreed not to recommend the machine-readable XML format as the required format for IDN Tables, Guideline 6a is contrary to the EPDP Team's agreement.

## C6 Public Comment Review:

**No Final Output but Suggestion Considered for the Future:** The EPDP Team appreciated the public comment submission suggesting that a standards-based approach for IDN Table harmonization, which is machine-readable, would be forward looking. The commenter fully understood the effort, time, and funding that would be required for this transition to take place and did not insist on an immediate plan to conversion. However, the commenter requested for a guidance be in place so that the registries could eventually transition into a standard format, slowly moving away from the multiple approaches taken at present. The expectation was that such transition would make the IDN variant system more resilient while improving manageability in establishing consistency for IDN Tables across TLDs and across registries, ultimately reducing confusion and improving user experience.

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[71] See slides and recording of Meeting #81 for more details: https://community.icann.org/x/W4ZXDg
[72] Learn more about the LGR processing tools, check the recordings of EPDP Team meetings #81 and #82.
[73] As of 5 October 2021, the IDN Tables stored in the IANA Repository have the following formats: TXT (12,985 tables), XML (1,113 tables), HTML (61 tables), and PDF (1 table).

During the Public Comment review process, the RySG introduced to the EPDP Team the three current standards that are available to represent IDN Tables, namely RFC 3743, RFC 4290, and RFC 7940. RFC 7940 is the latest machine-readable XML format and refers to IDN tables as LGRs, which is machine-processable and less open to interpretation, thus preferred by ICANN org. However, the text-based formats, such as RFC 3743 and RFC 4290, are also considered as current standards and ICANN org accepts all three approaches.

## D5 Charter Question:

*For reporting and fee accrual purposes, should each variant domain name be considered an independent registration? Or should such variant labels be considered as an atomic set (irrespective of whether any of the names is actually activated in the DNS, and whether any of the variants is actually registered)? Rationale for such definition must be clearly stated. Should any specific implementation guidance be provided? For example, what would be the impact to the registration payment at the Registry Operator level and at ICANN org?*

## D5 EPDP Team Response:

The EPDP Team understood this charter question specifically pertains to the $0.18 mandatory transaction-based fee that ICANN org charges for each year of registration, renewal, or transfer of domain names. In EPDP-IDNs Phase 1, the EPDP team has already developed <u>Final Recommendation 7.5</u> pertaining to the registry-level transaction fee.[74]

The EPDP Team discussed the question of whether a registrant must pay ICANN org the $0.18 mandatory transaction-based fee for each activated variant domain name of its registered source domain name. The EPDP Team agreed not to prescribe any specific recommendation in this regard.

The EPDP Team learned that two models of variant domain name activation currently exist – a variant domain name may be activated via the "EPP Create" command or the "EPP Update" command. Activation via the "EPP Create" command leads to the registration of the variant domain name independent from its source domain name, whereas activation via the "EPP Update" command leads to the creation of a variant domain name as a "child domain name" of its source domain name. The "child domain name" is an attribute of the source domain name and is not treated as an independent registration. Once the source domain name is deleted, the "child domain name" is also deleted. Variant domain name activation via "EPP Create" would incur the annual fee paid to ICANN org, but "EPP Update" would not. In other words, how the variant domain name is activated results in whether the annual fee is charged based on the respective registry operator's policy.

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[74] EPDP-IDNs Phase 1 <u>Final Recommendation 7.5</u> states the following: "The calculation of the registry-level transaction fee must be based on the cumulative number of domain name registrations of the combined delegated gTLD label(s) from a variant label set." For more details about this recommendation and its rationale, please see pp.83-84 of the EPDP-IDNs Phase 1 Final Report: https://mm.icann.org/pipermail/council/attachments/20231108/fcbce142/Phase1FinalReportontheInternationalizedDomainNames ExpeditedPolicyDevelopmentProcess-0001.pdf#page=83

The EPDP Team agreed not to dictate either model of variant domain name activation as well as the associated annual fee expectation in order not to impinge on the existing rights of gTLD registry operators in accordance with their policies and contractual agreements with sponsoring registrars.

## D5 Public Comment Review:

**No Final Output:** The EPDP Team recognized the great attention the community drew to this charter question, having received various suggestions from multiple commenters on this topic. Some commenters asked for guidance related to the variant domain name activation model and the associated annual fee expectation, requesting a specific model (either EPP Create or EPP Update) to be prescribed. Some commented that the "EPP Update" command should be prescribed for operational ease and cost reduction purposes. The commenters believed that the end-users should be up-to-date with this information and as the cost is mainly to affect the under-represented regions, that it should be kept as low as possible. Other commenters understood this issue to be out of scope for the EPDP Team and may need to be considered during implementation. A commenter further opposed the idea of dictating a model and price, stating that this realm is under the purview of the registries and how they handle their business.

The EPDP Team concluded to leave the response as is, agreeing not to provide any specific Outputs at this time.

## D7 Charter Question:

*Should the policies and procedures related to domain name suspension be updated to ensure that the "same entity" principle is followed for all variant domain names (i.e., if s1.t1 is to be suspended, s1.t1v1, s1v1.t1 and s1v1.t1v1 should all be suspended)? In other words, if one domain label is suspended, either voluntarily or involuntarily, should all the variant labels related to that domain be suspended?*

## D7 EPDP Team Response:

The EPDP Team agreed that as long as the "same entity" principle is maintained, suspension placed on one domain name does not necessarily mean the other allocated variant domain names from the same variant domain set, if any, have to be suspended as well. However, suspension will likely disable transfer of the affected variant domain set, as set out in Final Recommendation 10. The EPDP Team also agreed that no specific recommendation is needed with respect to suspension, as the overarching requirement of the "same entity" principle has addressed this aspect. See details explained in Final Recommendation 9.

## F1 Charter Question:

*Trademark Clearinghouse (TMCH) mechanism functions include authenticating information from rights holders and providing this information to registries and registrars. Recording a trademark with the TMCH provides a rights holder with access to Sunrise registration periods in new gTLD registries and the Trademark Claims services. If Registry Operator has implemented IDN variant registration policies for the TLD, Registry Operator MAY allocate or register IDN variant labels generated from a label included in a valid SMD file during the Sunrise Period, provided that (i) such IDN variant registration policies are based on the Registry Operator's published IDN tables for the TLD and (ii) such policies are imposed consistently in the Sunrise Period, any Limited Registration Period, any Launch Program and during General Registration.[75]*

*The Review of All Rights Protection Mechanisms (RPMs) in All gTLDs PDP Phase 1 recommends maintaining the TMCH's current "exact match" rules, the current availability of Sunrise registrations only for identical matches, and the current exact matching criteria for the Claims Notice.[76]*
*In considering the information above, are there any adjustments to the TMCH and its Sunrise and Trademark Claims services needed?[77] Consider this question by taking into account the data to be collected in the "Data and Metric Requirements" section of this charter.*

## F1 EPDP Team Response:

The EPDP Team affirmed the Phase 1 recommendations from the Review of All RPMs in All gTLDs PDP and agreed that the current matching rules of the TMCH, as well as the criteria for the Sunrise and Trademark Claims services should be maintained.[78]
The EPDP Team reviewed the background of the TMCH and its mandatory Sunrise and Trademark Claims services. The EPDP Team understood that the TMCH provides protection for certain types of verified marks in the DNS. The domain name labels submitted by the mark holders to the TMCH that are eligible for the Sunrise and Trademark Claims services must correspond to the verified marks and be generated based on TMCH's matching rules, which

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[75] See section 2.4.2 of the TMCH Rights Protection Mechanism (RPM) Requirements: http://newgtlds.icann.org/en/about/trademark-clearinghouse/rpm-requirements-30sep13-en.pdf

[76] See RPM Phase 1 Final Report, TMCH Final Recommendation #2, Sunrise Final Recommendation #4, and Trademark Claims Final Recommendation #4 on pp.35-36, 44, and 52-53 here: https://gnso.icann.org/sites/default/files/file/field-file-%20attach/rpm-phase-1-proposed-24nov20-en.pdf

[77] SAC060 points out that in the current design of RPMs related to the TMCH process, there is a risk of homographic attacks. From a security and operations perspective, domain names that contain variants of a mark must be protected during the Sunrise and Claims Period. SSAC advises two ways to handle variants and TMCH to achieve such protections; each has benefits and downsides: 1) variant calculation at the registry level, and checking TMCH for the existence of marks for variants in the calculated variant set; 2) variant calculation and checking inside the TMCH in addition to the already defined matching algorithm TMCH uses. See more information in SAC060, recommendation 10 on pp.16-18: https://www.icann.org/en/system/files/files/sac-060-en.pdf#page=16 SAC060 further argues that the "exact match" as defined by TMCH is not really an identical match as in "bit-by-bit" or "character-by-character comparison" as a transformation stage is included before the actual matching. From a technical standpoint, the transformation stage currently as specified from is unclear and does not take non-ASCII based scripts into account. See SAC060, Recommendation 12, pp.19-20: https://www.icann.org/en/system/files/files/sac-060-en.pdf#page=19. The SSAC also advises that during the Trademark Claims service, a name registered under a TLD that has variant TLDs should trigger trademark holder notifications for the registration of the name in the TLD and all its allocated variant TLDs. See SAC060, Recommendation 13, p.20: https://www.icann.org/en/system/files/files/sac-060-en.pdf#page=20

[78] See the TMCH Final Recommendation #2, Sunrise Final Recommendation #4, and Trademark Claims Final Recommendation #4 in the Review of All Rights Protection Mechanisms in All gTLDs PDP Phase 1 Final Report: https://gnso.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf

are generally "exact match" with additional criteria for "transformation."[79] The EPDP Team also learned that the TMCH records mark data and their corresponding domain name labels from all over the world in various scripts.[80] Nevertheless, the TMCH does not calculate variant labels of domain name labels and the transformation rules do not apply to the creation of variant labels (e.g., if a trademark in traditional Chinese characters is recorded in the TMCH, the matching rules do not define a process for calculating variant labels in simplified Chinese characters).

The EPDP Team discussed the recommendation in SAC060 with respect to extending protection to the variant labels of a mark, which are not the 'exact match' of a mark, via the Sunrise and Trademark Claims services.[81] The EPDP Team disagreed with expanding the matching rules of the TMCH to include variant labels corresponding to a verified mark. If the TMCH was responsible for calculating variant labels, it would be effectively expanding the role of the TMCH by allowing it to make determinations concerning the scope of rights of mark holders and whether/which variant label would qualify for the same right, potentially resulting in conflict with trademark laws.

## G1a Charter Question:

*Given that the contracted parties are contractually bound to adhere to the IDN Implementation Guidelines, is there a need for a separate legal mechanism specifically for the implementation of IDNs among gTLDs, as well as a general guideline for any registry (including ccTLD registries) that wishes to implement IDNs?*

## G1a EPDP Team Response:

Given that the EPDP Team supports the continuation of IDN Implementation Guidelines and recommends maintaining a WG method for future version updates, as explained in the rationale for Final Recommendation 18, the EPDP Team agreed that this charter question is moot.

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[79] Exact match: when all and only the complete and identical textual elements exist in both the trademark and the label. Transformations: when certain elements contained in a trademark that cannot be represented in the DNS are transformed. Learn more: https://newgtlds.icann.org/sites/default/files/matching-rules-14jul16-en.pdf

[80] Learn more in the "ICANN org Report on Languages and Scripts in the TMCH": https://mm.icann.org/pipermail/gnso-epdp-idn-team/attachments/20231122/8a67bbff/FinalDraftReport-TMCHIDNVariantResearchReport-0001.pdf

[81] See Recommendation 10 in SAC060 here: https://itp.cdn.icann.org/en/files/security-and-stability-advisory-committee-ssac-reports/sac-060-en.pdf#page=16