



**COMMENT OF THE INTELLECTUAL PROPERTY CONSTITUENCY ON THE
DRAFT COMPETITION, CONSUMER CHOICE, AND CONSUMER TRUST (CCT)
REVIEW DRAFT REPORT**

May 22, 2017

Intellectual Property Constituency Comments on

The Intellectual Property Constituency (IPC) appreciates the opportunity to submit comments on the Competition, Consumer Choice, and Consumer Trust (CCT) Review Draft Report (the “Draft Report”).¹ Please find our comments on the Draft Report below.

Background

Per the ICANN Bylaws, the CCT Review Team (“CCTRT”) has been tasked with “examining (a) the extent to which the expansion of gTLDs has promoted competition, consumer trust and consumer choice, and (b) the effectiveness of the New gTLD Round’s application and evaluation process and safeguards put in place to mitigate issues arising from the New gTLD Round.”² Our comments on the Draft Report focus primarily on the issues of consumer trust, new gTLD safeguards, and the new gTLD application and evaluation process as it implicates both intellectual property and consumer protection issues.

Executive Summary

We generally agree with the CCTRT observations and recommendations concerning the impact of the new gTLD program on consumer trust. Specifically, we agree with concerns that new gTLDs are not as trustworthy as legacy gTLDs, and that ICANN should take steps to incentivize new gTLD registries to meet user expectations regarding: (i) improving trust by more closely ensuring a relationship between the gTLD and the content of websites in the TLD, (ii) restricting who can own a domain name in certain gTLDs in certain sensitive industries and (iii) protecting sensitive information of Internet users within the TLD. We also agree that ICANN must significantly enhance its contractual compliance and enforcement efforts to effectively combat abusive registry and registrar practices in connection with new gTLDs, to protect consumers in service of ICANN’s public interest mission.

¹ See ICANN, Competition, Consumer Trust and Consumer Choice Review Team Draft Report of Recommendations for New gTLDs (Mar. 7, 2017), available at <https://www.icann.org/public-comments/cct-rt-draft-report-2017-03-07-en>.

² See ICANN, Bylaws, art. 2 § 4.6(d)(iii) (Oct. 1, 2016), available at <https://www.icann.org/resources/pages/governance/bylaws-en>.

We also highlight serious concerns with the efficacy of new gTLD safeguards, and support CCTRT recommendations aimed at (1) improving the uniformity and consistency of registry operator complaint response processes, and holding ICANN accountable for ensuring adequate compliance with obligations to investigate and respond to reports of abuse; (2) enhancing scrutiny of Whois data verification, including identifying false and inaccurate data and ensuring contracted parties take appropriate action to suspend or cancel registrations whose data cannot be timely verified; (3) enhancing and clarifying contractual commitments regarding registry fraud, deceptive conduct, and other malicious and abusive practices perpetrated by registry operators, registrars or registrants, including by ensuring that these commitments extend beyond merely requiring registries to pass through such prohibitions in agreements between registrars and registrants; and (4) implementing broader and clearer contractual requirements concerning registry operators' obligations to investigate and respond to allegations of illegal activity from any source, i.e., not limiting any such obligations to reports received from law enforcement authorities or governmental entities.). We note that certain new gTLDs, such as .SUCKS and .FEEDBACK, most clearly epitomize our concerns, as discussed in greater detail below.

Further, we agree that ICANN should improve procedures to vet potential registry operators to ensure that bad actors do not run new gTLD registries, with a particular focus on past cybersquatting behavior and other serious intellectual property violations, and screening for consumer protection issues. We also fully endorse the CCTRT comments and recommendation that singular and plural strings are inherently confusingly similar and should not co-exist in the DNS. We also agree that any string confusion objections involving multiple applicants for the same strings should be dealt with by a single expert panel, to avoid the possibility of inconsistent determinations. We also support the concept of introducing an appeals mechanism for all new gTLD objections processes.

Our full comments addressing these matters are provided below.

Comments

1. Consumer Trust

The Draft Report makes the following key observations regarding the existing levels of consumer trust in new gTLDs:

- The CCTRT identified two primary factors relevant to the public's trust of gTLDs: familiarity and security. The concept of "familiarity" includes the awareness and reputation of the gTLD. The concept of "security" includes concerns about DNS abuse and expectations about restrictions concerning who can register a domain name within a particular gTLD.³
- Surveys conducted in support of the CCT Review indicated that the public expected a connection between the name of a gTLD and the type of websites associated with that gTLD. The survey revealed that 55% percent of end users surveyed expected "a very clear relationship" between domain names and websites registered under those domain

³ See ICANN, CCT Review Draft Report 63 (Mar. 7, 2017), *available at* <https://www.icann.org/en/system/files/files/cct-rt-draft-report-07mar17-en.pdf>.

names. In addition, 79% of end users also expect that the actual use of the domain name be consistent with the meaning of the gTLD.⁴

- 67% of consumer end users preferred to use a search engine to find a website as compared to 20% that indicated that they preferred to type the domain name directly into a browser. Consumer end users choose to visit sites based upon relevance of the gTLD to the information they seek.⁵
- The survey data shows that both consumer end users and registrants trust new gTLDs less than they do the legacy gTLDs. In both 2015 and 2016, consumer end users reported trusting specified new gTLDs approximately only half as much as specified legacy gTLDs.⁶
- Registrants expected the DNS industry to adhere to practices that protect their own interests, including expected security protocols. Registrants also commonly expect new gTLDs to have a general positive reputation, as an additional factor that promotes trust. Those who place less trust in the DNS cite poor security and regulations, as well as general reputational issues, such as a lack of transparent business practices.⁷

Based on these observations and supporting data, the CCTRT made the following key recommendation regarding consumer trust:

Recommendation 14: Create incentives to encourage gTLD registries to meet user expectations regarding: (1) the relationship of content of a gTLD to its name; (2) restrictions as to who can register a domain name in certain gTLDs based upon implied messages of trust conveyed by the name of its gTLDs (particularly in sensitive or regulated industries) and (3) the safety and security of users' personal and sensitive information (including health and financial information).⁸

In general, we agree with these observations and recommendations. We note that many brand and content owners have serious concerns regarding the overall level of trust and accountability in many new gTLDs. Such intellectual property owners are equally concerned with ICANN's lax enforcement against certain registries under their Registry Agreements, which contain language specifically intended to protect consumers from malicious conduct. Consumer trust has further eroded from ICANN's failure to protect the public interest with respect to certain new gTLDs that have adopted deceptive and misleading business models specifically aimed at preying on consumers and brand owners. Two examples of such new gTLDs are .SUCKS⁹ and

⁴ See *id.* at 64-65.

⁵ See *id.* at 64-65.

⁶ See *id.* at 66.

⁷ See *id.* at 68.

⁸ See *id.* at 69.

⁹ See, e.g., ICANN, Letter from Gregory S. Shatan to Akram Atallah (Mar. 27, 2015), available at <https://www.icann.org/en/system/files/correspondence/shatan-to-atallah-27mar15-en.pdf>; ICANN, Letter from Elisa Cooper to Akram Atallah (May 8, 2015), available at <https://www.icann.org/en/system/files/correspondence/cooper-to-atallah-08may15-en.pdf>; ICANN, Letter from the Honorable Edith Ramirez to John O. Jeffrey (May 27, 2015),

.FEEDBACK.¹⁰ We discuss these issues in additional detail below, in connection with the Draft Report section on new gTLD safeguards.

We strongly encourage ICANN to implement additional mechanisms for establishing trust in new gTLDs. ICANN needs to take specific action and impose meaningful and effective sanctions against any registry that engages in fraudulent or deceptive practices (whether as registries or as registrants within their own TLDs). We believe these enhancements go hand in hand with the CCTRT recommendations for new gTLD registries to ensure the trust conveyed by the name of its gTLD meets users' expectations.

2. Safeguards¹¹

The Draft Report makes the following key observations regarding new gTLD safeguards:

- The Registry Agreements require registry operators to respond to well-founded complaints but do not mandate specific procedures for doing so. Consequently, there is no standard by which ICANN Compliance can assess the particular means by which registry operators resolve complaints.¹²
- The WHOIS verification requirements of the New gTLD Program sought to enhance abuse prevention and mitigation efforts. New gTLD registrars are required to engage in “reasonable and commercially practicable” WHOIS accuracy verification at the time of registration and periodic re-verification thereafter.¹³
- The Base Registry Agreement required new gTLD registry operators to include provisions in their Registry-Registrar agreements that prohibited registrants from “distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name.” By its terms, this safeguard is aimed at mitigating abusive activity. This provision was incorporated into the mandatory public interest commitments (PICs) section of the Registry agreement. The plain language of the safeguard narrowly addresses the inclusion of the provision in the downstream Registrar–Registrant agreement, but does not explicitly address how the registry should monitor and enforce

available at <https://www.icann.org/en/system/files/correspondence/ramirez-to-jeffrey-27may15-en.pdf>; ICANN, Letter from the Honorable John Knubley to John O. Jeffrey (June 9, 2015), available at <https://www.icann.org/en/system/files/correspondence/knubley-to-jeffrey-09jun15-en.pdf>.

¹⁰ See, e.g., ICANN, Notice of Breach of Registry Agreement (Mar. 16, 2017), available at https://www.icann.org/uploads/compliance_notice/attachment/911/serad-to-westerdal-16mar17.pdf.

¹¹ As an initial matter, we specifically defer commenting on portions of the Draft Report concerning Rights Protection Mechanisms (RPMs) within the scope of the ongoing Policy Development Process (PDP) to Review All RPMs in All gTLDs. Our comments on these RPMs will be directed to that PDP Working Group directly, although we highlight with concern the observation that trademark infringement is reportedly occurring at a higher proportion in new gTLDs than in legacy gTLDs. This clearly militates in favor of enhancing RPMs and other safeguards directed at addressing cybersquatting and other forms of trademark abuse in new gTLDs.

¹² See CCT Review Draft Report, at 73.

¹³ See *id.* at 76-77.

the provision. It is not clear whether these safeguards have had an impact on mitigating abuse.¹⁴

- The Base Registry Agreement for new gTLDs required registry operators to “take reasonable steps to investigate and respond to any reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of the TLD” with the caveat that they would “not be required to take any action in contravention of applicable law.” Furthermore, new gTLD registry operators were obligated to post abuse contact details on their websites and to notify ICANN of any changes to contact information. These safeguards, like others, were aimed at enabling more focused mitigation of DNS abuse and created a duty for registry operators to investigate and respond to complaints from government agencies but not the public. GAC advice did not propose such a restriction. The obligation to have mechanisms to respond to complaints likely assists registries to investigate and possibly combat abuse and may help protect the public by providing information about harmful practices. However, questions remain about the scope of registry operators’ response under this safeguard both as to its duty to investigate and respond to complaints from law enforcement and its responsibility to respond to complaints from the public.¹⁵
- Mandatory and voluntary PICs are enforced by both ICANN Compliance via its usual complaint procedures and via the Public Interest Commitment Dispute Resolution Process (PICDRP) established on December 19, 2013. The GAC has expressed concerns that the PICDRP is “complex, lengthy, and ambiguous, raising questions as to its effectiveness in addressing serious threats.” To date, no complaints have been submitted alleging breach of a voluntary PIC. The first use of the PICDRP complaint process was still underway at the time of the report;¹⁶ it has since been decided.
- The current figures for 2016 show that new gTLDs currently account for 15% of the 2016 [UDRP] caseload for WIPO. With new gTLDs being less than 10% of registration volume of gTLDs, these data indicate that there may be proportionately more trademark infringement in new gTLDs than in the legacy gTLDs.¹⁷

Based on these observations and supporting data, the CCTRT made the following key recommendation regarding new gTLD safeguards:

Recommendation 17: ICANN should gather data to assess whether a significant percentage of WHOIS-related complaints applicable to new gTLDs relate to the accuracy of the identity of the registrant, and whether there are differences in behavior between new and legacy gTLDs. This data should include analysis of WHOIS accuracy complaints received by ICANN Contractual Compliance to identify the subject matter of the complaints (e.g., complaints about syntax, operability or identity) and compare the number of complaints about WHOIS syntax, operability or identity between legacy gTLDs and new gTLDs. ICANN should also identify other potential

¹⁴ See *id.* at 79.

¹⁵ See *id.* at 82.

¹⁶ See *id.* at 94.

¹⁷ See *id.* at 100-101.

data sources of WHOIS complaints (registrars, registries, ISPs, etc.) and attempt to obtain anonymized data from these sources.

Recommendation 18: Once gathered (see Recommendation 18), this data regarding WHOIS accuracy should be considered by the upcoming WHOIS Review Team to determine whether additional steps are needed to improve WHOIS accuracy, particularly whether to proceed with the identity phase of the Accuracy Reporting System (ARS) project. Future CCT Reviews may also consider making use of this data if a differential in behavior is identified between legacy and new gTLDs.

Recommendation 19: Repeat data-gathering efforts that compare rates of abuse in domains operating under new Registry Agreement and Registrar Agreements to legacy gTLDs as future review teams deem necessary. Although we recommend a periodic data-gathering exercise, we anticipate that these studies will change over time as a result of input from the community and future review teams.

Recommendation 21: Assess whether mechanisms to report and handle complaints have led to more focused efforts to combat abuse by determining (1) the volume of reports of illegal conduct in connection with the use of the TLD that registries receive from governmental and quasi-governmental agencies and the volume of inquires that registries receive from the public related to malicious conduct in the TLD and (2) what actions registries have taken to respond to complaints of illegal or malicious conduct in connection with the use of the TLD. Such efforts could include surveys, focus groups or community discussions. If these methods proved ineffective, consideration could be given to amending future standard Registry Agreements to require registry operators to provide this information to ICANN. Once this information is gathered, future review teams should consider recommendations for appropriate follow up measures.

Recommendation 22: Assess whether more efforts are needed to publicize contact points where complaints that involve abuse or illegal behavior within a TLD should be directed.

Rationale/related findings: Although the safeguards regarding making and handling complaints have been implemented, it is unclear: (1) whether either law enforcement or the public is sufficiently aware that these complaint mechanisms exist; (2) how frequently these channels are used by the public and law enforcement to notify registries of illegal or abusive behavior and (3) what impact these safeguards have had on their intended goal of mitigating DNS abuse. Hence our recommendations relate to improved data gathering to inform future efforts on combatting abuse within gTLDs.

As the above observations and comments by the CCTRT highlight, there are numerous and serious shortcomings with the new gTLD safeguards. In order to protect the public interest and ensure consumer trust, we support new recommendations aimed at:

- Improving the uniformity and consistency of registry operator complaint response processes, and holding ICANN accountable for ensuring adequate compliance with the

obligations of registry operators to appropriately review, investigate, and respond to reports of abuse occurring in (or by) the registry;

- Enhancing scrutiny of Whois data verification, including identifying false and inaccurate data and ensuring contracted parties take appropriate action to suspend or cancel registrations whose data cannot be timely verified;
- Enhancing contractual commitments regarding registry fraud, deceptive conduct, and other malicious and abusive practices perpetrated by registry operators, or any affiliated parties (including registrars and registrants), and expanding upon contractual requirements that merely require registries to pass through such prohibitions in agreements between registrars and registrants; and
- Implementing broader contractual requirements concerning registry operators' obligations to investigate and respond to allegations of illegal activity by not limiting such obligations to law enforcement authorities or governmental entities (i.e., any party should be able to report illegal activity to a registry and the registry should have an obligation to investigate and respond promptly).

We further want to highlight and support the combined comments submitted by the IPC and RySG to ICANN compliance dated March 28, 2017, setting forth a number of recommendations jointly supported by the IPC and RySG.¹⁸ These recommendations mirror a number of those in the CCT review regarding compliance, including the need for more granular data and feedback from ICANN's compliance team, aimed at assisting stakeholders to better address instances of abuse, and navigate the complaints process.

We note that the first Public Interest Dispute Resolution Procedure (PICDRP) Standing Panel determination was issued since the Draft Report was published, and ICANN issued a corresponding Registry Agreement Breach Notice to Top Level Spectrum, the registry operator of .FEEDBACK.¹⁹ The PICDRP involving the .FEEDBACK new gTLD epitomizes a number of serious concerns regarding new gTLD safeguards. Trademark owners' recent experience trying to use this ICANN remedy ostensibly designed to protect the public interest demonstrates, unfortunately, that drastic changes are needed to ensure the Public Interest Commitments (PICs) are not meaningless and are actually used to protect the public interest.

As discussed in the .FEEDBACK PICDRP Standing Panel determination, the .FEEDBACK registry operator was found in breach of its Registry Agreement for a number of bad practices, including its non-transparent policies and pricing and self-allocation of domain names corresponding to famous brand names. The complainants provided ICANN with a host of evidence of the registry's fraudulent and deceptive conduct, which targeted companies and consumers alike and included the posting of paid fake reviews across its .FEEDBACK websites. The registry also targeted companies with fraudulent and unsolicited "free" domain name registrations, made through the registry's "FREE.FEEDBACK" marketing program, which

¹⁸ See: <https://www.icann.org/resources/correspondence/1205973-2017-03-28-en>.

¹⁹ See ICANN, Notice of Breach of Registry Agreement (Mar. 16, 2017), available at https://www.icann.org/uploads/compliance_notice/attachment/911/serad-to-westerdal-16mar17.pdf.

automatically scraped registration data from existing .COM registrations made by the actual brand owner.

However, based on input from ICANN regarding the appropriate scope of the PICDRP, the Standing Panel did not address any of the numerous serious allegations raised in the complaint concerning registry fraudulent and deceptive practices.²⁰ Instead, the Panel was restricted by ICANN to evaluating the complaint based on a very narrow technical reading of the PICs. Even despite these limitations, the Standing Panel found a number of significant breaches of PIC Section 3(c).

Although ICANN issued a corresponding breach notice, the notice does not make specific reference to the PIC violations referenced in the Standing Panel determination. Further, ICANN proceeded to close the PICDRP complaint, having apparently been satisfied that the registry cured its breaches. However, ICANN has failed to provide any details regarding the apparent remediation plan submitted by the registry operator, or any of the steps apparently taken by the registry operator to allegedly cure the Registry Agreement breaches or address the PIC violations found in the PICDRP Standing Panel determination. Indeed, .FEEDBACK appears to be operating just as it was before, continuing to defraud and deceive brand owners and the public.

In addition, there were a number of transparency issues throughout the PICDRP process. First, ICANN failed to share any information it may have been provided by the registry operator in response to the PICDRP complaint with the complainants. ICANN also failed to provide advance notice to the complainants regarding the establishment and membership of the PICDRP Standing Panel. ICANN also failed to provide details regarding the expected timing of the Panel's evaluation and decision. These transparency failures represent fairly shocking shortcomings in due process, and demonstrate ICANN's clear bias in favor of its contracted parties, on which ICANN relies for its revenue stream.

Again, the PICs are meaningless if the contracted parties are required to simply insert contractual language in their agreements prohibiting registrants from engaging in fraud, abuse and illegal behavior, yet somehow escape any repercussions when these same contracted parties turn a blind eye to abusive activities of registrants, or when the contracted parties engage in fraudulent and deceptive behavior themselves. We recommend significant enhancements to the PICs and PICDRP, including clear requirements prohibiting the contracted parties (and affiliates) themselves from engaging in fraud, deceptive practices, or other malicious or abusive conduct (as registrants or otherwise). The scope of the PICDRP must enable ICANN Compliance and the PICDRP Panelists to address registry fraud and deceptive practices in order to give real meaning to the "Public Interest Commitments." Anything less would fall far short of the expectations of governments, consumer protection agencies, law enforcement, and all non-contracted

²⁰ *See id.* at 15-16 ("Given the broad array of violations alleged and the substantial volume of materials submitted to the Panel, the Panel sought clarification and received confirmation from ICANN of the scope of its review. The Panel's scope of review is limited to evaluation of the applicable sections of Specification 11 raised in the Complaint, and on the policies established by the registry operator and its adherence to them. In this instance, Section (3)(a) and (3)(c) of Specification 11.").

stakeholders, who envisioned the PICs and the PICDRP as serving a critical purpose in protecting the public from registry harm.²¹

Therefore, we strongly support CCTRT recommendations aimed at enhancing these safeguards, and would in fact go further in calling on ICANN and the stakeholder community to address these issues directly in the context of ongoing policy development processes.

3. New gTLD Application and Evaluation Process

The Draft Report makes the following key observations regarding the new gTLD application and evaluation process:

- ICANN identified several recommendations aimed at mitigating the risk of ensuring that “bad actors” do not run registries, including vetting registry operators.²²
- To ensure that the New gTLD Program would not only contribute to competition, consumer choice and consumer trust in the Domain Name System (DNS), it was important that the introduction of new gTLDs not be confusing or harmful either to the DNS or to potential users.²³
- String confusion objections were brought before the International Centre for Dispute Resolution (ICDR) (the international division of the American Arbitration Association (AAA)) From the cases reviewed by the CCT of the outcome of ICDR panels on objections to new gTLD applications regarding similarity between the singular and plural version of the same gTLD, it would appear there was not a clear consistent ruling in all cases. In some cases, singular and plural versions were not considered to be confusingly similar (for example .car/.cars) whereas in other cases the plural was considered to be confusingly similar (for example .pet/.pets; .web/.webs; .game/.games).²⁴
- Further, there was no appeal mechanism foreseen after the dispute resolution panel had taken its decision. This meant that some unsuccessful objectors then sought to have their cases considered either by the ICANN Board or the ICANN Ombudsman for resolution via ICANN Accountability Measures. In order to avoid different solutions to similar

²¹ See, e.g., ICANN, Governmental Advisory Committee (GAC) Beijing Communiqué (Apr. 11, 2013), *available at* https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2; ICANN, Business Constituency (BC) Comments on Proposed Final New gTLD Registry Agreement (June 11, 2013), *available at* <http://www.bizconst.org/assets/docs/positions-statements/bc-comment-on-proposed-new-gtld-registry-agreement-final-21.pdf>; ICANN, At-Large Advisory Committee (ALAC) Statement on the Revised Public Interest Commitments Dispute Resolution Procedure (PICDRP) (Nov. 13, 2013), *available at* https://atlarge-rails-production.s3.amazonaws.com/uploads/advice_statement_document/document/1455768984-742-7692/statement-draft-picdrp-13nov13-en.pdf?utf8=%E2%9C%93&download_document=https%3A%2F%2F1455768984-742-7692%2Fstatement-draft-picdrp-13nov13-en.pdf&commit=Download.

²² See Draft Report, at 71. Although the discussion regarding vetting of registry operators occurs in the Draft Report in the chapter on “safeguards,” we discuss it in connection with the chapter on new gTLD application and evaluation processes, as it involves evaluating new gTLD applicants.

²³ See *id.* at 111.

²⁴ See *id.* at 118.

problems and consistency of outcome, and to ensure a fairer process overall in all objection cases, introducing a post-dispute resolution panel review mechanism (as proposed in the ICANN Program Implementation Review) should be considered.²⁵

Based on these observations and supporting data, the CCTRT made the following key recommendation regarding new gTLD safeguards:

Recommendation 49: The Subsequent Procedures PDP should consider adopting new policies to avoid the potential for inconsistent results in string confusion objections. In particular, the PDP should consider the following possibilities: (1) Determining through the initial string similarity review process that singular and plural versions of the same gTLD string should not be delegated; (2) Avoiding disparities in similar disputes by ensuring that all similar cases of plural versus singular strings are examined by the same expert panelist; and (3) Introducing a post dispute resolution panel review mechanism.

With respect to vetting new gTLD applicants, we refer to prior comments on the ICANN Draft Report on New gTLD Program Safeguards Against DNS Abuse. We briefly summarize these prior comments as follows:

ICANN conducted background screenings of applicants as part of the new gTLD Initial Evaluation process, focusing on general business diligence and criminal history, and history of cybersquatting behavior. ICANN reserved the right to deny applicants based on any information revealed during the screening, including legal decisions concerning fraud or deceptive commercial practices. ICANN recognized such screenings are necessary to protect the public interest, including the interests of consumers and brand owners, from harmful registry practices. Nonetheless, several registry operators (such as those for .SUCKS and .FEEDBACK) passed these screenings but later engaged in business practices that raised exactly the kinds of consumer protection concerns the background screenings were designed to prevent.²⁶

We fully endorse these comments, and call on ICANN to improve procedures to vet potential registry operators to ensure that bad actors do not run new gTLD registries, with a particular focus on past cybersquatting behavior and screening for consumer protection issues. Such improvements might include enhanced criteria for evaluating principals, officers, and affiliated organizations of new gTLD applicants, to ensure “shell” organizations cannot be used to escape scrutiny during the application evaluation process.

With respect to the issue of inconsistent string confusion determinations, we fully endorse the CCTRT comments and recommendation. In particular, we agree that singular and plural strings are inherently confusingly similar. We also agree that any string confusion objections involving multiple applicants for the same strings should be dealt with by a single expert panel, to avoid

²⁵ See *id.*

²⁶ See Comments of the Intellectual Property Constituency on the Draft Report on New gTLD Program Safeguards Against DNS Abuse 3-4 (Apr. 26, 2016), available at <https://forum.icann.org/lists/comments-new-gtld-safeguards-dns-abuse-15mar16/pdfVUYuclg4B.pdf>.

the possibility of inconsistent determinations. We also support the concept of introducing an appeals mechanism for all new gTLD objections processes.

We expect the New gTLD Subsequent Procedures PDP to take these issues into consideration.

Thank you for your consideration of these comments.

Respectfully submitted,

Intellectual Property Constituency