

**McGrady, Paul D.**

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**From:** Google Forms <forms-receipts-noreply@google.com>  
**Sent:** Wednesday, September 30, 2020 11:20 AM  
**To:** McGrady, Paul D.  
**Subject:** New gTLD Subsequent Procedures Draft Final Report - Public Comment Input Form

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## New gTLD Subsequent Procedures Draft Final Report - Public Comment Input Form

This Public Comment forum seeks community feedback on the draft Final Report published by the New gTLD Subsequent Procedures Policy Development Process (PDP) Working Group.

Email address \*

pmcgrady@taftlaw.com

>>> IMPORTANT INSTRUCTIONS >>> PLEASE READ BEFORE PROCEEDING >>>

### Purpose and Format

The purpose of this public comment period is to obtain input on recommendations that have changed substantively since publication of the Initial Report and Supplemental Initial Report, as well as a limited number of specific questions. • This is a standard format for collecting public comment. It seeks to: -- Clearly link comments to specific topics of the draft Final Report -- Encourage commenters to provide reasoning or rationale for their opinions -- Enable the sorting of comments so that the Working Group can more easily read all the comments on any one topic • Outputs in the Final Report: There are 5 types of outputs: (a) Affirmation, (b) Affirmation with Modification, (c)

Recommendation, (d) Implementation Guidance, and/or (e) No Agreement. • Please go to the referenced topic in the draft Final Report at the beginning of each section in the Google Form to read the details and context of each Output.

### **PLEASE NOTE: Word format form to enter and save work**

PLEASE NOTE: The most secure, and strongly recommended, method to complete the survey is to enter your responses into the Word format form available at the link below, and then copy the information into the Google survey form. • Word: <https://gnso.icann.org/en/issues/new-gtld-subsequent-draft-final-report-public-comment-input-form-20aug20-en.docx> • PDF (for reference): <https://gnso.icann.org/en/issues/new-gtld-subsequent-draft-final-report-public-comment-input-form-20aug20-en.pdf> If you encounter a warning that your responses are too large (the character limit), please contact [policy-staff@icann.org](mailto:policy-staff@icann.org) for assistance.

### **Please submit your public comments via this form only**

If you are unable to use Google forms, alternative arrangements can be made. Please contact [policy-staff@icann.org](mailto:policy-staff@icann.org) for assistance.

### **There is no obligation to complete all sections within this form**

Respond to as many or as few questions as desired. The only "mandatory" questions are those related to commenter's personal data in Section 1 and Section 2 of this form.

### **You may enter general comments in the last section (Section 3)**

There is an opportunity to comment on the general content of this Draft Final Report and provide input that may not be tied to any specific items that the Working Group is seeking community input.

### **There is a limit of 2,000 characters (about 350-400 words) for each "text box" response**

In the event you reach the character limit, you may send an email to [policy-staff@icann.org](mailto:policy-staff@icann.org), and the Working Group Support Staff will assist you and manually enter your responses.

### **To stop and save your work for later, you MUST (to avoid losing your work):**

1. Provide your email address above in order to receive a copy of your submitted responses;
2. Click "Submit" at the end of the Google Form (the last question after every 5 topics allows you to quickly jump to the end of the Google Form to submit);
3. After you click "Submit," you will receive an email to the above-provided email address; within the email, click the "Edit Response" button at top of the email;
4. After you click the "Edit Response" button, you will be directed to the Google Form to return and complete;
5. Repeat the above steps 2-4 every time you wish to quit the form and save your progress.

### **When the commenter hits the "Submit" button, all submitted comments will be displayed publicly via an automatically-generated Google Spreadsheet**

Note: Email addresses provided by commenters will not be displayed.

The final date of the Public Comment forum is 30 September 2020

This form will be closed by 30 September 2020. Any comments received after that date/time will not be reviewed/discussed by the Working Group.

## Section 2: Consent & Authorization

By submitting my personal data, I agree that my personal data will be processed in accordance with the ICANN Privacy Policy (<https://www.icann.org/privacy/policy>), and agree to abide by the website Terms of Service (<https://www.icann.org/privacy/tos>).

Please provide your name: \*

Paul McGrady

Please provide your affiliation \*

Submitting these comments on behalf of the IPC.

Are you providing input on behalf of another group (e.g., organization, company, government)? \*

Yes

No

If yes, please explain:

The IPC.

Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 1: Continuing Subsequent Procedures

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 14 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences, but minor differences include the following:

- Affirmed purposes for introducing gTLDs.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

As to the issue of “Dependencies” for the launch of the next round, the IPC does not agree that determining what dependencies might need to be completed prior to program launch is outside the remit of the Working Group and should be decided elsewhere as provided in the text of 1. b. The Working Group came up with a list of proposed dependencies in its face-to-face meeting in Barcelona and that list was never fully discussed at the Working Group level.

## Topic 2: Predictability

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 15 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- Added details to the Initial Report’s conceptual Predictability Framework, including defining different "buckets" of changes, clarifying which parties can raise issues, and explaining in more detail the jurisdiction of the Framework/SPIRT. - Added specific details to the structure of the SPIRT, governance model and operating procedures.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

The IPC notes that the following statement in the Draft Final Report is governed by existing ICANN ByLaws and should therefore be moved to the “Recommendations” section rather than being stated as currently placed in the Implementation Guidance section: 2.2.2 b. “In fact, the GNSO processes and procedures are incorporated into the Predictability Framework explicitly. In the event of a conflict, existing GNSO processes and procedures, including the GNSO Input Process, GNSO Guidance Process, and EPDP as contained in the Annexes to the GNSO Operating Procedures take precedence.” The IPC supports the proposed Predictability Framework generally, but reserves the right for further comment once the details of the SPIRT policy are available in order to support the Topic 2 outputs without reservation.

### Topic 3: Applications Assessed in Rounds (Application Submission Periods)

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 19 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- Simplified recommendation to make it clear that the New gTLD Program would be conducted in rounds. - Added recommendations on when future rounds can be initiated (even if applications may still be pending from the previous round). - Added clarity on the circumstances when a new application may be submitted for a string that was not delegated in the previous round. - Added recommendations on the need for a predictable cadence of future rounds and that future reviews of the program should be conducted concurrently with the program. - Added recommendation that material changes from reviews/policy development should apply only to the next subsequent round.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

The IPC supports Affirmation with Modification 3.1 to revise the recommendation simply to read, “Applications must be assessed in rounds.” Processing applications in rounds provides the predictability needed for IP owners to monitor for new TLD applications which may infringe their brands. Similarly, the IPC supports the remaining requirements in Recommendation 3 for ICANN to publish either the date in which the next round will take place, or the specific criteria that must occur prior to opening a subsequent round, and to adhere to this stated cadence. However, while the IPC does not specifically object to future policy development processes or reviews (e.g. CCT Review) running concurrently with future rounds, the IPC does not support policy recommendations 3.5 through 3.7 to the extent that they would preclude ICANN Org from pausing future rounds for not more than 30 days if ICANN deemed it prudent or necessary to do so in the event of an unforeseen emergency. Following any such 30 day emergency pause, the pause will be lifted unless the ICANN Board votes to keep it in place.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

#### Topic 4: Different TLD Types

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 23 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- More detail provided on different categories of TLD applications and how those are treated (e.g., how the type of application, string, or applicant will result in differential treatment during the application evaluation process). - Added Category 1 - GAC Safeguards, IGO and governments, and Applicant Support as different TLD Types. - Added recommendation that creating types should be exceptional and need-based, but that there should be a predictable process to have potential changes considered by the community.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 5: Application Submission Limits

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 27 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.



If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 6: Registry Service Provider Pre-Evaluation

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 28 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

### Description of Difference: Substantive differences include the following:

- Renamed the service to better align with its function (RSP Pre-Evaluation). Clarified that substantively, the program is more about timing of the review rather than introducing new evaluation requirements. - Confirmed that new and existing RSPs are eligible for pre-evaluation (no automatic approval for existing RSPs). - Provided guidance on timing and applicability of pre-evaluation (only applies to the specific round and that in the future, streamlining the process may be appropriate). - Confirmed that pre-evaluated RSPs are not “contracted parties” for purposes of the GNSO Structure. - Recommended that for usability, a list of pre-evaluated RSPs must be made available well enough in advance of the application submission window, so as to be useful for prospective applicants.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

The IPC supports the pre-evaluation program as envisioned in Recommendation 6.2. However, the program should not be established without an appeals mechanism allowing RSPs who are denied pre-evaluation status to request the reconsideration of the decision. RSPs being able to market themselves as pre-evaluated before an application round has started have a considerable competitive advantage that should not be underestimated. Even though pre-evaluation is a voluntary process and does not preclude RSPs from supporting applications and be evaluated again during the application window, there is a high risk that applicants do not trust or choose RSPs that have not been pre-evaluated. Choosing a pre-evaluated RSP also reduces the risk of additional costs during the application process. ICANN charges an additional fee when an extended review of one or more

registry services is required during standard evaluation. Obviously, such fee does not apply if the evaluation has already been carried out before the filing of the application. The competitive advantage of pre-evaluated RSPs is further increased through Recommendation 6.9, providing that a list of pre-evaluated RSPs is timely published on ICANN's website. This provides for an additional marketing tool for pre-evaluated RSPs. Therefore, RSPs who are denied pre-evaluation status deserve an adequate remedy for challenging ICANN's decision. Additionally, the IPC does not believe that an applicant who indicates that it will use a pre-evaluated RSP should have to select that RSP prior to filing its application. Such an applicant that indicates it intends to use a pre-evaluated RSP should be allowed to defer completion of the technical topics in the application and/or can defer selection of an RSP until the applicant is ready to sign a Registry Agreement with ICANN.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 7: Metrics and Monitoring

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 33 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: No substantive differences, but minor differences include the following:**

- The section itself is new, but the content is not. This new section simply aggregates the metrics and monitoring recommendations from various sections.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 8: Conflicts of Interest

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 35 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: No substantive differences, but minor differences include the following:**

- The section itself is new, but the content is not. This concept was originally captured in Objections, but the WG deemed it to be broadly applicable to all vendors that support the program (e.g., evaluators, objections providers).

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

The IPC supports this recommendation, and further suggests taking into account the IBA Guidelines on Conflicts of Interest in International Arbitration (2014), available on [https://www.ibanet.org/Publications/publications\\_IBA\\_guides\\_and\\_free\\_materials.aspx#Practice](https://www.ibanet.org/Publications/publications_IBA_guides_and_free_materials.aspx#Practice).

## Topic 9: Registry Voluntary Commitments / Public Interest Commitments

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 36 of the draft Final Report: <https://gns0.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

### Description of Difference: Substantive differences include the following:

- Added specificity to mandatory PICs (i.e., reference to specification 11 3(a)-(d)). - Added a recommendation to allow for single-registrant TLDs to obtain waivers for 11 3(a) and 3(b) - Added specificity to voluntary PICs (which were renamed Registry Voluntary Commitments, or RVCs), including when and for what reasons they may be added and that they be treated as application change requests (to allow for public consideration). - Recommended that the PICDRP be updated to account for name change. - Added a recommendation to improve access for being able to review RVCs, in line with CCT-RT recommendation 25. - Added a set of recommendations for Category 1 Safeguards, which affirms the NGPC framework and suggests that strings be evaluated as an evaluation element, to determine if they fall into any of the NGPC framework groupings. - Added a recommendation that DNS Abuse should be addressed holistically, instead of just in the context of future new gTLDs.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

The IPC does not support certain aspects of this Output. Some within the IPC cannot support Recommendation 9.15, by which the SubPro WG elects to postpone a solution to the ongoing problem of DNS abuse. The IPC believes it was squarely within the remit of the WG to proactively address DNS abuse in the context of new TLDs, and some in the IPC are disappointed that the WG has published their draft final report without formulating any such solutions. To the extent the WG believes a holistic approach to DNS abuse is needed, the IPC agrees. However, some within the IPC do not believe it is wise to move forward with a new round of TLDs -- guaranteeing an expanded field of domains for abuse to be carried out -- without creating solutions. Others within the IPC believe that proceeding with the next round is acceptable, so long as there is a corresponding PDP instituted to address systematic DNS abuse, including intellectual property abuse, the outcomes of which once developed would apply across all gTLDs keeping in mind the unique nature of .Brand TLDs. The IPC remains very concerned that the postponement on DNS abuse solutions by the SubPro PDP only grants more time to bad actors to continue their abusive behaviors in both the existing TLDs, and soon in new TLDs in the absence of solutions. The IPC believes the security and stability of the DNS will continue to be under attack until a solution on DNS abuse has been developed and calls for quick action by the Council to institute a PDP on DNS Abuse without further delay.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 48 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 11: Universal Acceptance

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 50 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:



New information or interests that the Working Group has not considered

Enter your response here:

## Topic 12: Applicant Guidebook

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 52 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: No substantive differences, but minor differences include the following:**

- Emphasis was placed on the need for enhancing language support in the 6 UN languages

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 13: Communications

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 55 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 14: Systems

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 57 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 15: Application Fees

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 62 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

#### Description of Difference: Substantive differences include the following:

- Combined the Application Fees and Variable Fees section. - Clarified that applicants utilizing a pre-evaluated RSP would not incur costs for the technical/operational evaluation element and that applicants qualifying for Applicant Support would necessarily be subject to a different fee structure.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 16: Applications Submission Period

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 66 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 17: Applicant Support

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. **\*\*PLEASE NOTE: There is an additional question below for Community Input.\*\*** See page 67 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- For the recommendation related to support beyond the application fee, financial support for ongoing registry fees were removed. - Suggested that a dedicated Implementation Review Team (IRT) (ASP) may be warranted for this topic alone and be constituted of experts in this area. - Added greater detail on outreach and collaboration with local partners to achieve outreach plan. - Added recommendation that the dedicated IRT establish metrics for success (with a non-exhaustive list of potential metrics included). - Added Implementation Guidance that the dedicated IRT consider how to allocate support if the number of qualified applicants exceeds funds. - Added recommendation that ICANN develop a plan for funding the ASP and potentially seek funding partners.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

We did not choose the oval above, but the oval two prior (Not ideal, but willing to accept Outputs as written). However, there is no text field to explain reasoning for the first three options of support/non-support (even though Working Group members pleaded with PDP Leadership to include such fields). So, this comment will have to go here. The IPC supports the spirit and good intentions behind applicant support. However, the IPC urges that any such support does not result in the bringing into existence of non-viable registries who later place second level registrants at risk.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Question for Community Input

Recommendation 17.2 states: "The Working Group recommends expanding the scope of financial support provided to Applicant Support Program beneficiaries beyond the application fee to also cover costs such as application writing fees and attorney fees related to the application process." Question: Should the Applicant Support Program also include the reduction or elimination for eligible candidates of ongoing registry fees specified in Article 6 of the Registry Agreement? If so, how should the financial impact to ICANN be accounted for?

If you have a response to the question please enter your response here:

The IPC does not support the elimination of such fees as it does not believe that the ongoing subsidization of registry business models that are not self-sustaining is not in the interests of second level registrants.

## Topic 18: Terms and Conditions

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 79 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: No substantive differences, but minor differences include the following:**

- Added recommendation about treatment of confidential elements of applications.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:



## Topic 19: Application Queuing

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 81 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

### Description of Difference: Substantive differences include the following:

- Added recommendation to equitably prioritize IDN applications, including a detailed formula if relatively high volumes of IDN applications are received.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 20: Application Change Requests

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 86 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

### Description of Difference: No substantive differences, but minor differences include the following:

- Recommends allowance of resolving string contention 1) through business combinations and 2) through string change for .Brand TLDs in limited circumstances.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

Although the IPC supports the recommendations and implementation guidance under this Topic 20, we consider that recommendation 20.8 is incomplete. As is clear from the rationale for this recommendation, the working group intends that a change to the applied-for string for a .Brand TLD that meets the criteria identified in recommendation 20.8 will still qualify as a .Brand TLD, and thus be afforded the important protections of Specification 13. In order to ensure this intent is met, it should ideally be reflected in the text of recommendation 20.8 itself or, at a minimum, it should be included as implementation guidance to recommendation 20.8. It is insufficient to deal with this only in the rationale section.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 21: Reserved Names

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 89 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference:** No substantive differences, but minor differences include the following:

- For consistency with other top-level Reserved Names, the WG altered the recommendation related to Public Technical Identifiers to only reserve the PTI acronym, not the full names.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 21.1: Geographic Names at the Top-Level (Annex I)

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. Please see Annex I, which contains the Final Report of Work Track 5 on Geographic Names at the Top Level of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 22: Registrant Protections

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 93 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: No substantive differences, but minor differences include the following:**

- The Initial Report provided options to consider as alternatives to the Continuing Operations Instrument. Although the WG did not agree on a specific alternative, the WG did add a recommendation that alternatives be explored during implementation.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 23: Closed Generics (also known as Exclusive Generics)

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. **\*\*PLEASE NOTE: There is an additional question below for Community Input.\*\*** See page 96 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

#### Description of Difference: Substantive differences include the following:

- For the purposes of the draft Final Report, the WG designated the status as No Agreement and continued to make no recommendations with respect to either allowing or disallowing Closed Generics. However, with widely diverging viewpoints, the WG asked WG members to contribute proposals for consideration, to help identify circumstances when a closed generic may be permitted. These proposals were not thoroughly vetted by the WG and therefore none of the proposals at this point in time have any agreement within the WG to pursue. However, the WG is very interested in community feedback regarding the three proposals received, in regards to both the high level principles and the details (where provided). Thus, any feedback is appreciated.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

The IPC does not support an outcome of no agreement on this important issue. It is the role and responsibility of the GNSO to develop policy on new gTLDs, we cannot abdicate this decision to the Board. Before a determination that there is “no agreement” is made there must be a formal assessment of consensus, which has not yet occurred. Is there actually “no agreement” or would there in fact be some other level of support for one of the options such as Strong support but significant opposition, even if the WG cannot reach consensus? Although there is a range of views amongst individual members of the IPC, with some supporting greater controls over closed generics and others favoring little or no restriction, overall the IPC has previously expressed support for permitting closed generics where they support a public interest, and also supported the possibility of giving effect to this by means of an evaluation process and/or an objection process. It must be possible for the working group to reach a similar compromise which would be supported by enough of the working group to enable it to go forward. The fact that perhaps a few working group members do not support this should not preclude the working group adopting such an outcome with a lesser designation than full consensus.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

#### Question for Community Input:

Please review the following proposals: A Proposal for Public Interest Closed Generic gTLDs (PICG TLDs), submitted by Alan Greenberg, Kathy Kleiman, George Sadowsky, Greg Shatan):

<https://community.icann.org/display/NGSPP/Proposals+Included+in+Draft+Final+Report?preview=/144376220/144376262/ProposalforPICG+nTLDs.pdf> The Case for Delegating Closed Generics, submitted by Kurt Pritz, Marc Trachtenberg, Mike Rodenbaugh:

<https://community.icann.org/display/NGSPP/Proposals+Included+in+Draft+Final+Report?preview=/144376220/144376263/ClosedGenerics2>

4July2020.pdf Closed Generics Proposal, submitted by Jeff Neuman in his individual capacity:

<https://community.icann.org/display/NGSPP/Proposals+Included+in+Draft+Final+Report?preview=/144376220/144376261/Neuman%20Closed%20Generics%20Proposal.pdf> Which, if any, do you believe warrant further consideration by the WG, and why? Are there elements or high-level principles in any of the proposals that you believe are critical to permitting closed generics even if you may disagree with some of the details? If so, please explain.

If you have a response to the questions please enter your response here:

The Pritz proposal and the Neuman proposal warrant further consideration by the Working Group to see if they can be made fully fit for purpose. The Sadowsky proposal as a whole does not warrant further consideration since this is not in fact a proposal for closed generics. However, some members within the IPC believe certain aspects of the Sadowsky proposal may prove useful in future considerations of this topic. For further detail on the rationale for this response, please see the IPC's response to Topic 23 above.

## Topic 24: String Similarity Evaluations

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 102 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

### Description of Difference: Substantive differences include the following:

- The WG added detail and precision around its recommendations, especially around singular/plurals. - The concept of "intended usage" was integrated into the singular/plural standard, meaning that in circumstances where string combinations that could be considered singular/plural, but where the applicants intend to use the strings in connection with different meanings, both can possibly be delegated. In this case, applicants must agree to mandatory PICs to use the string in line with their intended usage as described in the application.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:



Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 25: IDNs

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 109 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- Added Implementation Guidance to allow applicants to apply for a string in a script that is not yet part of RZ-LGR, though it will not be allowed to proceed to contracting. - Added additional recommendations/detail around same entity requirements for IDN variants at the top and second levels. - Added recommendation that second-level IDN variants are not required to behave identically.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 26: Security and Stability

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 113 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- Refined recommendations related to root zone scaling, focusing on the rate of change for the root zone for a shorter period of time (e.g. monthly basis) rather than on a yearly basis. - Added Implementation Guidance intended to promote the conservative expansion of the DNS. - While previously discussed, formalized as a recommendation that emojis should not be allowed at any level in gTLDs.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 27: Applicant Reviews: Technical & Operational, Financial and Registry Services

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 116 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference:** No substantive differences, but minor differences include the following:

- Structural and grammatical changes made for ease of understanding.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 28: Role of Application Comment

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 124 of the draft Final Report: <https://gns0.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference:** No substantive differences, but minor differences include the following:

- Recommendations are better aligned and consistent with what occurred in the 2012 round, resulting in some recommendations being converted to affirmations instead. With more detail and precision overall, several recommendations were broken into discrete elements, expanding the number of overall recommendations in this section.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

## Topic 29: Name Collisions

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 128 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- Affirmed the use of the New gTLD Collision Occurrence Management framework, unless it is replaced by a new Board approved framework (e.g., as a result of the NCAP studies) - Focused recommendations more on criteria for assessing name collision risk, relying less so on prescribed lists (e.g., High, Aggravated, Low).

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

Within the IPC, there are diverse opinions regarding the Name Collisions issue and the relative value of the Name Collision Analysis Project output. The IPC supports a gating mechanism for high risk strings as proposed in the Draft Final Report. Some IPC members support the recommendation that 90-day controlled interruption be instituted if there is no new Name Collision Framework adopted by the ICANN Board in time for the next round. Other members believe the Sub Pro Implementation Review Team should work with the Name Collision Analysis Project to develop the appropriate tests regarding name collision risks and mitigation measures in connection with various strings and that this work should occur in tandem with the development of the Applicant Guidebook and other internal ICANN procedures necessary to implement the next round.

### Topic 30: GAC Consensus Advice and GAC Early Warning

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should

**Description of Difference: Substantive differences include the following:**

- Created this separate section on GAC Early Warning and GAC Consensus Advice, apart from Objections. - In recognition of the GAC's role under the ICANN Bylaws, the recommendations were made consistent with the GAC's role. The WG expressed its preference for certain outcomes (e.g., providing GAC Consensus Advice on TLD types ahead of program launch), but acknowledged that it is unable to impose such requirements on the GAC. - The WG solidified its proposal to remove the language in the AGB that creates a "strong presumption for the ICANN Board that the application should not be approved," which the WG believes is consistent with the GAC's role under the ICANN Bylaws and encourages mutually beneficial outcomes rather than creating a presumption of rejected applications. - Clarified that GAC Early Warnings must also include rationale for the warning, which should also promote mutually beneficial outcomes. - Converted potential guidance in the Initial Report to a recommendation: RVCs should be allowed as a mechanism to address or mitigate concerns in GAC Early Warning or GAC Consensus Advice.

**If you choose one of the following responses there is no need to submit comments:**

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

**If you choose the following response, please indicate in the text box below what should change and why:**

Do not support certain aspects or all of the Output(s)

Enter your response here:

**If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:**

New information or interests that the Working Group has not considered

Enter your response here:

We did not choose the oval above, but the oval three prior (Not ideal, but willing to accept Outputs as written). However, there is no text field to explain reasoning for the first three options of support/non-support (even though Working Group members pleaded with PDP Leadership to include such fields). So, this comment will have to go here. The IPC supports Recommendation 30.3. but encourages the Working Group to make explicit that the requisite rationale for GAC Advice must specify the national or international law upon which it is based if such Advice is based in national or international law. The IPC commends the Working Group's reference to and reliance upon Section 12.2(a)(i) of the ICANN Bylaws and its forbearance from developing ad hoc rules or procedures the interpretation or application of which may conflict or create confusion with the ICANN Bylaws. The IPC encourages the WG, however, to strengthen and clarify its recommendation, "To the extent that the rationale for GAC Consensus Advice is based on public policy considerations, well- founded merits-based public policy reasons must be articulated." Transparency and predictability will be significantly improved by clarifying this recommendation to note explicitly that expressions of public policy concerns must be supported by relevant data, facts or other evidence, with specific reference to relevant national or international law whenever possible. The IPC considers that this clarification should also be added to Recommendation 30.6 dealing with Early Warning ("Government(s) issuing Early Warning(s) must include a written explanation describing why the Early Warning was submitted and how the applicant may address the GAC member's concerns."). The IPC strongly supports Recommendation 30.4, and affirms the Working Group's acknowledgement that the language in Section 3.1 of the 2012 Applicant Guidebook (stating that GAC Consensus Advice "will create a strong presumption for the ICANN Board that the application should not be approved") is not reflected in the current version of the ICANN Bylaws. The IPC agrees that the relevant provisions of the Bylaws should be applied in such cases, and that the Applicant Guidebook should not attempt to override or modify those provisions. Consistent with the IPC's comments on the Initial Report, Overarching Issues; WT 1-4) found here and here the IPC maintains that Registry Voluntary Commitments (RVCs) will enable government concerns to be clearly identified and collaboratively addressed without the need of any presumption of rejection of an application, and that the Board should have flexibility to bring affected governments and applicants together to collaboratively resolve outstanding government concerns not initially addressed by an RVC. Finally, the IPC agrees that Recommendation 30.7, specifying an ability to amend applications (including the addition or modification of RVCs) to address GAC Early Warnings and GAC Consensus Advice, is necessary to give full force and effect to the other recommendations, affirmation and implementation guidance under this Topic 30.

Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 31: Objections

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should



review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 139 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- Added Implementation Guidance aimed at improving accessibility to objections (e.g., reducing costs, timing requirements). - Added recommendation to allow parties to mutually agree to one or three-expert panels. - Added a recommendation and Implementation Guidance aimed at improving clarity in the process and transparency of outcomes (e.g., criteria and/or processes and fees/refunds should be available ahead of program launch and in the Applicant Guidebook; any additional panel requirements should be available in a central location).

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

The IPC supports the Outputs and wishes to add a clarification to Implementation Guidance 31.19: in case of a String Confusion Objection filed by an objector who is in a contention set with applicants for the same string, it should be mandatory for each

applicant to respond to the objection and to indicate whether or not he agrees with the objection. To enforce this requirement, the application should be rejected automatically and not proceed in case the applicant does not respond to the objection.

## Topic 32: Limited Challenge / Appeal Mechanism

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 148 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

### Description of Difference: Substantive differences include the following:

- The draft Final Report now includes a substantial amount of additional detail regarding challenges and appeals. - The recommendations identify which evaluation mechanisms can be challenged and which objection decisions can be appealed. An Annex is included, which provides clarity around standing, the arbiter of the challenge/appeal, who is responsible for costs, standard for appeal ("clearly erroneous" for everything but conflicts of interests), and remedies. - The recommendations seek to limit the impact that challenges/appeals may have on program timing and costs.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

The IPC supports the Outputs but wishes to stress the importance of avoiding any conflict of interests or bias on the part of the entity handling the appeal if this entity is not an established dispute resolution provider.

### Topic 33: Dispute Resolution Procedures After Delegation

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 156 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 34: Community Applications

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. **\*\*PLEASE NOTE: There is an additional question below for Community Input.\*\*** See page 157 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference: Substantive differences include the following:**

- Added recommendation that letters of opposition should be considered in balance with letters of support. - Added recommendation intending to clarify the scope of additional research done in performing CPE, and noting that any research impacting the decision should be disclosed to the applicant.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

#### Question for Community Input:

Implementation Guideline 34.3 states: "To support predictability, the CPE guidelines, or as amended, should be considered a part of the policy adopted by the Working Group." In deliberations, the Working Group suggested changes to the Community Priority Evaluation (CPE) Guidelines from 2012, but did not ultimately recommend any specific changes to the text of the Guidelines (see guidelines here <https://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf> and comments from WG member here: [https://drive.google.com/file/d/1Ih\\_1NARViJXNNewDg-q87sQzQoC1dCtC/view?usp=sharing](https://drive.google.com/file/d/1Ih_1NARViJXNNewDg-q87sQzQoC1dCtC/view?usp=sharing). Question: Do you believe any substantive changes to the CPE Guidelines are needed? Please explain.

If you have a response to the question please enter your response here:

### Topic 35: Auctions: Mechanisms of Last Resort / Private Resolution of Contention Sets

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. **\*\*PLEASE NOTE: There is an additional question below for Community Input.\*\*** See page 163 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

#### Description of Difference: Substantive differences include the following:

- Selected the second price sealed-bid mechanism for the ICANN Auctions of Last Resort, which was previously one of several options under consideration. The Working Group added procedural details, such as when bids should be submitted, confirmed that program evaluation elements should remain largely unchanged, how the ICANN Auction of Last Resort should be conducted, among other elements. - The Working Group had previously been trending towards disallowing private resolution where a party is paid to withdraw, but is now focusing instead on seeking to ensure that applications are submitted with a bona fide ("good faith") intentions, while also allowing private resolution (including private auctions). Contentions sets resolved via private resolution have information disclosure requirements (i.e., Contention Resolution Transparency Requirements).

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

We did not choose the oval above, but the oval two prior (Not ideal, but willing to accept Outputs as written). However, there is no text field to explain reasoning for the first three options of support/non-support (even though Working Group members pleaded with PDP Leadership to include such fields). So, this comment will have to go here. The IPC supports the retention of private resolutions of contention sets, including, but not limited private auctions. However, the IPC does not support any disclosure requirements that would require the disclosure of trade secrets or otherwise confidential business information in order for an application to proceed. Lastly, the IPC does not support the blanket requirement of a sealed-bid auction for the ICANN Auction of Last Resort. That requirement seems tailor-made to exclude .brands from the New gTLD Program. Requiring .brands to submit a blind bid, which cannot be increased, with no information about (1) who the other applicants are, (2) how those other applicants intend to use the TLD, and (3) whether or not the other applicants have put forward any Voluntary Registry Commitments to ensure that the TLD will not be used in conjunction with any goods or services that the .Brand applicant trades in, is simply unrealistic. Brands will likely choose not to apply and simply sue ICANN and the other applicants for TLDs containing their brands, since the risk of extreme adverse consequences of someone else obtaining a registry consisting of their brand is simply too high. Fortunately, there is a simple solution, and that is to exempt any contention set involving a .Brand from the sealed bid auction and allow those contention sets to move forward with the traditional ascending bid auction of the last round.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Question for Community Input:

Recommendation 35.3 requires that, “Applications must be submitted with a bona fide (“good faith”) intention to operate the gTLD.” The Working Group discussed examples of what would constitute a lack of bona fide intent and included a non-exhaustive list of indicative “Factors,” though it believes analysis of the included examples and identification of additional examples is helpful. What do you believe are appropriate “Factors” to consider when determining if an application was submitted with a bona fide intention, and why?

If you have a response to the question please enter your response here:

### Question for Community Input:

Also related to Recommendation 35.3, the Working Group discussed what the punitive measures should be if an application is found to have been submitted lacking a bona fide intention, in respect of the “Factors.” Some of the ideas discussed include the potential loss of the registry, barring participation in any future rounds (both for the individuals as well as the entities (and their affiliates) involved), or financial penalties. In this respect, the Working Group discussed the timing of when such “Factors” may be identified (e.g., likely after private auctions have already taken place) and how that may impact potential punitive measures. What do you believe are appropriate punitive measures for applications that were submitted lacking a bona fide intention, and why?

If you have a response to the question please enter your response here:

### Save Your Progress

Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

## Topic 36: Base Registry Agreement

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. \*\*PLEASE NOTE: There is an additional questions below for Community Input.\*\* See page 172 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences, but minor differences include the following:

- The WG is converting questions in the Initial Report to recommendations.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

The IPC does not support certain aspects of the Output. The IPC is concerned that allowing new exemptions (beyond existing Specification 9 Code of Conduct Exemptions and Specification 13 “.brand” exemptions) to additional aspects of the Registry Agreement (“RA”) may enable some Registry Operators to negotiate amendments that reduce the effectiveness of rights protection mechanisms and/or public interest commitments. One-off exemptions furthermore risk inconsistency in the transparency, predictability, and accountability required in the DNS. Accordingly, the IPC advocates for strict limitations on exemptions from the base RA, if any, which must not weaken existing rights protection mechanisms or public interest commitments otherwise present in the RA.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:



### Question for Community Input:

Recommendation 36.4 states: "ICANN must add a contractual provision stating that the registry operator will not engage in fraudulent or deceptive practices." The Working Group discussed two options for implementing the recommendation: the addition of a PIC or a provision in the Registry Agreement. A new PIC would allow third parties to file a complaint regarding fraudulent and deceptive practices. ICANN would then have the discretion to initiate a PICDRP using the third-party complaint. If a provision regarding fraudulent and deceptive practices would be included in the RA, enforcement would take place through ICANN exclusively. Which option is preferable and why?

If you have a response to the question please enter your response here:

### Topic 37: Registrar Non-Discrimination & Registry/Registrar Standardization

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. \*\*PLEASE NOTE: There is an additional questions below for Community Input.\*\* See page 175 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

#### Question for Community Input:

The Working Group discussed specific circumstances in which it may be appropriate for ICANN to grant Code of Conduct exemptions. In particular the Working Group considered a proposal that if a registry makes a good faith effort to get registrars to carry a TLD, but is unable to do so after a given period of time, the registry should have the opportunity to seek a Code of Conduct exemption so that it can be its own registrar without needing to maintain separate books and records and legally separate entities. What standard should be followed or what evidence should be required of the registry in evaluating if a "good faith effort" has been made? Is a Code of Conduct exemption as it currently exists the right mechanism for a registry that lacks registrar support for its gTLD, considering that the Code of Conduct is primarily focused on registrant protections?

If you have a response to the question please enter your response here:

#### Topic 38: Registrar Support for New gTLDs

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 176 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 39: Registry System Testing

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 177 of the draft Final Report: <https://gns0.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

**Description of Difference:** No substantive differences, but minor differences include the following:

- Structural and grammatical changes made for ease of understanding.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

The IPC supports the recommended Registry System tests, which must: ● Cover readiness for DNSSEC; ● Be efficient, including pre-approval of IDN tables, and avoidance of duplicative testing from registry services pre-evaluation.

#### Topic 40: TLD Rollout

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 180 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

### Topic 41: Contractual Compliance

The below description of difference is intended to serve as a resource for readers to better understand which report topics have evolved significantly from the Initial Report to the draft Final Report. The differences are listed in a descriptive fashion and readers should review the full set of Outputs for the relevant topic as a package, to better understand the full context of the Outputs and changes made. See page 181 of the draft Final Report: <https://gnso.icann.org/en/drafts/draft-final-report-new-gtld-subsequent-20aug20-en.pdf>

Description of Difference: No substantive differences.

If you choose one of the following responses there is no need to submit comments:

Support Output(s) as written

Not ideal, but willing to accept Outputs as written

No Opinion

If you choose the following response, please indicate in the text box below what should change and why:

Do not support certain aspects or all of the Output(s)

Enter your response here:

IPC is always happy to receive more detailed data metrics regarding the ICANN Contractual Compliance process, and the IPC supports the Affirmations/Recommendations on this Topic accordingly, the IPC reiterates its overarching concern that ICANN Compliance does not adequately enforce the terms of the Registry Agreement. Accordingly, while some of the other recommendations in the Draft Final Report may help address this concern (e.g. the inclusion of a new RA provision prohibiting registry fraudulent and deceptive conduct as part of Specification 11), the IPC would strongly like to see an overarching recommendation to improve the ICANN Compliance process to give real meaning and effect to the terms of the RA by holding registry operators who violate the letter or spirit of the RA accountable with real consequences and far more sufficient remedial requirements proportionate to causal harms.

If you choose the following response, please indicate in the text box below the new information or interests that the Working Group has not considered:

New information or interests that the Working Group has not considered

Enter your response here:

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Do you want to save your progress and quit for now? You will be able to return to the form to complete at a later time.

Yes

No, I would like to continue to the next section

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