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The GNSO Intellectual Property Constituency (IPC) appreciates the opportunity to comment on the GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration (SubPro Outputs), which were delivered along with the GNSO Council Recommendation on 24 March 2021. Although the SubPro Outputs are not in all cases the ideal outcomes the IPC would have wanted, the IPC strongly encourages the Board to adopt the SubPro Outputs.

In the IPC's view, the SubPro Outputs are representative of a successful bottom-up multi-stakeholder process. The IPC notes that significant efforts were made in this GNSO PDP to be inclusive and to provide an opportunity for all viewpoints to be considered in crafting a set of compromise proposals as to which the group, as a whole, could reach consensus. This included many community participants from outside the GNSO itself. The SubPro PDP was open to anyone to participate and members of ICANN Advisory Committees all participated actively alongside members of the GNSO community in this PDP. The leadership structure of SubPro also reflected the diversity of community participation, with one co-chair from the GNSO and one from the ALAC. Further, for Work Track 5 on Geographic Names, there were four co-chairs: one from each the GNSO, ccNSO, ALAC and GAC. Other examples of Sub Pro Leadership's engagement with advisory committees include:

- Submissions of public comments during public comment periods on draft reports;
- SubPro's two co-chairs regularly met with the GAC at ICANN meetings to discuss progress and the GAC's input;
- The ALAC had a [representative](#) who would clarify comments from the ALAC during calls and on the mailing list;
- The ALAC submitted a Minority Statement annexed to the Final Report;
- The SSAC met with SubPro, most notably after the Draft Final Report public comment period had closed and [discussed](#) the SSAC's feedback on the Draft Final Report.

Notably, the SubPro Outputs for the GNSO Council to consider were all designated either Full Consensus or Consensus in the Working Group. (The Consensus on "no agreement" as to Closed Generic policy was later characterized by the Council as "no consensus".) At the GNSO Council, these SubPro Outputs were unanimously adopted.

It is implicit in the multi-stakeholder model that the final outcome is unlikely to be the perfect preferred outcome for any single individual or group. For example, on the important issue of DNS abuse, the IPC has previously voiced its concern, including in its comment on the SubPro Draft Final Report, regarding the Working Group's reluctance to craft recommendations aimed at improving anti-abuse measures given that its Charter encompassed only the next round of TLDs. Nor did the Working Group see fit to recommend a PDP or EPDP on this topic. That said, we understand the need for a holistic solution which may not have been achievable given this PDP's more limited mandate. In furtherance of the holistic solution envisaged in the SubPro Outputs, the IPC would specifically urge the Board to request that the GNSO Council scope and initiate a PDP or EPDP to develop recommendations for enhanced standardized anti-abuse measures for contracted parties in service of ICANN's Mission to ensure the security, stability, and resiliency of the DNS, applicable to all existing and future gTLDs. In this way, the

Board can validly adopt the SubPro policy recommendation while at the same time acting as a bridge between this PDP and its limited, forward-looking mandate vis-à-vis future new gTLDs, and further community policy work on the important issue of DNS abuse that would be applicable to all gTLDs, which is clearly envisaged in the instant recommendation.

The IPC notes that many of the issues raised in initial community comments, bear on the manner and method of implementation of the consensus policy recommendations contained in the SubPro Outputs. To the extent that the Board believes further evaluation of those issues would be beneficial prior to authorizing the next round of new gTLDs, those concerns can best be considered as part of the intended Operational Design Phase (ODP) for the recommendations, as well as through Board instructions to the Implementation Review Team (IRT) that will be constituted to give effect to the policy recommendations, and via the IRT itself which should include participants from the community.

It is important to keep in mind that the new gTLD program was designed to encompass continuing ongoing launches. It has been almost ten years since the 2012 window permitted new applications. The IPC recognizes the importance to ICANN and many in the community of proceeding with another round of new gTLDs, including for brand owners who wish to apply for brand gTLDs. Indeed, there are a number of key benefits for brands in terms of security and combatting abuse through brand TLDs, which are a much easier way to curb fraudulent and infringing activity and to conduct secure transactions with suppliers, contractors, and customers. The Board should trust the multi-stakeholder community consensus, and the ODP and IRT, to ensure the SubPro recommendations are faithfully implemented and avoid additional unnecessary delays to reaching a subsequent application window now that policy changes have been set out. Thus, while the IPC supports expedient future rounds of new gTLDs, it also notes the importance of getting new gTLD policy and implementation right, to ensure continued consumer trust in the DNS. Accordingly, the IPC encourages the Board to adopt the GNSO Council Recommendation to move forward on the Sub Pro Final Report, while taking into account our suggestions regarding advancing community work aimed at enhancing anti-abuse measures in the gTLD ecosystem in furtherance of ICANN's Mission to ensure the security and stability of the DNS and consumer trust therein.

Respectfully submitted,

Intellectual Property Constituency