UPDATE & CONSULTATION ON
New gTLD Subsequent Procedures

PREDICTABILITY FRAMEWORK

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7 January 2020
BACKGROUND to Predictability Framework (as at 7 Jan 2020)

• SubPro WG’s deliberations on public comments to Initial Report on topic of Predictability & Clarity in Applications started around April 2019

• The key question in earlier public comment call was whether there should be a ‘new’ Predictability Framework

• Since there was support for “Yes”, new recommendations are being drafted for this topic

• Deliberations recommenced on 6 Jan 2020

• Recommendations being new, this is one of several areas where specific comments are expected to be sought in the upcoming public comment period in Q1 2020

RELATED SubPro Areas/Topics include:

• Predictability & Clarity in Applications (now superseded)

• To be distinguished from IRT

COMPETITION, CONSUMER CHOICE & TRUST (CCT) RECOMMENDATIONS

• None
Key Issue: How should changes to the program be introduced to address unanticipated issues after AGB is approved?

Policy Goals:

- Principle A* states “New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.”
- Where issues result in changes to program & supporting processes, they must be resolved as predictable, transparent and fair manner as possible to impacted parties
- Reliance on Predictability Framework specific to program that guides mitigation mechanism selection
- Where significant issues arise requiring resolution via Predictability Framework, applicants may choose to withdraw and receive appropriate refund
- Predictability Framework to complement existing GNSO processes & procedures, does not displace GNSO Council’s decision-making

*GNSO’s Final Report on the Introduction of New Generic Top-Level Domains
SNAPSHOT OF SUBPRO WG DELIBERATIONS
Predictability Model (as at 7 Jan 2020)

What to expect will be proposed?

(a) Type/scope/context of change will guide process to be followed when change is necessary or requested *

(b) A Standing Predictability Implementation Review Team (“SPIRT”) be formed to review potential changes and recommend the process to be followed

(c) GNSO Council retains oversight of SPIRT, may review all SPIRT recommendations per GNSO Operating Procedures

* Categories of changes still subject to discussion

• Not to be confused with and does not replace IRT – Implementation Review Team
• IRT’s role/work starts after SubPro recommendations are accepted by Board and ends when AGB is approved by Board
• SPIRT’s role/work starts when AGB is approved by Board
SNAPSHOT OF SUBPRO WG DELIBERATIONS
Predictability Model (as at 7 Jan 2020)

Standing Predictability Implementation Review Team ("SPIRT")

Discussion Commenced:

1. **SPIRT Role:** To provide advice and/or guidance to ICANN Staff, GNSO Council and Community on issues post AGB approval
2. **GNSO Council Role:** To retain supervisory role over SPIRT
3. **Forwarding of issues to SPIRT:** Ideally should be issues impacting more than a single applicant, forwarded by:
   - ICANN Board; or
   - ICANN Org; or
   - GNSO Council
   Rationale being SPIRT is under GNSO Council supervision, avoidance of direct lobbying to SPIRT, and does not displace mechanisms for advice to Board

4. **How to forward issues to SPIRT?**
   - ICANN Board – letter from Chair of Board or applicable New gTLD Board Committee
   - ICANN Org – letter from CEO or head of GDD or designee
   - GNSO Council – still in discussion
SNAPSHOT OF SUBPRO WG DELIBERATIONS
Predictability Model (as at 7 Jan 2020)

Standing Predictability Implementation Review Team (“SPIRT”)

Still in Discussion:

5. SPIRT Decision-making
   • Issues non-binding advice
   • Leadership to assess consensus per GSNO WG Guidelines section 3.6
   • To strive for consensus on all advice issued but provided reported using s 3.6 methodology consensus not strictly required

6. SPIRT issues advice to who?
   (a) If party who forwarded issue is GNSO Council, whereupon:
      • Expeditious consideration towards decision in no more than 2 Council meetings from receipt of advice
      • SPIRT to be informed of decision with rationale & next steps
   (b) To party who forwarded issue not being GNSO Council, then subject to prior cc to GNSO Council, whereupon Council is expected to, within 60 days:
      • Approve delivery of advice to party; or
      • Raise concerns on advice with SPIRT; or
      • Elect to remove advice from SPIRT process, transfer to other GNSO Operating Procedures
Standing Predictability Implementation Review Team ("SPIRT")

Discussion Pending:

7. SPIRT Composition
   • Should include at least one from SubPro PDP WG and IRT for guidance on reasoning for policy recommendations & implementation decisions, respectively
   • Representative?(#) – eg SG, ACs and other SOs may assign members; how to compel participation?
   • Membership criteria should identify knowledge, experience, responsibilities to assign orgs(#), rules of engagement, extended SOI beyond declared COI *

8. Additional SM expertise
   • To be available to SPRIT if needed

9. Term length of SPIRT Members
   • Should there be term limitations?
   • Perhaps 2-years with option to renew for up to 2 additional 2-year terms, with staggered appointments for continuity & knowledge retention

10. (#) Role of SPIRT Members
    • Representative vs independent judgement? Act in “representative capacity” or exercise independent judgement?
    • Allow independent judgement, leave to assigning org to replace assignee where needed

* A Statement of Participation, like NCAP SOI
SNAPSHOT OF SUBPRO WG DELIBERATIONS
Predictability Model (as at 7 Jan 2020)

Standing Predictability Implementation Review Team ("SPIRT")

Discussion Pending:

11. COI Procedures
   • SPIRT Members to complete Statement of Participation, subject to periodic review
   • Reference to ICANN Bylaws on transparency, anti-discriminatory treatment, COI;
   • Follow Expected Standards of Behavior per ICANN Accountability and Transparency Framework

12. Confidentiality Obligations
   • Presumption of full transparency with at min publicly archived mailing list and all SPIRT call recordings
   • In extraordinary event requiring confidentiality, opt for meetings per Chatham House Rules and if needed, additional rules & procedures to be developed by SPIRT in coordination with staff

13. Role of ICANN Staff
   • ICANN Org to play supporting role or follow IRT?
   • Recall that ICANN Org can forward issues to SPIRT

14. SPIRT Leadership
   • Chair to be selected from amongst membership as early as possible
   • Have possibly up to 2 Vice-Chairs, consider diversity of Community/members*

15. Role of Public Comment
   • Since advice related to operational issues, not subject to public comment unless agreed by SPIRT consensus
   • Also, advice directed to GNSO Council not normally subject to public comment beyond GNSO Operating Procedures

* Look at CSC Charter
## SNAPSHOT OF SUBPRO WG DELIBERATIONS

**Predictability Model** *(as at 7 Jan 2020)*

### Discussion Pending:

<table>
<thead>
<tr>
<th>Type of Change</th>
<th>SPIRT involved?</th>
<th>Require Public Comment?</th>
<th>Notes</th>
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<tbody>
<tr>
<td>1a. Operational – Minor</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>1b. Operational – Non Minor</td>
<td>No</td>
<td>No</td>
<td></td>
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<tr>
<td>1c. Operational – New Process</td>
<td>Yes</td>
<td>No</td>
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| 2. Possible Policy level changes| Yes             | Yes, if policy impact indicated |   - SPIRT to recommend when an otherwise operational change has a possible policy implication  
   - SPIRT to review proposal change and notify GNSO Council in case of possible policy impact |
| 3. Possible Policy level new proposals | Yes             | Yes                      |   - SPIRT to notify GNSO Council of new proposals with report on policy impact, if any, of the change |