# New gTLD Subsequent Procedures PDP Update #2

## Status of Public Comments Review

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# PURPOSE OF UPDATES

**Draw attention to selected public comments received during Aug-Sep 2020 PC proceedings:**

- Treatment of ALAC Comments
- Other comments of interest
- SubPro PDP WG leanings

**Determine possible responses:**

1. ALAC Advice
2. ALAC Minority Statement
3. Comment
4. No further action
5. Other?

# SUBPRO TOPICS COVERED

**as at 24.11.2020**

1. 0. General Comments
2. 2. Predictability
3. 17. Applicant Support
4. 32. Limited Challenge/Appeals Mechanism
5. 12. Applicant Guidebook
6. 13. Communications
7. 14. Systems
8. 20. Application Change Requests
9. 24. String Similarity Evaluations – *revisiting "intended use"*
10. 35. Private Resolutions of Contention Sets / Auctions – *ongoing discussion*
11. 15. Application Fees
12. 36. Base Registry Agreement
13. **31. Objections**
14. 30. GAC Early Warning & GAC Consensus Advice
15. 28. Role of Application Comment
16. **9. Registry Commitments (Public Interest Commitments & Registry Voluntary Commitments) – *ongoing discussion***
17. 34. Community Applications (+ Community Priority Evaluations)
18. 41. Contractual Compliance
19. 37. Registrar Non-Discrimination / Registry/Registrar Standardization
20. 38. Registrar Support for New TLDs
21. 25. Internationalized Domain Names – *revisiting against pending IDN EPDP*
22. 6. RSP Pre-Evaluation
23. 27. Applicant Reviews
24. 39. Registry System Testing

# Recap
## CPWG 18.11.2020 Call
## + Updates
as at 24.11.2020

| Issue (+ Update): | Status / Resolved : |
|---|---|
| **2. Predictability** | |
| • Access / Membership to SPIRT | • Access / Membership to SPIRT for ALAC should mirror other AC; membership to remain open subject to 'expertise' |
| • Emergency Situation | • ICANN Board has fiduciary duty to act |
| • Review of SPIRT - New IG 2.3 added for lean, focused review of SPIRT supervised by GNSO Council, but does not suspend operation of SPIRT | |
| **30. Objections** | |
| • ALAC Standing for Community Objections | • ALAC should be equal in standing to the Independent Objector insofar as not having to prove a link to the community invoked in its Community Objection |

1 ALAC Advice

2 ALAC Minority Statement

# Recap
## CPWG 18.11.2020 Call
## + Updates
as at 24.11.2020

| Issue (+ Update): | Status / Resolved : |
|---|---|
| **9. Registry Commitments (PICs & RVCs)** | |
| • DNS Abuse | • Maintain position on need for SubPro recommendations on DNS Abuse<br>1 ALAC Advice<br>2 ALAC Minority Statement |
| • ICANN Board: Enforcement, Bylaw conflict re: PICs , String Similarity, Community TLDs commitments & RVCs<br>  • Board comments intended to seek answers not determine policy | • To circle back<br>  • Explore joint advocacy with GAC – focus on upholding public interest, protecting end users, consumers<br>  • All PICs and RVCs must be enforceable |
| • NABP: Safeguards in Base RA only require that provisions be documented in RRA, not actually doing it. Need to clarify that Registries must enforce against Registrars. | • Support clarifying intent 3 Comment<br>  • Pending SubPro WG deliberation |
| • Prohibition of fraudulent / deceptive practices in PIC or base RA<br>  • PICDRP requires evidence of harm | • Pending SubPro WG deliberation |

# Recap

# 34. Community Applications & CPE + Updates

as at 19-11-2020

**28.**
**Role of Application Comment**
as at 19-11-2020

## Major reform of CPE process, criteria, guidelines:

- Changes to CPE process
  - COI challenge mechanism
  - Synchronize public comment period – Applicant Comment Period should only run for predetermined period per AGB, only source of comments considered during evaluations
  - Limited challenge/appeal mechanism
  - Use of research, more dialogue
  - Verification of commentor in support / opposition
- Changes to CPE criteria:
  - Broader, more flexible "community" - avoid bias towards economic-driven groupings
  - Independence in scoring of Criteria, sub-criteria
  - Flexibility, clarity in Criteria, sub-criteria application
  - No imbalance in support vs opposition
  - Lower threshold to prevail
- More awareness on use of PICDRP and RRDRP
- Greater community participation in ICANN's engagement of a CPE service provider/panellists:
  - (i) development of criteria to evaluate and select candidates;
  - (ii) shortlisting of identified candidates;
  - (iii) final selection process; and
  - (iv) terms for inclusion into the contract between ICANN Org and the selected candidate.
- More grassroot participation and expertise in evaluation panels

- Much of what ALAC commented on is accepted
  - New IG 34.2: Existence of community prior to application submission period
  - New IG 34.3: CPE Criterion 1-A Delineation – non-exhaustive list of elements to cater to economic and non-economic communities
  - New IG 34.4: CPE Criterion 1-A Delineation "Organized" - allowance for more than 1 entity administering a community
  - New IG 34.5: CPE Criterion 2-A Nexus – clarity on scoring
  - New IG 34.6: CPE Criterion 2-B Uniqueness "Identify" – 2 distinctive paths for scoring
  - New IG 34.7: CPE Criterion 2-B Uniqueness – more flexibility in interpreting uniqueness for scoring
  - New IG 34.8: CPE Criterion 4-A Support – more flexibility in interpreting uniqueness for scoring
  - New IG 34.9: Utmost care to avoid "double-counting", any negative aspect in assessing one criterion should not affect assessment for other criteria
  - New IG 34.17: CPE Criterion 4-B Opposition "non-negligible size" – take into consideration the relative size of opposer to community applicant purports to serve
  - New Rec 28.14: A single Application Comment Period must apply to both standard and community-based applications – only expressions of support or opposition to a community-based application submitted during the Application Comment Period are to be considered during CPE.
- ALAC's proposition for greater community participation in selection and engagement of CPE provider subject to further deliberation

# 17. Applicant Support

as at 19-11-2020

15. Application Fees
as at 5-11-2020

35. Auctions

## Dedicated IRT for ASP

- SubPro WG: "*A lot of the comments have been considered*"
- IG 17.5: A dedicated IRT should be established and charged with developing implementation elements of ASP by revisiting 2011 Final Report of Joint Applicant Support WG, 2012 implementation of ASP
  - Education, awareness, range of non-$ support
  - Criteria for willful gaming
  - Implementation of bid credits / multiplier for ASP recipients
- Will we have effective community participation in IRT?

## Reduction/Elimination of Registry Fees:

- Appears to be no consensus to allow this

## Metrics for ASP:

- Some of the metrics ALAC proposed have been included for dedicated IRT consideration in implementation phase
- To check inclusion in 7. Metrics & Monitoring

## Use of "Community" in ASP vs. CPE:

- SubPro WG: "*Isn't supposed to have the same definition of "community" as CPE.*"

1 ALAC Advice

2 ALAC Minority Statement

4 No further action

5 Other?

# 41. Contractual Compliance

**as at 17-11-2020**

## Standards, thresholds in assessing complaints

- ALAC: Contractual Compliance to introduce/publish threshold against which registry/registrar practices are assessed
  - Including guidelines on how each threshold is derived and applied
  - Goal is to identify patterns of good vs lax operating practices
  - Increases transparency!

- Accepted – need to see revisions to Rec 41.2

## Financial penalties for non-compliance?

- GAC: "*Existing compliance, enforcement and sanction processes should be concretely strengthened, in particular by introduction of financial penalties for non-compliance.*"

3 Comment

4 No further action

5 Other?

# 25. Internationalized Domain Names

as at 17-11-2020

## Potential 'overlap' with IDN Scoping Team:

- ICANN Org:
  - SubPro WG has taken into account Variant TLD Recommendations and has also identified areas which do not appear to be directly addressed.
  - GNSO considering an EPDP on IDNs to address these following IDN Scoping Team.
  - Unclear details on how to proceed with IDN TLDs and variant labels in subsequent rounds
  - Dependency on GNSO PDP on IDNs

- SubPro WG to further consider issues and status of IDN EPDP and to circle back with IDN team in ICANN Org

## Treatment of IDN Variant TLDs:

- ALAC advocates offering IDN gTLDs identified as IDN variants of existing or applied for gTLDs be offered to relevant RO of the existing gTLDs by way of activation at no or minimal costs and not through separate application incurring prevailing standard application fee.

- To be included in rationale – need to see revision

## Metrics for IDNs:

- Metrics that ALAC proposed have been included for dedicated IRT consideration in implementation phase

- Accepted – need to see revision to IG