

## Draft Final Report on the New gTLD Subsequent Procedures Policy Development Process

### Status of This Document

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This is the draft Final Report of the GNSO New gTLD Subsequent Procedures (SubPro) Working Group.

### Preamble

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The objective of this draft Final Report is to present draft final recommendations and implementation guidance on topics within the Working Group's charter. The draft recommendations and implementation guidance included in this report are the culmination of years of Working Group deliberations and community input that take into account input received through a number of public comment periods, including a survey of existing Stakeholder Group / Constituency / Advisory Committee statements from the 2012 round of new gTLDs, a set of dozens of initial questions aimed at getting input on the processes and results of the 2012 new gTLD round, as well as comments on the Working Group's Initial Report and Supplemental Initial Report. Given that some of the recommendations have been substantively updated, this draft Final Report is being published for an additional public comment period. While the full report is open for comment, the Working Group would like input to focus on areas that have substantively changed since publication of the Initial Report and Supplemental Initial Report and in

limited instances, questions that the Working Group has posed to the community for feedback.

With over 250 members and observers in the Subsequent Procedures Working Group, dozens of issues in scope, and thousands of hours spent on addressing the 2012 New gTLD Program and improvements that can be made to the program moving forward, the Co-Chairs have decided to defer any consensus calls until the Working Group's recommendations are finalized. Therefore, this draft Final Report does not contain a "Statement of level of consensus for the recommendations." While no consensus calls have been held at this point, the Co-Chairs believe that this report accurately reflects the direction that the Working Group is taking on the topics included in its charter.

After a review of public comments received on this draft Final Report, the Working Group will finalize the recommendations and other outputs. The Co-Chairs will conduct a formal consensus call on all recommendations and outputs before the Working Group issues its Final Report.

Part 2 of this report focuses on the substance of topics addressed by the Working Group. Each topic follows the same basic structure, with a focus on Working Group draft outputs and the rationale associated with these outputs. There are 5 types of outputs: (a) Affirmation, (b) Affirmation with Modification, (c) Recommendation, (d) Implementation Guidance, and/or (e) No Agreement. These are described in the box below. Each topic also briefly summarizes key issues that were raised in deliberations since publication of the Initial Report and Supplemental Initial Report. This summary does not repeat the comprehensive explanations, background and discussion material included in the Initial and Supplemental Initial Report and should be read in conjunction with the deliberations summary included in the Initial and Supplemental Initial Report. Finally, noting the large number of topics and the interdependency between many subjects, each topic summarizes intersections between the topic and other issue areas, in addition to related efforts outside of the PDP, and the reason for the interdependencies.

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. The Working Group would like respondents to focus their input on these specific items. This draft Final Report is the product of several years of Working Group deliberations, numerous public comment periods, community consultations at ICANN meetings, and correspondence received and sent. Further, this means that this draft as a whole is carefully balancing the interests of all the Working Group members, including arguments for and against certain outcomes that have been made over the years.

**Therefore, respondents are discouraged from repeating input that has been provided in previous public comment periods, as this feedback has been extensively discussed and taken into account in the development of the draft Final Report. When providing comment or responding to a question contained in the draft Final Report, the emphasis should be on providing new information that you do not**

**believe the Working Group has previously considered; and accordingly, that response should include an explanation and/or supporting documentation for why the Working Group's proposed outcome should be different.**

Because the outputs included in each section of the report are intended to be considered as a package, respondents are requested to consider them in this manner when preparing their public comment response. For each section of the report, respondents will be presented with a summary of substantive differences, if any, that have been made since publication of the Initial Report and Supplemental Initial Report and asked to what extent they support the outputs. There will be an opportunity to provide additional explanation. In addition, a limited number of questions are included on specific topics for which the Working Group is seeking additional input from the community. The structure of this public comment forum is intended to support the targeted nature of the public comment period.

The Co-Chairs offer sincere gratitude to Working Group members and ICANN Policy Staff for their ongoing dedication that has enabled us to deliver this draft Final Report.

## **Types of New gTLD Subsequent Procedures WG outputs**

**Affirmation:** Affirmations indicate that the Working Group believes that an element of the 2012 New gTLD Program was, and continues to be, appropriate, or at a minimum acceptable, to continue in subsequent procedures. Affirmations may apply to one or more of the following:

- Policy Recommendation, Implementation Guideline, or Principle from the 2007 policy
- Existing provisions of the 2012 Applicant Guidebook; or
- Other elements of implementation introduced after the release of the final Applicant Guidebook but applied to the 2012 application round.

In the event the Working Group was unable to recommend an alternate course of action, the Working Group operated on the basis that the “status quo” should remain in place as a default position. This status quo consists of the 2007 policy, the final Applicant Guidebook, and any implementation elements that were put into practice in the 2012 application round.

**Affirmation with Modification:** Similar to affirmations, but used in cases where the Working Group recommends a relatively small adjustment to the 2012 New gTLD Program’s policies or implementation. In some cases modifications to the policy or implementation language are necessary to reflect what actually occurred during the 2012 gTLD round.

**Recommendation:** The Working Group expects that the GNSO Council and ultimately the ICANN Board will approve and implement all recommendations set forth in this Final Report, and ICANN Org will work closely with an Implementation Review Team (IRT) to ensure that implementation takes place in line with the Working Group’s intent. Recommendations often address **what** the Working Group recommends takes place, as opposed to how it should take place. Recommendations typically use the term “must,” indicating that the recommended action is required to take place and/or necessary for the new gTLD program.

**Implementation Guidance:** The Working Group strongly recommends the stated action, with a strong presumption that it will be implemented, but recognizes that there may exist valid reasons in particular circumstances to not take the recommended action exactly as described. However, the party to whom the action is directed must make all efforts to achieve the purpose behind the recommended action (as expressed in the rationale and the Recommendation to which the Implementation Guidance is linked, if applicable) even if done through a different course. In all cases, the full implications must be understood and carefully weighed before choosing a different course. Implementation Guidance commonly refers to **how** a recommendation should be implemented. Implementation Guidance typically uses the term “should” indicating that the Working Group expects the action to take place, noting the caveats above.

**No Agreement:** In a very few cases, the Working Group did not reach agreement on recommendations and/or Implementation Guidance where there arguably was not a clear “status quo” or default position from the 2012 round to affirm. Therefore, this Final Report attempts to capture the different views of the members of the Working Group, but makes no further assertion about policy or implementation for subsequent procedures on the matter.