

New gTLD Subsequent Procedures PDP WG Final Report

GNSO Council Meeting

Flip Petition

21 January 2021



About this PDP

- GNSO recommendations from 2007 resulted in the Applicant Guidebook and the 2012 round of the New gTLD Program.
- A Discussion Group was convened in 2014, which helped establish the scope for the New gTLD Subsequent Procedures PDP (“SubPro”) that followed.
- SubPro expected to focus on considering the 2012 round policy and determining what changes might need to be made to the original GNSO recommendations from 2007 and/or implementation.
- The PDP was chartered and began its work in early 2016. With an open membership model, the Working Group had 200+ members from many parts of the community.
- **The Working Group has submitted its Final Report to the GNSO Council for its consideration.**

Overview of the Final Report

- Includes final recommendations, implementation guidance, and other “outputs” on the 40+ topics within the Working Group's charter.
- Takes into account active participation of all Cs, SGs, as well as GAC and ALAC, deliberations of the WG, and community input received through a number of Public Comment periods and outreach to the ICANN community.
 - GAC/ALAC/ccNSO had leadership role in Geographic Names at Top Level work.
- Topics in the Final Report are ordered in groupings that map generally to the chronological proceedings from the 2012 round of the New gTLD Program.
- Because of the nature of the subject of this PDP, **the topics in the report, and the recommendations contained within, are highly interdependent.**

Working Group “Outputs”

- There are 5 types of outputs included in the report:
 - a) Affirmation: An element of the 2012 New gTLD Program was, and continues to be, appropriate/acceptable for subsequent procedures. Absent agreement for a change, the “status quo” is the default position.
 - b) Affirmation with Modification: The WG recommends a relatively small adjustment to the existing policies or implementation.
 - c) Recommendation: The WG expects these to be approved and implemented consistent with the WG’s intent; Often address what the Working Group recommends takes place.
 - d) Implementation Guidance: The WG strongly recommends the stated action, with a strong presumption that it will be implemented, but recognizes that there may exist valid reasons to not take the recommended action exactly as described; Often refers to how a recommendation should be implemented.
 - e) No Agreement: In one case, there no agreement on recommendations and no clear “status quo” or default position.

Consensus Designations

- All but 1 of the topics received a designation of either Full Consensus or Consensus.
 - 25 topics received Full Consensus
 - 16 received Consensus
 - 1 received a designation of Strong Support but Significant Opposition (Topic 35: Auctions: Mechanisms of Last Resort / Private Resolution of Contention Sets)
- Within each of the topics that received either Consensus or Strong Support but Significant Opposition, outputs within the topic that achieved Full Consensus or Consensus are specified.
 - For example, in Topic 2, the overall designation for the Topic is “Consensus.” That said, Outputs 2.1, 2.2, 2.4, 2.5, 2.6, 2.7 and 2.8 had “Full Consensus”, but Output 2.3 had Consensus.
- Annex C provides detail about the consensus designations for all the topics and outputs.

Topics Which May Require Further Discussion: 9

Mitigating DNS Abuse (Topic 9):

- The Working Group referred the issue of DNS Abuse in all gTLDs back to the GNSO Council by letter.
- The Working Group acknowledges ongoing important work in the community on the topic of DNS abuse and believes that a holistic solution is needed to account for DNS abuse in all gTLDs, rather than making recommendations with respect to only the introduction of subsequent new gTLDs.
- **The Working Group did not make recommendations on this topic.**

Public Interest Commitments / Registry Voluntary Commitments (Topic 9):

- Substantive proposals in Topic 9 garnered Consensus regarding PICs and RVCs, but the ICANN Board raised questions in its comments to the Draft Final Report about **whether requiring PICs/RVCs in subsequent rounds (other than those that were grandfathered) are in line with the 2016 ICANN Bylaws.**
- The WG believes that this **question needs to be answered by the ICANN Board itself** with input from the entire community.
- Relevant recommendations should be read assuming that PICs and RVCs can be implemented in the contracts and enforced by ICANN.
- Report includes proposed ways to implement PICs/RVCs in a manner that the WG believes would be compliant, but this **may** need further discussion within the community as a whole (not in a PDP).

If recommendations cannot be implemented with the current Bylaws, the community may want to engage in a discussion to revise the Bylaws or revise recommendations to ensure that they are enforceable.

Topics Which May Require Further Discussion: 23 & 35

Closed Generics (Topic 23):

- The Working Group had **“Full Consensus”** on the fact that it was unable to come to an agreement on **what, if anything, should be done with respect to Closed Generics** in subsequent rounds.
- This topic was **debated for many hours**, was the subject of **several requests for comments** by the community, and had **multiple proposals that were discussed, debated and ultimately dismissed**.
- The Working Group believes that **if this issue were to be considered in future policy work, it should also involve experts in the areas of competition law, public policy, and economics, and should be performed by those in the community that are not associated with any past, present, or expectations of future work in connection with new gTLD applications or objections to them.**

Mechanisms of Last Resort / Private Resolution of Contention Sets (Topic 35):

- Topic 35 was the only one with the overall designation of Strong Support but Significant Opposition. Although **many of the elements in those recommendations did get Consensus support including:**
 - **allowing other forms of private resolution, such as combining applications, creating new ventures, etc.**
- There was **NO** consensus on:
- whether **private auctions (where each losing applicant splits the proceeds from the winning bid) should continue to be allowed** in subsequent rounds.
 - whether the **auctions of last resort should be done as a sealed bid auction where bids are submitted at the beginning of the process**
 - whether **private auctions should be allowed to resolve contention sets**

Questions?