**Working Document**

Topic B: “Same entity” at the top-level

| **CHARTER QUESTIONS** |
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| **b1)** Both the SubPro PDP and the Staff Paper recommend that variant TLDs that ICANN delegates must have the “same entity” as the sponsoring organization and the “Registry Operator” be used as the definition of the “same entity” at the top-level.[[1]](#footnote-0)  Should this recommendation be extended to existing TLDs? |
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**Early written input from SSAC members:** Yes.

**Early written input from ccNSO (ccPDP4 VM SubGroup):**

ccPDP4 VM Subgroup Recommendation. IDN variant TLDs {T1, T1V1, ..,T1Vx} MUST be allocated to same entity. The set of allocatable variant strings that is generated from the selected IDNccTLD string by applying the RZ-LGR, MUST be allocated to one and the same entity, the requestor (the entity that submits the selected IDNccTLD string), delegated to one and the same entity, the IDN ccTLD Manager) or withheld for possible future delegation to the IDNccTLD Manager. In other words, for a selected top-level label T1, its allocatable variant label(s) T1V1,..., T1Vx shall only be allocated to the IDN ccTLD requestor, or - after the delegation process for the selected IDNccTLD string has been initiated - delegated to the same IDNccTLD Manager or withheld for possible delegation to that IDNccTLD Manager.

If a specific IDNccTLD is operated by a ”back-end” registry service provider under arrangement with the IDNccTLD Manager, or will be operated by a “back-end” registry service provider under arrangement with the IDNccTLD Manager, then that “back-end” service provider MUST operate all delegated variants of that specific IDNccTLD as well.

Additional observations of the SubGroup

ccPDP4 VM Subgroup Recommendation. All delegated variant IDNccTLD strings MUST be operated by the same entity. If a specific IDNccTLD is operated by the IDNccTLD Manager all variants MUST be operated by the IDNccTLD Manager (IDNccTLD Manager is the entity or organisation listed in the IANA rootzone database as the ccTLD Manager for a specific [IDN]ccTLD). If a specific IDNccTLD is operated by a ”back-end” registry service provider under arrangement with the IDNccTLD Manager, or will be operated by a “back-end” registry service provider under arrangement with the IDNccTLD Manager, that “back-end” service provider MUST operate all delegated variants of that specific IDNccTLD.

Examples from IANA Root Zone Database to illustrate the definition of ccTLD Manager:

Example 1 (ASCII ccTLD):

Delegation Record for .AC

(Country-code top-level domain)

ccTLD Manager

Internet Computer Bureau Limited

c/o Sure (Ascension Island)

Georgetown

ASCN 1ZZ

Ascension Island

Example 2 (IDNccTLD):

Delegation Record for .இலங்கை

(Country-code top-level domain designated for two-letter country code LK)

ccTLD Manager

LK Domain Registry

c/o Computer Science and Engineering Department, University of Moratuwa

Moratuwa 10400

**High-level Notes:**

* In the framework for managing variant labels, variants are labels that are deemed to be the same. The goal of “same entity” principle is to protect against denial of service and misconnection. Denial of service means that you do not get to the resource at all. Misconnection means that you think you are going to website A but you go to website B instead. With variants, there is an expectation of the same behavior and the same experience, and therefore there is the idea that variants should be managed by the same entity.
* SSAC members stressed the fact that there is no technical solution for synchronization. It is up to the registrant that sets up websites, services, and other elements that ensure equivalent behavior. At the top-level, the registry operator is far away from that experience. If the labels are delegated to the same entity, the Registry Operator still cannot guarantee the same experience because it is so far removed from the end user.
* There was some discussion about whether “sponsoring organization” and “registry operator” mean the same thing. In the gTLD world, the term “Registry Operator” is used to refer to the entity that manages the gTLD. There is a suggestion of using “TLD manager” (as defined in the IANA database) rather than “Registry Operator” in response to this charter question.
* The EPDP Team supports extending the SubPro and Staff Paper recommendations to existing gTLDs.

| **b2)** Both the SubPro PDP and the Staff Paper recommend that variant TLDs be operated by the same back-end registry service provider, the organization providing one or more registry services (e.g., DNS, DNSSEC, RDDS, EPP) for a registry operator.[[2]](#footnote-1)  Should this recommendation be extended to existing TLDs and their variant TLD labels? |
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**Early written input from SSAC members:** Yes.

**Early written input from ccNSO (ccPDP4 VM SubGroup):** See response to b1.

**High-level Notes:**

* *As B1 and B2 are interrelated, the discussion for these two charter questions was combined, with the deliberations captured under B1 above.*
* The EPDP Team supports extending the SubPro and Staff Paper recommendations to existing gTLDs and their variant gTLD labels.

| **b3)** Beyond having the same Registry Operator and same back-end registry service provider, as referenced in b1) and b2), is there a need for additional constraints for the same entity requirement for the top-level ?[[3]](#footnote-2) If so, the rationale must be clearly stated. |
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**Early written input from SSAC members:** We wish to emphasize that currently there is no DNSprotocol solution that enforces equivalence (or the same behavior) of variants in the DNS. Policymakers need to understand this crucial limitation, so as not to design policies that attempt to force such equivalence.So in essence, although administratively these domains are considered a package, technically speaking, they are different domain names.

**High-Level Notes:**

* The EPDP Team agreed that no additional constraints are needed to enforce the same entity requirement for the top-level.
* The EPDP Team supported adding an implementation guidance that if there is a change to the back-end registry service provider of one variant TLD label, all variant labels of that TLD should be changed to the same back-end registry service provider simultaneously.

| **b4)** The policy recommendation advises that variant TLD labels be allocated to the same entity, however a process to apply for a variant TLD does not exist. The WG and the SubPro IRT to coordinate and consider the following questions in order to develop a consistent solution: what should an application process look like in terms of timing and sequence for an existing and future Registry Operator with respect to applying or activating their allocatable variant TLD labels? |
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**Early written input from ccNSO (ccPDP4 VM SubGroup):**

A. ccPDP4 VM Subgroup Recommendation.

All ccTLD related policies MUST apply to variant IDNccTLDs as well. However, specific requirements under a policy may vary for the selected IDN ccTLD string and its allocatable variants.

If a selected IDNccTLD string is delegated under the existing relevant policy for delegation of ccTLD, the whole set of allocatable IDNccTLD variants SHALL be delegated, or withheld for future delegation to the same entity, on the basis of the request for delegation of the selected IDNccTLD string, unless otherwise foreseen under this policy.

If a selected IDNccTLD string is requested to be transferred in accordance with RFC1591 as interpreted by the FoI to another entity, the whole set of allocatable IDNccTLD strings SHALL be transferred or withheld for future delegation to the same other entity, on the basis of the request for transfer of the selected IDNccTLD string, unless otherwise foreseen under this policy.

If a selected IDNccTLD string or any of its variants is revocated in accordance with RFC1591 as interpreted by the FoI, all other allocated variant IDNccTLDs (delegated or withheld for future delegation) SHALL be revoked.

If the selected IDNccTLD string should be retired as foreseen under this policy, all variant IDNccTLD strings SHALL be retired, unless otherwise foreseen under this policy.

Implementation of this and other recommendations pertaining to variant IDNccTLD strings is considered a matter of implementation.

B. Sub-group Findings and Discussion.

Scope of ccNSO PDPs may be a limiting factor (Annex C ICANN Bylaws. ccPDP4 is limited to the selection of IDN ccTLD strings. The basic premise is that delegation, transfer, revocation and retirement should be in accordance with existing policies. This is reflected in the ISSUE Report, and proposed policy proposals.

**High-Level Notes:**

* The question is limited to the “timing” and “sequence” for applying for or activating allocatable variant TLD labels, not examining the evaluation process itself. “Timing” means whether within a gTLD application round OR on a rolling basis; “sequence” means whether in a single package or separately, when needed.
* The discussion focused on future new gTLDs. The timing may be impacted by what level of effort is needed to evaluate IDN variant TLDs and allow for their activation. This question may be difficult to answer without understanding the relevant processes, although there is some support to allow for activation of variant TLD labels on a rolling basis. A member suggested the pre-evaluation of the entire allocatable variant set, which is constrained by the RZ-LGR, to allow for simplified activation of variants. Such pre-evaluation could also help address how variants are going to be considered in string similarity review, objection, and other processes.
* The request to activate variant labels is also related to market needs, promoting IDNs, preserving security and stability, and other competing interests/needs.

| **b4a)** For the variant labels with status “withheld for the same entity” (i.e. not requested for allocation in the application process), what role do they play? |
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**High-Level Notes:**

* Staff explained the context of the question – it is asking should the “withheld same entity” variant labels be set aside in the initial application or request for activation step. The question does not deal with the role of “withheld same entity” variant labels in objection, string similarity, string contention, and other steps in the process (to be discussed in Topic E).
* One member suggested including the point that ROs do not have rights or claims to the “without same entity” labels outside of the approved request process. Another member responded that in a situation where a label goes through an evaluation process but has a “withheld same entity” designation, the applicant may have legal claims to that label.
* The discussion has not been concluded as the team was unsure whether “withheld same entity” labels include variant labels not explicitly requested by the applicant, or only apply to those already been included in an application and passed evaluation.
* There is not much of an issue if there is the rule that all labels from the variant set can only be applied for by the same entity.
* In the charter drafting stage, this question was developed in the context of self identified variants, which were used to some extent in the 2012 round even though they had no legal standing. There would only be an issue if different entities could apply for these variant labels. This question alludes to whether withheld-same-entity variant labels are used in other processes during the application evaluation.
* Question E1 is regarding withheld-same-entity variant labels’ role in the string similarity review process and objection process. There is support for parking B4a until that question is addressed.

| **b5)** Do restrictions that apply to a TLD (e.g., community TLDs, dot brand TLDs) also apply to its variants? Are these labels equally treated as different versions of the same string, or completely independent strings not bound by the same restrictions? |
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**High-Level Notes:**

* The EPDP Team discussed this question in the context of future new gTLD applications.
* There is general support that restrictions that apply to a primary applied-for TLD also apply to its variants. In other words, if a primary applied-for TLD is a Brand TLD, its variants should also be treated as Brand TLDs. They should be bound by the same restrictions and treated the same way in a single application.
* A question was raised for the brand TLD case. The brand needs to submit proof that the applied for string is identical to the registered trademark of the Registry Operator. If its variant is not visually identical, will it be rejected because it will not meet the Brand TLD string criteria? Do the same application criteria apply for a Brand TLD and its variant labels?
* There is a suggestion that the principle of one application should apply. It means that one set of criteria applies for the set, and endorsement is sought for the primary TLD; variants come along in a package. All variants in the same application should be treated the same and need to go through the string similarity, objection, public comment and other processes.
* There is also a discussion of GeoTLDs and the evaluation details regarding the variants of a GeoTLD. One member believes that the variant label of an applied-for GeoTLD may not be available for the applicant due to reasons such as applicant’s inability to obtain support from relevant governments or public authorities. However, due to the same entity principle, there is no way to have two entities operating two GeoTLD variants in the same set. If two entities are applying for GeoTLD variants in the same set, this needs to be addressed through contention resolution. RySG members were tasked to ask GeoTLD colleagues if they have any concern about the direction the EPDP Team is taking on this charter question.
* Application evaluation criteria of TLDs and their variants with restrictions will be discussed in a charter question of Topic E.

1. See Recommendation 25.5 in the SubPro PDP Final Report, p.115: <https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=115>; Recommendation 2 in the Staff Paper, p.3: <https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=3>; rationale for Recommendation 25.5 in the SubPro PDP Final Report, p.117: <https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=117>; Section 3.2 in the Staff Paper, pp.6-7: <https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=6> [↑](#footnote-ref-0)
2. See Recommendation 25.5 in the SubPro PDP Final Report, p.115: <https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf#page=115>; Recommendation 7 in the Staff Paper, p.4: <https://www.icann.org/en/system/files/files/idn-variant-tld-recommendations-analysis-25jan19-en.pdf#page=4> [↑](#footnote-ref-1)
3. The initial set of IDN variant TLD management recommendations proposed for public comment also required that the IDN variant TLDs be implemented using the same nameservers, unless otherwise justified. However, that recommendation is now removed based on the feedback received by the community asking for more operational flexibility in the implementation of IDN variant TLDs. [↑](#footnote-ref-2)