Status of 38 SubPro Pending Recommendation as at 12 May 2023

(a) Provision of clarifying information to the Board

SubPro Topic	Pending Recs	Synopsis: Board Concern	GNSO Reaction	ALAC Priority?
3: Apps Assessed in Rounds	3.1, 3.2, 3.5, 3.6, 3.7	Inflexibility of being tied to rounds	• On basis of small team (ST) discussion, staff support team to develop first draft of clarifying information, followed by ST review; • Aim to share clarifying info in advance of meeting with Board [on 22 May]; • Based on Board's feedback, determine whether further Council action is necessary	NO. Unless FCFS crops up again, even so, must → PDP
9: RVCs/PICs	9.2	Waiver of Spec 11 3(a) & 3(b) for single-registrant TLDs → unforeseen harm		NO. No registrants to protect against DNS Abuse, .Brands to take own action.
18: Terms & Conditions	18.3	Covenant not to sue subject to challenge/ appeal mechanism → undue legal exposure		NO. Doesn't need to be our fight
19: Application Queuing	19.3	Prescriptive batch size → inflexibility		NO. Implement formula, not batch size.
22: Registrant Protections	22.7	Exemption of COI = no EBERO funds: better to be case-by-case than blanket exemption		NO. No registrants to protect.
26: Security & Stability	26.9	Ability to prohibit emojis at the 3rd Level		NO. Board to figure this out.
29: Name Collision	29.1	Not Concern, awaiting NCAP Study 2 Report		**YES? We're with the Board**
32: Limited Challenge /Appeal	32.1, 32.2, 32.10	Co-existence with Bylaw-driven Accountability Mechanisms, add unnecessary cost and delay		NO. Doesn't need to be our fight
34: Community Apps	34.12	Possibly required to publish confidential info for public comment		NO. Never intended for this to happen. GNSO to clarify.
35: Auctions	35.3, 35.5	"Private Auctions" mentioned		**YES, but not on these rec per se. Need to support Board's plan for external expertise to deal with auctions**

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(b) Determination that the issue can be resolved during implementation

SubPro Topic	Pending Recs	Synopsis: Board Concern	GNSO Reaction	ALAC Priority?
6: RSP Pre-Evaluation	6.8	Roles of IRT & ICANN org seem to be reversed	• None at this stage, ST Assessment captures rationale • Based on Board's feedback, determine whether further Council action is necessary	NO. Not our fight. Leave GNSO to clarify.
16: App Submission Period	16.1	Application window period too prescriptive		NO. Not our fight. Leave GNSO to clarify.
17: Applicant Support	17.2	Open-ended nature of potential payments		**YES. But IRT can sort this out.**
18: Terms & Conditions	18.4	Ability for applicant to withdraw w/o clarity on "substantive" or "material" changes made to ABG/program process could → gaming		NO. IRT should be able to sort this out.

(e) Explore starting a Bylaw process

SubPro Topic	Pending Recs	Synopsis: Board Concern	GNSO Reaction	ALAC Priority?
9: RVCs/PICs	9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13, 9.15	Uncertainty/risks in ICANN's ability to enforce PICs/RVCs per mission / Bylaw sec 1.1 limitation. Bylaw change must succeed.	• Discuss with Board during [22 May] meeting; • Based on Board's feedback, determine whether further Council action is necessary	**YES. If Bylaw change to proceed, then must complete before next round. Can start exploring if ALAC/At-Large wishes to support (e) in principle**
24: String Similarity	24.3, 24.5,	Enforcing "intended use" of singular/plural through PICs may fall outside ICANN mission.		
30: GAC Consensus Advice & GAC EW	30.7, 31.16,	Use of RVCs to address GAC EW / Advice / comments may fall outside ICANN mission.		
31. Objections	31.16, 31.17	Use of RVCs to address objections may fall outside ICANN mission.		**YES, but not on these recs per se. Ours is about ALAC automatic standing for Community Objections.**

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(g) Other - Dialogue between the Council and Board				
SubPro Topic	Pending Recs	Synopsis: Board Concern	GNSO Reaction	ALAC Priority?
18: Terms and Conditions	18.1	Does not want to unduly restrict ICANN's discretion to reject an application in circumstances that fall outside the specific grounds set out in the recommendation.	• On basis of ST discussion, staff support team to develop first draft of speaking points, followed by ST review; • Discuss with Board during [22 May] Meeting; • Based on Board's feedback, determine whether further Council action is necessary	NO. Not really our fight.
30: GAC Consensus Advice & GAC EW	30.4, 30.5, 30.6	Non-consensus GAC discomfort in removing "GAC Consensus Advice as creating strong presumption for the ICANN Board that the application should not be approved."		NO. Not our fight.