Internationalized Domain Names Expedited Policy Development Process

Finalize P1 Final Recommendations

ICANN

IDN-EPDP Team Meeting #97 | 21 September 2023

Agenda

1. Roll Call and SOI Updates (2 min)

2. Welcome and Chair Updates (5 min)

3. Review of Comments for Rec 3.5, IG 3.6, Rec 4.4 (90 min)

4. Timeline Update and Consensus Call Process (20 min)

5. AOB (3 min)

Review of Comments for Rec 3.5, IG 3.6, Rec 4.4

Rec 3.5 (Leadership Proposal - 14 Sep 2023)

__Final Recommendation 3.5:__ In addition to explaining the mission and purpose of its applied-for primary gTLD string, a future applicant will be required to explain why it has applied for one or more allocatable variant label(s) of that applied-for primary gTLD string. The same requirement applies to existing registry operators who wish to apply for allocatable variant label(s) of their existing gTLDs. The explanation provided must address the following factors for each and every applied-for variant label:

3.5.1 The meaning of the applied-for variant label and how it is the same as the applied-for primary gTLD string or existing gTLD;

3.5.2 The language communities who will benefit from the introduction of the applied-for variant label;

3.5.3 The benefits that introducing the variant label in conjunction with the applied-for primary gTLD string or existing gTLD will provide to registrants, Internet users and the online community at-large; and

3.5.4 How the applicant intends to mitigate potential user-confusion that could be caused by not only the introduction of the applied-for gTLD variant label at the top-level but also in combination with the activation of domain names at the second-level.

IG 3.6 (Leadership Proposal - 14 Sep 2023)

***Implementation Guidance 3.6:** A panel of evaluators with relevant expertise should review the explanation submitted by an applicant for each of the applied-for variant label(s) using criteria based on a general standard of reasonableness. In other words, the submitted responses should be reasonably legitimate and address or remedy concerns arising from the factors set out in <u>Final Recommendation 3.5</u>. Additional criteria may be included provided any additional criteria is pre-identified during implementation. Evaluators may ask clarifying questions of the applicant on the submitted explanation, but the evaluators are not obliged to take the clarifying information into account.*

Consistent with Recommendation 27.2 from the SubPro PDP Final Report, each of the applied-for variant labels evaluated against the identified criteria will be scored on a pass/fail scale (0-1 points only). Applicants will be presumed to have carefully considered whether the applied-for variant labels are necessary to achieve the stated mission and purpose of the primary gTLD and as such, receiving a score of zero (0) should be rare. However, in the event that an applied-for variant label receives a score of zero (0 point), that variant label will be ineligible to proceed further in the application process. A variant label that receives a score of 1 point can proceed to the next stage of the application process.

The same applies to existing registry operators such that only their applied-for variant labels that each receive a score of 1 point can proceed to the next stage of the application process.

Comments Received on Rec 3.5.4 & IG 3.6

From Dennis Tan Tanaka:

- *The proposed revision very similar to the original question in that <u>it's subject to a variety of interpretations as to the what user-confusion might be</u>. If there are specific scenarios that we want the applicant to address, I suggest we start there. Also important, <u>how would an evaluator determine the score (pass or fail) of each response</u>. Are we leaving this for implementation?*

- *Sub Pro's Recs 24.3 and 24.5 recommended that applicants that appear to be singular and plural of the same word not be automatically place in the same contention set so long the applied-for labels have different intended uses. And, to hold applicants accountable by mandatory public interest commitments to use the TLD in line with the intended use presented in the application. As I read the recommendations it reminded me of question 3.5.4 (i.e., plans to mitigate user confusion). The Board raises concerns about the appropriateness of such recommendations. <u>An applicant may describe its intentions and policies as to how they plan to operate and market the TLD (and operate it as intended), but they cannot control (and ICANN won't police) how the registrants will use a domain name (use or not use the variants, in our case), and certainly cannot control how end-user interact and react to the content of a website</u>. So, again, I question the justification for question 3.5.4…. What are we trying to solve for? Can we measure it? Can it be enforceable?*

Comments Received on Rec 3.5.4 & IG 3.6 (Cont.)

From Michael Bauland

- *In general I think the suggested wording is ok. The bullet points in <u>3.5 will serve the purpose that applicants don't just try to activate all allocatable variants, but will have to think about for each variant, why they need it and if it's really necessary.</u>*

- *However, I also copy Dennis' reservation, especially regarding 3.5.4. <u>It will be very difficult to put an objective mark (0/1) to the answers. How should the evaluators decide whether the mentioned mitigation suffices</u>. For example, if the applicant says that they will ensure that the cross-TLD domain variants will be handled "correctly" (i.e., only the same entity will be able to apply for variants), is that already sufficient? If yes, then we could also leave out 3.5.4, because the above will already be required by our developed policy and every registry MUST adhere to it. <u>If it's not sufficient, what else is needed? Does the registry need to look at the content of each and every domain?</u> That certainly is not viable.*

From Sarmad Hussain

- *In the proposed language of 3.6 the text "as such, receiving a score of zero (0) should be rare" is a bit awkward - <u>seems the recommendation is somehow instructing the panel on how to evaluate</u>. Recommendation should define the criteria but should not be seen specifying in the outcome.*

Rec 4.4 (Leadership Proposal - 19 Sep 2023)

__Final Recommendation 4.4:__ All labels from a variant label set, comprising the primary gTLD string and all of its allocatable and blocked variant labels, must share the same outcome out of the String Similarity Review. This means the String Similarity Review, in accordance with <u>Final Recommendations 4.1-4.3</u>, determines that:

4.4.1 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to an existing gTLD, an existing ccTLD, a New gTLD Program Reserved Name, a two-character ASCII string, or any of its variant label(s) of the aforementioned categories of strings, the entire variant label set of the applied-for primary gTLD string will be ineligible to proceed in the application process; or

4.4.2 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to another applied-for primary gTLD string or any of its variant label(s), the entire variant label sets of the two applied-for primary gTLD strings will be placed in a contention set. Upon the resolution of the contention set, the application that prevails can proceed to the next stage of the application process.

4.4.3 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to a requested primary ccTLD string or any of its variant label(s), ICANN org is expected to take the following approach to resolve the conflict:

4.4.3.1 If one of the applications has completed its respective process before the other is lodged, that primary TLD string (and its approved variant label(s), if applicable) will be delegated.

4.4.3.1.1 A gTLD application (including the applied-for variant label(s), if applicable) that has successfully completed all relevant evaluation stages, including dispute resolution and string contention, if applicable, and is eligible for entry into a registry agreement will be considered complete, and therefore would not be disqualified by a newly-filed ccTLD request.

4.4.3.1.2 A ccTLD request (including the requested variant label(s), if applicable) that is validated will be considered complete and therefore would not be disqualified by a newly-filed gTLD application.*

*The term "validated" is defined in the [IDN ccTLD Fast Track Process Implementation](#) and reaffirmed in the [ccPDP4 Initial Report](#).

4.4.3.2 In the case where neither application has completed its respective process, where the gTLD application (including the applied-for variant label(s), if applicable) does not have the required approval from the relevant government or public authority, the validated ccTLD request will prevail and the gTLD application will not be approved.

4.4.3.3 In the case where the gTLD application (including the applied-for variant label(s), if applicable) has obtained the support or non-objection of the relevant government or public authority, but is ineligible to proceed due to contention with a ccTLD request, a full refund of the evaluation fee is available to the gTLD applicant if its application was submitted prior to the publication of the ccTLD request.

4.4.4 If an applied-for primary gTLD string or any of its variant label(s) is confusingly similar to an applied-for primary gTLD string or any of its variant label(s) that has been held over from a previous application round and still in progress, the newly submitted application will be put on hold until the outcome of the application from the previous round has been determined.

4.4.4.1 If the application from a previous round successfully completes evaluation and is eligible for entry into a registry agreement, the entire variant label set of the newly applied-for primary gTLD string is ineligible to proceed in the application process.

4.4.4.2 If the application from a previous round is withdrawn or fails evaluation, the newly submitted application can proceed to the next stage of the application process.

Timeline Update

Timeline to Phase 1 Final Report

Date	Action
Thu, 21 Sep (today)	- Review comments on final recommendations; - Agree on language for Rec 3.5, IG 3.6, and Rec 4.4
Thu, 28 Sep	- Agree on language for Rec 3.5, IG 3.6, and Rec 4.4 (if necessary) - Review selected sections of the Final Report;
Between Thu, 28 Sep and Thu, 5 Oct	Initiate **Consensus Call** process on Final Recommendations
Mon, 16 Oct	Conclude **Consensus Call** process no later than this date
Mon, 23 Oct (ICANN78 EPDP working session)	Resolve challenges to consensus designations, _if any_, no later than this date
Wed, 25 Oct (ICANN78 GNSO Council session)	**Goal: Inform GNSO Council that the Phase 1 Final Report is complete**
Mon, 30 Oct	Minority Statement due, if applicable (e.g., designation of "_Consensus_" or lower for any recommendation), no later than this date
Thu, 9 Nov	Submit Phase 1 Final Report to GNSO Council no later than this date

Consensus Call Process

Process Summary

Propose Consensus Designation	Initiate Consensus Call	Member Confirmation	Minority Statement	Final Report Documentation
After EPDP Team has deliberated long enough for all issues to have been raised, understood and discussed, **Leadership team to propose consensus designation** for each final recommendation: ● Full consensus ● Consensus ● Strong support but significant opposition ● Divergence ● Minority view	Leadership team to publish proposed **consensus designation** on **mailing list** for the EPDP Team to review	**Members** to indicate, via **mailing list**, whether they accept or do not accept the proposed designation during a xx day period If no objection is raised, consensus designation is considered accepted by the EPDP Team If any objection is raised, Leadership team to reevaluate and publish an updated designation Non-response to be taken as non-objection	During a xx day period, **Members**, as individuals or as a small group, to submit their minority viewpoints ("Minority Statements") for recommendation that did not gain full consensus	Staff to document the following in the Final Report as part of Annex: ● Consensus designation, as accepted by the EPDP Team ● Minority Statements Members will NOT have their names explicitly associated with any Full Consensus or Consensus designations Members who submit Minority Statements must have their names linked

More Information

Consensus Designation:

- **Full Consensus**: when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as Unanimous Consensus.

- **Consensus**: a position where only a small minority disagrees, but most agree

- **Strong Support but Significant Opposition**: a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it.

- **Divergence** (also referred to as No Consensus): a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.

- **Minority View**: refers to a proposal supported by a small number of people.This can happen in response to a Consensus, Strong support but significant opposition, and No Consensus

Additional Details:

- [EPDP Team Charter](), **Section VI: Decision Making Methodologies**