

# Next Round of NgTLDs / Subsequent Procedures

- The 38 Pending SubPro Recommendations
- SubPro Implementation Review Team (IRT)

## Update #5 to the At-Large CPWG

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# Recap/Update on 38 Pending SubPro Recs

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- ⦿ ICANN Board resolved,
  - On 16 Mar to adopt 98 recs and marked **38 recs as pending**
  - On 10 Sep, of the pending 38 recs, to
    - adopt 7 recs after further consideration / discussion with GAC
    - adopt 12 recs with GNSO Council's First Clarifying Statement
    - not adopt 7 recs as being not in the best interest of ICANN / Community
    - retain **13 recs as pending** for further consideration
  - On 26 Oct, of the pending 13 recs, to
    - adopt 10 recs with GNSO Council's Second Clarifying Statement (*these are to do with enforceability of RVCs*)
    - not adopt 3 recs as being not in the best interest of ICANN / Community
    - Thus, no recs left as pending
  
- ⦿ Leaving GNSO Council with **10 not adopted recs** 'to work on'
  - These being Recs 9.2, 17.2, 18.1, 18.3, 22.7, 24.3, 24.5, 32.1, 32.2, 32.10
  - Through the work of the GNSO Council SubPro/Next Round Small Team (*which helped produce the First and Second Clarifying Statements*)

# What are the 10 not adopted SubPro Recs?

SubPro Topic	Relevant Recs	Summary of Board Concern (paraphrased)
<b>Topic 9: Registry Voluntary Commitments / Public Interest Commitments</b>	<b>9.2</b>	Waiver of Spec 11 3(a) & 3(b) for single registrant TLDs could lead to unforeseen harm on different business models
<b>Topic 17: Applicant Support</b>	<b>17.2</b>	Open-ended nature of potential payees and potential fiduciary concerns
Topic 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.
Topic 18: Terms and Conditions	18.3	Covenant not to sue subject to challenge/ appeal mechanism leading to undue legal exposure (tied to Recs 32.1, 32.2, 32.10)
Topic 22: Registrant Protections	22.7	Exemption of COI means no EBERO funds – better to be case-by-case than blanket exemption (similar to Rec 9.2)
<b>Topic 24: String Similarity</b>	<b>24.3, 24.5</b>	Enforcing “intended use” of singular-plural through PICs may fall outside ICANN mission
<b>Topic 32: Limited Challenge / Appeal</b>	<b>32.1, 32.2, 32.10</b>	Co-existence with Bylaw-driven Accountability Mechanisms, duplication, add unnecessary cost and delay

For details, see:

- Scorecard: Subsequent Procedures dated 10 September 2023 (the "September 2023 Scorecard")
- Scorecard: Subsequent Procedures dated 26 October 2023 (the "October 2023 Scorecard")

# Next Step on the 10 not adopted SubPro Recs

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- ⦿ GNSO Council SubPro/Next Round Small Team
  - To become **Small Team Plus**
  - By including 1 “subject matter expert” + 1 alternate from all AC/C/SG
    - *SME + alternate can change depending on topic being discussed at any time*
  - Invitation expected to go out on/just after 6 Nov
  - Workplan of Small Team Plus being ‘settled’
  - SMEs + alternates will receive on-boarding
  
  - While invited AC/C/SG identify their SME + alternate for Small Team Plus,
    - Small Team to proceed through sub-tracks with developing straw-man drafts of revised recommendations

# Update on SubPro Implementation Review Team

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- ⦿ Since the SubPro IRT began meeting in May 2023 and to-date, AGB draft text on topics reviewed:
  1. Predictability (incl. Standing Predictability IRT – SPIRT) (“*Spirit*”)
  2. Applicant Freedom of Expression
  3. Universal Acceptance
  4. Conflicts of Interest
  5. String Similarity Evaluations
  6. Reserved Names
  7. Geographic Names
  8. Applications Assessed in Rounds
  9. Role of Application Comment
  10. Registry Service Provider Pre-Evaluation
  11. Applicant Support – *Research only*

} during ICANN78