

ICANN Webinar: PICs/RVCs Community Consultation

New gTLD Program: Next Round



18 December 2023

Agenda

1. Welcome
2. Purpose of the Webinar
3. Background Level-Set
4. Implementation Framework Overview
5. Community Consultation Questions
6. Discussion: Hypothetical Registry Commitments
7. Timeline & Next Steps
8. Questions & Answers

Purpose of this Webinar

Agenda Item #2

Purpose

1. Provide an overview of [framework](#) shared on 7 December
2. Review the [specific asks](#) conveyed on 7 December
3. Provide an opportunity for all community groups to:
 - engage with the Board on the purpose of the consultation
 - ask clarifying questions
4. If time allows: share insights from the different groups on their current thinking around the issue of PICs/RVCs

Background Level-Set

Agenda Item #3

Background

- In 2012 round of the New gTLD Program, registry commitments related to content in gTLDs were incorporated into Registry Agreements:
 - Where required to address GAC Advice (sensitive, regulated industry strings);
 - When applicants voluntarily proposed content and other restrictions to resolve objections;
 - When applicants proposed to operate “community” gTLDs that limited registration eligibility and content in the gTLD.
- As part of the accountability enhancements introduced in 2016, the ICANN community agreed on updates to ICANN Bylaws to provide more specificity about the scope of ICANN’s Mission, such as ICANN’s role with content restrictions and the impact on ICANN’s Registry Agreements.

Reference: All PICs proposed/considered in the 2012 round of the New gTLD Program can be found on the new gTLDs micro site’s application status page, <https://gtdresult.icann.org/application-result/applicationstatus> (filter by “has PICs”, or there is a “download all PICs” option at the top of the page)

Background (Cont'd)

- **Next Round Policy Recommendations:**
 - Continue to require public interest commitments in Next Round for sensitive, regulated industry strings
 - Permit applicants to propose additional “voluntary” commitments (which could relate to content)
 - GNSO clarification: Applicant and ICANN must agree that the commitments are enforceable under the ICANN Bylaws and as a practicable matter
- **Issue:** How should ICANN implement these GNSO recommendations for “enforceable” commitments in light of the specificity added into the ICANN Bylaws in 2016 (after the launch of 2012 round)?

Background (Cont'd)

- **Purpose of community consultation** - Provide opportunity for input to ensure that:
 - The Board understands all community groups' views on the scope of registry commitments permitted under the ICANN Bylaws; and
 - The Board/org/community agree on an approach to implement registry commitments that are clear, effective, meaningful, and enforceable in the New gTLD Program: Next Round.

Implementation Framework Overview

Agenda Item #4

Proposed Implementation Framework

- Framework for PICs, RVCs, community TLD commitments provides mechanism to ensure there are clear requirements that ICANN can enforce, taking into account scope of ICANN's Mission in relation to Registry Agreements
- Applicant would submit proposed commitments with a description of:
 - How the applicant will enforce commitments
 - How the applicant's compliance with the commitments will be monitored
- Evaluation will consider:
 - Are proposed commitments and enforcement mechanisms clear, objective, effective?
- If ICANN and applicant can't agree, commitment would not be approved

Proposed Implementation Framework (Cont'd)

- Approved commitments will be included in Registry Agreements
- ICANN will enforce process-related requirements in RAs (did RO follow the process it committed to in its RA?)
- Dispute-resolution mechanisms will apply:
 - Public Interest Commitment Dispute Resolution Procedure (PICDRP) for PICs and RVCs
 - Registration Restrictions Dispute Resolution Procedure (RRDRP) for community gTLD commitments

Consultation Questions

Agenda Item #5

Consultation Questions: Framework

1. If ICANN and the applicant cannot agree on final commitment language that both ICANN and the applicant agree is enforceable under the ICANN Bylaws and as a practicable matter, should the application be permitted to move forward without that commitment, particularly in circumstances in which an applicant has proposed a commitment as a means to resolve an objection, GAC early warning, etc?
(yes/no)
2. Please explain your answer to question 1.
3. Should all applicants that propose registry voluntary commitments and community gTLD commitments be required to designate a third party to be charged with monitoring the registry operator's compliance with those commitments, regardless of whether or not the commitments relate to the contents within an applied-for gTLD? (yes/no)
4. Please explain your answer to question 3.

Consultation Questions: Framework (Cont'd)

5. Are there any changes that should be made to the proposed implementation framework? (yes/no)
6. If your answer to question 5 is “yes,” what changes should be made, and why?
7. Are there any specific improvements that should be made to the dispute-resolution processes utilized in the 2012 round (the PICDRP and the RRDRP) to ensure that these processes provide an effective mechanism for the resolution of disputes concerning the relevant commitments? (yes/no)
8. If your answer to question 7 is “yes”, please explain your answer.
9. Please provide any further comments you wish to share concerning the proposed implementation framework.

Consultation Questions: Bylaws (Cont'd)

1. Are there any types of content restrictions in gTLDs that could be proposed by new gTLD applicants that ICANN must accept for inclusion in future Registry Agreements as a matter of ICANN Consensus Policy? (yes/no)
2. Please explain your answer in question 1, above. If your answer to question 1 is yes, please identify with specificity the types of content-related commitments that you believe must be permitted in future Registry Agreements as a matter of ICANN Consensus Policy.
3. Are there any types of content restrictions that ICANN should not enter into in the New gTLD Program: Next Round, considering the scope of ICANN's Mission in relation to Registry Agreements? (yes/no)
4. Please explain your answer in question 3, above.

Proposed Consultation Questions: Bylaws (Cont'd)

5. Do you agree that ICANN must move forward with a Fundamental Bylaws change to clarify ICANN's contracting remit regarding content-related commitments? (multiple choice, pick one answer)

- a. No. ICANN should not accept any content-related registry voluntary commitments or community gTLD commitments in the New gTLD Program: Next Round, so no Bylaws amendment is required.
- b. No. While ICANN must accept, agree to, enter into, and enforce content-related registry voluntary commitments and community gTLD commitments in the New gTLD Program: Next Round, no clarification to the ICANN Bylaws is required for ICANN to perform this function.
- c. Yes. ICANN must accept, agree to, enter into, and enforce content-related registry voluntary commitments and community gTLD commitments in the New gTLD Program: Next Round, and ICANN must move forward with a Fundamental Bylaws change to clarify ICANN's contracting and enforcement remit regarding content-related commitments.

Proposed Consultation Questions: Bylaws (Cont'd)

6. Please explain your answer in question 5, above.

7. Please provide any additional comments or information not addressed above that you believe are critical to inform this community dialogue concerning content-related registry commitments in future Registry Agreements.

Hypothetical Registry Commitments (for Discussion)

Agenda Item #6

Hypothetical Registry Commitments

Questions to consider:

- Should this type of commitment be permitted in a Registry Agreement?
- Is the proposed commitment meaningful, clear, detailed, enforceable?

Example A

Hypothetical anti-abuse commitments with regard to abuse-related content (least to most specific):

1. Registry Operator must prohibit abuse within the gTLD.
2. Registry Operator must prohibit websites within the gTLD from displaying “child abuse imagery.”
3. Registry Operator must prohibit websites within the gTLD from displaying “child abuse imagery” and, where Registry Operator reasonably determines, based on actionable evidence, that a registered domain name in the TLD is being used to display child abuse imagery, Registry Operator must promptly take the appropriate mitigation action(s) that are reasonably necessary to contribute to stopping, or otherwise disrupting, the domain name from being used to display child abuse imagery.

Example A (Cont'd)

Hypothetical anti-abuse commitments related to abuse-related content (least to most specific):

4. Registry Operator must prohibit websites within the gTLD from displaying “child abuse imagery” by:
 - a. Implementing an acceptable use policy.
 - b. Promptly taking the appropriate mitigation action(s) that are reasonably necessary to contribute to stopping, or otherwise disrupting, the domain name from being used to display child abuse imagery when the Registry Operator reasonably determines, based on actionable evidence, that a domain name in the TLD is being used to display child abuse imagery.
 - c. Engaging an independent third party demonstrated to have proper experience in this area to monitor and audit the Registry’s compliance with this commitment. The Registry Operator is responsible for making sure the independent third party submits reports to ICANN, no later than the twentieth day of each calendar year, concerning its efforts to monitor and audit such compliance. The Registry Operator must obligate the independent third party to report directly to ICANN any findings of non-compliance within five calendar days.

Example B

Hypothetical enforcement mechanisms (least to most specific):

1. Registry Operator commits to implement an Acceptable Use Policy prohibiting the distribution of radical content and the incitement of violence via domain names registered within the gTLD, as well as an enforcement and compliance monitoring program concerning the Acceptable Use Policy.
2. Registry Operator commits to implement an Acceptable Use Policy prohibiting the distribution of radical content and the incitement of violence via domain names registered within the gTLD, as well as an enforcement and compliance program for such Policy, by retaining an independent third party to review all such matters and on upon whose recommendations the Registry Operator can confidently act.

Example B (Cont'd)

Hypothetical enforcement mechanisms (least to most specific):

3. Registry Operator commits to implement an Acceptable Use Policy that prohibits the distribution of radical content and content inciting violence via domain names registered in the gTLD, and to implement an enforcement and compliance program by retaining an independent third party demonstrated to have proper experience in this area to monitor and audit the Registry Operator's compliance with the Policy. At a minimum, the Registry Operator must obligate the third party to:
 - a. Annually review the Acceptable Use Policy and propose any updates that must be made to align with industry best practices;
 - b. Annually audit the Registry Operator's compliance with the Acceptable Use Policy and report on such audit to ICANN;
 - c. Immediately report non-compliance by the Registry Operator to ICANN if such non-compliance is not remedied within ten calendar days.

Example C

Hypothetical Community gTLD Commitments:

1. Registry Operator commits to operate the gTLD for the benefit of the [x] community.
2. Registry Operator commits to operate the gTLD for the benefit of the [x] community by requiring content distributed via domain names within the gTLD to follow generally accepted cultural norms of the community and prohibiting the distribution of content within the gTLD that is contrary to the community's values. Registry Operator commits to restrict eligibility for the registration of domain names within the gTLD to members of the community,
3. Registry Operator commits to operate the gTLD for the benefit of the [x] community by implementing registration processes that restrict registration eligibility to members of the community as well as an [x] Community gTLD Usage Policy that limits usage of domain names within the gTLD to purposes that are beneficial to the community.

Example C (Cont'd)

Hypothetical Community gTLD Commitments (least to most specific):

4. Registry Operator commits to implement an enforcement and compliance program for the community gTLD registration processes and usage policies (collectively, the “policies”) by retaining an independent third party demonstrated to have proper experience in this area to monitor and audit the Registry Operator’s compliance with these policies. At a minimum, the Registry Operator must obligate the third party to:
 - a. Annually review the policies and propose any updates that must be made to align with industry best practices;
 - b. Annually audit the Registry Operator’s compliance with the policies and report on such audit to ICANN no later than the twentieth day of the calendar year;
 - c. Immediately report a finding of non-compliance by the Registry Operator with these policies to ICANN if such non-compliance is not remedied within ten calendar days.

Timeline & Next Steps

Agenda Item #7

Consultation Process

- **21 November 2023:** Blog to preview of consultation process
- **7 December 2023:** Consultation initiated
 - Proposed Framework:
<https://www.icann.org/en/system/files/files/registry-commitments-implementation-framework-05dec23-en.pdf>
 - Google Form to submit written input:
<https://forms.gle/ECbrvcGt4jxbZhLV7>
- **18 December 2023:** Community webinar to provide consultation overview and opportunity for initial questions
- **23 February 2024:** Requested deadline for written input to support the PICs/RVCs plenary session at ICANN79
- **2-7 March 2024:** ICANN79 plenary session to discuss community input received and assess alignment in the implementation approach
- **31 March 2024:** Final deadline for written input

Questions & Answers

Agenda Item #8