

Next Round of NgTLDs / Subsequent Procedures The Last SubPro Supplemental Recommendation

Update #10 to the At-Large CPWG - Discussion on Singular/Plural Strings

Justine Chew
ALAC Liaison to the GNSO

15 May 2024



Background (Fast-Forwarded)

- ⦿ On 18 Apr 2024, GNSO Council:
 - Approved supplemental recommendations (“Supp Recs”) on 4 of 6 remaining topics
 - (i) Topic 9: Registry Voluntary Commitments / Public Interest Commitments re: Rec 9.2
 - (ii) Topic 17: Applicant Support re: Rec 17.2
 - (iii) Topic 18: Terms and Conditions re: Recs 18.1 & 18.3:, and
 - (iv) Topic 32: Limited Challenge/Appeal Mechanisms re: Recs 32.1, 32.3 & 32.10.
 - Determined that supp rec not needed for (v) Topic 22: Registrant Protections re: Rec 22.7 on Continued Operations Instrument (COI)
 - **Deferred approving supp recs on (vii) Topic 24: String Similarity Evaluations**
- ⦿ Why the deferral on Topic 24 Supp Recs?
 - To allow SubPro Small Team Plus to consider **ICANN Org’s strawman proposal on how to handle issue of Singular/Plural strings.**
 - Note: Council determined that issue of Diacritics in Latin Script requires a different path.

Topic 24, particularly on Singular/Plurals

- ⦿ Board Concerns to Original Rec 24.3
 - Wording in sections (a) and (c) of this Rec **stipulate “intended use” of a gTLD**, which implies that ICANN will have to enforce the “intended use” post-delegation, which could be challenged as acting outside its mission
 - Number of concerns around **extending string similarity beyond just a visual similarity check to include a singular/plural check.**
- ⦿ GNSO’s response: Supp Rec 24.3A, 24.3B & 24.3C:
 - **Substantively, removed intended use elements.** Also removed extraneous explanatory text and rationale that is unnecessary for the recommendation.
 - Added a provision that allows both the singular and plural to proceed when at least one application is a dotBrand.
 - Substituted the reliance on a dictionary to **recognised linguistic resources.**
- ⦿ Board’s subsequent indicative response:
 - Will likely not adopt Supp Recs as still too difficult, costly to implement
 - Asked ICANN Org to propose mechanism that addresses Board concerns

Intended Impact of Supp Rec 24.3A, 24.3B & 24.3C

- ⦿ Avoid Consumer Confusion (24.3A)
 - Prohibit delegation of plurals and singulars of the same word within the same language/script; so:
 - Application for a single/plural variation of a word in the same language/script of an existing TLD or Reserved Name not allowed
 - Applications for singular and plural versions of a word in the same language/script, during the same application window, must go into contention set

- ⦿ Exception for dotBrands (24.3B)
 - Application for registered TM term applied as a dotBrand will not go into contention set with a non dotBrand, if the dotBrand applicant applies pursuant to and commits to Spec 13 obligations – domains allocated and used only by applicant, its Affiliates and TM Licensees. **Means singular/plural can be delegated under these conditions.**
 - Breach of Spec 13 leads means TLD would be terminated.
 - Existing Objection mechanisms not affected (String Confusion Objection).

- ⦿ Linguistic Resources (24.3C)
 - ICANN to identify recognised linguistic resources to determine the singular and plural versions of a string for specific language.
 - Burden is on ICANN to do singular/plural checks.

ICANN Org's Strawman Proposal (1/3)

1. Must be a mechanism in new gTLD program that prevents singular and plural forms of the same word in the same language from both being delegated as top-level domains, **if, and only if, so REQUESTED** by an end-user, applicant, or other community member.
2. Requestor may also request ICANN prevent an application to progress in case an applied-for string is **the singular or plural version of the same word in the same language of an existing string**, incl. any string from prior application rounds not yet delegated but still being processed
3. Method of request should be efficient, cost effective and transparent. **ICANN shall develop the exact method of implementation with assistance of SubPro IRT.**
4. When a request is made, **requestor must inform ICANN** of the applicable strings, including the language in which, according to the requestor, the two strings are singular and plural forms of.
5. ICANN should suggest to IRT a list of dictionaries for the UN-6 language and, with assistance from IRT, finalize this list and include it into the AGB. **Does not stop requestor raising singular/plural in same language outside of the UN-6, but have to indicate source material they relied on to verify their claim.**

ICANN Org's Strawman Proposal (2/3)

5. Requestor may ask ICANN to place the plural and singular forms of the same word in the same language into a contention set should start **as soon as all applied-for strings are revealed, for no less than 3 months**, and which **must close at the end of the String Confusion Objection period**. **ICANN must provide concrete timing in AGB**.
6. If two strings are found to be singular and plural of the same word in the same language, ICANN org will place them in a contention set, or reject in case one of the strings is already delegated, or held in case one string is under process from the previous round, until it is processed.
7. For the avoidance of doubt, if two applied-for strings are singular and plural forms of the same word in the same language but **no requestor asks** ICANN to place these strings into a contention set, **both strings may be delegated** - subject to all other applicable assessments and reviews that all applied-for strings undergo.

ICANN Org's Strawman Proposal (3/3)

⦿ Ramifications – an example, noting that .bank is an existing gTLD*

1. An application for **.banks** could be the subject of a 'request' because **bank** and **banks** are English words and are singular / plural in English.

Result: If request made, ICANN will reject .banks since .bank is already delegated; otherwise .banks could be delegated

2. An application for **.banke** could be subject to a 'request' because **bank** and **banke** are German words and are singular / plural in German.

Result: If request made, ICANN will reject .banke since .bank is already delegated

3. An application for **.banques** would not be subject to a 'request' because **banques** is not the plural of **bank** in English or French (assuming, in any other language either).

Result: ICANN will reject request since no issue of singular / plural

4. An application for **.banque** and an application for **.banques** could be subject to a 'request' because **banque** and **banques** are French words and are singular / plural in French.

Result: If request made, ICANN will put banque and banques into a contention set

*with thanks to Chris Disspain and Jeff Neuman

GNSO Supp Recs vs ICANN Org's Strawman

- ⊙ Burden to act
 - Responsibility to check for singular/plural **shifts** from ICANN to “requestor”
 - ICANN won't need to expend resources to check every single string, in every single language
 - ICANN only needs to act when a request is made and (likely) limited to what the requestor submits as source material
 - **If no request made, both singular/plural strings may be delegated**
- ⊙ Mechanisms and burden of proof
 - “Allows” bypassing of Objection Mechanism (String Confusion Objection, Legal Rights Objections) which involves cost, higher burden of proof
 - Increases accessibility to (potential) remedy (assuming wide awareness)
 - Effect on/of gaming?
- ⊙ Exception for dotBrands
 - ICANN relies on no request as basis for allowing singular/plural while GNSO's exception stipulates conditions by which singular / plural can proceed if they are and continue to be met.

In concluding

- ⦿ What questions do we have on ICANN Org's strawman proposal?
- ⦿ What other aspects should we be concerned about and wish to raise for discussion?

Thank you!