

**I C A N N**  
**POLICY FORUM**

**59**

**JOHANNESBURG**

26–29 June 2017



# Competition, Consumer Trust & Consumer Choice Review Team (CCTRT)

Draft Recommendations



CCT Face-to-Face Meeting  
24-25 June 2017

# CCTRT Objectives

Evaluate how  
New gTLD Program  
has promoted  
Competition,  
Consumer Trust and  
Consumer Choice

Evaluate Effectiveness  
of Application and  
Evaluation Processes

Evaluate Effectiveness  
of Safeguards

## CCT Goals

- Perform data driven assessment of the New gTLD Program
- Inform policy related to the entry of new gTLDs

# Key Findings

## ***On balance, the expansion of the DNS marketplace:***

- Has demonstrated increased Competition & Consumer Choice
- Is somewhat successful in mitigating its impact on Consumer Trust and Rights (particularly trademark) Protection

## ***Caveats:***

- New gTLD Program should be regarded only as a “good start”
- A number of policy issues should be addressed before any further expansion of gTLDs
- New gTLDs are still quite recent
- Incomplete data limited a more complete analysis

# Draft Recommendations & Timelines

Category	Timeline	# (/50)
Prerequisite	Must be implemented prior to launch of subsequent procedures	18
High priority	Within 18 months of final report	16
Medium priority	Within 36 months of final report	8
Low priority	Prior to start of next CCT	8

# Draft Recommendations Snapshot

Topic	#
Data Analysis	1 (0-1)
Competition	7 (2-8)
Consumer Choice	4 (9-12)
Consumer Trust	4 (13-16)
Safeguards	26 (17-42)
Application and Evaluation Process	8 (42-50)
<b>Total</b>	<b>50</b>

# Data Collection

# Commitment to Data-Driven Effort

- **Primary data sources**

- Consumer survey results (Nielsen)
- Registrant survey results (Nielsen)
- Economic study results (Analysis Group)
- Applicant Survey (Nielsen)
- New gTLDs and the Global South (AM Global)
- Parking rates in legacy gTLDs (NTLD Stats)
- New gTLD Program Safeguards Against DNS Abuse (ICANN)



- **Additional data needed on**

- Parking concept
- Pricing, wholesale, retail and secondary, global/regional
- Competition analysis, substitution behavior and consumer trust (practical survey of end users)
- Tracking of programs intended to facilitate applications
- Subject matter of complaints reported to ICANN Compliance
- DNS Abuse rates in legacy and new gTLDs

# A More Data-Driven ICANN

## **Rec.1 Formalize & promote ongoing data collection**

- Initiative to facilitate quantitative analysis of market & policy implementation
  - Dedicated Data Scientist

Questions?

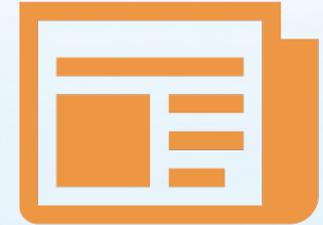
# Competition & Consumer Choice

## Section Divider

# Commitment to Data-Driven Effort

- **Primary data sources**

- Consumer survey results (Nielsen)
- Registrant survey results (Nielsen)
- Economic study results (Analysis Group)
- Applicant Survey (Nielsen)
- New gTLDs and the Global South (AM Global)
- Parking rates in legacy gTLDs (NTLD Stats)
- New gTLD Program Safeguards Against DNS Abuse (ICANN)



- **Additional data needed on**

- Parking concept
- Pricing, wholesale, retail and secondary, global/regional
- Competition analysis, substitution behavior and consumer trust (practical survey of end users)
- Tracking of programs intended to facilitate applications
- Subject matter of complaints reported to ICANN Compliance
- DNS Abuse rates in legacy and new gTLDs

# Methodology

- Economic study results and consumer/registrar surveys
- Proposed various definitions of relevant markets in which participants operate; no definitive definition recommended
- We then calculated the market shares of TLD operators, registrars, and back-end providers, and calculated measures of market concentration based on those shares.
- Compared these measures in late 2013, just before the introduction of the new gTLDs with their levels in March 2016

# Competition

## Observed generally positive signals relevant to Competition

- As of March 2016 new gTLDs had acquired approximately 50% of the *increase* in the number of registrations in all gTLDs
- The share of registrations served by the four largest operators declined by about 8 percentage points and the HHI declined by over 1,000 points between 2013 and 2016

# Competition

## **We did not observe effects on price**

- Unable to determine whether the prices declined since the introduction of new gTLDs because legacy gTLDs are not required to provide this information
- Legacy gTLDs remain subject to price caps

## **Most new gTLDs are quite small**

- Almost three-quarters of the new gTLDs that we have analyzed currently have fewer than 10,000 registrations and more than 90% have fewer than 50,000 registrations
- One factor that has facilitated the entry of new gTLDs is the availability of registrar and back-end services, that can be acquired rather than be “produced” internally. This has the effect of reducing the minimum viable scale

## New gTLDs give consumers more choices

- The expansion of the program gives registrants new options in terms of new languages, character sets, geographic identities, and new specialized categories
- Benefits to consumer end users include greater choice in the number of generic top-level domain names [and] greater ‘specificity’ of identification regarding the domain names

## Costs and benefits of greater choice

- While some registrants are motivated by defensive objectives in the new gTLDs, many registrants choose to register in new gTLDs to broaden the appeal or reach of their offerings even when similar options remain available in legacy gTLDs
- Although the direct cost of the New gTLD Program for most trademark holders related to defensive registrations appears to be lower than some had feared prior to the inception of the program, a small fraction of trademark holders are likely incurring significant costs

**Rec. 10 Consider if defensive registrations can be reduced for brands registering a large number of domains**

## Registry Policies

Analysis of registry policies of the top 30 new gTLDs related to protection of privacy and registration rules in order to discover differences or uniqueness of new gTLDs

- Registration policies of new gTLDs are very similar with policies of legacy gTLDs
- Privacy: few of top 30 new gTLD registries have very clear statements in their policies that they have the right to share or sell registrants' personal data

**Rec. 12 More strictly regulate collection of personal data by registries**

# What's next?

- Update our calculations in our final report using the same data sources used here.
- A significant proportion of the registrations in new gTLDs are 'parked.'
  - Higher rates than those of legacy gTLDs
  - May result in lower average renewal rates
  - Estimates of future penetration by new gTLDs may be too high.
    - We intend to conduct our own analysis of this issue and to report the results in our final report.
- Use of the data collected in connection with the LAC Study, which used WHOIS information to determine country-specific registry market shares for countries in the Latin American and Caribbean region.
  - Use these data to calculate registry operator HHIs on a country-by-country basis.

Questions?

# Safeguards & Consumer Trust

# Research & Key Findings

## Consumer Trust

- \* Minimal impact observed
- \* Positive links between factors such as familiarity, reputation and adoption of security measures
- \* More information needed on why consumers trust new gTLDs

## Safeguards

- \* Improvements observed
- \* Information related to impact on both the public and entities enforcing them needed
  - Collect data related to DNS abuse and provide more transparency in reporting the subject matter and ultimate outcome of complaints

# Consumer Trust

## Methodology

1. Consumer End-Use Surveys
2. Registrant Surveys

## Key Findings:

- A. Two primary factors relevant to trust of gTLDs:
  - 1) Familiarity and security  
→ New gTLDs less trusted
- B. Correlation between registration restrictions and trust
- C. Trust in DNS overall hasn't diminished

# Consumer Trust – Recommendations

## Study

**Rec.13 Which new gTLDs most visited and why; and how users' behavior relates to trust**

**Rec.14 Create Incentives to encourage gTLD registries to meet user expectations re:**

- Relationship of name to content
- Implied messages of trust conveyed by name
- Safety & security of sensitive information (incl. health and \$ info)

**Rec.15 Enhance and Continue Studies**

- Repeat selected parts of consumer end-user and registrant surveys (so these studies form a baseline)

Questions?

# DNS Abuse

## Mandate

Examine “malicious abuse issues” and “effectiveness of Safeguards put in place to mitigate issues involved in the expansion [of the top-level domain space]”

- Also serves as proxy for “trust”, *i.e.*, changes in abuse rate compared to changes in trust

## Methodology

- Analyzed the implementation of nine safeguards aimed at mitigating malicious conduct that were adopted for the new gTLD program
- Commissioned comprehensive DNS abuse study to produce descriptive statistics as **baseline measure** of abuse rates in new compared to legacy gTLDs to analyze the effect of new gTLDs on “malicious abuse issues” as well as safeguard effectiveness
  - The basic methodology of the study is to correlate historical zone and WHOIS data with historical data from abuse feeds (in progress, final report in June 2017)

## Findings (from Preliminary analysis)

- There appears to be widespread compliance with implementation of new gTLD safeguards aimed at mitigating malicious conduct
- There is no comprehensive analysis of abuse in legacy gTLDs versus new gTLDs, but existing research by various entities using sample datasets indicates that more instances of DNS abuse occur in legacy gTLDs while new gTLDs have higher percentages of abuse per registrations

## **Recommendations (from preliminary analysis)**

Regularly repeat and refine DNS Abuse Study to determine whether the presence of additional safeguards correlates to a decrease in abuse in new gTLDs amongst various zones versus legacy gTLDs, to inform ongoing policy discussions

Questions?

# Safeguards

## 1. Methodology

- A. Goals of safeguard
- B. How safeguard implemented/enforced
- C. Issues

## 2. Highlights

- A. WHOIS
- B. Sensitive, Regulated and Highly Regulated Strings

# Safeguards

## WHOIS

**A. Goal:** Enhance abuse prevention and mitigation efforts

## **B. Findings**

- 1) largest category of complaints received re: registrars
- 2) WHOIS Accuracy Reporting System (ARS).
  - a) Originally 3 phases: syntax accuracy; operability accuracy; and identity validation.
  - b) To date: only syntax and operability accuracy

## **Recommendations:**

- **Rec.17 ICANN Compliance to identify precise subject matter of WHOIS complaints** (syntax; operability, identity, other?);
- **Rec.18 Consider whether to proceed with identity phase of ARS**

# Safeguards: Sensitive/Regulated Strings

## Sensitive, Regulated Strings

- A. Goal:** mitigate risks associated with strings linked to “regulated or professional sectors”
- B. Findings (Sensitive/Regulated):**
- comply with all applicable laws (incl. privacy, data collection, consumer protection, fair lending, debt collection, disclosure of data, and financial disclosures)
  - if handling sensitive information, (e.g., health or financial data) : “implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.”

# Safeguards: Sensitive/Regulated Strings

## **Rec. 23:**

**Include more detailed information on subject matter of complaints in ICANN publicly available compliance reports.**

- More precise data on the subject matter of complaints
  - What type of law violation is being complained of
  - Whether complaints relate to the protection of sensitive health or financial information

# Safeguards: Highly Regulated Strings

## Goal

Mitigate higher levels of risks of abuse associated with strings in highly regulated industries (likely to invoke a higher level of trust to consumers)

## Findings

Lack of clarity

- Whether and how contracted parties are complying with safeguards applicable to domains for highly regulated strings;
- Whether these safeguards have been effective in mitigating risks associated with domains in highly regulated markets

# Safeguards: Highly Regulated Strings

## Recommendations:

- **Rec.28:**  
**Assess whether restrictions regarding possessing necessary credentials are being enforced**
  - audit registrars and resellers offering the highly regulated TLDs (e.g., can an individual or entity without the proper credentials buy a highly regulated domain?)
- **Rec.29:**  
**Determine volume and subject matter of complaints by seeking more detailed information from ICANN Contractual Compliance and registrars/resellers of highly regulated domains**
- **Rec.30:**  
**Compare rates of abuse between highly regulated gTLDs that have voluntarily agreed to verify and validate credentials to highly regulated gTLDs that have not**

Questions?

# Public Interest Commitments

## Voluntary Public Interest Commitments

- New voluntary safeguard that new gTLD applicants could include as binding provisions in their registry agreements

## Methodology

- Analyzed contents of voluntary PICs associated with highly regulated, regulated, and top 30 most popular new gTLDs

## Most Important Findings

- Voluntary PICs vary greatly in subject matter and substance, with some mirroring existing obligations, others wholly new, and the intended purpose of each not always clear
- Difficult to analyze voluntary PICs and measure their effectiveness
- Currently no mechanism in place to screen voluntary PICs to ensure that they do not negatively impact the public interest

# Public Interest Commitments

## Most Important Recommendations

### **Rec.37**

**ICANN should improve the accessibility of voluntary public interest commitments by maintaining a publicly accessible database of these commitments, as extracted from the registry agreements.**

### **Rec. 38**

**Future gTLD applicants should state the goals of each of their voluntary PICs**

### **Rec. 39**

**All voluntary PICs should be submitted during the application process such that there is sufficient opportunity for Governmental Advisory Committee (GAC) review and time to meet the deadlines for community and Limited Public Interest objections**

Questions?

# Right Protection Mechanisms

## Background

- Did RPMs help mitigate the protection of TM rights and consumers?
- Sought to obtain data to help assess impact of the new gTLD programme on cost and efforts to protect TMs

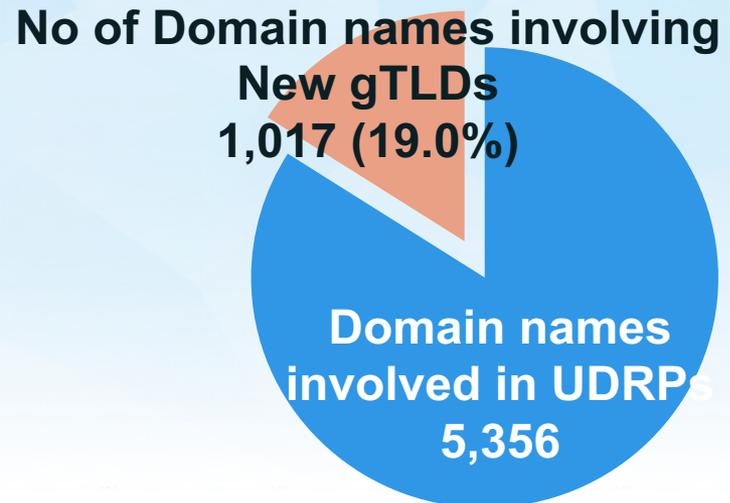
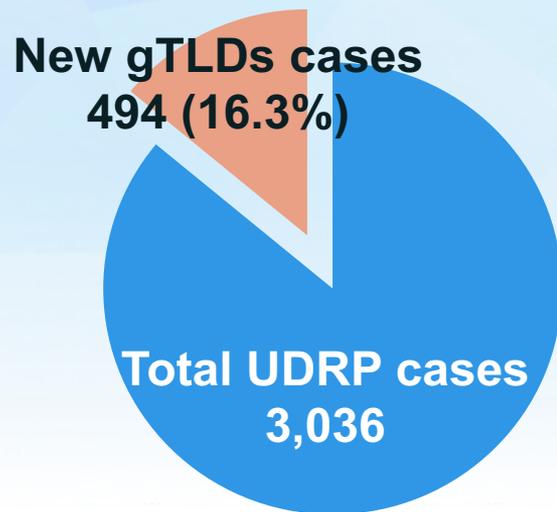
## Methodology

- ICANN metrics 2012 – 2015 to be updated to include 2016
- WIPO statistics 2015 to be updated to include 2016
- INTA Impact Study by Nielsen Report due 3 April 2017

# Right Protection Mechanisms

## Two most important findings

- Rise in cases filed year on year (UDRP/URS combined)  
~between 2% and 17%
- New gTLDs accounted for 10.5% of the case load at WIPO in 2015;  
New gTLDs made up 6.5% of total gTLD registrations in same period
  - Proportionally more TM infringement in new gTLDs *cf* legacyTLDs (indications are 2016 also)



# Right Protection Mechanisms

## Draft Recommendations:

- **Rec.42**  
**Study on the impact of new gTLDs on the cost/effort required to protect trademarks and repeat within 18 months of CCTRT Final Report**
- **Rec.43**  
**Full review URS and interoperability with the UDRP**
  - RPM PDP WG
- **Rec.44**  
**Full review TMCH and its scope**
  - RPM PDP WG / need for data to make recommendations

Questions?

# Application & Evaluation Process

*Jonathan Zuck*

# Research & Key Findings – Global South

Applicant Survey (Nielsen)  
New gTLDs and the Global South (AMGlobal)  
Cohorts study (AMGlobal)

- Determine objectives
- More comprehensive program of conference participation
- Thought leader engagement
- Traditional media outreach
- Case studies and business models
- Outreach should begin significantly earlier
- Re-explore applicant assistance (financial/non-financial)

# Research & Key Findings – Inequities

- Early warnings are useful and could possibly be introduced earlier
- Review procedures & objectives for community-based applications
- Greater consistency in dispute resolution proceedings
- Overall review of dispute resolution process needed, including potential prohibiting singular and plurals.

Questions?

# Thank you!



Stay tuned for our draft final report



Schedule a conference call together



Follow our wiki at <http://cct.wiki> for more information!

# Appendices

# Draft Recommendations Snapshot

TOPIC	#	TIMELINE				TO ICANN ORG	TO GNSO PDP WGs			TO NEXT CCT	TO GAC
		P	H	M	L		PDP WG	SubP	RP M		
Data Analysis	1 (0-1)	0	1	0	0	1	0	0	0	0	0
Competition	7 (2-8)	2	1	1	3	7	0	0	0	0	0
Consumer Choice	4 (9-12)	2	0	1	1	3	0	1	1	1	0
Consumer Trust	4 (13- 16)	3	0	0	1	3	0	1	0	1	0
Safeguards	26 (17- 42)	4	1 4	6	2	22	4	2	2	7	0
Application and Evaluation Process	8 (42- 50)	7	0	0	1	3	0	6	0	0	1
<b>TOTAL</b>	<b>50</b>	<b>18</b>	<b>1 6</b>	<b>8</b>	<b>8</b>	<b>39</b>	<b>4</b>	<b>10</b>	<b>3</b>	<b>9</b>	<b>1</b>

# Data Collection Draft Recs.

Rec #	
1	<p>Formalize &amp; promote ongoing data collection-</p> <ul style="list-style-type: none"><li>• Initiative to facilitate quantitative analysis of market &amp; policy implementation<ul style="list-style-type: none"><li>•Dedicated Data Scientist</li></ul></li></ul>

# Competition Draft Recs.

Rec #	
2	Regularly collect wholesale pricing for legal gTLD (legacy and new gTLD) registries (confidentially)
3	Regularly transactional pricing for gTLD marketplace from registries (confidentially)
4	Collect retail pricing for marketplace & develop capability to analyse data
5	Collect parking data, track parking rates at a TLD & identify trends
6	Collect parking data - Engage with secondary market community market
7	Collect TLD sales at a country level
8	Create/support/partner with entities that collect TLD sales data at a country level Enhance cooperation (standardization of research, methodology), to obtain comparable data

# Consumer Choice Draft Recs.

Rec #	
<b>9</b>	Conduct periodic survey of registrants - collect registrant trends
<b>10</b>	Consider if defensive registrations can be reduced for brands registering a large number of domains
<b>11</b>	Consumer/end-user/ registrant surveys to explore benefits of expanded number, availability & specificity of new gTLDs, such as: <ul style="list-style-type: none"><li>• Contributions to choice from geo TLDs, specific sector TLDs and IDN TLDs</li><li>• Confusion</li><li>• Geographic distribution of registrants/availability of registrar services</li></ul>
<b>12</b>	More strictly regulate collection of personal data by registries

# Consumer Trust Draft Recs.

Rec #	
<b>13</b>	Conduct study on: <ul style="list-style-type: none"><li>• Which new gTLDs have been visited most</li><li>• Reasons users visit to certain new gTLDs</li><li>• What factors matter</li><li>• How users behaviors explain howthey trust new gTLDs</li></ul>
<b>14</b>	Incentivize registries to meet user expectations regarding: <ul style="list-style-type: none"><li>• Relationship of content of a gTLD to its name</li><li>• Registration restrictions based upon implied trust</li><li>• Safety and security of users' information</li></ul>
<b>15</b>	Repeat portions of global surveys to look for increase in familiarity with at new gTLDs, visitation & perceived trustworthiness

# Consumer Trust Draft Recs.

Rec #	
16	<p>Commission Study on impact of restrictions on who can buy new gTLD domains:</p> <ul style="list-style-type: none"><li>• Compare trust levels with varying degrees of registration restrictions</li><li>• Correlations between DNS abuse and presence/absence of reg. restrictions</li><li>• Costs and benefits of registration restrictions</li><li>• How to enforce reg. restrictions</li></ul>

# Safeguards Draft Recs.

Rec #	
<b>17</b>	Assess whether: <ul style="list-style-type: none"><li>• Significant % of WHOIS complaints relate to accuracy of identity of registrant</li><li>• Difference in behavior between new/legacy gTLDs</li></ul>
<b>18</b>	Accuracy data should be considered by upcoming WHOIS RT
<b>19</b>	Repeat data collection comparing abuse rates in domains under new vs. legacy Registry/Registrar Agreements
<b>20</b>	Next CCTRT to review proposed Registry Operator Framework and assess if clear/effective to mitigate
<b>21</b>	Assess whether abuse reporting mechanisms led to more focused efforts to combat abuse
<b>22</b>	Assess if more efforts are needed to publicize contact points where abuse/illegal behavior complaints should go

# Safeguards Draft Recs.

Rec #	
<b>23</b>	Provide detailed information on the subject matter of Compliance complaints: <ul style="list-style-type: none"><li>• type of law violation</li><li>• relates to protection of sensitive information?</li></ul>
<b>24</b>	Initiate stakeholder consultations on what constitutes reasonable and appropriate security measures commensurate with offering of services
<b>25-30</b>	Study aspects of highly regulated new gTLDs: <ul style="list-style-type: none"><li>• Steps registry operators take to establish relationships with relevant gov/industry</li><li>• # of complaints received by registrants from regulatory bodies and standard practices to respond</li><li>• Sample websites to see if contact information to file complaints is easy to find</li><li>• Enforcement of restrictions on necessary credentials by auditing registrars &amp; resellers</li><li>• # of complaints by seeking info from ICANN Contractual Compliance and registrars/resellers of highly regulated domains</li><li>• Compare rates of abuse among those highly regulated gTLDs that voluntarily agreed to verify/validate credentials vs, those that don't</li></ul>

# Safeguards Draft Recs.

Rec #	
<b>31</b>	Examine ICANN Compliance complaints for a registry operator's failure to comply w/ safeguards on: <ul style="list-style-type: none"><li>• inherent governmental functions</li><li>• cyberbullying</li></ul>
<b>32</b>	Survey on enforcement by registries of cyberbullying safeguards
<b>33</b>	Collect data on subjective/objective trustworthiness of new gTLDs with reg. restrictions on registration vs. those w/ few or none
<b>34</b>	Repeat/refine DNS Abuse Study to determine if the presence of additional reg. restrictions correlate to decreases in abuse in new gTLDs vs. new gTLDs w/o reg. restrictions, and as compared to legacies
<b>35</b>	Collect data on cost/benefits of implementing reg. restrictions, including impact on compliance costs, costs for registries, registrars & registrants
<b>36</b>	Seek public comment on impact of new gTLD reg. restrictions on competition, including whether restrictions create undue preferences

# Safeguards Draft Recs.

Rec #	
<b>37</b>	Improve accessibility of voluntary PICs by maintaining a publicly accessible database
<b>38</b>	Future gTLD applicants to state goals of each voluntary PIC
<b>39</b>	Require all voluntary PICs to be submitted during application process so that GAC has sufficient opportunity to meet deadlines for community/limited public interest objections
<b>40</b>	A full impact study on impact the impact of new gTLDs on the cost/effort required to protect trademarks and repeat regularly to see the evolution
<b>41</b>	Full review URS and consider how to interoperate with the UDRP
<b>42</b>	Fully review TMCH and its scope to provide data to make recommendations & allow an effective policy review

# Application & Evaluation Process Draft Recs.

Rec #	
<b>43</b>	Set objectives for applications from the global South, establish clear measurable goals, and define “Global South”
<b>44</b>	Expand and improve outreach into Global South
<b>45</b>	ICANN to coordinate the pro bono assistance program
<b>46</b>	Revisit Applicant Financial Support Program, and try to further reduce overall cost of application, including additional subsidies & dedicated support for underserved communities
<b>47</b>	GAC consensus advice to Board regarding gTLDs to be clearly enunciated, actionable & accompanied by a rationale. ICANN to provide template & Applicant Guidebook to clarify process & timelines
<b>48</b>	Review procedures & objectives for community-based applications. Reflect amendments revised AGB

# Application & Evaluation Process Draft Recs.

Rec #	
49	<p>Consider new policies to avoid potential for inconsistent results in string confusion objections. Consider:</p> <ul style="list-style-type: none"><li>• Determine through initial string similarity review process that singular/plural versions of the same gTLD string should not be delegated</li><li>• Avoid disparities in similar disputes by ensuring that all similar cases of plural/ singular strings are examined by same expert panelist</li><li>• Introduce a post dispute resolution panel review mechanism</li></ul>
50	<p>Review results of dispute resolutions on all objections prior to the next CCT review</p>