

# New gTLD Subsequent Procedures

Work Track 3 | 23 May 2017 | 15:00 UTC

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# 3. History of Community Priority in ICANN

Review of meeting transcripts reveals that the concept of Communities in the 2012 round evolved from the concept of sponsored TLDs serving particular groups or interests.

## **Core Values and Ideas in 2012 round:**

- Groups of people would want to express shared identity and create specialized spaces using TLDs
- These spaces were an important part of the value that the New TLD Program added
- Some applicants inherently had clearer links to specific groups/associations/identities than others
- The strength of this link should factor into the application evaluation procedure
- Some applicants with a strong connection to a community might not be in a position to win an auction against applicants with purely economic incentives, therefore, from a public interest perspective, there should still be a way for these applicants to prevail in controlling TLDs associated with their communities

# Current Policy

## ***Implementation Guidance F:***

If there is contention for strings, applicants may:

- i) resolve contention between them within a pre-established time frame
- ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;
- iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels.

## ***Implementation Guidance H:***

Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exceptions:

- (i) the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application; and
- (ii) a formal objection process is initiated.

Under these exceptions, Staff Evaluators will devise criteria and procedures to investigate the claim.

# 2012 Applicant Guidebook

## Module 1

### 2.3 Community-Based Designation

For purposes of this Applicant Guidebook, a community-based gTLD is a gTLD that is operated for the benefit of a clearly delineated community.

An applicant for a community-based gTLD is expected to:

1. Demonstrate an ongoing relationship with a clearly delineated community.
2. Have applied for a gTLD string strongly and specifically related to the community named in the application.
3. Have proposed dedicated registration and use policies for registrants in its proposed gTLD, including appropriate security verification procedures, commensurate with the community-based purpose it has named.
4. Have its application endorsed in writing by one or more established institutions representing the community it has named.

## Module 4

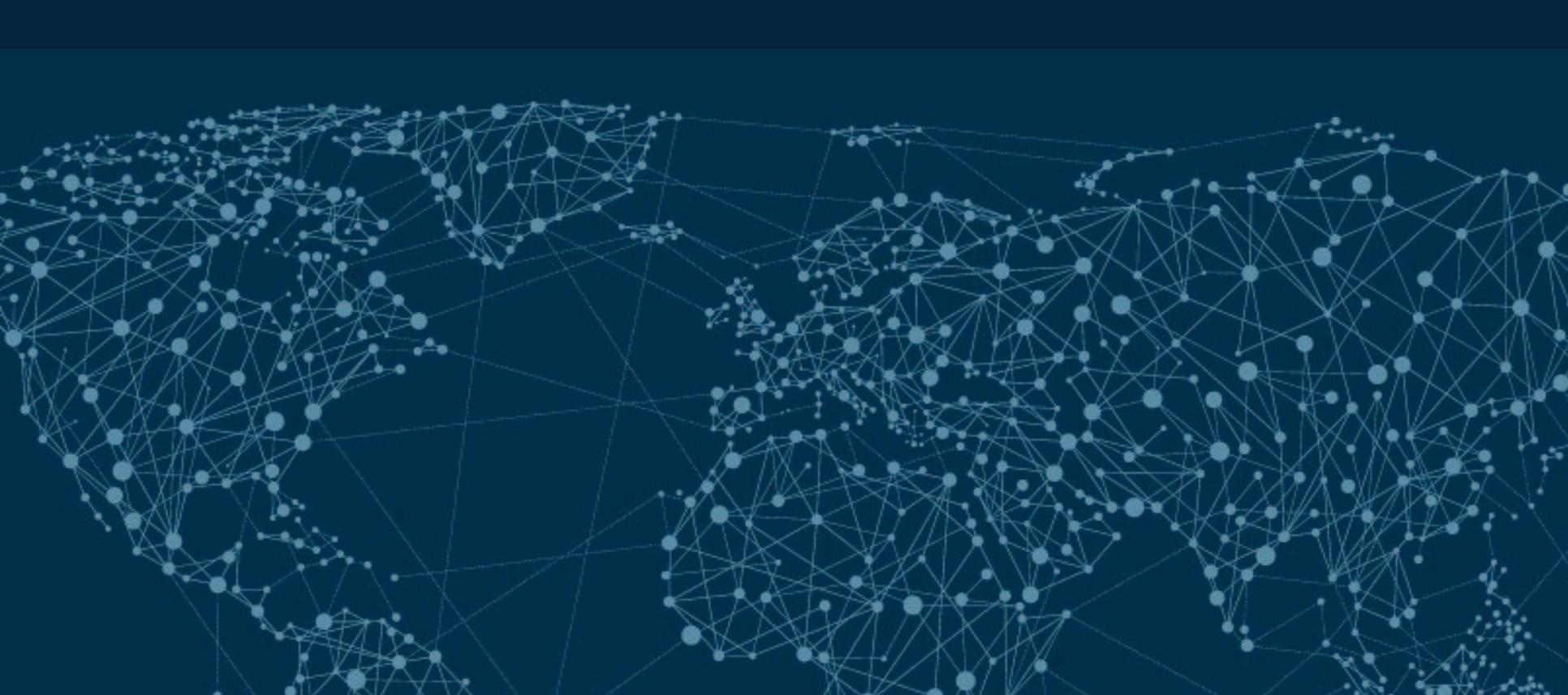
### 4.2 Community Priority Designation

<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>

## 4. Initial Questions

### **Should Communities receive differential treatment in any subsequent procedures?**

- Should Communities have a separate or priority application process?
- Should Communities TLDs have a unique contract?
- Can Communities be accommodated solely via implementation updates?
- Is policy revision necessary?



# Introduction: Accountability Mechanisms

New gTLD Subsequent Procedures PDP WG - Track 3

23 May 2017

# Explanation of the Subject

From the ICANN Accountability Mechanisms webpage:

*ICANN has a proven commitment to accountability and transparency in all of its practices. ICANN considers these principles to be fundamental safeguards in ensuring that its bottom-up, multi-stakeholder model remains effective. The mechanisms through which ICANN achieves accountability and transparency are built into every level of its organization and mandate – beginning with its Bylaws, detailed in its Accountability and Transparency Frameworks and Principles (adopted by ICANN's Board in 2008) and annually reinforced in its Strategic and Operational Plan<sup>3</sup>. In order to reinforce its transparency and accountability, ICANN has established accountability mechanisms for review of ICANN actions.*

ICANN's Accountability Mechanisms include:

- Reconsideration Process
- Independent Review Process
- Ombudsman

Accountability Mechanisms were used by applicants in the 2012 round. In particular Reconsideration Process was invoked for a number of Community Priority Evaluations.

# Questions and Concerns Related to the Subject

The DG noted several areas where Accountability Mechanisms may not have been sufficient and where the Accountability Mechanisms might need to be supplemented by formal appeal mechanisms specific to the New gTLD Program.

- A high percentage of CPE results triggered Accountability Mechanisms
- Apparent lack of transparency in the CPE
- Panel may have misinterpreted applications and review guidelines
- Panel may have improperly applied the CPE criteria
- As noted, there was no mechanism to appeal:
  - the determination of a panel in the evaluations
  - objections

# Relevant Guidance

Relevant Guidance is provided on the ICANN Accountability Mechanisms webpage, available at:

<https://www.icann.org/resources/pages/mechanisms-2014-03-20-en>

# Rationale for Policy Development

What factors would be important for a meaningful and equitable appeals process, that might supplement the existing Accountability Mechanisms?

In particular:

- Noting that the updated Bylaws allow for the substantive review (rather than only procedural) in the Accountability Mechanisms, are appeal mechanisms specific to the New gTLD Program needed?
- If so, who is an appropriate final arbiter?
- Should appeal mechanisms be available only for certain issues but not for others? Should there be guidelines on what constitutes an appropriate reason for challenge?
- Should there be safeguards against abuse and penalties?

The topic of Accountability Mechanisms intersected with the work of the Cross-Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability). The updates to the ICANN Bylaws should be taken into account.

Tuesday, June 6, 2017

20:00 UTC