

16	<p>ICANN should collect data on the impact of restrictions on who can buy domains within certain new gTLDs (registration restrictions e.g. requirements that registrants possess the credential necessary for highly regulated domains or other domains imposing restrictions on who can buy a domain). This data collection should include both an assessment of current ICANN initiatives related to measuring DNS abuse, the health of the DNS, and DNS marketplace and further study to (1) determine whether consumers are aware that certain gTLDs have registration restrictions; (2) compare consumer trust levels between new gTLDs with varying degrees of registration restrictions; (3) determine whether there are correlations between DNS abuse and the presence or absence of registration restrictions; (4) assess the costs and benefits of registration restrictions and (4) determine whether and how such registration restrictions are enforced.</p>	ICANN organization	Low
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Public Comment Feedback:

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ICANN: ID what you mean by restrictions

NCSG: Limit to whether restrictions enforced b/c otherwise may stray into content regulation (what is DNS Abuse?)

Neustar: Assumes public familiar with registration restrictions which may not be the case; also restrictions n/appropriate for generic gTLDs and really depend on type of gTLD involved (e.g. don't want restrictions on .coms or .xyz etc.)

Rationale/related Findings: The ICANN Consumer Research and Registrant surveys indicating that the public expects certain restrictions about who can purchase domain names and trusts that these restrictions will be enforced. The survey results also indicated that the presence of such restrictions contributed to consumer trust. However, it would useful for those developing future policy to have more data on how aware the public is of registration restrictions and the impact of registration restrictions on consumer trust. It is also important to obtain information on the costs of registration restrictions on the relevant parties so that benefits (perhaps in terms of increased trust and decreased DNS abuse) can be weighed against any restrictions on competition. Future PDPs and review teams can use this data to inform future policy decisions regarding new gTLDs, especially as it relates to the issue of whether restrictions should be encouraged or included within the standard provisions included in ICANN new gTLD contracts. A measure of success would be a policy decision on whether certain categories of gTLDs should be subject to registration restrictions based upon consideration of specific data on costs and benefits.

14	<p>Create incentives to encourage gTLD registries to meet user expectations regarding (1) the relationship of content of a gTLD to its name; (2) restrictions as to who can register a domain name in certain gTLDs based upon implied messages of trust conveyed by the name of its gTLDs (particularly in sensitive or regulated industries; and (3) the safety and security of users' personal and sensitive information (including health and financial information). <u>These incentives could relate to applicants who choose to make public interest commitments in their applications that relate to these expectations. Ensure that applicants for any subsequent rounds are aware of these public expectations by inserting information about the results of the ICANN surveys in the Applicant Guide Books. [perhaps?: Ensure that applicants for any subsequent rounds demonstrate their awareness of how to comply with legal obligations regarding maintaining the security of user's personal and sensitive information.]</u></p>	New gTLD Subsequent Procedures PDP Working Group	Prerequisite (incentives could be implemented as part of application process)
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Rationale/related findings: The Nielsen surveys indicate certain expectations on behalf of the public. The surveys indicated the public believes that websites have different extensions to “properly identify the purpose or owner or to give an indication of content or function.”¹ The majority of those surveyed expect both 1) a connection between the name of a gTLD and the websites associated with that gTLD and 2) a consistency between the meaning of the domain name and its actual use. The Nielsen surveys also indicate that the public expects restrictions on who can purchase domain names, expects that such restrictions will be enforced and is concerned about the security of their personal and sensitive information. Measures of success for these recommendations would include improved public trust and visitation of new gTLDs and reduced fears regarding the misuse of user's personal and sensitive information.

Public Comment Feedback (representative but not inclusive):

Subsequent Procedures PDP:

Define the term “user expectations” in the context of this recommendation.

Add additional details about the rationale for encouraging “content” to match the TLD’s understood purpose

Clarify how the reference to “relationship of content of a gTLD to its name” is consistent with Section 1.1 of the ICANN Bylaws.

NAPB: The registrant verification activities can be costly to registry operators and, in turn to registrants. NABP recommends that ICANN exercise its influence to encourage search engines to prioritize such domains in their rankings as trustworthy, authoritative, and relevant sources of content; and that ICANN

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¹ Nielsen, *Registrant Survey Wave 2* (2016), pp. 25-26.

lower its fees as a way to incentivize registry operators to meet user expectations.

ALAC: Reluctance of some registrars in holding names that require additional steps to their registration processes. Processes must be found for those registries that want to improve their trust levels such that they are not unduly inhibited from doing so.

All applications for new gTLDs should contain a commitment that details how the name will relate to the registrars and their registrant's use of the new gTLD. In the last round, such commitments could be in the form of Public Interest Commitments (PIC - Registry agreement Specification 11) for regular TLDs and Registration policies for Community TLDs (Specification 12).

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Registry Stakeholders: The nature of incentives isn't stated and therefore cannot yet be considered for support. Further, we do not support (1) and (2) as requirements—this in effect could be a form of content restriction, something the community, appropriately, is foursquare opposed to. (The Nielsen study may not have provided granularity to assess, for example, the possibility of a carpet cleaning service using the term Rug.Doctor, a perfectly legitimate use of the gTLD.) Creativity, without violating law, is a long-held hallmark of Internet naming and content and should not attempt to be curtailed. We recommend the removal of (1) and (2) The RySG supports (3). As a prerequisite, what is the perceived benefit of this recommendation, what would the cost be to carry it out, and would the benefit exceed the cost?

Nixi: Relationship between a domain name and its content may be incentivized.

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The other two aspects of the recommendation however, namely restriction on high-trust gTLDs and security of users' personal information, must rather be regulated by through laws or through the terms of the license issued. Safety of user information cannot be left to incentives. TLD owners cannot be given a choice as to how they treat user information, this must be subject to regulation through laws or terms of the license. Similarly, high-trust gTLD need to be handled carefully as well. These kinds of domains cannot be licensed to individuals or entities who may then come to inadvertently access sensitive user data. Sufficient regulation is required such that misplaced trust in the owners of these gTLDs is completely prevented from the start.

Non Com SG: The NCSG believes that the first two parts of this recommendation border on violating ICANN's mission and core values, as it starts pushing the organization over the line of domain name coordination and into content regulation. Furthermore, there are already sufficient legal and policy safeguards in place against misleading or fraudulent domains or privacy, such as data protection and data breach notification laws. The NCSG has always rejected the idea that ICANN should become an all-purpose regulator of the Internet; it can and should leave most consumer protection, competition policy, and content regulation problems to other more specialized agencies, and focus on its primary mission of coordinating the DNS.

IPC: We strongly encourage ICANN to implement additional mechanisms for establishing trust in new gTLDs. ICANN needs to take specific action and impose meaningful and effective sanctions against any registry that engages in fraudulent or deceptive practices (whether as registries or as registrants within their own TLDs). We believe these enhancements go hand in hand with the CCTRT recommendations for new gTLD registries to ensure the trust conveyed by the name of its gTLD meets users' expectations.

GAC, vTLDs, and BC also support.

25	ICANN should perform a study on highly regulated new gTLDs to include the following elements: <u>a) steps registry operators are taking to establish working relationships with relevant government or industry bodies; b) the volume of complaints received by registrants from government and regulatory bodies and their standard practices to respond to those complaints; c) review and assess a sample of domain websites within the highly regulated sector category to see whether contact information to file complaints is sufficiently easy to find; d) determine the volume and the subject matter of complaints regarding domains in highly regulated industries by seeking more detailed information from ICANN Contractual Compliance and registrars/resellers of highly regulated domains; e) compare rates of abuse between those highly regulated gTLDs that have voluntarily agreed to verify and validate credentials to those highly regulated gTLDs that have not; and e) assess whether restrictions regarding possessing necessary credentials are being enforced by auditing registrars and resellers offering the highly regulated TLDs (i.e., can an individual or entity without the proper credentials buy a highly regulated domain?). To the extent that current ICANN data collection initiatives and compliance audits could contribute to these efforts, we recommend that ICANN assess the most efficient way to proceed to avoid duplication of effort and leverage current work.</u>	ICANN organization	High
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Deleted: Assessment whether restrictions regarding possessing necessary credentials are being enforced by auditing registrars and resellers offering the highly regulated TLDs (i.e., can an individual or entity without the proper credentials buy a highly regulated domain?);

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Deleted: Determining the volume and the subject matter of complaints regarding domains in highly regulated industries by seeking more detailed information from ICANN Contractual Compliance and registrars/resellers of highly regulated domains; and

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Deleted: Compare rates of abuse between those highly regulated gTLDs that have voluntarily agreed to verify and validate credentials to those highly regulated gTLDs that have not. ;

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Note: I think we should consolidate 25-30 because they all relate to the safeguards for new gTLDs operating in highly regulated sectors.

Rationale/related findings: Although ICANN has implemented certain safeguards applicable to domains for highly regulated strings, it is unclear whether and how contracted parties are complying with these safeguards. It is also not clear whether these safeguards have been effective in mitigating risks associated with domains in highly regulated markets. The consumer end-user survey results indicate that new gTLDs are not trusted to the same extent as legacy gTLDs and that the public is concerned about potential misuse of their sensitive information. Domains working in highly regulated sectors such as health and finance may be more apt to collect this sensitive information and hence the

trustworthiness of these domains is even more crucial. Hence, it is important to understand whether the safeguards put into place to mitigate the risks associated with highly regulated domains are being enforced and whether they are effective.

ICANN is embarking on several data gathering initiatives that may shed light on some of these issues, including the Data Abuse Activity Reporting Project, the Marketplace Health Index, and the Identifier Technology Health Indicators project.

Public Comment Input (most support):

ICANN: Although data for registrants' preferences for types of TLDs (i.e., geographic) can provide insight into choice and trust, it's unclear how registrants' preferences for particular TLDs inform the extent to which the expansion of gTLDs has promoted competition, consumer trust and consumer choice. It would be helpful if the CCTRT could clarify to ensure that appropriate analyses could be performed to inform future CCTRT discussions.

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Implementation, cost, resource, and timing estimate: Implementation of these recommendations could entail repeating the registrant survey and including additional questions to address new requirements from these recommendations. This survey is estimated to cost USD 150,000. Resource requirement is estimated at 0.5 FTE. Estimated timeline for implementation, including report generation is 6 months.

This is another area where the recommendations overlap with activities of the gTLD Marketplace Index. It would be helpful to understand how the CCTRT sees these recommendations aligning with the gTLD Marketplace Index effort. Would the CCTRT consider folding these recommendations into a common set of metrics that may be collected and analyzed via this ongoing effort?

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- For Recommendation 30, ICANN organization will assess how to collect and report complaints in highly regulated gTLDs that verify/validate credentials and those that don't.

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Concern: Continuing with the current DNS abuse study in its full form with the currently contracted researchers may impose unnecessary duplicative costs given the capabilities of the C27

DNS Abuse Reporting Tools (DART) to generate reports measuring levels of DNS abuse.

However, the more in-depth analyses asked for in Recommendations 30 and 34 require more sophisticated statistical analysis that may be beyond the internal expertise available within

ICANN organization and the capabilities of DART. Any correlation between an abuse trend line

generated by DART and given safeguard targeted in Recommendations 30 and 34 (i.e.

credential verification and registration restrictions) would be speculative given the many

variables involved in predicting an abuse rate. As such, a potential solution could be to utilize DART, which is currently in the beta testing phase, as a means to satisfy the requirements of Recommendation

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19. To satisfy the requirements of Recommendations 30 and 34, ICANN organization may explore continuing the contract with the current DNS abuse study researchers to carry out the more sophisticated statistical analyses. This would carry marginal costs to the current study rather than new costs for a new study.

Recommendations do not specify the intended use of the information. It would be helpful if the CCTRT could clarify the intended use and by whom to ensure that appropriate data collection and analyses are performed.

- Recommendation 25 refers to conducting a study on highly regulated new gTLDs to understand the steps registries are taking to establish working relationships with relevant government or industry bodies. As registries have an obligation to create a working relationship with the relevant regulatory or industry self-regulatory bodies, ICANN organization routinely audits registry operators for compliance with this contractual provision. Could this audit meet the requirements of this recommendation, or is a study required?

- Recommendation 27 refers to assessing the presence of complaint contact information for the users of the websites at the second level in gTLDs that are considered highly regulated. ICANN reviews compliance with all category 1 safeguards as applicable to certain TLDs, including the Registry Registrar Agreement. ICANN's contractual relationship is with the registry operator as it relates to contact information. ICANN does not have a contractual relationship with registrants and does not assess this content.

In addition, the following activities are in process, which address some of the requirements in some of these recommendations:

- Regarding Recommendation 25, ICANN organization is performing audits on registry operators, which includes auditing for compliance on the contractual requirement that registries establish working relationships with relevant government or industry bodies.
- Regarding Recommendation 28, ICANN organization is updating its registrar audit plan

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to include a test for compliance with a highly regulated TLD's requirements for registration; whether restrictions regarding possessing necessary credentials are being enforced by registrars. Target completion date is June 2017.

● Regarding Recommendation 29, ICANN organization is in the process of developing the required changes to provide more detailed information on the subject matter of complaints in the publicly available contractual compliance reports. The target completion date is July 2017.

Non Com SG: Confusing. It appears to be one long and ongoing recommendation which makes it very difficult to read, understand and implement – a problem in itself. Further, they appear to be hooking ICANN directly into work with government consumer bodies – many of which are members of the GAC – and industry bodies (undefined) that are themselves welcome to be members of the Supporting Organizations and their Stakeholder Groups. All of the recommendations – 25 to 30 – should not be done by ICANN directly. They are inputs, reports, processes of a) relevant bodies and b) relevant industry bodies that properly should be shared and processed through their appropriate Supporting Organization or Advisory Group – for *review by the entire ICANN Community* through the Multistakeholder Process. We strongly recommend considerable reworking and allowing existing ICANN processes - SOs and GAC - to provide their reports and inputs through the ICANN Multistakeholder process.

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GAC: The GAC believes that it is vitally important to assess the level of implementation of safeguards for highly regulated strings and whether such safeguards have been effective in mitigating risks associated with domains in highly regulated markets. The GAC supports the recommendations therefore on specific areas where more data and information is required for an objective assessment.

vTLDs: The Consortium supports Recommendations 25-30 of the CCTRT calling for a study on gTLDs operating in highly regulated industries. Given the similarities between this study (i.e., Recommendations 25-30) and the study proposed in Recommendation 16, it may be possible to combine the two. If it becomes necessary to make a choice between the two, the Consortium would prioritize the study proposed in Recommendation 16. Regarding the wording of Recommendations 25 and 28, the Consortium notes that it would be more accurate to change "highly regulated new gTLDs" to "new gTLDs operating in highly regulated sectors."

Com Laude Valideus: We agree with the questions and information gaps the CCTRT identifies with respect to Safeguards for Highly Regulated Strings and broadly agree with its recommendations regarding desired data gathering to inform conclusions about the effectiveness of measures introduced to deal with such strings.

Neustar: Registrants do not have an obligation to ICANN to provide such information as contracted parties do. The availability and feasibility of the data requested under this recommendation is highly questionable.

UK: The GAC Beijing communiqué provided a list of new gTLD applications falling into this Category 1 list. The GAC made clear at the time that this list was non-exhaustive in the expectation that the GAC's

advice would be followed up by ICANN-led action to complete the list (including IDN equivalents) in order to include all such applications. The CCT RT draft report should consider whether this expected action to complete the list was in fact carried out or whether ICANN relied erroneously on the non-exhaustive list attached to the Beijing communiqué to determine which registries should implement the necessary safeguards in their registry agreements. In addition to highly regulated sector gTLD applications, the Beijing communiqué included a non-exhaustive list of sensitive non-regulated sector strings (including those targeting children) to which a sub-set of safeguards would be applied through their respective registry agreements. It is recommended that the final report of the CCTRT should examine the record of safeguard compliance in respect of these strings (including IDN equivalents) and if necessary make specific recommendations to complement those covered in Recommendations 25-30 in respect of highly regulated sectors.

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31	ICANN Contractual Compliance <u>should report on a quarterly basis whether it</u> has received complaints for a registry operator's failure to comply with either the safeguard related to gTLDs with inherent governmental functions or the safeguard related to cyberbullying.	ICANN organization	Low
32	Survey Registries to determine how they enforce these safeguards <u>related to cyberbullying and misrepresenting a governmental affiliation.</u>	ICANN organization	Low

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Rationale/related findings: The lack of information about whether ICANN Contractual Compliance or registries have received complaints related to these safeguards and lack of consequences for failure to comply with these safeguards make it difficult to assess their effectiveness in mitigating the risks they were intended to address, **Note:** A general recommendation for further transparency regarding the subject matter of complaints received by ICANN Contractual Compliance is set forth in [Chapter V. Data-Driven Analysis: Recommendations for Additional Data Collection and Analysis](#).

Public Comment Input:

ICANN notes that is has NOT received complaints related to these safeguards.

GAC: The GAC strongly supports the recommendation that ICANN determine whether complaints have been received regarding a registry operator's failure to comply with these safeguards, particularly for those TLDs with an inherent governmental function. The GAC welcomes the recommended survey for registries to determine how they (registries) are enforcing these safeguards and looks forward to receiving the results. This is of particular interest to the GAC as two letter codes are currently being registered at the second level, and it is of particular importance to many governments that registry operators comply with these special safeguards and know with confidence that they are being enforced effectively.

Business Constituency ranks these as very important.

Non Com SG: These recommendations are beyond the scope and mission, limits, and competence of ICANN and the ICANN community. These recommendations must be deleted or modified to the scope and mission of ICANN.

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34	Repeat and refine the DNS Abuse Study to determine whether the presence of additional registration restrictions correlate to a decrease in abuse in new gTLDs, and as compared to new gTLDs that lack registration restrictions, and as compared to legacy gTLDs.	ICANN organization, PDP Working Group, and future CCT Review Teams	High
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Observation: (other team members hold the pen on these Recommendations) Although 34-36 all deal with registration restrictions, 34 focuses squarely on DNS abuse and the related DNS study and hence would be difficult to combine with 35 and 36 which relate to costs and benefits of registration restrictions and balancing impact of registration restrictions on consumer trust and competition.

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35	Collect data on costs and benefits of implementing various registration restrictions, including the impact on compliance costs and costs for registries, registrars and registrants. One source of this data might be existing gTLDs (for example, for verification and validation restrictions, we could look to those new gTLDs that have voluntarily included verification and validation requirements to get a sense of the costs involved).	ICANN organization, PDP Working Group and future CCT Review Teams	High
36	Gather public comments on the impact of new gTLD registration restrictions on competition to include whether restrictions have created undue preferences.	ICANN organization, PDP Working Group and future CCT Review Teams	High