

<b>2.5.1: Application Fees (WT1)</b>			
<b>#</b>	<b>Comment</b>	<b>Contributor</b>	<b>WG Response</b>
1	<p><b>Support for a lower application fee:</b> The Applicant Support Program (2012) provided a very limited number of qualifying applicants with the opportunity to pay a reduced evaluation fee of USD \$47,000 instead of the full fee of USD \$185,000. The application fee pegged at USD \$185,000 is unreasonably high and must be revised to make it more affordable for applicants from developing as well as underdeveloped economies of the world.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q4/000069.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q4/000069.html</a>)</p>	Government of India - submitted by IN Registry	
<b>2.5.1.c.1: Work Track 1 is considering proposing that the New gTLD Program continue to be self-funding where existing ICANN activities are not used to cross-subsidize the new gTLD application, evaluation, pre-delegation and delegation processes.</b>			
1	<p><b>Accepts a self-funding program, noting that 2012 application fee deterred brand applicants:</b> MARQUES accepts that the new gTLD programme should operate on a cost-recovery basis but believes that the \$185,000 application fee in Round One deterred many interested brand applicants.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000025.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000025.html</a>)</p>	MARQUES	
2	<p><b>Supports a self-funding program, which should include contingent programs such as the expansion of contract compliance capability:</b> The original program presumed that the number of new registrations would ensure that all operational costs associated with the program would be well covered by the operational fees. The number of new registrations is FAR below expectations and it is not clear that this has happened. So yes, the ALAC agree that the program should be self-funding which should include contingent programs such as the expansion of contract compliance capability.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html</a>)</p>	ALAC	
3	<p><b>The BRG supports this recommendation.</b></p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html</a>)</p>	Brand Registry Group	
4	<p><b>Suggestion that currency fluctuations should be considered and planned for [note: part of the response looks like it belongs in 2.4.3.c.16]:</b> Agree.</p> <p>There need to be ICANN points of contact, but also service standards (defining timely response in the case of questions from a potential applicant).</p> <p>For variable fees, need to bear in mind the cost of currency conversion and fluctuations which can be significant barriers (e.g. recent devaluations in markets like Brazil/Argentina). Can the process mitigate this in some way (e.g. with some sort of a hedge for applications in process)?</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000041.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000041.html</a>)</p>	Business Constituency	
5	<p><b>Support for recommendation:</b> INTA agrees with this recommendation.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a>)</p>	INTA	

6	<p><b>Supports a cost-recovery approach with fee used in 2012; supports returning excess application fees to applicants up to 50% of the application fee; where funds remain after refunds supports allocation per Preliminary Recommendation 2.5.1.c.4:</b> Neustar supports the cost-recovery approach adopted for the 2012 new gTLD process. However, in the absence of a mechanism to accurately determine the potential number of new gTLD applicants in any subsequent new gTLD process and the absence of information from ICANN on the costs associated with developing and operating the program, Neustar believes that the most pragmatic approach for deciding the nominal application fee is to maintain the USD 185,000 fee used in 2012. An application fee that is significantly lower or higher could result in potential claims of anti-competitive behavior, depending on the point of view of potential applicants and existing Registry Operators.</p> <p>Given the considerable excess of application fees that currently exists from the 2012 application process, and the absence of clear direction on what should be done with the excess application fees, we support a policy recommendation that the excess application fees should be returned to applicants up to a maximum of 50% of the application fee. Given our proposed three phase application process, no potential refunds would be available until after the completion of the third phase of the application process.</p> <p>Where excess application fees remain after refunds have been issued to applicants, we support the identification of items/programs that ICANN could allocate spending to from excess fees as described in Preliminary Recommendation 2.5.1.c.4.</p>	Neustar	
7	<p><b>Support for the principle of a self-funding program and specific guidance:</b> This principle, in place since the 2012 round, should be maintained. Funds taken in from the new gTLD program should only be used for new gTLD program related functions within ICANN and ICANN revenues from outside of the new gTLD program should not be used to subsidize the new gTLD program. This not only includes application evaluation and delegation activities but should also include other efforts around Universal Acceptance, Applicant Support and security and stability. Maintaining this segregation of funds is even more important going forward as ICANN encounters budget pressures. ICANN should not arbitrarily shift staff to the new gTLD program just to cover salary and benefits nor should the new gTLD program be an excuse for ICANN to grow headcount on a long term basis.</p>	RySG	
8	<p><b>Support:</b> We support the existing GNSO policy and agrees that the New gLD Program continue to be self-funding and revenue neutral subject to below.</p>	Valideus	
1	<p><b>Expects that cost will be reduced because of efficiencies. Supports flexibility in evaluating some applicants where true financial capability is harder to evaluate:</b> MarkMonitor expects that efficiencies gained and lessons learned from the first new gTLD round, in conjunction with the suggested "revenue neutral" principle, will lead to a decreased application cost for future applications. We note that application cost serves a purpose beyond compensating ICANN for its required evaluation and delegation costs, akin to the applicant's financial capability analysis, in ensuring the security and stability of the DNS. Accordingly, we suggest that the flexibility to employ a combination of these two factors might be appropriate for some applicants, especially those whose unique corporate governance, financial reporting, or intellectual property ownership structures may hinder clear evaluation of the applicant's true financial capability.</p>	MarkMonitor	
<p><b>2.5.1.c.2: In addition, the Work Track generally believes that the application fee amount should continue to be based on the "revenue neutral" principal, though the accuracy should be improved to the greatest extent possible. Although the 2012 New gTLD Applicant Guidebook remained silent on what should happen with any excess fees obtained through the application process, the Work Track is leaning towards recommending that absent the use of an application fee floor (described in 3 below) excess fees should be refunded back to applicants. If a deficit arises, the Work Track considered several options (see deliberations below), but there seemed to be support for ICANN recovering the majority of funds in future TLD application windows.</b></p>			

1	<p><b>Supports using excess funds to promote the public interest; requests estimates of costs that need to be covered by application fees:</b> While the ALAC did not reach consensus on whether an application fee floor should be used, The ALAC does recommend that excess funds after cost recovery should be spent on endeavors that promote the public interest and should not be used to refund applicants.</p> <p>These excess fees received by ICANN could be used to benefit the following categories:</p> <ul style="list-style-type: none"> <li>• Support general outreach and awareness for the New gTLD Program (e.g., Universal Awareness and Universal Acceptance initiatives)</li> <li>• Support the gTLD long-term program needs such as system upgrades, fixed assets, etc.</li> <li>• Application Support Program</li> </ul> <p>When it comes to the 'revenue neutral' principle, the ALAC would like to see clear estimates of costs that need to be covered by application fees, as specific as possible and with numbers provided. The ALAC finds it quite surprising to see the report refer to the fact that 'documentation related to the process used in setting the 2012 application fee were unavailable' (page 80) and 'while the Work Track was unable to attain the document that reflected these steps and any related insight, it still asked itself if there is better method to increase precision of (cost) estimates' (page 82).</p>	ALAC	
2	<p><b>Support for recommendation:</b> As per the BRGs CC2 response, the principle of cost recovery remains appropriate.</p>	Brand Registry Group	
3	<p><b>Support for revenue neutral model, and including auctions, registration values into account:</b> XYZ strongly believes that it against the mission and purpose of ICANN for ICANN to charge anything more than its anticipated total cost to administer the application process for the new rounds. Importantly, ICANN must take into consideration the future revenue that ICANN will take in from auctions and increased registration volumes when setting initial application pricing. To do otherwise, would be a deliberate misinterpretation of *Implementation Guideline B* designed to overcharge applications and unjustly enrich ICANN. If ICANN takes in more from application fees and auction income than it spent in administering the application process, all such money should be fairly returned to applications. Any other use of the money would be against ICANN's mandate and unfair to applicants.</p>	XYZ	
4	<p><b>Support for relatively high fees to dissuade frivolous applications and reduced fee for brand applications:</b> INTA believes the application fee amount should be relatively high to dissuade frivolous applications. However, because branded gTLDs will be closed, and therefore any registry failure does not impact the wider public in the same way as an open TLD, it may be appropriate for there to be a lighter-touch evaluation process around aspects intended for registrant protection. If so, since the cost of evaluation would be lower, INTA believes there should be a reduced application fee for brand owners who wish to apply for a gTLD that wholly incorporates their trademark.</p>	INTA	
5	<p><b>Some support for revenue neutral, some for high fees. Support for a price floor and economic study to determine floor:</b> While some registrars have indicated a preference for keeping the fees high or at its current level to maintain value in the process. Others believe the current process of having the application fees represent the true costs of the new gTLD Program should apply.</p> <p>There is also concern that if the costs of that program drops too low, that may undervalue a registry value in the registration process and its criticality in the ecosystem. Therefore, we would support a "floor" below which an application fee must not drop. The determination of that floor should not be arbitrarily set at the amount of the 2012 round fees, but rather be based on economic analysis to determine the price point at which TLD speculation would occur.</p>	RrSG	

6	<p><b>Supports a cost-recovery approach with fee used in 2012; supports returning excess application fees to applicants up to 50% of the application fee; where funds remain after refunds supports allocation per Preliminary Recommendation 2.5.1.c.4:</b> Neustar supports the cost-recovery approach adopted for the 2012 new gTLD process. However, in the absence of a mechanism to accurately determine the potential number of new gTLD applicants in any subsequent new gTLD process and the absence of information from ICANN on the costs associated with developing and operating the program, Neustar believes that the most pragmatic approach for deciding the nominal application fee is to maintain the USD 185,000 fee used in 2012. An application fee that is significantly lower or higher could result in potential claims of anti-competitive behavior, depending on the point of view of potential applicants and existing Registry Operators.</p> <p>Given the considerable excess of application fees that currently exists from the 2012 application process, and the absence of clear direction on what should be done with the excess application fees, we support a policy recommendation that the excess application fees should be returned to applicants up to a maximum of 50% of the application fee. Given our proposed three phase application process, no potential refunds would be available until after the completion of the third phase of the application process.</p> <p>Where excess application fees remain after refunds have been issued to applicants, we support the identification of items/programs that ICANN could allocate spending to from excess fees as described in Preliminary Recommendation 2.5.1.c.4.</p>	Neustar	
7	<p><b>Supports principle of cost recovery; provides specific guidance from the perspective of some RySG members:</b> As stated in the RySG response to the CC2, the principle of cost recovery was a reasonable approach for the 2012 round and we don't see a need to change the mechanism in the future. With that said, some members of the RySG hold the position that the \$185,000 fee shouldn't change to reflect the public interest responsibility associated with operations of TLDs and that the question of recurring fees in excess of a cost recovery principle should be considered holistically and should follow further cost analysis, including accounting for fees during the 2012 round and whether the fees charged achieved the goal of cost recovery. Since the 2012 round, the Registry Stakeholder Group has petitioned ICANN and the ICANN Board on several occasions for a return of excess application fees through various methods. Except for returning the duplicative \$5,000 fee for the set p of the Trademark Clearing House, these requests have been rejected.</p> <ul style="list-style-type: none"> <li>• If ICANN continues to hold the position that excess fees will not be returned to applicants, then the following needs to happen:</li> <li>• ICANN needs to more accurately account for the program expenses and use that to determine a more accurate application fee to avoid or minimize excess fees.</li> <li>• ICANN and the community should identify programs and initiatives within the new gTLD program would could use excess applications fees to support the overall health of the new gTLD program. These could include efforts such as Universal Acceptance, Applicant Support or sustaining ICANN compliance efforts</li> <li>• The process for handling excess fees should be clearly articulated to applicants prior to application fees and applications being submitted to ICANN.</li> <li>• A process should be established to evaluate ICANN's own needs and determine if excess fees could be used to further their work. ICANN should have a preemptive declaration on the funds prior to determining that the funds are in fact "excess". For requests made of ICANN that are well within their remit and by-laws, this reserve should be considered.</li> </ul>	RySG	
8	<p><b>Support for revenue neutral, as well as possible reserve fund. Concern about current surplus from 2012. New costing exercise needed, taking into account recommendations from this PDP:</b> We believe that the New gTLD Program be revenue neutral and that the application fee must represent the actual costs of evaluating and processing the applications. We also support to some extent the notion of ensuring that ICANN has an adequate reserve fund to account for any unanticipated costs due to unforeseen circumstances and potential litigation. That said, there was a substantial surplus from the fees in the 2012 round which ICANN continues to draw against for activities that have not been disclosed as fully as they should.</p> <p>ICANN must do a complete accounting of the program to compute the actual costs of running the program (minus the costs attributable to "historical costs"). In doing so, ICANN should be able to compute an average cost per application and therefore estimate what it would cost in the future to evaluate an application. This estimation should also take account of any cost savings introduced as a result of recommendations from this PDP, such as an RSP pre-approval program, or simpler financial evaluation. This overall estimation should become the basis for the application fee.</p>	Valideus	

9	I assume "principal" should be "principle"? ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000060.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000060.html</a> )	Alexander Schubert	
<b>2.5.1.c.3: The Work Track also is considering proposing that if in the event that the estimated application fee, based on the "revenue neutral" principal, falls below a predetermined threshold amount (i.e., the application fee floor), the actual application fee will be set at that higher application fee floor instead. The purpose of an application fee floor, as more fully discussed below, would be to deter speculation, warehousing of TLDs, and mitigating against the use of TLDs for abusive or malicious purposes, that could more easily proliferate with a low application fee amount.</b>			
1	<b>Understands concerns that the cost floor seeks to address:</b> MARQUES also understands the concerns expressed about TLD squatting in the event that cost-recovery falls below a certain floor (eg., US \$15,000 - \$20,000). ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000025.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000025.html</a> )	MARQUES	
2	<b>Suggests considerations for setting a floor amount if such a floor is set:</b> A TLD is a valuable piece of unique Internet real estate. The floor price should not be below that used in the first round. Based on experience from the first round, it is clear that the price used then was not a deterrent to a large number of often speculative applications. If an application fee floor is used for a.o. this reason, it would need to be determined at what level the floor sufficiently mitigates the risk of speculation, warehousing, abuse etc., while still making it attractive to invest in the introduction of New gTLDs. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html</a> )	ALAC	
3	<b>Support for recommendation:</b> As per the BRGs CC2 response, the principle of cost recovery remains appropriate. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html</a> )	Brand Registry Group	
4	<b>Request for guidance on the fee floor and to clarify what is the reference to the "75 steps" document:</b> With regard to the preliminary recommendation on application fee floor, ICANN org looks forward to receiving guidance from the community as to what the fee floor amount should be, or criteria by which it is established, as well as any thoughts on ongoing reviews of that fee floor amount.  Section 2.5.1.f of the Initial Report makes reference to documentation related to the process used in setting the fee in the 2012 application fee and a "75 steps used to establish the application fee amount" being unavailable. ICANN org is not aware of any "75 steps" document and is unclear about what "documentation related to the process used in setting fee in the 2012 round is being referenced in this section. It would be helpful if the PDP Working Group could clarify. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000037.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000037.html</a> )	ICANN Org	
5	<b>Opposition to anything but revenue neutral approach:</b> XYZ strongly believes that it against the mission and purpose of ICANN for ICANN to charge anything more than its anticipated total cost to administer the application process for the new rounds. Importantly, ICANN must take into consideration the future revenue that ICANN will take in from auctions and increased registration volumes when setting initial application pricing. To do otherwise, would be a deliberate misinterpretation of *Implementation Guideline B* designed to overcharge applications and unjustly enrich ICANN. If ICANN takes in more from application fees and auction income than it spent in administering the application process, all such money should be fairly returned to applications. Any other use of the money would be against ICANN's mandate and unfair to applicants. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000042.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000042.html</a> )	XYZ	
6	<b>Support for recommendation if fee floor is lower for brand applicants:</b> INTA agrees with this recommendation, subject to the comments at 2.5.1.c.2 above, i.e. if an applicant is seeking to obtain a branded gTLD that will be closed then the cost floor should be lowered. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a> )	INTA	

7	<p><b>Supports a cost-recovery approach with fee used in 2012; supports returning excess application fees to applicants up to 50% of the application fee; where funds remain after refunds supports allocation per Preliminary Recommendation 2.5.1.c.4:</b> Neustar supports the cost-recovery approach adopted for the 2012 new gTLD process. However, in the absence of a mechanism to accurately determine the potential number of new gTLD applicants in any subsequent new gTLD process and the absence of information from ICANN on the costs associated with developing and operating the program, Neustar believes that the most pragmatic approach for deciding the nominal application fee is to maintain the USD 185,000 fee used in 2012. An application fee that is significantly lower or higher could result in potential claims of anti-competitive behavior, depending on the point of view of potential applicants and existing Registry Operators.</p> <p>Given the considerable excess of application fees that currently exists from the 2012 application process, and the absence of clear direction on what should be done with the excess application fees, we support a policy recommendation that the excess application fees should be returned to applicants up to a maximum of 50% of the application fee. Given our proposed three phase application process, no potential refunds would be available until after the completion of the third phase of the application process.</p> <p>Where excess application fees remain after refunds have been issued to applicants, we support the identification of items/programs that ICANN could allocate spending to from excess fees as described in Preliminary Recommendation 2.5.1.c.4.</p>	Neustar	
8	<p><b>Support for a minimum application fee that accurately assesses the valuable nature of a TLD and its importance in the operation of the DNS:</b> Applicants for new gTLDs are applying to operate a critical piece of internet infrastructure. Incumbent with the successful operation of a TLD, there are a myriad of costs that when considered, make the application fee almost irrelevant. A minimum application fee that accurately assesses the valuable nature of a TLD and its importance in the operation of the DNS is critical to the success of this program.</p>	RySG	
9	<p><b>Support for floor, but it should not be too high so as to discourage serious applicants. Suggestion that the \$50k fee from 2000 and 2005 did not invite speculation, could serve as baseline:</b> Notwithstanding our comment in 2.5.1.c.2, we sympathise with the notion that operating a TLD Registry is the management of a critical public resource. Therefore, if the actual costs fall below a certain threshold, we are not opposed to the idea of a floor being set, below which the fee to apply should be raised to that floor. However, we do not believe that a floor should be created that is so high as to discourage serious applicants from around the world from applying for a TLD.</p> <p>An analysis should be done on whether there is a floor which would mitigate the probability of applicants speculating on applying for TLDs or for TLD warehousing. ICANN has had 3 rounds of new gTLD applications. In both 2000 and 2005, where the fee for an application was approximately \$50,000, there was no evidence brought forward that there was any form of speculation or TLD warehousing. Therefore, taking that into consideration, there is no reason that a floor set for future rounds would need to be even that high, much less anything over \$50,000.</p> <p>We oppose completely the use of the 2012 new gTLD application fee as the basis for a floor in setting the fee in subsequent processes. We should be encouraging competition and innovation while also ensuring a true diversity of registries. Not all registries will operate on a commercial basis with an intent to derive revenue, including Brand TLD registries. There is no reason that a new Brand TLD registry applicant should have to pay any more than \$50,000.</p>	Valideus	
<p><b>2.5.1.c.4: The application fee floor is a predetermined value that is the minimum application fee. By definition, an application fee floor will not meet the revenue neutral principle as the floor amount will be greater than the application fees creating an excess. In the event that an application fee floor is used to determine the application fee, excess fees received by ICANN if the application fee floor is invoked should be used to benefit the following categories: Support general outreach and awareness for the New gTLD Program (e.g., Universal Awareness and Universal Acceptance initiatives); Support the gTLD long-term program needs such as system upgrades, fixed assets, etc.; Application Support Program; Top-up any shortfall in the segregated fund as described below.</b></p>			
1	<p><b>Support for recommendation:</b> The ALAC agrees with this preliminary recommendation.</p>	ALAC	

2	<p><b>Support for recommendation:</b> As per the BRGs CC2 response, the principle of cost recovery remains appropriate.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html</a>)</p>	Brand Registry Group	
3	<p>Agree</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000041.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000041.html</a>)</p>	Business Constituency	
4	<p><b>Support for using excess funds for initiatives to improve trust in the DNS and to implement robust contractual compliance efforts:</b> INTA would suggest that excess fees should be applied to initiatives which would improve trust in the DNS, particularly around security threats, malware, fraud and intellectual property infringement. Funds should be allocated to ensure that there is robust monitoring and enforcement of the contractual commitments made by applicants and by registrars selling those names.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a>)</p>	INTA	
5	<p><b>Supports a cost-recovery approach with fee used in 2012; supports returning excess application fees to applicants up to 50% of the application fee; where funds remain after refunds supports allocation per Preliminary Recommendation 2.5.1.c.4:</b> Neustar supports the cost-recovery approach adopted for the 2012 new gTLD process. However, in the absence of a mechanism to accurately determine the potential number of new gTLD applicants in any subsequent new gTLD process and the absence of information from ICANN on the costs associated with developing and operating the program, Neustar believes that the most pragmatic approach for deciding the nominal application fee is to maintain the USD 185,000 fee used in 2012. An application fee that is significantly lower or higher could result in potential claims of anti-competitive behavior, depending on the point of view of potential applicants and existing Registry Operators.</p> <p>Given the considerable excess of application fees that currently exists from the 2012 application process, and the absence of clear direction on what should be done with the excess application fees, we support a policy recommendation that the excess application fees should be returned to applicants up to a maximum of 50% of the application fee. Given our proposed three phase application process, no potential refunds would be available until after the completion of the third phase of the application process.</p> <p>Where excess application fees remain after refunds have been issued to applicants, we support the identification of items/programs that ICANN could allocate spending to from excess fees as described in Preliminary Recommendation 2.5.1.c.4.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000049.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000049.html</a>)</p>	Neustar	
6	<p><b>Supports returning excess fees to applicants; provides additional suggestions if this guidance is not followed:</b> As stated previously, since the 2012 round, the Registry Stakeholder Group has petitioned ICANN and the ICANN Board on several occasions for a return of excess application fees through various methods. Except for returning the duplicative \$5,000 fee for the setup of the Trademark Clearing House, these requests have been rejected.</p> <ul style="list-style-type: none"> <li>• If ICANN continues to hold the position that excess fees will not be returned to applicants, then the following needs to happen:</li> <li>• ICANN needs to more accurately account for the program expenses and use that to determine a more accurate application fee to avoid or minimize excess fees.</li> <li>• ICANN and the community should identify programs and initiatives within the new gTLD program would could use excess applications fees to support the overall health of the new gTLD program. These could include efforts such as Universal Acceptance or Applicant Support.</li> <li>• The process for handling excess fees should be clearly articulated to applicants prior to application fees and applications being submitted to ICANN.</li> </ul> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html</a>)</p>	RySG	
7	<p><b>AGB should specify how excess fees would be used and should be made clear prior to application submission:</b> We agree that to the extent that there is an application floor in which the application fee would be higher than the actual costs, the AGB specify exactly how those excess funds will be used. Whether they are refunded to the applicants themselves, or whether they are distributed to gTLD-related programs such as the Applicant Support Program, this needs to be made clear prior to applications being submitted to ICANN, and preferably in the AGB itself.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000056.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000056.html</a>)</p>	Valideus	

2.5.1.c.5: To help alleviate the burden of an overall shortfall, a separate segregated fund should be set up that can be used to absorb any shortfalls and topped-up in a later round. The amount of the contingency should be a predetermined value that is reviewed periodically to ensure its adequacy.		
1	<p><b>Support for recommendation:</b> As per the BRGs CC2 response, the principle of cost recovery remains appropriate.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html</a>)</p>	Brand Registry Group
2	<p><b>Support for recommendation:</b> The ALAC agrees with this preliminary recommendation. If an application fee floor is simultaneously introduced the levels of both would need to be considered in combination with each other, the amount set aside for contingency could be funded from the excess fees received because of the application fee floor.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html</a>)</p>	ALAC
3	<p><b>Support for recommendation:</b> INTA agrees with this recommendation.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a>)</p>	INTA
4	<p><b>Supports a cost-recovery approach with fee used in 2012; supports returning excess application fees to applicants up to 50% of the application fee; where funds remain after refunds supports allocation per Preliminary Recommendation 2.5.1.c.4:</b> Neustar supports the cost-recovery approach adopted for the 2012 new gTLD process. However, in the absence of a mechanism to accurately determine the potential number of new gTLD applicants in any subsequent new gTLD process and the absence of information from ICANN on the costs associated with developing and operating the program, Neustar believes that the most pragmatic approach for deciding the nominal application fee is to maintain the USD 185,000 fee used in 2012. An application fee that is significantly lower or higher could result in potential claims of anti-competitive behavior, depending on the point of view of potential applicants and existing Registry Operators.</p> <p>Given the considerable excess of application fees that currently exists from the 2012 application process, and the absence of clear direction on what should be done with the excess application fees, we support a policy recommendation that the excess application fees should be returned to applicants up to a maximum of 50% of the application fee. Given our proposed three phase application process, no potential refunds would be available until after the completion of the third phase of the application process.</p> <p>Where excess application fees remain after refunds have been issued to applicants, we support the identification of items/programs that ICANN could allocate spending to from excess fees as described in Preliminary Recommendation 2.5.1.c.4.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000049.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000049.html</a>)</p>	Neustar
5	<p><b>Supports a rigorous costing exercise to ensure that there is no shortfall:</b> ICANN should take all courses necessary to ensure there is no shortfall of funds as the result of this program. With ICANN currently looking at ways to contains costs, something the RySG supports, there should not be the opportunity for ICANN to have funds to load to the program. The RySG supports the rigorous costing exercise as discussed in the Initial Report to ascertain as accurate an application fees as possible. And when in doubt, ICANN should err towards excess funds as opposed to any shortfall.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html</a>)</p>	RySG
2.5.1.e.1: To the extent that warehousing/squatting of TLDs has taken place and may occur in the future, what other restrictions/methodologies, beyond pricing, might prevent such behavior?		
1	<p><b>Not clear that there is evidence of warehousing/squatting, but the application fee would be an effective control mechanism:</b> It is not clear that there is evidence of warehousing/squatting, so more data and/or definitions are required. However, please note that ICANN's application process is more likely a deterrent to most applicants, rather than the application fee (which is a small proportion of overall, costs), therefore the application fee would be an ineffective control mechanism.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000038.html</a>)</p>	Brand Registry Group



2	<p><b>Not clear that there is evidence of warehousing/squatting, but the application fee would be an effective control mechanism; if objection is successful, cost of the objection should be borne by the applicant:</b> It is INTA's position that the strongest protection against warehousing/squatting of TLD is the high cost of the application. INTA is not aware of warehousing/squatting to date and cautions against any assumption that all applicants for TLDs have the same drivers in applying and intend to utilize the same business models. For many .Brand TLDs, for example, domains under management is not necessarily a relevant indication of use and value.</p> <p>INTA does not object to applicants applying for open TLDs which contain common words. If an applicant applies for a TLD that matches a trademark there must be an opportunity for the trademark owner to object to the application. INTA would propose that if an objection to a proposed TLD is successful then the costs of the objection would be borne by the applicant.</p>	INTA	
3	<p><b>Suggestion for use requirements, not applicable to brand TLDs:</b> Consider having applicants commit to make use of their TLDs within a given period. Potentially have lack of use be a valid reason for revocation of the TLD upon challenge by a 3 rd party. Providing this obligation would not apply to brand TLDs.</p>	RrSG	
4	<p><b>Not clear that there is evidence of warehousing/squatting:</b> The RySG is not aware of sufficient data to demonstrate that there is a material concern with warehousing/squatting of TLDs. Therefore no other restrictions or methodologies are necessary.</p>	RySG	
<p><b>2.5.1.e.2: What happens if the revenue-cost neutral amount results in a refund that is greater than the application fee floor value? Should it be only the difference between the cost floor and the amount refunded? Should there be any minimum dollar value for this to come into effect? i.e. the amount of the refund is a small amount, and if so, should this excess be distributed differently, i.e. Universal Awareness, Applicant Support, other?</b></p>			
1	<p><b>Request for clarification regarding this question:</b> In general the ALAC believes that excess funds should be spent on the categories mentioned in 2.5.1.c.4. From question 2.5.1.e.2 it is not clear to the ALAC whether this is about what is left after spending the excess fees received to 'benefit the categories' as described in 2.5.1.c.4 when using an 'application fee floor'. Applicant support is already mentioned as a category in 2.5.1.c.4.</p>	ALAC	
2	<p><b>The refund should be anything about the cost floor:</b> INTA's position is that the refund should be anything above the cost floor.</p>	INTA	
3	<p><b>Supports returning excess fees to applicants; provides additional suggestions if this guidance is not followed:</b> As stated previously, since the 2012 round, the Registry Stakeholder Group has petitioned ICANN and the ICANN Board on several occasions for a return of excess application fees through various methods. Except for returning the duplicative \$5,000 fee for the set up of the Trademark Clearing House, these requests have been rejected. If ICANN continues to hold the position that excess fees will not be returned to applicants, then the following needs to happen: ICANN needs to more accurately account for the program expenses and use that to determine a more accurate application fee to avoid or minimize excess fees. ICANN and the community should identify programs and initiatives within the new gTLD program would could use excess applications fees to support the overall health of the new gTLD program. These could include efforts such as Universal Acceptance or Applicant Support. The process for handling excess fees should be clearly articulated to applicants prior to application fees and applications being submitted to ICANN.</p>	RySG	
4	<p><b>The IPC believes that excess funds ought to be used to advance the public interest.</b></p>	IPC	
<p><b>2.5.1.e.3: What are the considerations/implications if we move to continuous rounds, in this case limited to how it relates to ensuring the program is run in a revenue neutral manner?</b></p>			

1	<p><b>Fee calculations should become more accurate to support a cost-neutral model and costs should be lower:</b> INTA believes as the transition to more continuous rounds occurs there should be enough data to allow ICANN to determine the revenue neutral amount for applications. INTA also expects that ICANN would become more efficient in processing new applications that the cost will become lower.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a>)</p>	INTA	
2	<p><b>Support for a periodic true-up of cost and revenue:</b> Limiting this response to how it relates to ensuring the program is run in a revenue neutral manner, the RySG suggests there should be a periodic (no less than annual) true-up of cost and revenue, which should be used to provide a periodic (not more frequently than annual) adjustment to application fees. The Implementation Review Team will need to assess practical issues such as when the first true-up should occur (i.e., prior to the "end" of the evaluation process for all applications, but not before the "end" of the evaluation process for a substantial number of applications), how to account for costs and revenues for applications where the evaluation process is longer than a year, and how to time changes to future application fees.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html</a>)</p>	RySG	
<b>2.5.1.e.4: Are there policy, economic, or other principles or factors that might help guide the establishment of the floor amount?</b>			
1	<p><b>Floor amount should be based on actual processing costs:</b> INTA believes the establishment of the floor amount should be based on the actual cost to ICANN to process new applications and should be determined by ICANN staff. Bringing in non-empirical reasons for the establishment of the floor amount will lead to confusion and an inaccurate number.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a>)</p>	INTA	
2	<p><b>Suggests principles for setting the floor amount:</b> The RySG believes we should keep the floor amount should be kept as low as possible in order to avoid discouraging underserved communities and to encourage competition and innovation. The RySG also believes that the floor amount should not be so low as to encourage speculative applications. The Implementation Review Team should be given guidance to balance these competing considerations in setting an appropriate floor amount.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html</a>)</p>	RySG	
3	<p><b>Suggests a \$500k to allow for manageable number of applications, less speculation, quicker processing:</b> Are there policy, economic, or other principles or factors that might help guide the establishment of the floor amount?</p> <p>As we will most likely see several more rounds before we switch to continues application mode and as by the start of the next round about 8 to 9 years since the 1st round have gone by there will be a very high demand in applications.</p> <p>In order to keep that amount manageable and in order to prevent an application stack that would take 2,3 or maybe even 3 years to work off it would be only natural to keep the application fees for the coming round HIGH. The results would be:</p> <ul style="list-style-type: none"> <li>* A manageable application stack (ideally to be processed within a year, so the next round could start a year later)</li> <li>* Less speculative registrations (less warehousing)</li> <li>* Speedy processing for all applicants (no risk, that an application might be at the end of a long stack)</li> </ul> <p>The application fee floor could be slowly lowered round by round - adapting to the amount of applications of the previous round.</p> <p>I suggest an application fee of 500,000 USD in the next round: If that should yield to only 100 or less applications; no problem as the following round would come up within a few month then (short application stack, speedy processing).</p> <p>Sadly in our current world seemingly a financial barrier is the only real working barrier. And absent a high entry barrier we will be FLOODED with new gTLDs - which eventually renders the DNS senseless</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000060.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000060.html</a>)</p>	Alexander Schubert	
<b>2.5.1.e.5: Under the circumstance where the application fee is set at the floor amount, do you have additional suggestions or strategy on the disbursement of excess funds?</b>			

1	<b>Support for use of excess funds as outlined in question 2.5.1.c.4, with possible separate fund to absorb shortfalls:</b> The ALAC believes excess funds should be spent on the categories mentioned in 2.5.1.c.4. Also the separate fund in 2.5.1.c.5 could be funded by -planned for- excess funds. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html</a> )	ALAC	
2	<b>Excess funds should be refunded to applicants:</b> INTA believes any excess funds should be refunded to the applicants. If this is not the case, then our comments at 2.5.1.c.4 would also apply. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a> )	INTA	
3	<b>Supports refunding applicants; provides additional suggestions if excess remains:</b> fees should be refunded to applicants subject to the application of the minimum fee floor. If an excess remains after taking into account the minimum fee floor, then ICANN should (a) add that excess amount to the segregated fund described in 2.5.1.c.5 (if approved, and if so, up to the approved amount for the segregated fund) or to a segregated fund for the purposes described in 2.5.1.e.2 (if approved, and if so, up to the approved amount for the segregated fund), and (b) adjust fees in future TLD application rounds to account for any remaining excess amount. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html</a> )	RySG	
<b>2.5.1.e.6: Are we acknowledging and accepting of ICANN being a so-called “registry of registries” (i.e., does the community envision ICANN approving a few thousand / hundreds of thousands / millions of gTLDs to be added to the root? Should there be a cap?)</b>			
1	<b>Any cap should be based on what the root-zone system can handle technically:</b> Any cap set on the number of (new) gTLDs in the root should initially be determined by what the root-zone system can handle technically. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000065.html</a> )	ALAC	
2	<b>Opposition to a cap on the number of TLDs absent proof of potential harm:</b> INTA is opposed to a cap on the number of new TLDs unless it can be proven that the root cannot operate correctly with a high number of TLDs ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a> )	INTA	
3	<b>Opposition to an arbitrary cap:</b> The RySG believes that there should not be an arbitrary cap. Market forces and other natural incentives will restrict the number of new TLDs. ( <a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html</a> )	RySG	

4	<p><b>Suggests several considerations, including the extent to which ICANN's operations can scale:</b> The WG's recommendations will lower the barriers to making applications. For example, they seem to envision lower application costs in general (by emphasizing the revenue-neutral application principle), and create a streamlined process to evaluate and approve back-end providers, which will lower application costs for applicants (and will lower evaluation costs for the ICANN Organization). There are also questions such as, "Is there a way in which the application fee can be structured such that it can encourage competition and innovation?", which implies lower fees for at least some applications.</p> <p>In such an environment, item 2.5.1.e.6 becomes important. How many more TLDs will be introduced? And can ICANN scale its operations to handle that many TLDs? This poses several security and stability issues. One issue is not so much whether the root zone can accommodate additional entries (see 2.7.6.c.2), but whether the ICANN organization's operations can scale.</p> <p>The following is excerpted from SAC100.</p> <p>Recommendation (4): ICANN should investigate and catalog the long term obligations of maintaining a larger root zone. A larger root zone may increase the complexity and cost of activities that operate on the entirety of the root zone. ICANN should investigate how increasing the size of the root zone will impact activities such as the DNSSEC Key Signing Key (KSK) rollover, IANA root zone change requests, TLD transfers, contract negotiations, the operations of the root zone maintainer, and any other administrative overhead. The ongoing management of these activities should be investigated prior to increasing the number of delegations in the root zone.</p> <p>The SSAC is pleased to see a preliminary recommendation from the working group calling for the ICANN organization to further develop root zone monitoring functionality and early warning systems, as it previously recommended. The SSAC also previously stated that the working group recommendations should include an acceptable rate of change to the root zone instead of a yearly delegation limit, and that obligations to new gTLD registries should be structured so that their addition to the root zone can be delayed in case of DNS service instabilities.</p>		
<b>2.5.1.e.7: Is there a way in which the application fee can be structured such that it can encourage competition and innovation?</b>			
1	<p><b>Supports collection of additional data to support setting a fee that balances different priorities and values:</b> In theory, if only looking at lower barriers for competition and to stimulate innovation, application fees should be set at an as low as possible level, i.e. purely based on a cost recovery basis. However as argued before, there are good reasons to set the application fees at a higher level than purely on a cost recovery basis. In order to determine a balance between on the hand preserving the value of domain names and mitigating the negative side effects of a too low a price, while on the other hand stimulating competition and innovation, numbers and statistics are necessary, clear estimates and contingency planning, in order to determine a level of application fees to be set.</p> <p>Therefore the ALAC agrees with the statement on page 79 of the Initial Report that "the Work Track recognizes that additional analysis would be needed to establish a new estimated cost".</p>	ALAC	
2	<p><b>Application fee should reflect actual costs to ICANN; predictable fees and delegation outcomes will support competition and innovation:</b> INTA supports a pricing system that reflects actual costs to ICANN. Competition and Innovation will follow with predictable fees and delegation outcomes. Innovation and competition are enhanced by reliable systems with realistic cost allocations. An unpredictable system makes planning very difficult for entrepreneurs and innovators.</p>	INTA	
3	<p><b>Suggests principles to balance in structuring the application fee to encourage competition and innovation:</b> The RySG believes that the best way to encourage competition and innovation by means of the application fee is to keep it as low as possible consistent with the "revenue neutral" principle, and that the application fee should be structured such that all applications should continue to incur the same base application fee amount. The RySG also believes that the application fee should not be so low as to encourage speculative applications. The Implementation Review Team should be given guidance to balance these competing considerations in structuring an appropriate application fee.</p>	RySG	
<b>2.5.1.e.8: How do we address the timely disbursement of excess funds? Can this happen prior to the "end" of the evaluation process for all applications? If yes, please explain. If not, what is the length of time applicants should expect a refund after the evaluation process is complete?</b>			

1	<p><b>Support for disbursements following each round:</b> INTA believes the disbursements should occur at the end of each round, subject perhaps to withholding some contingency funds.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000048.html</a>)</p>	INTA	
2	<p><b>The RySG believes the next AG should specify what fees are required to be refunded, under what conditions, and by when.</b> These rules should not be discretionary. To the extent that ICANN has an interest in retaining a certain portion of fees for specific projects to support the program then those goals should be articulated and agreed before the next round opens, for transparency. The AG should permit fees to be refunded in phases, over time and should not require that all applications from a particular round, window, or other application period be fully resolved prior to refunding.</p> <p>(<a href="https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html">https://mm.icann.org/pipermail/comments-gtld-subsequent-procedures-initial-03jul18/2018q3/000052.html</a>)</p>	RySG	
<b>Other Comments</b>			