

# 2019-03-25 New gTLD Subsequent Procedures PDP

The call for the New gTLD Subsequent Procedures Working Group will take place on **Monday, 25 March 2019 at 15:00 UTC for 90 minutes.**

08:00 PDT, 11:00 EDT, 16:00 Paris CET, 20:00 Karachi PKT, (Tuesday) 00:00 Tokyo JST, (Tuesday) 02:00 Melbourne AEDT

For other places see: <https://tinyurl.com/y47yf23y>



## PROPOSED AGENDA

Draft Agenda:

1. Welcome/Review of the Agenda/Updates to Statements of Interest (SOIs)
3. Next steps for Sub Group comment analysis
4. Brief Review of ICANN64 New gTLD Subsequent Procedures PDP WG Activity
5. Review of comments - Supplemental Initial Report: see the document at: [https://docs.google.com/spreadsheets/d/1Ea-CjtL-heQjEwTsr7MYC\\_8gFEvmhY8XBCWTvoan6g/edit#gid=2003620097](https://docs.google.com/spreadsheets/d/1Ea-CjtL-heQjEwTsr7MYC_8gFEvmhY8XBCWTvoan6g/edit#gid=2003620097) [docs.google.com]: 2.3: Role of Application Comment (start at line 37, 2.3.e.4); 2.4 Change Requests
6. AOB

## BACKGROUND DOCUMENTS



## RECORDINGS

[Mp3](#)

[Adobe connect recording](#)

GNSO transcripts are located on the [GNSO Calendar](#)



## PARTICIPATION

[Attendance & AC chat](#)

**Apologies:** Katrin Ohlmer, Heath Dixon, Vanda Scartezini, Sara Bockey, Kavouss Arasteh, Pek Malgorzata, Christopher Wilkinson



## Notes/ Action Items

### Actions:

2.4 Change Requests:

ACTION ITEM 1: Line 5 BC comments -- Seek clarification re: New Idea.

ACTION ITEM 2: Consider how to address role of the IRT in our recommendations.

### Notes:

1. Updates to Statements of Interest (SOIs): No updates provided.

2. Brief Review of ICANN64 New gTLD Subsequent Procedures PDP WG Activity -- Update on comments on the list:

-- How do we take the comments that we've gotten and work towards getting to final recommendations?

-- Should some of this go out for public comment?

Update from ICANN64 and Subsequent Comments on the List:

-- At ICANN64 covered recommendations where there seemed to be broad agreement.

-- No intent to have different meaning from what has already been discussed and commented on.

-- Try to avoid drafting exact wording but focus on agreeing on the content.

-- Avoid focusing on labels (i.e., "New Idea"). There may be additional meaning in "New Idea" than what was intended. Not that this is a New Idea that no one has thought of, but it is new in that it was not mentioned in the Supplemental Initial Report. Label shouldn't be used for anything else.

-- If an idea gets acceptance from the WG that will shape the recommendations and be used to measure consensus.

-- Board Resolution: approved the latest plan for NCAP Study 1. Need to address that the study is ongoing. Number of different scenarios.

-- In discussion of comments, be as specific as possible (and seek clarification) and also be constructive in suggesting solutions.

Discussion:

-- Question arose re: autofill in applications -- that both comments could be labeled as "New Idea". Sometimes something that could be characterized as a "New Idea" is actually dissent from the recommendation, so a lack of consent. So not accurate to be listed as a "New Idea".

-- There was no intent at ICANN64 to characterize something that was dissent as a "New Idea". But a "New Idea" may not mean that it couldn't become the new WG consensus.

-- A New Idea is something that we didn't do originally; also, will we adopt new ideas without putting them out for public comment.

-- "New Idea" meant something that wasn't part of the WG recommendations; but unlikely to be something that was done in 2012 -- although theoretically possible.

-- WG role is to identify what we can live with and if we have a recommendation that is different from previously then that goes out for public comment.

-- Question: Re: the Board's referral to the SubPro WG via resolution re: CCT-RT recommendations: How will we be treating that? Do we say we've considered them? Answer: SubPro took the items referred to us from the CCT-RT and we included those in the Initial Report and addressed in the comments analysis.

From the Chat:

Anne Aikman-Scalese - screen 2: COMMENT: Re Work Plan - June 17 listed as date we determine whether additional public comment is needed - for limited topics. It seems quite clear that it will be needed - for example, the discussion of "when a round closes" raised a lot of questions which should be put out for public comment. In addition, the Neustar proposal re "windows" also would need to go out for public comment.COMMENT

Cheryl Langdon-Orr (CLO - PDP Co-Chair): Thanks Anne Aikman-Scalese (IPC): I agree with Donna - the topics will be limited. The WG has the responsibility to make determinations on existing work.

Cheryl Langdon-Orr (CLO - PDP Co-Chair): thus our frequent refrain of 'everything going back to the plenary/full WG in the Sub Team reviews of the PC's received

Anne Aikman-Scalese (IPC): COMMENT: At this point, CCT-RT is not a "discussion", there are actual Resolutions by the Board. We should take a look at the references to Sub Pro. COMMENT

3. Review of comments - Supplemental Initial Report: see the document at: [https://docs.google.com/spreadsheets/d/1Ea-CjtL-heQjEwTsr7MYC\\_8gFEvmhY8XBCWTvoan6g/edit#gid=2003620097](https://docs.google.com/spreadsheets/d/1Ea-CjtL-heQjEwTsr7MYC_8gFEvmhY8XBCWTvoan6g/edit#gid=2003620097) [docs.google.com]: 2.3: Role of Application Comment (start at line 37, 2.3.e.2); 2.4 Change Requests

## 2.3 Role of Application Comment

### 2.3.e.2:

Line 38,-40 BRG, IPC, RrSG -- Agreement (supports the recommendation)

Line 41, RySG -- Agreement (but with verification)

Line 42, NCSG -- Agreement (but public must be allowed to respond to commenters responses)

Line 43, dotgay LLC -- Divergence (disagrees with the premise of the question)

-- It is incorrect to say that everyone had a chance to respond to clarifying questions -- the assumption is incorrect. It isn't including community priority evaluations as part of evaluations. CPE needs to be part of that consideration (to the regular public comment period or any public comment period). Agree that applicants should have an opportunity to respond, in regular public comment period and in the CPE public comment period.

-- Any letter of opposition needs to be considered a public comment -- if not then it doesn't fall into this category.

-- Keep as divergence from the notion that letters of opposition where given the opportunity for public comment, but new idea that all public comment periods adopt this proposal, include CPE.

Line 44, ALAC - Divergence (disagrees that this is an issue to be addressed)

-- ALAC doesn't oppose the opportunity to respond to public comments, but we don't think this is an issue so long as the opportunity is available.

Discussion:

-- How do the evaluators take into account responses received in public comment? Also, the responses from applicants after the end of the public comment period? There should be guidance.

-- If the public comment arrives days before you start CPE or entered CPE there has to be a mechanism for the applicant to be able to respond; otherwise it can result in gaming (sending in a comment as late as possible to prevent a response).

-- Implementation Team may need to look at the timing.

-- Agreement that applicants should have the ability to respond.

-- NCSG: Not only should applicants be allowed to respond, but the commenter should be allowed to respond.

From the Chat:

Anne Aikman-Scalese - screen 2: QUESTION: How will CPE evaluation proceed with further exchanges of public comment? (which is a good idea) QUESTION

Justine Chew: +1 Jamie. IMO what Jamie has raised is a good example of a "New Idea".

Maxim Alzoba: what to do if the particular comment is not relevant to the application?

Justine Chew: @jeff, I'm not sure I got what you said entirely. ALAC supported the additional time period, I think we suggested 7 days, for applicants to respond to late comments/CQs.

Maxim Alzoba: not necessary last minute comments are done on purpose (sometimes it is a nature of the processes, when everybody does not have time), but having a lot of work in last minute does not work

Justine Chew: @Maxim, I agree with you, but still should be afforded time to respond to by applicant.

Donna Austin, Neustar: Applicants should have adequate opportunity to respond to comments.

Jamie Baxter | dotgay: @Maxim - in our case, there was over 2 years to comment, including the ICANN public comment period and the objection process, so it's highly unlikely it was by chance.

Donna Austin, Neustar: Put a clock on the complete comment process.

Susan Payne: then you have to go back to the applicant again - where does it end:)

2.3.e.3:

Lines 46-53, dotgay LLC. BRG, ALAC, ALAC, IPC, RySG, NCSG, RrSG -- Agreement (Support for the recommendation)

## 2.4 Change Requests

-

General Comments:

Line 4, ALAC -- Agreement (supports 2.4.c.1, 2.4.d.1, 2.4.e.1.1, 2.4.e.2)

Line 5, BC -- Agreement (2.4.c.1: guidance for changes, public comment needed in certain cases) New Idea (changes to strings allowed only if not applied for, application should be treated as new, cost borne by applicant)

-- ACTION ITEM: Seek clarification from the BC re: New Idea.

-- -- Also add NCSG comments as dissention (but included below).

-- Question: If there are these other types, is it something that the NCSG would approve? Answer: Yes. Just not changes to the string.

Line 6, RySG -- Agreement (2.4.d.1) New Idea

-- Need to discuss this New Idea with the WG.

Discussion:

-- Do we have a view of whether IRTs have input into changes to the AGB? See guidance from the Council? For recent IRTs (thick WHOIS, IGO/INGO) where policy is drafted with IRT the language is published for public comment. So, proposed changes to the AGB would go out for public comment. Get clarification on whether exact language goes out for public comment. Depends on whether it is policy or implementation guidance. IRTs should not be able to change policy (though not in scope for this WG).

Anne Aikman-Scalese - screen 2: COMMENT: I would assume that IRT will have input on the final draft of the AGB. That was my question. Naturally, the AGB will go out for public comment either way. COMMENT

Steve Chan: @Anne, recent IRTs have a role in developing and agreeing to proposed policy language so one could assume that the IRT would provide input to the AGB?

Cheryl Langdon-Orr (CLO - PDP Co-Chair): @Donna correct me if I am wrong here but we did in the development of IRT Guidelines make specific points on when an IRT is expected to 'go back' to a PDP process/ out for more public input did we not???

Martin Sutton: NCSG comments are included in the specific questions further on

Martin Sutton: can we cover when we reach each comment?

Susan Payne: to be fair if we in SubPro make a rule that allows for this string change then this wouldn't be a "breach of the rules" as the NCSG states

Donna Austin, Neustar: @Kathy, what's the basis of your claim of 20,000 applications? I don't dispute that there is demand, but I'd be interested to know what you're basing the 20,000 number on.

Kristine Dorrain: @Susan, yes, we're discussing changing the rules.

Kathy Kleiman: @Donna - gut sense. Also that we expected 500 in the first round and received 4 times that. I'm hearing 5000 projected by many people for the next round and, based on the past, I would predict 5000\*4. What's your expectation?

Maxim Alzoba: I am not sure we need to use it as a fact based input

Jean Guillon - Jovenet Consulting: @Donna: Law firms talk a lot here in France. Most have no knowledge about new gTLDs but the number that I received twice was 200 (all kind of TLDs included).

Steve Chan: The beginning of Question 2.4.d.1 reads: One of the types of changes that some members of the Working Group believe should be allowed are certain application changes intended to resolve string contention. For example, if there is string contention and each of the applicants in a contention set agree, then applicants should be allowed to 1) create joint ventures or 2) have a limited ability to select a different string, which must be closely related to the original string.

Cheryl Langdon-Orr (CLO - PDP Co-Chair): flow charts

Cheryl Langdon-Orr (CLO - PDP Co-Chair): even

Jamie Baxter | dotgay: I would hope that the IRT will also have oversight to ensure language of final the AGB is implement as stated - for example from 2012 round - prevent ICANN from keeping the public comment period open as long as they did despite the language contained in the AGB that clearly indicated it had an end date.

Donna Austin, Neustar: I believe so Cheryl, the challenge is with interpretation and staff manage the IRT not the community. So things can get tricky.

Maxim Alzoba: implementation is what ICANN staff does the way they see fit

Steve Chan: FWIW, the standing IRT proposed by this Working Group would only be in effect AFTER program launch. There was no overlap envisioned with the standard IRT.

Anne Aikman-Scalese - screen 2: COMMENT: IRT should be involved in Implementation Guidance all the way. COMMENT

Anne Aikman-Scalese - screen 2: COMMENT: The key to this is having broad recommendation on the IRT as specified in the GNSO Operating Procedures, including appropriate technical expertise. COMMENT

2.4.c.1:

Lines 8-13, BRG, ALAC, IPC, RySG, ALAC, NCSG -- Agreement

Line 14, GAC -- Agreement New Idea

Line 15, BC -- Agreement New Idea (changes to strings allowed only if not applied for, application should be treated as new, cost borne by applicant)

-- Go back to the role of the IRT -- don't agree that if it is implementation guidance it's up to ICANN Org to implement it.

-- Policy recommendations are "you must do this" and implementation guidance is "you should do this).

ACTION ITEM: How to address role of the IRT in our recommendations.

-- Start on line 16, 2.4.d.1 for 01 April 2019.