

# 2020-07-02 New gTLD Subsequent Procedures PDP

The call for the New gTLD Subsequent Procedures Working Group will take place on **Thursday, 02 July 2020 at 03:00 UTC for 90 minutes**.

For other places see: <https://tinyurl.com/y9jxo5zl>



## PROPOSED AGENDA

1. Review Agenda/Updates to Statements of Interest
2. Complete review of "Can't Live With" comments on Work Track 5 – see attached document.
3. Continue to review Private Resolutions: Hybrid Proposal 2+ and Proposal 4: <https://docs.google.com/document/d/1X8F8zHkgMzQg2WqGHpuoEP78rhpDkFOjD2qKrZZjHw/edit?usp=sharing>
4. Review the updated Predictability Framework, see: <https://docs.google.com/document/d/1vBckhFQCCQ-zyvFGGcDB3NWQhodVsffdqbyb6kTwXL4/edit?usp=sharing>. Also attached, please find the updated concerns/mitigation document and process flow.
5. AOB

## BACKGROUND DOCUMENTS

[Work Track 5 Final Report to the New gTLD SubPro PDP WG - Comments\[1\].pdf](#)

[Predictability Framework\\_Concerns and Mitigation\\_29June\\_EB\[1\].pdf](#)

[Proposed Predictability Framework \(SPIRT\) Process For SubPro PDP Discussion\\_30June.pdf](#)



## RECORDINGS

[Audio Recording](#)

[Zoom Recording](#)

[Chat Transcript](#)

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



## PARTICIPATION

[Attendance](#)

**Apologies:** Katrin Ohlmer, Susan Payne



## Notes/ Action Items

### Actions:

[Complete review of "Can't Live With" comments on Work Track 5:](#)

Overarching Comment from Justine Chew, Yrjö Länsipuro, and Marita Moll:

ACTION ITEM: The WG and WT5 leadership will review the recording and chat for this meeting and at the next meeting will let the WG know how know exactly how the administration of this piece of information is going to be managed.

### Notes:

1. Updates to Statements of Interest: No updates provided.

2. Complete review of "Can't Live With" comments on Work Track 5:

Overarching Comment from Justine Chew, Yrjö Lämsipuro, and Marita Moll:

-- Justine: This is a dissenting view not a minority statement since minority statements only come after a consensus call and we have not had a consensus call. We express disappointment that WT5 did not adopt a modified proposal was submitted that, instead of asking for a letter of non-opposition, sought that a **notification of the intention** to use the string with geographic meaning be sent to the appropriate administration.

Discussion:

-- Question: Is the WG meant to do anything with this comment? Answer: No.

-- This sounds more like something that should be submitted in the public forum as a comment.

-- This can be submitted as a comment, but it should also be included for consideration in the Draft Final Report when it goes out for comment.

-- Procedurally some WG members support dissenting views being included in the Draft Final Report for public comment.

-- Dissenting views are not part of the formal mechanism – that process is the minority views that may be submitted after the consensus call. Dissenting views are there for the WG to consider but not necessarily built into the report.

-- Note that At-Large does not have a position on the comment above.

-- Leadership has agreed that dissenting views can be summarized in the Final Report.

-- We should have the same procedure for all of the comments we discuss as to how they are included in the Final Report.

-- Concerns from staff about how to framing things as dissenting views like this. It becomes a slippery slope when everyone wants his or her views included in the report. This one is different because it was discussed by WT5 and included in the deliberations in the rationale for the recommendations made in the Final Report. This is not a new issue and in reiterating previous arguments you are just duplicating the Initial Report. Some of the other dissenting views were summarized in the deliberations because they were new ideas that hadn't been raised in the Initial Report. If we include previous arguments/concerns that were raised in the Initial Report again in the Final Report we will end up with another 500-600 page report. This is why we are reticent about creating a process for dissenting views.

**ACTION ITEM: The WG and WT5 leadership will review the recording and chat for this meeting and at the next meeting will let the WG know how know exactly how the administration of this piece of information is going to be managed.**

Comments From Christopher Wilkinson:

-- Disagreement with the outcomes reached by WT5.

-- More along the lines of a minority report, which should come after the consensus call.

-- Christopher confirms that there should be a minority report.

3. Continue to review Private Resolutions: Hybrid Proposal 2+ and Proposal 4: <https://docs.google.com/document/d/1X8F8zHkgMzQg2WqGHpuoEP78rhpDkFOjD2qKrZZzjHw/edit?usp=sharing>

Proposal from Jim Prendergast:

-- Incorporated elements of the Vickrey Auction.

-- What I've proposed does bring the seal bid option to the table, it eliminates the so called private auctions in favor of a more transparent and more accountable process where there is a route for parties who do not want to proceed to ICANN's auctions of last resort to participate in an auction where the proceeds would be distributed to losing parties. However, as we struggled with as part of our deliberations on this topic, the data and the details of the outcomes of those options would be published for all to see. There's also an outlet for those who do want to proceed down the path towards and I can auction last resort.

Discussion:

-- From Paul McGrady: Additional Term and condition -- The applicant will make a claim that they they've filed the application with a bona fide intention to run the registry if awarded. The examiners would be able to issue additional questions and the applicant would have to respond and assure the examiners that there is a fact that bona fide intention. If an applicant does not actually launch the registry if awarded or sells it in the aftermarket within two years of delegation that would be noted for purposes of any future rounds and could create a rebuttal presumption of non-intent. Or if an applicant only sells applications and private auctions and does not actually proceed with any contracting that will be noted and could create the same rebuttal presumption.

-- Move this as an agenda item for the next WG meeting.

4. Review the updated Predictability Framework, see: <https://docs.google.com/document/d/1vBckhFQCCQ-zyvfGGcDB3NWQhodVsffdqbyb6kTwXL4/edit?usp=sharing>. Also attached, please find the updated concerns/mitigation document and process flow.

-- This is a new version of the document in which staff tried to address the issues raised during the previous discussions.

-- For example, we've made it explicit in the recommendations that the predictability framework is not intended to be used to be able to develop policy because some of the concerns raises that perhaps the framework in the SPIRT could be used to circumvent are doing end around the policy process.

-- Also added implementation guidance about the nature in which the materials are developed that they should be simple and clear.

-- We tried to make sure that all those mitigation elements that we identified as a working group mapped back to this document.

-- Adding in implementation guidance about or treating a change log in particular about the changes to the program that are more operationally oriented. Rationale backs up why the the framework and the spirit should be clear and concise and then also about why change log is important for the community.

Operational - Non-Minor, page 6

-- Captured the change log element.

-- Also added in the explicit mention that for a non-minor operational change there's an expectation that Org would inform the SPIRT of issues arising and that there's the option, but not necessarily the requirement, that the SPIRT is able to collaborate with Org. So it's an option of the SPIRT, not of Org.

Discussion:

-- It's much more clear that we're not creating a new lobbying a new policy making entity that could be lobbied.

-- Not sure this is phrased correctly.

-- Re: "ICANN org must inform the SPIRT of issues arising in this category and the SPIRT will have the option to collaborate with ICANN org as a solution is developed." Add the following to that sentence after collaborate "in formulating its recommendation to Council". It's not really up to just the SPIRT and staff to develop a solution and go away. There should be a recommendation to Council to develop a solution.

-- This is written on the assumption that these types of changes do not go to the GNSO Council for approval. If every non-minor operational change has to go to the SPIRT and the GNSO Council then the program will be paralyzed.

-- The GNSO Council can be informed of updates to the change log and it can be accessible prominently on the website.

-- Category B is not for an issue where there is policy or there are policy implications. Part of what the SPIRT is intending to do or is intended to do is to help determine what goes in what category. There could be an effect on applicants that isn't policy.