

2018-03-29 New gTLD Subsequent Procedures PDP Work Track 2

The call for the New gTLD Subsequent Procedures Sub Team – Track 2 – Legal/Regulatory Issues will take place on **Thursday, 29 March 2018 at 21:00 UTC for 60 minutes.**

14:00 PDT, 17:00 EDT, 23:00 Paris CEST, (Friday) 02:00 Karachi PKT, (Friday) 06:00 Tokyo JST, (Friday) 08:00 Melbourne AEDT

For other times: <https://tinyurl.com/yb282px7>



PROPOSED AGENDA

1. Welcome
2. SOI Updates
3. Global Public Interest
4. AOB

BACKGROUND DOCUMENTS

Please find the link/attachments for documents that we will be referencing in the upcoming meeting.

<https://docs.google.com/document/d/1Dp4Jl8eVrdU75Nvmh9A999Fu0wUYOR5am80tQDGNybk/edit#>

[Global Public Interest_ Input for Initial Report.docx](#)



RECORDINGS

[Mp3](#)



PARTICIPATION

[Attendance & Webex Chat](#)



Notes/ Action Items

Global Public Interest -- Review possible recommendations (last two pages in the Google Doc):

"Mandatory PICs: The WT is considering a recommendation to grandfather the current mandatory PICS [Include Citation as to which ones are mandatory]. In addition, such mandatory PICS should be revisited to reflect the ongoing discussions between the GAC Public Safety Working Group and Registries as appropriate."

-- Why not grandfather the mandatory PICs? Why revisit them?

-- Include a short sentence describing why the mandatory pics were added.

"Voluntary PICs: The Work Track recommends continuing the concept of Voluntary Public Interest Commitments and asking Applicants to state any voluntary PICs in its application. In addition, the Working Group supports the ability of Applicants to commit to additional PICs in response to public comments, GAC Early Warnings and/ or GAC Advice. Except under limited circumstances, as set out in the Applicant Guidebook, such PICS may result in changing the nature of the application."

-- If a PIC is being offered and if cannot be withdrawn, then it does effectively become part of the application.

"At the time a Voluntary PIC is made, the Applicant must set forth whether such PIC is limited in time, duration and/or scope such that the PIC can adequately be reviewed by ICANN, an existing Objector (if applicable) and/or the GAC (if the voluntary PIC was in response to a GAC Early Warning or GAC Advice)."

-- When you specify a PIC you must specify that you are committing to something. In the last round only one group of PICs was explicitly listed as ones where you reserved the right to change them. But it wasn't clear if a PIC was changeable at some point in the future. If a PIC is suggested in response to GAC advice then we don't want it to be changed unilaterally. So this is an important clause and it has to stay.

-- If a PIC is part of the application it is part of the reason the application was approved. It is possible that there would be a big switch for voluntary PICs that would put stakeholder minds at ease. A commitment that one could withdraw at discretion is hardly a commitment at all. This is ripe for gamesmanship if we don't do anything about it.

-- ICANN has a strong aversion to not tinker with people's business plans – such as in the RSEP procedure. The RSEP could be a marvelous vehicle for withdrawing to a PIC. If there is a process for changing a PIC later it has to have a larger affect than just the security and stability of the Internet. Support keeping this provision and maybe make it stronger.

-- Should there be a process to change PICs or have them reviewed? Could contemplate it. It would have to be a resilient process. Someone might even want to add a PIC. There is also the aspect of contract negotiation.

ACTION ITEM: ADD: “The Work Track understands that there may need to be a process to change PICs.”

“To the extent that a Voluntary PIC is accepted, such must be reflected in the Applicant’s Registry Agreement. Changes to that PIC may only be made after being subject to comment by the ICANN community. To the extent that the PIC was made in response to an Objection, GAC Early Warning or GAC Advice, any proposed material changes to that PIC must take into account comments made by the applicable Objector and/or the applicable GAC member(s) that issued the Early Warning, or in the case of GAC Advice, the GAC itself.”

[No comments]

“Although the Work Track has discussed highly sensitive strings and strings corresponding to highly regulated industries, the Work Track has not agreed upon any additional conditions to impose on Applicants other than those already imposed on applicable Registries during the 2012 round.”

-- This came out of the comments raised in CC2 – such comparison of strings. New gTLDs that are similar to previous verified TLD should have similar conditions. The Work Track discussed this but didn't agree on additional conditions.

ACTION ITEM: ADD/MOVE: Need to add something asking for guidance. “The Work Track solicits input on how we recognize such a TLD and then identify what types of conditions we should put on them.” Move this bullet to the questions where we are soliciting input and add context.

“The Work Track acknowledges the work of the CCT-RT on the issue of sensitive strings and will engage in future discussions to provide feedback on Recommendation 14 (cite the recommendation).”

ACTION ITEM: MOVE: This last bullet might make sense as an element of deliberations and/or an outside input to the WG.