

September 26th, 2018

RE: Request for ICANN Org's Input on the Subsequent Procedures PDP Initial Report

Cheryl Langdon-Orr
Co-Chair, Subsequent Procedures PDP Working Group

Jeff Neuman
Co-Chair, Subsequent Procedures PDP Working Group

Dear Cheryl and Jeff:

As requested in your 10 July 2018 [letter](#), ICANN org has performed a review of the Subsequent Procedure PDP Initial Report and are providing implementation feasibility input that we hope will be helpful to the PDP Working Group in its continued deliberations to formulate final policy recommendations. Our input is focused on the preliminary recommendations, but we have also provided comments on other parts of the Initial Report including on the questions, options, and deliberations sections where it is appropriate for us to do so.

We appreciate the opportunity to provide input on the Initial Report and have also submitted this input to the public comment forum so that it is available for review by the wider community. We remain available to answer any questions that the PDP Working Group may have as it works toward finalizing policy recommendations.

Sincerely,



Akram Atallah
President, Global Domains Division
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Cc: Trang Nguyen, Vice President, Global Domains Division Strategic Programs
Steve Chan, Policy Director, GNSO Support

Enclosure: ICANN Org Input on the Subsequent Procedures PDP Initial Report

ICANN Org Input on the Subsequent Procedures PDP Initial Report

26 September 2018



ICANN Org Input on the Subsequent Procedures PDP Initial Report

ICANN org appreciates the significant amount of work completed by the PDP Working Group and congratulates the PDP Working Group on reaching an important milestone in publishing the Initial Report. As requested in the 10 July 2018 [letter from the Co-Chairs of the PDP Working Group](#), the following implementation feasibility input is intended to help the PDP Working Group in its continued deliberations to formulate final policy recommendations. Areas of the Initial Report that are not addressed in this document are those where ICANN org does not have any significant concerns or input to provide at this time. As discussions progress and recommendations solidified, ICANN org may have additional implementation feasibility input.

I. General Input

ICANN org appreciates the tremendous amount of work and breadth of discussions by the PDP Working Group that led to the publication of the Initial Report. Although the Initial Report is quite substantial, ICANN org recognizes that due to the large number of program processes, procedures, and issues, it may not be possible for the PDP Working Group to cover all topics in its discussions. ICANN org assumes that if the PDP Working Group does not discuss a topic that it would not preclude ICANN org from suggesting implementation improvements during the policy implementation phase. It would be helpful if the PDP Working Group could confirm this assumption.

In reviewing the Initial Report, ICANN org also notes that some of the preliminary recommendations seem to reflect the actual implementation in the 2012 round. ICANN org assumes that in such cases, the preliminary recommendations are to codify the implementation in the 2012 round for subsequent procedures. For clarity during the policy implementation phase, it would be helpful if the Final Report could clearly state which policy recommendations, implementation guidance, sections of the 2012 Applicant Guidebook, or processes implemented in the 2012 round should stay the same, and which ones the PDP Working Group is recommending changes.

Additionally, given that the PDP Working Group's charter recognizes that "changes to the New gTLD Program may result in significant differences between registries from the 2012 round and future rounds," ICANN org assumes that the output of the PDP Working Group would only be applicable to subsequent procedures for gTLDs. For clarity during the policy implementation phase, it would be helpful if the PDP Working Group could confirm this in the Final Report.

It would also be helpful if the PDP Working Group could provide guidance regarding any what if any considerations should be given to strings that were applied-for but did not proceed in the 2012 round (e.g., IDN variants identified in applications submitted during the 2012 round, applications that received GAC advice, etc.).

II. Specific Input

Initial Report Section: Overarching Issues

Predictability

(2.2.2.c.1) ICANN org recognizes the PDP Working Group's efforts to enhance predictability in subsequent procedures for gTLDs.

Section 2.2.2 of the Initial Report discusses predictability in the context of (i) processes that should have been defined prior to the opening of the 2012 application window; and (ii) unanticipated issues that came up after the 2012 application window opened. To address the former, ICANN org will work with the community to identify a list of processes and any dependent and related activities that will need to be defined prior to the opening of the next application window. This will help to ensure predictability of all required processes prior to opening of the next application window. With regard to the latter, a framework to address unanticipated policy or implementation issues that might arise after the opening of the application window would provide enhanced predictability. ICANN org would like to offer some implementation-related considerations that are intended to be helpful to the PDP Working Group in its continued discussion on the proposed Predictability Framework:

- Section 2.2.2.d of the Initial Report states that the “PDP Working Group is seeking to establish a framework by which, even in the event of changes that are deemed necessary by the community, the mechanisms by which these issues will be resolved are predictable, transparent and as fair as possible to new gTLD applicants and the Internet community.” It is unclear what mechanism is envisioned for “changes to be deemed necessary by the community.” Could an issue be raised by one individual or stakeholder group? What would be the threshold to trigger consideration by the community or to assess the weight of an issue? As this could become a venue to re-raise policy or implementation decisions where a particular party did not agree with the outcome, the PDP Working Group might want to further discuss this aspect of the proposed Predictability Framework.
- This section of the Initial Report also describes the roles of the Standing IRT, including to triage issues and to recommend that additional consideration is needed by sending a request to the GNSO Council to consider invoking the GNSO Input Process (GIP), GNSO Guidance Process (GGP), or the GNSO Expedited PDP (EPDP). Given that the GNSO Council itself can take such steps in any case, it would be helpful to have further definition on the Standing IRT's role in addition to its policy-focused work, if any.
- In the event that a Standing IRT is convened, it would be important to include procedures for transparency and conflicts of interest, to avoid the perception that interested parties are being given undue influence over applications that are in process.
- In addition to describing the Standing IRT's role in addressing potential policy or implementation changes, the Predictability Framework also “provides guidance for the

Standing IRT in how issues should be resolved.” This guidance includes how changes to ICANN organization internal operations are to be addressed as described on pages 19-20 of the Initial Report. If adopted in its current form, the Predictability Framework would require ICANN org to consult with the Standing IRT on a procedural change to a workflow when the expected mitigation described is to “Communicate changes to affected parties before they are deployed.” Given the clear guidance on expected mitigation for each category of operational changes, ICANN org suggests that the PDP Working Group consider providing these guidelines to ICANN org to apply to the operations of the program, and consult the Standing IRT only in exceptional circumstances where a desired change does not clearly fall into one of the defined categories. This would ensure program operations efficiency and prevent undesired delays in application processing.

Clarity of Application Process

(2.2.2.e.1) This section of the Initial Report poses a question to ICANN org “Is ICANN organization capable of scaling to handle application volume and, if not, what would have to happen in order for ICANN organization to scale?” ICANN org’s budget and current staffing levels are aligned to support existing policy and contractual obligations. This includes delivering service to applicants from the 2012 round as well as to existing contracted parties including Registries and Registrars. ICANN org is capable of scaling in accordance to the processing volumes and timelines in the Applicant Guidebook (i.e., completing Initial Evaluation for 500 applications within 5 months) to meet the demands of a subsequent procedure for introducing additional gTLDs, be it via a round, or ongoing process. This would be a minimum processing capacity. Depending on the consensus policy recommendations adopted, as well as the implementation guidance for subsequent procedures, ICANN org would likely be able to exceed this processing volume. Better estimates for processing capacity could be derived when the details of the policy recommendations and implementation guidance are more solidified. In addition, as mentioned in the 24 January 2018 [letter](#) from Akram Atallah and David Conrad to the Co-Chairs of the PDP Working Group, the community’s capacity for community processes (i.e., objection filing, application comment submission, GAC early warning) and applicants’ capacity for applicant processes (i.e., dispute resolution, responding to clarifying questions, contracting) will also have an impact on throughput and the overall timeline of the program. For example, the 2012 Applicant Guidebook allowed for a 60-day window for application comments to be submitted, subject to extension should the volume of applications or other circumstances require. Due to the higher than expected number of applications received and in response to requests from the community for additional time to analyze and provide thoughtful comments on the high volume of applications, ICANN extended the comment period by 45 days.

Adequate time between the finalization of the Applicant Guidebook and opening of the application window should be provided for operational planning, readiness, and implementation to ensure a smooth process for applicants.

Application Assessed in Rounds

(2.2.3.c.1) Preliminary recommendation 2.2.3.c.1 provides two options to determine timing for future rounds of gTLDs: setting a specific date, or completion of a specific criteria/event. From a program operations perspective, a predictable and specific window of time (i.e. 12 months

between opening of each application window) would allow ICANN org to better plan for internal and external vendor resources to support the program. It would also provide prospective applicants with more certainty than using program criteria/events because completion date of the program criteria/events could vary depending on a number of factors including volume of applications, number of application change requests, number of re-evaluations, etc. However, if the aim is to eventually get to an ongoing application process, using the criteria/event provided of “completion of 50% of applications completing initial evaluation” could allow the program to accomplish that. It is conceivable that if the volume of applications decreases over time, a point may be reached where initial evaluation periods would be so short that application windows would be opened almost successively, in essence creating an ongoing application process.

If a set of criteria/events are to be used, they should be very specific so as to prevent differing interpretations. For example, “completion of 50% of applications completing initial evaluation” could mean publication of initial evaluation results of 50% of the total applications submitted, or publication of initial evaluation results of 50% of applications not counting withdrawals, or 50% not counting those applications that fail initial evaluation, or a combination of the two, or some other combination of criteria.

With regards to the questions posed in section 2.2.3.d of the Initial Report, it would be helpful to understand how the PDP Working Group envisions the Bylaws mandated Competition, Consumer Trust and Consumer Choice Review fit (or does not fit) in the context of the reviews contemplated in these questions.

Different TLD Types

(2.2.4.c.1) Preliminary recommendation 2.2.4.c.1 suggests that “each of the categories recognized by the 2012 Applicant Guidebook, both explicitly and implicitly, continue to be recognized on a going forward basis.” The preliminary recommendation lists these as standard TLDs, community-based TLDs, TLDs for which a governmental entity serves as the registry operator, and geographic TLDs. Further, the preliminary recommendation suggests that “Specification 13 .Brand TLDs should also be formally established as a category.” Although the preliminary recommendation states that “ramifications of being designated a specific category are addressed throughout this Initial Report,” it would be helpful if the Final Report could explicitly state the requirements of each TLD type (e.g., whether there are specific evaluation criteria, what if any additional requirements must be met prior to contracting, and what if any requirements are to be imposed on the TLD via the Registry Agreement.) Additionally, it would be helpful if the PDP Working Group could provide its views on whether the applicants must declare the TLD type when submitting the application, and whether changes to TLD types are permitted during the application process, prior to signing the Registry Agreement.

Accreditation Program: RSP Pre-Approval

(2.2.6.c.1) ICANN org would like to confirm our understanding of this preliminary recommendation. We understand this recommendation to suggest that the RSP pre-approval process is one that a RSP could go through to obtain an affirmation from ICANN org that it has successfully completed the technical/operational evaluation and registry-level Registry System Testing prior to the opening of an application window (see additional ICANN org input to include Registry System Testing in the RSP pre-approval process below). This would mean that the only difference between a pre-approved RSP and one that is approved during application evaluation is the timing of when the approval takes place. All criteria for evaluation and RST

testing would be the same regardless of when the approval takes place and regardless of whether an applicant is proposing to operate its own back-end or if the back-end function is outsourced. It would be helpful if the PDP Working Group could confirm ICANN org's understanding of the preliminary recommendation.

Questions 2.2.6.e.3 and 2.2.6.e.4 discuss periodic reassessment of RSPs. As the PDP Working Group continues its deliberation on this topic, it should be noted that any such periodic reassessments would have to be incorporated into the Registry Agreements as obligations on registry operators since there is no contractual relationship between the RSP and ICANN org. If periodic reassessments are to be made a requirement via the Registry Agreements, the PDP Working Group might want to consider making this requirement applicable to all registry operators.

(2.2.6.c.2) This preliminary recommendation suggests that “there should be a registry service provider (RSP) pre-approval process, which must be in place at least three (3) months prior to the opening of the application period.” In order to allow prospective applicants sufficient time to plan accordingly, the PDP Working Group might want to consider making the program available earlier so that there would be a number of pre-approved RSPs ready three (3) months prior to the opening of the application window for prospective applicants to select from.

(2.2.6.c.3) This preliminary recommendation suggests that “[t]he RSP pre-approval process shall have technical requirements equal to the Technical and Operational Capabilities Evaluation..., but will also consider the RSP’s overall breadth of registry operator support.” To support this preliminary recommendation, the PDP Working Group might want to consider including registry-level RST and registry services as part of the RSP pre-approval process. Additionally, to encourage innovation, the PDP Working Group might want to consider providing RSPs with the flexibility to be pre-approved for the registry functions of their choosing.

To assist with implementation, it would also be helpful if the PDP Working Group could clarify what is meant by “RSP’s overall breadth of registry operator support” (i.e., is the breadth inclusive or exclusive of existing TLDs that the RSP supports?).

(2.2.6.c.4) Similar to the input provided in 2.2.6.c.3, to encourage innovation, the PDP Working Group might want to consider providing applicants with the flexibility to specify if they want to perform a service offered by the pre-approved RSP in a modified manner.

(2.2.6.e.5) With regards to the question of whether “existing RSPs be automatically deemed ‘pre-approved,’” one possible approach to answering this question could be to assess whether the changes and new requirements in preliminary recommendation 2.2.6.c.3 and Registry System Testing section of the Initial Report would necessitate existing RSPs to go through the new RSP pre-approval process.

Initial Report Section: Foundational Issues

Global Public Interest: Public Interest Commitments (PICs)

(2.3.2.c.1) This preliminary recommendation states that “The Work Track is considering a recommendation to codify the current implementation of mandatory PICs as policy recommendations.” If mandatory PICs are to be codified as policy recommendations, it would

be helpful if the PDP Working Group could provide guidance on (i) What the categories of strings are; (ii) The process and criteria for applied-for strings to be put into those categories, including who makes the decision, implications on the evaluation and string contention processes; (iii) What the contractual obligations are for each of the categories. This preliminary recommendation also suggests that “such mandatory PICs should be revisited to reflect the ongoing discussions between the GAC Public Safety Working Group and Registries as appropriate.” ICANN org assumes that the changes referenced in this preliminary recommendation are intended to be made applicable to Registry Agreements for gTLDs in subsequent procedures only. It would be helpful if the PDP Working Group could confirm this assumption.

(2.3.2.c.2) As indicated in this preliminary recommendation, “the Work Track acknowledges that changes to voluntary PICs may result in changing the nature of the application except where expressly otherwise prohibited in the Applicant Guidebook and that this needs further discussion.” In further discussions on this topic, the PDP Working Group may want to consider whether there should be a cut-off point in the program process for changes to the voluntary PIC in order to allow for the opportunity for others to file objections based on the changes, or whether a new opportunity for objections to be filed after a change has been made should be allowed. Clarity on this would be helpful to ICANN org in our operational planning to ensure that we have appropriate internal as well as external providers/panelists resources available to support the program.

(2.3.2.c.3) This preliminary recommendation states that “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).” It would be helpful if the PDP Working Group could clarify what is meant by “reviewed by ICANN” (i.e., an evaluation, a completeness check, or something else).

(2.3.2.c.4) The second sentence of this preliminary recommendation states that “A process to change PICs should be established to allow for changes to that PIC to be made but only after being subject to public comment by the ICANN community.” It would be helpful if the PDP Working Group could clarify whether this is in reference to changes during the application process, or after execution of the Registry Agreement. If this preliminary recommendation is referring to changes after execution of the Registry Agreement, the PDP Working Group might also want to consider whether and how to address the elapsed time between the initial GAC Early Warning, GAC advice, or objection and submission of the changes as it is possible that circumstances could have changed during the elapsed time period.

Applicant Freedom of Expression

The stated policy principle (Principle G) was “The string evaluation process must not infringe the applicant's freedom of expression rights that are protected under internationally recognized principles of law.” As the principle was stated in the negative, it is difficult to determine what the gap in implementation was. ICANN org looks forward to the PDP Working Group's implementation guidelines for additional clarity.

With regard to how applicant freedom of expression was implemented in the 2012 round, section 2.3.3.b states “It is also worth noting that Module 3 of the Applicant Guidebook, which discussed Recommendation 3 (protecting the legal rights of others), dealt only with the legal

rights related to trademarks, but not with other legal rights, such as freedom of expression.” ICANN org notes that freedom of expression is discussed in Module 3 of the Applicant Guidebook in connection with the Limited Public Interest objection.

Section 2.3.3.f of the Initial Report states that “The Work Track noted that evaluators were tasked with weighing the different policy values, goals, and recommendations, and finding an appropriate balance between competing legitimate interests in their evaluations.” It is important to note that evaluators for the string reviews were not asked to weigh policy goals or legal principles; rather, they were asked to apply specified criteria.

(2.3.3.c.1) This preliminary recommendation states that “The Work Track generally believes that the implementation guidelines should be clarified to ensure that dispute resolution service providers and evaluators are aware that freedom of expression rights are to be considered throughout the evaluation and any applicable objection processes as well as any Requests for Reconsideration and/or Independent Review Panel proceedings. To do this, each policy principle should not be evaluated in isolation from the other policy principles, but rather should involve a balancing of legitimate interests where approved policy goals are not completely congruent or otherwise seem in conflict.” It would be helpful if the PDP Working Group could provide more information on how freedom of expression rights are to be considered throughout the evaluation and any applicable objection processes as well as any Requests for Reconsideration and/or Independent Review Panel proceedings (i.e., what are the evaluation criteria, objection standards, other procedures or processes that should be used to ensure that freedom of expression rights are considered).

Initial Report Section: Pre-Launch Activities

Program Information, Education and Outreach

(2.4.2.c.2.2) This recommendation states that “In the event that following the next round of new gTLDs, application opportunities are organized as a series of application windows, the Communications Period may be shortened to three (3) months.” ICANN org notes that the PDP Working Group is still considering how timeframes between future application windows should be determined (i.e., setting a specific date or defining a specific set of criteria/events that must occur prior to the opening of the next window). The PDP Working Group might want to consider revisiting this preliminary recommendation once discussion regarding preliminary recommendation 2.2.3.c.1 has completed in order to ensure that the two recommendations align.

(2.4.2.c.4) This preliminary recommendation states “Leverage Global Stakeholder Engagement staff to facilitate interaction between regional ICANN organization teams and potential applicants from these regions.” ICANN org does not have any concerns with this preliminary recommendation. However, ICANN org would like to make the PDP Working Group aware that while ICANN Global Stakeholder Engagement is placed in the regions and capable of assisting in education, outreach, and awareness building, the team’s current focus is on supporting the community (both current and new stakeholders) to be active contributors and participants in ICANN technical and policy work. Adequate time should be provided after the adoption of the policy recommendations and start of the engagement process in order to plan accordingly for the shift in focus.

(2.4.2.e.1) This question asks for “suggestions of criteria or metrics for determining success for any aspects of the new gTLD communications strategy.” As the purpose of the communications strategy is to help the program achieve its goals, the PDP Working Group might want to consider defining goals for the overall program (i.e., number or percentage increase in IDN applications, applications from a particular region, etc.). This would allow ICANN org to focus its communication and outreach efforts to achieve these goals. This would also allow ICANN org to determine what metrics to collect and report on the effectiveness of the communications and outreach efforts.

(2.4.2.e.2) This question asks whether the 6-month communication period prior to the 2012 round was too long or too short. One possible approach for determining the length of the communication period could be to identify the steps that a potential applicant would go through to make a decision about applying. Such steps may be: become aware of the program, learn out more about it and assess whether it is right for them, and go through internal organizational approval processes or secure community support and funding to apply. Once the steps are determined, the 6 months may be mapped to the steps to see if the amount of time allocated to each step is sensible.

Communications with Applicants

Preliminary recommendations 2.4.2.c.5, 2.4.2.c.6, and 2.4.2.c.7 provide what seem to be operational guidance intended to enhance experiences for applicants. It would be helpful if the PDP Working Group could confirm this intent, or state the overall goal/objective that it wants to achieve, where these preliminary recommendations/implementation guidance could possibly serve as non-exhaustive instances. This would then serve as guidance that ICANN org can use to work with the community (i.e., applicants from the previous round) to identify and implement any additional improvements that would achieve the PDP Working Group’s goal/objective.

(2.4.2.c.5) This preliminary recommendation states “Provide a robust online knowledge base of program information that is easy to search and navigate, updated in a timeline manner, and focused on issues with wide-reaching impact. Offer an opt-in notification service that allows applicants to receive updates about the program and their application in real or near real time.” ICANN org anticipates that many of the capabilities currently offered by the New gTLD program microsite, <https://newgtlds.icann.org>, would be available for future rounds. This includes access to a knowledge base for current and prospective applicants, and access to public portions of applications. ICANN org also anticipates that communications to applicants with respect to their applications will be provided through a contact management portal or system such as the current [Naming Services Portal](#).

(2.4.2.c.6) This preliminary recommendation states “Display and provide updates in a timely manner on expected response times on the website, so that applicants know when they can expect to receive a reply, as well as information about how applicants can escalate inquiries that remain unresolved.” As is the case currently, applicant inquiries will be supported by ICANN’s Global Support Center. Respective service level targets for inquiries are published at <https://www.icann.org/resources/pages/metrics-global-support-2015-08-28-en>. ICANN org plans to publish anticipated response times, as well as methods for escalation prior to the opening of the next application window.

(2.4.2.c.7) This preliminary recommendation states “Facilitate communication between applicants and the ICANN organization by offering real-time customer support using a

telephone “help line,” online chat functionality, and other online communication tools.” ICANN org anticipates continuing to provide 24x5 phone support that applicants and prospective applicants could utilize for support. However, online chat support would incur significant costs and is currently not planned. It should be noted that many of the inquiries received during the application window and evaluation periods of the 2012 round were quite complex and required significant consideration by ICANN org to provide a fulsome response. Online chat would have very limited benefit for these inquiries.

Systems

(2.4.3.c.4) This preliminary recommendation states that “In the event of a security breach, ICANN should immediately notify all impacted parties.” ICANN org would like to make the PDP Working Group aware of the ICANN Organization’s Cybersecurity Transparency Guidelines and Coordinated Vulnerability Disclosure Reporting at ICANN available at <https://www.icann.org/cybersecurityincidentlog>, which governs how ICANN org discloses major security vulnerabilities and resulting incidents that cause significant risk to the security of ICANN’s systems, or to the rights and interests of data subjects, or otherwise require disclosure under applicable legal requirements.

(2.4.3.c.9, 2.4.3.c.12, 2.4.3.c.14, and 2.4.3.c.15) ICANN org understands that these preliminary recommendations are intended to make the application system more user-friendly to applicants. However, ICANN org would like to flag for the PDP Working Group that these recommendations would result in added complexity, cost, and time to the implementation of the system.

(2.4.3.c.16) This preliminary recommendation suggests that “The systems should provide clearly defined contacts within the ICANN organization for particular types of questions.” ICANN org assumes that this question is in reference to the ICANN Global Support Center (GSC) resources. If this assumption is correct, it should be noted that the GSC as a department represents the contact point for the organization.

Initial Report Section: Application Submission

Application Fees

(2.5.1.c.3) 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.

Variable Fees

(2.5.2.c.1) This preliminary recommendation suggests that “all applications should incur the same base application fee amount regardless of the type of application or the number of applications that the same applicant submits. This would not preclude the possibility of additional fees in certain circumstances, as was the case in the 2012 round of the program (e.g., objections, Registry Service Evaluation Process, etc.)” It would be helpful if the PDP Working Group could clarify if the suggestion that “all applications should incur the same base application fee amount” extends to scenarios beyond “type of application or number of applications.” For example, would an applicant proposing to use a pre-approved RSP pay the same application fee as one who proposes to operate its own back-end registry functions and thus requiring technical evaluation?

Applicant Support

Preliminary recommendations 2.5.4.c1 through 2.5.4.c.9 provide many implementation guidance oriented suggestions for the Applicant Support Program. To align this implementation guidance during implementation and to ensure that the implementation of the Applicant Support Program achieves its intended goal/objective, it would be helpful if the PDP Working Group could provide the overall goal and objective of the program. For example, is the overall goal of the Applicant Support Program to lower the financial barrier for applying for a gTLD, or for operating a gTLD? How should risk of registry failure due to financial issues be addressed and by whom? How does the Applicant Support Program support the goals of the new gTLD Program?

(2.5.4.c.1 and 2.5.4.c.2) Preliminary recommendation 2.5.4.c.1 suggests that “Applicant Support should continue to be open to applicants regardless of their location so long as they meet the other criteria.” However, preliminary recommendation 2.5.4.c.2 suggests that geographic outreach should target not only the Global South but also the “middle applicant” and defines “middle applicant” as “struggling regions that are further along in their development compared to underserved or underdeveloped regions.” If location is no longer a criteria for qualifying to the Applicant Support program, then it is unclear how preliminary recommendation 2.5.4.c.2 aligns with preliminary recommendation 2.5.4.c.1. To ensure that the Applicant Support Program is designed to meet its intended purpose, appropriate outreach and awareness building is done to support it, and relevant metrics are collected to measure the success of the program, the PDP Working Group might want to consider defining the goals and key success factors for the program, which would then guide the implementation and operational activities to support those goals. For example, if the goal of the program to encourage and assist new entrants regardless of geographic location, then outreach and awareness raising would be done globally and geographic criteria would be removed from evaluation, whereas if the goal of the program is to have more gTLD operators in the Global South, then outreach and awareness raising efforts would be targeted in the Global South.

(2.5.4.c.3) The rule that candidates for the Applicant Support Program who are “disqualified” (i.e. do not meet the threshold criteria of the program) are excluded from the program was put in place in the 2012 round after extensive community discussion as a mechanism to prevent gaming. If there are no penalties or other mechanisms to prevent gaming, there would be no barrier for applicants to apply through the Application Support Program for the chance of qualifying. Given this and recommendation 2.5.4.c.1, which removes the geographic location criteria, it is probable that there would be a large number of applications for applicant support.

The PDP Working Group might want to consider the impact on program costs to process applications and to fund applicants who do qualify, as well as the impact on program timelines due to this likely increase in the number of applicant support applications.

(2.5.4.c.4, 2.5.4.c.5, and 2.5.4.c.6) These preliminary recommendations provide detailed guidance on how awareness raising activities should be done, and how support for applicants and potential applicants of the Applicant Support Program should be provided. ICANN org does not have any issues or concerns with these preliminary recommendations, in fact regarding preliminary recommendation 2.5.4.c.4, which suggests that “ICANN should improve the awareness of the ASP by engaging with other ICANN communities and other suitable partners that include, but not limited to, focus on technology and communication industries, especially in underserved regions,” ICANN Global Stakeholder Engagement team currently works closely with ICANN Global Domains Division to raise awareness about Universal Acceptance, IDNs and generic TLD issues. Such close collaboration between ICANN Global Stakeholder Engagement and Global Domains Division will continue to deliver on community expectations for a subsequent round. In order to ensure that efforts and resources on engagement and support are spent appropriately, it would be helpful if the PDP Working Group could provide clearly defined goals for the Applicant Support Program. Similar to the example provided above, if the goal of the program to encourage and assist new entrants regardless of geographic location, then the engagement activities with partners and communities to raise awareness and support potential applicants would be done globally, whereas if the goal of the program is to have more gTLD operators in “underserved regions,” then outreach and engagement activities would be targeted in the “underserved regions.”

In its continued discussion on this topic, the PDP Working Group should note that mentorship on the management, operational and technical aspects of running a registry does not guarantee success, and those providing the mentoring, including ICANN if that is the adopted recommendation, should not be held accountable and responsible for the registry operator’s failure.

Section 2.5.4.f of the Initial Report states “It has been noted that there was no outreach for the New gTLD Program in developing countries in general, not just for ASP. ICANN org would like to make the PDP Working Group aware of the Communications section of the [Program Implementation Review Report](#), which provides data on outreach activities in the 5 ICANN regions. To assess the effectiveness of the outreach efforts, it would be helpful if the PDP Working Group could provide goals and key success factors for the Applicant Support Program so that efforts could be targeted appropriately and relevant metrics be collected.

(2.5.4.c.7) This preliminary recommendation states “financial support should go beyond the application fee, such as including application writing fees, related attorney fees, and ICANN registry-level fees.” As mentioned above, it would be helpful if the PDP Working Group could provide clearly defined goals and success factors for the Applicant Support Program, and how this preliminary recommendation would help support those goals. While lowering the financial hurdle for applicants could encourage new entrants, extending the financial support to all aspects of applying for a gTLD as well as to cover the annual ICANN fees would create a situation where ICANN org would be funding a large number of applicants in the program as well as eventual registry operators. This could also create a negative perception of the program and raise the question of ICANN org’s role in the management of the DNS. The PDP Working Group might want to consider whether the goal of the Applicant Support Program is to lower the bar for new entrants, or to completely remove the bar, and how they align with ICANN’s primary

mission, which is to ensure the security and stability of the DNS. The PDP Working Group might also want to consider how this recommendation aligns with ICANN Bylaws Section 2.2, which states “ICANN shall not act as a Domain Name System Registry or Registrar or Internet Protocol Address Registry in competition with entities affected by the policies of ICANN.”

To inform the PDP Working Group’s continued discussion on this topic, ICANN org would like to make the PDP Working Group aware of ICANN org’s [response](#) to question #10 from the CCWG-Auction Proceeds, dated 30 July 2018. This particular question from the CCWG-Auction Proceeds is regarding whether the ICANN organization or a constituent part thereof, such as an SO or AC can be an applicant for the auction proceeds. This discussion may provide useful information to the PDP Working Group as it continues to review the Applicant Support Program and develop recommendations.

Terms and Conditions

(2.5.5.c.2) This preliminary recommendation states that “Unless required under specific law or the ICANN Bylaws, ICANN should only be permitted to reject an application if done so in accordance with the Terms and Conditions of the Applicant Guidebook.” ICANN org understands the intention of this preliminary recommendation to be that ICANN org should only be permitted to reject an application in accordance with the Terms and Conditions of the Applicant Guidebook, which is within the law and ICANN Bylaws. If this is the correct understanding, the PDP Working Group might want to consider revising the wording of the recommendation for clarity.

(2.5.5.c.5) This preliminary recommendation in part states that “to the extent that substantive changes are made to the Applicant Guidebook or program processes, applicants should be allowed some type of recourse, including if applicable, the right to withdraw an application from ICANN’s consideration in exchange for a refund.” It would be helpful if the PDP Working Group could clarify if the refund referenced in this preliminary recommendation is in accordance to a refund schedule of the program, or if this is in reference to a full refund.

Initial Report Section: Application Processing

Application Queuing

(2.6.1.c.4) This preliminary recommendation states that “If an applicant has more than one application, they may choose which of their applications to assign to each priority number received within their portfolio of applications.” ICANN org would like to flag that this preliminary recommendation may result in unintended and undesirable outcomes that the PDP Working Group might want to consider. For example, allowing for applicants to “choose which of their applications to assign to each priority number received within their portfolio of applications” could create a secondary market for priority numbers, such as in the case where a consultant is the applying entity on behalf of multiple clients. It would also be helpful if the PDP Working Group could clarify what is meant by “portfolio of applications” (i.e., is the applicant legal entity used to determine the make-up of portfolios, or are all applications that fall under a parent company considered a portfolio). Additionally, it would be helpful to understand the length of time each applicant has to assign the priority numbers to the application as ICANN org would like to note that this may cause some disruption to the application processing.

(2.6.1.c.6) This preliminary recommendation states “All applications submitted in the next round (regardless whether delegated or not) must have priority over applications submitted in any subsequent rounds/application windows even if the evaluation periods overlap.” It would be helpful if the PDP Working Group could clarify what is meant by “must have priority over applications submitted in any subsequent rounds/application windows.” For example must all applications in a current round complete contracting prior to any application in a subsequent round being able to sign a Registry Agreement? In further deliberations on this topic, it should be noted that priority number is also used in other program phases to prioritize applications (i.e., contracting and RST).

Initial Report Section: Application Evaluation/Criteria

Registrant Protections

(2.7.2.c.2) This preliminary recommendation states “Single registrant TLDs (including those under Specification 13) should be exempt from EBERO requirements.” It should be noted that the definition of .Brand TLDs in Specification 13 includes Affiliates of the Registry Operator. As such, it would be helpful if the PDP Working Group could clarify whether the EBERO exemption suggested in this preliminary recommendation is intended to apply only to single registrant TLDs, or if the exemption is extended to all Registry Operators with Specification 13, some of whom may not be single registrants.

(2.7.2.c.3) This preliminary recommendation states “Continue to allow publicly traded companies to be exempt from background screening requirements as they undergo extensive similar screenings, and extend the exemption to officers, directors, material shareholders, etc. of these companies.” Based on experience from the 2012 round, in some cases, some issues were uncovered in the background screening of a publicly traded company as well as its officers/directors/shareholders. The PDP Working Group might want to take this into consideration, and discuss whether there should be some flexibility to allow ICANN org to address any such issues that might arise with applicants (as was done in the 2012 round). Additionally, given the large number of change requests on Question 11 from the 2012 round, considerations should be given to whether background screening should be performed during Initial Evaluation or at Contracting.

String Similarity

(2.7.4.c.1) This preliminary recommendation addresses string similarity evaluation and suggests “[p]rohibiting plurals and singulars of the same word within the same language/script.” The preliminary recommendation further went on to require “[u]sing a dictionary to determine the singular and plural version of the string for the specific language.” The requirement to use a dictionary to determine singular/plural form of a word limits the singular/plural determination to a single language, and not script. It would be helpful if the PDP Working Group could provide clarification.

Regarding the suggestion to use a dictionary to determine the singular/plural form of a word, it should be noted that a word may be identical in many languages, but generate different plural forms in each of the languages. For example, ‘kitab’ is ‘book’ in Arabic, Persian, Urdu, and many other languages, but the plural form of the word is different in each of the languages. It should also be noted that in many languages, reduplication is used as a means to make words

plural where the word is repeated to make its plural form instead of adding a suffix like 's'. Additionally, some of these plural forming reduplications also make morpho-phonological changes, which means that the surface form is not just the word repeated by itself but slightly different. Even if the assessment of plural is limited to non-reduplication, it should be noted that pluralization is not limited to just suffixation, but can also include infixes (e.g., in Arabic, KiTaB (sg.) à KuTB (pl.)). Further, as the context of TLDs is generally not known when in use by the end-user, limiting the confusability assessment to a single language (and language-based dictionary) may provide a limited context for confusability. The PDP Working might want to consider whether the contention set should be expanded to the languages of the users rather than the language identified by the applicant. This, of course, would make the confusability analysis very broad, which should be factored into the consideration.

To inform the PDP Working Group's continued discussion on this topic, it should be noted that number is only one of a few different ways a word can be inflected in a language. Across languages of the world, there are many other ways a word may be inflected such as gender (e.g., gato and gata in Spanish), person (e.g., mange and manges in French), respect (e.g., manges and mangez in French), tense (e.g., walk and walked), and others. The PDP Working might want to consider whether to expand the confusability assessment to other forms of inflection as well.

An additional consideration is that as strings are frequently labels and not words in a language, the PDP Working Group might also want to consider how the rules in this preliminary recommendation may be applied to labels that are not words in a language.

For clarity, the PDP Working Group might want to consider sub-categorizing different forms of string similarity evaluation. For example, defining a separate sub-category of "grammatical similarity" that would include number (singular/plural) and any other grammatical similarity that the PDP Working Group wishes to include such as gender, person, etc., in addition to and separate from the "visual similarity" analysis.

It may also be important to clarify the difference between variant labels and similar labels and that in cases where variant labels are also similar labels, that the variant relationship takes precedence. Variant labels are defined by the community through the Root Zone Label Generation Rules. This would especially need to be addressed for the (less intuitive) cross-script variant labels. For some additional discussion, see Section 9 of the report on [Rationale for RZ-LGR](#) recently published for [public comment](#).

For the string similarity discussion, the PDP Working Group may also consider string similarity in the context of IDN variant TLDs, vis-a-vis string contention. For example, if two strings are similar and variants, they may not require contention resolution if applied for by the same applicant as variant TLDs, once IDN variant TLDs are allowed to be delegated. There is discussion on this area in Section 3.7 of the report on [Recommendations and Analysis](#) in the recently released documents on IDN Variant TLD Implementation for [public comment](#).

Regarding the intersection between string similarity evaluation and string confusion objection, it should be noted that string similarity evaluation is limited in scope (visual similarity in the 2012 round) while the standards for string confusion objection are much broader to include other forms of confusability such as meaning, auditory, etc. Due to the differing scopes, it is possible

that other forms of confusability would emerge through a string confusion objection determination that would be out of scope of the string similarity evaluation.

(2.7.4.c.3) In the 2012 round, the only mechanism provided for an application to terminate from the program is for the applicant to withdraw the application. This created situations where an application was deemed “not approved” or “will not proceed,” but was not withdrawn by the applicant. If the only mechanism for an application to terminate from a round is through withdrawal by the applicant, applicants could game the system by not withdrawing their applications so that the gTLD is not available to be applied for in the next round, or so that a subsequent round could not open (if the criteria for opening of subsequent rounds is based on delegation or withdrawal of all applications from a previous round). To this point, it would also be helpful if the PDP Working Group could provide clarification as to what “still being processed from a previous application opportunity” means, as well as provide guidance on how applications may be terminated from a round.

IDNs

(2.7.5.c.2) This preliminary recommendation states that there is “General agreement that compliance with Root Zone Label Generation Rules should be required for the generation of IDN TLDs and valid variants labels.” ICANN org would like to make the PDP Working Group aware of the questions being raised by the RZ-LGR Study group (e.g., role of DNS Stability panel after using RZ-LGR filter, dealing with scripts not integrated in RZ-LGR at the time of the application, etc.) at <https://www.icann.org/public-comments/technical-rz-lgr-2018-08-02-en>. The PDP Working Group might want to consider these questions as well as their answers, and how to integrate recommendations from the RZ-LGR Study group into its ongoing deliberations on this topic.

Additionally, the preliminary recommendation suggests the RZ-LGR will be used for determining the valid IDN TLD labels as well as their variant labels. The PDP Working Group might want to consider clarifying that the RZ-LGR will also be used for determining the disposition of the variant labels (whether a variant label is blocked or allocatable).

(2.7.5.c.3) This preliminary recommendation states that there is “General agreement that “1-Unicode character gTLDs may be allowed for script/language combinations where a character is an ideograph (or ideogram) and do not introduce confusions risks.”

To inform the PDP Working Group’s continued deliberations on this topic, it should be noted that the use of “1-Unicode character” is ambiguous in capturing what is intended. SSAC notes in SAC052 that “The term “single character” is easier to define for some scripts than for others. In particular, it does not correspond to “one Unicode code point,” as glyphs that would be recognized by users as “single characters” can arise from sequences of one or more Unicode code points.” As such, the PDP Working Group might want to consider aligning its recommendation with SAC052.

Further, it should be noted that ideographs may be used in many scripts. It may be useful to list the scripts in scope or the process to determine if a particular script is in scope for considering ideographic characters. It would also be useful if the PDP Working Group can explicitly point to relevant SSAC documents and also any particular sections which should be applicable to

determine any additional constraints (e.g., the proposed guidelines in Section 6, item 6 of SAC052).

(2.7.5.c.4) This preliminary recommendation suggests that “compliance with IDNA2008 (RFCs 5890-5895) or its successor(s) and applicable Root Zone Label Generation Rules (RZ-LGR, RZ-LGR-2, and any future RZ-LGR rules sets) be automated for future applicants.” While checking against IDNA2008 and RZ-LGR can be automated, some manual process may be required if there are additional technical requirements. It should be noted that this is a topic in the [Study on Technical Use of Root Zone Label Generation Rules](#), which is currently underway.

(2.7.5.c.5) This preliminary recommendation states that there is general agreement that if an applicant is compliant with IDNA2008 (RFCs 5890-5895) or its successor(s) and applicable LGRs for the scripts it intends to support, Pre-Delegation Testing should be unnecessary for the relevant scripts.” It should be noted that the IDNA2008 standard poses some constraints and itself suggests that it is a baseline measure (necessary but may not be sufficient) and therefore additional constraints should be imposed by the registries. For example, some additional constraints are identified by the IDN Guidelines for the second level labels. Pre-Delegation Testing (PDT) allows for checking for the constraints put by IDNA2008 and additional guidelines (e.g., by reviewing the proposed IDN tables for the second level labels), which is needed to ensure secure and stable implementation of the IDNs.

(2.7.5.c.6) This preliminary recommendation states that “IDN gTLDs deemed to be variants of already existing or applied for TLDs will be allowed provided: (1) they have the same registry operator implementing, by force of written agreement, a policy of cross-variant TLD bundling and (2) The applicable RZ-LGR is already available at the time of application submission.” ICANN org would like to make the PDP Working Group aware of the detailed analysis on IDN Variant TLDs posted at <https://www.icann.org/public-comments/managing-idn-variant-tlds-2018-07-25-en> and the ten recommendations suggested for adoption. ICANN org encourages the PDP Working Group to consider and provide feedback on these recommendations, including any proposed solutions for implementing IDN variant TLDs in subsequent procedures.

Security and Stability

(2.7.6.c.1) This preliminary recommendation suggests algorithmic checking of TLDs against root zone LGRs and ASCII string requirements. From a system development perspective, automation could be built into the application system to check applied-for gTLDs against specific lists, such as the Reserved Names list, ISO-3166 list, and the Root Zone LGR. Some level of algorithmic checking of applied-for gTLDs is also possible. The availability of deterministic list of labels and whether the RZ-LGR is defined for the scripts of these labels would determine the complexity of the implementation of algorithmic checks.

(2.7.6.c.2) This preliminary recommendation states “For root zone scaling, the Work Track generally supports raising the delegation limit, but also agrees that ICANN should further develop root zone monitoring functionality and early warning systems as recommended by the SSAC, the RSSAC and the technical community.” ICANN Office of the Chief Technology Officer is researching the design of an “early warning system” that could monitor several aspects of the root server system. It is possible, though not assured, that such a system could monitor for possible signs of stress on various aspects of the root server system that could result from increased size of the root zone. It is important to emphasize that this research is in a very early, exploratory stage, and the design of any possible “early warning system”, as well as its

capabilities, are still unknown. ICANN org would like to also remind the PDP Working Group of our comments on this topic in the 24 January 2018 [letter](#) from Akram Atallah and David Conrad to the Chairs of this PDP Working Group.

Applicant Reviews: Technical/Operational, Financial & Registry Services

(2.7.7.c.1) This preliminary recommendation suggests publishing clarifying questions and responses to public questions of the application “during the procedure.” From a program operations perspective, it is feasible to publish clarifying questions and responses to public questions of the applications. However, there are implications that the PDP Working Group might want to further discuss and consider prior to finalizing the recommendations.

In the 2012 round, technical evaluation was performed in tandem with the financial evaluation as the two are inter-related (i.e., Is the proposed technical infrastructure adequate to support the estimated registration volume provided in the financial portion of the application?). As such, clarifying questions for public parts of the application could reference information in confidential parts of the application. This may no longer be a consideration as the preliminary recommendation 2.7.7.c.13 suggests that the responses to the revised financial questions be publicly posted. However, should the PDP Working Group alter preliminary recommendation 2.7.7.c.13 based on community input from the public comment period, the PDP Working Group may want to consider this potential implication.

It would also be helpful if the PDP Working Group could clarify what is meant by “during the procedure.” If this is intended to mean as they are issued to the applicant, an additional implication to consider is that doing so would provide applicants with larger priority numbers with an advantage of having the “answers” available to them, making the evaluation less meaningful. This would then create a disadvantage for applicants that have smaller priority numbers who would have to put in the initial effort to formulate a response to the clarifying question that could then be leveraged by others.

Technical/Operational Evaluation

(2.7.7.c.7) This preliminary recommendation states “Do not require a full IT/Operations security policy from applicants.” ICANN org does not have any issues/concerns with this preliminary recommendation from a technical or operational perspective. However, ICANN org encourages the PDP Working Group to consider this recommendation in the context of ICANN’s mission to “ensure the stable and secure operation of the Internet’s unique identifier systems.”

(2.7.7.c.11) This preliminary recommendation states “To the extent that it is determined that a Continued Operations Instrument will be required, it should not be part of the Financial Evaluation, but rather should only be required at the time of executing a Registry Agreement.” Section 2.7.7.f of the Initial Report does not indicate any discussions relating to the implementation of the Continued Operations Instrument in the form of Standby Letters of Credit and Escrow Agreements. It would be helpful if the PDP Working Group could discuss the challenges associated with the use of Standby Letters of Credits (as discussed in the [ICANN Program Implementation Review Report](#)), and provide guidance.

(2.7.7.c.12) This preliminary recommendation states that “The goals of a financial evaluation are for the applicant to demonstrate financial wherewithal and assure long-term survivability of the registry.” The preliminary recommendation further suggests that the demonstration of financial

wherewithal could be achieved either via self-certification if the applicant meets certain criteria, or via third-party certifications. While the suggested third-party certification could be an appropriate mechanism to “demonstrate” that the applicant meets these goals, it is unclear how self-certification would allow the applicant to “demonstrate” meeting these goals as self-certification by definition does not require the applicant to make any demonstrations.

Registry Services Evaluation

(2.7.7.c.15) This preliminary recommendation in part states “Allow for a set of pre-approved services that don’t require registry services evaluation as part of the new TLD application.” Footnote 156 attached to this preliminary recommendation provided the following clarification: “It is important to note that this is NOT intended to say that evaluators should not evaluate an applicant’s ability to perform these services; rather to say that these services should not be considered “additional registry services” and that those services do not cause security, stability or competition concerns.” ICANN org understands this preliminary recommendation and related footnote 156 to mean that if an applicant chooses to offer one of the pre-approved registry services, the applicant would still need to go through an evaluation process to ensure that the applicant is capable of providing that pre-approved service. It would be helpful if the PDP Working Group can confirm if this understanding is correct. If it is correct, ICANN org understands that this evaluation is not the RSEP (which is only used for evaluating registry services that are not approved as per preliminary recommendation 2.7.7.c.16), but rather is another form of evaluation that is limited to assessing the applicant’s ability to perform the pre-approved registry service. It would be helpful if the PDP Working Group could also confirm if this understanding is correct.

(2.7.7.c.16) This preliminary recommendation suggests that RSEP be used to assess services that are not pre-approved and that “[c]riteria used to evaluate those non-pre-approved registry services should be consistent with the criteria applied to existing registries that propose new registry services.” ICANN org does not have any issues or concerns with using the criteria of the RSEP to evaluate new registry services. Regarding the suggestion to use the RSEP process to assess services that are not pre-approved, the PDP Working Group might want to consider allowing for revisions to the RSEP workflow to fit within the program processes and timelines (i.e., using priority number to order evaluation, using clarifying questions to address issues).

Name Collision

(2.7.8.b) This section of the Initial Report states “Although at the time of the New gTLD Program launch there were no mechanisms addressing name collisions in place, in 2010 the Security and Stability Advisory Committee (SSAC) released SSAC 045, which among other things, recommended that “ICANN promote a general awareness of the potential problems that may occur when a query for a TLD string that has historically resulted in a negative response begins to resolve to a new TLD.” Though these recommendations were made by the SSAC, there were no other measures taken prior to the acceptance of new gTLD applications.”

ICANN org would like to make the PDP Working Group aware that on 10 December 2010, the ICANN Board considered SAC045 and adopted [Resolution 2010.12.10.22](#), which directed the CEO to:

-
1. Analyze and amend the DNS Stability Review described in the Applicant Guidebook to allow the option to prohibit the delegation of problematic strings, as appropriate, to address the potential technical and stability issues discussed in SAC045; and,
 2. Develop a mechanism to alert potential applicants for new gTLDs about the issues raised in SAC045.

Pursuant to Board's directive in Resolution 2010.12.10.22, ICANN org developed a mechanism in the form of an advisory notice to be incorporated in the New gTLD Applicant Guidebook (Applicant Guidebook) warning potential applicants about the issues raised in SAC045. On 15 April 2011, ICANN published version 6 of the draft Applicant Guidebook, which included the following updated language to Module 2, Section 2.2.1.3 regarding DNS Stability Review.

Note: All applicants should recognize issues surrounding invalid TLD queries at the root level of the DNS. Any new TLD registry operator may experience unanticipated queries, and some TLDs may experience a non-trivial load of unanticipated queries. For more information, see the Security and Stability Advisory Committee (SSAC)'s report on this topic at <http://www.icann.org/en/committees/security/sac045.pdf>. Some publicly available statistics are also available at <http://stats.l.root-servers.org/>.

ICANN will take steps to alert applicants of the issues raised in SAC045, and encourage the applicant to prepare to minimize the possibility of operational difficulties that would pose a stability or availability problem for its registrants and users. However, this notice is merely an advisory to applicants and is not part of the evaluation, unless the string raises significant security or stability issues as described in the following section.

(<https://archive.icann.org/en/topics/new-gtlds/draft-evaluation-procedures-redline-15apr11-en.pdf>, Pg. 2-9 – 2-10.)

The April 2011 Discussion Draft of the New gTLD Applicant Guidebook was open for [public comment](#) from 15 April 2011 to 15 May 2011. One hundred and seven comments were [received](#). None of the [comments](#) addressed the addition of the advisory notice to Section 2.2.1.3 of Module 2 or mentioned deficiencies in the warning to the issues raised in SAC045. As a result, the foregoing warning was incorporated into the final version of the AGB, which was [adopted](#) on 4 June 2012.

(2.7.8.c.3 – 2.7.8.c.9) These preliminary recommendations suggest establishment of a “Do Not Apply list and a second list of strings for which there would be a strong presumption that a specific mitigation framework be required, as well as evaluation of applied-for-strings against a set of criteria for “high”, “aggravated”, and “low” risk. The preliminary recommendations further provided guidance for disposition of strings in these lists and categories. ICANN org notes that the criteria for the referenced lists categories would need to be established through a community effort (i.e., SSAC's Name Collision Analysis Project, or other effort).

Preliminary recommendation 2.7.8.c.9 also suggests that Controlled Interruption is performed by ICANN org as soon as a string is found to be in the “low” risk category. From a technical perspective, ICANN org does not have any concerns with this preliminary recommendation. However, there are some operational considerations that the PDP Working Group may want to weigh against the potential benefits of this preliminary recommendation. This preliminary recommendation would require ICANN org to delegate the string to itself in order to put the

string into the root zone for the purposes of performing Controlled Interruption, essentially creating potentially a large number of “temporary” records in the root zone. These “temporary” records could in fact be in the root zone for a number of years while the applicants progress through relevant program processes such as dispute resolution (if the application received an objection), contention resolution (if the application is in a contention set), contracting, and Registry System Testing. In practical terms, ICANN org would be reflected as the registrant in the WHOIS record for a large number of gTLDs, which does not pose a technical issue, but might cause user confusion particularly when ICANN has no role to play with the gTLD once Controlled Interruption is completed.

Initial Report Section: Dispute Proceedings

Objections

(2.8.1.c.3) This preliminary recommendation suggests that ICANN org “publish, for each type of objection, all supplemental rules, as well as criteria to be used by panelists for the filing of, response to, and evaluation of each objection.” ICANN org would like to make the PDP Working Group aware that all supplemental rules and procedures established by the dispute resolution service providers were made available publicly on the providers’ website as well as at <https://newgtlds.icann.org/en/program-status/odr>.

This preliminary recommendation also states “Such guidance for decision making by panelists must be more detailed than what was available prior to the 2012 round.” It is unclear to ICANN org what “guidance for decision making” is referenced in this preliminary recommendation. The grounds for filing objections, procedures for filing objection and for dispute resolution, and the dispute resolution principles (standards) were provided in the Applicant Guidebook. Any supplemental rules and procedures established by the dispute resolution service providers were made available publicly on the providers’ website as well as at <https://newgtlds.icann.org/en/program-status/odr>. It would be helpful if the PDP Working Group could clarify what additional information is meant by “guidance for decision making.”

(2.8.1.c.5) This preliminary recommendation states “Provide applicants with the opportunity to amend an application or add Public Interest Commitments in response to concerns raised in an objection.” It would be helpful if the PDP Working Group could clarify what the expectations are on the applicant, objector, and ICANN org to satisfy the “in response to concerns raised in an objection” part of the preliminary recommendation.

Additionally, in the case of community applications that might elect Community Priority Evaluations in a later phase of the program, the PDP Working Group might want to consider the potential impact to other applicants in the contention set if the community applicant is provided the opportunity to change its application, or add Public Interest Commitments.

Accountability Mechanisms

(2.8.2.c.1) This recommendation advises that ICANN create a new “substantive” appeal mechanism specific to the New gTLD Program. Specifically, it notes that “such an appeals process will not only look into whether ICANN violated the Bylaws by making (or not making) a certain decision, but will also evaluate whether the original action or inaction was done in accordance with the Applicant Guidebook.” ICANN org would like to understand how this

proposed “New Appeals Mechanism” differs from the ICANN Reconsideration Request process. Additionally, it would be good to get clarity on whether this recommendation is procedural in nature consistent with the Applicant Guidebook or whether the intention is for it to also be substantive. If the goal is to enable a substantive re-examination of a result, this might better be described as a “re-review” opportunity to distinguish it from an appeal mechanism focused on procedure. It would also be helpful for the Working Group to define the circumstances for which such appeals can be filed, whether there are a limitations to the number of times an appeal can be filed, as well as to whom the applicant would make the appeal (i.e., ICANN org, ICANN Board, the original evaluation panel, or some independent panel). The detailed design of this “New Appeals Mechanism” would help ICANN org make a clear assessment on the impact of this recommendation to the stability of the program. ICANN recognizes that the PDP Working Group is seeking input from the community to help shape this mechanism. We look forward to the additional details of this mechanism to guide implementation.

Initial Report Section: String Contention Resolution

Community Priority Evaluations (CPEs)

(2.9.1.c.1) This preliminary recommendation states that “The CPE process must be more transparent and predictable.” It would be helpful if the PDP Working Group could provide more detailed guidance on the specific areas of the CPE process that “must be more transparent and predictable.” Additionally, it would be helpful if the PDP Working Group could provide more specific guidance on what should be changed or added that would enhance transparency and predictability for the CPE process.

(2.9.1.c.3) This preliminary recommendation and section 2.2.2.f of the Initial Report reference the Community Priority Evaluation (CPE) guidelines that were published on after the opening of the 2012 round of applications, and suggests that any future evaluation procedures be developed before the next application process opens.

ICANN org notes that the CPE Guidelines published on 27 September 2013 were to provide transparency into the guidelines being used by panelists, rather than to introduce additional guidelines. ICANN org agrees with this preliminary recommendation and further notes that adequate time should be provided for implementation and operationalization of the program to ensure that any relevant processes and procedures are developed before the next application process opens.

(2.9.1.c.4) This preliminary recommendation states “The CPE process should include a process for evaluators to ask clarifying questions and where appropriate engage in dialogue with the applicant during the CPE process.” It should be noted that the CPE process in the 2012 round did allow for the CPE panelist to issue clarifying questions if the panelist determines there’s a need for it. See the CPE Panel Process Document at <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>.

Regarding the suggestion that the applicant be able to engage in dialogue with the CPE panelist during the CPE process, the PDP Working Group might want to consider the potential lobbying, and whether this is needed if there’s an opportunity for clarifying questions.

Initial Report Section: Contracting

Base Registry Agreement (RA)

(2.10.1.c.1) This preliminary recommendation states “a clearer, structured, and efficient method for obtaining exemptions to certain requirements of the RA, which allows ICANN to consider unique aspects of registry operators, TLD strings, as well as the ability to accommodate a rapidly changing marketplace is needed.”

ICANN org notes that applicants in the 2012 round were able to request changes to the base Registry Agreement by specifying such request in the Contracting Information Request form, which is provided to applicants to complete when they are eligible to begin the contracting process. A [template](#) for requesting changes to the base Registry Agreement is also provided. Given that the development of the base Registry Agreement goes through a very extension development process with the community, including multiple public comment processes, considerations should be given to defining clearly the criteria for which changes would be allowed.

Initial Report Section: Pre-Delegation

Registry System Testing

(2.11.1.c.2) This preliminary recommendation states “Remove a better part or all self-certification assessments.” ICANN org agrees that removal of self-certifications in favor of operational testing where applicable would improve the effectiveness of Registry System Testing. However, it should be noted that some self-certifications, such as those related to load testing, should be retained as operational testing of load would be disruptive and not favorable, and it is important to do load testing to ensure that the infrastructure can handle expected traffic.

(2.11.1.c.3) Regarding the preliminary recommendation to “Rely on Service Level Agreement (SLA) monitoring for most if not all overall registry service provider testing” that, according to the Initial Report, was based on ICANN org’s [recommendation in response to the PDP Working Group’s request](#):

“Ongoing monitoring to predict potential performance issues: In order to remove some tests from PDT and to improve the chances of proper operation of TLDs, ICANN recommends relying on ongoing monitoring of TLD operations against existing contractual requirements. ICANN is already planning to improve its active monitoring capabilities to cover as much as possible existing contractual provisions. Consideration should also be given as to whether repeated breaches should result in stricter penalties for Registry Operators/RSPs.”

ICANN org would like to clarify that our recommendation was that some tests could be removed from Registry System Testing in favor of ongoing monitoring of TLD operations against a broader set of existing contractual technical requirements.

(2.11.1.c.4) Regarding the preliminary recommendation to “Limit Internationalized Domain Name (IDN) testing to specific TLD policies; do not perform an IDN table review in Registry System Testing,” the Initial Report indicates that this recommendation is based on ICANN org’s

recommendation. ICANN org would like to remind the PDP Working Group of the recommendation provided in response to the PDP Working Group's request:

“Remove Internationalized Domain Name (IDN) table review from PDT: During the 2012 round of the New gTLD Program, PDT included IDN table review. ICANN recommends that PDT only require automated testing that ensures IDN registration rules comply with stated policies and tables. ICANN would also recommend the adoption of reference tables pre-vetted by the community, so that any registry that uses those tables would forego the need for table review. If a registry wanted to use a table that is not pre-vetted, the review could happen at some point before PDT.”

The ICANN org recommendation suggests removing IDN table review from PDT if using tables pre-vetted by the community, or if using tables not pre-vetted that they be reviewed prior to Registry System Testing.

Initial Report Section: Post Delegation

TLD Rollout

(2.12.1.c.2) This preliminary recommendation suggests that “successful applicants continue to have nine (9) months following the date of being notified that it successfully completed the evaluation process to enter into a registry agreement.” The preliminary recommendation further states that “Registry Operators must complete all testing and procedures for delegation of the TLD into the root zone within twelve (12) months of the effective date of the Registry Agreement.” The preliminary recommendation also allows for “extensions to those timeframes [to] continue to be available.” To inform the PDP Working Group's continued discussion on this topic, ICANN org would like to make the PDP Working Group aware that extensions in the 2012 round caused extensive delays and consumed significant program resources (see the [ICANN Program Review Report](#) for discussion on extensions for contracting and Registry System Testing). Additionally, the lack of a time limit for launch of a gTLD created significant burden and costs on ICANN operations to support a number of activities that take place between delegation launch (i.e., processing sub-contractor changes and RSEP requests). This impacts program financials, and has a potential impact on the timing of closure of a round depending on the criteria used to close a round.