

**RECOMMENDATION
OF THE BOARD GOVERNANCE COMMITTEE (BGC)
RECONSIDERATION REQUESTS 15-19 AND 15-20**

13 JANUARY 2016

The Requesters, the ICANN Business Constituency (BC), the ICANN Noncommercial Stakeholders Group (NCSG), and the Internet Commerce Association (ICA), seek reconsideration of ICANN Board Resolutions 2015.09.28.04 (renewal of .CAT registry agreement), 2015.09.28.05 (renewal of .TRAVEL registry agreement) and 2015.09.28.06 (renewal of .PRO registry agreement).¹

I. Brief Summary.

In passing Board Resolutions 2015.09.28.04, 2015.09.28.05, and 2015.09.28.06 (collectively, the Resolutions), the ICANN Board approved the renewal of registry agreements for three legacy TLDs—.CAT, .TRAVEL, and .PRO, respectively. The three renewed registry agreements (Renewed Registry Agreements) are the result of bilateral negotiations between ICANN staff and the respective registry operators. The Renewed Registry Agreements are based on the form of the registry agreement for new gTLDs (New gTLD Registry Agreement) and include new gTLD rights protection mechanisms (RPMs) such as the Trademark Post-Delegation Dispute Resolution Procedure (Trademark PDDRP) and the Uniform Rapid Suspension system (URS), which did not exist under the legacy registry agreements.

In seeking reconsideration of the Resolutions, the Requesters note that the Generic Names Supporting Organization (GNSO) has not yet issued a consensus policy regarding the application of new gTLD rights protection mechanisms (RPMs) to legacy TLDs and suggest that

¹ Because Reconsideration Requests 15-19 and 15-20 (Requests 15-19 and 15-20) involve the same conduct and issues, they will be jointly addressed in the same BGC Recommendation. (*See* Reconsideration Request Form, Terms and Conditions; Bylaws, Art. IV, § 2.8.)

the Renewed Registry Agreements represent an attempt by ICANN staff to preempt that policy development process. The Requesters further assert that, in passing the Resolutions, the Board failed to consider: (1) the details of the relevant contract negotiations, specifically email communications and other documents reflecting communications between ICANN staff and the relevant registry operators; and (2) a later-published preliminary issue report by ICANN staff regarding gTLD RPMs (Preliminary Issue Report), which recommends, among other things, that a GNSO policy development process be undertaken to address the application of RPMs to legacy TLDs generally.

The Requesters' claims do not support reconsideration. The inclusion of the new gTLD RPMs in the Renewed Registry Agreements is part of the package of agreed-upon terms resulting from the bilateral negotiations between ICANN and each registry operator, and not, as Requesters claim, a "unilateral decision by ICANN contractual staff."² The Requesters present no evidence to the contrary – i.e., that applying the new gTLD RPMs to the Renewed Registry Agreements was based on a unilateral decision by ICANN staff. The Requesters suggest that the Board should have reviewed all of ICANN staff's communications with the .CAT, .TRAVEL, and .PRO registry operators in order to confirm that the negotiations were in fact bilateral. Such contention, however, does not support reconsideration. Staff provided the Board with all material information, including the comments from the public comment forum for consideration. In approving the Resolutions, the Board considered all material information provided by staff. No policy or procedure requires the Board to review each and every email or other written exchange between ICANN staff and registry operators during the course of the negotiations (and the Requesters cite no such policy or procedure). The Requesters also do not identify any

² Request 15-19, § 6, Pg. 3; *see also* Request 15-20, § 8, Pg. 9.

particular piece of material information that the Board failed to consider. Moreover, as is publicly posted in the respective public comment reports as well as in the Board’s rationales for each of the Resolutions, the registry operators specifically “expressed their interest to renew their registry agreement based on the New gTLD Registry Agreement.”³ Indeed, not one of these registry operators has indicated that their renewal negotiations were anything but bilateral or sought reconsideration of either staff or Board action as it relates to the Renewed Registry Agreements. Further, the registry agreements each called for presumptive renewal of the agreements at their expiration so long as certain requirements were met – meaning that, if the parties took no action, the registry agreements would have renewed automatically under the same terms as the original registry agreements so as long as the registry operators were in good standing at the time of renewal as provided in the registry agreements.⁴ At the time of renewal, these registry operators were in good standing and were therefore subject to the terms of the presumptive renewal. The registry operators, however, elected to enter into negotiations with ICANN based on the existing New gTLD Registry Agreement terms.

³ .CAT Public Comments Report, Pg. 7; .PRO Public Comments Report, Pg. 6; TRAVEL Public Comments Report, Pg. 6; Rationale for Resolution 2015.09.28.04; Rationale for Resolution 2015.09.28.04; Rationale for Resolution 2015.09.28.04; *available at* <https://www.icann.org/resources/board-material/resolutions-2015-09-28-en#1.c>.

⁴ Article IV, Section 2 of the .CAT, .TRAVEL, and .PRO registry agreements provide that the agreements shall be renewed upon the expiration of the initial term for successive terms, unless the following has occurred:

- (i) an arbitrator or court has determined that Registry has been in fundamental and material breach of Registry's obligations set forth in Sections 3.1(a), (b), (d) or (e); Section 5.2 or Section 7.3 despite notice and an opportunity to cure in accordance with Article VI hereof and (ii) following the final decision of such arbitrator or court, Registry has failed to correct the conduct found to constitute such breach....

.CAT Registry Agreement, *available at* <https://www.icann.org/resources/unthemed-pages/cat-agreement-2005-09-23-en>; .TRAVEL Registry Agreement, *available at* <https://www.icann.org/resources/unthemed-pages/travel-agreement-2006-04-12-en>; .PRO Registry Agreement, *available at* <https://www.icann.org/resources/unthemed-pages/pro-agreement-2010-04-22-en>.

As the Requesters have not demonstrated that the Board failed to consider any material information in passing the Resolutions, they have not stated a basis for reconsideration of the Resolutions.

II. Facts.

A. Background Facts.

On 5 May 2005, ICANN and Tralliance Registry Management Company, LLC signed the registry agreement for .TRAVEL, which contained an expiration date of 19 October 2015. On 23 September 2005, ICANN and Fundació puntCAT signed the registry agreement for .CAT, which contained an expiration date of 19 December 2015. On 22 April 2010, ICANN and Registry Services Corporation signed the registry agreement for .PRO, which contained an expiration date of 20 October 2015. As noted above, at the time of renewal, these registry operators were in good standing and were therefore subject to the terms of the presumptive renewal under the the registry agreements. The registry operators elected to enter into negotiations with ICANN based on the existing New gTLD Registry Agreement terms.

As a result of those bilateral negotiations, each proposed Renewed Registry Agreement included modified provisions to make the agreement more consistent with the New gTLD Registry Agreement. While not all of the provisions of the New gTLD Registry Agreement were included, all three proposed Renewed Registry Agreements included certain minimum requirements for RPMs, including the Trademark PDDRP and the URS, which are similar (although not identical) to Specification 7 found in the New gTLD Registry Agreement.⁵

⁵ See New gTLD Base Registry Agreement, Specification 7, available at <http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf>.

The proposed renewed registry agreement for .TRAVEL was posted for public comment on 12 May 2015 and remained open for public comment through 21 June 2015.⁶ The proposed renewed registry agreements for .CAT and .PRO were posted for public comment on 28 May 2015 and remained open for public comment through 7 July 2015.⁷

As noted in the materials that the Board considered in passing the Resolutions, ICANN received 15 public comments regarding the proposed renewed registry agreement for .CAT, including one comment from each of the Requesters.⁸ Twelve of the commenters, including the ICA and the NCSG, objected to the inclusion of the URS in the proposed renewed registry agreement.⁹ Eleven of the commenters, including each of the Requesters, objected to the method of renewing legacy TLD registry agreements by using the existing New gTLD Agreement terms. These commenters specifically claimed (without any supporting evidence) that ICANN staff unilaterally imposed the provisions of the New gTLD Registry Agreement as a starting point for the renewal of the registry agreements.¹⁰ They claimed that ICANN staff effectively transformed the Trademark PDDRP and the URS into de facto consensus policies.¹¹ ICANN received similar comments, including from the Requesters, regarding the proposed renewed registry agreements for .TRAVEL and .PRO.¹² Had the commenters presented material information to support their

⁶ See <https://www.icann.org/sites/default/files/tlds/travel/travel-proposed-renewal-12may15-en.pdf>.

⁷ See, e.g., Proposed .CAT Registry Agreement Renewal, available at <https://www.icann.org/public-comments/cat-renewal-2015-05-28-en>.

⁸ See Report of Public Comments Re. Proposed Renewal of .CAT Sponsored TLD Registry Agreement (“CAT Public Comments Report”), available at <https://www.icann.org/en/system/files/files/reissued-report-comments-cat-renewal-18aug15-en.pdf>.

⁹ *Id.* at 2-3.

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² See Report of Public Comments Re. Proposed Renewal of .PRO Sponsored TLD Registry Agreement (.PRO Public Comments Report”), available at <https://www.icann.org/en/system/files/files/reissued-report-comments-pro-renewal-18aug15-en.pdf>; Report of Public Comments Re. Proposed Renewal of .TRAVEL Sponsored TLD Registry Agreement (.TRAVEL Public Comments Report”), available at <https://www.icann.org/en/system/files/files/reissued-report-comments-travel-renewal-18aug15-en.pdf>.

claims of unilateral conduct by staff, the Board would certainly have considered that information. No comments were submitted by the .CAT, .TRAVEL, or .PRO registry operators.

On 18 August 2015, ICANN published the reports of public comments regarding the proposed renewed registry agreements for .CAT, .TRAVEL, and .PRO. In response to the comments regarding the inclusion of the URS in the proposed renewed registry agreements, ICANN noted that “[a]lthough the URS was developed and refined through [a process including] public review and discussion in the GNSO, it has not been adopted as a consensus policy and ICANN staff has no ability to make it mandatory for any TLDs other than those subject to the new gTLD registry agreement.”¹³ ICANN also noted that it was the respective registry operators who expressed their “interest [in] renew[ing] [their respective registry agreements] based on the new gTLD Registry Agreement.”¹⁴

On 28 September 2015, the Board passed Resolutions 2015.09.28.04, 2015.09.28.05, and 2015.09.29.06, approving the renewal of the registry agreements for .CAT, .TRAVEL, and .PRO, respectively.¹⁵ In approving the Resolutions, the Board:

acknowledge[d] the concerns expressed by some community members regarding the inclusion of the URS in the Renewal Registry Agreement[s], [and] note[d] that the inclusion of the URS in the Renewal Registry Agreement [was] based on the bilateral negotiations between ICANN and the Registry Operator[s], where Registry Operator[s] expressed their interest to renew their registry agreement based on the new gTLD Registry Agreement.¹⁶

The Board further noted that the GNSO has stated that the URS “was not inconsistent with any of [the GNSO’s] existing policy recommendations.”¹⁷ The Board acknowledged that the URS

¹³ .CAT Public Comments Report, Pg. 7; .PRO Public Comments Report, Pg. 6; TRAVEL Public Comments Report, Pg. 6.

¹⁴ *Id.*

¹⁵ See <https://www.icann.org/resources/board-material/resolutions-2015-09-28-en#1.c>.

¹⁶ Rationale for Resolution 2015.09.28.04; Rationale for Resolution 2015.09.28.05; Rationale for Resolution 2015.09.28.06; *available at* <https://www.icann.org/resources/board-material/resolutions-2015-09-28-en#1.c>.

¹⁷ *Id.*

had not been adopted as consensus policy and that “ICANN has no ability to make it mandatory for any TLDs other than new gTLD applicants who applied during the 2012 new gTLD round.”¹⁸ Accordingly, the Board specifically stated that its “approval of the Renewal Registry Agreement [was] not a move to make the URS mandatory for any legacy TLDs, and it would be inappropriate to do so.”¹⁹

On 15 December 2011, the GNSO Council requested that, 18 months after the launch of the New gTLD Program, ICANN staff prepare and publish an issue report regarding all RPMs implemented for both existing and new gTLDs, including but not limited to the UDRP and URS.²⁰ In response to that request, and following the solicitation of public comments regarding new gTLD RPMs, on 9 October 2015, ICANN published a “Preliminary Issue Report on a Policy Development Process to Review All Rights Protection Mechanisms in All Generic Top-Level Domains” (Preliminary Issue Report).²¹ The Preliminary Issue Report invited community feedback regarding the inclusion of several topics in a GNSO policy development process charter, including “[w]hether any of the new RPMs (such as the URS) should, like the UDRP, be Consensus Policies applicable to all gTLDs, and the transitional issues that would have to be dealt with as a consequence.”²² That same date, a public comment period on the report opened; the public comment period ended on 30 November 2015.²³

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See “Preliminary Issue Report on a Policy Development Process to Review All Rights Protection Mechanisms in All Generic Top-Level Domains” (Preliminary Issue Report) at 1, available at <http://gns0.icann.org/en/issues/new-gtlds/rpm-prelim-issue-09oct15-en.pdf>.

²¹ See Preliminary Issue Report.

²² Preliminary Issue Report, Pg. 23.

²³ See <https://www.icann.org/public-comments/rpm-prelim-issue-2015-10-09-en>.

On 13 October 2015, the BC and the NCSG submitted Reconsideration Request 15-19²⁴ and the ICA submitted Reconsideration Request 15-20.²⁵ Requests 15-19 and 15-20 seek reconsideration of the Board’s Resolutions renewing the registry agreements for .CAT, .TRAVEL, and .PRO.

On 21 October 2015, during the ICANN 54 meeting in Dublin, the ICANN community and the GNSO considered the Preliminary Issue Report.²⁶ ICANN will take into account the public comments received in Dublin and during the public comment period regarding the Preliminary Issue Report, and will publish a final report for the GNSO’s consideration on or about 10 December 2015.

B. Relief Requested.

The Requesters ask that the Board:

1. “[A]sk [] staff [] to disclose all of the [] material information” regarding the negotiation of the Registry Agreements that Requesters assert was not considered by the Board prior to passing the Resolutions;²⁷
2. “[I]nstruct [] staff to refrain from proposing that the approved new gTLD Registry Agreement be used as the basis for legacy gTLD renewal agreements;”²⁸ and
3. “[R]eview and consider the [Requester’s cited provisions of the GNSO Report] that are relevant to this matter and [] recognize the full extent of [] staff’s intrusion into the policymaking process by effectively seeking to predetermine the outcome of an overarching policy matter prior to the initiation and completion of a relevant [policy development process].”²⁹

III. Issues.

²⁴ See Request 14-19, available at <https://www.icann.org/en/system/files/files/reconsideration-request-15-19-bc-ncsg-redacted-13oct15-en.pdf>.

²⁵ See Request 14-20, available at <https://www.icann.org/en/system/files/files/reconsideration-request-15-20-ica-13oct15-en.pdf>.

²⁶ See <https://meetings.icann.org/en/dublin54/schedule/wed-new-gtld-subsequent-prelim>.

²⁷ Request 15-19, § 9, Pgs. 9-10; Request 15-20, § 9, Pg. 10.

²⁸ Request 15-19, § 9, Pg. 10; Request 15-20, § 9, Pg. 10.

²⁹ *Id.*

In view of the claims set forth in Requests 15-19 and 15-20, the issues for reconsideration are whether ICANN's Board failed to consider material information in passing the Resolutions approving the renewal of the registry agreements for .CAT, .TRAVEL, and .PRO.

IV. The Relevant Standards for Reconsideration Requests.

ICANN's Bylaws provide for reconsideration of a Board or staff action or inaction in accordance with specified criteria.³⁰ The Requesters challenge a Board action. In order to obtain reconsideration of a Board action or inaction, the Requesters must show that the Board failed to consider material information or relied on false or inaccurate material information.³¹ Denial of a request for reconsideration of Board action or inaction is appropriate if the BGC recommends, and the Board agrees, that the requesting party has not satisfied the reconsideration criteria set forth in the Bylaws.

V. Analysis and Rationale.

The Requesters claim, without support, that ICANN staff unilaterally imposed the New gTLD Registry Agreement as a starting point for the Renewed Registry Agreements and, therefore, "transform[ed] the PDDRP and URS into de facto Consensus Policies without following the procedures laid out in ICANN's Bylaws for their creation."³² Contrary to what the Requesters claim, while the registry operators had a presumptive right of renewal under the terms of their existing legacy registry agreement, they chose to re-negotiate and renew their agreements based upon the New gTLD Registry Agreement terms.

³⁰ Article IV, § 2.2 of ICANN's Bylaws states in relevant part that any entity may submit a request for reconsideration or review of an ICANN action or inaction to the extent that it has been adversely affected by:

- (a) one or more staff actions or inactions that contradict established ICANN policy(ies); or
- (b) one or more actions or inactions of the ICANN Board that have been taken or refused to be taken without consideration of material information, except where the party submitting the request could have submitted, but did not submit, the information for the Board's consideration at the time of action or refusal to act; or
- (c) one or more actions or inactions of the ICANN Board that are taken as a result of the Board's reliance on false or inaccurate material information.

³¹ *Id.*

³² Request 15-19, § 8, Pg. 7; Request 15-20, § 8, Pg. 7.

Indeed, the Board’s Rationales for the Resolutions as well as the public comment reports make clear that the Renewed Registry Agreements were “based on the bilateral negotiations between ICANN and the [respective] Registry Operator[s], where [the] Registry Operator[s] expressed their interest to renew their registry agreement based on the New gTLD Registry Agreements.”³³ The Board further stated in the Rationales for the Resolutions that the “inclusion of the URS was developed as part of the proposal in bilateral negotiations,”³⁴ and the parties to those negotiations have never claimed otherwise.

The Requesters voiced these same concerns in their public comments on the proposed Renewed Registry Agreements. And, as the Requesters acknowledge, the Board carefully considered “the specific concerns raised in the public comments on these renewal agreements,” including concerns that using “the new gTLD registry agreement as the starting point for renewal [Registry Agreements] for legacy gTLDs” would effectively “transform[] the [PDDRP] and [URS] into de facto Consensus Policies without following the procedures laid out in ICANN’s Bylaws for their creation.”³⁵ The Requesters also “note[d] and appreciate[d] the Board’s clear statement” that the URS “has not been adopted as a consensus policy and ICANN has no ability to make it mandatory for any TLDs other than new gTLD applicants who applied during the first round,” and that “the Board’s approval of the Renewal Registry Agreements[s] for .CAT, .PRO, and .TRAVEL] is not a move to make the URS mandatory for any legacy TLDs, and it would be

³³ Rationale for Resolution 2015.09.28.04; Rationale for Resolution 2015.09.28.04; Rationale for Resolution 2015.09.28.04.

³⁴ *Id.*

³⁵ Request 15-19, § 8, Pg. 7 (quoting Rationales for Resolutions 2015.09.28.04, 2015.09.28.04, 2015.09.28.04); Request 15-20, § 8, Pg. 7 (quoting Rationales for Resolutions 2015.09.28.04, 2015.09.28.04, 2015.09.28.04).

inappropriate to do so.”³⁶ In short, the Requesters’ claim that the provisions of the New gTLD Registry Agreement were in some way imposed on the registry operators is unsupported.

Pursuant to the Reconsideration standards set forth in Article IV, Section 2 of the ICANN Bylaws, in order to seek reconsideration of a Board action, the Requesters must demonstrate that the Board failed to consider material information or relied on false or inaccurate material information in passing the Resolutions. Here, the Requesters do not identify any material information that the Board purportedly failed to consider in passing the Resolutions. More specifically, the Requesters provide no support for their argument that the Board failed to consider “the actual record of exchanges—emails and other correspondence, as well as notes and minutes of meeting and discussions—between [ICANN] staff and officers and the personnel of these three registries that would support the conclusion that ‘inclusion of the URS was developed as part of the proposal in bilateral negotiations between the Registry Operator and ICANN.’”³⁷ The Requesters also present no support for their claim that the Board failed to consider the Preliminary Issue Report (because it “did not exist at the time of the Board’s decision”).³⁸ As such, neither assertion supports reconsideration.

First, the Requesters do not identify any material information that the Board purportedly failed to consider. That is, the Requesters do not identify any evidence that the negotiations between ICANN and the registry operators were not bilateral in nature because no such evidence exists. As there is no policy or procedure that requires the Board to review each and every email or other written exchange between ICANN staff and registry operators during the course of the contract negotiations, the Requesters do not and cannot identify such a policy or procedure.

³⁶ Request 15-19, § 8, Pg. 7 (quoting Rationales for Resolutions 2015.09.28.04, 2015.09.28.04, 2015.09.28.04); Request 15-20, § 8, Pgs. 7-8 (quoting Rationales for Resolutions 2015.09.28.04, 2015.09.28.04, 2015.09.28.04).

³⁷ Request 15-19, § 8, Pg. 8 (quoting Rationales for Resolutions 2015.09.28.04, 2015.09.28.04, 2015.09.28.04); Request 15-20, § 8, Pg. 8 (quoting Rationales for Resolutions 2015.09.28.04, 2015.09.28.04, 2015.09.28.04).

³⁸ Request 15-19, § 8, Pgs. 8-9; Request 15-20, § 8, Pg. 9.

The Requesters seem to imply that the Board's actions in approving the Renewed Registry Agreements would have been different if the Board considered other information. In making these suggestions, the Requesters fail to focus on the Board's fulsome discussion in the Rationales for Resolutions 2015.09.28.04, 2015.09.28.05, and 2015.09.28.06 of the issues that were considered by the Board in reaching its decisions, including, but not limited to, the Board's consideration of the concerns raised by the community during the public comment forum, including the inclusion of RPMs (specifically the URS and Trademark PDDRP) in the legacy TLD renewals without going through a PDP, as well as the ongoing work of the GNSO regarding whether any of the new RPMs (such as the URS) should, like the UDRP, be Consensus Policies applicable to all gTLDs.³⁹ Indeed, the Board stated:

The Board notes that existing registry agreement calls for presumptive renewal of the agreement at its expiration so long as certain requirements are met. The renewal agreement is subject to the negotiation of renewal terms reasonably acceptable to ICANN and the Registry Operator. The renewal terms approved by the Board are the result of the bilateral negotiations called for in the current registry agreement, and transitioning to the new form of the registry agreement would not violate established GNSO policy.⁴⁰

The Requesters' substantive disagreement with the Board's actions does not mean that the Board's actions were taken without consideration of all relevant material information.

Second, the Requesters claim that the Board failed to consider the Preliminary Issue Report, which invited community feedback regarding the inclusion of several topics in a GNSO policy development process charter, including "whether any of the new [RPMs] (such as the

³⁹ See Rationales for Resolutions 2015.09.28.04, 2015.09.28.05, and 2015.09.28.06, available at <https://www.icann.org/resources/board-material/resolutions-2015-09-28-en#1.c.rationale>, <https://www.icann.org/resources/board-material/resolutions-2015-09-28-en#1.d.rationale>, and <https://www.icann.org/resources/board-material/resolutions-2015-09-28-en#1.e.rationale>, respectively.

⁴⁰ *Id.*

URS) should, like the UDRP, be Consensus Policies applicable to all gTLDs.”⁴¹ The Requesters claim that, in light of the Preliminary Issue Report, the Renewed Registry Agreements will “interfer[e] with the standard policy development process.”⁴² These claims do not support reconsideration.

As the Requesters acknowledge, the Preliminary Issue Report did not exist at the time the Resolutions were approved, and thus could not constitute “material information” the Board failed to consider in approving the Resolutions. As such, no reconsideration is warranted on this basis.

In any event, the Requesters are mistaken when they assert that the Renewed Registry Agreements will “interfere[e] with the standard policy development process.”⁴³ As discussed above, the Board explicitly acknowledged, in the Rationales for the Resolutions, that the URS has not been adopted as consensus policy and that ICANN therefore has no ability to impose the URS (or other new RPMs applicable to new gTLDs) on legacy TLDs.⁴⁴ Rather, the Rationales explain that the Renewed Registry Agreements were the result of bilateral negotiations between ICANN and the registry operators of .CAT, .PRO, and .TRAVEL, respectively.⁴⁵ The existence of certain RPMs in the Renewed Registry Agreements, therefore, has no bearing on the GNSO policy development process to determine whether (or not) any of the new RPMs should be consensus policies applicable to all gTLDs.

The Resolutions were not intended to and will not impede the GNSO policy development process. The public comment period on the Preliminary Issue Report closed on 30 November 2015. Subsequently, ICANN staff expects to issue a final report on or about 10 December 2015

⁴¹ Request 15-19, § 8, Pg. 8 (quoting Preliminary Issue Report at 23); Request 15-20, § 8, Pg. 9 (quoting Preliminary Issue Report at 23).

⁴² Request 15-19, § 8, Pg. 8; Request 15-20, § 8, Pg. 9.

⁴³ *Id.*

⁴⁴ Rationale for Resolution 2015.09.28.04; Rationale for Resolution 2015.09.28.04; Rationale for Resolution 2015.09.28.04.

⁴⁵ *Id.*

and, if it is recommended in that final report, a GNSO policy development process regarding this issue may go forward.

VI. Recommendation.

For the reasons set forth above, the BGC concludes that the Requesters have not stated proper grounds for reconsideration, and therefore recommends that Requests 15-19 and 15-20 be denied. In terms of the timing of this decision, Section 2.16 of Article IV of the Bylaws provides that the BGC shall make a final determination or recommendation with respect to a reconsideration request within thirty days following receipt of the request, unless impractical.⁴⁶ To satisfy the thirty-day deadline, the BGC would have to have acted by 13 November 2015. Due to timing of the Requests, it was impractical for the BGC to consider Requests 15-19 and 15-20 prior to 13 January 2016.

⁴⁶ *Id.*