

New gTLD Subsequent Procedures Pending Recommendations - GNSO Council Clarifying Statement

Introduction

In the ICANN Board's [resolution](#) at ICANN76 regarding New gTLD Subsequent Procedures, 38 recommendations were placed into a pending state as documented in [Section B](#) of the Scorecard. The GNSO Council established a small team to try and identify paths forward for all of the pending recommendations, with those paths to be mutually agreed upon between the GNSO Council and ICANN Board. The Council and Board discussed the expectation that for certain recommendations, a Clarifying Statement from the Council should be sufficient to mitigate Board concerns that prevented adoption of the recommendations. This document is intended to formally capture and document clarifying information from the GNSO Council.

Clarifying Statements

The recommendations where there is an expectation that the GNSO Council can resolve ICANN Board concerns via a Clarifying Statement are:

- Topic 3: Applications Assessed in Rounds - Recommendations 3.1,3.2, 3.5, 3.6, 3.7
- Topic 6: Registry Service Provider Pre-Evaluation - Recommendation 6.8
- Topic 9: Registry Voluntary Commitments / Public Interest Commitments - Recommendations 9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13, 9.15
- Topic 26: Security and Stability - Recommendation 26.9
- Topic 29: Name Collision - Recommendation 29.1
- Topic 30: GAC Consensus Advice and GAC Early Warning - Recommendation 30.7
- Topic 31: Objections - Recommendations 31.16, 31.17
- Topic 34: Community Applications - Recommendation 34.12
- Topic 35: Auctions - Recommendations 35.3, 35.5

Topic 3: Applications Assessed in Rounds - Recommendations 3.1,3.2, 3.5, 3.6, 3.7

The SubPro Final Report recommendation envisions that “the next application procedure should be processed in the form of a round” and “Application procedures must take place at predictable, regularly occurring intervals without indeterminable periods of review”. However, the GNSO Council confirms its willingness to engage with the ICANN Board to explore a shared vision for the long-term evolution of the program, which could be materially different than what is envisioned for the next round of the New gTLD Program in the Topic 3 recommendations.

Topic 6: Registry Service Provider Pre-Evaluation - Recommendation 6.8

The GNSO Council confirms its understanding of the Implementation Review Team (IRT) [Principles & Guidelines](#) that state that, “the IRT is convened to assist staff in developing the implementation details for the policy to ensure that the implementation conforms to the intent of the policy recommendations.” The Council therefore recognizes that ICANN org will be responsible for establishing the fees charged for the RSP pre-evaluation program, in consultation with the IRT, as is consistent with the roles and responsibilities captured in the IRT Principles & Guidelines. The language used in Recommendation 6.8 is not intended to alter the respective roles and responsibilities of staff and the IRT

Topic 9: Registry Voluntary Commitments / Public Interest Commitments - Recommendations 9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13, 9.15

Recommendations 9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13: The GNSO Council confirms that in respect to any new Public Interest Commitments (PICs) and Registry Voluntary Commitments (RVCs), PICs/RVCs entered into must be contractually enforceable, and in respect of RVCs, enforceability is determined by both ICANN org and the applicant. And further, the Council observes that among the purposes of PICs / RVCs is to address public comments, in addressing strings deemed highly sensitive or related to regulated industries, objections, whether formal or informal, GAC Early Warnings, GAC Consensus Advice, and/or other comments from the GAC.

Recommendation 9.15: The GNSO Council confirms that this recommendation does not require any implementation nor creates any dependencies for the Next Round of the New gTLD Program.

Topic 26: Security and Stability - Recommendation 26.9

The GNSO Council confirms that the “any level” language referenced in the recommendation should be interpreted to only be in respect of domain names that are allocated by the registry operator.

Topic 29: Name Collision - Recommendation 29.1

The GNSO Council believes that Recommendation 29.1 can be adopted by the Board on the understanding that it does not need to be acted on until such time any next steps for mitigating name collision risks are better understood out of the Name Collision Analysis Project (NCAP) Study 2.

Topic 30: GAC Consensus Advice and GAC Early Warning - Recommendation 30.7

Please see the Council’s clarifying statement for Recommendations 9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13.

Topic 31 Objections - Recommendations 31.16, 31.17

Please see the Council’s clarifying statement for Recommendations 9.1, 9.4, 9.8, 9.9, 9.10, 9.12, 9.13.

Topic 34: Community Applications - Recommendation 34.12

The GNSO Council confirms its recommendation that terms included in the contract between ICANN org and the CPE Provider regarding the CPE process must be subject to public comment. This recommendation however is not intended to require ICANN org to disclose any confidential terms of the agreement between ICANN org and the CPE Provider.

Topic 35: Auctions - Recommendations 35.3, 35.5

The GNSO Council confirms that the references to private auctions in Recommendations 35.3 and 35.5 merely acknowledge the existence of private auctions in 2012 and should NOT be seen as an endorsement or prohibition of their continued practice in future rounds of the New gTLD Program. The Council notes that there were extensive discussions on the use of private auctions in the SubPro working group. To the extent that draft recommendations were developed as to private auctions, these did not receive consensus support in the working group but did receive strong support with significant opposition.