

**ICANN BOARD PAPER NO. [To be assigned by the Secretary]**

**TITLE:** **Competition, Consumer Trust, and Consumer Choice Review Team (CCT) Final Report and Recommendations**

**PROPOSED ACTION:** **For Board Approval**

**EXECUTIVE SUMMARY:**

The Final Report issued by the Competition, Consumer Trust and Consumer Choice (CCT) Review Team (RT) is the culmination of nearly three years of work reviewing how the expansion of top-level domain names impacted competition, consumer choice and trust. The CCT Review Team (CCT-RT) produced a broad-reaching report containing 35 recommendations covering such topics as requests for additional data collection; policy issues for reference to the policy development processes; and suggested enhancements relating to reporting and data collection within ICANN org's Contractual Compliance Department.

The Board thanks the CCT-RT for its dedication and extensive work and appreciates its focus on achieving a data-driven outcome.

In relation to the recommendations, the Board noted some broad areas and themes that it took into consideration in determining the action for each recommendation.

One theme is the need for different and additional data that is highlighted across many of the 35 recommendations. The Board appreciates and understands the concerns raised by the CCT-RT about the need for data to inform future CCT-RT's work. The Board finds it important that ICANN continue to be appropriately involved with data collection to inform the community and its work. In reviewing the data collection related recommendations, the Board assesses whether the data requested aligns with the intent of the recommendation, whether it is feasible to obtain the data, and whether the data would allow for meaningful analysis to inform future work of the community.

There were many recommendations directed to the Board that are not within the Board's power to do, and there are recommendations for which the Board actually cannot direct the outcome, such as recommendations to policy development working groups, or relating to contractual terms that are subjected to contractual negotiations.

Additionally, the Board notes recommendations for which a portion of the suggested actions is intended for ICANN, while the other is addressed to the community group. For recommendations that are directed to other parts of the community, in whole or in part, the Board passes them through to the community groups identified in the Final Report.

Another theme is that there are recommendations that require significant resources to implement. The Board's fiduciary obligations mean that the Board cannot commit the organization to start work on these recommendations until it understands the full cost and resource impact. In addition, the Board must also consider the impact on community resources. Recommendations of the Cross-Community Working Group (CCWG) on Enhancing ICANN Accountability Work Stream 2 (WS2) will move into the implementation phase soon. Additionally, the Board expects to consider final recommendations from other specific review teams, starting with the RDS-WHOIS2 Review Team, to be followed by recommendations from the second Security, Stability and Resiliency Review Team and the third Accountability and Transparency Review Team. The ICANN Board of Directors needs to understand how the work required to implement the recommendations arising out of all of these efforts can be performed, as well as the work of implementing expected policy recommendations, while still confirming that ICANN org has the resources to perform the other work identified in its Strategic and Operating Plans.

Taking the above themes into consideration and recognizing that the Board has the obligation and responsibility to balance the work of ICANN in order to preserve the ability for ICANN org to serve its Mission and the public interest, the Board decided on three categories of action. These categories include: accepting recommendations, subject to costing and implementation considerations; passing recommendations (in whole or in part) to noted community groups for their consideration; and placing recommendations (in whole or in part) in "Pending" status, directing ICANN org to perform specific actions to enable the Board to take further actions, as detailed in the scorecard "Final CCT Recommendations: Board Action (1 March 2019)." There is also a recommendation that has been overtaken by events occurring during the pendency of the CCT Review.

The rationale section below includes additional details on all elements that the Board considered in taking action on the recommendations, including public input received on the Final Report.

#### **CCT BOARD CAUCUS GROUP'S RECOMMENDATION:**

The CCT Board Caucus Group recommends that the Board take action on the CCT-RT Final Report and Recommendations as enumerated in the scorecard titled "Final CCT Recommendations: Board Action (1 March 2019)" ([LINK](#)). The proposed Board action falls into three categories. These categories are: accepting recommendations for costing and implementation considerations; passing recommendations (in whole or in part) to noted community groups for their consideration; and placing recommendations (in whole or in part) in "Pending" status, while directing ICANN org to perform specific actions to enable the Board to take further actions. Those further actions range from ICANN org conducting analyses and identifying gaps in particular areas of work, to engaging a third party to conduct analysis on data types needed, as detailed in the scorecard "Final CCT Recommendations: Board Action (1 March 2019)". One recommendation, Recommendation 18, is recommended for no particular action as it has been overtaken by events.

#### **PROPOSED RESOLUTION:**

Whereas, ICANN was obligated under the Affirmation of Commitments to "organize a review that will examine the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of (a) the application and evaluation process, and (b) safeguards put in place to mitigate issues involved in the introduction or expansion." A community-led review team – the Competition, Consumer Trust, and Consumer Choice Review Team (CCT-RT) – was announced on 23 December 2015 (<https://www.icann.org/news/announcement-2-2015-12-23-en>) to fulfill that mandate.

Whereas, on 7 March 2017, the CCT-RT released a Draft Report for public comment (<https://www.icann.org/public-comments/cct-rt-draft-report-2017-03-07-en>) followed

by a second comment proceeding (<https://www.icann.org/public-comments/cct-recs-2017-11-27-en>) on New Sections to the Draft Report on 27 November 2017.

Whereas, the CCT-RT submitted a Final Report (<https://www.icann.org/en/system/files/files/cct-final-08sep18-en.pdf>) containing 35 full consensus recommendations to the ICANN Board for consideration on 8 September 2018.

Whereas the CCT-RT Final Report is the culmination of nearly three years of work by 15 review team members, representing nearly 4,000 hours of meetings and countless more hours of work <sup>1</sup>.

Whereas, the CCT-RT addressed its recommendations to the ICANN Board, ICANN org, community stakeholders, policy development process working groups, ongoing review teams and future review teams. Some recommendations suggest policy outcomes, which are for the community to develop through its policy-development processes, and not for the Board to direct or dictate.

Whereas, in 2016 the reviews anticipated under the Affirmation of Commitments were incorporated in large part into the ICANN Bylaws at Section 4.6, and the Board is following the report receipt and consideration process specified therein. As required by section 4.6 of ICANN Bylaws, the CCT-RT Final Report and Recommendations were published for public comment (<https://www.icann.org/public-comments/cct-final-recs-2018-10-08-en>) on 10 October 2018, to inform Board action on the report. The summary of comments received on the Final Report (<https://www.icann.org/en/system/files/files/report-comments-cct-final-recs-01feb19-en.pdf>) highlighted a number of divergences of opinion, including key concerns on the Final Recommendations and lack of community alignment on how resources ought to be allocated.

Resolved (2019.03.xx.\_\_), the Board thanks the members of the CCT-RT for their dedication and nearly three years of work to achieve the CCT-RT Final Report.

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<sup>1</sup> Based on the CCT Review Team Fact Sheet, dated 31 October 2018: <https://community.icann.org/download/attachments/63153798/CCT%20Review%20Fact%20Sheet%20%2831Oct2018%29.pdf?version=1&modificationDate=1544130125000&api=v2>

Resolved (2019.03.xx.\_\_), the Board takes action on each of the 35 recommendations issued within the Final Report of the Competition, Consumer Trust, and Consumer Choice Review Final Report as specified within the scorecard titled "Final CCT Recommendations: Board Action (1 March 2019)" ([LINK](#)), (the "Scorecard"). The Board directs ICANN's President and CEO (or his designee(s)) to take all actions directed to the ICANN org within that scorecard.

Resolved (2019.03.xx.\_\_), for the six recommendations that are specified as accepted in the Scorecard , the Board directs the ICANN President and CEO, or his designee(s), to develop and submit to the Board a plan for the implementation of the accepted recommendations. This plan should be completed and provided to community for consideration no later than six months after this Board action. The ICANN President and CEO, or his designee(s), is directed to report back to the Board on the plan and any community input no later than 9 months after this Board action.

Resolution Text Superseded  
Resolved (2019.03.xx.\_\_[to be assigned by Secretary], the Board notes that for the recommendations it placed into pending status (in whole or in part), the Board commits to take further action on these recommendations subsequent to the completion of intermediate steps as identified in the Scorecard. The Board directs the ICANN President and CEO, or his designee(s), to provide to the Board relevant information, as requested in the Scorecard, and advise if additional time is needed within six months from this Board action.

Resolved (2019.03.xx.xx), for all recommendations that the Board is passing through to the identified parts of the ICANN community, the Board directs the ICANN President and CEO, or his designee(s), to notify the relevant community groups of the passed-through items.

#### **PROPOSED RATIONALE:**

##### ***Why is the Board addressing this issue?***

Reviews are important accountability measures that are critical to maintaining a healthy multistakeholder model and to helping ICANN achieve its Mission as detailed in Article 1 of the Bylaws. Reviews also contribute to ensuring that ICANN serves the public interest. This first Competition, Consumer Trust, and Consumer Choice Review

(CCT), initiated under the Affirmation of Commitments (AoC), is an important aspect of ICANN's commitment to continuous review and assessment of key areas.

Although the CCT was initiated and conducted pursuant to the Affirmation of Commitments, Section 4.6 of the ICANN Bylaws, enacted in October 2016, provides additional detail on how the ICANN community expects the ICANN Board to receive, consider and respond to recommendations arising out of Specific Reviews (such as the CCT). The ICANN Board is therefore following that receipt and review process within the Bylaws to guide today's action.

The Competition, Consumer Trust, and Consumer Choice Review Team (CCT-RT) submitted its Final Report and Recommendations to the ICANN Board on 8 September 2018. The Final Report was subsequently published for public comment to inform Board action on the final recommendations.

Just as under the AoC, the ICANN Board must take action on the CCT Final Report within six months of receipt, by 8 March 2019. For each action taken in relation to the recommendations the Board is providing rationale on the action that it is taking.

***What is the proposal being considered?***

The CCT-RT Final Report is the culmination of nearly three years of work by 15 review team members, representing nearly 4,000 hours of meetings and countless more hours of work<sup>2</sup>, reviewing how the expansion of top-level domain names impacted competition, consumer choice and trust. The CCT-RT produced a broad-reaching report, nearly 200 pages long, containing 35 recommendations.

The CCT-RT Final Report was informed by multiple studies, research, and data gathering initiatives. Additionally, the CCT-RT considered input it received via two public comment proceedings, including input from ICANN Board and ICANN org. The CCT-RT reached consensus on 35 recommendations, covering such topics as requests for additional data collection; policy issues for reference to the policy

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<sup>2</sup> Based on the CCT Review Team Fact Sheet, dated 31 October 2018:  
<https://community.icann.org/download/attachments/63153798/CCT%20Review%20Fact%20Sheet%20%2831Oct2018%29.pdf?version=1&modificationDate=1544130125000&api=v2>

development processes; and suggested enhancements relating to reporting and data collection within ICANN org's Contractual Compliance Department.

The Board thanks the CCT-RT for its dedication and extensive work throughout the review process. The Board appreciates the CCT-RT's focus on achieving a data-driven outcome.

In relation to the recommendations, the Board noted some broad areas and themes that it took into consideration in determining Board action for each recommendation.

One theme is the need for different and additional data that is highlighted across many of the 35 recommendations. The Board appreciates and understands the concerns raised by the CCT-RT about the need for data to inform future CCT-RT's work. The Board finds it important that ICANN continues to be appropriately involved with data collection to inform the community and its work. In reviewing the data collection related recommendations, the Board assessed whether the data requested aligns with the intent of the recommendation, whether it is feasible to obtain the data, and whether the data would allow for meaningful analysis to inform future work of the community.

The second theme relates to recommendations directed to the Board that are not within the Board's power to do, and recommendations that the Board actually cannot direct the outcome of, such as recommendations to policy development working groups, or relating to contractual terms that are subjected to contractual negotiations.

Another theme is that there are recommendations that require significant resources to implement. The Board's fiduciary obligations mean that it cannot commit the organization to start work on these recommendations until it understands the full cost and resource impact. In addition to the implementation work on CCT recommendations, the Board must also consider the impact on community resources. Recommendations of the Cross Community Working Group (CCWG) Accountability Work Stream 2 (WS2) will move into the implementation phase soon. Additionally, the Board expects to consider final recommendations from other Specific Review teams, starting with RDS-WHOIS2 Review Team, to be followed by recommendations from the section Security, Stability and Resiliency Review Team (SSR2) and the third Accountability and Transparency Review Team (ATRT3). The ICANN Board needs to

understand how the work required to implement the recommendations arising out of all of these efforts can be performed, as well as the work of implementing expected policy recommendations, while still confirming that ICANN org has the resources to perform the other work identified in its Strategic and Operating Plans.

Having considered the various themes noted above and recognizing that the Board has the obligation and responsibility to balance the work of ICANN in order to preserve the ability for ICANN org to serve its Mission and the public interest, the Board decided on three categories of action. These categories include: accepting recommendations, subject to costing and implementation considerations; passing recommendations (in whole or in part) to noted community groups for their consideration; and placing recommendations (in whole or in part) in “Pending” status, directing ICANN org to perform specific actions to enable the Board to take further actions, as detailed in the scorecard “Final CCT Recommendations: Board Action (1 March 2019)” (the “Scorecard”).

Rationale Text Superseded

The Board notes that for each recommendation, the CCT-RT proposed a designation of priority, such as whether it considered the recommendation a prerequisite to the next round of New gTLDs, or if a proposed timeframe for implementation could be helpful. The Board considers those proposed designations to be essential inputs to be considered in the development of the proposed implementation plan that ICANN org has been directed to develop.

### **Recommendations the Board Accepts**

In total, the Board accepts six (6) recommendations: 1, 17, 21, 22, 30, 31 specified in the Scorecard, subject to costing and implementation considerations. Each of these recommendations are within the Board’s remit, are consistent with ICANN’s Mission, and serve the public interest. For each of these recommendations, the Board’s acceptance is a first step towards implementation. In its fiduciary duty, the Board



directs ICANN org to develop and submit to the Board a plan for the implementation of the accepted recommendations. Such plan could reflect as appropriate proposed implementation options and description of the activities proposed to be carried out, an estimated timeline (including consideration of the proposed priority labels as identified by the CCT-RT), resource requirements, funding source, and dependencies, and the option that is recommended. The costing and implementation considerations are needed in order for the Board to fully understand the resource and costing impact before committing to spend ICANN resources. These considerations will also contribute to an understanding of how the resources allocated to any specific recommendations (or suite of recommendations) support ICANN in serving its Mission and the public interest, including what projects or work need to be traded off within ICANN in order to fund the work identified to meet the CCT-RT recommendations.

The community will be asked to provide inputs on the plan for implementation of the accepted recommendations, and the Board will then consider the plan and any community input. The Board has the obligation and responsibility to balance the work of ICANN in order to preserve the ability for ICANN org to serve its mission and the public interest.

One of the fundamental premises within the CCT-RT Final Report is the need for more and better data to inform future review team efforts. The Board appreciates and understands the concerns raised by the CCT-RT about the need for data and agrees .that it important for ICANN to continue to refine and evolve its data collection practices. This will benefit not just future review teams, but also is expected to benefit more broadly the ICANN community and its work.

The need for data collection is supported by a number of contributors to the public comment proceeding on the Final Report: the [Business Constituency](#) [BC], [Governmental Advisory Committee](#) (GAC), [National Association of Boards of Pharmacy](#) [NABP], [Intellectual Property Constituency](#) [IPC], and the [At-Large Advisory Committee](#) [ALAC]) all supported the general theme that better data collection is appropriate and necessary within ICANN. However, the [Non Commercial Stakeholder Group](#) [NCSG] and [Registries Stakeholder Group](#) [RySG]) raised concerns regarding the volume of work and resources these requests would entail and suggested

that caution should be exercised. The [RySG](#), for instance, specifically called for the Board to weigh “perceived benefit of expensive and time-consuming data gathering exercises against the anticipated cost and synthesis of all the data.”

In response to Recommendation 1, which broadly addresses data collection practices within ICANN and calls for formalizing and promoting ongoing data collection, the Board therefore directs ICANN org to prepare a framework of data elements to be discussed with the community. This work is to consider a variety of data collection requests within the Final Report, as seen at recommendations 6, 7, 8, 11,13, 16, 20, 23, 24, and 26. The ICANN org work should consider appropriate timing and prioritization of data collection efforts, and the outcome of this work will inform further Board action on the other data collection recommendations currently placed in “pending status” (recommendations 6, 7, 8, 11, 13, 16, 20, 23, 24, and 26).

In reviewing recommendation 17, the Board notes that reseller information is already displayed within the publicly available WHOIS, reliant upon all contracted parties complying with ICANN Consensus Policies and contractual obligations to provide such data. To this extent, the recommendation is accepted. The Board notes, however, that the CCT-RT addressed this recommendation to a number of community groups. As such, the Board notes that to the extent there are policy outcomes that impact this work, those will be taken into account when appropriate. The Board understands that there were a variety of comments on this, however, because this is reiterating a requirement that already exists, acceptance is the most appropriate path.

Community input received on recommendation 17 indicates that while some community groups are in support of the recommendation, others disagree with it. For example, [NCSG](#) believes recommendation 17 is “beyond the scope of this Review Team” and noted that “the Whois 2 Review Team is currently finalizing its work; the GNSO Next Generation Registration Directory Service PDP Working Group has been terminated after more than two long years of discussions that led nowhere, and the Expedited Policy Development Process team is already working hard to review and revise the Temporary Specification. Adding another call for a review and study is an undue burden on the ICANN Community. Urges that this recommendation be dropped”. [RySG](#) echoed similar concerns and noted that “the CCT-RT needs to define

“reseller” before it can suggest that ICANN should track them all. Every private sale of a domain name is a “resale”, so it is important for the community and the Board to understand exactly what it is being asked to approve here. At a minimum this would require a new PDP”. However, [IPC](#) noted that while “more information is required for assessment of this recommendation”, in concept, the IPC supports it. [ALAC](#) noted general support for this recommendation for the purposes of data collection.

Regarding recommendation 21: Through its ongoing work, ICANN org has made enhancements toward including additional details in compliance reports on the subject matter of complaints, thereby addressing the following items: “(1) the class/type of abuse”, “(3) the safeguard that is at risk”, “(4) an indication of whether complaints relate to the protection of sensitive health or financial information”, “(5) what type of contractual breach is being complained of” that are enumerated in recommendation 21. ICANN org previously raised concerns to the CCT-RT about possible negative impacts of adding “the gTLD that is target of the abuse” as suggested in the recommendation. Therefore, the Board accepts recommendation 21, noting that items (1), (3), (4) and (5) listed within this recommendation are already part of ICANN Contractual Compliance Department’s reporting process. In connection with item (2) of the recommendation relating to “the gTLD that is target of the abuse”, the Board directs ICANN org to investigate the potential negative impacts of implementing this item on enforcement of compliance, track this effort and propose a mitigation plan in case of any negative effects.

Regarding recommendation 22: The Board notes that under current contractual agreements, ICANN org may not be able to collect the best practices “implemented to offer reasonable and appropriate security measures commensurate with the offering of services that involve the gathering of sensitive health and financial information”, as suggested in recommendation 22. The [RySG](#) in the public comment proceeding on the Final Report notes that registries do not collect sensitive information on websites they do not control. With that caveat in place, the Board accepts recommendation 22, and directs ICANN org to initiate the engagement with relevant stakeholders, as stated in recommendation 22, within ICANN org’s existing budget, role, and work.

Regarding recommendation 30: The Board notes its understanding that the New gTLD Subsequent Procedures PDP Working Group is considering the topics of outreach and applicant support, and its review is broader than the focus on the Global South presented in recommendation 30. Next steps established for an expansion and improvement of outreach should be in accordance with the New gTLD Subsequent Procedures PDP Working Group's policy recommendations. The Board accepts recommendation 30 and directs ICANN org to provide the Board with a report on related engagement, noting that if the community wishes to have more resources dedicated to outreach, those resource needs should be addressed in the next budget cycle.

Regarding recommendation 31: Similar to recommendation 30, the Board notes its understanding that the topic of "pro bono assistance program" is being discussed in the New gTLD Subsequent Procedures PDP Working Group and the expectation is that the Working Group will provide for a high-level program/guidance as part of its policy recommendations. The Board therefore accepts recommendation 31 - which calls for ICANN org to coordinate a pro-bono assistance program for future new gTLD applicants - contingent upon there being a policy recommendation arising out of the New gTLD Subsequent Procedures PDP Working Group that the pro bono assistance program will be in place in subsequent introductions of new gTLDs.

### **Recommendations the Board Passes Through to Noted Community Groups for Consideration**

The CCT-RT addressed some of its recommendations to multiple parties in the ICANN community, in addition to ICANN org and/or ICANN Board. This is in recognition of how closely the CCT-RT's work is tied to ongoing policy development work, such as the New gTLD Subsequent Procedures PDP Working Group's effort. The CCT-RT also addressed some recommendations to future CCT review teams, in the hopes of informing their future work.

The Board notes Rationale Text Superseded

and passes them, in whole or in part, through to the identified community groups for their consideration. In passing these recommendations through, the Board is neither accepting, nor rejecting the recommendations. For each of these

recommendations, even if the Board or ICANN org is among the identified groups to which the CCT-RT directed the recommendation, the Board is careful to respect the remit and roles of the different part of the ICANN community and is not directing Board or ICANN org action that would usurp another group's remit. Each of these recommendations, either in whole or in part, calls for work or outcomes that are outside of the Board's remit to direct, and are contingent on community work. The Board is not in a position to direct that the community groups come to any particular outcome, nor is the Board initiating any policy development work. The public comment proceeding on the Final Report indicated agreement and support for recommendations to be referred to community groups; indeed, the [RySG](#), for instance, called for caution on the importance of not pre-supposing the outcome of any policy development process. The Board's action today supports that community view.

In the instances where the recommendation is directed at future review teams, the Board notes that under the current Bylaws, the Specific Reviews review teams have the ability to set their charter according to the Bylaws, precluding the Board from dictating their mandate. As such, while the Board could direct ICANN org to pass on a given recommendation to a future review team, the Board could not require that said review team to take on the recommendation as part of their charter.

Rationale Text Superseded

There is another area where definitional work could assist in the implementation of the CCT-RT recommendations. In relation to recommendation 29, the New gTLD Subsequent Procedures PDP WG could take on, should they choose to do so, defining the term "Global South" or agreeing on another term to describe underserved or underrepresented regions or stakeholders in coordination with ICANN org.

As discussed above, the CCT-RT provided priority proposals for each recommendation. The Board suggests to the referenced community groups that the CCT-RT's proposed priority levels be taken into account as the groups decide whether, how and when to address the CCT-RT recommendations that are being passed through today.

Passing recommendations through to community groups is not a directive that the groups identified should formally address any of the issues within those recommendations. It is within the purview of each group to identify whether work will be taken on and the topics that the group will address. For transparency, however, it would be helpful to have records or reporting made available to the ICANN community on how the community group considered the items coming out of the CCT-RT. The

Board encourage any level of reporting that the groups are able to provide as the ICANN org and Board track action on the CCT-RT’s recommendations.

**Recommendations (or parts of recommendations) the Board Is Placing in “Pending” Status**

The Board places recommendations Rationale Text Superseded (in whole or in part) in a pending status in light of several considerations and concerns enumerated below. Many of these concerns are also echoed by issues raised by the [NCSG](#) and [RySG](#) via public comments, and range from:

Rationale Text  
Superseded                      about the value of data and how it could be collected in order to benefit the work of future CCT review teams;

Rationale Text  
Superseded                      about the very broad nature of a group of recommendations to collect data and the feasibility and means of collecting such data to make it relevant and useful;

- Elements of recommendations that are outside of ICANN org’s role (for example: amendments to contractual agreements);
- Elements of recommendations that are costly and will require community input for prioritization and cost/benefit analysis;
- Elements of recommendations where some work and initiatives are already underway, and it is necessary to determine where the gaps are.

For the group of recommendations that the Board is placing in “pending” status, the Board expects specific actions to take place in order to resolve these recommendations. The expected actions range from: ICANN org conducting analysis and identifying gaps in a particular area of work; to engaging a third party to conduct analysis on data types needed; or to providing a report on work done to date, as detailed in the Scorecard . The Board directs ICANN org, within six months from this Board action, to provide to the Board with relevant information and advise if additional time is needed. Relevant information could include an action plan for the activities necessary to provide the Board with information to inform its decision, including any interdependencies, in order to resolve the “pending” status.

The Board commits to resolve the pending status and take appropriate action on these 17 recommendations (or parts of recommendations) once that additional information is available and ICANN org has addressed the Board's questions. For all those recommendations that the Board ultimately accepts after the receipt of additional information from ICANN org, those recommendations are also to be subject to the implementation planning process discussed earlier.

Many of the recommendations placed into "Pending" status relate to the issue of data collection, as the CCT-RT produced a number of recommendations for ICANN to collect additional data. In light of the concerns raised in the public comment proceeding on the Final Report, as well as potential concerns over the volume of data requested in whole, when balanced against the limited resources available (as discussed, for example, by the [NCSG](#) and [RySG](#)), the Board, in response to Recommendation 1 above, has already directed a framework of data elements to be produced for discussion with the community, as an initial step. The Board also notes that there needs to be a thorough evaluation of resource needs required to implement these data collection recommendations, as well as a gap analysis in certain instances to evaluate and narrow down needs. The Board, however, understands, recognizes and concurs with the CCT-RT's overall identification of a need for additional data to inform ongoing and future community work, as echoed by some contributors ([BC](#), [GAC](#), [NABP](#), [IPC](#), [ALAC](#)) to the public comment period on the Final Report.

Recommendations 6, 7, 8, 11, 13, 16, 20, 23, 24, and 26 are placed into pending status in order to allow ICANN org, through the implementation of Recommendation 1, to address data collection issues in a holistic manner. Instead of seeing each request as a separate item of work, raising concerns such as those articulated by the [NCSG](#) and [RySG](#) on the volume of work and resources these requests for additional data collection entail, holding of specific action on these recommendations allows for a better understanding of and weighing of the "perceived benefit[s] of expensive and time-consuming data gathering exercises against the anticipated cost and synthesis of all the data," as suggested by the RySG. The Board expects the framework produced in implementation of recommendation 1 to consider the items requested in recommendations 6, 7, 8, 11, 13, 16, 20, 23, 24, and 26) as part of that effort. The outcome of the work anticipated in response to recommendation 1 will therefore inform



Board action on these other data collection recommendations currently placed in “pending” status.).

Some of these data-collection related recommendations placed in “pending” status also raise other specific considerations beyond those raised as interdependencies with Recommendation 1.

With respect to Recommendation 11, the Board agrees that end-user consumer surveys could provide useful information for future gTLD applicants in terms of behavioral measures of consumer trust that gather both objective and subjective data with a goal toward generating more concrete and actionable information. The Board also recognizes the need of future CCT reviews to have access to such data, and many of the actions that the Board is taking today is geared toward making better data available for the benefit of future review teams, and ultimately the ICANN community. Furthermore, ICANN org has conducted such surveys, which served as input to the review team’s work. Because there has already been past work on these surveys, the Board would like to see a full impact assessment on whether there will be any duplication of work in conducting future surveys. To better understand what types of data are sought through this recommendation, there might be a need for ICANN org to engage with the community, in order to better identify work that is currently underway and where the gaps in data and work might be. Once the scope of such surveys is better defined, Board directs ICANN org to advise on what the cost of implementation would be.

With regard to recommendation 20, the Board agrees that anti-abuse measures are very important and notes that ICANN org has already implemented initiatives aimed at addressing abuse; namely, DAAR, Identifier Technology Health Indicators, and Spec 11(3)(B). However, recommendation 20 also contains elements that ICANN org cannot unilaterally direct, such suggested amendments to contractual agreements. In the public comment proceeding on the Final Report, the [RySG](#) describes portions of the recommendation as inappropriate while the [NCSG](#) perceives the recommendation as being about content. As such, The Board directs ICANN org to perform an analysis of the work/initiatives already underway to determine any gaps in work currently in progress and what work recommendation entails. The Board will then review the results of the analysis and determine the best action on this recommendation, insofar as it falls

within ICANN’s mandate and within the remit of the Board and the org. For the elements of this recommendation that are outside of ICANN org’s unilateral remit, such as recommending to future CCT review teams they should consider making amendments to contractual agreements in order to require different information on abuse points of contact, or other “follow up measures”, the Board notes the recommendation and directs ICANN org to pass it along as input to the next CCT review for its consideration. The Board recognizes that it cannot mandate the work items of a future review team.

Recommendation 23 calls for data gathering on new gTLDs operating in highly-regulated sectors, including an audit. The Board agrees that gathering data on the operation of gTLDs in the highly-regulated sectors would be useful. However, the Board also notes that [NABP](#) and [RySG](#) have expressed that while gathering this data is useful, it should be on a voluntary basis, while [GAC](#) strongly supports and endorses Recommendation 23, which recommends an “audit to assess whether restrictions regarding possessing necessary credentials” in highly regulated gTLDs are being enforced. Given ICANN org’s Contractual Compliance Department’s role to monitor contracted parties’ compliance with terms of their contracts, the Board notes that the Contractual Compliance Department is already conducting audits and monitoring /tracking abuse and whether relationships have been established with government bodies. To avoid duplication of work, and to ensure the ICANN org stays within its role, the Board calls for ICANN org to submit a report on its contractual compliance activities to date with respect to GAC Category 1 strings to understand better what the volume and nature of complaints are with respect to the gTLDs operating in the highly-regulated sector, and determine whether the data gathered warrants conducting audits or requesting further information from the contracted parties.

The community input received on Recommendation 24 (regarding compliance with safeguards against cyberbullying or gTLDs with inherent governmental functions) indicates that some commenters are not in support of this recommendation ([RySG](#), [NCSG](#)). The [NCSG](#) suggested that “cyberbullying” is about content regulation and outside of ICANN org’s role, while the [RySG](#) noted that because the CCT-RT report states that “it is not clear whether failure to comply with these safeguards has generated complaints,” that the RySG is concerned that the CCT-RT’s recommendation is based

on a presumption, as the RySG did not see evidence that any such failures had occurred. The Board notes that ICANN org already provides similar reports as to those requested through this recommendation. To ensure there is no duplication, the Board requests ICANN org to identify where there is a gap between work currently in progress and what the recommendation entails. Once the gap analysis is completed, ICANN org will share the findings with the community to ensure alignment on next steps and any changes that need to be made, and to confirm that any resulting implementation will remain within ICANN's Mission and mandate.

As recommendation 26 (recommending a regular study on costs to protect trademarks in the DNS marketplace) calls for a study that is similar to the 2017 Nielsen survey of INTA members, the Board directs ICANN org to do an in-depth analysis of the value of the requested data, the usefulness of the study, the costs associated with conducting the studies and the interdependencies with other relevant studies. While some contributors to the public comment proceeding on the Final Report support this recommendation ([BC](#), [IPC](#), [ALAC](#)), concerns were raised by the [NCSG](#) that the recommendation favors one stakeholder group. The Board expects that the inputs provided back to the Board will also take into account the concerns raised in the public comment.

Recommendations 2, 3, 4, and 5 call for the collection of data that relates to pricing. The [RySG](#), during the public comment period, expressed concerns about this suite of recommendations noting that price information is generally business sensitive. Additionally, the [RySG](#) noted that from the way the recommendation, and the associated rationale and details are formulated in the Final Report, it is not clear to the community who will have access to such data once collected, who will arbitrate access to the data, and to what extent. The [RySG](#) also commented in the community feedback that “not only should ICANN not involve itself with pricing studies, using parties’ contracts with ICANN as a mechanism to force its production is terribly inappropriate”.

Requiring ICANN to collect pricing related data has previously been flagged for the CCT-RT as an issue that raises concerns. First, it is not clear that ICANN's contracts with registries and registrars allow ICANN to compel pricing related data. Second, the challenges in collecting the types of pricing data requested have been flagged by contracted parties. Third, the suggestion that pricing is a proxy for competition is not

well supported and raises a concern that ICANN will be asked to take a role in pricing of domain name registrations, which is beyond ICANN's remit and is more akin to a regulatory role. Fourth, placing ICANN into the role of collecting and maintaining this data itself raises competition and antitrust concerns, as it could facilitate access to or sharing of sensitivity pricing information among competitors. Taken together, along with the limited competition-related value inherent in this information, the collection of pricing data raises significant legal and organizational concerns that impose significant risk on ICANN with very little probatory value. For all these reasons, the Board is concerned that the data that is requested will not provide insight into the increase in competition of the marketplace, and therefore put these recommendations in a pending status. That being said, the Board notes the CCT-RT's concerns with respect to insufficiency of data and recognizes the need for additional data points for subsequent CCT review teams. The Board therefore directs ICANN org to engage an expert to decide what data should be collected in order to provide meaningful information about competition in the DNS market to aid future CCT-RTs in their work.

Rationale Text Superseded

#### DNS Security Abuse. Public

comments on these abuse-related recommendations was divergent. For example, on recommendation 14 most commenters ([BC](#), [GAC](#), [NABP](#), [IPC](#), [ALAC](#)) support the intent of this recommendation to implement anti-abuse measures to mitigate against DNS abuse. There were, however, concerns raised by the [NCSG](#) and [RySG](#) about the suggestion of amending the Registry Agreements to mandate or incentivize 'proactive' anti-abuse measures. Moreover, the absence of a clear, agreed upon definition of abuse, creates challenges, as observed by the [NCSG](#). The [NCSG](#) further suggested that recommendation 14 falls under "content" control and as such is outside of the role of ICANN Board, or ICANN org, though the Board does not agree with this assessment and considers this recommendation within ICANN's mandate.

To the RySG's concern over the use of CCT-RT recommendations to impose new contractual obligations, the Board shared in that concern and noted that concern in prior communications with the CCT-RT. The Board, as noted other places within the Scorecard and rationale, concurs that changes to ICANN's contracts with registries and registrars should flow through the defined contract amendment process or achieved as outcomes of the policy development process. The Board understands the importance of

mitigating abuse but also recognizes that neither the Board nor ICANN org has the ability to unilaterally mandate changes in agreements currently in place in order to achieve that mitigation. Rationale Text Superseded

Public comment also showed a lack of community alignment on recommendation 15: while some groups ([BC](#), [INTA](#), [GAC](#), [NABP](#), [IPC](#), [ALAC](#)) are very supportive of the recommendation, others ([NCSG](#), [RySG](#)) strongly oppose the adoption of the recommendation. The Board further notes that the issue of security abuse may not be just an issue for the identified parts of the community, but also an issue that has already been and may continue to be discussed by the Security, Stability Advisory Committee (SSAC) and Second Security, Stability and Resiliency Review Team (SSR2). It is also important to note that ICANN org Compliance already performs audits focused on the DNS infrastructure abuse based on data collected by DAAR.

As with recommendation 14, the Board is directing the same cadence of action for recommendation 15, to hold off on the initiation of negotiations pending community policy work towards defining “abuse”.

With regard to recommendation 16, the Board notes that ICANN org Compliance already performs audits focused on the DNS infrastructure abuse based on data collected by DAAR. The Board notes that ICANN org launched a full registry audit in

November 2018 to assess registry operators' compliance with their obligations related to DNS abuse. Data about the findings, good practices and observations will be shared. The Board places two elements of this recommendation in "Pending status" and directs ICANN org to conduct a gap analysis of the study suggested by the CCT-RT compared to existing collection effort to inform usefulness of the study, and to inform whether establishing future ongoing data collection would be meaningful. The two elements are as follows: "1) Further study the relationship between specific registry operators, registrars, and DNS Security Abuse by commissioning ongoing data collection, including but not limited to, ICANN Domain Abuse Activity Reporting (DAAR) initiatives," and "2) For transparency purposes, this information should be regularly published, ideally quarterly and no less than annually, in order to be able to identify registries and registrars that need to come under greater scrutiny, investigation, and potential enforcement action by ICANN organization." The Board passes the element of this recommendation stating "Upon identifying abuse phenomena, ICANN should put in place an action plan to respond to such studies, remedy problems identified" to the noted community groups for consideration, as how ICANN can respond to and remedy abuse is an appropriate area for policy inputs.

Rationale Text Superseded

***Which stakeholders or others were consulted?***

As required by ICANN Bylaws, the CCT-RT held a public comment period on its Draft report in March 2017 (<https://www.icann.org/public-comments/cct-rt-draft-report-2017-03-07-en>), followed by a supplemental public comment proceeding on New Sections to its Draft Report in November 2017 (<https://www.icann.org/public-comments/cct-recs-2017-11-27-en>). A total of 41 comments were submitted on the earlier iterations of the report. ICANN org provided initial input regarding feasibility of the Draft Recommendations in May 2017 (<https://mm.icann.org/pipermail/comments-cct-rt-draft-report-07mar17/attachments/20170520/06db1b61/ICANNInputsonCCTRTRecs-19May2017.pdf>) and in January 2018 (<https://mm.icann.org/pipermail/comments-cct-recs-27nov17/attachments/20180126/b9ad18cc/CCT-NewRecs-Input-26jan18-0001.pdf>), during the first and second public comment periods. Additionally, the ICANN Board provided feedback to the CCT-RT in April 2018 (<https://www.icann.org/en/system/files/correspondence/chalaby-to-cct-20apr18-en.pdf>). The CCT-RT summarized its approach to how public comments and inputs received were considered in Appendix D of its Final Report (<https://www.icann.org/en/system/files/files/cct-final-08sep18-en.pdf>). ICANN Bylaws call for the Final Report to be posted for public comment (<https://www.icann.org/public-comments/cct-final-recs-2018-10-08-en>) to inform Board action on the CCT-RT Final Recommendations. The public comment proceeding on the Final Report was opened on 8 October 2018, closed on 11 December 2018, and yielded a total of nine community contributions, which were carefully considered during the assessment of Final Recommendations.

The summary of input received on the CCT Final Report public comment proceeding (<https://www.icann.org/en/system/files/files/report-comments-cct-final-recs-01feb19-en.pdf>) highlighted that the community was of divergent opinion on the report. Notably, while two respondents ([BC](#), [ALAC](#)) generally support recommendations, one

contributor ([John Poole](#) [JP]) considers the CCT-RT addressed its mandate incorrectly and two others ([NCSG](#), [RySG](#)) raised significant concerns regarding content of the report and recommendations (e.g. “unwarranted data gathering recommendations”, recommendations leading to mission creep, recommendation that are too broad etc.). The report also demonstrated a lack of community alignment on how resources should be allocated. Some commenters ([NCSG](#), [RySG](#)) noted that a number of inputs to prior comment periods are still valid or were not addressed to their satisfaction by the CCT-RT.

***Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?***

The implementation of the CCT-RT recommendations that the Board has accepted pursuant to the Scorecard will have a considerable budgetary impact on the organization. As articulated above, Board’s acceptance is a first step towards implementation. A full resource and costing impact analysis will now be conducted before committing to spend ICANN resources. Community feedback will be sought on the costing and resource information provided, which will give the Board the opportunity to both consider those community inputs and to identify if there are any recommendation(s) for which the Board would be violating its fiduciary responsibility to the corporation if such recommendations were allowed to proceed. The Board retains the obligation and responsibility to balance the work of ICANN in order to preserve the ability for ICANN org to serve its Mission and the public interest. It is possible that some of ICANN's financial resources will need to be reallocated, as appropriate.

In connection with recommendations that the Board is passing through to the noted community groups for consideration and potential action, there could be additional fiscal impact or ramifications depending on the outcome of the community groups' consideration. For example, there could be a need for additional support from ICANN org.

Furthermore, there will be significant resources needed to perform the work directed on the recommendations that are marked as “pending”, in order to prepare those for further Board action. Depending on the future actions identified, for any recommendations that are accepted they will be subject to the same implementation exercise described above.



***Are there positive or negative community impacts?***

Should community groups to whom recommendations are addressed decide to take on the CCT-RT topics, there would be an impact on community workload. This, in addition to other ongoing work, and associated cost, could affect community bandwidth and resources. Such resource implications will not be clear until the community groups specified by the CCT-RT recommendations consider the recommendations and decide on a possible course of action. Moreover, the time that community groups will require to consider the recommendations - if they choose to take up the issues at all - is uncertain.

The Board appreciates and understands the importance of having ICANN continue to be appropriately involved with data collection across all its policy initiatives and work. The results of the implementation of recommendation 1 will help collect and provide meaningful data to the community, which will have positive impact on their work.

***Are there any security, stability or resiliency issues relating to the DNS?***

This Board action is not expected to have a direct effect on security, stability or resiliency issues relating to the DNS, though the outcomes particularly of the DNS Security related recommendations may have an impact in the future.

***Is this action within ICANN's Mission? How does it relate to the global public interest?***

This action is within ICANN's mission and mandate and in the public interest as it is a fulfillment of a key commitment entered into in 2009 within the Affirmation of Commitments, now embodied in the ICANN Bylaws. ICANN's reviews are an important and essential part of how ICANN upholds its commitments. The scope of this review is inherently tied to ICANN's core values of introduction and promotion of competition in the registration of domain names,

***Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?***

Public comments were received prior to Board consideration.

**Signature Block:**

Submitted by: Theresa Swinehart

Position: Senior Vice President, MSSSI Technical Reviews & Review  
Implementation

Date Noted: 1 March 2019

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## Final CCT Recommendations: Board Action (1 March 2019)

Rec #	Recommendation Description	Directed To	Board Action
<b>Recommendations the Board Accepts Subject to Costing and Implementation Considerations</b>			
1	Formalize and promote ongoing data collection.	ICANN organization	Accept the premise of this recommendation, as ICANN continues to be more focused on data collection to support the community's and its work, which necessitates the centralization of data collection. The Board understands the concerns raised by the CCT Review Team about having access to data. As such, the Board requests ICANN org to prepare a framework of data elements to be discussed with the community in relation to the group of data collection recommendations, and respecting the bandwidth of the community, consider appropriate timing and prioritization. The outcome of this work will inform Board's action on the other recommendations focusing on data collection (recommendations 6, 7, 8, 11, 13, 16, 20, 23, 24, and 26).
17	ICANN should collect data about and publicize the chain of parties responsible for gTLD domain name registrations.	The ICANN Board, the GNSO Expedited PDP, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization, the Subsequent Procedures PDP WG, SSAC	The Board notes that reseller information is already displayed within the publicly available WHOIS, reliant upon all contracted parties complying with ICANN Consensus Policies and contractual obligations to provide such data. To this extent, the recommendation is accepted. The Board notes, however, that the CCT-RT addressed this recommendation to a number of community groups. The Board notes that to the extent these groups may produce policy outcomes that impact this work, those will be taken into account when appropriate.
21	Include more detailed information on the subject matter of complaints in ICANN publicly available compliance reports. Specifically, more precise data on the subject matter of complaints, particularly: (1) the class/type of abuse; (2) the gTLD that is target of the abuse; (3) the safeguard that is at risk; (4) an indication of whether complaints relate to the protection of sensitive health or financial information; (5) what type of contractual breach is being complained of; and (6) resolution status of the complaints, including action details. These details would assist future review teams in their assessment of these safeguards.	ICANN organization	Accept the recommendation. The Board accepts recommendation 21, noting that items (1), (3), (4) and (5) listed within this recommendation are already part of ICANN Contractual Compliance Department's reporting process. In connection with item (2) of the recommendation relating to "the gTLD that is target of the abuse", the Board directs ICANN org to investigate the potential negative impacts of implementing this item on enforcement of compliance, track this effort and propose a mitigation plan in case of any negative effects.
22	Initiate engagement with relevant stakeholders to determine what best practices are being implemented to offer reasonable and appropriate security measures commensurate with the offering of services that involve the gathering of sensitive health and financial information. Such a discussion could include identifying what falls within the categories of "sensitive health and financial information" and what metrics could be used to measure compliance with this safeguard.	ICANN organization	Accept the recommendation. The Board directs ICANN org to initiate engagement within its existing budget, role, and work. The Board notes that while engagement can be initiated, it is unclear that ICANN org may have the ability to collect this data under the current contractual agreements and obligations.
30	Expand and improve outreach into the Global South.	ICANN organization	Accept the recommendation. The Board accepts the recommendation and directs ICANN org to provide the Board with a report on related engagement, noting that if the community wishes to have more resources dedicated to this activity, this should be addressed in the next budget cycle. Given the interdependency between this recommendation and recommendation 29, as both recommendations rely upon the undefined term "Global South", the Board notes that the New gTLD Subsequent Procedures PDP WG could take on, should they choose to do so, defining the term "Global South" for this purpose in coordination with ICANN org, its engagement teams, and geographic regions definitions to create a workable definition, or agreeing on another term to describe underserved or underrepresented regions or stakeholders in coordination with ICANN org.
31	The ICANN organization to coordinate the pro bono assistance program.	ICANN organization	Accept contingent on the recommendation from the New gTLD Subsequent Procedures PDP WG that the pro bono assistance program continue.
<b>Recommendations the Board Is Passing Through (In Whole or In Part) to Noted Community Groups for Consideration</b>			
9	The ICANN community should consider whether the costs related to defensive registration for the small number of brands registering a large number of domains can be reduced.	New gTLD Subsequent Procedures PDP Working Group	Note the recommendation and pass the recommendation through to the noted community groups for their consideration.

		and/or Rights Protection Mechanisms (RPM) PDP Working Group	
10	The GNSO should initiate a new Policy Development Process (PDP) to create a consistent privacy baseline across all registries, including to explicitly cover cases of privacy infringements such as sharing or selling personal data without a lawful basis, such as the consent of that person. The GNSO PDP should consider limiting the collection and processing of personal data within rules which are mandatory for all gTLD registries. It should also consider not allowing registries to share personal data with third parties without a lawful basis, such as the consent of that person or under circumstances defined by applicable law (e.g. upon requests of government agencies, IP lawyers, etc.). Also, it is necessary to be aware of emerging, applicable regulations related to the processing of the personal data. For clarification, this recommendation does not relate to issues involving WHOIS or registration directory services data.	Generic Names Supporting Organization	<b>Note the recommendation and pass the recommendation through to the noted community group for their consideration.</b>
12	Create incentives and/or eliminate current disincentives that encourage gTLD registries to meet user expectations regarding: (1) the relationship of content of a gTLD to its name; (2) restrictions as to who can register a domain name in certain gTLDs based upon implied messages of trust conveyed by the name of its gTLDs (particularly in sensitive or regulated industries) and (3) the safety and security of users' personal and sensitive information (including health and financial information). These incentives could relate to applicants who choose to make public interest commitments in their applications that relate to these expectations. Ensure that applicants for any subsequent rounds are aware of these public expectations by inserting information about the results of the ICANN surveys in the Applicant Guide Books.	New gTLD Subsequent Procedures PDP Working Group	<b>Note the recommendation and pass the recommendation through to the noted community group for their consideration.</b>
16 <sup>1</sup>	Further study the relationship between specific registry operators, registrars, and DNS Security Abuse by commissioning ongoing data collection, including but not limited to, ICANN Domain Abuse Activity Reporting (DAAR) initiatives. For transparency purposes, this information should be regularly published, ideally quarterly and no less than annually, in order to be able to identify registries and registrars that need to come under greater scrutiny, investigation, and potential enforcement action by ICANN organization. <b>Upon identifying abuse phenomena, ICANN should put in place an action plan to respond to such studies, remedy problems identified, and define future ongoing data collection.</b>	The ICANN Board, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization, and the Subsequent Procedures PDP WG, SSR2 Review Team.	<b>[This action pertains to a portion of the recommendation language - refer to bold text.] Note the portion of the recommendation and pass it through to the noted community groups for consideration. The Board is not accepting the policy directives that may be inherent here but rather, passes on such elements of the recommendation to the relevant community groups to consider.</b>
19	The next CCT should review the "Framework for Registry Operator to Respond to Security Threats" and assess whether the framework is a sufficiently clear and effective mechanism to mitigate abuse by providing for systemic and specified actions in response to security threats.	Future CCT Review Teams	<b>Note the recommendation and direct ICANN org to pass it along as input to the next CCT review for its consideration recognizing that the CCT Review Teams have the ability to set their charter according to the Bylaws and the Board cannot mandate their scope/charter.</b>
20 <sup>2</sup>	Assess whether mechanisms to report and handle complaints have led to more focused efforts to combat abuse by determining: (1) the volume of reports of illegal conduct in connection with the use of the TLD that registries receive from governmental and quasi-governmental agencies; (2) the volume of inquires that registries receive from the public related to malicious conduct in the TLD; (3) whether more efforts are needed to publicize contact points to report complaints that involve abuse or illegal behavior within a TLD; and (4) what actions registries have taken to respond to complaints of illegal or malicious conduct in connection with the use of the TLD. Such efforts could include surveys, focus groups, or community discussions. If these methods proved ineffective, consideration could be given to amending future standard Registry Agreements to require registries to more prominently disclose their abuse points of contact and provide more granular information to ICANN. <b>Once this information is gathered, future review teams should consider recommendations for appropriate follow up measures.</b>	ICANN organization and future CCT Review Teams	<b>[This action pertains to a portion of the recommendation language - refer to bold text.] Note the portion of the recommendation and pass it through to the noted group, recognizing that the CCT Review Teams have the ability to set their charter according to the Bylaws and the Board cannot mandate their scope/charter.</b>
25	To the extent voluntary commitments are permitted in future gTLD application processes, all such commitments made by a gTLD applicant must state their intended goal and be submitted during the application process so that there is sufficient opportunity for community review and time to meet the deadlines for community and Limited Public Interest objections. Furthermore, such requirements should apply to the extent that voluntary commitments may be made after delegation. Such voluntary commitments, including existing voluntary PICs, should be made accessible in an organized, searchable online database to enhance data-driven policy development, community transparency, ICANN compliance, and the awareness of variables relevant to DNS abuse trends.	ICANN organization, New gTLD Subsequent Procedures PDP Working Group	<b>Note the recommendation and pass the recommendation through to the noted community group, noting that ICANN org's role is to implement the adopted recommendations resulting from the Sub Pro PDP WG's work. To the extent that policies are adopted consistent with the recommendations, ICANN org will update the Applicant Guide Book (AGB) accordingly.</b>

<sup>1</sup> The Board is also taking action to place portions of Recommendation 16 into Pending Status in order to direct ICANN org to conduct further work.

<sup>2</sup> The Board is also taking action to place portions of Recommendation 20 into Pending Status in order to direct ICANN org to conduct further work.

27	<p>Since the review team’s initial draft recommendation, the PDP “Review of All Rights Protection Mechanisms in All gTLDs (RPM WG)” has started reviewing the Uniform Rapid Suspension system in detail and this is currently ongoing. Given this ongoing review, the CCT Review Team recommends that the RPM WG continues its review of the URS and also looks into the interoperability of the URS with the Uniform Domain Name Dispute Resolution Policy (UDRP). Given the current timeline, it would appear that the appropriate time to do so will be when the UDRP review is carried out by the PDP WG and at this time consideration be given to how it should interoperate with the UDRP. The review team has encountered a lack of data for complete analysis in many respects. The RPM PDP WG appears to also be encountering this issue and this may well prevent it drawing firm conclusions. If modifications are not easily identified, then the review team recommends continued monitoring until more data is collected and made available for a review at a later date.</p>	Generic Names Supporting Organization	<b>Note the recommendation and pass the recommendation through to the noted community group for their consideration.</b>
28	<p>A cost-benefit analysis and review of the Trademark Clearinghouse (TMCH) and its scope should be carried out to provide quantifiable information on the costs and benefits associated with the present state of the TMCH services and thus to allow for an effective policy review.<sup>40</sup> Since our initial draft recommendation, the RPM PDP has started reviewing the TMCH in detail and ICANN has appointed Analysis Group to develop and conduct the survey(s) to assess the use and effectiveness of the Sunrise and Trademark Claims RPMs. Provided that the RPM PDP has sufficient data from this survey or other surveys and is able to draw firm conclusions, the CCT Review Team does not consider that an additional review is necessary. However, the CCT Review Team reiterates its recommendation for a cost-benefit analysis to be carried out if such analysis can enable objective conclusions to be drawn. Such cost-benefit analysis should include but not necessarily be limited to looking at cost to brand owners, cost to registries, and cost to registrars of operating with the TMCH now and going forward and look at the interplay with premium pricing.</p>	Generic Names Supporting Organization	<b>Note the recommendation and pass the recommendation through to the noted community group for their consideration.</b>
29	<p>Set objectives/metrics for applications from the Global South.</p>	New gTLD Subsequent Procedures PDP Working Group/Generic Supporting Names Organization	<b>Note the recommendation and pass the recommendation through to the noted community groups for their consideration. Given the interdependency between this recommendation and recommendation 30, as both recommendations rely upon the same undefined term “Global South”, the Board notes that the New gTLD Subsequent Procedures PDP WG could take on, should they choose to do so, defining the term “Global South” in coordination with ICANN org, its engagement teams, and geographic regions definitions to create a workable definition, or agreeing on another term to describe underserved or underrepresented regions or stakeholders in coordination with ICANN org.</b>
32	<p>Revisit the Applicant Support Program.</p>	New gTLD Subsequent Procedures Working Group	<b>Note the recommendation and pass the recommendation through to the noted community group for their consideration. The Board notes that this topic is being discussed in the New gTLD Subsequent Procedures PDP WG and expectation is for a high-level program/guidance to be provided as a result of this work.</b>
33	<p>As required by the October 2016 Bylaws, Governmental Advisory Committee (GAC) consensus advice to the Board regarding gTLDs should also be clearly enunciated, actionable, and accompanied by a rationale, permitting the Board to determine how to apply that advice. ICANN should provide a template to the GAC for advice related to specific TLDs, in order to provide a structure that includes all of these elements. In addition to providing a template, the Applicant Guidebook (AGB) should clarify the process and timelines by which GAC advice is expected for individual TLDs.</p>	New gTLD Subsequent Procedures PDP Working Group, GAC, ICANN organization	<b>Note the recommendation and pass through to the noted community groups for their consideration. The Board notes that the Board-GAC Working Group could also serve as a valuable contributor to this work as that is an avenue for the Board and GAC to work together on receiving/acting on advice. Outputs of that work could inform the New gTLD Subsequent Procedures PDP WG on how the GAC should be able to provide advice on individual gTLDs. The Board notes that the outcomes of that work could be improved if the New gTLD Subsequent Procedures PDP WG and the GAC are able to work together on templates, timelines, etc.</b>
34	<p>A thorough review of the procedures and objectives for community-based applications should be carried out and improvements made to address and correct the concerns raised before a new gTLD application process is launched. Revisions or adjustments should be clearly reflected in an updated version of the 2012 AGB.</p>	New gTLD Subsequent Procedures PDP Working Group	<b>Note the recommendation and pass the recommendation through to the noted community group for their consideration.</b>
35	<p>The New gTLD Subsequent Procedures PDP should consider adopting new policies to avoid the potential for inconsistent results in string confusion objections. In particular, the PDP should consider the following possibilities: 1. Determining through the initial string similarity review process that singular and plural versions of the same gTLD string should not be delegated.</p>	New gTLD Subsequent Procedures PDP Working Group	<b>Note the recommendation and pass the recommendation through to the noted community group for their consideration.</b>

	2. Avoiding disparities in similar disputes by ensuring that all similar cases of plural versus singular strings are examined by the same expert panelist. 3. Introducing a post-dispute resolution panel review mechanism.		
<b>Recommendations the Board Is Placing In "Pending" Status [In Whole or In Part]</b>			
2	Collect wholesale pricing for legacy gTLDs.	ICANN organization	Place the recommendation in "Pending" status due to questions raised about the value of the data. The Board directs ICANN org, through engagement of a third party, to conduct an analysis to identify what types of data would be relevant in examining the potential impacts on competition and, whether that data is available, and how it could be collected in order to benefit the work of future CCT Review Teams. This analysis will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
3	Collect transactional pricing for the gTLD marketplace.	ICANN organization	Place the recommendation in "Pending" status due to questions raised about the value of the data. The Board directs ICANN org, through engagement of a third party, to conduct an analysis to identify what types of data would be relevant in examining the potential impacts on competition and, whether that data is available, and how it could be collected in order to benefit the work of future CCT Review Teams. This analysis will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
4	Collect retail pricing for the domain marketplace.	ICANN organization	Place the recommendation in "Pending" status due to questions raised about the value of the data. The Board directs ICANN org, through engagement of a third party, to conduct an analysis to identify what types of data would be relevant in examining the potential impacts on competition and, whether that data is available, and how it could be collected in order to benefit the work of future CCT Review Teams. This analysis will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
5	Collect secondary market data.	ICANN organization	Place the recommendation in "Pending" status due to questions raised about the value of the data and direct ICANN org, through engagement of a third party, to conduct an analysis to identify what types of data would be relevant in examining the potential impacts on competition and, whether that data is available, and how it could be collected in order to benefit the work of future CCT Review Teams. This analysis will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
6	Partner with mechanisms and entities involved with the collection of TLD data. As feasible, collect TLD registration number data per TLD and registrar at a country-by-country level in order to perform analysis based on the same methods used in the Latin American and Caribbean DNS Marketplace (LAC) Study.	ICANN organization	Place the recommendation in "Pending" status. ICANN org already has access to and has shared some data that serves this request, though it is unclear the scope of further collection that is feasible or available. The Board directs ICANN org to conduct a gap analysis and feasibility assessment to inform potential action on this recommendation. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
7	Collect domain usage data to better understand the implications of parked domains	ICANN organization	Place the recommendation in "Pending" status. The outcome of the implementation of Recommendation 1 will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
8	Conduct periodic surveys of registrants that gathers both objective and subjective information with a goal of creating more concrete and actionable information.	ICANN organization	Place the recommendation in "Pending" status. The Board notes that ICANN org has already conducted periodic surveys, so work toward this recommendation has already taken place. The Board directs ICANN org to perform a gap analysis over the what has already been completed towards this recommendation and measured against broader community considerations of information that might be needed to support future community efforts. Once the scope of such surveys is better defined, the Board directs ICANN org to advise on what the cost of implementation would be. Additionally, outcome of the implementation of Recommendation 1 will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.

11	Conduct periodic end-user consumer surveys. Future review teams should work with survey experts to conceive more behavioral measures of consumer trust that gather both objective and subjective data with a goal toward generating more concrete and actionable information.	ICANN organization and future CCT Review Teams	Place the recommendation in “Pending” status. As ICANN org has already conducted such surveys, the Board directs ICANN org to perform a full impact assessment on whether there will be any duplication of work or gap analysis. Once the scope of such surveys is better defined, Board directs ICANN org to advise on what the cost of implementation would be. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board’s decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
13	ICANN should collect data in conjunction with its related data collection activities on the impact of restrictions on who can buy domains within certain new gTLDs (registration restrictions) to help regularly determine and report: 1. Whether consumers and registrants are aware that certain new gTLDs have registration restrictions; 2. Compare consumer trust levels between new gTLDs with varying degrees of registration restrictions; 3. Determine whether the lower abuse rates associated with gTLDs that impose stricter registration policies identified in the Statistical Analysis of DNS Abuse in gTLDs Study continue to be present within new gTLDs that impose registration restrictions as compared with new gTLDs that do not 4. Assess the costs and benefits of registration restrictions to contracted parties and the public (to include impacts on competition and consumer choice) and; 5. Determine whether and how such registration restrictions are enforced or challenged.	ICANN organization	Place the recommendation in “Pending” status. The Board directs ICANN org to consider if there are already effort that could be leveraged to meet this recommendation, such as the continuation of the previous DNS abuse study. In considering potential implementation, the Board also directs ICANN org to consider availability of data as part of its planning efforts, and the types of information that are available through contract as opposed to voluntary compliance through contracted parties. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board’s decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.
14	Consider directing ICANN organization, in its discussions with registries, to negotiate amendments to existing Registry Agreements, or in consideration of new Registry Agreements associated with subsequent rounds of new gTLDs, to include provisions in the agreements to provide incentives, including financial incentives for registries, especially open registries, to adopt proactive anti-abuse measures.	The ICANN Board, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization, and the Subsequent Procedures PDP WG.	Place this recommendation in “Pending” status. The Board directs ICANN org to facilitate community efforts to develop a definition of “abuse” to inform further action on this recommendation. To negotiate “anti-abuse measures”, a common understanding of what “abuse” means must first be reached.
15	ICANN Org should, in its discussions with registrars and registries, negotiate amendments to the Registrar Accreditation Agreement and Registry Agreements to include provisions aimed at preventing systemic use of specific registrars or registries for DNS Security Abuse. With a view to implementing this recommendation as early as possible, and provided this can be done, then this could be brought into effect by a contractual amendment through the bilateral review of the Agreements. In particular, ICANN should establish thresholds of abuse at which compliance inquiries are automatically triggered, with a higher threshold at which registrars and registries are presumed to be in default of their agreements. If the community determines that ICANN org itself is ill-suited or unable to enforce such provisions, a DNS Abuse Dispute Resolution Policy (DADRP) should be considered as an additional means to enforce policies and deter against DNS Security Abuse. Furthermore, defining and identifying DNS Security Abuse is inherently complex and would benefit from analysis by the community, and thus we specifically recommend that the ICANN Board prioritize and support community work in this area to enhance safeguards and trust due to the negative impact of DNS Security Abuse on consumers and other users of the Internet.	The ICANN Board, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization and the Subsequent Procedures PDP WG	Place this recommendation in “Pending” status. The Board directs ICANN org to facilitate community efforts to develop a definition of “abuse” to inform further action on this recommendation. To negotiate amendments to address DNS Security Abuse measures, a common understanding of what “abuse” means must first be reached.
16 <sup>3</sup>	<b>Further study the relationship between specific registry operators, registrars, and DNS Security Abuse by commissioning ongoing data collection, including but not limited to, ICANN Domain Abuse Activity Reporting (DAAR) initiatives. For transparency purposes, this information should be regularly published, ideally quarterly and no less than annually, in order to be able to identify registries and registrars that need to come under greater scrutiny, investigation, and potential enforcement action by ICANN organization.</b> Upon identifying abuse phenomena, ICANN should put in place an action plan to respond to such studies, remedy problems identified, <b>and define future ongoing data collection.</b>	The ICANN Board, the Registry Stakeholders Group, the Registrar Stakeholders Group, the Generic Names Supporting Organization, and the Subsequent Procedures PDP WG, SSR2 Review Team.	<b>[This action pertains to a portion of the recommendation language - refer to bold text.] Place these two elements of the recommendation in “Pending status” and directs ICANN org to conduct a gap analysis of the study suggested by the CCT-RT compared to existing collection effort to inform usefulness of the study, and to inform whether establishing future ongoing data collection would be meaningful. The analysis should take into account the work that the org is already performing, such as Contractual Compliance audits. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board’s decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.</b>

<sup>3</sup> The Board is also taking action to pass through portions of Recommendation 16 to the community groups with the appropriate remit.

18	In order for the upcoming WHOIS Review Team to determine whether additional steps are needed to improve WHOIS accuracy, and whether to proceed with the identity phase of the Accuracy Reporting System (ARS) project, ICANN should gather data to assess whether a significant percentage of WHOIS-related complaints applicable to new gTLDs relate to the accuracy of the identity of the registrant. <sup>30</sup> This should include analysis of WHOIS accuracy complaints received by ICANN Contractual Compliance to identify the subject matter of the complaints (e.g., complaints about syntax, operability, or identity). The volume of these complaints between legacy gTLDs and new gTLDs should also be compared. ICANN should also identify other potential data sources of WHOIS complaints beyond those that are contractually required (including but not limited to complaints received directly by registrars, registries, ISPs, etc.) and attempt to obtain anonymized data from these sources. Future CCT Reviews may then also use these data.	ICANN organization to gather required data, and to provide data to relevant review teams to consider the results and, if warranted, to assess feasibility and desirability of moving to identity validation phase of WHOIS ARS project.	<b>Place the recommendation in “Pending” status until such time that the Board receives the RDS-WHOIS2 Final Report and has an opportunity to consider, with ICANN org, the interdependency with this recommendation. Upon release of the RDS-WHOIS2 Final Report, the Board directs ICANN org to perform a gap analysis of the types of information available to the RDS-WHOIS2 and the information the CCT-RT recommended to be available to that team, and to provide the Board with inputs on whether additional work is required to address this recommendation 18. This will inform Board’s decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation. Note that the CCT-RT started its work long before the RDS-WHOIS2 Review began, and while the CCT-RT work was pending, the RDS-WHOIS2 Review Team completed its work and plans to publish its Final Report shortly.</b>
20 <sup>4</sup>	<b>Assess whether mechanisms to report and handle complaints have led to more focused efforts to combat abuse</b> by determining: (1) the volume of reports of illegal conduct in connection with the use of the TLD that registries receive from governmental and quasi-governmental agencies; (2) the volume of inquiries that registries receive from the public related to malicious conduct in the TLD; (3) whether more efforts are needed to publicize contact points to report complaints that involve abuse or illegal behavior within a TLD; and (4) what actions registries have taken to respond to complaints of illegal or malicious conduct in connection with the use of the TLD. Such efforts could include surveys, focus groups, or community discussions. If these methods proved ineffective, consideration could be given to amending future standard Registry Agreements to require registries to more prominently disclose their abuse points of contact and provide more granular information to ICANN. Once this information is gathered, future review teams should consider recommendations for appropriate follow up measures.	ICANN organization and future CCT Review Teams	<b>[This action pertains to a portion of the recommendation language - refer to bold text.] Place this recommendation in “Pending” status. The Board notes that this recommendation contains elements that are outside of ICANN org’s role (i.e. amendments to contractual agreements), while other elements of this recommendation are costly and will require community input for prioritization and cost/benefit analysis (i.e. data collection). Furthermore, the Board agrees that anti-abuse measures are very important and notes that ICANN org has already implemented initiatives to that end; namely, DAAR, Identifier Technology Health Indicators, and Spec 11(3)(B). The Board directs ICANN org to perform an analysis of the work/initiatives already underway to determine any gaps in work currently in progress and what work recommendation entails. The Board will then review the results of the analysis and determine the best action on this recommendation, insofar as it falls within the ICANN Board or org’s remit. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board’s decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.</b>
23	ICANN should gather data on new gTLDs operating in highly-regulated sectors to include the following elements: - A survey to determine: 1) the steps registry operators are taking to establish working relationships with relevant government or industry bodies; and 2) the volume of complaints received by registrants from government and regulatory bodies and their standard practices to respond to those complaints. - A review of a sample of domain websites within the highly-regulated sector category to assess whether contact information to file complaints is sufficiently easy to find. - An inquiry to ICANN Contractual Compliance and registrars/resellers of highly regulated domains seeking sufficiently detailed information to determine the volume and the subject matter of complaints regarding domains in highly regulated industries. - An inquiry to registry operators to obtain data to compare rates of abuse between those highly-regulated gTLDs that have voluntarily agreed to verify and validate credentials to those highly-regulated gTLDs that have not. - An audit to assess whether restrictions regarding possessing necessary credentials are being enforced by auditing registrars and resellers offering the highly-regulated TLDs (i.e., can an individual or entity without the proper credentials buy a highly-regulated domain?).  To the extent that current ICANN data collection initiatives and compliance audits could contribute to these efforts, we recommend that ICANN assess the most efficient way to proceed to avoid duplication of effort and leverage current work.	ICANN organization, New gTLD Subsequent Procedures PDP Working Group	<b>Place the recommendation in “Pending” status and request ICANN org to provide a report on volume and nature of complaints received regarding gTLDs operating in highly-regulated sectors. This report will inform Board’s decision on next steps and whether the data warrants conducting audits or requesting further information from contracted parties. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board’s decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.</b>

<sup>4</sup> The Board is also taking action to pass through portions of Recommendation 20 to the community groups with the appropriate remit.



24	<p>a. Determine whether ICANN Contractual Compliance should report on a quarterly basis whether it has received complaints for a registry operator's failure to comply with either the safeguard related to gTLDs with inherent governmental functions or the safeguard related to cyberbullying.</p> <p>b. Survey registries to determine: 1) whether they receive complaints related to cyberbullying and misrepresenting a governmental affiliation; and 2) how they enforce these safeguards.</p>	ICANN organization	<p><b>Place the recommendation in "Pending" status and request ICANN org to identify where there is a gap between work currently in progress and what the recommendation entails. Once the gap analysis is completed, ICANN org will share the findings with the community to ensure alignment on next steps and any changes that need to be made. This analysis will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.</b></p>
26	<p>A study to ascertain the impact of the New gTLD Program on the costs required to protect trademarks in the expanded DNS space should be repeated at regular intervals to see the evolution over time of those costs. The CCT Review Team recommends that the next study be completed within 18 months after issuance of the CCT Final Report, and that subsequent studies be repeated every 18 to 24 months.</p> <p>The CCT Review Team acknowledges that the Nielsen survey of INTA members in 2017 intended to provide such guidance yielded a lower response rate than anticipated. We recommend a more user friendly and perhaps shorter survey to help ensure a higher and more statistically significant response rate.</p>	ICANN organization	<p><b>Place the recommendation in "Pending" status and direct ICANN org to do an in-depth analysis of the value of data, the usefulness of the study, the cost associated with conducting the studies and the interdependencies with other relevant studies. Upon the completion of this analysis, and given all other studies requested in the CCT Final Report, the community should determine the priority levels for all relevant studies. The Board notes that the cost and prioritization could impact timing and ability to meet the requested 18-month implementation. Additionally, the outcome of the implementation of Recommendation 1 will inform the Board's decision on next steps and whether this recommendation can be adopted to move into costing discussion phase of implementation.</b></p>

**Directors and Liaisons,**

**Attached below please find Notice of date and time for a Regular Meeting of the ICANN Board.**

**1 March 2019 – Special Meeting of the ICANN Board of Directors - at 20:00 UTC. This Board meeting is estimated to last approximately 120 minutes.**

<https://www.timeanddate.com/worldclock/fixedtime.html?msg=Special+Meeting+of+the+ICANN+Board+of+Directors&iso=20190301T20&p1=1440&ah=2>

**Some other time zones:**

**1 March 2019 – 12:00 am PST Los Angeles**

**1 March 2019 – 3:00 pm EST Washington, D.C.**

**1 March 2019 – 9:00 pm CET Brussels**

**2 March 2019 – 5:00 am JST Tokyo**

### **SPECIAL MEETING OF THE ICANN BOARD**

Main Agenda

- Competition, Consumer Trust and Consumer Choice Review (CCT) Recommendations
- AOB

**MATERIALS – You can access the Board Meeting materials, when available, in Google Drive here:**

Contact Information Redacted

**If you have trouble with access, please let us know and we will work with you to assure that you get access to the documents.**

**If call information is required, it will be distributed separately.**

**If you have any questions, or we can be of assistance to you, please let us know.**

**John Jeffrey**  
**General Counsel & Secretary, ICANN**  
**[John.Jeffrey@icann.org](mailto:John.Jeffrey@icann.org)**

Contact Information Redacted