



**Etienne Sanz de Acedo**  
*Chief Executive Officer*

675 Third Avenue, 3rd Floor, New York, NY 10017-5704, USA  
t: +1-212-642-1776 | f: +1-212-768-7796  
inta.org | esanzdeacedo@inta.org

Via e mail: [comments-gnso-gtld-subsequent-procedures-final-outputs-22apr21@icann.org](mailto:comments-gnso-gtld-subsequent-procedures-final-outputs-22apr21@icann.org)

June 1, 2021

Maarten Botterman  
Chair of the Board  
ICANN  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536

**Re: GNSO New gTLD Subsequent Procedures Final Output for Board Consideration**

Dear Chairperson Botterman and Members of the Board:

INTA is pleased to submit its comments regarding the GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration (the "Sub Pro Final Outputs"). INTA generally supports the recommendations within the Final Outputs and encourages the Board to adopt them. INTA's position on the Sub Pro Final Outputs notwithstanding, INTA does not support launching new gTLD rounds until by-laws mandated reviews are completed (including implementation of approved recommendations) including, in particular, the Competition, Consumer Choice, and Consumer Trust (CCT) review and Security, Stability, and Resiliency (SSR) review, and open issues regarding access to domain name registration information are resolved.

INTA understands that some members of the community want to launch new rounds without further delay. However, the open issues cited above create an atmosphere of uncertainty when it comes to providing appropriate tools for managing issues related to cybersecurity, law enforcement, and rights protection within the DNS. Expansion of the universe of domain names without resolving current challenges would compound these challenges regarding the operation of a secure, resilient, and trusted name space. The goal of the ICANN Board should be to ensure confidence and consistency. Launching any new round without confidence and consistency is not in the public interest.

Another area of uncertainty is the issue of Domain Name System Abuse (DNS Abuse), which has been a subject of much debate inside and outside of ICANN. Given the complexity of the issue, the PDP Working Group acknowledges, in recommendation 9.15, the ongoing important work in the community on the topic and believes that a holistic solution is needed to account for DNS abuse in all gTLDs as opposed to only in the introduction of subsequent new gTLDs. INTA agrees

with the spirit of the recommendation and suggests that the Board take immediate action on this topic in the form of a request to the GNSO Council to scope and initiate a PDP or EPDP to develop recommendations for enhanced, standardized anti-abuse measures in service of ICANN's Mission to ensure the security, stability, and resiliency of the DNS.

INTA recognizes that all PDPs require compromise and that the Subsequent Procedures PDP went to extraordinary lengths to include myriad points of view on complicated issues. The breadth and scope of questions required multiple work tracks and long hours of debate. INTA supports the outcome in general, and where INTA has identified areas of non-support, they are well-documented in the record of the PDP proceedings including the public comment periods. If the Board considers accepting the recommendations in part and remanding in part, INTA draws the Board's attention to our comments on the additional issues in the Appendix to this letter.

Thank you for your consideration of INTA's comments. If you have any further questions or comments regarding this submission, please feel free to contact Lori Schulman, Senior Director, Internet Policy at [lschulman@inta.org](mailto:lschulman@inta.org) or +1(202)704-0408.

Sincerely,



Etienne Sanz De Acedo  
Chief Executive Officer

### **About INTA**

INTA is a global not-for-profit association with more than 6,500 member organizations from over 185 countries. One of INTA's goals is the promotion and protection of trademarks as a primary means for consumers to make informed choices regarding the products and services they purchase. During the last two decades, INTA has also been the leading voice of trademark owners within the Internet community, serving as a founding member of the Intellectual Property Constituency of the Internet Corporation for Assigned Names and Numbers (ICANN). INTA's Internet Committee is a group of over 175 trademark owners and professionals from around the world charged with evaluating treaties, laws, regulations, and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, whose mission is to advance the balanced protection of trademarks on the Internet.

## Appendix

Rec. No.	Proposed Language	INTA Response
15.7	<p>In the event that an application fee floor is used to determine the application fee, excess fees received by ICANN must be used to benefit the New gTLD Program and not any other ICANN program or purpose; that includes one or more of the following elements of the New gTLD Program: (a) a global communication and awareness campaign about the introduction and availability of new gTLDs; (b) long-term program needs such as system upgrades, fixed assets, etc.; (c) Applicant Support Program; (d) top-up of any shortfall in the segregated fund as described below; or (e) other purpose(s) that benefits the New gTLD Program.</p>	<p>INTA recommends that excess application fees in future new gTLD rounds be refunded back to applicants or applied to initiatives <b><i>that would improve trust in the DNS</i></b>, particularly around security threats, malware, fraud, and intellectual property infringement rather than promoting new gTLDs generally. ICANN serves the public-at-large, and not all applicants participate in new gTLD programs to profit from the sale of domain names. Aside from applicant refunds, INTA supports the use of any excess funds to ensure that there is robust monitoring and enforcement of the contractual commitments made by applicants, registry operators, and registrars, including RVCs, PICs, and anti-abuse requirements, and would also support the allocation of such funding toward implementation of CCT-RT recommendations, SSR2 recommendations, and other measures designed to improve trust in and the security of the DNS.</p>

<p>21.4</p>	<p>The Working Group recommends reserving as unavailable for delegation at the top level the acronym associated with Public Technical Identifiers, “PTI”.</p>	<p>INTA does not support this recommendation. There has been no signal that the Public Technical Identifiers entity would need to use or prevent any third party from using .PTI as a potential new gTLD. There are other entities who legitimately may wish to apply for this string, such as owners of brands corresponding to the acronym “PTI”. Such third parties should not be unduly prejudiced or prevented from applying to operate such a TLD simply because their brand corresponds to the acronym for Public Technical Identifiers. There does not seem to be any other technical or legal rationale for reserving .PTI, nor would Internet users generally associate a .PTI TLD with Public Technical Identifiers.</p>
<p>24.3</p>	<p>The Working Group recommends updating the standards of both (a) confusing similarity to an existing top-level domain or a Reserved Name, and (b) similarity for purposes of determining string contention, to address singular and plural versions of the same word, noting that this was an area where there was insufficient clarity in the 2012 round. Specifically, the Working Group recommends prohibiting plurals and singulars of the same word within the same language/script to reduce the risk of consumer confusion. For example, the TLDs .EXAMPLE and .EXAMPLES may not both be delegated because they are considered confusingly similar. This expands the scope of the String Similarity</p>	<p>INTA supports this recommendation in part but does not support it in its entirety. INTA supports the portion of the recommendation providing that singular and plural variants of the same string should be considered in contention and only one such application permitted to proceed. However, INTA does not support the portion of the recommendation that seeks to apply an intended meaning test to determine whether strings are similar. The test should be purely based on the visual appearance of the string, as the goal is to prevent Internet user confusion and misdirection in the visually oriented DNS format where intended meaning can only be determined in such contexts from an analysis of content associated with a particular domain name.</p>

	<p>Review to encompass singulars/plurals of TLDs on a per-language/script basis.</p> <ul style="list-style-type: none"><li>• An application for a single/plural variation of an existing TLD or Reserved Name will not be permitted if the intended use of the applied-for string is the single/plural version of the existing TLD or Reserved Name. For example, if there is an existing TLD .SPRINGS that is used in connection with elastic objects and a new application for .SPRING that is also intended to be used in connection with elastic objects, .SPRING will not be permitted.</li><li>• If there is an application for the singular version of a word and an application for a plural version of the same word in the same language/script during the same application window, these applications will be placed in a contention set, because they are confusingly similar.</li><li>• Applications will not automatically be placed in the same contention set because they appear visually to be a single and plural of one another but have different intended uses. For example, .SPRING and .SPRINGS could both be allowed if one refers to the season and the other refers to elastic objects, because they are not singular and plural versions of the same word. However, if both are intended to be used in connection with the elastic object, then they will be placed into the same contention set. Similarly, if an existing TLD .SPRING is used in connection with the season and a new application for .SPRINGS is intended to be used in connection with</li></ul>	
--	--	--

	<p>elastic objects, the new application will not be automatically disqualified.</p> <p>The Working Group recommends using a dictionary to determine the singular and plural version of the string for the specific language. The Working Group recognizes that singulars and plurals may not visually resemble each other in multiple languages and scripts globally. Nonetheless, if by using a dictionary, two strings are determined to be the singular or plural of each other, and their intended use is substantially similar, then both should not be eligible for delegation.</p>	
<p>24.5</p>	<p>If two applications are submitted during the same application window for strings that create the probability of a user assuming that they are single and plural versions of the same word, but the applicants intend to use the strings in connection with two different meanings, the applications will only be able to proceed if each of the applicants agrees to the inclusion of a mandatory Public Interest Commitment (PIC) in its Registry Agreement. The mandatory PIC must include a commitment by the registry to use the TLD in line with the intended use presented in the application and must also include a commitment by the registry that it will require registrants to use domains under the TLD in line with the intended use stated in the application.</p>	<p>Although INTA does not support this subsidiary recommendation per its comments above relating to recommendation 24.3, in the event the Board adopts recommendation 24.3, INTA believes the Board should also adopt this recommendation 24.5 as a needed safeguard to mitigate Internet user confusion as noted in our comments above.</p>