



**ICANN**

# Draft - Program Implementation Review

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16 September 2015

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This report, presented in draft form for public comment, is intended to provide a high-level overview of the experiences of ICANN staff charged with implementing the New gTLD Program. The report does not represent a full and complete recitation of all facts and events associated with the New gTLD Program, nor is it dispositive of any matters highlighted in it. The report has not been approved by the ICANN Board or the ICANN community, and is not intended to serve as a policy document. Instead, the information presented is an attempt to capture in general terms the experiences of staff with the operational implementation of the New gTLD Program. This collection of staff experiences is anticipated to serve as input into the ongoing community reviews of the New gTLD Program, which may feed into further policy and implementation work that will require further vetting by the ICANN community.

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# Foreword

The New gTLD Program has its origins in carefully deliberated policy development work performed by the ICANN community. During the policy development process, topics such as the demand, benefits, and risks of new gTLDs; the selection criteria that should be applied; how gTLDs should be allocated; and the contractual conditions that should be required for new gTLD registries going forward were discussed. In October 2007, the Generic Names Supporting Organization (GNSO) formally completed its policy development work on new gTLDs and approved a set of seven principles, 19 policy recommendations, and 18 implementation guidelines on the introduction of new gTLDs.<sup>1</sup> After these recommendations were adopted by the GNSO, ICANN engaged international technical, operational, and legal expertise to provide guidance on details to support the implementation of the policy recommendations. The ICANN Board of Directors considered the recommendations and the implementation plan and adopted the community-developed policy in June 2008.<sup>2</sup>

In its June 2008 resolution, the ICANN Board directed staff to work with the community to further develop and complete the implementation plan. The draft versions of the Applicant Guidebook were released for public comment, and meaningful community input led to multiple revisions of the draft Applicant Guidebook. These draft versions of the Applicant Guidebook reflect ICANN and the community's implementation work.<sup>3</sup>

In parallel, ICANN worked to establish the tools, processes, and resources needed to successfully launch and operate the program. On 20 June 2011, the ICANN Board of Directors adopted a resolution to launch the New gTLD Program, including the approval of the Applicant Guidebook, a communications plan, and the New gTLD Program Budget.<sup>4</sup>

On 11 January 2012, the application period opened. A total of 1,930 applications were submitted. Applications proceeded through the New gTLD Program as defined in the Applicant Guidebook — participating in evaluation, objection and dispute resolution, contention resolution, and contracting processes as applicable. On 23 October 2013, the first new gTLD was delegated. As of 31 July 2015, over 700 gTLDs have been delegated as a result of the New gTLD Program.

## *Purpose of the Review*

The New gTLD Program was the first effort to enable expansion of the DNS on such a large scale. The implementation guidance provided in the community-developed Applicant Guidebook described many complex and previously untested concepts and processes.

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<sup>1</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-08aug07.htm>

<sup>2</sup> ICANN. (26 June 2008) Adopted Board Resolutions | Paris. Retrieved from [https://www.icann.org/resources/board-material/resolutions-2008-06-26-en#\\_Toc76113171](https://www.icann.org/resources/board-material/resolutions-2008-06-26-en#_Toc76113171)

<sup>3</sup> ICANN. (21 September 2011) Applicant Guidebooks. Retrieved from <http://newgtlds.icann.org/en/historical-documentation/matrix-agb>

<sup>4</sup> ICANN. (20 June 2011) Approved Board Resolutions | Singapore. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en>

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The Affirmation of Commitments, signed in 2009 by the U.S. Department of Commerce and ICANN, provides for ongoing commitment reviews.<sup>5</sup> Section 9.3 describes a review of the New gTLD Program in terms of promoting competition, consumer trust, and consumer choice to be performed by volunteer community members (“Review Team”):

*If and when new gTLDs (whether in ASCII or other language character sets) have been in operation for one year, ICANN will 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.*

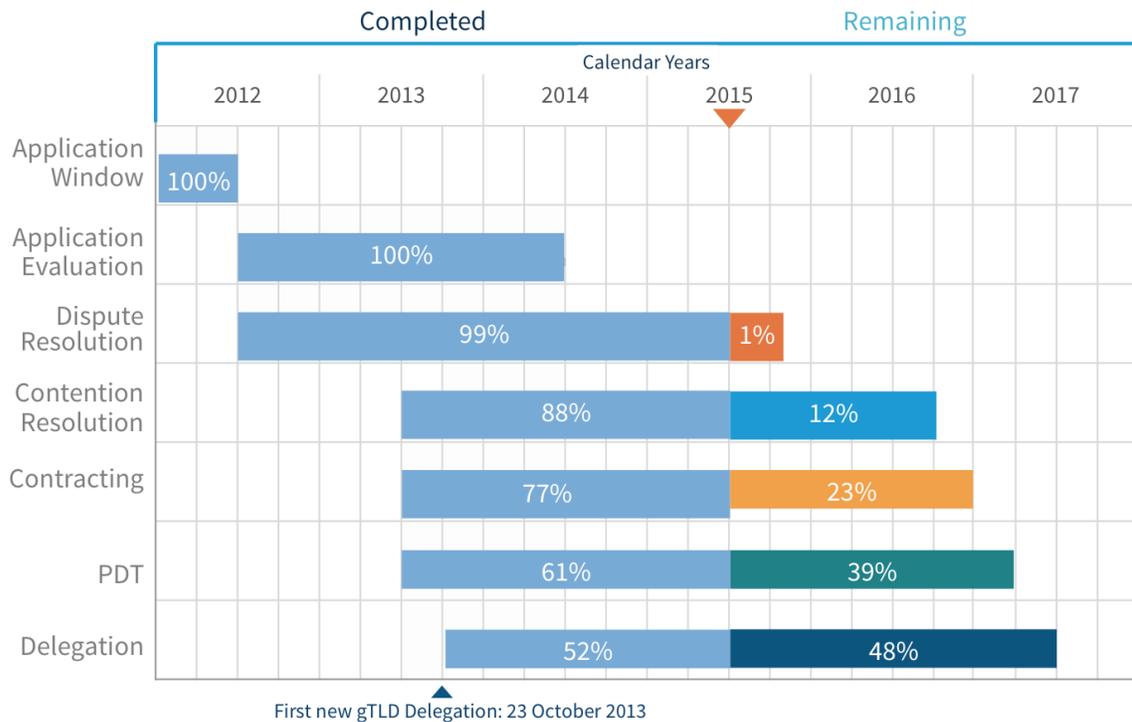
The Program implementation Review is ICANN’s assessment of the execution of New gTLD Program processes, and it is intended to help inform the Review Team’s assessment of the effectiveness of the application and evaluation process. The report documents the experiences of the ICANN staff members charged with executing the New gTLD Program (referred to throughout this report as “ICANN”). Other reviews are also being undertaken by ICANN to help inform the Review Team’s work on the competition, consumer trust and choice, and safeguards aspects of the Program. ICANN also recognizes that there are ongoing efforts by the community to review various aspects of the New gTLD Program (e.g., GAC sub-working group for protections of geographic names in next rounds of new gTLDs, SSAC work party on new gTLDs, GNSO new gTLD subsequent procedures discussion group). The Review Team may also wish to consider inclusion of the work of these community groups in its review.

Although some applications received as part of the New gTLD Program are still undergoing processing as of the publication date of this report, many of the processes described in the Applicant Guidebook are completed or nearing completion. Figure i provides an overview of the current New gTLD Program Timeline.

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<sup>5</sup> United States Department of Commerce. Affirmation of Commitments by the United States Department of Commerce and the Internet Corporation for Assigned Names and Numbers. Retrieved from <https://www.icann.org/resources/pages/affirmation-of-commitments-2009-09-30-en>

Figure i: Overview of Current New gTLD Program Timeline



As of 31 July 2015, two of the seven major processes defined in the Applicant Guidebook are complete, and two are approximately 90% complete.

As the focus of this report is the effectiveness of the implementation of the Applicant Guidebook and New gTLD Program processes, it is not intended as a review of the community-developed Applicant Guidebook nor of the GNSO policies on the introduction of new gTLDs. There was a separate effort led by the New gTLD Subsequent Procedures Discussion Group (a community-led group tasked with calling on the community’s collective experiences from the 2012 New gTLD Program round) to determine what, if any, changes may need to be made to the existing Introduction of New Generic Top-Level Domains GNSO policy recommendations from 8 August 2007. This group’s work can be viewed on the ICANN Community Wiki.<sup>6</sup> ICANN has prepared a Preliminary Issue report, which may lead to the initiation of a formal GNSO Policy Development Process.<sup>7</sup>

The Program Implementation Review report documents the experiences gained during implementation for consideration in future rounds. To support this intention and to capture the lessons learned first-hand, the report is a self-assessment performed by a staff review team at ICANN. However, many stakeholders have played a major role in the Program. Accordingly, input received from applicants, service providers, and other members of the community on various elements of the

<sup>6</sup> ICANN. Discussion Group (DG) – New gTLD Subsequent Procedures Home. Retrieved from <https://community.icann.org/display/DGNGSR/Discussion+Group+%28DG%29+-+New+gTLD+Subsequent+Procedures+Home>

<sup>7</sup> ICANN. (31 August 2015) Preliminary Issue Report on New gTLD Subsequent Procedures. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/subsequent-procedures-prelim-issue-31aug15-en.pdf>

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Program has been incorporated into this report. ICANN seeks and encourages additional input from stakeholders. This draft report is being published for public comment, and stakeholder input will continue to be considered and taken into account in updating the report. While ICANN believes it will be beneficial to document and publish its analysis of the experience gained in implementing the Program, it also values the experience and insight from others who participated in the process. It is recognized that other stakeholders are performing their own reviews, and this review is not intended to replace those reviews nor to represent the experience of all stakeholders.

### *Structure of the Review*

This report has been organized into eight chapters. Each chapter includes various sections pertaining to those broader topics. The chapters and sections mimic the structure of the Applicant Guidebook. Additional chapters for key topics that are not specific to sections of the Applicant Guidebook have been included as well.

The chapters are as follows:

1. Application Processing
2. Application Evaluation
3. Objection and Dispute Resolution
4. Contention Resolution
5. Transition to Delegation
6. Applicant Support Program
7. Continued Operations Instrument
8. Program Management

To guide the review, each topic has been assessed with consideration of the following dimensions:

- Alignment to policy and implementation guidance: to what extent the program criteria, requirements, and execution adhered to GNSO policy recommendations and the Applicant Guidebook
- Security and stability: to what extent the process/procedure/framework supported security and stability of the DNS
- Fairness: to what extent decision-making was consistent, objective, and adhered to documented policies and procedures
- Predictability: to what extent the Program process/procedures/timelines provided predictability
- Effectiveness: to what degree the process was successful in producing desired results/achieving objectives
- Efficiency: to what extent resources (time, effort, cost) were well used for the intended purpose

Each of the chapters includes lessons learned from the implementation of this round as well as considerations for future application rounds. In implementing the New gTLD Program and reflecting upon the challenges of execution, ICANN has identified areas that were particularly challenging and which may require additional work and/or discussion. ICANN requests the community's input on these areas in order to enable improvement in future application rounds. The lessons learned and

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considerations in this report are based on the assumption that the policy recommendations for the introduction of new gTLDs will remain the same for future rounds. Should new consensus policy be developed, ICANN recognizes that some of the considerations may no longer be relevant to the application and evaluation processes.

### *Next Steps*

ICANN welcomes comments on the draft version of this report. Comments will be reviewed, analyzed, and considered before the Program Implementation Review report is finalized. As some Program processes are ongoing as of the writing of this report, the suggestions for future rounds have taken this into consideration and may be updated as necessary to reflect future events. Additionally, the suggestions may be adjusted based on consideration of the comments submitted by the community. Once updated to reflect public comment, the revised report will be provided as an input to the Review Team.

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# Executive Summary

The Program Implementation Review documents the experiences of the ICANN staff members charged with executing the New gTLD Program. In this report, a staff review team at ICANN has assessed the implementation of the Program, considering each phase of implementation.

A recurring topic of consideration throughout this assessment was the Program timeline. The Applicant Guidebook (AGB) contemplated that a simple application's lifecycle might be nine months, while a complex application's lifecycle might be up to twenty months. The application window opened on 11 January 2012, and as of 31 August 2015, there are still applications pending the objection and dispute resolution, contention resolution, contracting, and pre-delegation phases of the Program. ICANN anticipates that all applications will have completed their lifecycle by the end of 2017.<sup>8</sup>

While there were several factors that impacted Program timelines, the extended timeline can be contributed to two high-level factors. First, the application volume was much higher than the assumption used during the AGB-development process. Second, implementation required some processes that were not defined in detail by the AGB. Development of these processes and procedures required additional time.

Ultimately, ICANN developed a method for establishing prioritization to process the high volume of applications, and developed procedures, systems, criteria, and rules for all of the processes in this application round. Accordingly, to the extent that future rounds are similar to the 2012 round, ICANN could implement future rounds with less time required for development and with increased effectiveness and efficiency. To this end, this report assesses ICANN's implementation of each major Program process, and highlights areas where review or improvement is encouraged.

## *Chapter 1: Application Processing*

The AGB defined a process for application submission, which included the application window, an administrative completeness check, and the publication of the applied-for strings. Section 1.1: Application Submission assesses these aspects of application submission and the application form.

Key lessons learned on the topic of application submission are:

- Explore a more structured way of capturing application responses
- Implement a system that would allow applicants the flexibility to associate as many applications as desired to a single user account

Due to the high volume of applications, ICANN established a process to prioritize applications. Section 1.2: Prioritization of this report assesses the implementation of this process, particularly prioritization's effect on the efficiency and effectiveness of the Initial Evaluation, Contracting, Pre-Delegation Testing, and Auction processes.

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<sup>8</sup> ICANN. (25 June 2015) ICANN FY16 Operating Plan & Budget. Retrieved from <https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy16-25jun15-en.pdf>

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Key lessons learned on the topic of prioritization are:

- Assign priority numbers to applications prior to commencement of application processing
- Consider grouping applications by common characteristics while establishing priority numbers, in order to increase processing efficiency

The AGB called for ICANN to provide a mechanism for members of the community to submit comments on an application, and for these comments to be reviewed at certain points in the process (e.g., during Community Priority Evaluation). Section 1.3: Application Comments assesses the process and tool developed by ICANN to support the submission and consideration of application comments.

Key lessons learned on the topic of application comments are:

- Explore implementing additional functionality that will improve the usability of the Application Comment Forum
- Provide additional clarity around the intended use of the Application Comment Forum, including timelines and ways to indicate the type of comment being submitted

The AGB called for applicants to notify ICANN if portions of their application became untrue or inaccurate. Section 1.4: Application Change Requests assesses the process that ICANN defined for applicants to make changes to their applications, including the criteria against which the change requests were evaluated and the change requests' impact on Program processes.

Key lessons learned on the topic of application change requests are:

- Design the application change request processes and criteria prior to the start of application processing
- Consider whether all types of application changes should be processed the same way

The AGB defined a way for applicants to withdraw applications that they no longer wished to proceed in the Program. Withdrawn applications were eligible for a refund if the applicant had not yet executed a Registry Agreement with ICANN. Section 1.5: Application Withdrawals assesses the withdrawal and refund processes.

Key lessons learned on the topic of application withdrawals are:

- Consider defining a process to move applications that may not proceed in the Program to a final status and provide a refund if they are not withdrawn
- Review Program financials at the conclusion of this application round to determine whether the refund schedule accurately mapped to the costs incurred at the specified Program phases

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## Chapter 2: Application Evaluation

The AGB defined 50 evaluation questions, intended to collect information on the applicant, to assess the applied-for string, to evaluate the proposed registry services, and to assess the applicant's capability to be a registry operator. The AGB defined Initial and Extended Evaluation as the periods during which applications would be reviewed against the AGB criteria. Section 2.1: Initial and Extended Evaluation assesses the evaluation process, evaluation timeline, and the quality control process.

Key lessons learned on the topic of Initial and Extended Evaluation are:

- Work with evaluation panels to perform pre-evaluation training and develop detailed procedures to ensure consistent and quality evaluations are achieved
- Consider whether Program processes that allow for additional communication between the applicant and ICANN, such as the Applicant Outreach process used in evaluation, may be beneficial

Sections 2.2 through 2.8 of this report assess the seven individual evaluations: Background Screening, String Similarity, DNS Stability, Geographic Names, Technical and Operational Capability, Financial Capability, and Registry Services. Observations from the execution of each of the evaluations are discussed, including areas of suggested review.

Key lessons learned on the topic of the individual evaluations are:

- Consider whether background screening should be performed during Initial Evaluation or at the time of contract execution
- Consider whether the procedures and criteria could be adjusted to account for a meaningful background screen in a variety of cases
- Review the relative timing of the String Similarity evaluation and the objections process
- Consider any ongoing work by various members of the community regarding string similarity, name collision, and geographic names
- Consider the purpose and the implications of the Geographic Names evaluation, particularly in terms of whether its purpose is limited to evaluation or if there are other implications to the geographic names designation
- For future rounds, leverage the IDN tools currently under development
- Consider whether alternate approaches to the Technical and Operational Capability and Financial Capability evaluations would be worthwhile
- Review Technical and Operational Capability and Financial Capability Clarifying Questions and responses to determine whether improvements to the application questions can be made
- Update the process for collection of registry services information to better support both evaluation and contracting activities
- If an alternative approaches to the Technical and Operational Capability evaluation are explored, consider how the evaluation of Registry Services could be incorporated into the approach

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### *Chapter 3: Objection Procedures*

The AGB provided for a process for ICANN's Governmental Advisory Committee (GAC) to issue advice on new gTLDs concerning specific applications. Section 3.1: GAC Advice assesses the GAC Early Warning and GAC Advice processes and ICANN's implementation of the advice issued.

Key lessons learned on the topic of GAC Advice are:

- Continue engagement with the GAC during the review process and the development of future procedures to ensure that its input is incorporated into relevant processes as early as possible

The AGB defined the Objections and Dispute Resolution process for parties with standing to file formal objections on four defined grounds, and to have their objections considered by experts. If an objection was successful, the applications would be placed into contention (in the case of String Confusion Objections filed by a new gTLD applicant), or the unsuccessful application would not proceed in the New gTLD Program (for all other objection types). Section 3.2: Objections and Dispute Resolution assesses the implementation of the objection grounds and standards, management of the dispute resolution service providers, the objections process, and the processes involving the Independent Objector. Additionally, while the AGB did not include an appeal mechanism, the ICANN Board New gTLD Program Committee approved a review mechanism for two objections. The concept of a review mechanism is discussed in this section.

Key lessons learned on the topic of objections and dispute resolution are:

- Explore a potential review mechanism for the next round
- Consider opportunities for improvement in administering the Independent Objector processes

### *Chapter 4: String Contention Procedures*

Contention sets were groups of two or more applications that were deemed confusingly similar to one-another by the String Similarity panel or by through a String Confusion Objection. Applicants were encouraged to self-resolve these contention sets; however, in the absence of self-resolution, the AGB provided for two mechanisms to resolve contention.

The first mechanism for resolution of string contention was Community Priority Evaluation (CPE), through which self-designated community applicants could gain priority by meeting CPE criteria. Section 4.1: Community Priority Evaluation assesses the implementation of the CPE criteria, process, and evaluation results.

Key lessons learned on the topic of CPE are:

- Consider all dimensions of the feedback received to revisit the CPE scoring and framework before the next application round

The second mechanism for resolution of string contention was an ICANN-facilitated auction. Section 4.2: Auction: Mechanism of Last Resort assesses the implementation of the auction rules and auction process. In this round, auctions were implemented in a manner that supported fairness, predictability,

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effectiveness, and efficiency. Should auctions be included in the next application round, ICANN could replicate this process with minimal preparation.

### *Chapter 5: Transition to Delegation*

Once an application had successfully completed all required steps of the New gTLD Program (i.e., evaluation, objections and dispute resolution, contention resolution), the application could move forward to enter into a Registry Agreement (RA) with ICANN. The AGB included information about the contracting process, including timelines and a draft version of the Base RA, which are assessed in Section 5.1: Contracting.

Key lessons learned on the topic of contracting are:

- Explore the feasibility of finalizing the base RA before applications are submitted or establishing a process for updating the RA
- Explore whether different applicant types could be defined in a fair and objective manner, and if there are to be different applicant types, consider whether there should be different versions of the RA

The AGB called for the applicant to complete a technical test [Pre-Delegation Testing (PDT)] to demonstrate that they could operate their TLD in a secure and stable manner before delegation. Once the RA was executed and PDT was complete, ICANN recommended the TLD to IANA for delegation into the root zone. Section 5.2: Pre-Delegation Testing and Transition to IANA assesses the development of PDT requirements and service delivery and the Transition to IANA process.

Key lessons learned on the topics of PDT and Transition to IANA are:

- Consider which tests should be performed once per technical infrastructure implementation and which should be performed for each TLD
- Consider which, if any, tests can be converted from self-certifying tests to operational tests
- In considering an alternate approach to the Technical and Operational Capability evaluation, if an RSP accreditation program is considered, explore how PDT would be impacted
- In the development of evaluation criteria and procedures for IDNs, consider how the review of IDN tables during PDT would be affected

### *Chapter 6: Applicant Support*

The Applicant Support Program was a community-developed program designed to provide financial and non-financial support to applicants from underrepresented regions. The New gTLD Financial Assistance Handbook defined the criteria and process for financial assistance. Section 6.1: Applicant Support assesses ICANN's implementation of the financial assistance component of the program, as well as the pro bono services and the establishment of a funding mechanism for the program.

Key lessons learned on the topic of the Applicant Support Program are:

- Consider leveraging the same procedural practices used for other panels, including the publication of process documents and documentation of rationale

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- Consider researching globally recognized procedures that could be adapted for the implementation of the Applicant Support Program

### *Chapter 7: Continued Operations Instrument*

The Continued Operations Instrument (COI) was a financial instrument intended to temporarily fund the continued operations of the five critical registry functions of a new gTLD by an emergency back-end registry operator (EBERO) in the event of a TLD's failure. The AGB defined the requirements of the COI in Question 50 of the application, and applicants were required to submit a compliant instrument before RA execution. Section 7.1: Continued Operations Instrument assesses the implementation of the COI requirements defined in the AGB.

Key lessons learned on the topic of the COI are:

- Explore whether there other more effective and efficient ways to fund an EBERO in the event of a TLD failure

### *Chapter 8: Program Management*

In order to implement the New gTLD Program, there was a significant effort required from the community, ICANN, and service providers. ICANN defined operational procedures to implement the processes defined in the AGB, developed systems and tools to support the implementation, secured human resources to support the Program, and selected and managed service providers to execute the Program. Further, ICANN managed the Program's financials, executed communications activities, and developed a Customer Service Center to support applicants and registry operators.

Section 8.1: Program Processes, Systems, Resources assesses ICANN's execution of Program processes and procedures, applicant-facing systems, and internal human resources.

Key lessons learned on the topic of Program processes, systems, and resources are:

- In developing timelines for future application rounds, provide an appropriate amount of time to allow for the use of best practices in system development
- Explore beta testing programs for systems to allow for lessons learned, to increase effectiveness of such systems, and to provide further transparency, clarity, and opportunity for preparation to applicants

Section 8.2: Service Provider Coordination assesses the process used to select vendors, conflict of interest guidelines, and the coordination of the service providers' work.

Key lessons learned on the topic of service provider coordination are:

- Provide transparency and predictability to the procurement process following ICANN's procurement guidelines. Publish selection criteria, providers' process documents, and other relevant and non-confidential material in a timely manner.

Section 8.3: Financial Management assesses ICANN's management of the USD 357 million collected from the 1,930 applications submitted. ICANN's execution of budgeting and reporting, fund

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segregation, and fees are assessed. The Program's budget is published with ICANN's annual fiscal year Operating Plan and Budget and follows ICANN's annual budgeting process, which includes a public comment period and approval of the final budget by the ICANN Board. Program-related fees were collected in accordance with the AGB and in-line with the principle of cost recovery.

Section 8.4: Communications assesses the communications activities executed prior to and throughout the New gTLD Program in support of the New gTLD Communications Plan.

Key lessons learned on the topic of communications are:

- Consolidate all next round program information into a single site and make information as accessible as possible
- Leverage ICANN's Global Stakeholder Engagement team to promote awareness of the New gTLD Program within their regions/constituencies

Section 8.5: Customer Service assesses ICANN's implementation of a Customer Service Center to support potential applicants and applicants of the New gTLD Program. Assessed in this section are the Program's impact on customer service and ongoing improvements made to the Customer Service Center, which has evolved over time to support a much wider audience.

Key lessons learned on the topic of customer service are:

- Consider customer service to be a critical function of the organization, and ensure that the Customer Service Center has the appropriate resources to support the ongoing and future activities of the New gTLD Program

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# Chapter 1: Application Processing

After several years of collaborative work by stakeholders from various sectors (e.g., governments, business and intellectual property constituencies, the technology community), the Applicant Guidebook (AGB)<sup>9</sup> – a roadmap for the implementation of the new gTLD Program – was approved by the ICANN Board on 20 June 2011.<sup>10</sup> Module 1 of the AGB “gives applicants an overview of the process for applying for a new generic top-level domain, and includes instructions on how to complete and submit an application, the supporting documentation an applicant must submit with an application, the fees required, and when and how to submit them.” At the close of the application window, which spanned 12 January through 30 May of 2012, 1,930 applications for new gTLDs were submitted.

The processing of these 1,930 applications included providing the tools (system and guidance) for applicants to submit applications, a fair and effective mechanism to order applications for processing, a mechanism for applicants to update application materials, a mechanism for applicants to withdraw applications, and a mechanism for interested parties to submit comments on application materials.

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<sup>9</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>10</sup> ICANN. (20 June 2011) Approved Board Resolutions. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en>

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## 1.1 Application Submission

### 1.1.1 Introduction

Three main activities occurred during the period of time between the opening of the application window on 12 January 2012 and the publication of the applications on 13 June 2012:

- Applications submitted
- Administrative completeness check performed
- Applied-for TLDs published on Reveal Day

Collectively, these activities are referred to as application submission in this report. This section of the Program Implementation Review report discusses these activities.

### 1.1.2 Relevant Guidance

The following guidance is relevant to the topic of Contracting and will be discussed in further detail in Sections 1.1.3 and 1.1.4 of this report:

- GNSO Principle A: “New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.”<sup>11</sup>
- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*

- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”
- GNSO Recommendation 13: “Applications must initially be assessed in rounds until the scale of demand is clear.”
- GNSO Implementation Guideline A: “The application process will provide a pre-defined roadmap for applicants that encourages the submission of applications for new top-level domains.”
- GNSO Implementation Guideline E: “The application submission date will be at least four months after the issue of the Request for Proposal and ICANN will promote the opening of the application round.”

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<sup>11</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

### 1.1.3 Background

GNSO Implementation Guideline E specified that “the application submission date [would] be at least four months after the issue of the Request for Proposal.” The “Request for Proposal” referenced in this Implementation Guideline is the Applicant Guidebook (AGB). In accordance with this Implementation Guideline, on 19 September 2011, version 8 of the Applicant Guidebook was published, which set the dates for the application submission period as 12 January 2012 through 29 March 2012. The submission closing date was later pushed to 30 May 2012.

During the application window, interested parties were able to submit gTLD applications via the TLD Application System (TAS). See Section 8.1: Program Processes, Systems, Resources of this report for more discussion on TAS. The required steps to submit applications in TAS are illustrated in Figure 1.1.i below.

*Figure 1.1.i: Required Steps to Submit Applications in TAS*



To create a user account and profile, applicants answered Questions 1 through 12 of the questionnaire in Module 2 of the AGB. Once the user account and profile were created, applicants paid the USD 5,000 registration fee via wire transfer. Upon confirming receipt of the USD 5,000 registration fee, ICANN provided applicants with access to the application form in TAS. With access to the application form, applicants could then answer Questions 13 through 50 of the questionnaire in Module 2 of the AGB. Concurrently, applicants had to pay the remaining USD 180,000 evaluation fee. Both the completed application form and the remaining USD 180,000 evaluation fee must have been submitted by the scheduled close of the application window on 30 May 2012. To ensure applicants had sufficient time to pay the USD 5,000 registration fee, complete the application form, and pay the USD 180,000 remaining evaluation fee, ICANN set a deadline date of 29 March 2012 to create user accounts and profiles.

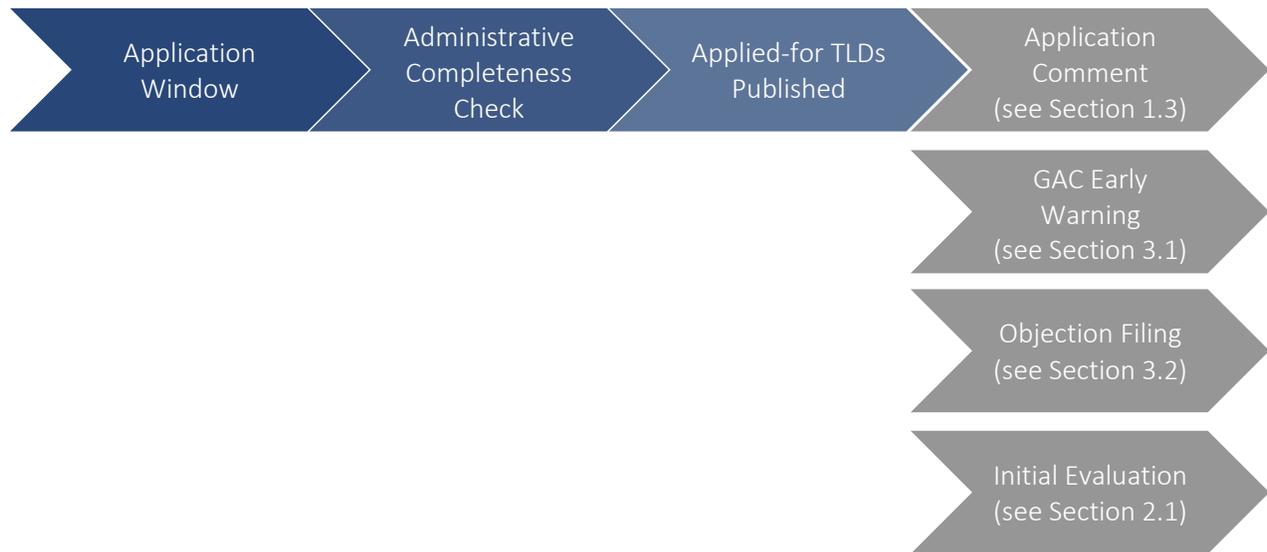
At the close of the application window, there were 1,268 user profiles created to submit 1,930 applications. Once the application window closed, ICANN performed an administrative completeness check on all applications in preparation for publication of the applied-for TLDs.

<sup>12</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

The final list of 1,930 applied-for TLDs and corresponding applications was published to the New gTLD microsite on 13 June 2012, also referred to as “Reveal Day.”<sup>13</sup>

The publication of the applied-for TLDs on Reveal Day triggered several Program processes. Figure 1.1.ii provides a summary of Program processes triggered by the publication of the applied-for TLDs.

Figure 1.1.ii: Summary of Program Processes Triggered by the Publication of the Applied-for TLDs



## 1.1.4 Assessment

### 1.1.4.1 APPLICATION WINDOW

#### Timeline

As per the AGB, the application window opened on 12 January 2012, six months after the ICANN Board approved the New gTLD Program.<sup>14</sup> During this six-month period, ICANN performed operational readiness activities as described in the AGB, such as engaging a third-party provider to perform background screening<sup>15</sup> and launching the New gTLD microsite.<sup>16</sup>

The close of the application window was set as 12 April 2012 by the AGB. While ICANN intended to close the window on the date specified in the AGB, the window was extended to 30 May 2012 due to

<sup>13</sup> ICANN. (13 June 2012) Announcement: New gTLD Reveal Day – Applied-for Strings. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-13jun12-en>

<sup>14</sup> ICANN. (20 June 2011) Approved Board Resolutions. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en>

<sup>15</sup> ICANN. (30 August 2011) Announcement: Safe Stable, and Secure TLDs, ICANN Seeks Global Background Screening Provider. Retrieved from <https://www.icann.org/news/announcement-2011-08-30-en>

<sup>16</sup> ICANN. (19 September 2011) Announcement: ICANN Launches New Online Information Center for New Generic Top-Level Domains. Retrieved from <https://www.icann.org/news/announcement-2-2011-09-19-en>

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the unanticipated unavailability of TAS for an amount of time during the application period (for more information, see Section 8.1: Processes, Systems, and Resources of this report). When TAS was taken offline on 12 April 2012, hours before the scheduled close of the application window, there were 1,268 registered user accounts and profiles and 2,091 application forms submitted or in progress. At the final close of the application window on 30 May 2012, there were 1,930 applications submitted.

### *Application Submission*

In alignment with Section 1.1.2.1 of the AGB, applicants could submit as many applications as desired. However, TAS placed a limit of 50 applications per user account. To submit more than 50 applications, applicants had to create multiple user accounts. Although there was no limit to the number of user accounts that could be created and thus the number of applications, a limit of 50 applications per user account required some applicants to create and manage multiple user accounts. Some applicants reported that this created some inefficiency for them, as they had to maintain multiple system credentials for the various user accounts and keep track of which applications were associated with which user account.

### *Application Form*

A standard online application form was used for all applications to support fairness and consistency in the application submission experience.

The application form itself was modeled after the questionnaire in Module 2 of the AGB. The form restated the questions as they appeared in the AGB and provided a space for open text responses to the questions. For those questions where the AGB specified a page limit for the response, the application form applied a conversion of 4,000 characters per page. For those questions where the AGB did not specify a page limit, the application form set a reasonable character limit. The character limit for all 50 application questions was communicated to applicants prior to the opening of the application window in the Customer Service Center's knowledge base.<sup>17</sup> For questions that allowed attachments, the application form provided the capability to attach files. Acceptable file formats were also communicated to applicants prior to the opening of the application window in the Customer Service Center's knowledge base.

The application form provided fields for open text responses to questions in the AGB. Feedback from the Financial and Technical/Operational Capability Evaluation Panels was that a structured way to capture data might have helped applicants provide more complete answers and have eliminated some Clarifying Questions. For example, several of the Technical/Operational Capability questions asked for compliance to several RFCs. Instead of an open text field where the applicant might miss providing a response to one or more of the required RFCs, a structured question form specifying each RFC that the applicant must provide a response to would have avoided an incomplete response.

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<sup>17</sup> ICANN. (16 December 2011) New gTLD Knowledge Articles. Retrieved from <http://newgtlds.icann.org/en/applicants/tas/character-limits-11jan12-en.pdf>

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### 1.1.4.2 ADMINISTRATIVE COMPLETENESS CHECK

After the close of the application window, the AGB called for ICANN to complete an administrative completeness check in preparation for the public posting of application materials.<sup>18</sup> The intent of the administrative completeness check was to ensure that mandatory questions were answered, supporting documents were provided in the correct format, and evaluation fees were received.

The AGB allowed eight weeks for ICANN to complete the check. ICANN completed the check in two weeks, in time for the posting of applied-for strings on 13 June 2012 (Reveal Day).

ICANN was able to complete the check in less time than provided for in the AGB because some of the activities called for during the administrative check period were performed during the application window. The reconciliation of evaluation fees was performed during the application window due to the requirement in Section 1.5.1 of the AGB that the full USD 185,000 evaluation fee must be received by the end of the application window. Checking of the applications to ensure that all mandatory questions were answered was also not necessary as the application form had built-in validations to ensure that all required questions were answered prior to the form being submitted. The application form also had built-in validations to ensure that only attachments with acceptable file formats were accepted. The main checks that ICANN performed during the two weeks prior to the publication of the applied-for strings were:

- Validation of addresses provided to ensure that PO Box addresses had not been submitted.
- Validation of the script and code points of applied-for IDN TLDs to ensure they were accurate.

ICANN performed follow-up with the applicants during the two-week administrative check period to address any identified issues to ensure the publication of accurate information on Reveal Day.

### 1.1.4.3. REVEAL DAY

“Reveal Day,” 13 June 2012, referred to the day that ICANN published the applied-for strings and the public portions of the 1,930 applications. The questionnaire in Module 2 of the AGB specified which questions were public and which questions were confidential and therefore would not be posted publicly.

On 14 June 2012, ICANN published an announcement that the postal addresses of some primary and secondary contacts for new generic top-level domain applications were published and that this information was not intended for publication.<sup>19</sup> The addresses appeared as responses to portions of questions 6 and 7 on the application. As a result, ICANN temporarily disabled viewing of the application details. ICANN removed the unintended information and the viewing of application details was restored on the same day. This did not impact any of the processes that Reveal Day triggered, as additional time was provided for all of those processes due to the volume of applications received.

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<sup>18</sup> AGB Section 1.1.2.2: Administrative Completeness Check

<sup>19</sup> ICANN. (14 June 2012) Announcement: New gTLD Application Details Temporarily Offline – Update. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-2-14jun12-en>

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## 1.1.5 Conclusion

Even though some issues and delays (discussed in Section 1.1.4: Assessment above) arose, the application submission phase achieved its intended purpose of allowing applicants to submit applications for TLDs, for ICANN to perform a completeness check of the submitted applications, and for ICANN to post the application information. Overall, while these issues and delays had some impact to the timeline of the Program, the volume of applications received had a more significant impact on the Program timeline. Please see Section 1.2: Prioritization and Section 2.1: Initial and Extended Evaluation of this report for additional discussion on how the volume of applications impacted Program timelines.

There are some valuable lessons learned from the implementation of the application submission phase that could help to inform development of procedures for future rounds. One of the lessons learned is that capturing responses to application questions in open text fields led to incomplete answers that did not fully address the questions and reduced the efficiency of evaluators. A more structured way to capture responses to application questions should be explored to reduce or eliminate incomplete answers from seemingly qualified applicants. Structured data also could have efficiency benefits in the evaluations or other downstream uses of the application answers. The other lesson learned is that placing a restriction on the number of applications that can be submitted under each user account and profile created inefficiency for applicants. Implementing a system that would allow applicants the flexibility to associate as many applications as desired with a single user account should be considered.

In summary:

- 1.1.a** Explore a more structured way of capturing application responses
- 1.1.b** Implement a system that would allow applicants the flexibility to associate as many applications as desired to a single user account

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## 1.2 Prioritization

### 1.2.1 Introduction

Prioritization refers to the assignment of priority numbers to applications for purposes of processing. This section of the Program Implementation Review report discusses the impact of prioritization on the following Program processes:

- Initial Evaluation
- Execution of Registry Agreements
- Pre-Delegation Testing
- Auction

### 1.2.2 Relevant Guidance

The following guidance is relevant to the topic of Contracting and will be discussed in further detail in Sections 1.2.3 and 1.2.4 of this report:

- GNSO Principle A: “New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.”<sup>20</sup>
- GNSO Implementation Guideline D: “A first come first served processing schedule within the application round will be implemented and will continue for an ongoing process, if necessary. Applications will be time and date stamped on receipt.”
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>21</sup>
- ICANN Board Resolution 2012.03.28.01 (28 March 2012): Batching of New gTLD Applications: Secondary Timestamp<sup>22</sup>

### 1.2.3 Background

Section 1.1.2.5 of the AGB anticipated that Initial Evaluation (IE) would take approximately five months to complete and that results for all applications would be published at the end of IE. In the event of the number of applications exceeding 500, the AGB called for a secondary time stamp mechanism to establish batches for evaluation purposes. “Secondary time stamp” refers to a separate mechanism that would be used after the application window (see Section 1.1: Application Submission of this report) to assign time stamps to applications. At the end of the application window, 1,930 applications were submitted for new gTLDs. As this number exceeded the anticipated 500 in the AGB, a secondary time stamp mechanism in the form of digital archery was launched on 8 June 2012 to

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<sup>20</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-part-a-08aug07.htm>

<sup>21</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agn/guidebook-full-04jun12-en.pdf>

<sup>22</sup> ICANN. (28 March 2012) Approved Board Resolutions | Special Meeting of the ICAN Board. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2012-03-28-en>

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allow applicants to register a time stamp for their applications.<sup>23</sup> On 23 June 2012, ICANN announced that digital archery was suspended due to applicants' reports that the timestamp system returned unexpected results depending on circumstances.<sup>24</sup> Digital archery was scheduled to close on 28 June 2012. At the time of suspension, approximately 20% of applications had registered a time stamp.

The suspension of digital archery did not impact the start of application evaluation. All evaluation panels--String Similarity, Financial Capability, Technical/Operational Capability, DNS Stability, Registry Services, Geographic Names, and Background Screening—started processing applications in June 2012. Absent guidance regarding how to order applications for evaluation purposes, the evaluation panels processed applications in random order at this time. Some of the evaluation panels organized applications in groups that would enable the most efficient evaluation. For example, the Technical and Operational Capability and Registry Services evaluation panels grouped applications by back-end Registry Service providers. The Financial evaluation grouped applications by applying entity.

On 10 October 2012, ICANN published for comment a "Use of a Drawing for Prioritizing New gTLD Applications" plan for prioritizing applications through the use of a drawing.<sup>25</sup> The Plan was the culmination of four months of discussions with the community.

On 20 November 2012, ICANN announced that a prioritization draw would take place on 17 December 2012.<sup>26</sup> The draw would assign a priority number to each application for the purposes of application processing. To participate in the drawing, applicants were required to purchase a ticket for each application. The funds collected from ticket sales were donated to charitable organizations pursuant to California laws.

On 17 December 2012, ICANN held four drawings. The first drawing prioritized IDN applications with a purchased ticket. The second drawing prioritized non-IDN applications with a purchased ticket. The third drawing prioritized IDN applications without a purchased ticket. The fourth drawing prioritized non-IDN applications without a purchased ticket. In total, 1,917 applications were assigned a priority number. Thirteen applications withdrew before the Prioritization Draw took place.

## 1.2.4 Assessment

According to the "Use of a Drawing for Prioritizing New gTLD Applications" plan,<sup>27</sup> priority numbers would be used to order the release of evaluation results (see Section 2.1: Initial and Extended Evaluation of this report), to execute Registry Agreements (see Section 5.1: Contracting of this report) and to schedule PDT appointments (see Section 5.2: Pre-Delegation Testing and Transition to IANA of this report). The Plan also stressed the importance of metering the execution of Registry Agreements

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<sup>23</sup> ICANN. (6 June 2012) Announcement: New gTLD Batching Announcement. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-06jun12-en>

<sup>24</sup> ICANN. (23 June 2012) Announcement: Digital Archery Suspended. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-23jun12-en>

<sup>25</sup> ICANN. (10 October 2012) Announcement: Use of a Drawing for Prioritizing New gTLD Applications. Retrieved from <https://www.icann.org/news/announcement-2-2012-10-10-en>

<sup>26</sup> ICANN. New gTLD Prioritization Draw. Retrieved from <http://newgtlds.icann.org/en/applicants/prioritization-draw>

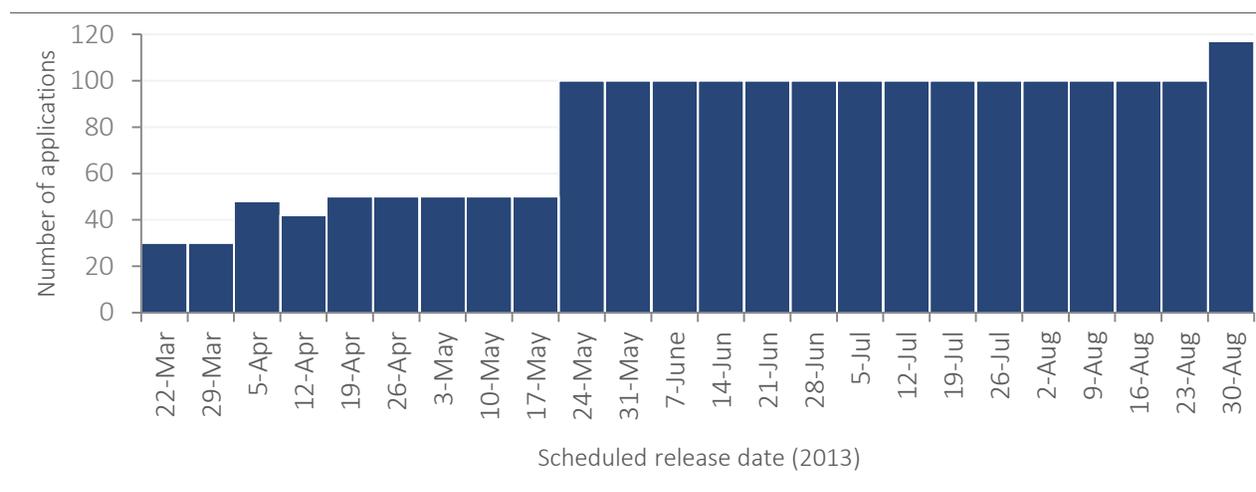
<sup>27</sup> ICANN. (10 October 2012) Use of a Drawing for Prioritizing New gTLD Applications. Retrieved from <http://newgtlds.icann.org/en/applicants/batching/drawing-prioritization-10oct12-en.pdf>

and PDT processes to ensure that no more than 1,000 TLDs were delegated per year in accordance with root zone scaling requirements.<sup>28</sup>

### 1.2.4.1 INITIAL EVALUATION

For Initial Evaluation (IE), the Plan called for IE results to be released by priority numbers beginning in March 2013 and ending in June of 2013. ICANN met the March 2013 date and began releasing IE results on 22 March 2013. Results were released in batches by priority number. ICANN began by releasing results for priorities 1-30 the first week, ramping up to weekly batches of 100 priority numbers. This was lower than the 150 applications per week called for in the Plan. However, discussions with the evaluation panels after the publication of the Plan concluded that their maximum capacity was 100 applications per week. This resulted in the extended IE completion date of August 2013 instead of the June 2013 timeframe anticipated in the Plan.<sup>29</sup> Figure 1.2.i shows the IE results release schedule that ICANN followed during IE.

Figure 1.2.i: IE results release schedule



There were instances where the IE results release for some applications could not occur in the scheduled week. Possible reasons IE results were not available in the scheduled week included pending change requests, clarifying questions or follow-up with applicants regarding missing information.

Although prioritization allowed for predictable release of IE results, it brought some inefficiency to the evaluation process. As mentioned in Section 1.2.3 of this report, evaluation panels began review of applications in June of 2012. When the Prioritization Draw took place on 17 December 2012, some applications with smaller prioritization numbers had not been evaluated while some of the applications with larger prioritization numbers had partially been reviewed. As such, significant reshuffling occurred and a considerable number of evaluations had to be completed in the three

<sup>28</sup> ICANN. (October 2010) Summary of the Impact of Root Zone Scaling. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/summary-of-impact-root-zone-scaling-06oct10-en.pdf>

<sup>29</sup> ICANN. (22 March 2013) Announcement: Initial Evaluation Results Released for First Set of Applications. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-22mar13-en>

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months leading up to the publication of the first set of IE results on 22 March 2013. The requirement to process applications by priority number also resulted in the inability to group applications by back-end registry service providers or by applicants throughout IE, which would have supported processing efficiency. This is further discussed in Sections 2.6: Technical and Operational Capability Evaluation and Section 2.7: Financial Capability Evaluation of this report.

#### **1.2.4.2 EXECUTION OF REGISTRY AGREEMENTS**

After IE, applications followed various possible paths as anticipated and illustrated in Section 1.1.5 of the AGB. For Contracting (see Section 5.1: Contracting of this report), priority numbers were used to invite applicants as they completed the required Program steps and became ready to enter the Contracting process. Similarly, priority numbers were used to order execution of the Registry Agreement as applicants completed all of the required Contracting process steps.

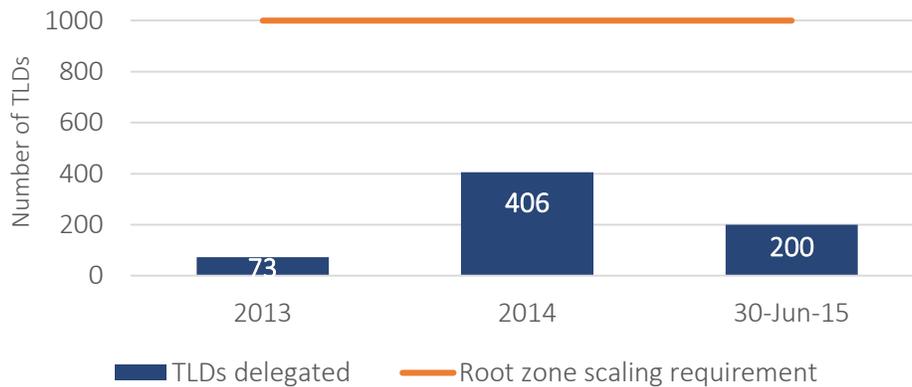
The AGB and Plan anticipated that applicants would sign the Registry Agreement quickly upon eligibility and that Registry Agreement execution would occur at a steady rate of 20 per week. In actuality, the majority of applicants did not sign the Registry Agreement quickly. The number of Registry Agreement executions varied and remained fewer than 20 for most weeks after the commencement of the Contracting process. See Section 5.1: Contracting of this report for further discussion on the process.

#### **1.2.4.3 PRE-DELEGATION TESTING (PDT)**

As applicants executed Registry Agreements and were ready to begin PDT, priority numbers were used to invite applicants to schedule PDT appointments. As the applicants were free to pick a PDT appointment date that worked for them, the actual PDT date did not always correspond to the order that applicants were invited to schedule PDT. Should there be several applicants wishing to schedule their appointments on the same date, applicants with the smallest priority numbers would be scheduled first, ahead of those with larger priority numbers.

As applicants did not quickly sign Registry Agreements, the volume and rate of PDT did not reach the 20 per week rate anticipated in the Plan. As such, the rate of delegation of TLDs stayed below the root zone scaling requirement of 1,000 per year to-date. Figure 1.2.ii shows the number of delegations per calendar year.

Figure 1.2.ii: Delegations per calendar year



#### 1.2.4.4 AUCTION

Although not specifically called for in the Plan, priority numbers were also used to schedule auctions. Within a contention set, the application with the smallest priority number determined the order in which sets were scheduled for auction. Lacking any other direction to order contention sets, the use of priority number was the most fair and predictable method to schedule auctions.

### 1.2.5 Conclusion

Prioritization was a fair and effective method of ordering applications for release of IE results and for execution of other Program processes such as Contracting, PDT, and auction. It provided applicants with predictability of application processing order and timelines of IE results release. For staff, it provided an effective mechanism to prioritize service providers' and its own work. However, prioritization also caused some process inefficiency. The Prioritization Draw did not take place until six months after evaluation had already begun. As such, the evaluation panels were not able to fully leverage the work of the six months between the beginning of evaluation and the Prioritization Draw. Some applications that had been evaluated ended up with high priority numbers, and some applications where evaluations had not begun evaluation had low priority numbers. Prioritization also did not allow grouping of applications by back-end registry service providers, or applicants, which would have provided process efficiency in the evaluation of applications. Although these inefficiencies did not cause any delays to application processing, the lesson learned is that assignment of priority numbers to applications should be established prior to commencement of the processing of application. Considerations should also be given to how efficiency of grouping evaluations by common characteristics could be achieved while allowing for a fair and predictable way of ordering application processing.

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In summary:

**1.2.a** Assign priority numbers to applications prior to commencement of application processing

**1.2.b** Consider grouping applications by common characteristics while establishing priority numbers, in order to increase processing efficiency

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## 1.3 Application Comments

### 1.3.1 Introduction

The Application Comments Forum was provided as a mechanism for interested parties to comment on any applications and to bring relevant information to the attention of parties charged with handling specific aspects of application processing (e.g., evaluation panels, the Independent Objector, ICANN). This section of the Program Implementation Review discusses the following aspects of the application comments process:

- Application Comments Window
- Application Comments Forum
- Application Comment Submission and Review

### 1.3.2 Relevant Guidance

The following guidance is relevant to the topic of application comments and will be discussed in further detail in Sections 1.3.3 and 1.3.4 of this report:

- GNSO Implementation Guideline C: "ICANN will provide frequent communications with applicants and the public including comment forums."<sup>30</sup>
- GNSO Implementation Guideline Q: "ICANN staff will provide an automatic reply to all those who submit public comments that will explain the objection procedure."
- Applicant Guidebook, Section 1.1.2.3: Comment Period<sup>31</sup>
- Applicant Guidebook, Section 1.2.2: Required Documents
- Applicant Guidebook, Section 2.4.3.2: Code of Conduct Violations
- Applicant Guidebook, Section 3.2.5: Independent Objector
- Applicant Guidebook, Section 4.2.3: Community Priority Evaluation Criteria

### 1.3.3 Background

Section 1.1.2.3 of the AGB stated that "ICANN will open a comment period (the Application Comment period) at the time applications are publicly posted on ICANN's website [ . . . ] This period will allow time for the community to review and submit comments on posted application materials." Consistent with the AGB, ICANN opened the Application Comment Forum on 13 June 2012 when the applied-for strings were published.

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<sup>30</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8augo7.htm>

<sup>31</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

The forum provided interested parties with the opportunity to submit a comment on any application in any language. Comments had to be associated with a specific application and directed to one of the evaluation panels or objection grounds. Comments not relevant to an evaluation panel or objection ground could be submitted under the “Other” category. As of 31 July 2015, 12,691 comments have been submitted. The Registry Services and String Similarity evaluation panels received the highest number of comments (23% and 17% of all comments submitted, respectively). In contrast, the String Confusion Objection Ground and DNS Stability evaluation panel each received only 1% of the total number of comments submitted. Table 1.3.i shows a breakdown of application comments submitted by category.

*Table 1.3.i: Breakdown of Application Comments Submitted by Category*

Evaluation Panel/Objection Ground	# Comments Submitted	% of Total Comments
Background Screening	1,492	12%
String Similarity	2,099	17%
DNS Stability	127	1%
Geographic Names	495	4%
Technical & Operational Capability	402	3%
Financial Capability	403	3%
Registry Services	2,967	23%
Community Priority Evaluation	1,556	12%
String Confusion Objection Ground	186	1%
Legal Rights Objection Ground	327	3%
Limited Public Interest Objection Ground	1,050	8%
Community Objection Ground	976	8%
Other	611	5%
<b>Total</b>	<b>12,691</b>	<b>100%</b>

## 1.3.4 Assessment

### 1.3.4.1 APPLICATION COMMENT WINDOW

Section 1.1.2.3 of the AGB stated: “Application comments received within a 60-day period from the posting of the application materials will be available to the evaluation panels performing the Initial Evaluation reviews.” This section of the AGB further said that “This period is subject to extension, should the volume of applications or other circumstances require.” Due to the higher than expected number of applications received (1,930 instead of the 500 estimated in the AGB), and in response to requests from the community for additional time to analyze and provide thoughtful comments on the high volume of applications, ICANN extended the comment period by 45 days.<sup>32</sup> The Application Comment Forum opened on 13 June 2012 when ICANN published application materials (see Section

<sup>32</sup> ICANN. (10 August 2012) Announcement: New gTLD Application Comment Period Extended. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-10aug12-en>

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1.1: Application Submission of this report) and the deadline for submission of comments to be considered by evaluators was extended from 12 August 2012 to 26 September 2012. A total of 11,716 comments were submitted for evaluators' consideration by 26 September 2012. Between 27 September 2012 and 31 July 2015, 975 additional comments were submitted on applications for various reasons--for example, as comments on application changes that ICANN approved, support or objection to an application on any of the objection grounds, support or objection to an application in CPE, and comments on voluntary Public Interest Commitments submitted by applicants. The total number of comments submitted as of 31 July 2015 was 12,691.

#### **1.3.4.2 APPLICATION COMMENTS FORUM**

The design of the Application Comment Forum built in some limitations; for example, a limit of 3,500 characters for each comment was put in place, and no attachments were allowed. These limitations were put in place to control processing time and costs based on concerns raised by evaluators that an unknown volume of additional materials would require an unknown number of additional resources to perform the review in order to enable them to meet the evaluation timeline set by ICANN, and that the applicants would use the Application Comments Forum as a mechanism to submit additional application materials to circumvent the character limit that the application system imposed on application responses (see Section 1.1: Application Submission of this report).

ICANN observed that commenters circumvented these limitations in several ways. Some submitted comments that exceeded the character limit by dividing them into multiple parts and submitting each part as a separate comment. Others submitted comments via correspondence to ICANN, particularly comments relating to applications in Community Priority Evaluation (CPE). Comments received via correspondence were published to the Correspondence page of the microsite. Although submission of comments in multiple parts resulted in a higher count of comments that the evaluators had to review, these alternate methods of comment submission did not create additional cost to the Program or cause delays to Program timelines.

Although these limitations achieved the intended efficiency for ICANN and evaluation panels, they may not have provided commenters with a good user experience of the tool. In addition, they might have unintentionally directed commenters away from using the forum for its intended purpose, which was to bring forward any relevant information or issues regarding an application.

GNSO Implementation Guideline Q stated that ICANN would provide an automatic reply to all those who submitted public comments that would explain the objection procedure (which was separate from the application comments procedure). This implementation guideline assumed that comments would be provided via email and thus, an automatic reply would be possible. Since the Application Comments Forum implemented as a web-based tool, in lieu of an automatic reply, information about the objection process was provided on the home page of the Application Comment Forum and the login page for submitting a comment.

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### 1.3.4.3 APPLICATION COMMENTS SUBMISSION AND REVIEW

Section 1.1.2.3 of the AGB stated: "In cases where consideration of the comments has impacted the scoring of the application, the evaluators will seek clarification from the applicant." The evaluators followed this guidance and provided applicants with an opportunity to address any comments that would cause them to change the score of an application by issuing a Clarifying Question (see Section 2.1: Initial and Extended Evaluation of this report). Less than 1% of application comments submitted resulted in the evaluation panel issuing a Clarifying Question. Although the volume of comments resulting in Clarifying Questions was low, public comment mechanisms are a core part of ICANN's policy development, implementation, and operational processes. Providing a public comment mechanism allows for issues and concerns relating to applications to be considered.

Also consistent with the AGB, comments directed to the Limited Public Interest and Community objection grounds were considered by the Independent Objector if they were submitted prior to the close of the formal objection window. See Section 3.1: GAC Advice of this report for more information regarding the role of the Independent Objector and the formal objection process. The Independent Objector filed 24 objections, 18 of which were filed on applications that received comment(s) directed to the Community or Limited Public Interest objection ground.

For comments directed to the CPE panel (see Section 4.1: Application Processing of this report), the AGB did not specify a specific timeline for the comment window. ICANN set the comment window as 13 June 2012 (Reveal Day) through 14 days after the CPE invitation date, which was posted on the New gTLD microsite. All comments submitted within this window were considered by the CPE panel. This comment window was communicated to applicants and the community in webinars and in FAQs that were posted on the microsite prior to the start of CPE. The CPE panel had the fourth highest number of comments out of the 13 possible categories for which comments could be submitted. Also, as mentioned in Section 1.1.4.2 above, the limitation of the Application Comment Forum of not allowing attachments resulted in commenters submitting comments for the CPE panel via correspondence. This correspondence included submission of additional letters of support and mock evaluations performed by applicants and competitors of the applicant undergoing CPE.

Outside of IE, Objections, and CPE, the Application Comment Forum was also used to solicit comments on approved application change requests (see Section 1.4: Application Change Requests of this report), on Public Interest Commitment (PIC) statements submitted by applicants, and on complaints of code of conduct violations of an evaluation panelist (as specified in Section 2.4.3.2 of the AGB). However, there were no application change request, PIC, or code of conduct violation options to choose from when submitting or viewing a comment, which did not provide clarity for viewing comments and might also have created confusion for commenters.

The AGB describes the use of comment windows for comments to be considered by the evaluation panels and Independent Objector. However, ongoing review of the comments, and whether and how comments should be responded to was not specified by the AGB. As such, ICANN reviewed comments during certain windows of time such as when approved change requests or PICs were posted for 30-day comment periods. ICANN did not perform ongoing review of comments submitted in the forum.

In cases where the comments submitted required follow-up with applicants, ICANN performed the follow-up directly with the applicant to address any concerns or issues brought up in the comments.

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ICANN provided responses to commenters only in cases where the commenter also submitted a Customer Service inquiry or correspondence related to the same issue brought up in the Application Comment Forum.

### 1.3.5 Conclusion

The goal of creating the Application Comment Forum for the New gTLD Program was to provide a publicly accessible input mechanism that would be manageable given the unknown volume of applications and application comments. The Application Comment Forum was implemented in alignment with the AGB, and in some respects, it satisfied its intended purpose of providing a means for interested parties to bring forward any relevant information or issues regarding an application for consideration by those charged with handling applications.

There are some important lessons learned from the implementation of the Application Comment Forum that would be useful input to the development of procedures for future rounds.

ICANN put in place a character limit for comments and did not allow attachments to be submitted in the Application Comment Forum in order to control application processing time and costs, to prevent applicants from using the forum to supplement application materials and circumvent the character limit that TAS put in place for application responses, and to provide evaluation panels with some predictability regarding volume of comments. In spite of this, ICANN observed that applicants bypassed these limitations by breaking comments into multiple parts and submitting each part as a separate comment or by submitting comments via correspondence to ICANN. As such, the initial intention of the limitations was not met, and instead, the limitations might have diverted commenters away from using the forum to submit comments. ICANN should explore implementing additional functionalities that will improve the usability of the forum.

Outside of the AGB-prescribed uses of the Application Comment Forum, the forum was also used in this application round to obtain comment on approved application change requests and Public Interest Commitment statements submitted by applicants. However, the Application Comment Forum did not provide these as categories for commenters to select when submitting comments. This created confusion for the commenters and inefficiencies for ICANN as it was not always clear which comments were submitted for what purpose. If the Application Comment Forum is to be used for additional purposes, those purposes should be taken into consideration during the design phase of the tool.

In summary:

- 1.3.a** Explore implementing additional functionality that will improve the usability of the Application Comment Forum
- 1.3.b** Provide additional clarity around the intended use of the Application Comment Forum, including timelines and ways to indicate the type of comment being submitted

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## 1.4 Application Change Requests

### 1.4.1 Introduction

The application change request (ACR) process allowed applicants to notify ICANN of changes to application materials prior to the execution of the Registry Agreement. This section of the Program Implementation Review report discusses the following aspects of the application change request process:

- ACR Evaluation Criteria
- ACR Process
- Re-evaluation

### 1.4.2 Relevant Guidance

The following guidance is relevant to the topic of Contracting and will be discussed in further detail in Sections 1.4.3 and 1.4.4 of this report:

- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*<sup>33</sup>

- Applicant Guidebook, Section 1.2.7: Notice of Changes to Information<sup>34</sup>

### 1.4.3 Background

Section 1.2.7 of the AGB required applicants to promptly notify ICANN if application information became untrue or inaccurate. The requirement was intended to maintain the integrity of application materials.

As early as during the application window, ICANN processed change requests to application materials. Although applicants could make changes to the application anytime up to submission, the TLD Application System (see Section 1.1: Application Submission and Section 8.1: Processes, Systems, and

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<sup>33</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-part-a-08aug07.htm>

<sup>34</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

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Resources of this report) did not allow applicants to modify application information once the complete application had been submitted. The majority of the changes that ICANN processed during the application window were changes to Questions 1-11 of the questionnaire in Module 2 of the AGB, and all ACRs were accepted as applicants were allowed to make any changes to their applications prior to the close of the application window.

After the application window closed, ICANN received a large number of requests to change application materials. Thirty-three requests were submitted between the close of the application window and Reveal Day. An additional 69 requests were submitted between Reveal Day and 4 September 2012. ICANN approved 89 of these 102 requests during the period between the close of the application window and 4 September 2012.

For transparency purposes and to standardize processes, on 5 September 2012, ICANN published a process for requesting changes to application materials, as well as the criteria used to evaluate the requests.<sup>35</sup> The process consisted of four steps:

1. Verify and validate the request to ensure that only those authorized to make changes to the application were able to do so (i.e., the application's primary contact).
2. Review the change request against the seven criteria.
3. Notify the applicant of the determination.
4. If the request was approved, make the changes and post them for a 30-day comment period.

The Application Comment Forum (see Section 1.3: Application Comments of this report) was used as the mechanism to gather comments on approved change requests. Between the close of the application window and the publication of the ACR process, there were 102 change requests submitted to the Customer Service Center.

ICANN continued to process application change requests throughout application processing.

On 30 September 2014, ICANN published updates to the change request process.<sup>36</sup> One of the main updates to the process was no longer requiring a 30-day comment period for certain types of changes, such as changes to confidential portions of the application and updates to the application as a normal course of business (e.g., changes to the applicant's contact information, stock symbol, or business/ tax ID). The removal of the 30-day comment period for certain change requests was intended to allow applicants to move expeditiously forward in the Program and because less than 1% of approved change requests received comments during the 30-day comment window.

As of 31 July 2015, ICANN had processed 2,587 change requests. Change request statistics were available on the Change Request page of the New gTLD microsite and were updated monthly.<sup>37</sup>

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<sup>35</sup> ICANN. (5 September 2012) Announcement: New gTLD Application Change Request Process and Criteria. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-2-05sep12-en>

<sup>36</sup> ICANN. (30 September 2014) Announcement: ICANN Updates Change Request Process. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-30sep14-en>

<sup>37</sup> ICANN. New gTLD Application Change Request Process and Criteria: Statistics. Retrieved from <http://newgtlds.icann.org/en/applicants/customer-service/change-requests#statistics>

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## 1.4.4 Assessment

### 1.4.4.1 APPLICATION CHANGE REQUEST EVALUATION CRITERIA

To provide predictability and to allow for objective and consistent review of ACRs, ICANN published the seven criteria used to evaluate change requests.<sup>38</sup> These criteria were carefully developed to balance applicants' needs to update application information as a normal course of business and to provide fairness to all other applicants and third parties. The seven criteria were:

1. Explanation: Is a reasonable explanation provided?
2. Evidence that original submission was in error: Are there indicia to support an assertion that the change merely corrects an error?
3. Other third parties affected: Does the change affect other third parties materially?
4. Precedents: Is the change similar to others that have already been approved? Could the change lead others to request similar changes that could affect third parties or result in undesirable effects on the program?
5. Fairness to applicants: Would allowing the change be construed as fair to the general community? Would disallowing the change be construed as unfair?
6. Materiality: Would the change affect the evaluation score or require re-evaluation of some or all of the application? Would the change affect string contention or community priority consideration?
7. Timing: Does the timing interfere with the evaluation process in some way?

These criteria were consistently applied to evaluate each change request.

### 1.4.4.2 APPLICATION CHANGE MANAGEMENT

The questionnaire in Module 2 of the AGB specified the 50 questions that made up the application for a new gTLD. Some of the 50 questions gathered information regarding the applying entity, points of contact for communications regarding the application, and the applicant's intended operation of the TLD.

As all questions were considered part of the application, changes to any information in any of the application question had to go through the defined ACR process. For example, a change to the technical portion of the application as a result of the applicant's decision to outsource its back-end registry services to a different service provider would have required the applicant to submit a change request form to ICANN, provide the required information for ICANN to verify and validate the request, and for ICANN to review the request against the seven criteria and provide the applicant with a determination. The application would then be subject to a 30-day comment period and a re-evaluation of the application if the change took place after IE results for the application had been released. A change to the applicant's business phone number, which happened as a normal course of business,

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<sup>38</sup> ICANN. New GTLD Application Change Request Process and Criteria: Change Request Determination Criteria. Retrieved from <http://newgtlds.icann.org/en/applicants/customer-service/change-requests#determination>

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would have required the applicant to go through the same process, with the exception that re-evaluation would not have been required.

#### **1.4.4.3 IMPACT OF APPLICATION CHANGE REQUEST ON PROGRAM PROCESSES**

The ACR process was an effective mechanism for applicants in some Program processes, but it also created inefficiency in other Program processes.

For applications that went through Extended Evaluation (see Section 2.1: Initial and Extended Evaluation of this report), the ACR process provided applicants with an opportunity to address the deficiencies preventing them from successfully passing IE.

The ACR process was also used as a mechanism for applicants to address GAC Early Warning and GAC Advice (see Section 3.1: GAC Advice of this report). Applicants that entered into dialogue with the government(s) that issued GAC Early Warning on their applications and arrived at a mutual understanding after such dialogue, could submit an ACR to update their applications to reflect the mutual understanding reached with the government(s). Applicants that were subject to GAC Category 2 Advice (see Section 3.1: GAC Advice of this report) could move forward to Contracting (see Section 5.1: Contracting of this report) by updating their applications so that they would be in compliance with Section 3.d of Specification 11 of the base Registry Agreement.<sup>39</sup>

However, the ACR process presented operational challenges for IE, contention resolution, and contracting.

During IE (see Section 2.1: Initial and Extended Evaluation of this report), ICANN received a number of change requests prior to the publication of the IE results. Aside from changes that arose as a normal course of business, reasons that applicants submitted changes to applications prior to the publication of IE results included:

- To address deficiencies in the application materials prior to receiving Clarifying Questions because they received Clarifying Questions on similar application materials that had gone through evaluation.
- To submit Continuing Operations Instruments (see Section 7.1: Continuing Operations Instrument of this report) because they could not meet the deadline to submit them during the window provided to respond to Clarifying Questions.
- Because they engaged a different vendor to perform the back-end registry services, resulting in changes to the technical plans for the TLD.
- Because the intended operations of the TLD changed.

Although the ACR process allowed applicants to update application information and improve their chances of successfully passing IE, ACRs during IE in most cases delayed the release of IE results for the application because of processing and review time. Changes to application materials prior to IE

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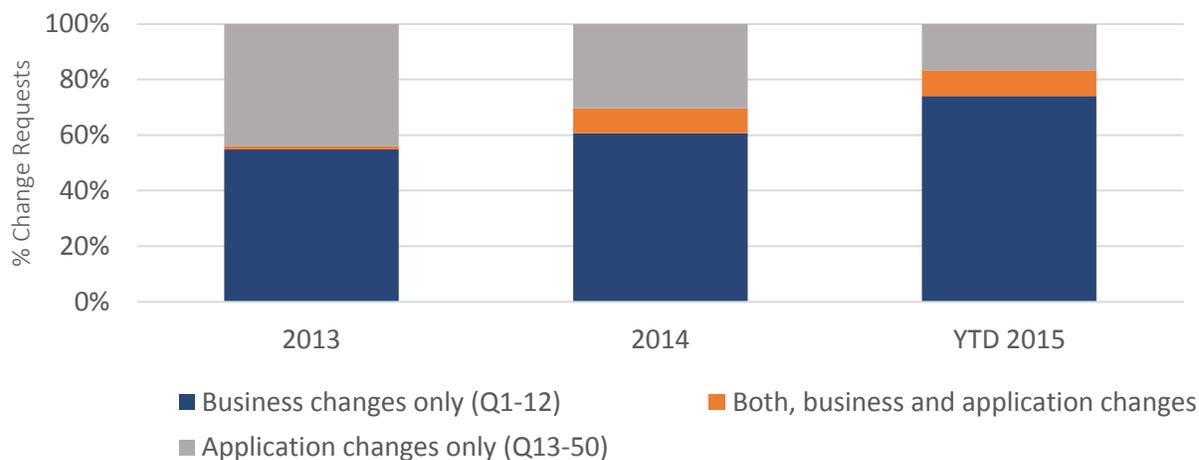
<sup>39</sup> ICANN. Registry Agreement. Retrieved from <http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf>

results release also required the evaluation panel to re-perform evaluation of the application, creating inefficiency in the evaluation process.

During the contention resolution process, some applicants submitted ACRs for applications that were self-designated as community applications and were qualified for CPE (see Section 4.1: Community Priority Evaluation of this report) to modify the community definition or registration policies. For these cases, ICANN deferred or denied the requests because such changes could impact the outcome of CPE. Approval of a change request to update a community definition and registration policies would have allowed a CPE applicant to update its application based on information learned from previously posted CPE results. This could have caused issues of unfairness to the first applicants who went through CPE that did not have the benefit of learning from others. Allowing such a change request would also improve the CPE applicant's chances to prevail in CPE, negatively impacting the other applicants in the same contention set. Therefore, although viewed as necessary from the CPE applicant's perspective to maximize its ability to pass CPE, approval of a change request to update a community's definition and registration policies prior to the completion of CPE would cause issues of unfairness to other applicants in the same contention set.

During the Contracting process (see Section 5.1: Contracting of this report), a number of ACRs were submitted. The majority of the changes were due to changes as a normal course of business (e.g., officer/director changes). However, it was possible that some applicants delayed the process by not providing ICANN with the necessary information to process the change request. Other changes were material changes, including changes to the entire technical portion of the application. These change requests caused delays to the applications and in some cases caused the applicants to miss the RA signing deadline date.<sup>40</sup> Table 1.4.i provides a break-down of the various types of change requests submitted.

*Table 1.4.i: Breakdown of Change Request Types*



<sup>40</sup> On 15 September 2014, ICANN implemented a Contracting extension process to allow applicants to request additional time to complete required activities such as change request in order to sign the Registry Agreement.

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Another operational challenge that the ACR process presented was the significant amount of time and resources required to process the high volume of change requests for both ICANN and service providers. A total of 2,587 change requests were submitted as of 31 July 2015. Each change request required administrative processing, follow-up with applicants to obtain required information, significant time and breadth of resources to review the requests, and coordination with service providers to perform any additional application evaluations required.

## 1.4.5 Conclusion

The application change request process provided applicants with a standardized way to notify ICANN of changes to application materials. The criteria used to evaluate change requests allowed for consistent review of change requests and predictability into what factors were taken into consideration when reviewing change requests.

Because the overall timeline of the New gTLD Program spanned at least 15 months, the number of application change requests submitted was larger than anticipated. The lesson learned is that ICANN should take into account application change management and, therefore, design ACR processes and criteria prior to the start of application processing.

ICANN should also consider whether certain changes could be processed differently. For example, should primary contacts be able to update certain information, such as the applicant's phone number, without having to go through the ACR process?

In summary:

- 1.4.a** Design application change request processes and criteria prior to the start of application processing
- 1.4.b** Consider whether all types of application changes should be processed the same way

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## 1.5 Application Withdrawals and Refunds

### 1.5.1 Introduction

“Application withdrawal” refers to the applicant-initiated process to withdraw an application from the Program. Depending on when an application is withdrawn, applicants may be eligible for a partial refund of the evaluation fee. This section of the Program Implementation Review report discusses the withdrawal and refund processes.

### 1.5.2 Relevant Guidance

The following guidance is relevant to the topic of Contracting and will be discussed in further detail in Sections 1.5.3 and 1.5.4 of this report:

- GNSO Implementation Guideline B:

*Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process.*

*Application fees may differ for applicants.<sup>41</sup>*

- Applicant Guidebook, Section 1.5.1: gTLD Evaluation Fee<sup>42</sup>

- ICANN Board Resolution 2012.05.06.NG01 (6 May 2012): New gTLD Program Application Fee Refund<sup>43</sup>

### 1.5.3 Background

The AGB anticipated that applicants might choose to withdraw applications at various points during the Program. Section 1.5.1 of the AGB provided a schedule of refunds for withdrawal of applications at these various points. The refund amount is estimated to be commensurate with the Program work associated with processing of the application up to the point of the withdrawal.

Based on available Program information such as the number of contention sets (see Chapter 4: Contention Resolution of this report) and the refund schedule in Section 1.5.1 of the AGB, the annual New gTLD Program budgets (see Section 8.3: Financial Management of this report) forecast the number of withdrawals and total refund amounts.

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<sup>41</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>42</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>43</sup> ICANN. (6 May 2012) Approved New gTLD Program Committee Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2012-05-06-en>

As of 31 July 2015, 542 applications have been withdrawn from the Program. Figure 1.5.i provides a summary of the number of withdrawals as of 31 July 2015 and the refund amount they were eligible to receive.

*Figure 1.5.i: Summary of Number of Withdrawals and Refund Amount*

Program Phase	# of Applications Withdrawn	Refund Amount (USD)	% of Total Withdrawal
Prior to Reveal Day (see section 1.1 of this report)	1	185,000	<1
Within 21 days of receipt of GAC Early Warning (see Section 3.1 of this report)	2	148,000	<1
Before IE results released (see Section 2.1 of this report)	101	130,000	19
Before RA signed – no EE, objection, or contention resolution (see Sections 5.1, 2.1, 3.1, and 4 of this report)	340	65,000	63
Before RA signed – EE, objection, or contention resolution required	97	37,000	16
After Application Support evaluation	1	47,000	<1
After RA signed	0	0	0

## 1.5.4 Assessment

### 1.5.4.1 WITHDRAWAL PROCESS

Section 1.5.1 of the AGB stated that withdrawal of applications must be initiated in the TLD Application System (TAS) (see Section 1.1: Application Submission and Section 8.1: Processes, Systems, and Resources of this report). Consistent with the AGB, ICANN implemented a withdrawal process in TAS that allowed applicants to withdraw applications and request refunds. Withdrawals performed in TAS allowed the applicant to instantaneously withdraw an application, which was important as the date of withdrawal could impact the refund amount that the applicant was eligible to receive.

At the close of the application window (see Section 1.1: Application Submission of this report), 30 May 2012, access to TAS was closed. Applicants that wished to withdraw applications while TAS was closed could submit withdrawal requests to the Customer Service Center. Withdrawal requests were processed manually by the Customer Service Center during this time. The manual process required ICANN to first confirm and validate the request, then to generate a withdrawal form that was sent to the applicant. The applicant must then complete and send the form back to ICANN. Once ICANN completed review of the form and verified the information provided, the applicant was then notified that the application had been withdrawn. Because the process was not instantaneous during this

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period, ICANN used the date of the withdrawal request submission to determine the refund amount. The manual process was not efficient for the applicant or ICANN.

On 26 November 2012, ICANN announced the reopening of TAS to release Clarifying Questions (see Section 2.1: Initial and Extended Evaluation of this report).<sup>44</sup> The reopening of TAS allowed applicants to again withdraw applications via the system.

At the end of Initial Evaluation (see Section 2.1: Initial and Extended Evaluation of this report), ICANN migrated application materials from TAS to the Customer Service Portal (see Section 8.5: Customer Service of this report) to provide a centralized location for applicants to access information, and TAS was once again closed. To retain efficiency in the withdrawal process, ICANN built application withdrawal functionality into the Customer Service Portal (see Section 8.5: Customer Service of this report) that allowed applicants to instantaneously withdraw applications.

Consistent with the AGB, when withdrawing applications, applicants had to confirm that they understood that withdrawal of the application was final and irrevocable. This step was required whether the application was withdrawn in TAS, in the Customer Service Portal, or by submitting a request to the Customer Service Center.

Once the application was withdrawn, ICANN updated the status of the application on the application status page of the microsite, which showed descriptive and administrative information (e.g., applicant name, evaluation results, string contention information) about all applications to provide transparency about where particular applications were in the process.<sup>45</sup> The update was typically reflected within 24 hours of the withdrawal, which provided visibility of application statuses to the community and other applicants as quickly as possible. If the withdrawn application belonged to a contention set (see Section 4: Contention Resolution of this report), updates to contention set information were then made.<sup>46</sup>

While the AGB anticipated withdrawal of applications initiated by applicants, it did not account for cases where the application could not proceed in the Program (e.g., did not prevail in the objection process, did not prevail contention resolution), but where the applicant did not withdraw the application. These applications were assigned an application status of “Will Not Proceed.” Applicants of some of the applications with the “Will Not Proceed” status did not agree with the outcome of their objections or contention resolution processes and filed an ICANN Accountability Mechanism in the hopes of being able to continue in the Program. This is one potential reason that applications in a “Will Not Proceed” status have not been withdrawn as of 31 July 2015.

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<sup>44</sup> ICANN. (26 November 2012) Announcement: The TLD Application System Reopens. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-26nov12-en>

<sup>45</sup> ICANN. New gTLD Current Application Status. Retrieved from <https://gtldresult.icann.org/application-result/applicationstatus>

<sup>46</sup> ICANN. Contention Set Status. Retrieved from <https://gtldresult.icann.org/application-result/applicationstatus/stringcontentionstatus>

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#### 1.5.4.2 REFUND PROCESS

The refund process occurred after the completion of the withdrawal of the application. Refunds were based on the fee schedule in Section 1.5.1 of the AGB.

The refund schedule presumed that Program processes were completed successively. While most Program processes were indeed completed in a linear fashion, in some cases, processes took longer than expected and overlapped with succeeding ones. For example, an application might have completed Extended Evaluation (EE), but the objection process was still ongoing. (In this round, ICANN implemented a refund amount of USD 37,000 if the application was withdrawn under the example scenario.)

Additionally, the AGB and the defined refund schedule could not account for all unique situations regarding each application. For example, if two applications that were in a contention set self-resolved (see Chapter 4: Contention Resolution of this report), and one of the applications was withdrawn, the refund amount would be USD 65,000 if the application was not subject to EE or objections. The lower amount of refund, USD 37,000, was only applicable to contention resolution via an ICANN mechanism such as CPE or auction. In those cases, the application that did not prevail in CPE or auction received a USD 37,000 refund when the application was withdrawn.

In processing refunds, ICANN observed that some applicants requested the refund to be sent to a party other than the party that paid the USD 185,000 evaluation fee. Although Section 1.5.1 of the AGB stated that "Refunds will only be issued to the organization that submitted the original payment", out of practicality, ICANN allowed some refunds to parties and bank accounts other than those that submitted the original payment. Scenarios under which this was allowed included cases where the original bank account had been closed as of the time of withdrawal and if the party that made the original payment provided written authorization for ICANN to direct the refund amount to another party affiliated with the application.

### 1.5.5 Conclusion

The AGB anticipated that applicants would withdraw applications at various stages after application submission and stipulated an evaluation fee refund schedule that corresponded to the stage at which an application was withdrawn. ICANN implemented the withdrawal and refund processes in accordance with the AGB. Based on the implementation of the withdrawal and refund process this first round, there are valuable lessons learned that would be useful input to the development of procedures for future rounds.

While the AGB anticipated withdrawal of applications initiated by applicants, it did not account for cases where the application could not proceed in the Program (e.g., did not prevail objections, did not prevail contention resolution), but the applicant did not withdraw the application. These applications were assigned an application status of "Will Not Proceed." As of 31 July 2015, there were 45 applications with a "Will Not Proceed" status that had not been withdrawn, so considerations should be given to defining a process to move these applications to a final state if the applicant does not initiate an application withdrawal.

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Regarding refunds, there were various application scenarios that were not contemplated by the AGB's refund schedule (e.g., EE complete but objections were still ongoing). These various scenarios should be reviewed and the refund schedule should be updated to reflect these scenarios. A final financial review of the Program should also be undertaken and should include analysis of the refund schedule (see Section 8.3: Financial Management of this report).

In summary:

**1.5.a** Consider defining a process to move applications that may not proceed in the Program to a final status and provide a refund if they are not withdrawn

**1.5.b** Review Program financials at the conclusion of this application round to determine whether the refund schedule accurately mapped to the costs incurred at the specified Program phases

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# Chapter 2: Application Evaluation

Module 2 of the Applicant Guidebook (AGB) defined an evaluation process to determine whether an applied-for gTLD would be approved for delegation. Several types of evaluation were required, and were intended to assess both the applied-for string and the applying entity's capabilities.

ICANN engaged third-party firms as evaluation panels to review applications using the processes and criteria defined in the AGB. The evaluation panels also defined their own procedures to supplement the AGB processes and to support consistent and high-quality evaluations across all applications. A rigorous quality control program was put in place to ensure that the AGB and the panel firms' procedures were followed.

As discussed in Chapter 1: Application Processing, 1,930 applications for new gTLDs were submitted. Of these, 1,782 passed Initial Evaluation, 38 were eligible for further review during Extended Evaluation, and 110 withdrew. Ultimately, all applications that completed evaluation passed either Initial or Extended Evaluation.

Evaluations were performed in a manner consistent with the AGB. However, observations from the implementation of the evaluation process and criteria suggest that some modifications to the process could be made to increase the efficacy of evaluation. Specific lessons learned are discussed within this Sections 2.1 through 2.8 of this report.

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## 2.1 Initial and Extended Evaluation

### 2.1.1 Introduction

Initial and Extended Evaluation (IE and EE, respectively) were New gTLD Program phases during which applications were evaluated against the defined criteria in the Applicant Guidebook (AGB). This section of the Program Implementation Review report discusses the following aspects of Initial and Extended Evaluation:

- Evaluation Process
- Evaluation Timeline
- Quality Control

### 2.1.2 Relevant Guidance

The following guidance is relevant to the topic of Initial and Extended Evaluation and will be discussed in further detail in Sections 2.1.3 and 2.1.4 of this report:

- GNSO Principle D: "A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet."<sup>47</sup>
- GNSO Principle E: "A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN's registry agreement."
- GNSO Principle F: "A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies."
- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*

- GNSO Recommendation 2: "Strings must not be confusingly similar to an existing top-level domain or a Reserved Name."
- GNSO Recommendation 4: "Strings must not cause any technical instability."
- GNSO Recommendation 5: "Strings must not be a Reserved Word."
- GNSO Recommendation 7: "Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out."

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<sup>47</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-08aug07.htm>

- GNSO Recommendation 8: “Applicants must be able to demonstrate their financial and organisational operational capability.”
- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”
- GNSO Recommendation 18: “If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed.”
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>48</sup>
- Applicant Guidebook, Section 2.2: Initial Evaluation
- Applicant Guidebook, Section 2.3: Extended Evaluation
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria

## 2.1.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (i.e., contention resolution, dispute resolution).

Module 2 of the AGB defined IE as the period “during which ICANN assess[ed] an applied-for gTLD string, an applicant’s qualifications, and its proposed registry services.” Assessment of the applied-for string was performed during the String Similarity, DNS Stability, and Geographic Names evaluations. Assessment of the applicant’s qualifications was performed during the Technical and Operational Capability and Financial Capability evaluations. In addition, the proposed registry services were assessed during the Registry Services evaluation, and the applicant’s eligibility was assessed during the Background Screening process. All evaluations were performed by qualified third-party experts. See Section 8.2: Service Provider Coordination of this report for more information on the service provider selection process and their qualifications.

IE began after the applied-for strings were published on 13 June 2012 (see Section 1.1: Application Submission of this report). During IE, evaluation panels evaluated the applications against the relevant criteria in the AGB and in accordance with their published process documentation.<sup>49,50,51,52,53</sup> In cases where the evaluation panels did not have sufficient information to award a passing score, a Clarifying

<sup>48</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from

<http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>49</sup> Insterisle Consulting Group. (7 June 2013) ICANN New gTLD Program: DNS Stability Evaluation Process. Retrieved from

<http://newgtlds.icann.org/en/program-status/evaluation-panels/dns-stability-process-07jun13-en.pdf>

<sup>50</sup> ICANN. (17 May 2013) Financial and Technical/Operational Panel: Application Evaluation Process. Retrieved from

<http://newgtlds.icann.org/en/program-status/evaluation-panels/fin-tech-op-process-07jun13-en.pdf>

<sup>51</sup> InterConnect Communications (7 June 2013). New gTLD Program Evaluation Panels: Geographic Names - Decision Tree/Process Flow for Geographic Names Evaluation. Retrieved from

<http://newgtlds.icann.org/en/program-status/evaluation-panels/geo-names-process-07jun13-en.pdf>

<sup>52</sup> Insterisle Consulting Group. (7 June 2013). ICANN New gTLD Program: Registry Services Initial Evaluation Process. Retrieved from

<http://newgtlds.icann.org/en/program-status/evaluation-panels/registry-services-initial-process-07jun13-en.pdf>

<sup>53</sup> InterConnect Communications (7 June 2013). New gTLD Program Evaluation Panels: Geographic Names - Process Flow for String Similarity Evaluation. Retrieved from

<http://newgtlds.icann.org/en/program-status/evaluation-panels/geo-names-similarity-process-07jun13-en.pdf>

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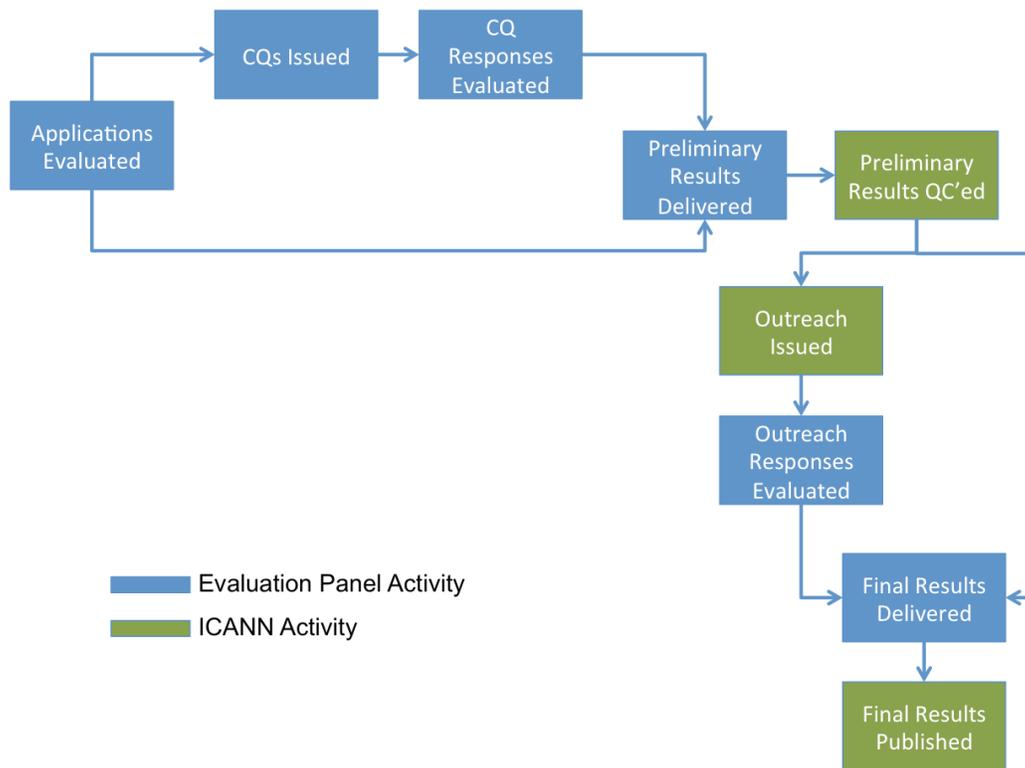
Question (CQ) was issued to the applicant. Responses to the CQs became part of the applications and were considered by the evaluation panels. Once the evaluation panels completed review of the applications, including responses to any CQs, they presented preliminary results to ICANN. ICANN then performed a quality check on the preliminary results to ensure consistency and alignment to AGB criteria. If during the quality check ICANN found that there were administrative oversights that prevented the evaluation panel from passing the application, ICANN performed outreach to the applicant to provide the applicant with an opportunity to address the administrative oversights within IE. Examples of administrative oversights included applicants providing links to acceptable documents instead of providing the documents as attachments, applicants referencing attachments in their CQ responses but not attaching them, and applicants addressing some of the questions asked but not addressing others. Responses to outreach became part of the applications and were provided to the evaluation panels for their consideration. Final results were then delivered by the evaluation panels to ICANN. ICANN aggregated results from each of the evaluation panels into IE reports that were published by priority number (see Section 1.2: Prioritization of this report).

There were three possible IE outcomes for applications:

- **Pass:** The evaluation panels determined that the application was consistent with the requirements in the Applicant Guidebook and could advance to the next phase of the Program.
- **Eligible for Extended Evaluation:** The Financial, Technical/Operational, Registry Services, or Geographic Names evaluation panels determined that the application did not have sufficient information to award a passing score. The application was eligible for EE.
- **Ineligible for Further Review:** The DNS Stability, String Similarity, Background Screening, and/or Geographic Names evaluation panels determined that the application did not meet the relevant criteria in the Applicant Guidebook, and the application was ineligible for further review.

Of the 1,930 applications submitted, 1,782 applications passed IE, 38 applications were eligible for EE, and 110 withdrew prior to receiving their IE reports. An overview of the steps of Initial Evaluation is provided in Figure 2.1.i.

Figure 2.1.i: Overview of Initial Evaluation Steps



The EE period allowed for an additional exchange of information between applicants and evaluators to address any deficiencies preventing them from receiving a passing score. All 38 applications that were eligible for EE elected to participate in EE. However, three withdrew prior to receiving their Extended Evaluation results. The remaining 35 completed EE successfully with passing scores. The EE process was modeled after the IE process.<sup>54</sup> One addition to the EE process was that ICANN provided the opportunity for applicants to participate in a phone call with ICANN before electing to participate in EE, in order to better understand the remaining application deficiencies so that they could make an informed decision regarding EE election.

## 2.1.4 Assessment

### 2.1.4.1 EVALUATION PROCESS

#### Clarifying Questions

Section 2.2.2.3 of the AGB defines the CQ process, “The evaluators may request clarification or additional information during the Initial Evaluation period [ . . . ]. The applicant will thus have an opportunity to clarify or supplement the application in those areas where a request is made by the

<sup>54</sup> ICANN. (5 August 2013) Extended Evaluation Process Overview. Retrieved from <http://newgtlds.icann.org/en/program-status/application-results/ee-process-05aug13-en.pdf>

evaluators.” Consistent with the AGB, a CQ process was implemented in IE for all seven evaluation areas.

Prior to the issuance of CQs, ICANN worked with the evaluation panels on a standard CQ template to ensure that CQs were written in a consistent format. The CQ template defined how to structure the CQ. In the CQ template, the CQ started with a statement of the AGB criteria, then the information contained in the application, then the deficiency and the specific items required. To ensure that the CQ template was designed to elicit the required clarifying information, ICANN launched a CQ Pilot in August of 2012. A random sample of applications was selected to participate in the CQ Pilot. For those applications that were randomly selected, participation was voluntary. Participants were sent pilot CQs based on evaluation of their applications. However, these were not necessarily the final CQs that the applicants would receive once CQ process commenced for all applicants. In addition, participants also received a survey that contained questions such as whether the word limit for CQs was sufficient, whether the two-week timeframe provided in the AGB was sufficient, and whether the CQs were easy to understand.

Based on responses to pilot CQs and survey questions, the CQ template was modified slightly to make the questions more clear and succinct, with each CQ containing only one “ask.” Additionally, based on the survey responses, the window to respond to CQs was extended from two weeks to four weeks. Table 2.1.i below provides a summary of when CQs were issued per evaluation panel.

*Table 2.1.i: CQs Issued Per Evaluation Panel*

Evaluation Panel	Number of CQs Issued	Percent of Applications that Received CQs	Date CQs Issued
DNS Stability	None	0%	Not Applicable
String Similarity	None	0%	Not Applicable
Geographic Names	18	1%	November 2012 – February 2013
Background Screening	58	5% <sup>55</sup>	January 2013
Registry Services	975	52%	January 2013 – May 2013
Technical & Operational	1,690	90%	January 2013 – May 2013
Financial	1,677	90%	January 2013 – May 2013

CQs for the Technical and Operational Capability evaluation, Financial Capability evaluation, and Registry Services evaluation were issued to applicants in weekly batches of 100 applications. Almost all applications received CQs. Particularly due to the high volume of CQs, the use of prioritization numbers in this process provided predictability for applicants and helped ICANN, the evaluation panels, and applicants to manage their work.

<sup>55</sup> Background screening is performed once per applicant, not per application. This percentage is based on the total number of applicants.

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## Outreach

Outreach was not a process provided for by the AGB, but it was implemented by ICANN based on the observation that many applicants had administrative oversights that prevented them from passing IE (e.g., missing attachments). Rather than failing these applicants in IE for these administrative oversights and thus requiring them to go through EE, which could have extended the timeline for the application and incurred more cost for the Program, ICANN implemented the Outreach process to allow applicants the opportunity to address the administrative oversights within IE. Although the Outreach process typically added an additional four weeks to the application's IE timeline, that four weeks was insignificant compared to the four or more months that EE would have required. Overall, the Outreach process allowed 243 of 281 applications to successfully pass IE.

## Evaluation Results

The structure of the final results provided by the evaluation panels to ICANN was designed and defined by the respective evaluation panels and varied by evaluation panel in terms of the level of detail provided within the report. ICANN consolidated the final results into one Initial Evaluation report per application. Because ICANN's consolidated evaluation report was based on the data provided to ICANN by the individual evaluation panels, different sections of the report included different levels of detail. For example, the Registry Services, Technical and Operational Capability, and Financial Capability evaluation panels provided detailed rationale for the results, but the other evaluation panels only provided their final determinations.

Because the Financial Capability and Technical and Operational Capability evaluation panels provided detailed rationale for the determinations and the rationale contained information about confidential parts of the applications, two versions of the IE reports were necessary. One version was for the applicant and contained all rationale and determinations from all evaluation panels. The second was a public-facing version that excluded confidential information, which was published on the New gTLD microsite.<sup>56</sup>

### 2.1.4.2 EVALUATION TIMELINE

AGB Sections 1.1.2.5 and 1.1.2.8 described the anticipated timelines for IE and EE, respectively. Each of these processes was expected to take approximately five months to complete if the volume of applications received was less than 500. The AGB contemplated that if the volume significantly exceeded 500, a process for "batching" applications would be used. The first batch would include 500 applications, and the subsequent batches would include 400 applications. Using the batching method contemplated by the AGB, Initial Evaluation would have taken an estimated 25 months to complete for 1,930 applications—an initial batch of 500 applications, and four subsequent batches, each taking five months to complete.

After consultation with the community, ICANN implemented a process for prioritizing applications and processing them in smaller batches based on priority number (see Section 1.2: Prioritization of this

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<sup>56</sup> ICANN. New gTLD Current Application Status. Retrieved from <https://gtldresult.icann.org/application-result/applicationstatus>

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report).<sup>57</sup> ICANN used priority numbers to provide predictability within the evaluation process for applicants. For example, ICANN published a schedule of CQs and issued them for approximately 100 applications at a time.<sup>58</sup>

Using prioritization, the first set of IE results was published on 22 March 2013, 10 months after the application window closed on 30 May 2012.<sup>59,60</sup> Results for 98% of applications were published by 30 August 2013, and the last IE results were published in November 2013, 18 months after the application window closed.

#### **2.1.4.4 QUALITY CONTROL**

The quality and consistency of the evaluation process was a very important consideration for ICANN. Quality Assurance was a line item in the first New gTLD Program budget draft.<sup>61</sup>

The primary objectives of the Quality Program were to measure and support consistency and quality in evaluation processes and outcomes. The Quality Program was administered by JAS Global Advisors, which delivered its final report on 26 August 2014, including a detailed description of the quality control processes used and the findings of the Quality Program.<sup>62</sup>

The Quality Control procedure had two main components: the blind content inspection and the blind procedural inspection.

The blind content inspection was performed for the Financial and Technical & Operational evaluation panels in parallel with the evaluation processes. It consisted of a secondary review performed by the Quality Control panel for a randomly selected 15% of applications. For these applications, the application materials were reviewed in their entirety by both the primary firm and the Quality Control firm. Based on the review, both firms independently wrote CQs (if applicable) for the applications. The primary firm sent all CQs to ICANN for review prior to issuance. ICANN and the Quality Control firm then reviewed the primary firm's CQs. If the Quality Control firm informed ICANN that there were CQ discrepancies, or if ICANN identified any issues with the primary firm's CQs, the primary firm was asked to review their CQs and resubmit them if necessary. The applicants' CQ responses were reviewed by the primary and Quality Control firms independently. Preliminary final results were submitted to ICANN, which were made available to the Quality Control firm for comparison against its own evaluation. Of the 274 applications sampled, there were five discrepancies in terms of the outcome (pass/fail) at the panel level. However, Applicant Outreach was performed for these applications, and there were no discrepancies in outcomes after the Outreach process was completed.

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<sup>57</sup> ICANN. (10 October 2012) Use of a Drawing for Prioritizing New gTLD Applications. Retrieved from <https://www.icann.org/resources/pages/drawing-prioritization-2012-10-10-en>

<sup>58</sup> ICANN. (11 January 2011) New gTLD Applicant Webinar: Status Update. Retrieved from <http://newgtlds.icann.org/en/applicants/webinar-11jan13-en.pdf>

<sup>59</sup> ICANN. (22 May 2012). Announcement: Initial Evaluation Results Released from First Set of Applications. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-22mar13-en>

<sup>60</sup> ICANN. (30 May 2012). Announcement: New gTLD Update (30 May 2012). Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-3-30may12-en>

<sup>61</sup> ICANN. (1 June 2010). New gTLD Program Explanatory Memorandum: New gTLD Budget. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/new-gtld-budget-28may10-en.pdf>

<sup>62</sup> JAS Global Advisors. (26 August 2014) gTLD Application Processing: Initial Evaluation Quality Program Report. Retrieved from <http://newgtlds.icann.org/en/program-status/application-results/ie-quality-program-26aug14-en.pdf>

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The blind procedural inspection was performed for the String Similarity, DNS Stability, Geographic Names, Registry Services, Technical and Operational Capability, and Financial Capability evaluations. ICANN and the panel firms developed procedural checklists based on the Program's requirements and the Panels' defined processes. Thirty-five percent of applications were randomly selected to be inspected against the checklist. The sampling was based on the number of applications receiving a priority number for the DNS Stability, Geographic Names, Registry Services, Technical and Operational Capability, and Financial Capability evaluations. Because the String Similarity panel operated on unique strings, the sampling was 35% of 1,388, the number of unique strings at the start of Initial Evaluation. The overall procedural compliance rate was 100% for the String Similarity panel and 99.84% for all other panels.

The existence of the Quality Program supported consistency in the evaluation process because it required all evaluation panels to define their processes and to be accountable for following them. Further, the Quality Program supported high-quality evaluations by requiring advanced preparation, calibration, and discussion of the evaluation among panel firms. The consistency and quality achieved within the evaluation process were validated by the Quality Report.

## 2.1.5 Conclusion

Although the 1,930 applications submitted for new gTLDs was a much higher volume than anticipated, ICANN completed IE in less time than the AGB provided for this volume of applications. However, the application volume still extended the Program timeline significantly, as IE was not complete until 18 months after the application window closed. During evaluation, ICANN worked with the evaluation panels to develop processes and procedures that would support a consistent and high-quality evaluation for all applications.

During Initial Evaluation, there were approximately 285 applications that did not meet the AGB criteria after COs had been issued and reviewed. Two-hundred and eighty-one of these applications had administrative issues that prevented them from successfully passing IE. ICANN implemented an Outreach process to allow these applicants to address administrative issues within the IE timeline. Although this Outreach process was not provided for in the AGB, it allowed 243 applications to correct the administrative issues and pass IE instead of going to EE. There was a significant amount of time saved for the applicants, and a cost savings achieved for the Program by allowing these applicants to address the administrative issues within IE. Consideration should be given as to whether to include such a process in future application rounds, and to account for it in evaluation timelines.

The Initial Evaluation Quality Program demonstrated that a high level of consistency and quality in evaluations was achieved. Critical to this achievement was appropriate preparation for the evaluation panels, including pilots, training, and the development of detailed procedures. When developing the timeline for evaluation in future application rounds, consideration should be given to the amount of time that these pre-evaluation phases require, so that the panels have reasonable amounts of time to prepare for a high-quality evaluation.

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In summary:

**2.1.a** Work with evaluation panels to perform pre-evaluation training and develop detailed procedures to ensure consistent and quality evaluations are achieved

**2.1.b** Program processes that allow for additional communication between the applicant and ICANN, such as the Applicant Outreach process used in evaluation, may be beneficial

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## 2.2 Background Screening

### 2.2.1 Introduction

Background screening was a review performed on all applying entities, and all individuals and organizations disclosed in Questions 9-11 of the application, which included officers and directors of the applying entities, in addition to shareholders owning a significant stake in the entity.

### 2.2.2 Relevant Guidance

The following guidance is relevant to the topic of Background Screening and will be discussed in further detail in Sections 2.2.3 and 2.2.4 of this report:

- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*<sup>63</sup>

- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”
- GNSO Implementation Guideline L: “The use of personal data must be limited to the purpose for which it is collected.”
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>64</sup>
- Applicant Guidebook, Section 2.1: Background Screening
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria

### 2.2.3 Background

Background screening was a review put in place to help protect the public interest during the allocation of critical Internet resources. It was performed on all applying entities and all individuals and organizations disclosed in Questions 9-11 of the application, which included officers and directors of the applying entities, in addition to shareholders owning a significant stake in the entity. In support of GNSO Implementation Guideline L, and in recognition of the sensitive nature of the information, ICANN treated this information with care and only used it for the purpose of background screening and when required for application processing.

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<sup>63</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>64</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

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ICANN engaged an independent third-party service provider, PricewaterhouseCoopers (PwC), to perform background screening against criteria in Section 2.1.1 of the Applicant Guidebook in the following two areas:

1. General business diligence and criminal history
2. History of cybersquatting behavior

Background screening was performed as part of Initial Evaluation (IE). IE processes are described in detail in Section 2.1: Initial and Extended Evaluation of this report. Authorization for ICANN to perform background screening was provided by the applicant when it signed and agreed to the terms and conditions for participating in the New gTLD Program.<sup>65,66,67</sup> In order to perform background screening, ICANN collected information on the legal establishment of the applying entity, as well as the identification of directors, officers, partners, and major shareholders. The names and positions of individuals included in the application were published as part of the application, but other information collected about the individuals was not published.

Results of background screening were included in the IE reports. Where there were issues identified during background screening, applicants were given the opportunity to address them during IE. The AGB described the background screening process as one required to determine eligibility in the New gTLD Program. As such, background screening was not an evaluation eligible for EE. The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application had to resolve (e.g., contention resolution, dispute resolution).

## 2.2.4 Assessment

Background screening was a mitigation measure intended to ensure that individuals and entities with criminal backgrounds, history of cybersquatting behavior, or other similar serious issues were not entrusted with TLDs.

Section 2.1.1 of the AGB defined specific criteria for background screening. The areas of background screening that were performed were general business diligence, criminal history, and history of cybersquatting behavior. The same criteria were used to evaluate all applicants. However, the Section 2.4.4 of the AGB stated, “Applying entities that [were] publicly traded corporations listed and in good standing on any of the world’s largest 25 stock exchanges [ . . . ] [would] be deemed to have passed the general business diligence and criminal history screening.” This distinction was based on the idea that publicly listed corporations were regulated by their exchanges and subject to ongoing scrutiny, which met or exceeded ICANN’s criteria.

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<sup>65</sup> ICANN. New gTLD Program Personal Data Privacy Statement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/program-privacy>

<sup>66</sup> ICANN. Top-Level Domain Application Terms and Conditions. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/terms>

<sup>67</sup> ICANN. TLD Application System: Terms of Use – Applicants. Retrieved from <http://newgtlds.icann.org/en/applicants/tas/terms>

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The AGB criteria relating to top-25 exchanges referred specifically to the applying entity, but the individuals (officers, directors) associated with these publicly traded entities were not considered as being exempt from the general business diligence and criminal history screening.

Within the application, ICANN collected specific information from applicants regarding individuals associated with the application. This was based on direct input from the background screening provider, regarding the minimum amount of information required to run a meaningful background screen. ICANN received feedback from applicants who did not want to provide personal information for officers and directors. In particular, some applicants indicated that performing a background screen on their officers and directors was not necessary, as they were required to meet a higher standard by the exchanges on which they were traded.

As background screening was performed at the entity level, although there were 1,930 applications, background screens were performed on approximately 1,150 entities.

In cases where additional information was required, the background screening panel issued Clarifying Questions (CQs) to the applicant. Once the panel had reviewed all application materials and CQ responses, the panel provided a report to ICANN. ICANN evaluated the report against the criteria in the AGB, and incorporated the results into the IE report. IE reports were released on a weekly basis, by application prioritization number (see Section 1.2: Prioritization of this report).

The AGB anticipated that IE would take five months. As the IE timeline was extended to 18 months due to the high volume of applications, the number of applications that required a rescreening was much higher than anticipated. Both during IE and beyond (during the Contracting process), many background screens had to be re-performed because of changes due to the normal course of business. Between August 2013 and July 2015, approximately 34 percent of over 1,200 change requests submitted resulted in background screening being re-performed. The high percentage could be attributed to the large gap in time between completion of IE and execution of the Registry Agreement (RA),<sup>68</sup> during which many changes occurred as part of the normal course of business. These changes created work for the applicant (to update the information in the application) and for ICANN (to re-perform the background screen). Additionally, the changes added to the cost of retaining the service provider, including the incremental cost of performing additional background screenings.

After IE results had been published, ICANN reserved the right to perform additional due diligence as required, such as before executing a Registry Agreement or after a change to certain application responses.

## 2.2.5 Conclusion

Background screening was performed in alignment with the AGB. While the process was successful in that it provided an opportunity for all applicants to be screened, observations from implementation suggest that there are opportunities for improvement to the background screening process to make it more effective.

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<sup>68</sup> As of 31 July 2015, 59% of applicants signed the Registry Agreement within the allotted 9-month window.

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Background screening was performed during IE. This timing was intended to prevent applicants that did not meet the eligibility criteria from progressing beyond IE and participating in downstream processes which could affect other applicants (e.g., objections, contention resolution). However, the time between the application submission deadline and the signing of Registry Agreements was longer than anticipated. This elongation of the time period required many applicants to submit application changes occurring during the normal course of business (e.g., officer and director changes) and thus require the background screening to be re-performed. Consideration should be given as to whether background screening should be performed as part of evaluation or at the time of Contracting in order to minimize the number of application updates and background screenings.

ICANN interpreted Section 2.1.1 of the AGB, which deemed that applicants that were traded on top-25 exchanges had passed the general business diligence and criminal history screening, to apply to the applying entity but not the individuals associated with the applying entity. Some applicants commented that they did not want to provide personal information on their officers and directors, and indicated that performing a background screen on their officers and directors was not necessary, as they were required to meet a higher standard by the exchanges on which they were traded. For future rounds, consideration should be given as to whether the procedures and criteria could be adjusted to account for a meaningful background screen in a variety of cases (e.g., newly formed entities, publicly traded companies, companies in jurisdiction that do not provide readily available information).

In summary:

**2.2.a** Consider whether background screening should be performed during IE or at the time of contract execution

**2.2.b** Consider whether the background screening procedures and criteria could be adjusted to account for a meaningful review in a variety of cases (e.g., newly formed entities, publicly traded companies, companies in jurisdictions that do not provide readily available information)

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## 2.3 String Similarity Evaluation

### 2.3.1 Introduction

The String Similarity evaluation was a review to determine whether applied-for strings were visually similar to existing TLDs, Reserved Names, or other applied-for strings.

### 2.3.2 Relevant Guidance

The following guidance is relevant to the topic of the String Similarity evaluation and will be discussed in further detail in Sections 2.3.3 and 2.3.4 of this report:

- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*<sup>69</sup>

- GNSO Recommendation 2: "Strings must not be confusingly similar to an existing top-level domain or a Reserved Name."
- GNSO Recommendation 5: "Strings must not be a Reserved Word."
- GNSO Recommendation 9: "There must be a clear and pre-published application process using objective and measurable criteria."
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>70</sup>
- Applicant Guidebook, Section 2.2.1.1: String Similarity Review
- Applicant Guidebook, Section 2.4: Parties Involved in Evaluation
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria
- ICANN Board New gTLD Program Committee Resolution 2013.06.25.NG07 (25 June 2013): Singular & Plural Versions of the Same String as a TLD<sup>71</sup>

### 2.3.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE,

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<sup>69</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-part-a-o8aug07.htm>

<sup>70</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>71</sup> ICANN. (25 June 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-06-25-en#2.d>

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and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (i.e., contention resolution, dispute resolution).

GNSO Recommendation 2 stated, “Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.” The String Similarity evaluation was developed in support of this recommendation, which reviewed applied-for strings for visual similarity to existing, reserved, and other applied-for strings. As a result of the multistakeholder process, the criteria for the String Similarity evaluation were limited to review visual similarity, taking into account that the overall application process accounted for all forms of similarity. The String Similarity evaluation during IE was considered a preliminary review “to identify many instances of contention [multiple applications for one string] or user confusion as soon as possible in the process.”<sup>72</sup>

AGB Section 2.2.1.1.2 further explained user confusion:

*String confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.*

Section 2.2.1.1.3 of the AGB defined the potential outcomes of the String Similarity evaluation as:

- An applicant would not be allowed to proceed if visual similarity to existing TLDs or Reserved Names is determined
- An applicant would be placed into a contention set with other applicants for strings that were determined to be exact matches or visually similar
- An applicant would not be placed into a “contention set” and would move on to the next stage of the Program if not determined to be an exact match or visually similar to any other strings (existing or applied-for)

ICANN engaged independent third-party providers, InterConnect Communications and the University College London, to act as the String Similarity evaluation panel. For more information, see Section 8.2: Service Provider Coordination of this report. To inform the panel’s review, ICANN also used the SWORD Algorithm, which was designed to be a “consistent and predictable tool [. . .] to inform the ‘string confusion’ element of the new gTLD project.”<sup>73</sup> The SWORD Algorithm also provided opportunities for the applicants to inform themselves, as it was available to applicants prior to application submission and during the evaluation period. As described in Section 2.2.1.1.2 of the AGB, “it should be noted that the [SWORD] score [was] only indicative and that the final determination of similarity [was] entirely up to the Panel’s judgment.” Accordingly, the panel incorporated the SWORD Algorithm into its processes, but ultimately the expert evaluators made the determination.

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<sup>72</sup> ICANN. (18 February 2009). New gTLD Draft Applicant Guidebook: Analysis of Public Comment. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf>

<sup>73</sup> ICANN. (1 October 2008) Minutes of the Special Meeting of the ICANN Board of Directors. Retrieved from [https://www.icann.org/resources/board-material/minutes-2008-10-01-en?routing\\_type=path](https://www.icann.org/resources/board-material/minutes-2008-10-01-en?routing_type=path)

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While the String Similarity evaluation was limited to visual similarity, the String Confusion Objection process allowed parties to object to applications based on visual and other types of similarity. For more information, see Section 3.2: Objections and Dispute Resolution of this report.

String Similarity results were published on 26 February 2013.<sup>74</sup>

## 2.3.4 Assessment

String Similarity evaluation results were published later than originally scheduled by ICANN. At the ICANN 45 meeting in October 2012, ICANN had forecast the String Similarity evaluation to be completed in November of that year.<sup>75</sup> AGB Section 2.2.1.1.1 had contemplated that String Similarity evaluation results would be published prior to IE results. String Similarity evaluation results were published on 26 February 2013.<sup>76</sup> This delay was due to the volume of unique strings--there were 1,380 unique applied-for strings, resulting in over 1,000,000 combinations requiring review. In order to ensure the results were consistent, ICANN required additional time for administrative review to understand results before publicizing them.

The String Similarity evaluation results were consistent with the AGB-described outcomes. A string found to be confusingly similar to an existing TLD, a Reserved Name or a String on the “Ineligible for Delegation List” from Section 2.2.1.2.3 of the AGB did not pass the String Similarity evaluation. Applied-for strings found to be confusingly similar to other applied-for strings were placed in contention sets, along with strings that were determined to be IDN variants of one-another. Upon the completion of the review of all applications, results were released on 26 February 2013 in which the panel identified two non-exact match contention sets (.HOTELS/.HOTEIS and .UNICORN/.UNICOM) and 230 exact match contention sets.<sup>77</sup> On 1 March 2013, an additional two non-exact match contention sets based on IDN variant relationships were published.<sup>78</sup> In total, the String Similarity evaluation identified 234 contention sets, composed of 754 applications.

There was one area in particular where several in the community indicated dissatisfaction with the results, which was in regard to singular and plural versions of strings (which were not found to be confusingly similar by the panel).<sup>79</sup> However, neither GNSO Policy nor the AGB defined a specific rule regarding singular and plural versions of a string. As the String Similarity evaluation panel did not find singular and plural versions of the strings to be visually confusingly similar, based on the standard specified in Module 2, ICANN accepted the expert recommendations of the panel.

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<sup>74</sup> ICANN. (26 February 2013) Announcement: New gTLD Program: String Similarity Contention Sets. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-26feb13-en>

<sup>75</sup> ICANN. (8 October 2012) Information Paper: New gTLD Update (Toronto Session). Retrieved from <http://toronto45.icann.org/meetings/toronto2012/presentation-new-gtld-update-08oct12-en.pdf>

<sup>76</sup> ICANN. (26 February 2013) Announcement: New gTLD Program: String Similarity Contention Sets. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-26feb13-en>

<sup>77</sup> ICANN. (26 February 2013) Announcement: New gTLD Program String Similarity Contention Sets. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-26feb13-en>

<sup>78</sup> ICANN. (1 March 2013) New gTLD String Similarity Contention Sets as of 1 March 2013. Retrieved from <http://newgtlds.icann.org/en/program-status/application-results/similarity-contention-01mar13-en.pdf>

<sup>79</sup> ICANN At-Large Advisory Committee. (16 September 2013) ALAC Statement on Confusingly Similar gTLD. Retrieved from <http://www.atlarge.icann.org/correspondence/correspondence-16sep13-en.htm>

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Following the publication of the String Similarity results, the ICANN Board considered the issue based on community feedback through public comment at ICANN meetings and advice from the GAC.<sup>80</sup> After deliberating the issue, the ICANN Board New gTLD Program Committee determined “no changes to the AGB [were] needed to address potential consumer confusion specifically resulting from allowing singular and plural versions of the same string.”<sup>81</sup> However, the ICANN Board identified string similarity as a topic that may be appropriate for the GNSO’s discussion of evaluation in the current round and adjustments for future application procedures.<sup>82</sup>

As mentioned in Section 2.3.3. Background, applicants that were dissatisfied with the results of the panel’s review had the option to pursue a String Confusion Objection to create contention between two applications. Several applicants took advantage of this process, and some objections considered singular and plural versions of strings. For more information on String Confusion Objections, see Section 3.2: Objections and Dispute Resolution of this report.

## 2.3.5 Conclusion

The String Similarity evaluation was performed in alignment with the criteria and processes defined in the AGB. Dissatisfaction was expressed by the community in regards to the timing of the results and the results themselves.

The results were released two weeks before the deadline to file a String Confusion Objection, so parties who wished to file a String Confusion Objection based on the results of the String Similarity Review (i.e., create contention where the String Similarity evaluation did not) had a limited amount of time to prepare an objection. The delayed String Similarity results in this round were caused by the high volume of unique strings, but for future rounds, consideration should be given to how to best position the relative timing of these two processes, taking into consideration unknown factors such as the volume of unique strings.

Regarding the evaluation results, the GAC and the ALAC raised concerns regarding the similarity of certain cases of “singular and plural versions of the same string.” The ICANN Board passed a resolution stating that “Due to perceived inconsistency in process results as well as questions about the means used for determining what is confusingly similar (e.g., assessing similarity between singular and plural strings), this is an area where further policy guidance could be provided.”<sup>83</sup>

In regard to IDN variants, the String Similarity evaluation panel found two sets of potential IDN variants. Once the Root Zone Label Generation Rules have been established, ICANN should leverage these rules to definitively determine IDN variants among the applied-for strings.

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<sup>80</sup> ICANN Governmental Advisory Committee. (11 April 2013) GAC Communiqué – Beijing, People’s Republic of China. Retrieved from <https://www.icann.org/en/system/files/correspondence/gac-to-board-18apr13-en.pdf>

<sup>81</sup> ICANN. (25 June 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-06-25-en#2.d>

<sup>82</sup> ICANN. (17 November 2014). Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

<sup>83</sup> ICANN. (17 November 2014). Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

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In summary:

**2.3.a** Review the relative timing of the String Similarity evaluation and the Objections process

**2.3.b** Consider any additional policy guidance provided to ICANN on the topic of String Similarity

**2.3.c** Leverage the Root Zone Label Generation Rules in the development of the String Similarity evaluation as it pertains to IDN variants

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## 2.4 DNS Stability Evaluation

### 2.4.1 Introduction

The DNS Stability evaluation was designed to ensure that applied-for gTLD strings complied with technical, IDN, and policy requirements, and to ensure that a string did not cause significant security or stability issues.

### 2.4.2 Relevant Guidance

The following guidance is relevant to the topic of the DNS Stability evaluation and will be discussed in further detail in Sections 2.4.3 and 2.4.4 of this report:

- GNSO Principle B: “Some new generic top-level domains should be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.”<sup>84</sup>

- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*

- GNSO Recommendation 4: “Strings must not cause any technical instability.”
- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>85</sup>
- Applicant Guidebook, Section 2.2.1.3: DNS Stability Review
- Applicant Guidebook, Section 2.4: Parties Involved in Evaluation
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria
- ICANN Board New gTLD Program Committee Resolution 2014.07.30.NGo1 - 2014.07.30.NGo4 (30 July 2014): Name Collision Occurrence Management Framework<sup>86</sup>

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<sup>84</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>85</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>86</sup> ICANN. (30 July 2014) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-07-30-en>

## 2.4.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (i.e., contention resolution, dispute resolution).

The DNS Stability evaluation criteria were designed to identify labels that did not meet minimum technical criteria for TLD labels and as a result, might cause technical instability in the DNS. The AGB criteria were developed in support of GNSO Principle D and GNSO Recommendation 4, and public comment was solicited for the DNS Stability paper published in February 2008 and updated in October 2008.<sup>87,88</sup> ICANN engaged an independent third-party service provider, Interisle Consulting Group, to act as the DNS Stability panel. For more information about the panel, see Section 8.2: Service Provider Coordination of this report.

The DNS Stability evaluation was performed as part of Initial Evaluation (IE). IE processes are described in detail in Section 2.1: Initial and Extended Evaluation of this report.

Section 2.2.1.3.1 of the AGB stated,

*During the Initial Evaluation Period, ICANN [would] conduct a preliminary review on the set of applied-for gTLD strings to:*

- *ensure that applied-for gTLD strings comply with the requirements provided in section 2.2.1.3.2, and*
- *determine whether any strings raise significant security or stability issues that may require further review.*

Section 2.2.1.3.2 of the AGB defined the syntactical requirements for strings.

- Part I, the Technical Requirements for all Strings, required that the ASCII label be valid (as specified in RFC 1035 and RFC 2181), and that the ASCII label be a valid host name (as specified in RFC 952, RFC 1123, RFC 3696, and RFCs 5890-5894). These requirements included the following syntactical rules: 63-character limit, identical treatment of upper- and lowercase letters, only alphabetic characters A-Z, and valid IDNA A-labels only.
- Part II, the Requirements for Internationalized Domain Names, required that for IDN labels, labels must be A-labels converted from a U-label consistent with the definition in IDNA and must meet the relevant criteria of the ICANN Guidelines for the Implementation of Internationalised Domain Names.<sup>89</sup>

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<sup>87</sup> ICANN. (6 February 2008) Announcement: Public Comments Requested on DNS Stability: The Effect of New gTLDs on the Internet Domain Name System. Retrieved from <https://www.icann.org/news/announcement-2008-02-06-en>

<sup>88</sup> ICANN. (22 October 2008) New gTLD Program Explanatory Memorandum: Update to DNS Stability Paper. Retrieved from <http://archive.icann.org/en/topics/new-gtlds/update-dns-stability-22oct08-en.pdf>

<sup>89</sup> ICANN. IDN Implementation Guidelines. Retrieved from <https://www.icann.org/resources/pages/implementation-guidelines-2012-02-25-en>

- Part III, Policy Requirements for Generic Top-Level Domains, required that applied-for ASCII strings must be three or more characters, and that applied-for IDN strings must be two or more characters.

Should unanticipated issues have arisen beyond the defined requirements of AGB Section 2.2.1.3.2, the AGB provided for an extended review by the DNS Stability panel during IE. However, each string was reviewed against the AGB criteria in accordance with the panel's procedures, and none of the applied-for strings required the extended review.

Results of the DNS Stability review were included in the IE reports. Applications that did not pass the DNS Stability Review were not eligible for Extended Evaluation (EE). However, all applications passed the DNS Stability Review in IE.

## 2.4.4 Assessment

The implementation of the DNS Stability review brought to light one issue with interpretation and scope of the review, referred to as "name collision." The AGB contemplated the potential for collisions, and discussed it as a problem that a potential registry operator must prepare for from a query load perspective:

*Any new TLD registry operator may experience unanticipated queries, and some TLDs may experience a non-trivial load of unanticipated queries. [ . . . ]*

*ICANN will take steps to alert applicants of the issues raised in SACo45, and encourage the applicant to prepare to minimize the possibility of operational difficulties that would pose a stability or availability problem for its registrants and users. However, this notice is merely an advisory to applicants and is not part of the evaluation, unless the string raises significant security or stability issues as described in the following section.<sup>90</sup>*

The DNS Stability evaluation panel completed its work in January 2013 and determined no strings should be ineligible for delegation based on its review.

In March 2013, ICANN's Security and Stability Advisory Committee (SSAC) issued a report SAC 057: SSAC Advisory on Internal Name Certificates, wherein the SSAC referred to the issue of "name collision" and provided the ICANN Board with steps for mitigating the issue.<sup>91</sup> To formulate a plan to address the issue, ICANN enlisted broad community participation in the development of a solution, to further study the impact on applied-for strings (the SSAC's list was not exhaustive).

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<sup>90</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Section 2.2.1.3: DNS Stability Review. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>91</sup> ICANN Security and Stability Advisory. (15 March 2013) SAC057: SSAC Advisory on Internal Name Certificates. Retrieved from <https://www.icann.org/en/system/files/files/sac-057-en.pdf>

Over the next year, ICANN worked with the community and the SSAC on a mitigation plan. The work included a study of the historical query traffic,<sup>92</sup> a mitigation development effort, and the development of educational materials for IT administrators. On 17 November 2013, ICANN began implementing an interim mitigation approach,<sup>93</sup> termed the “alternate path to delegation” as described in the New gTLD Name Collision Occurrence Management Plan,<sup>94</sup> which allowed most strings to move ahead to delegation with a set of restrictions for second-level names, while the final mitigation plan was further developed by ICANN and the community. On 30 July 2014, the ICANN Board New gTLD Program Committee (NGPC) adopted a resolution directing staff to defer delegation of the high-risk strings (i.e., HOME, CORP, MAIL) indefinitely, and outlined procedures for Controlled Interruption for new gTLDs.<sup>95</sup> On 30 July 2014, ICANN published the Name Collision Management Framework.<sup>96</sup> In the Framework, ICANN described its interest in “providing a good notification measure for those parties that may be leaking queries intended for private namespaces to the public DNS” and required that registry operators implement a period of 90 days of continuous controlled interruption to mitigate risk.

ICANN took numerous steps to minimize the potential impact of name collision. A mitigation plan was implemented for this round, and the NGPC has directed ICANN to “work with the GNSO to consider whether policy work on developing a long-term plan to manage gTLD name collision issues should be undertaken.”<sup>97</sup>

Much of the work performed during the DNS Stability evaluation related to IDNs. Since the DNS Stability evaluation during IE, considerable work has been conducted on establishing Root Zone Label Generation Rules, which are procedures for creating and maintaining the label generation rules with respect to IDN labels for the root.<sup>98,99</sup> Any future instances of the DNS Stability review should incorporate or ensure compliance with such rules.

## 2.4.5 Conclusion

The DNS Stability evaluation was performed in alignment with the AGB. The review was able to assess many different potential issues, and narrower criteria could limit its ability to identify as many concerns that relate to a particular string.

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<sup>92</sup> Interisle Consulting Group, LLC. (2 August 2013). Name Collision in the DNS. Retrieved from <https://www.icann.org/en/system/files/files/name-collision-02aug13-en.pdf>

<sup>93</sup> ICANN. (17 November 2013) Announcement: Reports for Alternate Path to Delegation Published. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-2-17nov13-en>

<sup>94</sup> ICANN. New gTLD Collision Occurrence Management. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-07oct13-en.pdf>

<sup>95</sup> ICANN. (30 July 2014) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-07-30-en#1.a>

<sup>96</sup> ICANN. (30 July 2014). Name Collision Occurrence Management Framework. Retrieved from <https://www.icann.org/en/system/files/files/name-collision-framework-30jul14-en.pdf>

<sup>97</sup> ICANN. (30 July 2014). Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-07-30-en#1.a>

<sup>98</sup> ICANN. (27 April 2015) Guidelines for Designing Script-Specific Label Generation Rules for the Root Zone. Retrieved from <https://www.icann.org/news/announcement-3-2015-04-27-en>

<sup>99</sup> ICANN. (2013 March 20) Procedure to Develop and Maintain the Label Generation Rules for the Root Zone in Respect of IDNA Labels. Retrieved from <https://www.icann.org/en/system/files/files/lgr-procedure-20mar13-en.pdf>

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In this application round, most of the processes in the DNS Stability evaluation related to IDNs. Once the Root Zone Label Generation Rules for IDNs are established, this will reduce the amount of review required for IDNs. Once the Root Zone Label Generation Rules for IDNs are adopted, the DNS Stability Review should leverage these rules and incorporate checks to ensure that the Root Label Generation Rules for IDNs are adhered to.

The Name Collision Occurrence Management Framework provided a plan for registry operators to mitigate the risk of name collision through the use of controlled interruption periods at the time of TLD introduction to the root zone. The NGPC has directed ICANN to “work with the GNSO to consider whether policy work on developing a long-term plan to manage gTLD name collision issues should be undertaken.”<sup>100</sup>

In summary:

**2.4.a** As directed in the NGPC’s 30 July 2014 resolution, “work with the GNSO to consider whether policy work on developing a long-term plan to manage gTLD name collision issues should be undertaken.”<sup>101</sup>

**2.4.b** Based on the outcome of the GNSO’s work, consider inclusion of the Name Collision Management Framework in the next application round prior to accepting applications<sup>102</sup>

**2.4.c** Leverage the Root Zone Label Generation Rules for IDNs in the DNS Stability evaluation

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<sup>100</sup> ICANN (30 July 2014). Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-07-30-en#1.a>

<sup>101</sup> ICANN (30 July 2014). Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-07-30-en#1.a>

<sup>102</sup> ICANN. (30 July 2014). Name Collision Occurrence Management Framework. Retrieved from <https://www.icann.org/en/system/files/files/name-collision-framework-30jul14-en.pdf>

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## 2.5 Geographic Names Evaluation

### 2.5.1 Introduction

The Geographic Names evaluation was an aspect of the New gTLD Program intended to ensure that appropriate consideration was given to the interests of governments and authorities in regards to strings representing geographic areas.

### 2.5.2 Relevant Guidance

The following guidance is relevant to the topic of the Geographic Names evaluation and will be discussed in further detail in Sections 2.5.3 and 2.5.4 of this report:

- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*

- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”
- Applicant Guidebook, Section 2.2.1.4: Geographic Names Review<sup>103</sup>
- Applicant Guidebook, Section 2.4: Parties Involved in Evaluation
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria

### 2.5.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (i.e., contention resolution, dispute resolution).

The Geographic Names criteria in the AGB criteria were developed based on advice from the GAC.<sup>104</sup> The GAC Principles Regarding New gTLDs stated, “ICANN should avoid country, territory or place

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<sup>103</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>104</sup> ICANN. (22 October 2008) New gTLD Program Explanatory Memorandum: Proposed Process for Geographic Name Applications. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/geographic-names-22oct08-en.pdf>

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names, and country, territory or regional language or people descriptions, in agreement with the relevant governments or public authorities.”<sup>105</sup>

Question 21 of the application provided applicants with the opportunity to identify whether their application was intended to be for a geographic name. The Geographic Names evaluation was performed by InterConnect Communications (partnered with the University College London) and the Economist Intelligence Unit. For more information, see Section 3.2: Service Provider Coordination of this report.

The Geographic Names panel took note of the applicant’s self-designation. However, the panel evaluated all strings and applications and made its own determination based on the criteria in the AGB. Per Section 2.2.1.4 of the AGB:

- Applications for strings that were country or territory names were not approved.
- Strings representing geographic names required documentation of support or non-objection from the relevant governments or public authorities. Geographic names were:
  - Capital city names
  - City names, where the applicant intended to use the gTLD for purposes associated with the city
  - Strings that were exact matches of sub-national places (e.g., counties, provinces, states)
  - Strings for regions (as defined by internationally recognized lists)

In cases where the panel determined that an application met the criteria for a geographic name requiring government support, the Panel confirmed that the letters of support or non-objection met the defined criteria, and validated that they were sent by the appropriate authority. The Geographic Names evaluation was part of Initial Evaluation (IE) and eligible for Extended Evaluation (EE).

Of the 1,930 submitted applications:

- 66 applicants designated their applications as geographic names.
- The panel determined that six of the applications that had been self-designated geographic names did not meet the criteria for geographic names requiring government support, so no letters of support or non-objection were required.
- The panel determined that three applications that were not designated by the applicants as geographic names met the criteria of geographic name requiring government support.

The results for the Geographic Names evaluation were published on a weekly basis by priority number with IE and EE reports.

The geographic names designation (whether designated by the applicant or the panel) did not have any contractual obligations associated with it.

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<sup>105</sup> ICANN Governmental Advisory Committee. (28 March 2007) GAC Principles regarding New gTLDs. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/gac-principles-regarding-new-gtlds-28mar07-en.pdf>

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## 2.5.4 Assessment

The Geographic Names panel performed its evaluation in accordance with the AGB and the processes defined by the panel.<sup>106</sup>

To support predictability and transparency, much of the Geographic Names criteria were based on established international classification lists (e.g., the ISO 3166-1 standard was used to identify names for countries and territories; the UNESCO region list<sup>107</sup> identified regions). The only exceptions to this were for applications for non-capital city names.

Applications for non-capital city names were required to provide documentation of government support in cases “where the applicant declare[d] that it intend[ed] to use the gTLD for purposes associated with the city name.”<sup>108</sup> Evaluation against this criterion required review of the proposed TLD’s intended purpose and a determination of whether this purpose related to the city.

The Geographic Names panel issued its Clarifying Questions in February 2013. Applicants were advised that the responses were due by the end of IE, which was projected to be 30 August 2013.

The AGB described the Geographic Names review as occurring within the timeframe of IE (five months, more if batching was required), plus an additional 90-day (or longer) period to obtain required documentation if necessary.<sup>109</sup> Of the 1,820 applications that completed IE, all but seven provided the required documentation to pass Geographic Names evaluation. The seven applications that did not provide the required documentation in IE were evaluated during EE.

The applicant’s designation of a string did not have an effect on the panel’s review of the application, as the panel reviewed all applications. Further, the geographic names designation did not have any contractual obligations associated with it. (However, it should be noted that a geographic names TLD might have had a contract in place with the relevant government, and that some geographic names applications were also community applications. Geographic names TLDs that were also community TLDs had contractual obligations included through Specification 12 to the Base Registry Agreement.)<sup>110</sup>

## 2.5.5 Conclusion

The Geographic Names evaluation was performed in accordance with the AGB. The use of established international classification lists and clear criteria supported a fair evaluation and predictable process.

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<sup>106</sup> InterConnect Communications. (7 June 2013) New gTLD Program Evaluation Panels: Geographic Names - Decision Tree/Process Flow for Geographic Names Evaluation. Retrieved from

<http://newgtlds.icann.org/en/program-status/evaluation-panels/geo-names-process-07jun13-en.pdf>

<sup>107</sup> The United Nations Educational, Scientific and Cultural Organization. Regions and Countries. Retrieved from

<http://www.unesco.org/new/en/unesco/worldwide/regions-and-countries/>

<sup>108</sup> AGB Section 2.2.1.4.2: Geographic Names Requiring Government Support

<sup>109</sup> AGB Section 2.2.1.4.4: Review Procedure for Geographic Names

<sup>110</sup> ICANN. (9 January 2014) Registry Agreement. Retrieved from

<http://newgtlds.icann.org/en/applicants/agb/agreement-approved-09jan14-en.pdf>

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However, there are some questions around the intended purpose of the geographic name designation that may benefit from further community discussion. The geographic names designation was a self-designation. This designation did not have an effect on the panel's review of the application, as the panel reviewed all applications. Further, the geographic name designation did not have any contractual obligations associated with it. Consideration should be given as to the purpose of the self-designation, and whether it should be limited to evaluation or if there should be other implications.

In summary:

- 2.5.a** Consider the purpose and the implications of the Geographic Names evaluation, particularly in terms of whether its purpose is limited to evaluation or if there are other implications to the geographic names designation
- 2.5.b** Consider ongoing work by various members of the community around geographic names in defining future procedures

## 2.6 Technical and Operational Capability Evaluation

### 2.6.1 Introduction

The Technical and Operational Capability evaluation was one of the seven evaluation streams defined in the Applicant Guidebook (AGB). The technical questions in the AGB gathered information from the applicant regarding its plans for operations so that the evaluation panel could assess whether the applicant demonstrated the technical and operational capability to run a TLD.

### 2.6.2 Relevant Guidance

The following guidance is relevant to the topic of the Technical and Operational Capability evaluation and will be discussed in further detail in Sections 2.6.3 and 2.6.4 of this report:

- GNSO Principle D: “A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.”<sup>111</sup>
- GNSO Principle E: “A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN's registry agreement.”
- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*

- GNSO Recommendation 4: “Strings must not cause any technical instability.”
- GNSO Recommendation 7: “Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.”
- GNSO Recommendation 8: “Applicants must be able to demonstrate their financial and organisational operational capability.”
- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”
- GNSO Recommendation 18: “If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed.”
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>112</sup>
- Applicant Guidebook, Section 2.2.2: Applicant Reviews

<sup>111</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-part-a-08aug07.htm>

<sup>112</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agg/guidebook-full-04jun12-en.pdf>

- Applicant Guidebook, Section 2.3.2: Technical/Operational or Financial Extended Evaluation
- Applicant Guidebook, Section 2.4: Parties Involved in Evaluation
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria

## 2.6.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (i.e., contention resolution, dispute resolution).

AGB Section 2.2.2.1 required that “the applicant [would] respond to a set of questions (see questions 22 – 44 in the Application Form) intended to gather information about the applicant’s technical capabilities and its plans for operation of the proposed gTLD.” There were 30 points available. Twenty-two points were required to pass, with no zero scores on any question (other than the optional Question 44).

The AGB, Attachment to Module 2, Section III stated, “Given the requirement that technical and financial planning be well integrated, the panels will work together and coordinate information transfer where necessary.” To support this, ICANN selected the same panel firms for the Technical and Operational Capability evaluation and the Financial Capability evaluation, and allocated both sections of an application to the same panel firm. The panel firms for the Technical and Operational Capability evaluation and Financial Capability evaluation were Ernst & Young, KPMG, and JAS Global Advisors. For more information, see Section 8.2: Service Provider Coordination of this report.

The overall evaluation process was described in Module 2 of the AGB. The implementation of the evaluation process was performed in alignment with the AGB-defined processes, and has been described in further detail in Section 2.1: Initial and Extended Evaluation of this report.

Once the evaluation panels’ evaluations were complete, they presented their results to ICANN. The results reports provided by the Technical and Operational Capability evaluation panel included detailed rationale for applications that did not meet the AGB criteria. ICANN reviewed the results for consistency and to confirm that the results appeared to be in alignment with the AGB. After review, ICANN consolidated the results received from the panels for publication and to share with the applicants.

1,795 applications passed the Technical and Operational Capability evaluation during IE and eight applications were eligible for EE. Ultimately, all applications that participated in the Technical and Operational Capability evaluation during EE passed.

Once an applicant executed a Registry Agreement (RA) with ICANN, it was required to demonstrate its Technical and Operational Capability during Pre-Delegation Testing (PDT). For more information, see Section 5.2: Pre-Delegation Testing and Transition to IANA of this report.

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Additionally, all registry operators were obligated to comply with the technical specifications in the Registry Agreement (RA) upon signing of the agreement.<sup>113</sup>

## 2.6.4 Assessment

GNSO Recommendation 7 stated, “Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.” To support this, the AGB criteria in Questions 24 – 44 of the application were developed. The design of the application required applicants to consider the requirements for operating a TLD, as the responses to the Technical questions were theoretical in nature. Section 2.2.2.1 of the AGB stated, “Applicants [were] not required to have deployed an actual gTLD registry to pass the Technical/Operational review. It [would] be necessary, however, for an applicant to demonstrate a clear understanding and accomplishment of some groundwork toward the key technical and operational aspects of a gTLD registry operation.”

Although the Technical portion of the application was not designed to test actual registry operations, if the application was successful, the registry operator was ultimately required to pass PDT and demonstrate compliance with the technical specifications defined in the RA. Per the requirements of the AGB in this application round, the Technical section of the application was intended to “gather information about the applicant’s technical capabilities and its plans for operation of the proposed gTLD,” and the applicant was not required to have deployed an operational registry.

Although 1,930 applications were submitted, most shared one of a relatively small number of technical infrastructures (less than 50). In fact, 90% of applications shared one of 13 technical infrastructures (see Table 2.6.i).

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<sup>113</sup> ICANN. Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/agreement-approved-09jan14-en.pdf>

Table 2.6.i: Registry Service Providers (RSPs) Engaged

Registry Service Provider	% of Applications Using RSP
Neustar	18%
Demand Media	17%
Afilias	16%
Verisign	12%
ARI	8%
Google Registry	5%
Minds+Machines	5%
CentralNIC	3%
ISC	3%
CORE	2%
GMO	2%
Other	8%

The application process was designed so that even if an applicant chose to engage a provider to operate its back-end registry services, the applicant would be the party accountable for the application. In addition to promoting greater accountability for the applicant, the design of the application process was intended to level the playing field for new entrants to the market, whereas had the process encouraged engagement with an RSP, new entrants may have been discouraged.

Ninety percent of applications received one or more CQs from the Technical and Operational Capability panel. The table below shows the number of applications that received CQs for each question in the Technical section.

Table 2.6.ii Clarifying Questions Issued by Application Question

Technical Question	Question Description	# Applications with CO Issued	% Applications with CO Issued
Q24	Shared Registration System (SRS) Performance	54	3%
Q25	EPP	919	49%
Q26	Whois	142	8%
Q27	Registration Life Cycle	181	10%
Q28	Abuse Prevention & Mitigation	72	4%
Q29	Rights Protection Mechanisms	594	32%
Q30	Security	170	9%
Q31	Technical Overview of Proposed Registry	412	22%
Q32	Architecture	65	3%
Q33	Database Capabilities	18	1%
Q34	Geographic Diversity	24	1%
Q35	DNS Service Compliance	264	14%
Q36	IPV6 Reachability	41	2%
Q37	Data Backup Policies and Procedures	27	1%
Q38	Escrow	30	2%
Q39	Registry Continuity	57	3%
Q40	Registry Transition	121	6%
Q41	Failover Testing	42	2%
Q42	Monitoring and Fault Escalation Processes	13	1%
Q43	DNSSEC	334	18%
Q44	IDNs (Optional)	170	9%

ICANN observed during the implementation of the Technical and Operational Capability Evaluation that the responses to the Technical application questions were generally provided by the applicants' RSPs. As evidenced in Table 2.6.ii, five questions in particular generated a large proportion of COs. The use of RSPs may have skewed these results (e.g., a particular RSP may have made a minor administrative error for a single question many times), but the high rate of COs for certain questions may also indicate a systemic issue with particular questions. ICANN should review the COs issued and responses received to determine if changes to application questions are required.

In addition to the responses being theoretical in nature, ICANN has observed that applicants did not necessarily follow through with implementing their technical infrastructure in the manner specified within the application. While to a certain extent, Pre-Delegation Testing (PDT) tested applicants' operational technical capabilities, PDT did not confirm whether registry operators were complying with their responses to application questions, only that they met the baseline requirements of the RA. (For more information on PDT, see Section 5.2: Pre-Delegation Testing and Transition to IANA of this report.)

The fact that applicants almost universally engaged an RSP also brought to light that the existing requirement of evaluating each application on a stand-alone basis did not enable evaluation of a

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particular RSP's ability to support multiple TLDs. Due to the application-by-application nature of evaluation, RSPs were not evaluated across the universe of applications and existing TLDs.

GNSO Recommendation 7 called for applicants to “demonstrate their technical capability.” There were several different options that could have been used to implement this policy, including a question and answer approach, an approach involving the testing of infrastructure, and a more targeted evaluation specifically focused on technical back-end providers. In this application round, a question and answer approach was implemented to address this recommendation. In future rounds, different options, such as a program to accredit registry service providers, should be explored.

For example, a program to accredit registry service providers could prove to be more efficient for applicants and providers of technical back-end services in terms of application processing. An RSP accreditation program could allow for the thorough review of an RSP's full set of services provided (across TLDs). Such a program could also streamline processes for registry operators outside of the evaluation process, such as the process for adding new registry services (i.e., services could be pre-certified at the registry service provider level and thus require less testing, if any). This form of testing could also fulfill some of the intent of PDT. Such an option should be carefully considered in terms of whether it supports the New gTLD Program's objectives of competition, choice, and consumer trust.

## 2.6.5 Conclusion

The AGB criteria for Technical and Operational Capability evaluation required that applicants describe their plans for technical operations, but it did not require that actual registry operations be tested. In the execution of the Technical evaluation, ICANN observed that the majority of applicants used one of a relatively small population of back-end providers to operate their technical infrastructure. There were several possible approaches that could have been explored in order to achieve an effective evaluation of technical evaluation, and the operational experience brought to light certain inefficiencies in the evaluation approach that was taken.

To meet the objectives of GNSO Recommendation 7, consideration should be given as whether an alternate approach to the Technical and Operational Capability Evaluation would support the GNSO's recommendation and the New gTLD Program objectives of competition, choice, and consumer trust, and whether the exploration of such an approach would be worthwhile.

In summary:

**2.6.a** Consider whether an alternate approach to the Technical and Operational Capability Evaluation would be worthwhile

**2.6.b** Review Technical and Operational Capability CQs and responses to determine whether improvements to the application questions can be made

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## 2.7 Financial Capability Evaluation

### 2.7.1 Introduction

The Financial Capability evaluation was one of the seven evaluation streams defined in the AGB. The financial questions the Applicant Guidebook (AGB) gathered information from the applicant regarding its plans for operations and financial planning so that the evaluation panel could assess whether the applicant demonstrated the financial capability to run a TLD.

### 2.7.2 Relevant Guidance

The following guidance is relevant to the topic of the Financial Capability evaluation and will be discussed in further detail in Sections 2.7.3 and 2.7.4 of this report:

- GNSO Principle E: “A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN’s registry agreement.”<sup>114</sup>
- GNSO Recommendation 1:

*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*

- GNSO Recommendation 8: “Applicants must be able to demonstrate their financial and organisational operational capability.”
- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>115</sup>
- Applicant Guidebook, Section 2.2.2: Applicant Reviews
- Applicant Guidebook, Section 2.3.2: Technical/Operational or Financial Extended Evaluation
- Applicant Guidebook, Section 2.4: Parties Involved in Evaluation
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria

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<sup>114</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8augo7.htm>

<sup>115</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

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## 2.7.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (i.e., contention resolution, dispute resolution).

The Financial Capability evaluation was “intended to gather information about the applicant’s financial capabilities for operation of a gTLD registry and its financial planning in preparation for long-term stability of the new gTLD.”<sup>116</sup> The Financial section of the application (Questions 45 through 50) had three main components:

1. The applicant’s financial statements (Question 45),
2. Information about the applicant’s intended business model (Question 46 – Question 49), and
3. A Continuing Operations Instrument (COI) to ensure that the registry could be guaranteed to fund registry operations for a minimum of three years following the termination of the RA, for the protection of registrants (Question 50).

There were 11 points available within the Financial section, and a total of eight points were required (with no zeros on an individual question) in order to pass.

The AGB, Attachment to Module 2, Section III stated, “Given the requirement that technical and financial planning be well integrated, the panels will work together and coordinate information transfer where necessary.” To support this, ICANN selected the same panel firms for the Technical and Operational Capability evaluation and the Financial Capability evaluation, and allocated both sections of an application to the same panel firm. The panel firms for the Technical and Operational Capability Evaluation and Financial Capability evaluation were Ernst & Young, KPMG, and JAS Global Advisors. For more information, see Section 8.2: Service Provider Coordination of this report.

The overall evaluation process was described in Module 2 of the AGB. The implementation of the evaluation process was performed in alignment with the AGB-defined processes, and has been described in further detail in Section 2.1: Initial and Extended Evaluation of this report.

Once the evaluation panel’s evaluation was complete, they presented their results to ICANN. The results reports provided by the Financial Capability evaluation panel included detailed rationale for applications that did not meet the AGB criteria. ICANN reviewed the results for consistency and to confirm that the results appeared to be in alignment with the AGB. After review, for each application, ICANN consolidated the results received from the panels for publication and to share with the applicant.

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<sup>116</sup>ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 2.2.2.2: Financial Review. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

A total of 1,777 applications passed the Financial Capability evaluation during IE, and 26 applications were eligible for EE. Ultimately, all applications that participated in the Financial Capability evaluation during EE passed.

## 2.7.4 Assessment

GNSO Recommendation 8 stated, “Applicants must be able to demonstrate their financial and organisational operational capability.” In support of this recommendation, the AGB criteria in Questions 45 through 50 were developed. The AGB stated, “The process must provide for an objective evaluation framework, but allow for adaptation according to the differing models applicants will present.”<sup>117</sup> The financial criteria were not intended to be universal, rigid criteria, and were developed with the intention of being flexible enough to accommodate various business types. However, in order to ensure a consistent evaluation across all applications, the panel defined guidelines to interpret the application information as objectively and consistently as possible.

In order to provide additional clarity around the AGB criteria, before and during the application window, ICANN developed Supplemental Notes for each of the questions in the Financial section.<sup>118</sup> Table 2.7.i displays the number of Supplemental Notes (or updates) created for each of the Financial questions.

*Table 2.7.i: Supplemental Notes by Question*

Financial Question	# Supplemental Notes and Updates to Supplemental Notes
Q45	9
Q46	10
Q47	2
Q48	2
Q49	1
Q50	9

Once the panel had evaluated some applications and was developing its CQs, it was evident that a high volume of application would receive multiple CQs. To help applicants prepare for clarifying questions, ICANN issued five Applicant Advisories relating to questions in the Financial section (see table 2.7.ii).<sup>119</sup>

<sup>117</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Attachment to Module 2: Evaluation Questions and Criteria. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>118</sup> ICANN. Supplemental Notes. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/supplemental-notes>

<sup>119</sup> ICANN. Applicant Advisories. Retrieved from <http://newgtlds.icann.org/en/applicants/advisories>

Table 2.7.ii: Applicant Advisories by Question

Financial Question	Question Description	# Advisories and Updates to Advisories
Q45	Financial Statements	0
Q46	Projections Template: Costs and Funding	0
Q47	Costs: Setup and Operating	0
Q48	Funding and Revenue	1
Q49	Contingency Planning: Barriers, Funds, Volumes	0
Q50	Continuity: Continued Operations Instrument	4

Despite efforts to provide clarification, observations from the implementation of the Financial Capability evaluation suggest that there was a lack of clarity around the Financial criteria. The panel issued CQs on the Financial section for 90% of applications, which indicates that 90% of applications did not initially meet the AGB criteria based on the original application information submitted (see table 2.7.iii). A total of 4,378 CQs on the Financial Section were issued.

Table 2.7.iii: Clarifying Questions Issued by Question

Financial Questions	Question Description	# Applications	% Applications
Q45	Financial Statements	587	31%
Q46	Projections Template: Costs and Funding	126	7%
Q47	Costs: Setup and Operating	986	53%
Q48	Funding and Revenue	857	46%
Q49	Contingency Planning: Barriers, Funds, Volumes	292	16%
Q50	Continuity: Continued Operations Instrument	1,530	82%

Based on the number of Supplemental Notes, Applicant Advisories, and CQs issued, ICANN should examine the CQs issued and responses received. Consideration should be given to whether the financial criteria could be developed to better address a variety of business models and require less clarification and interaction among ICANN, applicants, and the panel.

Nine Supplemental Notes and four Advisories were issued for Question 50, which concerned the Continued Operations Instrument and required that the applicant describe the instrument that they planned to secure or provide an executed instrument. One of these updates to an Advisory, issued on 4 March 2013, was an explanation of the “unconditional withdrawal of funds” requirement within Question 50.<sup>120</sup> As evidenced by the 1,530 applications that received CQs on Question 50, the majority of applicants faced challenges in addressing Question 50, including many which received CQs regarding the “unconditional withdrawal of funds” requirement. On 5 June 2013, ICANN announced that as a result of some of the challenges faced by applicants, and inconsistent application and usage

<sup>120</sup> ICANN. Continuing Operations Instrument: Unconditional Withdrawal of Funds. Retrieved from <http://newgtlds.icann.org/en/applicants/advisories/coi-withdrawal-05dec12-en>

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of the conditional language included in the letters of credit submitted in response to Question 50, the financial evaluation would focus on the financial aspects of the COI (most notably the amount) and address the legal language (such as conditions) during the Contracting process.<sup>121</sup> Continued Operations Instruments are discussed in greater detail in Section 7.1: Continued Operations Instruments of this report.

Another observation from implementation was that there were applicants that applied for many TLDs. As each was evaluated individually by priority number, the evaluation process as implemented in this round did not allow for evaluation of the applicant's financial scalability in relation to its entire portfolio of applications.

While the criteria were developed to support the GNSO's recommendation that applicants demonstrate financial capability, the number and nature of Supplemental Notes, Applicant Advisories, and CQs issued suggest that there was some level of administrative burden in the evaluation process for both applicants and the evaluation panels. Eighty-two percent of all applications received a CQ on Question 50, many of which were administrative corrections to the COI.

GNSO Recommendation 8 required that applicants be able to "demonstrate their financial and organisational operational capability." There were several different options that could have been used to apply this policy, including a question and answer approach, a third-party certification of an applicant's financial situation, or a mandatory insurance policy in lieu of a financial evaluation. In this application round, a question and answer approach was implemented to address this recommendation. For future rounds, consideration should be given to whether a third-party certification would allow applicants to demonstrate financial capability while providing the flexibility to evaluate various applications' business models, including applicants that have applied for many TLDs.

## 2.7.5 Conclusion

The Financial Capability Evaluation criteria were developed in support of GNSO Recommendation 8, which stated, "Applicants must be able to demonstrate their financial and organisational operational capability." The evaluation was performed in alignment with the AGB, and all applications met the AGB criteria in either IE or EE.

However, observations from implementation suggest that there were inefficiencies in the process that should be reviewed. There were many instances where a group of related applications was almost identical, but due to the application-by-application design of the evaluation process, applications were considered individually based on priority number. This reduced efficiency for both the panel and the applicants, and did not allow for an applicant's financial scalability to be considered within evaluation. Additionally, the vast majority of applications received CQs, and for Question 50 (Continued Operations Instrument) in particular, 82% of applications received a CQ.

For future rounds, alternative approaches to the Financial Capability evaluation should be explored. For example, consideration should be given to whether a third-party certification (comparable to an

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<sup>121</sup> ICANN. (Updated 10 June 2013) Continuing Operations Instrument: Unconditional Withdrawal of Funds. Retrieved from <http://newgtlds.icann.org/en/applicants/advisories/coi-withdrawal-05dec12-en>

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audit performed by a certified auditor) would satisfy the intent of GNSO Recommendation 8 and provide for the flexibility to evaluate various applications' business models. ICANN should also review the CQs issued and consider whether criteria could be developed that would require less clarification among the evaluation panel, ICANN, and applicants.

In summary:

**2.7.a** Consider whether an alternative approach to the Financial Capability evaluation would be worthwhile

**2.7.b** Review Financial Capability CQs and responses to determine whether improvements to the application questions can be made

## 2.8 Registry Services Evaluation

### 2.8.1 Introduction

The Registry Services evaluation was one of the seven evaluation streams defined in the Applicant Guidebook (AGB). It served to evaluate each application's proposed registry services for any possible adverse impact to the security and stability of the DNS.

### 2.8.2 Relevant Guidance

The following guidance is relevant to the topic of Registry Services evaluation and will be discussed in further detail in Sections 2.8.3 and 2.8.4 of this report:

- GNSO Principle D: "A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise<sup>86</sup> the risk of harming the operational stability, security and global interoperability of the Internet."<sup>122</sup>
- GNSO Principle E: "A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN's registry agreement."
- GNSO Recommendation 1:  
*ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*
- GNSO Recommendation 7: "Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out."
- GNSO Recommendation 9: "There must be a clear and pre-published application process using objective and measurable criteria."
- GNSO Recommendation 18: "If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed."
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>123</sup>
- Applicant Guidebook, Section 2.2.3: Registry Services Review
- Applicant Guidebook, Section 2.3.3: Registry Services Extended Evaluation
- Applicant Guidebook, Section 2.4: Parties Involved in Evaluation
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria

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<sup>122</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>123</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

- ICANN Board New gTLD Program Committee Resolution 2013.08.13.NGo2 (13 August 2013): : Dotless Domains<sup>124</sup>

## 2.8.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (i.e., contention resolution, dispute resolution).

The Registry Services evaluation was one of seven evaluation streams defined in the AGB. Its purpose was to evaluate each application's proposed registry services "for any possible adverse impact on security or stability."<sup>125</sup> The Registry Services evaluation was part of Initial Evaluation (IE) and eligible for Extended Evaluation (EE). The overall evaluation process was described in Module 2 of the AGB. The implementation of the evaluation process was performed in alignment with the AGB-defined processes, and has been described in further detail in Section 2.1: Initial and Extended Evaluation of this report.

As with all of the evaluation streams, independent third-party providers performed the review and evaluated each application against the criteria defined in the AGB. ICANN engaged Interisle Consulting Group as the Registry Services evaluation panel. (For more information, see Section 8.2: Service Provider Coordination of this report.) The Registry Services evaluation panel reviewed the five critical registry functions<sup>126</sup> and any services relating to these for each TLD for potential concerns to security or stability of the DNS.

The implementation of the evaluation process was performed in alignment with the processes defined in Module 2 of the AGB and the panel's published process documentation.<sup>127</sup> In cases where the panel required additional clarification from the applicant, clarifying questions (CQs) were issued. Nine-hundred-seventy-five of 1,930 (51%) of applications received a CQ from the Registry Services Evaluation Panel during IE.

After the responses to CQs had been reviewed, in cases where the response was incomplete, ICANN performed Applicant Outreach to ensure that applicants had the opportunity to provide complete responses for the panel's consideration. The panel presented its results to ICANN, and ICANN reviewed the results to ensure consistency and alignment with the AGB before sharing results with the applicant and publishing them.

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<sup>124</sup> ICANN. (13 August 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-08-13-en#1.a>

<sup>125</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 2.2.3: Registry Services Review. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>126</sup> The five critical registry functions are 1) DNS resolution for registered domain names, 2) Operation of Shared Registration System, 3) Operation of Registration Data Directory Services (Whois), 4) Registry data escrow deposits, and 5) Maintenance of a properly signed zone in accordance with DNSSEC requirements.

<sup>127</sup> Interisle Consulting Group. (7 June 2013). ICANN New gTLD Program Registry Services Initial Evaluation Process. Retrieved from <http://newgtlds.icann.org/en/program-status/evaluation-panels/registry-services-initial-process-07jun13-en.pdf>

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Ultimately, 1,802 of 1,930 applications passed the Registry Services evaluation during IE. Some applications were withdrawn before IE results were published, but all but two applications with published IE results passed IE. Of the two applications that were eligible for EE, both applications passed.

In addition to its primary purpose as an evaluation, the Registry Services evaluation also served as a means to collect a list of the applicant's proposed registry services for inclusion in the Registry Agreement.

## 2.8.4 Assessment

Section 2.2.3 of the AGB stated, "ICANN will review the applicant's proposed registry services for any possible adverse impact on security or stability." In Question 23 of the application, applicants were required to identify and describe their proposed implementation of the five critical registry functions and any services relating to these in their response to Question 23 of the application.

In addition to its primary purpose as an evaluation, the Registry Services portion of the application acted as a mechanism to collect the list of proposed registry services for insertion into Exhibit A of the RA.<sup>128</sup> The unstructured design of the application did not efficiently collect data for this purpose. As discussed in Section 1.1: Application Submission of this report, the application form was modeled after the AGB, and many of the questions did not have restrictions in the format beyond character limits and attachment size and file types. Question 23 solicited a textual description of the proposed TLD's registry services. In order to incorporate the response into Exhibit A of the RA, the language had to be converted into contractual language, which required a significant effort from ICANN. Further, applications often included descriptions of registry services in places other than the response to Question 23. The lack of consolidation within the application caused further inefficiencies in the evaluation of the proposed registry services, as well as in the process of incorporating them into Exhibit A of the RA. All applications were evaluated on an individual basis by priority number. While this design supported fairness, consistency, and predictability in process for applicants, it presented operational challenges.

The panel was required to accommodate prioritization numbers in the CQ process and IE results process, which created inefficiencies in defining the order to evaluate applications, redundancies for the panel when issuing CQs, redundancies for the applicants when responding to CQs, and limitations in the panel's ability to normalize results across an applicant's portfolio of applications before completing its evaluation. This is discussed in further detail in Section 1.2: Prioritization of this report.

Ninety percent of applications shared one of 13 technical infrastructures. The application process was designed for the panel to communicate with the applicant, not with the RSP. This observation brought to light that the existing evaluation process did not consider a provider's scalability across the group of applications with which it had engaged. Due to the application-by-application nature of evaluation, the RSP's services for a particular TLD were evaluated, but the RSP was not evaluated across the universe of applications. For future rounds, the community may wish to consider evaluation of the

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<sup>128</sup> ICANN. Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/agreement-approved-09jan14-en.pdf>

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RSP. This has been discussed further in Section 2.6: Technical and Operational Capability Evaluation of this report.

For those applications that proposed to provide IDN services, there were some challenges that affected the panel's evaluation of the IDN tables. The TLD application system (TAS) did not format the IDN tables submitted by the applicants in a machine-readable format, which was required for the panel to automate the validation of the tables. While the panel reviewed the applicant's proposed IDN policies, the panel did not validate the IDN tables provided by the applicants, and the review of IDN tables was performed during Pre-Delegation Testing (PDT) (see Section 5.2: Pre-Delegation Testing and Transition to IANA of this report). In the next round, it is probable that there will be additional tools available for the evaluation of IDNs. These tools should be leveraged in the evaluation and validation of IDN tables.

## 2.8.5 Conclusion

The Registry Services Evaluation was performed in line with the AGB. However, inefficiencies were observed in terms of how the data was captured in the application form. A more standardized format would better support efficiency in the process of incorporating registry services into the Registry Agreement. Additionally, observations from the implementation experience suggest that greater efficiency and effectiveness may be achievable through the implementation of a program to accredit registry service providers. This topic is discussed further in Section 2.6: Technical and Operational Capability Evaluation of this report.

In summary:

- 2.8.a** Update the process for collection of registry services information to better support both evaluation and contracting activities
- 2.8.b** Consider whether an alternate approach to Technical and Operational Capability evaluation would be worthwhile, and if so, how the evaluation of Registry Services could be incorporated into the approach
- 2.8.c** For future rounds, leverage the IDN tools currently under development

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## Chapter 3: Objections Procedures

In its Final Report on the Introduction of New Generic Top-Level Domains, the GNSO recommended that standards be developed to protect certain rights and interests within the New gTLD Program (see Recommendations 2, 3, 6, and 20).<sup>129</sup> The GNSO also recommended that, “Dispute resolution and challenge processes must be established prior to the start of the process” (see Recommendation 12). In the GAC Principles regarding New gTLDs, Principle 3.3 stated, “If individual GAC members or other governments express formal concerns about any issues related to new gTLDs, the ICANN Board should fully consider those concerns and clearly explain how it will address them.”<sup>130</sup>

In support of the guidance from the GNSO and the GAC, Module 3 of the Applicant Guidebook defined two processes: the GAC Advice process and the Objections and Dispute Resolution process. Through the GAC Advice process, the GAC could provide advice on new gTLDs to the ICANN Board concerning specific applications. Through the Objections process, parties with standing had the opportunity to file formal objections with designated third-party dispute resolution providers on specific applications based on the following grounds: (i) String Confusion; (ii) Legal Rights; (iii) Limited Public Interest; and (iv) Community.

The GAC issued advice to the ICANN Board through multiple GAC Communiqués beginning with the 11 April 2013 Beijing Communiqué.<sup>131</sup> The advice that the GAC issued included advice on specific applications, for broad categories of (applied-for) strings, and for all applications. Section 3.1: GAC Advice of this report discusses the various GAC Advice and how the ICANN Board addressed the advice.

There were 263 formal objections filed across the four objection grounds on 205 new gTLD applications. Objections were considered by experts in a dispute resolution proceeding defined in the AGB and supplemented by the dispute resolution service providers’ own procedures. There were challenges in implementing some of the dispute resolution standards because the objection standards were new and untested concepts in this round of new gTLD applications. Section 3.2: Objections and Dispute Resolution of this report discusses the various objection grounds and standards as well as the dispute resolution process.

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<sup>129</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-part-a-08aug07.htm>

<sup>130</sup> Governmental Advisory Committee. (28 March 2007) GAC Principles Regarding New gTLDs. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/gac-principles-regarding-new-gtlds-28mar07-en.pdf>

<sup>131</sup> Governmental Advisory Committee. (11 April 2013) GAC Communiqué – Beijing, People’s Republic of China. Retrieved from <https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf>

## 3.1 GAC Advice

### 3.1.1 Introduction

The GAC Advice process detailed in the Applicant Guidebook described how ICANN’s Governmental Advisory Committee (GAC) could provide the ICANN Board with Advice regarding new gTLDs that the GAC thought might be problematic. In advance of the issuance of GAC Advice, the GAC Early Warning process enabled members of the GAC to notify an applicant that its application was seen as potentially sensitive or problematic by one or more governments. This section of the Program Implementation Review report discusses the following aspects of GAC Advice:

- GAC Early Warning
- GAC Advice

### 3.1.2 Relevant Guidance

The following guidance is relevant to the topic of GAC Advice and will be discussed in further detail in Sections 3.1.3 and 3.1.4 of this report:

- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>132</sup>
- Applicant Guidebook, Section 3.1: GAC Advice on New gTLDs
- ICANN Board New gTLD Program Committee Resolution 2014.06.04.NGo1 (4 June 2013): Consideration of Non-Safeguard Advice in the GAC’s Beijing Communiqué<sup>133</sup>
- ICANN Board New gTLD Program Committee Resolution 2013.09.10.NGo3 (10 September 2013): GAC Communiqué Durban – Scorecard<sup>134</sup>
- ICANN Board New gTLD Program Committee Resolution 2013.09.28.NGo2 (28 September 2013): Remaining Items from Beijing and Durban GAC Advice<sup>135</sup>
- ICANN Board New gTLD Program Committee Resolution 2014.02.05.NGo1 (5 February 2014): Remaining Items from Beijing, Durban and Buenos Aires GAC Advice: Updates and Actions<sup>136</sup>
- ICANN Board New gTLD Program Committee Resolution 2013.04.04.NGo1-2013.04.04.NGo4 (4 April 2014): Applications for .vin and .wine/GAC Communiqué Singapore<sup>137</sup>

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<sup>132</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agg/guidebook-full-04jun12-en.pdf>

<sup>133</sup> ICANN. (4 June 2013) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-06-04-en#1.a>

<sup>134</sup> ICANN. (10 September 2013) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-09-10-en#2.c>

<sup>135</sup> ICANN. (28 September 2013) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-09-28-en#2.a>

<sup>136</sup> ICANN. (5 February 2014) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-02-05-en#1.a>

<sup>137</sup> ICANN. (4 April 2014) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-04-04-en>

- ICANN Board New gTLD Program Committee Resolution 2014.05.04.NGo2 (14 May 2014): Remaining Items from Beijing, Durban, Buenos Aires, and Singapore GAC Advice<sup>138</sup>
- ICANN Board New gTLD Program Committee Resolution 2014.05.04.NGo3 (14 May 2014): GAC Advice on .AMAZON (and related IDNs)<sup>139</sup>
- ICANN Board New gTLD Program Committee Resolution 2014.09.08.NGo2 (8 September 2014): Remaining Items from Beijing, Durban, Buenos Aires, Singapore, and London GAC Advice<sup>140</sup>
- ICANN Board New gTLD Program Committee Resolution 2015.06.21.NGo2 (21 June 2015): GAC Category 2 Safeguard Advice – Exclusive Generic TLDs<sup>141</sup>

### 3.1.3 Background

The ICANN Bylaws define several Advisory Committees that provide advice to the ICANN Board. The GAC is one of these committees.

The ICANN Bylaws, Article XI, state:<sup>142</sup>

*The Governmental Advisory Committee should consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN’s policies and various laws and international agreements or where they may affect public policy issues.*

As an Advisory Committee, the GAC has a set of Operating Principles, which define GAC Advice as follows:<sup>143</sup>

*Principle 47*

*The GAC works on the basis of seeking consensus among its membership. Consistent with United Nations practice, consensus is understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection. Where consensus is not possible, the Chair shall convey the full range of views expressed by members to the ICANN Board.*

<sup>138</sup> ICANN. (14 May 2014) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-05-14-en#2.a>

<sup>139</sup> ICANN. (14 May 2014) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-05-14-en#2.b>

<sup>140</sup> ICANN. (8 September 2014) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-09-08-en#1.b>

<sup>141</sup> ICANN. (21 June 2015) Approved Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a>

<sup>142</sup> ICANN. (Amended 30 July 2014) Bylaws for Internet Corporation for Assigned Names and Numbers, Article XI: Advisory Committees. Retrieved from <https://www.icann.org/resources/pages/governance/bylaws-en#XI>

<sup>143</sup> ICANN Governmental Advisory Committee. (October 2011) Governmental Advisory Committee (GAC) - Operating Principles: Article XII – Provision of Advice to the ICANN Board. Retrieved from <https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles#GACOperatingPrinciples-XII>

## Principle 48

*The GAC may deliver advice on any other matter within the functions and responsibilities of ICANN, at the request of the ICANN Board or on its own initiative. The ICANN Board shall consider any advice from the GAC prior to taking action.*

Within the context of the New gTLD Program, the AGB described the role of the GAC in issuing GAC Early Warning and GAC Advice.

The GAC Early Warning process enabled individual governments within the GAC to notify an applicant that its application was seen as potentially sensitive or problematic by one or more governments.<sup>144</sup> If an applicant received an Early Warning, the applicant could use this information to work with the concerned government(s) or could withdraw the application within 21 days of the issuance of the Early Warning for an 80% refund of the application fee.<sup>145</sup>

GAC Early Warnings were issued for 187 applications on 20 November 2012.<sup>146</sup> Two of the 187 applications that received GAC Early Warning withdrew their applications within 21 days of receiving GAC Early Warning and received the 80% refund.

The GAC Advice process was “intended to address applications that [were] identified by governments to be problematic, e.g., that potentially violate[d] national law or raise[d] sensitivities.”<sup>147</sup> The design of GAC Advice within the New gTLD Program supported the concept of GAC Advice, as defined in the ICANN Bylaws,<sup>148</sup> and the GAC Operating Principles by providing an opportunity for the GAC to issue advice on ICANN’s activities as they related to the concerns of governments.<sup>149</sup>

The GAC issued its first advice on new gTLD applications in its 11 April 2013 Beijing Communiqué to the ICANN Board. In addition to advice on specific applications affecting 23 applications, the Beijing Communiqué contained advice on broad categories of strings affecting 491 applications, as well as Advice on topics affecting all applications.<sup>150</sup> As of the publication date of this report, six additional communiqués have included further Advice on the new gTLDs.

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<sup>144</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 1.1.2.4: GAC Early Warning. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>145</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 1.5.1: gTLD Evaluation Fee. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>146</sup> Governmental Advisory Committee. GAC Early Warnings. Retrieved from <https://gacweb.icann.org/display/gacweb/GAC+Early+Warnings>

<sup>147</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 3.1: GAC Advice on New gTLDs. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>148</sup> ICANN. (Amended 30 July 2014) Bylaws for Internet Corporation for Assigned Names and Numbers, Article XI: Advisory Committees. Retrieved from <https://www.icann.org/resources/pages/governance/bylaws-en#XI>

<sup>149</sup> Governmental Advisory Committee. (October 2011) Governmental Advisory Committee (GAC) - Operating Principles: Article XII – Provision of Advice to the ICANN Board. Retrieved from <https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles#GACOperatingPrinciples-XII>

<sup>150</sup> Governmental Advisory Committee. (11 April 2013) GAC Communiqué – Beijing, People’s Republic of China. Retrieved from <https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf>

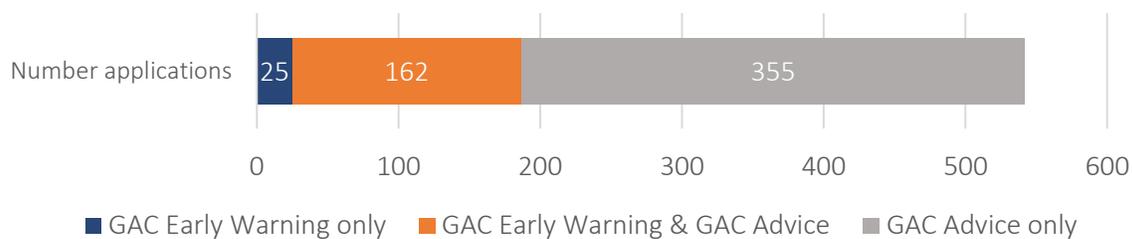
## 3.1.4 Assessment

### 3.1.4.1 GAC EARLY WARNING

#### *Early Warning and Advice Correlation*

Section 1.1.2.4 of the AGB described the GAC Early Warning process as a potential indicator that an “application could be the subject of GAC Advice on New gTLDs.” Indeed, there was some correlation between Early Warnings and Advice, but not all applications that received Advice had received an Early Warning. While only 187 applications received Early Warnings, 517 applications were subject to GAC Advice. Over 300 applications that were subject to GAC Advice did not receive any Early Warning. Based on this data, if the intent of the Early Warning process was to provide applicants with predictability, that intent was achieved in only 38% of cases. Figure 3.1.i provides a summary of applications that received GAC Early Warning and GAC Advice.

*Figure 3.1.i: Applications with GAC Early Warning and GAC Advice*



#### *Standard Form*

Early Warnings were issued using a standard form, which included rationale and possible remediation steps from the government that issued the Early Warning. ICANN assisted the GAC in its development of the form. Each government provided rationale in the Early Warning, and sometimes included possible remediation steps to help applicants to act on the Early Warnings. Some applicants cited conversations with governments as a reason for requesting changes to their applications.<sup>151</sup>

GAC Advice was communicated to the ICANN Board through communiqués.

### 3.1.4.2 GAC ADVICE

#### *GAC Advice Issued*

Section 3.1 of the AGB described three possible forms of GAC Advice:

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<sup>151</sup> L. Christou, Cruise Lines International Association. (18 June 2015) Letter from Lorrie Christou to Cherine Chalaby. Retrieved from <https://www.icann.org/en/system/files/correspondence/christou-to-chalaby-18jun15-en.pdf>

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- I. *The GAC advises ICANN that it is the consensus of the GAC that a particular application should not proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.*
  - II. *The GAC advises ICANN that there are concerns about a particular application "dot-example." The ICANN Board is expected to enter into a dialogue with the GAC to understand the scope of concerns. The ICANN Board is also expected to provide a rationale for its decision.*
  - III. *The GAC advises ICANN that an application should not proceed unless remediated. This will raise a strong presumption for the Board that the application should not proceed unless there is a remediation method available in the Guidebook (such as securing the approval of one or more governments), that is implemented by the applicant.*

All three possible forms of GAC Advice described in Section 3.1 of the AGB refer to GAC Advice issued on applications. The GAC Communiqués also included advice on categories of strings impacting several applications and on topics that impacted all applications (e.g., protection of IGO acronyms, protection of Red Cross/Red Crescent names).

Outside of the GAC Advice that impacted all applications, GAC Advice issued to-date has affected a total of 517 applications. Of this total, 26 applications received application-specific GAC Advice, and 491 were subjected to GAC Advice on broad categories of strings.

Of the 26 applications that received application-specific GAC Advice, the GAC issued advice according to Section 3.1.i of the AGB on six applications. The NGPC considered the advice in accordance with the AGB, which stated that such advice would "create a strong presumption for the ICANN Board that the application[s] should not be approved." Two applications received GAC Advice according to Section 3.1.ii of the AGB. The ICANN Board also acted in accordance with the AGB regarding these two applications and entered into dialogue with the GAC to better understand the nature of the concerns. For the remaining 18 applications, the GAC requested additional time for further consideration or noted the concerns of specific governments. After the advice was issued, ICANN provided applicants with the opportunity to submit a response to the ICANN Board (in this case, the NGPC). The NGPC considered the advice and applicant responses, and then the NGPC addressed the advice on an application-by-application basis.

Table 3.1.i provides a summary of the 26 applications that received application-specific GAC Advice.

*Table 3.1.i: Summary of the 26 Applications that Received Application-Specific GAC Advice*

Type of Applications	Number of Applications
AGB Section 3.1 part I (consensus)	6
AGB Section 3.1 part II (expressed concerns)	2
AGB Section 3.1 part III (remediation suggested)	0
Other application-specific advice <sup>152</sup>	18
<b>Total</b>	<b>26</b>

In addition to the application-specific GAC Advice described in the AGB, the GAC's Beijing Communiqué included safeguard advice applicable to broad categories of strings. Annex 1 of the Beijing Communiqué stated, "strings that are linked to regulated or professional sectors should operate in a way that is consistent with applicable laws."<sup>153</sup> The GAC proposed specific safeguards that would apply to a broad category of strings related to "consumer protection, sensitive strings, and regulated markets." The Annex listed specific strings, referred to as "Category 1" strings.

The GAC also provided advice relating to restricted registration policies referred to as "Category 2" advice in Annex 1 of the Beijing Communiqué. Part 1 of Category 2 advice stated that for strings mentioned under Category 1, "the registration restrictions should be appropriate for the types of risks associated with the TLD" and that "[t]he registry operator should administer access in these kinds of registries in a transparent way that does not give undue preference to any registrars or registrants, including itself, and shall not subject registrars or registrants to an undue disadvantage."

Part 2 of Category 2 advice stated that, "For strings representing generic terms, exclusive registry access should serve a public interest goal."<sup>154</sup> The Annex also included a list of strings that the GAC considered to be generic, where the applicant was proposing to provide exclusive registry access. These strings are referred to as "Category 2" strings.

There were a total of 491 applications and 212 strings specified in the GAC Category 1 and 2 lists. Figures 3.1.ii and 3.2.iii show the distribution of the applications and strings affected by GAC Category 1 and 2 Advice.

<sup>152</sup> In some instances, the GAC advised ICANN that it required additional time to finalize any potential GAC Advice.

<sup>153</sup> Governmental Advisory Committee. (11 April 2013) GAC Communiqué – Beijing, People's Republic of China. Retrieved from <https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf>

<sup>154</sup> Governmental Advisory Committee. (11 April 2013) GAC Communiqué – Beijing, People's Republic of China. Retrieved from <https://www.icann.org/en/system/files/correspondence/gac-to-board-18apr13-en.pdf>

Figure 3.1.ii: Distribution of the 491 Applications Affected By GAC Category 1 and 2 Advice

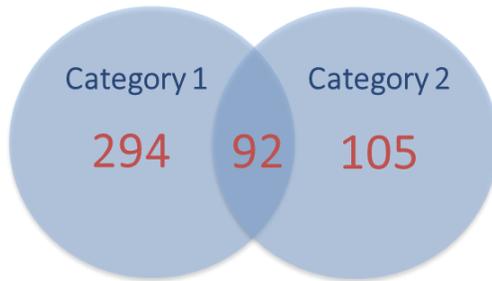
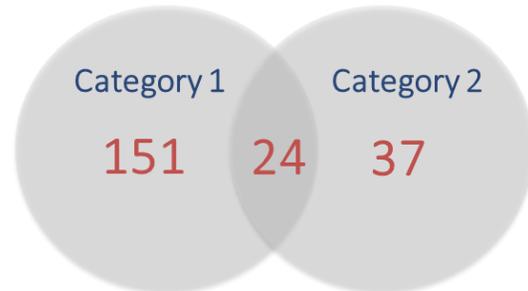


Figure 3.1.iii: Distribution of the 212 Strings Affected By GAC Category 1 and 2 Advice



### Impact on Applications

AGB Section 3.1 stated, “The receipt of GAC Advice [would] not toll the processing of any application (i.e., an application [would] not be suspended but [would] continue through the states of the application process).” However, GAC Operating Principle 48 stated: “The ICANN Board shall consider any advice from the GAC prior to taking action.”<sup>155</sup> In implementation, applications affected by application-specific and Category 1 and 2 GAC Advice were not allowed to proceed to the next step in the Program until the GAC Advice was addressed. This allowed the ICANN Board time to solicit public comment,<sup>156</sup> solicit applicant responses to GAC Advice,<sup>157</sup> and consider the comments and responses received. Further, it required time for the ICANN Board to discuss the advice with the GAC and consult with the community as appropriate on implementation plans to address the advice. Finally, it prevented ICANN and the applicants from making commitments such as resolving contention or executing a Registry Agreement (RA) based on unknown circumstances.

### Addressing GAC Advice

The way ICANN addressed application-specific GAC Advice was discussed above. With regards to GAC Category 1 Advice, ICANN implemented the advice through the use of public interest commitments (PICs). The PICs concept was originally developed to address GAC Advice in the Toronto Communiqué,<sup>158</sup> as a mechanism for applicants to elect to transform application statements into binding contractual commitments. The implementation of GAC Category 1 Advice leveraged the PICs concept by requiring the incorporation of specific safeguards into the PIC Specification of the RAs of applications subject to GAC Category 1 Advice.<sup>159</sup> The ICANN Board consulted with the community on

<sup>155</sup> ICANN Governmental Advisory Committee. (Amended October 2011) Principles: Article XII – Provision of Advice to the ICANN Board. Retrieved from <https://gacweb.icann.org/display/gacweb/GAC+Operating+Principles#GACOperatingPrinciples-XII>

<sup>156</sup> ICANN. (23 April 2013) Public Comment: New gTLD Board Committee Consideration of GAC Advice. Retrieved from <https://www.icann.org/public-comments/gac-safeguard-advice-2013-04-23-en>

<sup>157</sup> ICANN. GAC Advice: GAC Communiqués & Applicant Responses. Retrieved from <http://newgtlds.icann.org/en/applicants/gac-advice#communiques>

<sup>158</sup> ICANN Governmental Advisory Committee. (17 October 2012) GAC Communiqué – Toronto, Canada. Retrieved from [https://gacweb.icann.org/download/attachments/27132070/FINAL\\_Toronto\\_Communique\\_20121017.pdf](https://gacweb.icann.org/download/attachments/27132070/FINAL_Toronto_Communique_20121017.pdf)

<sup>159</sup> ICANN. (5 February 2013) Revised New gTLD Registry Agreement Including Additional Public Interest Commitments Specification. Retrieved from <https://www.icann.org/resources/pages/base-agreement-2013-02-05-en>

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the Safeguard Advice via a public comment period,<sup>160</sup> shared the proposed implementation framework with the GAC,<sup>161</sup> and ultimately, the implementation framework<sup>162</sup> was adopted by the NGPC on 5 February 2014.<sup>163</sup> The implementation framework classified each Category 1 string as requiring one of three levels of safeguards:

- Regulated sectors/open entry requirements in multiple jurisdictions (273 applications)
- Highly regulated sectors/closed entry requirements in multiple jurisdictions (101 applications)
- Special safeguards required (12 applications)

The adoption of the GAC Category 1 implementation framework provided predictability and consistency in terms of how Category 1 applications were processed and allowed ICANN to invite applications that previously were not allowed to move forward to the next step of the Program because of the pending GAC Advice to begin the contracting process (see Section 5.1: Contracting of this report).

To address Part 1 of GAC Category 2 Advice, on 25 June 2013, the NGPC directed staff to update the RA to include Specification 11, Section 3(d), which stated, "Registry Operator will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing, and adhering to clear registration policies."<sup>164</sup>

With regard to Part 2 GAC Category 2 Advice, the NGPC passed a resolution directing staff how to process applications for proposed exclusive generic TLDs on 21 June 2015.<sup>165</sup> However, in the interest of allowing affected applications to move forward in the application process towards contention resolution and contracting before the NGPC had determined how to process applications for proposed exclusive generic TLDs, on 28 September 2013, the NGPC passed a resolution directing staff "to move forward with the contracting process for applicants for strings identified in the Category 2 Safeguard Advice that are prepared to enter into the Registry Agreement as approved."<sup>166</sup> Section 3.d of Specification 11 of the approved Registry Agreement stated that "Registry Operator of a 'Generic String' TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person's or entity's 'Affiliates' (as defined in Section 2.9(c) of the Registry Agreement)."<sup>167</sup> The adoption of this resolution by the NGPC allowed the majority of the applications subject to GAC Category 2 Advice to move forward in the application process towards contention resolution or contracting.

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<sup>160</sup> ICANN. (23 April 2013) New gTLD Board Committee Consideration of GAC Safeguard Advice. Retrieved from <https://www.icann.org/public-comments/gac-safeguard-advice-2013-04-23-en>

<sup>161</sup> S. Crocker, ICANN Board of Directors. (29 October 2013) Letter from Stephen D. Crocker to Heather Dryden. Retrieved from <https://www.icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf>

<sup>162</sup> ICANN. (5 February 2014) GAC Category 1 Strings: Annex 2 - ICANN NGPC Resolution No. 2014.02.05.NG01. Retrieved from <https://www.icann.org/en/system/files/resolutions-new-gtld-annex-2-05feb14-en.pdf>

<sup>163</sup> ICANN. (5 February 2014) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-02-05-en#1.a>

<sup>164</sup> ICANN. (2 July 2013) Registry Agreement. Retrieved from <https://www.icann.org/en/system/files/resolutions-new-gtld-annex-1-item-1d-02jul13-en.pdf>

<sup>165</sup> ICANN. (21 June 2015) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a>

<sup>166</sup> ICANN. (28 September 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-28sep13-en.htm#2.a>

<sup>167</sup> ICANN. (9 January 2014) Registry Agreement. Retrieved from <http://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-09jan14-en.pdf>

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On 21 June 2015, the NGPC passed a resolution requesting that the “GNSO include the issue of exclusive registry access for generic strings serving a public interest goal as part of the policy work it is planning to initiate on subsequent rounds of the New gTLD Program.”<sup>168</sup> Further, the resolution directed staff to “proceed with initiating other New gTLD Program processes” for the remaining applications that proposed to provide exclusive registry access for a generic string. Exclusive generic applicants for non-contended strings or prevailing in contention resolution were given the option to submit a change request to no longer be exclusive generic TLDs, to defer their applications to the next application round of the New gTLD Program, or to withdraw their applications.

Advice on categories of strings was not contemplated by the AGB, and it presented challenges in implementation. The unanticipated form of GAC Advice and the issues that were raised were the subject of multiple conversations between the ICANN Board and the community. Ultimately, changes were made to the New gTLD Program and to the Registry Agreement (see Section 5.1: Contracting of this report), reducing the level of predictability available to applicants. It should be noted that the subject of public interest guidance was identified by the ICANN Board as a topic that may be appropriate for discussion by the GNSO.<sup>169</sup>

### 3.1.5 Conclusion

Module 3 of the AGB described three forms that GAC Advice on new gTLD applications might take. For the advice that came in a form contemplated by the AGB, ICANN implemented the advice in a manner consistent with the AGB. However, the advice that impacted the vast majority of applications subject to GAC Advice did not take one of these forms. As a result, ICANN required a significant amount of time to implement the advice, as implementation involved public comment and community discussion, applicant responses to GAC Advice, and NGPC consideration of the advice. Whenever possible, ICANN developed a framework to move applications forward before the GAC Advice had been resolved (e.g., in the case of GAC Category 2 Advice), but as over 500 applications were subject to GAC Advice (excluding GAC Advice applicable to all applications) many applications were still delayed. For future rounds, engagement with the GAC should be continued in order to ensure that its input is incorporated into relevant processes as early as possible.

In summary:

**3.1.a** Continue engagement with the GAC during the review process and the development of future procedures to ensure that its input is incorporated into relevant processes as early as possible

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<sup>168</sup> ICANN. (21 June 2015) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2015-06-21-en#2.a>

<sup>169</sup> ICANN. (17 November 2014). Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

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## 3.2 Objections and Dispute Resolution

### 3.2.1 Introduction

The Objections and Dispute Resolution process provided an opportunity for parties with standing to have their concerns considered by an expert or panel of experts. Objections could be filed on four defined grounds (Legal Rights, String Confusion, Community, and Limited Public Interest), each subject to their own standards. This section of the Program Implementation Review report discusses the following aspects of the Objection and Dispute Resolution process:

- Objections Grounds and Standards
- Management of Dispute Resolution Service Providers
- Objections Process
- Review Mechanism
- Independent Objector

### 3.2.2 Relevant Guidance

The following guidance is relevant to the topic of Objections and Dispute Resolution and will be discussed in further detail in Sections 3.2.3 and 3.2.4 of this report:

- GNSO Principle G: “The string evaluation process must not infringe the applicant’s freedom of expression rights that are protected under internationally recognized principles of law.”<sup>170</sup>
- GNSO Recommendation 2: “Strings must not be confusingly similar to an existing top-level domain or a Reserved Name.”
- GNSO Recommendation 3: “Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.”
- GNSO Recommendation 6: “Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.”
- GNSO Recommendation 12: “Dispute resolution and challenge processes must be established prior to the start of the process.”
- GNSO Recommendation 20: “An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.”
- GNSO Implementation Guideline H\*:

*Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exceptions:  
(i) the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application; and*

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<sup>170</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-08aug07.htm>

*(ii) a formal objection process is initiated.*

*Under these exceptions, Staff Evaluators will devise criteria and procedures to investigate the claim.*

*Under exception (ii), an expert panel will apply the process, guidelines, and definitions set forth in IG P.*

- GNSO Implementation Guideline H: “External dispute providers will give decisions on objections.”
- GNSO Implementation Guideline P: This Implementation Guideline provided additional information on the process, definitions, and guidelines relating to GNSO Recommendation 20 on Community Objections.
- GNSO Implementation Guideline R: “Once formal objections or disputes are accepted for review there will be a cooling off period to allow parties to resolve the dispute or objection before review by the panel is initiated.”
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>171</sup>
- Applicant Guidebook, Section 3.2: Public Objection and Dispute Resolution Procedures
- Applicant Guidebook, Section 3.3: Filing Procedures
- Applicant Guidebook, Section 3.4: Objection Processing Overview
- Applicant Guidebook, Section 3.5: Dispute Resolution Principles (Standards)
- Applicant Guidebook, Attachment to Module 3: New gTLD Dispute Resolution Procedure
- ICANN Board New gTLD Program Committee Resolution 2013.07.13.NGo2 - 2013.07.13.NGo4 (13 July 2013): Ombudsman Letters to Board<sup>172</sup>
- ICANN Board New gTLD Program Committee Resolution 2013.06.25.NGo7 (25 June 2013): Singular & Plural Versions of the Same String as a TLD<sup>173</sup>
- New gTLD Program Committee resolution 2014.10.12.NGo2 - 2014.10.12.NGo3 (12 October 2014): Perceived Inconsistent String Confusion Expert Determinations<sup>174</sup>

### 3.2.3 Background

GNSO Recommendation 12 stated, “Dispute resolution and challenge processes must be established prior to the start of the process.” Additionally, the GNSO Recommendations on the Introduction of New Generic Top-Level Domains provided policy guidance which led to the development of the four objection grounds defined in the AGB:

- The Legal Rights Objection ground was developed in support of GNSO Recommendation 3: “Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.”

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<sup>171</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>172</sup> ICANN. (13 July 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-07-13-en#1.b>

<sup>173</sup> ICANN. (25 June 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-06-25-en#2.d>

<sup>174</sup> ICANN. (12 October 2014) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en#2.b>

- The String Confusion Objection ground was developed in support of GNSO Recommendation 2: "Strings must not be confusingly similar to an existing top-level domain or a reserved name."
- The Community Objection ground was developed in support of GNSO Recommendation 20: "An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted."
- The Limited Public Interest Objection ground was developed in support of GNSO Recommendation 6: "Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law."

These objection grounds provided safeguards for parties with standing to have their concerns considered by an expert or a panel of experts. The objection grounds were each subject to their own standing requirements and standards, which were developed and finalized as part of the AGB development process.

The dispute resolution proceedings were administered by three dispute resolution service providers (DRSPs), which were selected through a public call for expressions of interest:<sup>175</sup>

- The International Centre for Dispute Resolution (ICDR) administered String Confusion Objections
- The Arbitration and Mediation Center of the World Intellectual Property Organization (WIPO) administered Legal Rights Objections
- The International Centre for Expertise of the International Chamber of Commerce (ICC) administered Community Objections and Limited Public Interest Objections

For Legal Rights Objections, Community Objections, and Limited Public Interest Objections, the loss of a dispute resolution proceeding resulted in an application no longer proceeding in the Program. The loss of a dispute resolution proceeding for a String Confusion Objection filed by the registry operator of an existing TLD also resulted in an application no longer proceeding in the Program. For String Confusion Objections filed by another new gTLD applicant, the loss of a dispute resolution proceeding resulted in placement into string contention with another application.

The AGB provided for an Independent Objector, who would file objections and "[act] solely in the best interests of the public who use the global internet." The Independent Objector "[could] file objections against 'highly objectionable' gTLD applications to which no objection [had] been filed."<sup>176</sup> Per Section 3.2.5 of the AGB, in order for the Independent Objector to file an objection, there had to be at least one comment in opposition to the application made in the public sphere." The concept of the Independent Objector was introduced in draft version 2 of the AGB,<sup>177</sup> and served to prevent

<sup>175</sup> ICANN (2007 December 21). Announcement: ICANN Calls for Expressions of Interest from Potential Dispute Resolution Service Providers for the New gTLD Program. Retrieved from: <https://www.icann.org/news/announcement-2007-12-21-en>.

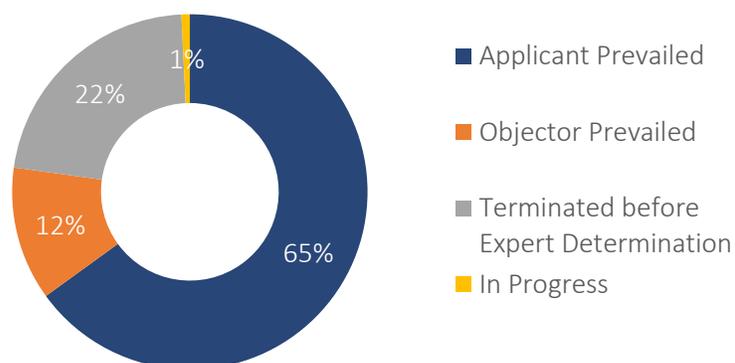
<sup>176</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 3.2.5: Independent Objector. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>177</sup> ICANN. (18 February 2009) gTLD Draft Applicant Guidebook Version 2. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/draft-rfp-clean-18feb09-en.pdf>

“obviously objectionable” applications from proceeding through the Program without objection.<sup>178</sup> The Independent Objector was selected through a public RFI process.<sup>179</sup> Alain Pellet, a professor and practitioner of law, was announced as the Independent Objector on 14 May 2012.<sup>180</sup>

The Objection filing window opened on 13 June 2012 and closed on 13 March 2013. A total of 263 objections were filed. As of 31 July 2015, 261 objections have been completed, and two are in progress. Figure 3.2.i provides a summary of objection outcome.

Figure 3.2.i: Overall Objection Outcome



## 3.2.4 Assessment

### 3.2.4.1 OBJECTIONS GROUNDS AND STANDARDS

The AGB defined four objection grounds (Legal Rights, String Confusion, Community, and Limited Public Interest), each with their own standing requirements and principles. The DRSPs administered the dispute resolution proceedings using the principles defined in the AGB.

#### *Legal Rights Objections*

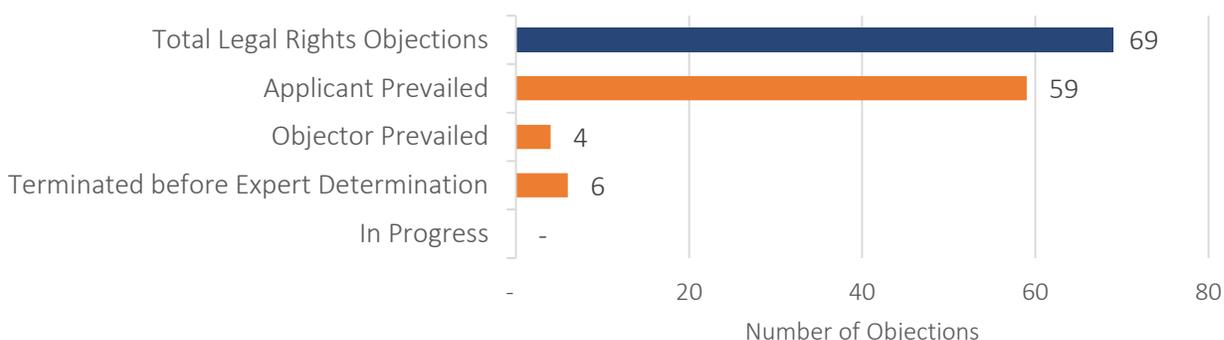
AGB Section 3.2.1 defined the standard for Legal Rights Objections as, “The applied-for gTLD string infringe[d] the existing legal rights of the objector.” The standards for Legal Rights Objections were drawn from real-world disputes and were based on existing trademark and intellectual property laws. Figure 3.2.ii provides a summary of Legal Rights Objections outcome.

<sup>178</sup> ICANN. (18 February 2009) New gTLD Draft Applicant Guidebook: Analysis of Public Comment. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf>

<sup>179</sup> ICANN. (21 November 2011) Announcement: New gTLD Program: ICANN Seeks Independent Objector. Retrieved from: <https://www.icann.org/news/announcement-3-2011-11-21-en>

<sup>180</sup> ICANN. (14 May 2012) Announcement: Independent Objector for New gTLD Program Selected. Retrieved from <https://www.icann.org/news/announcement-2012-05-14-en>

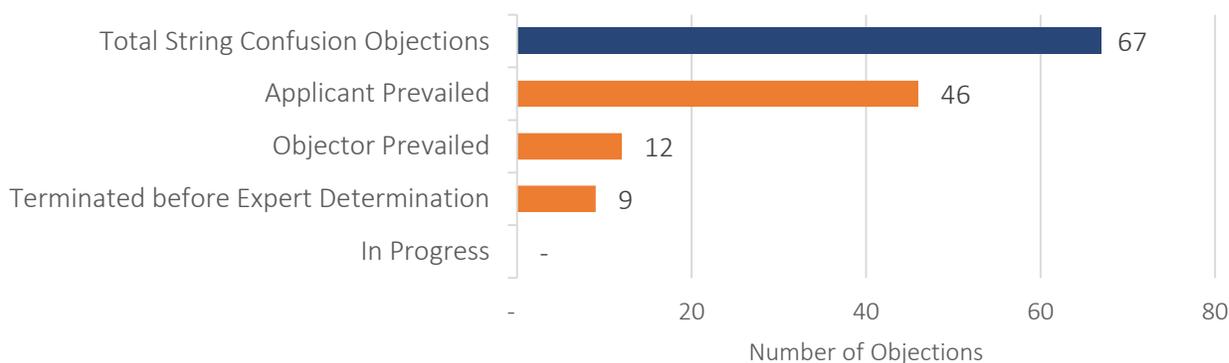
Figure 3.2.ii: Legal Rights Objections Outcomes



### String Confusion Objections

AGB Section 3.2.1 defined the standard for String Confusion Objections as, “The applied-for gTLD string [was] confusingly similar to an existing TLD or to another applied-for gTLD string in the same round of applications.” This standard was developed to capture the intention of avoiding user confusion caused by delegation of similar TLD strings. Figure 3.2.iii provides a summary of String Confusion objection outcome.

Figure 3.2.iii: String Confusion Objection Outcomes

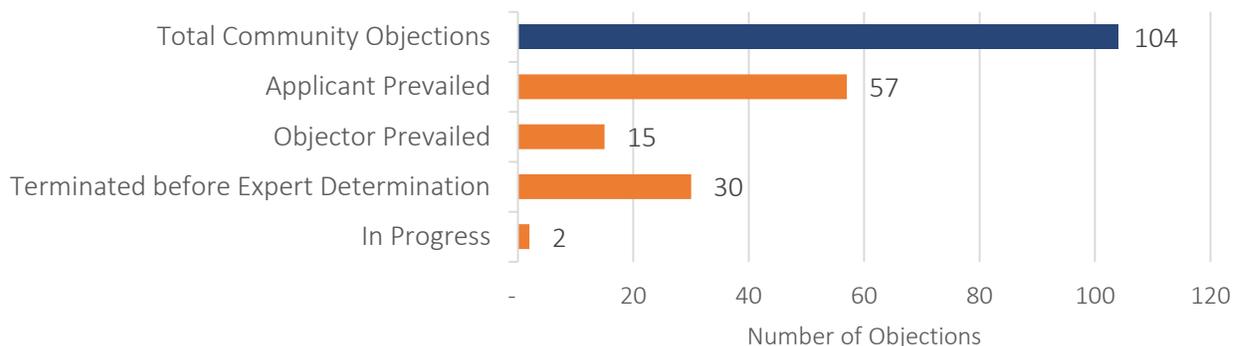


The String Confusion Objections process in this application round provided real-word examples of String Confusion Objections and outcomes. These examples could be used to aid the development of additional standards for String Confusion Objections and the String Similarity review as applicable in future rounds. (It should be noted that during this application round, the standards for String Confusion Objections and the String Similarity review were different. Whereas the String Similarity review only assessed visual similarity, String Confusion Objections could be filed based on any type of similarity, including visual, aural, or similarity of meaning. For more information on the String Similarity review, see Section 2.3: String Similarity Evaluation of this report.)

## Community Objections

AGB Section 3.2.1 defined the standard for Community Objections as “substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.” Figure 3.2.iv provides a summary of Community Objection outcomes.

Figure 3.2.iv: Community Objections Outcomes



The AGB provided for two distinct processes that related to the concept of communities: Community Objections and Community Priority Evaluation (CPE) (see Section 4.1: Community Priority Evaluation of this report). While both processes related to communities, the processes served different purposes (a community application that prevailed in CPE eliminated all directly contending standard applications, while a Community Objection could eliminate a single application). Accordingly, the standards used for consideration of applications in Community Objections and CPE were different. The subject of community considerations has been identified by the ICANN Board as a topic that may be appropriate for discussion by the GNSO.<sup>181</sup>

## Limited Public Interest Objections

AGB Section 3.2.1 defined the standard for Limited Public Interest Objections as, “[. . .] the applied-for gTLD string [was] contrary to generally accepted legal norms of morality and public order that [were] recognized under principles of international law.”

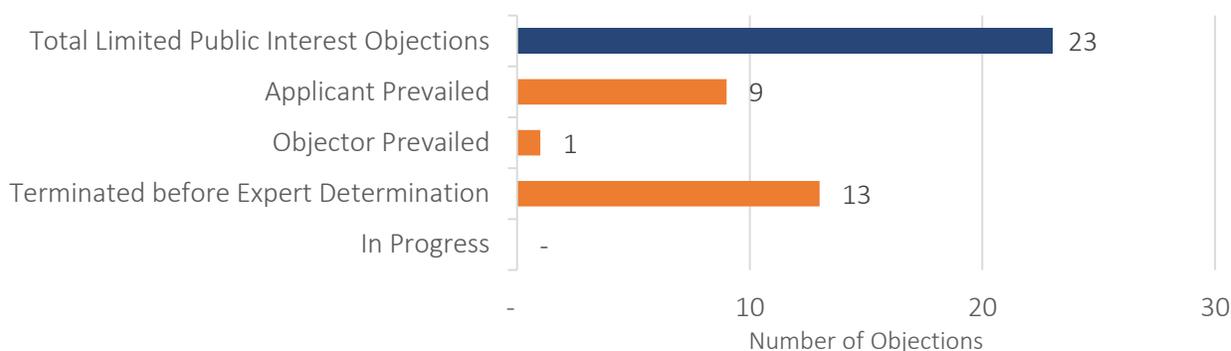
In relation to the standing requirements for the other grounds, the standing requirements for Limited Public Interest Objections were very inclusive. Anyone could file a Limited Public Interest Objection. To avoid abuse of this objection grounds due to its inclusive nature, Limited Public Interest Objections were subject to a “quick look” procedure. AGB Section 3.2.2.3 stated,

*Anyone may file a Limited Public Interest Objection. Due to the inclusive standing base, however, objectors are subject to a “quick look” procedure designed to identify and eliminate frivolous and/or abusive objections. An objection found to be manifestly unfounded and/or an abuse of the right to object may be dismissed at any time.*

<sup>181</sup> ICANN. (17 November 2015) Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

Despite the inclusive standing base, of the four objection grounds, the fewest Limited Public Interest Objections were filed. Figure 3.2.v provides a summary of Limited Public Interest Objection outcomes.

*Figure 3.2.v: Limited Public Interest Objections Outcomes*



The objection and dispute resolution processes were complex and previously untested. This round provided real-world examples of objections and determinations, so there is a stronger basis on which to develop the standards and procedures for future rounds. Additionally, concerns from both objectors and objected-to applicants that were raised through ICANN’s Accountability Mechanisms<sup>182</sup> should also be reviewed to inform any development work for the next round. Accountability Mechanisms were filed relating to objections under all of the objection grounds. Table 3.2.i provides a summary of ICANN Accountability Mechanisms filed by objection ground as of 31 July 2015.

*Table 3.2.i ICANN Accountability Mechanisms Filed by Objection Ground*

Ground	Approximate # of Related Accountability Mechanisms Filed
Legal Rights	8
String Confusion	10
Community	47
Limited Public Interest	3

### 3.2.4.2 MANAGEMENT OF DISPUTE RESOLUTION SERVICE PROVIDERS (DRSPS)

The dispute resolution process as included in the AGB is an independent process administered by dispute resolution service providers. These DRSPs were selected through a public call for expressions of interest<sup>183</sup> before the AGB was finalized, so that ICANN and the DRSPs could work together to finalize the guidelines and processes. Each of the DRSPs selected by ICANN was a globally recognized firm with experience in dispute resolution. See Section 8.2: Service Provider Coordination of this report for more information on these DRSPs.

<sup>182</sup> ICANN. (Amended 30 July 2014) Bylaws for Internet Corporation for Assigned Names and, Article IV: Accountability and Review. Retrieved from <https://www.icann.org/resources/pages/governance/bylaws-en/#IV>

<sup>183</sup> ICANN (21 December 2007). Announcement: ICANN Calls for Expressions of Interest from Potential Dispute Resolution Service Providers for the New gTLD Program. Retrieved from <https://www.icann.org/news/announcement-2007-12-21-en>

Recognizing that all of the selected DRSPs are world-renowned experts in the field of dispute resolution, and to support the intent to maintain independence in the dispute resolution process, ICANN did not attempt to direct or provide the DRSPs with interpretive guidance that might unduly influence the outcomes. However, ICANN received comments from the community regarding the areas of expertise of the panelists and suggestions that the panelists lacked training on the objection standards.<sup>184</sup> Given the untested nature of the standards of the objection grounds, ICANN may wish to provide training for the DRSPs in the next round to ensure that all expert panelists have a consistent baseline understanding of the relevant objection grounds.

As provided for by the AGB,<sup>185</sup> each Dispute Resolution Service Provider (DRSP) supplemented the AGB with its own respective procedures, which were published on the various DRSPs' websites.<sup>186,187,188</sup> ICANN received many questions from applicants regarding procedures that are published on the DRSPs' websites, potentially due to difficulties in finding this information on each of the DRSPs' websites or of being unsure of the relevant source for particular information. Examples of the types of questions received included fees and refunds, expert panelist selection criteria and process, and filing deadlines.

Although the DRSPs and ICANN published fee information in advance of the objection filing window,<sup>189</sup> during the window, ICANN received questions about fees and refund amounts, feedback that fee information was not easily accessible, and in some cases, feedback that the fees charged by the DRSPs were high. To address these areas of interest, ICANN hosted a webinar<sup>190</sup> to provide clarification on the DRSPs' processes, procedures, and fees. However, some of these questions might have been avoided or addressed earlier in the process if ICANN had provided centralized information from all of the DRSPs about the procedures that each would follow with respect to refunds and in calculating estimated fees for those objection proceedings based on hourly rates, rather than fixed fees. Additionally, in regards to the feedback received about high fees, it should be noted that quality and expertise of the expert panelists were major factors in the selection of the DRSPs, which correlated to the amount of fees charged by the DRSPs.

For each objection filed, the expert selection process was managed by the DRSP administering the case, which used its established procedures and criteria to do so. For each case, the DRSPs selected experts in the field of dispute resolution who understood the applicable laws and how to apply them in dispute cases. These experts selected were also experienced in considering arguments presented by two sides and in making determinations based on the applicable laws and the arguments presented.

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<sup>184</sup> S. Sahjwani, J. Westerdal. (24 September 2013) Letter from Radix Registry, and Fegistry, LLC to ICANN. Retrieved from <https://www.icann.org/en/system/files/correspondence/sahjwani-westerdal-to-chalaby-et-al-24sep13-en.pdf>

<sup>185</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Attachment to Module 3: New gTLD Dispute Resolution Procedure, Article 4. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>186</sup> International Centre for Dispute Resolution (ICDR). (10 January 2012) Supplementary Procedures for String Confusion Objections (Rules). Retrieved from [https://www.adr.org/cs/idcplg?IdcService=GET\\_FILE&dDocName=ADRSTG\\_0174.09&RevisionSelectionMethod=LatestReleased](https://www.adr.org/cs/idcplg?IdcService=GET_FILE&dDocName=ADRSTG_0174.09&RevisionSelectionMethod=LatestReleased)

<sup>187</sup> International Chamber of Commerce (ICC). (November 2013) ICC Rules for Expertise. Retrieved from <http://www.iccwbo.org/WorkArea/DownloadAsset.aspx?id=2147489562>

<sup>188</sup> World Intellectual Property Organization (WIPO). (20 June 2011) WIPO Rules for New gTLD Dispute Resolution. Retrieved from <http://www.wipo.int/export/sites/www/amc/en/docs/wipolorules.pdf>

<sup>189</sup> ICANN. Objection and Dispute Resolution. Retrieved from <http://newgtlds.icann.org/en/program-status/odr>

<sup>190</sup> ICANN. (29 January 2013). New gTLD Objection Process. Retrieved from <http://newgtlds.icann.org/en/program-status/objection-dispute-resolution/process-29jan13-en.pdf>

Regarding expert panelist selection criteria and process, ICANN received community comments citing lack of transparency in the expert panelist selection process and in the experts' qualifications as they related to the dispute resolution proceedings.<sup>191</sup> To provide greater transparency in the process in future rounds, ICANN could ask the DRSPs to provide more information on their selection processes before Objections are filed.

Regarding filing deadlines, there were at least six instances where the outcome of an objection was impacted by the objector or applicant missing the filing deadline by several minutes.<sup>192</sup> The AGB defined precise deadlines for filing and responding to objections. Soon after the close of the objections filing window, the DRSPs agreed to provide a five-minute grace period for objection submissions. Even with this grace period, applicants/objectors were in some cases dissatisfied with the decisions made by the DRSPs in strictly adhering to the AGB-defined deadlines. Some applicants/objectors filed complaints with the ICANN Ombudsman, who reviewed the complaints and made a formal recommendation to the NGPC. The NGPC provided guidance to the DRSPs and encouraged them to use their discretion on whether to grant extensions:<sup>193</sup>

*Resolved (2013.07.13.NGo4), in the interests of fairness and reasonableness, notwithstanding the deadlines set out in the Applicant Guidebook, in the future, the DRSPs are permitted and encouraged to use their discretion, in light of the facts and circumstances of each matter, and in cases where it is shown that the affected party is making a good faith effort to comply with the deadlines, as to whether to grant extensions, or deviate from the deadlines set forth in the Applicant Guidebook.*

In light of the observations made during implementation and the NGPC's 13 July 2013 resolution, the community may wish to consider whether such discretion should be accounted for in the standard process. If discretion were permitted, it would be beneficial for the DRSPs to notify ICANN of deviations from the standard process, and for ICANN to discuss such cases with all of the DRSPs to ensure that all parties are treated consistently across providers.

### 3.2.4.3 OBJECTIONS PROCESS

ICANN's implementation of the Objection and Dispute Resolution processes largely aligned to the processes defined in the AGB.

#### *Timeline*

One area where implementation was not in alignment with the AGB was in terms of the timeline. The AGB anticipated that the objection filing window would last for approximately seven months, and that "The objection filing period will close following the end of the Initial Evaluation period [ . . . ], with a

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<sup>191</sup> S. Sahjwani, Radix FZC et al. (1 November 2013) Letter from Radix FZC et al. to ICANN. Retrieved from <https://www.icann.org/en/system/files/correspondence/sahjwani-et-al-to-chalaby-et-al-01nov13-en.pdf>

<sup>192</sup> ICANN. (19 October 2013) Reconsideration Request 13-13:Christopher Barron. Retrieved from <https://www.icann.org/resources/pages/13-13-2014-02-13-en>

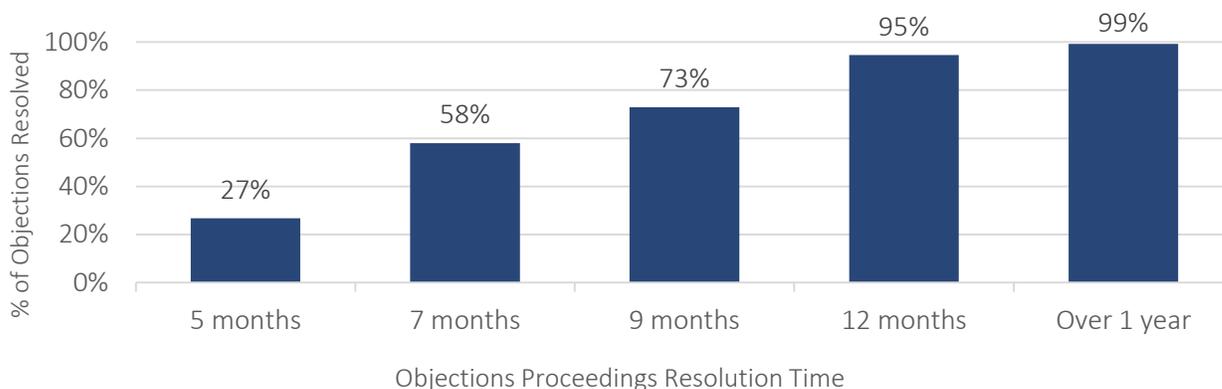
<sup>193</sup> ICANN. (13 July 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-07-13-en#1.b>

two-week window of time between the posting of the Initial Evaluation results and the close of the objection filing period.”<sup>194</sup>

In implementation, the objection-filing window opened on 13 June 2012 and closed on 13 March 2013. This objection window of nine months exceeded the seven-month window called for in the AGB. Further, it did not provide for the two-week window of time between the posting of the IE results (which occurred on 22 March 2013) and the close of the objection filing period. While this did not align with the AGB, the AGB did not account for prioritization (see Section 1.2: Prioritization of this report) and the impact of a longer IE period on objection filing. Extending the objection filing timeframe by six additional months to beyond the completion of IE would not have supported certainty and predictability for applicants. While the first IE results were not published until 22 March 2013, the results of the String Similarity review and the publication of contention sets occurred on 26 February 2013. Ultimately, the objection filing window was extended to 13 March 2015, which allowed for a two-week period after string contention sets were published prior to the close of the objection window for concerned parties to decide whether to file String Confusion Objections.

The timeline for objections to be considered and processed was also longer than contemplated by the AGB. The AGB estimated that “[d]ispute resolution proceedings, where applicable [were] expected to be completed for all applications within approximately a 5-month time frame.”<sup>195</sup> As of 31 July 2015, 28 months after the close of the objections filing window, two objections are still pending. Over a quarter of the objections completed within five months (AGB timeline). After 12 months, 95% were complete (See Figure 3.2.vi).

Figure 3.2.vi: Objection Proceedings Completed (Cumulative)



The delays to the dispute resolution proceedings have had both operational causes (e.g., volume of objections filed and the DRSPs’ processes) and causes due to the parties (e.g., negotiation and requesting stays).

<sup>194</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 1.1.2.6: Objection Filing. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>195</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 1.1.2.9: Dispute Resolution. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

## Consolidation

The AGB provided that consolidation of dispute resolution cases could occur, that is, individual objections could be considered by the same expert and processed at the same time. After the DRSPs had received all objections, they could elect to consolidate certain objections (e.g., multiple objections filed against the same application on the same grounds). Section 3.4.2 of the AGB stated, “ICANN [. . .] strongly encourage[s] all of the DRSPs to consolidate matters whenever practicable,” but it did not require consolidation. In this application round, the DRSP, the Panel, or the parties could suggest consolidation, but per the DRSPs’ procedures, the parties had to agree in order for the cases to be consolidated. In some cases, a party may not have wished to consolidate objections, due to reasons of confidentiality or due to the specific arguments presented in their case.

In at least one instance, the parties decided to not consolidate, and the outcomes to the objections were different. ICANN received comments from the community on consolidation,<sup>196,197</sup> and questioned whether consolidation could have prevented perceived conflicting determinations.<sup>198</sup> Mandatory consolidation of cases might increase efficiency by reducing the amount of administrative work for the DRSPs, costs for the parties, and the overall objections timeline. However, if consolidation were required, criteria would have to be defined for which cases are/are not consolidated, and consolidation might not be appropriate in all cases.

## Conditions

Once the Expert Panel had reached its determination, the DRSPs issued the determination directly to the parties (i.e., applicant and objector). The DRSPs also shared the determination with ICANN. ICANN accepted the determinations in that ICANN published them to the New gTLD microsite,<sup>199</sup> and processed the applications accordingly by permitting them to move forward in the application process, updating the contention set if appropriate, or updating the application status. ICANN observed that there were instances where panelists included conditions or proposed remedies in their expert determinations.<sup>200,201</sup> The AGB did not contemplate such conditions and did not provide for these conditions or remedies to be considered before ICANN accepted the determinations. The community may wish to consider whether an additional opportunity for discussion of these conditions would be beneficial to the parties.

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<sup>196</sup> S Hammock, United TLD Holdco Ltd. (4 November 2013) Letter from Statton Hammock to Cherine Chalaby. Retrieved from <https://www.icann.org/en/system/files/correspondence/hammock-to-chalaby-04nov13-en.pdf>

<sup>197</sup> P. Young, Famous Four Media. (9 September 2013) Letter from Peter Young to Cherine Chalaby. Retrieved from <https://www.icann.org/en/system/files/correspondence/young-to-chalaby-09sep13-en.pdf>

<sup>198</sup> ICANN. (28 September 2013). ICANN New gTLD Program Committee Paper No. 2013.09.28.zc. Retrieved from <https://www.icann.org/en/system/files/bm/briefing-materials-1-2-28sep13-en.pdf>

<sup>199</sup> See <http://newgtlds.icann.org/en/program-status/odr/determination>

<sup>200</sup> The International Centre for Expertise of the International chamber of Commerce. (16 November 2013) Case No. EXP/390/ICANN/7: The International Lesbian Gay Bisexual Trans and Intersex Association vs. Afiliias Limited. Retrieved from <http://newgtlds.icann.org/sites/default/files/drsp/25nov13/determination-1-1-868-8822-en.pdf>

<sup>201</sup> ICANN. (13 December 2013) Reconsideration Request 13-18: ILGA. Retrieved from: <https://www.icann.org/resources/pages/13-18-2014-02-13-en>

#### 3.2.4.4 REVIEW MECHANISM

After the expert panel reached a determination, this determination was shared with the parties and then with ICANN. ICANN accepted the determination and acted on the determination as appropriate (i.e., allowed the application to proceed, updated the application status, or updated the contention set). The AGB did not provide for a process by which ICANN or any other body could conduct a substantive review of an expert panelist's determination. ICANN received comments from the community about the lack of an appeal mechanism in the Objections process.<sup>202</sup> Some parties chose to invoke ICANN Accountability Mechanisms<sup>203</sup> to have their cases considered by the ICANN Board or ICANN Ombudsman. While the ICANN Accountability Mechanisms provided parties with an opportunity to challenge staff or board action or inaction in terms of procedure, these are procedures broadly applicable to ICANN's accountability in its work, and were not designed to provide an opportunity for the merits of an objections case to be reviewed. However, two of the Accountability Mechanisms invoked<sup>204,205</sup> led to the NGPC's adoption of a Final Review Mechanism for a few limited objections.<sup>206</sup>

For these particular String Confusion Objections, the NGPC approved a review mechanism for two specific "perceived inconsistent" expert determinations, and suggested that the community consider whether a review process should be included in the next round. "[. . .] it is recommended that the development of rules and processes for future rounds of the New gTLD Program (to be developed through the multi-stakeholder process) should explore whether there is a need for a formal review process with respect to Expert Determinations."<sup>207</sup>

#### 3.2.4.5 INDEPENDENT OBJECTOR (IO)

The AGB called for an Independent Objector (IO), who would "not act on behalf of any particular persons or entities, but [would act] solely in the best interests of the public who use the global Internet." The IO had standing to file on the grounds of Limited Public Interest and Community. Additionally, "Absent extraordinary circumstances, the IO [was] not permitted to file an objection to an application where an objection [had] already been filed on the same ground."<sup>208</sup> Table 3.2.ii provides a summary of objections filed by the IO.

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<sup>202</sup> ICANN Correspondence. (24 September 2013) Letter from Radix Registry, and Fegistry, LLC to ICANN. Retrieved from <https://www.icann.org/en/system/files/correspondence/sahjwani-westerdal-to-chalaby-et-al-24sep13-en.pdf>

<sup>203</sup> ICANN. Bylaws for the Internet Corporation for Assigned Names and Numbers, Article IV: Accountability and Review. Retrieved from <https://www.icann.org/resources/pages/governance/bylaws-en>

<sup>204</sup> ICANN. (4 September 2013) Reconsideration Request 13-9: Amazon EU S.á.r.l.. Retrieved from <https://www.icann.org/resources/pages/13-9-2014-02-13-en>.

<sup>205</sup> ICANN. (5 September 2013) Reconsideration Request 13-10: Commercial Connect, LLC. Retrieved from <https://www.icann.org/resources/pages/13-10-2014-02-13-en>.

<sup>206</sup> ICANN. (12 October 2014) ICANN Board New gTLD Program Committee Resolution 2014.10.12.NGo2 – 2014.10.12.NGo3: Perceived Inconsistent String Confusion Objection Expert Determinations. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en#2.b>

<sup>207</sup> ICANN. (12 October 2014) ICANN Board New gTLD Program Committee Resolution 2014.10.12.NGo2 – 2014.10.12.NGo3: Rationale for Resolutions 2014.10.12.NGo2 – 2014.10.12.NGo3. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en#2.b.rationale>

<sup>208</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 3.2.4: Independent Objector. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

Table 3.2.ii: Independent Objector's Objections

Total Objections Filed by IO and Admitted	23 <sup>209</sup>
Applications objected to by IO	19
Community Objections Filed by IO and Admitted	12
Limited Public Interest Objections Filed by IO and Admitted	11
Objections where IO Prevailed	5

The implementation of the IO's processes did not align with the AGB in all cases, as the IO did not withdraw his objections in all cases when another objection to the same application on the same grounds was filed. In the context of the Objections and Dispute Resolution process, "grounds" refer to the four defined objection types (i.e., Limited Public Interest, Community, Legal Rights, and String Confusion), not to the arguments made within a specific objection.

The IO was subject to the same timeline as all objectors. The community may wish to consider providing the IO with an extended timeline, to allow him/her time to review the landscape of the objections submitted before making final decisions regarding filing of his/her objections.

Public comments were a consideration for the IO in filing objections. AGB Section 3.2.5 stated, "[. . .] the IO shall not object to an application unless at least one comment in opposition to the application is made in the public sphere." However, in some instances it was unclear whether a comment made in the Application Comment Forum (see Section 1.5: Application Comments of this report) was intended to object to the string/application or to be informational in nature.<sup>210</sup> The community may wish to provide additional clarification on what should be considered as a "comment in opposition." Consideration should be taken to determine whether the IO should be required to cite the comments on which the objection is based, and whether verification of these comments should be included in the process.

### 3.2.5 Conclusion

The objection and dispute resolution processes served their intended purpose, "External dispute providers will give decisions on objections."<sup>211</sup> ICANN received comments from the community about the lack of an appeal mechanism in the Objections process.<sup>212</sup> In the absence of an appeal mechanism in the Objections process, some parties chose to invoke ICANN Accountability Mechanisms<sup>213</sup> to have their cases considered by the ICANN Board or ICANN Ombudsman. Two of the Accountability

<sup>209</sup> The IO filed 24 objections, but one of the objected-to applications withdrew before ICANN published the Dispute Announcement, so the Objection was not admitted as an Objection.

<sup>210</sup> ICANN. (17 January 2014) Reconsideration Request 14-1: Medistry LLC. Retrieved from <https://www.icann.org/resources/pages/14-1-2014-02-14-en>

<sup>211</sup> GNSO Implementation Guideline H

<sup>212</sup> ICANN Correspondence. (24 September 2013) Letter from Radix Registry, and Fegistry, LLC to ICANN. Retrieved from <https://www.icann.org/en/system/files/correspondence/sahjwani-westerdal-to-chalaby-et-al-24sep13-en.pdf>

<sup>213</sup> ICANN. Bylaws for the Internet Corporation for Assigned Names and Numbers, Article IV: Accountability and Review. Retrieved from <https://www.icann.org/resources/pages/governance/bylaws-en>

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Mechanisms invoked<sup>214,215</sup> led to the NGPC’s adoption of a Final Review Mechanism for a few limited objections.<sup>216</sup> Consideration should be given to whether the Final Review Mechanism procedures utilized in this round, or other review mechanism should be made available in future rounds.

The intended role of the IO was to file Limited Public Interest and Community Objections in the interests of the public who use the global Internet. While the IO did act in this capacity, there are opportunities for improvement in administering the IO processes (e.g., withdrawal of the IO’s objection if another objection to the same application on the same ground was filed and how comments made in the public sphere were considered prior to the filing of an objection).

In summary:

**3.2.a** Explore a potential review mechanism for the next round

**3.2.b** Consider opportunities for improvement in administering the IO processes (e.g., withdrawal of IO objection if another objection to the same application on the same ground was filed, how comments made in the public sphere were considered prior to the filing of an objection)

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<sup>214</sup> ICANN. (4 September 2013) Reconsideration Request 13-9: Amazon EU S.á.r.l.. Retrieved from <https://www.icann.org/resources/pages/13-9-2014-02-13-en>.

<sup>215</sup> ICANN. (5 September 2013) Reconsideration Request 13-10: Commercial Connect, LLC. Retrieved from <https://www.icann.org/resources/pages/13-10-2014-02-13-en>.

<sup>216</sup> ICANN. (12 October 2014) ICANN Board New gTLD Program Committee Resolution 2014.10.12.NG02 – 2014.10.12.NG03: Perceived Inconsistent String Confusion Objection Expert Determinations. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-10-12-en#2.b>

# Chapter 4: Contention Resolution

Contention sets were groups of two or more applications that have been deemed confusingly similar to one another. The Applicant Guidebook (AGB) specified two methods for placing applications into contention sets. The first was based on the review conducted by the String Similarity panel during Initial Evaluation. The String Similarity panel created contention sets of applications that had applied for the same string, had applied for a potential IDN variant of another applied-for string, or had identified two or more strings as confusingly similar to one another. The panel identified two non-exact match contentions sets, two IDN Variant Sets, and 230 exact match contention sets--for a total of 234 contention sets composed of 754 applications. The second way an application could be placed into contention with another application was through the String Confusion Objection process, whereby an applicant could object to another application on the grounds that the two strings were confusingly similar to one another. After the String Confusion Objection process, there were 233 contention sets composed of 771 applications (some contention sets were combined).

In cases where an application had been placed into a contention set, the AGB encouraged applicants to resolve contention among themselves.<sup>217</sup> In the absence of resolution by the contending applicants, string contention cases were resolved either through Community Priority Evaluation (CPE) (if a self-designated community applicant had elected it<sup>218</sup>) or through an auction.

Table 4.i provides a breakdown of total contention sets as well as a breakdown of how sets were resolved (i.e., CPE, Auction, or Self-Resolution) as of 31 July 2015. The first column ("Contention Sets Identified by the String Similarity Panel") refers to the entire population of contention sets resulting from the String Similarity review. As mentioned, each applicant was eligible to file a String Confusion Objection to contest an absence of contention where expected. The second column refers to the new population of contention sets after the conclusion of String Confusion Objections (i.e., two sets were combined to reduce the number of contention sets from 234 to 233). Of the 19 sets that used CPE as a contention resolution mechanism, five applications prevailed.<sup>219</sup>

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<sup>217</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04, Section 1.1.2.10: String Contention. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>218</sup> An application could only be considered for Community Priority Evaluation (CPE) if the applicant designated the application as a community application at the time of application submission. Upon becoming eligible for CPE, discussed in the paper below, a self-designated community was also given the choice to elect to proceed through CPE.

<sup>219</sup> As of 31 July 2015, because of ICANN Accountability Mechanisms, explained later in this paper, only one set has been resolved via CPE (.OSAKA). Other applications have prevailed in CPE, but the sets are not yet resolved.

Table 4.i: New gTLD Contention Sets

Contention Sets Identified from String Similarity Evaluation	Contention Sets after Completion of String Confusion Dispute Resolution	Total Sets Resolved	Sets which Utilized CPE	Applications Prevailed in CPE	Sets Resolved via Auction
234	233	205	19	5	13

Figures 4.i, 4.ii and 4.iii help illustrate the breakdown of sets and applications further:

Figure 4.i: Contention Set Status

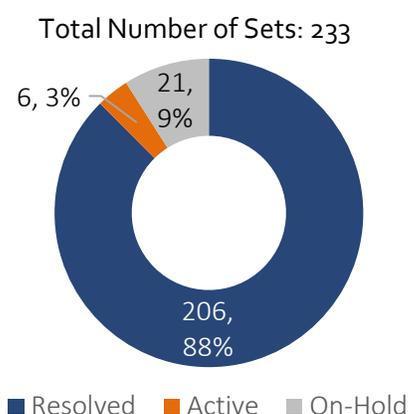


Figure 4.ii: Resolution Method

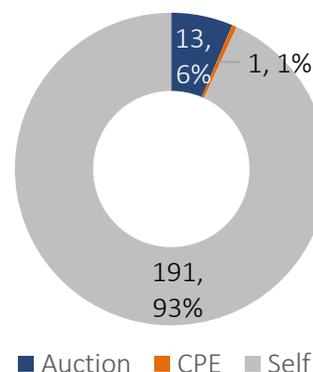
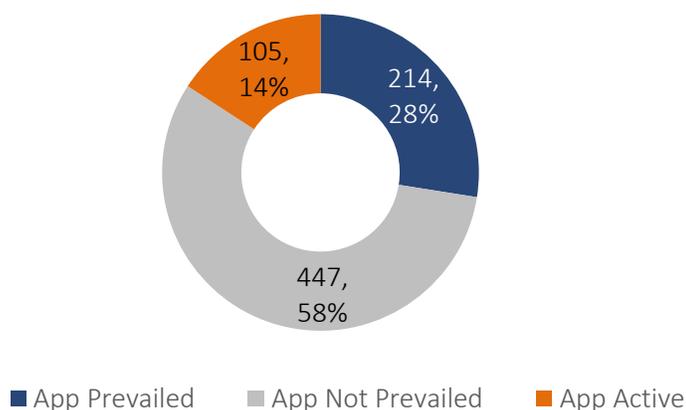


Figure 4.iii: Applications in Contention  
Total Applications in Contention = 766



The string contention resolution mechanisms CPE and Auction are discussed in further detail in Section 4.1: Community Priority Evaluation and Section 4.2: Auction of this report.

## 4.1 Community Priority Evaluation

### 4.1.1 Introduction

Community Priority Evaluation (CPE) is a contention resolution mechanism available to applicants that self-designated their applications as community applications. Prevailing in CPE would allow the community applicant to gain priority within a contention set. This section of the Program Implementation Review report discusses the following aspects of CPE:

- CPE Criteria
- CPE Process Implementation
- CPE Results

### 4.1.2 Relevant Guidance

The following guidance is relevant to the topic of Community Priority Evaluation and will be discussed in further detail in Sections 4.1.3 and 4.1.4 of this report:

- GNSO Recommendation 9: “There must be a clear and pre-published application process using objective and measurable criteria.”<sup>220</sup>
- GNSO Implementation Guideline F:

*If there is contention for strings, applicants may:*

- i. resolve contention between them within a pre-established timeframe*
- ii. if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;*
- iii. the ICANN Board may be used to make a final decision, using advice from staff and expert panels.*

- GNSO Implementation Guideline H\*:

*Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exceptions:*

- i. the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application; and*
- ii. a formal objection process is initiated.*

*Under these exceptions, Staff Evaluators will devise criteria and procedures to investigate the claim.*

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<sup>220</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

*Under exception (ii), an expert panel will apply the process, guidelines, and definitions set forth in [Implementation Guideline] P. GNSO Recommendation 10: "There must be a base contract provided to applicants at the beginning of the application process."*

- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>221</sup>
- Applicant Guidebook, Section 4.2: Community Priority Evaluation

### 4.1.3 Background

GNSO Implementation Guideline H acknowledged cases where an applicant may “lay claim that [a] TLD is intended to support a particular community.”<sup>222</sup> If only one applicant has made such a claim, then this claim can be “taken on trust;” if there are multiple applications for this particular TLD, then it becomes necessary to determine whether an applicant making such a claim should receive “priority” over the other applicants for that string. As part of the multi-year AGB development process, supported by consultation and input from the community,<sup>223</sup> the contention resolution mechanism CPE was developed in accordance with this GNSO Implementation Guideline.

As per the AGB and consistent with GNSO Implementation Guidelines F and H, if a community application prevailed in CPE, it was eligible to proceed to the next step in the Program, and the other applications in the contention set were eliminated.

To perform CPE evaluations, ICANN issued a call for expressions of interest in 2009 and selected two firms, Economist Intelligence Unit (EIU) and InterConnect Communications.<sup>224</sup> ICANN made the announcement of EIU and InterConnect Communications as the CPE evaluation panels at the ICANN42 Public Meeting.<sup>225</sup>

In early 2012, as publication of Initial Evaluation (IE) results (see Section 2.1: Initial and Extended Evaluation of this report) neared, ICANN began preparations for the contention resolution phase of the Program. As part of these preparations, ICANN determined that there were fewer than 40 community applications in contention (and therefore qualified for CPE). Based on the experience gained from IE, ICANN anticipated that significant training and preparation efforts would be required for the evaluation panels to achieve the desired consistency across evaluations. Given the relatively small number of potential evaluations, ICANN identified the reduction in training and preparation efforts as a potential benefit of using a single firm to act as the CPE Panel rather than dual-sourcing the work. With this insight, ICANN verified that a single firm could handle the workload and that the firm was able to certify that it did not have a conflict of interest with any of the potential CPE

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<sup>221</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>222</sup> ICANN. (8 August 2007) Final Report-Introduction of New Generic Top-Level Domains. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>223</sup> ICANN. Applicant Guidebook Historical Documents. Retrieved from <http://newgtlds.icann.org/en/about/historical-documentation>; ICANN. New gTLD Program Explanatory Memorandum: Resolving String Contention. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/string-contention-18feb09-en.pdf>

<sup>224</sup> ICANN. (25 February 2009) ICANN Call for Expressions of Interest for a New gTLD Comparative Evaluation Panel. Retrieved from <https://www.icann.org/en/topics/new-gtlds/eoi-comparative-evaluation-25feb09-en.pdf>

<sup>225</sup> ICANN. (26 October 2011) New gTLD Program Update PowerPoint Presentation, slide 19. Retrieved from <http://dakar42.icann.org/meetings/dakar2011/presentation-new-gtld-program-update-26oct11-en.pdf>

applicants, as defined by Section 2.4.3.1 of the AGB and the firm’s contracts with ICANN. The EIU was then selected as the single firm to act as the CPE Panel. The EIU was selected for this role because it offers premier business intelligence services--providing political, economic, and public policy analysis to businesses, governments, and organizations across the globe. Additionally, the EIU had the ability to meet Program capacity and timeline constraints, and could perform its role without conflict of interests with applicants.<sup>226</sup>

To maintain transparency, fairness, and predictability in the CPE process, the CPE panel drafted a set of guidelines (CPE Guidelines) that its team would use to perform evaluations. These guidelines “provide[d] additional clarity around the process and scoring principles outlined in the AGB.”<sup>227</sup> The draft of the guidelines was published on 16 August 2013 for input from the ICANN community.<sup>228</sup> Comments and input were reviewed by the CPE Panel and incorporated if they aligned with the AGB. The final version of the guidelines was published on 27 September 2013, prior to the commencement of CPE.

### *Overview of the CPE Process*

When a community applicant became eligible for CPE,<sup>229</sup> ICANN sent an invitation to the applicant and provided 21 days for the applicant to elect participation (i.e., opt in) and submit the CPE fee of USD 22,000, which was refundable if the applicant prevailed in CPE. In parallel with notifying the applicant and in an effort to ensure awareness and transparency, ICANN would notify all other members of the contention set (including applicants for standard applications as well as other community-based applications) and note the invitation on the CPE page of the New gTLD microsite.<sup>230</sup> Included in the 21-day period was a final 14-day window for any new application comments or related correspondence to be submitted for the CPE panel’s consideration.<sup>231</sup>

ICANN would provide authorization to begin an evaluation to the CPE panel after both the applicant’s CPE fee had been collected and at least 14 days had elapsed after the CPE invitation. This ensured that the CPE evaluation did not start prior to the completion of the final 14 days of public comment. Applications were evaluated against the criteria in the AGB in accordance with the CPE panel’s defined process.<sup>232</sup> As per the AGB, the CPE panel could use any available public information to inform its determination and could conduct independent research regarding the proposed TLD community and

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<sup>226</sup> For more information on vendor selection, see: <http://newgtlds.icann.org/en/blog/preparing-evaluators-22nov11-en>. For more information on the EIU’s processes in CPE, see:

<http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>

<sup>227</sup> ICANN. (25 February 2009) ICANN Call for Expressions of Interest for a New gTLD Comparative Evaluation Panel. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf>

<sup>228</sup> ICANN. (16 August 2013) Announcement: Community Priority Evaluation Guidelines Posted for Community Review and Input. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-4-16aug13-en>

<sup>229</sup> ICANN. Community Priority Evaluation. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe#eligibility>

<sup>230</sup> ICANN. Community Priority Evaluation. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe#status>

<sup>231</sup> As noted, this window marked the *final* 14 days an applicant had to gather support for its application. ICANN guaranteed the Panel would consider all letters and comments submitted up to the end of that 14-day window. After the close of the period, applicants were able to submit further letters and comments, but ICANN could not guarantee they would be reviewed by the Panel. Please see the CPE FAQs for more information on this matter: <http://newgtlds.icann.org/en/applicants/cpe/faqs-10sep14-en.pdf>

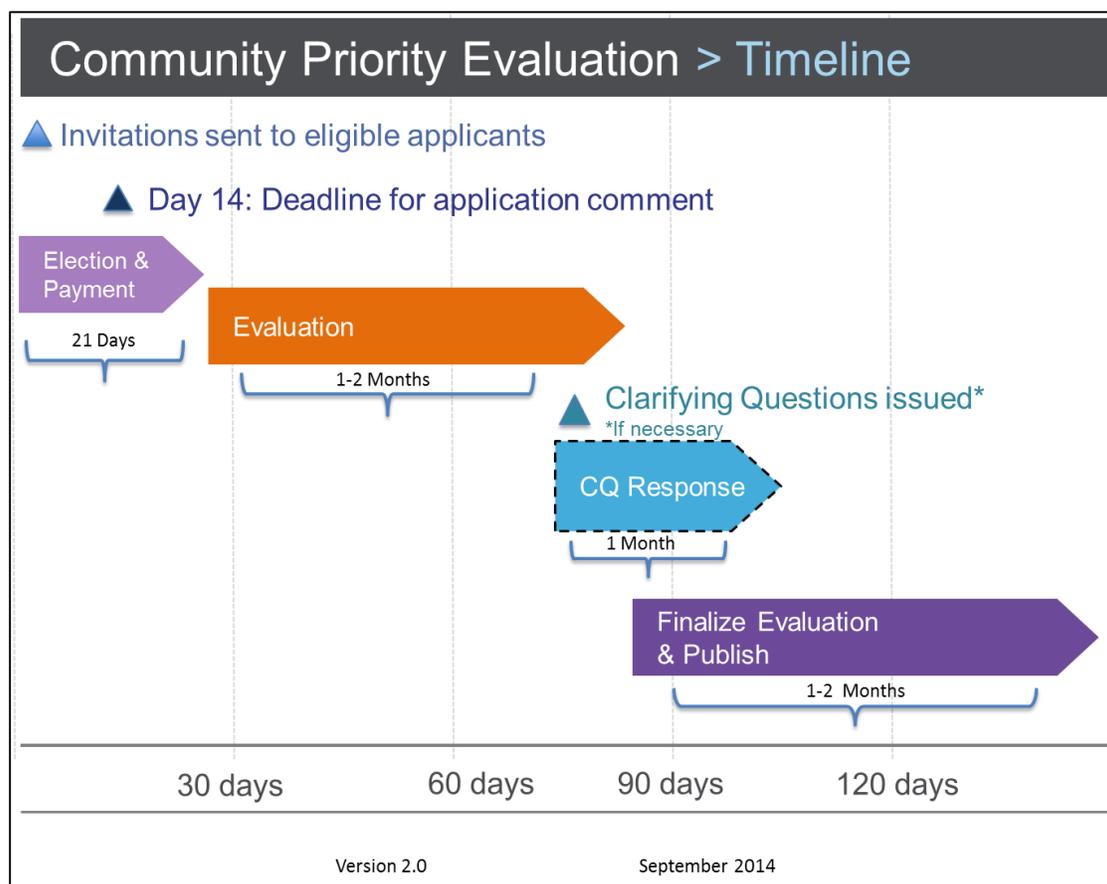
<sup>232</sup> ICANN. Community Priority Evaluation. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>

application. At its discretion, the CPE panel could issue Clarifying Questions (CQs) request clarification of any information required to make a determination.

The entire CPE evaluation from invitation to publication of results ranged in processing time from three to six months. The actual amount of time required depended on whether there were CQs, the number of support or opposition letters that required review and verification, and the amount of additional research performed by the CPE panel. The quantity and length of letters of support or opposition varied from less than 10 pages of additional materials to hundreds of pages of text for the panel to review.

At the completion of evaluation, the CPE panel delivered a report to ICANN, which included the rationale for its determination. ICANN performed quality control on the report to ensure consistency and alignment with the AGB and CPE Guidelines as well as to ensure that adequate rationale was provided for scoring decisions. The CPE report was then published on the New gTLD microsite.<sup>233</sup> Figure 4.1.i depicts a typical CPE process timeline:

Figure 4.1.i: CPE Process Timeline



<sup>233</sup> ICANN. Community Priority Evaluation. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe#invitations>

As of 31 July 2015, 19 applications have completed CPE. Table 4.1.i below provides a break-down of community applications.

*Table 4.1.i: Break-down of Community Applications*

Number of new gTLD applications	1,930
Number of applications self-designated as community	84
Number of applications self-designated as community that were in contention	34
Number of contention sets that included self-designated community application(s)	28
Number of self-designated community applications that participated in CPE as of 31 July 2015	19
Number of self-designated applications that prevailed CPE as of 31 July 2015	5

## 4.1.4 Assessment

### 4.1.4.1 COMMUNITY PRIORITY EVALUATION CRITERIA

Awarding priority to a particular applicant type was described by the GNSO in its Final Report for the “Introduction of New Generic Top-Level Domains.” The development of a process based on GNSO Implementation Guidelines F and H required significant discussion, and establishing the CPE criteria to determine whether priority should be awarded to a community application were the results of over three years of work by the ICANN community during the development of the AGB.

Section 4.2.3 of the AGB states the goal of the CPE process was to “identify qualified community-based applications, while preventing both ‘false positives’ (awarding undue priority to an application that refers to a ‘community’ construed merely to get a sought-after generic word as a gTLD string) and ‘false negatives’ (not awarding priority to a qualified community application).” Recognizing that the outcome of CPE has significant impact on not only the community applicant but all other applicants in the contention set, the AGB states the following regarding the CPE criteria: “It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application.”<sup>234</sup> This kind of evaluation required a “holistic approach” that helped to counter the difficulty of interpreting and balancing aspects of communities. Thus, four primary criteria were established to assess an application’s qualifications for earning priority on the basis of community. In summary, they were:

1. Community Establishment – This criterion relates to the community as explicitly identified and defined according to statements in the application.
2. Nexus between Proposed String and Community – This criterion evaluates the relevance of the string to the specific community that the application claims to represent.

<sup>234</sup> AGB, Section 4.2.3: Community Priority Criteria

3. Registration Policies – This criterion evaluates the applicant’s registration policies as indicated in the application. Registration policies are the conditions that the future registry will set for prospective registrants.
4. Community Endorsement – This criterion evaluates community support and/or opposition to the application.

To maintain transparency, fairness, and predictability in the CPE process, the CPE panel drafted a set of guidelines (CPE Guidelines) that its team would use to perform evaluations. The Guidelines “provide[d] additional clarity around the process and scoring principles outlined in the AGB.”<sup>235</sup> The draft of the Guidelines was published on 16 August 2013 for input from the ICANN community.<sup>236</sup> Comments and input which aligned with the AGB were incorporated into the final version of the Guidelines, which was published on 27 September 2013, prior to the commencement of CPE.<sup>237</sup>

Given that awarding priority to community-based applications is a fairly new concept, the GNSO may wish to review whether the implementation of CPE meets the GNSO’s intended goal. The ICANN Board also identified community considerations as a topic that may be appropriate for the GNSO’s discussion of evaluation in the current round and adjustments for future application procedures.<sup>238</sup>

#### 4.1.4.2 CPE PROCESS IMPLEMENTATION

In implementing CPE, ICANN focused on ensuring that all aspects of the process, from eligibility determination to result publication, were applied consistently and in accordance with the AGB.

To support process transparency, ICANN published CPE criteria prior to the opening of the application window as part of the AGB and published CPE Guidelines prior to the commencement of CPE. In addition, ICANN created a dedicated CPE page on the New gTLD microsite<sup>239</sup> to share relevant information regarding CPE with applicants and the community.

To support consistency, the CPE panel developed a process that could be applied to the evaluation of all applications and published the process on the CPE page of the New gTLD microsite.<sup>240</sup> ICANN also followed the defined and published eligibility criteria to invite applicants to CPE.<sup>241</sup> Deadlines for CPE election, payment, and final comments were also consistently applied. Finally, prior to the publication of the CPE reports, ICANN reviewed the reports for consistent application of the AGB criteria.

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<sup>235</sup> The Economist Intelligence Unit. Community Priority Evaluation Guidelines Version 2.0. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf>

<sup>236</sup> ICANN. (16 August 2013) Announcement: Community Priority Evaluation Guidelines Posted for Community Review and Input. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-4-16aug13-en>

<sup>237</sup> The Economist Intelligence Unit. Community Priority Evaluation Guidelines Version 2.0. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf>

<sup>238</sup> ICANN. (17 November 2015) Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

<sup>239</sup> ICANN. Community Priority Evaluation. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe#status>

<sup>240</sup> ICANN. Community Priority Evaluation. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe>

<sup>241</sup> ICANN. Community Priority Evaluation. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe#eligibility>

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## *Letter of Support/Opposition Verification Process*

To support an accurate evaluation, a letter verification process was instituted within CPE, similar to the process used in the context of Geographic Names evaluation. The verification process required that the authenticity of relevant letters that could impact a scoring decision be confirmed by the panel.<sup>242</sup> This process step addressed concerns expressed by both community- and non-community-based applicants prior to the beginning of CPE.

The letter verification process posed several challenges for applicants, commenting organizations, and the CPE panel. There were three avenues through which the community could provide input to a CPE evaluation: the Application Comments Forum,<sup>243</sup> by submitting a letter of support to the applicant for inclusion in their application [Question 20(f)], and by submitting correspondence to ICANN which would be posted publicly<sup>244</sup> for review and consideration by the Panel. Most applications included community input from all three avenues, and ICANN often received a fairly high volume of correspondence during the 14-day CPE invitation period or shortly after the period ended. The letters submitted via the correspondence page were challenging to review, as the letters were submitted over a long period of time (beginning “Reveal Day” in June 2012 through the CPE) and were up to several hundred pages in length. Due to the increased workload for the panel, this part of the process often extended the evaluation period for the application. Verifying the letters was sometimes complicated by a lack of contact information provided to the panel by the author of the letter or the applicant or contact information that was obsolete by the time the evaluation occurred.

To counter this challenge, ICANN encouraged applicants to provide a current list of supporters with contact information for those that authored letters by the start of the evaluation. Additionally, if the CPE panel was unable to receive the desired verification from the author and the impact of not having the verification would impact the scoring of the evaluation, the panel would issue a CQ to the applicant requesting their assistance in soliciting a response to the verification attempt and requesting that they provide current contact information for the author. Secondly, applicants or their supporters often submitted information to ICANN via correspondence after the deadline. Although the panel was not required to take these submissions into account, the panel did attempt to do so,<sup>245</sup> which extended the timeline of some evaluations.

## *Application Changes and Clarifying Questions*

The approach to CQs in CPE was intended to support the idea that applicants could not make substantive changes to their applications after the close of the objections window, as members of the community would not have the ability to file objections based on the updated application.

To support this idea, ICANN ensured that application materials for CPE applicants were not modified prior to CPE taking place. Change requests relating to the parts of the application that would be

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<sup>242</sup> The Economist Intelligence Unit. (07 August 2014) Community Priority Evaluation Panel and Its Processes. Retrieved from <https://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>

<sup>243</sup> ICANN. Application Comments. Retrieved from <https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments>

<sup>244</sup> ICANN. gTLD Correspondence. Retrieved from <http://newgtlds.icann.org/en/program-status/correspondence>

<sup>245</sup> ICANN. (10 September 2014) Community Priority Evaluation (CPE) Frequently Asked Questions version 1.3. Retrieved from <http://newgtlds.icann.org/en/applicants/cpe/faqs-10sep14-en.pdf>.

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reviewed by the CPE panel were deferred until after CPE.<sup>246</sup> This was to prevent applicants from amending their applications in order to improve their chances of prevailing in CPE based on previously posted CPE results from other applications.

Secondly, the CQ process in CPE differed from IE. With respect to CPE, CQs were issued in instances where the panel required the applicant to:

- Address any application comments that may impact the scoring of their application
- Address any letters of opposition
- Contact supporting organizations and ask them to respond to the EIU's request for validation of letters of support
- Address any objection determinations where the applicants were the objectors and the experts did not rule in their favor
- Clarify application materials

Using a different approach to CQs in CPE than IE caused some challenges in implementation. Despite ICANN's best efforts, it was challenging for ICANN to communicate the rationale for why applicants did not receive CQs prior to receiving their results.

The implementation of CPE strove to balance the CPE panel's ability to request clarification without providing the applicant with the opportunity to provide new information not already in the application. Prospective community-based applicants were required to have addressed the criteria in the originally submitted application.

### *Community Priority Evaluation Results*

As of 31 July 2015, 19 applications representing 17 strings had participated in CPE and, of those, four applications had prevailed (i.e., achieved at least 14 of the 16 available points).

ICANN received complaints from applicants (both community and standard applicants) regarding the outcomes of CPE, through formal correspondence and ICANN Accountability Mechanisms. Such complaints included feedback that there was a lack of transparency, that the panel misinterpreted the applications or the communities they claimed to represent, and that the panel improperly applied the CPE criteria in reaching its determinations. ICANN observed that in any Program process where an application was eliminated or an applicant was dissatisfied with a Program outcome, it was likely that negative feedback would be submitted and Accountability Mechanisms would be invoked. Much of the feedback received about the CPE outcomes was in line with this observation.

The GAC issued advice to ICANN in multiple Communiqués regarding CPE and the various outcomes. In its Communiqués from Beijing, Durban, and Singapore, the GAC referred to "preferential

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<sup>246</sup> ICANN. (5 September 2014) New gTLD Advisory. Retrieved from <http://newgtlds.icann.org/en/applicants/advisories/change-request-set-05sep14-en>

treatment” that should be given applications with “demonstrable community support” or a “collective and clear opinion.”<sup>247,248,249</sup>

In the 14 May 2014 scorecard, the NGPC responded to the GAC that it “[would] continue to protect the public interest and improve outcomes for communities, and to work with the applicants in an open and transparent manner in an effort to assist those communities within the existing framework.”<sup>250</sup> By adhering to the AGB and ensuring each CPE is consistent with the AGB criteria, ICANN has sought to meet the GAC’s advice. Additionally, the subject of community considerations has been identified by the ICANN Board as a topic that may be appropriate for discussion by the GNSO.<sup>251</sup>

## 4.1.5 Conclusion

ICANN and the CPE panel implemented processes and procedures to assure the fair, consistent, and predictable administration of the CPE process. The CPE panel consistently applied the CPE criteria from the AGB to each application it evaluated and provided its rationale for each of its scoring decisions.

The concept of awarding priority to applications based on a set of criteria was new to this round of gTLD applications. Before a next round, the following should be considered:

- Whether to continue the practice of evaluating and awarding priority to community based applications
- Whether the criteria for granting priority should be revised

Staff recommends considering all dimensions of the feedback received to revisit the CPE scoring and framework before the next application round.

In summary:

- 4.1.a** Consider all dimensions of the feedback received to revisit the CPE scoring and framework before the next application round

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<sup>247</sup> Governmental Advisory Committee. (11 April 2013) GAC Communiqué – Beijing People’s Republic of China. Retrieved from <https://www.icann.org/en/system/files/correspondence/gac-to-board-18apr13-en.pdf>

<sup>248</sup> Governmental Advisory Committee. (18 July 2013) GAC Communiqué – Durban, South Africa. Retrieved from <http://durban47.icann.org/meetings/durban2013/presentation-gac-communique-18jul13-en.pdf>

<sup>249</sup> <sup>249</sup> Governmental Advisory Committee. (27 March 2014) GAC Communiqué – Singapore. Retrieved from <http://www.icann.org/en/news/correspondence/gac-to-board-27mar14-en.pdf>

<sup>250</sup> ICANN. (14 May 2014) Annex 1 to Resolution 2014.05.14.NGo2. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-14may14-en.pdf>

<sup>251</sup> ICANN. (17 November 2015) Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

## 4.2 Auction: Mechanism of Last Resort

### 4.2.1 Introduction

Auction was the mechanism of last resort to resolve contention if applicants could not resolve contention amongst themselves or through CPE. This section of the Program Implementation Review report discusses the following aspects of ICANN-facilitated auctions:

- Auction Rules
- Auction Process and Administration

### 4.2.2 Relevant Guidance

The following guidance is relevant to the topic of Auction and will be discussed in further detail in Sections 4.2.3 and 4.2.4 of this report:

- GNSO Recommendation 9: "There must be a clear and pre-published application process using objective and measurable criteria."<sup>252</sup>
- GNSO Implementation Guideline F:
  - If there is contention for strings, applicants may:*
    - iv. *resolve contention between them within a pre-established timeframe*
    - v. *if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;*
    - vi. *the ICANN Board may be used to make a final decision, using advice from staff and expert panels.*
- GNSO Implementation Guideline I: "An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process."
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>253</sup>
- Applicant Guidebook, Section 4.3: Auction: Mechanism of Last Resort

### 4.2.3 Background

The AGB anticipated that most contention sets would either self-resolve or be resolved through CPE (see Section 4.1: Community Priority Evaluation of this report): "It is expected that most cases of contention will be resolved by the community priority evaluation or through voluntary agreement

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<sup>252</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8augo7.htm>

<sup>253</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

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among the involved applicants.”<sup>254</sup> That is, ICANN intended auctions to be the resolution “mechanism of last resort.”

After conducting an open procurement process, ICANN selected the auction firm, Power Auctions, LLC, to facilitate the auctions.<sup>255</sup> Power Auctions was a leader on auction thought and design, helping ICANN to adhere to GNSO Implementation Guideline F, wherein an “efficient resolution of contention” was called for should there be no mutual agreement or resolution via community claim. Power Auctions also supported the development and design of both the direct and indirect auction processes as well as the implementation rules governing the auctions.

If a contention set had not been resolved after each application had completed the previous phases of the Program, essentially AGB Modules 2, 3, and Section 4.2, the contention set was scheduled for an auction to resolve the contention set. The auction process started with ICANN assessing a contention set’s eligibility for an auction and then scheduling the eligible contention set for an auction date. For a contention set to be eligible for an auction, each application in the contention set had to have completed evaluation, resolved any objections and applicable GAC Advice, and completed CPE if any community-based applicants were members of the set. An Intent to Auction notification was sent to each member of the contention set, alerting them that an auction to resolve their string contention set had been scheduled and providing a set of forms to be completed within a stated time period to be eligible to participate in the auction. The Intent to Auction notifications were sent at least two months prior to the scheduled auction date to allow for 1) a contention set to self-resolve before an auction takes place, and 2) the required forms to be completed. To participate in the auction, applicants were required to agree to abide by the Auction Rules and Bidder Agreement with the auction provider. Additionally, they were required to submit a bidding deposit by a specified time period in advance of the auction. The auction then took place according to the Auction Rules. Once the winner(s) was/were determined, they were required to pay their winning fee and move onto the next phase of the Program, Contracting (see Section 5.1: Contracting of this report). The applicants that did not prevail did not proceed further in the Program and were able to withdraw their applications, receiving a partial refund of their application fee.

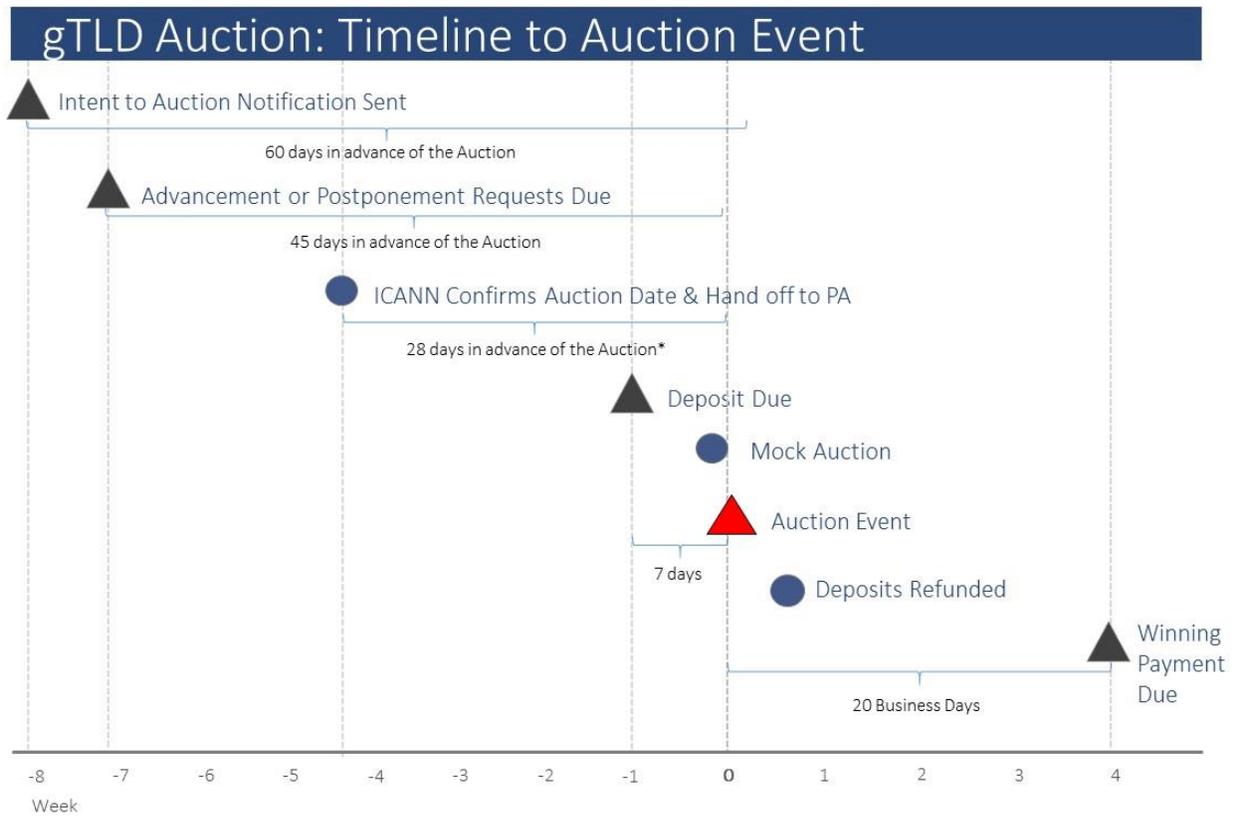
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<sup>254</sup> ICANN. gTLD Applicant Guidebook Version 2012-06-04, Section 4.3: Auction: Mechanism of Last Resort. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>255</sup> For information on the vendor selection process as well as the agreement between ICANN and Power Auctions, LLC, please see: <http://newgtlds.icann.org/en/applicants/auctions/summary-vendor-selection-10mar14-en.pdf>

Figure 4.2.i illustrates the Auctions process and timelines:

Figure 4.2.i: New gTLD Auction Timeline



\* ICANN has committed to provide confirmation of the Auction Date at least 21 days prior to the Auction; however, ICANN attempts to provide confirmation of the Auction Date at least 28 days in advance of such Auction (as illustrated).

ICANN will notify applicants of intent to Auction at least 9 weeks prior to the Auction Date. The completed intent to Auction forms are due 28 days after distribution of the intent to Auction notification.

Applicants in contention were encouraged to resolve the contention amongst themselves and were able to do so up to seven days prior to the date of the auction. Being sent to auction did not prohibit self-resolution or require the set to utilize the auction to resolve the contention; rather, it created a deadline for self-resolution which facilitated many sets to resolve. As pointed out in the introduction to Chapter 4: Contention Resolution of this report, as of 31 July 2015, only 13 sets (out of 206 resolved) have resolved by way of an ICANN auction.

## 4.2.4 Assessment

### 4.2.4.1 AUCTION RULES

The AGB defined auction procedures for those contention sets that did not come to mutual agreement or resolve through CPE. These procedures called for an ascending-clock auction which utilized a second price method and defined where the auction should take place (online), how the auction rounds should be structured, the various terms associated with the auction (e.g., proxy and exit bids), and provided various auction outcome scenarios to help illustrate the process. In general, the AGB focused on facilitating auctions for direct contention, though it did define and discuss indirect contention in Section 4.1.1 "Identification of Contention Sets."<sup>256</sup> These procedures provided the basis for operationalizing the auction process.

From these procedures, the auction service provider developed the New gTLD Auction Rules, with versions for both direct contention sets<sup>257</sup> and sets containing indirect contention.<sup>258</sup> These rules acted as a detailed guide for applicants to facilitate auctions and included insight into eligibility, scheduling considerations, preparation procedures, deposits, bidding limits, bidding procedures, the conclusion of auctions, and payments and refunds.

The direct contention Auction Rules were posted for public comment in late 2013<sup>259</sup> with the final version published in March 2014.<sup>260,261</sup> Because of the very small number of indirect contention sets (five of the total 233) and the anticipated complexity involved in developing the rules, ICANN and the auction service provider deferred developing the rules for indirect contention until after the direct contention Auction Rules had been established. The indirect contention Auction Rules were posted for public comment in December 2014,<sup>262</sup> and the final version was published in February 2015.<sup>263</sup> The complexity associated with auction design for indirect contention sets as well as less definition in the AGB required both additional time and cost on the part of ICANN, the auction service provider, and the community for drafting and finalization.

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<sup>256</sup> An example of indirect contention would be: Application A is in direct contention with Application B. Application B is in direct contention with Application C. Applications A and C are only in indirect contention with each other. See AGB Section 4.1.1 for more information and examples of indirect contention.

<sup>257</sup> ICANN. (14 May 2014) Annex 1 to Resolution 2014.05.14.NGo2. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/rules-03nov14-en.pdf>

<sup>258</sup> ICANN. (14 November 2014) Public Comment: New gTLD Auction Rules for Indirect Contention. Retrieved from <https://www.icann.org/public-comments/new-gtld-auctions-indirect-contention-2014-11-14-en>

<sup>259</sup> ICANN. New gTLD Auction Rules. Retrieved from <https://www.icann.org/public-comments/new-gtld-auction-rules-2013-12-17-en>

<sup>260</sup> Power Auctions LLC. (3 April 2014) Auction Rules for New gTLD. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/rules-03apr14-en.pdf>.

<sup>261</sup> Power Auctions LLC. (3 November 2014) Auction Rules for New gTLD. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/rules-03nov14-en.pdf>

<sup>262</sup> ICANN. (14 November 2014) Public Comment: New gTLD Auction Rules for Indirect Contention. Retrieved from <https://www.icann.org/public-comments/new-gtld-auctions-indirect-contention-2014-11-14-en>

<sup>263</sup> ICANN. (24 February 2015) Auction Rules for New gTLDs: Indirect Contentions Edition Version. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/rules-indirect-contention-24feb15-en.pdf>

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For both sets of rules, comments were considered and incorporated if they were in line with the AGB. By engaging in public consultation for the development of the Auction Rules, ICANN was able to ensure transparency in the development process and achieved predictability in process execution.

The rules ensured that bidder information, including bidding limits, remained confidential and that all participants adhered to anti-collusion restrictions.

The auction service provider facilitated the auctions in accordance with these rules, and ICANN has not received comments or complaints stating otherwise.

#### **4.2.4.2 AUCTION PROCESS AND ADMINISTRATION**

One of the advantages of ascending clock auctions was that multiple contention sets could be resolved simultaneously in a single auction event. ICANN published the first auction schedule on 19 March 2014.<sup>264</sup> There were 10 auction events scheduled over a 10-month period beginning in June 2014, with the last auction event initially scheduled for March 2015. ICANN updated the schedule on a monthly basis to reflect any changes since the previous publication of the schedule.

When ICANN published the initial auction schedule in March 2014, it simultaneously sent intent to auction notifications to all 106 contention sets which had been scheduled for one of the 10 auctions between June 2014 and March 2015. These 106 contention sets accounted for 306 applications in contention. All applicants who received the intent to auction notification were required to submit the required forms within 28 days of receipt of the notification. For several multi-application applicants, this meant completing a significant amount of paperwork within a 28-day period. There may have been some inefficiencies incurred by applicants as a result of having to complete the auction paperwork well in advance of the actual auction. However, early scheduling of all contention sets for auction allowed applicants to start working toward self-resolution and ensured that applicants would be ready for auction if the need arose. The process also allowed applicants to request a postponement of the auction date. Postponements were designed to facilitate self-resolution. Thus, ICANN required that all members of the contention set agree to the postponement, and ICANN specified a deadline for when postponement requests must have been received.

As of 31 July 2015, of the 151 contention sets scheduled for auction, 58 requested postponement based on mutual consensus amongst all members of the contention set. This high number of postponement requests created additional need for ICANN to manage requests and to update auction schedules; it also extended the timeline of the contention resolution phase of the Program. However, the granting of postponements facilitated the self-resolution of contention sets. As of 31 July 2015, 93% of contention sets that elected to postpone their auction date self-resolved prior to the new auction date.

The process also helped to ensure that financial information was secure. ICANN had, for example, no knowledge of bidding deposit amounts either before or after the auction took place. Deposits were submitted directly to an escrow account established for the bidder, and the auction service provider

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<sup>264</sup> ICANN. (20 July 2015) New gTLD Program Auctions: News & Views. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions>

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coordinated with the escrow provider to ensure the funds were received and the applicant was eligible to participate in the auction.

Both ICANN and the auction service provider worked to provide an easy-to-use and clear auction system that ensured that applicants were prepared to participate in an auction. Various training materials including a manual and videos were provided to applicants, and for those who were slated for an upcoming auction, the auction service provider facilitated practice auctions (referred to as “mock auctions”) in advance of each official auction.

Per Section 4.3 of the AGB, the auction process should be self-funded. Additionally, “[a]ny proceeds from auctions will be reserved and earmarked until the uses of funds are determined. Funds must be used in a manner that supports directly ICANN’s Mission and Core Values and also allows ICANN to maintain its not for profit status.”

The contract with the auction service provider stipulated fees for auctions which were confirmed then cancelled, as well as a 4% commission fee for auctions conducted.<sup>265</sup> ICANN took care to minimize costs associated with the operation of auctions. When auction cancellation fees began to accumulate (for contention sets that were self-resolving after their auction dates had been confirmed), ICANN initiated dialogue with the New gTLD Applicant Group (NTAG) to better educate them on the structure of ICANN’s agreement with the auction service provider and how best to avoid cancellation fees by resolving contention sets in advance of the formal auction date confirmation from ICANN. This dialogue with the community contributed to significant cost avoidance, on the order of several hundred thousand dollars. As of 31 July 2015, 13 contention sets have completed an auction.<sup>266</sup> A total of USD 61.8 million has been collected from these auctions, resulting in net proceeds of USD 58.7 million.<sup>267</sup> These auction proceeds are segregated in a bank account separate from other ICANN and Program funds and are reserved and earmarked until the ICANN Board determines a plan for the appropriate use of the funds through consultation with the community.

## 4.2.5 Conclusion

The AGB defined auction as a mechanism of last resort and defined the basic auction process. To ensure that applicants had a clear understanding for how auctions would occur, more detailed procedures and rules for both direct contention sets and indirect contention sets were developed by the auction provider and subject to public comment. Additionally, applicants were provided with the opportunity to participate in mock auctions prior to their auction events, supporting their full understanding of the process and rules.

In support of encouraging auction only as a “mechanism of last resort,” the auction process encouraged self-resolution among applicants. Auctions were scheduled once contention sets became eligible for auction, which defined a timeline for applicants to decide whether to self-resolve. Auction

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<sup>265</sup> ICANN. (Updated 6 October 2015) Summary of Auction Development and Management Agreement: Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/summary-development-management-agreement-07oct14-en.pdf>

<sup>266</sup> ICANN. New gTLD Auction Results. Retrieved from <https://gtldresult.icann.org/application-result/applicationstatus/auctionresults>

<sup>267</sup> ICANN. New gTLD Auction Proceeds. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/proceeds>

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postponements were also permitted and frequently requested, in support of providing applicants with sufficient time to self-resolve if desired.

In this round, auctions were implemented in a manner that supported fairness, predictability, effectiveness, and efficiency. Should auctions be included in the next application round, ICANN could replicate this process with minimal preparation.

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## Chapter 5: Transition to Delegation

“Transition to Delegation” refers to the phase of the New gTLD Program that applicants entered after successfully completing all required steps of the Program. During the Transition to Delegation phase, applicants went through the Contracting process to enter into a Registry Agreement (RA) with ICANN to operate the applied-for TLD. Also during this phase, applicants were required to complete a technical test, referred to as “Pre-Delegation Testing” (PDT), after signing an RA to demonstrate that they could operate their TLDs in a secure and stable manner. In the last step of the Transition to Delegation phase, ICANN confirmed that applicants successfully completed all required Program steps and recommended the TLDs to IANA for delegation into the root zone.

Contracting, PDT, and the IANA hand-off processes are discussed in further detail in this section of this report.

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## 5.1 Contracting

### 5.1.1 Introduction

Contracting is a process by which applicants who have successfully completed all required Program steps entered into a Registry Agreement (RA) with ICANN to operate the applied-for TLD. This section of the Program Implementation Review report discusses the following aspects of the Contracting process:

- Base Registry Agreement
- Contracting Timelines and Extensions

### 5.1.2 Relevant Guidance

The following guidance is relevant to the topic of Contracting and will be discussed in further detail in Sections 5.1.3 and 5.1.4 of this report:

- GNSO Recommendation 10: "There must be a base contract provided to applicants at the beginning of the application process."<sup>268</sup>
- GNSO Recommendation 14: "The initial registry agreement term must be of a commercially reasonable length."
- GNSO Recommendation 15: "There must be renewal expectancy."
- GNSO Recommendation 16: "Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved."
- GNSO Recommendation 17: "A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination."
- GNSO Recommendation 18: "If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed."
- GNSO Recommendation 19: "Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars."
- GNSO Implementation Guideline I: "An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process."
- GNSO Implementation Guideline J: "The base contract should balance market certainty and flexibility for ICANN to accommodate a rapidly changing market place."
- GNSO Implementation Guideline K: "ICANN should take a consistent approach to the establishment of registry fees."
- Applicant Guidebook, Section 5.1: Registry Agreement<sup>269</sup>

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<sup>268</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>269</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

- ICANN Board Resolution 2011.06.20.01 (20 June 2011): Approval of the New gTLD Program (including the 30 May 2011 version of the AGB that contained a Base RA)<sup>270</sup>
- NGPC Resolution 2013.07.02.NGo9 (02 July 2013): Registry Agreement (approval of the 02 July 2013 version)<sup>271</sup>
- ICANN Board New gTLD Program Committee Resolution 2014.07.30.NGo1 - 2014.07.30.NGo4 (30 July 2014): Name Collision Occurrence Management Framework<sup>272</sup>
- NGPC Resolution 2014.03.26.NGo1 (26 March 2014): Approval of Registry Agreement Specification 13 for Brand Category of Applicants<sup>273</sup>

### 5.1.3 Background

The AGB anticipated that Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) would take five months to complete, all IE results would be published at the conclusion of IE, and the Contracting process would commence at the end of IE. This would allow applicants that passed IE to move expeditiously toward signing an RA if there were no other issues that the application must resolve (e.g., contention resolution, dispute resolution).

On 22 March 2013, ICANN began publishing IE results on a weekly basis by priority number (see Section 2.1: Initial and Extended Evaluation of this report).<sup>274</sup> Although Section 5.1 of the AGB stated that the Contracting process would commence after IE, the final RA was not approved when the first IE results were published. Once the RA was approved by the ICANN Board New gTLD Program Committee (NGPC) on 02 July 2013, ICANN confirmed that applications were eligible to begin the Contracting process and began inviting applicants to Contracting on 05 July 2013. The same month that ICANN commenced the Contracting process, the first four RAs for four IDN new gTLDs were executed. RA execution continued with 218 RAs executed between August and December of 2013. As of 31 July 2015, 1,214 TLDs have been invited to Contracting and 1,147 have signed an RA.

#### *Overview of the Contracting Process*

In order to be eligible to be invited to Contracting, applicants were required to pass evaluation, resolve contention, clear objections, clear GAC Advice, and complete any outstanding change requests. Once eligible, applicants were invited to Contracting by priority number (see Section 1.2: Prioritization of this report), and invitations were sent in the form of a Contracting Information Request (CIR).<sup>275</sup> In October 2013, three months after ICANN began inviting applicants to Contracting, ICANN moved to a

<sup>270</sup> ICANN. (20 Jun 2011) Approved Resolutions | Meeting of the ICANN Board. Approval of the New gTLD Program. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en>

<sup>271</sup> ICANN. (2 July 2013) Approved Resolutions | Meeting of the New gTLD Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-07-02-en#1.d>

<sup>272</sup> ICANN. (30 July 2014) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-07-30-en>

<sup>273</sup> ICANN. (26 March 2014) Approved Resolutions | Meeting of the New gTLD Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-03-26-en#1.a>

<sup>274</sup> ICANN. (22 March 2013) Announcement: Initial Evaluation Results Released for First Set of Applicants. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-22mar13-en>

<sup>275</sup> ICANN. (15 July 2014) Contracting Information Request Guidance. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/cir-guidance-15jul14-en.pdf>

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weekly Contracting operation cycle to increase efficiency and to provide applicants with a more complete understanding of Contracting process timelines.<sup>276</sup>

## 5.1.4 Assessment

### 5.1.4.1 BASE REGISTRY AGREEMENT

In accordance with GNSO Recommendation 10, a Base RA was drafted as part of the AGB development process with the community. When the ICANN Board approved the launch of the New gTLD Program on 20 June 2011, it also approved the 30 May 2011 version of the AGB<sup>277</sup> including the Base RA. This was the first version of the New gTLD Base RA approved by the ICANN Board. On 11 January 2012, ICANN published a revised AGB that included minor revisions to clarify some existing provisions of the Base RA.<sup>278</sup> This 11 January 2012 version of the RA became the Base RA available to applicants prior to “the beginning of the application process” as referenced in GNSO Recommendation 10.

Although intended to be the final form of the Base RA that successful applicants would enter into with ICANN, the RA was revised multiple times due to pending items provided for under the Program that required incorporation into the RA upon their completion, and new items that arose (e.g., GAC Advice, Name Collision).

The subject of Registry Agreement terms was identified by the ICANN Board as a topic that may be appropriate for discussion by the GNSO.<sup>279</sup>

#### *4 June 2012 Version of the Base RA*

On 4 June 2012, ICANN published a revised AGB that included a minor update to correct a reference in Specification 3 of the Base RA.<sup>280</sup>

#### *2 July 2013 Version of the Base RA*

In its Toronto Communiqué of 17 October 2012, the GAC stated, “it is necessary or all of these statements of commitments and objectives [detailed in individual gTLD applications] to be transformed into binding contractual commitments, subject to compliance oversight by ICANN.”<sup>281</sup> In

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<sup>276</sup> ICANN. Contracting Overview. Retrieved from

<http://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting#overview>

<sup>277</sup> ICANN. (30 May 2011) gTLD Applicant Guidebook. Retrieved from

<https://archive.icann.org/en/topics/new-gtlds/rfp-clean-30may11-en.pdf>

<sup>278</sup> ICANN. Applicant Guidebook Version 9. Retrieved from

<http://newgtlds.icann.org/en/about/historical-documentation/matrix-agb-v9>

<sup>279</sup> ICANN. (17 November 2015) Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from

<https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

<sup>280</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from

<http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>281</sup> ICANN. (17 October 2012) GAC Communique-Toronto, Canada. Retrieved from

[https://gacweb.icann.org/download/attachments/27132070/FINAL\\_Toronto\\_Communique\\_20121017.pdf](https://gacweb.icann.org/download/attachments/27132070/FINAL_Toronto_Communique_20121017.pdf)

response to the GAC's Advice, ICANN asked applicants to submit Public Interest Commitments to turn public interest commitments made in the applications into binding contractual provisions.<sup>282</sup> It was proposed that these commitments be included in Specification 11 to the Base RA.<sup>283</sup>

Also during this time period, ICANN and the Registrar Stakeholder Group were in the final stages of negotiating amendments to the 2009 Registrar Accreditation Agreement (RAA). The negotiations began in 2011, and the proposed new RAA was posted for public comment on 7 March 2013, with an updated version posted for public comment on 22 April 2013.<sup>284</sup> In anticipation of the finalization of the 2013 RAA, the proposed Specification 11 to the Base RA included a provision requiring operators of new gTLDs to use registrars that were party to the 2013 RAA. The ICANN Board approved the 2013 RAA on 27 June 2013.<sup>285</sup>

On 5 February 2013, ICANN published an updated Base RA for public comment.<sup>286</sup> A further updated version that incorporated community feedback was posted on 2 May 2013.<sup>287</sup> On 2 July 2013, the NGPC approved the updated version of the RA that incorporated, among other things, Specification 11 to the Base RA.<sup>288</sup>

### *16 October 2013 Version of the Base RA*

On 7 October 2013, the NGPC approved<sup>289</sup> the “New gTLD Collision Occurrence Management Plan”<sup>290</sup> to mitigate the risks of potential name collisions caused by the introduction of new gTLDs. As the implementation of this plan required modifications to the Base RA, on 16 October 2013, ICANN published an updated version of the Base RA, which incorporated a “Name Collision Occurrence Management” section within Specification 6.<sup>291,292</sup> This update to the Base RA was automatically incorporated into the 56 RAs that had already been executed at that time. All RAs sent for signature beginning 16 October 2013 contained the updated Specification 6.

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<sup>282</sup> ICANN. (4 March 2013) Frequently Asked Questions | Specification 11 of the Revised New gTLD Registry Agreement: Public Interest Commitments. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/base-agreement-specs-pic-faqs>

<sup>283</sup> ICANN. (5 February 2013) Revised New gTLD Registry Agreement Including Additional Public Interest Commitments Specification. Retrieved from <https://www.icann.org/resources/pages/base-agreement-2013-02-05-en>

<sup>284</sup> ICANN. (7 March 2013) Proposed 2013 RAA Posted for Comment. Retrieved from <https://www.icann.org/public-comments/proposed-raa-2013-03-07-en>

<sup>285</sup> ICANN. (27 June 2013) ICANN Resolutions Approval of 2013 RAA. Retrieved from <https://features.icann.org/approval-2013-raa>

<sup>286</sup> ICANN. (5 February 2013) Revised New gTLD Registry Agreement Including Additional Public Interest Commitments Specification. Retrieved from <https://www.icann.org/resources/pages/base-agreement-2013-02-05-en>

<sup>287</sup> ICANN. (5 February 2013) Draft New gTLD Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/base-agreement-specs-05feb13-en.pdf>

<sup>288</sup> ICANN. (2 July 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-07-02-en#1.d>

<sup>289</sup> ICANN. (7 October 2013) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2013-10-07-en#1.a>

<sup>290</sup> ICANN. (4 October 2013) New gTLD Collision Occurrence Management, Proposal to manage the collision occurrences between new gTLDs and existing private uses of the same strings. Retrieved from <https://www.icann.org/en/groups/board/documents/resolutions-new-gtld-annex-1-07oct13-en.pdf>

<sup>291</sup> ICANN. (16 October 2013) Announcement: NGPC Resolution on Name Collision Requires Registry Agreement Modification. Retrieved from <https://newgtlds.icann.org/en/announcements-and-media/announcement-2-16oct13-en>

<sup>292</sup> ICANN. Registry Agreement. Retrieved from <https://newgtlds.icann.org/en/applicants/agb/agreement-approved-16oct13-en.pdf>

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## 9 January 2014 Version of the Base RA

The 9 January 2014 version of the Base RA<sup>293,294</sup> is the current form of the Base RA and inserted URLs in the following sections of the RA (where placeholders had existed previously):

- Section 2.19 (RRDRP)
- Section 1 of Specification 7 (Trademark Clearinghouse Requirements)
- Section 2(a) of Specification 7 (PPDRP and RRDRP)
- Section 2(b) of Specification 7 (URS)
- Section 2 of Specification 11 (PICDRP)

## 5 February 2014 – Adoption of GAC Category 1 Safeguards

On 5 February 2014, the NGPC adopted an implementation framework to address GAC Category 1 Safeguard Advice for a broad category of strings related to "consumer protection, sensitive strings, and regulated markets."<sup>295</sup> The implementation framework required standardized safeguards to be added to Specification 11 of the Registry Agreement as public interest commitments. For TLDs that were specified in Category 1 Advice, the safeguards were mandatory requirements. This implementation framework allowed applicants who previously could not begin Contracting because they were subject to GAC Category 1 Advice to proceed to Contracting. On 31 July 2015, 151 applicants that were subject to GAC Category 1 Safeguards were invited to Contracting. For more information about the implementation of GAC Category 1 Safeguard Advice, see Section 3.1: GAC Advice of this report.

## 9 May 2014 – Adoption of Specification 13

On 26 March 2014, the NGPC passed a resolution approving Specification 13 to the Base RA for applicants of .Brand TLDs.<sup>296</sup> This approval followed discussions with members of the ICANN community (including the Brand Registry Group) who stated that brand owners required unique RA provisions in order to protect their brands, promote and maintain trust in their registries, and foster innovation. In addition to these discussions, ICANN also sought community-wide input through a public comment period in December 2013.<sup>297</sup>

When the NGPC approved Specification 13 on 26 March 2014, implementation of a particular provision within Specification 13, which allowed .Brand registry operators to designate a limited number of preferred registrars for the TLD, was delayed for 45 days to provide the GNSO an opportunity to comment on this provision, in light of GNSO policy Recommendation 19 on the Introduction of New

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<sup>293</sup> ICANN. (14 January 2014) Announcement: Registry Agreement Modification. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-14jan14-en>

<sup>294</sup> ICANN. Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/agreement-approved-09jan14-en.pdf>

<sup>295</sup> ICANN. (5 February 2014) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-02-05-en#1.a>

<sup>296</sup> ICANN. (26 March 2014) Approved Resolutions | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-03-26-en#1.a>

<sup>297</sup> ICANN. Proposal for a Specification 13 to the ICANN Registry Agreement to Contractually Reflect Certain Limited Aspects of ".Brand" New gTLDs. Retrieved from <https://www.icann.org/public-comments/spec13-2013-12-06-en>

generic Top-Level Domains.<sup>298</sup> After considering the matter, the GNSO Council informed the ICANN Board in correspondence dated 9 May 2014<sup>299</sup> that the provision in the Specification 13 allowing Registry Operators of .Brand TLDs “the right to only use up to three exclusive registrars [...] is inconsistent with Recommendation 19.” However, the GNSO Council stated it “does not object to the implementation of Specification 13 as a whole, including an additional clause which will allow a Registry Operator to designate up to three exclusive Registrars, given the specific circumstances and the fact that a public comment period on Specification 13 was conducted in 2013 without objections from the GNSO.” In the same letter, the GNSO stated it “reserves the right to initiate a policy development process, potentially resulting in Consensus Policy affecting both existing and future TLDs, if and when the right granted to .BRAND TLDs is at risk of, or bears the risk of, being used for augmenting and / or circumventing the conditions of Specification 13 or any subsequent provisions.”

### *Initiating Contracting*

Although the Base RA went through multiple revisions and its final form was not known until 9 January 2014 for non-.Brand TLDs and 9 May 2014 for .Brand TLDs, in an effort to allow applicants to move expeditiously toward signing an RA, ICANN began inviting applicants to Contracting on 5 July 2013. Because the final form of the Base RA was not known when Contracting commenced, ICANN developed a Supplement to the RA in order to allow applicants to sign an RA while certain provisions were still under consideration.<sup>300</sup> The Supplement to the RA stated that the following provisions of the Base RA could be modified by ICANN without consent from the Registry Operator:

- Specification 6 – Registry Interoperability and Continuity
- Section 1 of Specification 7 – TMCH Requirements
- Section 2.a of Specification 7 – PDDRP and RRDRP
- Section 2.b of Specification 7 – URS
- Specification 11 – Public Interest Commitments
- Any provision or term of the RA that is the subject of advice or comment from the GAC

The implementation of this Supplement, which had an expiration date of 15 January 2014, allowed applicants to move forward in the process prior to resolution of the above items. ICANN signed the first four RAs for four IDN gTLDs, along with the Supplement, on 13 July 2013. By the time the Supplement expired on 15 January 2014, ICANN had signed 241 RAs with the Supplement. This represented 26% of all TLDs invited to Contracting by 15 January 2014.

#### **5.1.4.2 CONTRACTING TIMELINES AND EXTENSIONS**

When the 9 January 2014 version of the Base RA was published, it served as the final form of the Base RA. With the final form of the Base RA available and the Supplement to the RA expiring on 15 January 2014, ICANN announced the start of the nine-month deadline for applicants to sign the RA, as per Section 5.1 of the AGB. The announcement that 29 January 2014 served as the start of the nine-month

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<sup>298</sup> ICANN. Proposal for a Specification 13 to the ICANN Registry Agreement to Contractually Reflect Certain Limited Aspects of “.Brand” New gTLDs. Retrieved from <https://www.icann.org/public-comments/spec13-2013-12-06-en>

<sup>299</sup> Jonathan Robinson, ICANN GNSO Council. (9 May 2014) Letter from Jonathan Robinson to Cherine Chalaby. Retrieved from <http://gns0.icann.org/en/correspondence/robinson-to-chalaby-09may14-en.pdf>

<sup>300</sup> ICANN. Supplement to Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/agreement-supplement-14jul13-en.pdf>

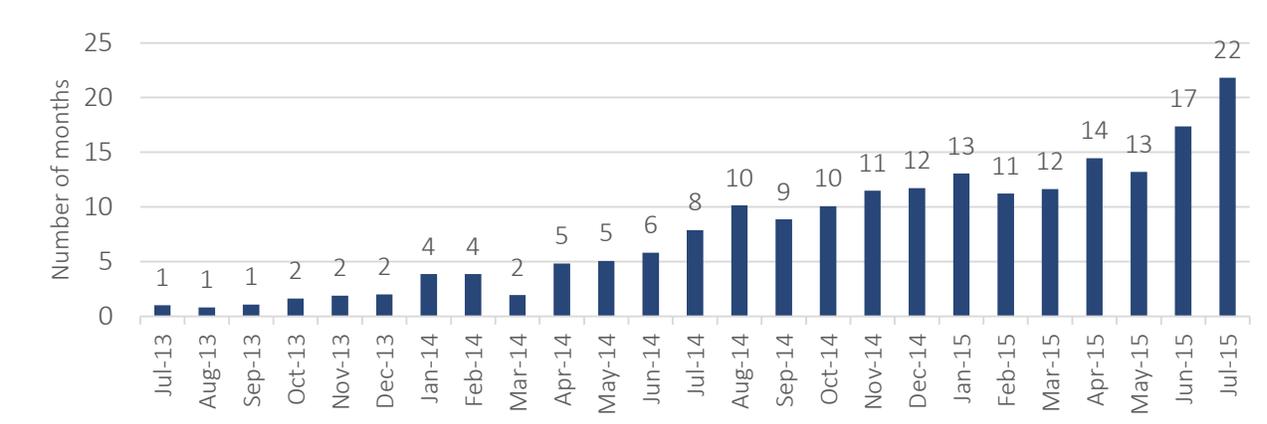
period was made during the 22 January 2014 Applicant Update Webinar.<sup>301</sup> For the 957 applications whose nine-month period began on 29 January 2014, the RA signing deadline was 29 October 2014. Of these applicants, 440 (46%) signed the RA by the 29 October 2014 deadline.

Although ICANN envisioned that applicants would want to sign the RA quickly when the Contracting process was initiated, 517 applications did not sign by the 29 October 2014 deadline and required additional time. Due to the need for additional time to sign the RA, ICANN implemented an extension request process that was available to both applicants of .Brand TLDs and applicants of non-brand TLDs.<sup>302, 303</sup>

For applicants of .Brand TLDs who had a 29 October 2014 deadline to sign the RA, the extension request process allowed them to receive an extension to 29 July 2015 if they satisfied certain criteria.<sup>304</sup> Essentially, this gave these applicants a total of 18 months from the effective date they were invited to Contracting, 29 January 2014, to sign the RA. Three-hundred-fifty applications met the criteria and received the 29 July 2015 RA signing extension. For all other applications, ICANN considered extension requests on a case-by-case basis and granted extensions of up to nine months if the applicant could demonstrate that it was working in good faith toward signing the RA.

In granting extensions, ICANN imposed upon applicants interim deadlines for activities they must have completed in order to sign the RA. The implementation of the interim deadlines allowed applicants to demonstrate progress toward signing the RA. As of 31 July 2015, ICANN had granted 517 TLDs extensions, and 97% of applicants that were granted extensions met interim deadlines. On average, applicants that were provided extensions signed the RA in 16 months. Figure 5.1.i shows the average number of months for RA execution over time.

Figure 5.1.i: Average Number of Months for RA Execution



<sup>301</sup> <https://icann.adobeconnect.com/p1dbhnyzmr/>

<sup>302</sup> ICANN. (3 September 2014) Announcement: Requests for Extension to Execute New gTLD Registry Agreements. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-03sep14-en>

<sup>303</sup> ICANN. Announcement: Contracting and the Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-15sep14-en>

<sup>304</sup> ICANN. Contracting and the Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting#deadlines-extensions>

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As of 31 July 2015, a small number (13 applications) had not met their deadlines and had their application statuses changed to "Will Not Proceed" which meant loss of eligibility to sign a Registry Agreement with ICANN. On 30 June 2015, ICANN released a process for applicants with applications in a "Will Not Proceed" status due to missing a contracting-related deadline to request reinstatement of the application's eligibility status within a defined period of time. In order to qualify for reinstatement, applicants had to provide all pending information required for RA execution and post-contracting activities along with the reinstatement request.

## 5.1.5 Conclusion

The intent of GNSO Recommendation 10 to provide applicants with a base RA at the beginning of the application process was satisfied with the inclusion of the Base RA in Module 5 of version 9 of the AGB, which was published prior to the opening of the application window. The base RA went through several modifications during the Program, but these modifications were necessary to address topics such as GAC Advice, Name Collision, approval of the 2013 Registrar Accreditation Agreement, and community request for another form of the RA for .Brand TLDs. As these changes occurred after the base RA was published, the intent of GNSO Recommendation 10 was not fully achieved. Consideration should be given to either not allowing changes to the base RA once the application window opens so as to provide applicants with predictability of the final form and substance of the RA, or to establishing a process for modifying the RA. Additionally, the classification of .Brand TLDs was new in this round. Consideration should be given to whether there should be different versions of the RA for different types of applications.

In summary:

**5.1.a** Explore the feasibility of finalizing the base Registry Agreement before applications are submitted or establishing a process for updating the Registry Agreement

**5.1.b** Explore whether different applicant types could be defined in a fair and objective manner, and if there are to be different applicant types, consider whether there should be different versions of the Registry Agreement

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## 5.2 Pre-Delegation Testing and Transition to IANA

### 5.2.1 Introduction

Pre-Delegation Testing (PDT) was a technical test required of applicants who had executed an RA with ICANN before delegation of the TLD into the root zone. PDT allowed the applicant to demonstrate that they could operate the TLD in a stable and secure manner.

Transition to IANA referred to the process steps by which ICANN recommended to IANA the delegation of the applied-for TLD. This section of the Program Implementation Review report discusses the following aspects of the PDT and Transition to IANA processes:

- PDT Requirements Development and Service Delivery
- Transition to IANA Process

### 5.2.2 Relevant Guidance

The following guidance is relevant to the topic of Pre-Delegation Testing and Transition to IANA and will be discussed in further detail in Sections 5.2.3 and 5.2.4 of this report:

- GNSO Principle D: "A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet."<sup>305</sup>
- GNSO Principle E: "A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meets its obligations under the terms of ICANN's registry agreement."
- GNSO Recommendation 4: "Strings must not cause any technical instability."
- GNSO Recommendation 7: "Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out."
- GNSO Recommendation 9: "There must be a clear and pre-published application process using objective and measurable criteria."
- GNSO Recommendation 18: "If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed."
- GNSO Implementation Guideline I: "An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process."
- Applicant Guidebook, Section 5.2: Pre-Delegation Testing<sup>306</sup>
- Applicant Guidebook, Sections 5.3: Delegation Process

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<sup>305</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-part-a-o8aug07.htm>

<sup>306</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

- Registry Agreement Specifications 2, 4, 6, and 10; Exhibit A<sup>307</sup>

## 5.2.3 Background

Section 5.2 of the AGB stated that “the purpose of the pre-delegation technical test is to verify that the applicant has met its commitment to establish registry operations in accordance with the technical and operational criteria described in Module 2.” Further, that “the test [was] also intended to indicate that the applicant [could] operate the gTLD in a stable and secure manner.” To this end, the AGB provided high-level testing requirements for DNS Infrastructure (e.g., UDP, TCP Support) and Registry Systems (e.g., System Performance, Whois Support). In addition, the AGB specified some tests, such as load testing, be performed by the registry itself, rather than ICANN, and that the registry would submit self-certification documentation showing that the test was performed and how it was performed.

To administer the testing process, ICANN issued a Request for Proposal (RFP) and selected the vendor Stiftelsen för Internetinfrastruktur (IIS) in 2012.<sup>308</sup> IIS is the registry operator for the .SE ccTLD (Sweden) and was selected based on criteria in the RFP.<sup>309</sup>

On 28 February 2013, ICANN requested volunteers for a PDT Pilot project, which would serve as a learning period for both ICANN and the PDT Provider ahead of PDT production.<sup>310</sup> In implementing the Pilot Project, ICANN and the PDT provider sought to verify the operational process, systems, specifications and criteria of the test. Twelve applicants, each supported by a different technical back-end provider, participated in the Pilot Project. The findings from the pilot were shared with the community during the ICANN46 Meeting in Beijing, China. Following the pilot, a beta testing period was offered, geared toward helping applicants prepare for PDT. Specifically, beta testing sought to expose more participants to the full suite of tests that were to be conducted during the official PDT phase of the Program and to reveal any requirements that may have required adjustment in testing approach or criteria. Eligible applicants were not able to move forward with Contracting and subsequently PDT until the finalization of the Registry Agreement on 02 July 2013 (see Section 5.1: Contracting of this report). While anticipating the final RA, beta testing allowed applicants to prepare and learn about PDT before PDT production operations.

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<sup>307</sup> ICANN. Registry Agreement. Retrieved from

<http://newgtlds.icann.org/en/applicants/agb/agreement-approved-09jan14-en.pdf>

<sup>308</sup> ICANN. Request for Proposal: Pre-Delegation Testing Provider for the New gTLD Program. Retrieved from

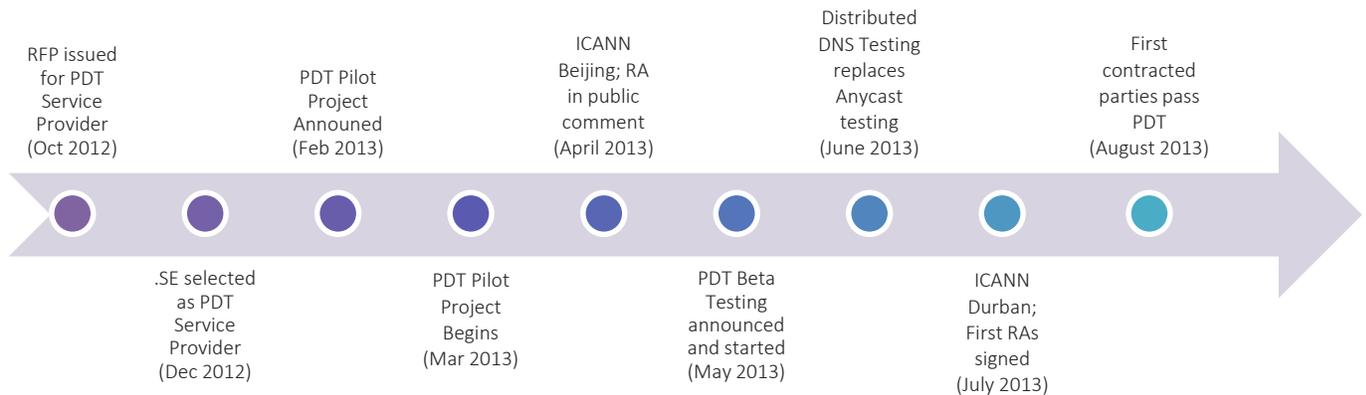
<https://www.icann.org/en/system/files/files/pre-delegation-testing-30oct12-en.pdf>

<sup>309</sup> ICANN. (21 December 2012) Announcement: Pre-Delegation Testing Services for the New gTLD Program –Selection of Provider. Retrieved from <https://www.icann.org/news/announcement-2012-12-21-en>

<sup>310</sup> ICANN. Announcement: Participants Needed for New gTLD Pre-Delegation Testing Pilot. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-28feb13-en>

The timeline to PDT production operations is illustrated in Figure 5.2.i:

*Figure 5.2.i: PDT Timeline*



Throughout the process, ICANN and the PDT provider continued to make updates and improvements to PDT Testing Specifications, input requirements, and FAQs.<sup>311</sup>

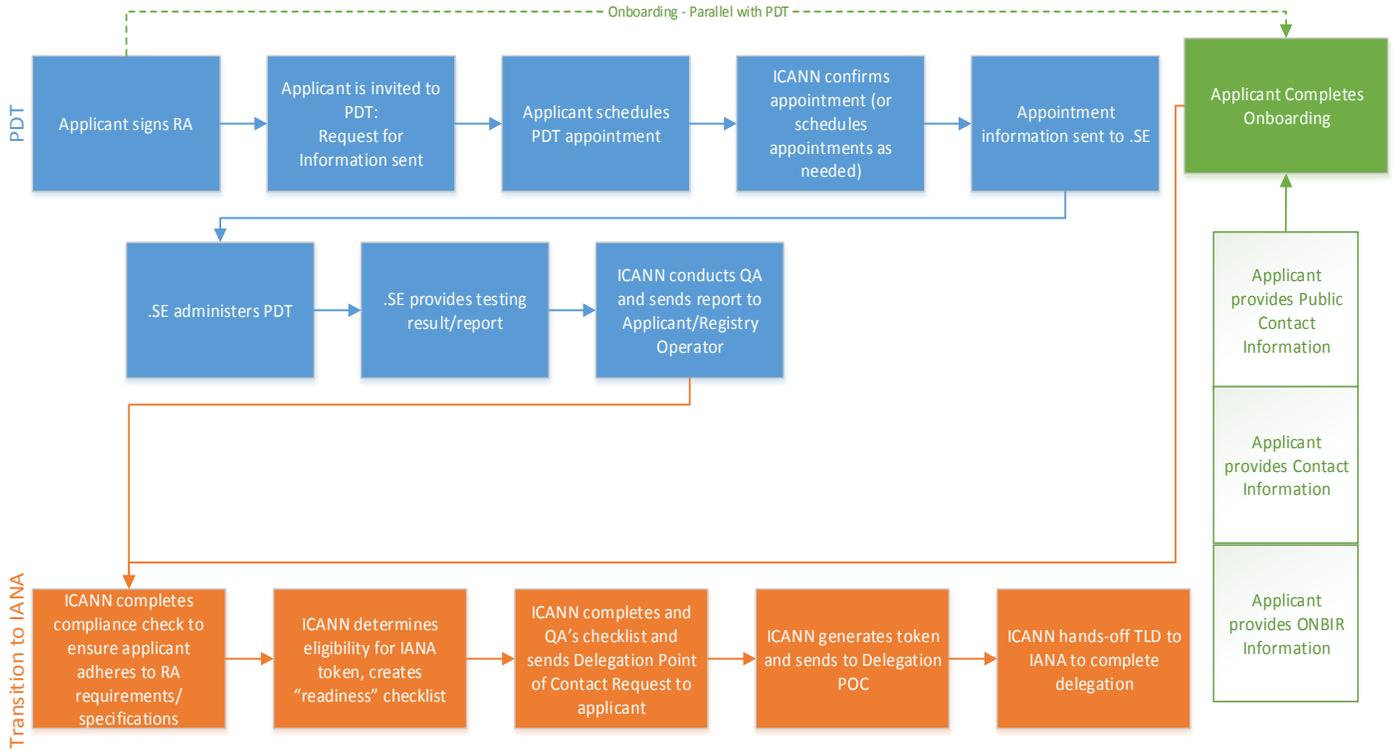
Following PDT, applicants moved to the “Transition to IANA” phase, which was a quality assurance and hand-off process that occurred before ICANN recommended the TLD to IANA for delegation into the root zone. The Transition to IANA process confirmed that the application had successfully completed all of the required Program steps and ensured that any exceptions were documented in a final report. Part of the Transition to IANA process included onboarding, where the applicant provided contact and technical information to establish an account as a registry operator with ICANN, as well as the issuing of a “token,” with which the applicant was able to access IANA’s Root Zone Management (RZM) system and initiate the delegation process.<sup>312</sup>

<sup>311</sup> ICANN. (19 March 2015) PDT Resource Update, Pre-Delegation Test Preparation Resources. Retrieved from <http://newgtlds.icann.org/en/applicants/pdt#resources>

<sup>312</sup> IANA. Root Zone Management. Retrieved from <https://www.iana.org/domains/root>

Figure 5.2.ii is a general overview of the process from Contracting to Delegation, including the PDT and Transition to IANA processes:

Figure 5.2.ii: Overview of Post-Contracting Processes



## 5.2.4 Assessment

### 5.2.4.1 PDT REQUIREMENTS DEVELOPMENT AND SERVICE DELIVERY

Section 5.2 of the AGB provided the high-level testing requirements for PDT, which “cover both the DNS server operational infrastructure and registry system operations. In many cases the applicant will perform the test elements as instructed and provide documentation of the results to ICANN to demonstrate satisfactory performance.”

For implementation, ICANN issued an RFP for a PDT service provider that could administer as well as design the testing of these requirements. Specifically, the RFP required the vendor to design and develop the testing specifications, the software to perform the testing, the processes to deliver the service and the system to manage the service delivery.<sup>313</sup> It was also important that a potential PDT provider could scale to meet the demands of the Program. Although the AGB did not specify an

<sup>313</sup> ICANN. Request for Proposal: Pre-Delegation Testing Provider for the new gTLD program, page 1. Retrieved from <https://www.icann.org/en/system/files/files/pre-delegation-testing-30oct12-en.pdf>

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exact number of tests to be conducted on a weekly basis, ICANN established a baseline of 20 tests per week, which corresponded to the metering requirement of 1,000 delegations per year (i.e., 1,000 delegations/year divided by approximately 50 weeks/year = 20 tests/week).<sup>314,315</sup> The PDT provider also had to be able to ramp up to 100/week if needed, should some weeks see fewer than 20 tests and “catch-up” be desired.<sup>316</sup>

Following the RFP process in October-November 2012, IIS was selected as the PDT service provider in December 2012, as noted in the Background section of this report. By late February 2013, the Pilot Project had been announced and the PDT Documentation Instructions had been posted on the PDT microsite.<sup>317</sup> Together with IIS and technical consultants Kirei,<sup>318</sup> ICANN vetted the testing requirements and specifications before publishing in late March 2013. By posting the test requirements, ICANN helped ensure transparency and consistency. Further, ICANN implemented both a pilot and a beta testing period, which allowed ICANN and the PDT provider to help ensure that applicants were well-prepared for PDT.

The pilot and beta projects also contributed to an “evolution” of the PDT process to a more “interoperable” and service-oriented approach. Although the AGB provides for PDT to be structured in the format of asking questions and requesting clarification of any issues, it became apparent during the beta testing period that a more “interoperable” type of experience would be more beneficial. Rather than focus on the applicant providing responses to a test and the PDT provider “grading” the test as “Pass/Fail,” both the community and the PDT provider provided feedback that a more useful type of experience would be one where the applicant could work with the PDT provider regarding any issues encountered throughout the testing process.

To facilitate this change, the PDT provider made necessary enhancements to the PDT system (e.g., allowing for the threading of messages and communications between the PDT provider and the applicant) as well as allowed for extensions of tests. In the beginning of beta testing, many applicants needed longer than the two weeks prescribed by ICANN. By the time PDT was in the production phase, after these enhancements had been made and applicants were able to learn from their interactions with the PDT provider during beta testing, most applicants were able to meet the two-week timeframe to complete PDT. Finally, over the course of beta testing, and as a result of ongoing community feedback, the anycast instance testing approach was replaced by Distributed DNS Testing, which only assessed the prospective registries' public-facing DNS service.<sup>319</sup>

All of these changes together led to a PDT production service model that worked more smoothly for both applicants and ICANN/the PDT service provider than the model used during the beta period. Applicants were both well-prepared by the beta testing as well as able to contribute feedback,

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<sup>314</sup> ICANN. Announcement: Roadmap for Processing New gTLD Applications. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-17aug12-en>

<sup>315</sup> ICANN. Announcement: ICANN Seeks Input on GTLD Batching. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-29jul12-en>

<sup>316</sup> Request for Proposal: Pre-Delegation Testing Provider for the new gTLD program, page 12. Retrieved from <https://www.icann.org/en/system/files/files/pre-delegation-testing-30oct12-en.pdf>

<sup>317</sup> ICANN. (19 March 2015) Pre-Delegation Testing News and Views. Retrieved from <http://newgtlds.icann.org/en/applicants/pdt#resources>

<sup>318</sup> Kirei. Retrieved from <https://www.kirei.se/en/webusaito/about/>

<sup>319</sup> For more information regarding this change, please see the announcement here: <http://newgtlds.icann.org/en/announcements-and-media/announcement-2-06jun13-en>

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leading to a testing experience that allowed applicants to demonstrate their ability to meet the DNS Infrastructure and Registry Operations requirements in the AGB. Lastly, continuous improvement extended beyond beta testing, as test requirements and specifications were periodically updated to improve clarity and ensure secure and stable delegation of all TLDs.<sup>320</sup>

From the experience of developing the PDT requirements and service delivery, ICANN has identified several lessons learned:

- Review the requirements for self-certifying tests and the effectiveness of each. For example, is Service Level Agreement (SLA) monitoring/testing most effective as a self-certifying test, or should these be converted to operational type tests?
- Reviewing PDT as a whole to determine what optimizations can be made with regard to effectiveness of the tests. Many in the community have expressed that it is inefficient to test every TLD. Consideration should be given as to which tests could be performed once per technical infrastructure implementation, and which tests should be performed for each TLD.
- Building on lesson learned 2.8.c, in the development of evaluation criteria and procedures for IDNs, ICANN recommends that the review of IDN tables during PDT be limited to confirmation of compliance with the TLD's stated IDN policy.

#### 5.2.4.3 TRANSITION PROCESS

Following PDT, applicants entered the "Transition to IANA" process, which was the final "hand-off" of the TLD to the IANA department, wherein ICANN officially recommended delegation of a TLD. This transition process was defined in Section 5.3 of the AGB. "Upon notice of successful completion of the ICANN pre-delegation testing, applicants may initiate the process for delegation of the new gTLD into the root zone database. This will include provision of additional information and completion of additional technical steps required for delegation."

ICANN's "hand-off" process before delegation into the root zone was to confirm that the applicant had successfully completed all required Program steps and PDT. In parallel with PDT, the applicant must also have completed Onboarding as indicated in the Graphic 5.2.2.b above. For Onboarding, an applicant was provided a Welcome Kit that explains in detail the requirements for its delegation into the root zone.<sup>321</sup>

In order to help facilitate the movement of applicants through the PDT and Onboarding processes and onto delegation, ICANN set up "post-contracting milestones," which served as intermediary deadlines from the signing of the RA to delegation, as the RA provides 12 months to complete this process.

Once both PDT and Onboarding were completed, ICANN completed final verification that all information had been received and was accurate, and then provided the applicant a "token" to

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<sup>320</sup> The latest updates were made on 22 July 2015. For more information on these updates as well as others, please see the PDT microsite: <http://newgtlds.icann.org/en/applicants/pdt>

<sup>321</sup> ICANN. (12 June 2014) Webinar: Becoming a New gTLD Registry. Retrieved from <https://icann.adobeconnect.com/p2moysmxspv/>

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access IANA's Root Zone Management (RZM) system. From this point, IANA managed the applicant into delegation.

## 5.2.5 Conclusion

The PDT and Transition to IANA processes were implemented in alignment with the AGB, and in such a way as to support transparency, predictability, and consistency. To this end, the implementation of PDT included a pilot and beta testing intended to provide applicants with a predictable and well designed experience. Updates were made to the process and system based on feedback from the pilot and beta testing project, and continuous improvement occurred throughout this phase of the New gTLD Program to enhance the quality of PDT and the Transition to IANA processes.

There are some valuable lessons learned from the implementation the Transition to Delegation phase that would be useful input to the development of procedures for future rounds. One lesson learned questions the effectiveness and efficiency of testing each TLD, when many TLDs share the same back-end registry services provider. Consideration should be given to whether some tests could be performed once per technical infrastructure implementation, while others are performed for each individual TLD. Another lesson learned is that self-certifying tests may not provide optimal effectiveness, so the community may wish to convert certain tests, such as SLA testing, into operational tests. Finally, the review of IDN tables in this round was performed during PDT, but based on the experience during this round, ICANN recommends that the review parameters be updated to leverage the IDN tools currently under development. Consideration should be given to whether the review of IDN tables during PDT could be limited to confirmation of compliance with the TLD's stated IDN policy.

In summary:

- 5.2.a** Consider which tests should be performed once per technical infrastructure implementation and which should be performed for each TLD
- 5.2.b** Consider which, if any, tests can be converted from self-certifying tests to operational tests
- 5.2.c** In considering an alternate approach to the Technical and Operational Capability evaluation, if an RSP accreditation program is considered, explore how Pre-Delegation Testing would be impacted
- 5.2.d** Building on lesson learned 2.8.c, in the development of evaluation criteria and procedures for IDNs, consider whether review of IDN tables during Pre-Delegation Testing could be limited to confirmation of compliance with the TLD's stated IDN policy

# Chapter 6: Applicant Support

## 6.1 Applicant Support Program

### 6.1.1 Introduction

The Applicant Support Program was a community-driven initiative developed to promote access to the New gTLD Program. It assisted potential new gTLD applicants seeking both financial and non-financial support via the following mechanisms:

- Financial assistance in the form of new gTLD evaluation fee reduction
- Pro bono services
- Establishment of a funding mechanism for the program

This section of the Program Implementation Review report discusses these aspects of the Applicant Support Program.

### 6.1.2 Relevant Guidance

The following guidance is relevant to the topic of Applicant Support and will be discussed in further detail in Sections 6.1.3 and 6.1.4 of this report:

- GNSO Implementation Guideline N: "ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed."<sup>322</sup>
- Applicant Guidebook, Section 1.2.10: Resources for Applicant Assistance<sup>323</sup>
- New gTLD Financial Assistance Handbook<sup>324</sup>
- ICANN Board Resolution 2010.03.12.47 (12 March 2010): Support for Applicants Requesting New gTLD Applicants<sup>325</sup>
- ICANN Board Resolution 2011.06.20.01 (20 January 2011): Approval of New gTLD Program, including a program to ensure support for applicants from developing countries<sup>326</sup>
- ICANN Board Resolutions 2011.12.08-2011.12.08.03 (8 December 2011): Approval for ICANN staff to finalize the implementation plan for the Applicant Support Program and for the new

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<sup>322</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-08aug07.htm>

<sup>323</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agn/guidebook-full-04jun12-en.pdf>

<sup>324</sup> ICANN. New gTLD Financial Assistance Handbook, Version 2012-01-11. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/financial-assistance-handbook-11jan12-en.pdf>

<sup>325</sup> ICANN. (12 March 2010) Adopted Board Resolutions | Nairobi, 20. Support for Applicants Requesting New gTLD Applicants. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2010-03-12-en#20>

<sup>326</sup> ICANN. (20 June 2011) Approved Board Resolutions | Singapore. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en#1>

gTLD evaluation fee reduction to \$47,000 USD for candidates who meet the criteria under the Applicant Support Program<sup>327</sup>

## 6.1.3 Background

On 6 September 2007, the GNSO Council approved the “Final Report of the ICANN Generic Names Supporting Organization on the Introduction of New Generic Top-Level Domains,”<sup>328,329</sup> which included seven principles, 20 recommendations, and 18 implementation guidelines for the introduction of New gTLDs. Implementation Guideline N of the GNSO Report stated: “ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.”

As the early versions of the Applicant Guidebook (AGB) were being drafted in 2009 and 2010, there were community conversations regarding inclusion of applicants from developing countries and the application fee being prohibitive to applicants from developing countries. In particular, the Government Advisory Committee (GAC) submitted comments on versions 1, 2, and 3 of the draft AGB, concerning the proposed single fee structure. The comments suggested a variable cost structure that might allow for greater inclusion of stakeholders from developing regions.<sup>330,331,332</sup>

In line with the GNSO’s Implementation Guidance and with consideration to the comments submitted by ICANN stakeholders, on 12 March 2010, the ICANN Board resolved that: “[. . .] the Board recognize[d] the importance of an inclusive New gTLD Program” and “request[ed] stakeholders to work through their [Supporting Organizations (SOs)] and [Advisory Committees (ACs)], and form a Working Group to develop a sustainable approach to providing support to applicants requiring assistance in applying for and operating new gTLDs.”<sup>333</sup> In accordance with this resolution, in late April 2010, the GNSO and ALAC organized the Joint SO/AC New gTLD Applicant Support Working Group (JAS WG), which was made up of members from the GNSO and the ALAC.<sup>334</sup>

On 20 June 2011, the ICANN Board approved the launch of the New gTLD Program, which included a requirement for “a program to ensure support for applicants from developing countries.” The resolution further stated that this program’s

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<sup>327</sup> ICANN. (8 December 2011) Approved Board Resolutions | Special Meeting of the ICANN Board, 1.1 Applicant Support. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-12-08-en#1.1>

<sup>328</sup> ICANN. (9 August 2007) GNSO Council Teleconference Minutes. Retrieved from <http://gnso.icann.org/en/council/resolutions#200709>

<sup>329</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report, Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-08aug07.htm>

<sup>330</sup> J. Karklins. (10 March 2009) Personal communication to ICANN Board Chair. Retrieved from <https://www.icann.org/en/system/files/files/karklins-to-dengate-thrush-10mar09-en.pdf>

<sup>331</sup> J. Karklins. (18 August 2009) Personal communication to ICANN Board Chair. Retrieved from <https://www.icann.org/en/system/files/files/karklins-to-dengate-thrush-18aug09-en.pdf>

<sup>332</sup> J. Karklins. (10 March 2014) Personal communication to ICANN Board Chair. Retrieved from <https://www.icann.org/en/system/files/files/karklins-to-dengate-thrush-10mar10-en.pdf>

<sup>333</sup> ICANN. (12 March 2010) Adopted Board Resolutions | Nairobi, 20: Support for Applicants Requesting New gTLD Applicants. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2010-03-12-en#20>

<sup>334</sup> ICANN. Final Report of the Joint SO/AC New gTLD Applicant Support Working Group, Appendix 3. Retrieved from [https://community.icann.org/download/attachments/22970578/Final\\_Report\\_JASWG+%628Sept+2011%29\\_Seth+created\\_Submitted.pdf](https://community.icann.org/download/attachments/22970578/Final_Report_JASWG+%628Sept+2011%29_Seth+created_Submitted.pdf)

*[. . .] form, structure and processes [are] to be determined by the Board in consultation with stakeholders including: (a) consideration of the GAC recommendation for a fee waiver corresponding to 76 percent of the \$185,000 USD evaluation fee, (b) consideration of recommendations of the ALAC and GNSO as chartering organizations of the Joint Applicant Support (JAS) Working Group, (c) designation of a budget of up to \$2 million USD for seed funding, and creating opportunities for other parties to provide matching funds, and (d) the review of additional community feedback, advice from ALAC, and recommendations from the GNSO following their receipt of a Final Report from the JAS Working Group (requested in time to allow staff to develop an implementation plan for the Board's consideration at its October 2011 meeting in Dakar, Senegal), with the goal of having a sustainable applicant support system in place before the opening of the application window.<sup>335</sup>*

On 13 September 2011, less than four months before the opening of the application window for New gTLDs, the JAS WG published its "Final Report of the Joint SO/AC New gTLD Applicant Support Working Group."<sup>336</sup> This Final Report provided the JAS WG's recommendations for the Applicant Support Program, including recommendations for financial assistance, access to pro bono services, and donations to the Applicant Support Fund. This Final Report drove the work that the community, the ICANN Board, and ICANN staff undertook to finalize the Applicant Support Program.

## 6.1.4 Assessment

### 6.1.4.1 FINANCIAL ASSISTANCE

As mentioned in Section 6.1.3 of this report, the JAS WG published its Final Report on 13 September 2011. The ICANN Board considered the JAS WG's Final Report and formed a working group to develop an implementation model that took into account the JAS WG Final Report and the timely implementation of the program. On 8 December 2011, the ICANN Board directed staff to finalize the implementation plan in accordance with the proposed criteria and process, for the launch of the Applicant Support Program in January 2012. Additionally, the Board approved the fee reduction to USD 47,000 for Applicant Support candidates that qualified under the Applicant Support Program.<sup>337</sup>

As directed by the 8 December 2011 resolution, ICANN published the draft Financial Assistance Handbook for public comment on 20 December 2011,<sup>338</sup> which defined the criteria and process for financial assistance. Sixteen comments were submitted and updates were made to the Handbook, primarily to allow a refund of USD 42,000 of the USD 47,000 application fee if the applicant did not meet the criteria threshold, and to change the eligibility rules to allow communities and non-

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<sup>335</sup> ICANN. (30 June 2011) Approved Board Resolutions | Singapore. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en#1>

<sup>336</sup> ICANN. (13 September 2011) Final Report of the Joint SO/AC New gTLD Applicant Support Working Group. Retrieved from [https://community.icann.org/download/attachments/22970578/Final\\_Report\\_JASWG+%28Sept+2011%29\\_Seth+created\\_Submitted.pdf](https://community.icann.org/download/attachments/22970578/Final_Report_JASWG+%28Sept+2011%29_Seth+created_Submitted.pdf)

<sup>337</sup> ICANN. (8 December 2011) Approved Board Resolutions | Special Meeting of the ICANN Board, 1.1. Applicant Support. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-12-08-en#1.1>

<sup>338</sup> ICANN. New gTLD Applicant Support Program: Financial Assistance. Retrieved from <https://www.icann.org/resources/pages/new-gtld-applicant-support-handbook-2011-12-20-en>.

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governmental organizations that are trademark holders to apply under the Applicant Support Program. The final Handbook was published on 11 January 2012, one day prior to the opening of the application window (see Section 1.1: Application Submission of this report).

The financial assistance component of the Applicant Support Program allowed applicants that can meet the established criteria threshold to pay a reduced evaluation fee of USD 47,000 instead of the full evaluation fee of USD 185,000. In order to qualify for the fee reduction, applicants were required to demonstrate financial need, provide a public interest benefit, and possess the necessary management and financial capabilities.

The JAS WG Final Report recommended that a “Support Application Review Panel (SARP) should be established to review applications.” It further recommended that the SARP “should be composed of volunteers (from the ICANN community and outside experts).” Consistent with this recommendation, on 3 February 2012, ICANN issued a request for expressions of interest to serve on the SARP.<sup>339</sup> Criteria for selecting SARP panelists included:

- Knowledge about the new gTLD process, potential gaming patterns and the general needs and capabilities of likely Support Program applicants
- Geographic diversity
- Expertise in:
  - Running a small business
  - Operating in developing economies
  - Serving in the public interest
  - Awarding grants
  - Financial experience or expertise in analyzing business plans, particularly those submitted from developing economies
  - Knowledge of domain names (or the domain name industry)
- Experience managing a domain name registry service

Eighty individuals from around the world encompassing a broad range of expertise submitted expressions of interest. Based on the volume of financial assistance applications submitted, ICANN selected five individuals to form the SARP. Collectively, the individuals selected for the SARP had experience in the domain name industry, managing small businesses, awarding grants, and assisting others on financial matters in developing countries.<sup>340</sup>

To assist the SARP, ICANN provided administrative support in the form of coordinating face-to-face meetings, arranging conference calls, and providing on-line workspaces for the SARP to do its work. As the SARP was an independent panel, it defined its own procedures, methodology, timelines, and final reports. On 12 March 2013, the SARP published its report for the three applications received under the Applicant Support Program.<sup>341</sup> The results of the SARP’s evaluations were that one of the three applications met the criteria under the Applicant Support Program, and two did not.

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<sup>339</sup> ICANN. (3 February 2012) Announcement: ICANN Seeks Evaluators for the Support Applicant Review Panel. Retrieved from <https://www.icann.org/news/announcement-3-2012-02-03-en>

<sup>340</sup> ICANN. Support Application Review Panel (SARP) Member Biographies. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/sarp-bios-28may13-en.pdf>

<sup>341</sup> ICANN. (12 March 2013) Applicant Support Program Update. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/sarp-results-12mar13-en.pdf>

The JAS WG recommended that “[w]hen the SARP rejects a Support Candidate, the SARP should explain its reasons.” The SARP’s results reports reported its ultimate conclusion, but did not provide rationale for its determinations.<sup>342</sup> Feedback from applicants indicated that the amount of detail provided in the SARP’s final report was insufficient and lacked rationale. ICANN provided the feedback to the SARP and on 20 March 2013, the SARP published an updated report that provided an additional level of detail, which was the determination for each criterion for each application.<sup>343</sup> ICANN also received feedback on the updated report, suggesting that further detail in the reports would support transparency in the process.<sup>344,345</sup>

The subject of Applicant Support was identified by the ICANN Board as a topic that may be appropriate for discussion by the GNSO.<sup>346</sup>

#### 6.1.4.2 PRO BONO SERVICES

In addition to financial assistance, the JAS WG’s recommendations for the Applicant Support Program also called for the availability of non-financial support. Consistent with the recommendations of the JAS WG’s Final Report, on 11 January 2012, ICANN launched a directory web page<sup>347</sup> on the New gTLD microsite to allow parties interested in providing pro bono assistance and parties interested in receiving pro bono services to have their names and contact information listed. As of 31 July 2015, 45 candidates sought support,<sup>348</sup> and 21 organization offered pro bono services.<sup>349</sup> ICANN would appreciate any feedback from those who offered or received pro bono services as to the effectiveness of this resource. Feedback may be submitted to the Customer Service Center at [customerservice@icann.org](mailto:customerservice@icann.org).

#### 6.1.4.3 FUNDING FOR APPLICANT SUPPORT PROGRAM

In addition to the USD 2 million seed fund, the JAS WG Final Report recommended the “creation of a foundation to collect and distribute the financial support to Support Recipients.”<sup>350</sup> As the USD 2 million seed funding was not exhausted, additional donations to fund the program were not solicited.

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<sup>342</sup> ICANN. (12 March 2013) Applicant Support Program Update. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/sarp-results-12mar13-en.pdf>

<sup>343</sup> ICANN. (20 March 2013) Applicant Support Program Update. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/sarp-results-20mar13-en.pdf>

<sup>344</sup> SARP Briefing Session. (8 May 2013) Retrieved from [https://community.icann.org/download/attachments/41883861/20130508\\_SARP\\_Briefing\\_English%20copy.pdf?version=1&modificationDate=1368784368000&api=v2](https://community.icann.org/download/attachments/41883861/20130508_SARP_Briefing_English%20copy.pdf?version=1&modificationDate=1368784368000&api=v2)

<sup>345</sup> ICANN. (18 July 2013) ICANN Durban Public Forum. Retrieved from <http://durban47.icann.org/meetings/durban2013/transcript-public-forum-18jul13-en.pdf>

<sup>346</sup> ICANN. (17 November 2014) Annex A to Resolutions 1014.11.17.10 – 2014.11.17.12. Retrieved from <https://www.icann.org/en/system/files/files/resolutions-annex-a-17nov14-en.pdf>

<sup>347</sup> ICANN. Applicant Support Directory, Pro Bono Services for gTLD Startup Registries. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/non-financial-support>

<sup>348</sup> ICANN. Applicant Support Directory, New gTLD Candidates Seeking Support. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/non-financial-support#candidates-seeking-support>

<sup>349</sup> ICANN. Applicant Support Directory, Organizations Offering Support. Retrieved from <http://newgtlds.icann.org/en/applicants/candidate-support/non-financial-support#organizations-offering-support>

<sup>350</sup> ICANN. (13 September 2011) Final Report of the Joint SO/AC New gTLD Applicant Support Working Group. Retrieved from

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## 6.1.5 Conclusion

The Applicant Support Program was a community-developed initiative intended to promote access to the New gTLD Program in developing regions, by providing new gTLD applicants with access to financial and non-financial support. Three applicants applied for financial support, and one met the criteria of the Applicant Support Program to receive a reduced application fee. The ICANN Board reserved USD 2 million to provide financial assistance to qualified applicants, but these funds were not exhausted. Given the low number of applications submitted, consideration should be given to exploring how the Program can be improved to serve its intended purpose.

To the extent that such a program exists in future application rounds, there are valuable lessons learned that should be considered in the development of a financial assistance program. In regards to the development of criteria and processes, the community may wish to research globally recognized procedures that could be adapted for the implementation of a financial assistance program (e.g., World Bank programs). Additional studies may also be undertaken to better understand the needs of the target market and their obstacles to becoming registry operators (e.g., infrastructure, training). This information would help to design a program to better meet the needs of the target market.

Regarding execution of the program, in this round, the SARP was an independent panel that defined its own processes, procedures, and final reports. The SARP's work was performed earlier than the other New gTLD Program evaluation panels, and based on lessons learned from the implementation of other panels, ICANN should consider whether additional guidance should be provided to the SARP regarding publication of their processes, final report format, and documentation of rationale.

In summary:

**6.1.a** Consider leveraging the same procedural practices used for other panels, including the publication of process documents and documentation of rationale

**6.1.b** Consider researching globally recognized procedures that could be adapted for the implementation of the Applicant Support Program

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[https://community.icann.org/download/attachments/22970578/Final\\_Report\\_JASWG+%28Sept+2011%29\\_Seth+created\\_Submitted.pdf](https://community.icann.org/download/attachments/22970578/Final_Report_JASWG+%28Sept+2011%29_Seth+created_Submitted.pdf)

# Chapter 7: Continued Operations Instrument

## 7.1 Continued Operations Instrument

### 7.1.1 Introduction

The Continued Operations Instrument (COI) is a financial instrument in the form of an irrevocable standby letter of credit (LOC) or deposit into an irrevocable cash escrow account. The purpose of the COI is to temporarily fund the continued operations of the five critical registry functions<sup>351</sup> of a new gTLD by an emergency back-end registry operator (EBERO) in the event of a TLD failure. This section of the Program Implementation Review report discusses the following aspects of the COI:

- COI Requirements
- COI Evaluation

### 7.1.2 Relevant Guidance

The following guidance is relevant to the topic of Continued Operations Instrument and will be discussed in further detail in Sections 7.1.3 and 7.1.4 of this report:

- GNSO Principle E: "A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN's registry agreement."<sup>352</sup>
- GNSO Recommendation 8: "Applicants must be able to demonstrate their financial and organizational operational capability."
- Applicant Guidebook, Attachment to Module 2: Evaluation Questions and Criteria<sup>353</sup>
- Applicant Guidebook, Section 5.1: Registry Agreement
- Applicant Guidebook, Section 5.4: Ongoing Operations
- New gTLD Registry Agreement, Specification 8: Continued Operations Instrument<sup>354</sup>

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<sup>351</sup> The five critical registry functions are 1) DNS resolution for registered domain names, 2) Operation of Shared Registration System, 3) Operation of Registration Data Directory Services (Whois), 4) Registry data escrow deposits, and 5) Maintenance of a properly signed zone in accordance with DNSSEC requirements.

<sup>352</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gns0.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-08aug07.htm>

<sup>353</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>354</sup> ICANN. Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/agreement-approved-09jan14-en.pdf>

## 7.1.3 Background

Question 50 of the Applicant Guidebook (AGB) required that each applicant provide an estimate of the cost to fund the operations of the proposed registry's five critical registry functions for at least three years. It further required that the applicant, "provide evidence as to how the funds required for performing these critical registry functions [would] be available and guaranteed," in the form of an irrevocable standby LOC or a deposit into an irrevocable cash escrow account (these instruments are also collectively referred to as COIs").

The requirements for the COI were specified in Question 50 of the AGB. However, because EBERO providers were not in place when the AGB was finalized, the EBERO's cost to maintain operation of the five critical registry functions was not provided in the AGB. On 23 December 2011, prior to the opening of the application window (see Section 1.1: Application Submission of this report), ICANN published an announcement "Continued Operations Instrument Guidelines Available for New gTLD Applicants"<sup>355</sup> and provided guidance on the EBERO's estimated cost by projected number of domains. The publication of this announcement provided applicants with the information they needed to finalize their COI.

Applicants who demonstrated an additional level of financial commitment by submitting a fully funded COI with the application were eligible to receive the maximum number of points (three) for Question 50 of the application. Of the 1,930 new gTLD applications submitted, 1,446 satisfied the AGB requirements to receive three points.

## 7.1.4 Assessment

The COIs submitted with the new gTLD applications were evaluated during Initial Evaluation (IE) (see Section 2.1: Initial and Extended Evaluation of this report) by the Financial Capability Evaluation Panel (See Section 2.7: Financial Capability Evaluation and Section 8.2: Service Provider Coordination of this report) against the requirements in Question 50 of the AGB:

- COI amount must be equal to or greater than the EBERO's cost to fund the operations of the five critical registry functions for a period of three years
- COI must name "ICANN or its designee" as the beneficiary
- COI must have a term of at least five years from the delegation date of the TLD
- COI must be issued by a reputable financial institution insured at the highest level in its jurisdiction
- COI must provide that ICANN or its designee shall be unconditionally entitled to a release of funds
- COI must allow for partial drawing
- If an LOC, COI must be subject to ISP 98 or UCP
- If a cash escrow deposit:
  - Cash must not commingle with other funds

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<sup>355</sup> ICANN. 23 December 2011. Announcement: Continued Operations Instrument Guidelines Available for New gTLD Applicants. Retrieved from <https://www.icann.org/news/announcement-3-2011-12-23-en>

- ❑ Funds are not considered to be an asset of ICANN
- ❑ Interest earnings less bank fees are to accrue to the deposit and will be paid back to the applicant upon liquidation of the account

These requirements were in place to ensure that the COI was a viable financial instrument and could be drawn upon quickly by ICANN or the EBERO should a failure occur.

Based on the evaluation performed, the Financial Capability Evaluation Panel issued 1,531 Clarifying Questions (CQs) (see Section 2.7: Financial Capability Evaluation of this report) for Question 50. This number represents 35% of CQs issued during IE regarding the six questions in the Financial section of the AGB. This shows that a large number of COIs did not meet the criteria as described above and had issues that required correction (e.g., COIs with an insufficient COI amount, the COI being provided by a bank that did not meet the defined standard or errors in the address). Although the deficiencies spanned all of the requirements of Question 50, the requirements regarding two issues in particular resulted in the highest proportion of CQs.

1. COI must provide that ICANN or its designee shall be entitled unconditionally to a release of funds. In many cases, applicants specified "ICANN" as the beneficiary but not "ICANN or its designee" as required.
2. COI must provide that ICANN or its designee shall be entitled unconditionally to a release of funds. In many cases, the COI specified conditions for the release of funds.

Eighty-two percent of all applications received a CQ for Question 50. Within this population, 90% of the CQs included a question relating to the unconditional release of funds requirement, and 45% of the CQs included a question related to the beneficiary requirement.<sup>356</sup> To clarify the requirements of Question 50 and to assist applicants with responding to their CQs, ICANN published several advisories during IE:

#### *5 December 2012 Advisory*

This Advisory was published to provide applicants with an explanation for the unconditional requirement:

*The purpose of the continuing operations instrument (COI) is to ensure availability of funds needed to provide continuity of service to the registrants should an issue with the registry arise. ICANN's ability to exercise its rights under the COI are set forth in the new gTLD registry agreement (see Section 2.13, Section 4.5, Specification 8 and, for intergovernmental organizations and governmental entities only, Section 7.14(f)). As ICANN cannot envision all possible scenarios that could result in the need to draw on the COI under these provisions, the "unconditional withdrawal of funds" requirement must be met.<sup>357</sup>*

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<sup>356</sup> CQs were issued per question and each CQ may have contained multiple issues. For example, an applicant with issues relating to COI amount, unconditional requirement, and beneficiary requirement would receive one CQ for Q50 with all three issues specified. Percentage numbers provided are across all Question 50 CQs.

<sup>357</sup> ICANN. 5 December 2012. New gTLD Advisory: Continuing Operations Instrument. Retrieved from <http://newgtlds.icann.org/en/applicants/advisories/coi-withdrawal-05dec12-en>

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The Advisory also provided examples of statements that were not considered to be conditions for withdrawal of funds so that applicants could work with their banks to arrive at language that would be suitable for them and meet the unconditional requirement.

#### *5 February 2013 Advisory*

On 5 February 2013, ICANN followed up with publication of a second Advisory regarding the beneficiary requirement. This publication addressed concerns made by applicants who informed ICANN that due to concerns about risks, their banks could not accommodate the requirements: “The LOC must name ICANN or its designee as the beneficiary.” and “Any funds paid out would be provided to the designee who is operating the required registry functions.”<sup>358</sup> To help these applicants overcome this hurdle with their banks, guidance was provided in the Advisory that, “ICANN [would] consider it an acceptable equivalent if ICANN [was] named as the beneficiary and the letter of credit [was] fully transferable or assignable by ICANN, in ICANN’s sole discretion.”

#### *4 March 2013 Update to the 5 December 2012 Advisory*

Following the publication of the 5 December 2012 Advisory and despite having provided examples of statements not considered to be conditions, ICANN continued to receive questions from applicants regarding what specific language would satisfy the unconditional requirement of Question 50. On 4 March 2013, ICANN published an update to the 5 December 2012 Advisory to provide an additional example of an acceptable statement that was not considered to be a condition.

Despite good efforts by applicants to utilize the unconditional language examples that were provided in the Advisories, there continued to be confusion and inconsistent application and usage of the conditional language throughout IE. Complicating this was the fact that there were some banks that would not issue unconditional irrevocable standby LOCs. This was made more challenging because IE was not designed to facilitate extended exchanges and dialogue about these issues between the Financial Capability evaluation panel, ICANN, the applicant, and the banks. Based on the inconsistency of unconditional language and in order to allow applicants to move through IE in a timely manner, on 5 June 2013, ICANN announced during an Applicant Update Webinar that the evaluation of Question 50 would be focused on the financial aspects of the COI.<sup>359</sup> The final evaluation of the COI against the requirements of Specification 8 of the Base RA, including the unconditional language, would be performed during Contracting (see Section 5.1 of this report).

At the time that this announcement was made, IE results for 600 applications had been published, and the change did not affect the result (passing IE vs. being eligible for EE) of any of these applications. The change did result in ICANN updating the IE score for Question 50 from 1 point to 3 points for 15% of the 600 applications.

In July 2013, when ICANN began inviting applicants to Contracting, ICANN began reviewing the COIs against the requirements of Specification 8 of the Base RA for Contracting purposes. One of the

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<sup>358</sup> ICANN. 5 February 2013. New gTLD Advisory: Beneficiary Requirement on Letters of Credit. Retrieved from <http://newgtlds.icann.org/en/applicants/advisories/loc-beneficiary-requirement-05feb13-en>

<sup>359</sup> ICANN. Web Conference Recording. Retrieved from <http://icann.adobeconnect.com/p8uo6buwzwm/>; Additional Questions & Answers. Retrieved from <http://newgtlds.icann.org/en/applicants/webinar-qa-05jun13-en.pdf>

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requirements of Question 50 and Specification 8 of the Base RA was that the COI be in place for a period of five years from the delegation date of the TLD, or six years from the effective date of the RA (as the RA provides for a period of 12 months from the effective date of the RA for the TLD to be delegated). Because Contracting commenced over two years after the close of the application window, many COIs needed to be amended to meet this requirement. In addition, many applicants needed to amend the unconditional language of the COI to meet the requirements of Specification 8 of the RA. These two issues affected approximately 85% of all non-compliant COIs at the time of Contracting.<sup>360</sup> The other COI issues that impacted applicants at Contracting included updating ICANN's office address, mailing to ICANN the physical original COI document, amending the COI to reflect appropriate choice of law, and amending the COI to ensure that the document could be transferred by ICANN.

When ICANN implemented the RA extension request process on 3 September 2014,<sup>361</sup> only 1,059 of 1,1718 active applications had compliant COIs. In order to ensure that applicants could complete the Contracting process, which required that a compliant COI be in place as per Section 5.4.1 of the AGB, an interim deadline (see Section 5.1: Contracting of this report) of 31 October 2014 was set for the submission of compliant COI for applications that were in Contracting. Two-hundred-thirty applications were received by the 31 October 2014 deadline. Of this number, 217 met the final deadline. A small number, 13 applicants, did not meet this deadline and had their application status changed to "Will Not Proceed" which meant loss of eligibility to sign a Registry Agreement with ICANN.<sup>362</sup> ICANN worked with these applicants on a one-on-one basis to address their outstanding issues.

As of 31 July 2015, 965 of the 1,390 non-withdrawn applications required at least one amendment to achieve a compliant COI, 607 required two amendments, and 316 required three or more amendments before reaching compliance.

## 7.1.5 Conclusion

COI was the financial instrument that applicants were required to submit with their applications to temporarily fund the continued operations of the five critical registry functions of a new gTLD by an emergency back-end registry operator (EBERO) in the event of a TLD failure. The majority of applicants had issues obtaining a COI that met the requirements of the AGB as evidenced by the fact that almost all applicants were required to make amendments to their COIs, and over 20% of applications had three or more amendments. As such, consideration should be given to whether there are other ways to fund an EBERO in the event of a TLD failure.

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<sup>360</sup> ICANN did not track this specific statistic. This number is ICANN's estimate.

<sup>361</sup> ICANN. 3 September 2014. Announcement: Requests for Extension to Execute New GTLD Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-03sep14-en>

<sup>362</sup> ICANN. Contracting and the Registry Agreement. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting#deadlines-extensions>

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In summary:

**7.1.a** Explore whether there other more effective and efficient ways to fund emergency back-end registry operator in the event of a TLD failure

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# Chapter 8: Program Management

Section 1.1 of the Applicant Guidebook estimated an application volume of 500 when estimating processing times for each phase.<sup>363</sup> The total estimated lifecycle was approximately nine months for straightforward applications and up to 20 months for complex applications. In fact, 1,930 applications for new gTLD were submitted and the New gTLD Program is currently estimated to conclude in 2017, representing a five-year lifespan during which ICANN processed gTLD applications. The implementation of such a large and complex program was not a small task, and required significant effort from the community, ICANN, and service providers over the three-and-a-half-year period between the opening of the application window on 12 January 2012 and the publication of this report. This section of the Program Implementation Review Report discusses how ICANN defined operational procedures to implement the processes defined in the AGB, the systems and tools that were developed and used in support of the operational implementation of the Program, the resources that supported the Program, how and which service providers were selected to support Program processes, how ICANN managed these service providers to ensure the quality and consistency of results delivered, how ICANN managed the Program's financials, how ICANN executed various communications activities in support of the Program, and how the Customer Service Center evolved over time to provide improved services to applicants and registry operators.

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<sup>363</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

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## 8.1 Program Processes, Systems, Resources

### 8.1.1 Introduction

Program processes, systems and resources are elements that supported the implementation of the New gTLD Program. Processes and procedures provided predictability to applicants, service providers, and ICANN. Systems supported communications with applicants. Resources performed the work. This section of the Program Implementation Review report discusses the following topics:

- Program processes and procedures
- Applicant-facing systems
- ICANN’s internal resources to support Program implementation

### 8.1.2 Relevant Guidance

The following guidance is relevant to the topic of Program Processes, Systems, Resources and will be discussed in further detail in Sections 8.1.3 and 8.1.4 of this report:

- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>364</sup>

### 8.1.3 Background

On 8 August 2007, the GNSO published its Final Report for the “Introduction of New Generic Top-Level Domains.” The community and ICANN subsequently undertook the effort to draft the AGB, which would serve as a roadmap for the implementation of the policies set forth in the GNSO’s Final Report. On 24 October 2008, ICANN published the first version of the AGB for comments and input from the community.<sup>365</sup> Over the next three years, the community and ICANN continued to work on the development of the AGB.<sup>366</sup> On 11 January 2012, the current and ninth version of the AGB was published. This version served as the final roadmap for the implementation of the first round of new gTLDs.

In accordance with GNSO Recommendation 1, the AGB was developed to provide criteria and requirements that applicants must meet in order to successfully complete the evaluation process. The AGB defined the overall process flow for applications, the criteria they would be considered against, and the rules for various processes each application may be subject to; however, the AGB typically (and intentionally) did not contain the detailed step-by-step process descriptions necessary for the operational implementation of the New gTLD Program. The task of defining the operational

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<sup>364</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>365</sup> ICANN. (24 October 2008) New gTLD Program: Draft Applicant Guidebook (Draft RFP). Retrieved from <http://newgtlds.icann.org/en/about/historical-documentation/matrix-agb-v1>

<sup>366</sup> ICANN. Historical Documents. Retrieved from <http://newgtlds.icann.org/en/about/historical-documentation>

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processes and procedures, systems and tools, and resources required for the implementation of the New gTLD Program was ICANN's responsibility.

Although GNSO Recommendation 1 stated, "no subsequent additional selection criteria should be used in the selection process," new requirements did come up during the implementation of the New gTLD Program (e.g., GAC Category 1 and 2 Advice, name collision, designation of .Brand TLDs). These new requirements required additional work by the community and ICANN to develop a roadmap for the implementation of these new requirements. Once the roadmap for the implementation of these new requirements was developed, ICANN defined the operational processes and procedures to support the implementation.

## 8.1.4 Assessment

### 8.1.4.1 PROGRAM PROCESSES AND PROCEDURES

#### *Consistency and Quality*

The operational implementation of the New gTLD Program was guided by the principles of consistency and quality. To achieve consistency, standardized processes and procedures were defined for all areas of the Program. An example of a standardized process and procedure was the application change request process (see Section 1.3: Application Change Requests of this report). Section 1.2.7 of the AGB stated the following: "If at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN via submission of the appropriate forms." However, the AGB did not define the forms that the applicant could use to notify ICANN of changes to the application or the criteria and process by which ICANN had to process the notification. In order to put in place a standardized and repeatable process that could be applied consistently for all applicants, ICANN:

- Defined seven criteria that were used to assess each application change request.
- Defined a form for applicants to notify ICANN of changes to application materials.
- Defined a process for applicants to submit application change requests.
- Defined a process to review application change requests.<sup>367</sup>

Generally, defining standardized processes and procedures allowed ICANN to provide predictability to applicants and to execute the process in a repeatable manner with consistent results. Each of the previous chapters of this report describes how ICANN defined operational implementation processes and procedures for each specific area.

Quality is the other principle that was crucial to ICANN in the implementation of the New gTLD Program. In addition to achieving quality through standardized processes that yielded consistent results, ICANN implemented quality control steps in all Program processes, including a formal

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<sup>367</sup> ICANN. New gTLD Application Change Request Process and Criteria. Retrieved from <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>

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Quality Control program<sup>368</sup> that was implemented in Initial Evaluation (see Section 2.1: Initial and Extended Evaluation of this report), and a quality control step that was inserted prior to the publication of any applicant report to ensure that the reports are consistent among themselves and with the AGB requirements.

Service providers, discussed in Section 8.2: Service Provider Coordination of this report, were partners to ICANN in the implementation of the New gTLD Program and shared the same principles of consistency and quality in their approach. Each documented their approach and process, which were posted on the New gTLD microsite for transparency.

### *Alignment to Relevant Guidance*

In defining operational processes and procedures, ICANN adhered to the requirements of the AGB. In cases where the AGB did not provide the level of detail required for operational implementation, ICANN relied on the expertise of the service providers engaged, as in the case of String Similarity evaluation (see Section 2.3: String Similarity Evaluation of this report), or consulted with service providers and the community, as in the case of auction rules (see Section 4.2: Auctions of this report).

### *Process Improvement*

As the Program progressed, some processes evolved to gain operational efficiency and to better meet the needs of applicants. Examples of processes that evolved included the application change request process, which was updated on 1 October 2014 to not require certain types of change requests to be subject to a 30-day window.<sup>369</sup> This update was made to improve the efficiency of the process, after the observation was made that only 25 comments were submitted on the 496 approved change requests from January 2014 through September 2014. This update allowed applicants to more expeditiously move forward in the Program (see Section 1.4: Application Change Requests of this report). Another example is the implementation of the weekly Contracting operational cycle, which was implemented in October 2013, three months after ICANN commenced the Contracting process.<sup>370</sup> The move to the weekly Contracting operational cycle allowed ICANN to gain efficiency and provide more predictability of the process to applicants (see Section 5.1: Contracting of this report).

#### **8.1.4.2 APPLICANT-FACING SYSTEMS**

Applicant-facing systems refer to systems that facilitated communications between ICANN and the applicant. In this round, the TLD Application System (TAS) allowed applicants to submit applications for new gTLDs, and for ICANN to deliver Financial Capability, Technical/Operational Capability, and Registry Services CQs and IE results to applicants. The Customer Portal allowed applicants to submit questions and requests regarding Program requirements and their applications to ICANN, and it

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<sup>368</sup> JAS Global Advisors. (6 August 2014) gTLD Application Processing: Initial Evaluation Quality Program Report. Retrieved from <http://newgtlds.icann.org/en/program-status/application-results/ie-quality-program-26aug14-en.pdf>

<sup>369</sup> ICANN. Change Requests That Do Not Require A 30-day Comment Window. Retrieved from <http://newgtlds.icann.org/en/applicants/customer-service/change-requests#change-requests-comment>

<sup>370</sup> ICANN. Contracting Overview. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting#overview>

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allowed ICANN to provide responses. This system was also used by ICANN to deliver Background Screening COs, Geographic Names COs, and EE results to applicants. The remaining applicant-facing system, the Application Comments Forum, is discussed in Section 1.3: Application Comments of this report.

### *TLD Application System (TAS)*

There were challenges in the development of TAS. While ICANN began defining preliminary requirements for the application system in 2009, the AGB was not finalized until June 2011. ICANN had seven months between the finalization of the AGB and the opening of the application window to finalize the system requirements, complete system development, integrate the system, and perform testing. A longer period between the finalization of the requirements and the launch of the application window would have provided additional time for aspects of the development process such as system integration, user acceptance testing, security testing, and user beta testing. The limited development period may have contributed to some of the challenges identified by applicants.

In terms of usability, there were some areas that were challenging to users of the system. To access TAS, applicants had to first log into a virtual application that provided a browser-agnostic environment for applicants. Although the browser-agnostic environment might have eliminated some problems with user experience across various browsers, the virtual environment created issues for users as reported in the feedback and inquiries received by the Customer Service Center. Many applicants had issues with downloading and uploading files due to how files are handled within the virtual environment. The Customer Service Center received 108 inquiries during the application window regarding working with files within the virtual environment. To assist applicants, ICANN provided a user guide to educate applicants on how to work within the virtual environment.<sup>371,372</sup> Although the user guide was helpful, it did not solve the challenge of working with files within this environment.

The other issue that the virtual environment created was with regards to logins. Although the virtual environment provided an additional level of security by creating a second set of passwords, it also created complexity and difficulties for users. Applicants frequently forgot which password was for which system and had to reset passwords frequently. The ICANN Customer Service Center recorded 1,802 inquiries about TAS and the virtual environment passwords during the application window.

On 12 April 2012, hours before the scheduled close of the application window (see Section 1.1: Application Submission of this report), ICANN identified a technical issue with TAS software. ICANN took the most conservative approach possible to protect all applicants and allow time to resolve the issue by taking TAS offline. ICANN informed applicants that the application window would be extended to 20 April 2012 to allow applicants sufficient time to complete their applications in TAS.<sup>373</sup> The technical issue with the TAS software allowed a limited number of users to view some other users' filenames and usernames in certain scenarios. The issue was first reported by a system user on 19 March 2012, and although ICANN believed that the reported issue had been addressed, on 12

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<sup>371</sup> ICANN. TAS: TLD Application System. Retrieved from <http://newgtlds.icann.org/en/applicants/tas>

<sup>372</sup> ICANN. Accessing TAS and the CSC Portal. Retrieved from <http://newgtlds.icann.org/en/applicants/tas/access-21nov12-en.pdf>

<sup>373</sup> ICANN. (12 April 2012) Announcement: TAS Temporarily Offline. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-12apr12-en>

April 2012, ICANN confirmed that there was a continuing unresolved issue and took the system offline.<sup>374</sup> At the time the system was taken offline, there were 1,268 registered users and approximately 95,000 file attachments in the system.<sup>375</sup> ICANN's review showed that 105 users might have had filenames and usernames viewed by another user, and 50 users might have viewed filenames and usernames from one or more other users. On 7 May 2012, ICANN issued an announcement that in recognition of the inconvenience caused by the TAS system being temporarily taken offline, if applicants withdrew their applications before Reveal Day, ICANN would provide a full refund of the USD 185,000 evaluation fee.<sup>376</sup> Previously, the USD 5,000 registration fee was non-refundable to reduce risk of frivolous access to TAS. TAS was brought back online on 21 May 2012, after users were notified whether they were affected or not, and after the system had been fixed and the overall system performance had been improved.<sup>377</sup> During the period from 12 April 2012 through 21 May 2012, ICANN provided frequent updates to both the applicants and the community via announcements.<sup>378</sup>

### *Customer Portal*

The Customer Portal served its intended purpose of allowing applicants to submit questions regarding the Program requirements and their applications to ICANN and for ICANN to provide responses, and to facilitate the Clarifying Question process during Initial Evaluation and Extended Evaluation (see Section 2.1: Initial and Extended Evaluation of this report). Improvements to the Customer Portal were made over time to enhance usability, such as the addition of sorting capability for the knowledge base and the migration of application data into the Customer Portal to provide applicants with a central location to manage their applications and engage with ICANN.

On 1 March 2015, ICANN announced that the Customer Portal and GDD Portal were taken offline on 27 February 2015 to investigate a reported security issue where under certain circumstances an authenticated portal user could potentially view data of, or related to, other users.<sup>379</sup> The reported security issue was addressed and the Customer and GDD portals were brought back online on 2 March 2015.<sup>380</sup> On 30 April 2015, ICANN published an announcement regarding the results of the first phase of its investigation into the reported security issue.<sup>381</sup> The investigation involved two consulting firms reviewing and analyzing historical log data going back to the activation of the Customer Portal on 17 April 2013 and of the GDD portal on 17 March 2014. The results of the investigation showed that the unauthorized access resulted from advanced searches conducted using the login credentials of 19 users, which exposed 330 advanced search result records, pertaining

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<sup>374</sup> ICANN. (14 April 2012) Announcement: TAS Interruption – Update (14 April 2012 06:50 UTC). Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-14apr12-en>

<sup>375</sup> ICANN. (2 May 2012) Announcement: TAS Interruption – Update (2 May 2012). Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-02may12-en>

<sup>376</sup> ICANN. (7 May 2012) Announcement: TAS Interruption – Update (7 May 2012). Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-07may12-en>

<sup>377</sup> ICANN. (21 May 2012) Announcement: TAS Interruption – Update (21 May 2012). Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-21may12-en>

<sup>378</sup> ICANN. 2012 New gTLD Announcements. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/2012>

<sup>379</sup> ICANN. (1 March 2015) Announcement: New gTLD Applicant and GDD Portal Update. Retrieved from <https://www.icann.org/news/announcement-2015-03-01-en>

<sup>380</sup> ICANN. (2 March 2015) Announcement: Update – New gTLD Applicant and GDD Portal Back Online. Retrieved from <https://www.icann.org/news/announcement-3-2015-03-02-en>

<sup>381</sup> ICANN. (30 April 2015) Announcement: New gTLD Applicant and GDD Portal Update. Retrieved from <https://www.icann.org/news/announcement-2015-04-30-en>

to 96 applicants and 21 registry operators. These records may have included attachment(s). These advanced searches occurred during 36 user sessions out of a total of nearly 595,000 user sessions since April 2013. On 27 May 2015, ICANN announced that it had notified users whose credentials were used to access information that did not appear to belong to them and requested that these users: (1) provide an explanation of their activity; (2) certify that they would delete or destroy all information obtained; (3) certify that they had not used and would not use the information or convey it to any third party. In addition, ICANN provided the affected parties with the name(s) of the user(s) whose credentials were used to view their information without their authorization, or of the individuals that were not officially designated by their organization to access certain data.<sup>382</sup> On 9 June 2015, ICANN's Chief Information and Innovation Officer posted a blog to share that ICANN had engaged the services of an expert-knowledge firm to review ICANN's implementation of Salesforce.com, the software platform for the Customer and GDD portals.<sup>383</sup> The review highlighted several areas where ICANN could harden its platform. As of 31 July 2015, ICANN has since released multiple software patches to address several potential vulnerabilities that were identified, and expects that all work will be completed by the end of calendar year 2015. Several other efforts to harden ICANN's IT and digital services are also underway.

### 8.1.4.3 ICANN'S INTERNAL RESOURCES TO SUPPORT PROGRAM IMPLEMENTATION

Program staff was a critical component of the effective and efficient implementation of the New gTLD Program. These resources had a wide span of expertise including vendor management, system requirements gathering, business process analysis and development, operations management, technical customer service support, financial management, and program management. In addition to these skills, Program staff was also required to have a broad understanding of ICANN, the AGB, and the diverse set of technical and policy issues that affected the Program.

As the Program progressed, Program staff was required to quickly learn new content (e.g., understanding the Registry Agreement (RA) and the contracting process while still executing Initial Evaluation) and to take on the additional tasks of defining new processes and procedures while continuing to operate the previous phases of the Program. The existence of defined processes and procedures allowed for cross-training of resources to meet varying level of Program demands. Over time, Program staff built expertise and gained operational efficiency.

## 8.1.5 Conclusion

Overall, Program processes, systems, and resources were critical components in supporting the execution of the Program. Program processes and procedures were designed to ensure alignment to GNSO policy and the AGB, and to honor the principles of consistency and quality. Applicant-facing systems served their intended purpose of facilitating communications between ICANN and applicants. ICANN resources flexed to accommodate the demand and evolving needs of the Program.

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<sup>382</sup> ICANN. (27 May 2015) Announcement: New gTLD Applicant and GDD Portals Update. Retrieved from <https://www.icann.org/news/announcement-2015-05-27-en>

<sup>383</sup> A. Rangan, ICANN. (9 June 2015). Hardening ICANN's IT and Digital Services. Retrieved from <https://www.icann.org/news/blog/hardening-icann-s-it-and-digital-services>

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That said, there are additional considerations from this round that can be used to inform the next round.

In particular, the system development process may have benefited from leveraging industry standard best practices for product development. In this round, there was a limited time available between the finalization of system requirements and the launch of the TLD Application System. In future application rounds, the Program timeline should provide additional time for system development, including the definition of robust system requirements and appropriate testing.

In summary:

**8.1.a** In developing timelines for future application rounds, provide an appropriate amount of time to allow for the use of best practices in system development

**8.1.b** Explore beta testing programs for systems to allow for lessons learned, to increase effectiveness of such systems, and to provide further transparency, clarity, and opportunity for preparation to applicants

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## 8.2 Service Provider Coordination

### 8.2.1 Introduction

Service providers are strategic partners in the implementation of the New gTLD Program. This section of the Program Implementation Review Report discusses the following aspects of service provider coordination:

- Service Provider Selection Process
- Conflict of Interest Guidelines
- Service Provider Coordination Program

### 8.2.2 Relevant Guidance

The following guidance is relevant to the topic of Service Provider Coordination and will be discussed in further detail in Sections 8.2.3 and 8.2.4 of this report:

- GNSO Implementation Guideline H: “External dispute providers will give decisions on objections.”<sup>384</sup>
- Applicant Guidebook, Module 1: Introduction to the gTLD Application Process<sup>385</sup>
- Applicant Guidebook, Module 2: Evaluation Procedures
- Applicant Guidebook, Module 3: Objection Procedures
- Applicant Guidebook, Module 4: String Contention Procedures

### 8.1.3 Background

The AGB called for independent experts to perform certain Program activities such as evaluation, objection and dispute resolution proceeding, and auction management. In addition to the independent experts required by the AGB, ICANN engaged other service providers to execute other Program activities such as PDT and Quality Control.

ICANN selected all but two service providers for the Program through competitive, open processes, implemented the conflict of interest guidelines established in Section 2.4.3 of the AGB, and coordinated the service providers’ work to ensure timely and quality deliverables.

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<sup>384</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>385</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

## 8.2.4 Assessment

### 8.2.4.1 SERVICE PROVIDER SELECTION PROCESS

Section 2.4.2 of the AGB called for service providers that were global, diverse, and that had the ability to scale quickly in order to meet the unknown demands of the New gTLD Program. Call for Expression of Interest, Requests for Proposals, and Requests for Information were issued to solicit qualified service providers to perform background screening, Financial Capability evaluation, Technical/Operational Capability evaluation, Geographic Names evaluation, String Similarity evaluation, Community Priority Evaluation, Auction, PDT, and to administer the Community, Limited Public Interest, Legal Rights, and String Confusion Objections.<sup>386, 387, 388, 389, 390, 391, 392</sup> For DNS Stability and Registry Services, ICANN performed direct procurement, which is provided for under the ICANN Procurement Guidelines,<sup>393</sup> due to the specific technical skills required for these evaluations.

Service provider selection criteria were provided in the EOIs, RFPs, and RFIs, and mapped to the criteria provided in Section 2.4.2 of the AGB. In addition to the criteria provided in the AGB, ICANN also considered the candidates' capacity to develop tools for evaluation, proposed internal processes to ensure the consistency of evaluation results, approach, experience, technical competency, commitment, and proposed costing model. Over the course of the New gTLD Program, ICANN developed best practices for sharing information with the community regarding the procurement process. To support transparency, in future application rounds, ICANN should continue to provide procurement information to the community in the form of timely updates. Such updates should include selection criteria and service provider process documentation where applicable.

Where it made sense, ICANN selected more than one service provider to perform a particular evaluation. This approach allowed ICANN to address any conflict of interest issues, increase capacity, and foster competition among service providers to increase quality and minimize cost. Table 8.2.i shows the selected service providers.

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<sup>386</sup> ICANN. (21 December 2007) Announcement: ICANN Calls for Expressions of Interest from Potential Dispute Resolution Service Providers for the New gTLD Program. Retrieved from <https://www.icann.org/news/announcement-2007-12-21-en>

<sup>387</sup> ICANN. (25 February 2009) Announcement: New gTLDs – Call for Applicant Evaluation Panel Expressions of Interest. Retrieved from <https://www.icann.org/news/announcement-2009-02-25-en>

<sup>388</sup> ICANN. (31 July 2009) Announcement: New gTLD Program - Update on Independent Evaluators Search <https://www.icann.org/news/announcement-2-2009-07-31-en>

<sup>389</sup> ICANN. (30 August 2011) Announcement: Safe, Stable and Secure New gTLDs – ICANN Seeks Global Background Screening Services Provider. Retrieved from <https://www.icann.org/news/announcement-2011-08-30-en> ICANN. (21 November 2011) Announcement: New gTLD Program – ICANN Seeks Independent Objector. Retrieved from <https://www.icann.org/news/announcement-3-2011-11-21-en>

<sup>390</sup> ICANN. (21 November 2011) Announcement: New gTLD Program – ICANN Seeks Independent Objector. Retrieved from <https://www.icann.org/news/announcement-3-2011-11-21-en>

<sup>391</sup> ICANN. Request for Proposal: Pre-Delegation Testing Provider for the New gTLD Program. Retrieved from <https://www.icann.org/en/system/files/files/pre-delegation-testing-30oct12-en.pdf>

<sup>392</sup> ICANN. Summary of New gTLD Auctions Vendor Selection. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/summary-vendor-selection-10mar14-en.pdf>

<sup>393</sup> ICANN. (21 February 2010) Procurement Guidelines. Retrieved from <https://www.icann.org/en/system/files/files/procurement-guidelines-21feb10-en.pdf>

Table 8.2.i: Selected Service Providers

Evaluation Panel	Service Provider
Background Screening Panel	<ul style="list-style-type: none"> <li>• PricewaterhouseCoopers (PwC)</li> </ul>
String Similarity Panel	<ul style="list-style-type: none"> <li>• Interconnect Communications (partnering with the University College London)</li> </ul>
DNS Stability Panel	<ul style="list-style-type: none"> <li>• Interisle Consulting Group</li> </ul>
Registry Services	<ul style="list-style-type: none"> <li>• Interisle Consulting Group</li> </ul>
Geographic Names Panel	<ul style="list-style-type: none"> <li>• The Economist Intelligence Unit (EIU)</li> <li>• Interconnect Communications (partnering with the University College London)</li> </ul>
Financial and Technical Evaluation Panels	<ul style="list-style-type: none"> <li>• Ernst &amp; Young</li> <li>• KPMG</li> <li>• JAS Advisors</li> </ul>
Community Priority Evaluation Panel	<ul style="list-style-type: none"> <li>• The Economist Intelligence Unit (EIU)</li> <li>• Interconnect Communications</li> </ul>
Dispute Resolution Service Providers	<ul style="list-style-type: none"> <li>• The International Centre for Dispute Resolution (ICDR)</li> <li>• The Arbitration and Mediation Center of the World Intellectual Property Organization (WIPO)</li> <li>• The International Centre for Expertise of the International Chamber of Commerce (ICC)</li> </ul>
Independent Objector	<ul style="list-style-type: none"> <li>• Professor Alain Pellet</li> </ul>
Auction Provider	<ul style="list-style-type: none"> <li>• Power Auctions, LLC</li> </ul>
Pre-Delegation Testing	<ul style="list-style-type: none"> <li>• Stiftelsen för Internetinfrastruktur (IIS)</li> </ul>

### Background Screening Panel

ICANN selected PricewaterhouseCoopers (PwC) to perform background screening for its independence, expertise, and capacity to gather, analyze, assess, scrutinize, and report information. With more than 195,000 people in 157 countries, PwC had the global network and reach necessary to perform complete background research of applicants for the New gTLD Program as well as the ability to quickly scale to meet the demands of the Program.<sup>394</sup>

### String Similarity Panel

ICANN selected one service provider to perform the String Similarity evaluation because all of the strings had to be evaluated against one another. InterConnect Communications, in partnership with the University College London (UCL), was selected as the String Similarity panel firm. InterConnect Communications had nearly 30 years of experience providing consulting services in communications sector strategy, policy and associated regulatory frameworks.<sup>395</sup> UCL came with internationally renowned researchers with “breadth and depth of expertise across the entire range of academic

<sup>394</sup> ICANN. (25 February 2009) ICANN Call for Expression of Interest (EOIs) for a New gTLD Geographic Names Panel. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/eoi-geonames-25feb09-en.pdf>

<sup>395</sup> InterConnect Communications. About InterConnect. Retrieved from [http://www.icc-uk.com/index.php#tab\\_2](http://www.icc-uk.com/index.php#tab_2)

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disciplines.”<sup>396</sup> Together, InterConnect and UCL firms brought diverse linguistics resources offering and subject matter expertise.<sup>397</sup>

### *DNS Stability Panel and Registry Services Panel*

ICANN selected Interisle Consulting Group to perform the DNS Stability and Registry Services evaluations for its specific subject matter expertise in the DNS. Interisle convened separate independent panels for each of these evaluations. In 2009, Interisle was selected by ICANN to perform technical string requirement evaluations for requested IDN ccTLDs under the IDN ccTLD Fast Track Process.<sup>398</sup> Within the Fast Track program, the Panel reviewed ccTLDs for confusability with two-letter codes, existing TLDs and other applied-for TLDs — this experience was valuable in determining, for instance, whether new gTLDs could cause instability based on non-compliance with ASCII/non-ASCII label requirements or ISO standards. Furthermore, Interisle had experience in ICANN’s Registry Services Evaluation Policy (RSEP) as part of the Registry Service Technical Evaluation Panel (RSTEP),<sup>399</sup> experience which was leveraged in the Registry Services evaluation.

### *Financial Capability and Technical and Operational Capability Evaluation Panels*

The AGB, Attachment to Module 2, Section III stated, “Given the requirement that technical and financial planning be well integrated, the panels [would] work together and coordinate information transfer where necessary.” To support this, ICANN selected the same panel firms for the Technical and Operational Capability Evaluation and the Financial Capability Evaluation, and allocated both sections of an application to the same panel firm.

ICANN selected three service providers to conduct Financial Capability and Technical and Operational Capability evaluations: Ernst & Young, KPMG, and JAS Global Advisors. Ernst & Young and KPMG were selected for their expertise in technology and finance. Both firms had large and global practices that provided technology advisory and evaluate financial transactions, making them well suited to perform Technical/Operational and Financial evaluations for the Program. Their large global footprints could also effectively scale to ensure timely processing of applications. JAS Global Advisors had a decade of experience in due diligence, Internet security, and global IT operations as well as an in-depth knowledge of ICANN.<sup>400</sup>

### *Geographic Names Panel*

ICANN selected two service providers to conduct Geographic Names evaluations: the Economist Intelligence Unit (EIU) and Interconnect Communications. The EIU had more than six decades of experience and incorporated a solid understanding of global corporate and government processes.

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<sup>396</sup> University College London. UCL Research. Retrieved from <http://www.ucl.ac.uk/research>

<sup>397</sup> M. Salazar, ICANN. (22 November 2011) Preparing Evaluators for the New gTLD Application Process. Retrieved from <https://newgtlds.icann.org/en/blog/preparing-evaluators-22nov11-en>

<sup>398</sup> ICANN. (9 September 2009) Announcement: Status Update: IDN ccTLD Fast Track Process Implementation. Retrieved from <https://www.icann.org/news/announcement-2-2009-09-09-en>

<sup>399</sup> ICANN. Registry Services Technical Evaluation Panel. Retrieved from <https://www.icann.org/resources/pages/technical-evaluation-panel-2012-02-25-en>

<sup>400</sup> M. Salazar, ICANN. (22 November 2011) Preparing Evaluators for the New gTLD Application Process. Retrieved from <https://newgtlds.icann.org/en/blog/preparing-evaluators-22nov11-en>

Additionally, the EIU had experience building evaluative frameworks and benchmarking models for its clients, including governments, corporations, academic institutions, and NGOs.<sup>401</sup> InterConnect Communications (partnered with the University College London) brought experience in working with governments in the telecommunications and wireless industry. InterConnect Communications had nearly 30 years of experience providing consulting services in communications sector strategy, policy and associated regulatory frameworks.<sup>402</sup> Both providers were able to convene globally diverse panels that could evaluate applications from all regions of the world. They were also able to quickly scale to meet the demands of the evaluation of an unknown application volume.

### *Community Priority Evaluation Panel*

ICANN initially selected two service providers to conduct CPE, the EIU and InterConnect Communications. The decision to have only one service provider performing CPE was primarily due to the low volume of community-based applications in contention (34 in total) where additional capacity was not required and in order to ensure consistency in evaluation over this low volume. Ultimately, ICANN selected EIU to perform CPE because of its experience, expertise, and global network.<sup>403</sup> Its network of more than 500 analysts and contributors in more than 200 countries helped executives, governments, and institutions by providing timely, reliable, and impartial analysis. Additionally, the EIU had more than six decades of experience building evaluative frameworks and benchmarking models for its clients, including governments, corporations, academic institutions, and NGOs. One of its core competencies was applying scoring systems to complex questions, which was a good fit for CPE due to the need to apply consistent analysis to a variety of applications during the CPE process.<sup>404</sup>

### *Dispute Resolution Service Providers*

Each of the DRSPs selected by ICANN was a globally recognized firm with notable experience in dispute resolution:

- The International Centre for Dispute Resolution (ICDR) for String Confusion Objections:

*Established in 1996 as the global component of the American Arbitration Association, the [ICDR] provide[d] conflict-management services in more than 80 countries with a staff fluent in 14 languages. Through a worldwide panel of hundreds of independent arbitrators and mediators and global cooperative agreements for hearing-room access, the ICDR provide[d] a flexible, party-centered process over a broad range of industries and geopolitical issues.*<sup>405</sup>

- The Arbitration and Mediation Center of the World Intellectual Property Organization (WIPO) for Legal Rights Objections: “WIPO [was] the global forum for intellectual property

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<sup>401</sup> The Economist Intelligence Unit. Community Priority Evaluation Panel Process. Retrieved from <https://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>

<sup>402</sup> InterConnect Communications. About InterConnect. Retrieved from [http://www.icc-uk.com/index.php#tab\\_2](http://www.icc-uk.com/index.php#tab_2)

<sup>403</sup> M. Salazar, ICANN. (22 November 2011) Preparing Evaluators for the New gTLD Application Process. Retrieved from <https://newgtlds.icann.org/en/blog/preparing-evaluators-22nov11-en>

<sup>404</sup> The Economist Intelligence Unit. Community Priority Evaluation Panel Process. Retrieved from <https://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>

<sup>405</sup> International Centre for Dispute Resolution. About the American Arbitration Association (AAA) and the International Centre for Dispute Resolution (ICDR). Retrieved from <https://www.icdr.org/icdr/faces/s/about>

services, policy, information and cooperation. [It was] a self-funding agency of the United Nations, with 188 member states."<sup>406</sup> The WIPO Arbitration and Mediation Center provided time- and cost-efficient mechanisms to resolve internet domain name disputes, without the need for court litigation. This service included the WIPO-initiated Uniform Domain Name Dispute Resolution Policy (UDRP), under which the WIPO Center processed over 30,000 cases (as of 2015).<sup>407</sup> The WIPO Center described the Legal Rights Objection development, procedure, and substance in its End Report."<sup>408</sup>

- The International Centre for Expertise of the International Chamber of Commerce (ICC) for Limited Public Interest and Community Objections: "ICC [was] a leading provider of dispute resolution services for individuals, business, states, state entities, and international organizations seeking alternatives to court litigation."<sup>409</sup>

### *Independent Objector*

On 14 May 2012, Professor Alain Pellet was announced as the Independent Objector.<sup>410</sup> Professor Pellet's credentials and experience were suitable for the role. He was a highly regarded professor and practitioner of law and has represented governments as Counsel and Advocate in the International Court of Justice in many significant and well-known cases. He was widely published and held several significant honors.<sup>411</sup> The Independent Objector's role and process were discussed in Section 3.2: Objections & Dispute Resolution of this report.

### *Auction Service Provider*

In June 2008 ICANN selected Power Auctions LLC to provide expertise as ICANN's auction design consultants as the ICANN community was considering if and how ICANN could use auctions to resolve contention sets.<sup>412</sup> This selection was based on an open Expression of Interest and subsequent Request for Proposal process.<sup>413</sup> In support of this effort, Power Auctions LLC helped ICANN to define the Ascending Clock Auction process as the best choice for contention resolution auctions, and much of the text of Module 4.3.1 Auction Procedures is based on Power Auctions LLC's work. Subsequently, in August 2009, Power Auctions LLC was selected to provide the implementation of auctions for the Program, based on an RFP issued earlier that year. In September 2013, ICANN updated the 2009 agreement with Power Auctions LLC to facilitate the auctions.<sup>414</sup> Power Auctions LLC was a leader on auction thought and design. It had an international team

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<sup>406</sup> World Intellectual Property Organization. Inside WIPO. Retrieved from <http://www.wipo.int/about-wipo/en/index.html>

<sup>407</sup> World Intellectual Property Organization. Domain Name Dispute Resolution. Retrieved from <http://www.wipo.int/about-wipo/en/index.html>, and <http://www.wipo.int/amc/en/domains/>

<sup>408</sup> World Intellectual Property Organization. WIPO Arbitration and Mediation Center End Report on Legal Rights Objection Procedure 2013. Retrieved from <http://www.wipo.int/export/sites/www/amc/en/docs/lroreport.pdf>

<sup>409</sup> International Chamber of Commerce. ICC Dispute Resolution Services. Retrieved from <http://www.iccwbo.org/about-icc/organization/dispute-resolution-services/>

<sup>410</sup> ICANN. (14 May 2012) Announcement: Independent Objector for New gTLD Program Selected. Retrieved from <https://www.icann.org/news/announcement-2012-05-14-en>.

<sup>411</sup> More information about Professor Pellet, including his curriculum vitae, can be found at: <http://www.alainpellet.eu>

<sup>412</sup> ICANN. Single-Character Second-Level Domain Name (SC SLD) Allocation Framework. Retrieved from <https://www.icann.org/resources/pages/proposed-scsld-allocation-framework-2008-06-13-en>

<sup>413</sup> ICANN. (18 January 2008) Announcement: ICANN Seeks Expressions of Interest from Auction Design Experts. Retrieved from <https://www.icann.org/news/announcement-2008-01-18-en>

<sup>414</sup> ICANN. Summary of New gTLD Auctions Vendor Selection. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/summary-vendor-selection-10mar14-en.pdf>

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composed of noted experts in auction design and implementation with relevant experience in international high stakes auctions for public goods including telecommunications spectrum, natural resources, and public utility rights.<sup>415</sup> Power Auctions LLC was also pivotal in the development and design of both the direct and indirect auction processes, as well as the implementation rules governing both types of auction.

#### *Pre-Delegation Testing Service Provider*

ICANN selected Stiftelsen för Internetinfrastruktur (IIS) as the PDT service provider in December 2012.<sup>416</sup> This selection was based on an open request for proposals conducted earlier in 2012.<sup>417</sup> IIS was the registry operator for the .se ccTLD (Sweden) and was selected for its proven track record of technical capability, operations excellence, and significant experience in the industry.<sup>418</sup> IIS provided the expertise to help ICANN develop all PDT systems and requirements as well as perform testing. For example, IIS had demonstrated understanding of the critical registry functions (i.e., DNS, DNSSEC, EPP, Whois, Data Escrow), operational experience necessary to deliver the testing services, ability to scale up on request to meet the volume demand of the Program, and experience designing, building, and operating robust and secure systems. Furthermore, IIS's pre-existing tools (e.g., DNS check) could be leveraged to meet the Program's timelines. Over the course of the relationship, IIS provided invaluable assistance in continuous improvement of the PDT experience to the applicants.

#### **8.2.4.2 CONFLICT OF INTEREST GUIDELINES**

AGB Section 2.4.3.1 provided Conflict of Interest guidelines and procedures "to safeguard against the potential for inappropriate influence and ensure applications are evaluated in an objective and independent manner." ICANN required the panels to contractually comply with these guidelines.

The Conflict of Interest guidelines defined the minimum standards with which panels and panelists -- individuals associated with the review of an application--had to comply. Prior to allocating any applications to the service providers, ICANN required that service providers perform conflict of interest checks for the panelists in accordance with the requirements of the AGB, and to provide ICANN with the results. ICANN allocated applications taking these results into account.

#### **8.2.4.3 SERVICE PROVIDER COORDINATION**

Program service providers provided recommendations to ICANN under their firms' names. ICANN worked in close coordination with them to ensure understanding of the AGB requirements, ICANN processes as well as timelines for delivery of deliverables. The service providers were responsible for defining their own processes and procedures and for training their staff.

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<sup>415</sup> Power Auctions LLC. About Power Auctions LLC. Retrieved from <https://www.powerauctions.com/company>

<sup>416</sup> ICANN. (21 December 2012) Announcement: Pre-Delegation Testing Services for the New gTLD Program - Selection of Provider. Retrieved from <https://www.icann.org/news/announcement-2012-12-21-en>

<sup>417</sup> ICANN. (30 October 2012) Announcement: Pre-Delegation Testing Provider for New gTLDs – Request for Proposals. Retrieved from <https://www.icann.org/news/announcement-2012-10-30-en>

<sup>418</sup> See more information on .SE at <https://www.icann.org/news/announcement-2012-12-21-en>

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DRSPs, on the other hand, assigned experts that administered the individual proceedings, and these experts provided their determinations directly to the parties of the objections under their own names. Attachment to Module 3, Article 10, of the AGB called for ICANN to monitor the progress of all objections and proceedings, as some applications might have been subject to objections filed with more than one DRSP. ICANN managed the DRSPs in a manner consistent with the AGB.

## 8.2.5 Conclusion

The AGB called for independent service providers to perform activities for many aspects of the New gTLD Program, including evaluation, dispute resolution, and auction. ICANN also engaged service providers as strategic partners to execute other Program activities such as PDT and quality control. In almost all cases, ICANN selected the providers through a public procurement process. ICANN worked with the providers to develop processes and procedures, and managed their work to ensure consistency and quality of results delivered.

Over the course of the New gTLD Program, ICANN developed best practices for sharing information with the community regarding the procurement process. To support transparency, in future application rounds, ICANN should continue to follow its procurement guidelines, and it should provide timely procurement information to the community.

In summary:

**8.2.a** Provide transparency and predictability to the procurement process following ICANN's procurement guidelines. Publish selection criteria, providers' process documents, and other relevant and non-confidential material in a timely manner.

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## 8.3 Financial Management

### 8.3.1 Introduction

New gTLD Program financial management refers to the management of the USD 357 million Program fund. USD 357 million was the total amount collected from the 1,930 new gTLD applications submitted with an evaluation fee of USD 185,000 per application. This section of the Program Implementation Review Report discusses the following topics:

- Program budgeting and reporting
- Program fund segregation
- Program-related fees

### 8.3.2 Relevant Guidance

The following guidance is relevant to the topic of Financial Management and will be discussed in further detail in Sections 8.3.3 and 8.3.4 of this report:

- GNSO Implementation Guideline B: "Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process. Application fees may differ for applicants."<sup>419</sup>
- Applicant Guidebook, Section 1.5: Fees and Payments<sup>420</sup>
- Applicant Guidebook, Section 1.2.7: Notice of Changes to Information
- ICANN Board Resolution 2011.06.20 (20 June 2011): Approval of the New gTLD Program<sup>421</sup>

### 8.3.3 Background

Following guidance from the GNSO, the evaluation fee of USD 185,000 was first proposed in version 1 of the AGB, and was "set to recover costs associated with the new gTLD program. The fee [was] set to ensure that the program [was] fully funded, and [didn't] take resources from other ICANN funding sources."<sup>422</sup> On 31 May 2010, ICANN published a draft New gTLD Budget for public comment.<sup>423</sup> The draft New gTLD Budget was an analysis of Program costs, including an assessment of the general risk and timing required to complete certain remaining activities necessary for operational readiness. The draft New gTLD Budget assumed 500 applications would be submitted for new gTLDs. To

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<sup>419</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-deco5-fr-part-a-08aug07.htm>

<sup>420</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

<sup>421</sup> ICANN. (20 June 2011) Approved Board Resolutions | Singapore. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en#1>

<sup>422</sup> ICANN. (24 October 2008) New gTLD Program: Draft Applicant Guidebook (Draft RFP), Section 1.5.1. Retrieved from <http://archive.icann.org/en/topics/new-gtlds/draft-rfp-24oct08-en.pdf>

<sup>423</sup> ICANN. (31 May 2010) New gTLD Program Explanatory Memorandum New gTLD Budget. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/new-gtld-budget-28may10-en.pdf>

ensure costs are appropriately managed, tracked, and disclosed, the draft New gTLD Budget included categories of Program costs, which were defined based on information available at that time regarding the Program.

On 22 October 2010, an updated draft New gTLD Budget was published.<sup>424</sup> The update included an increase from USD 2.6 million to USD 4.0 million for the development phase, and an increase of USD 205,000 under the application processing phase for customer service and background screening. These updates were made based on updates to the procedures called for in public comments submitted on AGB version 4,<sup>425</sup> additional internal development work, and discussions with the ICANN Board.

On 17 May 2011, ICANN published for comment the draft FY12 Operating Plan and Budget, which included the New gTLD Program launch scenario.<sup>426</sup> The inclusion of the New gTLD Program budget into the FY12 Operating Plan and Budget represented the first time that the New gTLD Program budget formally became part of the ICANN budgeting process. The draft FY12 Operating Plan and Budget continued to assume a volume of 500 applications, and it included a forecast of the cost associated with activities that would be incurred in FY12 if the Program launched within FY12.

On 20 June 2011, the ICANN Board approved the New gTLD Program, and its related income and expenditures as detailed in the Draft FY12 Operating Plan and Budget.<sup>427</sup>

## 8.3.4 Assessment

### 8.3.4.1 PROGRAM BUDGETING AND REPORTING

The New gTLD Program launched when ICANN opened the application window on 12 January 2012 (see Section 1.1: Application Submission of this report). Application submission activities during the application window gave ICANN additional information that assisted with the development of the FY13 Operating Plan and Budget.

On 1 May 2012, a draft FY13 Operating Plan and Budget was published.<sup>428</sup> For the first time, the New gTLD Program budget forecasted revenues and costs based on three different scenarios of application volume: 500 applications; 1,000 applications; and 2,000 applications. As more information about the Program was available by this time, ICANN was able to include a forecast of the life of the Program in the FY13 Operating Plan and Budget. The forecast anticipated that the

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<sup>424</sup> ICANN. (21 October 2010) New gTLD Program Explanatory Memorandum New gTLD Budget.

<https://archive.icann.org/en/topics/new-gtlds/explanatory-memo-new-gtld-program-budget-22oct10-en.pdf>

<sup>425</sup> ICANN. Draft Applicant Guidebook, Version 4 Public Comment Forum. Retrieved from

<https://archive.icann.org/en/topics/new-gtlds/comments-4-en.htm>

<sup>426</sup> ICANN. (17 May 2011) Draft FY12 Operating Plan and Budget. Retrieved from

<https://www.icann.org/en/system/files/files/proposed-opplan-budget-v1-fy12-17may11-en.pdf>

<sup>427</sup> ICANN. (20 June 2011) Approved Board Resolutions | Singapore. Retrieved from

<https://www.icann.org/resources/board-material/resolutions-2011-06-20-en#1>

<sup>428</sup> ICANN. (1 May 2012) Draft FY13 Operating Plan and Budget. Retrieved from

<https://www.icann.org/en/system/files/files/proposed-opplan-budget-v1-fy13-01may12-en.pdf>

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Program would to conclude in FY15 for the 2,000-application scenario, based on information available in the AGB version 9.<sup>429</sup>

On 24 June 2012, after the close of the application window, ICANN published the adopted FY13 Operating Plan and Budget, which included only the 2,000-application scenario.<sup>430</sup> Although there was a difference between the estimated number of applications in the budget and the actual number of applications received, the difference was small and caused no material impact to the budget; therefore no changes were made to the adopted budget.

As the Program progressed and more information about key factors became available (e.g., number of withdrawals, number of staff needed to support of the Program, allocation of indirect cost, and other projects not originally budgeted such as the TMCH and EBERO program), ICANN was able to report more information and make more accurate forecasts.

On 22 August 2013, the adopted FY14 Operating Plan and Budget was published with revised estimates reflecting actual costs incurred to date and updated forecast of Program costs for the entire life of the Program.<sup>431</sup> For the first time, the FY14 Operating Plan and Budget included a variance analysis of the actual cost incurred versus the budgeted amount, and it provided explanations for variances in the Program budget.

On 1 December 2014, ICANN published the adopted FY15 Operating Plan and Budget, which changed the anticipated completion date of the Program to FY17 based on information available at the time.<sup>432</sup>

Budgeting and reporting of the Program budget followed the standard ICANN budgeting and reporting process starting with the FY12 Operating Plan and Budget, and continued for all subsequent fiscal years. The ICANN budgeting and planning process included a formal ICANN public comment period of the draft FY Operating Plan and Budget and ICANN's Board Approval of the FY Operating Plan and Budget.<sup>433</sup> In addition, starting with the fiscal quarter ending 30 September 2013, ICANN published on its website quarterly financial statements in which the Program financial position was disclosed. Internally, ICANN revisited forecasts quarterly, reviewing actual spend versus the budgeted amount to identify any significant variances.

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<sup>429</sup> ICANN. Applicant Guidebook Version 9. Retrieved from

<http://newgtlds.icann.org/en/about/historical-documentation/matrix-agb-v9>

<sup>430</sup> ICANN. (24 June 2012) FY13 Operating Plan and Budget. Retrieved from

<https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy13-24jun12-en.pdf>

<sup>431</sup> ICANN. (22 August 2013) FY14 Budget Approval. Retrieved from

<https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy14-22aug13-en.pdf>

<sup>432</sup> ICANN. (1 December 2014) FY15 Adopted Operating Plan and Budget. Retrieved from

<https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy15-01dec14-en.pdf>

<sup>433</sup> ICANN. Annual Operating Plan & Budget. Retrieved from

<https://www.icann.org/resources/pages/operating-plan-budget-2015-06-12-en>

### 8.3.4.2 FINANCIAL SEGREGATION

The New gTLD application fee structure was based on the principles of cost recovery. In order to ensure that Program costs were appropriately tracked and disclosed, all Program-related financial matters were segregated from ICANN's operations:

- (i) Operating funds for the Program were segregated in a separate bank account created for the New gTLD Program.
- (ii) A specific and separate investment policy was approved by the Board in December 2012 for the New gTLD Program funds<sup>434</sup> and separate investment accounts were created at three different investment management firms<sup>435</sup> selected via an RFP process.
- (iii) Systems, processes, and policies were developed in order to reinforce the separation of funds. This included an accounting ledger distinct from other ICANN operations activities, a separate procurement process, separate segments in all financial reporting, dedicated resources, and transaction accounting processes specifically developed for the New gTLD Program.

Per Section 4.3 of the AGB, "Any proceeds from auctions [would] be reserved and earmarked until the uses of funds are determined." To comply with this section of the AGB, Auction proceeds (see Section 4.2: Auction of this report) were further segregated into a separate bank account under the Program's bank account until the ICANN Board, through consultation with the community, determined a plan for the appropriate use of the funds.<sup>436</sup>

The funds pertaining to the New gTLD program, not including the funds from Auction proceeds, were managed by three investment firms selected via an RFP process. Investments for Program funds follow the New gTLD Funds Investment Policy<sup>437</sup> adopted by the ICANN Board on December 2011.<sup>438</sup> The distinct investment policy was developed because of this specific usage of the Program funds, as well as the specific timeframe associated with such usage.

### 8.3.4.3 PROGRAM-RELATED FEES

Section 1.5 of the AGB defined various Program-related fees:

- Evaluation fee: USD 185,000 fee associated with the evaluation of each application that had to be paid with a submitted application. Applicants may have qualified for partial refund of the evaluation in accordance with the refund schedule in Section 1.5.1 of the AGB if the application was withdrawn. A non-refundable USD 5,000 registration fee was required to create a TAS user account in order to submit an application (see Section 1.1: Application

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<sup>434</sup> ICANN. (20 December 2012) Approved Board Resolutions | Special Meeting of the ICANN Board. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2012-12-20-en#2.e>

<sup>435</sup> Northern Trust Asset Management, U.S. Bank Asset Management, and Deutsche Bank Asset and Wealth Management

<sup>436</sup> ICANN. New gTLD Auction Proceeds. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/proceeds>

<sup>437</sup> ICANN. (20 December 2012) Investment Policy - New gTLD. Retrieved from <https://www.icann.org/resources/pages/investment-policy-new-gtld-2013-01-07-en>

<sup>438</sup> ICANN. (21 December 2012) Approved Board Resolutions | Special Meeting of the ICANN Board. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2012-12-20-en#2.e>

Submission of this report). This registration fee was applied toward the USD 185,000 evaluation fee if an application was submitted.

- Registry Services Review fee: This fee became applicable if the application was referred to the Registry Services Technical Evaluation Panel by the Registry Services Panel (see Section 2.8: Registry Services Evaluation of this report).
- Dispute Resolution fees: Fees that must be paid in association with any formal objections (see section 3.2: Objections and Dispute Resolution of this report). Fee and refund schedules were set by the DRSPs.
- Community Priority Evaluation fee: The AGB estimated a cost of USD 10,000 for Community Priority Evaluation if a community applicant participated in CPE. This fee was refunded if the applicant prevailed in CPE.

Fees were collected as per the AGB with the exception of the CPE fee. Based on scope of work, the selected service provider for CPE informed ICANN that the evaluation cost for CPE would be USD 22,000 per application. Consistent with Program's principle of cost recovery, ICANN transferred the CPE panel's fee to the applicant even though it was higher than the amount estimated in the AGB.<sup>439</sup>

During the application window, ICANN had a strict requirement that the entire USD 185,000 evaluation fee be submitted with the application. A large number of applicants did not anticipate that their banks would charge a fee to process the wire transfer. The applicants therefore had to make multiple payments to ensure that the full USD 185,000 was received by ICANN. Due to the inefficiencies that this created, all other fees collected by ICANN after the application window allowed for a variance of USD 25 to accommodate potential bank transaction fees being applied during the banking process of the applicants payments.

Section 1.2.7 of the AGB anticipated that certain application change requests (see Section 1.3: Application Change Requests of this report) might require re-evaluation of the application. However, the AGB did not specify the cost for re-evaluation. Consistent with the Program's principle of cost recovery, ICANN passed on the evaluation panel's fee to the applicant.

## 8.3.5 Conclusion

ICANN's management of the Program funds aligned with GNSO's Implementation Guideline B and Module 1 of the AGB. All financial matters were segregated in a separate bank account so that Program financial information could be appropriately tracked and disclosed. As per the AGB, proceeds from ICANN auctions are further segregated in a separate bank and investment account until the ICANN Board, through consultation with the community, determines a plan for the appropriate use of the funds.

The Program's budget is published with ICANN's annual fiscal year Operating Plan and Budget and follows ICANN's annual budgeting process, which includes a public comment period and approval of

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<sup>439</sup> 10 September 2013 CPE Teleconference: <http://audio.icann.org/new-gtlds/cpe-10sep13-en.mp3>.

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the final budget by the ICANN Board. ICANN's financial information, including historical and current financial data for the Program, is available on the ICANN website.<sup>440</sup>

Program-related fees were collected in accordance with the AGB and in-line with the principle of cost recovery. Before fees are defined for the next application round, a review of Program financials should be undertaken.

ICANN implemented one change in this round to the collection of Program-related fees based on lessons from an earlier phase of the Program. During the application window, ICANN's strict requirement that the full USD 185,000 evaluation fee be submitted with the application caused some delays and inefficiencies for applicants as many did not anticipate that a wire transfer fee would be deducted from their USD 185,000 payment by their banks, and they therefore had to make multiple payments. Due to the inefficiencies that this created, all other fees collected by ICANN post application window allowed for a variance of USD 25.

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<sup>440</sup> ICANN. Financial Information for ICANN. Retrieved from <https://www.icann.org/resources/pages/governance/financials-en>

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## 8.4 Communications

### 8.4.1 Introduction

New gTLD Program Communications refers to various communications activities executed prior to and throughout the life of the Program in support of the New gTLD Program Communications Plan. This section of the Program Implementation Review report discusses the implementation of this Plan.

### 8.4.2 Relevant Guidance

The following guidance is relevant to the topic of Communications and will be discussed in further detail in Sections 8.4.3 and 8.4.4 of this report:

- GNSO Implementation Guideline C: ICANN will provide frequent communications with applicants and the public including comment forums<sup>441</sup>
- GNSO Implementation Guideline M: "ICANN may establish a capacity building and support mechanism aiming at facilitating effective communication on important and technical Internet governance functions in a way that no longer requires all participants in the conversation to be able to read and write English."
- GNSO Implementation Guideline O: "ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations."
- ICANN Board Resolution 2011.06.20: Approval of the New gTLD Program<sup>442</sup>
- ICANN Board Resolution 2011.10.28.23-24: Budget Request – New gTLD Communications Plan<sup>443</sup>

### 8.4.3 Background

On 20 June 2011, the ICANN Board approved the New gTLD Program, and along with it the Draft New gTLD Communications Plan.<sup>444,445</sup> The goal of the Plan was to "increase likelihood of success for the new gTLD program and to ensure that new gTLDs are communicated as clearly and comprehensively as possible – both the opportunities they present and the risks involved in applying

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<sup>441</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8augo7.htm>

<sup>442</sup> ICANN. (20 June 2011) Approved Resolution | Meeting of the ICANN Board of Directors. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en>

<sup>443</sup> ICANN. (28 October 2011) Approved Resolution | Meeting of the ICANN Board of Directors. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-10-28-en#3>

<sup>444</sup> ICANN. (20 June 2011) Approved Resolution | Meeting of the ICANN Board of Directors. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en>

<sup>445</sup> ICANN. (30 May 2011). New gTLD Communications Plan. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/new-gtlds-communications-plan-30may11-en.pdf>

for and operating one.” To achieve this goal, the Plan envisioned a global awareness campaign to raise awareness of the who, what, when, where and why of new gTLDs. The Plan laid out important aspects of the campaign, including key messages, tone and vision, and theme and audiences, which served as the basis for the development of all Program-related information. The Plan also outlined various communications channels and tools that could be used to disseminate information.

The core component of the Communications Plan entailed four key communications areas to be executed across four phases of the Plan. The four key communications areas were:

1. Coordinated campaign incorporating TV, radio, print and online advertising elements, customized by region.
2. Top-tier international press coverage.
3. Five major regional launches/road shows.
4. Social and other online media.

Table 8.4.i below provides a summary of the four phases of the Communications Plan.

*Table 8.4.i: Summary of the Four Phases of the Communications Plan*

Phase 1	<b>Pre-launch</b> – Defined as the four-month campaign period leading up to the official launch of the program signaled by the opening of the application period.
Phase 2	<b>Launch</b> – Defined as the 60-day period when applications were accepted.
Phase 3	<b>Post-launch</b> – Defined as the time period between the close of the application period and the open of the next round.
Phase 4	<b>TLDs go live/in the root.</b>

The New gTLD Communications Plan further provided evaluation metrics to be collected such as website statistics, countries reached during regional launches, attendees at outreach events, applications received and social media monitoring.

## 8.4.4 Assessment

Though it included evaluation metrics, the communications plan did not define “success,” which makes it difficult to assess success of the Plan. As such, sections 8.4.4.1, 8.4.4.2, and 8.4.4.3 below provide an overview of activities performed during each phase and metrics collected during the execution of the Plan.

### 8.4.4.1 PHASE 1: PRE-LAUNCH

The New gTLD Program launched when ICANN opened the application window on 11 January 2012 (see Section 1.1: Application Submission of this report).

During Phase 1 of the Plan, all four key communications areas were utilized. Regional launches/road shows and press coverage were the key activities during this Phase. There was significant growth in some social media activities with 1,300+ Twitter followers in October 2011 compared to approximately 400 one year prior. Some online advertising was also done to drive traffic to the New gTLD microsite, an ICANN website dedicated to the New gTLD Program. Although the Plan called for TV, radio, and print advertising, in order to gain synergy, efforts were directed toward getting media coverage for the road shows.

### *Identity*

As called for in the Communications Plan, a New gTLD Program logo and style guide were developed and used on all online and offline New gTLD-related materials. The logo allowed for an effective way to brand the New gTLD Program.

### *Content Development and Dissemination*

Prior to the opening of the application window (see Section 1.1: Application Submission of this report), key Program-related documents such as the Applicant Guidebook, the May 2010 New gTLD Program Budget,<sup>446</sup> and some public comment summaries and analyses were translated from English into the five other UN languages, in order to allow and encourage broad input into the Program. Knowledge base articles that educated interested parties about the Program requirements were also translated from English into the five other UN languages to better promote the Program.<sup>447</sup>

During this time, the content created focused on providing information about the business potential and risks of participating in the Program, the application process, and how to apply.<sup>448,449</sup> Content was available in the form of web page content,<sup>450</sup> videos,<sup>451</sup> PowerPoint presentations, fact sheets and FAQs,<sup>452</sup> and included messages consistent with the nine messages defined in the Communications Plan.

After the opening of the application window, the majority of new Program content, such as announcements,<sup>453</sup> website pages, videos, and public comment materials,<sup>454</sup> was in English, as focus shifted to assisting applicants through the Program, which required application materials to be submitted in English (per Section 1.4 of the AGB).

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<sup>446</sup> ICANN. (31 May 2010) New gTLD Program Explanatory Memorandum: New gTLD Budget. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/new-gtld-budget-28may10-en.pdf>

<sup>447</sup> ICANN. New gTLD Knowledge Base. Retrieved from <https://crm-gtld.icann.org/portal-icann/index.php?action=index&module=Home>

<sup>448</sup> ICANN. Program Materials. Retrieved from <http://newgtlds.icann.org/en/about/program/materials>

<sup>449</sup> ICANN. Benefits and Risks of Operating a New gTLD. Retrieved from <http://newgtlds.icann.org/en/about/benefits-risks>

<sup>450</sup> ICANN. New Generic Top-Level Domains. Retrieved from <http://newgtlds.icann.org/>

<sup>451</sup> ICANN. Videos. Retrieved from <http://newgtlds.icann.org/en/about/historical-documentation/matrix-videos>

<sup>452</sup> ICANN. Program Materials. Retrieved from <http://newgtlds.icann.org/en/about/program/materials>

<sup>453</sup> ICANN. Announcements. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/latest>

<sup>454</sup> ICANN. Comments and Feedback. Retrieved from <http://newgtlds.icann.org/en/program-status/comments>

All New gTLD content was centralized and housed on the New gTLD microsite ([newgtlds.icann.org](http://newgtlds.icann.org)), which was launched on 19 September 2011.<sup>455</sup> To drive traffic to the microsite, ICANN placed ads on Google’s ad network and launched a banner ad campaign targeted at senior-level marketing professionals between December 2011 and January 2012. The ad campaigns resulted in more than 5,500,000 impressions and drove more than 21,000 visitors from 136 countries in Africa, the Asia-Pacific region, Eastern Europe, the Middle East, and Latin America to the microsite. Ads in 10 of the 172 developing nations targeted with the Google online advertising campaign received click-through rates (rate of people who view the ad and click on it) above the industry average.

### Regional Events

Also in support of raising awareness of new gTLDs, ICANN did major launch events between August and December 2011 in each of the five ICANN regions as called for in the Communications Plan. The regional events allowed ICANN to connect with businesses, governments, and individuals in person in various countries to promote awareness of new gTLDs. Table 8.4.ii provides statistics of the regional events that occurred during this period.

*Table 8.4.ii: Statistics of the Five Regional Events*

ICANN Region	# Countries Visited	# Events per Region	Total Attendees per Region
Africa	3	4	725
Asia/Australia/Pacific	11	14	12,129
Europe	17	30	5,230
Latin America/Caribbean	3	3	5,700
North America	1	1	500
<b>Total</b>	<b>35</b>	<b>52</b>	<b>24,284</b>

The Communications Plan stated that “three countries [would] be visited per region, with major speeches, press conferences and outreach events held in each.” Except for the North America region, ICANN visited at least three countries in each region. During the regional events, the New gTLD Program received significant press coverage from major news outlets. For instance, the December 2011 Beijing Roadshow press conference attracted reporters from 46 media outlets over the Asia Pacific region. Another example was the January 2012 New York Roadshow when ICANN met with six United Nations correspondents of major wire services, followed by media interviews. Media outlets included Agence France Presse (AFP), Reuters, Associated Press (AP), The New York Times, Wired, AdWeek, The Huffington Post, and South-South News. In addition to these regional events, the ICANN CEO visited 16 countries, and other staff and ICANN Board members visited 38 countries.<sup>456</sup>

<sup>455</sup> ICANN. (19 September 2011) Announcement: ICANN Launches New Online Information Center for New Generic Top-Level Domains. Retrieved from <https://www.icann.org/news/announcement-2-2011-09-19-en>

<sup>456</sup> R. Beckstrom (21 December 2011) New gTLD Roadshows [Blog]. Retrieved from <http://newgtlds.icann.org/en/blog/new-gtld-roadshows-21dec11-en>

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#### 8.4.4.2 PHASE 2: LAUNCH

The Communications Plan defined Phase 2 as the period of 60 days when the New gTLD applications were being accepted. The AGB in fact defined the application window as a 90-day period. As discussed in Section 1.1: Application Submission of this report, the 90-day application window was extended by approximately 45 days.

Phase 2 heavily relied on social media and the microsite to promote the Program. During this phase of the Communications Plan, ICANN continued to add content to the microsite including videos, blogs, announcements regarding the New gTLD Program, and information about the TLD Application System (see Section 8.1: Program Processes, Systems, Resources of this report). The content continued to focus on the business potential and risks of participating in the Program, on how to apply, and on the Program's requirements, consistent with the defined messages in the Communications Plan.

As regional events concluded, ICANN shifted its focus to social media to drive traffic to the microsite and to raise awareness. Between 1 January and 30 July 2012, ICANN spent approximately USD 42,000 on Twitter Ads to promote its Twitter account, @ICANN. As a result, ICANN tweets had over 4,000 clicks, 2,000 re-tweets, and the number of ICANN's Twitter followers increased from approximately 8,000 to nearly 65,000. The countries with the highest number of @ICANN followers were Indonesia, Brazil, the United States, the Philippines and India. In January 2011, ICANN conducted two Twitter chat sessions. Combined, the chats resulted in more than 200 questions and comments regarding new gTLDs.

Other mechanisms utilized during this Phase to promote the Program included posting on ICANN's Facebook page and on LinkedIn. Postings on ICANN's Facebook page generated more than 28,000 views from December 2011 to January 2012. Postings on LinkedIn targeted Chief Marketing Officers (CMOs) and brand marketers' groups, who would be affected by the New gTLD Program. Postings encouraged and spurred discussions about the benefits and risks associated with new gTLDs. Collectively, these groups had more than 160,000 members.

#### 8.4.4.3 PHASE 3: POST-LAUNCH

Communications activities during Phase 3 continued to rely heavily on social media and road shows to promote the Program. In addition, ICANN increased media engagement and began reaching out to financial and industry analysts to raise awareness and educate them about the impending expansion of the DNS as well as the choice, competition, and innovation that expansion will bring. Webinars as a communication channel used to support applicants were also introduced during Phase 3.

##### *Reveal Day*

After the close of the application window on 30 May 2012, ICANN focused on promoting the next big milestone of the Program, Reveal Day.

To announce the applied-for new gTLDs, ICANN held a news conference in London on 13 June 2012, which had significant media coverage. There were over a dozen camera crews from major international broadcasts such as BBC, Al Jazeera, and CNN. The news conference was covered by worldwide news wires (e.g., Associated Press, AFP, Reuters), and was widely featured in the press, including in *The Economist*, *The New York Times*, *Washington Post*, and *Times of India*.

The event was live-streamed on the Internet and the live video webcast was accessible at [icann.org](http://icann.org). The recording of the news conference was made available after the event.<sup>457</sup> The live webcast was intended to provide global access to the event, however, its reach to certain countries where bandwidth was limited was unknown.

On social media, #RevealDay was included on Twitter’s list of top trending topics worldwide, in the United States, and in the United Kingdom (see Figure 8.4.i).

Figure 8.4.i: Twitter Trending Topics Database (#RevealDay)



**Search results for #revealday:**

Local	Date/Time	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10
WorldWide	June 13, 2012, 12:22 p.m.	#3Sonhos	#revealday	#PreguntasTontas	Oh Harry	Henry Hill	Rise & Grind	Horan Hump Day	Holland vs Germany	Andy Schleck	NSW
U.K.	June 13, 2012, 12:22 p.m.	#ExcusesToBreakUp	#MyFavoriteGagaPictures	#revealday	Wayne Rooney's	Holland vs Germany	Henry Hill	Hampstead Heath	Screw You	Rebekah Brooks	Giroud
U.S.	June 13, 2012, 12:18 p.m.	#ThatOneFollower	Henry Hill	#AintNothingWorseThan	#revealday	Rise & Grind	Horan Hump Day	Burger King	Bonanza	Syria	Casey Anthony
WorldWide	June 13, 2012, 12:18 p.m.	#3Sonhos	Lang Park	Robbie Farah	#origin3	#revealday	Oh Harry	Horan Hump Day	Henry Hill	NSW	Holland vs Germany
U.S.	June 13, 2012, 12:15 p.m.	#ThatOneFollower	Henry Hill	#ExcusesToBreakUp	#revealday	Rise & Grind	Happy Hump Day	Burger King	Bonanza	Casey Anthony	Syria
U.S.	June 13, 2012, 12:07 p.m.	#revealday	#ExcusesToBreakUp	#ThatOneFollower	Rise & Grind	Henry Hill	Horan Hump Day	Burger King	Bonanza	IOS 6	Syria

\* - UTC Time

Traffic on the microsite also peaked on Reveal Day at approximately 160,000 sessions and remained at that level for about 10 days. After this period, traffic returned to the average level of fewer than 3,000 sessions/day with occasional peaks not exceeding 15,000 sessions.

Early New gTLD Program budgets (see Section 8.3: Financial Management of this report) estimated 500 new gTLD applications.<sup>458</sup> In actuality, ICANN received 1,930 applications from 60 countries and territories, representing all of ICANN’s geographic regions. Table 8.4.iii shows a breakdown of

<sup>457</sup> ICANN. (13 June 2012) ICANN Reveal Day: New gTLDs and What's Next. Retrieved from [http://library.fora.tv/2012/06/13/ICANN\\_Reveal\\_Day\\_New\\_gTLDs\\_and\\_Whats\\_Next](http://library.fora.tv/2012/06/13/ICANN_Reveal_Day_New_gTLDs_and_Whats_Next)

<sup>458</sup> ICANN. (1 May 2012) Draft FY13 Operating Plan and Budget. Retrieved from <https://www.icann.org/en/system/files/files/proposed-opplan-budget-v1-fy13-01may12-en.pdf>

applications received by ICANN region, based on the applicant’s country (i.e., answer to Question 2 of the application).

*Table 8.4.iii Applications by ICANN Region on Reveal Day*

ICANN Region	New gTLD Applications
Africa	17
Asia/Australia/Pacific	303
Europe	675
Latin America/Caribbean	24
North America	911
<b>Total</b>	<b>1,930</b>

Twelve percent of the total applications received (241) were applications for IDNs, community and/or geographic gTLDs. Table 8.4.iv provides a breakdown of application types. The breakdown shows unique count by application type. An application may be all three application types, which would be counted on each row of the table.

*Table 8.4.iv: Breakdown of Application Types*

Type of New gTLD Applications	New gTLD Applications	% of Total Applications
IDN	116	6.0%
Community	84	4.4%
Geographic	66	3.4%

### *Post Reveal Day*

After Reveal Day, communications became more targeted for the two audiences, applicants and the general public, including governments, trademark holders, communities, businesses, and Internet users. The general public needed to be kept informed of Program progress so that they could participate at relevant Program steps such as submitting a comment on a particular application for the evaluation panel’s consideration, filing a formal objection on an application, or participating in the GAC Advice process.

Content that ICANN produced post-Reveal Day was more focused on the New gTLD Program’s specific requirements and processes. Web pages on the microsite were created to provide detailed information regarding each Program process. Timelines, process documents, advisories, FAQs, and relevant forms were provided to applicants and those interested in the Program’s transparency and predictability. ICANN also provided Program statistics such as application statuses, evaluation reports, and service metrics on the microsite. During this phase of the Program, all applicant-specific communications materials on the microsite were created in English, primarily to ensure timely dissemination of important Program information.

Beginning August 2012, ICANN began to hold applicant webinars to provide applicants with updates on various Program processes. By July 2015, ICANN had held 35 webinars on various topics. Webinars

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were recorded and posted to the New gTLD Program microsite.<sup>459</sup> Over the course of the 35 webinars, ICANN implemented some improvements based on applicants' feedback. For example, ICANN made an effort to accommodate different time zones by cycling webinar times to ensure no single region (APAC in particular) was excluded from live participation. Later, ICANN began holding two sessions for each webinar to accommodate multiple time zones. Additionally, ICANN provided 21-day advance notice on upcoming webinars, redesigned the webinars landing page, and used Twitter to provide updates to participants when technical issues arose during a webinar. Region-oriented webinars were also offered with information tailored to fit the needs of each region.

To continue raising awareness of New gTLDs with the general public, ICANN leveraged social media, engaged with the news media and analysts, and held road shows in all ICANN regions.

On social media, ICANN broadened its presence to include international platforms (e.g., Weibo) that allowed messages to be delivered in local languages. ICANN social media communications expanded to other languages, including Arabic, Chinese, Spanish, French, and Portuguese. Social media was an effective platform to raise awareness of new gTLDs. For example, many mainstream outlets (e.g., @TheNextWeb, @WSJ, @BBCWorld, @Mashable, @FayerWayer, and @ChannelNewsAsia) tweeted about the first new 'gTLD' delegations in October 2013. There were over 6,000 mentions of the first new gTLD delegations in October 2013 and nearly 30 million potential impressions.

While ICANN engaged with the news media throughout the Program, delegation of the first four new gTLDs on 25 October 2013 became one of the most widely covered ICANN news stories. There were over 400 news stories about the first delegations disseminated via online news outlets, print, radio, television and major blogs. A large number of mainstream news outlets from around the world covered the story, from the BBC, to The Moscow Times, to Japan Times, to The Times of India.<sup>460, 461, 462</sup> ICANN also conducted pre-briefings for international wire services Agence France Presse (AFP) and Associated Press (AP) before the delegation. Their stories were posted very quickly after delegations were announced, which translated to broad global pickup.

In 2013 and 2014, ICANN conducted briefing events with technology and financial analysts and their clients. Firms including Gartner, IDC, Forrester, Altimeter Group Citigroup, JP Morgan, Baird and Cowen Group attended the briefings.

ICANN organized small-scale roadshows offering educational sessions about ICANN, including the New gTLD Program, to applicants, registrars, registries, businesses, and the media. In 2014, ICANN held roadshows in Latin America in Mexico, Brazil, and Bolivia, and in the Caribbean in Trinidad and Tobago. Each event had approximately 250 attendees and received press coverage from local media.<sup>463</sup> The event in Mexico was particularly successful; it garnered 87 pieces of coverage by

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<sup>459</sup> ICANN. Webinars. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/webinars>

<sup>460</sup> BBC. (23 October 2013) New top-level web domains announced by Ican. Retrieved from <http://www.bbc.com/news/technology-24637673>

<sup>461</sup> G. Moukine, The Moscow Times. (25 October 2013) Russia Leads With New Internet Domains. Retrieved from <http://www.themoscowtimes.com/business/article/russia-leads-with-new-internet-domains/488444.html>

<sup>462</sup> Japan Times. (24 October 2013). Retrieved from [http://www.japantimes.co.jp/news/2013/10/24/business/web-to-soon-see-addresses-in-chinese-russian-arabic/#\\_UmrVPSSROY](http://www.japantimes.co.jp/news/2013/10/24/business/web-to-soon-see-addresses-in-chinese-russian-arabic/#_UmrVPSSROY)

<sup>463</sup> Articles from the Mexico and Bolivia editions can be found at <http://www.scoop.it/t/noticias-en-espanol-by-icann>. Articles from the Brazil edition can be found at <http://www.scoop.it/t/noticias-em-portugues>.

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national media. Following its success in 2014, ICANN held roadshows in 2015 in St. Lucia, Argentina, Kenya, the United Arab Emirates, and Thailand. For the remainder of 2015, ICANN is planning to hold similar events in Colombia and other nations and regions.

#### **8.4.4.4 PHASE 4: TLDS GO LIVE/IN THE ROOT**

The Communications Plan defined Phase 4 as separate and distinct from Phase 3. In reality, Phase 4 and Phase 3 are concurrent because applications are processed in batches (see Section 1.2: Prioritization of this report).

### **8.4.5 Conclusion**

New gTLD Program communications were executed in accordance with the Communications Plan. ICANN performed outreach to global regions to provide information about the Program and increase awareness. ICANN also developed tools to share information with applicants and the community, most notably the New gTLD microsite.

Although the success of Program communications during this application round is difficult to assess because “success” was not defined within the Communications Plan, there are lessons learned that should be taken into consideration for future rounds. In the 2012 application round, the New gTLD microsite was developed to house all New gTLD Program information. To increase accessibility and usability for future rounds, Program information should be consolidated into a single site with other ICANN information. Another consideration for future rounds is that ICANN’s Global Stakeholder Engagement team is much larger than it was before the 2012 application round, and this team should be leveraged to help promote awareness of the New gTLD Program within their respective regions/constituencies.

In summary:

**8.4.a** Consolidate all next round program information into a single site and make information as accessible as possible

**8.4.b** Leverage ICANN’s Global Stakeholder Engagement team to promote awareness of the New gTLD Program within their regions/constituencies

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## 8.5 Customer Service

### 8.5.1 Introduction

The Customer Service Center (“CSC”) was initially launched to provide support to potential applicants and applicants of the New gTLD Program. Overtime, the CSC evolved into a Global Support function, providing customer support not only to applicants of the Program, but also to contracted parties resulting from the New gTLD Program, and other members of the ICANN community. This section of the Program Implementation Review report discusses the following aspects of Customer Service:

- New gTLD Program’s Impact on Customer Service
- Ongoing Improvements

### 8.5.2 Relevant Guidance

The following guidance is relevant to the topic of Customer Service and will be discussed in further detail in Sections 8.5.3 and 8.5.4 of this report:

- GNSO Implementation Guideline O: “ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations.”<sup>464</sup>
- Applicant Guidebook, Section 1.4.2: Customer Service during the Application Process<sup>465</sup>

### 8.5.3 Background

Per GNSO Implementation Guideline O, the AGB provided for a customer service function during the new gTLD application process. Prior to the ICANN Board’s approval of the New gTLD Program and along with it the AGB, ICANN made the email address [newgtld@icann.org](mailto:newgtld@icann.org) available to the general public for any inquiries relating to the New gTLD Program. This email box was monitored by ICANN staff and responses to inquiries were provided; however, as this was an email box, mechanisms for tracking and reporting of inquiries were lacking. Upon the ICANN’s Board approval of the New gTLD Program and the AGB on 20 June 2011, ICANN began work on launching an improved Customer Service Center (CSC) to provide additional support capabilities.

On 21 November 2011, the CSC was launched with a new customer service platform that allowed for submission of inquiries in the six UN languages and a knowledge base with 250 articles in six UN

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<sup>464</sup> ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-deco5-fr-parta-o8aug07.htm>

<sup>465</sup> ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

languages. The customer service platform also allowed better tracking and reporting of statistics such as the number and type of inquiries submitted and response time.

As the Program launched and progressed, the CSC continued to expand and improve its services. During the application window between January and May 2012, the CSC processed application change requests and refund requests. After the application window closed, the CSC supported the administrative completeness check of applications in preparation for Reveal Day (see Section 1.1: Application Submission of this report). In 2013, ICANN launched a new and improved Customer Portal and began supporting Registry Operators as applicants completed the Program and signed Registry Agreements. In 2014, the CSC began standardizing a set of customer service metrics, which it published in 2015. In 2015, in an effort to better support ICANN’s global customers, the CSC began offering 24/5 support by staff located in ICANN hub offices. Language support also expanded through third-party phone translations for languages beyond the six UN languages. A customer satisfaction survey was also implemented in July 2015 to gather feedback and improve services.

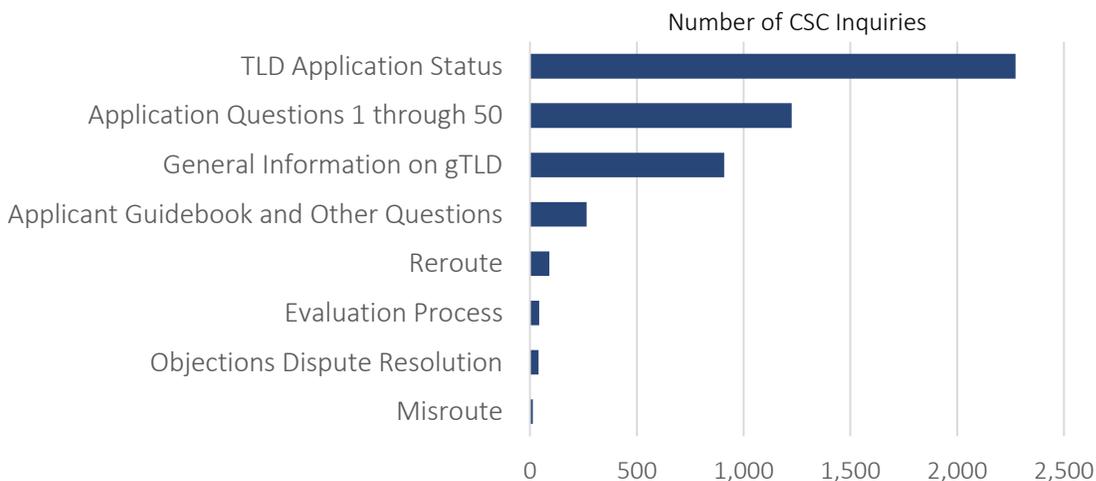
## 8.5.4 Assessment

### 8.5.4.1 EVOLUTION OF CUSTOMER SERVICE

The New gTLD Program has many phases, including the application window, the publication of applied-for strings, application evaluation, objections and GAC Advice, contention resolution, contracting, and delegation. Each phase of the Program has its own set of requirements that directly influenced applicants’ customer support needs. To meet these needs, the CSC had to evolve throughout the life of the Program.

Leading up to and during the application window, the CSC received approximately 5,000 inquiries. Figure 8.5.i shows a breakdown of CSC inquiries during the application window by category.

*Figure 8.5.i: Breakdown of CSC inquiries during the application window by category*



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Section 1.6 of the AGB stated: “To provide all applicants equitable access to information, ICANN [would] make all questions and answers publicly available.” The knowledge base that the CSC made available to applicants and potential applicants of the Program served the dual purpose of providing applicants and potential applicants with a self-service tool to get information regarding the Program and satisfying the criteria of Section 1.6 of the AGB.

To achieve the goal of equitable access to information, ICANN created knowledge base articles based on inquiries submitted. Responses to inquiries then pointed applicants and potential applicants to published knowledge base materials. Although this approach allowed for ICANN to publish the inquiries and the responses provided in a form that ensured confidentiality of the applicant and potential applicant, it created a longer response time because the knowledge base articles had to be created and translated before the responses could be provided.

Once the application window closed and applicants began moving into other phases of the Program, there were primarily two types of inquiries submitted, inquiries regarding status of specific applications and inquiries regarding upcoming Program processes. Because inquiries regarding application statuses were confidential and ICANN began to provide information regarding upcoming Program processes via webinars, FAQs, Advisories, and updates on the New gTLD microsite (see Section 8.4: Communications of this report), the knowledge base became less relevant after the close of the application window.

In August of 2013, as Initial Evaluation came to an end and Extended Evaluation began, ICANN began to offer applicants the ability to schedule phone calls with ICANN staff to discuss specific issues regarding their applications. Up until this time, all questions regarding specific applications and Program requirements and criteria were required to be submitted via the Customer Service Portal. This change allowed a more direct and effective channel for ICANN and applicants that had complex issues preventing them from moving forward in the Program to communicate. Phone communications were only used in cases where there were issues impacting a specific application. Information that would impact all applicants was disseminated via the New gTLD microsite or webinars to continue to ensure equal access of information to all applicants. On 22 June 2015, ICANN began offering phone support to all applicants. To continue providing equal access of information to applicants, an internal knowledge base was created to support resolution of inquiries via phone. The internal knowledge base contained standardized answers to frequently asked questions, and all CSC resources had access to the knowledge base.

Not only did the nature of the inquiries change as the Program progressed, the volume of questions received by the CSC also increased over the life of the Program. Figure 8.5.ii shows the annual volume of cases received by the customer service team from the launch of the CSC in 2011 through the end of calendar year 2014.

Figure 8.5.ii: Annual Volume of CSC Cases

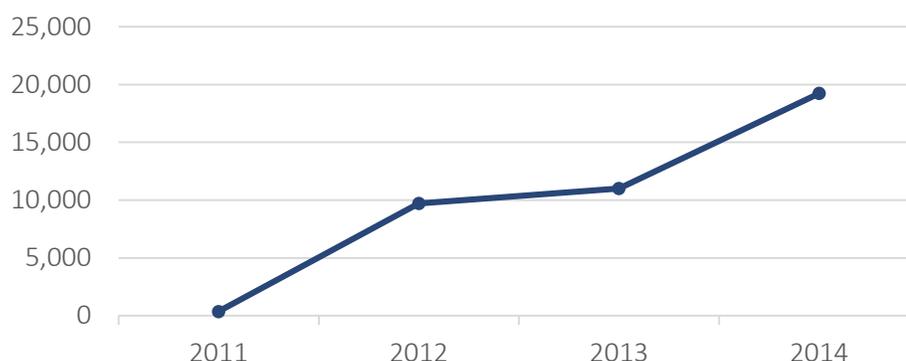


Figure 8.5.ii above shows a small increase in the number of CSC cases from 2012 to 2013. The majority of the CSC cases received in 2012 were during the application window. As evaluation began during the second half of 2012, the inquiries received were primarily regarding upcoming processes such as contention resolution and objections. In 2013, the volume of inquiries represented application change requests as applicants received CQs, and COIs as applicants started contracting.

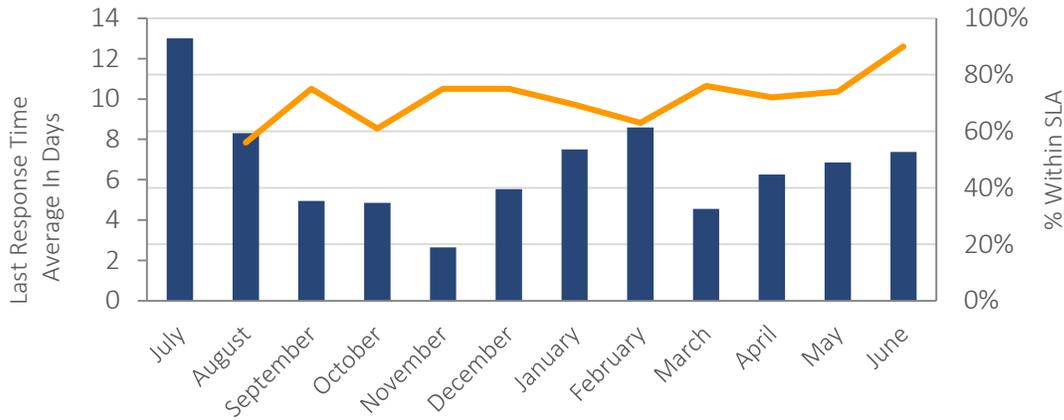
#### 8.5.4.2 ONGOING IMPROVEMENTS

In the time after its launch in November 2011, the CSC implemented system upgrades and put in place new processes to increase its efficiency and effectiveness while improving the service that it delivered.

On 17 April 2013, ICANN launched a new and improved Customer Portal. The new Customer Portal continued to provide applicants with the ability to manage their customer service cases and provided the added benefit of allowing applicants to access their application information in the same Portal. Previously, applicants had to access their application information in a separate system, TAS (see Section 1.1: Application Submission of this report).

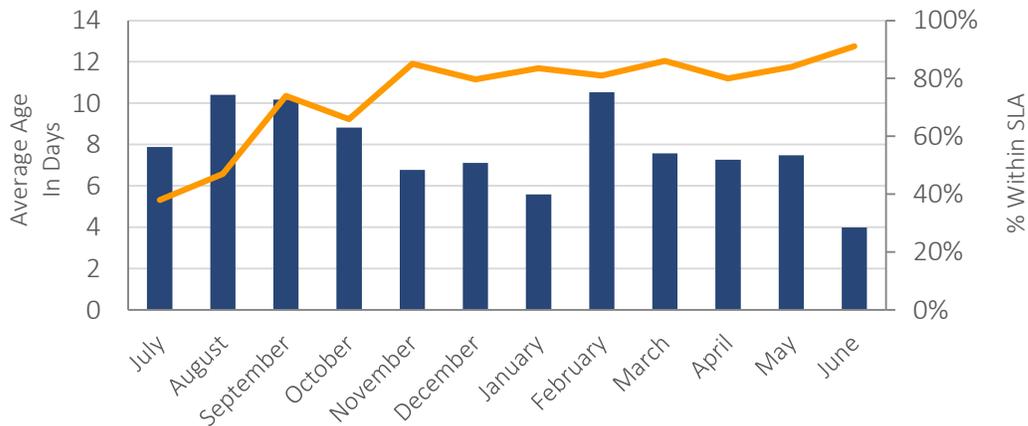
In mid-2014, ICANN began to work on standardizing metrics and service level targets for those metrics. To support transparency, in January 2015, ICANN began publishing the customer service metrics and service level targets. The metrics that ICANN reported on included number of days to last response, number of days to case closure, and percentage of cases resolved by Tier 1 customer service. Figures 8.5.iii, 8.5.iv, and 8.5.v show these metrics for the period between July 2014 and April 2015, respectively.

Figure 8.5.iii: Number of Days to Last Response



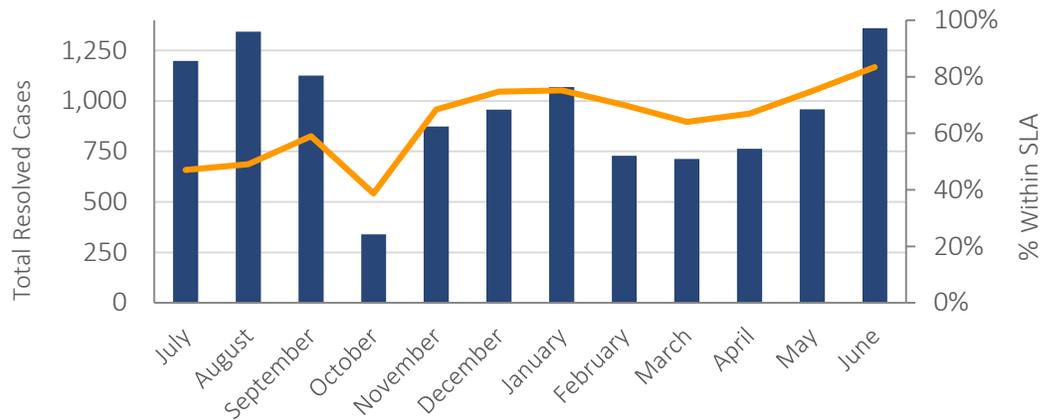
The Number of Days to Last Response metric measured the percentage of cases that received a communication from ICANN within the number of days specified by the service level target from the date of the last communication. The service level target for this metric was for Customer Service to provide a communication to applicants within seven days of the last communication. The team saw a positive trend in this area and regularly met or exceeded the service level target at least 70% of the time between November 2014 and July 2015.

Figure 8.5.iv: Number of Days to Case Closure



The Number of Days to Case Closure metric measured the percentage of cases resolved within the number of days specified by their service level targets. The service level target for this metric was for customer service to resolve cases within seven days of their submission. The team met this service level target at least 80 percent of time between November 2014 and July 2015.

Figure 8.5.v: Percentage of Cases Resolved by Tier 1 Customer Service



The Percentage of Cases Resolved by Tier 1 Customer Service metric measured the percentage of cases resolved without escalation outside of the customer service team. The service level target for this metric was for customer service to resolve 60% of the cases submitted. The team consistently met this service level target between November 2014 and July 2015.

In May 2015, the CSC began to offer voice support to incoming calls and expanded its support hours to 24/5. Additional staff was also added in 2015 in the ICANN Los Angeles and Singapore hub offices in order to provide adequate coverage for the expanded support provided. To support the growing global staff and to ensure consistent and quality of responses, an internal knowledge base was implemented in January 2015. This knowledge base is integrated into the Customer Portal's case management functionality and provides the customer service team with trusted responses to ongoing customer inquiries as well as "how-to" documentation for case-related processes. It is anticipated that as new team members are added to ICANN hub offices, the knowledge base will expedite the onboarding process and provide them with clear, accurate, and consistent information to resolve cases.

Also implemented in 2015 was enhanced language support. Voice support for incoming calls included "real-time meaning-to-meaning" translation services for languages beyond the six UN languages. The addition of Customer Service staff in ICANN's hub offices that can speak both English and the local language is also underway in 2015 to further enhance the breadth of languages supported.

Also launched in 2015 was the customer satisfaction survey to measure customer satisfaction with the resolution of their cases and to identify areas for improvement.

## 8.5.5 Conclusion

The AGB called for a Customer Service Center to support potential applicants and applicants during the application process. The Customer Service Center was launched prior to the applicant window to support this guidance. To support fairness and transparency, during the application window, ICANN

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published inquiries and standard responses in a publicly available knowledge base. As the Program progressed through evaluation and other phases, ICANN continued to share information via webinars, Applicant Advisories, and the New gTLD microsite.

Over time, the Customer Service Center has evolved to support not only applicants at all phases of the New gTLD Program, but also registry operators, other contracted parties, and the public. As of 2015, the Customer Service Center provides 24/5 support, phone support, and support in the six UN languages. To further support continuous improvement, the Customer Service Center has also implemented public service level targets, an enhanced customer portal, an internal knowledge base, and a customer satisfaction survey. Based on the demand for support before, during, and after the application window, ICANN recognizes that customer service is a critical function of the organization, and should be planned for accordingly for future operations. As the systems, processes, and resources have been established to support ICANN's contracted parties and the wider community, in advance of the next application round, these resources should be leveraged to ensure that an appropriate team is in place to support the activities of the New gTLD Program.

In summary:

**8.5.a** Consider customer service to be a critical function of the organization, and ensure that the Customer Service Center has the appropriate resources to support the ongoing and future activities of the New gTLD Program

# Annex 1. Summary of Lessons Learned

Reference	Lesson Learned
1.1.a	Explore a more structured way of capturing application responses
1.1.b	Implement a system that would allow applicants the flexibility to associate as many applications as desired to a single user account
1.2.a	Assign priority numbers to applications prior to commencement of application processing
1.2.b	Consider grouping applications by common characteristics while establishing priority numbers, in order to increase processing efficiency
1.3.a	Explore implementing additional functionality that will improve the usability of the Application Comment Forum
1.3.b	Provide additional clarity around the intended use of the Application Comment Forum, including timelines and ways to indicate the type of comment being submitted
1.4.a	Design application change request processes and criteria prior to the start of application processing
1.4.b	Consider whether all types of application changes should be processed the same way
1.5.a	Consider defining a process to move applications that may not proceed in the Program to a final status and provide a refund if they are not withdrawn
1.5.b	Review Program financials at the conclusion of this application round to determine whether the refund schedule accurately mapped to the costs incurred at the specified Program phases
2.1.a	Work with evaluation panels to perform pre-evaluation training and develop detailed procedures to ensure consistent and quality evaluations are achieved
2.1.b	Program processes that allow for additional communication between the applicant and ICANN, such as the Applicant Outreach process used in evaluation, may be beneficial
2.2.a	Consider whether background screening should be performed during Initial Evaluation or at the time of contract execution
2.2.b	Consider whether the background screening procedures and criteria could be adjusted to account for a meaningful review in a variety of cases (e.g., newly formed entities, publicly traded companies, companies in jurisdictions that do not provide readily available information)
2.3.a	Review the relative timing of the String Similarity evaluation and the Objections process
2.3.b	Consider any additional policy guidance provided to ICANN on the topic of String Similarity
2.3.c	Leverage the Root Zone Label Generation Rules in the development of the String Similarity evaluation as it pertains to IDN variants
2.4.a	As directed in the NGPC's 30 July 2014 resolution, "work with the GNSO to consider whether policy work on developing a long-term plan to manage gTLD name collision issues should be undertaken."

Reference	Lesson Learned
2.4.b	Based on the outcome of the GNSO's work, consider inclusion of the Name Collision Management Framework in the next application round prior to accepting applications
2.4.c	Leverage the Root Zone Label Generation Rules for IDNs in the DNS Stability evaluation
2.5.a	Consider the purpose and the implications of the Geographic Names evaluation, particularly in terms of whether its purpose is limited to evaluation or if there are other implications to the Geographic Names designation
2.5.b	Consider ongoing work by various members of the community around geographic names in defining future procedures
2.6.a	Consider whether an alternate approach to the Technical and Operational Capability evaluation would be worthwhile
2.6.b	Review Technical and Operational Capability Clarifying Questions and responses to determine whether improvements to the application questions can be made
2.7.a	Consider whether an alternative approach to the Financial Capability evaluation would be worthwhile
2.7.b	Review Financial Capability Clarifying Questions and responses to determine whether improvements to the application questions can be made
2.8.a	Update the process for collection of registry services information to better support both evaluation and contracting activities
2.8.b	Consider whether an alternate approach to Technical and Operational Capability Evaluation would be worthwhile, and if so, how the evaluation of Registry Services could be incorporated into the approach
2.8.c	For future rounds, leverage the IDN tools currently under development
3.1.a	Continue engagement with the GAC during the review process and the development of future procedures to ensure that its input is incorporated into relevant processes as early as possible
3.2.a	Explore a potential review mechanism for the next round
3.2.b	Consider opportunities for improvement in administering the Independent Objector processes (e.g., withdrawal of Independent Objector's objection if another objection to the same application on the same ground was filed, how comments made in the public sphere were considered prior to the filing of an objection)
4.1.a	Consider all dimensions of the feedback received to revisit the Community Priority Evaluation scoring and framework before the next application round
5.1.a	Explore the feasibility of finalizing the base Registry Agreement before applications are submitted or establishing a process for updating the Registry Agreement
5.1.b	Explore whether different applicant types could be defined in a fair and objective manner, and if there are to be different applicant types, consider whether there should be different versions of the Registry Agreement
5.2.a	Consider which tests should be performed once per technical infrastructure implementation and which should be performed for each TLD
5.2.b	Consider which, if any, tests can be converted from self-certifying tests to operational tests
5.2.c	In considering an alternate approach to the Technical and Operational Capability Evaluation, if an RSP accreditation program is considered, explore how Pre-Delegation Testing would be impacted

Reference	Lesson Learned
5.2.d	Building on lesson learned 2.8.c, in the development of evaluation criteria and procedures for IDNs, consider whether review of IDN tables during Pre-Delegation Testing could be limited to confirmation of compliance with the TLD's stated IDN policy
6.1.a	Consider leveraging the same procedural practices used for other panels, including the publication of process documents and documentation of rationale
6.1.b	Consider researching globally recognized procedures that could be adapted for the implementation of the Applicant Support Program
7.1.a	Explore whether there other more effective and efficient ways to fund an emergency back-end registry operator in the event of a TLD failure
8.1.a	In developing timelines for future application rounds, provide an appropriate amount of time to allow for the use of best practices in system development
8.1.b	Explore beta testing programs for systems to allow for lessons learned, to increase effectiveness of such systems, and to provide further transparency, clarity, and opportunity for preparation to applicants
8.2.a	Provide transparency and predictability to the procurement process following ICANN's procurement guidelines. Publish selection criteria, providers' process documents, and other relevant and non-confidential material in a timely manner.
8.4.a	Consolidate all next round program information into a single site and make information as accessible as possible
8.4.b	Leverage ICANN's Global Stakeholder Engagement team to promote awareness of the New gTLD Program within their regions/constituencies
8.5.a	Consider customer service to be a critical function of the organization, and ensure that the Customer Service Center has the appropriate resources to support the ongoing and future activities of the New gTLD Program

## Annex 2. Glossary of Acronyms

Acronym	Description
<b>AGB</b>	<b>The gTLD Applicant Guidebook</b> The AGB is a document describing the requirements of the new gTLD application and evaluation processes.
<b>ALAC</b>	<b>At-Large Advisory Committee</b> The ALAC is responsible for considering and providing advice on the activities of the ICANN, as they relate to the interests of individual Internet users (the "At-Large" community). ICANN, as a private sector, non-profit corporation with technical management responsibilities for the Internet's domain name and address system, will rely on the ALAC and its supporting infrastructure to involve and represent in ICANN a broad set of individual user interests.
<b>ASCII</b>	<b>American Standard Code for Information Interchange</b> A character encoding based on the English alphabet.
<b>ccTLD</b>	<b>Country-Code Top-Level Domain</b> A class of top-level domain only assignable to represent countries and territories listed in the ISO 3166-1 standard. See <a href="http://iana.org/domains/root/db/">http://iana.org/domains/root/db/</a> .
<b>CEO</b>	<b>Chief Executive Officer</b>
<b>COI</b>	<b>Continued Operations Instrument</b> COI is a financial instrument in the form of an irrevocable standby Letter of Credit, or deposit into an irrevocable cash escrow account. The purpose of the COI is to fund the continued operations of the five critical registry functions of a new gTLD by an EBERO in the event of a TLD failure.
<b>CPE</b>	<b>Community Priority Evaluation</b> CPE is a New gTLD Program process to resolve string contention, which may be elected by a community-based applicant.
<b>CQ</b>	<b>Clarifying Question</b> Evaluators could issue Clarifying Questions to applicants to request clarification or additional information during Initial or Extended Evaluation. Clarifying Questions served to clarify or supplement the application.
<b>CSC</b>	<b>ICANN Customer Service Center</b> The CSC provides support to New gTLD Program applicants as they move through the New gTLD Program.
<b>DNS</b>	<b>Domain Name System</b> The global hierarchical system of domain names.

Acronym	Description
<b>DRSP</b>	<b>Dispute Resolution Service Provider</b> DRSP is an entity engaged by ICANN to adjudicate dispute resolution proceedings in response to formally filed objections.
<b>EBERO</b>	<b>Emergency Back-End Registry Operator</b> EBERO providers have entered into contracts with ICANN to provide the five critical registry functions in the event of a TLD registry operator failure. EBERO providers must have demonstrated years of experience in operating domain name services, registration data directory services and extensible provisioning protocol services.
<b>EE</b>	<b>Extended Evaluation</b> EE is the second stage of evaluation applicable for new gTLD applications that do not pass Initial Evaluation, but are eligible for further review.
<b>EIU</b>	<b>The Economist Intelligence Unit</b>
<b>FAQ</b>	<b>Frequently Asked Questions</b>
<b>FY</b>	<b>Fiscal Year</b> ICANN's fiscal year is the 12-month period ending on 30 June of that year. For example, "FY14" began on 1 July 2013 and ended on 30 June 2014.
<b>GAC</b>	<b>Governmental Advisory Committee</b> The GAC is an advisory committee comprising appointed representatives of national governments, multi-national governmental organizations and treaty organizations, and distinct economies. Its function is to advise the ICANN Board on matters of concern to governments. The GAC operates as a forum for the discussion of government interests and concerns, including consumer interests. As an advisory committee, the GAC has no legal authority to act for ICANN, but will report its findings and recommendations to the ICANN Board.
<b>GNSO</b>	<b>Generic Names Supporting Organization</b> The GNSO is ICANN's policy-development body for generic TLDs and the lead in developing the policy recommendations for the introduction of new gTLDs. The GNSO is the body of six constituencies, as follows: the Commercial and Business constituency, the gTLD Registry constituency, the ISP constituency, the non-commercial constituency, the registrar's constituency, and the IP constituency.
<b>gTLD</b>	<b>Generic Top-Level Domain</b> gTLD is a TLD that does not correspond to any country code.

Acronym	Description
IANA	<p><b>Internet Assigned Numbers Authority</b></p> <p>IANA is the authority originally responsible for overseeing Internet Protocol (IP) address allocation, coordinating the assignment of protocol parameters provided for in Internet technical standards, and managing the DNS, including delegating top-level domains, and overseeing the root name server system. Under ICANN, the IANA distributes addresses to the Regional Internet Registries, coordinates with the IETF and other technical bodies to assign protocol parameters, and oversees DNS operation.</p>
ICANN	<p><b>Internet Corporation for Assigned Names and Numbers</b></p>
ICC	<p><b>The International Centre for Expertise of the International Chamber of Commerce</b></p>
ICDR	<p><b>The International Centre for Dispute Resolution</b></p>
IDN	<p><b>Internationalized Domain Name</b></p> <p>IDN is a domain name including characters used in the local representation of languages not written with the basic Latin alphabet (a - z), European-Arabic digits (0 - 9), and the hyphen (-).</p>
IE	<p><b>Initial Evaluation</b></p> <p>IE is the first stage of evaluation applicable for new gTLD applications.</p>
IGO	<p><b>Inter-governmental organization</b></p>
IIS	<p><b>Stiftelsen för Internetinfrastruktur</b></p>
IO	<p><b>Independent Objector</b></p> <p>As part of the New gTLD Program, the IO could lodge Community and Limited Public Interest objections in the best interests of global Internet users if there were comments in opposition to an application made in the public sphere.</p>
ISP 98	<p><b>International Standby Practices</b></p>
JAS WG	<p><b>Joint SO/AC New gTLD Applicant Support Working Group</b></p> <p>The main objective of the JAS WG was to develop a sustainable approach to providing support to entities requiring assistance in applying for and operating new gTLD Registries.</p>
LGR	<p><b>Label Generation Rules</b></p> <p>The label generation rules govern the way a zone is operated.</p>
LOC	<p><b>Letter of Credit</b></p>
NGO	<p><b>Non-Governmental Organization</b></p>
NGPC	<p><b>ICANN Board New gTLD Program Committee</b></p> <p>The NGPC is a group set up by the ICANN Board to make decisions regarding the New gTLD Program. Formed on 10 April 2012, the NGPC is composed of all ICANN Board members who do not have a conflict of interest relating to the New gTLDs, in addition to two non-voting liaisons.</p>

Acronym	Description
<b>NTAG</b>	<b>New TLD Applicant Group</b> The NTAG is an interest group formed under Article III.D. of the Charter of the gTLD Registries Stakeholder Group (RySG). The primary role of the NTAG is to represent the interests of entities that applied for a new gTLD(s) in ICANN's 2012 gTLD round.
<b>PDT</b>	<b>Pre-Delegation Testing</b> PDT is a technical test required of applicants before delegation of the applied-for gTLD string into the root zone.
<b>PIC</b>	<b>Public Interest Commitment</b> PICs are safeguards in Specification 11 of the Registry Agreement in order to hold their registry operations to certain standards. PICs are also a mechanism to allow registry operators to commit certain statements into binding contractual obligations that may be enforced by ICANN compliance and via the Public Interest Commitments Dispute Resolution Procedure (PICDRP).
<b>PICDRP</b>	<b>Public Interest Commitments Dispute Resolution Procedure</b> The PICDRP addresses complaints that a Registry Operator may not be complying with the Public Interest Commitment(s) in Specification 11 of their Registry Agreement.
<b>PwC</b>	<b>PricewaterhouseCoopers</b>
<b>RA</b>	<b>Registry Agreement</b> The RA is the agreement executed between ICANN and successful gTLD applicants.
<b>RFP</b>	<b>Request for Proposal</b>
<b>RSEP</b>	<b>Registry Services Evaluation Policy</b> (also referred to as Registry Services Evaluation Process) RSEP is ICANN's process for evaluating proposed gTLD registry services or contractual modifications for security, stability or competition issues.
<b>RSP</b>	<b>Registry Services Provider</b> RSP is a company that runs the operations of a TLD on behalf of the TLD owner or licensee. The RSP keeps the master database and generates zone files to allow computers to route Internet traffic using the DNS.
<b>RSTEP</b>	<b>Registry Service Technical Evaluation Panel</b> The RSTEP, created based on Section 1.4 of the RSEP, is a technical team under the GNSO. The RSTEP primary responsibility is to assist in the evaluation of requests for new registry services.
<b>RZM</b>	<b>Root Zone Management System</b> The DSN RZM is the automated system used to process change requests for TLDs and to delegate new gTLDs once they have passed PDT.

Acronym	Description
<b>SARP</b>	<b>Support Application Review Panel</b> The SARP is a selected, volunteer panel responsible for the evaluation and scoring of applications for the Applicant Support Program.
<b>SLT</b>	<b>Service Level Target</b> SLT is a target agreed as a means of measuring the performance of a particular service.
<b>SSAC</b>	<b>Security and Stability Advisory Committee</b> The SSAC is an advisory committee to the ICANN Board comprised of technical experts from industry and academia as well as operators of Internet root servers, registrars and TLD registries.
<b>TAS</b>	<b>TLD Application System</b> TAS was the online interface for submission of gTLD applications to ICANN. This interface is no longer active.
<b>TCP</b>	<b>Transmission Control Protocol</b> TCP is one of the main transport layers of the Internet Protocol Suite. It is an effective transport service connection wherein data is transferred with an end-to-end reliability from the source host to the destination host. TCP verifies the correct delivery of data and provides a support to check for errors and missing data, and re-sends it to complete the data transfer.
<b>TLD</b>	<b>Top-Level Domain</b> A TLD is a name at the top of the DNS naming hierarchy. It appears in domain names as the string of letters following the last dot, such as "NET" in www.example.net. The TLD administrator controls what second-level names are recognized in that TLD. The administrators of the root domain or root zone control what TLDs are recognized by the DNS.
<b>TMCH</b>	<b>Trademark Clearinghouse</b> The TMCH is a repository for trademark data supporting rights protection services offered by new gTLD registries.
<b>UCL</b>	<b>University College London</b>
<b>UCP</b>	<b>Uniform Customs and Practice for Documentary Credits</b>
<b>UDRP</b>	<b>Uniform Domain Name Dispute Resolution Policy</b> All ICANN-accredited registrars follow a uniform dispute resolution policy. Under that policy, disputes over entitlement to a domain name registration are ordinarily resolved by court litigation between the parties claiming rights to the registration.
<b>UN</b>	<b>United Nations</b>

Acronym	Description
URL	<p><b>Uniform Resource Locator</b></p> <p>The URL is a string that describes the address of documents and other resources on the Internet. Defined by the IETF in RFC 2396, a URL is composed of two parts separated by a colon (":"). The first part of the address indicates what protocol to use, e.g., http, ftp, etc., and the second part specifies the IP address or the domain name where the resource is located.</p>
URS	<p><b>Uniform Rapid Suspension</b></p> <p>The URS provides trademark holders with a rapid and efficient mechanism to "take down" undeniably infringing domain names. A successful proceeding will result in suspension of the domain name. Compliance with results mandatory for all new gTLD operators.</p>
WIPO	<p><b>World Intellectual Property Organization</b></p>



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