

26 September 2018

RE: Initial Report on the New gTLD Subsequent Procedures Policy Development Process (Overarching Issues & Work Tracks 1-4)

Neustar would like to take the opportunity to comment on the Initial Report on the New gTLD Subsequent Procedures Policy Development Process, with a focus on the sections below.

2.1.1 Continuing Subsequent Procedures

Preliminary Recommendation	
2.2.1.c.1	The Working Group recommends no changes to the existing policy calling for subsequent application rounds introduced in an ongoing, orderly, timely and predictable manner.

Neustar agrees with the Preliminary Recommendation.

2.2.2 Predictability

Preliminary Recommendation	
2.2.2.c.1	<p>Currently, as a result of consensus recommendations made by the GNSO, the ICANN Board endorsed the GNSO's Policy and Implementation Recommendations, including those related to the Consensus Policy Implementation Framework (CPIF) for governing the implementation phase of GNSO policies. If issues arise during this phase, the GNSO could seek to utilize the GNSO Expedited Policy Development Process or the GNSO Guidance Process, as defined in the ICANN Bylaws. However, there is support in the Working Group for a recommendation that the New gTLD Program, once launched (i.e., after the Implementation Review Team), should be subject to a new Predictability Framework, to address issues that arise regarding the introduction of new gTLDs.</p> <p>Among other recommendations, the Working Group believes that as part of the Predictability Framework, a Standing Implementation Review Team (IRT) should be constituted after the publication of the Applicant Guidebook to consider changes in the implementation, execution and/or operations of the new gTLD program after its launch, and the introduction of any further evaluation guidelines not available to applicants when applications were submitted. The Predictability Framework is intended to provide guidance to the Standing IRT in how issues should be resolved, which could include recommending that the GNSO Council initiate GNSO processes provided by the ICANN Bylaws. Please see sub-section d for full text of the Predictability Framework.</p>

Given the experiences associated with the implementation of the 2012 process, that in some cases caused significant delay and seriously compromised the predictability of the process, Neustar does believe that it is necessary to moderate against this happening in future rounds. We do note that ICANN undertook a considerable analysis of some of the shortcomings of their implementation of the 2012 process and have suggested improvements that would go some way to mitigating the likelihood of similar experiences in a subsequent process.

However, we do understand the tension caused by ICANN organization unilaterally deciding a course of action where there is uncertainty or ambiguity and to that end we support the concept of the Predictability Framework, but are concerned that the added layer of bureaucracy might result in delays and lack of predictability similar to that experienced in 2012.

2.2.2.2 Clarity of Application Process

Preliminary Recommendation	
2.2.2.2.c.1	When substantive/disruptive changes to the Applicant Guidebook or application processing are necessary and made through the Predictability Framework discussed above, there should be a mechanism that allows impacted applicants the opportunity to either (a) request an appropriate refund or (b) be tracked into a parallel process that deals with the discrete issues directly without impacting the rest of the program.

Neustar supports the recommendation to allow for an applicant to request an appropriate refund in the event that the program changes after the application window has closed, and the program change has a direct impact on their application. The implications of the GAC Advice from 2012 that resulted in some applicants needing to agree to Public Interest Commitments, would be one example of this.

Where an applicant is indirectly impacted by a program change and that change delays their ability to move through the process, provisions should be made to allow those that are unaffected to continue their progress through the process.

Question	
2.2.2.2.e.1	Is ICANN organization capable of scaling to handle application volume and, if not, what would have to happen in order for ICANN organization to scale?

Neustar believes that ICANN has the resources and ability to scale regardless of the number/volume of applications, and we strongly believe that they have an obligation to do so as the only organization that can process and approve applications for new gTLDs. The impact of a six year gap (thus far) since the last application window may mean that there is considerable global interest in the program and ICANN will need to be ready to deal with this accordingly.

2.2.3 Applications Assessed in Rounds

Preliminary Recommendation	
2.2.3.c.1	The Working Group recommends that the next introduction of new gTLDs shall be in the form of a “round.” With respect to subsequent introductions of the new gTLDs, although the Working Group does not have any consensus on a specific proposal, it does generally believe that it should be known prior to the launch of the next round either (a) the date in which the next introduction of new gTLDs will take place or (b) the specific set of criteria and/or events that must occur prior to the opening up of the subsequent process. For the purposes of providing an example, prior to the launch of the next round of new gTLDs, ICANN could state something like, “The subsequent introduction of new gTLDs after this round will occur on January 1, 2023 or nine months following the date in which 50% of the applications from the last round have completed Initial Evaluation.”
Option	
2.2.3.d.1	Conduct one additional “round” followed by an undefined review period to determine how future applications for new gTLDs should be accepted.
2.2.3.d.2	Conduct two or three additional application “rounds” separated by predictable periods for the purpose of major “course corrections,” to determine the permanent process for the acceptance of new gTLDs in the future. For illustration purposes only, this could include commencing an application window in Q1 of Year 1, a second application window in Q1 of Year 2, and a final application window in Q1 of Year 3 followed by a lengthy gap to determine the permanent process moving forward after Year 3.
2.2.3.d.3	Conduct all future new gTLD procedures in “rounds” separated by predictable periods for the purpose of course corrections indefinitely. Policy development processes would then be required to make substantial, policy-driven changes to the program and would then only apply to the opening of the application round following the date in which the PDP recommendations were adopted by the ICANN Board.

2.2.3.d.4	Conduct one additional “round” followed by the permanent opening up of a first-come, first-served process of new gTLD applications.
2.2.3.d.5	Commence two or three additional application “rounds” separated by predictable periods for the purpose of major course corrections, followed shortly thereafter by the permanent opening up of a first-come, first-served process of accepting new gTLD applications.
2.2.3.d.6	Immediately commence a permanent first-come, first-served process of accepting new gTLD Applications.
Question	
2.2.3.e.1	Of the models described above, which model do you believe should be employed, if any? Please explain.
2.2.3.e.2	For the model you have selected, what are some mechanisms that can be employed to mitigate any of the listed (or unlisted) downsides.
2.2.3.e.3	Is there a way to assess the demand for new gTLDs to help us determine whether the subsequent new gTLD process should be a “round” or a “first-come first-served process? (e.g. Do we introduce an Expressions of Interest process?)
2.2.3.e.4	If we were to have a process where a certain date was announced for the next subsequent procedure, what would be the threshold for the community to override that certain date (i.e., Is a different process needed if the number of applications exceeds a certain threshold in a given period of time?)

Neustar recognizes the challenges associated with finding a viable solution to this problem because of a number of unknown variables, the most prominent of which being the unknown level of demand for new gTLDs, or how much pent up demand there is for new gTLDs, and the skepticism some hold in relation to this question.

We believe that the issues of pent-up demand can be addressed by conducting the initial application window in three phases, followed by an open round. We believe that the key benefits of this approach are that it will:

- 1 Enable the ICANN Board to deliver on its commitments to introduce the next round of new gTLDs as expeditiously as possible;
- 2 Allow the community to finalize the prerequisite policy and other work efforts in accordance with the phased application process;
- 3 Provide ICANN organization with a process that would allow them to develop the requisite systems and processes over time rather than needing everything in place on a single date;
- 4 Reduce the resourcing impact on ICANN staff and third party vendors by not undertaking the phases concurrently;
- 5 Provide predictability and certainty for potential applicants;
- 6 Reduce the risk of excessive demand by spreading applications over three distinct phases.

Three Phase new gTLD Application Window

Recognizing Preliminary Recommendation 2.2.4.c.1, the three phase application window uses the categories of TLDs as a basis for the phases. We propose the following:

Phase 1 – .Brand TLDs

Application Period: 1 October 2019 to 12 January 2020

Phase 2 – Geographic TLDs



Application Period: 1 April 2020 to 31 July 2020

Phase 3 – Generic and Community TLDs

Application Period: 1 October 2020 to 12 January 2021

Neustar believes that adopting this three phased approach to the next application window will address the question of ‘pent up demand’, and this should then be followed by an Open Round commencing on 1 October 2021.

Rationale for .Brand Applications in Phase 1:

- .Brand TLDs are clearly defined by objective criteria and will be required to accept the conditions of Specification 13 of the Registry Agreement.
- There is known demand for new .Brand TLDs.
- Assist with building program awareness for subsequent application phases.
- .Brand TLDs accounted for the lowest level of contention sets within the previous application round.
- With the exception of a few notable exceptions, .Brands were not subject to objections or other review processes.
- Historically low rates of abuse and concern for ICANN.

Rationale for Geographic TLDs in Phase 2:

- The significance of providing cities around the world with the opportunity to build an online presence for their respective communities.
- Clearly defined eligibility criteria as outlined in the Applicant Guidebook.
- Non-existent contention sets during the 2012 application process.
- With a few notable exceptions, were not subject to other review processes.

Rationale for Generic and Community TLDs in Phase 3:

- In the 2012 round, generic and community TLD applications were the source of the most controversy and delays due to:
 - Contention sets and auction processes;
 - Objections;
 - GAC advice;
 - Community Priority Evaluation.
- It is anticipated that the generic and community TLDs in any subsequent application window will continue to provide the biggest challenge in terms of application processing.

- Moving these applications to Phase 3 of the application window will allow the less-controversial strings to be processed in a timely manner and not unnecessarily delayed while solutions are being developed for any potential issues that may arise.
- Provide greater data points and confidence around the likely number of applications and market demand.

Open Round Commencing on 1 October 2021:

It is intended that this open round would have a three month window to submit applications consistent with the application windows in the phased application process.

On 1 October 2022, a first-come first-served open application process would commence.

2.2.4 Different TLD Types

Preliminary Recommendation	
2.2.4.c.1	The Working Group recommends that each of the categories recognized by the 2012 Applicant Guidebook, both explicitly and implicitly, continue to be recognized on a going forward basis. These include standard TLDs, community-based TLDs, TLDs for which a governmental entity serves as the registry operator, and geographic TLDs. In addition, the Working Group also recognizes that Specification 13 .Brand TLDs should also be formally established as a category. The ramifications of being designated a specific category are addressed throughout this Initial Report as applicable.

Neustar supports this Preliminary Recommendation, and the formal establishment of .Brand TLDs as a category. Neustar does not support the creation of other additional TLD categories.

2.2.5 Applications Submission Limits

Preliminary Recommendation	
2.2.5.c.1	Although some members of Working Group supported the notion of putting limits into place, ultimately the Working Group concluded that there were no effective, fair and/or feasible mechanisms to enforce such limits. It therefore concluded that no limits should be imposed on either the number of applications in total or the number of applications from any particular entity.

Neustar agrees that no limits should be placed on the number of applications a single entity can submit.

2.2.6 Accreditation Programs (WT1)

Preliminary Recommendation	
2.2.6.c.1	Work Track 1 recommends using the term “pre-approval” as opposed to “accreditation.” To a number of Work Track members, the term “accreditation” implies having a contract in place with ICANN and other items for which there is no agreement within the Work Track. “Pre-approval” on the other hand does not have those same implications, but merely connotes applying the same standards, evaluation criteria and testing mechanisms (if any) at a point in time which is earlier than going through the standard process.
2.2.6.c.2	The Work Track generally agrees that there should be a registry service provider (RSP) pre-approval process, which must be in place at least three (3) months prior to the opening of the application period.

Preliminary Recommendation	
2.2.6.c.3	The RSP pre-approval process shall have technical requirements equal to the Technical and Operational Capabilities Evaluation (as established in section 2.7.7 on Applicant Reviews: Technical/Operational, Financial and Registry Services), but will also consider the RSP's overall breadth of registry operator support.
2.2.6.c.4	The RSP pre-approval process should be a voluntary program and the existence of the process will not preclude an applicant from providing its own registry services or providing registry services to other New gTLD Registry Operators.

Neustar supports these Preliminary Recommendations.

Preliminary Recommendation	
2.2.6.c.5	The RSP pre-approval process should be funded by those seeking pre-approval on a cost recovery basis.

Neustar does not support this Preliminary Recommendation. While we support the concept that RSPs should fund the pre-approval process in principle we believe that more detail is required to understand the costs associated with undertaken the pre-approval process.

Question	
2.2.6.e.1	Should the pre-approval process take into consideration the number and type of TLDs that an RSP intends to support? Why or why not?

In submitting to the pre-approval process the RSP should be in a position to provide information about their system specifications that would speak to capacity and redundancy.

The ability of an RSP to scale across a number of TLDs or domains under management is difficult to assess in any preliminary pre-approval process. It may be more appropriate to re-test the RSP in the event that it reaches 'threshold' levels related to either the number of TLDs or domains under management, or on an annual basis.

Question	
2.2.6.e.2	If so, how would the process take that into consideration? What if the number of applications submitted during the TLD application round exceed the number of TLDs for which the RSP indicated it could support?

At the conclusion of an application process and prior to commencing evaluation, the RSP could be asked to confirm its ability to support the number of applications.

Question	
2.2.6.e.3	Should RSPs that are pre-approved be required to be periodically reassessed? If so, how would such a process work and how often should such a reassessment be conducted?

ICANN currently monitors the Registry Operators against SLAs and maintains information about the supporting RSP. This monitoring will continue in future rounds and the same practices should be adhered to in the event that ICANN believes that SLAs are not being met and performance is being compromised. There is no evidence to suggest that the existing RSPs currently supporting gTLDs have had critical failures or EBERO events.

Question	
2.2.6.e.5	Existing RSPs: Should existing RSPs be automatically deemed "pre-approved"? Why or why not? If not automatically pre-approved, should existing RSPs have a different process when seeking to become pre-approved? If so, what would the different process be? Are there any exceptions to the above? For example, should a history of failing to meet certain Service Levels be considered when seeking pre-approval? Please explain.

See response above to Question 2.2.6.e.3.

2.3.2 Global Public Interest

Preliminary Recommendation	
2.3.2.c.1	Mandatory PICs: The Work Track is considering a recommendation to codify the current implementation of mandatory PICs as policy recommendations. In addition, such mandatory PICs should be revisited to reflect the ongoing discussions between the GAC Public Safety Working Group and Registries as appropriate.
Question	
2.3.2.e.1	Does you believe that there are additional Public Interest Commitments that should be mandatory for all registry operators to implement? If so, please specify these commitments in detail.

Neustar supports the implementation of mandatory PICS only where they are standard and enforceable in a meaningful way, and can be rationalized in light of ICANN’s mission as stated in the Bylaws.

We do not support any additional mandatory PICS.

2.4.1 Applicant Guidebook

Preliminary Recommendation	
2.4.1.c.1	Work Track 1 generally agreed that an Applicant Guidebook (AGB) of some form should continue to be utilized in future waves of applications. The Work Track generally agreed, however, that the Applicant Guidebook should be made more user friendly.
2.4.1.c.2	<p>In order to enhance accessibility for ease of understanding, especially for non-native English speakers and those that are less familiar with the ICANN environment, the Work Track believes that the AGB should:</p> <p>2.4.1.c.2.1: Be less focused on historical context and to the extent it is included, concentrate this content in appendices if possible.</p> <p>2.4.1.c.2.2: Be less about policy, with a stronger focus on the application process.</p> <p>2.4.1.c.2.3: Be focused on serving as a practical user guide that applicants can utilize in applying for a TLD. For instance, step-by-step instructions, possibly by type of application with a ‘choose your own adventure’ methodology.</p> <p>2.4.1.c.2.4: Have an improved Table of Contents, include an index and the online version should contain links to appropriate sections, definitions, etc.</p> <p>2.4.1.c.2.5: The online version could have sections that apply specifically to the type of application being applied for with the ability to only print those related sections.</p> <p>2.4.1.c.2.6: In conjunction with the above, the online version should allow for advanced indexing of an omnibus text. A core set of standard provisions may be applicable to everyone, but additional provisions may only be applicable to some. If the text is tagged and searchable, users could more easily locate the parts of the text that are relevant to them.</p> <p>2.4.1.c.2.7: Any Agreements/Terms of Use for systems access (including those required to be “clicked-through” should be finalized in advance and included in the Applicant Guidebook with the goal of minimizing obstacles and/or legal burdens on applicants (see section 2.4.3 on Systems).</p>

Neustar supports this Preliminary Recommendation in principle, however with the qualification that any changes should be flexible to cater for any proposed implementation of application period(s)/wave(s), and be defined and limited to ensure there is no undue delay caused by making such changes.

2.4.2 Communications

Preliminary Recommendation	
2.4.2.c.1	Program Information, Education and Outreach: The Work Track believes that for the next round of new gTLDs there should continue to be a minimum of four (4) months from the time in which the final Applicant Guidebook is released and the time until which applications would be finally due.

Neustar supports this Preliminary Recommendation.

Preliminary Recommendation	
2.4.2.c.2	Program Information, Education and Outreach: There should be a sufficient period of time available prior to the opening of the application submission period to allow for outreach efforts related to Applicant Support and other program elements and execution of the Communication Plan (“Communications Period”). 2.4.2.c.2.1: The Communications Period for the next round of new gTLDs should be at least six (6) months. 2.4.2.c.2.2: In the event that following the next round of new gTLDs, application opportunities are organized as a series of application windows, the Communications Period may be shortened to three (3) months.

One of the benefits of Neustar’s proposed phased application process is that communication and outreach can be targeted to the respective TLD category for each phase. Additionally, Phases 1 and 2 would serve to enhance the communication and outreach for Phase 3 and the open round.

Given that there is established demand for .Brand TLDs, it may be that the communications period for Phase 1 could be shorter than the proposed six months of this Preliminary Recommendation.

Preliminary Recommendation	
2.4.2.c.3	Program Information, Education and Outreach: Publish all program information on the main icann.org website (as opposed to https://newgtlds.icann.org), along with other related ICANN information and links to improve usability and accessibility.
2.4.2.c.4	Program Information, Education and Outreach: Leverage Global Stakeholder Engagement staff to facilitate interaction between regional ICANN organization teams and potential applicants from these regions.
2.4.2.c.5	Communications with Applicants: Provide a robust online knowledge base of program information that is easy to search and navigate, updated in a timely manner, and focused on issues with wide-reaching impact. Offer an opt-in notification service that allows applicants to receive updates about the program and their application in real or near real time.
2.4.2.c.6	Communications with Applicants: Display and provide updates in a timely manner on expected response times on the website, so that applicants know when they can expect to receive a reply, as well as information about how applicants can escalate inquiries that remain unresolved.
2.4.2.c.7	Communications with Applicants: Facilitate communication between applicants and the ICANN organization by offering real-time customer support using a telephone “help line,” online chat functionality, and other online communication tools.

Neustar supports these Preliminary Recommendations.

2.4.3 Systems

Preliminary Recommendation	
2.4.3.c.1	The ICANN organization should ensure that enough time is provided for development and testing before any system is deployed.
2.4.3.c.2	Systems should undergo extensive, robust Quality Assurance (QA), User Interface (UI), and Penetration testing to ensure that they are stable and secure, and that data is properly protected and kept confidential where appropriate.
2.4.3.c.3	Applicant-facing systems should be usable and integrated, ideally with a single login.

Preliminary Recommendation	
2.4.3.c.4	Once a system is in use, the ICANN organization should be transparent about any system changes that impact applicants or the application process. In the event of any security breach, ICANN should immediately notify all impacted parties.
2.4.3.c.5	The ICANN organization should offer prospective system end-users with the opportunity to beta-test systems while ensuring no unfair advantages are created for individuals who test the tools. It may accomplish this by setting up an Operational Test and Evaluation environment.
2.4.3.c.6	As stated in section 2.4.1 above, “Any Agreements/Terms of Use for systems access (including those required to be “clicked-through”) should be finalized in advance and included in the Applicant Guidebook with the goal of minimizing obstacles and/or legal burdens on applicants.
2.4.3.c.7	Implementation Guidance regarding technical systems: Applicants should be able to enter non-ASCII characters in certain fields.
2.4.3.c.8	Implementation Guidance regarding technical systems: Applicants should be able to access live (real time) support using tools such as a phone helpline or online chat to address technical system issues.
2.4.3.c.9	Implementation Guidance regarding technical systems: A single applicant should be able to submit and access multiple applications without duplicative data entry and multiple logins.
2.4.3.c.10	Implementation Guidance regarding technical systems: Applicants should be able to receive automated confirmation emails from the systems.
2.4.3.c.11	Implementation Guidance regarding technical systems: Applicants should be able to receive automated application fee related invoices.
2.4.3.c.12	Implementation Guidance regarding technical systems: Applicants should be able to view changes that have been made to an application in the application system.
2.4.3.c.13	Implementation Guidance regarding technical systems: Applicants should be able to upload application documents in the application system.
2.4.3.c.14	Implementation Guidance regarding technical systems: Applicants should be able to update information/ documentation in multiple fields without having to copy and paste information into the relevant fields.
2.4.3.c.15	Implementation Guidance regarding technical systems: Applicants should be able to specify additional contacts to receive communication about the application and/or access the application and be able to specify different levels of access for these additional points of contact. The systems should provide means for portfolio applicants to provide answers to questions and then have them disseminated across all applications being supported.
2.4.3.c.16	Implementation Guidance regarding technical systems: The systems should provide clearly defined contacts within the ICANN organization for particular types of questions.

Neustar supports the Preliminary Recommendations in this section of the Initial Report generally. We do note, however, that the testing and development period(s) should be defined and limited to ensure there is no undue delay caused by overly long testing and development windows.

2.5.1 Application Fees

Preliminary Recommendation	
2.5.1.c.1	Work Track 1 is considering proposing that the New gTLD Program continue to be self-funding where existing ICANN activities are not used to cross-subsidize the new gTLD application, evaluation, pre-delegation and delegation processes.
2.5.1.c.2	In addition, the Work Track generally believes that the application fee amount should continue to be based on the “revenue neutral” principal, though the accuracy should be improved to the greatest extent possible. Although the 2012 New gTLD Applicant Guidebook remained silent on what should happen with any excess fees obtained through the application process, the Work Track is leaning towards recommending that absent the use of an application fee floor (described in 3 below) excess fees should be refunded back to applicants. If a deficit arises, the Work Track considered several options (see deliberations below), but there seemed to be support for ICANN recovering the majority of funds in future TLD application windows.

Preliminary Recommendation	
2.5.1.c.3	The Work Track also is considering proposing that if in the event that the estimated application fee, based on the “revenue neutral” principal, falls below a predetermined threshold amount (i.e., the application fee floor), the actual application fee will be set at that higher application fee floor instead. The purpose of an application fee floor, as more fully discussed below, would be to deter speculation, warehousing of TLDs, and mitigating against the use of TLDs for abusive or malicious purposes, that could more easily proliferate with a low application fee amount.
2.5.1.c.4	The application fee floor is a predetermined value that is the minimum application fee. By definition, an application fee floor will not meet the revenue neutral principle as the floor amount will be greater than the application fees creating an excess. In the event that an application fee floor is used to determine the application fee, excess fees received by ICANN if the application fee floor is invoked should be used to benefit the following categories: Support general outreach and awareness for the New gTLD Program (e.g., Universal Awareness and Universal Acceptance initiatives); Support the gTLD long-term program needs such as system upgrades, fixed assets, etc.; Application Support Program; Top-up any shortfall in the segregated fund as described below.
2.5.1.c.5	To help alleviate the burden of an overall shortfall, a separate segregated fund should be set up that can be used to absorb any shortfalls and topped-up in a later round. The amount of the contingency should be a predetermined value that is reviewed periodically to ensure its adequacy.

Neustar supports the cost-recovery approach adopted for the 2012 new gTLD process. However, in the absence of a mechanism to accurately determine the potential number of new gTLD applicants in any subsequent new gTLD process and the absence of information from ICANN on the costs associated with developing and operating the program, Neustar believes that the most pragmatic approach for deciding the nominal application fee is to maintain the USD 185,000 fee used in 2012. An application fee that is significantly lower or higher could result in potential claims of anti-competitive behavior, depending on the point of view of potential applicants and existing Registry Operators.

Given the considerable excess of application fees that currently exists from the 2012 application process, and the absence of clear direction on what should be done with the excess application fees, we support a policy recommendation that the excess application fees should be returned to applicants up to a maximum of 50% of the application fee. Given our proposed three phase application process, no potential refunds would be available until after the completion of the third phase of the application process.

Where excess application fees remain after refunds have been issued to applicants, we support the identification of items/programs that ICANN could allocate spending to from excess fees as described in Preliminary Recommendation 2.5.1.c.4.

2.5.1 Variable Fees

Preliminary Recommendation	
2.5.2.c.1	Though Work Track 1 discussed a number of different possible alternative approaches, there was no agreement on any alternatives to the 2012 round; namely that all applications should incur the same base application fee amount regardless of the type of application or the number of applications that the same applicant submits. This would not preclude the possibility of additional fees in certain circumstances, as was the case in the 2012 round of the program (e.g., objections, Registry Service Evaluation Process, etc.).
Option	
2.5.2.d.1	Different application fees for different types of applications is only warranted if the cost incurred for processing those different types is significant (for discussion purposes, 20% was used).
2.5.2.d.2	Fees imposed for changing the type of application should be higher than applying for the desired TLD type originally (for discussion purposes, the applicant must pay 125% of the difference between the different application types in terms of fees plus any other related processing fees.)



Neustar believes that the application fee for a new gTLD should be the same regardless of the type of TLD an applicant intends to operate. All applicants should be responsible for the development costs of the application systems and evaluation process and other required resources. We also believe that different application fees could potentially add an unnecessary layer of administration to the process that may become a source of disagreement and impact the predictability of the process. We also recognize that by owning a TLD, a Registry Operator has a unique and valuable piece of Internet real estate that is difficult to quantify.

2.5.3 Application Submission Period

Preliminary Recommendation	
2.5.3.c.1	For the next round of new TLD applications, applicants should have a minimum of three (3) months from the time in which the application systems open until the time in which applications would become due (“application submission period”). This recommendation would apply if the next application opportunity is structured as a round.

Neustar supports this Preliminary Recommendation.

Option	
2.5.3.d.1	In section 2.4.2 on Communications, Work Track 1 has recommended that the Communications Period for the next round of new gTLDs should be at least six (6) months. One possible recommendation is that no more than two (2) months of the Communications Period for the next round of new gTLDs should overlap with the application submissions period, leaving at least one (1) month after the closing of the Communications Period and before the closing of the applications submission period.

Neustar comments recommend an initial three phase application window. One of the side-benefits of this approach would be that the communication period could be targeted and built on over a longer period than just an initial application window.

Option	
2.5.3.d.3	In the event that following the next round of new gTLDs, application opportunities are organized as a series of application windows, the Applications submission period may be shortened to two (2) months.

Neustar supports the three month application submission period and does not see any value in shortening the window to two months. A potential applicant that is not well-versed in the application process and expectations may need three months to complete the application.

Question	
2.5.3.e.1	For the next round, is having the applicant submission period set at three (3) months sufficient?

Neustar believes three months is sufficient.

Question	
2.5.3.e.2	Is the concept of a fixed period of time for accepting applications the right approach? Why or why not? Does this help facilitate a predictable schedule for submission and objections/comments?

Until such time as the program reaches a steady state of first-come, first-served, a fixed application period is the only option for providing predictability to any element of the process.

2.5.4 Applicant Support

Preliminary Recommendation	
2.5.4.c.1	In the 2012 round, although anyone could apply, applicants that operated in a developing economy were given priority in the Applicant Support Program (ASP). The Work Track generally agreed that Applicant Support should continue to be open to applicants regardless of their location so long as they meet the other criteria.
2.5.4.c.2	Geographic outreach areas should not only target the Global South, but also consider the “middle applicant” which are struggling regions that are further along in their development compared to underserved or underdeveloped regions.
2.5.4.c.3	Applicants who do not meet the requirements of the ASP should be provided with a limited period of time (that does not unreasonably delay the program) to pay the additional application fee amount and transfer to the relevant application process associated with their application.
2.5.4.c.4	ICANN should improve the awareness of the ASP by engaging with other ICANN communities and other suitable partners that include, but not limited to, focus on technology and communication industries, especially in underserved regions, while improving awareness through extensive promotional activities.
2.5.4.c.5	ICANN should employ a multifaceted approach based on pre-application support, including longer lead times to create awareness, encouraging participation of insightful experts who understand relevant regional issues and potential ramifications on the related business plans, along with the tools and expertise on how to evaluate the business case, such as developing a market for a TLD.
2.5.4.c.6	Support should continue to extend beyond simply financial. ICANN’s approach should include mentorship on the management, operational and technical aspects of running a registry such as existing registries/registrars within the region to develop in-house expertise to help ensure a viable business for the long term.
2.5.4.c.7	Additionally, financial support should go beyond the application fee, such as including application writing fees, related attorney fees, and ICANN registry-level fees.
2.5.4.c.8	ICANN should evaluate additional funding partners, including through multilateral and bilateral organizations, to help support the ASP.
2.5.4.c.9	ICANN should consider whether additional funding is required for the next round opening of the Applicant Support Program.

Neustar does not disagree with the Preliminary Recommendations except where explicitly stated, but we do strongly believe that any application needs to demonstrate a business case for a TLD, including how the TLD will be resourced in the long term and an adequate understanding of what’s involved in the management of a Registry/TLD.

Potential ASP applicants could be encouraged to submit an Expression of Interest that outlines a synopsis of the business idea. In the event the idea is deemed to have merit, seed funding could be provided for the development of an application and, if the subsequent application passes initial evaluation, the application fee is waived.

There should be a cap on the number of applications to be supported in this way, and potential applicants would be required to meet a needs threshold or criteria to be deemed eligible for the support.

With regard to Preliminary Recommendation 2.5.4.c.8 specifically, we do not believe that this should be ICANN’s responsibility and do not support this Preliminary Recommendation.

Question	
2.5.4.e.1	Work Track 1 generally agreed that the Applicant Support Program (ASP) should be open to applicants regardless of their location (see recommendations 2.5.4.c.1 and 2.5.4.c.2 above). How will eligibility criteria need to be adjusted to accommodate that expansion of the program?

2.5.4.e.2	<p>Metrics: What does success look like? Is it the sheer number of applications and/or those approved? Or a comparison of the number that considered applying vs. the number that actually completed the application process (e.g., developed its business plan, established financial sustainability, secured its sources of funds, ensured accuracy of information?)</p> <p>2.5.4.e.2.1: What are realistic expectations for the ASP, where there may be critical domain name industry infrastructure absent or where operating a registry may simply not be a priority for the potential applicants?</p>
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Realistic expectations are important. A single TLD, or even a number of TLDs, is not going to single-handedly solve economic problems in a region. It will not create significant job opportunities. It may provide a region with a tool to provide local content, a potential hub of information for locals or potential promotion opportunities, but only if the region has the underlying infrastructure, resources and expertise to support the TLD.

Experience from 2012 has shown that the success of a TLD is measured in many different ways, but regardless ongoing financial support is required to maintain the infrastructure (or pay third party vendors), implement promotional and marketing services, engage with Registrar services and pay ongoing ICANN fees.

Question	
2.5.4.e.8	Are there any considerations related to string contention resolution and auctions to take into account?

No support, financial or otherwise, should be provided for ASP applicants that find themselves in a string contention set. Consideration could be given to allowing ASP applicants the opportunity to change their string to avoid the contention set; the new string would need to be similar in meaning to the original applied-for string.

Question	
2.5.4.e.10	What should the source of funding be for the ASP? Should those funds be considered an extra component of the application fee? Should ICANN use a portion of any excess fees it generates through this next round of new gTLDs to fund subsequent Application Support periods?

As noted above, consideration could be given to seeking Expressions of Interest that outline a synopsis of the applicant's business idea and, in the event the idea is deemed to have merit, seed funding could be provided for the development of an application and the application fee be waived.

2.5.5 Terms and Conditions

Preliminary Recommendation	
2.5.5.c.1	Work Track 2 believes that there should continue to be a Terms and Conditions document separate and apart from the Registry Agreement. Although the majority of the Terms and Conditions contained in the 2012 round were generally acceptable, the Work Track is considering proposing the following changes.
2.5.5.c.2	<p>Section 3 of the 2012 Terms and Conditions states that ICANN may deny any new TLD application for any reason at its sole discretion. It also allows ICANN to reject any application based on applicable law. The Work Track believes:</p> <p>Unless required under specific law or the ICANN Bylaws, ICANN should only be permitted to reject an application if done so in accordance with the Terms and Conditions of the Applicant Guidebook.</p>

2.5.5.c.3	Section 3 of the 2012 Terms and Conditions states that ICANN may deny any new TLD application for any reason at its sole discretion. It also allows ICANN to reject any application based on applicable law. The Work Track believes: In the event an application is rejected, the ICANN organization should be required to cite the reason in accordance with the Applicant Guidebook, or if applicable, the specific law and/or ICANN Bylaw for not allowing an application to proceed.
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Neustar supports these Preliminary Recommendations.

Preliminary Recommendation	
2.5.5.c.4:	Section 6 currently gives ICANN a broad disclaimer of representations and warranties, but also contains a covenant by the applicant that it will not sue ICANN for any breach of the Terms and Conditions by ICANN. In general, the Work Track was not comfortable with the breadth of this covenant to not sue and Work Track members disagreed with the covenant not to sue as a concept. However, if the covenant not to sue ICANN is maintained, there must be a challenge/appeal mechanism established above and beyond the general accountability provisions in the ICANN Bylaws that allows for substantive review of the decision. This mechanism should look into whether ICANN (or its designees/contractors) acted inconsistently (or failed to act consistently) with the Applicant Guidebook (see section 2.8.2 on Accountability Mechanisms for further detail).

Neustar supports the Preliminary Recommendation, with a view to removing or modifying the covenant not to sue for future gTLD applications.

Preliminary Recommendation	
2.5.5.c.5	Section 14 allows ICANN to make reasonable updates to the Applicant Guidebook at its discretion. The Work Track generally agrees that to the extent that substantive changes are made to the Applicant Guidebook or program processes, applicants should be allowed some type of recourse, including if applicable, the right to withdraw an application from ICANN's consideration in exchange for a refund. A framework for ICANN to make transparent changes to the Applicant Guidebook as well as available recourse to change applications or withdraw for applicants should be laid out.

Neustar agrees with this Preliminary Recommendation.

Question	
2.5.5.e.2	Under what circumstances (including those arising relative to the sections referenced above) should an applicant be entitled to a full refund?

Neustar supports the suggestion of a full refund where ICANN makes substantive changes to the Applicant Guidebook that materially impact an application. We agree with the comments of the RySG that other opportunities for a full refund should be limited to discourage speculative applications.

Question	
2.5.5.e.3	Some in the Work Track have noted that even if a limited challenge/appeals process is established (see preliminary recommendation 2 above), they believe the covenant to not sue the ICANN organization (i.e., Section 6 of the Terms and Conditions) should be removed. Others have noted the importance of the covenant not to sue, based on the ICANN organization's non-profit status. Do you believe that the covenant not to sue should be removed whether or not an appeal process as proposed in section 2.8.2 on Accountability Mechanisms is instituted in the next round? Why or why not?

Neustar agrees that the covenant not to sue should be removed, regardless of any additional appeals mechanisms that may be established.

2.6.1 Application Queuing

Preliminary Recommendation	
2.6.1.c.1	ICANN should not attempt to create a “skills-based” system like “digital archery” to determine the processing order of applications.

Neustar agrees with this Preliminary Recommendation.

Question	
2.6.1.e.2	In subsequent procedures, should IDNs and/or other types of strings receive priority in processing? Is there evidence that prioritization of IDN applications met stated goals in the 2012 round (served the public interest and increased DNS diversity, accessibility and participation)?

IDNs should not receive priority processing in subsequent evaluation procedures. The IDN landscape has significantly changed from prior to the last round and there is no longer a justifiable need to prioritize IDN applications for the purposes identified.

Question	
2.6.1.e.4	Some members have suggested that the processing of certain types of applications should be prioritized over others. Some have argued that .Brands should be given priority, while others have claimed that community-based applications or those from the Global South should be prioritized. Do you believe that certain types of applications should be prioritized for processing? Please explain.

Please refer to Neustar’s comments above in 2.2.3 Applications Assessed in Rounds.

2.7.1 Reserved Names

Preliminary Recommendation	
2.7.1.c.1	Reservation at the top level: Keep all existing reservations, but add: 2.7.1.c.1.1: The names for Public Technical Identifiers (i.e., PTI, PUBLICTECHNICALIDENTIFIERS, PUBLICTECHNICALIDENTIFIER). 2.7.1.c.1.2: Special-Use Domain Names through the procedure described in IETF RFC 6761.
2.7.1.c.2	Reservations at the second level: Keep all existing reservations, but update Schedule 5 to include the measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes adopted by the ICANN Board on 8 November 2016.

Neustar supports these Preliminary Recommendations.

Question	
2.7.1.e.1	The base Registry Agreement allows registry operators to voluntarily reserve (and activate) up to 100 strings at the second level which the registry deems necessary for the operation or the promotion of the TLD. Should this number of names be increased or decreased? Please explain. Are there any circumstances in which exceptions to limits should be approved? Please explain.

Neustar supports amending the limit on Registry Operator self-allocated domain names to allow for greater flexibility and promote innovation. At a minimum this limit should be changed from cumulative (over the life of the TLD) to rolling, to allow Registry Operators to change their operational and promotional domain names as their operational and promotional needs changes without exceeding the overall limit.



Neustar also supports removing this limit for single-registrant TLDs such as Specification 13 or Specification 9 exempt TLDs.

Question	
2.7.1.e.3	<p>In addition to the reservation of up to 100 domains at the second level, registry operators were allowed to reserve an unlimited amount of second level domain names and release those names at their discretion provided that they released those names through ICANN-accredited registrars.</p> <p>2.7.1.e.3.1: Should there be any limit to the number of names reserved by a registry operator? Why or why not?</p> <p>2.7.1.e.3.2: Should the answer to the above question be dependent on the type of TLD for which the names are reserved (e.g., .Brand TLD, geographic TLD, community-based TLD and/or open)? Please explain.</p> <p>2.7.1.e.3.3: During the 2012 round, there was no requirement to implement a Sunrise process for second-level domain names removed from a reserved names list and released by a registry operator if the release occurred after the general Sunrise period for the TLD. Should there be a requirement to implement a Sunrise for names released from the reserved names list regardless of when those names are released? Please explain.</p>

Neustar does not support limiting the number of names reserved by a Registry Operator, for any type of TLD. There are myriad reasons for names to be reserved, including security and stability, and limitations on reserved names compromise this.

Neustar does not support the introduction of a Sunrise process for second-level names released from reservation, as a Claims Period is already required for these names; adding a further Sunrise process is onerous for Registries and Registrars, and unnecessary.

2.7.2 Registrant Protections

Preliminary Recommendation	
2.7.2.c.1	Maintain the existing EBERO mechanism including triggers for an EBERO event and the critical registry functions that EBEROs provide as well as each of the other protections identified above.
2.7.2.c.2	Single registrant TLDs (including those under Specification 13) should be exempt from EBERO requirements.
2.7.2.c.3	Continue to allow publicly traded companies to be exempt from background screening requirements as they undergo extensive similar screenings, and extend the exemption to officers, directors, material shareholders, etc. of these companies.
2.7.2.c.4	Improve the background screening process to be more accommodating, meaningful, and flexible for different regions of the world, for example entities in jurisdictions that do not provide readily available information.

Neustar supports these Preliminary Recommendations.

Question	
2.7.2.e.2	Should specific types of TLDs be exempt from certain registrant protections? If yes, which ones should be exempt? Should exemptions extend to TLDs under Specification 9, which have a single registrant? TLDs under Specification 13, for which registrants are limited to the registry operator, affiliates, and trademark licensees? If you believe exemptions should apply, under what conditions and why? If not, why not?

Neustar supports exempting single-registrant TLDs, that is, those with a Specification 13 or a Specification 9 exemption.

Question	
2.7.2.e.5	<p>The Work Track is considering a proposal to include additional questions (see directly below) to support the background screening process. Should these questions be added? Why or why not?</p> <ul style="list-style-type: none">▪ Have you had a contract with ICANN terminated or are being terminated for compliance issues?▪ Have you or your company been part of an entity found in breach of contract with ICANN?

Neustar does not support including these additional questions to the background screening process. Prior contractual compliance issues with ICANN are not necessarily indicative of the applicant's ability to operate a Registry and should not be grounds for disqualification; the risks that these questions are seeking to uncover are addressed by other screening mechanisms.

2.7.3 Closed Generics

Preliminary Recommendation	
2.7.3.c.1	The subject of Closed Generics has proved to be one of the most controversial issues tackled by Work Track 2 with strong arguments made by both those in favor of allowing Closed Generics in subsequent rounds and those opposing Closed Generics and in favor of keeping the current ban. Because this PDP was charged not only by the GNSO Council to analyze the impact of Closed Generics and consider future policy, a number of options emerged as potential paths forward with respect to Closed Generics, though the Work Track was not able to settle on any one of them. These options are presented in (d) below. The Work Track notes that there may be additional options that are not included in this list and welcomes suggested alternatives.
Option	
2.7.3.d.1	No Closed Generics: Formalize GNSO policy, making it consistent with the existing base Registry Agreement that Closed Generics should not be allowed.

Neustar does not support a prohibition on Closed Generics. We support the position of the RySG on this matter, and encourage competition and innovation.

Neustar also notes, more generally, that any new policy providing a mechanism for Closed Generics should be available to existing Registry Operators as well as future applicants.

Option	
2.7.3.d.2	Closed Generics with Public Interest Application: As stated above, GAC Advice to the ICANN Board was not that all Closed Generics should be banned, but rather that they should be allowed if they serve a public interest goal. Thus, this option would allow Closed Generics but require that applicants demonstrate that the Closed Generic serves a public interest goal in the application. This would require the applicant to reveal details about the goals of the registry. Under this option, Work Track 2 discussed the potential of an objections process similar to that of community-based objections challenging whether an application served a public interest goal. The Work Track recognized how difficult it would be to define the criteria against which such an application would be evaluated.

Neustar does not support this option, which requires applicants to disclose business plans and possible proprietary information, to be assessed publicly against some nebulous criteria of "public interest".

Option	
2.7.3.d.3	Closed Generics with Code of Conduct: This option would allow Closed Generics but require the applicant to commit to a code of conduct that addresses the concerns expressed by those not in favor of Closed Generics. This would not necessarily require the applicant to reveal details about the goals of the registry, but it would commit the applicant to comply with the Code of Conduct which could include annual self-audits. It also would establish an objections process for Closed Generics that is modelled on community objections.

Neustar does not oppose a Code of Conduct for Closed Generics, provided it does not exceed the scope of ICANN's remit.

Option	
2.7.3.d.4	Allow Closed Generics: This option would allow Closed Generics with no additional conditions but establish an objections process for Closed Generics that is modelled on community objections.

Neustar does not support the introduction of additional objection processes.

Question	
2.7.3.e.2	Work Track 2 noted that it may be difficult to develop criteria to evaluate whether an application is in the public interest. For options 2 and 3 above, it may be more feasible to evaluate if an application does not serve the public interest. How could it be evaluated that a Closed Generic application does not serve the public interest? Please explain.

Neustar agrees that it would be more appropriate to evaluate whether a TLD harms the public interest; this should be more than theoretical, i.e. a demonstrable likelihood of material detriment.

Question	
2.7.3.e.3	For option 2.7.3.d.4 above, how should a Code of Conduct for Closed Generics serving the public interest be implemented? The Work Track sees that adding this to the existing Code of Conduct may not make the most sense since the current Code of Conduct deals only with issues surrounding affiliated registries and registrars as opposed to Public Interest Commitments. The Work Track also believes that this could be in a separate Specification if Closed Generics are seen as a separate TLD category. Would it be better to modify the current Code of Conduct or have a separate Code of Conduct for Closed Generics? Please explain.

Neustar considers that if a Code of Conduct for Closed Generics is implemented, it should be separate to the existing Registry Operator Code of Conduct.

2.7.4 String Similarity

Preliminary Recommendation	
2.7.4.c.1	<p>Work Track 3 recommends adding detailed guidance on the standard of confusing similarity as it applies to singular and plural versions of the same word, noting that this was an area where there was insufficient clarity in the 2012 round. Specifically, the Work Track recommends:</p> <p>2.7.4.c.1.1: Prohibiting plurals and singulars of the same word within the same language/script in order to reduce the risk of consumer confusion. For example, the TLDs .CAR and .CARS could not both be delegated because they would be considered confusingly similar.</p> <p>2.7.4.c.1.2: Expanding the scope of the String Similarity Review to encompass singulars/plurals of TLDs on a per-language basis. If there is an application for the singular version of a word and an application for a plural version of the same word in the same language during the same application window, these applications would be placed in a contention set, because they are confusingly similar. An application for a single/plural variation of an existing TLD would not be permitted. Applications should not be automatically disqualified because of a single letter difference with an existing TLD. For example, .NEW and .NEWS should both be allowed, because they are not singular and plural versions of the same word.</p> <p>2.7.4.c.1.3: Using a dictionary to determine the singular and plural version of the string for the specific language.</p>
2.7.4.c.2	In addition, the Work Track recommends eliminating use of the SWORD Tool in subsequent procedures.
2.7.4.c.3	The Work Track also recommends that it should not be possible to apply for a string that is still being processed from a previous application opportunity.

Neustar supports these Preliminary Recommendations.

Question	
2.7.4.e.3	Should synonyms (for example .DOCTOR and .PHYSICIAN) be included in the String Similarity Review? Why or why not? Do you think the String Similarity Review standard should be different when a string or synonym is associated with a highly-regulated sector or is a verified TLD? Please explain.

Neustar does not support the inclusion of synonyms in the string similarity review. The example provided in the Preliminary Recommendation itself illustrates that while strings may be synonyms their independent meanings can be considerably different – for example a Doctor of Philosophy would be unlikely to be interested in a .physician TLD but may have an interest in a .doctor TLD.

2.7.6 Security and Stability

Preliminary Recommendation	
2.7.6.c.1	In the 2012-round, some applicants ended up applying for reserved or otherwise ineligible strings, causing them to later withdraw or be rejected . Towards preventing that and streamlining application processing, the Work Track suggests the following as Implementation Guidance: The application submission system should do all feasible algorithmic checking of TLDs, including against RZ-LGRs and ASCII string requirements, to better ensure that only valid ASCII and IDN TLDs can be submitted. A proposed TLD might be algorithmically found to be valid, algorithmically found to be invalid, or verifying its validity may not be possible using algorithmic checking. Only in the latter case, when a proposed TLD doesn't fit all the conditions for automatic checking, a manual review should occur to validate or invalidate the TLD.
2.7.6.c.2	For root zone scaling, the Work Track generally supports raising the delegation limit, but also agrees that ICANN should further develop root zone monitoring functionality and early warning systems as recommended by the SSAC, the RSSAC and the technical community.

Neustar supports these Preliminary Recommendations.

2.7.7 Applicant Reviews

Preliminary Recommendation	
2.7.7.c.1	For all evaluations: In pursuit of transparency, publish (during the procedure) any Clarifying Questions (CQ) and CQ responses for public questions to the extent possible.

Neustar supports publishing only Clarifying Questions and responses that relate to public portions of the application. Clarifying Questions and responses that relate to non-public application questions should not be published.

Preliminary Recommendation	
2.7.7.c.2	For all evaluations: Restrict scoring to a pass/fail scale (0-1 points only).

Neustar supports this Preliminary Recommendation.

Preliminary Recommendation	
2.7.7.c.3	For all evaluations: An analysis of CQs, guidance to the Applicant Guidebook, Knowledge Articles, Supplemental Notes, etc. from the 2012 round need to be sufficiently analyzed with the goal of improving the clarity of all questions asked of applicants (and the answers expected of evaluators) such that the need for the issuance of Clarifying Questions is lessened.

We note that this analysis has already been undertaken by ICANN.

Preliminary Recommendation	
2.7.7.c.4	For Technical and Operational Evaluation: If an RSP pre-approval program is established (as described in section 2.2.6), a new technical evaluation will not be required for applicants that have either selected a “pre-approved” RSP in its application submission or if it commits to only using a pre-approved RSP during the transition to delegation phase.
2.7.7.c.5	For Technical and Operational Evaluation: Consolidate the technical evaluation across applications as much as feasible, even when not using a pre-approved RSP. For example, if there are multiple applications using the same non-pre-approved RSP, that RSP would only have to be evaluated once as opposed to being evaluated for each individual application.
2.7.7.c.6	For Technical and Operational Evaluation: For applicants that outsource technical or operational services to third parties, applicants should specify which services are being performed by them and which are being performed by the third parties when answering questions.
2.7.7.c.7	For Technical and Operational Evaluation: Do not require a full IT/Operations security policy from applicants.

Preliminary Recommendation	
2.7.7.c.8	For Technical and Operational Evaluation: Retain the same questions (except Q30b - Security Policy).
2.7.7.c.9	For Technical and Operational Evaluation: “Applicants must be able to demonstrate their technical and operational capability to run a registry operation for the purpose that the applicant sets out, either by submitting it to evaluation at application time or agreeing to use a previously approved** technical infrastructure.” **(Could mean in the same procedure or previous procedures if an RSP program exists.)
2.7.7.c.10	For Technical and Operational Evaluation: “The Technical and Operational Evaluation may be aggregated and/or consolidated to the maximum extent possible that generate process efficiencies, including instances both where multiple applications are submitted by the same applicant and multiple applications from different applicants share a common technical infrastructure.”
2.7.7.c.11	For Financial Evaluation: To the extent that it is determined that a Continued Operations Instrument will be required, it should not be part of the Financial Evaluation, but rather should only be required at the time of executing a Registry Agreement.

Neustar supports these Preliminary Recommendations.

Preliminary Recommendation	
2.7.7.c.14	The Work Track proposes the following draft language for consideration, which would amend recommendation 8 from the 2007 Final Report: For Financial Evaluation: “Applicants must be able to demonstrate their financial and organizational operational capability in tandem for all currently-owned and applied-for TLDs that would become part of a single registry family.”
2.7.7.c.15	For Registry Services Evaluation: Allow for a set of pre-approved services that don’t require registry services evaluation as part of the new TLD application.; that set should include at least: <ul style="list-style-type: none"> ▪ Base contract required services (EPP, DNS publishing etc.) ▪ IDN services following IDN Guidelines ▪ BTAPPA (“Bulk Transfer After Partial Portfolio Acquisition”)
2.7.7.c.16	For Registry Services Evaluation: Since the content of Registry Agreement Amendment Templates for Commonly Requested Registry Services (https://www.icann.org/resources/pages/registry-agreement-amendment-templates-2018-01-29-en) satisfies the criteria above, referring to it instead of exhaustively enumerating the list is preferred. Applicants would inform which of the pre-approved services they want to be initially allowed in the registry agreement for that TLD. <ul style="list-style-type: none"> ▪ The Registry Services Evaluation Process should only be used to assess services that are not pre-approved. ▪ Criteria used to evaluate those non-pre-approved registry services should be consistent with the criteria applied to existing registries that propose new registry services. To the extent possible, this may mean having the same personnel that currently reviews registry services for existing registries be the same personnel that reviews new registry services proposed by applicants. ▪ In order to not hinder innovation, applications proposing non-pre-approved services should not be required to pay a higher application fee, unless it is deemed as possibly creating a security or stability risk requiring an RSTEP (Registry Services Technical Evaluation Panel). In addition, in order to encourage the proposal of innovative uses of TLDs, those proposing new non-approved registry services should not, to the extent possible, be unreasonably delayed in being evaluated.
2.7.7.c.17	The Work Track proposes the following draft language for consideration for Registry Services Evaluation: “Applicants will be encouraged but not required to specify additional registry services that are critical to the operation and business plan of the registry. The list of previously approved registry services (IDN Languages, GPML, BTAPPA) will be included by reference in the Applicant Guidebook and Registry Agreement. If the applicant includes additional registry services, the applicant must specify whether it wants it evaluated through RSEP at evaluation time, contracting time, or after contract signing, acknowledging that exceptional processing could incur additional application fees. If the applicant has not included additional registry services, RSEP will only be available after contract signing.”

Neustar supports these Preliminary Recommendations, and suggests that the following commonly requested Registry Services should also be included in Preliminary Recommendation 2.7.7.c.15:

- [Registration Validation per Applicable Law.](#)

Question	
2.7.7.e.4	Some in the Work Track have suggested that ICANN provide a list of persons or entities that could assist applicants in establishing a proposed business model. Should ICANN be allowed or even required to maintain such a list?

Neustar believes that it is not appropriate or desirable for ICANN to maintain such a list. ICANN should not appear to endorse or favor any entities providing consulting services to applicants.

Question	
2.7.7.e.9	Are there any other registry services that should be considered as “pre-approved”? This could include services such as protected marks lists, registry locks, and other services previously approved by ICANN for other registries that have already gone through the RSEP process (https://www.icann.org/resources/pages/rsep-2014-02-19-en). Please explain.

As noted above, Neustar believes the list of pre-approved services should be expanded to include, at minimum, the following commonly requested Registry Services:

- [Registration Validation per Applicable Law.](#)

2.7.8 Name Collisions

Preliminary Recommendation	
2.7.8.c.1	Include a mechanism to evaluate the risk of name collisions in the TLD evaluation process as well during the transition to delegation phase.
2.7.8.c.2	Use data-driven methodologies using trusted research-accessible data sources like Day in the Life of the Internet (DITL) and Operational Research Data from Internet Namespace Logs (ORDINAL) .
2.7.8.c.3	Efforts should be undertaken to create a “Do Not Apply” list of TLD strings that pose a substantial name collision risk whereby application for such strings would not be allowed to be submitted.
2.7.8.c.4	In addition, a second list of TLDs should be created (if possible) of strings that may not pose as high of a name collision risk as the “Do Not Apply” list, but for which there would be a strong presumption that a specific mitigation framework would be required.
2.7.8.c.5	Allow every application, other than those on the “do not apply” list, to file a name collision mitigation framework with their application.
2.7.8.c.6	During the evaluation period, a test should be developed to evaluate the name collision risk for every applied-for string, putting them into 3 baskets: high risk, aggravated risk, and low risk. Provide clear guidance to applicants in advance for what constitutes high risk, aggravated risk, and low risk.

While Neustar supports predictability for applicants, we are concerned that these recommendations raise more questions than they answer. Specifically:

- [How would risk be measured?](#)
- [What level of risk would determine which category a TLD falls into?](#)
- [Who would make such a determination?](#)

Preliminary Recommendation	
2.7.8.c.9	Low risk strings would start controlled interruption as soon as such finding is reached, recommended to be done by ICANN org for a minimum period of 90 days (but likely more considering the typical timeline for evaluation, contracting and delegation).

While Neustar supports the Registry Operator being able to commence controlled interruption as soon as possible, we do not support the recommendation that ICANN carry out controlled interruption, or that the period of controlled interruption should necessarily exceed 90 days.

Question	
2.7.8.e.1	Is there a dependency between the findings from this Working Group and the Name Collisions Analysis Project (NCAP)? If there is, how should the PDP Working Group and NCAP Work Party collaborate in order to move forward? Or, should the PDP Working Group defer all name collision recommendations to NCAP?
2.7.8.e.2	In the event that the NCAP work is not completed prior to the next application round, should the default be that the same name collision mitigation frameworks in place today be applied to those TLDs approved for the next round?

Neustar supports the name collision mitigation frameworks currently in place, and does not consider that the next application round should be delayed based on the NCAP and as such support the default that the same name collision mitigation frameworks in place today being applied for subsequent rounds.

Question	
2.7.8.e.3	The Work Track generally agreed to keep the controlled interruption period at 90 days due to lack of consensus in changing it. Some evidence indicated a 60-day period would be enough. Though no evidence was provided to require a longer period, other Work Track members argued for a longer 120 days. What length do you suggest and why? Note that the preliminary recommendation to have ICANN org conduct CI as early as possible would likely mitigate potential delays to applicants in launching their TLD. Are there concerns with ICANN org being responsible for CI?

Neustar does not support the imposition of a longer consider controlled interruption period; we consider 90 days to be the upper limit for an acceptable minimum period for controlled interruption.

Question	
2.7.8.e.5	If ICANN were initially required to initially delegate strings to its own controlled interruption platform and then later delegate the TLD to the registry, would that unreasonably increase the changes to the root zone?

Controlled interruption should be performed by the Registry Operator to ensure all issues are visible to the Registry and can be resolved by the Registry Operator as appropriate. Neustar does not support the recommendation that ICANN carry out controlled interruption.

2.8.1 Objections

Preliminary Recommendation	
2.8.1.c.1	A transparent process for ensuring that panelists, evaluators, and Independent Objectors are free from conflicts of interest must be developed as a supplement to the existing Code of Conduct Guidelines for Panelists and Conflict of Interest Guidelines for Panelists.
2.8.1.c.2	For all types of objections, the parties to a proceeding should be given the opportunity to agree upon a single panelist or a three-person panel - bearing the costs accordingly.
2.8.1.c.3	ICANN must publish, for each type of objection, all supplemental rules as well as all criteria to be used by panelists for the filing of, response to, and evaluation of each objection. Such guidance for decision making by panelists must be more detailed than what was available prior to the 2012 round.
2.8.1.c.4	Extension of the “quick look” mechanism, which currently applies to only the Limited Public Interest Objection, to all objection types. The “quick look” is designed to identify and eliminate frivolous and/or abusive objections.
2.8.1.c.5	Provide applicants with the opportunity to amend an application or add Public Interest Commitments in response to concerns raised in an objection.

Option	
2.8.1.d.1	GAC Advice must include clearly articulated rationale, including the national or international law upon which it is based.
2.8.1.d.2	Future GAC Advice, and Board action thereupon, for categories of gTLDs should be issued prior to the finalization of the next Applicant Guidebook. Any GAC Advice issued after the application period has begun must apply to individual strings only, based on the merits and details of the application, not on groups or classes of applications.
2.8.1.d.3	Individual governments should not be allowed to use the GAC Advice mechanism absent full consensus support by the GAC. The objecting government should instead file a string objection utilizing the existing ICANN procedures (Community Objections/String Confusion Objections/Legal Rights Objections/Limited Public Interest Objections).
2.8.1.d.4	The application process should define a specific time period during which GAC Early Warnings can be issued and require that the government(s) issuing such warning(s) include both a written rationale/basis and specific action requested of the applicant. The applicant should have an opportunity to engage in direct dialogue in response to such warning and amend the application during a specified time period. Another option might be the inclusion of Public Interest Commitments (PICs) to address any outstanding concerns about the application.

Neustar supports these Preliminary Recommendations.

Question	
2.8.1.e.5	Role of the Independent Objector: In the 2012 round, the IO was permitted to file an objection to an application where an objection had already been filed on the same ground only in extraordinary circumstances. Should this extraordinary circumstances exception remain? If so, why and what constitutes extraordinary circumstances?

Neustar supports removing the "extraordinary circumstances" exception.

Question	
2.8.1.e.14	Community Objections: Many Work Track members and commenters believe that the costs involved in filing Community Objections were unpredictable and too high. What can be done to lower the fees and make them more predictable while at the same time ensuring that the evaluations are both fair and comprehensive?

Predictability and transparency in costs should be supported by ensuring fees are clear and communicated to participants up front.

Question	
2.8.1.e.15	Community Objections: In the Work Track, there was a proposal to allow those filing a Community Objection to specify Public Interest Commitments (PICs) they want to apply to the string. If the objector prevails, these PICs become mandatory for any applicant that wins the contention set. What is your view of this proposal?

If an objector identifies PICs that they believe could be applied to the TLD to resolve the objection, the parties should resolve the issue cooperatively.

We echo the RySG in cautioning against giving a Panel authority to impose remedies beyond that of the decision.

Question	
2.8.1.e.16	String Confusion Objections: The RySG put forward a proposal to allow a single String Confusion Objection to be filed against all applicants for a particular string, rather than requiring a unique objection to be filed against each application. Under the proposal: <ul style="list-style-type: none"> ▪ An objector could file a single objection that would extend to all applications for an identical string. ▪ Given that an objection that encompassed several applications would still require greater work to process and review, the string confusion panel could introduce a tiered pricing structure for these sets. Each applicant for that identical string would still prepare a response to the objection. ▪ The same panel would review all documentation associated with the objection. Each response would be reviewed on its own merits to determine whether it was confusingly similar.

	<ul style="list-style-type: none"> The panel would issue a single determination that identified which applications would be in contention. Any outcome that resulted in an indirect contention would be explained as part of the response. <p>Do you support this proposal? Why or why not? Would this approach be an effective way to reduce the risk of inconsistent outcomes?</p>
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Neustar supports this proposal, to improve efficiency and cost-effectiveness in the objection process.

2.8.2 Accountability Mechanisms

Preliminary Recommendation	
2.8.2.c.3	Post-delegation dispute resolution procedures: The parties to a proceeding should be given the opportunity to agree upon a single panelist or a three-person panel - bearing the costs accordingly.
2.8.2.c.4	Post-delegation dispute resolution procedures: Clearer, more detailed, and better-defined guidance on scope and adjudication process of proceedings and the role of all parties must be available to participants and panelists prior to the initiation of any post-delegation dispute resolution procedures.

Neustar supports these Preliminary Recommendations.

2.10.1 Base Registry Agreement

Preliminary Recommendation	
2.10.1.c.1	Work Track 2 continues to support the original policy recommendations and implementation guidelines upon which the 2012 round was based. However, a clearer, structured, and efficient method for obtaining exemptions to certain requirements of the RA, which allows ICANN to consider unique aspects of registry operators, TLD strings, as well as the ability to accommodate a rapidly changing marketplace is needed.

Neustar supports this Preliminary Recommendation.

Question	
2.10.1.e.1	<p>If ICANN were to have a “clearer, structured, and efficient methods for obtaining exemptions to certain requirements of the RA,” how can such a process be structured to consider unique aspects of registry operators and TLD strings, while at the same time balancing ICANN’s commitment to registry operators that it treat each registry operator equitably?</p> <p>2.10.1.e.1.1: At a high level, there was a suggestion that for exemptions or exceptions, the proposer could provide the specific problematic provisions, the underlying policy justifications for those provisions, and the reasons why the relief is not contrary to those justifications. Does this seem like a reasonable approach? Why or why not?</p>

This would require the proposed to know what the underlying policy justifications for any given part of the Registry Agreement are. Unless ICANN is providing this in a clear concise way as part of the mechanisms for considering exemptions, it isn't realistic to expect any given applicant to know that.

2.10.2 Registrar Non-Discrimination / Registry/Registrar Standardization

Preliminary Recommendation	
2.10.2.c.1	Recommendation 19 should be revised to be made current with the current environment: Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars, unless an exemption to the Registry Code of Conduct is granted.

Neustar supports this Preliminary Recommendation.

2.11.1 Registry System Testing

Preliminary Recommendation	
2.11.1.c.4	Limit Internationalized Domain Name (IDN) testing to specific TLD policies; do not perform an IDN table review in Registry System Testing.

Neustar strongly supports this Preliminary Recommendation.

Preliminary Recommendation	
2.11.1.c.6	<p>Possible language: “Applicants must be able demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out, either by submitting it to evaluation at application time or agreeing to use a previously approved* technical infrastructure.”</p> <p>* Could mean in the same procedure or previous procedures if an RSP program exists.</p>

Neustar supports this Preliminary Recommendation.

2.12.1 TLD Rollout

Preliminary Recommendation	
2.12.1.c.1	The ICANN organization should be responsible for meeting specific deadlines in the contracting and delegation processes.
2.12.1.c.2	Work Track 2 supports the timeframes set forth in the Applicant Guidebook and the base Registry Agreement; namely (i) that successful applicants continue to have nine (9) months following the date of being notified that it successfully completed the evaluation process to enter into a Registry Agreement, and (ii) that Registry Operators must complete all testing procedures for delegation of the TLD into the root zone within twelve (12) months of the Effective Date of the Registry Agreement. In addition, extensions to those timeframes should continue to be available according to the same terms and conditions as they were allowed during the 2012 round.
Question	
2.12.1.e.1	One of the reasons the delegation deadline was put into place was to prevent the incidence of squatting/warehousing. Is this reason still applicable and/or relevant? Are other measures needed? If so, what measures and how will these measures address the issue?
2.12.1.e.2	For the 2012 round, registry operators were required to complete the delegation process within twelve (12) months from the Effective Date of the Agreement. This was the only requirement regarding use of the TLD. Other than delegation (which includes the maintenance of a required NIC.TLD page and a WHOIS.NIC.TLD page), no other use of a TLD is required. Is the definition of use of a TLD from the 2012 round still appropriate or are adjustments needed? If you believe that adjustments are needed, what adjustments are necessary and why?

2.12.3 Contractual Compliance

Preliminary Recommendation	
2.12.3.c.1:	The Work Track believes that the foundational elements of the Contractual Compliance program put into place by ICANN as well as the relevant provisions in the base Registry Agreement have satisfied the requirements set forth in Recommendation 17. That said, members of the Work Track believe that ICANN’s Contractual Compliance department should publish more detailed data on the activities of the department and the nature of the complaints handled.

Neustar supports the recommendation to improve the transparency of ICANN Contractual Compliance, without publishing data or reporting that identifies any specific party(ies) subject to compliance action.

Question	
2.12.3.e.1	The Work Track noted that with the exception of a generic representation and warranty in Section 1.3(a)(i) of the Registry Agreement, Specification 12 (for Communities) and voluntary Public Interest Commitments in Specification 11 of the Registry Agreement (if any), there were no mechanisms in place to specifically include other application statements made by Registry Operators in their applications for the TLDs. Should other statements, such as representations and/or commitments, made by applicants be included in the Registry Operator's Agreements? If so, please explain why you think these statements should be included? Would adherence to such statements be enforced by ICANN Contractual Compliance?

Neustar cautions against any specific or compulsory inclusion of statements made during the application process; we note that innovation and business development require flexibility and this should not be unduly limited by restricting Registry Operators to outdated operational plans.

Question	
2.12.3.e.2	A concern was raised in the CC2 comment from INTA about operational practices, specifically, "arbitrary and abusive pricing for premium domains targeting trademarks; use of reserved names to circumvent Sunrise; and operating launch programs that differed materially from what was approved by ICANN." What evidence is there to support this assertion? If this was happening, what are some proposed mechanisms for addressing these issues? How will the proposed mechanisms effectively address these issues?

Neustar is not aware of any evidence that would support the assertion that these operational practices are being implemented. We would consider that in the absence of any empirical data on such practices, implementing mechanisms to address this would be creating a solution in search of a problem.

We welcome the opportunity to discuss any of these comments further.

Donna Austin
Senior Policy Manager
Neustar Inc.