Registrar Stakeholder Group (RrSG) response to the Initial Report on the new gTLD Subsequent Procedures Policy Development Process (Overarching Issues & Work Tracks 1-4)

The Registrar Stakeholder Group (RrSG) would like to thank the New gTLD Subsequent Procedures Working Group (WG) and supporting ICANN staff for the considerable work involved in preparing the Initial Report.

Due to the density of the report and numerous questions, the RrSG will comment on specific topics and/or questions. However, it should be noted that the RrSG is generally satisfied with the WG's preliminary recommendations/implementation guidelines set forth in the Initial Report.

Clarity of Application Process (2.2.2)

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?

At present, it doesn't appear that ICANN is properly structured to efficiently handle a new application round with a larger scale of TLDs. Careful design of subsequent program along with a restructuring of ICANN staff appear to be necessary. Ideally, once restructured, the program would remain open all the time. Ultimately, this would smoothen the workload of ICANN.

Applications Assessed in Rounds (2.2.3)

2.2.3.e.1: Of the models described above, which model do you believe should be employed, if any? Please explain.

While an excruciating amount of definition is yet to be done, in line with 2.2.3.d.1, the RrSG believes that moving forward with one additional round of Applications followed immediately by Open, FCFS Registration of TLDs should be supported. That said, until a reliable, robust and fair FCFS model can be defined, Application Rounds should continue to be the preferred method of allocation for all Categories of TLDs.

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?).

While understanding the potential demand for additional new TLDs and the categories in which the TLDs would apply is beneficial for scaling operationally, the RrSG does not believe that an Expression of Interest process would produce meaningful results and would potentially introduce complications regarding confidentiality of data to avoid frontrunning, etc.

Different TLD Types (2.2.4)

2.2.4.e.1: The Working Group did not reach agreement on adding any additional categories of gTLDs. What would be the benefit of adding a further category/further categories? Should additional categories of TLDs be established and if so, what categories? Why or why not?

The benefit of adding additional Categories (or converting existing combinations of Categories with specific Specifications applied into defined Categories) would be greater clarity on TLD attribute definitions and efficiencies in Application processing and implementation. Additional Categories should be established (e.g., Brand TLDs to encapsulate current Specification 13 Brand TLDs, etc.), with potentially ascribing Application requirement characteristics on a per Category basis (e.g., "Generics" only in rounds, Brand TLDs as FCFS, etc.).

2.2.4.e.2: To the extent that you believe additional categories should be created, how would applications for those TLDs be treated differently from a standard TLD throughout the application process, evaluation process, string contention process, contracting, post- delegation, etc.

This new category of Brand TLD closed to the public could be reviewed on a fast track. However, if the Trademark on which the application is based isn't renown on a worldwide basis or is objected to, then the application should have to follow the regular application process.

Application Submission Limits (2.2.5)

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.

The RrSG supports no limitations for either total number of applications or from any particular entity.

Accreditation Programs (Registry Service Provider Pre- Approval) (2.2.6)

The RrSG agrees that an "accreditation" program is not desirable. The RrSG understands the need for a RSP "pre-approval process" and wanting to improve launch efficiencies. We believe, however, that when the new Pre-Approval process is developed, it should take into consideration interoperability with ICANN-accredited registrars, including operational efficiencies and constraints. For example, when the backend for an existing TLD changes, costs and overhead are incurred by each Registrar that provides registration/support for the TLD. We therefore would appreciate additional standardization of certain operational requirements.

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?

Yes, the pre-approval process should take into consideration the number and type of TLD the RSP intends to support. While the RrSG agrees that a RSP supporting 50 new gTLDS shouldn't have to go through a repetitive process for each, it is important to take into consideration and address characteristics of individual new gTLDs. Testing needs to be emphasized; use requirements must be addressed, and standardization between backends is needed. Additionally, if an RSP is planning to support a significant increase in TLDs, that should be reviewed.

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?

Yes, periodic reassessment should occur and be tied to the type/characteristic of gTLDs offered to ensure technical requirements for the TLD are being met.

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.

Again, it is important to take into consideration and address characteristics of individual new gTLDs being offered by the RSP. Testing needs to be emphasized; use requirements must be addressed, and standardization between backends is needed.

<u>Global Public Interest (PICs) (2.3.2)</u>

The RrSG is concerned that PICs created a cycle of comments needing to be inserted into application and then applicant needing to comment, which on the surface is not problematic. What is a problem, is that it appears to create a means to delay an application forever or until the applicant simply quits.

We are concerned that the PIC process as implemented in the 2012 round has created another means to "game the system." Therefore, an Applicant must have a means to get out of the PIC process, possibly via arbitration or a mediation process for the applicant (a PIC arbitration panel or something similar.)

<u>Applicant Freedom of Expression (2.3.3)</u>

2.3.3.e.2: When considering Legal Rights Objections, what are some concrete guidelines that can be provided to dispute resolution service providers to consider "fair use," "parody," and other forms of freedom of expression rights in its evaluation as to whether an applied for string infringes on the legal rights of others?

Case law shouldn't be limited to Common Law. Resolution service providers should take a broader look.

2.3.3.e.3: In the evaluation of a string, what criteria can ICANN and/or its evaluators apply to ensure that the refusal of the delegation of a particular string will not infringe an applicant's freedom of expression rights?

Freedom of speech ceases where the rights of others are infringed upon. This evaluation must be made the other way around.

Universal Acceptance (2.3.4)

Work Track 4 is not proposing any additional work beyond that being done by the Universal Acceptance Initiative and the Universal Acceptance Steering Group. Do you believe any additional work needs to be undertaken by the community?

ICANN should invest heavily on educating online services providers about new TLDs. Most of the new strings are still not recognized as valid extensions. Awareness is key, the time for theoretical analysis has passed, ICANN needs to be pragmatic.

Communications (2.4.2)

2.4.2.e.3: If ICANN were to launch new application windows in regular, predictable windows, would a communications period prior to the launch of each window be necessary? If so, would each communications period need to be the same length? Or if the application windows are truly predictable, could those communication periods be shorter for the subsequent windows?

If a window/rounds approach is the way, then shorter periods between them are recommended. That said, we believe that it is important to begin to communicate about the next round sooner rather than later. In addition, we see no reason that communication regarding a subsequent round would need to wait until after the completion of the then-current round (I.e., they can be run in parallel).

Systems 2.4.3

It may be helpful to have updates/feedback provided during specific sections of the application process. Meaning updates would be specific to a specific section of the application or indicate to the Applicant completion of a section, for example, finance. It would be particularly helpful if reviewers were able to interact with applicants regarding their application status.

Application Fees (2.5.1)

While some registrars have indicated a preference for keeping the fees high or at its current level to maintain value in the process. Others believe the current process of having the application fees represent the true costs of the new gTLD Program should apply.

There is also concern that if the costs of that program drops too low, that may undervalue a registry value in the registration process and its criticality in the ecosystem. Therefore, we would support a "floor" below which an application fee must not drop. The determination of that floor should not be arbitrarily set at the amount of the 2012 round fees, but rather be based on economic analysis to determine the price point at which TLD speculation would occur.

2.5.1.e.1: To the extent that warehousing/squatting of TLDs has taken place and may occur in the future, what other restrictions/methodologies, beyond pricing, might prevent such behavior?

Consider having applicants commit to make use of their TLDs within a given period. Potentially have lack of use be a valid reason for revocation of the TLD upon challenge by a 3rd party. Providing this obligation would not apply to brand TLDs.

Application Submission Period (2.5.3)

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

It depends on the prior notice length and the complexity of the Application process.

Applicant Support (2.5.4)

The RrSG would like to better understand how the Applicant Support Program is funded, or more specifically, where the money comes from for the reduced fee?

Application Queuing (2.6.1)

General statement regarding application queuing:

The RrSG encourages ICANN org to take steps to ensure that any necessary review processes are conducted in parallel with the next window/application process. The application process must be allowed to move forward without putting everything on hold to do an assessment.

On the topic of randomized draw, any Applicant with an application in a contention set should not be permitted to reassign a draw number to that contention set application.

Additionally, where a parent company has multiple companies in play during a draw, assignment of numbers between affiliated companies should not be permissible.

2.6.1.e.1: If there is a first-come, first-served process used after the next application window, how could ICANN implement such a process?

The RrSG believes ICANN should transition to first-come, first-served by allowing Spec. 13 Brands to proceed on this basis immediately. Spec. 13 Brands should not need to wait for rounds and this would allow ICANN staff to initiate the shift to a first-come, first-serve process more seamlessly after the next application window. Ultimately, the best way to achieve first-come, first-served is by allowing the application window to remain open.

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)?

The RrSG does not believe that IDNs should get priority in the next round.

2.6.1.e.3: If ICANN is unable to obtain a license to randomize the processing order of applications, what are some other mechanisms that ICANN could adopt to process applications (other than through a first-come, first-served process)?

The RrSG encourages ICANN to utilize or create a randomized system that excludes the “show” that accompanied the last drawing. The additional cost associated with the pomp and circumstance is unnecessary and unwarranted.

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.

Yes, see above regarding an actual Brand TLD category. Rather than giving certain applications “priority” access to ICANN resources, perhaps the concept of multiple parallel tracks of applications should be considered. In which case, some tracks may have fewer encumbrances and would therefore move through the process with greater efficiency (e.g. Brands in a FCFS track, others in a Round).

<u>Reserve Names (2.7.1)</u>

General concerns regarding reservations at the second level:

Reserving a country code seem unnecessary. The more you reserve, the more you hamper innovation.

The RrSG believes that all reserved names should be set forth in a list submitted to ICANN and posted on ICANN's Website along with its required Start Up plan. Changes to the list should not be allowed in the middle of a launch process (eg., Sunrise). This could be seen as a form of Registry Front Running and is not in the best interests of the community or our customers

2.7.1.e.2: If there are no technical obstacles to the use of 2-character strings at the top level consisting of one letter and one digit (or digits more generally), should the reservation of those strings be removed? Why or why not? Do you believe that any additional analysis is needed to ensure that these types of strings will not pose harm or risk to security and stability? Please explain.

Yes, it should be removed. Why would there be a distinction if the technical, obstacle doesn't exist? No additional analysis is needed.

2.7.1.e.3: 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.

The problem is that this isn't happening. In many cases, the rights to the name are being sold direct to a customer with an expectation that the registrar will help manage/resolve the domain. This is counter to the allocation of domain names via the registrar (Spec 9).

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?

This depends on how/if they are going to sell the domains. Without a reasonable limit on the number of reserved domains (for example, 10,000) you will essentially create a closed TLD.

If the registry operator is going to reserve an excessive number of domains, those must/should be disclosed to registrars prior to them signing a contract to offer the TLD as the size of the reserved list could be detrimental to the registrar ability to offer the TLD. Further, when those names are un-reserved, they should be allocated through the registrar channel and not directly to end-customers by the Registries.

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.

In case of Brand TLDs not offered to the public, registries should be allowed to reserve as many domains as they want. Limitations should be weighed against the impact of the community due to such reservations (e.g., reservation of names within Brand TLDs would have limited impact on the adjacent community, whereby reservations in community-based TLDs could materially impact the community that it's intended to serve.)

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.

At this point in time, registries have not developed an efficient mechanism that would allow for reserved names to utilize a Sunrise Process when those names are released. If ICANN determines that a Sunrise process is necessary for names released from a reserve names list, we should discuss mechanisms which would make this process commercially feasible. If a mechanism cannot be developed then a Sunrise Process for these names should not be required.

2.7.1.e.4: Some in the community object to 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. Is additional work needed in this regard?

No. The RrSG discourages any additional work in this regard. While we appreciate confusable similarity in the context of IDNs, this appears to be overreach by the GAC. There are issues with IDNs about confusability and variance and mixing of scripts, and there are limitations in place to try to prevent this type of confusability, in that context. Here, however, it appears you are trying to extend that context into a single script and that is overreach, for example, the zero (0) and the O.

Registrant Protections (2.7.2)

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?

No, there should not be exemptions. The RrSG is concerned exemptions would open the door to gaming/abuse. If exemptions were permitted, it should only be on a case by case basis.

Closed Generics (2.7.3)

The majority of registrars who provided feedback did not support Closed Generics and did not believe they should be permitted. However, a few registrars that provided feedback felt Closed Generics could be allowed if they demonstrate that the use of such a Closed Generic would provide a tangible benefit to end users and provided tightly bound restrictions.

String Similarity (2.7.4)

2.7.4.c.1: 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.

The RrSG is supportive of this recommendation.

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.

Not all registrars who provided input agreed with this recommendation. Some felt it should be permissible to allow a subsequent application to be submitted in case the first application was denied or withdrawn. Others were opposed to this idea and felt it created too much risk and uncertainty within the application process.

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.

The RrSG does not believe they should be included. Where the TLDs are highly regulated there would be sufficient differences. This is more of a business decision. Synonyms can mean "nearly the same as another word" and the difference between the two can make important relevance issues across differing markets.

<u>**IDNs (2.7.5)**</u>

2.7.5.e.2: Should the policy of bundling second-level domains across variant TLDs be unified for all future new gTLDs or could it be TLD-specific? If unified, should it be prescribed in the Working Group final report or chosen at implementation? If TLD-specific, could it be any policy that adequately protects registrants, or would it need to be chosen from a menu of possible bundling implementations? Currently known bundling strategies274 include PIR's .ong/.ngo, Chinese Domain Name Consortium guidance and Latin-script supporting ccTLDs such as .br and .ca.

The RrSG welcomes standardization but is concerned that this could limit creativity/innovation and creates a "moving target" that will likely need to be modified, if adopted. It may be better to leave this up to the TLD operator.

<u>**Security and Stability (2.7.6)**</u>

2.7.6.e.2: The SSAC strongly discourages allowing emoji in domain names at any level and the Work Track is supportive of this position. Do you have any views on this issue?

The RrSG strongly discourages emojis.

Applicant Reviews (2.7.7)

2.7.7.c.7: For Technical and Operational Evaluation: Do not require a full IT/Operations security policy from applicants.

The RrSG believes technical and operations evaluations should still be required, especially for applicants that are using an RSP to support dozens of TLDs.

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?

Some of the registrars that provided feedback did not believe ICANN should engage in such activities due to liability issues. Others believe it possible to produce a list in a manner to reduce potential liability for ICANN by ensuring the list does not serve as an endorsement of any particular registry or registrar practices. Given the concern regarding ICANN creating a list of vendors and associated liability, one solution could be to allow individuals who are interested in assisting to reach out to applicants requesting assistance.

2.7.7.e.9: Are there any other registry services that should be considered as "pre-approved"? This could include services suchs 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.

Pre-approving registry services is a good concept for the launch of TLDs. Allowing existing registries to expand their registry services without allowing for a comment period could result in stability or security issues and lead to registrars spending significant time migrating domain lifecycles for existing registrations (unless the registry services were truly optional).

All services must be reviewed, perhaps not as thoroughly as new services, but they must be reviewed. An additional service which may be beneficial would be having the sync function allowed on new gTLDs. This could assist registrars with driving gTLDs to implementation once the TLD is implemented.

2.7.7.e.10: There are some who took the proposed registry services language as changing the 2012 implementation of asking for disclosure of services versus disclosure being required, while others argued it does not, keeping this aspect unchanged. Do you agree with one of those interpretations of the recommendation continued in (c) above? Please explain and, to the extent possible, please provide alternative wording.

While registrars are not required to implement all registry services, it would be good to know what services are planned in order to determine if the TLD is worthwhile implementing. Registry Services not

being exposed prior to approval could be beneficial to protect proprietary business plans but should be required to undergo the RSEP process. For those services that are not disclosed, true rigor should be applied when reviewing them to ensure that the integrity of the approved application is maintained and that competition is not compromised.

Name Collisions (2.7.8)

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.

The RrSG notes that any list would need to be actively managed to not only add names but also remove names if/when appropriate. Creation of such a list should have a solid process around it and complete transparency. Additionally, there would need to be a regular review process (e.g., annual, bi-annual, etc.) to evaluate the removal of names from the list.

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?

Yes.

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?

The RrSG is supportive of maintaining the 90-day period. Alternatively, ICANN could look at the historical data from prior launches and graph the instances of name collisions in the root, and however many days out instances of new collisions are seen dropping to a negligible amount, select that as the duration for the CI.

Objections (2.8.1)

2.8.1.e.10: ICANN agreed to fund any objections filed by the ALAC in the 2012 round. Should this continue to be the case moving forward? Please explain. If this does continue, should any limits be placed on such funding, and if so what limits? Should ICANN continue to fund the ALAC or any party to file objections on behalf of others?

The RrSG would like to see limitation on objections and funding, if allowed to continue. ICANN should not fund the ALAC, or any party to file objections on behalf of others, where the objection fails. This will help curtail abuse or frivolous objections.

2.8.1.e.11: Should applicants have the opportunity to take remediation measures in response to objections about the application under certain circumstances? If so, under what circumstances? Should this apply to all types of objections or only certain types?

The RrSG believes it is logical to allow the applicant the opportunity to respond to and remediate objections.

2.8.1.e.17: String Confusion Objections: Some Work Track members have proposed that there should be grounds for a String Confusion Objection if an applied-for string is an exact translation of existing string that is in a highly regulated sector, and the applied-for string would not employ the same safeguards as the existing string. Do you support this proposal? Please explain.

The RrSG does not support this proposal. This should be a business decision by the applicant and the string should be evaluated on its own merits.

Community Applications (2.9.1)

2.9.1.e.5: In the 2012 new gTLD round, it was determined that community-based applications should have preference over non-community-based applications for the same string. Some have argued that this preference should continue, others have claimed that this preference is no longer needed. Should the New gTLD Program continue to incorporate the general concept of preferential treatment for "community applications" going forward? Is the concept of awarding priority for community-based applications feasible, given that winners and losers are created?

The notion of "community" is quite fuzzy and should not be kept. Communities should not be given priority in regards to having their gTLDs delegated before other applications. They should be given a voice through objections, but not a preemptive right.

Base Registry Agreement (2.10.1)

2.10.1.e.1: 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?

At a minimum, all SLA metrics should be equal.

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?

As long as an actual review of the request is undergone, this approach seems reasonable. Deviances from the stock RA should be negotiable prior to launch as long as the community has a review period to evaluate. Many of the constraints in the RA are to the benefit of the Registrant and the channel but can be perceived as being to the detriment of the Registry. Erring on the side of the benefit to the registrants and the industry channels needs to take precedence.

The Public Interest Commitment (PIC) Standing Panel Evaluation Report dated March 17, 2017 in the case of Adobe Systems Incorporated et al. v. Top Level Spectrum, Inc., d/b/a/ Fegistry, LLC et al., states the following:

Second, the Panel notes that PIC (3)(a) of Specification 11 imposes no obligation on Respondent as the Registry Operator itself to avoid fraudulent and deceptive practices. Third, the Panel finds that Respondent's Registry Operator Agreement contains no covenant by the Respondent to not engage in fraudulent and deceptive practices.

2.10.1.e.2: Should this Work Track recommend that ICANN include a covenant in the RA that the registry operator not engage in fraudulent and deceptive practices? Please explain.

This would make sense to have the same requirements for the whole chain.

Registrar Non-Discrimination & Registry/Registrar Standardization (2.10.2)

2.10.2.e.1: In response to feedback from CC2, Work Track 2 members have suggested that .Brand registries as well as any registry operator granted an exemption from the Code of Conduct (as set forth in Specification 9 of the Registry Agreement), should not only be able to limit the number of registrars that they have to use, but should also have the ability to receive a complete exemption from using any ICANN-accredited registrars at all in the operation of their TLD by making them equally exempt from section 2.9 of the Registry Agreement. In connection with the above proposal, the Work Track is soliciting feedback on the following:

2.10.2.e.1.1: Should a complete exemption be available to these registries? Please explain.

Generally no. Only where the Brand is the registrant, tech, admin and billing contact for all domains and the domain is not allocated for the use by any third party, should it be possible for the registry to not use a registrar.

2.10.2.e.1.2: If complete exemptions are granted, are there any obligations that should be imposed on .Brand registries to ensure that any obligations or registrant protections normally found in Registrar

Accreditation Agreements that should be included in .Brand Registry Agreements if they elect to not use any ICANN-accredited registrars?

Generally yes. But, assuming the Brand Owner is the registrant, admin, technical and billing contact and the sole beneficial user for all domains in its TLD, this question would not apply. Registry Operators of exempt TLDs must not allow third-parties to manage DNS at any level or otherwise control resolution for the SLDs. Essentially, ICANN must be aggressive in its management of TLDs to ensure that TLDs cannot be run as "effectively closed" TLDs.

2.10.2.e.1.3: Work Track members have suggested that input from the Registrars Stakeholder Group as well as the Brand Registry Group on this topic, would benefit further deliberations and any final recommendations. The Work Track makes note that feedback from all parties will be fully considered and contribute to further developments.

See above.

2.10.2.e.2: Are there any other additional situations where exemptions to the Code of Conduct should be available?

No.

2.10.2.e.3: There are provisions in the Registrar Stakeholder Group Charter that some feel disfavor those who have been granted exemptions to the Code of Conduct. In the preliminary recommendation above, would it be better to phrase it as, "unless the Registry Code of Conduct does not apply" rather than, "unless an exemption to the Registry Code of Conduct is granted"?

Exemptions should be requested, evaluated, and allowed/denied through community processes and with complete transparency. The RrSG Charter has been recently revised and this issue may no longer apply.

<u>**TLD Rollout (2.12.1)**</u>

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?

It should be added that generally registration of domain names by the public have to be possible for a TLD to be considered as in use. However, this may not be true in all instances, such as Brand TLDs. Additionally, TLD-squatting should be prevented, but allowing entities access to a TLD, either in rounds or in FCFS, might mean that the entity needs time to get the remainder of the business off the ground.

The RrSG is not in favor of requiring a TLD to have registrations within 12 months for the Registry Operator to retain the license to the TLD. We would suggest considering an increase to the time-to-first-registration (other than NIC.TLD and WHOIS.NIC.TLD) to 5 years for non-exempt TLDs.