Annex A - Work Track Subjects

Work Track 1 - Overall Process, Support, and Outreach

1.1 (Registry Service Provider) Accreditation Programs (Wiki page: https://community.icann.org/x/KT2AAw)

Context: GNSO Recommendation 7 stated, "Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out." To support this policy recommendation the Applicant Guidebook contained a number of technical and operational questions (24 – 44) designed to help ICANN evaluate the ability of the applicant to operate a Top-Level Domain (TLD) registry.

Through the evaluation process, it became evident that the answers to the technical questions supplied by the applicants were prepared by a small number of Registry Service Providers (RSP) (ICANN estimated in their Program Implementation Review that 90% of the 1,930 applications received use one of 13 technical infrastructures). Despite the answers being identical, ICANN was required to evaluate each application individually. On passing the theoretical evaluation, each registry operator was required to undertake Pre-Delegation Testing (PDT), resulting in a small group of RSPs being required to repeatedly undertake the same test for each registry operation.

The working group believes that this is an area where a number of process efficiencies could be gained by providing the applicant with a number of options to respond to the technical component of the application including the ability to select from a list of pre-approved (or accredited) RSPs. This approach would also provide applicants with a level of comfort in their choice of RSP and may also enhance the security and stability of the Domain Name System (DNS) by requiring minimum standards for redundancy, capacity, monitoring, reaction time to threats, reporting and statistical process controls. Pre-approvals could possibly enhance competition and choice in the RSP market and allow for increased diversity for new RSPs in developing areas that meet well-defined criteria to become an RSP and could allow for a more streamlined process for registries switching from one RSP to another. On the other hand, if the bar for approval was set too high, it could diminish competition and choice in the RSP market by creating approval/accreditation barriers to entry and favoring the current group of RSPs over new entrants. Some have also said that in setting minimum technical requirements, it creates a 'race to the bottom' in terms of technical capabilities.

As currently envisioned by the WG, such a program would be on a voluntary basis and would not preclude the approval of a Registry Operator's acting as its own RSP or the approval of additional new RSPs.
1.1.1 - Benefits and risks have been identified by the WG as provided above in the Context section. What additional benefits or risks do you see in implementing such a program? Are there other considerations that need to be considered?
The BRG supports the concept of a RSP program which can remove unnecessary duplication, improve predictability, streamline the process and reduce the time through post-application to delegation. However, the criteria must be set at the appropriate levels (which may differ across the different registry models) and administered in a manner which does not introduce risks to security and stability or create a barrier to new entrants or competition. For example, any RSP that has exceeded the emergency thresholds and the EBERO was initiated should be disqualified from any RSP program and be required to undergo full evaluation. **There would also be benefits beyond the application process, whereby a RSP program could streamline the process for assignment changes.**
1.1.2 - If an RSP program is established for new gTLDs, do you have any suggestions for some of the details or requirements of the program? For instance, how would the scalability of the RSP be measured across a variable numbers of registries?
ICANN should leverage the qualifying criteria and pre-delegation testing used in 2012 round, combined with the output of any subsequent reviews undertaken and lessons learnt. An understanding and appreciation of different models should also be considered to determine different thresholds that can be applied. For instance, new models that do not depend on selling or distributing domains to third parties may have lower thresholds applied, particularly where the domains are controlled by the registry operator and their affiliates. **As a single RSP grows in terms of the number of registries it supports and/or the result of significant growth within those registries, these aggregate changes should also trigger a re-assessment, as this may create additional risks, particularly as a single point of failure.**
1.1.3 - Who should be responsible for evaluating whether an RSP meets the requirements of the program?
ICANN should use the same provider for performing both the technical evaluation of a gTLD application and determining if aa RSP meets the program requirements.
1.1.4 - Should there be any continuing obligations for approved RSPs, such as high-level requirements for accreditation? Should the requirements be variable based on the types of TLDs the RSP intends to serve or other factors? Please explain.
As above (1.1.2) an understanding and appreciation of different models should also be considered to determine different thresholds to be applied. New models that do not depend on selling or distributing high volumes of second-level domains to third parties will have

less impact on capacity requirements and lower thresholds could be applied, particularly where the domains are controlled by the registry operator and their affiliates. **Consideration of scalability should be included on an ongoing basis, whereby the aggregate of the RSP operations may introduce risks that will not be identified against an individual registry operation the RSP supported. Reviews may also be prompted at the time of any significant change, such as the switching of significant or multiple registry operations to a specific RSP.**
1.1.5 - Should there be an Agreement between an RSP and ICANN? If so, what enforcement mechanisms should be made available to ICANN in the event that such an Agreement is breached?
The agreement should remain only between the Registry Operator and ICANN. However, the Registry Operator may authorise the RSP to engage with ICANN directly for certain technical issues. There may need to be a separate, limited agreement between the RSP and ICANN if the RSP wants to avail itself of this program, which would cover the ongoing eligibility requirements.
1.1.6 - What, if any, are the potential impacts (both positive and negative) of an RSP Program on ICANN-Accredited Registrars? If there are any negative impacts, what are ways in which those impacts can be mitigated?
The introduction of an RSP should not affect ICANN-Accredited Registrars in any way.
1.1.7 - Should there be a process to reassess RSPs on a periodic basis? If so, how often should an assessment be conducted and what would the process be for a re-approval?
Yes. This is particularly important for Registry Operators that will rely on the ongoing capabilities of an RSP that supports their registry but does not have the perspective that ICANN has when assessing the overall technical and scalable capabilities of an RSP supporting multiple registries. Consideration should also be given towards communicating the result of periodic reviews to all the Registry Operators that utilise the RSP, both in terms of assurance that the requirements continue to be met but particularly if any failings are identified that could impact the Registry Operators obligations towards ICANN.
1.1.8 - If there is an RSP Program, how far in advance should such a Program be launched prior to the opening of the next application window?
As soon as is practical, so that new applicants can be prepared at the earliest stage and incorporate into their business plans.
1.1.9 - Should there be an RSP application "cut-off" date to allow sufficient time for an RSP seeking approval to receive approval in order for their application to be approved before the opening of an application window?
No, an RSP application cut-off date is not necessary. However, the administrator of a RSP Program may wish to provide indications of timeframes to inform RSP candidates who may wish to target operational dates imposed by future application windows.
1.1.10 - If there is a list of pre-approved RSPs in any RSP Program, should there be a provision granted to organizations that act as an RSP to an existing delegated TLD? If yes, how would such a provision work? If not, could ICANN use an RSP's existing performance to satisfy any of the technical requirements and/or tests used in the approval process?

Yes. As per response to 1.1.7, this is important for existing Registry Operators that will rely on the ongoing capabilities of an RSP that supports their registry but does not have the perspective that ICANN has when assessing the overall technical and scalable capabilities of an RSP supporting multiple registries. Consideration should also be given towards communicating the result of periodic reviews to all the Registry Operators that utilise the RSP, both in terms of assurance that the requirements continue to be met but particularly if any failings are identified that could impact the Registry Operators obligations towards ICANN. RSPs that have exceeded the emergency thresholds for existing 'new gTLDs' and initiated EBERO should be excluded from the program.
1.1.11 - If an RSP program is established, how should it be funded? For instance, should registries pay into the program which will reduce related ICANN evaluation fees (and associated application fees)?
The RSP can be charged a fee. RSP's that operate high volumes of registries will benefit from scale, ICANN will benefit from lower impact on resources, applicants should benefit from lower application costs.

1.3 Clarity of Application Process (Wiki page: https://community.icann.org/x/JT2AAw)

1.3.1 - The WG noted that there were a number of changes to the gTLD program after the release of the Applicant Guidebook, including the processes for change requests, customer support, application prioritization, Registry Agreement, etc. Many applicants have stated that the changes impacted their TLD applications throughout the application process both before submission and after the applications were submitted resulting in confusion, additional work and overall dissatisfaction. For instance, the final version of the Applicant Guidebook was released in June of 2012, which was nearly half a year after the application submission period started. Another example would be the difficulty in reaching a common understanding on the requirements for procuring a Continuing Operations Instrument (COI). How should changes to the Applicant Guidebook and/or the new gTLD Program be handled in subsequent application windows?
The 2012 round was the first of its kind and presented many challenges both prior to and after the application window was opened. There was a higher than anticipated demand for new gTLD applications, which included different models of registries (dotBrands, highly-restricted, closed-generics, etc). The impact of this was significant in terms of following the application process, due to areas of the Applicant Guidebook having insufficient detail resulting in many challenges that were not predicted or had not been resolved prior to the launch of the new gTLD program. **It is important that ICANN and the community uses the experiences and the output of the many different reviews undertaken to adjust and refine the policies, application processes and, in turn, the Applicant Guidebook. This should help to remove or minimise any ambiguities, enhance predictability of the application process, and apply only relevant and reasoned restrictions and obligations on applicants. The Applicant Guidebook and associated policies should also be adapted to encourage new applicants and different operating models that were introduced in the 2012 round, to encourage innovation and user safeguards. Following this through will ensure that each future application window or process will face fewer exceptions and challenges.**

1.4 Application Fees (Wiki page: https://community.icann.org/x/LT2AAw)

1.4.1 - The application fee of $185,000 USD for the 2012 round of the New gTLD Program was established on the principle of breaking even whereby the program's total revenues are equal to all related expenses. In addition, the fee should ensure the program is fully funded and not subsidized by any other sources of revenue. Should another mechanism be considered? For example, cost plus reasonable return, fixed plus variable, volume discounts, or other?
The principle of cost recovery remains appropriate.
1.4.2 - Although the 2012 round is not complete, there is currently a surplus of fees collected relative to costs incurred. As such, do you believe that the principle of breaking even was implemented effectively? Do you believe $185,000 was a reasonable fee? Is it still a reasonable fee? Should the basic structure of the application fee (e.g., approximately one third of the fee was allocated for (i) the cost recovery of historical development costs, (ii) operations and (iii) legal and other contingencies) be reassessed or restructured? Is it too early to make this assessment? With the experience gained from the 2012 round, do you think that a break-even model can be more accurately implemented for future applications? Do you have suggestions on how to minimize any surpluses or shortfalls?
Costs estimated for the 2012 round were based on limited experience. In view of the high volume of applicants in 2012, the subsequent implementation of processes and systems, this experience should inform ICANN and provide a more accurate basis for estimating costs in the future. Given the current surplus in application fees, ICANN must justify any application fee above $185k.
1.4.3 - Should the concept of break-even be strictly adhered to or should other aspects be considered? Some WG members have noted concerns about the responsibility required to run a registry which could be negatively impacted by a fee that is "too low." Others have noted that the fee is potentially too high and could create barriers to entry in some underserved regions. As such, should there be a cost floor (minimum) or cost ceiling (maximum) threshold that the application fee should not go below/above despite costs estimates? If so, do you have suggestions in how the cost floor and ceiling amounts should be set?
The principle of cost recovery remains appropriate. As improvements and efficiencies are made, or additional processes/burdens are introduced, this should be reflected in the fees paid by applicants (i.e. costs could go up as well as down), although adjustments to fees should be reviewed periodically (e.g. every two years).
1.4.4 - If there is a price floor, how should the excess funds resulting from floor costs less the actual costs be justified? Conversely, how would shortages be recovered if the ceiling costs are below actual costs?
No response.
1.4.5 - Should the WG seek to establish more clarity in how the excess or deficiency of funds are utilized/recovered? If so, do you have any suggestions for establishing that clarity?
It is not clear why this would be a matter for the WG, rather than something that ICANN should provide as a matter of course, as part of their financial reporting to the applicants and the wider ICANN community. ICANN should use the experience of the last round to

improve their estimation of application costs. In terms of the excess fees from the 2012 round, ICANN should provide to the applicants the details of the excess amount collected from the application fees and a proposal for reimbursement or utilisation of those funds.

1.5 Variable Fees (Wiki page: https://community.icann.org/x/Oz2AAw)

1.5.1 - Should the New gTLD application fee vary depending on the type of application? For instance, open versus closed registries, multiple identical applications or other factors? The 2012 round had "one fee fits all," and there seems to be support within the WG for continuing that approach provided that the variance between the different types of applications is not significantly different - do you agree? If not, how much of a variance would be required in order to change your support for a one fee for any type of application approach?
The application fee should be the same for all applicants unless there is a significant variance of cost to process different types of applicants. This can only be determined if ICANN provides analysis of the costs per applicant (or average per type), including any fees set aside for potential legal fees. A variance of up to 10% ($18.5k) between costs of different types of applicant is tolerable but anything higher should trigger further discussion to explore tiered fees tied to applicant type. However, any subsequent change to the operating model should incur a fee to cover the difference where the model would have attracted a higher cost originally. **The cost analysis should also take into account the refund schedule and whether this accurately mapped to the costs incurred at the specified Program phases.**
1.5.2 - The WG believes costing information on the different types of applications should be attained and evaluated once the different types of applications are defined. What are the implications of having different costs by type of application and how could they impact future budgeting efforts? How could they impact competition and choice?
As per response to 1.5.1, analysis of the costs is needed before developing any proposals for fee differentiation. The fact that a substantial number of applicants are defined as dotBrands under Specification 13, it should be possible to extract the costing information for this model, rather than wait for other types to be defined. Fee differentiation would be a fair approach where substantial variations between types is identified but could encourage some applicants to apply for a type of registry that attracts the lowest fee only to change that model at a future date. However, as stated in 1.5.1, such changes should then incur fees to cover the difference and additional administrative fees to cover ICANN costs.
1.5.3 - Should the application fee be variable based on the volume of applications received from a single applicant? If so, how should the fee be adjusted and what are the potential impacts from doing so?
No. Each application will need to be assessed on an individual basis and whilst some efficiencies in the process could be realised in such a situation, there are other risks that this may introduce on an aggregate basis, particularly for the financial assessment, that ICANN will need to assess.

1.6 Application Submission Period (Wiki page: https://community.icann.org/x/Mz2AAw)

1.6.1 - One of the overarching questions in Community Comment 1 focused on whether applications should be accepted during defined windows of time (also known as "rounds"). If the WG determines that a system of rounds is the right approach, is three (3) months an appropriate length of time to accept applications? What considerations should be taken into account when determining the length of the application window?
Yes, 3 months is a reasonable application window, as long as ICANN provides reasonable notice (at least 2 months) before the application window opens. However, this would need to be on a regular and defined basis to provide predictability and assurance to potential applicants that wish to apply at a future date.
1.6.2 - If we have a few next 'rounds' followed by a continuous application process, how should the application submission period be handled in the lead-up rounds?
To provide predictability and help applicants plan more effectively, a timeline should be agreed. For example, an application window could be set to run annually (or more frequently) and the post-application-to-delegation steps can continue in parallel with any subsequent application window. This can continue until such a time if/when a continuous application process is adopted.
1.6.3 - Do you think the length of the submission period will impact Applicant Support and what factors do you think should be considered in determining an appropriate length of time?
The length of the submission period is unlikely to impact Applicant Support. What is more important is to raise the level of awareness and implement clear guidelines for any interested parties to follow, as far in advance of an application window opening.

1.7 Application Queuing (Wiki page: https://community.icann.org/x/MT2AAw)

1.7.1 – The WG believes that the process for establishing the evaluation processing order for applications should be similar to the prioritization draw from the 2012 round. This is, in fact contrary to the first submitted first processed/evaluated guidance provided in the 2007 Final Report. Do you agree that a process similar to the prioritization draw should be used in the future? If rounds are not used, would this method still be appropriate? Would a prioritization draw, or similar method, work for a continuous application period or would it be better to base processing/evaluation on order of receipt? 1.7.2 - Should certain subgroups of applicants/application types be prioritized over others? For instance, from the 2012 prioritization draw, IDNs were moved to the front of the queue for application processing. If you think IDNs or some other category of applications (e.g., Brands, communities, etc.) should be prioritized, do you have suggestions on how to determine the prioritization?

Consider grouping applications by common characteristics while establishing priority numbers, in order to increase processing efficiency. If there are more efficient processes that could be introduced by segregating type, we could see the application-to-delegation timeframe reduce, where absent of contention sets.

By way of example, consider the following aspects of the application process for a batch of dotBrand applications:

Financial Capability Evaluation - A dotBrand is not reliant on revenue from selling domains to maintain its core business, instead, it is budgeted item in support of its core business. The financial assessments were introduced to provide assurance that the business model used would be viable to support the registry in the short to medium term, and minimise the likelihood of failure that would have an adverse impact on its registrants. However, a dotBrand does not sell domains to third parties, rather, it is itself the registrant or registrations are limited to its own affiliates and TM licensees, so the risk of any adverse impact is minimal or non-existent, thus this protection is not necessary. Removing, or at least reducing the requirements for the financial review would reduce the time and resources needed for this type of applicant.

Continued Operations Instrument (COI) - A further example could be the COI. For a dotBrand which is itself the registrant or registrations are limited to its own affiliates and TM licensees, the risk of any adverse impact is minimal or non-existent. Therefore the purpose of the COI, as a protection for registrants is not required. Omitting this requirement for dotBrand applications reduces the processing time, as well as any ongoing administration of COIs at ICANN.

Background Screening – the background check procedures and criteria could also be improved for certain dotBrands that are publicly-listed companies, where it should be sufficient to list the same amount of detail for company directors as appears on corporate websites and company registration offices. A default of the registered office address or that of the Company Secretary should be provided for all directors. This would also contribute to a streamlined process for a batch of dotBrand applicants, without introducing any undue risks.

1.8 Systems (Wiki page: https://community.icann.org/x/Kz2AAw)

1.8.1 - The WG considers this subject to be mainly implementation focused, but nevertheless, has identified areas for improvement. For instance, security and stability should be improved, more robust user testing (e.g., potential applicants) should be incorporated, systems should be better integrated, adequate time for system development should be afforded, etc. Do you have suggestions on additional areas for improvement?

Agree, this is implementation focused and there should be a continual improvement program in place, based on the reviews and feedback from applicants.
1.8.2 - The WG also noted that ICANN should expand its system capabilities to include the ability to send invoices to organizations who require documentation in order to process payments for any fees related to their application. Do you agree that this would be beneficial?
Agree, enhanced system capabilities, including issuance of invoices for fees, will help to ease the burdens of the application process.

1.9 Communications (Wiki page: https://community.icann.org/x/Lz2AAw)

1.9.1 - The WG considers this subject to be mainly implementation focused, but nevertheless, has identified areas for improvement. For instance, the knowledge base could be made more timely and searchable, applicant advisories could be better communicated (e.g., create some sort of subscription service), program information could be consolidated into a single site, ICANN's Global Stakeholder Engagement team could be leveraged to promote global awareness, etc. Do you have suggestions on additional areas for improvement?
The 2012 round should provide relevant learning points in relation to communication, in relation to the purpose of the communications and the appropriate channels to cascade and exchange information. Due to the unexpected number of applications and the introduction of many new players that were unfamiliar with ICANN and its processes, this was challenging. The experience gained and the feedback provided by applicants should enable further improvements, including those covered in the question. Due to the different types of registries that applied in 2012, consideration towards tailored information and processes could be adopted for distinct models, like dotBrands.
1.9.2 - Metrics to understand the level of success for communications were not established - do you have suggestions on what success looks like?
Prior to the opening of the 2012 round communication (education and awareness) of the New gTLD program beyond ICANN was extremely limited. Even today, despite the public visibility attained in the lead up to the IANA Transition, the New gTLD program has had limited exposure. This is, however, difficult to measure without extensive and repeated surveys across the globe. However, mainstream media could be a source to provide metrics, in terms of any articles referencing ICANN + New gTLDs, in different languages, across different countries. This could be in addition to any focused campaigns to raise global awareness. **In relation to the communication within the New gTLD Program, standard metrics should include response times.**

1.10 Applicant Guidebook (Wiki page: https://community.icann.org/x/Iz2AAw)

1.10.1 - The Applicant Guidebook served as the roadmap for applicants, but also all other participants to the program. As such, there is a mixture of historical and practical information, some of which is relevant to only certain parties. Do you think it makes sense to partition the Applicant Guidebook into different audience-driven sections or by type of application?
Yes. **The Applicant Guidebook suffers from a fundamental problem. It was written for two separate audiences. The first audience was an internal one of ICANN's policy-development body the Generic Names Supporting Organisation (GNSO). The guidebook attempted to explain how GNSO policy was being implemented. As a result it included history and background. The second audience was an external one, the domain name applicant who was interested only in the process of how to apply. As a result of trying to speak to two audiences, it failed both. From the applicants perspective, the guidebook is: overly long, confusing, duplicative, and poorly indexed.** **Our recommendations would be to (1) write a new Applicant Guidebook to remove duplication and unnecessary background information, and create a step by step guide for applicants. Number and index the guidebook consistently; (2) improve the customisation of documentation to differentiate between the registry operator, and third-party providers of registry, back-end technical and financial services; (3) define acronyms on first use and where appropriate frequently provide links to a glossary; and (4) partition sections to a specific type of applicant where relevant to that distinct type.**

Work Track 2 - Legal, Regulatory, and Contractual Requirements

2.1 Base Registry Agreement (https://community.icann.org/x/Pz2AAw)

2.1.1 - The question of whether or not a single Registry Agreement is suitable is tied into the subject of different TLD categories. Throughout the working group's discussions, there has been support for a model similar to what is currently in place: a single Registry Agreement with exemptions that allow for TLDs with different operational models (e.g., Specification 13 for Brand TLDs or Specification 12 for Community TLDs). There is also support for different Registry Agreements for different TLD categories, centered around a common, core base set of contractual requirements. Which of these models do you think would be most effective for recognizing the different operational requirements of different TLDs? Which of these models do you think would be most efficient in terms of development, implementation, and operational execution (e.g., contracting, contractual compliance, etc.)? Do you think there are any alternative options that could effectively facilitate TLDs with different operational requirements?

In its current form, the base RA is skewed towards traditional models and does not adequately reflect the new models introduced in the 2012 round. This can be a barrier for new entrants that operate distinctly different models. **Where there is a significant difference between registry models and where these different models are a sizeable proportion of registry operators, the BRG recommends customised RAs to better reflect those models and their distinct nature. In this respect, the BRG favours a customised Registry Agreement (RA) for dotBrands, to reflect the distinct differences against a traditional open and commercial registry. A significant proportion of New gTLDs were dotBrands and we anticipate continued interest in future application windows.** **In the absence of a customised RA for dotBrands or other distinct and sizeable models, the BRG recommends the base agreement is stripped down to provide core provisions that are applicable to all, with the relevant specifications that define the model and variant provisions applicable to that model. The contracting parties associated with each defined model would be the parties responsible for negotiating and voting any changes to the related specification, while all registry operating under the RA would be responsible to negotiate and vote for any changes to the core base agreement.**
2.1.2 - Should further restrictions pertaining to sunrise periods, landrush, or other registry activities be developed? If so, do you have suggestions on attributes of these restrictions? Should they be incorporated into the base agreement? Should there be any restrictions established on registry pricing?
No. Particularly for dotBrands where this is irrelevant.
2.1.3 - Should the entire application be incorporated into the signed Registry Agreement? Should portions of the application, explicitly identified, be incorporated into the signed Registry Agreement? If changes are made between applying and executing the Registry Agreement, how should this be handled? If changes are made after executing the Registry Agreement, how should this be handled? If changes like these are contemplated, how can the needs of the community to properly consider the contents of an application be weighed against an applicant's need to make either minor adjustments or fundamental changes to their registry?
No, the application should not be incorporated into the agreement.

2.2 Reserved Names (Wiki page: https://community.icann.org/x/PT2AAw)

2.2.1 - Do you believe any changes are needed to the String Requirements at the top level as defined in section 2.2.1.3.2 of the Applicant Guidebook (https://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf)? Please explain.

Yes, the requirements should be reviewed generally. More specifically, dotBrand applicants that coincide with geographic terms but are not representing themselves as the geographic place will be unnecessarily impacted with the current restrictions to geographic terms, including those associated with 3 character names or abbreviations.

These future applicants need business certainty. They need a set of rules which they can follow, knowing that if they do so there will not be an unexpected objection, and it is not reasonable that they should be required to enter into a one-sider negotiation with one or multiple governments over the use of their own brand.

The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law.

The rationale supporting the BRG's position is based primarily on the following:

- **A trademark-branded top level domain (dotBrand) enables a trusted space, protecting consumers from many of the problems that exist across open registries.**
- **Many terms have more than one meaning/use – context is key.**
- **Some branded terms may also have a geographically-related context. There is no justification for a geographical-related use at the top level taking priority over a brand-related use.**
- **There is no evidence to suggest that the use of a geographic term at the top level by a trademark owner creates any risk or confusion to users. Indeed, by creating a trusted Brand TLD space, where registrants are limited to the brand owner and closely related parties vetted by the brand owner, the context of the use makes such confusion extremely unlikely.**
- **There is no sovereign or other ownership right of governments in country or territory names, including ISO 3166-1 codes:**
- **There is no legal basis for government veto power on allocation of these codes as gTLDs.**
- **Restrictions to use geographic terms at the top level should, therefore, be minimal.**
- **Restrictions must be clear, with reference to defined lists, providing predictability.**
- **Two-character restrictions are already applied at the top level, due to a longstanding practice, for country codes corresponding to the ISO-3166. These are premium online real estate are reserved for or used by the applicable country/government.**
- **Protective measures still remain - vetting and objection processes through the application process as well as post-delegation objections. Contractual obligations and applicable national/international laws also remain in force.**

2.2.2 - Do you believe any changes are needed to the list of Reserved Names at the top level as defined in section 2.2.1.2.1 of the Applicant Guidebook (https://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf? Please explain.

Yes, the Reserved Names list should be reviewed. Names should only be reserved where stability or security risks exist.
2.2.3 - Special Use Domain Names Context: Internet Engineering Task Force (IETF) RFC 6761 (https://tools.ietf.org/html/rfc6761) was issued after publication of the Applicant Guidebook. The RFC describes what it means to say that a domain name is reserved for special use by the IETF, when reserving such a name is appropriate, and the procedure for doing so. It establishes an IANA registry for such domain names, and seeds it with entries for some of the already established special domain names. As a result of the RFC, ICANN must not assign Special Use Domain Names to any third-party registry. For example, the IETF recently approved .onion as a Special Use Domain Name and IANA added .onion to use Special-Use Domain Name registry (See http://www.iana.org/assignments/special-use-domain-names/special-use-domain-names.xhtml#special -use-domain), thereby ensuring that ICANN could not delegate .onion as a gTLD in the future. Do you think Special Use Domain Names should be added to the Applicant Guidebook section on reserved names at the top level to prevent applicants applying for such labels?
Yes, for the purpose of predictability these strings should be added to the guidebook, however, the IETF should rarely assign Special Use Domain Names and, when it does, avoid assigning SUDNs that also correspond to brands.
2.2.4 - Specification 5 of the Registry Agreement allows the Registry Operator to reserve and use up to 100 names at the second level for the operation and/or promotion of the TLD. In addition, the Registry Operator is permitted to reserve an unlimited amount of other domain names which may only be released through an ICANN-Accredited Registrar for registration by third parties. Do you believe that any changes are needed to a Registry Operator's right to reserve domain name? If yes, what changes are needed and why? If not, why not?
No changes required, based on the experience of 2012 round.

2.3 Registrant Protections (Wiki page: https://community.icann.org/x/QT2AAw)

2.3.1 - ICANN has included the following programs to protect registrants: an Emergency Back-End Registry Operator (EBERO), Continued Operations Instrument (COI), Data Escrow requirements, and Registry Performance Specifications in Specification 10 of the base registry agreement? Such programs are required regardless of the type of TLD. Are there any types of registries that should be exempt from such programs? If so, why? Do the above programs still serve their intended purposes? What changes, if any, might be needed to these programs if an RSP pre-approval program, discussed in section 1.1.1., were to be developed?
The registrant protection mechanisms were conceived on the basis of applicants replicating traditional models of selling and distributing domains to third parties. With the introduction of different models, whereby the registry operator (and its affiliates and

TM Licensees) is the sole registrant, these safeguards are meaningless. In effect, they are having to safeguard themselves, which is an unnecessary and unreasonable burden, which should not be required in future.
2.3.2 - In the working group discussions, it became clear that the EBERO funding model requires review and potential modification. The current COI model is one that has proven to be difficult to implement for many registries, ICANN and even financial institutions. Are there other mechanisms of funding EBERO providers other than through Letters of Credit and/or other Continuing Operations Instruments?
See 2.3.1 – EBERO is not applicable to dotBrand registries.
2.3.3 - ICANN staff, in its Program Implementation Review Report, identified a number of challenges in performing background screening, particularly because there were many different types of entities to screen (e.g., ranging from top twenty five exchanges to newly formed entities with no operating history) and because it is difficult to access information to conduct background screenings in some jurisdictions/countries. Do you think that the criteria, requirements, and/or the extent to which background screenings are carried out require any modifications? Should there be any additional criteria added to future background screenings? For example, should the previous breach by the Registry Operator, and/or any of its affiliates of a Registry Agreement or Registrar Accreditation Agreement be grounds for ICANN to reject a subsequent application for a TLD by that same entity and/or its affiliates? Why or why not? What other modifications would you suggest? Should background screening be performed at application time or just before contract-signing time? Or at both times? Please explain.
The background check requirements imposed were not appropriate for all the different types of applicants. In particular, the procedures and criteria should be improved for dotBrands which on the whole were publicly-listed companies. It was unreasonable for ICANN to demand personal address and DOB information for these publicly-listed companies and it took a great deal of time and effort to persuade ICANN to relax the original demands. For these entities, it should be sufficient to list the same amount of detail for company directors as appears on corporate websites and company registration offices. A default of the registered office address or that of the Company Secretary should be provided for all directors. **In respect of the timing of any due diligence that is required, this should be performed at an early stage of the application process, as the findings may disqualify applicants, stopping the entire process from having to be performed. However, if the application process is lengthy, ICANN may need to repeat some vetting processes prior to signing the RA, as circumstances and personnel may have experienced changes during the process period.**

2.4 Closed Generics (Wiki page: https://community.icann.org/x/UT2AAw)

2.4.1 - In the 2012 round, the operation of a TLD where the string was considered “generic” could not be closed to only the Registry Operator and/or its Affiliates. Originating from GAC Advice on the subject, this rule was promulgated by ICANN’s New gTLD Program Committee of the ICANN Board, but was never adopted as a policy by the GNSO. This rule was subject to public comment and input from the community. Should this rule be enforced for subsequent application windows? Why or why not?

The BRG does not believe that applications for closed generics should be prevented in future application rounds.

2.5 Applicant Terms and Conditions

2.5.1 - The following language appears in Section 3 of the Applicant Terms and Conditions: "Applicant acknowledges and agrees that ICANN has the right to determine not to proceed with any and all applications for new gTLDs, and that there is no assurance that any additional gTLDs will be created. The decision to review, consider and approve an application to establish one or more gTLDs and to delegate new gTLDs after such approval is entirely at ICANN's discretion. ICANN reserves the right to reject any application that ICANN is prohibited from considering under applicable law or policy, in which case any fees submitted in connection with such application will be returned to the applicant." Do you believe that this paragraph gives ICANN an absolute right to reject any application for any reason including a reason that contradicts the Applicant Guidebook, or any law or policy? If yes, should such an unrestricted right appear in any modifications to the Guidebook? If no, please list the other documents that you believe should be read in conjunction with this paragraph, e.g. GNSO Policy on new gTLDs, ICANN Bylaws, other portions of the Guidebook, California implied covenant of good faith and fair dealing, etc.
The BRG concurs with the RySG comments: In other areas of the Applicant Guidebook, there are clear definitions of why an application may be declined. This paragraph in Module 6 would benefit from either a rewording to further specify why an application would be declined or from referencing related materials in other portions of the guidebook, such as section 1.2.1 on eligibility and sections 2.1 and 2.2, which describe the evaluation and review process. Alternative language could be "ICANN reserves the right to reject any application that ICANN is prohibited from considering under applicable law, policy, or eligibility and evaluation requirements outlined in sections 1.2, 2.1-2, and 3.2.1 in the Applicant Guidebook. ICANN's Bylaws prohibit it from discriminating against parties. Therefore, if ICANN rejects an application, it should only do so for good cause and not treat similarly situated parties differently.
2.5.2 - According to Section 6 of the Applicant Terms and Conditions, the "covenant not to sue ICANN", an applicant foregoes any right to sue ICANN once an application is submitted for any reason. Currently, an applicant can only appeal an ICANN decision through the accountability mechanisms, which have a limited ability to address the substance of the ICANN decision. If ICANN had an effective appeals process ((as asked about in Question 3.5.2 below) for an applicant to challenge the decisions of the ICANN staff , board and/or any entities delegated

decision making authority over the assignment, contracting and delegation of new gTLDs, would a covenant not to sue be more acceptable? Please explain.
The BRG concurs with the RySG comments: Yes, ICANN should introduce an appeals process for rejected applications for long-term scalability, as is also suggested in section 3.1.4 of this document. Over time, as more and more new gTLD applications are introduced, the likelihood that an applicant will wish to appeal a rejection grows based simply on the number of applications received. To prevent unnecessary complications in the future, and to provide applicants with fair recourse, an appeals process should be specified and defined before the next round of applications. Similarly, for applicants who do appeal an ICANN decision and attempt to do so via legal means, having an appeals process in place means preventing any exceptional cases that would take time and resources from ICANN. With such a setup, it would be much more acceptable to include such a covenant not to sue.
2.5.3 - According to Section 14 of the Applicant Terms and Conditions, ICANN has the ability to make changes to the Applicant Guidebook. One task of this Working Group is to address the issue of predictability in future rounds, including with respect to the AGB. Do you think that ICANN should be limited in its ability to make changes to the Applicant Guidebook after an application procedure has been initiated? Please explain.
The response to the 2012 round introduced complexities that had not been anticipated or issues had been left open. Whilst lessons learnt can be applied to future policies and processes, there is the likelihood that different issues will arise in the future. Therefore, changes should be allowed but the processes should be sufficiently robust to capture, analyse and process the issues effectively. Any changes to the guidebook after applications have been received, should be limited, and also be subject to suitable reviews and objection processes.
2.5.4 - Do you believe that any changes are needed in the Terms & Conditions in Module 6 of the Applicant Guidebook? If so, what are those changes and what is the basis or rationale for needing to do so?
The BRG concurs with the RySG comments: Yes. A summary from the above: - Modify the language in section 6.3 to reference related eligibility and evaluation criteria (i.e. sections 1.2, 2.1-2, and 3.2.1 of the Applicant Guidebook) to further clarify when and why an application may be declined. - Maintain the covenant not to sue only if an appeals process is drafted and defined within the guidebook. - Specify a timeframe for proposed changes/updates to the Guidebook to provide applicants with adequate warning.

2.6 Registrar Non Discrimination & Registry / Registrar Separation (Wiki page: https://community.icann.org/x/RT2AAw)

2.6.1 - The Working Group has not yet deliberated the issues of Registrar Non-discrimination or Registry/Registrar Separation (also known as Vertical Integration). However, now that we have several years of operations of vertically integrated registries and registrars, what issues, if any, have you noticed with vertically integrated Registries?
No issues identified.
2.6.2 - Specification 13 grants an exception to the Registry Code of Conduct (i.e., Specification 9 in the Registry Agreement) and specifically from the vertical integration restrictions. In addition, Registry Operators may seek an exemption from the Code of Conduct if the TLD string is not a generic term and if it meets three (3) other specified criteria set forth in Specification 9 of the Registry Agreement. Are there any other circumstances where exemptions to the Code of Conduct should be granted?
The BRG concurs with the RySG comments: The RySG does support the existing exceptions to the Code of Conduct provided for under Specification 13 and under Specification 9 paragraph 6. We have not identified any other specific circumstances where an exemption to the Code of Conduct should be granted. On the assumption that the Code of Conduct is retained, however, the RySG would support greater flexibility for registry operators wishing to seek an exemption. It would be reasonable for a registry operator who is able to demonstrate that the application of the Code of Conduct to its TLD is not necessary to protect the public interest, in other circumstances to those set out in Spec 9 para 6, to be granted such an exemption. The RySG would also like to highlight that the existing process of obtaining an exemption to the Code of Conduct results in some ambiguity under the Registry Agreement, since the registry operator is still bound by section 2.9:"Subject to the requirements of Specification 11, Registry Operator must provide non-discriminatory access to Registry Services to all ICANN accredited registrars that enter into and are in compliance with the registry-registrar agreement for the TLD". Since, under the current model, all exemptions must be for single-registrant models wherein the registry (as registrant) may still chose its registrar, we do not believe this language should apply to Specification 9 exempt TLDs, regardless of whether they additionally qualify for Specification 13.
2.6.3 - Some have argued that although we allow Registries to serve as both as a registry and as a registrar, the rules contained within section 2.9 of the Registry Agreement and in the Code of Conduct prohibit the integrated registry/registrar from achieving the economic efficiencies of such integration by not allowing a registry to discriminate in favor of its own registrar. Do those arguments have merit? If yes, what can be done to address those claimed inefficiencies? If not, please explain. What safeguards might be required?

The BRG concurs with the RySG comments:

The PDP should carefully review the underlying reasons for separation. With the proliferation of new gTLDs, and plenty of competition in the industry, competition for consumers should be viewed across new gTLDs, rather than within them. With so many new TLD operators in the space, the PDP should examine whether there remains any consumer protection benefit to limiting registry-direct sales. While the operational models of some registry operators will certainly benefit from using registrars (and where this is the case there may remain benefits for the consumer in ensuring equal treatment amongst those registrars), this requirement may be actually hindering innovation and the development of new services for other registry operators, thereby reducing the benefit for consumers.

This has recently been highlighted by Francesco Cetraro, former head of registry operations at .CLOUD, in his "exit notes" published on LinkedIn.
"The ICANN model is traditionally based on the assumption that a Registry will sell its product exclusively through a channel of accredited Registrars, who in turn (one way or another) are all selling fundamentally the same set of hosting products and web-focused services.
Whilst originally this system did contribute to the development of the Internet by providing consumer choice and driving down the prices, it has also become the "golden standard" to which everything has to conform if it wants a chance at "making it" commercially. When even those few that tried to do something different eventually end up quietly coming back to the herd with their head down, it isn't really that hard to understand why everybody decided to "play it safe". The result was 1000+ new extensions that all do pretty much the same thing: point to a website.
If anything, this perfectly defines the antithesis of innovation..." https://www.linkedin.com/pulse/exit-music-notes-new-tld-round-from-former-ntld-manager-cetraro

2.7 TLD Rollout (Wiki page: https://community.icann.org/x/Rz2AAw)

2.7.1 The Applicant Guidebook specified timelines by which applicants had to complete the contracting (9months) and delegation (12months) steps of the process. However, this requirement only means that the contract needs to be executed and nic.TLD be delegated. Are these timeframes reasonable? Is there still a need for these requirements? Please explain.

The BRG concurs with the RySG comments:

Yes, we believe that these requirements are reasonable to avoid speculative applications. We further believe that the extensions provided and the criteria applied by ICANN in evaluating/granting those extensions have been reasonable and continued to serve the intended purpose.

2.8 Contractual Compliance (Wiki page: https://community.icann.org/x/Qz2AAw)

2.8.1 - Noting that the role of Contractual Compliance is to enforce the registry agreement and any changes to that role are beyond the scope of this PDP, the WG is not anticipating policy development related to this topic. The WG expects that any new contractual requirements would be made enforceable by inclusion in the base agreement. Do you agree with this approach?
The BRG concurs with the RySG comments: Yes, the RySG is of the view that any compliance related requirements are be made enforceable by inclusion in the Registry Agreement and for registries established during subsequent procedures an updated base agreement would be advisable.

2.9 Global Public Interest (Wiki page: https://community.icann.org/x/TT2AAw)

2.9.1 - The Final Issue Report suggested that in considering the public interest the WG think about concerns raised in GAC Advice on safeguards, the integration of Public Interest Commitments (PICs), and other questions around contractual commitments. Have PICs served their intended purpose? If not, what other mechanisms should be employed to serve the public interest? Please explain and provide supporting documentation to the extent possible.
The BRG concurs with the RySG comments: PICs have well served their purpose, though the process by which voluntary PICs were solicited and submitted was clumsy, mistimed and rushed. While PICs have satisfactorily addressed public interest concerns and may have been a reasonable vehicle for registries to individually address matters of concern raised by the community, in future rounds, it would be far more advisable to avoid such last-minute histrionics and to draw a bright line of finality once those matters are considered and concluded by the full community (including the GAC), thereby reducing the risk that an individual application (or group of applications) will be held in limbo for an extended period.. This will improve predictability, avoid delays and otherwise maintain an orderly process. At present, the RySG recommends no further mechanisms vs. PICs (except to allow proposed PICs by registries in the application, followed by an ability to add further PICs following the GAC Early Warning round); we note there are significant process improvements in place today vs. 2013 (e.g., the GAC has a clearly defined role in GNSO policy development, the GNSO has well sorted the "policy vs. implementation" question with new processes, etc.). As the WG put it, "identifying and mitigating every circumstance is a nearly impossible task." The RySG

agrees but advises that the learnings from the current round will very well inform the formation of the next and those learnings, along with better definitions of community roles and processes, should be expected to provide finality and predictability prior to the opening of a new round.

Work Track 3 - String Contention Objections and Disputes

3.1 Objections (Wiki page: https://community.icann.org/x/Vz2AAw)

3.1.1 - Do you think that the policy recommendations (Recommendations 2, 3, 6, and 20) require any modifications? If so, what would you suggest?
The BRG concurs with the RySG comments: We support the identified recommendations from the 2012 round and their continued application to a future gTLD application process, with minor modifications to Recommendation 20 above to clarify what constitutes "a significant portion of the community." Further, we support the continued use of objection processes to implement these recommendations. Notwithstanding, we believe that the objection process could be generally improved through a number of procedural changes to all four categories of objection proceeding.
3.1.2 - Do you believe that those recommendations (which led to the establishment of the String Confusion, Legal Rights, Limited Public Interest, and Community Objections grounds) were implemented effectively and in the spirit of the original policy recommendations? If no, please provide examples.
The BRG concurs with the RySG comments: We support the general approach to implement these recommendations through an objection process. However, we note several procedural issues with the implementation of the objection procedures that could be improved in a future application process. The following recommendations are intended to address some of the related procedural deficiencies encountered during the 2012 round. *Strictly enforce objection page limits* One of the factors contributing to the high costs of objections during the 2012 round was a failure of the the panels to curb submission of additional objection documentation. As panels are paid hourly they are incentivized to accept additional documentation even if it was not

strictly necessary for the purpose of evaluating the substance of the objection. Further, in some instances, attachments were used to make and support additional arguments not made in the body of the original objection, resulting in additional work and cost to respondents.

We believe that the page caps proposed are appropriate and should be more strictly enforced as part of a subsequent application procedure. To these ends, we would welcome additional language clarifying that attachments should be limited to supporting documentation and must not be used to make additional arguments not covered within the 5,000 word/20 page limit and that, following submission of the initial objection, additional documentation will only be accepted if it is specifically requested by the Objection panel.

Allow parties to jointly determine whether to use a one or three-Expert panel

The selection of a one or three-Expert panel raises tradeoffs related to cost and consistency. While one-Expert panels are lower cost, three expert panels may be more reliable and less likely to generate concerns around inconsistent application of objection procedures or outcomes.

In light of these tradeoffs, we believe that, for all Objection types, Parties should be able to jointly determine whether to use a one or three-expert panel. In the event that the Parties fail to reach agreement the default will be to rely on a three-Expert panel.

Revise string confusion objection procedures to prevent against inconsistent outcomes encountered during the 2012 round

During the 2015 round, the String Confusion Objection process resulted in indirect contention situations for identical strings proposing similar use cases. For example, in one objection determination, the strings .car/.cars were determined to be confusingly similar, while in another they were determined to not be confusingly similar. This resulted in a situation where the ability or inability for the two strings to coexist depended on which party prevailed at auction.

This outcome was seen as inconsistent by many in the community (both objectors and respondents) and saw late stage intervention by the ICANN board to introduce a limited appeals process. The appeals process was only made available to the applicants who were placed in contention, and not to the party filing the objection.

We believe that these could be largely avoided by allowing 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. We propose the following guidelines:

- 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.

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 panel's response.

A limited appeals process (as described above) would be available to both the objectors and the respondents to handle any perceived inconsistencies.

Make the costs of community objections more predictable

The costs associated with Community Objections were surprisingly high compared to other types of objections, and were hard to predict in advance of filing. This may have been particularly problematic for communities that chose to file objections with a low probability of success.

ICANN should prioritize cost in choosing a vendor. Costs should be transparent up front to participants in objection processes with a fixed fee absent extraordinary circumstances.

In some cases, applicants should be able to remediate impact identified in Community Objections

In the 2012 round, community objections were "all or nothing". Even if the impact to the affected community could be corrected by the applicants, the panel had no option but to either allow the application to proceed or to terminate it. This made the standard to win an objection quite high, and also meant that some applications that probably could have been remediated were instead rejected.

Allow arbitrator to identify remedies or cures that would address the detriment to the community, which could be adopted by the applicant and would form a binding portion of the eventual registry agreement.

3.1.3 - Do you believe there were any issues with standing requirements as defined in the Applicant Guidebook (AGB), or as carried out by the providers? Please explain.

The BRG concurs with the RySG comments:

We believe that there is some lack of clarity around how objection by a "significant portion of the community," as is referenced in Recommendation 20 of the GNSO principles, is defined. This could warrant further clarification. We note that ICANN and the Community Objection Provider established additional definitions and procedures regarding the standing to file a community objection. Per Module 4 of the Applicant Guidebook, standing required that the filer meet the following criteria:

It is an established institution with purposes beyond the gTLD application process (evaluated based upon level of global recognition of the institution; length of time the institution has been in existence; and public historical evidence of its existence);

It has an ongoing relationship with a clearly delineated community – (evaluated based upon the presence of mechanisms for participation, institutional purpose and regular activities that benefit of the associated community; and the level of formal boundaries around the community.

Objectors were required to state their basis for standing, as well as grounds for objection. ICANN performed a 30-day administrative review of the objection before it proceeded to evaluation by the Dispute Resolution Provider. We believe that the administrative review process failed to weed out objections where the objection filer did not meet the conditions to establish standing to file.

We believe that standing requirements were clearly established for the other application types.

3.1.4 - Do you believe there is evidence of decisions made by objection dispute panels that were inconsistent with other similar objections, the original policy recommendations, and/or the AGB? Please explain.

The BRG concurs with the RySG comments:

Yes, we believe that objection processes during the 2012 saw inconsistent outcomes, where different decisions were reached despite similar fact patterns, or where panels appeared to apply different logic and standards in arriving at their decisions.

Introduce appeals process for objections to address inconsistencies.

The perception of inconsistent outcomes led to overreliance on existing accountability mechanisms, particularly the Reconsideration Request process, which was ill suited to address the objection related issues as Reconsideration Requests are intended to address action or inaction by ICANN staff or the ICANN Board and not determinations by a third party panel. This situation was detrimental to applicants, who were left without adequate recourse mechanisms, and the ICANN Board's Governance Committee, which was inundated by an unprecedented number of reconsideration requests that it could not process on a reasonable time frame.

It also drove the creation of post-decision mechanisms which were only made available to a narrow subset of applicants who faced the most obviously inconsistent determinations. This situation was inadequate to address the larger issues identified above. Further, these opportunities were not made available to all potentially impacted applicants, nor to both sides of the objection. For example certain inconsistent string determinations resulted in the receiving applicant who was placed in contention being able to argue their case for why their application should not be placed in contention; no comparable second opportunity was provided to the complainant to argue why the correct, consistent outcome would be for all identical applications to be placed in contention.

We believe a much better approach is to introduce the option of a narrow appeals process for all applicants where parties that identify either a reasonable inconsistency in outcome or a specific argument as to why the panel failed to apply the proper standard. In our response to question 3.5.2 propose below several model for a potential appeals body for consideration:

Inconsistencies were most obvious in the String Confusion Objection Process, which resulted in indirect contention situations for identical strings proposing similar use cases. For example, in one objection determination, the strings .car/.cars were determined to be confusingly similar, while in another they were determined to not be confusingly similar. This resulted in a situation where the ability or inability for the two strings to coexist depended on which party prevailed at auction.

This outcome was seen as inconsistent by many in the community (both objectors and respondents) and saw late stage intervention by the ICANN board to introduce a limited appeals process. The appeals process was only made available to the applicants who were placed in contention, and not to the party filing the objection.

The inconsistent results process has been extended to other objection results as well (e.g. .hospital (Limited Public Interest) and .Charity) community. ICANN should strive to avoid inconsistent results for similarly situated applicants in all objections.

Revise String Confusion Objection Process to Minimize Inconsistencies

Our recommendations for improvements to the String Confusion Objection Procedures described in question 3.1.2 and repeated below attempt to ameliorate these inconsistent outcomes.

We believe that these could be largely avoided by allowing a single String Confusion Objection to optionally be filed against all applicants for a particular string, rather than requiring a unique objection to be filed against each application. Specific recommendations for how these processes could be revised are set forth in our response to 3.1.2 .

3.1.6 - Do you believe that the use of an Independent Objector (IO) is warranted in future application processes? If not, then why? If yes, then would you propose any restrictions or modifications be placed on the IO in future rounds?

The BRG concurs with the RySG comments:

The Independent Objector could fill an important theoretical function in its ability to relay potential objections from third parties that would not otherwise have the financial capability to do so. However, in the 2012 Round, the behavior of the Independent Objector deviated from this function; the Independent Objector appeared to have an activist agenda, rather than hearing, filtering, and advancing concerns of third parties that would otherwise not have been able to file on their own. Further, the Independent Objector's behavior in the 2012 round raised questions

of whether Conflict of Interest Procedures and other procedural guidelines were appropriately applied. We believe the following recommendations could help address issues faced related to the office of the independent objector.

Require established support for objections by the Independent Objector

In the 2012 Round the Independent Objector appeared to act on an independent agenda that was not supported by the public, nor by particular affected parties that would have not been able to file an objection. Further, the low success rate for objections filed by the Independent Objector raises questions of whether concerns raised by the objected-to strings were sufficiently clear-cut to warrant objection through this process, particularly given the high cost of this office to ICANN.

As part of the objection filing process the Independent Objector should be required to name one or more parties that initiated or support the objection but would otherwise be unable to file, in addition to meeting all other criteria for objection (e.g. affirmation that filing the objection is in the public interest).

Establish clear Conflict of Interest Procedures for the office of the Independent Objector

The 2012 round witnessed potential Conflicts of Interest related to objections filed by the Independent Objector. While the conflicts were ultimately resolved, the failure to establish clear conflict of interest guidelines for the office of the Independent Objector at the outset resulted in additional delay and cost to affected parties. The lack of clear Conflict of Interest Procedures for the office of the Independent Objector in the Applicant Guidebook contradicts with the approach taken for other independent parties engaged in the application process, including application evaluators and objection evaluation panels.

In light of this experience and in line with the overall goals of the program ICANN should implement a clear conflict of interest policy and associated procedures for the Independent Objector. The Conflict of Interest Guidelines used for application evaluators may be used as a model for these procedures.

Require Independent Objector to withdraw duplicate objections

The 2012 Applicant Guidebook provided that, absent extraordinary circumstances, the IO should not be permitted to file an objection against an application was already filed on the same ground. We strongly support the principle but do not believe it was fully adhered to by the Independent Objector, who maintained some of his objections while third party objections against the same string and on the same grounds were pending and failed to defend why this followed from extraordinary circumstances.

We urge strict adherence to this principle in a future round and recommending removing the carve out for extraordinary circumstances, as we do not believe that this standard was met or defended during the 2012 Round.

3.1.7 - Do you believe that parties to disputes should be able to choose between 1 and 3 member panels and should the costs of objections reflect that choice?

The BRG concurs with the RySG comments:

As set forth in our recommendations in response to question 3.1.2 we believe that parties should be able to jointly determine whether to use a one or three-Expert panel.

The selection of a one or three-Expert panel raises tradeoffs related to cost and consistency. While one-Expert panels are lower cost, three expert panels may be more reliable and less likely to generate concerns around inconsistent application of objection procedures or outcomes. In light of these tradeoffs, we believe that, for all Objection types, Parties should be able to jointly determine whether to use a one or three-expert panel.

In the event that the Parties fail to reach agreement the default should be to rely on a three-Expert panel.

3.1.8. - Is clearer guidance needed in regards to consolidation of objections? Please explain.

The BRG concurs with the RySG comments:

While we for most objection types consolidating objections is difficult given the ability for applicants for a single string to propose vastly different business models, we believe that for string confusion objections, a model in which objections are filed against strings (consolidating all applications for that string by default) would be preferable and would ameliorate inconsistent outcomes witnessed as part of the String Confusion Objection Process.

We propose the following guidelines:

- 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.
- 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 panel's response.

- A limited appeals process (as described above) would be available to both the objectors and the respondents to handle any perceived inconsistencies.

3.1.9 - Many community members have highlighted the high costs of objections. Do you believe that the costs of objections created a negative impact on their usage? If so, do you have suggestions for improving this issue? Are there issues beyond cost that might impact access, by various parties, to objections?

The BRG concurs with the RySG comments:

As noted in our response to question 3.1.2 The costs associated with Community Objections were surprisingly high compared to other types of objections, and were hard to predict in advance of filing. This may have been particularly problematic for communities that chose to file objections with a low probability of success.

ICANN should prioritize cost in choosing a vendor. Costs should be transparent up front to participants in objection processes with a fixed fee absent extraordinary circumstances.

We also believe that stricter enforcement of the page caps established for the objections will help to address issues related to cost. One of the factors contributing to the high costs of objections during the 2012 round was a failure of the the panels to curb submission of additional objection documentation. As panels are paid hourly they are incentivized to accept additional documentation even if it was not strictly necessary for the purpose of evaluating the substance of the objection. Further, in some instances, attachments were used to make and support additional arguments not made in the body of the original objection, resulting in additional work and cost to respondents.

We believe that the page caps proposed are appropriate and should be more strictly enforced as part of a subsequent application procedure. To these ends, we would welcome additional language clarifying that attachments should be limited to supporting documentation and must not be used to make additional arguments not covered within the 5,000 word/20 page limit and that, following submission of the initial objection, additional documentation will only be accepted if it is specifically requested by the Objection panel.

3.1.10 - Do you feel that GAC Early Warnings were helpful in identifying potential concerns with applications? Do you have suggestions on how to mitigate concerns identified in GAC Early Warnings?

The BRG concurs with the RySG comments:

There seemed to be some confusion and uncertainty about the implications and consequences of a GAC Early Warning. Several steps could minimize this confusion and uncertainty in the future: (i) change the name to GAC Member Early Warning (or something similar) to communicate clearly that the Early Warning has not been issued by the entire GAC, but, instead, by one or more GAC members; (ii) adopt and

identify a clear timetable for action by the issuing GAC member(s) to provide certainty to applicants; (iii) require the issuing GAC member(s) to identify the national law(s) on which the Early Warning is based; (iv) have the issuing GAC member(s) designate the type of action(s) desired from the applicant; and (v) emphasize that the GAC Member Early Warnings have no precedential value.

3.1.11 - What improvements and clarifications should be made to GAC Advice procedures? What mitigation mechanisms are needed to respond to GAC Advice? How can timelines be made more precise?

The BRG concurs with the RySG comments:

We note several concerns that created significant uncertainty for applicants responding to GAC Advice:

GAC Advice was provided against whole categories of applications.

Though Advice was ultimately determined to apply to strings specifically listed in the Beijing Communique, the initial communique suggested that these lists were non-exhaustive, and could apply to applications not specifically referenced. This contradicts the procedures established in the Applicant Guidebook, which stated that Advice would be provided against applications.

This created confusion for applicants whose strings may exist in related industries, but were not cited, around whether advice applied to them and whether to engage advice directly.

GAC advice was provided against strings (encompassing all members of a contention set) rather than individual strings.

This also contradicts the procedures defined in the applicant guidebook. Applications for a single string may propose vastly different business models with implications for the validity of parts of the GAC Advice.

The expectation should be that applications will be reviewed and, if applicable, referenced individually as part of the GAC Advice, with these factors taken into account.

GAC Advice was non-implementable in its initial form.

This necessitated lengthy and tedious back-and-forth with the ICANN Board to reach a solution that was amenable to the GAC and technically feasible for registry operators, complicating resolution of the Advice by ICANN and registry operators and significantly drawing out the timeline to bring new gTLDs to market.

Whereas the ICANN Board was prepared to accept and take steps to address the public policy concerns raised in the GAC Beijing Communiqué, the GAC insisted on playing a prolonged role in implementation and operational matters which resulted in further unreasonable

delays for all concerned. GAC Advice should be provided in such a way that provides sufficient flexibility for ICANN or the relevant community to develop policy or implementation frameworks that ensure such advice is implementable.

GAC Advice did not provide a rationale for why particular strings were included.

The failure to justify the selection of strings referenced in the GAC communique further extended the process of accepting and implementing GAC Advice. Consistent with the recommendations of the Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability), advice provided against applications as part of a future application process should be accompanied by a rationale and demonstrate familiarity with the application in question.

We further note that the community has already developed several recommendations regarding the provision of GAC advice that ameliorate some of these concerns as part of the CCWG-Accountability. The requirements for the provision of GAC advice established as part of the CCWG-Accountability must apply equally to the provision of advice as part of the application process. These recommendations included the following:

That a rationale must accompany any formal advice provided to the ICANN board;

That any formal advice must be made in the absence of a formal objection from any GAC member (which must be confirmed by the GAC in providing the Advice); and

That the Board must not accept advice that compels it to act outside of its Bylaws, including its mission statement, its core values, and the prohibition of disparate treatment for similarly situated parties.

The GAC did not allow applicants an opportunity to be heard.

An applicant whose application was the subject of GAC Advice had no opportunity to be heard by the GAC before the GAC issued its GAC Advice. Indeed, the GAC Chair refused at least one applicant's request to be heard. Without an opportunity to be heard before the GAC issues Advice on its application, an applicant is denied a fundamental requirement of procedural fairness that is recognized under national and international law. Moreover, requiring that applicants have an opportunity to be heard by the GAC should minimize the likelihood that the GAC will issue Advice based on incorrect factual assertions or fundamental misunderstandings by GAC members. Of course, the opportunity to be heard must be meaningful in terms of both process (timing and length of presentation, for example) and substance (topics covered and GAC member attendance, for example).

3.3 Community Applications and Community Priority Evaluations (Wiki page: https://community.icann.org/x/Wz2AAw)

3.3.4 - Were the rights of communities (e.g., freedom of expression, freedom of association, freedom of religion, and principle of non-discrimination) infringed by the New gTLD Program? Please provide specific examples.
No, the rights of communities were not infringed by the New TLD Program.

3.4 String Similarity (Evaluations) (Wiki page: https://community.icann.org/x/VT2AAw)

3.4.1 - There was a perception that consistency and predictability of the string similarity evaluation needs to be improved. Do you have examples or evidence of issues? If so, do you have suggested changes to the policy recommendations or implementation that may lead to improvement? For instance, should the standard of string confusion that the evaluation panel used be updated or refined in any way?
The BRG concurs with the RySG comments: *Singular/Plural* As stated in more detail in the recommendation provided in response to Section 3.4.3, the scope of the String Similarity Review should be broadened to encompass single/plurals of TLDs on a per-language basis in addition to the existing visual similarity standard. *Eliminate the Sword Tool* There was little correlation between the Sword Results and the actual outcomes of the String Similarity Review and String Confusion Objection Process and, thus, that the tool was more misleading to applicants than helpful. Further, it appeared that the scores produced by the Sword Tool were changed partway through the application process, resulting in further confusion to applicants. We recommend that ICANN do away with the Sword Tool that was presented to applicants as part of the 2012 Round.
3.4.3 - The WG and the wider community have raised concerns specifically related to singles and plurals of the same word. Do you have suggestions on how to develop guidance on singles and plurals that will lead to predictable outcomes? Would providing for more predictability of outcomes unfairly prejudice the rights of applicants or others?
The BRG concurs with the RySG comments: We believe that in subsequent application procedures the string similarity process should be updated to consolidate single-plural pairs by default. The String Similarity Review played a limited role in the 2012 Round. Of the 1,400 unique applications submitted and the 232 contention sets formed, only two contention sets were identified by way of this review: .hotels and .hoteis and .unicorn and .unicom. Many applicants and

community members expected the String Similarity Review to identify a broader set of contentions and weed out potential instances of user confusion, particularly with respect to applications for single and plural string pairs. This is evidenced in the fact that no applicant applied for both the single and plural variant of a particular string, as well as in the number of String Confusion Objections filed to address single and plural string pairs. The scope of the String Similarity Review should be broadened to encompass single/plurals of TLDs on a per-language basis in addition to the existing visual similarity standard. Contention sets would be formed on a per-language basis. A dictionary should be the tool used to determine the singular and/or plural version of the string for the specific language. In this expanded process, applications for single/plural variations of each string would be placed in a contention set and applications for a single/plural variations of an existing string would not be permitted. By way of example, if applications were submitted for the strings .gâteau, .gâteaux, .cake, and .cakes, then the strings .gâteau and .gâteux (French) would be placed in contention with one another, but not with the corresponding translations .cake and .cakes (English), which would comprise a separate contention set. Additional contention sets could continue to be formed through the String Confusion Objection Process.
3.4.4 - Do you believe that there should be some sort of mechanism to allow for a change of applied-for TLD when it is determined to be in contention with one or more other strings? If so, do you have suggestions on a workable mechanism?
The BRG concurs with the RySG comments: In the event ICANN accepts fees for applications of an allowable string at time of application but later restricts the string from being able to achieve delegation through no fault of the applicant, ICANN should consider a mechanism to allow the applicant to change the originally applied-for string (examples from the 2012 round include but not limited to .HOME, .MAIL and .CORP). We do not support the ability of an applicant to change the applied-for TLD simply due to the fact that it is in contention with another applicant.
3.4.5 - Do you feel that the contention resolution mechanisms from the 2012 round (i.e., CPE and last-resort auctions) met the needs of the community in a sufficient manner? Please explain.
We believe that CPE and last resort auctions are generally a reasonable approach for contention resolution.

3.5 Accountability Mechanisms (Wiki page: https://community.icann.org/x/WT2AAw)

3.5.1 – Do you believe that the existing accountability mechanisms (Request for Reconsideration, Independent Review Process, and the Ombudsman) are adequate avenues to address issues encountered in the New gTLD Program?

The BRG concurs with the RySG comments:

The perception of inconsistent outcomes in objection proceedings led to overreliance on existing accountability mechanisms, particularly the Reconsideration Request process, which was ill suited to address the objection related issues as Reconsideration Requests are intended to address action or inaction by ICANN staff or the ICANN Board and not determinations by a third party panel. This situation was detrimental to applicants, who were left without adequate recourse mechanisms, and the ICANN Board's Governance Committee, which was inundated by an unprecedented number of reconsideration requests that it could not process on a reasonable time frame. It also drove the creation of post-decision mechanisms which were only made available to a narrow subset of applicants who faced the most obviously inconsistent objection determinations.

Specific to the application process we believe that a narrowly-tailored appeals process should be introduced for objection procedures, to better-address perceived inconsistent outcomes and areas where applicant believes that objection panels failed to apply the proper standard. Our recommendations for an appeals process, including a discussion of several possible approaches to the introduction of an appeals process can be found in our response to Question 3.1.2.

Beyond this proposed mechanism, which is specific to the application process, we believe that this question is premature and may be beyond the WG's scope. First, some of the accountability mechanisms under discussion have changed significantly since since the 2012 round as part of the CCWG-Accountability, and others remain under discussion and may be altered as a result of Workstream 2 of the CCWG Accountability work. Second, these mechanisms go beyond the scope of the gTLD application process, and are more appropriately considered in devoted review or policy processes like the CCWG-Accountability or the Accountability and Transparency Review Process.

3.5.2 – Should there be appeal mechanisms, specific to the New gTLD Program, introduced into the program? If yes, for what areas of the program (e.g., evaluations, objections, CPE)? Do you have suggestions for high-level requirements (e.g., if the appeal should be limited to procedural and/or substantive issues, who conducts the review, who is the final arbiter, safeguards against abuse, etc.).

The BRG concurs with the RySG comments:

Some of the objection processes for contested applications had common issues between them. The next gTLD rounds working group identified some of the problems that post-decision mechanisms, such as appeals, may help reduce or solve.

- Lack of panelist training and consistency as evidenced by decisions that were decided differently, despite having substantially similar fact patterns,
- Random opportunities to present new evidence or re-argue a position based on how vehemently a party insisted on the right.

- No opportunity to have the merits of a case revisited – a problem where the providers didn't properly train panelists.

The perception of inconsistent outcomes led to overreliance on existing accountability mechanisms, particularly the Reconsideration Request process, which was ill suited to address the objection related issues as Reconsideration Requests are intended to address action or inaction by ICANN staff or the ICANN Board and not determinations by a third party panel. This situation was detrimental to applicants, who were left without adequate recourse mechanisms, and the ICANN Board's Governance Committee, which was inundated by an unprecedented number of reconsideration requests that it could not process on a reasonable time frame.

It also drove the creation of post-decision mechanisms which were only made available to a narrow subset of applicants who faced the most obviously inconsistent determinations. This situation was inadequate to address the larger issues identified above.

We recommend that, in a subsequent application process, a limited appeals process be introduced for the objection procedures for parties that identify either a reasonable inconsistency in outcome or a specific argument as to why the panel failed to apply the proper standard.

We propose below several models to consider for potential appeal options:

- Delayed appeals: For parties that were the first few cases under a new procedure or mechanism, allow the losing party to request a delayed review by panelists who have experience deciding similar cases under the new system, to cross-check for consistency.
    - Pros: Ensures the first cases are not prejudiced by early learnings by the first panels.
    - Cons: Prevents certainty for the prevailing party. Implies objections are subject to stare decisis.
- Master panel: A traditional appeals process appears to simply substitute the judgment of panelist B for that of panelist A. Instead, hand-pick "master" panelists who have demonstrated consistent, sound judgment in the first round and ensure that they are provided with high-quality briefing materials regarding any changes in the next round. These materials should be approved by the community members who work on any changes to the AG. ICANN can use application fees to pay the Master panel to read every opinion to form its knowledge base. The Master panel may be responsible for providing routine panelist training on each objection process, to be paid by application fees. The Master panel can be retained by ICANN or by one of the Providers (subject to its ability to contract with each of the chosen master panelists). Master panelists may be forbidden from hearing objections in the first instance, to reduce conflict.
    - Pros: Uses proven experts to try to create more consistent outcomes. Application fees fund the effort toward consistency, but parties still pay for their own cases.
    - Cons: No party control over master panel selection, risk of master panelists "going rogue." Provider that offers the master panel may be at odds with other providers. ICANN- run master panel may invite conspiracy theories. Master panel appointment may become "political."
- ICANN Review: A panel or team within ICANN could be established to conduct independent reviews of objection outcomes and to make follow up recommendations.

    - Pros: The cost would be borne by applicant fees. If the process is transparent, the community may trust the experts more than panelists hired by third-party providers.
    - Cons: ICANN- run review process may invite conspiracy theories and the experts may not receive community trust if ICANN is not transparent about how the review process works. Without an actual appeal mechanism where facts are re-heard, the community may feel like a review does not go far enough. Similarly, ICANN may be overly conservative in this review for fear of picking winners and losers as part of the application process.
- Appeals: A template exists for this in the URS, TM-PDDRP, and RRDRP. The community would need to decide if all appeals should be heard by a three member panel in order to avoid the perception that it's always just another coin flip. Using those existing procedures as guides, the community could define the appeals process it wants. Some examples include: expedited timelines to avoid dragging out an objection, a rehearing based on the already-submitted data, the use of a short list of panelists who are generally conflict-free and available (similar to the master panel), and clearly-defined fees to be prepaid. Appeals could be limited to specific issues, as determined by the community – each objection process would need to come up with the types of appeals that would be acceptable.
    - Pros: Eliminates concerns about ICANN having the ultimate authority, allows Providers to perpetuate a consistency amongst the panelist list, and provides a basis of competition between panelists (pricing, time-to-decision, quality of training and opinions).
    - Cons: Additional, possibly uncapped, expense. If Panelist training problems persist, an appeals process is still a blind shot.
- Existing accountability mechanisms: Existing mechanisms are best utilized if a Provider goes rogue or underperforms, but the Board's expertise is not policing the day to day work of ADR providers.

Work Track 4 - Internationalized Domains Names and Technical & Operations

4.1 Internationalized Domain Names (Wiki page: https://community.icann.org/x/XT2AAw)

4.1.1 - Do you agree or disagree with allowing 1-char IDN TLDs, in specific combinations of scripts and languages where a single character can mean a whole idea or a whole word (ideograms or ideographs)?
The BRG concurs with the RySG comments: We agree that 1-char IDN TLDs should be allowed, in specific combinations of scripts and languages where that character represents a whole word or concept. 1-character IDNs, whether at the top- or second-level, are represented by much longer strings. (For example, "喜" is not a 1-character string, it is a 7-character string, "xn--s1r".) Therefore, “1-character IDN TLDs” should be allowed (but are a misnomer, as they are not “1-character” strings.)

4.2 Universal Acceptance (UA) (Wiki page: https://community.icann.org/x/XT2AAw)

4.2.1 - Do you see any UA issue that would warrant policy development work, noting that there is extensive coordination work already being done by the Universal Acceptance Steering Group (https://uasg.tech/) ?
No. However, new applicants should be made aware of the existing types of issues in advance of their application.

4.3 Application Evaluation (Wiki page: https://community.icann.org/x/YT2AAw)

4.3.1 Technical Evaluation 4.3.1.1 - Do you believe that technical capability should be demonstrated at application time, or could be demonstrated at, or just before, contract-signing time? Or at both times? Please explain.
The BRG concurs with the RySG comments: Technical capability should be shown at application time during the testing phase as was done in the 2012 application round. It would seem the best use of an evaluator's time to do the testing in groups instead of waiting until contracting is reached as this may result in periods of uncertainty based on contract negotiations etc. If an RSP accreditation programme is agreed then evaluation of individual registries would not be required.

4.3.1.2 - Do you believe that technical evaluation should be done per application, per cluster of similar technical infrastructure of a single applicant entity/group, or per cluster of similar infrastructure among all applicants in a procedure (e.g, consolidate as much as possible)?
The BRG concurs with the RySG comments: If a RSP programme is not agreed then the RySG work team is in favour of an approach that would allow evaluation of a registry service platform once, even where it was servicing multiple TLDs. Supplementary, tailored reviews could be conducted for the registry service provider in the event that a particular TLD operating on its platform had materially different requirements such that independent testing and evaluation would be required. Repeating technical evaluations for a single registry service provider does not adequately address concerns around scaling/capacity. This would be better addressed by establishing intermediate thresholds that could trigger re-evaluation if a registry's operational requirements grew without comparable scaling to the platform's capacity.
4.3.1.2.1 - If consolidated, should the aggregate requirements of applied-for TLDs and currently operated TLDs be taken in consideration for evaluation?
Yes.
4.3.2 Financial Evaluation It is generally agreed that financial stability of a gTLD operator is necessary to ensure the security, stability, and resiliency of the Internet. 4.3.2.1 - ICANN sought detailed financial information as it pertains to an applicant's proposed business model, projected revenue, and operating expenses. However, it required such information be provided through a static template rather than allowing applicants to provide their own financial models. Did this present any issues in the 2012 round? Please explain.
A dotBrand is not reliant on revenue from selling domains to maintain its core business, instead, it is budgeted item in support of its core business. The financial assessments were introduced to provide assurance that the business model used would be viable to support the registry in the short to medium term, and minimise the likelihood of failure that would have an adverse impact on its registrants. However, as a dotBrand is not selling domains to support its registry operation, and only itself, its affiliates or TM Licensees are the registrant, this protection is not as necessary. Removing, or at least reducing the requirements for the financial review would reduce the time and resources needed for this type of applicant.
4.3.2.2 - Can financial capability be demonstrated with less detail, in a different manner, or via a different mechanism? Are there details or levels of detail that are unnecessary?
See response to 4.3.2.1 – for dotBrands, this can be simplified to demonstrate financial position and designated budget.
4.3.2.3 - In the prior round, detailed business plans were provided, but not evaluated; they were however used to provide context to evaluators in scoring applicant responses. Do you believe that this information needs to be collected in order to evaluate an applicant's financial capabilities? Please explain? How should changes in business plans during the application process be handled?

See response to 4.3.2.1 – for dotBrands, this can be simplified and does not require the submission of a business plan to demonstrate financial capability.
4.3.2.4 - Some have argued that for Brand TLDs that do not rely on the distribution of domains, an evaluation of the business model unnecessary. Do you agree with this assertion? Please explain. Are there any other types of TLDs for which the collection of business models may be unnecessary? Please explain.
Agreed. DotBrands represent a very different model than traditional registries and an evaluation of their business model is unnecessary. Financial position and commitment to a budget to fund the operation of the registry should be entirely sufficient for this purpose. For clarity, any future financial concerns of a company running a dotBrand registry will culminate in the winding down of the company (and therefore the registry), reducing operational costs by closing the registry or sell-on the business – none of which will impact third party registrants (other than themselves, their affiliates and TM Licensees), or the security, stability and resilience of the Internet.
4.3.2.5 - Do you believe that financial capability should be demonstrated at application time, or could it be demonstrated at, or just before, contract-signing time? Or at both times? Please explain.
The BRG concurs with the RySG comments: This might depend on the time elapsed between application and contracting. If it's significant and, say, a potential applicant failed to meet certain criteria but remained eligible as an applicant, a second review could be warranted. However, it would be critical not to penalize an applicant with a second demonstration because of delay on ICANN's part, or on foot-dragging by others in the community.
4.3.2.6 - Do you believe that financial evaluation should be done per application or per possible registry family assuming all applied-for strings are won?
The BRG concurs with the RySG comments: This too depends on the approach taken by the registry. But generally, the latter.
4.3.2.7 - Given the international nature of ICANN and its outreach to less developed areas, is the one size fits all approach to financial evaluation appropriate?
Apart from the different types of models that may create variations in financial evaluations, the financial evaluations should meet the same standard.

4.4 Name Collision (Wiki page: https://community.icann.org/x/Yz2AAw)

4.4.1 - What general guidance for namespace collisions would you like the community to consider for subsequent procedures, and why?
The BRG concurs with the RySG comments: The timing of the introduction of name collisions as a concern for new gTLDs during the 2012 round of the Program was extremely disruptive and caused significant delays to the process of delegating new gTLDs while ICANN assessed the issue and considered proposals to mitigate against the risk. In subsequent new gTLD procedures, if name collision is deemed to be a continuing risk that requires mitigation, a clear and fair process for determining which strings will pose a risk for Name Collision should be developed and communicated to future applicants well in advance of any subsequent application procedures. If a similar risk mitigation procedure is deemed to be appropriate, applicants should be made aware in advance so that they have the opportunity to factor controlled interruption periods into their launch timelines.
4.4.2 - Were there non-applied for strings that would fall into a high risk category that you would suggest not be allowed in subsequent procedures? If yes, which ones and why? Should a Name Collision based evaluation be incorporated into the process for subsequent procedures? What data sources could/should be used for analyzing namespace collisions for subsequent procedures?
The BRG concurs with the RySG comments: The 2013 "Name Collision in the DNS" report by Interisle Consulting Group served as the basis for ICANN's understanding of the potential risks posed by name collision and ultimately led to the development of a mitigation framework. Interisle based its report on "Day in the Life" (DITL) data, or the stream of DNS requests to certain root servers and servers operated by a global DNS resolver organization for two, three-day periods, one in 2013 and one in 2012. It counted individual requests for each gTLD string to determine the level of risk each string presented in terms of collisions. However, the report failed to put into context which of these requests actually presented a concrete collision threat, and which were harmless, which likely served to overstate the potential for risk for certain strings. At this point, the RySG is not in a position to determine whether specific potential strings should be withheld from registration due to their risk for name collision. If a name collision risk assessment will be part of the evaluation of future gTLD applications, the RySG urges ICANN to work to identify a more rigorous methodology that not only quantifies the number of requests, but is able to provide a more nuanced and detailed assessment of what, if any, real threat is posed by the applied-for string.
4.4.3 - Based on data from the first round, can the controlled interruption period be reduced in future rounds?
The BRG concurs with the RySG comments:

Considering that there were very low instances of name-collision problems reported during the introduction of new gTLDs from the 2012 round, the RySG believes that the controlled interruption period can be reduced to 60 days or fewer.
4.4.4 - Should any measures be suggested or requested from TLDs that already ended or will end their emergency readiness after two years of delegation? Are any measures needed for gTLDs delegated prior to the 2012 round?
No

4.5 Security and Stability (Wiki page: https://community.icann.org/x/Xz2AAw)

4.5.2 Considering the already published CDAR study and comments to that study, do you have any comments regarding root zone scaling?
The BRG concurs with the RySG comments: The RySG is pleased that the root DNS system has been able to handle the increase in root server traffic observed between January 2014 and January 2016, which was approximately threefold. Considering that only 0.4% of the queries received by the root servers are for new gTLDs, we infer that there is no strong correlation between increase of the root zone size and root servers query load. In fact, making the root zone larger could have contributed to limit the growth of overall traffic to the root servers because of differences in behavior between positive and negative caching. First, positive answers have a larger TTL (Time To Live) than answers of non-existence, and second, as demonstrated in previous analysis of queries to recursive servers versus root servers, negative caching is applicable only to specific host names whereas positive caching applies to an entire TLD. The RySG is of the opinion that the cautious approach of gradually delegating new gTLDs was the right choice and advises also in future rounds to exercise care and keep the DNS evolving in a healthy way. As experience with the root server system grows, the increased root server system monitoring capabilities should be used as guidance to whether a ceiling is in effect required and what that ceiling should be. We strongly disagree with pre determining a ceiling to the delegation rate of TLDs.

Additional Questions

1. The topics above, and the corresponding questions, are all related to the scope of work as determined in this WG's charter. Do you feel that all topics must be fully resolved before any subsequent new gTLD procedures can take place? If not, do you believe that there is a critical path of issues that MUST be considered and addressed? Alternatively, do you believe that there are certain challenging issues

where an existing solution may be present (e.g., in the Applicant Guidebook), which can serve as an interim solution, while debate can continue in parallel with the launch of subsequent new gTLD procedures?
The BRG does not believe that all the topics and related issues all need to be resolved prior to a new application window. Items that are considered by the community to be on a critical path should be addressed as a priority, allowing lower priority issues to be prioritised separately and incorporated into an ongoing improvements program.
2. Many in the community have noted the length of time from the close of the application submission period (i.e., June of 2012) to the informal projections for the beginning of subsequent new gTLD procedures (e.g., 2020). Do you have any suggestions on how to shorten that timeline, either now in the event of future rounds or other procedures?
In conjunction with any implementation improvements by ICANN, consideration should be given to those issues that will prolong the post-application process if they remain unresolved. If resolved prior to subsequent new gTLD procedures, this should help minimise delays in the posy-application phase.
3. Do you feel that there are additional issues or subjects that the WG should be considering?
Not at this time.
4. Do you have any suggestions for data points, analysis, studies, etc. that might benefit the work of this PDP in any of its areas of work?
Not at this time.