



# New gTLD Subsequent Procedures

Work Track 3 | 13 February 2018 | 15:00 UTC

# Agenda

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&  
Review/Revise Agenda

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# Applicant Freedom of Expression – Pt. 2

# Applicant Freedom of Expression

New GTLD Policy Principle G: *“The string evaluation process must not infringe the applicant's freedom of expression rights that are protected under internationally recognized principles of law.”*

## PRIOR DISCUSSIONS

- ❖ Implementation guidance should be included in next Applicant Guidebook informing applicants, panelists, and others of the existence of this recommendation and the policy goal of fostering freedom of expression in generic top-level domains.
- ❖ How to balance protection of applicant free expression rights with government or other pressure to restrict the use of words in TLD?

## TAKE AWAY FROM LAST CALL

- No Way To Ensure Perfect Implementation
- Evidence of Failure of Policy Implementation in 2012 Round, difficult to prove – complex & mixed with other issues such as community and geo names.
- As with Accountability Mechanisms, final outcome of CCWG-Accountability likely to impact this topic.

# Accountability Mechanisms



# Accountability Mechanisms

## Open Issues From Prior Discussions & Input

- ❑ Should the process make a distinction between Accountability Mechanisms relating to substantive and procedural issues?
- ❑ Who is an appropriate final arbiter - Subject Matter Experts? ICANN Board?
- ❑ Do we have agreement that panelists/IO should be subject to conflict of interest policies handled prior to initiation of the substantive matters.
- ❑ Is there a need for a post decision appeal mechanism specific to New gTLD process?

# String Similarity

# String Similarity - Evaluation

## Recommendation 2.

Strings must not be confusingly similar to an existing top-level domain or Reserved Name.

Limited to Visual Similarity in 2012 round.

Standard of “probable” not just “possible” confusion (AGB 2.2.1.1.2)

## POINTS OF GENERAL AGREEMENT??

- ❖ Going forward allowing plurals and singulars *in the same language* to move forward is not desirable.
- ❖ Terms need to be intended as plurals and singulars. Thus the TLDs **.new** and **.news** would not be considered a plural or singular of the same string.
- ❖ Elimination of the SWORD Algorithm.



# Proposal for String Confusion Objection

- ❖ 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.
- ❖ A single objection would extend to all applications for an identical string.
- ❖ A tiered pricing structure for objections sets that encompass multiple applications. 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 response.
- ❖ A limited appeals process should be available to both the objectors and the respondents to handle perceived inconsistencies.

- ❖ Is consolidation of objections inherently unfair in anyway?
- ❖ How to proceed if the objector is an existing TLD operator? Are special considerations/guidelines needed?

# *Upcoming Meetings*

Tuesday, February 27, 2018 - 20:00 UTC

Coalesce opinions on Accountability Mechanisms & Strings (similarity & confusion)

Tuesday, March 6, 2018 – 15:00 UTC

Pre-F2F review of WT3 Report

Saturday, March 10, 2018 – 12:00 San Juan (17:00 UTC)

ICANN 61 Subsequent Procedures F2F WTs 1-4