

ICANN
COMMUNITY FORUM

64

KOBE

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New gTLD Subsequent Procedures Policy Development Process Working Group



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9 March 2019 - WG Face to Face

Session 1

1

Introduction and
Current Status

2

Substantive
Discussions on
Open WG Topics

Introduction and Current Status

Agenda Item #1

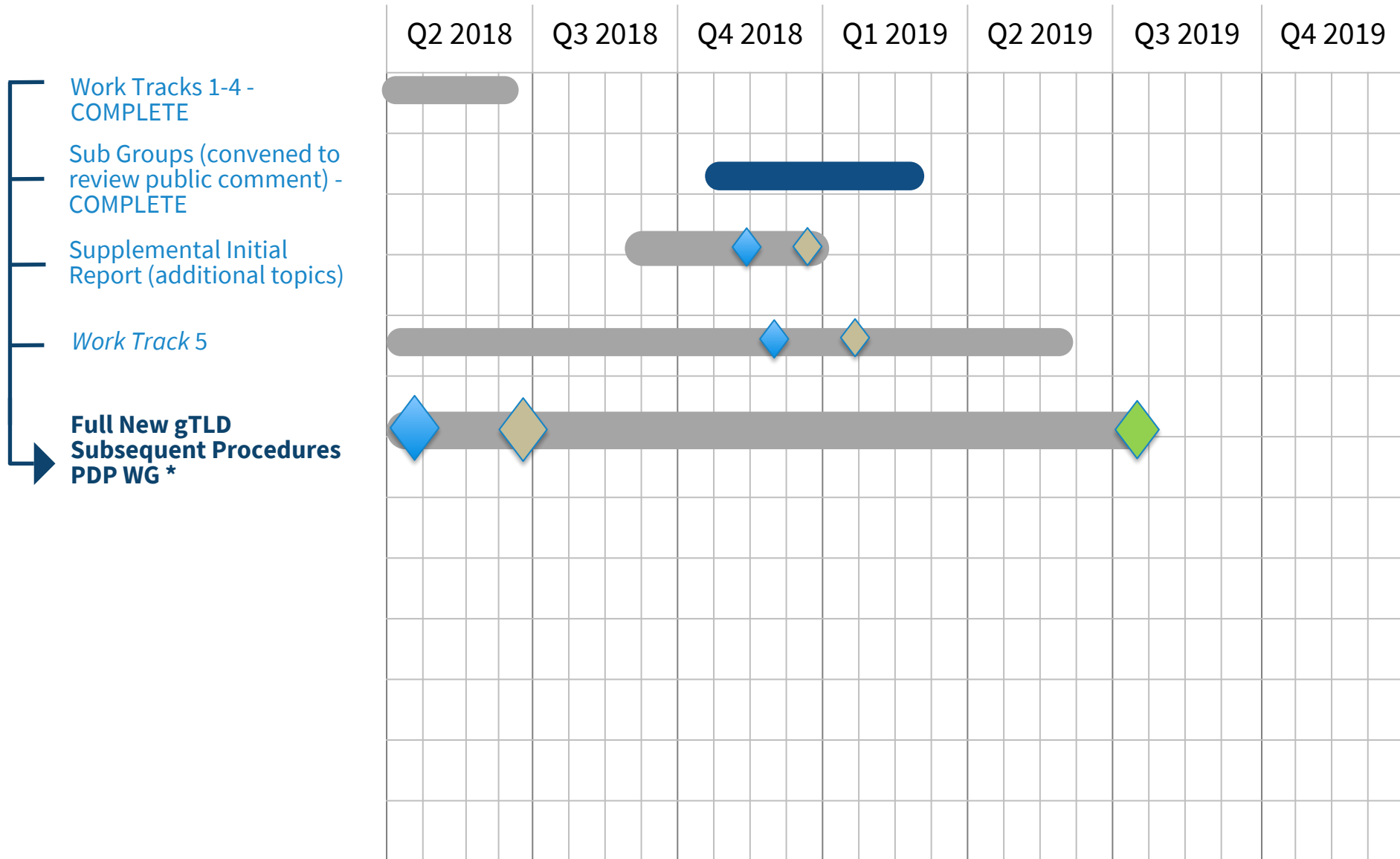
Current Status

- An **Initial Report** was published for public comment on 3 July 2018, with the period closing on 26 September.
- Comments received have been organized and collated, with **Sub Groups review (A, B, and C) all having completed their work.**
- The WG also worked on a set of 5 topics that needed additional discussion, which were also published in late October for public comment in the form of a **Supplemental Initial Report.**
- The full WG is continuing to review public comments received to this Supplemental Initial Report.
- **Work Track 5 (geo names at the top-level)** published its own **Supplemental Initial Report** in December and has begun to review public comment, starting in late February.

Current Status, Continued

- The WG expects to begin substantive deliberations on the various subjects that were published for public comment, starting at ICANN64.
- GOAL – seek to reach outcomes/conclusions on topics where there seems like consensus has been reached. Where there is more discussion necessary, focus mainly on **new ideas /arguments**.
- The WG Co-Chairs hope all streams of work will convene for a single Final Report.

SubPro Timeline



KEY



Publish Initial Report

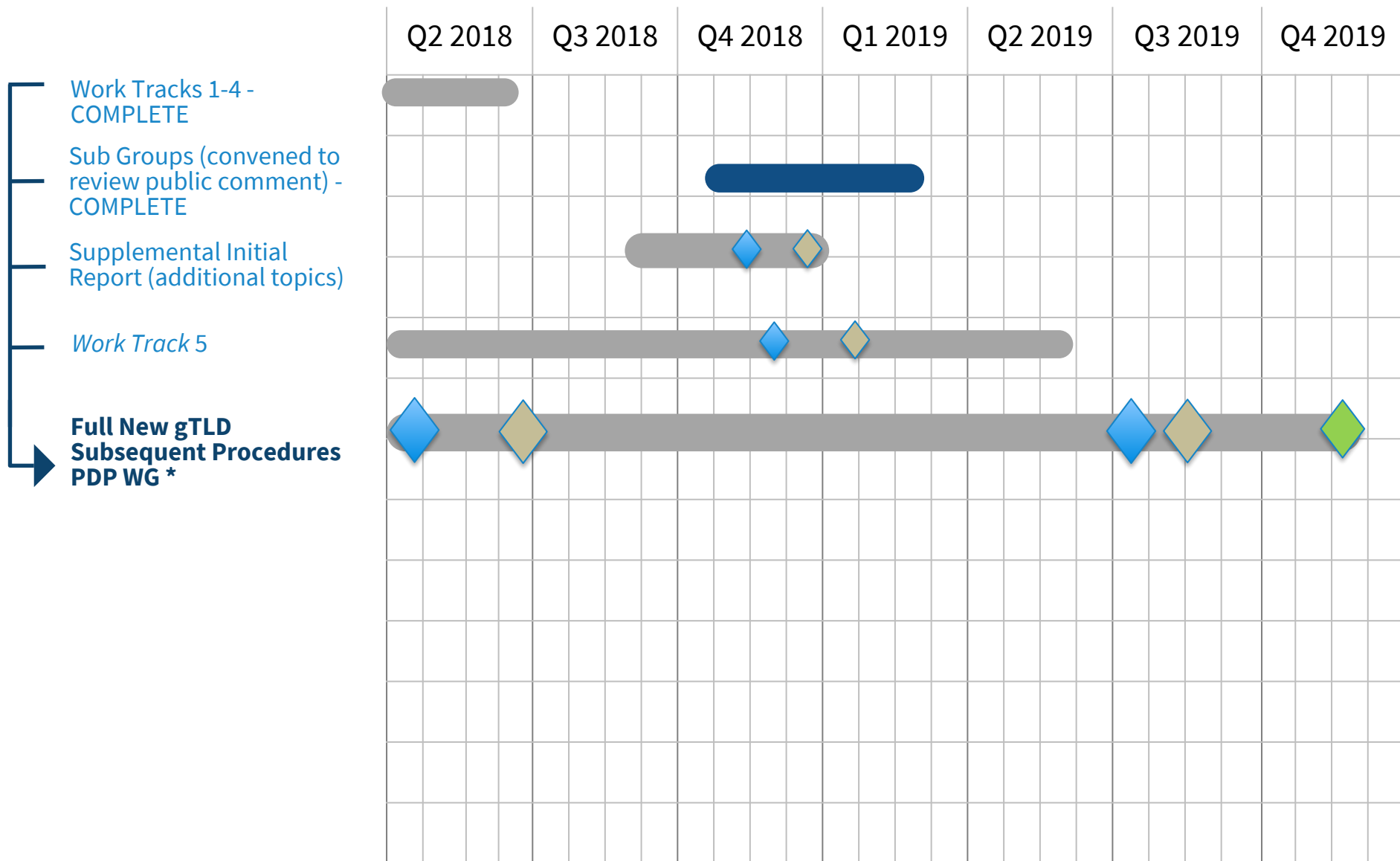


Close of Public Comments



Final Report Delivered to Council

SubPro Timeline – Add'l Public Comment



KEY



Publish Initial Report



Close of Public Comments



Final Report Delivered to Council

Substantive Discussions on Open WG Topics

Agenda Item #2

Topic #1 - “Closure” of a Round

- The ICANN Board requested that the PDP WG include in its deliberations: “Regarding timelines for future rounds, the Board requests that the PDP Working Group consider the issue of round closure and what criteria or mechanism could be used to close a round.
- What are the elements of the New gTLD Program that may be impacted by defining “the Closure of a Round”? Do these elements truly depend on “Closing the Round” or are there other potential triggers for these elements?
- **The PDP WG recognizes that there are many factors to consider around “closure” and that it is perhaps not the right terminology.**
- This part of the session is intended to examine *1) what elements require a triggering element and 2) what is that triggering event.*

Topic #1 - “Closure” of a Round

- Examples of elements that require a triggering event:
 - Initiating the subsequent procedure
 - Distributing excess funds from the round/procedure, if applicable
 - Determining if applicants that shall not proceed should be required to withdraw their application
 - Applying in a subsequent procedures for a still pending string
 - Applying in a subsequent procedure for a string that was rejected

Topic #1 - “Closure” of a Round - Questions

1. What milestones are needed to start the subsequent procedure?
2. What milestones are needed to distribute excess funds, if applicable?
3. Should an applicant be required to withdraw their application(s) upon a final action being taken that impacts such application(s)? If so, what events would trigger the required withdrawal of such application(s)?
4. If applications are either still pending in one of the stages of the new gTLD Program, or if the time period for which an accountability mechanism or appeal can be filed before subsequent procedures begin, should applicants be able to apply for that/those string(s) in subsequent procedures? If no, should that/those string be “reserved”? If yes, what would be the impact on the process for those new applications?
5. If a string was rejected (or alternatively all applications for a particular string are rejected), should there be anything preventing an applicant from applying for the same string?
6. If a delegated string is terminated, should it be allowed to be re-delegated in subsequent procedures? If so, what factors should be considered?

Topic #2 - Limited Appeals Mechanism

- In the Initial Report we recommended that a limited appeals mechanism be developed which is wholly separate from Accountability Mechanisms under the Bylaws. The comments we received to the Initial Report seemed to support this recommendation. **However, while there seemed to be support, there are still details that need to be considered.**

- More specifically, we see support in general for:
 - Allowing allows both substantive and procedural challenges. However:
 - *Identify specific program elements (evaluation, objections, CPE, etc.?).*
 - *Confirm if it this intended to apply to inconsistent application of the AGB?*
 - *Confirm if it this intended to apply to outcomes that an applicant simply does not agree with?*
 - *See comments from Jamie Baxter, ALAC, RySG, Valideus, Council of Europe, which identify specific program elements.*

Topic #2 - Limited Appeals Mechanism

- Standing for appeals being granted to directly aggrieved parties (applicants, either directly or indirectly affected (e.g., string contention)). However:
 - *Any additional limitations? Any additional criteria for qualifying standing?*
- A quick look mechanism to limit frivolous challenges. However:
 - *What is the outcome/repercussion if an appeal is found to be frivolous?*
- A limit of one appeal per applicant relating to a particular cause of action/facts and circumstances giving rise to the appeal.
- Establishing a loser pays model
- Allowing the remedy to be determined by what is being appealed. However:
 - *When should remedies be identified?*

Topic #2 - Limited Appeals Mechanism

- A 3rd-party to be the arbiter of the appeals process. However:
 - *How would the mechanism be paid for? Should it be built into application fees for instance?*
- Ensuring that utilizing the limited appeals process will not limit access to Accountability Mechanisms.

Topic #3 - Application Queuing

- Is it worth discussing prioritizing any particular type of application?

Questions & Answers

Session 2

1

Topics That Might
Warrant Closure

2

Next Steps

3

Any Other Business

Topics That Might Warrant Closure

- In reviewing the public comment received to the PDP WG's Initial Report, *there are several topics where it appears that based on public comment received, the topic may warrant closure.*
- The Co-Chairs believe that identifying topics where closure can be considered is critical in progressing towards a Final Report.
- This session will be spent in testing if these preliminary assessments by the Co-Chairs, on select topics, is accurate.
- **NOTE, for brevity on slides, text from preliminary recommendations has been shortened considerably.**
- ***There are a number of “potential open topics” identified on each slide. In this WG, it has been suggested that policy recommendations are what ICANN org MUST do while implementation guidance is a strong suggestion for how the recommendation SHOULD be implemented, unless otherwise impossible. This concept may be instructive in determining if the “potential open topics” must be resolved by the WG.***

Topic #1: Applicant Guidebook

In general, there is agreement that:

- The Applicant Guidebook should continue to be used, though made more user friendly, which includes focusing more on practical user processes rather than historical context, making the AGB more searchable (e.g., ToC, links to different sections online), and more specific to application type.
- That said, create a set of AGB elements that applies to all applicants.
- Ensure and click-through agreements are agreed finalized in advance.

Potential open topics:

- Language support - is there a need for translation beyond UN 6?
- Allowing for negotiation of click-through agreements
- Parsing out and agreeing on the core principle/goal to accompany the more specific implementation guidance found in the Preliminary Recommendations

Topic #2: Systems

In general, there is agreement that:

- Adequate time should be allowed for ICANN org development of the system and that robust QA, user interface, and penetration testing take place. Support beta testing for end users.
- Applicant-facing systems should be usable and integrated, preferably with single sign-on. Integrate other usability elements such as supporting non-ASCII characters in certain fields, better real-time technical support, submission of multiple identical applications/disseminating answers to questions across applications for portfolio applicants, receive automated alerts, bulk update information across multiple fields.

Potential open topics:

- Identifying which fields require non-ASCII character support
- Consider which of these suggested improvements might make the user experience more complicated and thus, more prone to error

Topic #2: Systems

Potential open topics, continued:

- Noting the concerns from ICANN org that many of these suggested usability improvements will introduce complexity, time, and cost, prioritizing the suggested changes.
- Similar to Topic #1, parsing out and agreeing on the core principle/goal to accompany the more specific implementation guidance found in the Preliminary Recommendations

Topic #3: Communications

In general, there is agreement that:

- There should be a minimum of four (4) months from AGB finalization and the start of application acceptance.
- There should be adequate time for program outreach and education, especially for Applicant Support. Leverage GSE.
- The communications period should be at least six (6) months, with a potentially shorter period (e.g., three (3) months) if there is some form of continuous application period.
- Ensure there is a robust online knowledge base.
- Ensure there are clear and communicated SLAs and escalation paths for applicant communications. Provide real-time support.

Topic #3: Communications

Potential open topics:

- Mixed support for using icann.org for program information versus a microsite
- Identify criteria or metrics for determining success of the Communication Plan (see comments from ALAC, ICANN org)
- Ensure that recommendations are properly differentiated from existing ICANN org implementation.
- Consider agreeing on requirements for the communications period rather than an arbitrary number of six (6) months.
- Similar to Topic #1 and 2, parsing out and agreeing on the core principle/goal to accompany the more specific implementation guidance found in the Preliminary Recommendations

Topic #4: Universal Acceptance

In general, there is agreement that:

- That there should continue to be support for IDNs, but applicants should be made aware of Universal Acceptance (UA) issues.

Potential open topics:

- Should the UA Steering Group (UASG) play a role in informing potential applicants (e.g., supply a fact sheet to the Program)
- Several commenters support the notion that the UA Initiative and the UASG should lead the community effort. However, there is a suggestion that ICANN org itself has a role to play. Another suggestion is that Registry/Registrar verticals in particular should fully support IDNs (especially in email) and that should actively seek to ensure their suppliers are UA ready.

Topic #5: Applications Submission Limits

In general, there is agreement that:

- There should be a minimum of a three (3) month period for an applicant to submit an application, assuming next procedure is a round. However, some believe a longer period makes sense. Most agree that a fixed application period makes sense however.
- If subsequent procedures are a series of application windows, evaluation and delegation of applications may overlap with the opening of a subsequent procedure.
- In opposition to the preliminary option, do not have the Communications period and application submission period overlap.

Topic #5: Applications Submission Limits

Potential open topics:

- As noted, some support for extending the application submission period beyond three (3) months, citing the benefits to late-comers, certain regions. One suggestion is to take the complexity of the process into account and then determine time needed, rather than an arbitrary number.
- Mixed support for shortening the application submission period to two (2) months where subsequent procedures are a series of application windows.

Next Steps

Agenda Item #3

Any Other Business

Agenda Item #3

PDP Resources

- Active Project Page:
<https://gnso.icann.org/en/group-activities/active/new-gtld-subsequent-procedures>
- PDP Wiki: <https://community.icann.org/x/RgV1Aw>
- PDP Mailing List Archive:
<http://mm.icann.org/pipermail/gnso-newgtld-wg/>
- Newsletters:
<https://gnso.icann.org/en/news/working-group-newsletters>