

Impact Analysis of Phase 2 Charter Questions

Board Resolution on 16 March 2023

Whereas, the Board understands that the delivery of the Implementation Plan no later than 1 August 2023 requires the satisfactory completion of the following four deliverables (the Deliverables) **by the last day of the ICANN77 Public Meeting (15 June 2023)**:

4. **A project plan** from the GNSO Internationalized Domain Names (IDNs) Expedited Policy Development Process (EPDP) Working Group (WG) **identifying all charter questions that will impact the next Applicant Guidebook**, along with considerations to ensure a consistent solution on IDN Variant TLDs with the ccPDP4 on IDN ccTLDs (in accordance with prior Board [Resolution 2019.03.14.09](#)), and **a timeline by when the IDNs EPDP WG will deliver relevant recommendations to the GNSO Council.**

Impact Analysis Summary

To help kick off EPDP Team’s discussion, staff conducted a preliminary impact analysis of Phase 2 questions. Please note:

- The analysis is developed based on the **ASSUMPTION** that the EPDP Team will develop corresponding recommendation(s) for each question that will result in a **change to the status quo**
- Based on the **ASSUMPTION** that the 2012 AGB will serve as the basis of the next AGB, staff reviewed the **2012 AGB and application questions** to understand whether such a change may have an impact on the next round; relevant AGB section numbers and question numbers are noted in the rationale
- In this analysis, **contractual obligation** generally refers to contracted parties’ obligations as reflected in RA, RAA, Consensus Policies, temporary policies, and other policies/procedures that have legal effects. Impact analysis of contractual obligation is not requested by ICANN Board, but it is included here as it may be a helpful reference
- **Foundational questions** are highlighted in **Yellow**

Impact?	C1	C2	C3	C3a	C4	C4a	C5	C6	D4	D5	D6	D6a	D7	D7a	D8	F1	F2	G1	G2
Next AGB	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No	No	No	No	No	Yes	No	No	No	No
Application Question	No	Yes	Yes	Yes	Yes	No	May	Yes	Yes	No	May	May	May	May	Yes	May	May	May	May
Contractual Obligation	Yes	Yes	Yes	Yes	Yes	No	May	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

C1 & C2 (Part 1)

c1) Should the “same entity” requirement be extended to existing variant domains?

c2) Part 1: Should the “same registrant” requirement be extended to existing variant domains?

Data	Data from registrars regarding how variant domains are managed
Potential Outcome	<ul style="list-style-type: none">- Yes, “same entity” / “same registrant” required retrospectively- No, grandfather existing registrations
Length	4 Meetings Foundational Question

If EPDP Team recommends “same entity” / “same registrant” requirement applied retrospectively to existing variant domains

Next AGB	No , only impacts existing variant domains
Application Question	No , only impacts existing variant domains
Contractual Obligation	Yes , potential update to: <ul style="list-style-type: none">- IDN Implementation Guidelines

C2 (Part 2)

c2) Part 2: Whether the current rules for activating variant domains should be updated?

Data	<ul style="list-style-type: none">- Data from registrars regarding registrant situation of variant domains- Data from registries regarding their current practice activating variant domains
Potential Outcome	<ul style="list-style-type: none">- Follow the current rules for activating variant labels- Develop different rules for activating variant labels
Length	4 Meetings Foundational Question

If EPDP Team recommends changes to how ROs activate second-level variant labels

Next AGB	Yes , potential update to: <ul style="list-style-type: none">- Section 2.2.3 Registry Services Review- Section 2.2.3.2 Customary Services
Application Question	Yes , may impact how an applicant answers: <ul style="list-style-type: none">- Question 23 Registry Services- Question 44 (optional)
Contractual Obligation	Yes , potential update to: <ul style="list-style-type: none">- Exhibit A of Registry Agreement- IDN Implementation Guidelines

Question 44 (Optional)

IDNs Implementation:

- State whether the proposed registry will support the registration of IDN labels in the TLD, and if so, how. For example, explain which characters will be supported, and provide the associated IDN Tables with variant characters identified, along with a corresponding registration policy. This includes public interfaces to the databases such as Whois and EPP.
- Describe how the IDN implementation will comply with RFCs 5809-5893 as well as the ICANN IDN Guidelines.
- Describe resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).

c3) Should ROID be used to identify the same registrant for both existing and future variant domains? If not, what other mechanisms, if any, exist to identify the same registrant?

Data

- Basics of ROID; data from ICANN Compliance (e.g., any issue with the use of ROIDs)
- Data from registrars regarding the mechanism(s) of identifying the same registrant

Potential Outcome

- For future registrations:
- Yes, use ROID to identify the same registrant
 - No, use a different mechanism to identify same registrant
 - No specific recommendation, let registrars determine the appropriate mechanism
- For existing registrations:
- Yes, use ROID retrospectively
 - No, grandfather existing practices

Length

4 Meetings *Foundational Question*

If EPDP Team recommends ROID or a specific mechanism to identify the same registrant

Next AGB

- Yes**, potential update to:
- Section 2.2.2.1 Technical/Operational Review

Application Question

- Yes**, may impact how an applicant answers:
- Question 25 Extensible Provisioning Protocol
 - Question 44 (optional)

Contractual Obligation

- Yes**, potential update to:
- Registry Agreement Specification 4 for Registration Data Publication Services

c3a) Should additional requirements be developed if ROID is determined as the mechanism to identify the same registrant?

Data	Data from registrars regarding the mechanism(s) of identifying the same registrant
Potential Outcome	Depends on the answer to C3... <ul style="list-style-type: none"> - Yes, develop additional requirements - No additional requirements from EPDP, let registrars determine additional requirements if needed
Length	2 Meetings

If EPDP Team recommends ROID and additional requirements to identify the same registrant

Next AGB	Yes , potential update to: <ul style="list-style-type: none"> - Section 2.2.2.1 Technical/Operational Review
Application Question	Yes , may impact how an applicant answers: <ul style="list-style-type: none"> - Question 25 Extensible Provisioning Protocol - Question 44 (optional)
Contractual Obligation	Yes , potential update to: <ul style="list-style-type: none"> - Registry Agreement Specification 4 for Registration Data Publication Services

c4) Should IDN tables under a gTLD be mutually coherent for an existing gTLD or a future gTLD?

Data	<ul style="list-style-type: none"> - Explanation of “mutually coherent” - Data from registries and back end registry service providers regarding current practice of making IDN tables mutually coherent - Data from ICANN org’s IDN table update project
Potential Outcome	<p>For future IDN tables:</p> <ul style="list-style-type: none"> - Yes, IDN tables must be required to be mutually coherent - No, IDN tables do not need to be mutually coherent <p>For existing IDN tables:</p> <ul style="list-style-type: none"> - Yes, existing IDN tables must be required to be “mutually coherent” retrospectively and enforce compliance with existing registrations - No, grandfather existing IDN tables and existing registrations
Length	4 Meetings Foundational Question

If EPDP Team recommends IDN tables be mutually coherent

Next AGB	Yes , potential update to: <ul style="list-style-type: none"> - Section 1.3 Information for Internationalized Domain Name Applicants - Section 1.3.2 IDN Tables
Application Question	Yes , may impact how an applicant answers: <ul style="list-style-type: none"> - Question 15(a) If an IDN, attach IDN table for the proposed registry - Question 15(b) Describe the process used for development of the IDN tables submitted, including consultations and source used - Question 44 (optional)
Contractual Obligation	Yes , potential update to: <ul style="list-style-type: none"> - IDN Implementation Guidelines

c4) Should variant domains under a single gTLD behave the same?

Data	SubPro PDP Recommendation 25.8: <i>Second-level labels derived from Recommendation 25.6 or Recommendation 25.7 are not required to act, behave, or be perceived as identical.</i>
Potential Outcome	Affirm SubPro PDP Recommendation 25.8, which has already addressed this question
Length	1 Meeting

If EPDP Team affirms SubPro PDP Recommendation 25.8

Next AGB	No , no additional requirement as variant domains do not need to behave the same
Application Question	No , no additional requirement as variant domains do not need to behave the same
Contractual Obligation	No , no additional requirement as variant domains do not need to behave the same

c5) How to harmonize IDN tables to ensure the ones under a gTLD are mutually coherent?

Data	Data from registries and back end registry service providers regarding their current practice of IDN table harmonization
Potential Outcome	<ul style="list-style-type: none"> - Adopt staff paper suggested method(s) of IDN table harmonization - Recommend a different method of IDN table harmonization - No specific recommendation, let registries determine their methods of IDN table harmonization
Length	2 Meetings

If EPDP Team recommends specific method(s) of IDN table harmonization

Next AGB	No , implementation detail does not seem necessary for inclusion in AGB
Application Question	Maybe , may impact how an applicant answers: <ul style="list-style-type: none"> - Question 15(b) Describe the process used for development of the IDN tables submitted, including consultations and source used - Question 44 (optional)
Contractual Obligation	Maybe , potential update to: <ul style="list-style-type: none"> - IDN Implementation Guidelines

c6) Should IDN tables use the LGR format, as specified in RFC 7940, for both existing gTLDs and future gTLDs?

Data

- Data from registries regarding IDN table format
- Data from ICANN regarding IDN table format

Potential Outcome

For future IDN tables:

- Require LGR format as specified in RFC 7940
- Recommend a different IDN table format
- No specific recommendation, let registries determine IDN table format

For existing IDN tables:

- Require LGR format as specified in RFC 7940 retroactively
- No specific recommendation, let registries determine their methods of IDN table harmonization

Length

2 Meetings

If EPDP Team recommends the LGR format or a specific format for IDN tables

Next AGB

Yes, potential update to:

- Section 1.3 Information for Internationalized Domain Name Applicants
- Section 1.3.2 IDN Tables

Application Question

Yes, may impact how an applicant answers:

- Question 15(a) If an IDN, attach IDN table for the proposed registry
- Question 15(b) Describe the process used for development of the IDN tables submitted, including consultations and source used
- Question 44 (optional)

Contractual Obligation

Yes, potential update to:

- IDN Implementation Guidelines

d4) Should the variant domains from a variant label set have the same behavior throughout the domain name lifecycle?

Data

- Basics of domain name lifecycle stages
- SubPro PDP Recommendation 25.7

Potential Outcome

- Take into account the underlying principles of variant management mechanism...
- Yes, a variant label set must behave as one unit at all stages of the domain name lifecycle
 - No, a variant label set do not need to behave as one unit at any stage of the domain name lifecycle
 - Some stage(s) of the domain name lifecycle will require that a variant set behaves as one unit

Length

4 Meetings **Foundational Question**

If EPDP Team recommends variant domains have the same behavior for one, some, or all stages in domain name lifecycle

Next AGB

- Yes**, potential update to:
- Section 2.2.2.1 Technical/Operational Review

Application Question

- Yes**, may impact how an applicant answers:
- Question 27 Registration Life Cycle
 - Question 44 (optional)

Contractual Obligation

- Yes**, potential update to:
- Registrar Accreditation Agreement

d5) Should each variant domain transaction incur fees paid to ICANN by its registry and registrar?

Data	Fees paid to ICANN by contracted parties
Potential Outcome	Take into consideration Preliminary Recommendation 7.6 regarding the calculation of the registry-level transaction fee... <ul style="list-style-type: none"> - Each domain name registration will be considered an independent registration and require fee paid to ICANN by registry and registrar - A variant label set will be considered as one unit for fee purposes
Length	2 Meetings

If EPDP Team recommends how variant domain incur fees paid to ICANN by its registry and registrar

Next AGB	No , does not seem necessary for inclusion in AGB; cannot find reference in 2012 AGB. <ul style="list-style-type: none"> - Only possible reference is Section 5.4.1 What is Expected of a Registry Operator (e.g., pay recurring fees to ICANN)
Application Question	No , does not seem necessary for inclusion as an application question; cannot find such a question in 2012 round
Contractual Obligation	Yes , potential update to: <ul style="list-style-type: none"> - Registry Agreement - Registrar Accreditation Agreement

d6) Whether and how should the Transfer Policy be updated for variant domains?

Data	Basics of Transfer Policy
Potential Outcome	<p>Depends on answer to D4...</p> <ul style="list-style-type: none"> - Transfer of one domain will affect the other domains from the variant label set - Transfer of one domain does not affect the other domains from the variant label set - Transfer of one domain may affect the other domains from the variant label set, depending on specific circumstances - Recommend other specific changes to transfer policy to preserve the underlying principles of variant management mechanism
Length	2 Meetings

If EPDP Team recommends any changes to the Transfer Policy

Next AGB	<p>No, changes will be applied to the Transfer Policy directly, and AGB may only reference it.</p> <ul style="list-style-type: none"> - See Section 5.4.1 What is Expected of a Registry Operator (e.g., comply with consensus policies and temporary policies)
Application Question	<p>Maybe, may impact how an applicant answers:</p> <ul style="list-style-type: none"> - Question 27 Registration Life Cycle - Question 44 (optional)
Contractual Obligation	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - Transfer Policy

d6a) Should the variant domains from a variant label set be transferred to the same entity as a remedy of UDRP?

Data	Basics of UDRP and its remedy
Potential Outcome	<p>Depends on answer to D4 and D6...</p> <ul style="list-style-type: none"> - Transfer of the entire variant label set is required as a remedy of UDRP - Transfer of one domain name as a remedy of UDRP does not necessarily impact the other domains from the variant label set - Recommend specific changes to other dispute resolution mechanisms to preserve the underlying principles of variant management mechanism
Length	2 Meetings

If EPDP Team recommends any changes to the UDRP

Next AGB	<p>No, changes will be applied to the UDRP directly, and AGB may only reference it.</p> <ul style="list-style-type: none"> - See Section 5.4.1 What is Expected of a Registry Operator (e.g., comply with consensus policies and temporary policies)
Application Question	<p>Maybe, may impact how an applicant answers:</p> <ul style="list-style-type: none"> - Question 29 Rights Protection Mechanism - Question 44 (optional)
Contractual Obligation	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - UDRP

d7) Whether and how should suspension related procedures be updated for variant domains?

Data	Basics of domain name suspension (voluntary and involuntary)
Potential Outcome	<p>Depends on answer to D4...</p> <ul style="list-style-type: none"> - Suspension of one domain will affect the other domains from the variant label set - Suspension of one domain does not affect the other domains from the variant label set - Suspension of one domain may affect the other domains from the variant label set, depending on specific circumstances
Length	2 Meetings

If EPDP Team recommends any changes to suspension related policies and procedures

Next AGB	No , changes will be applied to suspension related policies and procedures directly (e.g., Section 3.7.7.2 in Registrar Accreditation Agreement), and AGB may only reference them.
Application Question	Maybe , may impact how an applicant answers: <ul style="list-style-type: none"> - Question 28 Abuse Prevention and Mitigation - Question 29 Rights Protection Mechanism - Question 44 (optional)
Contractual Obligation	Yes , potential update to: <ul style="list-style-type: none"> - Registrar Accreditation Agreement

d7a) Should all of the variant domains from a variant label set be suspended as a remedy of URS?

Data	Basics of URS and its remedy
Potential Outcome	<p>Depends on answer to D4 and D7...</p> <ul style="list-style-type: none"> - Suspension of the entire variant label set is required as a remedy of URS - Suspension of one domain name as a remedy of URS does not necessarily impact the other domains from the variant label set
Length	2 Meetings

If EPDP Team recommends any changes to the URS

Next AGB	<p>No, changes will be applied to the URS directly, and AGB may only reference it.</p> <ul style="list-style-type: none"> - See Section 5.4.1 What is Expected of a Registry Operator (e.g., implement post-launch rights protection measures)
Application Question	<p>Maybe, may impact how an applicant answers:</p> <ul style="list-style-type: none"> - Question 29 Rights Protection Mechanism - Question 44 (optional)
Contractual Obligation	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - URS - Registry Agreement Specification 7 for Minimum Requirements for Rights Protection Mechanisms

d8) Should data with regard to variant domains be available in IANA WHOIS and Registry WHOIS?

Data	<ul style="list-style-type: none"> - Basics of WHOIS/RDAP - GDPR outcomes - Information from the Internationalization of Registration Data Group
Potential Outcome	<p>Take into account Implementation Guidance 9.2 regarding variant label state tracking...</p> <ul style="list-style-type: none"> - Recommend specific changes to IANA WHOIS and Registry WHOIS to record the registration data of a domain and its associated variant label set
Length	3 Meetings

If EPDP Team recommends any changes to WHOIS

Next AGB	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - Section 2.2.2.1 Technical/Operational Review - Section 5.2.3 Test Elements: Registry Systems (Whois support) - Section 5.4.1 What is Expected of a Registry Operator (e.g., provide whois service)
Application Question	<p>Yes, may impact how an applicant answers:</p> <ul style="list-style-type: none"> - Question 26 Whois - Question 44 (optional)
Contractual Obligation	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - Registry Agreement Specification 4 for Registration Data Publication Services

f1) Should variant labels of a registered mark also be recorded in the TMCH? Are variant labels of a registered mark eligible to receive Sunrise and Trademark Claims services?

Data	<ul style="list-style-type: none"> - Basics of TMCH and its Sunrise and Trademark Claims services - ICANN org collected data on TMCH - SAC060
Potential Outcome	<p>Take into account Preliminary Recommendation 3.16 regarding variant label application for .Brand TLDs...</p> <ul style="list-style-type: none"> - No change to TMCH and its services due to the exact match rule based on trademark law - Recommend specific changes to TMCH and its services by considering SAC060
Length	2 Meetings

If EPDP Team recommends any changes to the TMCH

Next AGB	<p>No, changes will be applied to the TMCH directly, and AGB may only reference it.</p> <ul style="list-style-type: none"> - See Section 5.4.1 What is Expected of a Registry Operator (e.g., implement start-up rights protection measures)
Application Question	<p>Maybe, may impact how an applicant answers:</p> <ul style="list-style-type: none"> - Question 29 Rights Protection Mechanism - Question 44 (optional)
Contractual Obligation	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - TMCH - Registry Agreement Specification 7 for Minimum Requirements for Rights Protection Mechanisms

f2) RPM catch all question

Data	Basics of rights protection mechanisms and dispute resolution procedures
Potential Outcome	Take into account <u>Preliminary Recommendation 7.12</u> regarding the remedy of TM-PDDRP and depends on answers to D6a, D7a, F1... <ul style="list-style-type: none"> - Recommend other specific changes to RPMs to preserve the underlying principles of variant management mechanism
Length	1 Meeting

If EPDP Team recommends any changes to RPMs

Next AGB	No , changes will be applied to RPMs directly, and AGB may only reference them. <ul style="list-style-type: none"> - See Section 5.4.1 What is Expected of a Registry Operator (e.g., implement post-launch rights protection measures)
Application Question	Maybe , may impact how an applicant answers: <ul style="list-style-type: none"> - Question 29 Rights Protection Mechanism - Question 44 (optional)
Contractual Obligation	Yes , potential update to: <ul style="list-style-type: none"> - Registry Agreement Specification 7 for Minimum Requirements for Rights Protection Mechanisms

g1) Since IDN Implementation Guidelines have contractual implications for registries and registrars, what is the proper mechanism for updating them in the future?

Data	<ul style="list-style-type: none"> - History of IDN Implementation Guidelines and current process for updating - Background of IDN Implementation Guidelines version 4.1 and related challenges - IDN ccTLDs' experience with IDN Implementation Guidelines
Potential Outcome	<ul style="list-style-type: none"> - Recommend specific changes to how IDN Implementation Guidelines should be updated
Length	4 Meetings Foundational Question

If EPDP Team recommends any changes to the update process of IDN Implementation Guidelines

Next AGB	<p>No, changes will be applied to IDN Implementation Guidelines directly, and AGB may only reference them.</p> <ul style="list-style-type: none"> - See Section 1.3.2 IDN Tables
Application Question	<p>Maybe, may impact how an applicant answers:</p> <ul style="list-style-type: none"> - Question 44 (optional)
Contractual Obligation	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - Registry Agreement Specification 6 for Registry Interoperability and Continuity Specifications

g1a) Should a separate legal mechanism, other than the IDN Implementation Guidelines, be created to enforce IDN related contractual obligations for registries and registrars?

Data	<ul style="list-style-type: none"> - History of IDN Implementation Guidelines and current process for updating - Background of IDN Implementation Guidelines version 4.1 and related challenges - IDN ccTLDs' experience with IDN Implementation Guidelines
Potential Outcome	<p>Depends on answer to G1..</p> <ul style="list-style-type: none"> - No, there is no need for separate legal mechanism as the IDN Implementation Guidelines already suffice - Yes, there is a need for separate legal mechanism (develop a recommendation) - ccTLDs related consideration seem to be out of scope
Length	2 Meetings

If EPDP Team recommends any changes to the update process of IDN Implementation Guidelines

Next AGB	<p>No, changes will be applied to such a separate legal mechanism directly, and AGB may only reference it.</p> <ul style="list-style-type: none"> - See Section 5.4.1 What is Expected of a Registry Operator (e.g., comply with consensus policies and temporary policies)
Application Question	<p>Maybe, may impact how an applicant answers:</p> <ul style="list-style-type: none"> - Question 44 (optional)
Contractual Obligation	<p>Yes, potential update to:</p> <ul style="list-style-type: none"> - Registry Agreement Specification 6 for Registry Interoperability and Continuity Specifications