Predictability Framework

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1. Overview of the Predictability Framework

ICANN org maintains operational processes to receive, process, and close out applications [to the Next Round of the new gTLD Program] in an efficient, consistent, and transparent manner. The purpose of this Predictability Framework (Framework) is a transparent procedure for ICANN org to utilize when unanticipated issues arise during the course of the New gTLD Program (Program) that require changes to ICANN org's operations of the Program or otherwise affect new gTLD applicants. Subject to the type of change required, ICANN org will work with the Standing Predictability Implementation Review Team (SPIRT): if changes have a material impact on applicants, ICANN org and the SPIRT have to agree on a permanent solution; if the proposed changes do not have a material impact, ICANN org is not required to consult with the SPIRT.[1]

The Framework is not a mechanism to develop solutions to such issues. It also does not impact the role of the ICANN Board to take actions that may impact the Program. Similarly, the Framework does not affect the GNSO Council's ability (see ICANN Bylaws Annexes A, A-1, A-2) to launch policy development or guidance processes that may relate to the Program. Finally, the Framework does not affect the Government Advisory Committee's (GAC), nor any other ICANN advisory committee's, ability to issue advice in accordance with ICANN's Bylaws Article 12.

ICANN org will document all changes to the Program in a publicly available Change Log. In addition, for non-minor changes, ICANN org will inform all applicants directly.

2. Parties Involved in the Framework

The following parties are involved in the administration of this Framework and their roles and responsibilities listed here pertain only to this Framework.

1. **Applicants**: All entities who applied for a new gTLD during the ongoing round of the program.
2. **GNSO Council**: The GNSO Council is the chartering entity of the SPIRT and is consulted as described below.
3. **ICANN org**: ICANN org is the Program operator and must make all reasonable efforts to ensure the Program's continued operation.
4. **ICANN Board**: The Board's roles and responsibilities are detailed in the Bylaws.
5. **SPIRT**: As a standing implementation review team, the SPIRT will, in coordination with the GNSO Council, collaborate with ICANN org on all non-minor changes to the Program (including policy changes).

[1] ICANN org will notify applicants if material changes made to the program have an impact on applicants.

3. Description of Changes

For the purpose of this Framework, changes to the Program are classified as follows:

- A **minor operational change** refers to any change during the ongoing round of the program that does not have a material impact on applicants. The SPIRT is not involved in these changes.
- A **non-minor operational change** is a change during the ongoing round of the program that has a material impact on applicants. ICANN org will consult with the SPIRT when designing a solution, and ICANN org and the SPIRT need to agree on a solution before a change can be implemented permanently.
- A **policy change** is a change during the **ongoing round** of the program that, if implemented, would be inconsistent with existing policy recommendations.[2] Therefore, policy **changes for ongoing rounds would only occur in extraordinary circumstances** where the continuation of the program is at risk if the change were not executed. If a policy change is necessary the Board, ICANN org, and the GNSO Council will collaborate to identify an appropriate solution to secure the continuation of the program as well as an appropriate process to implement it.[3] In this context, any collaboration that may take place between the Council and SPIRT, is outside this framework and a matter for the SPIRT Charter.

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4. Procedural Steps to Initiate and Execute a Change

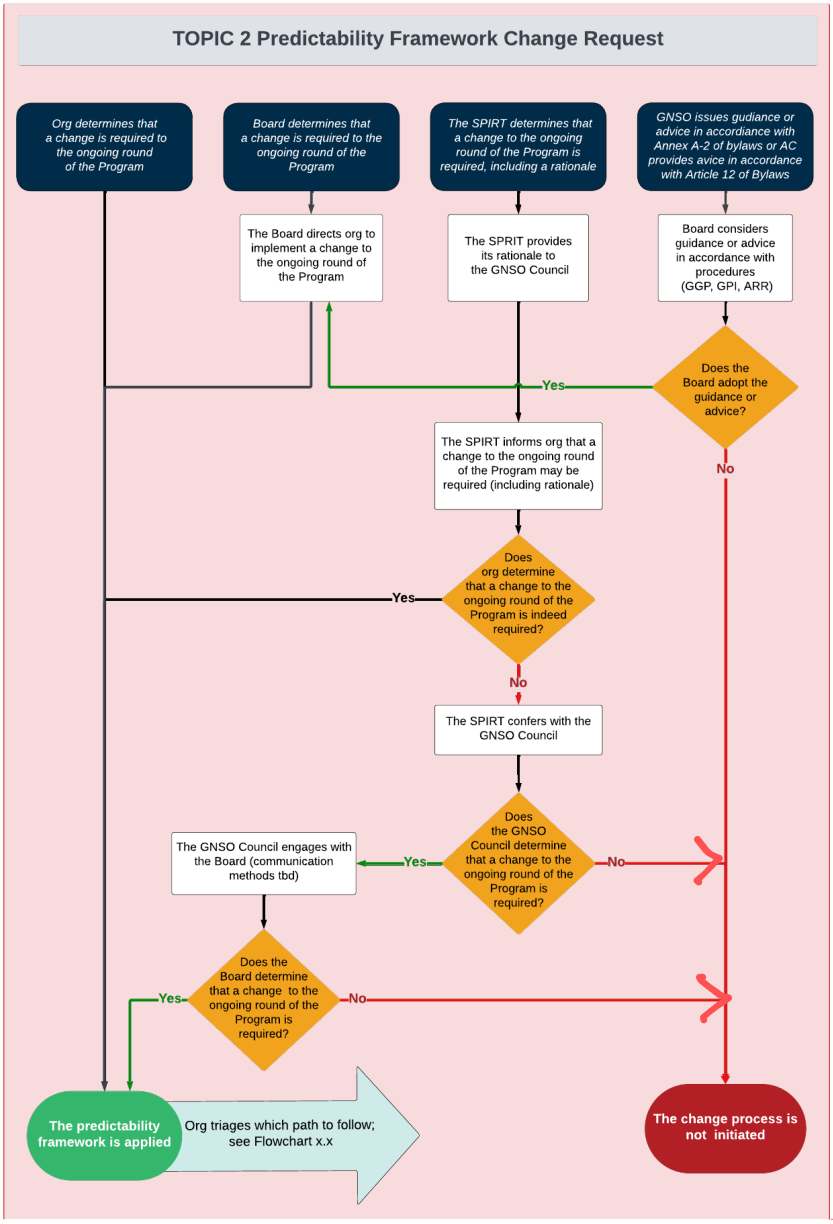
4.1 Change Request

The change request flow chart outlines the procedural steps the **Advisory Committee** (AC), **GNSO Council**, **ICANN Board**, and **ICANN org** take if they determine a change to the Program is required.

1. **GNSO Council or AC approve and submit guidance or advice** to the ICANN Board, and the ICANN Board, **after its consideration, adopts the guidance or advice**. The ICANN Board **directs ICANN org** to implement the change. If implementation requires a change to the ongoing round of the program, ICANN org applies the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.

[2] Policy recommendations and affirmations are the Board approved recommendations contained in the 2007 Introduction of New Generic Top-Level Domains and 2021 New gTLD Subsequent Procedures Policy Development Process Final Reports.
[3] This is separate from any policy development the Council would like to undertake for future rounds whether based on the circumstances above or for any other reason.

2. SPIRT **determines a change to the ongoing round is required**, the SPIRT **collaborates with the GNSO Council to inform ICANN org**. If ICANN org **determines a change to the ongoing round is needed**, ICANN org **applies the Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart. If ICANN org **determines, contrary to the SPIRT, that no change is required to the ongoing round**, the SPIRT confers with the GNSO Council. If the GNSO Council determines a change to the ongoing round is required, the GNSO Council engages with the ICANN Board. If the ICANN Board **determines a change to the ongoing round is needed**, the ICANN Board **directs ICANN org** to apply the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.
3. The ICANN Board **determines a change to the ongoing round of the Program is required**. The ICANN Board **directs ICANN org** to implement the change. If implementation requires a change to the ongoing round of the program, ICANN org applies the **Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.
4. ICANN org **determines a change is required to the Program**, ICANN org **applies the Predictability Framework** and proceeds with the steps outlined in the Change Execution flowchart.



Commented [1]: updated based on ALAC comments (fixed arrows)

4.2 Change Execution

The Change Execution flow chart outlines the procedural steps to take once the change process has been initiated, depending on the initial determination of ICANN org on the type and impact of the required change to the Program.

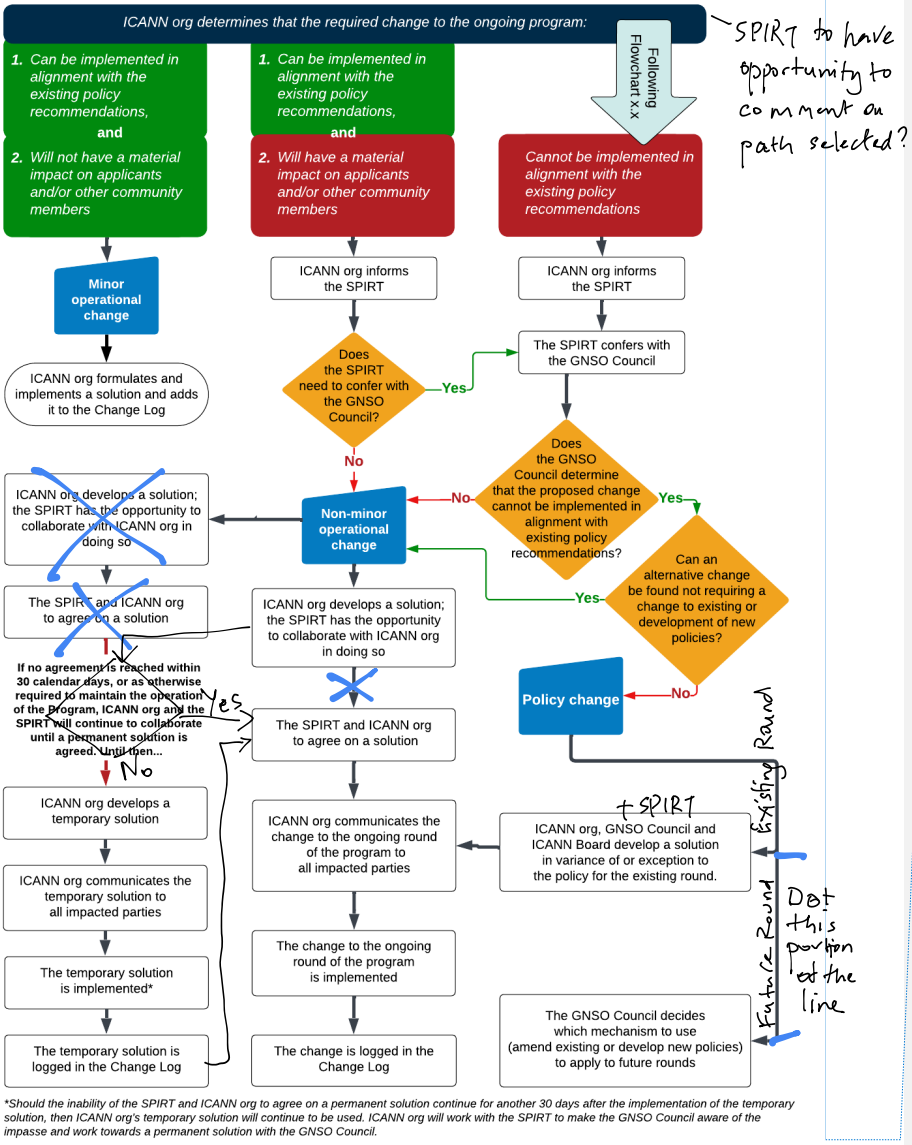
1. ICANN org determines that the required change during the ongoing round of the Program **can be implemented in alignment with the existing policy recommendations, and will not have a material impact on applicants**.[4] Such a change is considered as '**minor operational change**' and the subsequent steps in the change execution flow chart will be followed.
2. ICANN org determines that the required change during the ongoing round of the Program **can be implemented in alignment with the existing policy recommendations**, and **will have a material impact on applicants**. ICANN org subsequently informs the SPIRT and the change is considered a '**non-minor operational change'** the subsequent steps in the change execution flow chart will be followed. Once implemented, ICANN org will inform applicants about any non-minor changes.
3. ICANN org determines that the required change during the ongoing round of the Program **cannot be implemented in alignment with the existing policy recommendations**. ICANN org informs the SPIRT and in accordance with its Charter, the SPIRT confers with the GNSO Council. Should the GNSO Council determine that an alternative change, which does not require a change of existing policy **cannot be found**, the change is considered a '**policy change**' and the subsequent steps in the change execution flow chart will be followed.[5]

[4] For reference, the definition of a non-material change or material change is defined in section [cross-reference].
Note: additional context and definition regarding material changes will be added following IRT discussion on Topic 18 Terms and conditions.

[5] N.B. Under extraordinary circumstances, there could be a recommendation that the New gTLD Program be halted for a communicated amount of time. In such a case, the triggering mechanism and rationale for recommending this extraordinary action must be provided to the GNSO Council for its consideration.

Commented [2]: updated based on ALAC's comment re: impasse + changes to policy change process

TOPIC 2 Predictability Framework Change Execution



Should the inability of the SPIRT and ICANN org to agree on a permanent solution continue for another 30 days after the implementation of the temporary solution, then ICANN org's temporary solution will continue to be used. ICANN org will work with the SPIRT to make the GNSO Council aware of the impasse and work towards a permanent solution with the GNSO Council.

Annex - Relevant Recommendations

Recommendation 2.1: ICANN must establish predictable, transparent, and fair processes and procedures for managing issues that arise in the New gTLD Program after the Applicant Guidebook is approved which may result in changes to the Program and its supporting processes. The Working Group recommends that ICANN org use the Predictability Framework detailed in Annex E of this Report as its guidance during implementation to achieve the goal of predictability in mitigating issues.

The Predictability Framework is principally:

- A framework for analyzing the type/scope/context of an issue and if already known, the proposed or required Program change, to assist in determining the impact of the change and the process/mechanism that should be followed to address the issue. The framework is therefore a tool to help the community understand how an issue should be addressed as opposed to determining what the solution to the issue should be; the framework is not a mechanism to develop policy.

The Framework is not intended to identify the solution to an issue but rather, to identify the proper mechanism to reach a solution in a consistent and procedurally sound manner. Therefore, this Framework complements the existing GNSO processes and procedures. It is not intended to be a substitute or replacement for those, nor should the Framework be seen as supplanting the GNSO Council's decision-making authority. In fact, the GNSO processes and procedures are incorporated into the Predictability Framework explicitly. In the event of a conflict, existing GNSO processes and procedures, including the GNSO Input Process, GNSO Guidance Process, and EPDP as contained in the Annexes to the GNSO Operating Procedures take precedence.

Additionally, the Working Group recommends the formation of a Standing Predictability Implementation Review Team ("SPIRT") (Pronounced "spirit") to serve as the body responsible for reviewing potential issues related to the Program, to conduct analysis utilizing the framework, and to recommend the process/mechanism that should be followed to address the issue (i.e., utilize the Predictability Framework). The GNSO Council shall be responsible for oversight of the SPIRT and may review all recommendations of the SPIRT in accordance with the procedures outlined in the GNSO Operating Procedures and Annexes thereto.

Recommendation 2.7: In the event significant issues arise that require resolution via the Predictability Framework, applicants should be afforded the opportunity to withdraw their application from the process and receive an appropriate refund consistent with the standard schedule of refunds.