



New gTLD Program Explanatory Memorandum

New gTLDs Policy Recommendations and the Implementation Work on the Applicant Guidebook

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Background - New gTLD Program

Since ICANN was founded ten years ago as a not-for-profit, multi-stakeholder organization dedicated to coordinating the Internet's addressing system, one of its foundational principles, recognized by the United States and other governments, has been to promote competition in the domain-name marketplace while ensuring Internet security and stability. The expansion will allow for more innovation, choice and change to the Internet's addressing system, now constrained by only 21 generic top-level domain names. In a world with 1.5 billion Internet users—and growing—diversity, choice and competition are key to the continued success and reach of the global network.

The decision to launch these coming new gTLD application rounds followed a detailed and lengthy consultation process with all constituencies of the global Internet community. Representatives from a wide variety of stakeholders—governments, individuals, civil society, business and intellectual property constituencies, and the technology community—were engaged in discussions for more than 18 months. In October 2007, the Generic Names Supporting Organization (GNSO)—one of the groups that coordinate global Internet policy at ICANN—completed its policy development work on new gTLDs and approved a set of recommendations. Contributing to this policy work were ICANN's Governmental Advisory Committee (GAC), At-Large Advisory Committee (ALAC), Country Code Names Supporting Organization (ccNSO) and Security and Stability Advisory Committee (SSAC). The culmination of this policy development process was a decision by the ICANN Board of Directors to adopt the community-developed policy in June 2008 at the ICANN meeting in Paris. A thorough brief to the policy process and outcomes can be found at <http://gns0.icann.org/issues/new-gtlds/>.

This paper is part of a series of papers that will serve as explanatory memoranda published by ICANN to assist the Internet community to better understand the Request for Proposal (RFP), also known as applicant guidebook. A public comment period for the RFP will allow for detailed review and input to be made by the Internet community. Those comments will then be used to revise the documents in preparation of a final RFP. ICANN will release the final RFP in the first half of 2009. For current information, timelines and activities related to the New gTLD Program, please go to <http://www.icann.org/en/topics/new-gtld-program.htm>.

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

1. Introduction

The policy for the introduction of new generic top-level domains (gTLDs) has served as the foundation for the suggested implementation work expressed in the Draft Applicant Guidebook, also known as Draft Request for Proposal (RFP). At the core of the policy there are 19 Recommendations which have been cross-referenced in this paper verbally and graphically, to illustrate how the implementation work in the Draft Guidebook reflects on the Generic Names Supporting Organization's (GNSO) policy recommendations.

The Draft Guidebook consists of six modules, as follows

1. Introduction to the gTLD Application Process
2. Evaluation Procedures
3. Objection and Dispute Resolution
4. String Contention
5. Transition to Delegation
6. Top-level Domain Allocation Terms and Conditions

Modules one to five (1–5) will be used as reference points and aligned with the policy. Module 6 describes the applicant terms and conditions and is not as relevant to the cross-reference policy points. Also, there are recommendations that apply on the overall implementation work, not necessarily associated with one single module.

The 19 GNSO Recommendations (Recommendations 1 to 20) are listed sequentially and are followed by references to the Guidebook modules (Mod. 1 to 5). Please note that Recommendation 11 is not valid and has not been removed from the Policy. This is why even though the numbers reflect 20 Policy recommendations, only 19 truly apply.

2. Descriptive Cross-reference between Policy and Draft Applicant Guidebook Modules

Recommendation 1 (Rec 1)

"ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination.

All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process."

(Modules 1–5) – Pre-established criteria and procedures are reflected throughout the Draft Guidebook.

Recommendation 2 (Rec 2)

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

(Module 1) – Application refused if identical to an existing top-level domain or a Reserved Name.

(Module 2) – Confusingly similar strings are identified, refused if related to existing TLD or Reserved Name, or flagged for contention resolution if confusing similarity is among proposed strings.

(Module 3) – Confusing similarity of strings is a recognized ground for objections.

(Module 4) – Selection among applications with identical or confusingly similar strings to prevent future TLDs of a confusingly similar nature.

Recommendation 3 (Rec 3)

“Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.

Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industry Property (in particular trademark rights), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) (in particular freedom of expression rights).”

(Module 3) – Infringement of existing legal rights of others is a recognized ground for objections.

Recommendation 4 (Rec 4)

“Strings must not cause any technical instability.”

(Module 2) – Technical requirements for strings provided.

(Module 2) – Application refused if the proposed string risks causing technical instability.

(Module 2) – Extended evaluation possible in event of stability concerns with strings.

Recommendation 5 (Rec 5)

“Strings must not be a Reserved Word.”

(Module 2) – Application refused if the proposed string is identical to a Reserved Word/Name. See also under Recommendation 3 above.

Recommendation 6 (Rec 6)

“Strings must not be contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.

Examples of such principles of law include, but are not limited to, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination, intellectual property treaties administered by the World Intellectual Property Organisation (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).”

(Module 3) – Morality and public order concerns are a recognized ground for objections.

Recommendation 7 (Rec 7)

“Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.”

(Module 1) – Information for assessment retrieved.

(Module 2) – Information evaluated. Application refused if technical capability not demonstrated.

(Module 5) – Technical capabilities tested in pre-delegation.

Recommendation 8 (Rec 8)

“Applicants must be able to demonstrate their financial and organisational operational capability.”

(Module 1) – Information for assessment retrieved.

(Module 2) – Information evaluated. Application refused if financial and organisational operational capability not sufficiently demonstrated.

(Module 5) – Information may be verified prior to execution of registry agreement.

Recommendation 9 (Rec 9)

“There must be a clear and pre-published application process using objective and measurable criteria.”

(Modules 1–5) – Reflected throughout the Draft Guidebook.

Recommendation 10 (Rec 10)

“There must be a base contract provided to applicants at the beginning of the application process.”

(Module 5) – Base contract provided beforehand.

Recommendation 11 (Rec 11)

Note: Not applicable to final Policy

Recommendation 12 (Rec 12)

“Dispute resolution and challenge processes must be established prior to the start of the process.”

(Module 3) – Objection and dispute resolution procedures established.

Recommendation 13 (Rec 13)

“Applications must initially be assessed in rounds until the scale of demand is clear.”

(Module 1) – Draft Guidebook describes first round.

(Module 1) – Subsequent round planning noted.

Recommendation 14 (Rec 14)

"The initial registry agreement term must be of a commercially reasonable length."

(Module 5) – Reflected in the base contract.

Recommendation 15 (Rec 15)

"There must be renewal expectancy."

(Module 5) – Reflected in the base contract.

Recommendation 16 (Rec 16)

"Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved."

(Module 5) – Reflected in the base contract.

Recommendation 17 (Rec 17)

"A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination."

(Module 5) – Reflected in the base contract.

Recommendation 18 (Rec 18)

"If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed."

(Module 1) – Information retrieved for assessment.

(Module 2) – Information evaluated, application refused if not compliant.

(Module 5) – Reflected in the base contract.

Recommendation 19 (Rec 19)

"Registries must use only ICANN accredited registrars in registering domain names and may not discriminate among such accredited registrars."

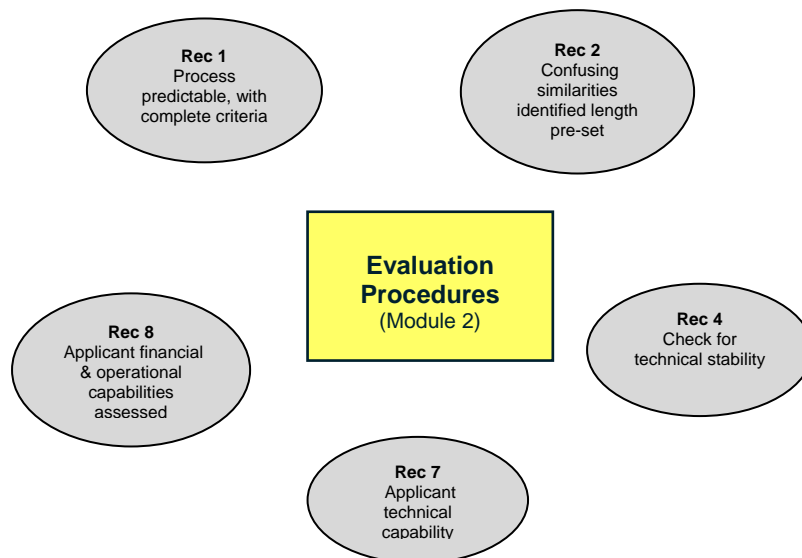
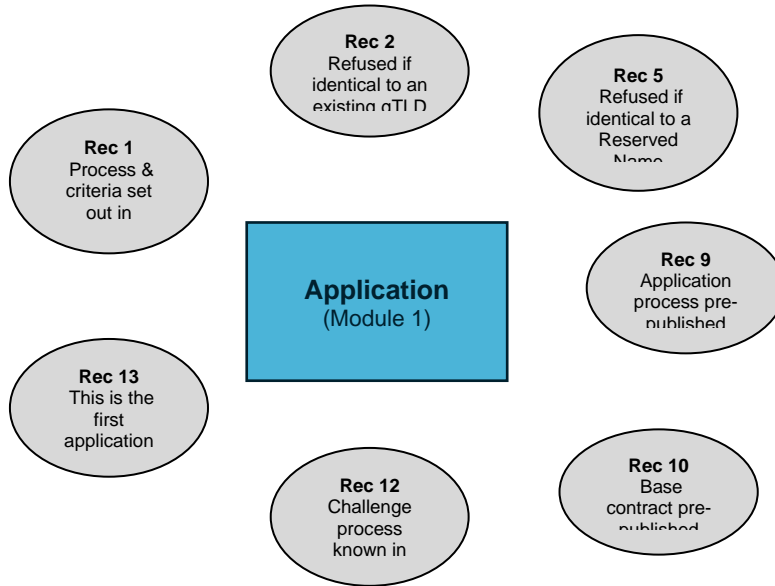
(Module 5) – Reflected in the base contract.

Recommendation 20 (Rec 20)

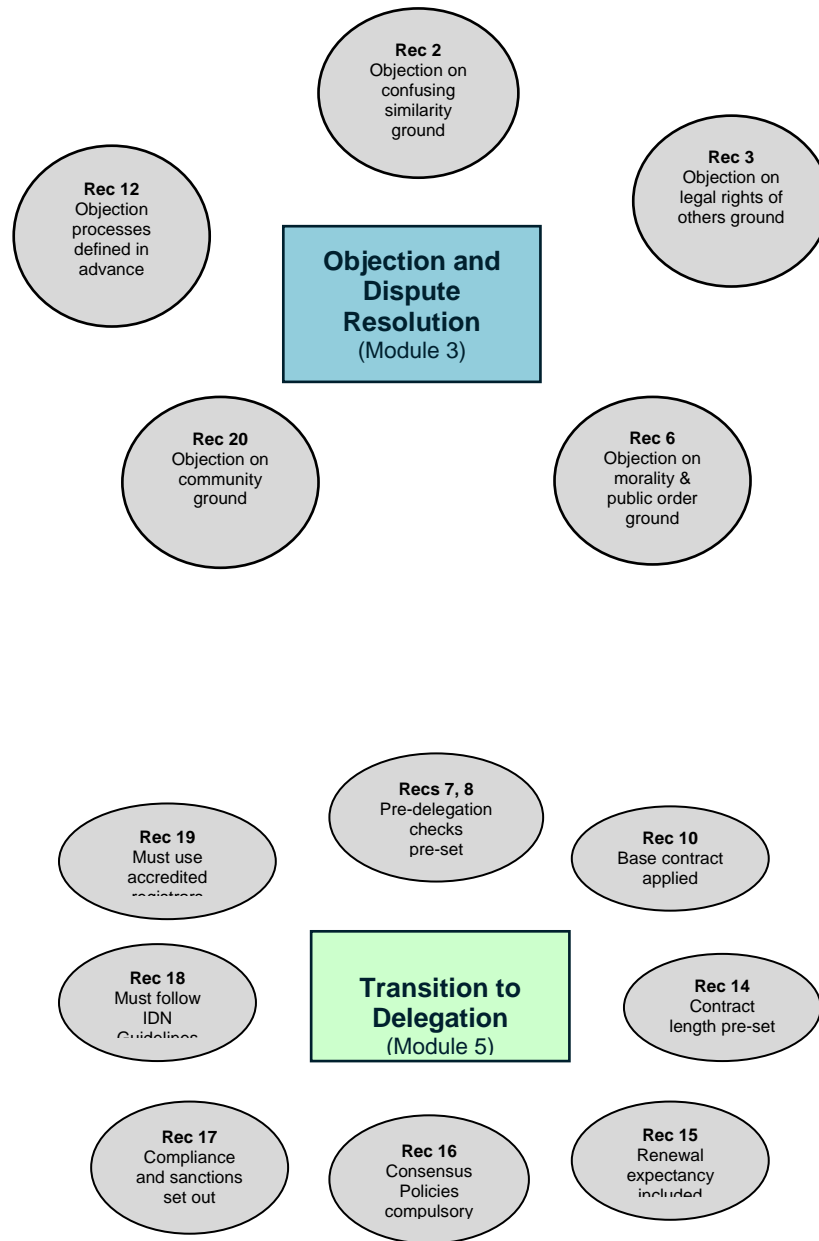
"An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted."

(Module 3) – Community concern is a recognized ground for objections.

3. Graphical Cross-reference between Policy and Draft Applicant Guidebook Modules



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