

22 May 2023

RE: Subsequent Procedures (SubPro) Policy Development Process (PDP) Recommendations

Jonathan Zuck  
Chair, At-Large Advisory Committee

Dear Jonathan,

I am writing to you regarding the At-Large Advisory Committee (ALAC) [Advice](#) to the ICANN Board on the Subsequent Procedures (SubPro) Policy Development Process (PDP) Recommendations, dated 16 April 2021. The Board would like to thank the ALAC for its Advice and subsequent [clarifications](#) on specific aspects of the [Final Report on the new gTLD Subsequent Procedures Policy Development Process](#) (Final Report) policy Outputs. I would also like to convey the Board's appreciation to the ALAC for its efforts to develop new approaches and improvements to the ICANN Community Advice Process.

In its [Resolution](#) on 16 March 2023, the Board resolved to instruct ICANN org to begin the implementation of all Final Report Outputs detailed in Section A of the "[Scorecard on Subsequent Procedures PDP](#)" ([Scorecard](#)) and to make available resources required for the successful and timely opening of the next round of new gTLDs, while the Board considers the Outputs identified as "pending" in Section B of the Scorecard and the dependencies identified in Section C of the Scorecard are resolved. The Board further directed ICANN org to deliver a comprehensive implementation plan to the Board no later than 1 August 2023, containing a work plan, relevant information for the Infrastructure Development stream, timelines, and anticipated resource requirements to announce the opening of the next round of new gTLDs, subject to the satisfactory completion of specified deliverables by the conclusion of the ICANN77 Public Meeting in June 2023.

The Board would like to assure the ALAC that it gave diligent and careful consideration to its Advice in the process of reaching this important milestone. The Board has great respect for the ALAC's long-standing and important role in representing the interests of Internet end-users around the globe and found its Advice to be a timely and valuable contribution to the Board's decision on the Final Report. A detailed rationale of the Board's deliberations on each of the individual ALAC Advice topics is included in Appendix A.

Following the adoption of the [Resolution](#) and with the considerations described below, the Board believes that there is no further action required to address those aspects of the ALAC's Advice relating to the Board's decision on the Final Report, as these have already been taken

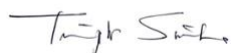
into account during its deliberations. Therefore, the Board regards these Advice items to have been fully considered. The ALAC Advice relating to the implementation of the Output was also fully considered by the Board. Implementation activity will be led by ICANN org, which will continue to bear the ALAC's views in mind, alongside other relevant community input, in order to ensure that the implementation of the Final Report adheres to both its content and spirit and in recognition of the considerable time and resources invested by the community in its development.

The Board also notes the ongoing community work related to Advice topics 6, 7, and 8 and has requested that the GNSO Council provide the Board with an agreed plan and timeline for further policy work and resolution of the Final Report Outputs related to these topics by the last day of the ICANN77 Public Meeting, 15 June 2023. The Board encourages the ALAC to remain engaged with the community on these issues and provide further Advice, if appropriate, once this work has been completed.

As part of its Resolution on the Final Report, the Board directed the ICANN Interim President and CEO to issue as soon as practicable a call for volunteers for membership of the Implementation Review Team (IRT) to assist ICANN org during the Policy Implementation stream. As defined in the [Consensus Policy Implementation Framework](#) (CPIF), once convened, the IRT is expected to act as a resource to ICANN org 'on the background and rationale of the policy recommendations'. The Board understands that the ALAC will be represented in the membership of the IRT and will therefore have the opportunity to engage directly with ICANN org to guide and shape the implementation of approved policy recommendations for the Next Round of the New gTLD Program. Although the IRT is not a forum to reopen previously considered policy issues or Advice, unless circumstances have changed and new information is available, engagement within the IRT will ensure that the ALAC's voice will continue to be heard on topics of interest to the ALAC during the next phase of the New gTLD Program. The Board encourages all parties to continue to work together efficiently and constructively throughout the implementation phase to resolve the remaining outstanding issues and open another application round for new gTLDs as expeditiously as possible.

Thank you again for your valued contribution to the ICANN community. In the spirit of continued cooperation, the Board welcomes any further amplification or clarification the ALAC may wish to offer in forthcoming meetings or correspondence.

Sincerely,



Tripti Sinha,  
Chair, ICANN Board of Directors

## Appendix A: Itemised Board Response to At-Large Advisory Committee (ALAC) [Advice](#) to the ICANN Board on the Subsequent Procedures PDP Recommendations, 16 April 2021.

- **Advice Topic 1: New gTLD Program Objectives and Metrics**

The Board takes note of the ALAC's view that a new round of gTLDs should benefit all stakeholders and not compromise the stability or security of the Domain Name System (DNS). The Board regards the ALAC's emphasis on the formulation of additional New gTLD Program evaluation metrics beyond existing consumer choice and DNS marketplace measurements as a matter that would be more appropriately addressed during and after the implementation phase of the Program. The Board will encourage the future Competition, Consumer Trust and Consumer Choice Review (CCT) teams to review the ALAC's input on this important issue; in the meantime, the Board suggests that the ALAC consider participating on the Implementation Review Team (IRT), once formed, for further work on definition of metrics.

- **Advice Topic 2: CCT Recommendations related to Subsequent Procedures Advice**

The Board recognizes the ALAC's request that all prerequisite and high priority CCT recommendations be implemented, at the latest, prior to the launch of the next round, and its overarching desire for further purposeful community action to combat DNS abuse.

Concerning the outstanding recommendations, the Board would like to reiterate its [response](#) to the GAC's ICANN71 Communique Follow-up on Previous Advice regarding CCT recommendations. In May 2022, ICANN org, with the help and participation of community members, presented the Board with a list of [prioritized](#) ATRT3, CCT, RDS, and SSR2 recommendations. ICANN org convened a dedicated [cross-functional project team](#) in June 2022 to design and deliver implementation of these recommendations using the [prioritization](#) proposed by the community group. The ALAC may consult additional information on the [implementation status](#) of these different specific reviews online at ICANN.org.

In relation to the ALAC's concerns regarding outstanding CCT recommendations involving the Applicant Support Program (ASP), on 25 August 2022, the GNSO Council approved the GNSO Guidance Process (GGP) Initiation Request for select SubPro topics, which will now include further dialogue on the ASP. The Board notes the importance of concluding these discussions before the next round of new gTLDs can be opened. The Board also wishes to confirm that while it recognizes the ALAC's Advice in

respect of CCT Recommendation #12(1) (concerning user expectations of the relationship of gTLD content to its name), it is not within the Board’s purview to set a policy direction on this issue.

- **Topic 3: DNS Abuse Mitigation**

The Board acknowledges that previous ALAC advice on DNS abuse, submitted in 2019, remains under consideration. In respect of the ALAC advice on DNS abuse related to the Final Report, although not an issue specifically linked to its decision on the Final Report the Board wishes to state its appreciation of the strides made by the community in addressing DNS abuse since the publication of the ALAC’s Advice concerning the CCT Recommendations.

The Board notes that on 4 November 2022, the Contracted Party House (CPH) published a [letter](#) stating their intention to “pursue possible enhancements to the DNS Abuse obligations contained in our respective agreements with ICANN.” Furthermore, on 17 November 2022, the GNSO Council endorsed the recommendations of the DNS Abuse Small Team [Final Report](#), published in October 2022, which considered additional policy efforts to support ongoing efforts to tackle DNS abuse throughout the community. In a blog published on 18 January 2023, ICANN’s leadership made clear its commitment to the concept of improving the contractual obligations to mitigate DNS abuse, confirming that negotiations are now underway to make focused improvements to the existing contracts. Together, ICANN org and negotiation teams from the Registries and Registrars Stakeholder Groups are working to define baseline obligations to require registries and registrars to mitigate or disrupt DNS abuse. Once established, these proposed changes should aid ICANN’s Contractual Compliance team in its enforcement efforts with registrars or registries who fail to adequately address DNS abuse.

The Board acknowledges that DNS abuse is an holistic issue that will require continuous vigilance and looks forward to working with the CPH, ALAC, and the wider community in finding solutions to address this problem.

- **Advice Topic 4: Enforceability of Registry Voluntary Commitments (RVCs)**

The Board recognizes the ALAC’s desire for ICANN org to proactively enforce all contractual obligations included in contracts with Registries and/or Registrars. I wish to assure the ALAC that the Board is committed to ICANN org’s enforcement of all contractual obligations within its remit and retains full confidence in the current [Public Interest Commitment Dispute Resolution Process](#) (PICDRP) as part of this.

Both ICANN org and the Board have acknowledged concerns around scope and enforcement of PICs and RVCs, notably over whether the language of the [Bylaws](#), which was adopted after the launch of the 2012 round, might preclude ICANN from entering into future Registry Agreements (that materially differ in form from the 2012 round version currently in force) that include PICs and RVCs that reach outside of ICANN's technical mission as stated in the Bylaws. The language of the Bylaws specifically limits ICANN's negotiating and contracting power to PICs that are "in service of its Mission."

The Board is considering various approaches to this issue, which may include altering the Bylaws with a narrowly tailored amendment to ensure that there are no ambiguities around ICANN's ability to agree to and enforce PICs and RVCs as envisioned in the Final Report. In its Resolution on 16 March 2023, the Board requested that a plan and timeline for resolution of the Outputs related to PICs and RVCs currently designated as pending in Section B of the Scorecard be agreed by the Board and GNSO Council and delivered by the last day of the ICANN77 Public Meeting, 15 June 2023.

The Board welcomes the ALAC's indication in its response to the Board's [clarifying questions](#) of its willingness to participate in community based discussions on pioneering alternative approaches to the enforcement of PICs/RVCs, potentially involving work with applicants and Registries to develop their own objective evaluation methodologies. The Board looks forward to further discussions with the ALAC on this topic.

- **Advice Topic 5: Universal Acceptance**

The Board supports the ALAC's commitment to the next billion Internet end-users through the increased promotion and facilitation of Internationalized Domain Names (IDNs), IDN-emails, and Universal Acceptance (UA) throughout the DNS community. While noting the ALAC's request that the Board adopt statistics on third party UA adoption as a metric of success for the New gTLD Program, the Board cannot unilaterally set Program metrics or supersede the Recommendations of the Final Report. The Board considers evaluation metrics for the New gTLD Program as a subject more suited for discussion during and after the implementation phase, and reiterates its suggestion that the ALAC seek engagement with the IRT on this and other implementation-related matters.

The Board notes that in the [ODA](#), ICANN org has proposed to leverage and expand on its capabilities for global engagement and linguistic support (e.g. Universal Acceptance and communications in multiple languages and scripts) and develop a robust and comprehensive global communications strategy. ICANN org acknowledges that this will

require holistic, coordinated, and collaborative approaches across multiple organizational functions, alongside strategic consideration of how to best engage and leverage ICANN org's relationships across the internet ecosystem in service of these aims.

- **Advice Topic 6: Name Collisions**

The Board welcomes the ALAC's interest in the outcome of the Name Collision Analysis Project (NCAP) and appreciates the ALAC's support of Advice from fellow Advisory Committees. In its resolution on 16 March 2023, the Board requested that a plan and timeline for resolution of the Outputs related to Name Collisions currently designated as pending in Section B of the Scorecard be agreed by the Board and GNSO Council and delivered by the last day of the ICANN77 Public Meeting, 15 June 2023. However, as NCAP studies 2 and 3 have yet to be completed, the Board cannot confirm at this time if or when any resulting recommendations might be implemented prior to the launch of the next round. The Name Collision Analysis Group stated during their ICANN76 NCAP Study 2 Update [session](#) that an initial report is tentatively planned to be published for public comment before ICANN77. The Board will evaluate the NCAP recommendations once they have been received; in the meantime, the Board refers the ALAC to the existing [Name Collision Management Framework](#), which will remain in place until such time community consensus is reached on an alternative approach.

- **Advice Topic 7: Closed Generics**

The Board notes that this is fundamentally a policy issue to be addressed via ICANN's bottom-up multistakeholder processes. Therefore, the Board has proposed to the GNSO Council and the GAC to explore a workable framework regarding Closed Generics. The Board is aware that the [GAC and GNSO Council](#) have welcomed and encouraged the ALAC's participation in this process and looks forward to learning the outcome of these discussions.

The Board recognizes the importance of resolving this issue before the next round of new gTLDs can be opened. To this end, in its resolution on 16 March 2023 the Board requested the delivery of a GNSO Council project plan and timeline for policy work, or an alternate path, on how to handle closed generics for the next round of new gTLDs by the last day of the ICANN77 Public Meeting, 15 June 2023.

- **Advice Topic 8: Applicant Support**

The Board reiterates its support for the Applicant Support Program (ASP). However, the Board wishes to reserve judgment on the ALAC Advice regarding potential additional measures to support the ASP until the outcomes of the GNSO Council's GNSO Guidance Process (GGP) have been received. The Board notes the importance of concluding this process before the next round of new gTLDs can be opened. In its Resolution on 16 March 2023, the Board requested that a plan and timeline for resolution of the Outputs related to the ASP currently designated as pending in Section B of the Scorecard be agreed by the Board and GNSO Council and delivered by the last day of the ICANN77 Public Meeting, 15 June 2023.

- **Advice Topic 9: Auctions and Private Resolution of Contention Sets**

The Board understands the ALAC's concerns about an applicant's ability to 'shuffle funds between private auctions' and the disadvantageous effects of this practice on the marketplace and single-TLD/niche applicants. The Board also acknowledges the ALAC's long held opposition to private auctions and support for their prohibition.

The Board notes that in the SubPro [ODA](#), ICANN org have proposed consultation with the IRT to specify bona fide requirements aimed at discouraging this practice amongst applicants, including agreement on potential penalties to make them enforceable to the extent possible. ICANN org have also suggested seeking third-party expertise in auction design to assist in determining alternative methods to disincentivize applicants from applying for gTLDs with the purpose of financial gain through private resolution of contention sets, including, but not limited to private auctions.

In its Resolution on 16 March 2023, the Board requested that a plan and timeline for resolution of the Outputs related to private auctions currently designated as pending in Section B of the Scorecard be agreed by the Board and GNSO Council and delivered by the last day of the ICANN77 Public Meeting, 15 June 2023.

- **Advice Topic 10: Community Priority Evaluation (CPE)**

The Board recognizes the ALAC's concerns regarding SubPro Implementation Guidance 4.1 and 34.4 in the Final Report. The Board considered the ALAC's views during its deliberations on this issue

- **Advice Topic 11: Geographic Names at the Top Level**

The Board acknowledges the ALAC's concerns regarding Non-Capital City Name strings and its request for a bespoke Geographic Notification Tool, but notes that the GAC may also, should it desire, issue Advice or early warning if there is a perceived issue with strings matching names with geographical meaning.

- **Advice Topic 12: ALAC Standing in Community Objection**

The Board acknowledges that the ALAC have requested an automatic standing to file Community Objections, in order to overcome the barriers to filing the ALAC identified in its interpretation of the eligibility criteria detailed in the 2012 AGB. The Board considered the ALAC's views in the course of its deliberations, but retains confidence in the current process, which will remain in place until such time community consensus is reached on an alternative approach.